



# ***LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE***

**Members present:**

Mr PS Russo MP (Chair)  
Mr JP Lister MP  
Mr JJ McDonald MP  
Mrs MF McMahon MP  
Ms CP McMillan MP

**Staff present:**

Ms R Easten (Committee Secretary)  
Ms K Longworth (Assistant Committee Secretary)  
Ms M Westcott (Assistant Committee Secretary)

## **PUBLIC HEARING—INQUIRY INTO THE STRATEGIC REVIEW OF THE OFFICE OF THE QUEENSLAND OMBUDSMAN—REVIEWER**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 11 JUNE 2018**

**Brisbane**

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### **The committee met at 8.44 am.**

**CHAIR:** Good morning. I declare this public meeting open. I am Peter Russo, the member for Toohey and chair of the committee. Other committee members present today are James Lister, the member for Southern Downs and deputy chair; Jim McDonald, the member for Lockyer; Melissa McMahon, the member for Macalister; and Corrine McMillan, the member for Mansfield. Stephen Andrew, the member for Mirani, is an apology.

The Ombudsman Act 2001 requires strategic reviews of the Office of the Queensland Ombudsman to be conducted at specified intervals and for the review reports to be referred to this committee. Under the Parliament of Queensland Act 2001, the committee may consider a review report and report on it to the Legislative Assembly. The public meeting today is part of the committee's consideration of the strategic review of the Office of the Queensland Ombudsman. We will hear evidence from Ms Simone Webbe, who conducted the strategic review and whose report was tabled in February this year.

Only the committee and invited witnesses may participate in the proceedings today. I remind witnesses that deliberately misleading the committee is a serious offence. These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. In this regard, I remind members of the public that, under the standing orders, members of the public may be excluded from this meeting at my discretion or by order of the committee. These proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from the secretariat if required. All those present today should note that it is possible you may be filmed or photographed during the proceedings.

### **WEBBE, Ms Simone, Reviewer, Strategic Review of the Office of the Queensland Ombudsman**

**CHAIR:** I welcome Ms Simone Webbe. Good morning. I invite you to make a short opening statement, after which committee members will have some questions for you.

**Ms Webbe:** Good morning. I thank the committee for inviting me to participate in this hearing and I look forward to being of assistance in your deliberations in any way I can. My review report is a substantial document containing 72 recommendations following a strategic review process of some 11 weeks from commencement of the review on 16 October last year to provision of my proposed final report to the Attorney-General and the Ombudsman on 29 December 2017, with the final report provided on 24 January this year. As your committee knows, the legislation and the terms of reference required me as reviewer to assess and provide advice and recommendation about the Ombudsman's functions and whether those functions were being performed efficiently, effectively and economically.

The terms of reference required me to examine structural and operational aspects of the Ombudsman as well as its relationship with stakeholders. My review and report therefore considered both the strategic overview of the direction and consequence of the performance of its functions by the Office of the Queensland Ombudsman as well as an examination of the everyday performance of the functions from a management review perspective to also look for possible improvements in efficiency, effectiveness and economy.

Importantly, for quality review outcomes, I adopted a highly consultative approach to enable all external and internal stakeholders to have a say and to provide their input and priority to the issues to be considered. For example, I wrote to all state government departments, all 77 local councils throughout Queensland, the seven public universities and other agencies within the Ombudsman's jurisdiction, the other integrity bodies, industry ombudsmen, external complaints bodies and representative community peak bodies, as well as all staff of the Ombudsman's office to invite their submission to the strategic review. I received nearly 30 written submissions.

I also conducted 14 individual interviews with various departmental and agency heads and their complaints advisers. I met with or spoke with, I believe, all staff of the office of the Ombudsman at least once across seven staff focus groups, individual interviews and the business process review workshop

I chaired with staff and management representatives. I also met with the current and immediate past chairs of the Ombudsman's Audit and Advisory Committee. I considered a voluminous amount of original and source documents relevant to the review to inform and validate issues arising during consultations. I considered various randomised samples of work of the Ombudsman and I conducted a non-participatory observation session of the telephone intake area, which included a rostered period for the Prisoner PhoneLink—that is, I sat, listened and watched for a couple of hours in that part of the office which receives the phone call complaints.

I liaised with the Ombudsman on an ongoing basis throughout the review, including consultation on key stakeholder feedback, key issues of analysis that I had identified, and possible responses. Further detail of my review methodology is provided in the report. I place on record my gratitude to the Ombudsman and all internal and external stakeholders consulted for their active engagement in the review and for their most valuable contributions. I can assure the committee that I was careful and thorough in my report to ensure that the report addressed all the issues of substance that were raised during consultations.

In terms of key findings, this strategic review confirmed the essential role and functions of the Ombudsman in the Queensland accountability and integrity system in helping protect against maladministration through both investigating complaints against administrative actions as well as assisting agencies with an improved quality of administrative practices and procedures.

This is the fifth strategic review of the Office of the Queensland Ombudsman since 1998 but the first time where the reviewer can report that, after five successive years in which the office dealt with all complaints within 12 months, no backlog in complaints for the Ombudsman is the new normal. This is a tremendous achievement for the leadership, management and all staff of the office and their sustained efforts and continual improvements to achieve this outcome is to be commended. The office has used performance management measures well to drive this success. I was particular throughout the review to inquire into the factors involved in this success with dealing with complaints in a timely manner as well as the potential risks to make recommendations to help consolidate and anchor those successes for the future.

Operational and structural improvements were suggested in ensuring that, in addition to dealing with individual complaints, the Office of the Queensland Ombudsman is also advancing and maturing its other principal role under its act—namely, to help agencies to improve the quality of administrative practices and procedures not just with training but in own-initiative investigations as well as proactive assistance with systemic improvements and knowledge sharing with agencies. I found that the Office of the Queensland Ombudsman enjoys productive and positive relationships with agencies and is well respected for its professionalism, fairness and independence which is critically important capital in performing the Ombudsman's functions efficiently, effectively and economically as an essential integrity agency in Queensland.

There is considerable detail in the report and I look forward to assisting the committee in your consideration of the strategic review recommendations. I also acknowledge and I am grateful for the additional submissions received by your committee and the further support they provide to the strategic review's recommendations. Thank you.

**CHAIR:** In the report you say that there was a 100 per cent success rate, which you just spoke about, in finalising complaints within 12 months of lodgement since 2001. I was wondering whether 12 months is appropriate as a performance measure for the timeliness of investigating complaints.

**Ms Webbe:** Yes. In contrast with the situation when there was the first strategic review in 1998 and even going to the 2001 position when the new legislation was introduced for a modern and proactive Ombudsman, no backlog within a 12-month period is a stunning difference to what the situation was back then. For example, around about that time there were about 50 to 60 cases per investigative officer, and that was after an enhancement of their budget of about 18 officers. If we contrast that with now, there are about six to 10 cases per investigative officer. The backlog is considerably different in terms of the performance and productivity of the Ombudsman.

Of course, within that 12 months there are other time frames. The average for dealing with a complaint from memory is about 46½ days and they scale it between a simple complaint within three months, the more intermediate within six months and the more complex within 12 months. In order to make the claim that they are in a very good position to now direct substantial attention to their other key role of assisting agencies in a proactive way to improve the quality of public administration, a 12-month time frame is a fair enough assessment of their capability in contrast with previously. It is the first time in the history of the Ombudsman of about 40 years in this state where they are well positioned to attend to that other proactive role under their act which is of equal priority to dealing with individual complaints because it is a preventative way for administrative justice outcomes.

**Mr LISTER:** Ms Webbe, thanks for coming today. I want to talk with you about recommendation 36 regarding the perceptions of privacy and security of information by complainants and, to some extent, responding agencies. As a member of parliament I have constituents come to me from time to time with issues. I recently had one approach me saying that they were concerned about proceeding with a complaint through the Ombudsman because it was necessary as a part of the investigative process, presumably for procedural fairness or some consideration like that, to disclose information in the complaint to enable the agency to respond. How does that tie with your discussion regarding recommendation 36 that there is, apart from a technical absence of certainty against the Right to Information Act, surety that when you make a complaint the substance of your complaint will not be divulged to the agency?

**Ms Webbe:** Yes. There are a couple of responses to that. There is section 25 of the Ombudsman Act and section 92 which require that there is confidentiality to investigations and there is an obligation of secrecy on the Ombudsman under section 92, with a penalty if that is breached. The hallmark of administrative justice through an Ombudsman is that it is impartial, it is independent, it is free and it is informal so that justice is more quick and effective for the citizen. To enable the informality, there is a sharing of information in confidence and the legislation scaffolds that confidentiality. The purpose of recommendation 36 which you have raised with me arises from the operational concern influencing the efficient and effective pursuit of that informality and early resolutions, because by undermining the Ombudsman's ability to conduct confidential investigations the Right to Information Act currently does not let the Ombudsman guarantee that information will be confidential, notwithstanding the requirement in the Ombudsman Act that it be so.

The net effect after an RTI application is processed is probably the same—that the RTI Act would protect that confidentiality—but it puts the Ombudsman in quite a different position as it does the Auditor-General, who can say up-front that because they have that protection in schedule 3, I think, of section 12 of the RTIA those investigative documents are exempt. As I have mentioned, in the Ombudsman's legislation section 25 provides that the Ombudsman must conduct a confidential investigation and an obligation of secrecy in section 92 is imposed not to disclose that information during preliminary inquiry or investigation. Independently of the Ombudsman's concerns as to a reluctance by participants such as the one you have mentioned to share information for an informal and quick investigation, I also received a submission from an agency which reflected this concern because there is no guarantee under the RTI that there would be confidentiality.

I do not support a class based exemption and the Information Commissioner agrees with that. It is a most anomalous result if right to information legislation is compromised by the Ombudsman's access to information for quick and informal administrative justice. Therefore, I recommended a limited amendment to the RTI directed specifically to the inconsistency with the section 92 obligation for confidentiality which assures the people participating in that informal investigation that their material will remain confidential, notwithstanding the operation of the RTI Act.

It is an up-front guarantee because schedule 3 section 12 says that those documents are to be exempted. It avoids the escalation of the Ombudsman's investigation needing to invoke part 4 which brings time and cost expense and overcooks or overformalises the investigation more than what is needed for speedy administrative justice.

**Mr LISTER:** In the course of your report did you come across significant numbers of complainants who expressed qualms about sharing information with the Ombudsman's office and how that information may be used to disadvantage them in their dealings with the agency itself?

**Ms Webbe:** No. There is a level of trust with the office that their information will be kept confidential. The agency that made the submission was more directing its comment at requiring the Ombudsman to formalise their request for documents which is the perverse consequence of failing to guarantee confidentiality because of the operation of the RTI.

The Ombudsman—and my consultations with his office found this—did indicate that there was a reluctance with some informal investigations around the provision of information or very sensitive documents and when there is a public interest disclosure. We are talking about the very sensitive end of investigations where there is a need for assurance that the Ombudsman's obligations for confidentiality can be maintained, notwithstanding the operation of the Right to Information Act. This limited recommendation in section 36 will give citizens and all participants in the investigation that assurance.

I discussed this with the Information Commissioner and we agreed that this was a better and more limited way to protect the confidentiality of documents and information without undermining the operation of RTI. I was on the panel with David Solomon and a co-author of that report. I appreciate

the schema of the RTI. It is quite a big call for me to make this recommendation, but I was persuaded that there is a need for it. It is a perverse result if administrative justice is compromised because the Ombudsman cannot access information without escalating his powers to the formal end under part 4, which of course will blow out the time frame for resolution of complaints and have all sorts of other productivity consequences for the office. It is antithetical to the principle of an Ombudsman's impact as a parliamentary Ombudsman to overformalise unnecessarily the investigations in achieving effective outcomes for everybody.

**Ms McMILLAN:** My question relates to recommendation 18. Do you believe that the office of the Queensland Ombudsman is becoming less reactive and less oriented to individual complaints and more proactive, systemic and preventative over time? What evidence do you have to base your assessment on? Could you explain to us your observations?

**Ms Webbe:** Of course the Ombudsman maintains vigilantly its success in dealing with complaints. That is at the reactive side of its role. The other equally important side of its role is the proactive side, which you have mentioned, where the Ombudsman is required under sections 5 and 6 to assist agencies with improving quality public administration essentially. Over time that has increased, yes. There is a maturing of that role which is terrific. If you compare it with years past there is more training and engagement with agencies for training purposes.

There is scope for more to be done however. I had feedback during consultations from agencies where there was quite an appetite to learn from the outcomes of other agencies so that they do not repeat the mistakes essentially. It falls squarely within the role of the Ombudsman to facilitate that knowledge sharing.

I looked at the other jurisdictions where they have practitioner workshops where they talk about what you do when you are dealing with a vexatious person and what is the best practice. They can workshop and share that. In my discussions with agencies there was quite an appetite to get on board with that sort of experience. The Ombudsman is very keen to advance that as well. Hopefully with the efficiency and effectiveness recommendations I have made there will be more scope to enable that additional endeavour for the proactive side of the Ombudsman's role.

There are also other measures other than workshops and so on where the proactivity can occur. There were agencies that were asking not just to get the report outcomes but to help them actually fix it up. They were saying, 'We know what we are supposed to do, but we are not quite sure how to get from A to B to achieve that.' I have encouraged the Ombudsman in my report to do that after reading the explanatory notes, the second reading speech and the act and understanding the intention for it to be a modern Ombudsman that deals not just generally but in particular cases with assisting agencies to improve their quality of public administration, without undermining the independence of the Ombudsman. There was an appetite from agencies for more specific assistance. They do have a facility now where agencies can ask for administrative improvement advice, but there is scope for more to be done proactively as well.

There are a number of recommendations which attempt to support the Ombudsman in its strategic planning process, which they were to do following my report, to come up with some ideas on relationships with agencies in strengthening that support. There is the history across strategic reviews where other reviewers have also said that DGs want more than just knowing what is wrong on a particular complaint and seeing the advertising that the Ombudsman is available, they want help in building their capability within the organisation to be the best it can be as well. That is the intention of the recommendation. It is quite a significant one to actually highlight that there is that proactivity. It is not just providing training. It is also an equally important role to assist improving the quality generally with learnings across the sector. There are fact sheets on the website that are being pushed out and that sort of thing.

There used to be newsletters that were perhaps more frequent than they are now, but there is a changed position in the understanding within the office as to whether they are permitted to do that because of the confidentiality framework they operate under. I have a recommendation in the report to say that that needs to be sorted out. To hold back the learnings and circulating those amongst the agencies because of a fear that even deidentified information would somehow compromise their confidentiality needs to be addressed: whether it is legislation to fix that or whether there is some arrangement that the Ombudsman has with your committee to facilitate that approval so that newsletters and other deidentified learnings can be shared out to the sector. I was quite struck as to how many written submissions and how many times in oral meetings that I had with agencies and their representatives that they were asking for that dimension.

**Mr McDONALD:** There are 72 recommendations. Some might say that with 72 recommendations the system is broken and needs to be fixed. Given the number of the recommendations, could you comment on how the office is actually performing?

**Ms Webbe:** Yes. Please do not be confused from the number that the system needs to be fixed. That is not the case. The Ombudsman's office is working very well. My recommendations are merely to improve and enhance the efficiency, effectiveness and economy of the performance of their functions as it was my terms of reference to do. There is huge public value in exchange for my services for me to share the learnings that I have gained by having conducted such an extensive consultation with stakeholders throughout Queensland.

Bear in mind also that this is a good opportunity once every five and now seven years for the Ombudsman to have an independent look at how things are going, to conduct an independent external consultation as to what is out there and for the Ombudsman to benefit from an independent perspective of what is supported. Many of those recommendations are supporting either the Ombudsman suggestion for legislative amendments to assist in his performance or activities that have begun but could be extended. Others are suggesting perhaps a change in direction or additional directions.

Please do not let the number of recommendations suggest that there is anything that is broken—quite the contrary. Because it is operating at such a sophisticated level, the Ombudsman can easily cope in its quality assurance and its strategic planning processes with a comprehensive assessment of where it is at. Rather than me say at a high level that it would be beneficial for the public value in the performance of his work to improve the proactivity of his office in pursuing his second role of improving quality of public sector administration, it is incumbent on me to say here are some examples and this is why and here are some specific areas. That is why there is that number of recommendations.

I understand that the Ombudsman has and did use the report helpfully during their strategic planning process recently. The investment in my process is not lost. It is documented for all to see so that there can be continuous improvement, consistent with the purpose of a strategic review under section 85.

**Mr McDONALD:** Having seen a number of these reviews, regularly we see blanket statements like improve the proactivity. I appreciate this is almost an action plan of getting down into the detail and even down to assessing some of the less important issues. I compliment you on your attention to detail. Have you got some sense of the cost of implementing all the recommendations?

**Ms Webbe:** Yes, I make some comments on that. Just to follow-up on your comments then as well, the attention to detail is also very important in closing the loop for stakeholders. If they have invested time in sharing with me what they think improvements could be or they raised with me things like there being fees for vexatious complainants and so on, it is incumbent on me to say what I think about those and give a response rather than me just decide not to proceed with it and it not see the light of day. I think it is good feedback for those who are consulted to see what the outcome of that was.

In terms of the cost of the recommendations, the only cost that I suggest in there that is over and above what they have already is in relation to supporting a supplementary budget submission in the next cycle in order to assist the Ombudsman to fund its existing full-time equivalent establishment numbers of 63. They are currently only funded for about 95 per cent. They have been managing that through vacancies and other measures. My recommendation is that that should be supported going forward.

The other one was in terms of its capital budget and the age of its Resolve database for complaints management system—its technology. It is covered at the moment by its supplier, but I understand that in 2014 there was a health check on it and it was recommended that it be upgraded. That is well beyond the scope of a small budget for the Ombudsman's office of 63 staff to manage that. It is appropriate for that to be the subject of a supplementary funding submission. At some point in the future there would need to be a business case and a decision about what the most cost-effective options are and that followed through with a supplementary funding submission for implementation.

The other recommendations are managed by the improvements in efficiency, effectiveness and economy that I have made throughout the report. Where there are productivity concerns, I have raised those to say that there could be savings here, there could be more efficiency there and so on. For example, simple things like correspondence and delegations and in phone calls instead of letters when it can be done by a phone call in the pursuit of informal and quick justice. It is good to have an independent check on those sorts of things. Even though they do look minor and you look at it and wonder whether this deserves a recommendation in a report, they do because you would be surprised how big an issue they can be for an individual officer at times. It respects their input to say that their issue has been heard and here is a process forward in order to deal with that concern.

Apart from funding their FTE establishment, which has not increased for the time that the Ombudsman's term has run, there has been no increase to the full-time-equivalent establishment. It needs to be funded beyond the 95 per cent, and for the Resolve computer system there are no additional costs in my view.

**Mr McDONALD:** I would like to follow up on that with regard to recommendations 63 and 64. Recommendation 63 was about performance management and staff being concerned that poor performance was not being managed correctly, and recommendation 64 was in regard to staff being employed under the Ombudsman Act and the Public Service Act.

**Ms Webbe:** Yes.

**Mr McDONALD:** I appreciate your inclusion of recommendation 63 and those staff who might feel affected can see that recommendation there.

**Ms Webbe:** Yes.

**Mr McDONALD:** Do you think that employment under the Public Service Act will improve that area and will that affect the ongoing cost being employed under a different act?

**Ms Webbe:** It should save costs for the Ombudsman, because if they were to be employed under the Public Service Act there would be no need, as there is now, for the Ombudsman's office to duplicate HR systems, processes and policies. That is where historically over strategic reviews—and perhaps this one as well, as I have indicated with detail in the report—there can be some slippage between communication from the Public Service to the Ombudsman because they are not regarded as one of the public sector agencies. There is extra effort obviously in needing to do it all for themselves. They have one full-time-equivalent HR person for the entire office of 63, whereas the Public Service has the Public Service Commission and their own HR agencies, so that is a big call. It would be more efficient and more economical if they were employed by the Public Service and they were caught up with the CaPE service, which is part of Public Service agencies and other enabling provisions of being a public servant that is employed under the Public Service Act as distinct from the Ombudsman Act.

Historically, for reasons of independence staff are not employed under the Public Service Act, although in practice, as I have mentioned, their conditions are mimicked. Not only do they need to negotiate their own industrial relation frameworks in addition to their HR frameworks; they need to take that through Governor in Council as well. This is all costing the system. My posit is: is that really justified anymore given that the historical basis for keeping the Ombudsman staff employed under the Ombudsman Act is out of concern for independence?

I raise in my report a number of issues that suggest that that concern should not be the only reason for the result that the staff are employed under the Ombudsman Act because there are issues, as you have mentioned, such as mobility of staff, missed career opportunities, overhead costs in duplicating the HR and IR arrangements and reliability of consistency with contemporary HR management such as managing poor performance where under the Public Service Act it is a disciplinary issue if a senior manager fails to manage poor performance. There would be those responses to ongoing concerns throughout strategic review history for the Ombudsman.

In terms of why I think the independence is not enough to close the discussion on whether the staff should remain in the Ombudsman Act or the Public Service Act, independence is not reliant on which head of legislation the staff are employed. Indeed, independence is already legislatively mandated in the Ombudsman Act in section 13 where the Ombudsman is not subject to direction by any person and is an officer of the parliament under section 11.

Currently, section 77 of the Ombudsman Act already enables public servants to be seconded to the Ombudsman's office with the protection under section 77(2) that the public servant is taken to be an officer of the Ombudsman while seconded there. It already happens essentially and the provisions under the act already enable there to be no direction of that person from the Public Service who has been seconded into the office and so on.

Plus other jurisdictions—the Commonwealth, New South Wales, Victoria and Tasmania—have their staff employed as public servants under equivalent Public Service legislation and have done for a long time without any concerns as to their independence. There is definitely strong precedent for it elsewhere. Within the Queensland Auditor-General staff have been employed under the Public Service Act for some time without question as to its independence in practice, although I acknowledge that in the recent strategic review of the Auditor-General, for reasons of attraction and retention of qualified professional staff—there is a distinction in their circumstances—there is a suggestion that in accordance with international audit principles the Auditor-General staff be employed under the Auditor-General Act. I would say that that is a different situation from the Ombudsman and it is not a

sole concern for independence. It is more for retention of qualified staff competing with the private sector. There are already available protections within the Ombudsman Act which could be readily amended to support the independence of staff technically employed under the Public Service but acting under the Ombudsman Act.

As I explained in the report and to the office of the Ombudsman, because of the costs of having to duplicate a system, because the concern for independence is not as great as perhaps it once was and because there is a recurrence of HR type issues such as performance management of underperformers across strategic reviews, it is time to have the conversation as to whether there is benefit for staff and the public purse generally for them to be employed under and scaffolded by the Public Service Act and those arrangements than to keep a pure sense of independence under the Ombudsman legislation.

**Mrs McMAHON:** Thank you, Ms Webbe, for attending today and for the body of work that is contained in the review. I was going to ask you a question about recommendation 30, but before I do there was something in your previous response that triggered my memory. Previously the reviews have been every five years and now we move to seven years.

**Ms Webbe:** That is so.

**Mrs McMAHON:** With the conduct of this review, do you have any concerns about the move from five years to seven years as a level of governance?

**Ms Webbe:** No. The Office of the Ombudsman is a very professional, well-run organisation that can take on board a substantial report that does lay it all out for them so that there is also continuity as the current Ombudsman term expires at the 10-year point. I do not have any doubt that the Ombudsman's office can take that forward. With respect to the difference of two years, I do not have any concerns with the operation of the Ombudsman's office to be concerned by that distinction of time.

**Mrs McMAHON:** I turn to recommendation 30. Quite a few of us here are new parliamentarians and we are learning our way through the various different governance bodies within the Queensland government. We note that there are quite a few who are learning the ropes in terms of scope of responsibility. I acknowledge the invitation that we had as parliamentarians to visit the office of the Ombudsman to learn more about the roles and procedures and the extent of the work that is done there. I note in your report—and I am quoting some of the lines—'the confusion caused by multiple "Ombudsmen"', 'concern at the "overuse" of the name "Ombudsman"' and that this concern 'has been mentioned in other strategic reviews'.

**Ms Webbe:** Yes.

**Mrs McMAHON:** With that in mind, do you have any examples of potentially the negative impact that has occurred in Queensland because of the use of the term 'Ombudsman' other than for this particular role?

**Ms Webbe:** This issue relates to managing wasted resources in dealing with out-of-jurisdiction complaints which can be caused by confusion as to the name 'Ombudsman' being used across a number of bodies. As I indicated, it was raised in my first meeting with the current Ombudsman when I began the review. It has been raised in previous strategic reviews before. As I have mentioned in the report, there is precedent in other jurisdictions where it is either prohibited for it to be used in any other sense other than a parliamentary Ombudsman or that there is a requirement for the Ombudsman to be consulted before it is used.

The Ombudsman currently manages any confusion as best it can through a number of strategies such as various committees that the Ombudsman sits on with other bodies, with memorandums of understanding, with other industry ombudsmen as to how they can carve out their jurisdiction and practices efficiently between themselves. The Ombudsman also has innovated in minimising waste within the office in handling out-of-jurisdiction complaints by automating their telephone service to redirect automatically to the correct ombudsman or other body as well as their online facility that also enables that to be redirected. Quite honestly, they do not count those as contacts to the office, which is good and fair.

The Ombudsman currently is managing the confusion with a number of strategies and innovations, but it is an ongoing issue as to whether it is appropriate to reduce the gravitas of a parliamentary Ombudsman by enabling confusion in the body politic by there being more than one or a small number. You will see that I have not been dramatic there. I have said from 'prospective application' because the current situation is being managed, but there is a need for caution for it to be an open case that an ombudsman—because it does have that gravitas—is used for other roles that will perhaps end up undermining the effectiveness of the current Ombudsman because of confusion in the marketplace and because of the cost to the system of that confusion.

**Mrs McMAHON:** You noted examples of New Zealand and South Australia which have some framework or structure around the use of that term.

**Ms Webbe:** Yes.

**Mrs McMAHON:** Was your review able to go so far as to determine what the level of confusion is in those two jurisdictions because of the structure that they have put in place?

**Ms Webbe:** The effect of them managing it that way? No, I was not able to do that.

**Mrs McMAHON:** Thank you.

**CHAIR:** I am conscious of the time. This will be the last question. I think we have four minutes before we conclude. The Queensland Ombudsman suggested amendments to section 10(c) of the act to provide jurisdiction over other bodies which perform a function on behalf of an agency. Can you elaborate on the reasons why you did not support that suggestion to widen the jurisdiction of the office to non-government organisations? I think it is recommendation 27 on page 49.

**Ms Webbe:** There was quite a bit of feedback on this with agencies as well, and it was my view in the final analysis that it needs to be considered as part of a broader picture so that we are not cherry-picking in the system because that can lead to adverse consequences and it would be beneficial to have a sense of the whole.

I would venture to say that this issue has been around for decades since public sector outsourcing essentially and there are a number of complexities involved. Agency feedback, for example, advises that there are in place quality standard frameworks with contractual implications if those standards are not met. There are definitional and threshold issues. Given that many of these bodies are operating on a shoestring budget already, to replicate a quality standards framework on top of that with the Ombudsman's reach is without a consideration of the whole and the fact that there are other stakeholders involved. Other levels of government use those service providers, for example. It was well beyond my terms of reference to venture.

The other comment that I made was for the Ombudsman at the moment given their budget constraints—the staff they have had for a number of years are not fully funded, for example—there are other workload implications on the horizon for them. I am sure the committee is aware of those—the Ombudsman would have raised those previously—in terms of juvenile justice and corrections. There is a report with the Attorney-General's department currently in relation to a more rigorous and robust provision of service in relation to public interest disclosures to be given to the Ombudsman's functions. This was not the time to make a hasty decision to extend the reach of the Ombudsman's jurisdictions to those organisations when the Ombudsman already has jurisdiction over the departments and how it manages its contracts. It can be managed within that frame currently before a better look as to the larger picture which is beyond the scope of my review.

Of course I acknowledged at the outset in terms of accountability of public spend and following the dollar and so on that ideally you would want reach into the service provision of outsourced agencies and that they are providing quality administration services for the public sector. However, given that the Auditor-General also now has the function to follow the dollar, which also bolsters the current situation without us duplicating some of that functionality, I said that it is not the time for now. It should be the subject of a broader review. I was not prepared to support that recommendation at this time and I believe the Ombudsman understood my position.

**CHAIR:** Our time has expired. Thank you for your time this morning. A transcript of these proceedings will be available on the committee's web page in due course. I declare the public meeting closed.

**The committee adjourned at 9.31 am.**