

LEGISLATIVE ASSEMBLY OF QUEENSLAND

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

**Meeting with the Queensland Ombudsman
(25 November 2003) and
final report on implementation of recommendations made in the
*Report of the Strategic Management Review of the Offices of the
Queensland Ombudsman and the Information Commissioner***

December 2003

Report No 43

LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

50TH PARLIAMENT

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LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE

REPORTS

		DATE TABLED
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
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

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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
37.	Meeting with the Queensland Ombudsman – 26 November 2002	12 December 2002
38.	Meeting with the Queensland Ombudsman – 29 April 2003	6 June 2003
39.	The role of the Queensland Parliament in treaty making – Review of tabling procedure	17 July 2003
40.	Annual report 2002-03	21 August 2003
41.	Review of the Queensland Constitutional Review Commission's recommendations regarding entrenchment of the Queensland Constitution	27 August 2003
42.	Hands on Parliament – A parliamentary committee inquiry into Aboriginal and Torres Strait Islander peoples' participation in Queensland's democratic processes	11 September 2003

PAPERS

	DATE TABLED
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

My fellow committee members and I are pleased to note the continuing good work of the Queensland Ombudsman. The committee's fourth general meeting with the Ombudsman, held on 25 November 2003, reveals that the Ombudsman's Office continues to achieve positive outcomes.

My thanks extend to 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 Dilka Whish-Wilson and other staff of the Ombudsman's office involved in providing information to the committee. The committee is grateful to these and other officers for the time spent preparing material for the biannual meeting and for the cooperative relationship that has developed between the Office and the committee.

I also thank committee members and staff for their time and participation in the meeting process, and Hansard for transcribing the meeting.

A handwritten signature in black ink, appearing to read 'Karen Struthers', with a stylized, cursive script.

Karen Struthers MP
Chair

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1. BACKGROUND

The role of the Queensland Ombudsman includes investigating administrative action taken by agencies and improving the quality of decision-making and administrative practices in agencies. Given the Ombudsman's role regarding the executive arm of government, the Ombudsman is described as an officer of the Parliament. The Legal, Constitutional and Administrative Review Committee ('the committee' or 'LCARC') is a specific avenue through which the Queensland Ombudsman reports to Parliament.

LCARC's role regarding the Ombudsman is reflected in the committee's general area of responsibility about administrative review reform and its specific functions under s 89 of the *Ombudsman Act 2001* (Qld). That section provides that LCARC's functions 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.

These functions require that the committee has a continual, open dialogue with the Ombudsman. To this end, 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.

This process allows the committee to examine certain issues with the Ombudsman and put that examination on the public record.

2. THIS REPORT

The fourth general meeting of the committee and the Ombudsman was held on 25 November 2003. The meeting was timed to follow the tabling of the Ombudsman's *Annual Report 2002-2003*¹ so that the committee could, among other matters, discuss with the Ombudsman any issues arising out of that report. To this end, the committee:

- asked the Ombudsman written questions on notice by letter dated 8 October 2003: questions and answers appear as **appendix A**;
- considered the Ombudsman's response to those questions received on 3 November 2003; and
- met with the Ombudsman and senior officers of the Ombudsman's Office on 25 November 2003 to discuss issues arising from the Ombudsman's response to the committee's questions on notice and otherwise. A transcript of that meeting appears as **appendix B**.

¹ Queensland Ombudsman, *Annual Report 2002-2003: Building a Better Picture*, Brisbane, 2003.

The main issues raised with the Ombudsman throughout this process included:

- the reduction in the number of complaints outstanding at the end of the 2002/03 financial year compared with the previous year, and the improved timeliness within which complaints are handled;
- the proportion of complaints resolved informally;
- the Office's policy on early intervention in complaints;
- initiatives put in place by the Advice and Communication Unit;
- the progress of the Workplace Electrocutions Project;
- the impact of *Catalyst*, the Office's complaints and records management system that became operational on 3 December 2002;
- the ongoing effect of the restructure of the Office including: review of the investigative teams arrangement; and the impact on the Assessment and Resolution Team of its role regarding the Prisoner Phone Link service and the program of regional visits undertaken by the Office;
- the progress of the Complaints Management Project and the steps involved in its various stages;
- the feedback provided to the Department of Corrective Services drawn from complaints by prisoners;
- general budgetary issues, including the impact of an unsuccessful funding request of \$60000 during the budget/estimates process; and
- the development of human resource policy and procedures manuals for the Office.

In the meeting, the Ombudsman also advised that he would shortly provide the committee with a final report on the implementation of the recommendations of the June 2000 Strategic Management Review² of the office.

On 10 December 2003, the Ombudsman provided the committee with reports on implementation of the recommendations of the Strategic Management Review relating to the Office of the Ombudsman and the Office of the Information Commissioner. The committee is tabling these documents with this report.

3. COMMITTEE COMMENTS

The committee is pleased to note the inroads that the Ombudsman continues to make into finalising older complaints and the timeliness within which new complaints are dealt with. The new office structure, together with updated technology, evidently continues to have a positive effect on the Office's performance.

The committee also applauds the initiatives by which the Office has increased its advice and assistance activities as required by the *Ombudsman Act 2001*. This has primarily been through the work of the Advice and Communication Unit. In providing advice to agencies and assisting them with their complaints management systems and procedures, there is a source of potential difficulty in that the Ombudsman may later be called upon to assess the effectiveness of such a system where a complainant alleges that it has failed. The Ombudsman is aware of this issue, as indicated by the following comment in his Annual Report:

*A big challenge for us is to balance the way we continue independent and responsive investigations of agencies on the one hand with helping them to improve their decision-making and administrative practices on the other.*³

² 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, Brisbane, June 2000. See also the previous reports by LCARC: *The Report of the Strategic Management Review of the Offices of the Queensland Ombudsman and the Information Commissioner*, report no 26, Goprint, Brisbane, July 2000; and *Progress report on implementation of the recommendations made in the Report of the Strategic Management Review of the Offices of the Queensland Ombudsman and the Information Commissioner*, report no 30, Goprint, Brisbane, August 2001.

³ Note 1 at 5.

The issue has not been raised by the committee as a matter of concern but as an issue the Ombudsman's Office will need to be mindful of as the good work of the Advice and Communication Unit continues.

The committee also notes that nearly all of the recommendations of the Strategic Management Review relating to the office have been implemented or substantially implemented. Similarly, most recommendations relating to the Office of the Information Commissioner have been implemented. The committee commends the Ombudsman and the staff of both the offices of the Ombudsman and Information Commissioner in the substantial effort which has been required to implement these recommendations. While this has meant that both offices have undergone significant structural and operational change, the positive results from this change are evident.

APPENDIX A

- QUESTIONS ON NOTICE
- OMBUDSMAN'S RESPONSES

QUESTIONS ON NOTICE

COMPLAINT STATISTICS

1. Statistics about complaints for the 2002/03 financial year will presumably be included in your annual report. However, so that the committee has time to consider the figures prior to our meeting, would you please provide complaints statistics for 2002/03 including:
 - (a) complaints received and finalised;
 - (b) the proportion of cases finalised within 12 months of lodgement;
 - (c) the proportion of cases at the end of the reporting period which were more than 12 months old;
 - (d) the average time taken to deal with complaints;
 - (e) the proportion of cases resolved informally; and
 - (f) the proportion of cases where early intervention occurred.
2. During the estimates committee hearings on 15 July 2003, you were asked about the number of complaints for the 2002/03 financial year where some form of maladministration was found. You advised the estimates committee that figures were not available for the 2002/03 financial year (Estimates Committee A *Hansard*: 17). Are these figures available now? If so, please provide them.

INFORMAL RESOLUTION

3. In answer to question on notice 2(d) from our meeting of 29 April 2003 you advised that the Office was presently unable to provide accurate figures on the proportion of complaints dealt with informally and that this was one of the few remaining “implementation issues” for *Catalyst*. Has there been any progress in the recording of this information and are you able to provide any figures to the committee?

WORKPLACE ELECTROCUTIONS PROJECT

4. In previous meetings you provided information about the progress of investigations in the Workplace Electrocutions Project. In answer to question on notice no 7 for our meeting on 29 April 2003 you advised that part 13 of the investigation was well advanced and that a report would be made to the Speaker of the Parliament when part 13 was finalised. It was anticipated that this report would be substantially completed by 30 June 2003. We note that no report has yet been tabled in Parliament. We also note that this project commenced in May 1999. Please advise:
 - (a) the status of part 13 of the investigation;
 - (b) the anticipated timeframe for reporting to Parliament; and
 - (c) whether there is any particular reason for the delay in finalising the investigation and reporting to Parliament?

CATALYST COMPLAINTS AND RECORDS MANAGEMENT SYSTEM

5. In answer to question on notice 1(a) from our meeting on 29 April 2003 you advised that the second stage of implementation of the *Catalyst* system will involve records management for administrative files and that this would be implemented in the next financial year. Has the second stage been implemented and, if so, what effect has it had on the efficiency of the Office? If not, when do you expect implementation to occur?

6. We note that you have previously advised that an assessment of the impact of the *Catalyst* system would be conducted approximately 12 months after its full implementation, possibly early in 2004. Please advise:
- (a) Is this timeframe still accurate?
 - (b) Is there any early information available on the impact of the system after almost 12 months of operation?

INTERNAL REVIEW OF DECISIONS OF THE OMBUDSMAN

7. In answer to question on notice no 9 from our meeting of 29 April 2003, you advised that the *Catalyst* system would be able to provide statistics on internal reviews. Do you have any information about the number of decisions which go to internal review and the outcomes of such reviews?

OFFICE RESTRUCTURE EVALUATION

8. In answer to question on notice no 5 for our meeting on 29 April 2003 you advised that a further evaluation of the investigative teams arrangement had been extended to 30 June 2003. Has this review been conducted and, if so, what were the results of this review? If this review has not been conducted when is it planned to commence?
9. In the same response you also advised that, in evaluating the Assessment and Resolution Team (ART), the Ombudsman and Deputy Ombudsman noted that the Prisoner PhoneLink and the regional visits program would have a substantial impact on the ART's resources and decided that the role of the ART in both areas would be further considered. What further consideration has been given to the role of the ART in these areas?

PRISONER PHONELINK

10. In answer to question on notice no 8 for our meeting on 29 April 2003 you advised that you intended to review whether any inmates at larger centres are disadvantaged in their access to the PhoneLink service. Has this review been undertaken?

EFFECTIVE COMPLAINTS MANAGEMENT PROJECT

11. Can you advise of the progress of Stages 1 and 2 of the Effective Complaints Management Project?

COMPLAINTS BY PRISONERS

12. In answer to question on notice no 8 for our meeting of 29 April 2003 you advised that complaints data for prisons would be analysed to assist the Department of Corrective Services to address complaint trends or internal administrative practices and procedures that lead to complaints by prisoners. Has that data been analysed and provided to the Department?

GENERAL BUDGETARY ISSUES

13. Earlier in the year you requested additional funding of \$60 000 which was denied by the Cabinet Budget Review Committee. What impact has this had on the Office?

HUMAN RESOURCE ISSUES

14. In our meeting on 29 April 2003 you advised that a human resource officer had been engaged for six months to document the office's human resource policies and procedures (Transcript: 1). At what stage is this task?

APPENDIX B

TRANSCRIPT OF MEETING



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

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**Tuesday, 25 November 2003
Brisbane**

OFFICERS PRESENT

Mr David Bevan, Ombudsman

Mr Frank King, Deputy Ombudsman

Mr Rodney Metcalfe, Deputy Ombudsman

Mr Tony Johnson, Manager, Corporate Services

Ms Dilka Whish-Wilson, Manager, Advice and Communications

The committee commenced at 1.00 p.m.

The CHAIR: We will begin by getting David to give some opening remarks, if that is okay. I might just indicate that I have to duck out for 10 minutes or so at 1.30 and Fiona will take the chair.

Mr Bevan: I remember on the last occasion the committee was on a tight time frame. Is that the situation again?

The CHAIR: We have all the time in the world now. It is the last week of school. We can meet until 2.30.

Mr Bevan: Thank you. If I could just start by saying that in the overview to our response we talk about some of the more significant results of the office. One of the most significant from my perspective has been the office bringing its workload under control, especially with cases more than 12 months old. There are currently 78 such matters. So there was 81 as at 30 June. It was 504 the June before that and it is currently 78. So that is the situation as at 30 June. We have also completed another major investigation—as you would be aware, the baby Kate matter. We issued a major public report and we have almost completed our investigations in the case of the electrocution project.

We have made considerable progress in bedding down our new case management system, Catalyst. We have also issued several publications to help agencies improve administrative practices generally, and Dilka has brought along some examples of those for you which she can provide a little later on. Dilka could also speak about some of the initiatives we have undertaken to increase awareness and access as well a little later on. To support those initiatives, we have moved some resources from the investigations area and consequently we have not taken up as many matters for full investigation. These resources fund three staff in the advice and communications unit as well as its operating costs and publications, an assistant administrator for Catalyst and the maintenance agreement for Catalyst.

One of the projects I wanted to mention in a bit more detail relating to our more general role helping agencies improve their administrative practices—it is referred to at page 14 of the report—is the Better Decisions project. We have written before on the complaints management project and our response talks about the status of that project. The principal objective of the Better Decisions project is to develop a best practice decision-making framework that agencies can use to ensure decisions comply with fundamental principles such as lawfulness, fairness, rationality, openness and efficiency. In other words, we are looking at what sort of decision-making support do primary decision makers need to make sound decisions.

For example, they need a quality legislative framework incorporating appropriate powers and checks on the abuse of power with that framework being underpinned by sound policies and procedures that promote the principles of good decision making that I mentioned; an effective complaints system incorporating both internal and external review; regular training and easy access to relevant information for the decision makers; and processes for continuous improvement. Once we have developed that best practice framework, there are a couple more steps in the project. One is to choose a sample of current decision-making systems for evaluation against the best practice framework. For example, that might be the decision-making system of a work unit which is responsible for issuing licences of some kind.

We will compare the sample systems with the decisions review framework and identify patterns and trends and complaints and appeals about those decisions. The next step involves analysing the effectiveness of information and training strategies for the primary decision makers, including how feedback is provided to the primary decision makers. The findings of that evaluation will lead to recommendations to improve the decision-making systems and ultimately the quality of the decisions.

The other strategy we are employing to help agencies improve their administrative practices is complaint trend analysis. As we mention in our report, Catalyst has an extensive capacity to record and analyse complaints data down to three levels. In our response to you in appendix 1, we have provided an example of that. The first pie chart shows the most frequent complaint categories for local government that were received last financial year. As you can see, the main category was complaints about laws and enforcement followed by complaints about development and building controls and rates and valuations. The second chart analyses

complaints about laws and enforcements. Under that category, the highest subcategory is complaints about infringements relating to laws and enforcements. The third chart breaks down complaints relating to infringements. You will see that complaints about parking infringements are the most common type of complaint followed by complaints about animals other than dogs and cats and then complaints about dogs and cats.

If we analyse complaints under rates and valuations, we would see that the highest number of complaints is about rate payments and the main area of complaints under rate payments is complaints about rebates. That type of analysis can be done for each council and complaint trends identified. Comparisons can also be made of complaint types and numbers for similar sizes and types of councils. These features will enable us to work with councils to develop complaint reduction strategies if a particular council appears to be overrepresented in any particular type of complaint.

The committee asked us about progress on the workplace electrocution project, and we responded at page 6. The public report referred to there has been commenced. From our perspective, there is no particular hurry to finalise the public report because its focus will be on analysing the workplace health and safety system before and after the investigations. The committee would be aware that very significant changes have been implemented by the government and the Department of Industrial Relations as a result of our many recommendations. Those changes include the introduction of a new Electrical Safety Act to address legislative and other problems we identified. Other changes are still being implemented and therefore the delay does not mean our public report is losing relevance.

At page 7 we talk about the records management for administrative files. I just wanted to make it clear that this only refers to non-case related documents. Catalyst already records details of all the case related documents. At page 9 of our report we mention that the next version of Catalyst will be installed by the end of 2003. I have been subsequently advised that the developers may not have it ready until some months into 2004.

I have some further details on the prisoner phone link, which is referred to at page 12 of our report. In the last financial year there were 687 calls over the phone link. This financial year we have had about 200 calls. Of those, about 90 prisoners have called back by arrangement with my officers for advice on the outcome of our inquiries. So we make telephone inquiries with the centre and we ask the prisoner to get back to us in a couple of weeks time. So, as I say, 90 of those 200 prisoners have had follow up as a result of the phone link. The calls are fairly proportional. The number of calls is fairly proportional to the size of the prison, with Woodford inmates responsible for the highest number of calls being the largest prison population. The other matter I wanted to mention is that when my officers visit the prisons they ask prisoners and prisoner support groups about their knowledge of the phone link and also check to make sure that the service is being prominently displayed.

Finally, if I could just mention that it is my intention within the next two weeks to provide what is really a final report to the committee on the implementation of the recommendations of the strategic management review. With your agreement, I would like to ask Dilka to provide some information about the access and awareness initiatives we have been undertaking.

The CHAIR: Thanks, David.

Ms Whish-Wilson: Partnerships and collaborative strategies continue to be the key to implementing advice and communications activities in a cost-effective and targeted way. As we mentioned the last time we met with the committee, we have been working with other accountability agencies to raise awareness of our respective roles and to improve access to our services for special needs groups in the community. Currently, we are working to target people from culturally and linguistically diverse backgrounds. To date we have developed a joint communications strategy and we are working with a community reference group comprising representatives of multicultural advocacy and community organisations to produce a brochure that outlines our respective roles and services. Other elements of the strategy include an events program, information kits and a proactive joint media campaign aimed at raising awareness of people's right to make complaints about poor decisions.

The media campaign will commence earlier next year with a six-week series called 'Your Rights Are Our Business' and these multicultural programs will be profiled with a question and

answer forum featuring speakers from each of the participating agencies. Since our last meeting, we have also made our general brochure available on our web site in two more languages being Arabic and Bosnian. The focus of this group will turn to indigenous communication issues earlier in the new year. As outlined in our response to question 11, our flagship project for our advice function, the complaints management project, is approaching the end of its first phase. We have worked very closely with the agency liaison officers to evaluate their current complaints handling systems against an Australian standard for complaints handling.

We have also developed publications to assist agencies in improving administrative practices. Copies of those publications can be provided to the committee. They are also available on our web site. Also included with the materials provided is a postcard that was produced recently as a generic communication tool to address some gaps we identified in audience awareness of and access to these publications and our web site in general. The format of the postcard was chosen because it effectively communicates a simple message and a call to action to all audiences and it triggers recall of our role and can be distributed easily, cheaply and widely. These are distributed to Queensland government departments, statutory bodies and other agencies as well as to local councils throughout Queensland. We expect them to drive traffic to our web site and consequently reduce production and distribution costs of these materials and others, including the effective complaints management fact sheets.

We also conducted some research in collaboration with the Crime and Misconduct Commission to gain a broader understanding of our current complaint handling practices within public agencies and to determine what the ongoing focus of the complaints management project needs to be. The research provided some useful insights about, firstly, the existence of complaints handling systems in public agencies and, secondly, the degree to which existing systems reflected the essential elements of the Australian standards for complaints handling. Consequently, we are currently working on some broad guidelines for agencies on developing complaints handling policies and procedures.

On our very limited budget we usually rely heavily on media activities to generate publicity and raise awareness in the community of our role and functions. This appears to be an effective strategy. The results from the Queensland Householders Survey on community awareness about the office indicated that the majority of survey participants were made aware of us through the media. We attribute this to extensive coverage of the Brooke Brennan report and our regional trips program.

We are continuing to monitor the effectiveness of the strategy. For instance, the recent tabling in the parliament of the baby Kate report has generated more than 100 media items to date. That is excluding syndications, which potentially doubles that coverage. Analysis of the coverage in October indicates that the role of the Ombudsman is one of the prominent key messages covered in the majority of media items. In addition, we have developed a publications strategy targeting agency newsletters. The last time we met with the committee we spoke about our publication *Ombudsman's News* to local government officers. Two issues of this publication which discusses investigations with a local government focus were distributed on the Local Government Association of Queensland intranet last financial year and the next issue is currently in production.

Turning finally to our web site, we have just completed a 12-month cycle of monitoring and analysis. We are very happy with the up-take of the site, which is now averaging around 800 visits per month. It is pleasing that the majority of hits are on our online complaints form and effective complaints management fact sheets, and a significant proportion of visitors download these publications. We have, however, identified some need for improvement with regard to the placement of information on the site and its navigability from the user perspective, and we will be revising it accordingly this financial year.

The CHAIR: Good. Thank you. I have to go for 10 or 15 minutes, so I will ask Fiona to chair. But I just want to make a couple of comments. Thank you for the comprehensive reporting both verbally today and in the written reports you have given us. Also, I want to commend your annual report for both its style and content, particularly the integration of case studies. This very helpful summary of question and answers at the end here directing people to the sections of the report makes it very user friendly. In terms of the content of what you are achieving, I think it is very important on behalf of the committee that I commend the progress that is being made. We

do have yet again a good set of numbers there, David, particularly in relation to the complaints that are 12 months old or more. That is reducing significantly, so well done in that area.

The household survey and the questions asked about the Office of the Ombudsman were very positive. As a politician who probably has a two per cent profile in my local area, the 70 per cent was very impressive. So I think that is extremely good and probably relates to some of the media hits and other things that you have been getting on some of the higher profile cases. But it is certainly important that people around the state know who you are and how to access you. That is the key. There is no point having a wonderful system of handling complaints if people do not actually know about you. So that is a very positive sign. It is also very positive that your regional travel was extensive in getting west of the divide and around to a lot of smaller centres. So, on that note, I am sorry I have to go, but I will be back shortly. I will hand over to Fiona and ask members to put some questions to you.

Mr Bevan: Thanks.

Miss SIMPSON: To reiterate Karen's comments, we are obviously very pleased to see a quite significant movement in the key performance indicators. I will hand it over to members if they would like to ask some questions.

Ms NOLAN: David, this is probably too specific a question to start on. You made the point in your comments just now that there was a pretty direct correlation between the size of the prison and the number of complaints that you are getting. Is there any noticeable relationship between whether they are private or publicly run prisons?

Mr Bevan: The short answer is no. It seems to be fairly consistent. At the Arthur Gorrie centre, being a remand centre, prisoners are coming and going all the time. It has a lower number of calls—

Ms NOLAN: People probably do not have time to get settled in and on your case, I suppose.

Mr Bevan: So that is the only one that stands out.

Mrs LIZ CUNNINGHAM: You said in your submission that, because of the transfer of staff to other areas of responsibility, you have not taken up as many full investigations.

Mr Bevan: Yes. The focus is now very much on informally resolving as many matters as possible. In many cases by virtue of our intervention the issue is substantially resolved to the complainant's benefit without our having to conduct a full investigation. All of these matters are now received, as mentioned previously, by the assessment and resolution team to get consistency and also speed in that intake and assessment process. That is where that initial decision is made about what response is required. Those that are more complex are referred through to the investigation teams for assessment and those determined to warrant investigation are also referred to the investigation team. The assessment and resolution team does not undertake all of the assessments. The complex matters are assessed by the investigation teams. There are people in those teams who are experts in the particular areas.

Miss SIMPSON: Obviously the issue of timeliness and being able to resolve issues is so important. If in the past an issue drags out longer for somebody to see it investigated and resolved, do you find there tends to be a pattern where the nature of the grievance actually grows—in other words, the timeliness of a grievance resolution process? If a matter takes a long time to resolve, the tendency is that as a rule people are less likely to be happy with the outcome because the nature of the grievance grows during the resolution.

Mr Bevan: Yes, as a general statement that is very true. Expectations escalate as time goes on and because people, by the time they have come to us, have already made substantial efforts to resolve the matter with the agency—in most cases, at least—it means that we are their last chance. So the longer we take to resolve matters the higher their expectations are. That is why it is very important that their expectations are not unduly raised when they initially contact the office. So their initial interaction with that assessment and resolution team is very important in terms of indicating just what we can and cannot do.

Ms NOLAN: I think the move to more and more informal resolution is a really positive step and it is clearly giving you some efficiency in terms of your numbers. Do you find that people,

broadly speaking, are willing to go through an informal process? Or do they have to be talked into it because by the time they have got to you they want a serious investigation?

Mr Bevan: Not necessarily. They want their issue addressed. In most cases they do not care how it happens, as long as it is addressed. We rarely have to use the more formal processes. Even though, for example, in the baby Kate matter I wrote to the relevant directors-general advising that I may be using the compulsory powers under the Act, as things emerged, we did not have to use any of those powers and all officers and other persons cooperated with our investigation fully. It was still a more formal process in terms of sitting down with witnesses and recording those interviews formally but we did not have to use those compulsory powers.

Ms NOLAN: In using those informal processes, do you think those processes are less likely to end with adverse findings against the administrators? What I am saying is that, if you go through an informal process but you do have some serious concerns about the way the decision has been made, will you still write formally to that agency saying that things should be done differently or are you also likely to make those recommendations less formally? Does that make sense?

Mr Bevan: Yes. If we investigate a matter informally but we investigate it to finality then we will still write to the agency and make recommendations to the agency. But where as a result of our intervention the agency undertakes to take some action to resolve the complainant's concern then we do not investigate it to finality and therefore we do not need to make formal recommendations. But, if some systemic issue came up in the course of our involvement, then we would write to the agency—

Ms NOLAN: So you still have the capacity to do that?

Mr Bevan: Certainly.

Ms NOLAN: So even if you are going through a less formal process if you do come across something of substance as an issue you will still write to them and put that on the record.

Mr Bevan: Yes. That is always a focus of our investigations or intervention anyhow—looking for the broader systemic issues and seeing if we can make recommendations to address those.

Ms NOLAN: In that case is there any down side to informal processes? Because that would have been my concern; that there may have been a downside. You get people an answer but would be less able to deal with the structural issues, but if that is not the case is there any down side?

Mr Bevan: Not from my perspective, no.

Miss SIMPSON: You mentioned with regard to looking at frameworks for decision making and best practice in agencies in how they deal with people's grievances predominantly.

Mr Bevan: Yes.

Miss SIMPSON: In looking at those processes for decision is there much analysis available in regard to the time frames that agencies take to resolve issues? It goes back to the question I asked before. I am wondering whether there is evidence that the longer it takes to resolve an issue the less likelihood there is that the plaintiff will be happy with the outcome. In other words, where there is a longer time frame involved is there also a higher correlation of people not necessarily satisfied with the outcome—in which case not only with reviews that are done at your level and taking grievances for it and trying to get resolution but with agencies themselves and their own internal processes. Is it the case that the longer they take to adequately intervene and engage with people to try to resolve issues there is less likelihood that the final resolution would be satisfactory the longer it goes on? I am wondering if that will be part of the tracking process in best decision making.

Mr Bevan: Dilka referred to the Australian standard on complaints and one of the criteria there is timely decisions on complaints. I am sure there have been studies done of the type you mentioned and it would seem to be very logical too that it is less likely a complainant is going to be satisfied the longer a decision takes—whether that be a complaint type decision or just getting some administrative decision from an agency. If there was an application for a licence and the agency took an undue amount of time to deal with that application, then I think once again you can get lower satisfaction rates from the public in those cases. Timeliness is very important.

Miss SIMPSON: What flows on from that, while one would think it is fairly logical, there is a lot of work that can also be generated from an unhappy constituent or consumer dealing with an agency. In other words, it is not only the complaint that requires resolution; there is a tendency for it to grow arms and legs. It is the stone that gathers everything else as it starts to roll. With a grievance there is an initial issue and the longer it takes to be resolved—and this is probably more a reflection of what I see as a member of parliament when people are trying to get resolution from agencies—it creates extra work for agencies not only the initial complaint but everything else that grows thereafter.

Mr Bevan: That is one of the messages we have been delivering to the agencies involved in the project in the course of selling the project to them in complaints management. If you deal with the matter in a timely way, then it is less likely to escalate. The complaints are less likely to multiply and further down the track that can cause embarrassment for the agency as well.

Ms NOLAN: Relating to my police in prisons question from before, table 2 on page 23 is your overview of the complaint numbers by agency—Police, Corrections, state government and local government. Is there a table similar to this that gives proportions of complaints which are substantiated across agencies? I imagine you get some quite significant trends. My expectation would be that, for instance, in local government you have a lot of complaints about parking fines and I would have thought most of them were probably not ultimately substantiated. With something like prisons I hear a lot of complaints which strike me as being fairly legitimate of administrative injustice. Do you compile statistics of the rates of substantiation from agency to agency?

Mr Bevan: Not from agency to agency generally, because the nature of the business is very different. As part of Catalyst, as you saw from that analysis that I gave you before relating to local government, we have broken complaints categories down three times. We have had to develop separate categories for just about all agencies. So local government is easy, because it is generic. But the Queensland Health categories and Education categories are different and the Department of Industrial Relations, et cetera, are different. I do not think that the cross-agency comparisons are so relevant there. They may be relevant with prisons and also with like-sized local governments.

Ms NOLAN: Do you pass on that information to those departments on any kind of comparative basis, because I would have thought that that would be quite valuable information to fill the Health minister in on: you know that you get a high number of complaints and half of them are substantiated as opposed to other agencies, which have only 10 per cent substantiated? These are all guesses, but that would be a matter of concern. Do you pass on that information in that form?

Mr Bevan: This is the first year where we will be able to provide far more sophisticated feedback to agencies on their complaints data for the last financial year. As part of that task, we can provide certainly the analysis of their own types of complaints. We had not envisaged, for example, comparing Queensland Health and Education complaints in our reports to those two agencies.

Ms NOLAN: Sure. So that information will come into reports?

Mr Bevan: Yes, and we provide that to the main complaint generating agencies. Last year, we prepared 17, if I can remember.

Mr King: Thirteen last year.

Mr Bevan: 13 last year; 17 this year.

Ms NOLAN: That is good.

Mr LAWLOR: The figures for the complaints that are over 12 months old, it is down from 302 last year to 81 this year. That is very impressive. Is that as good as it gets or do you expect to make further inroads on that 81? I would imagine there would always be a few. You are never going to get it down to nil.

Mr Bevan: You will not get it down to nil, but certainly we are intending to reduce it further. It is down to 78 at the moment, and we would see it going substantially lower again.

Mrs LIZ CUNNINGHAM: On that same page that Rachel was on relating to complaints, in the comment underneath table 2 it says that complaints about police are redirected to the

assistant commissioner in the relevant area because the Ombudsman has no jurisdiction to investigate the operational actions of police officers. So even under the interpretation that the officer made a decision in the course of his duties, you do not have jurisdiction. Is the only review, to your knowledge, the assistant commissioner's review of that police officer's actions? Because it is out of jurisdiction, I take it that the assistant commissioner does not report back to you about any action he or she has taken?

Mr Bevan: Obviously, if the allegation involved misconduct, we would also contact the CMC.

Mr Metcalfe: There are a number of exemptions under the Act in addition to operational matters, which may relate to law enforcement. We are precluded from investigating those matters. But also if, in fact, the police officer could be subject to an allegation of official misconduct, which has already been dealt with, or also if they can be disciplined in terms of their own legislation, once again we are precluded from investigating a matter such as that.

We have a very good arrangement with the Office of the Deputy Commissioner of Police. If, in fact, a matter does require attention, we can direct it through him and he will report back to us in relation to that matter. But the majority of matters are operational type matters, in relation to speeding tickets or other enforcement notices that are issued, which are clearly outside our jurisdiction. Therefore, we refer them to the appropriate assistant commissioner for the area.

Mrs LIZ CUNNINGHAM: So you would say that the majority of references to your office are about whether the allocation of a ticket was appropriate or not?

Mr Metcalfe: That, or an alleged failure to investigate a particular matter or quite often to report back on an investigation as to the status of that investigation.

Mrs LIZ CUNNINGHAM: Okay.

Miss SIMPSON: I am just having a look at your staff numbers. The figures appear to be good as far as the shift towards more permanency. While I suppose it is not a significant variation with the turnover, the trend has been to try to have a more permanent staff. Would that be a fair assessment of what has been happening internally?

Mr Bevan: Certainly, and Tony can elaborate on that. Tony is the Manager of Corporate Services. Since I became Ombudsman, that has been a strategy. There were quite a lot of temporary staff at that time and we put in place a strategy to try to reduce those numbers. There will always be a couple because of permanent staff going off on extended leave for one reason or another, but, yes, we have tried to reduce it significantly.

Mr Johnson: That was a pretty thorough answer. Actually, it is something there is not a lot of complexity in. When David took over, there may have been seven, eight, nine or 10 temporary staff. That is now down to one or two at this point in time. It was a very deliberate exercise to project the budget forward and see what we could afford and pretty well push that to the end to see whenever that could be done. So the outcome that is in the report pretty well reflects that strategy to achieve, I suppose, stability because some people had been temporary for quite a long time.

Miss SIMPSON: That must help not only, obviously, from a personal point of view with staff but also in regard to the operations of the office. One would think that if you have the opportunity for permanency you have a fairly more stable work force.

Mr Bevan: Certainly, and it does take a while to understand the workings of the office and administrative investigations. Our jurisdiction is extremely wide. We talk about whether a decision is fair, unreasonable or simply wrong. We can investigate matters on that basis. It is not like an ordinary investigation where you have an offence, or a disciplinary breach with certain elements which you are trying to prove and you know where you are going. It is far more nebulous than that, administrative investigations.

Miss SIMPSON: Do we have any more questions? It sounds like we might be just about to wrap up this section, unless there are any outstanding issues. Are there any further comments you would like to add to your already extensive information that you have supplied us?

Mr Bevan: I suppose there was one other comment. We did talk about early intervention in our response at page 3. I can just elaborate on that a little more. That was a process which was set in place following the strategic management review of the office. With the implementation

of Catalyst we are now focusing not so much on just that first step but on the entire complaint handling process. The first step is important, but then it is also important what you do after that first step. Catalyst presently records five stages in complaints handling. The first is the initial assessment in the assessment and resolution team. Matters which are more complex are referred through to the investigative teams. The assessment is then reviewed in those teams and that process is another recording point. The analysis of the complaint by the investigation team is another point. The report and correspondence preparation in relation to the outcome of the investigation is another stage and, finally, the file closure stage is the last stage which is recorded. So as I say, there is an emphasis on managing the whole life of the complaint and not just that initial stage.

Miss SIMPSON: Thank you very much in regard to this aspect of our meeting today. We will not be recording, once we go into the second part, all this information. We have had a message from Karen. She apologises; she has been held up at a meeting, but she will be back hopefully in about five to 10 minutes. Thank you very much. We will change hat into the Information Commissioner role as well.

Mr Bevan: I would like to thank the committee on behalf of the Ombudsman's office.

Miss SIMPSON: We thank you very much for your presentation today.

The committee adjourned.