

LEGISLATIVE ASSEMBLY OF QUEENSLAND

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

**Meeting with the Queensland Ombudsman
26 November 2002**

December 2002

Report No 37

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

50TH PARLIAMENT

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LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

REPORTS

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1.	Annual report 1995-96	8 August 1996
2.	Matters pertaining to the Electoral Commission of Queensland	8 August 1996
3.	Review of the Referendums Bill 1996	14 November 1996
4.	Truth in political advertising	3 December 1996
5.	The Electoral Amendment Bill 1996	20 March 1997
6.	Report on a study tour relating to the preservation and enhancement of individuals' rights and freedoms and to privacy (31 March 1997—14 April 1997)	1 October 1997
7.	Annual report 1996-97	30 October 1997
8.	The Criminal Law (Sex Offenders Reporting) Bill 1997	25 February 1998
9.	Privacy in Queensland	9 April 1998
10.	Consolidation of the Queensland Constitution – Interim report	19 May 1998
11.	Annual report 1997-98	26 August 1998
12.	The preservation and enhancement of individuals' rights and freedoms in Queensland: Should Queensland adopt a bill of rights?	18 November 1998
13.	Consolidation of the Queensland Constitution: Final Report	28 April 1999
14.	Review of the <i>Report of the Strategic Review of the Queensland Ombudsman</i> (Parliamentary Commissioner for Administrative Investigations)	15 July 1999
15.	Report on a study tour of New Zealand regarding freedom of information and other matters: From 31 May to 4 June 1999	20 July 1999
16.	Review of the Transplantation and Anatomy Amendment Bill 1998	29 July 1999
17.	Annual report 1998-99	26 August 1999
18.	Issues of electoral reform raised in the Mansfield decision: Regulating how-to-vote cards and providing for appeals from the Court of Disputed Returns	17 September 1999
19.	Implications of the new Commonwealth enrolment requirements	2 March 2000
20.	The Electoral Amendment Bill 1999	11 April 2000
21.	Meeting with the Queensland Ombudsman (Parliamentary Commissioner for Administrative Investigations) regarding the Ombudsman's <i>Annual Report to Parliament 1998 – 1999</i>	19 April 2000
22.	The role of the Queensland Parliament in treaty making	19 April 2000
23.	Issues of Queensland electoral reform arising from the 1998 State election and amendments to the <i>Commonwealth Electoral Act 1918</i>	31 May 2000
24.	Review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution	18 July 2000
25.	Annual report 1999-00	19 July 2000

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26.	<i>The Report of the strategic management review of the Offices of the Queensland Ombudsman and the Information Commissioner</i>	19 July 2000
27.	Review of the Queensland Constitutional Review Commission's recommendation for four year parliamentary terms	28 July 2000
28.	The prevention of electoral fraud: Interim report	14 November 2000
29.	Annual report 2000-01	2 August 2001
30.	Progress report on implementation of recommendations made in the <i>Report of the strategic management review of the Offices of the Queensland Ombudsman and the Information Commissioner</i>	8 August 2001
31.	Review of the Members' oath or affirmation of allegiance	25 October 2001
32.	Freedom of Information in Queensland	20 December 2001
33.	The Electoral (Fraudulent Actions) Amendment Bill 2001	27 March 2002
34.	Meeting with the Queensland Ombudsman – 12 April 2002	14 May 2002
35.	Annual report 2001-02	23 August 2002
36.	The Queensland Constitution: Specific content issues	27 August 2002

PAPERS

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Truth in political advertising (Issues paper)	11 July 1996
Privacy in Queensland (Issues paper)	4 June 1997
The preservation and enhancement of individuals' rights and freedoms: Should Queensland adopt a bill of rights? (Issues paper)	1 October 1997
Upper Houses (Information paper)	27 November 1997
Inquiry into issues of Queensland electoral reform (Background paper)	25 November 1999
The role of the Queensland Parliament in treaty making (Position paper)	25 November 1999
Freedom of Information in Queensland (Discussion paper)	8 February 2000
Four year parliamentary terms (Background paper)	11 April 2000
Review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution (Position paper)	27 April 2000
Inquiry into the prevention of electoral fraud (Issues paper)	8 September 2000
The Queensland Constitution: Specific content issues (Issues paper)	18 April 2002
The Queensland Constitution: Entrenchment (Proposals for Comment)	27 August 2002
Hands on Parliament: A Parliamentary Committee Inquiry into Aboriginal and Torres Strait Islander Peoples' Participation in Queensland's Democratic Process (Issues paper)	12 December 2002

CHAIR'S FOREWORD

This report sets out the details of the committee's second general meeting with the Ombudsman. The meeting process promotes a flow of communication between the committee and the Ombudsman. The information provided by the Ombudsman reveals positive outcomes in the office of the Ombudsman as a result of significant changes which have been made in the office.

I thank the Ombudsman, Mr David Bevan, the Deputy Ombudsmen, Mr Frank King and Mr Rodney Metcalfe, the Manager, Corporate Services, Mr Tony Johnson, Manager, Advice and Communication, Ms Christine Henderson and other staff of the Ombudsman's office involved in providing information to the committee, for their cooperation. The committee appreciates the efforts of the Ombudsman and his officers in providing comprehensive responses to questions on notice and the time and contributions of the officers who attended the meeting.

I thank all members of LCARC for their time and participation in the meeting process. Thanks also to Hansard for transcribing the meeting.

Karen Struthers MP

Chair

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1. Introduction

Since December 2001 the office of the Ombudsman has been governed by the *Ombudsman Act 2001*. The objects of this Act are:

- a) to give people a timely, effective, independent and just way of having administrative actions of agencies investigated; and
- b) to improve the quality of decision-making and administrative practice in agencies.

The committee is pleased to report that, since the committee's meeting with the Ombudsman in April 2002, the Office of the Ombudsman has contributed substantially to both of these objects.

The Ombudsman plays a vital role in ensuring the accountability and effective administration of government. For this reason the Ombudsman reports, and is accountable, to Parliament. The Legal, Constitutional and Administrative Review Committee (the committee or LCARC) is a conduit through which this accountability occurs. One of the committee's four general areas of responsibility is administrative review reform which includes considering legislation or provisions of legislation about matters including review of administrative decisions. In addition, the committee has a number of specific functions prescribed by the *Ombudsman Act* which relate to the Ombudsman. In particular, s 89 of that Act provides that the LCARC's functions under the Act include:

- to monitor and review the performance by the Ombudsman of the Ombudsman's functions under the Act;
- to report to the Legislative Assembly on any matter concerning the Ombudsman, the Ombudsman's functions or the performance of the Ombudsman's functions that the committee considers should be drawn to the Assembly's attention;
- to examine each annual report tabled in the Assembly under the Act and, if appropriate, comment on any aspect of the report;
- to report to the Assembly any changes to the functions, structures and procedures of the office of Ombudsman the committee considers desirable for the more effective operation of the Act.

The committee considers it essential that it is continually informed about the operations of the Ombudsman's office, and has the opportunity to regularly raise issues with the Ombudsman. In order to fulfil its functions the committee has agreed to:

- aim to hold two general meetings with the Ombudsman each year;
- time these meetings so that one follows the tabling of the Ombudsman's annual report and the other precedes the estimates process;
- ask the Ombudsman written questions on notice on a variety of issues and require written answers to those questions before the meeting;
- meet with the Ombudsman and ask follow up questions without notice; and
- report to Parliament on these proceedings and include in the report the written questions on notice, answers to those questions and a transcript of the meeting.

2. This report

The committee held its second general meeting with the Ombudsman on 26 November 2002. This meeting allowed the committee to examine the Ombudsman's *Annual Report 2001-2002*¹ and explore general issues relating to the operations of the Office. To facilitate the examination of issues, and in accordance with the procedure outlined above, the committee:

¹ Tabled in the Queensland Legislative Assembly on 5 November 2002.

- asked the Ombudsman written questions on notice by letter dated 22 October 2002: questions and answers appear as **appendix A**;
- considered the Ombudsman's response to those questions dated 15 November 2002; and
- met with the Ombudsman and senior officers of the Ombudsman's Office to discuss issues arising from the annual report and the Ombudsman's response to the committee's questions on notice. A transcript of that meeting appears as **appendix B**. Material tabled at the meeting appears as **appendix C**.

Key issues the committee raised with the Ombudsman throughout this process included:

- complaint handling timeframes and resolution of outstanding complaints;
- the effect of the restructure of the office;
- office priorities and performance targets;
- practical matters concerning the Ombudsman's conduct of investigations for example, natural justice and legal representation.

3. Committee comments

The committee is pleased to note that the recent changes to the functions and structure of the Ombudsman's office appear to be reducing complaints and enhancing the effectiveness of the office. In particular, the information provided by the Ombudsman reveals that generally, the office is having a positive impact in improving the quality of decision-making and administrative practices in agencies.

Further, the Advice and Communication Unit has been instrumental in the office's efforts to raise community awareness about its functions.

It appears that the new structure of the office, particularly the Assessment and Resolution Team (ART), is having a positive outcome on the workload of the office. The committee congratulates the office on its efforts to improve the efficiency and effectiveness of the resolution of complaints through early intervention and informal resolution strategies. The committee looks forward to hearing about further improvements to timeliness and case management likely to result as the full effect of the recent changes is felt and new changes, such as new complaints and records management software, are implemented.

Appendix A ~ The committee's questions on notice and the Ombudsman's responses

Overview

Our 2001-02 Annual Report tabled in Parliament on 6 November 2002 reflected the extent and impact of the changes that have occurred since the *Ombudsman Act 2001* gave our Office the additional role of assisting agencies to improve their practices and procedures.

The report was a testament to a year of new beginnings, new directions and new achievements. I am confident that this forthcoming year will be marked by even greater outcomes for the people of Queensland as we move through the transitional period that naturally accompanies any major change.

The transitional period should come to a close in the first half of 2003 when we will consider the findings of our evaluation of the new Office structure that was implemented on 8 April 2002. Recently, we have also reflected on the direction established in our previous Strategic Plan and have refined or reaffirmed our strategies for 2002-06 and identified our priorities for the next 12 months. A copy of our new Strategic Plan will be provided to the Committee at our meeting.

The Committee will note in the responses that follow how we are discharging our new role to improve administrative practice as well as continuing to provide an effective avenue for people to resolve administrative problems they have encountered in their dealings with public agencies.

We will be bedding down many of the initiatives commenced last financial year. Of note will be the implementation and impact of our new complaints and records management system that we have named *Catalyst* in recognition of the impact it is expected to have on all of our operations.

Our new responsibilities have resulted in even greater change than we had envisaged when we previously met with the Committee. We have a big agenda for a small agency and many of our initiatives are intertwined, coming to fruition at the same time and creating an unprecedented demand on my officers as they maintain their commitment to core business while managing change.

However, the dual roles articulated by the Act for our Office are complementary and have inspired my committed staff to achieve significant outcomes.

Committee question 1: Office restructure

Prior to our meeting on 12 April 2002 you provided information about a new office structure implemented on 8 April 2002 and to be trialled for six months.¹ You also noted that a mid-trial evaluation would be conducted on 30 June 2002.

- ◆ What is the progress of the final evaluation of the trial?
- ◆ What are the findings to date regarding the effectiveness of the new structure? In particular, has the assessment and resolution team been found to be an effective method of intake and assessment?

1. Office restructure

1.1 Progress of final evaluation of the trial of new office structure implemented on 8 April 2002

The new Office structure involved the creation of an Assessment and Resolution Team (ART), changes to the investigative team structure, including the development of a Major Projects Team and the development of the Advice and Communication Unit.

¹ Queensland Ombudsman, *Response to questions on notice: meeting with the Legal, Constitutional and Administrative Review Committee 12 April 2002* published in Legal, Constitutional and Administrative Review Committee, *Meeting with the Ombudsman – 12 April 2002*, report no 34, Goprint, Brisbane, May 2002.

A mid-term evaluation was undertaken of ART for the period from its commencement on 8 April 2002 to 30 June 2002.

A further evaluation of ART and the investigative teams arrangement will take place in late December or early in 2003. The Committee will be advised of the outcome of this review.

The exact timing of this review has not yet been established due to the demand on ART officers and other staff to finalise the implementation of our new case and records management system *Catalyst* and undertake specialised training.

The operations of the Advice and Communication Unit and the Major Projects Team will not be part of this review. However, these work units will be monitored by reference to their respective operational plans.

1.2 Findings to date regarding effectiveness of new structure, in particular, effectiveness of the assessment and resolution team

• Assessment and Resolution Team

The mid-term evaluation of ART indicated it is a valuable and effective means of managing the intake of inquiries and submissions. This view has been reinforced since the review. In particular, ART has enabled:

- A greater degree of consistency and timeliness in assessing and responding to oral or written complaints. This has been achieved partly as a result of centralising the intake and assessment functions and also through supervision and training of officers in the team.
- The creation of a comprehensive database of all inquiries, including by agency and subject matter, facilitating data for trend analysis, early intervention in emerging complaint areas and feedback to agencies.
- The collection of detailed information on our service provided to the community that was not previously quantified (particularly for telephone intake numbers).
- Investigative teams to concentrate on finalising current complaints, without the demand of managing new inquiries.

Of particular importance has been the centralising of the reception, registration and assessment of complaint functions. Key achievements in this regard include:

- Streamlined and efficient systems for registering complaints and recording case activity.
- Early identification and advice to complainants of matters not within jurisdiction or not warranting an investigative response. These cases are mainly dealt with by inquiry officers, allowing investigators to concentrate substantially on cases identified as warranting an investigative response.
- Informal action initiated early wherever possible to achieve a swift resolution of the complaint.

The following table details telephone inquiries received by ART since 8 April 2002 to 31 October 2002

Telephone inquiries received by ART, 8/4/02 – 31/10/02

Month	Telephone (General)	Telephone (Regional Visit)	Prisoner Phone-Link	Total
April*	241	16	0	257
May	354	64	0	418
June	340	5	4	349
July	434	6	35	475
August	507	27	97	631
September	463	45	108	616
October	485	92	85	662
				3408

* Part month

The table above illustrates the substantial increase in telephone inquiries received since 30 June. Inquiries for May and June averaged 383 each month whereas the average for the months July to October has been 596.

The introduction of ART has resulted in many more inquiries being dealt with following this initial contact. It has also resulted in a far greater consistency than previously in the number of complaints recorded (now averaging approximately 270 each month for this financial year).

- **Investigative Teams**

The new structure has had an impact on the investigative teams as ART has the flexibility to control the number of matters that flow to the teams, thereby enabling them to focus on the older, more complex and more time consuming investigations.

The impact of these arrangements can be seen in that half of the investigations on hand at 30 June 2002 that were more than 12 months old at that date have been finalized by the investigative teams in the ensuing four months. The number of complaints under investigation for more than 12 months has fallen by 22 per cent in the same period.

The number of complaints under investigation has progressively fallen from 1041 at the commencement of the restructure on 8 April 2002, to 820 at 30 June 2002 and to 670 at 31 October 2002, a drop of 36 per cent in seven months.

Similarly, the creation of a separate Major Projects team has facilitated high quality investigations of serious systemic maladministration within the areas of child protection and workplace health and safety. While these complex investigations have of necessity taken some time, they have taken less time and been more thorough than if they had been undertaken within a normal investigative team.

The achievements of ART and the investigative teams have occurred despite the allocation of three investigative positions to cater for the establishment of the Advice and Communication Team.

- **Complaint reduction**

The overall reduction in the number of complaints last financial year has been a direct consequence of changes in work practices. The following are relevant considerations:

- a) **Recording of complaints**

Previously, when a person was interviewed on a regional visit, a complaint was recorded and a file opened irrespective of whether the matter was out of jurisdiction or assessed as premature for the Ombudsman to take any action at that time.

The review of our Regional Visits Program has led to these contacts being managed through the ART inquiry process and these categories (out of jurisdiction or premature) have not been recorded as complaints as they were in the past. However, they are still part of the records kept by ART of telephone inquiries received.

For example, for the month of October 2002, of the 662 calls received by ART, 100 (15%) were out of jurisdiction and 283 (43%) were premature in that the complainant had not raised the complaint with the relevant agency. A substantial proportion of these matters emanates from regional areas and would previously have been recorded as complaints if received during our regional trips.

- b) **Prisoner complaints**

The reduction in prisoner complaints can be largely attributed to a change in procedures adopted during the year and recording of prisoner contacts.

Previously, all prisoners who listed for interview with our officers during a visit to their centre would be interviewed and a complaint recorded. Under new procedures, prisoners are notified by poster of an impending visit to their centre and advised that they should contact our Office first if they require an interview. Fewer prisoners sought assistance or an interview and fewer complaints were received.

Additionally, officers undertaking visits to centres discuss ways to effectively manage prisoner complaints within the centre with the centre managers and conduct inspections of previously identified

problem areas (consistent with strategic management review report recommendation 62). This has reduced the number of complaints.

A new Prisoner Phonelink service was introduced in July that we expect will impact on the number of complaints from this sector over time. The telephone inquiries are recorded as a complaint only if an inquiry needs to be made at the correctional centre or a written submission is received from a prisoner. For example, of the 108 calls made on the Prisoner Phonelink during October, 26 were registered as complaints.

c) Local government

Complaints against local government have also reduced. This is partly attributable to the fact that last financial year no single issue generated multiple separate complaints against a particular Council.

d) Education and training

The reduction in complaint numbers is also seen to be a consequence of our education and training activity in complaint management, particularly with local governments, and agencies such as WorkCover Queensland. For example, complaints against WorkCover rose substantially in the 2000-01 financial year to a highest ever figure of 211. Consequently, in 2001-02, we took part in WorkCover's technical training program by providing training sessions on complaints prevention to the officers responsible for most of the complaints. These are the officers who assess applications for WorkCover and the Case Managers. We were pleased to see that WorkCover complaints for 2001-02 fell substantially to 122. The provision of training to WorkCover will remain a priority for 2002-03.

e) Streamlined assessment and categorisation process

Sometimes a complainant raises discrete issues regarding the same agency or a number of agencies that need to be separately investigated. In these circumstances each discrete issue is separately identified as a complaint but only one file is opened. As ART is now responsible for registering complaints and making up files, greater consistency has been achieved in the number of complaints per file.

In 2000-01 the average number of complaints per file was 1.29 whereas the corresponding average for 2001-02 was 1.16. This reduction in the average number of complaints per file accounts for a reduction of approximately 380 complaints in the number of complaints recorded for 2001-02.

Committee question 2: Office Restructure

Since the introduction of the *Ombudsman Act 2001* your office has had a specific role to improve the quality of decision-making and administrative practice in agencies. Prior to our meeting on 12 April 2002 you advised that the principal vehicle for coordinating and delivering services in discharge of this new responsibility is a new unit called the Advice and Communication Unit.² Please outline the activities to date and the operational plan of the Advice and Communication Unit.

2. Activities to date and operational plan of the Advice and Communication Unit

We have finalised the development of a unit to coordinate our activities to carry out our new responsibility to improve the quality of decision-making and administrative practice in agencies.

The Advice and Communication Unit commenced operations on 15 April 2002 with the appointment of the unit's manager. Two additional staff joined on 29 July 2002 following a recruitment and selection process for the positions of Research and Education Officer and Publications and Communication Officer.

Activities to date include:

- Developing a new logo and consistent corporate identity on all communications;
- Production of new stationery and signage;

² Note 1 at 1.

- Developing an improved web site — site to be launched on Friday 22 November featuring substantial information for the community and agencies;
- Editing and publishing the report to Parliament on *An investigation into the adequacy of the actions of certain government agencies in relation to the safety of the late Brooke Brennan, aged three*;
- Achieving substantial media coverage of the Brooke Brennan report in state and national media;
- Coordinating the publication of the Ombudsman's and Information Commissioner's Annual Reports for 2001-02 and achieving media coverage in *The Courier-Mail*, *The Australian*, ABC radio and regional newspapers;
- Preparing a new complaints brochure and distributing it to local government offices and libraries in regions visited as part of our trips program as well as to offices of Members of Parliament during November;
- Preparing an information sheet and joint display with the Crime and Misconduct Commission for the Local Government Managers Association conference;
- Coordinating the production of Feedback Reports for major complaint-generating agencies (e.g. Queensland Transport and WorkCover Queensland) — the reports, being presented by the Ombudsman to agency Chief Executive Officers progressively during November and December, provide trend analysis of complaints over three years, major or emerging issues, suggestions for improved decision-making and internal complaint review and information about our role and function;
- Undertaking advertising and media activity to promote the regional trip service that has resulted in increased telephone calls to the Office;
- Preparing speeches; and
- Developing a Complaints Management project to identify critical criteria for complaints management and develop best practice guidelines for agencies.

Further information on our awareness activities is contained in our response to question 3.

The Advice and Communication unit's Operational Plan complements activities being undertaken by investigative teams. In summary, activities outlined in the plan include:

Complaint investigation and resolution:

- Advertising and media;
- Information for complainants including a new complaint brochure and information on the web site; and
- Analyse data on complaints to identify and recommend action on significant trends.

Reporting:

- Edit and publish public reports under s. 52 in accordance with timeframes set in investigative plans; and
- Coordinate production of annual reports according to government standards and timeframes.

Promoting good administrative practice within agencies:

- Complaints management project with selected agencies to determine the critical criteria for complaints management and establish best practice guidelines;
- Feedback reports for major agencies;
- Speeches and visual aids for Ombudsman addresses to various audiences;
- Assist teams to conduct agency education and training sessions;
- Assist teams to produce articles for targeted agency newsletters;
- Produce articles that raise awareness of significant administrative issues or complaint trends;
- Liaise with Queensland integrity agencies to promote opportunities for joint projects and avoid duplication of efforts; and
- Develop an agency liaison network to broaden awareness of good administrative practice.

Raise community awareness and access to our services:

- Redevelop, promote and monitor the Office's web site to provide more expansive and useful information; and
- Media activity regarding significant activities and regional trips.

Business improvement:

- Participate in the development of a client service charter;
- Conduct a complainant satisfaction survey by 30 June 2003;
- Conduct an agency survey by 30 June 2004; and
- Conduct a general community awareness survey of the Ombudsman's Office by 30 June 2003.

Committee question 3: Strategic review and strategic management review recommendations

Prior to our meeting on 12 April 2002³ you provided information about the implementation status of certain recommendations contained in the *Report of the Strategic Review of the Queensland Ombudsman*⁴ (the strategic review) and the *Report of the Strategic Management Review of the Offices of the Queensland Ombudsman and the Information Commissioner*⁵ (the strategic management review). What is the current implementation status of those recommendations which were not fully implemented at that stage?

3. Strategic review and strategic management review recommendations**Current implementation status of recommendations which were not fully implemented at 12 April 2002**

For ease of reference and cross checking by the Committee, detailed at Appendices 1 and 2 is the full list of the recommendations listed in attachments 1 to 4 of our 4 April 2002 Response to the Committee's Questions on Notice.

That response had broken the recommendations into two categories: those identified for implementation in 2001-02 (attachments 1 and 2), and those previously identified as deferred or not to be implemented (attachments 3 and 4). However, as attachment 3 and 4 had in some cases noted a changed decision to progress some recommendations that had previously been identified as deferred or not to be implemented, the current responses attached to this document incorporate the full list of outstanding recommendations into two sections – Strategic Review Recommendations (Appendix 1) and Strategic Management Review Recommendations (Appendix 2).

Some of the more noteworthy points in relation to the implementation status of these recommendations include:

- *Awareness activities*

The Advice and Communication Unit, which has a leading role in delivering or coordinating our awareness activities, became fully operational in July 2002 (details of activities are outlined in our response to question 2).

³ Note 1, attachments 1-4.

⁴ Queensland Government, *Report of the Strategic Review of the Queensland Ombudsman (Parliamentary Commissioner for Administrative Investigations)*, GoPrint, Brisbane, May 1998 (available at: <<http://www.parliament.qld.gov.au/comdocs/legalrev/Wiltshire%20Strategic%20Report-Ombudsman%20for%20internet.PDF>>).

⁵ The Consultancy Bureau Pty Ltd (commissioned by the Queensland Government), *Report of the Strategic Management Review of the Offices of the Queensland Ombudsman and the Information Commissioner*, The Brisbane Printing Place, June 2000 (available at: <<http://www.premiers.qld.gov.au/review/index.htm>>).

A number of other initiatives have been undertaken this year to address this recommendation, including:

- A presentation by the Ombudsman to the Local Government Association of Queensland's Annual Conference in August about the new role for the Office following the introduction of the *Ombudsman Act 2001* and probity in the public sector;
- Provision of a joint display with the Crime and Misconduct Commission (CMC) at the Local Government Managers Association conference in September, including distribution of information sheets about the role and function of the Office;
- Addresses by the Ombudsman, Deputy Ombudsman and Assistant Ombudsmen at relevant events, such as the Australian Institute of Administrative Law 2002 Forum, Carindale Probus, Queensland Transport Senior Managers, NAIDOC activities at Borallon Correctional Centre and the National Investigations Symposium in Sydney;
- Presentation of the Brooke Brennan Report to Parliament in May and subsequent achievement of 40 newspaper articles, including a major feature in *The Australian*, and considerable radio and television coverage;
- Provision of professional media and presentation skills training for senior officers;
- An increasingly pro-active media and advertising schedule to support the regional trips program that has generated a substantial number of inquiries;
- Revising the layout and content of the Annual Report and subsequent media activity that resulted in newspaper articles in *The Courier-Mail* and *The Sunday Mail*, as well as regional newspapers;
- Development of a program of awareness articles to appear in newsletters produced by government agencies – articles already produced for *Locally Speaking*, *Corrections News* and Queensland Transport and Main Roads *Interface*;
- Education and training sessions for local governments and WorkCover Queensland; and
- Planning for research to be undertaken to ascertain the level of awareness of the role and function of the Office to enable future communication activities to be appropriately targeted.

- *Human resources matters*

Several recommendations of the strategic review and strategic management review focused on human resource issues. This year we are continuing to:

- Implement a training program that includes IT, investigative and writing skills, management and leadership development, performance planning and review and mediation skills (further details in Appendix 1, recommendation 21);
- Develop Terms and Conditions of Employment for staff;
- Develop a Performance Planning and Review scheme;
- Progress HR policies; and
- Hold discussions with agencies within our 'cluster' for the purposes of the government's shared corporate services project.

- *Information Technology*

Several recommendations also referred to development of improved case and records management. Priority has been given to progressing our new electronic case and records management system *Catalyst*, which is in its final stages of development and due to 'go live' by the end of this calendar year.

In support of the new system, all computers have been upgraded to Windows 2000 with a full suite of applications made available for each staff member. Training has been provided based on individual needs. Further training is currently being undertaken in preparation for the *Catalyst* implementation.

Committee question 4: Office priorities and performance targets

Page 7 of the *Office of the Queensland Ombudsman Strategic Plan 2001/2002 -2004/2005* identifies the office's priorities and performance targets for 2001/2002.

- ◆ What is the implementation status of these priority strategies (to the extent that this information has not been provided in response to the previous questions)?
- ◆ What are the office's priorities and performance targets for 2002/2003?

4. Office priorities and performance targets**4.1 Implementation status of priority strategies for 2001-02 outlined in Queensland Ombudsman Strategic Plan 2001-02 – 2004-05.****• Replace the case management system – Substantially implemented**

A joint tender has been selected and the suppliers are currently finalising the software for the system. That software is being tested simultaneously. Rigorous in-house testing has commenced and the system will 'go live' before the end of calendar year 2002.

See also comments in relation to Strategic Management Review recommendation 8 (Appendix 2) and response to question 3 *Information Technology*.

• Review Office structure – substantially implemented

Refer to responses to questions 1 and 2.

• Review work practices with emphasis on early intervention, informal resolution and streamlining of processes

The review of work practices is comprehensively addressed in questions 1 and 2.

In 2001-02, 82 per cent of cases featured early intervention (an increase of approximately 12 per cent) and 87 per cent of complaints taken up were resolved informally.

Team operational plans emphasise efficiency and timeliness. The new Catalyst database will enhance this approach by enabling the case progress to be reviewed on a real time basis.

ART has improved our ability to use early intervention and informal resolution for all incoming complaints. Only matters requiring in-depth investigation are referred to an investigative team. This has produced a substantial number of efficiencies including:

- efficient registration of complaints;
- early identification of serious matters;
- consistent advice and complaint assessment;
- early contact with agencies resulting in faster resolution of matters; and
- more timely service for complainants.

Our regional visit program has also been streamlined. Complainants in regional areas are now encouraged to call our ART officers to discuss their complaints rather than waiting to be interviewed by officers during the next regional visit, which may be months away.

Similarly with prisoners, a major source of complaints, a direct telephone link now exists between our Office and each prison and prisoners with substantial grievances are able to telephone rather than having to wait for a visit to their centre which, given current resourcing, can occur only once every six months.

• Establish an advisory and liaison service - implemented

The Advice and Communication Unit commenced in April 2002 (see question 2).

• Formalise key HRM policies – substantially progressed

An HRM specialist was recruited from a public service office on a temporary basis as a Project Officer for this project. Priority has been devoted to developing and negotiating updated terms and conditions of employment.

A formal proposal has been submitted to staff and union representatives for consideration and we await a response.

The proposed terms and conditions largely mirror those applicable to public servants. However, it has been a complicated task identifying and excluding the public service provisions that are inappropriate for inclusion where they conflict with the independence of the Ombudsman. The terms and conditions are expected to be submitted for approval by the Governor-in-Council before the end of 2002, subject to the response from staff and the union and the outcome of consultations with central agencies.

A schedule of HRM policies and procedures requiring development has been prepared. The task involves preparation of over 40 new documents and review of three existing ones. The following documents have been drafted, but with the exception of performance management, have not yet been submitted for management review or staff consultation:

- recruitment and selection guidelines;
- performance management guidelines;
- diminished performance policy and guidelines;
- discipline policy and guidelines; and
- workplace health and safety policy.

Progress has been delayed as the temporary Project Officer has accepted a voluntary early retirement from her home agency. Recruitment of a suitable replacement will occur soon. The project is expected to continue for the balance of the financial year.

• **Establish a training plan with emphasis on leadership and management development - implemented**

Our training committee has prepared a training program for 2002–03 that has been approved by the Management Committee. It includes the following topics:

Completed:

- IT skills (with an emphasis on Microsoft Windows 2000 and Office 2000)

In progress:

- Catalyst (new case and records management system)
- Alternate dispute resolution (mediation skills)

Planning and organisation underway

- Writing skills
- Investigative skills
- Performance planning and review
- Stress management
- Team building
- Client service
- Train the trainer
- Project management
- Management and leadership development - likely modules include:
 - strategic and operational planning;
 - team leadership;
 - recruitment and selection,
 - managing people and performance;
 - effective workplace relations;
 - management of change and innovation; and
 - developing a learning environment.

• **Establish an informative and user-friendly web site – implemented (22/11/02)**

A specialist web designer has created a new web site, which is due to go live on 22 November 2002. The existing site was improved while the new site was under construction. The new site features a complaints form that can be emailed or faxed to the Office.

• Implement new performance management system – substantially progressed

We have substantially progressed the design of a Performance Planning and Review (PP&R) scheme in consultation with union and staff representatives, which is nearing completion.

We have decided to hold the implementation of this scheme back so as to minimise disruption during the rollout of the *Catalyst* system. It is expected that all staff will be trained in and functioning under the new system early in 2003.

4.2 Office priorities and performance targets 2002-03

The targets outlined below were published in the 2002-03 Ministerial Portfolio Statement. They were nominated against our achievements in the 2001-02 reporting period. We have also referred to new targets that we have asked Treasury to include in future year's MPS. Therefore, no targets exist for these items as yet.

a) Office Priorities 2002-03

- implement our new case and records management system *Catalyst*;
- review the effectiveness of changes to our structure;
- formalise key human resource management policies;
- implement a training plan with emphasis on leadership, management development, IT and investigative skills;
- establish an informative and user-friendly web site;
- implement a new performance management system;
- continue with strategies to improve the timeliness of complaint resolution;
- undertake a complaints management project for agencies;
- develop an investigations manual; and
- conduct two or more major investigations and report to Parliament as appropriate.

b) Performance Targets 2002-03

Measures	Target 2002-03
Quantity Complaints finalised.	4,000
Quality <ul style="list-style-type: none"> • Proportion of sustained cases rectified. • Proportion of cases resolved informally compared to cases resolved by formal investigation. • Proportion of cases where early intervention occurred. • Proportion of recommendations for improvements to administrative practice accepted by agencies. 	95% 85% 85% New measure – target to be established
Timeliness <ul style="list-style-type: none"> • Proportion of cases finalised within 12 months of lodgement. • Proportion of open cases at the end of each reporting period that are more than 12 months old. 	95% 15%
Location <ul style="list-style-type: none"> • Number of centres outside Brisbane area visited to receive and resolve complaints. • Proportion of complaints received from outside Brisbane area. 	New measures – targets to be established

Committee question 5: Workplace electrocution project

Prior to our meeting on 12 April 2002⁶ you provided information about the scheduled completion dates for the ten investigations involved in the Workplace Electrocutions Project. At that stage you envisaged that all investigations would be completed by June 2002. You also advised that you intended to provide a progress report to the Speaker detailing the outcome of the Workplace Electrocutions Project (from inception to the completion of Part 4), pursuant to s 52 of the *Ombudsman Act 2001*.

- ◆ What is the current status of the investigations involved in the Workplace Electrocutions Project?
- ◆ Do you propose to give the Speaker a report for tabling in the Assembly on the project and, if so, when?

5. Workplace Electrocution Project (WEP)**5.1 Current status of the investigations involved in the WEP**

The WEP consists of 13 separate investigations, referred to as ‘parts’. All parts have progressed with five final reports completed. Of these, the recommendations from three reports have been implemented by the respective agency. We are presently awaiting responses from the Department of Industrial Relations on the following:

Part 3	Recommendation 7
Part 4	Response to final report
Part 5	Response to final report and a report for the Coroner
Parts 6&7	Response to provisional report
Parts 8-11	Response to provisional report.

As required by s.55 of the Act, we are awaiting responses from people who are presently the subject of proposed adverse comment in the provisional report in relation to parts 8 to 11.

Part 12 is currently under investigation and Part 13 is nearing completion.

The department requested significant extensions of time to respond to both provisional and final reports, as have people the subject of adverse comment in provisional reports. This has had an impact on our proposed timeline for completion of these investigations.

5.2 Do you propose to give the Speaker a report for tabling in the Legislative Assembly on the project, and if so, when?

We had previously indicated our intention to provide the Speaker with an interim report in relation to Parts 1 – 4. However, when it became apparent that Part 4 could not be finalised by 30 June 2002 (for reasons outlined in 5.1 above), a decision was made to complete all investigations as soon as possible and provide a comprehensive report to the Speaker pursuant to s.52 of the Act dealing with all parts of the WEP.

The report is currently being prepared. It is difficult to specify when this report will be completed given that persons adversely named may require significant time to respond to the parts nearing completion.

Committee questions 6 & 7: Natural justice

In carrying out investigations and preparing reports pursuant to your functions under the *Ombudsman Act 2001*, circumstances might arise in which you consider it appropriate to make adverse comment about a person. In such circumstances s 55 of the *Ombudsman Act 2001* requires you to provide the person with an opportunity to make submissions and ensure that the person’s defence is fairly stated in the report. What procedures does your office have in place to ensure that s 55 is complied with and, generally, that investigations are carried out in accordance with the rules of natural justice?

How does your office ensure that these procedures are complied with?

⁶ Note 1 at 21-22.

6. & 7. Natural Justice

6. Procedures in place to ensure that s.55 is complied with and, generally, that investigations are carried out in accordance with the rules of natural justice.

7. How does your office ensure these procedures are complied with?

S.55 in effect provides that if the Ombudsman proposes to make an adverse comment about a person in a report under the Act, the Ombudsman must first give the person an opportunity to make submissions about the comment. If after that, the Ombudsman still proposes to make the comment, the person's defence must be fairly stated in the final report.

Compliance with this provision is ensured in the following ways.

- **Training:**

When the Ombudsman Act 2001 was promulgated, all staff were given comprehensive training sessions on the new Act on a section-by-section basis. S.55 was particularly discussed, as it was a significant change to the previous requirement that any person proposed to be adversely named be given an opportunity to comment on the *subject matter of the complaint* rather than the *proposed adverse comment in the report on the investigation*.

- **Centralised decision-making:**

Assistant Ombudsmen (and in some cases Deputy Ombudsmen) who review all investigations as they near completion are well aware of the need to observe s.55. I am not authorised by the Act to delegate my power to make reports under the Act. It therefore follows that all such matters will come before me.

- **Technology:**

When our new case management system *Catalyst* comes on line shortly, reports and draft reports will have to be registered electronically and will not be able to be despatched until a supervisor has reviewed a drop down check list which requires the supervisor to certify, inter alia, that s.55 has been observed.

In summary, training, centralisation of process and (soon) technology make it highly unlikely that s.55 is not observed. Our practice with the Brooke Brennan report and the WEP reports has been to provide persons adversely mentioned with a copy of the relevant sections of the provisional report and invite their comment within a reasonable period. Any response is then summarised in the final report or included as an annexure or both.

In the Ombudsman context, natural justice — or procedural fairness as it is sometimes known — essentially requires that wherever practicable, the Ombudsman not form a view adverse to anyone on the basis, wholly or partly, of information which that person has not been given a reasonable opportunity to comment on and refute. Natural justice is applicable in most cases but not all. For example, it is not possible to give a prisoner natural justice if the Department of Corrective Services makes a decision against him or her based upon confidential intelligence information.

Compliance with the principles of natural justice/procedural fairness is achieved in our investigations through the following means:

- **Law**

1. S.25(2)(b) of the Act provides that when conducting an investigation the Ombudsman must comply with natural justice.
2. S.26(3) provides that if during an investigation the Ombudsman considers there may be grounds for making a report on the investigation that may affect or concern an agency, the Ombudsman must, before making the report, give the principal officer of the agency an opportunity to comment on the matter under investigation. A proposal to adversely name an officer would clearly be of interest or concern to an agency and its principal officer. This would not apply to non-officers.

3. As noted above, s.55 requires that persons whom the Ombudsman proposes to adversely name in a report under the Act be given an opportunity to make submissions about the proposed adverse comment.
4. The *Judicial Review Act* (s.20 (2)(a)) requires bodies such as the Ombudsman's Office to observe natural justice in their deliberations.
5. General common law principles of natural justice apply, independently of and in addition to any requirements of the Ombudsman Act and the Judicial Review Act.

Therefore, the Office is aware that it is under a clear legal obligation to give all parties to an investigation – complainants and agencies – natural justice.

- **Training**

All officers are aware, through case discussions, team meetings, and one to one mentoring, that the Office must not form opinions adverse to any party without giving that party a reasonable opportunity to comment on the basis for that opinion.

- **Office policies**

Our policies make it clear that natural justice must be given:

- Policy 3.1.14 (*Extent of Checking Facts*) provides that we must check claims relevant to the issue and which either conflict with claims made by the complainant or refer to areas not covered by the complainant but are prejudicial to the case. This checking can take the form of either:
 - Querying the claim and asking for evidence; or
 - Referring the matter to the complainant, identifying the issues in contention, and inviting the complainant to comment on those issues.
- Policy 3.1.13 (*Not Postbox or Adopt*) states: 'In advice to complainants, the Office must analyse any agency report and be scrupulous not to adopt as fact an assertion by the agency regarding any issue in dispute'.
- Investigative instructions issued in 2001 (*Errors and Misconceptions, section 2*) states: 'We must give complainants and agencies the chance to comment on any adverse material or adverse reasoning or comments as otherwise a breach of procedural fairness would occur'.

- **Centralised decision making**

The power to conclude investigations is delegated to senior officers who are well trained and experienced in this and other relevant areas. In addition, if a person seeks a review of a matter on the basis that s/he has been denied natural justice, that matter can be escalated to a more senior level for determination. Legally qualified personnel are available within the Office to advise.

Committee question 8: Legal representation

What is your office's policy regarding enabling people who are interviewed as part of an investigation to obtain legal representation or to be accompanied by another person?

8. Legal representation

Office policy regarding enabling people who are interviewed as part of an investigation to obtain legal representation or to be accompanied by another person.

S.25(1) of the Ombudsman Act provides that the Ombudsman may regulate the procedure on an investigation in the way the Ombudsman considers appropriate, unless the Act provides otherwise.

S.25(2)(d) provides that the Ombudsman may obtain information from the persons and in the way the Ombudsman considers appropriate.

The Act is silent as to whether any person interviewed may be legally represented or accompanied by another person (including a legal representative).

However, as a matter of policy and practicality, and indeed fairness, there would be no objection to a person being interviewed in the company of his or her legal representative or another person of his/her choice, provided such other person did not seek to disrupt the proceedings or act contemptuously or otherwise contrary to the Ombudsman Act.

Committee question 9: Reasonable excuse for non-compliance with an investigation requirement

In exercising your powers pursuant to Part 4, Division 1 of the *Ombudsman Act 2001*, what steps do you take to ensure that people who are the subject of investigation requirements understand:

- ◆ that they are not required to comply with an investigation requirement if they have a reasonable excuse for failing to do so; and
- ◆ the procedures to follow in such a situation, as provided for in s 30(2) of the *Ombudsman Act 2001*?

9. Reasonable excuse for non-compliance with an investigation requirement

9.1 Steps taken to ensure people who are subject of investigation understand they are not required to comply with an investigation requirement if they have a reasonable excuse for failing to do so

9.2 Procedures to follow in such a situation, as provided for in s.30 (2) of the *Ombudsman Act 2001*

Part 4 Division 1 of the Act (sections 28 and 29) authorizes the Ombudsman to issue notices to persons ('investigation requirements') requiring them to attend before a nominated officer and answer questions, produce documents, and generally provide information relevant to an investigation.

S.30 states that persons must comply with an investigation requirement unless they have a 'reasonable excuse'. The Act does not define 'reasonable excuse' but in s.30(2) sets out how a person goes about claiming one — by timely and sufficiently detailed notice to the Ombudsman.

We recently obtained Senior Counsel's advice on our powers and procedures in this and related areas.

Counsel's advice was that, while the Ombudsman was not legally obliged to advise recipients of an investigation requirement of the existence of provisions such as s.30 (and s.45, which refers to any privileges the person may have), it would be good practice to do so. Senior Counsel settled notices pursuant to sections 28 and 29 accordingly.

Any notice we issue will be in accordance with that advice. In particular, it will contain an attachment which draws the recipient's attention to s.30 and outlines its terms.

In this way the recipient of the notice is fully alerted to the right to claim a 'reasonable excuse', and how to make such a claim.

Committee question 10: Advice to complainants

What are the procedures in your office for advising complainants of the outcome of investigations or that your office has decided to take no further action in relation to a complaint, as relevant?

10. Advice to complainants

Procedures for advising complainants of the outcome of investigations or cases where no further action will be taken in relation to a complaint.

The Ombudsman can investigate complaints informally (s.24) or using the Part 4 powers of the *Ombudsman Act 2001*. Section 57 provides that the Ombudsman must, as soon as possible, inform the complainant, in the way the Ombudsman considers appropriate, of the result of the investigation.

The manner in which the complainant is to be advised of the outcome is at the Ombudsman's discretion and could conceivably be conducted by a number of means, namely telephone, meeting, or in writing through letters, facsimiles or e-mail. The predominant method for communicating outcomes is by written communication, although in many cases final letters are preceded by comprehensive advice given by phone or in person.

A safeguard ensuring that investigation outcomes are communicated to complainants is contained in our file closure procedures. The procedures ensure that an investigative file may not be signed off for closure until the complainant has been advised of the outcome of the investigation.

In circumstances where a complaint can not be investigated, or the Ombudsman refuses to investigate or refuses to continue to investigate a complaint, s.23 requires that the Ombudsman inform the complainant, in writing, of the decision and the reasons for the decision as soon as reasonably practicable. ART now deals with most of the complaints that fall into these circumstances.

In summary, the Act establishes the framework for advising complainants about the outcomes of investigations or where no further action is to be taken on complaints. Delegations, procedures and standards of service have been put in place to ensure that complainants' concerns are responded to in an appropriate and timely manner.

Committee question 11: Technical matters

From time to time your office would receive complaints which relate to matters of a highly technical nature (for example, technical scientific matters) which are outside the areas of expertise of officers of your office. What is the approach of your office in ensuring that despite their highly technical nature such matters are appropriately considered?

11. Technical matters

Approach to ensure that highly technical matters are appropriately considered

The Strategic Management Review Report recommended that the Office:

review the philosophy and scope of its investigation of complaints to ensure that they focus on administrative action and do not investigate the merits of a complaint where professional discretion forms the basis of the agency decision. (June 2000, recommendation 97)

The basis for this recommendation was not discussed in length in the review report but appears to stem from feedback to the reviewer from a number of agencies that the Office had adopted 'far too broad a definition of administrative decision' and that it 'pursued merits beyond the level of expertise of staff'.

The reviewer's reference to matters of 'professional discretion' would appear to include matters of a highly technical nature, including technical scientific matters, as raised in the Committee's question.

Under the former Parliamentary Commissioner Act and under the current Ombudsman Act the Office was and is required to investigate complaints about administrative action. Nowhere in either Act is administrative action based on technical or professional judgment exempted from the Ombudsman's jurisdiction or identified for separate treatment.

The Ombudsman's response to the SMR report instanced cases where matters involving professional technical judgments had been effectively investigated and poor decision-making had been detected and remedied.

There is no doubt that administrative decisions based upon professional technical judgements present a challenge for the Office. In response to the SMR report, the Office developed a policy on investigating such matters, the essential elements of which are summarised as follows:

a) When to challenge/query/investigate such matters

- the complainant has provided contradictory and equally well qualified opinion;
- the agency's opinion is glaringly or obviously deficient, accommodating, or poorly explained or reasoned;
- the agency's opinion is incomprehensible;
- the agency's opinion purports to justify an outcome or position that is demonstrably unfair.

b) How to challenge/query/investigate such matters

The following options are available when professional opinion is involved:

- ask the agency to produce the opinion; then examine it and/or refer it to the complainant for a response;
- ask the agency to obtain a second, external opinion if the original opinion was internally generated;
- ask the complainant to obtain an opinion at his/her own expense;
- seek alternative professional advice independently, at Office expense (we would only pursue this option in exceptional cases where we formed the view that it would be unfair to expect the complainant to pay for the alternative advice having regard to the complainant's financial situation);
- bring experts together to discuss their different opinions.

Appendix 1

Implementation status of Strategic Review recommendations previously identified as due for implementation in 2001–02 (or identified as deferred or not to be implemented)

Number	Recommendation	Implementation Status
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.	Substantially Implemented As outlined in our 4 April 2002 response to the Committee, we note your position not to support the recommendation for structured input into the design of each plan. No further action to be taken on this recommendation.
6	The Ombudsman create a separate and dedicated community relations/education officer position to be responsible for the Office's renewed efforts at enhancing community and agency awareness of the Ombudsman's role and powers (and limits on those powers).	Implemented As advised in our 4 April 2002 response, this previously deferred decision was reviewed and is now fully implemented. A three-person Advice and Communication Unit is now fully operational (see also response to question 2).
6 (B)	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: An Ombudsman home page on the Internet.	Implemented The Advice and Communication Unit has undertaken a range of initiatives or developed plans to fulfil this recommendation, as outlined in our response to questions 2 and 3. A new web site was recently launched which contains substantial information for complainants and agencies.
6 (C)	Information kit for agencies	Implementation in progress This recommendation will be actioned as part of the Complaints Management Project being coordinated by the Advice and Communication Unit. A project plan has been developed to work with nominated agencies and prepare best practice guidelines for complaint management.
6 (D)	Preparation of newsletter	Partially implemented as previously advised. A further newsletter has been dispatched to LGAQ in relation to local government matters. Additionally, Feedback Reports prepared for agencies in November contained a substantial amount of information about the Office. Articles have also been provided for agency newsletters. Further development of this initiative is proposed in 2003.
12	Client and Agency Satisfaction surveys should be carried out every two years as a minimum. 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 recommendations.	Partial Implementation in progress As noted in our response to question 2, the Advice and Communication Unit is currently considering and planning the conduct, content and timing of research. In accordance with the unit's operational plan, we aim to survey a sample of complainants by 30 June 2003 and agencies by 30 June 2004. Additionally, as outlined in our response to question

Number	Recommendation	Implementation Status
	The Office should also establish a separate annual random sample follow through with complainants to monitor the extent of agency acceptance of Ombudsman recommendations. Such a measure of outcomes of the Office should be used to fashion further action such as joint seminars with agencies, provision of more information about the Office, explanations for reasons of decisions etc. The survey results and outcomes of monitoring should be synthesised in the annual report and provided in full to PLCAR.	<p>3, we will be undertaking research in May 2003 to ascertain the level of awareness of the Ombudsman across Queensland. This will be done as part of the Queensland Government Household Survey undertaken by the OESR in May 2003.</p> <p>We are also participating in CMC research being conducted over the next few months to gain information about current complaint handling systems in agencies to inform our Complaints Management Project.</p>
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.	<p>Under consideration</p> <p>The situation remains as it was on 4 April 2002 — we are not averse to entrepreneurial activity, but the only avenue apparent at present is via training. At present, our other priorities are such that it is not possible, other than on an individual basis with selected agencies, to pursue this recommendation.</p>
15	The Queensland Ombudsman should construct a new set of performance indicators in consultation with the PLCAR and 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.	<p>Partially Implemented</p> <p>Notwithstanding our preparedness to be involved, the National Ombudsman performance indicators project is in abeyance due to lack of support from other Ombudsman's offices. Nevertheless, we have developed performance indicators that reflect the types of issues referred to in recommendation 15. Our external performance indicators are contained in our Strategic Plan.</p>
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.	<p>Implemented</p> <p>The performance indicators established as part of the 2001-02 – 2004-05 strategic plan have been used as one of the bases for reporting in our 2001-02 annual report. The strategic plan for 2002-03 – 2005-06 is currently being finalised and will be made available to the Committee when complete. Some variations to the performance indicators are being made.</p> <p>During the preparation of the Ministerial Portfolio Statement (MPS) for 2002-03 we proposed some variations to the Output Measures (performance indicators and targets). Treasury's advice was that such variations need to be approved by Cabinet Budget Review Committee (CBRC) and that CBRC would not be able to provide approval before the</p>

Number	Recommendation	Implementation Status
		finalisation of the 2002-03 MPS. A proposal has recently been forwarded to the Treasury to obtain CBRC approval for variation to the Output Measures for 2003-04 onwards.
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.	Implemented See response to questions 1 and 4.
21	The Queensland Ombudsman should introduce formal training/staff development program particularly for new recruits.	Implemented Our training committee has prepared a training program for 2002–03 that has been approved by the Management Committee. See response to question 4.1 for further details.

Appendix 2

Implementation status of Strategic Management Review recommendations previously identified as due for implementation in 2001–02 (or identified as deferred or not to be implemented)

Number	Recommendation	Implementation status
1	The strategic direction and operating philosophy of the Office fundamentally change, so that priority is afforded to improving the quality of public sector administrative practice, as well as continuing to achieve administrative justice for individuals.	Implemented This recommendation was effectively achieved with the development of our strategic plan for 2001/02-2004/05 and is being further refined in our new strategic plan for 2002-06. As outlined in our response to questions 1 and 2, the new office structure, including the Advice and Communication Unit, is coordinating the discharge of our new role to improve administrative practice.
8	The Office's case and record management system incorporate a facility to record and track incoming correspondence and telephone generated complaints.	Substantially implemented Our new system is in its final stages of development and will be in operation by the end of this year. See also response to question 4.
12	The Office adopt the Draft National performance Indicators currently being trialled by Australian Ombudsmen for recording and reporting complaint and file counts.	Recommendation cannot be implemented As noted in Appendix 1 at recommendation 15, the National Ombudsman performance indicators project is in abeyance. Currently, no consensus exists amongst Australian Ombudsmen as to the feasibility of meaningfully comparing offices of widely differing jurisdictions, operating procedures and data collection policies and methodologies. This recommendation therefore cannot be implemented.
13	Complaints received in writing or by interview which are clearly out of jurisdiction should not be made up as complaint files but counted separately.	Implemented See discussion regarding ART's activities in question 1.
14	The Office developed a case management system with the capacity to report on file status, elapsed time at each key stage, and the average cost of closing complaints.	Implementation in progress See recommendation 8 above. When implemented, <i>Catalyst</i> will have this functionality.
18	The Office form a small project team and seek a highly experienced systems officer/project leader to develop user requirements for a new case management and records management system and implement a proven system.	Implementation in progress See response to recommendation 8 above.
22	The revised case and record management system keep a record of the number of complaints resolved by informal means, so that the Office can monitor its progress towards having significantly fewer matters resolved through formal means.	Implementation in progress See recommendation 8 above. <i>Catalyst</i> will have this functionality.
23	The Office liaise with the project team established within the Department of	Implemented as previously advised We have held further discussions with relevant agencies

Number	Recommendation	Implementation status
	the Premier and Cabinet, other central agencies and associations and major complaint generating agencies to further whole of Government customer service initiatives and select a range of demand management initiatives likely to improve customer service and response to complaints in agencies and reduce the incidence of complaints being referred to the Ombudsman.	regarding joint projects to improve administrative decision-making and internal review procedures. The complaints management project referred to previously at question three will proceed this year. Additionally, we liaise regularly with the CMC to maximise opportunities in this area, such as the joint display at the Local Government Managers' Conference.
31	The Office involve all staff in the annual revision of its Strategic and Operational Plan which would then be used as a basis for setting team and individual performance targets.	Implemented The recommended revision of our Strategic and Operational Plan was implemented late in 2001. Each team has developed operational plans that are approved and are in operation (except as noted in response to recommendation 36 below). These plans contain performance indicators.
32	Assistant Commissioners be included in the Management Committee for the Office with separate monthly meetings for Ombudsman and Information Commissioner teams if necessary.	Implemented Arrangements as reported in our 4 April 2002 response have worked well. Assistant Ombudsmen attend on a rotational basis and no further implementation is necessary.
33	Staff and management develop and implement revised performance measurement systems which are linked to the Office's Strategic and Operational Plan, and utilise a full range of case related indicators.	Implementation in progress Performance indicators for individuals and teams are contained in team operational plans (see recommendation 31 above). Individual performance will be reviewed as part of the new PP&R scheme (see recommendation 67).
34	The Queensland Ombudsman participate in the National Performance Indicators project and introduce the suggested range of draft indicators for reporting performance information.	Recommendation cannot be implemented See recommendation 12 above. This recommendation cannot be implemented.
35	Internal indicators discussed in 7.6 be implemented progressively over a period of six to twelve months.	Implementation in progress Once Catalyst is online, most of this type of information will be available for consideration.
36	Corporate and Research Division develop performance agreements with operational divisions in both Offices.	Implementation in progress An operational plan for the Corporate Services Division is partially complete. This plan will provide the basis of service delivery arrangements to the operating divisions. This initiative has been delayed by the Division having to give priority to supporting various other reform initiatives within the Office and to considering the issues and impacts arising out of the whole-of-Government review of Corporate Services.
37	External indicators recommended in 7.7 and consistent with draft National Performance Indicators be implemented progressively over a six to twelve month period following full consultation with investigative teams.	In progress See recommendation 12 above. Most of this information will be available through <i>Catalyst</i> for consideration.

Number	Recommendation	Implementation status
43	The Office maintain the information technology infrastructure necessary to support off-site access to Office databases.	<p>Implementation on hold</p> <p>Limited off-site computer access to the Offices systems is technically available but not enabled owing to security concerns. As the demand for off site access is only modest other IT requirements (e.g. the <i>Catalyst</i> implementation and infrastructure upgrade) have been given greater priority for the present.</p> <p>Off-site access has been specified as a requirement for the new <i>Catalyst</i> system and, subject to an assessment of needs, costs and benefits, may be enabled when security issues have been satisfactorily addressed. See Recommendation 8 above.</p>
45	Financial management milestones and performance indicators be developed as part of the annual budget cycle and monitored at each Management Committee meeting.	<p>Substantially implemented</p> <p>The Manager Corporate Services presents a report at monthly Management Committee meetings on the status of all milestones in the annual budget cycle.</p>
47	Personnel administration performance indicators be identified and monitored at each Management Committee meeting.	<p>Not to be implemented</p> <p>This recommendation was made prior to our restructure when personnel arrangements were different. Performance of administrative personnel will be assessed in accordance with the office-wide PP&R scheme.</p>
48	The Office adopt a computerised record management system fully integrated with the case management system.	<p>Implementation in progress</p> <p>See recommendation 8 above.</p>
52	Staff performing reception duties receive training in dealing with difficult situations.	<p>Implemented</p> <p>Training on <i>Dealing with Difficult People</i> was provided to 28 staff including those involved in reception and intake functions in May 2002.</p>
61	The Assistant Commissioner, Corrections Team arrange to access data on-line in consultation with the Department of Corrective Services.	<p>Cannot be implemented</p> <p>The Department has declined to give this Office on-line access to its data for security reasons. Therefore, this recommendation cannot be implemented.</p>
62	The Assistant Commissioner, Corrections Team, in conjunction with the Deputy Commissioner, SGPAD, initiate discussions with Queensland Corrections and the Department of Corrective Services about developing a more coordinated response to prisoners' complaints management to ensure all internal review mechanisms are performing to their full potential.	<p>Effectively implemented</p> <p>We are conscious of the need not to duplicate the efforts of other review mechanisms within the corrections system. These are primarily centre general managers (GMs) and Official Visitors for centre based complaints, and relevant senior Departmental officers for non centre-based complaints, such as remission and leave of absence. We require prisoners to attempt to resolve their concerns through at least one of these avenues before we will consider intervening.</p> <p>Our officers offer advice to GMs on complaint resolution during visits to centres. They also inspect registers to ensure prisoner complaints to GMs are being handled expeditiously. Officers also raise recurring or systemic complaints with GMs that may possibly be avoided by a different approach.</p> <p>We do not intervene if another external entity such as the</p>

Number	Recommendation	Implementation status
		Prisoners Legal Service or a solicitor is looking at the matter, and ask complainants about this at an early stage.
63	If staff remain outside the Public Service, then the Office formalise arrangements with the Office of the Public Service Commissioner or other "best practice" human resource agencies to receive updated information and implement enhanced human resource management policies and practices.	In progress The implementation of best practice HRM policies and practices has commenced. Further discussion on this is outlined in response to question 4. An HR specialist was recruited as project officer.
67	The Ombudsman ensure that all officers participate in the formal performance planning and review process linked to work outputs.	In progress A new performance planning and review system has been developed and some variations included as a result of staff and union consultations. Further discussion on this is outlined in response to question 4.
68	Office managers avail themselves of management development opportunities with senior executives from other agencies whenever practical.	Implementation in progress One senior officer has completed the Public Sector Management program and another is nearing completion. The main focus of management development training in 2003 will be through a program currently being planned for in-house delivery for up to 15 senior staff.
69	The Office conduct a training needs analysis based on team discussion with a view to producing a training strategic plan and instituting program delivery during 2000/01.	Implemented The training committee has undertaken an analysis of needs resulting in the approval of the training program specified in recommendation 21 above.
72	The Office adopt the same practices as the rest of the Public Service for rewarding officers for out of hours work.	Implemented Our hours of duty arrangements are consistent with those applicable to the public service and the provisions of the relevant public service Directive for overtime are applied where relevant. A specific policy statement in relation to the application of the hours of duty arrangements whilst on trips has been issued after consultation with the Staff Consultative Committee.
73	The Office develop a policy which encourages and supports part time employment.	In progress We continue to support a number of part-time employment arrangements. A part-time employment policy has been listed as one of the policies to be prepared as outlined in the response to recommendation 63.
74	Officers at Assistant Commissioner level and above be provided with the discretion to allow staff to work from home, from time to time when circumstances warrant.	In progress As previously advised the matter remains under consideration and will be addressed as one of the policies developed in response to recommendation 63. Notwithstanding the absence of formal policy several working from home arrangements have continued to operate in the Offices.
77	The Office develop a comprehensive policy covering recruitment, selection and relieving standards, such policy reflecting contemporary HRM practice in the Queensland Public Sector.	In progress. A draft set of guidelines for recruitment and selection based on public service practice have been prepared but are yet to be reviewed and accepted by management and staff

Number	Recommendation	Implementation status
		representatives. A policy on relieving arrangements remains to be developed but all relieving decisions are made in accordance with the relevant public service Directive.
84	The Office upgrade two Administrative Assistant positions (A02) to Administrative Review Assistants AO3-A04, redesignate two A03 Investigative Assistant positions to Administrative Review Assistants (A03-A04) and appoint sufficient additional A02s to have one in each team.	Implemented Our response on 4 April 2002 indicated that, due to a change in circumstances (new structure), this matter was dealt with but in a manner different from that outlined in the recommendation.
94	The Office of the Information Commissioner and the Office of the Ombudsman establish a joint demand management advice and awareness function within the Ombudsman's Office to include development of initiatives such as practice guidelines, information services, education and training initiatives for agency personnel.	Implementation in progress The Information Commissioner's Advice and Awareness function has recently been developed and a project plan is being prepared. The Ombudsman's Advice and Communication Unit will offer support for this emerging function.
97	The Office review the philosophy and scope of its investigation of complaints to ensure that they focus on administrative action and do not investigate the merits of a complaint where professional discretion forms the basis of the agency decision.	Implemented See also our response to question 11.



LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

MEMBERS: **Ms K. L. STRUTHERS** (Chair)
 Mrs E. A. CUNNINGHAM
 Mr P. J. LAWLOR
 Mr R. O. LEE
 Ms R. G. NOLAN
 Mrs D. R. PRATT
 Miss F. S. SIMPSON

MEETING WITH THE QUEENSLAND OMBUDSMAN

**TRANSCRIPT OF PROCEEDINGS
(In Camera)**

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of the Chief Reporter, Parliamentary Reporting Staff.)*

**Tuesday, 26 November 2002
Brisbane**

The committee commenced at 1.20 p.m.

The CHAIR: It is good to catch up. It is certainly very encouraging to see significant progress within the office and the whole area of work that you are doing. I think I can speak for all of us in saying that we are very impressed with the comprehensive nature of the report. It clearly indicates a lot of progress in a whole range of areas—in complaints management—and the systemic work that you are doing. I simply wanted to open with a very encouraging comment and to let you know that your response to the questions on notice you provided was very comprehensive. That has allowed us to have a good basis for understanding how things are moving on.

Today we really just want to have the opportunity to flesh out some of those areas a little bit more. I might ask you, David, if it is okay, to start with some opening remarks and then I will invite members to ask some questions. We will probably direct them all to you and you can pass them on as you feel necessary. We might get an understanding of each person's role, too, in your introduction, if that is okay.

Mr Bevan: You met everyone at the last meeting except for Christine Henderson. Christine is in charge of our Advice and Communication Unit. When we met last time, Christine had actually been appointed but had not taken up office. That was to happen in the next week. We are very pleased to have her on board. As you can see, she is doing some great work.

If I can start with some opening remarks—when we met last time there were a lot of changes that were happening or about to happen in the office. I am pleased to report that there has been significant progress with a lot of those initiatives. I think the highlights—and we will frame them as such—have been the success of our experiment to centralise the intake and assessment process. Our team, which we call ART, or the Assessment and Resolution Team, has succeeded in reducing the number of current matters to what we think is a fairly manageable and fairly constant level. I remember Mr Lawlor at the last meeting commenting on how the figures used to bounce around from month to month, particularly from around about June. I said that I thought they were starting to stabilise then. That trend has continued.

Mr LAWLOR: So you were right?

Mr Bevan: I hope so. That is largely due to the hard work of the officers in ART. I have produced a table which is a follow-up on that information I provided last time. It shows the trend continuing. So as you see, they were stabilising from December through to March, anyway, but as from the commencement of ART they have not only stabilised but are also trending downwards fairly steadily to what we consider is a manageable level.

The CHAIR: We might take questions at the end. I am sure there will be areas that we want to pursue. Perhaps you could continue with your introduction.

Mr Bevan: It is a 23 per cent reduction from 30 June 2001 to 2002 and it has gone down further from there. Also during that period ART handled over 3,400 telephone inquiries. We have a breakdown of those figures at page 5 of our response. But I thought it might be useful to also provide you with a further breakdown showing just the outcome of a month's worth of those telephone calls. That is for the month of October just gone. Again, the point about that is that a lot of these calls in the past would have been received by officers right throughout the office and, as I explained last time, if you have officers who are doing investigative work it is very distracting to be getting these initial inquiries as well. So those inquiries are now being dealt with in ART and that is taking some pressure off those officers in investigative teams, allowing them to get on with the complex and more difficult investigations.

The second highlight has been the Advice and Communication Unit's achievements. Christine's unit has two other officers. They have both taken up duties. As you have seen, their achievements include our annual report and developing a new logo for the office, our new brochure, copies of which I sent to all MPs recently, and some feedback reports, which we provide to each of the main complaint generating agencies. They are prepared largely by the investigators and the team leaders, but they have now been formatted in Christine's area. Christine has brought along a copy of one of those, which she can show you.

The CHAIR: Would you like to circulate that?

Ms Henderson: I did not bring along a copy for everybody, but we can just pass it along and have a general look at it.

Mr Bevan: Our latest strategic plan—and once again, Christine has brought copies of that; it was only finished last week—

Ms Henderson: I do have copies for every member.

Mr Bevan: The other major achievement of the unit is that our new web site went live yesterday. Again, Christine's unit was responsible for its development. The media release that accompanied it resulted in my doing a couple of radio interviews yesterday. One of those was on regional ABC Radio, which resulted in a fair amount of coverage in the regional news as well.

Ms Henderson: We were very pleased with that because it ended up actually going to four regional stations that cover the wide cross-section of regional Queensland.

Mr Bevan: This morning we have already received four complaints through the web site. We have a complaints form on the web site which you can complete. You just click to send it to us. That is already working. The other significant event which occurred from the point of view of Christine's unit was that the unit handled the media releases and other media issues associated with our release of the Brooke Brennan report. Christine has brought along some other examples, which she can show you shortly, of the work that they have been doing. When I talked about the work that Advice and Communication was going to do last time, a couple of you commented on the fact that we are placing a great deal of reliance on the unit. I think I can say that our reliance has not been misplaced. As I say, Christine will be happy to answer questions about other activities that are planned for this financial year.

The other significant thing happening in the organisation is that our new case and records management system, Catalyst, will go live within the next few weeks, and training should start either next week or the week after. That will underpin a lot of the structural and operational changes we have been implementing in the office and will provide effective case management and an extensive reporting capability. I might say a little bit more about what it will allow us to do. In developing the sort of data that we are going to be capturing, we have looked at the types of complaints made against the various agencies over the last couple of years.

For example, with the Department of Education we will be breaking up complaints into such categories as behaviour management, disciplinary issues, exclusion from state schools, and we can break that down to district level. For Corrective Services we will look at complaints in the areas of sentence management, leave of absence, not being allowed to attend funerals and that sort of thing. Again, that can be broken down to particular correctional centres or we can report on statewide trends. That will just allow us to provide data to the various agencies, which will allow them to develop training programs to address any identified efficiencies.

In terms of that feedback report which is doing the rounds, I think we will be able to include a lot more information this time next year when we are providing the data for the current financial year.

The release of the Brooke Brennan report was a significant event for the office and resulted in some significant outcomes for both the agencies involved and for the community. It was also highly significant in terms of raising the public awareness of the role of our office.

We have also made significant progress on the workplace electrocution project and we will report publicly on the project in the new year. Again, there has been significant public interest in that project, particularly following the Minister for Industrial Relations publicly committing the government to implementing our recommendations made in our completed report to the department. He held a media conference announcing that with the father of one of the victims some time ago.

I know you are interested in the service we provide to regional Queensland, just as we are. With Catalyst we will be able to report on the location of complainants. We will be able to see if any particular area of the state is underrepresented, indicating perhaps that we need to raise our profile in that area. It might also indicate that public agencies in the area are doing everything right. As part of our effort to increase awareness of the office in regional areas senior officers who lead our regional trips were provided with media training and they now frequently take part in

interviews on regional radio and also in newspaper interviews. Last week one of our officers was interviewed by ABC Radio in Cairns and shortly after that ART received four telephone calls from people who had heard the interview. So that is starting to have an impact.

Each of the 13 prisons—if we can look at our prisons program—with the prisons hotline is allocated two, two-hour sessions a week during which prisoners can contact us on the prison hotline. It is available every day and the trial will be reviewed after six months. It is a secure phone line and it is funded by the department. I am very grateful to the director-general for making that available to us. Calls are running for the last three months or so at about 100 a month. They are all being handled in ART, the initial calls. Once again, this allows us to spend more time on resolving complaints when we visit prisons and on auditing particular systems which have been identified as giving rise to problems in the past.

We have done a lot of work in the HR area and several recommendations in the strategic management review related to that area, such as training, documenting terms and conditions and HR policies and a new performance, planning and review system, and significant progress has been made in each of those areas. Mr Johnson is best placed to provide further details on most of those issues.

I wanted to put on the table the issue of old matters. The number of old matters did not reduce by 30 June just gone and that was because it took some time for the structural and operational changes we put in place to actually have some impact. For example, files were reallocated to officers as a result of the restructure. They were unfamiliar with those files and sometimes with the particular agencies about whom the complaints were made. However, I am pleased to say that the numbers are now reducing. Because ART is dealing with most of the new matters the investigative teams, as I say, can concentrate on the older ones. As at 30 June there were 304 complaints more than 12 months old of the total of 820 complaints. As at 31 October, both of those figures had fallen substantially to 236 old matters out of 670. I am confident that that trend is going to continue. There was a reduction in complaints last financial year and I do not think I need to say more about that. It is addressed fairly comprehensively in our written report.

I just wanted to conclude these remarks by saying something about the wider Ombudsman family. Earlier this month I attended the annual conference of the Australasian and Pacific Region of the International Ombudsmen Institute in Sydney. The IOI is a nonprofit body and is now represented in more than 130 countries around the world. The Sydney conference was attended by Ombudsmen and similar office holders from 21 jurisdictions, including New Guinea, Indonesia, East Timor, Hong Kong, Solomon Islands, Taiwan and Japan. It was very apparent from that meeting that the existence of Ombudsman offices is becoming very important in developing democracies, because the provision of aid is becoming increasingly dependent on those nations strengthening their systems of government by setting up sound governance and accountability mechanisms. That has encouraged several countries to establish Ombudsman offices, such as Indonesia and Thailand.

AusAID has been willing to provide funding for the Commonwealth Ombudsman to provide direct assistance to emerging Ombudsman offices. At the meeting I attended, the Pacific Island Ombudsmen resolved to prepare a report on areas where they would like the assistance of the more established Ombudsman offices. To the extent that we can, having regard to resources, we would welcome any opportunities to assist those developing Ombudsman offices, for example, by providing training or providing some resource material.

On a related subject, Mr King is addressing the 2002 Pacific Parliamentary Retreat this week. That is organised by the Key Centre for Ethics, Law, Justice and Governance at Griffith University. Again, that is funded by AusAID. I think that is the second such meeting that you have addressed.

They are somewhat lengthy introductory remarks, but my excuse is that a lot of interesting things have been happening in the office of the Ombudsman in Queensland.

The CHAIR: Thank you, David. Would any of your officers like to add anything before we pursue some questions? I might invite members to raise any issues or questions.

Mr LEE: With respect to the complaints that you get from prisons, what percentage of those are resolved in such a way that you would suggest the prison officers have acted improperly? How many pointless complaints are made?

Mr Bevan: Frank, have we written that down in the annual report? I am not sure that we have.

Mr King: No.

Mr Bevan: It differs from our general statistics in terms of establishing any maladministration in the complaints we receive. We take up something under half of the complaints we receive. Of those, with about 37 per cent or 38 per cent we find some problem in terms of the decisions or actions that have been taken by agencies. In those cases the complainant ends up better off as a result of coming to our office. As I say, that is 37 per cent or 38 per cent of the 50 per cent that we take up. I cannot say whether it is exactly the same with prisons, but we will certainly be able to provide that sort of breakup when Catalyst comes online.

Ms NOLAN: I am really interested in that point. The fact that there were 100 calls a month out of prisons alone struck me as being very high. Has it always been that high? Do the prisoners have any other types of internal complaints mechanisms? Is that consistently that high and do you have an idea as to why so many are coming to you?

Mr Bevan: That is consistent, I think, with the numbers we have received in the past. But most of those numbers were received during actual visits to the prison. My officers were sitting there for a number of days on some occasions just taking charge of the intake of complaints. Now, in handling them over the phone, firstly, it is more efficient for us but, secondly, it is a better service for prisoners. We can only afford to visit the prisons every six months. We visit each of the prisons twice a year. So if a prisoner was not given an interview or the matter was not dealt with during that visit, they would have to wait often another six months. I think the numbers, because we have always had a significant prison program, have always been quite a high percentage of the complaints we received.

Mr King: I would say that 100 a month is roughly what we have been getting over the last five years by whatever method we have adopted. You have probably got 4,000 people in jail in Queensland and 1,000 complaints a year seems pretty high as a proportion. But it is a target group which more than any other has decisions being made about them all the time—leaves of absence, sentence management and things that are very crucial to them when they are sitting in jail and wanting to get out and being knocked back. Probably half the population has got an application in for leave at any given time. That is what gives rise to the complaints.

I guess we would be concerned if we found a widespread outcome where all of these complaints were justified. But we do not. We find that the levels are acceptably low as far as finding fault is concerned. As David said, we often do not even focus on trying to find fault, we try to focus on resolving the matter. So you do not really know at the end of the day if there was a fault or not. As to your other question about other mechanisms, there is an official visitor program within all jails which deals with basically centre based complaints. They cannot deal with parole and that sort of stuff; they are done by different authorities. We are working very closely with centre managers who do the day-to-day interactions with prisoners and try to give them a few tips on how to respond to difficult situations. They are receptive to it and I think it is working well. The feedback we get from correctional officers and our officers is positive.

Mr Bevan: There is also an internal system called a blue letter system where complaints can be made direct to the general manager as well. Quite often we say to prisoners that they should use that system first before they come to us.

Mrs LIZ CUNNINGHAM: I noticed that you have changed the process for prisoners in that they listed for an interview and would be interviewed at the next visit whereas under the new procedures you put up a poster and the prisoners are required to phone you first. Is there any possibility that their opportunity to phone could in some way be artificially inhibited or anything like that? Having set up the new procedure, could that over time reduce your complaints simply because of the number of prisoners able to access a phone?

Mr Bevan: At the moment each of the prisoners in each of the prisons has access to ART or to the complaints handling service that we are running for two two-hour slots a week. After six

months we need to review that to see whether that is equitable having regard to the size of the prisons. But it is not quite as simple as that because in some prisons they do have a limited number of phones. The big prisons might have a dozen phones whilst a smaller place like Numinbah may have only a couple of phones. We need to review the complaint numbers after six months and just see whether they are representative of the prison population. Certainly the number of complaints we are getting at the moment does not seem to indicate that prisoners are restricted in obtaining access to phones for that purpose.

The CHAIR: We might have to move off prisons, because we will be wrapping up at about five past two. Can I lead us off on a discussion around the systemic resolution of issues? I note one of the really useful things that you are reporting is the case study material. Case study 10 on page 43 talks about acquisition of property by governments and you indicate in there that suggestions were made to that particular department to better consult with residents and provide information to residents. But the last paragraph mentioned that departments involved in building roads, dams and other public works need to ensure that they take steps to keep people whose land may be affected informed. It is sort of left loose that it is something they need to do. What measures do you embark on in order to give effect to those sorts of suggestions? To me that seems to be a very common problem?

Mr Bevan: Yes, and that is more of a general statement rather than a specific recommendation where we would expect them to come back to us. That is a constant message that we are delivering to agencies. If you have a look at that feedback report, that is a very strong message which is coming through that feedback report and that is the case in respect of all of the feedback reports we are providing to agencies—to really focus on communication, to focus on letting people know beforehand if you are going to make a decision that affects them. After you do make a decision, you have to clearly explain the basis for the decision and why it needed to be made.

Miss SIMPSON: My question relates to the regional access visits. I was interested to hear that you have changed from taking complaints and making assessments. Is that more based on trying to resolve the issue on the spot?

Mr Bevan: Yes, once again, just as I said with the prisons, we do some of the regional trips to the various areas twice a year. Others are only once a year. We think that advertising fairly widely that we are coming to a particular area and asking people to phone up and have their matter assessed, firstly, is a far more efficient system. When we do go to a particular area, yes, we can focus on resolving complaints. We can focus on interviewing people who are reluctant to speak to us over the phone, which is an issue that Liz raised at the last meeting. We can also spend time with the actual agencies talking about their processes as well. We are trying to do a lot more on those trips rather than just receive and assess complaints.

Mrs PRATT: With regard to your regional visits, if you do not get any input from people prior to the trip, do you automatically cancel it?

Mr Bevan: It depends on whether there is some other reason to go there. Sometimes we try to coordinate trips to fit in with meetings of the regional government agencies. But there have been some—and Rod can talk about this—that we have cancelled because we have had radio interviews, we have advertised in the press and we still have not received any complaints.

Mrs PRATT: We had one listed in Kingaroy.

Mr Metcalfe: Yes. As I understand it, very few people actually contacted us by phone in relation to that visit from Kingaroy. We had no existing complaints concerning the council or any agencies in that particular area. So that particular part of the trip was in fact deferred and we went into Esk, because we had contact there, and we also went into Kilkivan, because we had existing complaints there. Also, the trip was originally drawn up around a meeting of rates user groups in Kilkivan, but the North and South Burnett rates user groups were meeting in Kilkivan at the end of that week and we predicated that trip on that particular basis. But we received very few telephone calls from Kingaroy.

Mrs PRATT: The day I rang up to make an appointment for a constituent we were told that you had cancelled. That was about a week before.

Mr Metcalfe: I was not aware of that.

Mrs PRATT: How much notice do you give of the cancellation of a meeting?

Mr Metcalfe: It is approximately one week beforehand, just to work out the particular schedule and then to notify people of appointments, to send out a complaint form so that they can then complete it and either return it to us in advance or bring it in at the time.

Mr Bevan: But on another trip when we were not intending to go to a particular area there was something that came in while my officers were in a nearby area and as a result of that we went and interviewed the person. It was someone, again, in Mrs Cunningham's electorate.

The CHAIR: I wish to pursue a specific issue raised with us and which the committee discussed a couple of months ago. I am refreshing my memory and probably theirs on this one. One of the complaints made to our committee related to a matter which involved the assessment of a matter of a highly technical nature. We had some concern about how things of a more technical nature are assessed and whether you have a capacity to draw in technical consultants on particular matters and how you manage that.

Mr Bevan: There are some issues where for us to be able to challenge or to investigate the department's position we would need to get our own expert's advice. Quite often we ask the complainant if they have any expert opinion which they have sought. If that was the case, we would have a look at both sides of that. But, again, we are not a specialist tribunal and in some situations we are really not the right tribunal to take those sorts of issues forward. It is just something we have to assess on a case-by-case basis. If a complainant came to us with an expert's opinion which was very strong and appeared to indicate that the advice the department was acting on was in error, we may very well take the matter forward. But if it is a situation where there are two apparently equally valid points of view, the only option is for some tribunal to make that sort of determination. I do not think we are well placed to do that.

Mrs LIZ CUNNINGHAM: Where a complainant receives advice from the Ombudsman that they are unhappy with, there is nowhere to go in relation to their dissatisfaction with the Ombudsman's findings?

Mr LAWLOR: Who is the Ombudsman for the Ombudsman?

Mr Bevan: If a complainant does express dissatisfaction with a particular outcome, we do conduct an internal review. That is reviewed by someone at a higher level from the original officer who made the determination. But there is not a review by any other tribunal, unless someone cared to take us to judicial review in the Supreme Court, and that has not happened yet in respect of the Queensland Ombudsman. It is probably because we do not make binding determinations; we can only make recommendations. A complainant is more likely to take the agency who made the decision that they were complaining about to judicial review rather than the Ombudsman.

Mrs PRATT: In relation to old matters, do you have any outstanding for longer than 12 months old?

Mr Bevan: More than 12 months old?

Mr Metcalfe: Yes, we have.

Mrs PRATT: What period of time are we talking about?

Mr Bevan: I do not know offhand, but they would certainly go back a couple or a few years. But as I say, we are starting to bring those down now. It has just taken a while for the changes we have put in place to bite. But they are starting to bite now.

Mrs PRATT: I have a couple of constituents with ongoing concerns. A couple of the letters that they have received from the office have suggested that they have to go through all of the relevant departments—in other words, before they come to the Ombudsman's Office. I have noticed in the letters that they have received they have not been told that this matter would need to go through this particular person, local government and so on. It just contains a bland statement that they have to go through other areas. Their concern is that they do not really know where else they are supposed to go. Is it possible that your office could say, 'We are the final resort, but this is a matter that needs to go through local government.' In one case they have gone through those and they are still not happy. It has been going on for probably three years now and he still has not got a result.

Mr Bevan: If that is the case that is an issue for us to review in terms of what information we are putting in our correspondence. I am not sure whether the particular officer has used the pro forma letter, which has not been very informative. I cannot say in that particular case. But certainly a lot of the matters which are dealt with in the intake area now, that is one of the things which the officers are concentrating on. If we cannot help them at the moment, we are referring them to the relevant form of redress or agency which can look at their matter at that time. We then indicate to them that if they are not happy with the way that is dealt with they can come back to us. That is probably an issue for us to take on board in terms of reviewing our correspondence.

Mrs PRATT: They do not know where to go or which are the other relevant bodies?

Mr King: That is not our policy. We should be telling them. I thought we would have.

Mrs PRATT: This is only on two issues that I was referring to.

The CHAIR: In terms of human resource management issues, the section on people is a very informative section. It is encouraging to have Christine in a senior role. I am wondering how you will get the chicks out of the A06 into the A07s and A08s and above. Given that you have got a staff group of 43 or so, it is very difficult. But it is certainly promising that some of those trends are going in the right direction. But that is a significant number—54 per cent of positions overall being women and only 18 per cent of positions at A08. I do not need any answer necessarily.

Mr Bevan: We had one A08, but she left.

The CHAIR: I think the gender balance is certainly important in such an area of public service.

Mr Bevan: I quite agree.

The CHAIR: The girls often get stuck at A06 across departments and agencies. It is good to see you are implementing part-time work options and other family friendly practices. Simply a word of encouragement: wherever there is opportunity, please pursue it. Ronan has to leave. Do any members have other questions?

Mr LAWLOR: I have a minor issue regarding case study 11. You mention a lack of communication between WorkCover and the particular claimant. You mention down the bottom that he was still sceptical about the motivation. Was it just a failure with the person who was managing the file or is there something more sinister? Was any action taken against that person who had the file?

Mr Bevan: Mr King may be able to comment on that in some more detail.

Mr King: This case summary was submitted by somebody directly to the publishers. I do not know the case in detail, even though it is in my area. I am sorry.

Mr LAWLOR: That is really odd. Surveillance costs an absolute fortune. That they were still conducting surveillance after the case had been settled indicates that there is something radically wrong there.

Mr Bevan: We can look further into that.

Miss SIMPSON: I have a question that follows on from that. That is the question of where maladministration has been proven what the range of actions are for follow-up in that regard? You make a referral to—

Mr Bevan: A recommendation. We recommend to the agency that it take some form of action. Our experience is that in almost all cases those recommendations are implemented. We follow up in particular the formal recommendations we make. I probably cannot go into the operational details, but we do follow up on those recommendations.

Miss SIMPSON: Basically, if there is something that is fairly blatant, the option for you is to potentially include it in a report to parliament?

Mr Bevan: I can report to the minister or I can escalate it to the Premier or to parliament.

The CHAIR: We might finish up there. Thank you for that. As I said at the outset, the changes and things that are happening in the office are very encouraging. Keep it up. This

honest face needs to be out there. It is important that people feel they can access your service and know who you are and where you are. Your corporate commitments and things here are very important in relation to customer service. It is all very positive stuff. We will be keeping an eye on things. It certainly makes things easy when things are moving along so well.

Mr Bevan: Thank you for the committee's support. I wish to conclude by saying something on that and just on the process we have been through. There was a paper presented at the annual public law weekend at the ANU earlier this month. One of my officers from the Information Commissioner's office attended. That paper discussed recent developments concerning the accountability of Ombudsmen. She made two comments about the role of this committee. First, she commented on the fact that only Queensland has a parliamentary committee with a formal statutory role in relation to the development of the Ombudsman's budget. That is very important, because there have been problems in the past faced by Ombudsmen in securing sufficient resources, despite the obvious advantages and despite committees having been set up. Second, she said 'The express legislative conferral on LCARC of functions concerning monitoring and review of the Ombudsman's activities is a step towards greater accountability for the Queensland Ombudsman and a greater responsibility in parliament for the institution, and this is expected to foster heightened interest in the office and its recommendations and to enhance the Ombudsman's independence from the executive. As such, it serves as a model for other jurisdictions to consider.'

Mrs LIZ CUNNINGHAM: I just wanted to commend you for the Brooke Brennan report, which was a very difficult and sensitive issue. I know that many people in the community might not have read the whole report but saw bits about it in the paper who have a renewed confidence—and I do not mean that as being offensive as it might sound—in your office because of the way that you handled it. I was disappointed that the subsequent issue in relation to DOF was not handled differently. I think the minister got an independent person to investigate that one. I believe your handling of the Brooke Brennan issue and your report at the end of it was commendable and has done a lot for the confidence in your office.

Mr Bevan: Thank you very much.

The committee adjourned at 2 p.m.

**A SMALL AMOUNT OF MATERIAL WHICH IS OF A CONFIDENTIAL NATURE HAS BEEN
REMOVED FROM THIS TRANSCRIPT FOR PUBLICATION**

LCARC MEETING 26 NOVEMBER 2002

	<i>Complaints</i>	<i>Files</i>
Caseload as at 30 June 2000	1206	963
July	1352	1075
August	1574	1258
September	1435	1141
October	1695	1364
November	1681	1365
December	1520	1162
January 2001	1790	1461
February	1721	1378
March	1631	1293
April	1769	1338
May	1598	1213
Caseload as at 30 June 2001	1069	809
July	1333	1012
August	1407	1077
September	1500	1140
October	1500	1136
November	1337	1011
December	1134	857
January 2002	1117	858
February	1136	878
March	1093	845

(Table from page 11/12 of LCARC response dated 4/4/02)

COMMENCEMENT OF ART – 8 APRIL 2002

	<i>Complaints</i>	<i>Files</i>
April	1019	791
May	996	781
Caseload as at 30 June 2002	820	625
July	795	626
August	777	629
September	694	554
October	673	551

LCARC MEETING

26 NOVEMBER 2002

ART TELEPHONE INQUIRIES OCTOBER 2002

SOURCE:

Telephone	485
Calls from country trip advertising	92*
Prisoner phone link	85
TOTAL	662

* These calls led to 32 interviews during regional trips

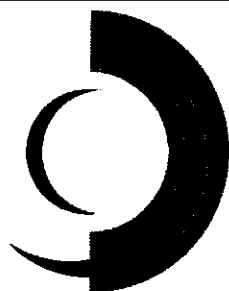
OUTCOME:

Advised to take up internally first	283
Matter not within jurisdiction	100
Ombudsman's Office to make inquiries of agency	63
Requested to submit written complaint	49**
Await outcome of current decision making process	28
Advice provided about agency action	16
Referred to other complaints body (e.g. CMC, Health Rights Commission)	12
Other (e.g. withdrawn, contact not returned, person not directly affected)	111
TOTAL	662

** Matters that would generally be registered as a complaint when the written complaint is received.

Queensland Ombudsman

Strategic Plan 2002-06



QUEENSLAND
ombudsman

**Promoting high standards of administrative practice and decision-making in
Queensland's public agencies for the benefit of the community**

About this plan

This plan outlines how we will meet our responsibilities identified in the *Ombudsman Act 2001*. It contains our specific priorities for the 2002-03 year and the performance output measures tabled in Parliament.

The plan provides a solid foundation for our activities. However, it is essentially a work in progress, which will be reviewed and updated each year.

Copies of this plan are available on our website at www.ombudsman.qld.gov.au and further copies may be available on request to:

Queensland Ombudsman
Level 25, 288 Edward Street
Brisbane Qld 4000
PO Box 3314
Brisbane Qld 4001

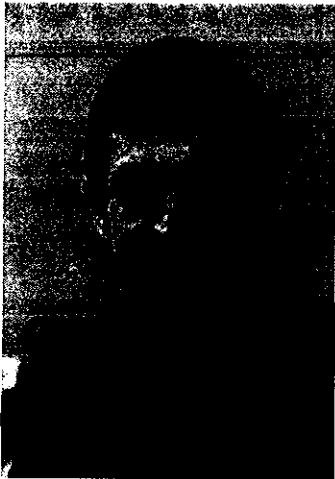
Tel: (07) 3005 7000
Fax: (07) 3005 7067
TTY: (07) 3006 8174
Email: ombudsman@ombudsman.qld.gov.au
Web: www.ombudsman.qld.gov.au

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Ombudsman's message



It gives me great pleasure to introduce the 2002–06 Strategic Plan for the Queensland Ombudsman. This is the second Strategic Plan produced since my appointment as Ombudsman in 2001. It builds upon the work outlined in our previous plan and resets our priorities for the next four years based on an assessment of a range of factors impacting on our responsibilities and those of public agencies generally.

The actions and decisions of Queensland's public agencies can have a significant impact on people's lives. When things go wrong, the Ombudsman can independently investigate and make recommendations for the action or decision to be remedied. We can also make recommendations to improve the procedures of public agencies to reduce the likelihood of future complaints being made.

We have achieved a great deal over the past year. Undoubtedly, we have a big agenda for a small agency, but we have the commitment, professionalism and flexibility to get the job done on behalf of the people of Queensland.

In the period covered by this plan, we will assign a high priority to working with agencies to help refine and improve the way they handle their customers' complaints and communicate with individuals and groups. Our experience shows that communication is a big issue for members of the public in their dealings with government agencies. If insufficient time is taken to explain actions and decisions in a manner that shows an appreciation of the public's concerns, a minor matter can escalate into a major drama.

We will also be bedding down many of the initiatives commenced in 2001-02, such as the changes to our structure to enable us to provide better service. Of note will be the implementation of our new complaints and records management system that we have named 'Catalyst' in recognition of the impact it will have on improving our operations.

We are proud to be able to assist the people of Queensland in their dealings with state and local government agencies.

D J Bevan
Ombudsman

Drivers and challenges

The public sector operates in an environment of rapid and continual change. Our job is to encourage public agencies to act lawfully and fairly when making decisions that affect members of the community.

Our corporate direction is influenced by:

- our new role to improve administrative practice while continuing to independently investigate the activities and decisions of public agencies
 - growing public expectation of speedy and high-quality complaint resolution service
 - servicing our diverse and highly decentralised community
 - ensuring a high level of community awareness of our services
 - meeting the expectations of Parliament to deliver our services efficiently and effectively
 - implementing the recommendations of strategic reviews of our Office
 - growing public interest in accountability and transparency in government at all levels.
-

Our mission

To promote high standards of administrative practice and decision-making in Queensland's public agencies for the benefit of the community

Our approach

In everything we do, we value the principles of:

- **fairness, independence and objectivity**
- **respect for all opinions**
- **service for all members of the community**
- **efficiency and responsiveness.**

We guarantee to give proper consideration and attention to all matters referred to us. We will always provide reasons for our decisions.

If you *phone* us, we will:

- **answer the phone promptly and professionally**
- **make sure the person you contact will help you, or find someone who can**
- **if we cannot provide a solution to your inquiry immediately, we will get back to you within a reasonable time.**

If you *fax, e-mail or write* to us, we will:

- **reply promptly**
- **give you referral details if a matter is outside our responsibility.**

When we *contact* you, we will:

- **use plain language**
- **meaningfully respond to your concerns.**

When we *investigate* a complaint, we will:

- **ensure people are treated politely**
- **give people the opportunity to provide all relevant information.**

When we produce *reports or publications*, we will:

- **make sure they are easy to access and understand**
- **ensure information is as accurate and complete as possible**
- **provide opportunity for feedback on our publications.**

Goal 1:

Administrative Justice

To achieve administrative justice for members of the community in their dealings with state and local government agencies.

Strategies:

- review and refine our centralised complaint intake and assessment process
 - commence inquiries as early as possible
 - use informal resolution processes wherever appropriate
 - improve communication with agencies, including by:
 - liaising with nominated agency contact officers to expedite resolution of matters
 - issuing guidelines for agencies to use when responding to Ombudsman inquiries
 - develop a new investigations manual
 - provide relevant training on investigative methods
 - use powers conferred by the Ombudsman Act in appropriate cases
 - develop and measure performance against service standards for complaint assessment, resolution and investigation
 - resource a team to undertake major projects on matters involving serious and systemic maladministration
 - use a project management approach for significant investigations.
-

Performance measures:

- proportion of cases featuring early intervention and informal resolution
- case closure measured by timeliness and volume
- proportion of cases investigated that are resolved to the benefit of the complainant
- proportion of sustained cases rectified by agencies
- number of complaint inquiries responded to.

Goal 2: Improved public administration

To make a significant contribution to improving the quality of administrative practice in Queensland public agencies.

Strategies:

- finalise the establishment of the Advice and Communication Unit to provide an advisory service to agencies and the community
 - continue our proactive approaches to improving administrative practice in agencies, including:
 - making recommendations based on our investigations
 - providing guidance, education and training
 - working with agencies on joint projects
 - identifying and reporting on systemic problems
 - analysing complaints data to identify administrative problems and solutions
 - promoting effective complaint management and client service mechanisms
 - produce informative publications on issues relating to good administrative practice
 - conduct regular meetings with representatives of other complaints bodies to discuss matters of mutual interest and avoid duplication
 - report to Parliament on our major investigations into serious and systemic maladministration.
-

Performance measures:

- number of recommendations made to agencies to improve administrative practice
- percentage of recommendations adopted
- number of major agencies with formal complaints handling processes
- number of presentations and workshops
- number of publications to agencies on good administrative practice.

Goal 3:

Awareness and access

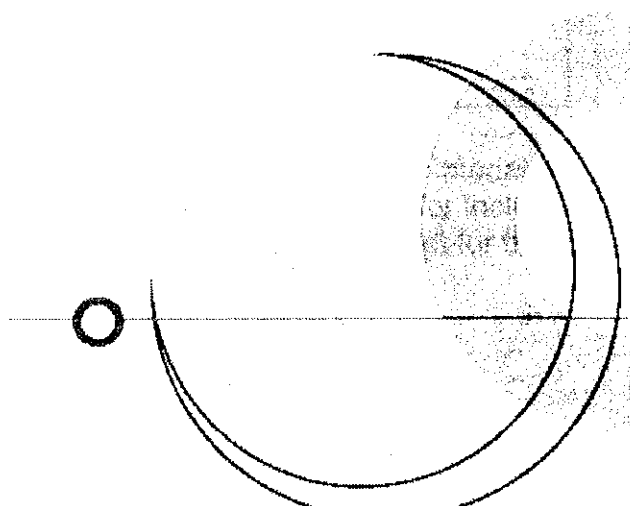
To ensure a high level of awareness of our services and that they can be readily accessed by all members of the community.

Strategies:

- establish and maintain an informative and user-friendly web site
- continue our regional visits program to improve access to and awareness of our services across the state
- continue to review and enhance the complaints reception function to provide responsive client service
- improve information about and accessibility to our services for groups with special needs
- conduct presentations on our role
- conduct research on community awareness of our role.

Performance measures:

- number of centres outside the Brisbane area visited to receive and resolve complaints
- number of correction centres visited to receive and resolve complaints from or on behalf of prisoners
- level of community awareness of our role.



Goal 4:

A progressive, client-focused organisation

To ensure we exhibit best practice in our performance and are a progressive and responsive organisation.

Strategies:

- review the effectiveness of changes to our structure
 - implement and monitor our new case and records management system
 - establish formal policies and practices for human resource management
 - enhance staff development by providing training in areas such as strategic leadership, management, IT and investigative skills
 - implement client service initiatives, such as a charter and training for staff in client service.
 - implement a new Performance Planning and Review scheme
 - develop and implement operational plans for work units
 - develop a new investigations manual
 - seek information on complainant and agency satisfaction levels
 - pursue administrative efficiencies by participating in shared corporate service initiatives.
-

Performance measures:

- post-implementation review of new case and records management system
- compliance with audit and legislative requirements
- complainant and agency satisfaction measured against nominated standards of service.

Priorities and targets 2002-03

Priorities:

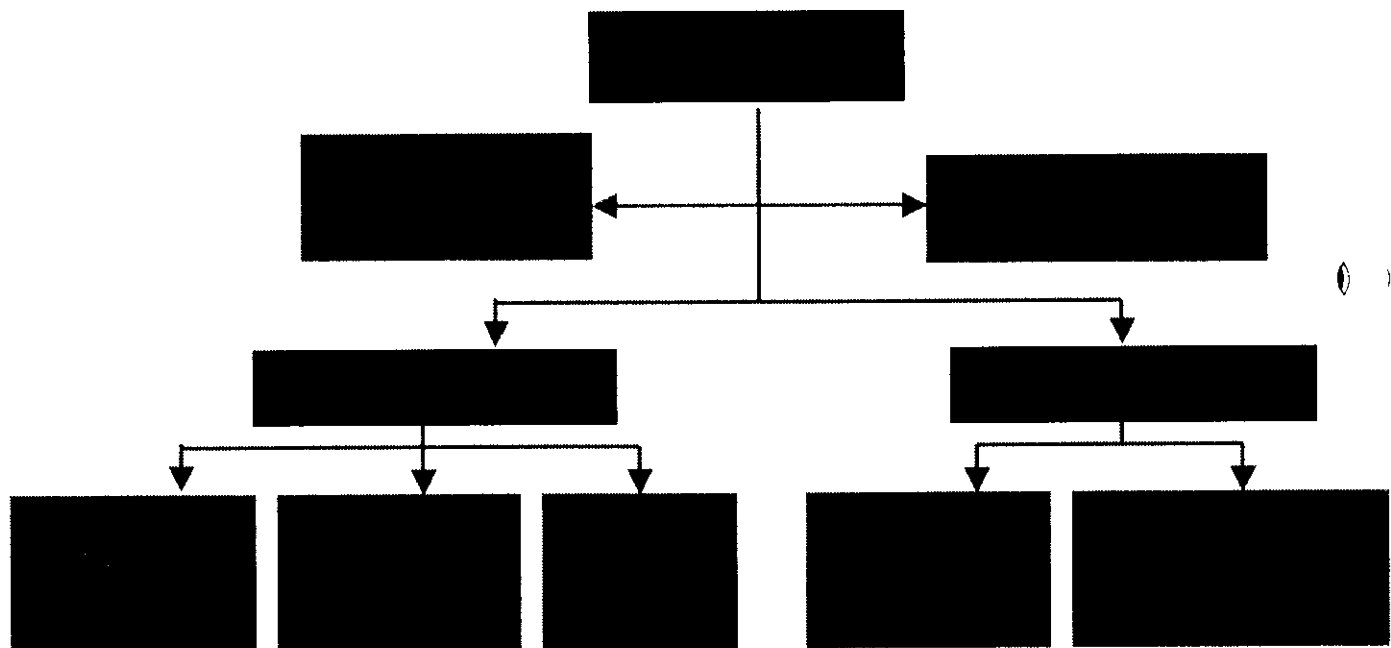
- implement a new case and records management system
- review the effectiveness of changes to our structure
- formalise key human resource management policies
- implement a training plan with emphasis on leadership, management development, IT and investigative skills
- establish an informative and user-friendly web site
- implement a new performance management system
- continue with strategies to reduce the number of older matters
- undertake a complaints management project for agencies
- develop a new investigations manual
- conduct two or more major investigations and report to Parliament as appropriate.

Targets 2002-03:

Quantity: Complaints finalised.	4,000
Quality: <ul style="list-style-type: none"> • proportion of sustained cases rectified • proportion of cases resolved informally • proportion of cases where early intervention occurred • proportion of recommendations for improved administrative practice accepted by agencies. 	95% 85% 85% New measure
Timeliness: <ul style="list-style-type: none"> • proportion of cases finalised within 12 months of lodgement. • proportion of open cases at 30 June 2003 more than 12 months old. 	95% 15%
Location: <ul style="list-style-type: none"> • number of centres outside Brisbane area visited to receive and resolve complaints • proportion of complaints received from outside Brisbane area. 	New measures

The above targets were set in April 2002 and published as part of the Ministerial Portfolio Statement. We have referred some new measures to Treasury for inclusion in future year's Ministerial Portfolio Statements. Therefore, no targets exist for these items yet.

Our organisation



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