Casebook 2025

Helping agencies to improve decision-making

April 2025

QUEENSLAND
OMBUDSMAN

Nathaniel Chapman
***Leaving Our Mark* (2023)**
Digital artwork (cover uses elements)
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Nathaniel Chapman is a Goenpul and Yuggera Man, also from the Wambia Tribe in Northern Territory and Waka Waka country in Eidsvold, Queensland.

We acknowledge the Traditional Owners of the land throughout Queensland and their continuing connection to land, culture and community. We pay our respects to Elders past, present and emerging.

Authority

The Speaker of the Queensland Parliament, the Honourable Pat Weir MP, has authorised publication of this casebook report under s 54 of the *Ombudsman Act 2001*.

Public

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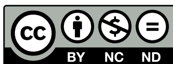

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* From 1 February 2025, the National Student Ombudsman (NSO) commenced as an independent national complaints service for students to resolve complaints about the actions of their higher education provider. Case studies in this edition are prior to the commencement of the NSO. We will continue to manage complaints about Vocational Education and Training. For more information, please visit our website.

Stages of decision-making

This casebook identifies at which stage/s of the decision-making process problems occurred. Our free 'Good decisions' resource (available on our website) contains detailed explanations of these stages.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Ombudsman’s introduction

I am pleased to present the fifth edition of our casebook series.

Our casebooks feature case studies showing the breadth of complaints and outcomes we achieve for Queenslanders every year.

The 2025 casebook is no exception, with cases about issues such as asbestos incidents, fire hazards, dog attacks, electrical safety, workers compensation, patient travel subsidies, human rights, climate energy savings rebates, public universities and training organisations and pre-sentence reports.

Our hope is that by publishing these case studies, we will help to inform the community about our work and what we can do for the community. It is also a resource to support learning and for building knowledge in government agencies, local councils and public authorities.

We commenced publishing the casebook series from February 2021, and since then, our casebooks have been downloaded 4038 times. It is an annual publication, and we are told that it is a useful tool for improving administrative processes when training public sector officers on making good decisions.

To find out more about good practice in decision-making, administrative processes and complaints handling, I encourage you to consider the suite of ‘Good decisions’ resources:

- video – a short, animated overview of good decision-making for use in staff inductions and training
- checklist – a prompt for officers to print and keep at their workstation
- newsletters – *Perspectives*, a quarterly subscription newsletter
- resource – a valuable reference with detailed explanations of the stages of decision-making.

My sincere thanks to all the agencies named in this casebook and the many others that we work with to facilitate positive outcomes for their clients and customers. I would also like to take this opportunity to thank our staff for their contributions undertaking investigations and preparing this casebook.

Anthony Reilly
Queensland Ombudsman and
Inspector of Detention Services

Helping agencies to improve decision-making

What we do

- investigate administrative actions of agencies
- make recommendations to agencies, generally or in particular cases, about ways of improving the quality of decision-making and administrative practices and procedures; and
- provide advice, training, information or other help to agencies, generally or in particular cases, about ways of improving the quality of decision-making and administrative practices and procedures.

From section 6, *Ombudsman Act 2001*

Our investigative role

The Queensland Ombudsman investigates complaints about Queensland Government agencies, which are state government departments, local councils and public authorities. Sometimes agencies use non-government entities to deliver services to the community. We can also investigate those entities.

Our investigative service is free and confidential. We are independent – not an advocate for either complainant or agency. The Ombudsman's work helps agencies to improve decision-making.

How the complaints system works

Step 1 **Complaint to the agency**	By using the agency's complaints process, complainants can state what happened, why it's wrong and how they think it should be fixed.
Step 2 **Internal review**	If a complainant is unhappy with the agency's response, the next stage is an internal review. This means a senior officer from the agency involved reviews the process and the facts of the original decision or action. That officer decides if the decision was correct or if change is needed.
Step 3 **External review**	If a complainant thinks there's still a problem, they can seek an external review. Ombudsman investigations are a form of external review. In most cases, the Ombudsman will decide not to investigate a complaint unless the agency's complaints management process (including internal review) is completed. See Appendix B for details of our complaint process.

Confidentiality

Maintaining appropriate confidentiality is an essential part of the Office's work.

Section 92 of the *Ombudsman Act 2001* sets specific confidentiality requirements about the conduct of investigations, meaning that the Ombudsman will not comment publicly about a complaint unless required or appropriately authorised under the Act. Under s 54, the Speaker of the Queensland Parliament may authorise the Ombudsman to publish a report, in the public interest, about the performance of the Ombudsman's functions. This report promotes shared learning about how to improve decision-making and administrative processes. It also informs the public about the work of the Ombudsman.

The Speaker has consented to the publication of this report.

Complainant confidentiality

To maintain complainants' confidentiality, these case studies do not use real names. References to identifying features have been removed.

Agency confidentiality

In this report, agencies are only identified when the complaint relates to functions that are uniquely provided by a specific agency, so using a pseudonym serves no purpose. Identified agencies were notified prior to publication and given the opportunity to comment on those specific cases.

Local councils

The law needs to be applied to the facts as they stand at the time

Hayley complained to the local council about the parking of a heavy vehicle on a nearby property. The council's local laws stipulate when a heavy vehicle can be parked on residential properties, so the amenity of the area is not detrimentally affected. The heavy vehicle needs to be screened in at least one of the following three ways to reduce its visual dominance when viewed from outside the property:

- by a structure so that at least 30% of the vehicle is screened
- by existing vegetation
  or
- by enclosure in an approved structure.

The council advised Hayley that, in this case, the vehicle met the screening criteria by being surrounded by a fence, with landscaping that would, when mature, further screen the vehicle.

Hayley lodged a complaint with council expressing dissatisfaction with the original decision. Council again advised that the vehicle was compliant. Hayley then lodged an internal review application with council. Council reiterated that the vehicle only needed to meet one of the three screening alternatives to be compliant.

Hayley complained to this Office that the council was failing to interpret its local laws correctly and to adequately enforce them as the screening efforts by the vehicle owner did not reduce the visual dominance of the heavy vehicle from outside the property.

The result

The Office investigated the issues raised by Hayley to determine whether council's response to her complaint was reasonable. The investigation considered the relevant local laws, as well as the council's fact sheet on what constituted sufficient screening. Hayley supplied photos to this Office that indicated the vehicle might not be sufficiently screened to reduce the visual dominance when viewed from outside the property at this point in time.

The investigation prompted council to re-open the review of Hayley's complaint and seek legal advice on its interpretation of its heavy vehicle parking local laws as part of that review.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Transparency is beneficial for all processes

Aleissia is the director of business specialising in technology solutions for cities. Her products include an online parking payment app OnlineParkPay (OPPapp).

The council wanted to adopt an online parking application to increase payment options for people using council parking bays. However, it required the application to use technology that complemented its current cash-based paid parking services provided by Lotsa Parking Services.

The council decided to use an application provided by OtherApp without undertaking a procurement process.

After Aleissia discovered the council had entered into a services contract with OtherApp without a procurement process, she complained to the council, raising concerns:

- about the lack of a valid procurement process
- that her business was denied reasonable opportunity to compete for the service
- that there was a pre-existing commercial relationship between OtherApp and Lotsa Parking Services
- that the council sought advice from Lotsa Parking Services on the decision.

The council dismissed her complaint. It stated that, as the application was able to be adopted with zero cost to council, the procurement policy was not triggered, and it did not meet the threshold for a quotation or tender submission.

After Aleissia felt her concerns were not fully addressed by the council, she complained to this Office.

The result

The Office reviewed the complaint, council's procurement policy and Local Government Regulations. It found that, although council's position was technically correct, the council:

- undertook no screening of existing commercial arrangements between Lotsa Parking Services and potential suppliers
- sought no declaration of conflicts of interest from Lotsa Parking Services prior to seeking advice from it
- did not fully comply with the Local Government Principles set out in s 4 of the *Local Government Act 2009*, particularly principle (a) that requires 'transparent and effective processes, and decision-making in the public interest'.

This Office determined that council should have identified a potential conflict of interest and, due to the value of the contract to suppliers, a transparent process would involve seeking quotes or proposals to select the parking service technology.

Through informal discussions with this Office, council agreed to:

- proceed to an open market process for supply of the parking service technology as soon as possible
- review its procurement policy to ensure it covers similar contracts.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Complaint identified a gap in council's knowledge of its asbestos responsibilities

After a fire destroyed an unoccupied commercial building near Sharon's house, she noticed warning signs for asbestos. Sharon was aware of the dangers of friable (crumbled) asbestos becoming airborne and potentially contaminating a large zone. After seeing no communication to residents from council confirming the presence of asbestos and outlining contamination mitigation or air monitoring activity, Sharon complained to the council.

The council responded to Sharon informing her that it was in consultation with Workplace Health and Safety Queensland (WHSQ) and it had no authority over the asbestos site.

When council's reply didn't address Sharon's concern about the lack of communication and council action about asbestos related safety, she complained to this Office.

The result

The Office's investigation confirmed that the council was responsible for containing the asbestos. However, the council lacked preparedness for this kind of incident, and it did not act due to its confusion about who had jurisdiction for the incident.

The investigation also identified that there had been a lack of coordination and communication between WHSQ, as Queensland's lead agency for asbestos management, and the council as the local authority with jurisdiction over this asbestos incident.

As a consequence of the Office's investigation, WHSQ undertook a joint debrief with council to examine the incident response and identify opportunities for improvement, including:

- correcting council's understanding of jurisdiction responsibilities for asbestos incidents at different types of buildings
- outlining steps that can be undertaken by council for asbestos incidents under its applicable legislative powers
- identifying gaps in council's documents and procedures to improve preparedness for managing material containing asbestos
- improving communication responses to the public.

WHSQ embedded an inspector in the council to aid and advise on workplace health and safety matters. Additionally, WHSQ provided information about its Environmental Health Officer program to train council staff in managing asbestos incidents. Changes were also made to the Queensland Government Interagency Asbestos Group's *Management of Asbestos Incidents* (MoAI) document. These changes were to clarify the responsibilities of agencies responding to asbestos incidents, including the provision of a new framework for managing scenarios where the lead agency is unclear or the scenario is not covered by the MoAI, and reflect machinery of government changes.

In 2013, the Office released the Asbestos Report, highlighting concerns about the lack of coordination of state agency and council responses to asbestos across a number of different issues and in a range of circumstances.

Ombudsman insight

Clearly identifying responsibilities and having processes to manage those responsibilities instils trust and supports community safety.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Improvement discussions should not suspend action on public safety concerns

Irene lives on an urban property on a street running along the top of a hill. Irene was concerned about a poorly maintained and overgrown rural block located down the hill from her property. Irene, on behalf of herself and several neighbours, complained to the council about the rural block being overgrown and a potential fire hazard.

The council responded by contacting the landowner requesting the property be maintained. The landowner responded to council that he would create a firebreak around the property and remove the long grass. A month later, after the landowner failed to remove the long grass or create a firebreak between the rural block and the properties at the top of the hill, Irene again complained to council.

In response, council's complaint review panel (the Panel) sent a local law officer to inspect the property. The Panel responded to Irene that it was unable to take any further action, stating:

- the local law officer reported no visual amenity issues (overall quality, experience or impact on the view available) from Irene's property
- local law officers could not do fire risk assessments
- private property fire risk assessments were the responsibility of the Queensland Fire and Emergency Services (QFES) (QFES – now the Queensland Fire Department); however, QFES had advised council that it does not have the resources to respond to referred community concerns
- the Panel recommended that council consider whether it should exercise its local law powers to assess potential fire hazards on private property in response to future community complaints
- the Panel recommended that Irene establish a fire break at the rear of her property
- if council received a complaint from a different person about the rural block within a three-month period of Irene's complaint, local law officers would be able to take follow up action and issue a compliance notice to the landowner.

After Irene's primary concerns of the overgrown land and potential fire hazard remained unaddressed in the council's complaint review, she complained to the Office.

The result

The Office did not establish that council's response to Irene was correct about QFES being responsible for private property fire risk assessments.

However, as a result of the Office's investigation, council agreed to have a senior officer undertake a fresh assessment of the rural block that would examine:

- criteria for overgrown land under local laws and relevant work instructions
- number of complaints received
- application of the rural land criteria in the work instruction for a vegetation break
- visual amenity issues from Irene's property.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Council reviews decision considering human rights concerns

Ricciardo and his mother Allegra lived in a regulated parking permit area. Council transitioned from a paper-based visitor parking permit system to a digital system in the permit area.

Ricciardo contacted council to express his concerns about the new system and asked if he and Allegra could continue using paper visitor permits. Ricciardo felt the new digital system was a breach of human rights, such as the right to privacy and reputation, because residents would need to provide council with details of visitors to their residence. Ricciardo was also concerned that council's decision to use a digital system breached the rights of elderly residents and residents with disability, including Allegra, as they might not be able to access the system.

Council decided not to allow Ricciardo and Allegra to continue using paper permits. Council told Ricciardo there were different ways residents could apply for or renew parking permits, including by phone or in person.

Ricciardo complained to this Office. He thought council did not address his concerns about the breach of the right to privacy and accessibility of the new system. He was concerned that the different ways residents could apply or renew permits were not practicable for unexpected visitors or visitors who might use different company vehicles, such as disability support providers.

Ombudsman insight

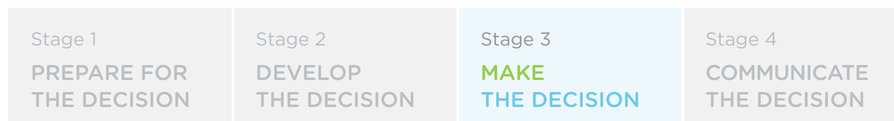
Agencies are required to consider if their decisions are compatible with human rights and should consider how decisions may impact access to services.

The result

The Office investigated whether council had adequately considered human rights in its decision not to issue paper visitor permits to those who request them. The investigation identified that it did not appear council had considered whether its decision was compatible with human rights, despite Ricciardo raising this a number of times. It also considered Ricciardo's complaint to council was a discrimination complaint, and council did not address this.

The Office wrote to council expressing concerns that council had not adequately considered human rights and anti-discrimination legislation. It was proposed that council further consider Ricciardo's complaint and provide another response that would address how council had considered human rights and anti-discrimination legislation.

Council agreed to reconsider the complaint and its decision not to allow Ricciardo and Allegra to continue using the paper permits.



Council agrees to improve policy and procedure to support decision-making

Jill and her neighbours live on large properties in a rural town. She lodged complaints with council about a number of issues concerning her neighbour, Ned, and his property. Jill reported that Ned's dogs had attacked her, including an incident where one dog jumped the fence onto Jill's property, ran at Jill and attacked her. Over the years, Jill had made numerous complaints to council about Ned's barking dogs and completed dog barking logs as requested by council. Jill also raised with council the large amount of rubbish on the grounds of Ned's property, including pallets, steel sheeting and other materials.

In response to these complaints, council advised it did not consider there was evidence of a dog incident, and if the dog/s left Ned's property, they were under effective control. Council also advised that for most of the incidents about dog barking, there wasn't enough evidence to substantiate the allegations. This was because either the dog barking logs were incomplete, when council attempted to obtain information from other neighbours, they were not willing to assist council, and on occasion, the dog barking abated. With the excessive rubbish on Ned's property, council did not consider that it amounted to unsightly accumulation as provided for in council local law.

Jill was dissatisfied with council's responses to her complaints and complained to this Office.

Ombudsman insight

Comprehensive policies and procedures support sound decision-making.

The result

Although this Office considered that council adequately investigated Jill's complaints about dog barking and that it did so according to its Noise Nuisance (Barking Dog) Policy, this Office's investigation identified the following inadequacies with council's processes:

- lack of details in council's records that did not fully reflect how it came to the conclusion for each dog attack incident
- lack of information about how council considered the dog attack in line with the *Animal Management Act (Cats and Dogs) 2008* (Animal Management Act)
- lack of guidelines about how council determines what constitutes an unsightly accumulation of objects and materials as provided for in council local law.

Council agreed to develop checklists for recording decisions on alleged dog attack incidents and assist officers in making such decisions under the Animal Management Act. Council also agreed to review decisions on Jill's complaints about dog attack incidents. In relation to supporting the administration of local law concerning the accumulation of objects and materials on allotments, council agreed to develop a policy and procedure to provide a consistent decision-making process.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Council should provide clear advice and apply a staggered approach for dealing with unkempt properties

Ian lives on a large property on the outskirts of a populated area. The property was poorly maintained. He had accumulated a large and dense collection of items that were stored erratically. His collection had also expanded beyond the property boundaries to the roadside verge.

The council had received numerous complaints about Ian's property. After attempting to informally work with Ian to address the issue, the council recognised it as an 'unkempt and unsightly property' under local laws on public health, safety and amenity. The council sent Ian a compliance notice, requesting that he remove items from the roadside verge and areas in public view.

Ombudsman insight

Clearly explaining processes to affected parties minimises misunderstandings and potential complaints.

After Ian failed to comply with the notice, the council obtained a warrant authorising entry. The council performed a clearance operation and removed over 600 m^3 of material. The council then advised Ian it was seeking reimbursement of the costs for the clearance work.

Ian was unhappy with the council's clearance operations. He complained that:

- disposal of his items happened without his consent
- council did not have the authority to enter the property
- several removed items had significant personal or commercial value
- other items on his property were damaged
- charges from the council for clearance work were excessive.

After Ian's complaint to the council was dismissed, he complained to this Office.

The result

This Office investigated and found that the council satisfied all requirements to be able to enter the property and perform clearance work and was entitled to recover the cost of the work performed.

However, after discussions between this Office and the council, the council agreed to review relevant work instructions for dealing with unkempt and overgrown properties.

Considerations included that, before performing property clearance work, the council:

- consult with owners to:
  - provide clear advice on the process of impounding and disposing of removed items
  - increase communication about the financial impact to the property owner of council removing items
- apply a staggered approach (e.g. resolve immediate public safety issues by removing items from roadside verge as a first stage)
- discuss fencing options with the property owner to screen the property to address public concerns
- improve consultation to identify and photograph items of significant personal or commercial value before removal.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Change needed in compliance approach

Otto previously complained to this Office about the local council's handling of his complaint regarding its requirement for him to clear a 10-metre boundary line on his property (*Casebook 2024*, page 8, Council to improve communication of boundary management requirements).

As a result of that investigation, council agreed to undertake an internal review of its decision and review its information notices issued under the local law.

After council's internal review failed to address Otto's concerns about the transparency and communication of its requirements for him to clear a 10-metre boundary line on his property, he again complained to this Office.

Ombudsman insight

Communication to the community about changes to council's compliance requirements should happen in a timely manner.

The result

The Office's investigation of Otto's complaint found that, although it was lawful for a council to prescribe a boundary clearance, there were issues with the council's administration. This Office suggested that council take a more open and transparent approach to compliance.

Because of this Office's investigation, the council is now:

- implementing an internal work instruction on management/enforcement of overgrown properties
- updating the fact sheet published by council to include reference to the clearing of a 10-metre boundary line on properties over 2000 m^2.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Confusion about local procurement requirements

Adriano owned an electrical business and was invited to quote on work by his local council. After being told he was unsuccessful in winning the work, he had concerns about the council's administration of the procurement process.

As part of the procurement process, Adriano was required to submit a second quote. He complained to council that a second round of quoting created an unfair situation. He also complained that council's quote assessment failed in its requirement to support local business in preference to a comparable quote from a non-local business.

A review conducted by the council found that:

- the requoting was justified by the need to obtain a like-for-like quote comparison
- there was no evidence that the procurement process was manipulated to provide advantage
- the criteria for quote assessment were applied correctly for local preference requirements.

After Adriano felt the council's complaint investigation failed to address his concerns, he complained to this Office.

Ombudsman insight

Clear procurement guidelines and procedures ensure fair and transparent procurement processes.

The result

The Office found that, since Adriano's original complaint, the council had made improvements to its procurement process that addressed his concerns about local preference requirements when council evaluates quotes.

After discussions with this Office, the council agreed to send Adriano a letter that included:

- an apology for the error in local preference evaluation in its original administration of the procurement process (without an admission of liability in accordance with s 72D of the *Civil Liability Act 2003*)
- details of procurement improvements made since the original decision
- the process for making a compensation claim against council.

Following the Office's investigations, the council created templates for staff to use when creating reports on procurement decisions.

Public universities*

Reasons for decisions must be meaningful and accurate

Jessica was an international student at a Queensland university when she experienced health challenges and returned home for medical care. This period of illness significantly impacted her ability to study and caused considerable distress.

Jessica applied to the university to withdraw from the course without academic or financial penalty due to special circumstances and provided documentation evidencing her health challenges.

The university denied the request, stating that her circumstances were not deemed to be beyond her control and did not make it impracticable for her to complete the requirements for the course.

Jessica considered the denial of her request undermined the university's duty of care to its students and demonstrated a lack of empathy and understanding towards students facing health challenges.

Jessica complained to this Office on the basis that the university had unfairly and wrongly handled her case.

The result

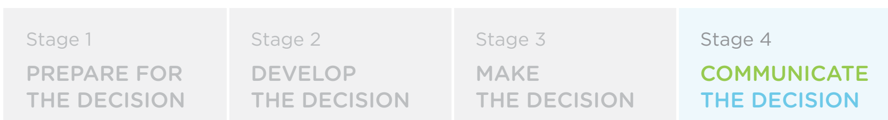
The Office investigated the issues raised by Jessica to determine whether the decision by the university to deny the request was unreasonable.

The investigation found that the university's decision was consistent with its enrolment policy and procedure. However, in communicating its decision to Jessica, the university did not explain the information it had considered and how it had reached its decision. It also did not reference the policy or procedure it relied on in making its decision. This made it difficult for Jessica to understand or accept the decision.

As a result of discussions with this Office, the university agreed to write to Jessica and provide detailed reasons for its decision.

Ombudsman insight

Providing meaningful and accurate reasons for decisions to complainants is good administrative practice, including referring to any policy or procedure an agency relies on in making its decision.



*See page 1 for information about the National Student Ombudsman in relation to public universities.

Inadequate investigations and recordkeeping led to further review

Malee, an international student, complained to the university she was studying at about what she considered to be racial discrimination against her by a tutor during three different class sessions. She complained that the tutor had made comments to her in class that discriminated against her race and culture, and that really upset her. She was concerned that the tutor had treated her this way because of a previous complaint she had made to this Office. Malee wanted all course fees she paid to the university to be refunded, so that she could continue her studies at another university.

The university advised Malee that it had investigated her complaint and concluded that there was no evidence of discrimination or victimisation, and that the tutor had provided her with significant support to complete assessment for the course. The decision-maker noted that any requests for a refund of previous subjects would need to be made through Student Review and Appeals.

Malee complained to this Office.

Ombudsman insight

Decision-making of an agency is improved when decision-makers base their decisions on comprehensive relevant information. Good recordkeeping enables an agency to establish how particular decisions were made, in the event that the agency needs to revisit a matter in the future.

The result

This Office investigated whether the university's response to Malee was reasonable, and asked the university to provide documents relevant to its investigation of the complaint. On review of the documents provided, this Office identified some concerns with the way the matter had been handled by the university, namely:

- the investigator did not prepare an investigation report, and it was therefore difficult to ascertain how the investigator concluded that there was no evidence of victimisation or discrimination against Malee
- some of the records relied on appeared incomplete
- it was not clear if the investigator considered all the relevant evidence
- other records relied on by the university were unclear.

This Office enquired with the university about whether it would be possible for the university to review the matter, given this Office's concerns about the adequacy of the investigation and the lack of supporting documentation. The university identified a policy that allowed its Student Ombudsman to conduct another investigation and agreed to this course of action.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Decision reversed because irrelevant information had been considered

Alex was a university student studying medicine. She was supposed to complete a clinical placement in a regional area in 2024 but unexpectedly became a primary live-in caregiver for her uncle in Brisbane in late 2023. She asked the university for special consideration to complete her placement in Brisbane, but the application period for special consideration had already closed.

The university refused Alex's special consideration application because, under the applicable guidelines, late applications were only to be accepted if the student's circumstances arose after the application period deadline.

Alex was unhappy with the university's decision and complained to this Office. She said the university did not properly examine the evidence and got the facts wrong, leading to an incorrect decision. Specifically, her uncle had not been living independently, as he had been living with his other daughter overseas until a few days before Alex moved in with him. Alex provided the university with evidence showing this, but she complained that the university did not properly consider it.

The result

During this Office's investigation, Alex provided an email from the university's decision-maker that mentioned Alex had applied to study abroad in 2024 and that there were no places available in Brisbane for 2024. Alex was worried that the university had considered information that was irrelevant to the criteria for deciding a late special consideration application in the university's guidelines.

This Office considered the material provided by Alex and requested more information from the university about how it came to its decision. Based on this information, the Office wrote to the university outlining concerns that the university had not properly considered the evidence and potentially took irrelevant facts into account when making the decision, without allowing Alex an opportunity to address those factors. This Office asked the university to reconsider its decision based on its observations.

In response, the university reversed its decision and accepted the late special consideration application.

Ombudsman insight

It is important that all relevant information is properly considered when making a decision, and that irrelevant information does not influence assessments against specified criteria.

State departments

Failure to consider all available information can impact decision-making

Ananya was an international student attending a course at a training organisation. Following a drop in attendance, Ananya was issued with a notice of intent to report to the Department of Home Affairs, giving her one month to appeal this decision and detailing how this appeal should be made.

Instead of lodging the medical evidence supporting her absence as directed, Ananya lodged it directly with the faculty as she had successfully done on a previous occasion. She did not identify that the information related to an internal appeal and it was not forwarded to the correct team within the training organisation. As a result, the training organisation advised Ananya that, in the absence of an appeal, her enrolment would be cancelled and she would be reported to the Department of Home Affairs.

Ananya submitted a late appeal against this decision, stating she had provided the evidence within the required timeframe, but did not include the evidence with this late appeal, and her appeal was dismissed.

Ananya lodged a complaint with this Office expressing dissatisfaction with the outcome of the appeal process.

The result

The Office investigated the issues raised by Ananya to determine whether the decision by the training organisation was reasonable in the circumstances.

The training organisation confirmed that the Disciplinary Appeals Committee was not provided with the medical evidence and had not made any attempt to determine whether it had been otherwise received, despite Ananya's declaration on her appeal request form that it had been provided to the training organisation, albeit to the wrong section.

The training organisation reversed its decision to cancel Ananya's enrolment and undertook to resolve the matter with the Department of Home Affairs. The Office determined that no further investigation was required.

The Office suggested that the training organisation review its policies and procedures to ensure that reasonable steps are taken to gather all information pertaining to an appeal and raise staff awareness of the need to treat student correspondence appropriately. It was also suggested that the training organisation publish its internal appeal form in a central repository.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Procedural difficulties when dealing with multiple complaints from the same complainant

Fiona lodged an electrical safety complaint with the Office of Industrial Relations (OIR), which includes both Workplace Health and Safety Queensland (WHSQ) and the Electrical Safety Office (ESO). The complaint concerned traffic management and workplace health and safety issues on a suburban site. The complaint related to work that took place almost two years earlier.

WHSQ investigated the complaint; however, due to existing but unrelated complaints by Fiona about other matters, including bullying and workplace health and safety, the WHSQ investigation initially sought information from the wrong responsible party.

WHSQ had undertaken compliance monitoring work of the correct responsible party that equated to the same action that would have been taken had the initial enquiries been made to the correct party. OIR acknowledged that its investigators made an initial error in establishing who the complaint was about, stating that it was a human error and was rectified as soon as it came to light and there was no detriment to the complainant due to the equivalent investigative work that had been undertaken. OIR determined no further action was necessary.

Ombudsman insight

Complaints lead to useful information for an agency to help it make systemic improvements that improve service.

Fiona lodged a request for an internal review of that decision, citing unclear or insufficient reasons and requesting that disciplinary action be taken against the investigating officers, alleging bias and intentional misidentification of the party responsible.

The internal review confirmed the initial findings, and Fiona complained to this Office about an inadequate investigation by OIR.

The result

The Office investigated the issues raised by Fiona to determine whether OIR's decision was reasonable in the circumstances. After reviewing all information, the Office agreed with the OIR internal assessment that OIR had addressed Fiona's concerns (albeit through monitoring compliance as opposed to investigating the specific incident reported) and there would have been little value in undertaking a further assessment of alleged circumstances more than 12 months old.

The Office recommended that OIR review its handling of internal cross-referrals to minimise the risk of inadvertent misidentification of the responsible party in specific complaints.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Complaints result in systemic improvements

Stuart, Ashleigh and Penelope each lodged separate complaints with WorkCover Queensland about the handling of each of their claims for workers' compensation. Their complaints covered a variety of issues including duration of the process and failure to communicate reasons for requests.

None of the complainants was satisfied with the outcome under WorkCover's Complaint Management System (CMS) because they considered that WorkCover had failed to adequately consider and address their concerns.

They all lodged subsequent complaints with this Office.

The result

The Office undertook an informal investigation of the issues raised by Stuart, Ashleigh and Penelope to determine whether the management of their complaints by WorkCover was reasonable, and whether WorkCover's complaints management process complied with legislative obligations and best practice.

Ombudsman insight

Complaint escalation can be reduced when agencies provide sufficient reasons when finalising complaints.

This Office wrote to WorkCover outlining the concerns about the way it managed these complaints, including the adequacy of its responses to the issues raised. The Office concluded that WorkCover was best placed to deal with the concerns of Stuart and Penelope. WorkCover undertook to contact them to clarify their concerns.

Ashleigh's complaint was being considered by the Queensland Industrial Relations Commission, so no further action was required by this Office pending an outcome.

WorkCover further advised this Office that it was reviewing its CMS to bring it into compliance with the *Public Sector Act 2022* and AS 10002:2022, as well as to ensure it provides a useful and effective framework for complainants. WorkCover undertook to advise this Office of the outcome of that review.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Decision-makers should consider all circumstances before making a final determination

Cobar was living in a regional area and required treatment for an aneurism, which was categorised as urgent. He applied to the local Hospital and Health Service (HHS), requesting Patient Travel Subsidy Scheme (PTSS) assistance for travel and accommodation expenses to Brisbane for surgery. He received approval only to travel to another regional centre, as the HHS considered the treatment required was available there. However, it was unclear if that centre had the capacity to provide the same treatment within the required timeframe. Cobar's condition was also rare and he was worried the HHS had not taken this into account.

Cobar lodged a complaint with this Office as he believed he was entitled to PTSS assistance for the recommended treatment in Brisbane.

The result

The Office investigated the issues raised by Cobar to determine whether the decision by the HHS was reasonable in the circumstances. The Office reviewed information that it obtained from the HHS and considered whether it had followed the *PTSS Guidelines* in considering the application.

Ombudsman insight

Agencies should ensure an individual's circumstances are adequately considered and that this is reflected in its reasoning.

After reviewing all information, the Office wrote to the HHS to make observations about its decision. The Office highlighted that the HHS did not appear to fully consider an exception to the PTSS eligibility criteria that appeared relevant to Cobar's circumstances. Therefore, the Office requested that the decision be reconsidered.

Following the Office's request, the HHS reviewed its decision and approved Cobar's PTSS assistance. The Office determined that no further investigation was required.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Agency's failure to exercise due care and diligence resulted in FBT liability

Luis worked two part-time positions within the health sector – one for a Hospital and Health Service (HHS) and one for a university. He was entitled to an exemption from paying fringe benefits tax (FBT) as part of his salary package for the HHS position, but not for the university position.

Queensland Health had advised all HHSs that corrective action was required to create separate accounts in the payroll system so that employees on such joint appointments could continue to receive the FBT exemption for the eligible part of their employment. In Luis' case, this needed to be done before the next FBT assessment date. Luis had also followed up with the relevant payroll area to highlight that this corrective action was required before the nominated date. The department failed to take the corrective action and Luis incurred a substantial FBT liability for that financial year.

Luis lodged a grievance with the HHS, stating that he had only incurred the FBT liability due to the HHS' failure to take the corrective action in a timely manner. The HHS advised Luis that:

- the HHS was not liable for the FBT debt he had incurred through the HHS' inaction, citing the Office of Industrial Relations Circular No. 02/22 *Arrangements for salary packaging* (the OIR circular)
- there was no avenue available to consider financial restitution
- Luis should have sought independent financial advice about his salary packaging
- the corrective action had begun and would take effect for the following financial year.

Luis escalated the grievance but received the same response. Luis complained to this Office, but as he had a further avenue for internal review, he was referred back to the agency. The final response to Luis' grievance reiterated the previous decision.

Luis made a second complaint to this Office.

The result

This Office investigated the issues raised by Luis to determine whether the HHS response to his grievance was reasonable, including whether the HHS had considered alternative solutions.

Ombudsman insight

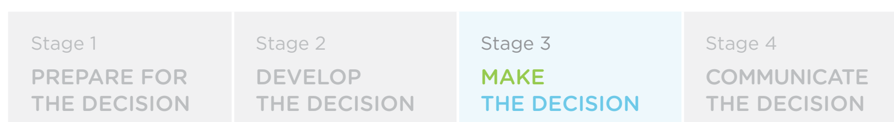
Agencies need to consider all avenues for resolution when their failure to take required administrative actions result in negative outcomes for individuals.

The investigation found that:

- it was the HHS' failure to exercise due care and diligence that resulted in Luis' FBT liability
- it was not reasonable to expect independent financial advice to have foreseen the agency's administrative error as a credible risk nor to have created contingencies to avoid possible liability that may result from that risk
- the HHS could have considered an avenue under the *Financial Accountability Act 2009* for a discretionary special payment to Luis.

The HHS CEO continued to maintain that there was no discretion in the circumstances given the OIR circular and that the onus was on Luis to have sought independent financial advice before entering into any salary packaging arrangement.

This Office subsequently referred the matter for a review by the Director-General, Queensland Health, having regard to Luis' circumstances and how the liability arose. Queensland Health acknowledged the administrative error and agreed to compensate Luis for the detriment caused by the error.



Decision should be supported by policies

As part of a regional support program, Mark's business was audited by the Department of Employment, Small Business and Training (the department). Mark was dissatisfied with the auditor's conduct during the audit, the lack of communication from the department's auditors, and audit findings that required his business to undertake compliance review actions.

Mark discovered through access logs that the auditor had accessed data of clients who had not received government funding to participate in the program. Accessing this information was outside the scope of the audit. The audit report made no mention of accessing files of these non-funded clients. Mark was worried about the lack of proper process during the audit.

Mark's business was contractually required to only produce evidence for the client names requested by the department. Instead, full access to the management system was granted without securing client records not required for the audit.

The department's initial response to Mark's complaint did not support his concerns about the audit process and stated that the auditor was unable to access any records due to a system fault. Mark was dissatisfied with this response and requested a further review.

Ombudsman insight

Decision-makers should address complaint issues raised in line with their agency's relevant guidelines and provide reasons to support its conclusions.

The department's second review agreed with the findings of the initial review and upheld that the department's actions were consistent with its policies. While acknowledging Mark's privacy concerns, the review identified that due to its inability to access the client records requested, it acted in 'good faith' to test the system platform in order to carry out its audit activities. The department advised it would remain vigilant in protecting private and personal information.

Mark thought the department's decision was unfair and was not happy that it was not taking any action to rectify the privacy breach.

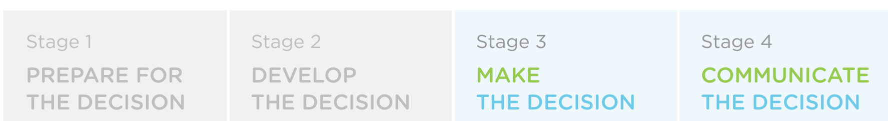
The result

This Office investigated whether the department's management of the complaint was reasonable in the circumstances.

The non-compliance issues found were likely to result from Mark's business not submitting the required evidence for the audit on time rather than shortcomings in the department's communication. On this basis, this Office considered the department responded reasonably to Mark's complaint.

However, this Office questioned the department's responses to the alleged data breach and whether it reflected the expectations for procedural and privacy concerns as outline in its *Information Privacy Policy*. This Office also had concerns that the internal review responses did not adequately address the concerns of unauthorised access to client records and the subsequent rationale for these actions.

At this Office's request, the department agreed to undertake an internal privacy assessment and agreed to communicate the results to Mark.



Department corrects inconsistent documents

Yuki was her grandson's guardian. She requested a copy of a pre-sentence report from the department, which had been given to the Childrens Court where her grandson was tried and sentenced. The department refused to provide the pre-sentence report to Yuki as, under the *Youth Justice Act 1992*, it considered only the court could disclose the report.

The complainant was dissatisfied with the department's response. She believed the department misinterpreted the Youth Justice Act, including that it failed to consider another part of the Act that would allow the department to disclose the report to her. Yuki complained to this Office about the department's response.

The result

This Office investigated whether the department's response was reasonable. The investigation considered material from various sources, sought legal advice about interpretation of the Youth Justice Act and requested information from the department. This Office concluded that the department's response was reasonable. This was due to the generally accepted position on documents provided to the court (that they become court documents about which only the court can make decisions) and the terms of the specific provision of the Youth Justice Act. However, the Office suggested to the department that it may wish to consider further clarifying its responses in the future to better assist a complainant to understand its reasoning for its position. The investigation was discontinued.

Ombudsman insight

It important to ensure both publicly available information and information provided to complainants is accurate and clear.

Yuki sought an internal review of the decision to discontinue the investigation. She considered the decision-maker misinterpreted the Youth Justice Act, leading to the incorrect conclusion that the department's response was reasonable.

Although the original decision was confirmed, the reviewer identified that, during the investigation, the department did not adequately respond to a query from the Office. The reviewer contacted the department to seek further clarification, which revealed that some of the information in the department's publicly available documents was incorrect or inconsistent with the department's reasoning for not providing the report. The department advised it would correct these documents.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

Statutory authorities

Dates on correspondence relating to decisions help to clarify the decision-making path

Killian applied to the Queensland Rural and Industry Development Authority (QRIDA) through its online portal for a Climate Energy Saving Rebate for a recent appliance purchase. QRIDA wrote to Killian requesting further information, which he was required to also lodge through the online portal, receiving a new application ID.

Based on this new application ID, QRIDA rejected the claim as it fell outside the scheme's time restrictions for purchasing the appliance and claiming a rebate. Killian appealed this decision as unfair as the original paperwork had been submitted within the timeframe, even though the follow up paperwork was later.

QRIDA denied the appeal. This decision was communicated to Killian without reference to date eligibility – the grounds for Killian's appeal – but based on other criteria that QRIDA considered made Killian's application ineligible.

Killian complained to this Office on the basis that QRIDA had made unreasonable assumptions when rejecting his rebate claim.

The result

This Office contacted QRIDA for information in relation to Killian's complaint. QRIDA provided information about the complaint but subsequently advised that Killian's rebate had now been paid, and this Office decided that no further investigation was necessary.

However, the investigation found that the correspondence advising Killian of his successful rebate did not include any specific dates relating to either the decision date or the letter's issuance date. This lack of dates had been previously noted on other QRIDA correspondence sighted by this Office.

This Office advised QRIDA that dates on decision and other administrative letters is recommended best practice in administrative decision-making as it creates a reliable chronology of events, especially when dates and times are relevant to the decision being made. Having dates on decision letters would assist in understanding QRIDA's position on individual decisions.

Ombudsman insight

The inclusion of dates on correspondence relating to an agency's decisions establishes a clear chronology of events for the purpose of identifying the decision-making path.

Stage 1	Stage 2	Stage 3	Stage 4
PREPARE FOR THE DECISION	DEVELOP THE DECISION	MAKE THE DECISION	COMMUNICATE THE DECISION

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Appendix A: Jurisdiction and procedural fairness

Ombudsman jurisdiction

The Queensland Ombudsman and Inspector of Detention Services (Ombudsman)† is an officer of the Queensland Parliament empowered to deal with complaints about the administrative actions of Queensland Government departments, public authorities and local governments. Sometimes agencies use non-government entities to deliver services to the community. We can also investigate those entities.

Under the *Ombudsman Act 2001*, the Ombudsman has authority to:

- investigate the administrative actions of agencies in response to a complaint or on its own initiative (that is, without a specific complaint)
- make recommendations to agencies about ways of rectifying problems with their actions, and improving their practices and procedures
- consider the administrative practices of agencies generally and make recommendations, or provide information or other assistance to improve practices and procedures.

The Ombudsman Act outlines the matters about which the Ombudsman may form an opinion before making a recommendation to the principal officer of an agency. These include whether the administrative actions investigated are contrary to law, unreasonable, unjust or otherwise wrong.

The Ombudsman is not bound by the rules of evidence, but considers the weight and reliability of evidence. Although the civil standard of proof does not strictly apply in administrative decision-making (including the forming of opinions by the Ombudsman), it provides useful guidance. The civil standard is based on 'the balance of probabilities'. That is, an allegation may be considered proven if the evidence establishes that it is more probable than not that the allegation is true.

'Unreasonableness' in the context of an Ombudsman investigation

In expressing an opinion under the Ombudsman Act that an agency's administrative actions or decisions are 'unreasonable', the Ombudsman is applying the meaning of the word in the context of the Ombudsman Act. In this context, 'unreasonable' bears its popular or dictionary meaning, not the far narrower 'Wednesbury' test of unreasonableness, which involves a consideration of whether an agency's actions or decisions were so unreasonable that no reasonable person could have taken them or made them.

Procedural fairness

The terms 'procedural fairness' and 'natural justice' are often used interchangeably within the context of administrative decision-making. The rules of procedural fairness have been developed to ensure that decision-making is both fair and reasonable.

The Ombudsman must also comply with these rules when conducting an investigation. The Ombudsman Act provides that, if at any time during the course of an investigation it appears to the Ombudsman that there may be grounds for making a report that may affect or concern an agency, the principal officer of that agency must be given an opportunity to comment on the subject matter of the investigation before the final report is made.

† The commencement of the *Inspector of Detention Services Act 2022* in 2023 resulted in the Ombudsman acquiring an additional title as Inspector of Detention Services. The activities in this casebook relate only to work conducted under the Ombudsman Act.

Appendix B: Our complaint process

Stage	Question	Yes path	No path
CONTACT	**Is it for us?**	**Is this something we can deal with?** We can look into Queensland agencies such as: • Government departments • Local councils • Public authorities Sometimes agencies use non-government entities to deliver services to the community. We can also investigate those entities. YES ↓	NO → **This is not a complaint for us** We call this 'out of jurisdiction'. We can tell you which complaint agency can help.
PRELIMINARY ASSESSMENT	**Is it time for us?**	**Have you made a complaint to the agency?** • Have they had a chance to fix the problem? • Have they reviewed their decision? (also called an 'internal review') We also consider other things. For example, if a complaint is more than 12 months old, we need a good reason to accept it. YES ↓	NO → **Sounds like it's too early for us** We can tell you about using the organisation's complaints management system.
COMPLAINT ASSESSMENT	**Will we investigate?**	**We assess the complaint** We consider the impact of the agency's decision: • Does it look like a problem with the agency's decision-making? • Is an investigation likely to get an outcome? YES ↓	NO → **We don't always investigate** If we decide an investigation is not needed, we will write to you to tell you why we made that decision.
INVESTIGATION	**Was the decision unlawful, unreasonable or wrong?**	**We investigate the complaint** We are looking for evidence that the agency's decision-making was unlawful, unreasonable or wrong. An investigation can include talking to the people who made the decision, looking at records about the decision and researching legislation and policies. Strict confidentiality rules apply to Ombudsman investigations. YES ↓	NO → **Agency decision correct** If the investigation confirms the agency acted reasonably, we will write to you to tell you how we came to that decision. About 85% of investigations are closed this way.
OUTCOME	**Make a recommendation**	**We recommend the agency makes changes** We will write to you and the agency about the result of the investigation. Sometimes the Ombudsman decides there are good reasons to make a report about an investigation public. This needs approval from the Speaker of the Queensland Parliament. Public reports are published on our website.	

QUEENSLAND
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