



The Queensland Ombudsman:

An introduction to our services and investigations

Webinar hosted by Community Legal Centres Queensland
11 October 2022



What do we do?

- The Queensland Ombudsman gives people a **timely, effective** and **independent** way to investigate administrative actions of agencies
- Our complaints investigation service is free and confidential.

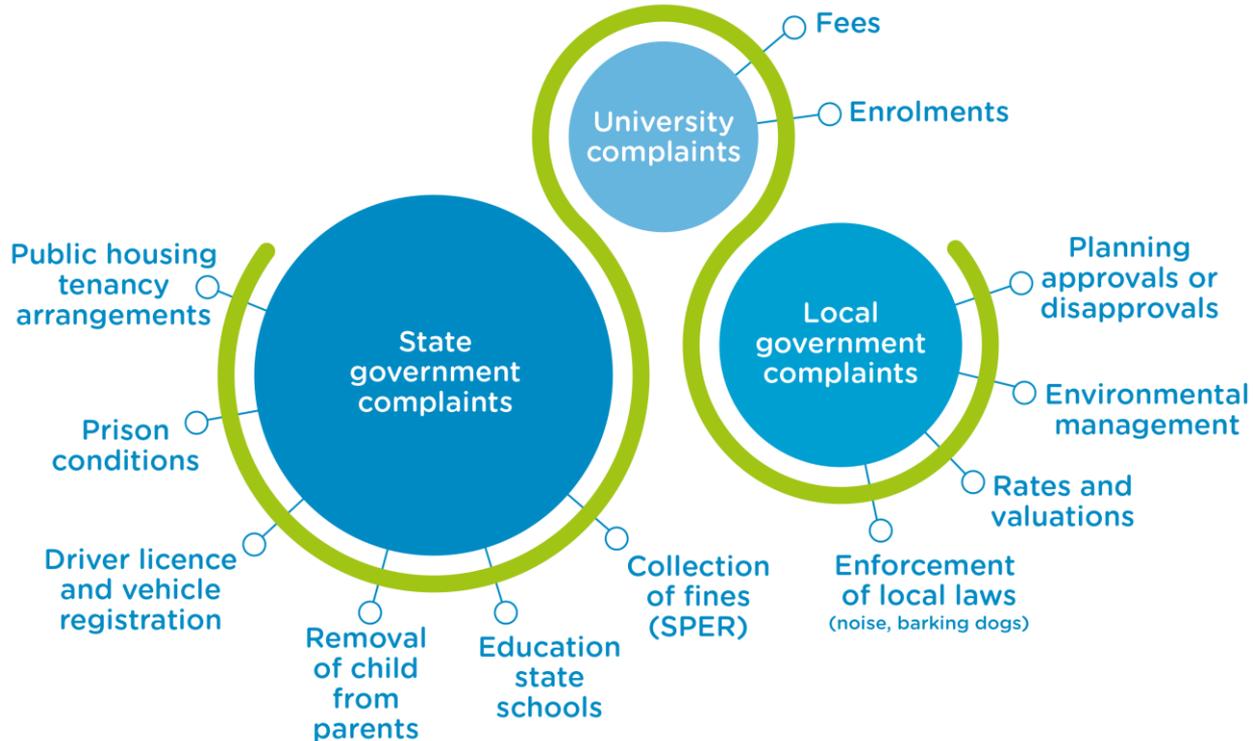


What do we do?

- Under the *Ombudsman Act 2001*, we investigate complaints about the decisions and actions of:
 - state government departments and agencies (including state schools)
 - local councils
 - public universities.
- We can recommend ways to fix unfair decisions, actions and services.



Examples of complaints



What to expect if you make a complaint to us

We assess the complaint to see if it can be investigated.

We may:

- assist you to make the complaint directly to the agency involved
- assist you to make your complaint to another review body, e.g. Energy and Water Ombudsman
- accept the complaint for investigation

Contact the agency first

- All Queensland state and local government agencies are required by law to have a Complaints Management System, referred to as a CMS.
- A CMS should be visible on the agency's public website and in the agency's offices.

Find the correct external complaints body

Finding the correct external complaints body to contact depends on what the complaint is about.

For a current list, search for
'other complaint handling organisations'
at www.ombudsman.qld.gov.au

Some other complaint handling bodies



Energy or water supplied to a home or business

Energy and Water Ombudsman

Banks, credit unions, superannuation, financial services

Australian Financial Complaints Authority

Payment of wages, dismissal and workplace disputes

Fair Work Ombudsman

Products or services bought or rented from a business

Office of Fair Trading

Telephone or internet

Telecommunication Industry Ombudsman

Health services

Office of the Health Ombudsman

Corruption and misconduct

Crime and Corruption Commission

Australian government departments or agencies

Commonwealth Ombudsman

When to contact us

Contact us if you:

- are unsure who to complain to
- have used the agency's CMS and your complaint has not been resolved
- want to make a public interest disclosure
- are a community group and are seeing significant, recurring problems for your clients.



Department of Communities, Housing and Digital Economy

Will cover:

- types of things we may be able to assist with
- Case study 1 - an Ombudsman investigation
- Case study 2 - case dealt with on assessment.

May be able to assist

If you believe the legislation or policy has not been applied correctly or fairly.

Example of types of issues:

- eligibility for social housing
- treatment in relation to waiting list
- transfers
- maintenance issues.



Policy matters

Cannot assist with:

- Government policy and priorities
Example – the extent to which a group of applicants are given priority for social housing

May be able to assist if:

- You believe legislation or policy has an unfair or unintended result
Example – policy around how income is calculated for means test

Unlikely to be able to assist:

- Where something critical has happened or is about to happen
Example – Notice to leave, termination order sought
This is in legal sphere – need to explore legal options – set out in *Residential Tenancies and Rooming Accommodation Act 2008*

Case study 1

Social housing tenant

Verbal warning about
'intimidation and stalking
behaviours'

Complaint

- falsely accused
- not given the opportunity to tell his side or defend himself
- ‘when I asked for evidence like date /time/ scenario of what I was of meant to have done, they refused to comment ...’
- wants evidence of the accusations or for them to take the warning back

Issue for investigation

Whether (the complainant) was afforded procedural fairness in relation to the department's decision to substantiate the complaints against him for 'intimidation and stalking behaviours' and/or 'threatening' which formed part of the department's decision to issue a verbal warning.

Investigation

We sought information from the department including:

- copies of correspondence between the department and the complainant about his complaint
- the evidence the department relied on in substantiating the complaint
- advice as to how it concluded his behaviour was ‘intimidating and/or threatening’
- relevant department notes.

Investigation

We wrote to the department and expressed concern the department:

- may not have complied with its procedures requiring the tenant be given an opportunity to verbally provide their side of the story
- relied on information which was not probative evidence of the conduct.

We sought the department's response.

Further correspondence with department around:

- what is required for procedural fairness
- how this interacts with privacy considerations.

Met with department to discuss.

Outcome

The Department decided:

- while the officers were attempting to provide a fair hearing, the recordkeeping was inadequate and it was not clear the complainant was afforded natural justice
- it would write to the complainant and withdraw the verbal warning
- to make administrative improvements by reminding officers of the importance of natural justice and keeping accurate and complete file notes.

Our investigation was discontinued on this basis.

Case study 2

Social housing units designed for people with disabilities

Access to loading zone removed during extended property maintenance works

No safe alternative area identified
– posed risk to residents

Issue raised with department but no action taken

Assessment

Section 12(1)(a) *Public Interest Disclosure Act 2010* – assessed as being ‘about a substantial and specific danger to the health or safety of a person with a disability’

Section 31 – a public sector entity which receives a PID against another, can refer the disclosure to that entity

The Ombudsman decided to refer the disclosure to the department to deal with.

Outcome

The complainant advised that within a few days of the referral:

- a safe access point was identified and implemented
- further information was provided to residents.

Department of Child Safety, Youth Justice and Multicultural Affairs

Will cover:

- The child safety complaints management system
- Other agencies involved in the child protection system
- What the Ombudsman can and cannot assist with

Child safety complaints management system



Two reports tabled in Parliament in July 2016 and March 2020.

Other agencies

- Office of the Public Guardian
 - Community Visitors and Child Advocates
- Queensland Foster and Kinship Care



The Ombudsman cannot or will not assist

- Assessing reports of harm or risk of harm
- Childrens Court decisions
- QCAT decisions

The Ombudsman may assist

Examples include
(not an exhaustive list):

- Department's response in relation to reports of harm
- Some aspects of investigation and assessments
- Support provided by the department during kinship/foster care
- Service delivery complaints
- The department's complaints management system.

Case study

Complaint from a foster carer about delayed department approval for a change in medication for a foster child in her long-term care. The child has multiple behavioural and cognitive disabilities.

The foster carer made a complaint through the department's complaints management system and subsequently requested an internal review.

Issue for investigation

Whether the department's response to the foster carer's complaint about delay in approving the medication change was reasonable in the circumstances.

- The reasons for the delay in approving the medication change.
- The department did not view the urgent change in medication as 'emergency treatment' under the *Human Rights Act 2019* and therefore may have breached the child's human rights.
- The department did not provide reasons why the foster carer's feedback did not alter its preliminary views at both the initial complaint and internal review stage.
- The department advised the foster carer that changes had been made to medication approval processes but did not provide details of the changes.

Investigation

- Contact made with the complainant from the outset and material provided by complainant was assessed.
- Requested documents/records relevant to:
 - the action taken by the department to approve the medication change
 - the departments reasoning for not deeming the medication change emergency treatment in accordance with the *Human Rights Act 2019*
 - the department's management of the foster carer's complaint.
- Phone calls to the department seeking clarification on the requested information.
- Regular updates provided to the complainant on the progress of her complaint with the Office.

Findings

The investigation found the department:

- did not make a formal finding with about the delay in approving the medication change.
- provided this office with evidence of having considered the child's human rights and why it did not deem the change to medication as 'emergency treatment' which appeared reasonable. However, it did not address this in the complaint.
- did not provide adequate reasons as to why the foster carer's feedback to its preliminary views did not alter the outcome to the initial complaint and internal review.
- did not provide adequate reasons as to why they had made a procedural change to medication approvals or the nature of this change.

Outcome

- During the investigation the department revised its internal review procedure from a process only review to a full merits review
- With the consent of the complainant, the office referred the complaint back to the department for a full merits review.
- Outcome advice provided in writing to the complainant and department.
- Glowing feedback from the complainant.

Lessons

- Investigations are rarely linear and need to be 'fluid'.
- Complex investigations can have a seemingly simple outcome.
- Communication is key – managing expectations.

www.ombudsman.qld.gov.au

