Communicating reasons for decisions, review and appeal rights

Background
The Office of the Queensland Ombudsman received a complaint about a state government department's subsidy scheme that provided a benefit to eligible members.

An applicant was refused membership on their original application and on internal review. The department advised the applicant of the outcome of their application and stated that the applicant did not satisfy the scheme's membership criteria.

However, reasons why the applicant did not meet the criteria and was therefore not eligible did not form part of the department's advice. In addition, the internal review was undertaken by the same person who made the original decision. The department also failed to notify the applicant that they could appeal to the Queensland Civil and Administrative Tribunal (QCAT).

The investigation
The department's legislation provided that refused applicants were entitled to a statement of reasons about the refusal of their application.

The investigation focused on the failure of the department to provide adequate reasons to the applicant. This failing was evident in the original decision and the internal review decision. A failure to provide reasons for a decision denies applicants (complainants) the ability to fully understand a decision and the right to challenge the decision with full information.

In this case the applicant did not receive sufficient information to understand the reason for the refusal and formulate a request for an internal review.

The issue was communicated to the department and advice provided that in addition to the legislative framework, the provision of reasons is simply good practice for any department

involved in administrative decision-making.

Concerns were also raised with the department about its failure to ensure an independent internal review was conducted, with the same signatory's name on both the original refusal and appeal decision letters.

The department:

• acknowledged its failings and made significant amendments to template correspondence. These changes ensure that applicants who are refused membership of the scheme will now be aware of their entitlement to a statement of reasons

• advised that a more senior officer had in fact made the internal review decision, even though the original decision-maker had signed the internal review decision

• acknowledged that the perception of bias existed and the changes made to its correspondence ensure that any internal review decisions are signed by a senior officer with appropriate delegation.

The investigation also revealed that the department's recordkeeping practices were of a poor standard.

The applicant in question had mistakenly been sent identical letters for the communication of the original and internal review decisions.

The department did not keep copies of letters sent to applicants, although it maintained system notes of the date a letter was sent.

The department acknowledged the inadequacy of its current database and had already allocated funds to the improvement of this system.

As a result of the investigation, the department provided the applicant with a statement of reasons about the refusal of their application for membership of the scheme and also notified the applicant of their avenue of appeal to QCAT.

The outcome
The Ombudsman formed opinions about the department's failures to provide:
• adequate reasons
• an independent internal review
• relevant external appeal information.

In his report to the department the Ombudsman acknowledged the positive work undertaken by the department to improve its communication of reasons and provision of appeal rights to applicants of the scheme.

Making a difference
Departments must ensure that they correctly interpret and apply relevant legislative provisions to any scheme in operation.

The main lessons to be learned from this investigation are:

• departments should ensure adequate reasons are given for administrative decisions, in order to comply with any relevant legislation and to demonstrate good administrative decision-making practices

• decision-makers on internal reviews should be officers of an equal or higher level than the original decision-maker

• departments must ensure that relevant appeal rights are provided to applicants adversely affected by administrative decisions

• good recordkeeping practices are imperative to ensure the accuracy of documents and make records accessible in the future.

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