



Presenter – Graham Mabury

Guest – Chris Field, Western Australian Ombudsman

Introduction: Now on Nightline, it's your direct line to the Ombudsman.

Graham Mabury: Yes it is, and as I said in introducing Chris, the first Ombudsman to be willing to come on and take your calls, and give you the benefit of his expertise, and we want you to keep him busy. Chris, how are you?

Chris Field: Graham, always a pleasure and a privilege to be here.

Graham Mabury: And your daughter had a win in her debate this evening, what's more.

Chris Field: I was very proud of my daughter tonight up there. Who would have thought two lawyers would have produced a debater?

Graham Mabury: Go figure! What was that about the apple and the tree, or something? Very quickly, I've been stressing, because I think a lot of people still don't understand, that let's say you have a problem with the Police, or a problem with the Education Department, and you go through the process with them. And it's not that, we always stress when you come in, it's not that you don't like their decision, because you lost. The decision is kind of almost secondary. But you really feel as though due process was not followed. So they would not take certain evidence into consideration, or someone – the example I just gave before you joined us, some building work being inspected but they felt that the person chosen to inspect had a significant conflict of interest that was never acknowledged, those are the sort of things that you have absolute right to investigate, yes?

Chris Field: Yes that's absolutely spot on Graham. The role of the Ombudsman is to investigate how the laws of Parliament are administered by government agencies. So we don't look so much at the final decision that was raised, but how that decision was arrived at. So it's about the administration, it's about the fairness, it's about the reasonableness, it's about the fact that it was legally correct. They're the sorts of issues we investigate.

Graham Mabury: And that one I've gone with because it is, a lot of people think, well we've come to the end of the process with this government department, be it a local government authority, or my local shire or city, or I've come to the end of the process with the coppers, or I've come to the end of the process with the Education Department. But that's not the end of the line, because your department then can get involved if there's been some problem with that process.

Chris Field: That's completely correct. People can certainly come to us if they're dissatisfied with the process, if they think it's been unfair, if there's any issue with that process. It can be about the time it took, it can be about the way it was done. They can come and see us, we can assess it. We can investigate, and we will regularly of course ensure that there's appropriate changes to the way administration occurs and also appropriate remedies for the people who make complaints to us.

Graham Mabury: Rivetingly interesting as I'm sure they are, nevertheless most people won't have read your reports to the Parliament each year. So therefore they may not know that what you do is also, every so often somebody goes through a personal experience, and the process as it exists has been applied correctly, but the process itself is flawed. And you have the right to say to the Parliament, you need to address this.

Chris Field: Yeah that's completely correct. Look certainly we can do two principle forms of reporting. We can do reporting on any investigation we undertake, our own motion investigation works, and we table those in Parliament and report those directly to Parliament. And they are public documents and can be discussed by our Parliament and by the public. And certainly in relation to our Annual Report, which is an important report that we produce every year, a report to Parliament that discusses the work that we do, in a de-identified way of course, we don't talk about individual complaints. But it talks about the sorts of themes and issues that have arisen over the previous 12 months, and looking back over a number of years for the themes that have developed in Public Administration.

Graham Mabury: Let's take that earlier one that I mentioned. Someone's had some work done, they feel it's really been substandard, they are then in dispute with the company that did the work for them. That goes to the relevant State Government authority or tribunal that decides those things. They feel there's an unacknowledged conflict of interest, so then in that case, I would imagine in many, many cases your office is actually able to resolve it without it having to go, like via mediation and via discussion, it doesn't become another hearing with you, if you know what I mean? Like it could often resolve, you'll find that the relevant bodies are willing to reopen it or readdress it, or can negotiate another path.

Chris Field: Graham that's a really important point that people should be aware of. Because it's also in every tax payers interests that we don't spend years and years investigating every matter, and lawyers at 30 paces.

Graham Mabury: Yes, because it all costs us.

Chris Field: We don't operate that way. We operate in a way that we try to resolve matters as early as possible. And the vast bulk of the complaints that we receive in our office are resolved in a couple of weeks, or within those first few weeks that they arrive in our office. So that's an important way that we can do our work. It's in everyone's interest if we do it that way. And as I say, that's part of the culture of my organisation that we don't take longer than we ought to, to resolve the matters.

Graham Mabury: Folks, the Ombudsman is here. Norma and Adam will get first go, they got through first. But we will take your calls strictly in the order we get them. We can't go beyond, we wouldn't ask him to anyway, but we can't go beyond 9:00, but if you have any area where you think, you know what, I've been in dispute, or even if you think you're just being pushed around, or you're going around a bureaucratic merry-go-round and you can't seem to break through to get to the next level of resolution, give us a call. The worst that could happen is that Chris will be saying well that's not in our area. But he may well know whose job it is, or be able to point you in the right direction to resolve the situation you are trying to address. And don't forget he's also the Ombudsman for power and energy supply, so any problems with electricity and gas, 9221 1882.

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- Introduction:** Now on Nightline, it's your direct line to the Ombudsman.
- Graham Mabury:** Hey, welcome back. We have the Ombudsman with us. Chris Field the State Ombudsman that is, and Norma you get to go first, because you rang first.
- Norma:** Good evening Graham and Chris.
- Chris Field:** Hi Norma.
- Norma:** Thank you for the opportunity. Now I've got a problem. I'm trying to get, I won't go into the reason why I needed to read my meter at one stage, but I was finding it very hard. I don't know if you know how to read a meter Chris, but some things you have to read backwards and some forwards, and I was making mistakes. So I was getting bills like \$400 or something when I normally would have got about \$170. So I requested back about 4 months ago, that I get them to read the meter again. Well that is not easy, because as you probably know, Western Power have contractors. And to get through to Western Power which I've done by letter, then they say ring Synergy. I've rung them and I've got a message that Synergy know all about it. Then I get another Western Power letter; I've got to let Synergy know. And I know I've already done that. Then I get a guy come around reading everybody else's meter, and I said look, can you read my meter, because it's gone now about 4 months. He said no, because we've got no record of you being on here. So I don't know how, I've sent another letter back to Western Power, but I don't know how I'm going to get somebody to read my meter again.
- Chris Field:** Look, thanks so much for your call Norma, and an important issue. Certainly the self-reading of meters does occur in certain circumstances, and is appropriate in circumstances. And of course there's also the need and requirement for reads being done, reading of the meter being done by Western Power, Synergy. So the reality is, you certainly will ultimately need to have that meter read, and I hear what you've said, that you've spoken to both Western Power and Synergy. So what we would normally say to you at this stage is if you haven't achieved what you believe is a satisfactory result, and that is your certainty about the reading of the meter and the meterage of your account, you can certainly come to our office and make a complaint. That would apply to any of Graham's listeners in similar circumstances. But you've done the right thing to go to the company first, that's what we would always tell people to do. That's the right thing, to see if a problem can be resolved at that level. What we will do Norma, if you are happy for us to do this, is my staff can give you a call tomorrow, if you can give your number to Royston off air, and we can see, if there's any matters we can assist with, in relation to resolving this complaint with you and obviously with Synergy and Western Power.
- Graham Mabury:** Ok, good question Norma. Very interesting, and classic. Because you could end up, it's a bit like when you're in dispute with the tax department and so then you've got to wait, and the biggest worry then is how much tax bill am I going to have at the end? Because electricity bills now are not insignificant, and month after month after month it's kind of going up. Thanks for the question Norma. Adam good evening, your question?
- Adam:** Good evening Graham, Chris. Mine's actually pretty similar to the example you gave earlier Graham. We lodged a complaint with the Building Commission about a builder that built our house, on contractual and workmanship grounds. And as part of that, we had to supply the entire contract, all the evidence we had to back up our case. We were lead to believe that someone was investigating the claim, and they were going to make a ruling. It's taken six months and we've just been told that we're just being sent to mediation, which to me seems a bit of a cop out. Because apparently if we then can't arrange an agreement between us and the builder, we then get sent to the State Administrative Tribunal.

Adam (continued): So I'm starting to wonder how long this is going to take to get resolved, when I thought their legal department would have just read the contract, looked at our evidence, the builder has supplied no evidence to back up his claim, because we haven't received copies of any, and that the legal department of the Building Commission would have just ruled either way, that we are entitled to the money or we are not entitled to the money. I just can't see why we are being sent to mediation really. And I was actually going to ring the manager of the complaints department tomorrow, and then I heard that you were going to be on tonight Chris, and thought I'd run it past you first.

Chris Field: Look thanks so much for your call Adam, which we appreciate. The reality is that you have obviously done what you ought to have done, and that's taken the complaint to the Building Commission. They are the agency who can examine complaints in this area, and as you've also said in raising this issue, some of those matters might ultimately be referred to the State Administrative Tribunal. In relation to the Building Commission, yes they do use processes and often typical processes for agencies like that, of mediation and other matters, and building matters can be complex and can take a period of time to resolve. Look, we can certainly look at some issues in relation to the Building Commission. Other matters might properly be ones which are dealt with by the Commission or by the Tribunal. I think in a case like this, Adam it's really dependent upon the facts, the particular facts of the circumstances. It's certainly something that was very sensible for you to raise with us, and people who have concerns with the Building Commission, once they've discussed it with the Building Commission, if they weren't satisfied with the explanations they received they could come to our office to see if we can assist with any further explanation. In this particular circumstance, really it's the facts of the individual issue. It may be that that amount of time is appropriate in the circumstances, I can't say without knowing more about it. So if you were happy to do so, we could certainly take your number off air, and one of my staff could talk to you tomorrow, in relation to any of the particular issues of the matter, and see if there is anything further that can be done. It seems to me, really what you are looking for is a level of explanation, and that's certainly something that might be facilitated.

Graham Mabury: Ok. Good stuff Adam, I'll just put you on hold, and Royston will make sure we get that done. Dusan and Tony, stay right where you are, and the Ombudsman will be with you next.

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Introduction: Now on Nightline, it's your direct line to the Ombudsman.

Graham Mabury: Welcome back, its 13 to 9 on 6PR. We have the State Ombudsman Chris Field in the studio with us, and Dusan, your question.

Dusan: Thank you.

Graham Mabury: Go ahead.

Dusan: My question. Yes I would like to ask, I live nearby a shopping centre. I built house in 1973, area was established. In 1975, local government brought decision to redevelop the area into a major shopping centre. At that time, I had built house legally licenced, but that redevelopment caused a problem re the value of the property because it does not look like it was. That wasn't all. In 2005, in the left area between me, my fence and the shopping building was about 8 metres. In that time, a sand company with the help of the local government planning, put something which further reduced the value of my property. Large, industrial big tanks, which are very ugly, 4 metres away from the fence or something like this. I wasn't happy with that, neither was I asked regarding that. That drastically reduced the value of my property again. I approached the local government about this and I reported and gave a report of the influence of that project on my property, and they never ever want to take notice and talk to me.

Dusan (continued): I wasn't happy with how the licencing had gone. I was told many different times in different ways, one time this way, another time this way, so I wasn't happy with that. And when I see these tanks behind my fence, I went to the local government planning department and ask, what is that? And who authorised that? And the man at the department couldn't find nothing that should be down there. And I said how is that? He said there is no evidence that anything should be down there. I was especially disappointed about that because that has happened. People don't know what should be there, when it's already there. I wasn't happy and I tried to dig further to find out how did this happen. I couldn't go too far, and I really want to know the truth about the licences, who put it and why put it, and why the local government planning didn't have proof. And I ask what it is. Anyhow, I have employed a solicitor, which I want to know what is really truth about that, who am I going to ask for damages. Whether the shopping centre or ask the council or something like this, and the solicitor tried to find this, and he went through all this investigation –

Graham Mabury: Dusan, we need to come to the question. There is someone else waiting. So your question is?

Dusan: Am I entitled to damages?

Graham Mabury: Ok, on the basis of that, Chris?

Chris Field: Dusan thank you so much for your call. I can't talk about that specific answer in relation to your question, but I might just talk about a couple of issues generally, then we can talk to Dusan about what we might be able to do in relation to your particular question. Generally, as we have said on the program before, it is important for people to know that the Ombudsman is the Ombudsman for state government departments but also for local governments, so if you have a complaint about local government you can bring that complaint to my office. A couple of issues that are raised, that are worth mentioning arising out of your call Dusan. One is that generally those complaints are about matters that you first have notice of as the person making the complaint within the last 12 months. So it's generally not matters that go back many many years but ones which you first had notice of during that period. And second of all, generally speaking, all though once again there is a capacity for us to have discretion about this, but generally speaking if you have a legal remedy available to you, you would pursue that, and not use my office to do that. So in relation to your particular issue, as to whether you have particular remedies in this case ones that you could ask us to have a look at, we have to get some further facts and details from you about the particular matter when you first had notice of them. The sorts of remedies you are talking about that weren't legal remedies, for example that you'd as you said, use a lawyer to pursue. So we're very happy if you want to, to take your details off air, and we can talk to you about that over the next day or so.

Graham Mabury: Dusan thank you for that, and sorry to have to move you along but we just must get to Tony, who has been waiting patiently. But stay on the line, Royston will be with you just to get your permission for that. Tony, go ahead.

Tony: Thank you Graham.

Graham Mabury: Pleasure.

Tony: Good evening Chris.

Chris Field: Hi Tony.

Tony: Hi. Look my basic issue is, I was married for about 10 years, and I was divorced, my wife moved on with someone else. And basically I had an altercation with one of my sons one day. He was having a bit of fight with his brother in the car, and I physically assaulted him. It wasn't to a great extent. I was dealt with in accord, and the judge agreed that it was just hot-headedness on my

behalf in dealing with the situation. Anyway, my wife, or ex-wife then, decided to take out a restraining order on me against her and my three kids. Basically due to the fact that she was a police officer. The person she left me for was a police officer, it was sort of a combined issue, where I believe they just didn't want me to see my kids. But besides that, I've been fighting through the courts, I've beat the restraining orders in the courts. The magistrate agreed with me that it was very fanciful. He granted a 2 year order against my son that was assaulted, and that 2 year order is way past now. I've actually spoken to my son. He is fine. But my other 2 kids I haven't been able to see, and the court has actually ordered that I see my daughter who is 12, through an agency. And my ex-wife decided to turn up in a police car with my daughter, and has caused a bit of a drama there by sort of disrupting her, you know what I mean? Turning up in a police car, in police uniform to drop my daughter off to see me, and has made me look like the nasty man. Basically she was 10 at this time, so she didn't really know. They've refused me to see her, and I've just got, I don't know where I turn from here. I've spoken to the Commissioner once about it, and he didn't return my call, so I really would like to see my daughter.

Graham Mabury: Yes, ok Tony, obviously. Chris.

Chris Field: Yeah, thanks so much Tony for your call, and in relation to complaints about the Western Australian Police, yes we can examine complaints, allegations of behaviour but the majority of complaints are dealt with by the Corruption and Crime Commission in this state in relation to Police. And the allegations that you're making obviously stress that their, as you would understand allegations, would be matters that would most appropriately be raised I think in the first instance with the Corruption and Crime Commission. Now it may also be that it's appropriate for some internal investigation of those matters by Police, which is also, in fact those internal matters are also accountable to external agencies but I think in the first instance that would probably be the best place to take your complaint because of the nature of your allegations.

Graham Mabury: Ok and Tony, just on a much more personal level, I've found that the team, and I'll put you back to Royston to give you the contact details here, no need for you to respond on air, but the team at Dads at Lifeline, who are the peak body for dads who are raising their children on their own, or Dads who are seeking to have effective non-custodial access to their children, I've sent many a person to them, and got many a good report back. So you may well want to have that resource at your disposal. Time is flying away again Chris. If people want to get in touch with your department, they should ring?

Chris Field: They can ring. We have both internet of course, www.ombudsman.wa.gov.au, and also our phone number is 9220 7555 or 1800 117 000 which is a free call.

Graham Mabury: Thank you very much buddy.

Chris Field: Pleasure as always Graham.

Graham Mabury: It was good fun.

Contact Details

Level 2, Albert Facey House, 469 Wellington Street Perth WA 6000 • PO Box Z5386 St Georges Terrace Perth WA 6831
Tel 08 9220 7555 • Freecall (outside metropolitan area) 1800 117 000 • Fax 08 9220 7500
Email mail@ombudsman.wa.gov.au • Website www.ombudsman.wa.gov.au