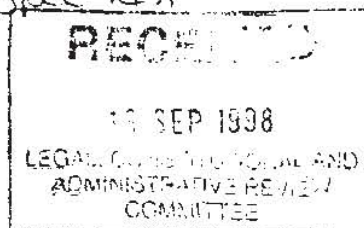




OFFICE OF THE  
LORD MAYOR  
Brisbane

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Mr G Fenlon MLA  
Chair - Legal, Constitutional and Administrative  
Review Committee  
Parliament House  
Cnr George & Alice Streets  
BRISBANE QLD 4000

Dear Mr Fenlon

**Re: Strategic Review of the Ombudsman**

I refer to your letter dated 13 August, 1998, wherein you advised that the Committee had resolved to undertake a review of the findings and recommendations of the *Report of the Strategic Review of the Queensland Ombudsman* and invited the Council to comment on the recommendations made in the report.

The Council's comments on specific recommendations are as follows:-

- R.6. The Council agrees that there would be considerable benefit in an awareness campaign being commenced on the role of the Ombudsman, particularly with respect to the Ombudsman's powers to investigate complaints, but more importantly in relation to the limitation of those powers where the complainant has other avenues of review that they can follow.
- R.7. The Council does not support the concept of the Ombudsman's Office working more closely with it in the nature of consultant and/or adviser. Given the role of the Ombudsman's Office as a "mediator" between complainants and agencies, it is difficult to see how the Ombudsman's Office could become involved in a complaint concerning an administrative process undertaken by an agency, when the Ombudsman's Office has had direct involvement in the establishment of such a process. This would be akin to Caesar judging Caesar. Who would then investigate the Ombudsman's Office?
- R.8. The Brisbane City Council already has such an arrangement with the Ombudsman's office.
- R.9. My comments on R.7. also relate to this recommendation. The Brisbane City Council is very conscious of the need to consider the effect that any policy (new or existing) may have on it's customers and stakeholders and to ensure that the potential for administrative indiscretion and/or maladministration is minimised. Irrespective of whether the Ombudsman's Office was involved in the formulation of policy for this Council (or any other agency for that matter), there will always be customers who are dissatisfied with the effect of that policy or procedure upon themselves and wish to have the matter reviewed. How can the Ombudsman's Office be seen to be neutral and unbiased when undertaking a review of a policy or process that it directly had input into?

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I am also strongly of the view that this Council's officers as well as my Administration have the prerequisite skills and expertise to be able to develop policies and procedures which are both client oriented and administratively fair and correct, without the assistance of the Ombudsman's Office.

- R.10. The Brisbane City Council already has a procedure for investigating complaints before the matter is taken up by the Ombudsman's Office. This involves the complainant taking the matter up with the Chief Executive Officer in the first instance and then with myself. If the complainant is still dissatisfied with the outcome they can then take it up with the Ombudsman's Office.

Council does not however, see any value in showing all Ombudsman's cases in it's annual report. Council sees the responsibility for reporting such matters remaining with the Ombudsman.

- R.11. Such a program of secondments is already allowed for in Council's staff award.
- R.12. My Council fully supports the use of Customer Satisfaction Surveys as a tool in evaluating it's performance and developing it's annual Corporate Plan and Enterprise Bargaining Agreements. Such an approach by the Ombudsman's Office would be supported.
- R.13. While the concept of "Own Motion" investigations and a more proactive Ombudsman's Office is supported in principle, the matter of justification for such investigations and accountability need to be addressed. For instance:

- who will decide if a particular complaint warrants an "Own Motion" investigation?
- what criteria will be used to determine if an "Own Motion" investigation is warranted?

My Council could not support a situation where the authority to initiate an "Own Motion" investigation lay solely with the Ombudsman or a delegated member of his staff. It is the view of my Council that the Ombudsman should present his case for wanting to undertake an "Own Motion" investigation to the PLCAR. The PLCAR should then decide, on the evidence presented to it, whether or not an "Own Motion" investigation is warranted and approve the "terms of reference" of such an investigation.

By establishing an appropriate set of criteria which must be met before the Ombudsman can recommend an "Own Motion" investigation be undertaken and delegating the authority to initiate such an "Own Motion" investigation to PLCAR, minimises the potential for administrative indiscretion and ensures that the Ombudsman's Office remains impartial and, more importantly, accountable for it's actions.

- R.15. The Brisbane City Council fully supports this recommendation. In fact, my Council has done an enormous amount of work in recent years in the establishment of KPI's for the Corporate Plan and the Enterprise Bargaining Agreements and would be only too happy to be used as a "Benchmark" by the Ombudsman's Office.
- R.17.) My Council supports the concept of "early intervention" by the Ombudsman's Office, and  
R.18.) has always been receptive to informal discussions or investigations of complaints before a full investigation is instigated. However, we are also mindful that such a process should not in any way override any existing review processes that are already available to the complainant or interfere with the Council's ability to administer it's own local laws and administrative procedures. To this end it is important that "early intervention" is managed in an appropriate way.

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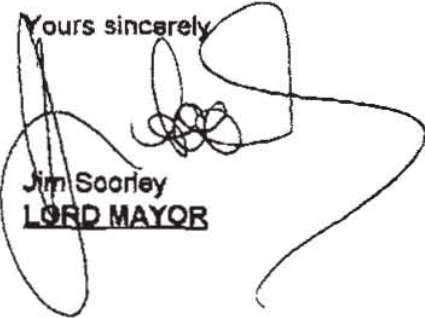
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R.23. My Council fully supports the delegation of powers to improve the efficiency of Ombudsman's Office. It has long been recognised that the Ombudsman's Office is "top heavy" and that this must be a contributing factor to the length of time taken to conduct investigations. Any devolution of powers which would speed up the process and provide both complainants and agencies with a final outcome much sooner than at present would be welcomed.

R.29. I agree with this recommendation, provided all parties involved with such administrative appeal mechanisms are consulted.

I trust these comments will assist your Committee with it's review and be taken into consideration when implementing any of the recommendations.

Yours sincerely



Jim Soorley  
**LORD MAYOR**