



Oversight of the Queensland Ombudsman

**Report No. 64, 57th Parliament
Legal Affairs and Safety Committee
January 2024**

Legal Affairs and Safety Committee

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Chair's foreword

The Legal Affairs and Safety Committee has oversight responsibilities for the Queensland Ombudsman. This report provides information regarding the performance by the Queensland Ombudsman of his functions under the *Ombudsman Act 2001*.

The committee reviewed the Queensland Ombudsman's Annual Report 2021-22, which was tabled on 26 September 2022. The committee also held a public hearing with the Queensland Ombudsman, Mr Anthony Reilly, and his staff on 1 June 2023.

On behalf of the committee, I thank Mr Reilly and his staff who assisted the committee throughout the course of its oversight of the Queensland Ombudsman's Office for the 2021-22 financial year period. I also thank the Parliamentary Service staff for their assistance with this report.

I commend this report to the House.



Peter Russo MP

Chair

Recommendation

Recommendation

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The committee recommends that the House notes the contents of this report.

1 Introduction

1.1 Role of the committee

The Legal Affairs and Safety Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly (Standing Orders).¹

The committee's primary areas of responsibility include:²



The committee also has oversight responsibilities for:³



1.2 The committee's responsibilities regarding the Queensland Ombudsman

The committee has the following oversight jurisdiction conferred by the Legislative Assembly:

Standing Order 194A

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

The *Ombudsman Act 2001* (Ombudsman Act) also provides the committee with the following functions with respect to the Queensland Ombudsman (Office):

Section 89 Ombudsman Act

- to monitor and review the performance by the Ombudsman of the Ombudsman's functions under the Ombudsman Act
- to monitor and review the Ombudsman's performance of their functions as Inspector of Detention Services under the *Inspector of Detention Services Act 2022* (IDS Act)
- to report to the Legislative Assembly on any matter concerning the Ombudsman and Inspector of Detention Services, their functions or the performance of their functions that the committee considers should be drawn to the Legislative Assembly's attention.

¹ *Parliament of Queensland Act 2001*, s 88 and Standing Orders, SO 194 and schedule 6.

² Standing Orders, s 194 and schedule 6.

³ Standing Orders, s 194 and schedule 6.

- to examine each annual report of the Office tabled in the Legislative Assembly under the Act and any report tabled under the IDS Act and, if appropriate, to comment on any aspect of the report
- to report to the Legislative Assembly any changes to the functions, structures and procedures of the Office the committee considers desirable for the more effective operation of the Ombudsman Act or the IDS Act
- any other functions conferred on the committee by the Ombudsman Act.

1.3 Purpose and functions of the Queensland Ombudsman

The Office contributes to fair and accountable public administration. Under the Ombudsman Act, the Office investigates complaints about the actions and decisions of state government departments and agencies, local councils and public universities. The Office oversees the implementation of the *Public Interest Disclosure Act 2010* (PID Act), reviews the way public sector agencies deal with public interest disclosures (PIDs), and educates and provides advice to public sector agencies about PIDs.⁴

The Ombudsman Act provides the Ombudsman with the following functions:

Section 12 Ombudsman Act

- (a) to investigate administrative actions of agencies –
 - (i) on reference from the Assembly or a statutory committee of the Assembly; or
 - (ii) on a complaint; or
 - (iii) on the Ombudsman’s own initiative
- (b) to consider the administrative practices and procedures of an agency whose actions are being investigated and to make recommendations to the agency –
 - (i) about appropriate ways of addressing the effects of inappropriate administrative actions; or
 - (ii) for the improvement of the practices and procedures; and
- (c) to consider the administrative practices and procedures of agencies generally, and to make recommendations or provide advice, training, information or other help to the agencies about ways of improving the quality of administrative practices and procedures; and
- (d) to provide advice, training, information or other help to agencies, in particular cases, about ways of improving the quality of administrative practices and procedures; and
- (e) the other functions conferred on the Ombudsman under this or any other Act.

The Ombudsman Act also provides that, subject to any other Act or law, the Ombudsman is not subject to direction by any person about the way the Ombudsman performs their functions under the Ombudsman Act, or the priority given to investigations.⁵ The Ombudsman may investigate administrative actions of agencies despite a provision in any Act to the effect that the action is final or cannot be appealed against, challenged, reviewed, quashed or called in question.⁶ However, the Ombudsman must not question the merits of a decision, including a policy decision, made by a Minister or Cabinet, or a decision that the Ombudsman is satisfied has been taken for implementing a decision made by Cabinet.⁷ Further, under section 16(2) of the Ombudsman Act, the Ombudsman must not investigate administrative action taken by any of the following:

Section 16(2) Ombudsman Act

- (a) a tribunal, or a member of a tribunal, in the performance of the tribunal’s deliberative functions; or
- (b) a person acting as legal adviser to the state or as counsel for the state in any legal proceedings; or

⁴ Queensland Ombudsman, *Annual Report 2021-22*, p ii.

⁵ Ombudsman Act, s 13.

⁶ Ombudsman Act, s 14.

⁷ Ombudsman Act, s 16(1).

- (c) a member of the police service, if the action may be, or has been, investigated under the *Crime and Corruption Act 2001*; or
- (d) a police officer, if the officer is liable to disciplinary action, or has been disciplined under the *Police Service Administration Act 1990, Part 7* because of the action; or
- (e) the Auditor-General; or
- (f) a mediator at a mediation session under the *Dispute Resolution Centres Act 1990*; or
 - a person in a capacity as a conciliator under the *Health Rights Commission Act 1991*, the repealed *Health Quality and Complaints Commission Act 2006* or the *Health Ombudsman Act 2013*; or
 - the Information Commissioner in the performance of the Commissioner's functions under the *Right to Information Act 2009* section 128, 129, 130 or 131.

1.4 Strategic review of the Office of the Queensland Ombudsman

The Ombudsman Act requires a strategic review of the Office to be conducted within the prescribed timeframe, to assess whether the Ombudsman's functions are being performed economically, effectively and efficiently (among other factors as determined by the terms of reference). The review must be conducted by an appropriately qualified person appointed by the Governor in Council, and the reviewer may be appointed only after the Minister has consulted with the parliamentary committee on the appointment of the reviewer, and terms of reference for the review.⁸

The report on the most recent strategic review was given to the Minister and the Ombudsman on 24 January 2018 and was tabled on 15 February 2018. The committee tabled *Report No. 25, 56th Parliament – Inquiry into the Strategic Review of the Office of the Queensland Ombudsman* on 20 November 2018 and did not make any recommendations.⁹

The current review period is 7 years;¹⁰ therefore the next strategic reviewer must be appointed by 24 January 2025, with the committee to have been consulted on the appointment of the strategic reviewer and on the terms of reference of the strategic review prior to that time. It is noted that following this strategic review, the next strategic review must be conducted at least every 5 years.¹¹

1.5 The committee's process

In conducting its oversight of the Office, the committee undertook the following activities:

 <p>Examined the Queensland Ombudsman 2021-22 Annual Report (see section 2 of this report)</p>	 <p>Held a public hearing on 1 June 2023 (see section 3 of this report)</p>
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The following representatives from the Office participated in the public hearing on 1 June 2023:

⁸ Ombudsman Act, s 83.

⁹ Legal Affairs and Community Safety Committee, 56th Parliament, *Report No. 25, 56th Parliament – Inquiry into the Strategic Review of the Office of the Queensland Ombudsman*, November 2018.

¹⁰ Ombudsman Act, s 83, as amended by the *Integrity and Other Legislation Amendment Act 2022*, ss 61-62. This Act amended the Ombudsman Act to reduce the 7-yearly review period to a 5-year review period (s 61), but s 62 provides that the review period in force before the commencement of the amendment 'continues to apply in relation to the next strategic review of the ombudsman office'.

¹¹ Ombudsman Act, s 83, as amended by the *Integrity and Other Legislation Amendment Act 2022*, ss 61-62.

Anthony Reilly Queensland Ombudsman	Angela Pyke Deputy Ombudsman	Leanne Robertson Executive Director, Corporate Strategy
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The broadcast and the transcript of the public hearing is available on the committee's webpage.¹²

2 Examination of Annual Report 2021-22

The Office tabled its annual report on 26 September 2022. The annual report meets reporting obligations under the *Financial Accountability Act 2009* and the annual report requirements for Queensland Government agencies.¹³

The Office reports on a range of performance and service measures in its annual report, including:

- investigating complaints
- improving decision-making through engagement, training and advice
- PID oversight, and
- financial performance and staffing.

Unless otherwise stated, the information set out below relates to the 2021-22 period as noted in the annual report.

2.1 Investigating complaints

There were 10,398 contacts received by the Office for advice, assistance or complaint resolution.¹⁴ This is down from 2020-21, where 10,758 contacts were received by the Office.¹⁵

In 2021-22, 6,669 complaints were finalised¹⁶ compared to 6,994 complaints in 2020-21.¹⁷ The annual report states 1,583 cases were assessed as involving a human rights element,¹⁸ down from 2,159 cases in the previous year.¹⁹

The time taken to finalise complaints in 2021-22,²⁰ compared to 2020-21,²¹ is set out below.

Within 10 days		Within 30 days		Within 12 months	
2021-22	2020-21	2021-22	2020-21	2021-22	2020-21
76%	82%	90%	93%	99%	99%
Decrease of 6%		Decrease of 3%		No change	

¹² Queensland Parliament, Legal Affairs and Safety Committee, Oversight of the Queensland Ombudsman, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=170&id=3097>

¹³ Queensland Ombudsman, *Annual Report 2021-22*, p i.

¹⁴ Queensland Ombudsman, *Annual Report 2021-22*, p 6.

¹⁵ Queensland Ombudsman, *Annual Report 2020-21*, p 6.

¹⁶ Queensland Ombudsman, *Annual Report 2021-22*, p 8.

¹⁷ Queensland Ombudsman, *Annual Report 2020-21*, p 8.

¹⁸ Queensland Ombudsman, *Annual Report 2021-22*, p 7.

¹⁹ Queensland Ombudsman, *Annual Report 2020-21*, p 7.

²⁰ Queensland Ombudsman, *Annual Report 2021-22*, p 7.

²¹ Queensland Ombudsman, *Annual Report 2020-21*, p 7.

There were 1,108 investigations finalised in 2021-22, with 123 investigations resulting in the total or partial rectification of the administrative action. From these investigations, 180 recommendations were made to relevant agencies with 99% of the recommendations accepted by agencies.²²

2.2 Improving decision-making

In 2021-22, the Office delivered a program of administrative improvement initiatives to develop the quality of decision-making and administrative practices in agencies. This included delivering 175 training sessions with 3,145 public sector officers,²³ almost double the 97 training sessions held in the previous year,²⁴ with the increase attributed to online delivery of training programs.²⁵

The Office published *Casebook 2022* in April 2022, a tool for shared learning including guidance on issues such as reasons for decisions, conducting reviews of decisions and keeping records. *Casebook 2022*, like the previously published *Casebook 2020*, is available on the Ombudsman's website. The committee was also pleased to note the Office has further published *Casebook 2023* in April 2023 for shared learning to build greater knowledge in agencies.²⁶

The Office also focused on making practical resources available to the community and worked with a focus group from Queenslanders with Disability Network to develop appropriate scripts for a series of animated videos, which commenced production in 2022-23.²⁷

2.3 Client satisfaction with the Office's services

In 2020-21, the Office implemented a new process for measuring client satisfaction involving an email survey to clients whose cases had been closed in the two months prior. Continuing in 2021-22, overall the survey reported:

Satisfied or very satisfied 41%	Neutral, satisfied or very satisfied 60%
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97% of participants providing feedback reported training improved their decision-making capability.²⁸

2.4 Managing complaints about the Office

In 2021-22, 14 service delivery complaints were received and closed during the year, none of which were relevant to the *Human Rights Act 2019*. Complaints related to poor customer service, a failure to deal appropriately with a complaint, unfair treatment or tone.²⁹

2.5 Internal review of decisions

In 2021-22, 129 internal review requests were received and 127 finalised with:

- the original decision confirmed in 76 cases
- reviews withdrawn by the complainant or declined by the Office in 47 cases

²² Queensland Ombudsman, *Annual Report 2020-21*, p 11; Queensland Ombudsman, *Annual Report 2019-20*, p 11.

²³ Queensland Ombudsman, *Annual Report 2021-22*, p 12.

²⁴ Queensland Ombudsman, *Annual Report 2020-21*, pp 12-13.

²⁵ Queensland Ombudsman, *Annual Report 2021-22*, p 12.

²⁶ Queensland Ombudsman, *Annual Report 2021-22*, p 13; See Queensland Ombudsman, *Casebooks*, <https://www.ombudsman.qld.gov.au/improve-public-administration/investigative-reports-and-casebooks/casebooks>

²⁷ Queensland Ombudsman, *Annual Report 2021-22*, p 13.

²⁸ Queensland Ombudsman, *Annual Report 2021-22*, p 22.

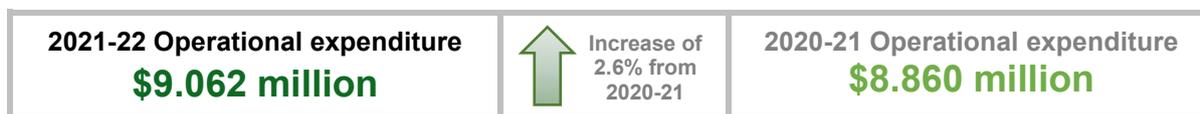
²⁹ Queensland Ombudsman, *Annual Report 2021-22*, p 22.

- decisions not upheld in 4 cases.³⁰

No significant systemic improvements were identified or implemented during the year as a result of internal reviews.³¹

2.6 Financial performance

The Office reported that it ended the year in a secure financial position with adequate reserve and forecast income to fulfil its statutory responsibilities for 2022-23.



Operational expenditure totalled \$9.062 million. The biggest cost in delivering the Office’s services is employee expenses, which represent 80% of total expenditure.³² A further 8% is committed to accommodation rental, with the remaining 12% expended on general operating costs, including system improvements, other property expenses, and information and telecommunication costs.³³

As at 30 June 2022, the Office reported assets of \$2.314 million and liabilities of \$0.799 million.

Assets	Liabilities
Cash at bank \$1.966 million	Payables \$0.560 million
Receivables and prepayments \$0.301 million	Accrued employee entitlements \$0.239 million
Plant and equipment \$0.039 million	Total \$0.799 million
Intangible assets \$0.008 million	
Total \$2.314 million	

2.7 Public interest disclosures oversight

The Office is the oversight agency for the PID Act.

There were 2,092 disclosure types arising from PIDs reported to the Office (increased by 19.4% from the previous year at 1,766).³⁴ PIDs relating to corrupt conduct were the most commonly reported type of wrongdoing, representing 87.9%.³⁵

³⁰ Queensland Ombudsman, *Annual Report 2021-22*, p 22.

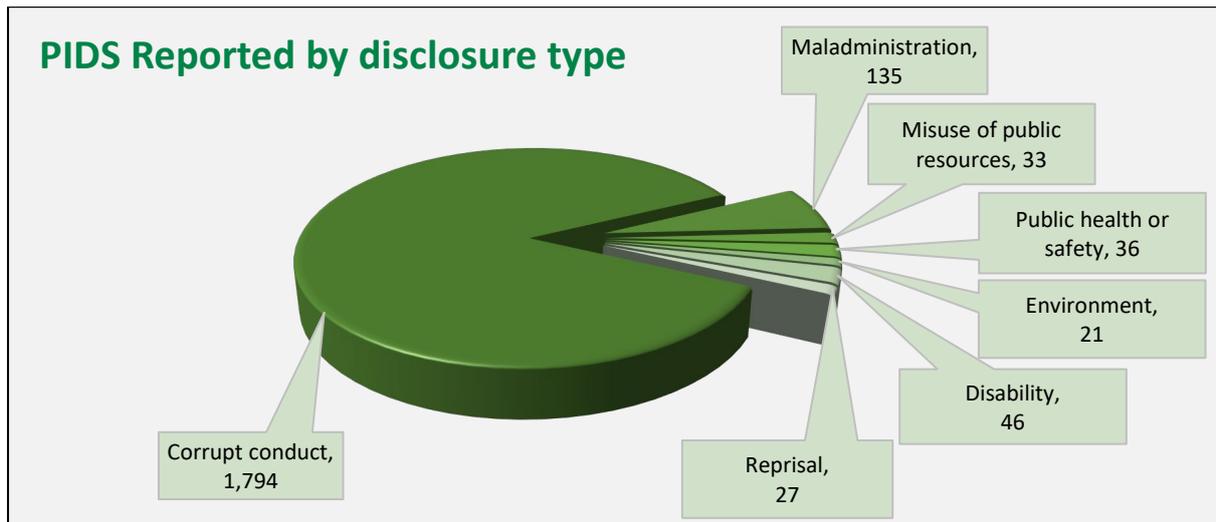
³¹ Queensland Ombudsman, *Annual Report 2021-22*, p 22.

³² Queensland Ombudsman, *Annual Report 2021-22*, p 23.

³³ Queensland Ombudsman, *Annual Report 2021-22*, p 23.

³⁴ Queensland Ombudsman, *Annual Report 2021-22*, p 27. The number of PIDs by disclosure type may exceed the number of PIDs reported by agency type.

³⁵ Queensland Ombudsman, *Annual Report 2021-22*, p 27.



The Office implemented the second annual PID self-assessment audit in 2021 and reported that:

Agency feedback indicates that completing the self-assessment audit has provided the impetus for policy and procedure reviews, a renewed focus on training and enhancements of PID management processes.³⁶

In 2021-22, the Office reported it delivered 'live online' PID training to a record 1,450 participants and quarterly PID Agency Network Training webinars to 342 participants, stating the use of video-conferencing software supported flexibility of training delivery and broader reach into regional Queensland.³⁷

3 Oversight public hearing

In his opening statement at the public hearing, the Ombudsman provided an update on the new role of Inspector of Detention Services to be undertaken by the Ombudsman following the passing of the *Inspector of Detention Services Act 2022* (IDS Act) by the Legislative Assembly in late 2022. In preparation for the commencement of the remaining provisions of the IDS Act on 1 July 2023, the Ombudsman stated they had been recruiting and establishing a team to support the new function.³⁸

The Ombudsman also stated that following Professor Peter Coaldrake's *Review of culture and accountability in the Queensland public sector* (Coaldrake report)³⁹ a number of recommendations relevant to the Office had been made including:

- the strategic review of the Office be conducted every 5 years rather than 7 years
- the government activating its review of PID legislation
- the enhancement of integrity bodies by the involvement of parliamentary committees in setting budgets and contributing to key improvements
- the Ombudsman to have the authority to investigate complaints against private organisations carrying out functions on behalf of the government.⁴⁰

³⁶ Queensland Ombudsman, *Annual Report 2021-22*, p 26.

³⁷ Queensland Ombudsman, *Annual Report 2021-22*, p 27.

³⁸ Public hearing transcript, Brisbane, 1 June 2023, pp 1-2.

³⁹ Professor Peter Coaldrake AO, *Let the sunshine in: Review of culture and accountability in the Queensland public sector*, Final Report, 28 June 2022.

⁴⁰ Public hearing transcript, Brisbane, 1 June 2023, p 2.

The Ombudsman noted its ongoing engagement with the government and that several recommendations have been implemented including:

- the *Integrity and Other Legislation Amendment Act 2022* implementing the 5 year timeframe for strategic reviews of the Office
- the recommended review of the PID Act commenced on 23 November 2022, with the Office assisting the review team by providing statistical information about PIDs, and assisting with operational and policy issues.⁴¹

The Ombudsman also provided an update on the Office’s performance during 2021-22 and some events post July 2022. The Ombudsman noted the demand for the Office’s service during the 2022-23 year was 7,845 contacts, an increase of 1,144 compared to 2021-22. The Ombudsman was pleased to report the average time for preliminary assessments for the period July 2022 to March 2023 had reduced to 4.5 days, compared with 6.3 days in 2021-22.⁴²

The Ombudsman commented on the support provided by the Office to the community and community organisations regarding how to raise concerns about government actions, including the implementation of new initiatives. The Ombudsman noted the *Good Decision* video and checklist, released during the 2021-22 reporting year, had been downloaded or viewed over 4,700 times. The Ombudsman also stated they had presented several webinars about their services and the broader complaints landscape, including a webinar through the Queensland Community Legal Centre’s webinar program. Most recently, a range of community access videos, explaining the purpose and function of the Ombudsman, were published in April 2023. The videos were co-designed by people who live with a disability and had already been viewed over 1,000 times.⁴³

The Ombudsman reported that, as some 40% of complaints were from outside of South-East Queensland, he and the Deputy Ombudsman visited several regional communities over the past year, meeting with local members of parliament, their electorate officers, local government and community organisations to provide further training and information.⁴⁴

As the oversight agency for the PID Act, the Ombudsman also commented on support to agencies in managing PIDs, including providing information, advice, training and publishing standards. The Ombudsman stated there were 1,466 reported PIDs finalised by agencies in 2021-22, 229 fewer than in 2020-21. In late 2021, the Office administered the second self-assessment audit and was pleased to note the results showed continuing improvement by agencies such as the ‘appointment of a PID coordinator and having a published PID procedure’.⁴⁵

Questions from the committee during the public hearing focused on:

Topics discussed	Transcript page reference*
The recruitment and establishment of positions relating to the Inspector of Detention Services and allocated budget	pp 4-5
Places of detention expected to be visited in 2023-24	p 5
Possible trends relating to complaints for 2022-23	p 5
Recommendations to agencies that had been accepted, actioned or not yet implemented	p 6

⁴¹ Public hearing transcript, Brisbane, 1 June 2023, p 2.

⁴² Public hearing transcript, Brisbane, 1 June 2023, p 2.

⁴³ Public hearing transcript, Brisbane, 1 June 2023, p 3.

⁴⁴ Public hearing transcript, Brisbane, 1 June 2023, p 3.

⁴⁵ Public hearing transcript, Brisbane, 1 June 2023, p 3.

Proposed Inspection Standards and likely issues covered including solitary confinement	p 6
Review of the PID Act including commencement and expected completion time	p 7
Oversight of the Ombudsman and Inspector of Detention Services role and strengthening the role of parliamentary committee following the Coaldrake report	pp 8-9
Tabling of reports through the Attorney-General	pp 8-9
IT services and infrastructure, and separation from other agencies	p 9
Management of complaints received and the use of an independent assessor including the committee's ability to access the assessor independently	p 9
Possible trends relating to the increase of anonymous PIDs and challenges in managing anonymous PIDs	p 10

*Public hearing transcript, Brisbane, 1 June 2023

4 Committee comment

The committee congratulates the Ombudsman and his staff on their performance to date.

The committee notes the establishment of the Inspector of Detention Services role to be undertaken by the Ombudsman and looks forward to future updates on how this role is supporting continuous improvement for places of detention and related services throughout Queensland.

The committee acknowledges the new innovations introduced by the Office to foster good decision making across the public sector. During the year, the Ombudsman continued to release high quality publications of vital importance to Queensland. The committee also commends the Ombudsman and his Office for the important contribution they make to the oversight of PIDs, training and good governance in Queensland.

We note the findings of the Coaldrake Report and the recommendation that the independence of the Ombudsman be enhanced by the involvement of the committee in financial arrangements and management practices.

The committee appreciates the assistance and information provided by the Ombudsman and Office management and staff who have helped to facilitate the committee's oversight role.

Recommendation

The committee recommends that the House notes the contents of this report.

Appendix A - Abbreviations

annual report	The annual report of the Queensland Ombudsman for the 2021-22 financial period tabled on 26 September 2022
Coaldrake report	Professor Peter Coaldrake AO, <i>Let the sunshine in: Review of culture and accountability in the Queensland public sector</i> , Final Report, 28 June 2022
committee	Legal Affairs and Safety Committee
IDS Act	<i>Inspector of Detention Services Act 2022</i>
Office	Office of the Queensland Ombudsman
Ombudsman	Anthony Reilly
Ombudsman Act	<i>Ombudsman Act 2001</i>
PID(s)	public interest disclosure(s)
PID Act	<i>Public Interest Disclosure Act 2010</i>
Standing Orders	Standing Rules and Orders of the Legislative Assembly (Queensland)
public hearing	The public hearing held with the Office of the Queensland Ombudsman on 1 June 2023

