



Presenter – Graham Mabury

Guest – Chris Field, Western Australian Ombudsman

Graham Mabury: Yes it is indeed Dolly, we will be with you as quickly as we can but there are some important things that I want to put to our guest, State Ombudsman Chris Field. Good evening Chris.

Chris Field: Graham. So lovely to be here.

Graham Mabury: Good to have you with us mate, and covering the basics as we always do, as I think it's part of the great things that you choose to come in, we can help people to understand that first of all that you report the Parliament, not the government, so you can be truly independent.

Chris Field: Completely correct. That's a really important fact about the Ombudsman, the Ombudsman's office, right around the world that they are an officer of the Parliament, reporting directly to the Parliament and of the government of the day, whoever that government might be.

Graham Mabury: Exactly. So therefore you can investigate State Government departments without fear or favour, that your focus, the primary reason for your focus is, I suppose, in two words, due process – it's not so much whether the decision went for one person or against another, it's whether both persons got due process, got a fair go.

Chris Field: Yeah and often when you introduce the segment at the top of your show, Graham, you mention the idea of it being an umpire and keeping the process fair, and I think that's a really good description of what the Ombudsman is and what it's intended to do – it is intended to make sure that processes are fair, that the laws of Parliament are fairly, appropriately, legally undertaken by government departments.

Graham Mabury: Like all umpires, you have the right also to say to Parliament, you need to look at this, this was your intent but this is how the process is stuffing up, you need to address this.

Chris Field: Yes, well certainly if there was issues with the way the legislation was implemented by departments that could potentially be improved by either actions by the departments, or from time to time, potentially also changes to legislation, that's the sort of thing that we could recommend to Parliament.

Graham Mabury: So let me just file some case studies up so people can get a sense of how your office functions. Folks if you are in dispute with a State Government department or, because Chris is also the Energy Ombudsman, any issues with your electricity or gas supplier, call us up and we'll be happy to make him available to you. Chris, let's say I've had some work done in building a house and I am unhappy with the standard of the work, so I go back to the builder, the dispute rolls on, I'm not happy with what happens there so I go to the Board that governs those registered builders disputes. Then I become concerned that the person who was sent out to do the inspection, to give evidence to the Board, had some sort of conflict of interest, was insufficiently objective and that was never disclosed in the process, so I come to you. What can you do?

- Chris Field:** Well we can certainly, as you quite correctly say, we will always be looking for your attempt and your effort to try to resolve this matter directly with the relevant government department and that's an important thing to do, to encourage citizens/consumers of government services to try to resolve those matters in the most timely way, and the most cost effective way to them, and of course, to the tax payer generally. But certainly, if the matter isn't able to be resolved, we can investigate any government department, any State Government department, any university that's otherwise in the jurisdiction of the Ombudsman and that's most State Government departments, local governments and universities. Conflicts of interest are the sort of things that are regularly complained about, and it will depend on all of the circumstances, some conflicts of interest potentially may be so serious that they'd be matters that we refer to our Corruption and Crime Commission in this state. But, conflicts of interest can also be examined by our office and certainly where either an actual or perceived conflict of interest has affected a decision, it might be the sort of thing where we would make recommendations about ways that that needs to be remedied for the person who has used the service or has the issue.
- Graham Mabury:** So changing focus, let's say, let's imagine 'm in dispute with a neighbour or a proposed development in my neighbourhood and I've gone to my local government authority as I should. I've endeavoured to resolve the dispute with them. I believe that the fact that one of the significant decisions, let's say one of councillors stands to gain but has never declared that interest, and that's never been taken into account, again that's the sort of thing I can bring to you. Not to say, 'I don't want this development' and they say yes, but what I can say is 'there's an undeclared conflict of interest or there are aspects of this development that's never been considered'. Due process hasn't been followed.
- Chris Field:** Yes, well what's critical when decisions are made, is that a whole range of fairness steps are incorporated within it. Certainly the sort of things that can impact upon fairness are, a person has a conflict of interest that they haven't disclosed and managed appropriately, a conflict of interest that people would actually, or reasonably perceive to be affecting the impartiality of the decision that they've made.
- Graham Mabury:** Ok, and finally, then of the various sectors, are there some that keep your operators, your officers, busier than others? Are there hot button areas?
- Chris Field:** Yes. Look, the sort of areas that Ombudsmen right around the country tend to see more regularly are the ones of course that citizens use more regularly. So you'll tend to see complaints in child protection, in areas of corrective services, police. Although of course in this state, many of the police complaints are handled by the Corruption and Crime Commission. You'll also see complaints about local government as well, and a certain amount of complaints about universities. But Corrective Services are larger complaint area, Education, Child Protection, these are the ones that people use more regularly.
- Graham Mabury:** So with this new, Gary Adsett's first interview was with the new head of Department in Corrective Services. Whatever changes come down the pike and however Corrective Services is lined up, nevertheless, at the end of the day, the Department is in your barley wick, and if things are happening within prisons or to do with the Department of Corrective Services that people are concerned about, they have the right to come to you and say 'I have a concern'.
- Chris Field:** Yes that's absolutely right and that, of course, will be very regularly in our complaints to our office, are prisoners who raise complaints through the prison, through Corrective Services, and ultimately to us. But of course anyone who has any interaction with that department or any other State Government department, if that interaction, if that complaint, that concern that they have is unable to be resolved with the department, we are absolutely able to investigate the matter.
- Graham Mabury:** Hospitals?
- Chris Field:** Absolutely hospitals. Well the Department of Health and within the Department of Health all hospitals. Absolutely correct.
- Graham Mabury:** Folks, it's a pretty broad canvas. Dolly has got through to use first. Go ahead Dolly.
- Dolly:** Good evening Eric and Graham.

Graham Mabury: It's Chris and Graham, Dolly.

Dolly: Oh sorry.

Graham Mabury: That's no problem.

Dolly: Sorry about that, I apologise. I live in an area with a Housing Commission home. It's been unoccupied now for 10 months on Wednesday this week. There's been numerous calls put through to Housing Commission but nothing seems to get done about it.

Graham Mabury: Okay Dolly, thank you. Chris?

Chris Field: Thanks for your call Dolly, which we appreciate. Look it's an issue which could have potentially multiple explanations as to why a Housing Commission house is unoccupied, if indeed that is the case. And they're ones which may or may not be necessarily directly impacting or affecting you but what I can say is this. If you are contacting the Department, then obviously their response to you is something that needs to be obviously appropriate. Now I am not suggesting that in any way it isn't, but we would be interested to make sure that if you were concerned that any contact you were having with the Department, Housing Commission or any other department wasn't giving you an answer which you believed in all the circumstances was satisfactory, that's the sort of thing we can look at and say look, we've independently looked at that and, our view is either, it is a satisfactory response or alternatively isn't and therefore the Department, whichever department that may be, in this the Department of Housing, would need to provide a satisfactory response. I can't say, of course, why it's occupied or unoccupied, or whether that's appropriate or inappropriate. I also can't say without knowing the circumstances whether the Department's response is anything other than appropriate but what I can say is this Dolly, we're delighted if you want to give your details to Royston to have one of my staff contact you, we can do that tomorrow, have a quick chat to you and we can take the circumstances from you and see if there is any other action that is appropriate for us to take.

Graham Mabury: Stay on there Dolly and Royston will be with you shortly. The number to ring is 9221 1882 if you have a concern, if you're in dispute with any State Government department then you can just keep the dispute where it is and, as I say, I've got a heap to talk to Chris about tonight, and I'm stressing this as much as I am tonight because due to a couple of logistical reasons we weren't 100 per cent sure Chris would be able to join us until too late to put our normal little reminder that he's coming into the studio so that many more of our listeners would have known. So there is an opportunity to get through if you're the next caller, you'll be next on air and we just don't want to waste his kindness in coming in to make his expertise available and I'd be frustrated to think you've got a dispute with a State Government department, whether it's local government, education, police, prisons, whatever, justice, hospitals, whatever, and you didn't ring in to see what the next step could be, whether you were heading in the right direction and what could be done to resolve it. So, the Ombudsman is directly available to you, call us now 9221 1882.

[Break]

Graham Mabury: Okay folks, everyone in Western Australia is delighted at the moment Chris. No one has a problem with any government department.

Chris Field: Well I'm just absolutely delighted about that.

Graham Mabury: Or they're all watching Nelson Mandela's Memorial Service maybe, a few might have been taken away by that.

Chris Field: Very, very sad. I heard all of your words at the start of the program.

Graham Mabury: What is it about him that just, I really can't remember another figure that was so universally revered across cultures.

Chris Field: One of the most extraordinary individuals of all time.

Graham Mabury: I think so. No question. So mate, I'm going to go back to my case studies, what sort of a, and here obviously these are hypothetical, and obviously not confidential things that can't be revealed but what's your role with the police? When, because police have, obviously you think police have done the wrong thing, therefore you can go to the immediate superior officers for a review there, then I guess you go internal investigation. So when does it come to you and what's your role if someone's in dispute with the coppers?

Chris Field: It's a really good question. Basically, with complaints against the police, police do, and are able to, handle complaints internally. Now that does not mean that those complaints are not subject to independent scrutiny, they are, but like public government departments, some of those complaints can be subject to ultimately an independent umpire being their supervisor and be handled independently, sorry internally. That's a way a certain number of complaints will be handled and there's two independent bodies to which you can take police complaints in this state. One is my office, and we deal with a number of complaints about police every year. But principally, complaints about police in this state are dealt with by the Corruption and Crime Commission. So they are the principal external agency to handle complaints in this state. We deal with matters against police which tend to be down at the more administrative or more minor end of the scale. So historically the Ombudsman dealt with all of those complaints but a number of years ago and prior to me starting as Ombudsman, there was a significant part of our jurisdiction given to the Corruption and Crime Commission so they deal with the bulk of the police complaints in this state at the moment.

Graham Mabury: So in education, what about the Education Department?

Chris Field: Education Department is in our jurisdiction, we will handle the bulk of complaints in so far as its an independent, external Ombudsman doing that.

Graham Mabury: Non-government schools too?

Chris Field: No, not non-government schools. Almost exclusively all around the world, and certainly almost entirely in Australia, Ombudsman only deal with complaints against government departments, local governments and universities. So we don't handle complaints about non-government schools. We do from time to time in undertaking certain roles and jurisdiction will ask for information from non-government schools, which may be relevant, which may be pertinent to work that we're doing. Say, for example, our own motion investigations into certain areas that impact upon children, but we don't have a jurisdiction to handle complaints against non-government schools.

Graham Mabury: So with a government school, can you give us some examples of the sort of things that maybe, you can go Australia wide if you like, if you need to protect sources and things, what are the sort of areas in schools and in the education system that come to you?

Chris Field: People complain about, from time to time certainly about buildings, infrastructure and concerns they might have about creating new infrastructure, taking current infrastructure, whether historic or otherwise, that sort of matter. They'll complain about issues in relation to their children, principally of course, in relation to for example, not proceeding in a way that they thought they ought to proceed in terms of progress, as was mentioned, suspension, behavioural issues, how those behavioural issues are dealt with, suspension being one of those. So they would be the sorts of issues that people would complain about. Look, complaints about education providers, secondary schools in the state is not significant, not a significant number of complaints. The Department of Education does have a quite sophisticated internal complaint handling mechanism where they are able to deal with most of those complaints, and most of those complaints are dealt with to the satisfaction of people who bring complaints to them.

Graham Mabury: In terms of local government, is developments a key, like they want to do this new thing and I don't want it in my backyard, is that a fair bit of what you get?

Chris Field: Yes, we definitely get complaints about that, in relation to local government rates, along with issues with rates, issues with development is a significant one and others. Local governments are obviously at the coal face of providing lots of services and including those sort of planning and development type services and all the sorts of areas that local government provide in, you'll see complaints about.

Graham Mabury: Okay, so then folks I'm going to give you an opportunity, one last chance and we can only take calls up until 9.00, so if you don't get through, as I say, I'm well aware of the Memorial Service and I'm also well aware that we weren't able to give you as much advance warning as we normally do and you certainly don't have to rush outside and create a problem, but I always feel guilty when someone like the Ombudsman, who's got a reasonable number of demands on his time, and he could chat to me on the phone from the comfort of his arm chair, with perhaps a very amiable red in the other hand so the fact that he's in here in a less comfortable radio studio with somebody playing 'Ride of the Valkyries' on the roof, means that it would be great if his expertise could be used by you. So I'd just be very frustrated if he's here, and you're at home with an issue, with which he could help you, and we didn't connect the two. So pick up the phone, give us a call and we'll try and keep Chris as busy as we can after the news.

[BREAK]

Graham Mabury: Hey, welcome back. Danny has a question for the Ombudsman. Chris Field, the Ombudsman as you have just heard, is in the studio, and if you ring quickly, we'll try and get you to air. Danny go ahead.

Danny: G'day Graham. G'day Chris.

Chris Field: Hi Danny.

Danny: Hi. I'm working in Mosman Park at the moment, and the house we're working on was a new build at the moment, the house had been knocked down, it was an old State Housing house. The house next door is an old State Housing house, been vacant for the last 12 months, there's two others up the road as well. I thought the State Housing houses were going to be in every suburb, that was one of the government's, might have been Mr Barnett's pledge that everybody was going to have state housing. Now these houses are getting bowled over, and sold. Why aren't they getting new state houses put back on the same block?

Graham Mabury: Okay Danny, good question. Chris?

Chris Field: Well Danny, is this something you've raised with the Housing Commission?

Danny: No, I'm working next door to a State Housing house. I've seen people down in Mullaloo Car Park, they're sleeping rough. There's ladies, there's kids. These houses are sat dormant, sort of thing. No I haven't. I'm just working away here and I thought I would give you a call.

Graham Mabury: Good on you Danny. So if a member of the community like Danny can see this stock seems to be empty forever, and I've seen people at my local beach sleeping rough, how do they take that up with the Commission?

Chris Field: There's a couple of things that anyone in Danny's circumstances can do if they're concerned about any matter which they think is a matter of policy. They can always raise it, ways that people would raise those sorts of issues, is with their local MP and the sorts of ways that people raise those sorts of policies. The Ombudsman himself doesn't consider government policy as such, and I don't want to comment upon any aspect of that. But what I will say is this. You can certainly raise, and it would be quite appropriate for any member of the community if they had a concern about Housing Commission stock and anything in relation to it, to raise that with the Department. I have confidence that the Department as a general proposition would answer those questions to the best of their abilities and it would be appropriate to do so in a timely way. If, however, it wasn't the case that that was the response that they received, that's the sort of thing a person could raise with our office.

Graham Mabury: Which you've already said to Dolly.

- Chris Field:** That's right. And the same answer would very much apply to the answer we gave to Dolly earlier on Graham.
- Graham Mabury:** Chris, I think this is much more in the bullseye. Chris, welcome along.
- Chris:** Hi.
- Graham Mabury:** You go ahead.
- Chris:** Chris and Graham, I've got a caravan, and it's in housing, commission housing, and they told me that for inspection I've got to rid of it and it's a [broken speech] van.
- Graham Mabury:** Chris, it's just a very ordinary line. Let me make sure we're hearing you right, buddy. Just for Chris's sake. Are you saying you have a caravan and the housing department has, are you renting from the housing department Chris?
- Chris:** I am at the moment, yes.
- Graham Mabury:** And they've come and inspected your rental...
- Chris:** And told me that I've got to sell the caravan. It doesn't make any sense. My wife's been dead about nine years, but the only work I had was picking up the van itself. And I've got to get rid of it.
- Graham Mabury:** So they're saying - now are they saying you have to sell it or that you just have to relocate somewhere rather than your block, your house?
- Chris:** Well I'm on the corner. I've got fined for it before when it was left outside. So I brought it back in behind the post box.
- Graham Mabury:** Have you appealed the decision Chris?
- Chris:** No, I haven't appealed that decision because that was in writing and I'm just out of hospital, I've been out for a while, but they're determined to get rid of it.
- Graham Mabury:** Okay, Chris, where do we go?
- Chris Field:** Chris, thanks so much for your call. I understand you've raised this issue with the Department and I think under those circumstances, rather than go into it as the Department is in the jurisdiction of the Ombudsman, you've raised the issue with the Department, at this stage you're uncertain about the response you've received and you obviously need some certainty about, or some understanding about the response, so we'd be very happy to take your details off-air. We can contact you tomorrow, we can have a talk to you about what, if anything, should be done in relation to making sure that you're clear about the way forward.
- Graham Mabury:** And maybe I should say, just in the interests of fairness, that we did have an approach from the Housing Department saying that they wanted to come on Nightline to make themselves directly available to their clients and we've done that once, so that's a kind of put your toe in the water. Steve Allsop came in with Mike Winchester. I'm sure we'll be doing that again next year. So our experience with the Housing Department is they're very keen to make direct contact and try and sort things out.
- Chris Field:** And look, Graham, that's been our experience as well, they're providing an important service and I think generally speaking, do a very good job of that.
- Graham Mabury:** Chris, just very quickly, we've got time just for a quick response to this. From Henry, he says could you ask the Ombudsman when constructing government building under tender, foreign companies seem to get priority, they don't seem to have to abide by Australian Standards and occupational health and safety regulations and I understand that they don't need a White Card to attend building sites.

Chris Field: Well, that's the sort of matter that potentially could be raised with government and ultimately if the response is not one that is satisfactory to the listener, then they could certainly raise it with the Ombudsman's office because those particular details I am not aware of Graham.

Graham Mabury: Henry, you might say that probably the first point is, especially if you're local Member of Parliament is in the opposition, I'd be going there first up because if those allegations happen to be true, they would just love to get on their feet in Question Time and put those very questions to the person opposite in the house. Chris, have a great Christmas.

Chris Field: To you and your listeners, a wonderful Christmas Graham.

Graham Mabury: Always appreciate you making yourself available to us, the State Ombudsman Chris Field.

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