



Our ref: EDOCS 130649

3 July 2020

SENSITIVE

Queensland Ombudsman

ABN 257 657 579 00

Level 18, 53 Albert Street
Brisbane Q 4000

GPO Box 3314
Brisbane Q 4001

P 07 3005 7000
1800 068 908
(outside Brisbane)

F 07 3005 7067

E ombudsman@
ombudsman.qld.gov.au

W ombudsman.qld.gov.au

Committee Secretary
Health, Communities, Disability Services and
Domestic and Family Violence Prevention Committee
Parliament House
George Street
Brisbane Qld 4000
Email: health@parliament.qld.gov.au

Dear Committee

Submission from the Queensland Ombudsman: Inquiry into the Queensland Government's health response to COVID-19

Thank you for the opportunity to make a submission to the inquiry into the Queensland Government's health response to COVID-19.

Role of this Office

The Office of the Queensland Ombudsman (the Office) investigates complaints about administrative actions and decisions of state government agencies, local councils and public universities in Queensland, in accordance with the *Ombudsman Act 2001* (the Act). The role of the Office is to independently review the decisions and actions of agencies within its jurisdiction to determine whether those actions or decisions are lawful, fair and reasonable.

During the coronavirus pandemic, agencies have been faced with making significant and complex decisions often with imperfect information and with limited time. In this environment, review and oversight mechanisms, such as those carried out by the Office, are particularly crucial in ensuring the normal standards of good public administration are maintained.

The purpose of this submission is to provide information about the concerns raised with the Office by the public about the health measures agencies have put in place, and individual related decisions, to manage the health risk posed by COVID-19.

Complaints and inquiries about the Queensland Government's health response to COVID-19

From 1 January 2020 to 30 June 2020 the Office received 68 cases that relate to the Queensland Government's health response to COVID-19 (55 complaints; 11 inquiries and one matter out of jurisdiction for the Office relating to a Ministerial decision to keep borders closed). One additional complaint is currently under consideration as to the Office's jurisdiction to accept it.

The matters received were managed according to the Office's usual processes. No new or additional process was introduced to manage COVID-19 related matters. Inquiries and out-of-jurisdiction matters are dealt with almost immediately, providing advice as required.

Complaints were assessed according to the Office's usual practice, requiring complainants to have first raised their matter with the respective agency. Many of the complaints had not yet been considered by the subject agency and were therefore premature for investigation by the Office. In these circumstances, the Office provides complainants with advice about how to raise their complaint with the relevant agency or pursue an alternative avenue of review.

Queensland Health

Fifteen cases (13 complaints and two inquiries) were received about Queensland Health (QH). The complaint matters broadly related to:

- delay or refusing exemptions to public health directions
- interpretation of public health directions
- limited access to health services (dental and elective surgeries) due to public health directions
- conditions while in quarantine
- the Chief Health Officer's advice about the safety of voters during the local government elections.

Eleven of the 13 complaints had not yet been considered by QH and were therefore premature for investigation by the Office. The remaining two complaints were investigated by the Office, both relating to refusal of exemptions to public health directions. One investigation has been finalised and no maladministration was identified. The other investigation is ongoing.

Queensland Corrective Services and the Department of Youth Justice

Twenty-four cases (20 complaints and four inquiries) were about Queensland Corrective Services (QCS). The complaint matters broadly related to:

- suspension of contact visits
- social distancing in correctional centres
- access to telephones and out of cell time while in isolation in a correctional centre
- suspension of programs
- sanitisation in correctional centres
- refusals to allow a prisoner to attend a relative's funeral.

Sixteen of the 20 complaints had not yet been considered by QCS and were therefore premature for investigation by the Office. Four complaints were investigated by the Office. The investigations have been finalised for two of these complaints and no maladministration was identified. The other two complaints remain under investigation by the Office.

Two cases (both complaints) were about the Department of Youth Justice (DYJ) relating to the suspension of contact visits with family and friends. Both complaints had not yet been considered by the DYJ and were therefore premature for investigation by the Office.

Department of Education

Four cases (all complaints) were about the Department of Education (DoE), broadly relating to:

- schools remaining open during the pandemic
- not allowing particular students to attend school
- teachers attending protests.

One complaint was withdrawn by the complainant. Two complaints had not yet been considered by the DoE and were therefore premature for investigation by the Office. One complaint was investigated by the Office and no maladministration was identified.

Electoral Commission of Queensland

Five cases (three complaints and two inquiries) were about the Electoral Commission of Queensland (ECQ). The complaints broadly related to the decision to proceed with local government elections and voting arrangements for the election. All three complaints had not yet been considered by the ECQ and were therefore premature for investigation by the Office.

Department of Transport and Main Roads

Four cases (all complaints) were about the Department of Transport and Main Roads (DTMR), broadly relating to:

- licence renewals while under lockdown
- postponing driving tests
- driving test examiners refusing to wear protective equipment.

All four complaints had not yet been considered by the DTMR and were therefore premature for investigation by the Office.

Department of Child Safety, Youth and Women

Three cases (all complaints) were about the Department of Child Safety, Youth and Women (DCSYW), broadly relating to decisions to suspend face-to-face contact between parents and their children in the care of the department. All three complaints had not yet been considered by the DCSYW and were therefore premature for investigation by the Office.

Other agencies

Nine cases (six complaints and three inquiries) were about other agencies, including local governments. The complaints were predominantly related to limiting services or enforcing restrictions during the coronavirus pandemic. All six complaints had not yet been considered by the relevant agency and were therefore premature for investigation by the Office.

Human rights complaints

Given the subject matter of complaints received about the Queensland Government health response to COVID-19, the Office identified a range of relevant human rights issues under the Human Rights Act, including:

- Freedom of movement
- Humane treatment when deprived of liberty
- Right to health services
- Protection of children and families
- Right to education
- Taking part in public life.

In all cases, the human rights issues were considered when matters were investigated by the Office.

Prison and youth detention centre inspections program

The Office has a program of annual inspections for correctional centres and youth detention centres, usually inspecting the majority of sites annually. Due to the COVID-19 response and in response to public health directives, the Office ceased its inspections program in March 2020. Visits will resume in the second quarter of the 2020-21 financial year.

In light of the particular vulnerability of people in detention during the COVID-19 response, the Office maintained its direct phone links to correctional facilities and youth detention centres. Prisoners and young people continued to utilise this service.

Overall, the level of complaints to the Office during the COVID-19 response appears muted. During a period of significant pressure and uncertainty, during which thousands of complaints were received by the Office, the numbers of complaints which related to COVID-19 does not indicate a high level of public concern about administration by public authorities.

It is still to be seen if this remains the situation as the COVID-19 response continues.

I will be pleased to provide the Committee with further information or clarification on any aspect of this submission.

Yours faithfully



Phil Clarke
Queensland Ombudsman