

# Western Australian Ombudsman

Edition 1, March 2008

## In this issue...

Public sector highly responsive to Ombudsman recommendations 1

Message from the Ombudsman 2

Enhanced approach to resolving complaints and improving public administration 3

Property loss highlights importance of following policy 4

Did you know? 4

Fee complaint results in remedy for many 5

Our staff: Sarah Cowie 5

## Public sector highly responsive to Ombudsman recommendations

A recent examination of the action taken by public sector agencies as a result of our recommendations shows that they are implemented in 97% of cases.

This very positive result was identified through a significant project recently completed by our office that looked at whether recommendations made by the Ombudsman over a six year period had been implemented by public sector agencies. Our focus was to determine whether agencies that had accepted our recommendations and suggestions had subsequently put them into practice.

The review showed that action taken by public sector agencies to assist complainants included expediting action, reducing or refunding fees and charges, explaining reasons for decisions, making an apology and providing compensation payments.

Actions taken to improve future administrative practices included:

- changes to organisational policies and procedures;
- training staff; and
- improving record keeping.

In our view, this project demonstrates that the Western Australian public sector embraces the opportunity to improve the standard of administrative practices and conduct. The results of the project also give Parliament and the Western Australian public confidence that the public sector continues to be accountable for its actions and decisions, acts effectively to resolve complaints when people are affected by poor administrative practices and is working to improve the level of service people receive.

# Message from the Ombudsman

It gives me great pleasure to welcome you to the first edition of our electronic newsletter. We hope that this newsletter will provide you with useful information about the work of the Western Australian Ombudsman.



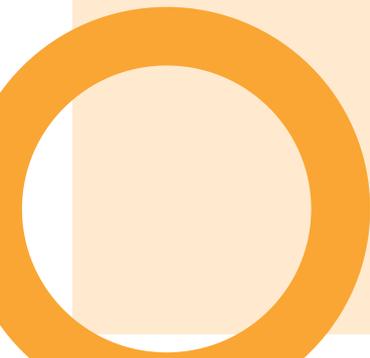
As many readers will already know, the Ombudsman is an independent statutory office that reports directly to the Western Australian Parliament. The office itself has a considerable history. Indeed, Western Australia led this country in creating the office of the Ombudsman in 1972. Outside of Australia, the office of the Ombudsman has a longer history again – the Swedish Ombudsman will celebrate its bicentennial year in 2009.

The Ombudsman undertakes two principal functions. First, we seek to resolve complaints that people have with the public service, local governments and public universities. Second, we aim to improve public administration for the benefit of all Western Australians. To do so, we undertake a range of activities, including education and liaison with public administrators, investigations arising from complaints made to us, investigations of our own motion and activities designed to improve the delivery of public services. In all that we do, we seek to be fair, impartial, accountable, timely, efficient and effective.

At the heart of the Ombudsman's office is a simple, but fundamental notion – we exist to serve the Western Australian Parliament and we exist to serve Western Australians. As part of this public service, we believe that it is vitally important that we communicate what we do, and how we do it, to our stakeholders. This newsletter is part of our communication strategy and we hope you find it valuable.

A handwritten signature in blue ink, appearing to read 'Chris Field'. The signature is stylized and fluid.

Chris Field





# Enhanced approach to resolving complaints and improving public administration

The Western Australian Ombudsman has always had a strong commitment to the effective and timely resolution of complaints from individuals. We also have an important role in improving public administration at a systemic level.

The focus of the office over the past three years has been on reviewing and refining operational processes and management systems to improve the efficiency, timeliness and quality of investigations and strengthen the office's corporate governance capacity. The office has made substantial progress over this period and is now well placed to move forward. Two key priorities for the future are:

- to continue to build on the improvements in timeliness and efficiency of complaint resolution that have been achieved over the past few years; and
- to take a stronger and more strategic approach to improving public administration at the systemic level.

With these two priorities in mind, the office put into place a new structure in mid March 2008. Responsibility for resolving complaints will be shared between two teams. This is designed to streamline complaint handling, give a clearer focus to quick and informal resolution of simple matters and allow a more flexible and efficient use of resources.

The new structure will also involve the formation of a new Administrative Improvement team with responsibility for a broad range of strategies aimed at improving administrative practice across the public sector. This team will have responsibility for major investigations initiated by the Ombudsman. In addition, it will undertake activities such as the provision of advice to agencies, audits of agency practices and the development of resource materials whose primary purpose is to improve administration. The team will also have responsibility for monitoring compliance by the Corruption and Crime Commission and Western Australian Police with telecommunications intercept legislation.

In addition a new Strategic and Corporate Services team has been established to support the office in strengthening our strategic focus and responding in a timely and effective way to emerging issues of significant concern. This team encompasses Research and Projects, Communications and Business Services. As well as undertaking strategic projects, it will enhance our capacity to communicate effectively with agencies and the public and to play a leading role in promoting integrity across the sector.

Our new approach will provide the basis for new and enhanced functionality as the office continues to develop.

## Property loss highlights importance of following policy

A complaint about lost property in a hospital has shown that good policies are not enough – they also need to be implemented effectively.

The daughter of a woman who had undergone surgery at a local hospital complained that her mother's suitcase and bag had gone missing sometime after her admission. The suitcase was found on another ward but a search failed to uncover the missing bag, which contained items of some value.

The daughter sought compensation for the missing bag and its contents, but the hospital denied liability because there was no record of the property being brought into the hospital.

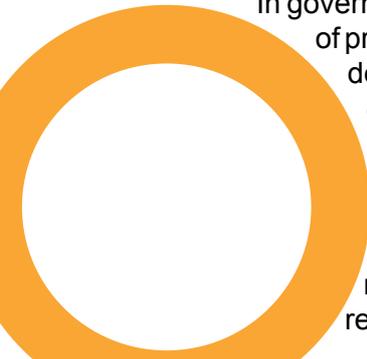
Our investigation revealed that it was hospital policy that the property section of the admission form be completed as soon as possible after the patient's arrival in order to prevent such situations arising. Additionally, closed circuit television footage of the patient's arrival had not been reviewed by hospital security, which would probably have established whether the bag had accompanied the patient to the hospital.

In this case the hospital failed to comply with its policies and procedures and we asked the hospital to consider providing redress to the woman and look to implementing changes that would help prevent similar situations arising. The hospital agreed to consider appropriate compensation to the complainant. Consideration is also being given to changes to the hospital's property policy.

Hospitals are often busy and stressful environments. However this situation highlights the responsibility of all staff to be familiar with and follow internal processes and policies that safeguard both employees and their clients.

## Did you know?

Procedural fairness is concerned with the procedures used by a decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision. The Ombudsman considers it highly likely that a decision-maker who follows a fair procedure will reach a fair and correct decision.



In government decision-making, the rules of procedural fairness mainly apply to decisions that negatively affect an existing interest. For instance, they would apply to a decision to cancel a licence or benefit; to discipline an employee; to impose a penalty; or publish a report that damages a person's reputation.

Procedural fairness also applies where a person has a legitimate expectation (for example, continuing to receive a benefit such as a travel concession). Procedural fairness protects legitimate expectations as well as legal rights. It is less likely to apply to routine administration and policy-making, or to decisions that initially give a benefit (for example, issuing a licence in the first instance).

Procedural fairness is an essential part of a professional investigation and benefits both parties. If you are investigating a matter or preparing a report for a decision-maker, it is good practice to consider the requirements of procedural fairness at every stage of your investigation.

For more information about procedural fairness, see the Ombudsman's fact sheet [Procedural fairness \(natural justice\)](#).

## Western Australian Ombudsman

Level 12, 44 St Georges Terrace Perth WA 6000  
PO Box Z5386 St Georges Terrace Perth WA 6831  
Tel 08 9220 7555 • Fax 08 9325 1107  
Freecall (outside metropolitan area) 1800 117 000  
Email [mail@ombudsman.wa.gov.au](mailto:mail@ombudsman.wa.gov.au)  
Website [www.ombudsman.wa.gov.au](http://www.ombudsman.wa.gov.au)

# Fee complaint results in remedy for many

Legislative change is underway following a recent complaint by a prisoner who had applied to have his court-ordered fines converted to time spent in prison. He believed that enforcement fees had been applied incorrectly, increasing the number of days of his imprisonment.

Following our investigation, it was acknowledged that the fees had been incorrectly applied, and the prisoner's sentence was subsequently reduced by five days.

However we also believed that consideration should also be given to other prisoners who were (or may have been) in a similar situation.

One hundred and twenty nine prisoners in similar situations were identified by the Department of the Attorney General, and their sentences were reduced accordingly. In addition, it was found that people who had paid fines rather than go to prison had paid too much and nearly \$46,000 in overpayment of fees was refunded to them.

For most people affected this meant that the problem was resolved. However there were some people who had already served time in prison and been released before the problem was identified. We were therefore pleased that the Attorney General initiated legislative changes to enable retrospective remedial action to be taken for this group. Cabinet approval has been given for Parliamentary Counsel to draft the *Fines Legislation Amendment Bill*. Drafting is expected to begin this month and the Bill is expected to be introduced into Parliament some time this year.

The constructive response by the Department of the Attorney General to address the problem has produced a fair outcome for affected individuals and improved processes for the future. This case highlights the importance of the Ombudsman's role in taking up complaints that cannot be resolved internally, and working with agencies to deal with systemic issues that become apparent through that process.

## Our staff: Sarah Cowie



Sarah Cowie was recently appointed to the role of Director, Research and Projects. This new position will focus on researching issues relating to public administration and will undertake projects to support the office. With nearly 20 years public sector experience, Sarah joined the Western Australian Ombudsman in 2001. She brings many qualities to this position, including a strategic perspective and sound understanding of the work of the Ombudsman. Her appointment provides leadership and direction to a number of strategic and corporate projects critical to the office.

"I believe that the Ombudsman plays an important role in promoting administrative improvement across the public sector," Sarah says. "I enjoy being a part of this process and helping people successfully resolve their complaints – resolutions that might not be possible without the Ombudsman's office."