

# FAMILIES, YOUTH AND COMMUNITY CARE



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Spec 14-1

Ms Kerryn Newton  
Research Director  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
**BRISBANE QLD 4000**

Dear Ms Newton

Thankyou for the opportunity to make a submission upon the Legal, Constitutional and Administrative Review Committee's review of the *Report of the Strategic Review of the Queensland Ombudsman* conducted by Professor Wiltshire.

The Department of Families, Youth and Community Care had input into the review through an interview by Professor Wiltshire with the Principal Legal Officer of the area responsible for carriage of Ombudsman investigations.

The main concerns expressed by the Department relate to:

1. the need for the Ombudsman to formally inform the Director-General of the commencement of an investigation under section 18 of the *Parliamentary Commissioner's Act 1974* before discussing the matter with staff of the Department. To do otherwise means protections under that Act which override Departmental secrecy provisions are not effective, leaving the staff member in potential breach of Departmental legislation;
2. time frames for completion of investigations,
3. occasions where the Ombudsman has in his report to Parliament criticised the Department of Families, Youth and Community Care without the Department having an opportunity to respond,
4. the need to formally clarify relationships between the Children's Commissioner and the Ombudsman to ensure that the Department is not required to mediate between conflicting advice in the event that a client approaches both Offices.

Generally these issues have been addressed in the report.

The major area of concern for the Department of Families, Youth and Community Care relates to recommendation 18 which suggests the Ombudsman should take a fresh approach to case management, focussing on early intervention to identify complaints which do not require full investigation. In essence this may be a useful way of fast tracking some complaints. However, it is essential that the Ombudsman's formally notifies the Director-General prior to the commencement of an investigation. This will ensure that legislative secrecy provisions are overridden.

The Department agrees with the preceding summary statement particularly that the Ombudsman should aim to become more proactive, systematic and preventative. Such an approach will be valuable in addressing the causes of administrative error by focusing on potential problems before they arise.

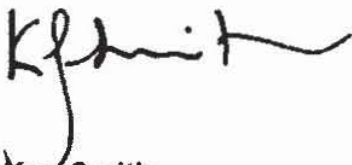
The suggestion that there be a rationalisation of the maze of appeal mechanisms in existence in Queensland is welcomed by this Department. In this regard, it should be noted that the Minister for Families, Youth and Community Care and Minister for Disability Services has commissioned a review of the *Children's Commission and Children's Services Appeals Tribunal Act 1996* to address a number of deficiencies within that Act.

Similarly the Department concurs with recommendation 10 and is currently seeking to review and re-engineer its own complaints and appeals mechanisms to ensure that they are robust and that they support good decision making within the Department.

The Department also sees significant merit in recommendation 11 which proposes a process of formal secondments between line departments and the Ombudsman's Office. The Department is currently pursuing a similar type of arrangement where Department of Families, Youth and Community Care officers will be seconded to the Criminal Justice Commission to assist investigative staff within that agency develop skills in exploring complaints involving persons with an intellectual disability. It is expected that there will be positive outcomes for both agencies from such arrangements.

Once again thankyou for the opportunity to make a submission upon the Report.

Yours sincerely



**Ken Smith**  
**Director-General**