

STRATEGIC REVIEW
OF THE
QUEENSLAND OMBUDSMAN
(PARLIAMENTARY COMMISSIONER
FOR ADMINISTRATIVE INVESTIGATIONS)

REPORT

Reviewer: Professor Kenneth Wiltshire

April 1998

24th April, 1998

Hon. Rob. Borbidge, MLA
Premier of Queensland
Executive Building
100 George Street
Brisbane, Q. 4000.

Dear Premier,

I have pleasure in presenting to you the Report of the Strategic Review of the Queensland Ombudsman (Parliamentary Commissioner for Administrative Investigations).

The Review has been conducted under Terms of Reference in accordance with Section 32 of the *Parliamentary Commissioner Act 1974* and has concluded that the Ombudsman remains a fundamental element of the system of governance in Queensland and the basic purpose of the Office, to ensure sound public administration, has remained unchanged. However, there is considerable scope for the Ombudsman to become more proactive, systemic and preventative in the oversight of administrative discretion in this State. A number of initiatives have also been identified to enable the Office to pursue the goals of effectiveness and efficiency.

The Review has benefited significantly from the complete co-operation of the Department of the Premier and Cabinet, the Parliamentary Legal Constitutional and Administrative Review Committee, and the Ombudsman, as parties to the Review process.

Yours sincerely,

Professor Kenneth Wiltshire

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1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

Executive Summary

1. In the 24 years since its inception the Office of the Ombudsman has fulfilled a vital role in Queensland's system of governance by providing an accessible avenue of appeal to citizens concerned about the exercise of administrative discretion. In investigating and reporting on alleged instances of maladministration it has contributed to the sound functioning of public administration in the State.
2. The public sector has become considerably more complex over this period and a significant number of additional appeal processes have been created leading to a deal of confusion about the role of the Ombudsman. The low profile manner of operation of the Ombudsman's Office for most of this period has contributed to some extent to this confusion and lack of awareness of the importance of the Ombudsman's task.
3. The fundamental purpose of the Office has not changed and the need for an Ombudsman remains.
4. The staff of the Office are highly dedicated to the purposes of the Office and well qualified, the investigatory processes of the Office are very thorough, and the Ombudsman enjoys a broad range of support from clients and, to a lesser extent, within government.
5. There are a number of complaints about the Office, the two main ones being delay and lack of frequent contact between Ombudsman staff and clients and agencies. There are also concerns about the formality of the Office, the manner in which it pursues its investigations, confusion about the mandate and role, and the way in which decisions are reached and communicated. There are also some morale problems amongst the staff of the Office.
6. The situation in the Ombudsman's office in recent years has been dominated by concerns over a rising backlog of cases and differences of opinion on how to address the backlog. This has resulted in an unsatisfactory expedient of short-term funding injections to employ temporary staff. The

situation has also been exacerbated by undue reliance on a performance indicator of the number of files being closed, which is not an accurate reflection of the workload through the Office and has been a source of tension within the Office and in relation to its resourcing.

7. The Office would benefit considerably from greater involvement with the Parliament and its key committee which have oversight of the Ombudsman's activities. There would also be significant advantages in this relationship mirroring to the maximum extent possible that which applies to the other major member of the parliamentary family - the Queensland Audit Office and the Parliamentary Public Accounts Committee. This is especially so in regard to the key aspect of resourcing the Ombudsman's Office. In particular, the estimates procedures need to be more open and have more parliamentary involvement.
8. It is essential for the Queensland Ombudsman to follow international and interstate trends to become less reactive and less oriented to individual complaints, and become more proactive, systemic and preventative. Steps have already been made in this direction but there are significant initiatives which could aid this strategic direction. They include a range of staffing practices, research, surveys, and a shift towards becoming more of a consultant to government agencies and working with them to identify and eliminate basic causes of maladministration.
9. The Ombudsman needs to become much better known and the role more clearly explained throughout the government system at state and local levels, and confusion over the status and powers of the Office removed.
10. There are a number of directions which can be taken to enhance the efficiency and effectiveness of the Office, including a new set of performance indicators, a system of case management based on early intervention, the restructuring of the Office, better infrastructure, enhanced research capacity, and improved work practices.
11. The Office appears to be somewhat under-resourced at present but any increase in its funding needs to be contingent on the Ombudsman taking positive steps towards a proactive, systemic, and preventative approach, and to set in place a range of measures to increase the effectiveness and efficiency of the Office. These include new performance indicators and a new relationship

with government agencies who themselves need to introduce changes to liaise more effectively with the Ombudsman's Office and introduce complementary processes which facilitate effective complaint handling.

12. Queensland currently has a very unwieldy maze of public administration appeal mechanisms which is causing confusion in general, and particularly regarding the role of the Ombudsman. It is also placing heavy burdens on Departments, agencies and local governments. Considerable potential exists for rationalisation of this maze and achievement of synergies within it, without in any way detracting from the rights of citizens to express their grievances and lodge appeals. This is all the more urgent because trends affecting Queensland's public sector towards the next century reveal an increasing propensity for appeals against administrative discretion and hence an expanding workload for the Ombudsman.

Summary of Recommendations

- R.1. The PLCAR should engage in a more substantial scrutiny of Annual Reports and any other reports of the Ombudsman each year, particularly regarding the quality of public administration in the State and any major systemic issues which are raised. Such scrutiny and the results of discussions on these matters with the Ombudsman should form a significant component of a report of the PLCAR to Parliament.**
- R.2. The Ombudsman, in reports to Parliament, should convey material of a more strategic nature to the PLCAR including trends in public administrative practices, systemic issues for accountability arising from these trends, the extent to which developments in the public sector are impinging upon the intended directions of the corporate plan of the office, explanations of significant changes in the performance of the Office as revealed in a new range of performance indicators, the range of proactive measures which have been initiated to meet the changing**

administrative behaviour in the public sector, and the impact of these trends and patterns on the resourcing of the Office of the Ombudsman.

R.3. The Ombudsman should, at the beginning of each new Parliament, engage the PLCAR in a discussion about the corporate plan of the Office and the projected future directions it is taking. Provision should also be made for structured input from the PLCAR to the design of each new corporate plan and its associated performance indicators and evaluation mechanism.

R.4. The following process is recommended for handling the estimates of the Office of the Ombudsman -

- The Ombudsman submit the estimates of the Office to the PLCAR for each financial year.
- The PLCAR review with the Ombudsman the performance of the Office for the current year and the resource requirements for the year in prospect.
- The PLCAR to retain its powers to call upon Treasury for advice and analysis, to assist the Committee where necessary in its assessment of the performance of the Office, or to seek clarification of viewpoints and to provide a forum for an exchange of such viewpoints between the Ombudsman and the Treasury.
- The PLCAR, on behalf of the Parliament, to recommend to the government, specifically the Cabinet Budget Committee, the level of resources to be made available to the Office of the Ombudsman for the year in prospect by means of endorsing or amending the estimates supplied to the Committee by the Ombudsman, and taking into account the Committee's reflections on the circumstances of public administration in Queensland, as reflected in the Ombudsman's reports.
- The Cabinet Budget Committee to take account of the PLCAR recommendations in its personal deliberations with the Ombudsman in the normal manner each year, as part of the review of budget estimates.

- R.5.** All departments and agencies should be reminded of the *Cabinet Handbook* ruling to consult the Office of the Ombudsman on all policies and legislation relating to citizens' grievances and other relevant matters, in giving their advice to Cabinet, along with the Ombudsman's advice.
- R.6.** There should be a concerted drive to make the community and government agencies more aware of the role, including powers, and limitation on powers, of the Queensland Ombudsman. This should ideally include:
- (a) New brochures more appealing in presentation and written in simpler language.
 - (b) An Ombudsman Home Page on the internet.
 - (c) Information Kits for State and local government departments and agencies outlining the procedures and criteria used by the Ombudsman; an ideal internal review mechanism for agencies for their own complaints; a model internal investigatory process on receipt of contact about a complaint from the Ombudsman; components of a client services charter which would meet the requirements of the Ombudsman.
 - (d) A short quarterly newsletter, from the Ombudsman's Office directed primarily at state departments and agencies and local governments providing regular information about systemic issues occurring in the public sector, new legislative or procedural arrangements introduced by government affecting the operations of the Ombudsman, and other items related to administrative review which have relevance for the Ombudsman and government administrators in general.
 - (e) An informative annual report which, each year, reiterated the role and powers of the Ombudsman, and highlighted any systemic trends in the public sector giving rise to complaints to the Ombudsman.
 - (f) More lectures and papers given by staff of the Office to professional groups and seminars dealing with public sector issues, to make them more aware of the Ombudsman's role and powers.
- R.7.** The Office of the Ombudsman should work more closely with State departments and agencies, and local governments, more in the nature of consultant and adviser.

- R.8.** State and local governments should establish formal contact officers for Ombudsman complaints, such officers to form a network whereby the Ombudsman can move to establish joint training seminars, advice on systemic issues and causes arising from complaints, client service charters, changes to policy, legislation and practice. The Ombudsman's Office should be on line to all of these contact officers.
- R.9.** The Office of the Ombudsman should be invited by government units to participate as an observer and adviser on reference groups established to design new policy initiatives, with a view to making them client oriented and minimising the potential for administrative indiscretion and maladministration.
- R.10.** In conjunction with the Ombudsman, units of government should establish internal complaint handling procedures consistent with the Ombudsman's mandate to handle complaints of their own volition in the first instance, and also complaints referred by the Ombudsman. Such a complaint handling procedure should have a recording and tracking system and a regular flagging or bring-up mechanism for evaluation of the effectiveness and timeliness of complaint handling. All state and local government agencies should show all Ombudsman cases in their annual reports.
- R.11.** The Ombudsman should institute a formal program of secondments, to and from the Office, with State government departments and agencies and local governments. Such secondments should receive formal endorsement and encouragement from the Office of the Public Service and local government associations as a recognised and valued avenue of career enhancement for officials. Home agencies should guarantee employment to returning secondees at a level equal to that which they held immediately prior to the secondment. As a guide, the Ombudsman should pursue a target of one-quarter of investigative staff to consist of

seconded by 2003. The secondment program should be widely advertised throughout state and local government and feature on the Ombudsman's internet Home Page.

- R.12.** The Client and Agency Satisfaction Surveys should be carried out every two years as a minimum by the Office of the Queensland Ombudsman. The results should be used to inform and modify the approach and practices of the Office, and serve to highlight areas for further research, especially the extent to which agencies are implementing Ombudsman's recommendations. The Office also should establish a separate annual random sample follow through with complainants to monitor the extent of agency acceptance of Ombudsman recommendations. Such a measure of the outcomes of the Office should be used to fashion further action such as joint seminars with agencies, provision of more information about the Office, further explanations for reasons for decisions, etc. The results of the surveys and the outcomes monitoring should be synthesised in the annual report and provided in full to the PLCAR.
- R.13.** More frequent use should be made of the "Own Motion" /Investigations. The Office should constantly identify areas where complaints are clearly stemming from basic systemic causes in sufficient numbers to warrant a research program conducted with the co-operation of the agency/ies concerned to identify the cause, propose new approaches, and change the pattern of administration in the area concerned. The team leader should be chosen for his/her expertise in the area involved but every effort should be made to give the maximum number of staff the opportunity to be part of such an investigation over the medium term. The research capacity to cope with this additional research function should be provided by an enhancement of the resources of the Office, especially on-line facilities.
- R.14.** The Queensland Ombudsman should remain open to entrepreneurial opportunities and pursue those which can make good use of the

expertise of the Office but which do not cause any fundamental distraction from the main purpose of the Office.

- R.15.** The Queensland Ombudsman should construct a new set of performance indicators for the Office in consultation with the PLCAR and the Queensland Treasury. Such performance indicators should encompass the full workload of the Office, reflect its qualitative nature, address the complexity of complaints being handled, measure the time involved in handling complaints, the need to share the burden of response between the Ombudsman and the agency which is the subject of the complaint, identify cases which have experienced "legitimate" delay, and ensure that timeliness remains a key element for cases which require urgent resolution because of impending impacts on complainants. The New Zealand model should be used as a guide.
- R.16.** The new performance indicators should be incorporated into a new reporting regime for the PLCAR and be incorporated into the annual report. They should, in more detailed form, accompany the Ombudsman's estimates in each year's budget round.
- R.17.** The classification of cases in the new performance indicators should include categories for cases handled by "early intervention" to reflect the efforts of the Office at case management.
- R.18.** The Ombudsman's Office should embark on a fresh approach to case management focussing on early intervention to identify complaints which do not require a full investigation. To this end an intake unit should be re-established in the Office with sufficient powers delegated to the officers involved to judge complaints capable of speedy resolution and to take the appropriate action. All staff should be given the opportunity to take part in rotations to the intake unit and none should serve longer than six months at a time. The potential for the intake unit to be on line to a network of Ombudsman contact officers should be explored. The duties and responsibilities of the telephonists/receptionists would need to be redefined once the intake unit were established but, in any event, more consistency should be pursued in the manner in which

individual staff respond to callers through the switchboard. The UK experience should be looked to as a model.

- R.19.** Following the introduction of the new performance indicators and the case management/early intervention intake system, a new, more open management style should be introduced into the Office. It should feature complete sharing of all individual and office-wide performance data amongst all staff, accompanied by frequent case management/file review staff meetings at least once per month. The coding of cases should be reviewed to ensure that precedents can readily be identified.
- R.20.** The work of the Office should continue to be divided broadly into State and local jurisdictions to allow for the benefits of such specialisation, but should be accompanied by regular staff conferences to discuss performance, cases, and targets, and office-wide and individual performance data be made available to all. The opportunity should be provided for more frequent formal meetings of smaller groups of staff with similar case allocations to meet to discuss difficult cases in particular. The Ombudsman should revisit the "two-team" structure after 12 months' operation of a new performance indicator and associated management style, in consultation with the staff, to determine whether smaller teams might be more appropriate.
- R.21.** The Queensland Ombudsman should introduce formal training/staff development program particularly for new recruits.
- R.22.** The Ombudsman should instigate a review of the classification of positions in the Office to ensure that they reflect the true worth of the work being performed, for both professional and support staff positions, and the need for a more graduated scale of professional and support positions.
- R.23.** There should be more delegation of responsibility from Deputy Ombudsman to all staff but particularly senior staff in relation to assignment of intake, signing of correspondence, and the conduct of trips. Deputies should be encouraged to be more involved with the strategic elements of the Office, its outward interfaces, mentoring of

staff, raising the profile of the Office, and engaging in related professional activities.

- R.24.** The Ombudsman should review the visits procedures, especially the correctional centres visits, to ensure that the maximum effort is directed to resolving complaints on the spot.
- R.25.** The Ombudsman should conduct a complete, realistic inventory of capital and recurrent requirements in the Corporate Services area of the Office. Whilst the delivery of those services should remain, as far as possible, within the Office, discussions should be undertaken with the Queensland Audit Office and the Parliament to determine whether the sharing of establishment and operating costs of some aspects, particularly information technology, could be achieved. Following these discussions and on the basis of the inventory, a costing for these items should be forwarded to the PLCAR and Treasury for special one-off funding to bring the corporate services function up to date. Given the precarious and antiquated nature of some of the infrastructure, this request for funding should be viewed sympathetically.
- R.26.** The Ombudsman should reconsider the Management and Work Practices of the Office in the light of comments made by this Review, management and staff meetings should be held more frequently with adequate opportunity for staff feedback, and consideration should be given to establishment of an external grievance appeal mechanism for the Office.
- R.27.** In addition to the extra resources already flagged to bring the information technology capacity up to date, the Office should be resourced to be able to recruit two more staff but on condition that the reforms outlined in this Review are implemented. After this the resourcing of the Office should be indexed to the more realistic set of performance indicators which are developed.
- R.28.** The government should cease using the word "Ombudsman" in the title of other appeal bodies and mechanisms and should also discourage the private sector from so doing.

- R.29. Parliament and the government should conduct an overall review of all of the administrative appeal mechanisms in Queensland with a view to streamlining, diminishing the complexity and cost of the administrative appeals machinery, and reducing the burden on the administration, whilst at the same time ensuring there is no net diminution of the rights of citizens to complain about administrative discretion. When new public sector developments occur which require an avenue of appeal from administrative discretion, the presumption should be in favour of incorporating the avenue into the functions of the Ombudsman's Office rather than creating a single purpose channel and new body to oversee it.**
- R.30. Potential synergies should be explored between the numerous appeal bodies in Queensland in relation to commonality of training, research, library resources, and joint seminars to keep abreast of developments in the public sector in Queensland and elsewhere.**

2. TERMS OF REFERENCE

Scope

Section 32 of the *Parliamentary Commissioner Act 1974* states that strategic reviews of the Parliamentary Commissioner are to be conducted at least every five years by an appropriately qualified person appointed by the Governor in Council. The terms of reference for the Review are also to be decided by the Governor in Council. The requirement for strategic reviews was included in the Act only in 1995. This is the first such review of the Parliamentary Commissioner.

Objectives

The objectives of the Review are:

- (1) to review **the purpose** of the Office and provide advice and recommendations on the strategic direction for the Office and on how to ensure that the Office has a clear focus for the future;
- (2) to review the **complaint and other procedures** currently utilised by the Office and provide advice and recommendations on whether these or alternative procedures (including demand management procedures) will better enable the Office to meet efficiently and effectively its statutory and other responsibilities;
- (3) to review the current **organisational structure and staffing arrangements** within the Office, and provide advice and recommendations on whether alternative structures and staffing arrangements will better enable the Office efficiently and effectively to meet its statutory and other responsibilities;
- (4) to review: (a) the **level of funding** currently available to the Office and (b) **how the level of funding is used**, and provide advice and recommendations on whether alternative levels of funding and their use are appropriate to support the procedures, structures and staffing as recommended;
- (5) to provide advice and recommendations on the **performance measures** and **performance reporting** that should be applied in determining and monitoring the efficiency and effectiveness of the Office; and

(6) to provide advice and recommendations on these other management issues during the course of the Review:

- ✘ the extent and effectiveness of **demand management techniques** applied by the Office and whether alternative and/or additional demand management options could be initiated;
- ✘ identification of the key features of the **organisational culture, workplace and management practices** and the degree to which they may impede or enhance the efficient and effective functioning of the Office;
- ✘ the extent to which the Office is appropriately **client focussed**; and
- ✘ how best the Office should address the needs of clients in **regional areas**.

Methodology

The Review will include:

- ✘ interviews with staff and former staff of the Office, both individually and in focus groups;
- ✘ consultation with key government agencies;
- ✘ surveys of complainants;
- ✘ data analysis of work flows based on existing data records of approaches and complaints to the Office;
- ✘ budget analysis of current and planned expenditure;
- ✘ analysis of relevant legislation, documented policies and procedures; and
- ✘ organisational structure and analysis.

Duration

The Review is expected to take a maximum of three (3) months from the appointment of a person to conduct the Review through to presentation of the final report.

Reporting

Written progress reports are to be provided to the Premier, the Parliamentary Commissioner, and the Parliamentary Legal, Constitutional and Administrative

Review Committee (PLCAR) at the end of the first and second months, with the final report completed at the end of the third month.

The final report of the Review is to be presented to the Premier, the Parliamentary Commissioner and the PLCAR in a suitable format for tabling in the Legislative Assembly.

Throughout the review process the Reviewer will liaise with the PLCAR.

3. METHODOLOGY

The methodology for the Strategic Review addressed all of the requirements of the terms of reference and went beyond them.

An extensive literature search was undertaken of reference material, academic works, official publications, reports, etc. The Secretariat of the PLCAR also conducted a search of references which have been made in the Queensland Parliament to the Ombudsman.¹

It became apparent that there have been four particular Ombudsman's Offices which have experienced similar reviews in the 1990s in the context of Westminster systems. They include the United Kingdom, New Zealand, Commonwealth (Australia) and New South Wales. The opportunity was taken during a visit to London for discussions at the UK Ombudsman's Office, and similar discussions were held in Wellington and Canberra. The report of the NSW review was closely scrutinised and some telephone discussions ensued with that Office. Consequently a great deal of comparative material has been received of direct relevance to this Review.

The Reviewer benefited from two extensive discussions with the members of the PLCAR, at the beginning of the Review and towards the end. Six state government departments were chosen for in-depth interview based on the number of complaints received and also to achieve a balance between departments providing human services and those predominantly serving business. In each case the CEO or very senior staff were present. The same was true re interviews with the two central agencies of the Department of the Premier and Cabinet and Treasury.

Every staff member of the Ombudsman's Office was interviewed, as well as a significant number of former staff who requested interviews. All were guaranteed complete confidentiality. Each session lasted a minimum of 30 minutes and typically 45-60 minutes. Extensive interviews were conducted with the Ombudsman and the

¹The formal title of this Committee is "Legal, Constitutional and Administrative Review Committee", but for the purposes of this report the acronym "PLCAR" has been used as contained in the terms of reference.

two Deputy Ombudsmen. At the end of the Review three group focus sessions were held with the staff of the Ombudsman's Office to canvass views on a consolidation of staff and other responses and emerging issues from the Review.

A total of seven local governments were visited for in-depth discussions, in Yeppoon, Rockhampton, Thuringowa, Townsville, Nambour, Caloundra and Caboolture. The local governments were chosen based on the number of complaints received and to achieve a regional balance. In almost all cases the Mayor and Chief Executive Officer were present together with other senior staff.

The terms of reference required a client survey to be undertaken as part of this Review. However, on commencement of the Review it was discovered that the Ombudsman had, some time previously, initiated a survey of complainants and departments/agencies and local governments. Consequently, the design of these survey instruments was assessed and found to be suitable for the purposes of this Review, provided some validation of results was undertaken on a sampling basis. Although calls for public submissions were not a required element of the Review, a small number of submissions were received from members of the public.

The Reviewer had complete access to the files and all data held in the Office of the Ombudsman. This included the history of organisational review, budget estimates and bids for increased funding, management committee minutes, staffing data, and the like.

The conduct of the Strategic Review took longer than anticipated due primarily to the larger than anticipated number of interviewees and the considerable time involved in the interviews. It needs to be stressed that this was a Strategic Review and not a management or operational/procedural review. A great many points which were raised with the Reviewer, especially by the staff and former staff, fell outside the scope of the Review but were noted.

Acknowledgments

The Reviewer is extremely grateful to a number of people who facilitated the conduct of the Review, in particular all of those who were interviewed and were prepared to offer viewpoints and supply information.

My thanks to Judy Gamin, MLA (Chair) and all the members of the Parliamentary Legal Constitutional and Administrative Review Committee for their time and helpful discussions.

I am particularly indebted to John Avery of the UK Ombudsman's Office, Leo Donnelly of the New Zealand Ombudsman's Office and John Wood of the Commonwealth Ombudsman's Office, for their time and the extensive information they gave me. The British Consulate in Brisbane facilitated the interviews in London and I express my thanks for this assistance.

Lyn Doblo of the Department of the Premier and Cabinet, as Project Officer for the Review, provided much helpful guidance and assistance. Kerry Newton, Director of the Secretariat of the PLCAR Committee facilitated parliamentary research and discussions and, in the Ombudsman's Office, Karin Crase and Andrea Damm were of considerable assistance in providing a range of professional and secretarial support.

I am particularly grateful to the Queensland Ombudsman, Fred Albietz, and all of his staff for the positive and co-operative manner in which they co-operated with the Review.

My special thanks goes to Irene Saunderson for typing the manuscript and to Adrienne Clark and the Centre for Public Administration at The University of Queensland for valuable secretarial support.

Kenneth Wiltshire.

4. THE OMBUDSMAN CONCEPT

Although the notion of an Ombudsman can be traced to ancient history, the origins of the office in its contemporary form is found in Scandinavia, more particularly Sweden, in the early nineteenth century (1809).

Strictly translated the word means something close to "representative or agent of the people" but, loosely translated, it conveys the concept of citizens' defender, public watchdog, or grievance person. The Ombudsman is an official of the Parliament, not the Executive, which is a very important distinction in the separation of powers and is fundamental to the status and functioning of the office. Citizens take their grievances about the actions of government officials to the Ombudsman knowing that they will receive a fair, objective hearing from an independent person who is not part of the Executive. Ready access and impartiality are meant to be the hallmarks of Ombudsmen wherever they exist.

The Ombudsman investigates behaviour which is generally regarded as "maladministration", defined by different regimes in different ways but essentially it relates to the behaviour of officials which has been unfair, unreasonable, unjust, or where there has been undue delay or a decision has not been based on appropriate facts or followed due process. Ombudsmen typically have significant powers of access to government officials and their files, and can legally require the production of material and evidence. Most Ombudsmen, unlike their Swedish counterpart, cannot overturn decisions of government officials, but their recommendations carry substantial weight owing to the status of their office, and government agencies typically accept their recommendations.

The Ombudsman concept was introduced to Westminster style systems of government by New Zealand (1962) in the mid-twentieth century and it has now spread through most countries which have this model of governance. The move to introduce Ombudsmen in Australia began in the 1960s and, by the end of the 1970s, every Australian state, the Commonwealth government, and a few local governments had one.

The functioning of an Ombudsman in a Westminster model produces some slight variations on the general theme owing predominantly to the different nature of the separation of powers. In this context the Ombudsman typically reports to the Speaker of the Parliament and is seen to be an officer of the Parliament but the arrangements, as well

as the resourcing of the office, will be greatly influenced by the independence of the Parliament itself. These matters often lie at the heart of the tension which can exist between officers of the Parliament such as Ombudsmen and Auditors-General, and the executive. By and large, the more independent the Parliament, the more independent the Ombudsman, especially with regard to financial and human resources for the office. Potential exists in these circumstances for a delicate contretemps, as the Ombudsman may well be reporting on the activities of government agencies who have a large say in, even control of, the resources of the Office of the Ombudsman, particularly if there is minimum or no parliamentary involvement in this process.

In Westminster systems, Ombudsmen usually do not investigate the actions of ministers themselves, nor other officers of Parliament, nor the courts. In relation to government agencies, if there should be other appeal avenues for a citizen, particularly formal ones, an Ombudsman will decline to investigate a complaint until these other channels have been pursued.

Complaints must usually be in writing but alternative arrangements are often made for those who are illiterate or have other difficulties with the written mode. Most Ombudsmen are able to decline a complaint if the action to which it refers is more than twelve months old, or considered frivolous or vexatious.

Ombudsmen typically make an annual report to the Speaker and hence the Parliament, but there is usually provision for special reports also to be issued. Involvement with the media has also become increasingly important to make the public aware of the work of the office and enhance the role of the Ombudsman as citizens' watchdog.

5. QUEENSLAND'S OMBUDSMAN

Queensland was one of the last of the Australian states to introduce the ombudsman concept. Indeed, this particular reform seemed to spread from west to east across Australia but only after resistance from governments and members of Parliament had been overcome and fears allayed. This was certainly the case in Queensland where the government had strongly resisted the concept and many members of Parliament had proclaimed that they were, in effect, ombudsmen, and so an official office was not needed. Ironically, most members of Parliament now make significant use of the Ombudsman for referrals for their constituents.

In 1972 the government of the day adopted the appointment of an Ombudsman as a policy but it was not until March 1974 that a Bill was introduced into the Queensland Parliament, after studies had been conducted of the functioning of Ombudsmen in Western Australia, Britain, New Zealand and Denmark. In his introductory speech, the Premier of the day said:

... some have hailed the ombudsman as the remedy for all evils of government; he is the super servant ready to right the wrongs of the all-powerful bureaucracy at the stroke of a pen. Equally others saw the institution as a political gimmick to fob off critics of the government - a wailing wall to keep the public at bay. ...

The government is responsible for the administration of the law, but equally, under our democratic system, so is the Parliament, because the law emanates from Parliament. Parliament makes the law that forms the guide-lines for our society and then delegates to the Executive the responsibility for the implementation of the law. That is what the word "Executive" implies.

However, all human organisations are fallible. A departmental officer administers the law to the best of his knowledge and abilities but he might make an error or a wrong decision or a decision that a member of the public who is affected believes is wrong. To whom does that member of the public turn for redress? He would feel, rightly or wrongly, that going to the department or minister concerned is like appealing from Caesar to Caesar. He can go to his member of parliament, but again he might feel the member does not have enough time to go thoroughly into all the details of the case or might not be able to obtain information from the particular department ...

It is from this feeling of the ordinary man against the administration that the concept of the ombudsman has evolved. He is the champion of the rights of the ordinary man. He is somewhat like a judge - part of the democratic process but to one side of it with special powers and immunities to examine and correct administrative mistakes and wrongs (*Queensland Parliamentary Debates*, March 22, 1974).

The Opposition of the day supported the concept and the legislation. Introduction of an Ombudsman had been part of their policies for some time.

In the Second Reading speech the Premier elaborated:

While the aim of the Bill is to protect the rights of the citizen and safeguard the reputation of the public service, it will in no way diminish the role and the responsibilities of members of this parliament.

The whole object of this Bill is to allow people who feel they have been aggrieved by government or local authority administrative action, to have their grievances investigated by a competent and impartial officer of parliament. The Parliamentary Commissioner will have all the powers of a royal commissioner, plus the right of entry to government departments, regional boards, authorities and local authorities. I emphasise that all investigations by the Commissioner will be conducted in private (*Queensland Parliamentary Debates*, April 4, 1974).

The Bill was passed after a reasonably robust debate and became law. Ombudsman legislation around the world varies in its scope and intent, and Queensland's varied from the norm in some ways, viz. the actions of police in their law enforcement role were not covered, the Ombudsman would be required to give 48 hours' notice before compulsory entry of public service premises to obtain information, and contained within the definition of maladministration, administrative action of which the Commissioner is of the opinion that it "was wrong". Apart from normal annual reports, special reports could be authorised by the Speaker, to be published in the public interest whether or not they had been tabled in Parliament. Parliament, or its committees, were given power to refer matters to the Ombudsman.

Section 24 (1) of the Act laid out the full gambit of the scope of maladministration on which the Ombudsman would make judgment. It covered any administrative action which:

- (a) appears to have been taken contrary to law; or
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory; or
- (c) was in accordance with a rule of law or a provision of an enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory; or
- (d) was taken in the exercise of a power or discretion, and was so taken for an improper purpose or on irrelevant grounds, or on the taking into account of irrelevant considerations; or
- (e) was a decision that was made in the exercise of a power or discretion and the reasons for the decision were not, but should have been given; or
- (f) was based wholly or partly on a mistake of law or fact; or
- (g) was wrong.

Clearly the Ombudsman would be required to make an analysis and judgment on both the merits and processes of decisions.

The first Queensland Ombudsman, Sir David Longland, had been Chairman of the Queensland Public Service Board and was an eminent community leader as well as public servant having had a distinguished career in the public sector. He, like the heads of the various public service boards/commissions in Australia, had not been enthusiastic about the introduction of the Ombudsman concept, fearing it would be seen as a slight to public servants. However, immediately upon assuming office, Sir David entered the role with his typical enthusiasm and efficiency and made clear to all bodies under his jurisdiction what the role of the Ombudsman would be. Sir David Longland's style is a significant feature in relation to this Strategic Review because it established an image of the Ombudsman in this state. Highly respected, extremely influential, well connected throughout all arms of government and the community, Sir David was a quiet achiever, usually able to attain a result by careful discussion, subtle diplomacy, and rational persuasion behind the scenes. He had rarely, throughout his career, had to, or wished to, resort to publicity or a high profile. His term as Ombudsman was no exception, despite having to deal with some very delicate political issues.

The style was perpetuated with the appointment, in 1979, as his successor, of Sir David Muir who also had been Chairman of the Public Service Board as well as a

distinguished career serving in London as Queensland Agent-General. His credentials and connections were as impeccable as those of his predecessor. Neither man needed to resort to a high profile or to the letter of the law underpinning the office to be able to exert influence in the Queensland public sector.

The office has grown slowly but steadily since its establishment as the data contained in Appendices reveal. There have been four Ombudsmen. The current Ombudsman has a wide range of experience in the office and in government generally, and holds important office on the Board of the International Ombudsman Institute.

The nature of the role of the Ombudsman has not changed appreciably in this time. There have been successive amendments to the legislation, but no significant changes to the powers of the Office, or its operations, except in relation to scope where certain areas were added to or subtracted from his scope. The mandate was essentially not changed in the aftermath of the Fitzgerald Report and its recommended reforms in the late 1980s, except to the extent that the introduction of Freedom of Information legislation into Queensland in 1992 saw the Ombudsman also become Information Commissioner. However, the two offices remained substantially separate though sharing common administrative support. The Queensland Ombudsman also has an arrangement whereby receptionist/telephone/inquiry support is shared with the regional office of the Commonwealth Ombudsman which is, in effect, co-located. The Office is funded in essence by a single-line appropriation and is exempt from the legislation governing public service staffing matters.

The 1990s saw a significant increase in the number of cases coming before the Queensland Ombudsman. This was part of the reason for his instigation of an organisational review in 1991 which resulted in the office being reorganised into two "teams", one essentially for state government agencies and another for local governments. A small corporate services research unit would serve both teams. A management committee comprising the Ombudsman and the heads of each of these

units meets to consider broad issues affecting the office. Positions were reclassified, an intake officer was appointed, and other changes made to the structure of the office.

In recent years the work of the Office has been significantly affected by several issues caused partly by a conjunction of a rise in the caseload and a more managerialist attitude on the part of government in relation to the resourcing of the office. The clearest manifestation of this has been a backlog in cases being completed. In seeking additional funding for staff to handle the backlog the Ombudsman has encountered resistance in the Executive branch which has sought alternative management approaches or the application of techniques used in government departments, many of them covered by the rubric of "demand management". This has resulted in disagreement and thrown into sharp relief the paradox that although the Ombudsman is ostensibly an independent agent and an officer of the Parliament, the resourcing of the office is essentially controlled by the Executive, and this can have a substantial influence on the Ombudsman's operations. In tangible terms the outcome has been the engagement of temporary staff to assist in addressing the backlog. Since the case intake has continued at the same or increasing levels, this expedient has proven to be unsatisfactory, especially given the time required to train an investigative officer. A stand-off has ensued with differences of opinion between the Ombudsman and the Treasury about how the backlog can best be addressed. From the Ombudsman's perspective, it was simply not possible to make an appreciable dent in the backlog without increased permanent funding; from the perspective of the Executive, more funding simply saw the intake and hence backlog remain static. It has resulted in a very counterproductive cycle of resourcing each year which saw the backlog addressed after the event by temporary staff who, at any event, would take many months to become sufficiently experienced to become operational. The scale of the problem has been ameliorated to some extent by additional funding to the Ombudsman's Office in the most recent years but the fundamental problem remains and is one of the key factors pervading the operation of the Ombudsman's Office. It forms a significant component of the focus of this Strategic Review.

In 1995 the Ombudsman entered into an Enterprise Agreement with the staff of the Office and the State Public Services Federation Queensland. Some of the elements of that agreement impinge on aspects related to this Strategic Review. They have, for the most part, been taken as givens and an effort made not to reopen debate on matters that are purely industrial in nature. However, it has to be accepted that some of the consequences of this Review may require changes to office work practices. The issues canvassed in this report have been approached purely from a professional and not an industrial standpoint.

The latest Strategic and Operational Plan (1997-2000) of the Ombudsman's Office describes the purpose of the office in the following way:

The Office of Parliamentary Commissioner (Ombudsman) is Queensland's primary agency for redressing administrative injustice or illegality in the State and local public sector. The Office's charter, embodied in the *Parliamentary Commissioner Act 1974*, is to investigate complaints or grievances involving administrative decisions and procedures of public sector agencies, and to recommend remedial action where appropriate.

The Office also seeks to -

- ⌘ give the people of Queensland explanations of decisions affecting them; and
- ⌘ improve the quality of public sector administration, by examining and, where appropriate, recommending changes to particular practices and procedures in public sector agencies.

The people of Queensland are entitled to be treated legally, fairly and respectfully in their dealings with government authorities. The purpose of the Ombudsman's Office is to attempt to ensure that happens.

Complaints are investigated with impartiality, objectivity and independence.

To all intents and purposes, despite changes in its practices, the Office of the Ombudsman fulfils a role and emanates a style not greatly different from that portrayed at its origin in 1974. However, this period has witnessed a burgeoning of other elements in the administrative accountability regime in Queensland working for the most part parallel to the Ombudsman and occasionally taking away some of his jurisdiction. Transformations in the public sector, including some privatisation, have reduced the scope of his coverage and the introduction of many new managerial, strategic, control, and intergovernmental measures has also seen the Ombudsman

having to deal with a far more complex public sector than existed in Queensland a quarter of a century ago. These aspects which are vital to any strategic review of the Ombudsman are addressed at the end of this report.

6. OMBUDSMEN OF THE 1990s

The challenges facing the Queensland Ombudsman are, of course, common to many other jurisdictions. This Strategic Review has looked most closely at the United Kingdom, New Zealand, the Commonwealth and New South Wales, because these Ombudsmen have also been involved in reviews or recommendations of their role and functions in the 1990s.

In essence, the story is the same. Pressures on Ombudsmen's Offices from clients have increased owing to more concern about civil liberties and human rights, a better educated society, greater resort to litigation as an instinctive reaction, alienation from government in general, resentment at taxation levels, a turbulent economy and a dysfunctional community. At the same time, governments themselves have been caught in demands for downsizing, effective performance, achieving more for less, etc. and have looked even to traditionally independent arms of governance including the courts and Parliament to follow suit. In these times and circumstances, Ombudsmen elsewhere have found that resorting to claims of independence to free them from managerial scrutiny would be counterproductive, and have responded with their own brand of the generic product of managerialism recognising that their public funding places them under similar obligations to deliver value for money. Performance management has been introduced, along with strategic and corporate planning, evaluation, case management and the like.

At the same time, it has been realised that it is now pointless for Ombudsmen to continue to play a purely reactive role, constantly receiving complaints of a similar nature year in and year out. A *proactive* approach is required to identify the *systemic* faults in the system of governance which give rise to citizens' complaints and to rectify those faults. This may require more research and assessment of a systemic nature not generally found in an individual case-oriented institution. It may also involve working a trifle more closely with government agencies than the traditional image of the arms-length Ombudsman would countenance. However, the results seem to have justified these departures from the traditional norm.

It has also resulted in some Ombudsmen taking a more discerning view of their complainants and being more circumspect about launching full-scale investigations, especially where a focussed, targeted response, to the client and to the government agency which is the object of the complainant's attention, might well receive a fast satisfactory solution. This, of course, is dangerous territory, because it might inadvertently signal a more frivolous or superficial stance on the part of the Ombudsman and a reluctance to take the mandate seriously. But the results to date have been promising; many citizens are not seeking witch hunts when they complain. They want simple courtesy, a reply, a reason, a piece of information, or just an acknowledgment, and not a protracted enquiry.

Reactions of this kind may not satisfy the managerial purists but they are a positive response to the climate of the times and have had a salutary effect on the staff who make the Ombudsman's role a reality. These approaches appear to have worked well in the comparative jurisdictions which have been canvassed as part of this Strategic Review. They appear to be a permanent feature of the modern Ombudsman's *modus operandi*, and have served as both a context and a benchmark for this Review: the proactive, systemic, preventative Ombudsman.

7. THE FINDINGS OF THE STRATEGIC REVIEW

7.1 The Basics

Underlying the findings and recommendations associated with this Review are a number of basic factors arising from the research and all the interviews:

- (a) The fundamental purpose of the Ombudsman's Office has not changed from that envisaged at its inception and in Ombudsmen's Offices worldwide. The need for an Ombudsman remains, especially given that those who showed most concern about the introduction of the concept, viz. members of Parliament, are now one of the most frequent user groups and conduits for the Office.
- (b) The role of the Office is still relevant. The level of complaints against administrative discretion has not diminished, and the public still values the avenue for investigation offered by the Ombudsman, as well as the nature of that investigatory process.
- (c) The existence of the Ombudsman has not tarnished the reputation of Queensland's public servants, nor resulted in any campaign against the public service, as was flagged by many who opposed the introduction of the concept.
- (d) The staff of the office are well qualified, in terms of both experience and academic qualifications, for the work which they perform. Standards of recruitment are high and employment in the Office is considered to be of a special nature.
- (e) The dedication of each staff member to the mandate of the Office is of an extremely high order. All of the members of the staff appear to believe in the purpose and goals of the Office and see its role as being a highly important element of the governance of the State.
- (f) The investigatory processes of the Office are very thorough.
- (g) The client and agency surveys and the Review interviews have revealed a broad range of support for the Ombudsman from within government and in the broader public arena, with a considerable amount of complimentary remarks and satisfaction with the manner in which the Office conducts its business.

7.2 Complaints About the Office

Whilst producing a great deal of positive comment regarding the Office, the client survey, the agency survey, and the interviews conducted for this Review reveal that there are two generic complaints about the Office of the Ombudsman:

- (a) Delay;
- (b) Lack of frequent contact between Ombudsman staff and clients and agencies.

Apart from these two factors which come from all respondents, there are a number of other complaints which were mentioned by particular groups with sufficient commonality to be cause for immediate attention from the Ombudsman:

- (c) Lack of awareness of the Office, and the service it performs;
- (d) An approach that is too legal, resorting constantly to the quotation of legislation, precedents, legal requirements, and advocating the engagement of legal counsel.
- (e) Too much formality in the handling of complaints, particularly an over-reliance on a constant interchange of letters.
- (f) Exceeding jurisdiction, particularly a perception that the Ombudsman continues to pursue a matter when it has been referred to another appeal mechanism, a court or tribunal. This reaction comes predominantly from local government and a few state departments whose activities are enmeshed in a range of accountability regimes.
- (g) A further perception that the Ombudsman sometimes becomes an advocate for the complainant rather than a neutral arbiter.
- (h) Lack of immediate accessibility to investigators.
- (i) Failure to communicate clearly the reasons why the Ombudsman has come to his judgment.
- (j) Confusion about the role of the Ombudsman in the complexity of the range of administrative appeals processes which exist in Queensland.
- (k) Confusion regarding the Ombudsman's role in investigating the merits of a decision as opposed to the process involved.

In addition to these specific complaints, the Review has revealed that there was recent concern regarding an apparent unusually high rate of attrition of staff from the Office, caused partly by some staff pursuing short-term postings elsewhere. There is a degree of low morale with many of the staff in the Office, particularly the younger members.

7.3 The Size of the Office and its History

Before considering the elements of any likely future direction for the office it is important to ponder its evolution and its current size. The stark reality is that, in a relatively small office of some 30-35 people, operating under a mandate which requires arms length from other government agencies, in a specialised task with its own internationally established professional norms, it will not be easy to offer the full range of career opportunities which may exist elsewhere. Whilst such an environment can offer significant potential for the development of a strong *esprit de corps*, it can just as easily provide a microcosm of discontentment and resentment. A small group of relatively isolated people in such a setting may well need offsets to more conventional arrangements to keep the Office humming: more professional development, more trust and responsibility, more inherent satisfaction in the tasks they perform and the results they achieve.

The manner of the Office's establishment and its development are also important components of its corporate culture. The first two Ombudsmen ran a low profile office which had little need to resort to its formal powers to achieve results. Their personal backgrounds saw them very well connected throughout the whole system of government with commensurate influence attached.

For these and other reasons the Ombudsman has not been a prominent feature of the Queensland political landscape despite the Office's acknowledged importance. There have been controversies over the years which have called for intervention by the Ombudsman but these have been episodic and inevitably handled in a calm manner. The Ombudsman's word has mostly been accepted and, even if not, his judgment has always been respected for its professionalism. The Ombudsman is not a *cause célèbre* in Queensland public administration.

It is extremely important to realise that the scope of the Ombudsman's activities has been significantly affected since 1974 by two trends: the progressive adding of new agencies and processes to coverage but, more significantly, the exclusion of a very large number of areas, many of which were established with their own attached appeal mechanism. The current manual and a supplementary electronic list contain a very large number of such bodies which are out of jurisdiction. In material prepared by the Office at the request of this Review, it is obvious that, over the last ten years, there have been nearly 20 major alternative review bodies created by the government for single purpose appeal or review.

7.4. The Interface of the Ombudsman with Parliament

As outlined earlier, one of the most fundamental aspects of an Ombudsman is that the Office is an office of Parliament and not the Executive. In this it is very similar to the Auditor-General. As such, the lines of reporting are to Parliament through the Speaker. The Queensland legislation provides for this reporting arrangement and indeed each year the Ombudsman's report is tabled in this manner. Several special reports have followed suit over the years.

In more recent times a committee of the Legislative Assembly of Queensland, the Parliamentary Legal Constitutional and Administrative Review Committee (PLCAR) has been assigned responsibility for the Ombudsman. The Committee has a broad statutory area of responsibility in relation to administrative review reform (particularly review of administrative decisions) and a number of specific statutory responsibilities in relation to the Ombudsman. These specific responsibilities relate to the appointment, suspension and termination of the Ombudsman, the Ombudsman's budget and the conduct of strategic reviews of the Ombudsman. Through the involvement of the Committee in the Ombudsman's budget process, it has had the opportunity to observe and query the Ombudsman's resources and their utilisation. This process is canvassed later in this section. The Committee has, on occasion, received correspondence from members of the public who are dissatisfied with some decision or action of the Ombudsman. The Committee's limited jurisdiction in this regard is also canvassed later.

The Estimates Committee process introduced in recent times into the Queensland

Parliament (notably Estimates Committee A) has also been engaged in evaluating the Ombudsman's resource levels.

As part of this Strategic Review, an effort was made to trace the interest shown by the Parliament in the endeavours of the Ombudsman in the period since the inception of the office in 1974. To assist, the Research Director of PLCAR kindly initiated both a Parliamentary Library search relating to the Ombudsman and a Hansard search relating to the Ombudsman for the 46th, 47th, and 48th Parliament.

In Queensland's unicameral legislature, debate on the Ombudsman has always been extremely rare. The Ombudsman's annual report generates some comment and occasional question when a particular portfolio has come under particular scrutiny for some reason during the year. The comments which are made about the Ombudsman are invariably laudatory, especially regarding country visits which are clearly valued by members of Parliament. In recent years some concern has been raised about the backlog of cases and the Estimates Committee gave support for an increase in the budget resources of the Office to address the backlog, expressing at the same time concern about the attrition of investigative staff.

As part of the PLCAR's Charter it takes an interest in the Ombudsman's Office. The PLCAR becomes involved, after a fashion, in the Ombudsman's budgetary bids because, under the legislation, the comments of the Committee are transmitted to the Treasurer in the first instance and hence to the Cabinet Budget Committee, presumably to be taken into account when the Ombudsman's estimates are being considered. In the past, the PLCAR has been consulted after Cabinet Budget Committee deliberations with the Ombudsman.

By international and even national standards, the involvement of the Queensland Parliament with its Ombudsman is extremely low. Indeed, in comparative terms, there can be seen to be something of a spectrum of such involvement. Countries such as New Zealand and Canada, at the national level and in some of the provinces, have parliaments which are formally independent from the Executive in terms of resourcing, with control over their own budgets and hence those of their parliamentary officials such as Ombudsmen or quasi-Ombudsmen such as Information Commissioner or Human Rights Commissioner. The British Parliament with its Ombudsman sits more towards the middle of the spectrum having a considerable degree of autonomy over the resources of its parliamentary family but with the Executive and Treasury having the final say. There has,

however, been very little disagreement between the Ombudsman and the British Treasury over resourcing matters. Britain has also experimented successfully with a separate parliamentary committee for the Ombudsman. At the other end of the spectrum sit most of the Australian Ombudsmen, although in some cases, such as that of the Commonwealth, the Parliament exerts a fair degree of independence over its own resourcing, but this shield from the Executive does not cover the resourcing of parliamentary officers such as the Ombudsman. Queensland would appear to sit at the far end of this spectrum because, at the end of the day, Parliament has little control of its own resourcing, let alone that of its officials such as the Ombudsman, despite the experiment in recent years with a Parliamentary Services Commission. Queensland's system of governance does not have a strong parliamentary tradition as part of its culture.

An Ombudsman needs a strong link to Parliament if the true nature and role of the office are to be maintained. By the same token, Parliament needs to take a keen interest in its offices such as the Ombudsman both to give them the support they deserve and to serve as a focal point for the accountability of the Ombudsman's own office. Moreover, if it is strategic direction which is constantly being sought for the Ombudsman, as provided for in the Queensland legislation, it is surely the Parliament itself which can provide that direction. In essence, the Ombudsman has nowhere else to go in these aspects and a failure to receive Parliamentary responsiveness will be destabilising in times of intense pressure on matters of content or resourcing.

How best to achieve a stronger involvement of the Queensland Parliament with the Ombudsman? In ordinary circumstances and given a typical parliamentary scenario, a separate committee to oversight the Ombudsman would be the best option, somewhat along the lines of the traditional relationship between Parliamentary Public Accounts Committees and the Auditors-General, or on the UK Ombudsman model, with a separate committee. However, given the reality of the situation in Queensland with its unicameral Parliament and pressure of other areas upon the time of Parliament and its committees, it seems more realistic to expect that the Ombudsman will remain part of the jurisdiction of a parliamentary committee which has a general remit over administrative discretion. The PLCAR has fulfilled this role in the life of the current Parliament. Some aspects of that role need to be noted.

Firstly, in relation to the role of the PLCAR regarding the activities and procedures of the Ombudsman, the Committee does receive complaints occasionally about some aspects of the Ombudsman's complaint-handling procedure. (There have been only a few to date.)

The Committee describes the manner of its response in the following way, in discussions and correspondence with the Reviewer:

In general these complaints concern delay or dissatisfaction with the outcome of the Ombudsman's investigations. The nature of the complaints ranges from those apparently frivolous in nature to more complex, long-running complaints which in some cases have involved meetings between the complainants and the relevant Minister.

In responding to these calls the committee's research staff reiterate the statutory areas of responsibility of the committee. These are set out in the *Parliamentary Committees Act 1995*. In particular, sections 9 and 10 of that Act provide that the committee's areas of responsibility include administrative review reform. Section 10 of the Act provides:

10. (1) The committee's area of responsibility about administrative review reform includes considering legislation, or provisions of legislation, about -

- (a) access to information;*
- (b) review of administrative decisions; or*
- (c) anti-discrimination; or*
- (d) equal employment opportunity.*

(2) The committee's area of responsibility does not include -

- (a) investigating particular conduct; or*
- (b) reconsidering or reviewing a decision to investigate, conciliate or review, not to investigate, conciliate or review or to discontinue investigation, conciliation or review of particular complaint or decision; or*
- (c) reconsidering or reviewing reports, findings, recommendations or decisions in relation to a particular investigation, complaint or decision or in relation to particular conduct the subject of a report under the Parliamentary Commissioner Act 1974, section 24 (6).*

Thus, we stress to all complainants that the committee's responsibility in relation to administrative review reform is primarily to consider legislation or provisions of legislation about matters related to administrative processes and law, and that this responsibility clearly does not extend to investigating particular complaints against the Ombudsman.

... the committee has adopted a standing policy with respect to dealing with such complaints. In accordance with this policy, complainants are informed that no further action can be taken by the committee in respect of their specific complaint, but that the committee will note their complaint and may consider it in any overall review of the performance of the Ombudsman's Office.

The content of this policy is explained to all complainants upon which the majority of them decline to make a written complaint to the committee. Most of them do however respond with a query as to who is overseeing the Ombudsman.

Consequently the PLCAR is not an avenue of appeal from the Ombudsman; neither is it a body to revisit decisions made by the Ombudsman. This is as it should be and in accordance with most international practice. Individual cases should be seen by the Committee in the context of the whole of the Ombudsman's operations, and the broad picture which his reporting conveys about the health of public administration in the State.

On the matter of the role of the PLCAR in the issue of resourcing the Ombudsman, the situation was well captured in the *Report on the Accountability of the CJC to the PCJC* (PCJC Report No. 38). The report gave the following description re the Ombudsman:

The Ombudsman

The Legal, Constitutional and Administrative Review Committee (LCARC) was established by the *Parliamentary Committees Act 1995* (Qld). The areas of responsibility of that Committee include certain functions in relation to the Ombudsman. Therefore, as a result of that Act, certain amendments were made to the *Parliamentary Commissioner Act 1974* (Qld). Most relevant to this discussion are requirements identical to those in relation to the QAO and discussed in this paragraph; that is, requirements that the LCARC be consulted in the development of the Ombudsman's budget and that a strategic review of his/her office be conducted at least every five years. [See s.31(3) and s.32]

[It should also be noted here that as the Office of the Ombudsman shares its allocated funding with the Office of the Information Commissioner the requirements apply equally to the Office of the Information Commissioner.]

The reason for these amendments was explained in the Second Reading Speech for the *Parliamentary Committees Act* as:

Two years ago, the Government introduced new laws to give the Parliament, through the Public Accounts Committee, greater powers to oversee the work of the Auditor-General. The Public Accounts Committee was given a role in the selection of the Auditor-General, in developing the Auditor-General's annual budget, and in overseeing periodic strategic reviews of the Audit Office. However, while the Parliament now has a mechanism to review and support the work of its Auditor-General, it has no similar mechanism to review and, where appropriate, support the Ombudsman. The bill deals with this anomaly by giving the LCARC the same powers in relation to the Ombudsman that the PAC has with respect to the Auditor General.

The actual operational section of the Act which relates to the Committee's involvement in the budget process of the Ombudsman reads as follows:

Estimates

- 31(1) The Commissioner must prepare, for each financial year, estimates of the proposed receipts and expenditure related to the Commissioner.
- (2) The Commissioner must give the estimates to the Minister responsible for the administration of the *Financial Administration and Audit Act 1977*, Part 2.
- (3) The Minister mentioned in subsection (2) must consult with the Parliamentary Committee in developing the proposed budget of the Commissioner for each financial year.

The PLCAR is also formally involved by having to be consulted in the procedures relating to the appointment of the Ombudsman - section 5(6)(b); the suspension and removal of the Ombudsman - section 6(3)(c) and (d) and section 6(6); referral of matters for investigation to the Ombudsman (a power given to any committee of the Parliament or Parliament itself under section 14(1)). Since the Parliament receives the reports of the Ombudsman, it is assumed that those become material for the consideration of the PLCAR as for the Parliament as a whole, especially as it is the PLCAR which is the designated "parliamentary committee" under the *Parliamentary Commissioner Act 1974*.

Consequently it is to the PLCAR that this Review turns as the lynchpin of an increased involvement by the Queensland Parliament in the future strategic direction of the Ombudsman. To the maximum extent possible, given the constraints on the PLCAR through its other areas of involvement under its mandate, the PLCAR might well come to

resemble the Public Accounts Committee, especially as regards that Committee's relationship with the Auditor-General. This can be achieved in two basic ways: (a) through a healthy scrutiny by the PLCAR of the Ombudsman's reports to Parliament; and (b) greater involvement by the PLCAR in the discussions regarding resourcing of the Office of the Ombudsman.

Consequently, it is **recommended** that:

- R.1. The PLCAR should engage in a more substantial scrutiny of Annual Reports and any other reports of the Ombudsman each year, particularly regarding the quality of public administration in the State and any major systemic issues which are raised. Such scrutiny and the results of discussions on these matters with the Ombudsman should form a significant component of a report of the PLCAR to Parliament.**
- R.2. The Ombudsman, in reports to Parliament, should convey material of a more strategic nature to the PLCAR including trends in public administrative practices, systemic issues for accountability arising from these trends, the extent to which developments in the public sector are impinging upon the intended directions of the corporate plan of the office, explanations of significant changes in the performance of the Office as revealed in a new range of performance indicators, the range of proactive measures which have been initiated to meet the changing administrative behaviour in the public sector, and the impact of these trends and patterns on the resourcing of the Office of the Ombudsman.**
- R.3. The Ombudsman should, at the beginning of each new Parliament, engage the PLCAR in a discussion about the corporate plan of the Office and the projected future directions it is taking. Provision should also be made for structured input from the PLCAR to the design of each new corporate plan and its associated performance indicators and evaluation mechanism.**

On the matter of the role for the PLCAR in the estimates/budgetary process for the Office of the Ombudsman, extensive discussions were held with the PLCAR, the

Treasury, and the Ombudsman. The perceived weakness in the links of the process as it now stands is that the voice of Parliament, as reflected through the PLCAR (and, to some extent, the Estimates Committee), is not formally conveyed to the Cabinet Budget Committee. Nor is there a formal forum for the Ombudsman to respond to Treasury comments on the estimates of the Office. It is not an open process all round.

On this matter, this Review has been interested to note the observations of the recent Strategic Review of the Queensland Audit Office. That Review expressed concern that an auditee, viz. Treasury, was also responsible for commenting on the Auditor-General's Estimates, a situation which prevails as well, albeit with diminished impact, in relation to the Ombudsman who investigates any complaints of maladministration in Treasury. That Review saw the matter as one relating to perceived independence for the QAO. It also moved to make more formal the consultative process for the PAC in developing the proposed budget of the QAO for the coming year, noting with approval the changes which have given the Joint Public Accounts Committee in the Commonwealth Parliament the responsibility to review the annual budget of the Australian National Audit Office and to recommend to the Commonwealth government the level of the ANAO's resource requirements. This, according to the Review, has the advantages of "removing any perception that the Auditor-General's independence is at risk, adds to the Auditor-General's own accountability to Parliament through a review process that would require the Auditor-General to report to the PAC on performance for the current year (against the work program previously submitted for that year) and provide a works program for the year in prospect."

Consequently, the Strategic Review of the Queensland Audit Office recommended an amendment to the *Financial Administration and Audit Act 1977* to instigate the following process:

- the Auditor-General submit the estimates of revenue and expenditure for the QAO to the Public Accounts Committee for each financial year;
- the Public Accounts Committee review with the Auditor-General the performance of the QAO for the current year and the resource requirements for the year in prospect;

- the Public Accounts Committee, on behalf of the Parliament, recommend to the government the level of resources to be made available to the QAO for the year in prospect, taking into account government requirements for budgetary constraint.

These recommended changes and the reasoning behind them have immediate applicability to the situation of the Ombudsman. It also makes a great deal of sense that the two offices of Parliament, Ombudsman and Auditor-General, should have reasonably identical procedures in place regarding the role of Parliament in their resourcing. Of course, in a situation such as that of New Zealand, their budgets would simply be regarded as part of Parliament's budget and since Parliament controls its own budget that would see the matter resolved in-house as it were. However, accepting the realities of the Queensland situation there is a need to seek an adequate balance between the role of Parliament and that of the Executive in determining the resourcing of these bodies.

In particular, it must be a balance which:

- Ensures maximum transparency and hence accountability in the functioning of the Ombudsman and resourcing of the mandate.
- Recognises that the Ombudsman is funded from the public purse and hence is accountable to the public through Parliament and the Executive for the use of these resources.
- Affirms the independence of the Ombudsman in the discharge of his responsibilities and in particular independence from the Executive. This includes the perception as well as the reality of independence.
- Provides a more positive role for Parliament, and particularly the PLCAR, in reviewing the performance of the Ombudsman and considering the resourcing of the Office in the light of that performance review.
- Gives the Ombudsman a forum to explain at some length the factors affecting the performance of the Office and the reasons for the levels of resourcing requested.
- Recognises the legitimate right of the Treasury, acting for the government, to pursue value for money in dollars spent from the public purse and to be

assured that efficiency and effectiveness are being attained across the system of government.

- Provides a forum for a healthy debate on different perspectives held by the various stakeholders in this element of the budgetary process, so that all options for best practice and value for money can be discussed concomitant with the legislated requirements and citizen expectations of the Ombudsman's Office. This forum can also productively develop realistic performance indicators for the Office, such a key element in its strategic directions.

Based on all these principles:

R.4. The following process is recommended for handling the estimates of the Office of the Ombudsman -

- **The Ombudsman submit the estimates of the Office to the PLCAR for each financial year.**
- **The PLCAR review with the Ombudsman the performance of the Office for the current year and the resource requirements for the year in prospect.**
- **The PLCAR to retain its powers to call upon Treasury for advice and analysis, to assist the Committee where necessary in its assessment of the performance of the Office, or to seek clarification of viewpoints and to provide a forum for an exchange of such viewpoints between the Ombudsman and the Treasury.**
- **The PLCAR, on behalf of the Parliament, to recommend to the government, specifically the Cabinet Budget Committee, the level of resources to be made available to the Office of the Ombudsman for the year in prospect by means of endorsing or amending the estimates supplied to the Committee by the Ombudsman, and taking into account the Committee's reflections on the circumstances of public administration in Queensland, as reflected in the Ombudsman's reports.**

- **The Cabinet Budget Committee to take account of the PLCAR recommendations in its personal deliberations with the Ombudsman in the normal manner each year, as part of the review of budget estimates.**

It is recognised that the above recommendations have implications for the staffing of the PLCAR Committee, because they may require a greater degree of expertise in the nature of the activities of the Ombudsman. It is noted that the PAC has benefited in recent times from having staff on its secretariat who have been seconded from the Office of the Auditor-General. Perhaps a similar arrangement can be pursued with the Ombudsman, or staff of the PLCAR may be able to undertake short postings to the Ombudsman's Office. Alternatively, regular briefing sessions might be arranged.

7.5 Ombudsman and Cabinet

In relation to the Ombudsman's resourcing, and Cabinet, there is a further matter which needs to be rectified. There are a number of Cabinet decisions which are taken in any one year which have implications for the workload of the Ombudsman, usually adding to it, occasionally subtracting from it. Cabinet needs to be more conscious of these implications when making such decisions, and the impact on the need for resources in the Office of the Ombudsman needs to be better identified and acknowledged.

The *Queensland Cabinet Handbook 1997* contains this section:

Parliamentary Commissioner for Administrative Investigations (Ombudsman)

The Parliamentary Commissioner for Administrative Investigations must be consulted on policies or legislation which potentially restrict the right of the citizen to bring a grievance to the Ombudsman and any matter which may affect that office or involve significant issues of public administration.

From the inquiries undertaken by this Review, it is obvious that government departments and agencies are not adhering to this *Cabinet Handbook* directive and consequently decisions are being made without the benefit of advice from the Ombudsman and without regard for the implications for the Office of the Ombudsman, including its resourcing.

R.5. All departments and agencies should be reminded of the *Cabinet Handbook* ruling to consult the Office of the Ombudsman on all policies and legislation relating to citizens' grievances and other relevant matters, in giving their advice to Cabinet, along with the Ombudsman's advice.

7.6. Towards a Proactive/Systemic/Preventative Ombudsman

As noted earlier, the lot of a modern Ombudsman is not simply to open the door, the switchboard, and the mail each day and respond to the complaints which waft in, many of which have common elements and generic causes. In the United Kingdom, New Zealand, at the Commonwealth level and in other jurisdictions with Westminster models of government, the emphasis is on making the Office proactive, systemic, and preventative in its orientation and in its actual work practices. There does exist a little more scope for the identification of systemic issues for Ombudsmen at the national government level, given the nature of functions at that level, as acknowledged by the recent review of the New South Wales Ombudsman. However, it is still fertile ground for all Ombudsmen.

The Queensland Ombudsman has begun to adopt this approach in an incremental and embryonic manner, with the introduction of "Own Motion" investigations, agency "report cards" for agencies with higher complaint levels, breach codes, etc., each of which is a significant and constructive development. When the report codes have been discussed with agencies, the number of complaints received has subsequently declined, prisons being the exception. However, from all of the evidence to hand, the time has come for the Office to pursue these objectives in an holistic way and, in the process, enhance the role of the Ombudsman as consultant and adviser to the Executive branch of government. It has also transpired that few government bodies are aware of these developments and there needs to be much more consultation between them and the Queensland Ombudsman as to the lessons to be learnt from these initiatives. A report card is not an effective device if it is not mutually discussed and acted upon.

The recommendations outlined are directed to this end. They are drawn from the approaches which appear to be effective in the comparative systems which have been analysed and which seem relevant to the Queensland situation. They often build on practices already occurring within the Office of the Queensland Ombudsman.

7.6.1 The Status, Powers, and Image of the Ombudsman

There is quite a difference of opinion amongst the staff of the Office as to whether the status of the Ombudsman is sufficient for the concept of the Ombudsman to be effective. Some cite anecdotal evidence that government agencies are not fully aware of the existence and powers of the Ombudsman and the vital role which is performed; they would like to see a higher profile and a little sabre-rattling from time to time to ensure more effective and speedier compliance. They argue that, with the proliferation of other administrative appeal bodies, many of them more generously resourced, the fundamental importance of the Ombudsman has been lost on citizens and bureaucrats alike.

The research undertaken for the Review found some diminution in the status of the Ombudsman and certainly a lack of awareness of the office in many quarters and a good deal of confusion about the powers, and lack of powers, possessed by the Ombudsman. Ironically there appears to be a much greater familiarity with the Ombudsman in provincial areas of Queensland, largely as a result of the publicity which surrounds country visits. Since the number of complaints received continues to rise, it might be argued that awareness is not a problem but the client satisfaction survey, the experience at the switchboard (especially the relatively high percentage of complaints which are out of jurisdiction, and the views of some government agencies, especially local governments) would indicate that there is definite confusion abroad regarding the role of the Ombudsman.

Some of the Chief Executive Officers of state departments and agencies are also unclear about the role of the Ombudsman. They believe the concept works well, it is too formal and an unwelcome intrusion if the approach is just letter after letter, and they are unsure of where the Ombudsman fits in nowadays. They stress it is not a negative perception, rather a non-perception, and for them the image of the Office is formed solely from the complaints made about them, and the encouragement the Ombudsman gives to the public to complain about them. A regular Ombudsman's newsletter of the kind issued by the New Zealand Ombudsman would help address these concerns. This would be particularly helpful where restructuring and change produce new CEOs, especially if they have come from the private sector where accountability measures of this kind are not familiar.

- R.6. There should be a concerted drive to make the community and government agencies more aware of the role, including powers, and limitation on powers, of the Queensland Ombudsman. This should ideally include:**
- (a) New brochures more appealing in presentation and written in simpler language.**
 - (b) An Ombudsman Home Page on the internet.**
 - (c) Information Kits for State and local government departments and agencies outlining the procedures and criteria used by the Ombudsman; an ideal internal review mechanism for agencies for their own complaints; a model internal investigatory process on receipt of contact about a complaint from the Ombudsman; components of a client services charter which would meet the requirements of the Ombudsman.**
 - (d) A short quarterly newsletter, from the Ombudsman's Office directed primarily at state departments and agencies and local governments providing regular information about systemic issues occurring in the public sector, new legislative or procedural arrangements introduced by government affecting the operations of the Ombudsman, and other items related to administrative review which have relevance for the Ombudsman and government administrators in general.**
 - (e) An informative annual report which, each year, reiterated the role and powers of the Ombudsman, and highlighted any systemic trends in the public sector giving rise to complaints to the Ombudsman.**
 - (f) More lectures and papers given by staff of the Office to professional groups and seminars dealing with public sector issues, to make them more aware of the Ombudsman's role and powers.**

7.6.2. Working with Agencies

In addition to these more public oriented activities, for a truly preventive approach to be taken within the public sector it would be necessary for the Office of the Ombudsman to work more closely with departments and agencies to enable them to put systems in place which would minimise complaints. It seems somewhat odd that the introduction of client service charters into some Queensland government departments

appears to have had no appreciable impact in this regard. Only lip service appears to be being paid to them. The interviews with State departments/agencies and local governments revealed a mixed pattern in terms of the way in which Ombudsman's complaints were handled. In what might be considered to be an ideal case, an agency would have its own internal complaints handling mechanisms for its own complaint handling, as well as a formally designated contact officer for Ombudsman complaints to whom the Chief Executive Officer would refer the complaint, it would be recorded and tracked, and a bring-up system would flag the progress on responding to it, ideally each fortnight. The Ombudsman should be used as a consultant to help agencies design both complaint mechanisms. The handling of Ombudsman complaints would be a regular component of staff development programs, and staff from the Office of the Ombudsman would be invited periodically to give talks and papers to these programs. In addition, Ombudsman staff would be invited, at no charge, to in-house agency seminars dealing with new policies and new legislation, to acquaint them with latest developments in policy implementation. The Queensland Departments of Natural Resources and Transport seemed to have an approach close to this ideal.

Chief Executive Officers say they welcome the attendance of the Ombudsman at many of their gatherings but they do not know the main preoccupations or priorities of the Office or its vision. The Chief Executive Officers should know these things and seek the Ombudsman's help and advice. A proactive approach by the Ombudsman would be helpful to them in establishing patterns of administrative behaviour which were occurring. The only visible thing CEOs see is the number of complaints about their agencies, or the advertisements in the press for people to come and make their complaints.

By the same token, the Ombudsman's Office could run periodic seminars for contact officers to acquaint them with any systemic trends which were occurring in the public sector or any common practices or malpractices of administrators which were giving rise to common complaints with an apparent generic cause. A variation of the breach codes and "report cards" could be used in a constructive manner as the basis for such discussions, although it needs to be stated that Queensland government departments, agencies, and local governments appear to be quite ignorant of these innovations introduced by the Ombudsman and they are not well explained in the Ombudsman's annual report. (The report cards for local governments have only been in place for a year

and only state agencies with high complaint levels are currently receiving them.) There would also seem to be a case for changing their names.

All of this would set the scene for the Office of the Ombudsman to be called in when units of State or local government are establishing internal appeal processes, contemplating changes to policy or practice to give advice on how complaints arising from the changes can be prevented or minimised, especially regarding the degree of administrative discretion which is to be allowed, and the manner in which it is to be exercised. The Ombudsman or senior staff should sit on the various reference groups which are often constituted to draw up new policies and legislation; they can participate as observers rather than as delegates to avoid any potential conflict of interest when later on the Office may have to receive and handle complaints arising from the new policies and practices.

In all of this the Ombudsman would become more of a consultant and adviser to government departments, agencies, and local governments, working with them to refine their own procedures to make them more client oriented, clearer, more easily understood, and less likely to give rise to administrative indiscretion. The aim is to prevent complaints from arising and to identify any systemic causes giving rise to complaints. Ombudsmen elsewhere have acknowledged that this approach runs the slight risk that the independence of the Ombudsman may be jeopardised and he may be considered to be just another part of the machinery of government, but it is a risk worth taking and can apparently be achieved whilst leaving the status of the Office intact. These initiatives were floated with the chief executive officers of the State bodies and the mayors and chief executive officers of local government, who were interviewed and received a positive response.

There are already similar networking arrangements within the Queensland government, some of which have been formalised, e.g. Cabinet Legislation and Liaison

Officers, and Freedom of Information Contact Officers, so the approach is already well known. The Ombudsman's Office has its own list of contact officers in agencies but these are not formalised in agency structures or position descriptions.

- R.7. The Office of the Ombudsman should work more closely with State departments and agencies, and local governments, more in the nature of consultant and adviser.**
- R.8. State and local governments should establish formal contact officers for Ombudsman complaints, such officers to form a network whereby the Ombudsman can move to establish joint training seminars, advice on systemic issues and causes arising from complaints, client service charters, changes to policy, legislation and practice. The Ombudsman's Office should be on line to all of these contact officers.**
- R.9. The Office of the Ombudsman should be invited by government units to participate as an observer and adviser on reference groups established to design new policy initiatives, with a view to making them client oriented and minimising the potential for administrative indiscretion and maladministration.**
- R.10. In conjunction with the Ombudsman, units of government should establish internal complaint handling procedures consistent with the Ombudsman's mandate to handle complaints of their own volition in the first instance, and also complaints referred by the Ombudsman. Such a complaint handling procedure should have a recording and tracking system and a regular flagging or bring-up mechanism for evaluation of the effectiveness and timeliness of complaint handling. All state and local government agencies should show all Ombudsman cases in their annual reports.**

Although not strictly related to the Strategic Review, some of the criticisms offered by state and local agencies of the Ombudsman's Office should be noted. It is important to remember that these complaints come largely from bodies which had been at odds with the Ombudsman, who disputes these claims. They are included to give something of the flavour of the perceptions of the Office from those who are critical. Needless to say, there are as many complimentary remarks which have been made, but perceptions such as these need to be addressed in setting strategic directions. They include:

- Ombudsman not reporting the full context of cases in the annual report, especially the positive aspects of agency decisions.
- Long response times back from Ombudsman's Office especially when a fresh complaint on the same subject matter is received.
- Ombudsman too willing to establish links with single elected members of councils.
- Ombudsman too willing to push local governments towards legal advice.
- Narrow interpretation by the Ombudsman of local government charges which "would be reasonable".
- Developers using the Ombudsman as a source of free legal advice.
- Ombudsman improperly insisting local governments take out advertisements in the media.
- Ombudsman's approach discouraging agencies from being innovative.
- Ombudsman to recognise some departments are more diversified and regionally spread and hence response times will be longer. Ombudsman should not make initial contact with regional offices of departments.
- Too difficult to contact Ombudsman's Office after 5.00 p.m.
- For agencies where confidentiality is crucial, the Ombudsman does not realise the impact his inquiries have. The use of his powers needs to be clarified.

In relation to the points in this raised by local governments, it is worth noting that a lot will depend on the style adopted by the local government concerned. In a situation where every issue receives its first airing at a council meeting, there is bound to be consistent reaction to reach immediately for the Ombudsman, whereas other councils endeavour to conduct investigations and resolve the issue with the Ombudsman reporting to council on the results or the sticking points.

7.6.3. Secondments

From its inception, the UK Ombudsman's Office has been staffed predominantly by way of secondment of staff from government departments who spend some two-three years with the Ombudsman before returning to their substantive position. It is reported to be a little more difficult to operate these days, partly because of changes in the public sector in Britain, including corporatisation, restructuring, and the fragmentation of the career service. The Office still has no difficulty in attracting candidates who are interested in a stint in the Ombudsman's Office as part of their career, such is the status of the Office and the unique work experience it can offer.

One of the major benefits of the secondment model, albeit an intangible one, is the therapeutic function it performs on the civil service itself. A future senior public sector manager who has spent a period in the Ombudsman's Office is considerably more acutely aware of the importance of client relationships, responsibilities and duties of staff to respect the rights of citizens and the need for careful exercise of administrative discretion. They are very likely to become catalysts for change in their home organisation and hence part of a preventive formal and informal regime continuing to pursue the aims and ethos of the Ombudsman concept.

Other countries have pursued the secondment option to a lesser extent but invariably with good results where it can be satisfactorily arranged. In particular, it can also supplement the skills base of the Office in particularly difficult areas. For the concept to work, of course, there must be a clear expectation on the part of public servants that a period spent working in the Ombudsman's Office will enrich their experience, enhance their careers, and be valued by their home department and the public service as a whole. There must also, of course, be a guarantee of a position at the end of the secondment.

The process can, and does, also work in reverse. It is possible to place staff from the Office of the Ombudsman into line units to gain experience in particular fields.

Both of these approaches have been experimented with on a limited scale in Queensland with positive results. Interviews conducted for this Review with chief executive officers at State and local government level indicated a very definite willingness on their part to encourage more secondments of this kind, although it was recognised that it might not be possible for smaller units to be able to spare staff in this way. Given the turbulence within the Queensland public sector over the past decade, it was also felt that a

seconded officer might only be able to be guaranteed placement to a level, rather than a particular position, in the home organisation on completion of the secondment.

Secondments would seem also to be one appropriate method to overcome the fundamental difficulty, referred to earlier, of coping with motivation and professional development opportunities in a relatively small, comparatively isolated office, like that of the Queensland Ombudsman. These days, all that is required is essentially an exchange of letters between the Ombudsman and the government unit so there are few, if any, technical impediments.

R.11. The Ombudsman should institute a formal program of secondments, to and from the Office, with State government departments and agencies and local governments. Such secondments should receive formal endorsement and encouragement from the Office of the Public Service and local government associations as a recognised and valued avenue of career enhancement for officials. Home agencies should guarantee employment to returning secondees at a level equal to that which they held immediately prior to the secondment. As a guide, the Ombudsman should pursue a target of one-quarter of investigative staff to consist of secondees by 2003. The secondment program should be widely advertised throughout state and local government and feature on the Ombudsman's internet Home Page.

7.6.4. Client and Agency Satisfaction Surveys

Both of the surveys conducted this year, the first in the history of the Queensland Ombudsman, have delivered very useful results. A summary of the results is contained in an Appendix. They were reasonably well designed, implemented in a professional manner, particularly through the use of the Statistician's Office to keep the process at arms length. They were relevant for the future work of the Office and provided feedback of a useful nature. Whilst not highly quantitative in nature, they were sufficiently so to gauge the intensity of feeling on the matters which were raised. For future designs the classification criteria need to be refashioned to allow greater cross-correlation to determine which category of respondents are making which kind of responses. It would be particularly useful to know which responses come from those clients whose complaints were not upheld. In addition, it should be noted that the category "Neither Agree nor Disagree" is

not wholly appropriate for the kind of questions which were asked.

The response rate for the client satisfaction survey at around 60 per cent for completed and partially completed forms is a reasonable result compared with similar endeavours. As already noted, there was a great deal of satisfaction shown with the work of the Office, particularly its professionalism, courtesy, manner, etc. The main concerns were the amount of time taken to complete an investigation and difficulty of access to the investigative officers. There was also a feeling that clear reasons were not given for the decisions; the investigative process did not help them to understand how their complaint had been taken up. A full reading of the results of the survey also reveals a lack of understanding on the part of a majority of the respondents of the role and powers of the Office and particularly the limitation on its powers.

The Agency Satisfaction Survey provides a different and more disturbing picture. Once again the response rate overall was about 60 per cent. Unlike the client survey, there was no follow-up with respondents for the agency survey which may account for a lower response. It was also clear that the returns had sometimes been filled in by human resource managers which was not really an appropriate source for such action. Nonetheless, on the face of it, an initial response rate of close to 100 per cent should have been anticipated, given the status and significance of the Office of the Ombudsman. It is of particular concern that 10 out of 26 State government departments did not even respond. These figures lend considerable weight to the contention that there is now a much lower understanding of the significance of the Ombudsman than when the Office commenced.

Of equal concern are some of the actual response results, for example:

		Strongly Agree or Agree Total %
Q.9	The results of the Ombudsman's investigations regarding your agency have usually been correct	68
Q.10.	The agency has formal procedures to ensure staff are aware of the role of the Ombudsman	39
Q.12	When advising a person of an adverse decision, the agency provides notification of the right of administrative review by the Ombudsman	28
Q.13	Your agency usually implements suggestions and recommendations by the Ombudsman	78
Q.14(1)	The Ombudsman's Office has assisted you and/your agency by bringing to your attention significant matters of which you may have been otherwise unaware	43
Q.14(4)	The Ombudsman's Office has assisted you and/your agency by assisting you to change the client service culture in your agency	27

It is particularly worrying that nearly one-third of the agencies believe the Ombudsman's investigation results to have not been correct and it is of great concern that 22 per cent appear to have not implemented the Ombudsman's suggestions and recommendations. This is an area where a target of 100 per cent is really the only acceptable figure. In most systems of government it is somewhat common for a proportion of the government agencies to disagree with the Ombudsman's findings but very rare indeed for them not to be implemented. These figures are at odds with the data in the Ombudsman's annual report which show that agencies are adhering to the Ombudsman's recommendations. This discrepancy may also result from inappropriate people having filled in those questionnaires, although it needs to be said that the Ombudsman can never be absolutely sure how an agency has finally reacted to a recommendation if the client does not continue to complain, unless there is formal follow-up.

The more detailed breakdown tells us that some State departments are making no statement (agree or disagree) as to whether they agree with the Ombudsman's results

and to lesser extent the public authorities, but a highly significant proportion of local governments fall into this category.

On implementation, nearly half State government departments neither agree nor disagree. They are obviously either not implementing the findings of the Ombudsman or simply do not know - either way it is a serious state of affairs. Public authorities appear to be implementers but a reasonable proportion of local governments are also obviously in the "don't implement/don't know" category. The high degree of non-committal response by some departments regarding the more substantive matters of the Ombudsman's role is also alarming, e.g. police, consumer affairs, education. Some key human services departments did not even respond to the survey, e.g. Health, Corrective Services, Training and Industrial Relations!

On the more positive side the survey has revealed the criteria which agencies consider of importance which should continue to be pursued:

- Expertise of staff
- Accessibility of staff
- Outcome speed
- Regular updates.

It all adds up to a picture whereby a significant proportion of the public sector of Queensland is not treating the Ombudsman's role with proper recognition or respect. Nor are they using the Ombudsman's investigations and procedures as a means of addressing their own client responsiveness. The complete reasons for this situation are not possible to probe in a Review of this nature. It could be speculated that they result, at least in part, from a lack of awareness of the status and role of the Ombudsman and the Office's history of low profile and predominantly reactive activity. Further research needs to be conducted by the Ombudsman's Office on these serious aspects, and a permanent evaluation mechanism is required on outcomes rather than just outputs, not merely by survey but also by follow-up on a sample of cases to ascertain whether agencies are implementing the Ombudsman's recommendations. As well, these direct and agency surveys need to be performed frequently - in the Commonwealth and New Zealand they are annual.

R.12. The Client and Agency Satisfaction Surveys should be carried out every two years as a minimum by the Office of the Queensland Ombudsman.

The results should be used to inform and modify the approach and practices of the Office, and serve to highlight areas for further research, especially the extent to which agencies are implementing Ombudsman's recommendations.

The Office also should establish a separate annual random sample follow through with complainants to monitor the extent of agency acceptance of Ombudsman recommendations. Such a measure of the outcomes of the Office should be used to fashion further action such as joint seminars with agencies, provision of more information about the Office, further explanations for reasons for decisions, etc. The results of the surveys and the outcomes monitoring should be synthesised in the annual report and provided in full to the PLCAR.

7.6.5. Own Motion - Research

Whilst provided for in the legislation (section 15), it is only in very recent times that the Queensland Ombudsman has embarked on two such investigations of his own volition, one state and one local. This technique now employed frequently by Ombudsmen in other jurisdictions, is a very effective way, possibly the most effective way, of identifying and rectifying practices of maladministration which have a systemic cause. As such, it is a key element of the preventative and proactive role of the Ombudsman. The most notable example is the Commonwealth Ombudsman who has a substantial research section devoted to investigations of this kind.

Interviews with the staff of the Queensland Ombudsman's Office revealed that there are clear systemic faults lying behind a good many of the individual cases they investigate, especially in the local government arena. The advantages of this approach are clear. The difficulty is obviously related to the time required and staff resources to undertake the exercise - three months with two-three staff members was the estimate for the recent Queensland exercise on local government practices. This can be a heavy load for a small office. It is of course a matter of short-term cost for long-term gain, including hopefully the prevention of further similar complaints. It also makes full use of the talents of the staff and gives them further insights and experience of great relevance to the professionalism of their work.

For an office the size of that of the Queensland Ombudsman, it is unrealistic to establish a permanent research section to conduct systemic investigations of this kind. Indeed it may well be counterproductive, given that most members of staff would welcome the opportunity of such an experience which, in itself, is also professional development.

For the Office to be involved in more research of this kind its research capacity would need to be improved, including the library, access to other data bases such as the Local Government Association, legal data bases, Department of Local Government inventories of local government policies and practices, parliamentary library, etc. This ideally should be done on line as much as possible.

R.13. More frequent use should be made of the "Own Motion" Investigations.

The Office should constantly identify areas where complaints are clearly stemming from basic systemic causes in sufficient numbers to warrant a research program conducted with the co-operation of the agency/ies concerned to identify the cause, propose new approaches, and change the pattern of administration in the area concerned. The team leader should be chosen for his/her expertise in the area involved but every effort should be made to give the maximum number of staff the opportunity to be part of such an investigation over the medium term. The research capacity to cope with this additional research function should be provided by an enhancement of the resources of the Office, especially on-line facilities.

7.6.6. Fees and Recoverable Charges

A thorny issue which is raised in most Ombudsman jurisdictions from time to time, it has also been suggested in the consultations for this Review. Two types of fees are most often mentioned. One could be levied on complainants to cover some, if not all, of the cost of administering their complaint or perhaps a recoverable small amount in the nature of a deposit to ensure that they are serious about lodging the complaint in the first instance. Such a move is generally considered to be contrary to the principle that access to an Ombudsman should be unfettered and free - such is the nature of the Ombudsman concept. On a more practical level the cost of collecting the fees/recoverable charges might well be more than the benefits which are derived.

There is no groundswell for introduction of a client fee in Queensland - none is recommended.

The second kind of fee would be in the nature of a charge on the agency against whom a complaint has been lodged which the Ombudsman is investigating. The reasoning behind the introduction of a charge is that the Ombudsman is performing a service for the agency, a service it would probably, in other circumstances, have to perform itself. Some also argue that such a charge would act as an incentive to agencies to introduce client responsive procedures and to more effectively address the cause of complaints against them. The application of such charges is fraught with difficulties. Would the charge apply to all complaints or only those that are sustained? Would such a system encourage perennial and vindictive complainants - a category of complainant not unknown to Ombudsmen? Would it be a flat charge, or one related to the length of time required for the investigation? Would the revenue generated flow directly to the Ombudsman or to the government? Would agencies pay from their own budgets or would they receive a subvention from the Treasury to cover such charges, or would the Treasury compensate the Ombudsman based on the number of complaints undertaken? Would it encourage agencies not to make their clients aware of the Ombudsman as an external review mechanism?

At this stage a fee/charge of this kind is not recommended. It seems to have greatest potential re those government bodies which have been corporatised or established on a user-pays basis, and the potential for levying fees/charges of this kind needs to be kept under constant review.

7.6.7. The Information Commissioner Linkage

The Ombudsman has also been Information Commissioner since 1992. The Ombudsman has introduced a practice where he distances himself personally from complaints to the Ombudsman about the Information Commissioner. A Deputy Ombudsman always handles these. A few of those consulted for this Review felt that this arrangement was inappropriate and that the Information Commissioner should be an entirely different entity. One submission expressed nervous concern that the Ombudsman was unable to investigate formally actions of the Information Commissioner. Some local governments are also obviously concerned and confused about the one person wearing two hats.

These matters were raised with State and local government bodies but received very little response of any kind. It does seem clear that the Information Commissioner is more likely to be at odds with the government and its agencies from time to time and it could be that this would spill over to confuse his status and image as Ombudsman. However, there is little evidence that this has occurred to date.

There were concerns expressed by some staff members that the overheads of the two offices were not being fairly shared and that the Information Commissioner should contribute more of them. A detailed breakdown was requested and on the face of it there does seem a case for a minor adjustment to rectify the situation. The Ombudsman himself seems to be able to cope with the added Information Commissioner responsibilities, time factor, and other burdens of holding the two offices, although it does seem to result in a fair degree of delegation of Ombudsman responsibilities to the Deputy Ombudsman. This would need to be kept under close attention in the move to a more proactive role for the Office.

However, on the broader question, there seems no reason to suggest a split in the two roles. Indeed, experience regarding the vagaries of access to public information is a useful adjunct to the work of an Ombudsman given that the difficulty of obtaining various kinds of information lies at the heart of many complaints to the Ombudsman.

It is worth noting that the Information Commissioner has a Home Page, a network of FOI contact officers and a high profile awareness approach, all of which have been recommended by this Review for the Ombudsman.

7.6.8. The Commonwealth Interface

As mentioned, in Queensland the arrangements work very effectively whereby Commonwealth and Queensland Ombudsman's Offices share contact points and are co-located. Indeed, it is a model arrangement for Ombudsmen in federal systems. The resource sharing arrangements appear to be working harmoniously.

7.6.9. Regional Offices for the Ombudsman

A few respondents suggested that the Ombudsman could be more proactive and accessible if he had a regional office or two. North Queensland, and Townsville in particular, were the main examples. New Zealand, with a length and population similar to those of Queensland, has offices in Auckland, Wellington, and Christchurch. The case load in North Queensland is constant though not of an undue magnitude. Also, the Ombudsman's country visits programs are very effective and seem to satisfy well the need for regions for a complaints mechanism. The matter turns largely on the costs involved. Accommodation would be needed separate from either State or local governments. The regional office/s would need to be on line to Brisbane, and staff would probably need to travel to Brisbane for professional development. The offset, of course, is the saving in the cost of country visits, a more imminent presence, and the chance to develop a more proactive and preventative role in the regions.

On balance, there seems to be insufficient pressure for such a move at present but it is a potential development that should be kept under consideration and certainly revisited in the next Review.

7.6.10. An Entrepreneurial Ombudsman

Apparently a few opportunities have arisen which would have allowed the Queensland Ombudsman to undertake consultancies with Pacific countries for the training of staff of Ombudsman's and similar offices in those systems. (Of course, the Queensland Ombudsman has, for some years, offered free training for limited numbers of such officers as a goodwill gesture.)

The Ombudsman has been reluctant to entertain entrepreneurial ventures of this kind while the resources of his Office have been stretched, and with a backlog to be addressed. This reaction is understandable. It is also important that any such ventures would not detract the Office from its fundamental purpose, especially if it placed undue emphasis on revenue raising activity.

Nevertheless, such opportunities seem certain to increase, other Ombudsmen are availing themselves of them, and the staff of the Office of the Queensland Ombudsman certainly possess the expertise to be able to offer a high quality service in this regard. This may be the case not just for opportunities with other countries, especially developing countries in the AusAID Program, but also for Australian private and even public agencies

seeking professional advice or training on complaints handling procedures, investigatory techniques, regimes of containment of maladministration, accountability measures, etc. Additional, even temporary, staff can of course be hired for these purposes, or consortiums can be formed with other interested partners.

R.14. The Queensland Ombudsman should remain open to entrepreneurial opportunities and pursue those which can make good use of the expertise of the Office but which do not cause any fundamental distraction from the main purpose of the Office.

7.7. Effectiveness and Efficiency

Although it goes without saying that the pursuit of effectiveness and efficiency is a key element of the Ombudsman's Office, this is not as clear cut an element as might be the case for a conventional government organisation. The quantification and measurement of the nature of work performed by Ombudsmen is not straightforward; neither is that of their outputs and particularly their outcomes. The range of cases which come before them vary significantly in the resources required to be devoted to them and it is difficult to predict the nature and flow of the intake. Some cases are extremely difficult and may legitimately take a very long time to resolve, given the intricacies of locating the required information, awaiting settlements, seeking redress through various avenues, and waiting on government organisations for responses. In the event of a difference of opinion between the Ombudsman and the government organisation, the delay can become protracted.

Nevertheless, Ombudsmen have endeavoured to introduce measures into their operations which will maximise their effectiveness and efficiency of their own volition and also in response to the pressures of the last decade or so relating to financial stringencies introduced by governments everywhere. Ombudsmen want to be seen to be playing their part in the responsible use of taxpayers' funds. The Queensland Ombudsman has introduced a range of measures to this end and they are well covered in the *Manual for Administrative Review (Investigating) Officers* which is issued to all members of staff. This includes the corporate plan incorporating goals, strategies, and performance indicators for the Office, investigative procedures, policy statements, breach codes, the Australian Standard for Complaint Handling, and a range of factual information on duties,

approaches, style, checklists, and targets in terms of file movement periods for various duties.

However, it is clear that the approaches used to date are not satisfactory in that they are not accurately measuring the flow (i.e. the sequence of the passage) of work in the Office, are the source of contention between the Ombudsman and the government, and are the cause of morale problems in the Office. The heart of the matter appears to lie with the performance indicators.

7.7.1 Performance Indicators

At present the main performance indicator in the Queensland Ombudsman's Office is the number of files being closed. This is a very inappropriate measure since it takes little account of the qualitative differences in the cases being handled, particularly the complexity of their subject matter, the number of interfaces involved, the number of issues raised, the amount of research required, etc. It also encourages an inappropriate response from staff who may be inclined to leave difficult cases aside in order to reach performance targets, or rush through cases just prior to measurement dates. Under the terms of the Enterprise Agreement, they do ultimately have to address the difficult cases. It is also not an accurate picture of the value of the work flow through the Office as opposed to the quantity of it. Since the bulk of the performance indicators contained in the annual report to Parliament derive from these data, an accurate portrayal of the Ombudsman's efforts is not being achieved. Also, since these data form the basis for negotiations with Treasury regarding estimates for the Office, the resourcing of the Office is not occurring on an appropriate basis. Moreover, as the Ombudsman and his Deputies use this performance measure as one of the main indicators for individual staff performance, a recipe for conflict between management and staff is established and morale problems will continue. Indeed, combined with the backlog, this factor more than any other was the main source of concern expressed by staff to this Review.

Clearly a better performance measure is required. Other Ombudsmen have grappled with this issue and there appears to be no common performance indicator in place other than the more traditional measures such as complaints received, proportion out of jurisdiction, complaints finalised, proportion sustained and rectified, etc. These are not adequate measures of work flow/output or outcome. Of the Ombudsman's Offices examined, the New Zealand Office appears to have developed the most sophisticated measure which includes a time component and some degree of categorisation of the complexity of cases. The New Zealand model is available as a software package and has been sold to a number of overseas countries. It would be open to Queensland to purchase and modify that program.

This Review is reluctant to prescribe a performance indicators regime because to do so would require a deep knowledge of the cases coming before the Queensland Ombudsman and an intimate knowledge of the technical capacity of the Office. Performance indicators are best designed by the staff of the Office in consultation with those who will have to use them such as the Parliamentary Committee and the Treasury. Staff development of the indicators would also ensure that they are more acceptable as fair measures of workload, and give a sense of ownership of this aspect of the work of the Office which is so central to all of its functioning.

However, the research conducted for this Review can provide a guide to the criteria which should be captured by the new performance indicators:

1. There must be some attempt to differentiate cases in a *qualitative* way, preferably a system of classification of complaints according to their complexity, thereby reflecting the amount of work and time involved in addressing them. The framework from which to commence this exercise already exists in the Queensland Ombudsman's *Manual for Administrative Review Appendix F* which raises the matter of the complexity of cases. Also, interviews with staff have revealed some key factors which could be used in determining the complexity of cases. They are:
 - ⌘ Can issues be rectified by a phone call to department/authority/local government?
 - ⌘ Number of issues involved.
 - ⌘ Complexity of issues.
 - ⌘ Whether issues can be identified easily.

- ⊠ Whether issues involve more than one government agency.
- ⊠ Volume of correspondence.
- ⊠ Legal issues as opposed to factual issues.
- ⊠ Issues dealt with before, i.e. is there a precedent response?
- ⊠ Whether systemic issues involved.
- ⊠ Whether a right of appeal is available.

It is recognised that there are some potential hazards in proceeding along this path. It should not be seen as a way of treating clients, only their complaints. Should a client gain a false perception that their complaint had received a particular grading on a complexity scale, considerable misperceptions might ensue. It is an approach purely designed to contribute to assessing the workload of the Office.

2. It is equally clear that any new performance indicator must take account of the time involved in handling a particular complaint. The New Zealand system places particular emphasis on this factor. It is not possible to ascertain in the Queensland Office at present; indeed the record of file movement is very haphazard and the manual tracking of files is reported to be a very time consuming exercise. In the other Ombudsman's Offices which were analysed, the method of time allocation was based on a bar coding of the files and regular electronic surveys of the Office together with a trigger bring-up system. Since the data are immediately available to all in the office, a neutral electronic measure is most effective.
3. A performance indicator should endeavour to share the burden of response between the Ombudsman and the agency involved. Thus, the time that the agency takes to respond to the Ombudsman's requests also needs to figure. The aim of the performance measures should be to reduce the number of complaints being made about government bodies, and the performance measures need to capture this for both the Ombudsman's Office and the agencies themselves.

4. The sheer amount of work involved in the case needs to be built into the performance measure as well, reflecting the qualitative as well as the quantitative effort required. This is a difficult element closely related to the complexity question. It may be an element that can only be built up over time as experience is gained with new ways of measuring performance. Maybe it is related to the type of case rather than simply its complexity, reflecting the degree of research, consultation, and uniqueness, leading to the amount of sheer consideration and judgment involved.
5. The indicator must be able to reflect cases where there has been "legitimate" delay. This is particularly important regarding any backlog which develops which must be able to be dissected to determine the nature of the caseload within it.
6. Timeliness itself may be a factor. The Office already gives high priority to cases where a speedy decision is required because of the consequences to the complainant including irretrievable situations or urgent monetary factors. Thus certain kinds of complaint may have their own inherent urgency which should be reflected in the Ombudsman's performance measures.
7. The new performance indicators must, of course, reflect all of the work in the Office, not just the handling of files/complaints. Thus participation in own motion or other research, policy advice, seminars, consultations, trips, etc. would all have to be measured.
8. In the alternate scenario, some dollar value should be able to be placed on the indicators, e.g. \$ per hour per cases of different kinds. This would link the case management system to the financial management system.

Once a new set of performance measures of this kind becomes available, the possibility arises of a different, more open management style for the Office. If all of the staff are satisfied that the performance measures accurately reflect the individual as well as corporate effort, there is no reason why the data cannot be made available on every staff member to every staff member. Current performance data are claimed to be readily available to all staff on computer. Many of the staff interviewed did not seem to realise this. This would need to be accompanied by regular and longer staff meetings to conduct file reviews of all files and not just serious ones, and assess progress by the Office in meeting performance targets which would be based on the new performance indicators - such is the New Zealand model. It would go a long way towards meeting the complaints

of many members of the staff of the Queensland Office that they are left too much to their own devices with few formal opportunities to discuss problem files or learn from colleagues who have handled similar cases. If the file coding could be enhanced to reflect more comprehensively the nature of the complaint, it would be possible to retrieve precedents more easily as well. A complete sharing of meaningful performance information throughout the whole Office would seem to be appropriate for a professional operation of the nature of an Ombudsman, and should boost morale. It is a more horizontal rather than a vertical management approach.

Hopefully the new performance indicators should be a more useful set of supporting material when the bids are made for resources each year and for explaining the nature of the caseload to the Parliamentary Committee and the public. They should also facilitate priority determination in the Office for discussion with the Parliamentary Committee. For example, it might be decided to give priority to complaints which identify procedural and systemic differences in public administration, or cases which demonstrate significant abuses of power, or cases which are likely to lead to recommendations resulting in practical and measurable improvements in administrative decision-making.

7.7.2. Case Management/Early Intervention

One of the contemporary fashions in public administration is "demand management", a concept which, it has been suggested, should apply to all arms of government in times of financial stringency. In its pure form it is a concept difficult to apply to bodies such as Ombudsmen where members of the public have a right to complain and any attempt to "manage" or "control" their complaints could be construed as an infringement of a fundamental right. The same dilemma faces courts, human rights tribunals and the like.

This however does not prevent attempts at case management or the more careful sifting and sorting of complaints with a view to their speedy resolution. Most Ombudsman's Offices practise this in some form or other including the Queensland Ombudsman who has some procedures in place to identify quickly cases which can be speedily addressed. The Office already declines some 45 per cent of the complaints it receives, most of them being out of jurisdiction.

The UK Ombudsman has made a concerted effort in recent times to engage in

various manners of early intervention to identify those complaints which do not require a full investigation. There is much to be learned from their systematic approach in this manner which centres largely around the intake point for complaints which becomes the key sieve in the sorting process.

As every Ombudsman knows, there are complainants who are merely seeking a reply to their correspondence, or even just an acknowledgment. Others want just a simple piece of information, or a simple explanation, or a reference to a piece of legislation or regulation. In such cases there is held to be no reason to establish a full file and investigatory process if the matter can be handled by a quick phone call to the agency involved, or an email/fax request, or a short mediation meeting on site or a short letter. In the experience of the UK Office, this approach can reduce the permanent workload of the Office by as much as 40 per cent whilst still leaving clients completely satisfied. In their case it is a trained team of staff who handle the cases at intake point, make the judgment of action involved, and take the action to achieve successful early intervention.

The Queensland Ombudsman has experimented with a smaller variation of this approach using a designated intake officer following the organisational review of 1991. The experiment lapsed when the officer became a permanent Investigative Officer but most of the staff interviewed who were present at the time spoke highly of the concept, especially of the way it relieved Investigative Officers of these inquiries/complaints. It is also worth remembering that the Agency Survey revealed that 55 per cent of Agencies believed that cases could be resolved between the Agency and the Ombudsman more quickly by telephone, and that two of the main complaints about the Office are formality, and too much resorting to correspondence.

If the Queensland Office adopted such a formal approach it would require a number of elements:

1. Intake officers would need to be identified and trained. They may need to be monitored for the early period of their engagement.
2. All staff should be given the opportunity to volunteer for intake work but not compelled to undertake it.
3. Staff should be rotated between intake and investigative work. Experience elsewhere including Ombudsman's Offices shows the reality of "burn out" amongst street-level officials who have constant client contact.
4. It may be necessary to have intake officers who specialise in either State or local government areas.
5. There would have to be significant delegation from the present powers of Ombudsman and Deputy Ombudsman to the intake officers most obviously in the areas of determining complaints which are out of jurisdiction and the classification of cases capable of being readily addressed under a classification or classifications of cases to be developed as part of the new performance criteria.
6. The Office of the Queensland Ombudsman would most efficiently function if its intake officers could be on-line to the network of Ombudsman contact officers in the State departments and agencies and the local authorities. This would help materially the quick resolution of cases. If not, the telephone and fax would suffice.
7. There are significant implications for the telephonists/receptionists in the Office. The function of the telephone has loomed rather large in the focus of this Review. Data are presented in the Appendix which give some feel for the magnitude and nature of calls and hence complaints. The work of the telephonists in the Office is currently bedevilled by a number of factors. The use of the 1800 number is one because currently the telephonist has no knowledge of whether the caller is using this avenue which is rather expensive for the Office. The sheer discretion which has to be exercised in deciding if callers' queries are out of jurisdiction is another; although there are clear guidelines available it can, at times, be too significant a responsibility to place at this level. The manner in which individual staff respond to telephone calls is also a key element. Naturally their response will depend on

how busy they are, but whereas some almost routinely take all calls instantly, others ask for a number to be taken so they can call back, and yet others ask the telephonist to try to resolve the matter or at least take down the nature of the complaint/inquiry.

An intake system would rectify much of this anomaly. It may well also address the main complaints about the Office - delay and lack of access to investigators.

- R.15. The Queensland Ombudsman should construct a new set of performance indicators for the Office in consultation with the PLCAR and the Queensland Treasury. Such performance indicators should encompass the full workload of the Office, reflect its qualitative nature, address the complexity of complaints being handled, measure the time involved in handling complaints, the need to share the burden of response between the Ombudsman and the agency which is the subject of the complaint, identify cases which have experienced "legitimate" delay, and ensure that timeliness remains a key element for cases which require urgent resolution because of impending impacts on complainants. The New Zealand model should be used as a guide.**
- R.16. The new performance indicators should be incorporated into a new reporting regime for the PLCAR and be incorporated into the annual report. They should, in more detailed form, accompany the Ombudsman's estimates in each year's budget round.**
- R.17. The classification of cases in the new performance indicators should include categories for cases handled by "early intervention" to reflect the efforts of the Office at case management.**
- R.18. The Ombudsman's Office should embark on a fresh approach to case management focussing on early intervention to identify complaints which do not require a full investigation. To this end an intake unit should be re-established in the Office with sufficient powers delegated to the officers involved to judge complaints capable of speedy resolution and to take the appropriate action. All staff should be given the opportunity to take part in rotations to the intake unit and none should serve longer than six months at a time. The potential for the intake unit to be on line to a network of Ombudsman contact officers should be explored. The duties and**

responsibilities of the telephonists/receptionists would need to be redefined once the intake unit were established but, in any event, more consistency should be pursued in the manner in which individual staff respond to callers through the switchboard. The UK experience should be looked to as a model.

R.19. Following the introduction of the new performance indicators and the case management/early intervention intake system, a new, more open management style should be introduced into the Office. It should feature complete sharing of all individual and office-wide performance data amongst all staff, accompanied by frequent case management/file review staff meetings at least once per month. The coding of cases should be reviewed to ensure that precedents can readily be identified.

7.7.3. Specialisation

An issue which confronts all Ombudsman's Offices is that of whether to specialise staff and, if so, what basis to use, by area of government involved, by type of complaint, or by the degree of investigation/research involved. Some Ombudsman's Offices have separate research sections but most Offices, where they do specialise, tend to do so on the basis of the subject matter that will be handled. This makes a good deal of sense because it takes quite some time before an Investigative Officer becomes familiar with all of the legislation, regulations, policies and practices in an area of government and established ways and means of keeping up to date in that arena.

Following the organisational Review of 1991, the Queensland Ombudsman established two major teams in the Office. One would handle work relating to State government and the other local government. Since the work load did not split neatly into two equal bundles, some officers did a little of each but essentially the teams have functioned as State/local for the past six years. As well as specialisation it was also

hoped that a friendly spirit of competition might develop, relating to performance, between them.

From all appearances and according to the interviews with staff and former staff it has not been an entirely happy experiment. Due no doubt largely to pressures of work and backlogs, different management styles, the different nature of the work and the inadequacy of present performance indicators to reflect this accurately, there appear to have developed more negative forms of rivalry, some suspicions of favouritism, and certainly a lack of a corporate identity for the whole Office, despite the fact that all officers appear individually to be highly dedicated to their work.

Given a change towards more research work associated with more own-motion investigations of a systemic proactive kind, the reintroduction of an intake unit, and an emphasis on a more outward looking consultative role for the Office, it can be questioned whether the current two-team approach is still appropriate (not forgetting that corporate services constitutes in reality a third supportive team). The staff are divided on this aspect.

A slight majority, including virtually all of the younger/newer members of staff, said that they would prefer to work in smaller teams of three or four officers preferably with a multidisciplinary membership. The remainder of the staff were reasonably happy with the two-team arrangement. The division of opinion seemed also to be related to attitudes towards preferred organisational work practices and management style. By and large, the younger/newer staff members expressed concern at the lack of formal staff training and professional development in the Office, the lack of regular meetings with colleagues for in-depth file review and the associated opportunity to learn from those with experience of similar cases, and the lack of delegation of responsibility, and hence trust, to them. In such circumstances they saw more merit in smaller teams which would provide more proximity, more collegiality, and more professional development. They were appreciative of the constant offers from the Deputies for consultation, advice, and mentoring, but were reluctant to impose on the time of the Deputies when they realised the heavy workloads which they themselves were carrying.

It may well be that the new management style which has been recommended to accompany a new set of performance indicators may help to resolve this question. A set of indicators which accurately reflected each officer's workload readily available throughout the office accompanied by regular meetings to discuss cases, targets, and performance might transcend the issue of which method of specialisation is appropriate.

R.20. The work of the Office should continue to be divided broadly into State and local jurisdictions to allow for the benefits of such specialisation, but should be accompanied by regular staff conferences to discuss performance, cases, and targets, and office-wide and individual performance data be made available to all. The opportunity should be provided for more frequent formal meetings of smaller groups of staff with similar case allocations to meet to discuss difficult cases in particular. The Ombudsman should revisit the "two-team" structure after 12 months' operation of a new performance indicator and associated management style, in consultation with the staff, to determine whether smaller teams might be more appropriate.

7.7.4. Training and Staff Development

It is generally agreed by Ombudsmen that it takes something of the order of six months to train an Investigative Officer. This is a key reason why the introduction of temporary staff to handle the backlog in the Queensland Ombudsman's Office should be viewed with alarm. If people are employed only on twelve-month contracts and it takes six months for them to become effective, there is not much time left for their effective deployment.

Currently there is very little formal training or professional development offered to staff in the Office. They are given careful instructions on taking up office, by the Deputies, there is a brief induction program and some mentoring, they have a very good manual to guide them through the legislation and procedural maze, encouragement to study, and the senior staff are always there to answer queries, but this is really insufficient for a professional organisation. There needs to be, as in most other Ombudsman's Offices, a regular induction program, a structured mentoring arrangement, provision for attendance at conferences held by professional organisations, consultations and training programs offered by departments, and encouragement to take out membership of relevant

professional bodies. There have been very few speeches, papers, or addresses delivered by the staff of the Office. It is true that there are very few external training courses available designed specifically for the staff of Ombudsman's Offices but this means only that Ombudsmen themselves must be more active with internal or interactive opportunities. As was observed earlier in a small organisation offering limited career opportunities, staff development becomes a very important compensating and necessary factor.

R.21. The Queensland Ombudsman should introduce formal training/staff development program particularly for new recruits.

7.7.5. Structure of the Office and Position Classification

Considering the current strains on the Office and the totality of the recommendations made from this Review, some reflection needs to be made on the structure of the Office in relation to the workload, its nature and its magnitude. The Ombudsman has virtual *carte blanche* in this arena and reforms would be easy to achieve.

There is a general feeling in the Office that the Deputies are something of a bottleneck to the work flow because they have, until recently, delegated very little responsibility to their staff, have taken on significant caseloads of their own, and by going on all of the trips to country areas have exacerbated the problem by holding up decisions, authorisations, and hence file movements. This pattern seems more accentuated for the State arena than the local government one. There seems to be scope for more delegation within guidelines. Experienced staff should be able to sign reasonably routine letters which contain routine decisions. Assistant Commissioners do sign some correspondence and conduct some visits. Senior experienced staff, particularly at Assistant Commissioner level or Senior Investigating Officer level, should also be able to assign files/cases of less complex complaints without the Deputies having to be involved. Indeed this might be seen as one of the key functions of the Assistant Commissioner position or its equivalent, as occurs in most Ombudsman's Offices.

There seems no good reason why a Deputy should be present on every country visit, although they should be involved in most of them to indicate the importance of the visits and maintain important contacts.

These measures would free up the Deputies, as well as the Ombudsman himself, for

more strategic work, focussing on the complex/difficult cases, engaging in more outward contact with departments/agencies/local governments, raising the profile of the Office, mentoring newer staff members, contributing papers at conferences, liaising with professional associations, designing and running training programs, liaising with other Ombudsman's Offices, etc.

In a relatively short Review such as this one it is difficult to be definitive about the appropriate classification levels of all of the positions in the Office but, based on an analysis of the work flow, case loads, responsibility, professional judgment required, and sheer importance of the work, most of the professional positions in the Office appear to be underclassified by at least one level compared with public service positions of an "equivalent" nature. In addition, the position descriptions of the support staff do not seem to reflect accurately the tasks they perform which are more demanding than indicated in the position descriptions and selection criteria. There might also with profit be introduced a more graduated scale of both professional and support positions to allow these staff a career opportunity to progress as they gain more experience and develop more capability.

R.22. The Ombudsman should instigate a review of the classification of positions in the Office to ensure that they reflect the true worth of the work being performed, for both professional and support staff positions, and the need for a more graduated scale of professional and support positions.

R.23. There should be more delegation of responsibility from Deputy Ombudsman to all staff but particularly senior staff in relation to assignment of intake, signing of correspondence, and the conduct of trips. Deputies should be encouraged to be more involved with the strategic elements of the Office, its outward interfaces, mentoring of staff, raising the profile of the Office, and engaging in related professional activities.

7.7.6. The Visits

One of the great success stories of the Queensland Ombudsman since the inception of the Office, and of world-wide interest, is the country visits program whereby the Ombudsman and staff visit various regional centres with significant pre-publicity to allow citizens with complaints to meet for personal discussions. These meetings are usually held in the local council offices. After the meetings the Ombudsman discusses cases with the Mayor and senior council staff and many cases are clarified and resolved on the spot.

Basically the system works well and nobody has suggested it be discontinued. However, a few features of the logistics of the visits have been mentioned which may need to be addressed.

The fact that the appointments are made by the local government staff, often the Mayor's staff, is of concern to some who fear that this invades the privacy or anonymity of those wishing to lodge a complaint against the council. The same concern arises regarding the conduct of the interviews on council premises.

The counter-argument relates to the cost and cumbersomeness of trying to arrange all interviews from Brisbane, the unavailability of alternative premises, the record of council staff in keeping the interview scheduling quite separate from their council duties, and the opportunity usually available for a citizen to go instead to a neighbouring local government to arrange an appointment to lodge a complaint about their own local government. It also seems to be an observable fact that some complainants relish the fact that the mayor and council staff might be made aware that they are coming to speak to the Ombudsman. Overall there does not seem to be sufficient concern to warrant a change in practice, although if alternative venues and methods become available they might be tried.

The other visits which the Ombudsman makes are to correctional centres. This affords the opportunity for inmates to raise their complaints directly with the staff of the Office. It is a difficult area of the Ombudsman's jurisdiction and one now shared with other appeals and complaints processes. Complaints were made to this Review that the visits are too frequent, they serve to stir up and encourage complaints when issues may not have existed or certainly not to the extent claimed in the complaint, and they entail a heavy workload for those answering the complaints. It was also advocated by many with interests in this arena that the staff of the Ombudsman should stay one more day at the

correctional centre, with the files, and endeavour to resolve many of the complaints on the spot rather than have them continue as full-scale investigations. These matters were pursued as far as was able in the duration of this Review. Ombudsman staff seem to be quite adept at identifying genuine complaints and do not appear overly liberal in the acceptance of complaints which have no substance. There are some differences of opinion on the merits of cases but the matter seems to be confused by the existence of the other complaint mechanisms and recent changes in Judicial Review access. There does, however, appear to be merit in the suggestion of extra time being devoted to resolve cases on the day visits.

R.24. The Ombudsman should review the visits procedures, especially the correctional centres visits, to ensure that the maximum effort is directed to resolving complaints on the spot.

7.7.7. The Resources of the Office and Corporate Research Services

There were a number of areas commonly raised in interviews with the staff where the resources of the Office were held to be inadequate. The one most frequently mentioned was the information technology system which was held to be out of date and inadequate for the performance requirements of the Office, despite an allocation a few years ago for new hardware and software. The Office does not have a programmer or repairer, but manages with imaginative, talented amateur staff. The Office is too small for the full-scale introduction of some new State service systems. The title of the section is also a misnomer as it does very little research.

Investigative staff would like full internet access, argue that they need to be on line to legal data bases and would benefit from being on line to a major library, e.g. the Parliamentary Library and legal libraries which hold a good deal of relevant reference material. The library is claimed to be inadequate for research purposes and, combined with the lack of on-line access, this makes investigative work very difficult. The books

and other reference works in the library are certainly showing their age, but some of the legal access regimes which are up to date are not well utilised.

The telephone system has broken down several times and is often at full capacity, especially during common peak periods on Monday mornings (after a weekend's thought and debate have convinced complainants to ring up and lodge a complaint) or Fridays when the end of the week brings a recollection of a complaint to be followed up or lodged. Full moons are also reported to be an occupational hazard in the Ombudsman's Office.

The Office has few cars and although the use of hire cars is possible, some staff say the lack of vehicles, especially when country visits are in operation, discourages them from making quick visits around the metropolitan and south-east Queensland area to resolve complaints quickly by means of site visits or mediation meetings. The payroll system was said by many to be antiquated.

The oversight of most of these matters falls to the Corporate Services Section which clearly feels somewhat neglected in an office dominated by professional staff. The Section of seven staff aims to provide a complete finance, information technology, human resource management, administration, and research role for the Ombudsman and Information Commissioner Offices, as well as the Brisbane office of the Commonwealth Ombudsman. The percentage of total staff in the Office in this Section has declined from around 20 per cent in the 1970s and 1980s to 14 per cent in the 1990s. Some dissatisfaction arose in recent times when the management of the Office did not automatically consider the implications for Corporate Services when other developments were approved for the Office and new staff positions were created, but these were temporary positions, yet another implication caused by reliance on temporary staff. Management concedes some of these points but alludes to difficulties of obtaining Treasury approval for capital equipment, or corporate services in general. Moreover, in a situation where the total resources of the Office are stretched with a large backlog, the needs of the professional staff are bound to gain paramouncy.

One of the key results of this predicament is that there is no linkage in the Office between case management and financial management, and the kinds of reforms recommended re performance indicators could not be serviced and delivered under the current accounting system and resource levels. There is no current notional Investigative Officer/Corporate Support ratio or matrix on which to build a new integrated system of this kind. Nor is enough consideration given to maintenance of infrastructure.

Corporate Services wants a separate discrete budget of its own, especially for IT, to be considered by management and in the Estimates process.

An Appendix contains a list of the items and expenditure, which Corporate Services has provided to this Review, which is believed to be necessary to have the Office function effectively at its current level.

Discussions with staff of Corporate Services have revealed there is some scope for the sharing of a limited range of these resource requirements with other agencies on a Bureau basis. The obvious choice would be the Queensland Audit Office, being a larger organisation also affiliated with Parliament. The extent to which this might be achieved was not possible in the time frame available for this Review, although it would make a lot of sense for the parliamentary "family" to do far more resource sharing than they currently do. It is desirable that the delivery of Corporate Services remain, as far as possible, in the Ombudsman's Office.

R.25. The Ombudsman should conduct a complete, realistic inventory of capital and recurrent requirements in the Corporate Services area of the Office. Whilst the delivery of those services should remain, as far as possible, within the Office, discussions should be undertaken with the Queensland Audit Office and the Parliament to determine whether the sharing of establishment and operating costs of some aspects, particularly information technology, could be achieved. Following these discussions and on the basis of the inventory, a costing for these items should be forwarded to the Parliamentary Committee and Treasury for special one-off funding to bring the corporate services function up to date. Given the

precarious and antiquated nature of some of the infrastructure, this request for funding should be viewed sympathetically.

7.7.8. Management and Work Practices

As indicated earlier, it is not the function of a strategic review to enter into matters which are in the realm of industrial relations, unless they have a significant impact upon the strategic direction of the Office. A few issues of this nature have arisen in the consultations of this Review which are worth touching upon. One concerns the meetings of the Management Committee which are reported to have become less frequent in recent times leading to some difficulty for staff in having matters addressed in a timely manner. The feedback from Management Committee meetings to staff is a little stark and staff meetings should also be more frequent.

Some of the work practices in the Office are considered by most of the staff to be too restrictive, especially when compared with conditions in most State government departments and agencies, and there does seem to be scope for more flexibility in the use of fractional appointments and job-sharing, work hours arrangements, etc., provided any liberalisation is accompanied by staff responsibility and professionalism. The bulk of these matters are covered, of course, in the enterprise agreement.

However, one complication is that there is no access by staff of the Ombudsman's Office to grievance procedures. This is a by-product of the correct and necessary exemption of the Office from the *Public Service Management and Employment Act 1988*. It would be worth the Ombudsman considering establishment of some appeal mechanism which would include a person external to the Office. A model exists elsewhere in which the Office of the Public Service provides an external grievance appeals mechanism on a contract basis, but since the Ombudsman investigates the Office of the Public Service, this could not be followed in a literal sense.

R.26. The Ombudsman should reconsider the Management and Work Practices of the Office in the light of comments made by this Review, management and staff meetings should be held more frequently with adequate opportunity for staff feedback, and consideration should be given to establishment of an external grievance appeal mechanism for the Office.

7.7.9. Resourcing of the Office

Any attempt to assess the adequacy of the resourcing of an Ombudsman must be a matter of broad judgment. International and interstate comparisons can only be a rough guide because the function of each office is different and the caseload arises from qualitatively different causes. The closest parallel to Queensland is possibly New Zealand with a similar population size. However, the Ombudsman there is a national ombudsman.

The very recent budget augmentation will give the Queensland Ombudsman capacity to fund an extra 1.5 positions. For the immediate future the Office would seem to require an extra two positions to handle the extrapolated case load. In addition to the capital funding for information technology already flagged, funding could be provided in the short term to meet this expediency but beyond that the Ombudsman's resourcing should depend on the extent to which he implements the reforms outlined in this Review, which should mitigate the case intake. After that the resourcing of the Office should be indexed to the more realistic set of performance indicators which are developed.

R.27. In addition to the extra resources already flagged to bring the information technology capacity up to date, the Office should be resourced to be able to recruit two more staff but on condition that the reforms outlined in this Review are implemented. After this the resourcing of the Office should be indexed to the more realistic set of performance indicators which are developed.

8. THE QUEENSLAND PUBLIC ADMINISTRATION APPEAL MAZE

During the course of this Review, and especially in the consultations with the Chief Executive Officers of State departments and local authorities, the complexity and burden of the appeals processes in the current Queensland public sector became very apparent.

Over the past two decades, in response to various inquiries, community pressure, issues, faults in the client relationship, and the sheer growth of the public sector, governments have progressively created more and more single-purpose bodies to hear complaints and grievances from the public and from the public sector itself. No doubt each of them was created for a good purpose at the time to perform an important function.

However, the cumulative effect of all of this activity has been to create a maze of administrative appeal mechanisms which is confusing and cumbersome, and is generating a diffuse and costly workload for departments, agencies, and local governments. Each body has a different mandate, different operating style, different compliance requirements, and some are quasi-parliamentary and others quasi-judiciary. Some review on the merits of decisions and others mainly on process.

In this Review, of course, the main focus is upon the implications of this section for the Ombudsman, but there would seem to be a case for the Parliament and government to conduct a broad review of this maze in the near future to determine its complexity, the extent to which it may be causing confusion in the mind of the public and even deterring genuine complaints, and especially the cost burden the complexity may be causing the administration. Care would need to be taken not to reduce in any way the general rights of appeal of the public against executive/administrative decision-making, but there would appear to be scope for some streamlining and rationalisation, and possibly combining some special purpose appeal avenues into more generic and all encompassing bodies such as the Ombudsman. On the basis of superficial estimates it would appear that each Chief Executive Officer could be subject to more than two dozen separate appeals or complaints channels, many of which can be operationalised simultaneously by one complainant, causing an agency to answer the same complaint through many channels. The impact of all this machinery was captured most graphically by one of the Queensland government's more creative Chief Executive Officers when he told this review:

The accountability regime is very complex. It looks like a series of sieves in the funnel. Each one is good at the time and for its purpose, but taken together you often cannot get through them all and see daylight. You have to twist and turn and plot a path to get through the sieves.

It is also possible, of course, that some areas are falling through the cracks in this edifice. A considerable amount of concern was expressed during this Review in relation to police. The Ombudsman, in effect, investigates only administrative aspects of police activity but it is a fine line between the various kinds of police activity and often quite unclear whether a matter is an operational one or an administrative one. It is known that school principals face at least 40 such single directives/requirements in the course of their daily decision-making. For this Review the situation was demonstrated most graphically in relation to Corrective Services where the Ombudsman is one of a web of quite confusing avenues for complaints; some of them merit reviews and some of them process focussed. In the report on "Review of Appeals from Administrative Decisions" (Parliamentary Committee for Electoral and Administrative Review, May 1995), it was reported that, at 1 January 1993, there were 131 review bodies able to review about 2,000 decisions under 474 legislative provisions providing for review of administrative decisions. There would be many more now.

For a state the size of Queensland the machinery of government is very heavy when all of these administrative appeal mechanisms are seen in total. The Ombudsman was one of the first and has witnessed the others, largely single-purpose appeal bodies, springing up, often taking away some of the Ombudsman's jurisdiction, when the Ombudsman's Office could well have handled the aspects involved. Then again, the growth of various government agencies for particular aspects of regulation and service delivery has seen new avenues of appeal opened up to new ancillary appeal mechanisms, muddying the waters still further. Successive governments appear not to have given a great deal of thought to this phenomenon; no doubt they were anxious to resolve the particular issue before them and creation of a new appeals body seemed the best course of action to placate concern or satisfy single issue lobby groups. It may also reflect the trend, previously noted, for governments to ignore the directive in the Cabinet Handbook about consulting the Ombudsman before action of this kind is taken.

The issue becomes particularly important if governments should use the word "Ombudsman" in the title of new appeal bodies. This can only cause confusion in the minds of the public, and since none of the new bodies conducts its business in the manner of the State Ombudsman, it is, in effect, distorting if not debasing the currency of the Ombudsman title, reducing the status and significance of the Ombudsman's Office.

Consolidation of the appeal mechanisms might also capture some synergies. To some extent they all need some common training in complaint handling, mediation, dispute resolution, investigatory techniques, research, etc., and they all have a common need to be kept abreast of developments in the executive branch. They all need oversight of some kind by the Parliament and perhaps the judicial system.

In short, a broad review is necessary of the appeals maze - reduction of confusion re the role of the Ombudsman would benefit significantly from this and so might the taxpayer and the public servants. It may be that there is a case for a very small permanent grandparent body like the Commonwealth's Administrative Review Council to keep watch over this realm of governance. This is a subject which has arisen before in Queensland, notably during the course of the life of the Electoral and Administrative Review Commission (EARC). It was canvassed in the 1995 report of the Parliamentary Committee for Electoral and Administrative Review, particularly in relation to the role of the Ombudsman. It would seem to be time to revisit this matter.

R.28. The government should cease using the word "Ombudsman" in the title of other appeal bodies and mechanisms and should also discourage the private sector from so doing.

- R.29. Parliament and the government should conduct an overall review of all of the administrative appeal mechanisms in Queensland with a view to streamlining, diminishing the complexity and cost of the administrative appeals machinery, and reducing the burden on the administration, whilst at the same time ensuring there is no net diminution of the rights of citizens to complain about administrative discretion. When new public sector developments occur which require an avenue of appeal from administrative discretion, the presumption should be in favour of incorporating the avenue into the functions of the Ombudsman's Office rather than creating a single purpose channel and new body to oversee it.**
- R.30. Potential synergies should be explored between the numerous appeal bodies in Queensland in relation to commonality of training, research, library resources, and joint seminars to keep abreast of developments in the public sector in Queensland and elsewhere.**

9. THE QUEENSLAND PUBLIC SECTOR OF THE FUTURE

This Strategic Review considers the role of the Ombudsman as it will develop into the next century and needs to take cognisance of the trends occurring in the public sector that will have far reaching implications. Some of these trends are arising out of economic changes and those in society. Others are the product of ideology. Some stem from new approaches to management, others are a by-product of intergovernmental relations in the federation. Many have been introduced in an endeavour to improve the efficiency of the public sector or to provide effective alternative means of service delivery. Just a few are listed below; they seem to be the main ones impacting on the public sector into the twenty-first century which will have implications for bodies such as the Queensland Ombudsman.

- Globalisation and the extent to which it impinges on the economy and society, affecting the sovereignty of governments, placing more emphasis on their treaty obligations and introducing constraints on public policy-making.
- Privatisation and the extent to which it takes activity out of the public sector, accentuates the emphasis on regulation rather than ownership, redefines and makes more transparent the community service obligations of government, reduces formal responsibility and accountability of government administration, and changes the nature of public sector employment.
- Moves towards further corporatisation with institutional split between policy-making and service delivery and the associated difficulty of pinpointing government accountability for service standards and community service obligations, despite reduced Ombudsman coverage of corporatised entities.
- The further introduction of funder/purchaser/provider models with splits in elements in the chain of government service delivery creating commensurate difficulty for clients in locating appropriate sources of responsibility for policy, management, and quality of service. The same comments apply to contracting out and contracting in, and especially risk management.

- Further moves to user charges, accrual accounting, asset valuation, cost centring, etc., all of which more clearly delineate resource usage but may not clarify responsibility as clearly.
- The increasingly complex jungle of executive federalism with its proliferation of intergovernmental agreements, specific purpose payments, and resource sharing arrangements, all of them targeted at joint provision of public services but not always clarifying the roles and responsibilities of the three levels of government in a way meaningful for the citizen. The same could be said for possible constitutional changes which might accompany any constitutional reform over the next five years.
- Vertical Financial Imbalance and the distortion of political accountability it produces, introducing the possibility of tax reform which may clarify the role of each level of government and the nature and purpose of each tax.
- National Competition Policy and the complexities created for the clients of governments as moves are progressed to introduce open competition, third party access, full cost pricing, creation of business units, new modes of regulation, and new definitions of community service obligations. This is already causing consternation in Queensland in state and particularly local governments and seems sure to give rise to citizen complaints and querying of decision-making, especially where government units are required to make pricing trade-offs in the public interest.

In all of these measures the concept of a "public good" is being refashioned and the more it is weakened from its original definition, the less responsibility governments may have and the less accountability, especially for service provision. Any separation of policy-making from service delivery is bound by its nature to create confusion in lines of accountability to citizens, to clients, and to their representatives in Parliament.

We could add to this list of economic/managerial/governance reforms the increasing social dysfunction in the community from numerous causes which will see no diminution in the dependence on government services and greater propensity to complain. On the other side of the coin is the growing education of the community,

rising awareness of rights and entitlements, and the increasing resort to litigation, all of which spell more diligence by citizens in their relations with government. Then if the alienation of citizens from government is added, it becomes a rather volatile cocktail.

The reforms in the public sector itself are also relevant to this scenario. Gradually more contract appointments are leading to growing uneasiness about the interface between politicians and the public service, the distorting of ministerial responsibility, and the blurring of the dividing line between policy and administration and its attendant accountability implications. Any reduction in the access to formal public service appeal mechanisms would exacerbate the unease and hence the number of complaints. Even a resort to codes of ethics, or citizens' charters, or whistleblower protection measures and the appeals maze which exists in Queensland may not be sufficient to withstand these trends.

It all adds up to a growth in the potential workload of governance appeal bodies such as the Ombudsman, a growth both qualitative and quantitative in nature. Better to anticipate these developments as far as possible with a proactive, preventative and systemic approach.

APPENDIX A

QUEENSLAND OMBUDSMAN

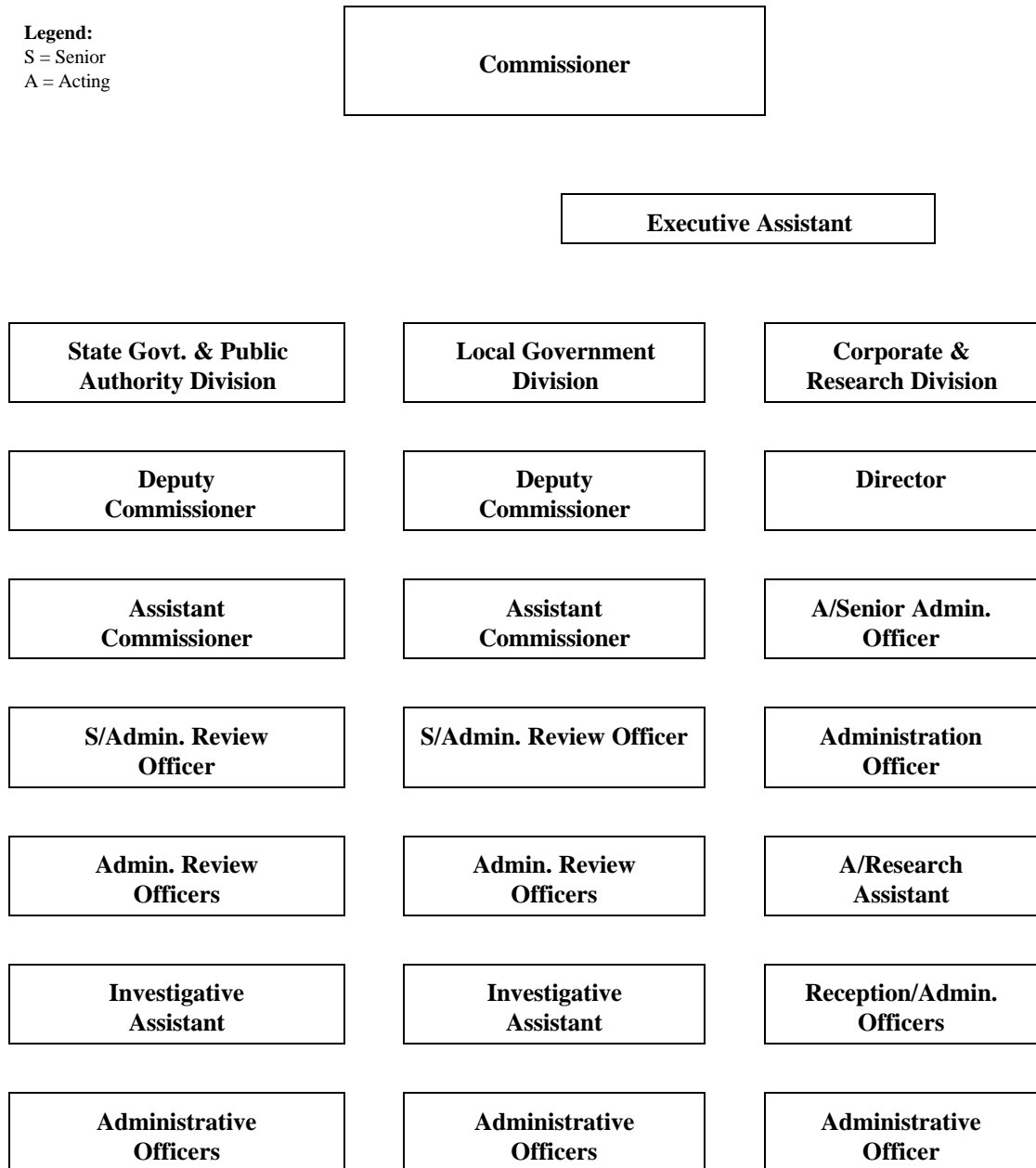
Consultations for the Review

- ✘ Members of the Queensland Parliamentary Legal, Constitutional and Administrative Review Committee (PLCAR).
- ✘ Ombudsman's Offices:
 - London, U.K.
 - Wellington, New Zealand
 - Canberra
 - Sydney.
- ✘ Queensland Ombudsman's Office:
 - Ombudsman
 - Two Deputy Ombudsmen
 - Thirty-one current staff
 - Eight former staff.
- ✘ Commonwealth Ombudsman's Office, Brisbane.
- ✘ Queensland Government Departments:
 - Families, Youth and Community Care
 - Natural Resources
 - Workcover Queensland
 - Corrective Services Commission
 - Queensland Corrections
 - Transport
 - Premier and Cabinet
 - Treasury.
- ✘ Local Governments:
 - Livingstone Shire Council
 - Rockhampton City Council
 - Townsville City Council
 - Thuringowa City Council
 - Maroochydore Shire Council
 - Caloundra City Council
 - Caboolture Shire Council.

APPENDIX B

STAFFING AND STRUCTURE - AS AT 30 JUNE 1997

Legend:
S = Senior
A = Acting



The Corporate & Research Division also provides all administrative support for the Information Commissioner's Office, and reception/administrative functions for the Commonwealth Ombudsman's Office (Queensland).

APPENDIX C

PERFORMANCE INDICATORS

	1994-95	1995-96	1996-97
Cases received	3,686	3,384	3,325
Cases investigated to completion	1,632	1,621	1,499
Cases closed (including not investigated)	3,530	3,489	3,138
Cases carried forward	1,546	1,441	1,628
Cases upheld/rectified	526 (32%)	540 (33%)	632 (42%)
Intake calls handled	Not available	7,000 approx.	8,000 approx.

SUSTAINED CASES (i.e. error detected) 1996-97

	Cases	Actual	Target
Recommendation/s necessary	23		
* Full or substantial compliance	23	100%	100%
* Non-compliance	-		
Recommendation/s not necessary	114		-
* Rectification possible and taken	117	100%	95%
* Rectification possible but not taken	0	0%	5%
* Rectification not possible but procedures improved	7	-	
undertakings given for future	10	-	
no result achieved	10	-	
Total	167	167	

A further 465 cases were "rectified", i.e. action was taken by the relevant agency to rectify the problem without the Office having to formally find error.

TIMELINESS

	Actual	Target
Proportion of cases received in 1995-96 closed within 12 months of receipt	86%	80%
Proportion of cases closed in 1996-97 under 12 months old	87%	80%
Number of cases more than 2 years old as at 30.6.1997	120	N/A

APPENDIX D

QUEENSLAND OMBUDSMAN

Estimated IT Resource Requirements

Replace ten (12) 486 Computers with Pentium PCs	\$36,000
2. Replace two (1) 486 Notebook computers with Pentium Notebooks	\$4,000
3. Replace one (1) 486 Notebook computer with a Pentium PC	\$3,000
4. Novelle Netware V4.11 training	\$1,200
5. Upgrade Tape Back-up system and tapes	\$1,000
6. Upgrade RAM memory in all Digital Venturis computers to 32 Meg	\$6,000
7. Year 2000 compliance audit	\$10,500
8. Provide Internet access for Inter-Governmental Email and WEB browsing	\$9,000
9. Upgrade file server	\$10,000
10. Virus scan software for Netware server	\$1,500
11. Additional and replacement Hubs	\$15,000
12. Upgrade to Office 97	\$35,000
13. Colour printer	\$7,000
14. Upgrade Level 21 Fax Machine	\$2,600
15. Commissioner's Fax Machine	\$2,600
16. Replace Laser 2 printer with Laser 5 printer	\$3,000
17. WEB page design and administration	\$5,000
Total	\$152,400
Ongoing costs associated with Internet facilities	\$9,500

Additional Staffing Requirements

Information Systems Support Officer at PO2/PO3 level	
PO2/PO3 (cost per annum)	\$50,000/\$57,000

APPENDIX E

QUEENSLAND OMBUDSMAN

Telephone Calls Over Two Hour Period

1.	Fax Number Enquiry	40 seconds
2.	Nambour Enquiry	21 seconds
3.	Australia Post for Suzi	52 seconds
4.	Centrelink Enquiry	1 minute 21 seconds
5.	CES Enquiry	47 seconds
6.	Call for Staff	10 seconds
7.	Staff	53 seconds
8.	Public Trust Enquiry	27 seconds
9.	University of Queensland Work	21 seconds
10.	Cover Qld Enquiry	22 seconds
11.	Austudy Enquiry	42 seconds
12.	Staff	3 seconds
13.	Private Call	18 seconds
14.	Private Call	21 seconds
15.	Tax Office Enquiry	51 seconds
16.	Environment Enquiry	1 minute 1 second
17.	Centrelink Enquiry	53 seconds
18.	Mareeba Shire Council	52 seconds
19.	Consumer Enquiry	10 seconds
20.	QHC Enquiry	1 minute 9 seconds
21.	Free Call Enquiry	24 seconds
22.	Burnett Shire Council	52 seconds
23.	Australia Post Enquiry	1 minute
24.	James Cook University	52 seconds
25.	TIO Enquiry	1 minute 8 seconds
26.	Centrelink Enquiry	33 seconds
27.	Centrelink Enquiry	35 seconds

APPENDIX F

QUEENSLAND OMBUDSMAN

Telephone Records

Financial Year 1996/97

(A) Calls Direct to Reception

	Local	1800	Reception	
July	113	62	2	
August	49	28	4	
	43	27	1	
September	50	30	0	
	49	32	4	
October	54	33	0	
	37	20	3	
November	113	33	2	
December	65	12	3	
January	48	18	1	
	18	14	2	
February	64	20	0	
	22	10	1	
March	28	24	5	
	74	32	3	
April	89	56	1	
	21	10	1	
May	62	27	2	
	24	14	0	
June	35	10	2	
	40	0	0	
Sub-total	1,098	512	37	= 1,647

(B) Total Number of Calls Handled by Investigating Officers = 3,701

Total Number of Phone Enquiries = 5,348

Out of 5,348 calls handled by IOs, 312 became files,
i.e. 8.4 per cent.

APPENDIX G

QUEENSLAND OMBUDSMAN

Telephone Records

Financial Year 1995/96

(A) Calls Direct to Reception

	Local	1800	Reception	
July	53	28	2	
	13	10	3	
August	38	17	1	
	53	37	8	
September	75	45	5	
	32	27	0	
October	31	20	5	
	46	23	1	
November	55	28	3	
	56	25	3	
December	45	25	2	
	26	21	4	
January	29	19	6	
	55	33	9	
February	36	29	1	
	50	30	11	
March	50	37	7	
	66	42	3	
April	50	33	4	
	80	60	2	
May	58	35	1	
	57	42	6	
June	66	43	2	
	32	17	3	
Sub-total	1,152	726	92	= 1,970

(B) Total Number of Calls Handled by Investigating Officers = 4,050

Total Number of Phone Enquiries (in person) = **6,020**

Out of 5,050 calls handled by IOs, 294 became files,
i.e. 7.26 per cent.

APPENDIX H

QUEENSLAND OMBUDSMAN

Telephone Records

Financial Year 1994/95

(A) Calls Direct to Reception

	Local	008	
July	45	41	
	56	18	
August	71	52	
	37	18	
September	48	32	
	39	23	
October	33	12	
	49	27	
November	46	33	
	26	31	
December	13	15	
	14	17	
January	11	17	
	30	15	
February	36	35	
	41	24	
March	29	28	
	42	19	
April	22	16	
	58	25	
May	40	36	
	29	15	
June	44	19	
	66	27	
Sub-total	925	595	= 1,520

(B) Total Number of Calls Handled by Investigating Officers = 4,086

Total Number of Phone Enquiries = 5,606

Out of 4,086 calls handled by IOs, 301 became files,
i.e. 7.4 per cent.

APPENDIX I

QUEENSLAND OMBUDSMAN

Telephone Records

Financial Year 1993/94

(A) Calls Direct to Reception

	Local	008	
July	80 43	35 16	
August	53 48	22 15	
September	67 46	27 18	
October	80	25	
November	38 19	15 12	
December	33 66	23 33	
January	71	65	
February	50 45	46 15	
March	75 89	61 47	
April	74	33	
May	45 49	43 27	
June	56 66	39 25	
Sub-total	1,223	642	= 1,865

(B) Total Number of Calls Handled by Investigating Officers = 3,054

Total Number of Phone Enquiries = 4,919

Out of 3,054 calls handled by IOs, 303 became files,
i.e. nearly 10 per cent.

APPENDIX J

ANNUAL REPORT

RESULTS FOR YEAR

Table 1:
Cases Received & Open 1993-94 to 1996-97

CASES	1993-94	1994-95	1995-96	1996-97
Cases brought forward (backlog)	1 241	1 390	1 546	1 441
New cases received	3 280	3 686	3 384	3 325
TOTAL OPEN DURING THE YEAR	4 521	5 078	4 930	4 766

Table 2:
Cases Completed By Result 1993-94 to 1996-97
(excludes cases outside jurisdiction, declined, withdrawn or in progress as at 30.6.97)

RESULT	1993-94		1994-95		1995-96		1996-97	
	No.	%	No.	%	No.	%	No.	%
Error clear - upheld	184	10.65	140	8.58	124	7.65	167	11.13
Error unclear but resolved substantially or totally nevertheless	424	24.54	386	23.65	418	25.79	465	31.00
Error clear and/or resolved	608	35.19	526	32.23	542	33.44	632	42.13
No error	1 120	64.81	1 106	67.77	1 079	66.56	868	57.87
Investigated	1 728	100.00	1 632	100.00	1 621	100.00	1 500	100.00

Table 3
Cases Open During Year - By Result : 1993-94 to 1996-97

RESULT	1993-94		1994-95		1995-96		1996-97	
	No.	%	No.	%	No.	%	No.	%
No jurisdiction - advice given on other remedies	364		409		435		381	
Declined after preliminary consideration - substantive advice given	767		1 222		1 248		1 095	
Withdrawn - usually after consideration and substantive advice given	272		267		185		164	
Advice given but not investigated to completion	1 403	31.03	1 898	37.39	1 868	37.89	1 640	52.18
Error clear	184		140		124		167	
Error unclear but resolved substantially or totally nevertheless	424		386		418		465	
No error	1 120		1 106		1 079		871	
Investigated to completion	1 728	38.22	1 632	32.15	1 621	32.88	1 503	47.82
Closed for year	3 131	69.25	3 530	69.54	3 489	70.77	3 143	65.92
In progress at end of year (backlog)	1 390	30.75	1 546	30.45	1 441	29.23	1 625	34.08

Table 4: Error Clear Cases - outcomes 1996-97

Recommendation made	23	
• full or substantial compliance		23
• non-compliance		0
Recommendation not made	144	
• rectification action possible and		
• taken		117
• not taken		0
• rectification action not possible but		
• procedures improved		7
• assurances given		10
• no result		10
Total	167	167

NOTES TO THE TABLES:

ERROR CLEAR

Where error by the agency is found; rectification usually ensues (see table 4).

ERROR UNCLEAR BUT RESOLVED SUBSTANTIALLY OR TOTALLY NEVERTHELESS

Where error is not clear but the agency remedies the grievance; for resource reasons the investigation usually does not proceed to a formal finding unless a systemic problem is identified.

DECLINED

Usually where the complainant is asked to take the matter further with the agency directly before I intervene (“premature” cases).

WITHDRAWN

Where the complainant withdraws the complaint, (often when the agency rectifies before I intervene), or where the complainant doesn't respond to my requests for further information.

"SUCCESS RATE"

Usually taken as "error clear" and "error unclear" cases combined. This is obviously (and largely) influenced by the types of cases received during the year. Other possible measures include:

- proportion of rectifiable sustained cases that were rectified - in this year close to 100%; or
- proportion of justified complaints upheld - hopefully 100%, but cannot be measured.

Table 5: Cases Received 1993-94 to 1996-97 by type of agency

	1993-94		1994-95		1995-96		1996-97	
	No.	%	No.	%	No.	%	No.	%
State Govt. Departments	1 270	38.72	1 468	39.82	1 053	31.12	975	29.32
Public Authorities	716	21.83	819	22.22	890	26.30	1 189	35.76
Local Authorities	1 102	33.60	1 207	32.74	1 217	35.96	967	29.08
Other Govt. & Private	192	5.85	192	5.21	224	6.62	194	5.84
TOTAL	3 280	100.00	3 686	100.00	3 384	100.00	3 325	100.00

Table 6:

“Error clear” and “Error unclear but resolved” cases according to type of agency, 1993-94 to 1996-97

	1993-94	1994-95	1995-96	1996-97
State Government Departments	248	220	181	194
Public Authorities	108	86	147	228
Local Authorities	251	220	213	210
TOTAL	608	526	541	632

APPENDIX K

AGENCY SATISFACTION SURVEY 1998

Categories are as follows:

SA	Strongly Agree
A	Agree
N	Neither Agree nor Disagree
D	Disagree
SD	Strongly Disagree
NK/NA	Don't Know/Not Applicable
NS	Not Stated

EXECUTIVE OVERVIEW

The agency survey was conducted internally with 213 surveys sent to State Government Departments, Public Authorities and Local Government Authorities.

From these surveys 127 were completed and returned to this Office. The breakup of agencies is as follows:

State Government Departments	16 responses from 26 sent out
Public Authorities	21 responses from 59 sent out
Local Government Authorities	90 responses from 128 sent out

While rigorous statistical methods were not employed in the analysis of the response data, as 60% of the surveys were returned, assumptions have been made regarding the veracity of the response data in relation to the total population. Therefore, it has been assumed that the opinions stated within the survey are fairly typical of the overall attitudes of the agencies.

The responses to all questions in the survey were very encouraging. The largest response was in Questions 13 with 61% agreeing that they usually implemented our suggestions and recommendations. The second highest scores were noted in Questions 1 and 11 with 59% also agreeing with the statements.

A small number of ad-hoc comments were provided by agencies with the bulk of these being constructive criticism, mostly in relation to communication issues. These focussed on a lack of accessibility of staff and wishing to be kept up to date on progress and the final outcome.

Comments were also made in relation to direct contact with staff after 4.30pm; that the Office needed to make our 1800 number more accessible; and that we provide a copy of the complainant's letter to the agencies at the beginning of the investigation.

Additionally, some negative comments were made by agencies and these were mainly attributable to the agencies where the Office conducted an extensive investigation and found in favour of the complainant.

OVERALL

The results of the survey show that the agencies which replied were fairly happy with the current way the Office is conducting its investigations. However improvements could be made in the areas on accessibility of staff and investigation updates.

Agency Name: **TOTAL AGENCY DATA**

		SA - 1	A - 2	N - 3	D - 4	SD - 5	NS
<u>Quality and Timeliness of Investigations</u>							
Question 1	Initial contact letters received from the Ombudsman's Office outlining a new complaint contain clear advice as to what information is sought from the agency.	38	75	6	0	1	7
		30%	59%	5%	0%	1%	6%
Question 2	The Ombudsman's later correspondence to you indicates that your agency's views have been fully considered.	27	72	15	5	1	7
		21%	57%	12%	4%	1%	6%
Question 3	Ombudsman staff return telephone calls promptly.	31	63	24	2	1	6
		24%	50%	19%	2%	1%	5%
Question 4	The attitude of Ombudsman staff is courteous and helpful at all times.	47	58	13	3	1	5
		37%	46%	10%	2%	1%	4%
Question 5	Agency staff are able to discuss cases with Ombudsman staff at mutually convenient times.	35	70	15	1	0	6
		28%	55%	12%	1%	0%	5%
Question 6	The Ombudsman's staff handle cases in a professional manner.	38	70	10	3	0	6
		30%	55%	8%	2%	0%	5%

Total - Agency Survey 1998

Question 7	Cases could be resolved between the agency and Ombudsman more quickly by telephone.	26	44	41	9	0	7
		20%	35%	32%	7%	0%	6%
Question 8	The "final" letters from the Ombudsman clearly spell out the reasons for findings.	28	69	22	0	2	6
		22%	54%	17%	0%	2%	5%
Question 9	The results of the Ombudsman's investigations regarding your agency have usually been correct.	16	70	31	3	0	7
		13%	55%	24%	2%	0%	6%
<u>Access and Awareness</u>							
Question 10	The agency has formal procedures to ensure staff are aware of the role of the Ombudsman.	8	42	38	30	1	8
		6%	33%	30%	24%	1%	6%
Question 11	The Ombudsman is adequately meeting the needs of people outside Brisbane having dealings with your agency.	19	75	24	0	1	8
		15%	59%	19%	0%	1%	6%
Question 12	When advising a person of an adverse decision the agency provides notification of the right of administrative review by the Ombudsman.	8	28	37	33	7	14
		6%	22%	29%	26%	6%	11%

Total - Agency Survey 1998

Public Administration

Question 13	Your agency usually implements suggestions and recommendations by the Ombudsman.	21	78	18	1	0	9
		17%	61%	14%	1%	0%	7%
Question 14 (1)	The Ombudsman's Office has assisted you and/or your agency by identifying problem areas.	8	52	51	4	0	12
		6%	41%	40%	3%	0%	9%
Question 14 (2)	The Ombudsman's Office has assisted you and/or your agency by bringing to your attention significant matters of which you may have otherwise been unaware.	8	47	50	9	2	11
		6%	37%	39%	7%	2%	9%
Question 14 (3)	The Ombudsman's Office has assisted you and/or your agency by providing external review that satisfies aggrieved clients.	13	63	35	6	0	10
		10%	50%	28%	5%	0%	8%
Question 14 (4)	The Ombudsman's Office has assisted you and/or your agency by assisting you to change the client service culture in your agency.	4	30	68	13	0	12
		3%	24%	54%	10%	0%	9%

APPENDIX L

CLIENT SATISFACTION SURVEY 1998

The raw data for the survey was put together in either Format A (actual results) or Format B (percentages). For the purpose of this analysis we have based our findings on Format B.

Categories are as follows:

SA	Strongly Agree
A	Agree
N	Neither Agree nor Disagree
D	Disagree
SD	Strongly Disagree
NK/NA	Don't Know/Not Applicable
NS	Not Stated

EXECUTIVE OVERVIEW

It must be recognised when considering the results of this survey that the first part relates to a person's actual experience in dealing with the Office, whereas the second half relates to how they would want that experience to be. This explains why some contradictions are noted.

INITIATION PHASE

Most people appeared to be happy with their initial telephone contact with this Office and the fact that they could obtain an appointment to discuss their concerns.

An overwhelming majority said that staff were courteous, helpful and professional in their manner.

Just over half those surveyed said their written complaint was acknowledged promptly and that the information sheet attached to the acknowledgment letter was helpful. However, from the data obtained it is not possible to analyse the "dissatisfied" responses and therefore provide a breakdown of the three categories surveyed (e.g. not sustained, sustained, rectified).

INVESTIGATION PHASE

As an investigation progresses, it appears that timeliness becomes an issue. A poor response was received in relation to the time investigations are taking to be completed as well as the absence of regular updates being provided.

The main concern is obviously the amount of time taken to complete an investigation. Clearly, complainants expect to be kept informed when the investigation is not finalised quickly. This is also reflected in the high importance given to "accessibility of staff" in the order of importance section of the survey.

People appear to be concerned that staff are not as accessible as they would like. This appears to stem from the fact that investigators "screen" calls through the support staff and people feel they are not being put straight through.

Also, less than half those surveyed believed our correspondence addressed their concerns. This could be due to the fact that the most responses received were from people whose complaint was not resolved in their favour.

DECISION PHASE

Once again a poor response was received at this stage of contact. People generally didn't think they were given clear reasons for the decision, they did not accept the decision as being correct and didn't believe the investigation helped them understand the original complaint. Again, the raw data tends to skew the results with no ability to analyse categories surveyed.

OVERALL

Of those complainants surveyed, approximately half were happy with the service provided. This result appears directly related to the timeliness issue with accessibility to staff being a related dissatisfaction indicator.

Given the increasing demand for our services, the only long term solution appears to be increased funding for permanent investigative resources. In the absence of such funding, procedures will need to be put in place to keep complainants informed of progress on a more regular basis. This may have the effect of reducing complainant's expectations in relation to staff accessibility.

INITIAL CONTACT WITH THE OMBUDSMAN

• INITIAL CONTACT - TELEPHONE

QUESTION 1

SA	A	N	D	SD	DK/NA	NS
28.5	40.3	5.9	2.9	1.6	14.9	5.7

68.8% commented that the initial telephone contact answered by reception was courteous and prompt.

• INITIAL CONTACT - APPOINTMENT

QUESTION 2

SA	A	N	D	SD	DK/NA	NS
19.2	31.9	4.6	4.8	6.6	28.1	4.7

51.1% agreed they were able to make a convenient time for an appointment. However 28.1% were in the Don't Know/Not Applicable category. This shows that either they did not understand the context of the question or that they felt an appointment was not necessary (e.g. they may have been happy for the investigation to be conducted by correspondence alone).

OMBUDSMAN'S SERVICE

• INVESTIGATION INITIAL CONTACT - ATTITUDE

QUESTION 3

SA	A	N	D	SD	DK/NA	NS
32.7	43.0	6.2	4.2	6.6	3.2	4.0

75.7% said that staff overall were courteous and helpful.

QUESTION 4

SA	A	N	D	SD	DK/NA	NS
29.3	34.0	12.1	6.1	11.6	4.6	2.3

63.3% said that investigating officers were professional in their manner.

- **INVESTIGATION INITIAL CONTACT - CORRESPONDENCE**

QUESTION 5

SA	A	N	D	SD	DK/NA	NS
23.6	35.1	9.0	11.7	10.7	6.2	3.7

58.7% said their written complaint was acknowledged promptly.

QUESTION 6

SA	A	N	D	SD	DK/NA	NS
19.1	33.4	12.5	11.5	14.2	5.1	4.1

52.5% said the advice attached to their acknowledgement letter was helpful.

- **INVESTIGATION - TIMEFRAME**

QUESTIONS 7

SA	A	N	D	SD	DK/NA	NS
18.5	29.0	8.4	12.5	22.8	6.3	2.4

47.5% said they were satisfied with the length of time it took to be advised whether the Office could investigate their case. However, 35.3% strongly disagreed with this statement.

QUESTION 8

SA	A	N	D	SD	DK/NA	NS
16.0	23.0	11.7	15.4	26.3	4.5	3.2

41.6% were unhappy with the length of time it took for the investigation to be completed. However, 39% were happy with the timeframe.

- **INVESTIGATION - COMMUNICATION**

QUESTIONS 9

SA	A	N	D	SD	DK/NA	NS
27.7	47.4	6.2	5.6	5.8	3.2	4.1

75.1% said the correspondence they received was easy to understand.

QUESTION 10

SA	A	N	D	SD	DK/NA	NS
19.0	27.3	11.8	13.4	20.5	4.2	3.7

46.3% said our correspondence addressed their concerns, whilst 33.9% did not.

QUESTION 11

SA	A	N	D	SD	DK/NA	NS
14.1	18.9	15.3	16.4	24.9	7.4	2.9

41.3% said they were not regularly advised of the progress of the investigation, whilst 33% believed they were.

- **INVESTIGATION - DECISION**

QUESTION 12

SA	A	N	D	SD	DK/NA	NS
16.1	24.4	14.6	13.1	19.0	9.6	3.3

40.5% said they were given clear reasons for the Ombudsman's decision. However, 32.1% said they were not.

QUESTION 13

SA	A	N	D	SD	DK/NA	NS
16.0	21.7	9.4	13.4	25.6	10.4	3.6

39% did not accept the Ombudsman's decision as being correct under the circumstances, but 37.7% of people did.

QUESTION 14

SA	A	N	D	SD	DK/NA	NS
12.7	18.0	13.2	14.5	23.7	13.4	4.5

38.2% did not believe that our investigation helped them understand the original complaint, whilst 30.7% did.

OVERALL SERVICE

QUESTION 15

SA	A	N	D	SD	DK/NA	NS
22.7	21.7	13.9	10.4	23.8	3.9	3.5

44.4% were happy with the overall service the Office provided.

GENDER

QUESTION 20

57.3% who replied to the survey were male
41.7% who replied to the survey were female

AGE

QUESTION 21

26.8% were between the ages of 40 and 49
25.9% were 60 plus
21.5% were between the ages of 26 and 39

It is interesting to note that only 2.4% were between 18-25 and this either means they don't have a need for our service or don't know of its existence. Perhaps future advertising needs to be targeted towards this age group, with possibly more speeches on the role of the Ombudsman being undertaken at high schools (Grade 12 in particular).

SOURCE OF INFORMATION

QUESTION 22

Newspaper	Radio	Friend	Member Of Parliament	School	Other	Not Stated
28.8	9.2	20.4	7.9	0.9	30.2	2.6

30.2% stated Other. Please refer to the Open Questions number according to category. Next highest category was Newspapers at 28.8% and then from Friends 20.4%.

The fact that only 0.9% heard about the Ombudsman via a school correlates with the percentage in the 18-25 year group and would seem to validate the need for more Ombudsman awareness in schools.

The low percentage for radio is surprising given that interviews to publicise public inquiry sessions are undertaken regularly. However, we have no real way of knowing whether country stations actually air the taped interviews or use the news releases we provide. We rely on goodwill alone and do not pay for any radio advertising and this is probably reflected in the low percentage.

AREA OF RESIDENCE

QUESTION 23

Brisbane Metro	SE Qld	Cen Qld	Nth Qld	Far Nth Qld	West Qld	Other	Not Stated
15.7	48.1	14.2	9.0	5.8	3.2	2.4	1.4

The majority of survey forms returned were from people who lived in the South East Queensland area - 48.1%. The next highest locality is Brisbane Metropolitan area which scored 15.7%.

ORDER OF IMPORTANCE

- **SPEED**

1	2	3	4	5	6	NS
14.4	10.0	17.5	14.2	17.8	3.7	22.5

In Question 8, 41.6% were unhappy with the length of time (or speed) of investigations, but in this category speed rated below average to average in importance.

- **EXPERTISE OF STAFF**

1	2	3	4	5	6	NS
24.0	23.5	18.7	4.8	3.7	3.4	21.8

Expertise of Staff rated the highest and second highest in importance.

- **REGULAR UPDATES**

1	2	3	4	5	6	NS
9.6	11.4	13.1	22.0	16.7	4.5	22.7

Updates are only of an average importance.

- **ACCESSIBILITY OF STAFF**

1	2	3	4	5	6	NS
19.2	22.4	11.7	11.4	8.3	4.1	22.8

Being able to access staff rated the second highest and highest in importance.

- **OUTCOME**

1	2	3	4	5	6	NS
30.8	6.6	6.0	10.1	17.6	8.2	20.6

Respondents place the Outcome as the most important issue.

- **OTHER, PLEASE SPECIFY**

1	2	3	4	5	6	NS
6.1	1.3	0.5	1.0	1.0	65.4	24.6

Please see Open Question 24 in each section.

APPENDIX M

Office Of The Parliamentary Commissioner For Administrative Investigations

CASE RESULTS

Year	No Jurisdiction					Percentage of the total Complaints Closed for the Financial Year that were out of Jurisdiction	Declined					Percentage of the total Complaints Closed for the Financial Year that were Declined	Sustained	Percentage of the total Complaints Closed for the Financial Year that were Sustained	Rectified	Percentage of the total Complaints Closed for the Financial Year that were Rectified	Not Sustained
	Sec. 12(4) 12 (4)	Sec. 13(5) 13 (5)	Sec. 13(2) & (6)	Other	Total		Sec. 13(3)	Sec. 16(5)	Sec 17(1)	Other	Total						
1974/75	14	18	4	130	166	28.57%	19	-	1	15	35	6.02%	141	24.27%	-	0.00%	217
1975/76	12	42	18	160	232	24.81%	31	3	6	59	99	10.59%	208	22.25%	-	0.00%	344
1976/77	13	27	13	150	203	25.57%	36	7	3	40	86	10.83%	160	20.15%	-	0.00%	277
1977/78	18	23	41	164	246	24.72%	64	2	3	32	101	10.15%	235	23.62%	-	0.00%	338
1978/79	15	31	40	190	276	23.79%	73	9	5	55	142	12.24%	269	23.19%	-	0.00%	383
1979/80	23	27	34	135	219	18.23%	68	7	6	35	116	9.66%	381	31.72%	-	0.00%	423
1980/81	22	25	26	113	186	15.64%	62	2	6	31	101	8.49%	283	23.80%	-	0.00%	571
1981/82	29	24	25	126	204	18.91%	48	2	3	36	89	8.25%	209	19.37%	-	0.00%	492
1982/83	28	26	35	149	238	17.26%	44	4	9	83	140	10.15%	151	10.95%	62	4.50%	674
1983/84	31	32	36	138	237	13.65%	93	6	25	97	221	12.73%	170	9.79%	155	8.93%	815
1984/85	32	31	45	150	258	17.99%	54	4	10	96	164	11.44%	65	4.53%	219	15.27%	637
1985/86	51	36	18	141	246	15.41%	65	6	50	74	195	12.22%	165	10.34%	193	12.09%	685
1986/87	47	23	24	119	213	13.08%	49	5	32	132	218	13.39%	151	9.28%	232	14.25%	665
1987/88	32	32	33	151	248	15.25%	40	3	37	145	225	13.84%	169	10.39%	234	14.39%	651
1988/89	48	29	14	209	300	14.42%	48	5	22	169	244	11.73%	145	6.97%	284	13.65%	913
1989/90	54	40	9	171	274	12.47%	27	5	32	241	305	13.88%	143	6.51%	336	15.29%	956
1990/91	58	53	18	167	296	13.36%	47	11	32	348	438	19.77%	136	6.14%	343	15.48%	882
1991/92	67	41	21	320	449	15.21%	118	15	73	404	610	20.66%	231	7.83%	390	13.21%	1045
1992/93	64	33	13	262	372	12.23%	64	20	97	429	610	20.06%	194	6.38%	486	15.98%	1119
1993/94	74	34	17	239	364	11.63%	116	24	256	371	767	24.50%	184	5.88%	424	13.54%	1120
1994/95	73	26	4	306	409	11.59%	141	50	516	515	1222	34.62%	140	3.97%	386	10.93%	1106
1995/96	86	38	11	300	435	12.47%	136	38	444	630	1248	35.77%	124	3.55%	418	11.98%	1079
1996/97	91	29	8	253	381	12.12%	107	38	200	750	1095	34.84%	167	5.31%	465	14.79%	871
Total	982	720	507	4243	6452		1550	266	1868	4787	8471		4221		4627		16263

APPENDIX M

Office Of The Parliamentary Commissioner For Administrative Investigations

CASE RESULTS continued

Year	Percentage of the total Complaints Closed for the Financial Year that were Not Rectified	Withdrawn	Percentage of the total Complaints Closed for the Financial Year that were Withdrawn	TOTAL CLOSED COMPLAINTS DEALT WITH IN THE YEAR	TOTAL NEW COMPLAINTS RECEIVED IN THE FINANCIAL YEAR	TOTAL COMPLAINTS CLOSED WITH IN THE FINANCIAL YEAR	TOTAL COMPLAINTS REOPENED AND ADDED DURING THE YEAR	TOTAL COMPLAINTS CARRIED FORWARD TO THE NEXT FINANCIAL YEAR	PERCENTAGE OF COMPLAINTS INVESTIGATED THAT WERE SUSTAINED/RECTIFIED
1974/75	37.35%	22	3.79%	581	904	581	-	323	39.39%
1975/76	36.79%	52	5.56%	935	820	935	-	208	37.68%
1976/77	34.89%	68	8.56%	794	877	794	-	291	36.61%
1977/78	33.97%	75	7.54%	995	1082	995	-	378	41.01%
1978/79	33.02%	90	7.76%	1160	1019	1160	-	237	41.26%
1979/80	35.22%	62	5.16%	1201	1177	1201	50	263	47.39%
1980/81	48.02%	48	4.04%	1189	1129	1189	54	257	33.14%
1981/82	45.60%	85	7.88%	1079	1169	1079	74	421	29.81%
1982/83	48.88%	114	8.27%	1379	1437	1379	43	522	24.01%
1983/84	46.95%	138	7.95%	1736	1487	1736	94	367	28.51%
1984/85	44.42%	91	6.35%	1434	1405	1434	93	431	30.84%
1985/86	42.92%	112	7.02%	1596	1482	1596	153	470	34.32%
1986/87	40.85%	149	9.15%	1628	1588	1628	129	559	36.55%
1987/88	40.04%	99	6.09%	1626	1605	1626	118	656	38.24%
1988/89	43.87%	195	9.37%	2081	2089	2081	133	797	31.97%
1989/90	43.49%	184	8.37%	2198	2330	2198	168	1097	33.38%
1990/91	39.80%	121	5.46%	2216	2318	2216	112	1311	35.19%
1991/92	35.40%	227	7.69%	2952	2567	2952	174	1100	37.27%
1992/93	36.80%	260	8.55%	3041	3008	3041	174	1241	37.80%
1993/94	35.77%	272	8.69%	3131	3280	3131	-	1390	35.19%
1994/95	31.33%	267	7.56%	3530	3686	3530	-	1546	32.23%
1995/96	30.93%	185	5.30%	3489	3384	3489	-	1441	33.44%
1996/97	27.71%	164	5.22%	3143	3325	3143	-	1623	42.05%
Total		3080		43114	43168	43114	1569		

APPENDIX N

Office of the Parliamentary Commissioner for Administrative Investigations

Budget Allocations - 1974-75 to 1997-98

	1974/75	1975/76	1976/77	1977/78	1978/79	1979/80	1980/81	1981/82	1982/83	1983/84	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97	1997/98
No of Staff - Permanent	13	13	13	14	14	14	15	15	16	16	16	17	16	17	17	19	21	25	25	27	27	27	27	28
Temporary	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	3	4
Employment Costs	73,785	116,802	115,039	152,545	178,348	191,471	215,464	251,562	289,000	348,000	385,000	401,000	424,000	426,000	460,000	720,000	945,700	1,132,000	0	0	0	-72,500	-130,000	-240,000
Temporary Funding																						72,500	130,000	240,000
CELSL		39,000			59,400	20,000		69,000	13,000	2,000	2,000	6,000	13,000	19,000	10,000		122,000		8,000	8,000	8,000	8,000	30,000	21,644
Accommodation Costs																			0	0	0	0	0	0
Travel																	42,000	41,000	0	0	0	0	0	0
Motor Vehicle Expenses																			0	0	0	0	0	0
Administration Costs	17,128	44,000	60,876	49,477	70,394	58,313	102,184	97,299	127,000	156,900	159,000	154,300	174,000	183,000	191,000	130,000	121,300	185,000	179,333	174,500	147,500	165,500	146,124	201,980
Capital Expenditure																10,000	51,000	36,000	72,000	38,000	335,000	330,000	91,000	155,600
Total	90,913	199,802	175,915	202,022	308,142	269,784	317,648	417,861	429,000	506,900	546,000	561,300	611,000	628,000	661,000	860,000	1,282,000	1,394,000	259,333	220,500	490,500	503,500	267,124	379,224

Legend
Budget Data
Actual Data

APPENDIX O

Office of the Parliamentary Commissioner for Administrative Investigations and Office of the Information Commissioner

Allocation of Overheads Between Offices

<u>Cost Item</u>		<u>Basis of Allocation</u>
Salaries of staff and related costs	-	Actually incurred basis
Salary of Commissioner	-	Pcai only
Maintenance of computers	-	Pcai only
Maintenance of Motor vehicles , Petrol , Parking and Hire	-	Actually incurred basis
Courses and Seminars	-	Actually incurred basis
Ombudsman's Conferences	-	Pcai only
Travelling Allowances and Airfares	-	Actually incurred basis
Auditor General , Internal audit fees	-	Pcai only
Advertising	-	Pcai only
Consultant , Legal fees	-	Actually incurred basis
Telephone maintenance and Call costs	-	Actually incurred basis
Rent and Accommodation Costs	-	Pcai only
Entertainment	-	Actually incurred basis
Postage	-	Allocated on usage basis - per post register
Maintenance of Office Equipment	-	Actually incurred basis
Newspapers and Publications	-	Actually incurred basis
Printing and Annual Report	-	Actually incurred basis
Library Acquisitions	-	Pcai only
Stores , Stationery and Sundry Expenses	-	Actually incurred basis
Strategic Planning and Review	-	20% allocated to Foi
Minor Equipment Expenses	-	Pcai only
Purchase of Computer Equipment and Software	-	Pcai only
SAP R\3	-	Pcai only
Purchase of Equipment	-	Pcai only

APPENDIX O

Office of the Parliamentary Commissioner for Administrative Investigations and Office of the Information Commissioner

<u>Expense Item</u>	Allocation of Overheads Between Offices					
	Total	PCAI	%	FOI	%	
Salaries of staff and related costs	-	1605547	1138988	70.9	466559	29.1
Salary of Commissioner	-	82770	82770	100.0	0	0.0
Maintenance of computers	-	12121	12121	100.0	0	0.0
Maintenance of Motor vehicles , Petrol , Parking and Hire	-	44630	34860	78.1	9770	21.9
Courses and Seminars	-	1290	1260	97.7	30	2.3
Ombudsman's Conferences	-	12062	12062	100.0	0	0.0
Travelling Allowances and Airfares	-	17845	17845	100.0	0	0.0
Auditor General , Internal audit fees	-	6150	6150	100.0	0	0.0
Advertising	-	5704	5704	100.0	0	0.0
Consultant , Legal fees	-	2200	2200	100.0	0	0.0
Telephone maintenance and Call costs*	-	1668	1488	89.2	180	10.8
Rent and Accommodation Costs	-	155829	155829	100.0	0	0.0
Entertainment	-	978	978	100.0	0	0.0
Postage	-	8362	6128	73.3	2234	26.7
Maintenance of Office Equipment	-	4723	3884	82.2	839	17.8
Newspapers and Publications	-	1331	1039	78.1	292	21.9
Printing and Annual Report	-	22268	14766	66.3	7502	33.7
Library Acquisitions	-	14380	14380	100.0	0	0.0
Stores , Stationery and Sundry Expenses	-	19627	15877	80.9	3750	19.1
Strategic Planning and Review	-	0	0		0	
Minor Equipment Expenses	-	2088	2088	100.0	0	0.0
Purchase of Computer Equipment and Software	-	3000	3000	100.0	0	0.0
SAP R\3	-	0	0		0	
Purchase of Equipment	-	0	0		0	
		<u>2024573</u>	<u>1533417</u>		<u>491156</u>	

Note : All Corporate and Research Division staff and other costs are included in PCAI.

* Telephone charges by both Sunnet and Optus contain large amounts which are in dispute.

APPENDIX O

Office of the Parliamentary Commissioner for Administrative Investigations and Office of the Information Commissioner

Allocation of Overheads Between Offices