

FACT SHEET 5

Ten principles for good administration

April 2009

The Commonwealth and Immigration Ombudsman prepared a series of reports between 2005 and 2007 following the investigation of 247 cases of immigration detention. The reports identified legal, factual and administrative errors in many of the cases. Drawing from those examples, one of the reports identified ten principles to promote good administration and to avoid similar errors occurring in other areas of government decision making. The principles are particularly relevant to decision making that can have an adverse impact on the rights, liabilities and entitlements of members of the public.

1. Maintain accurate, comprehensive and accessible records

An error as simple as misspelling someone's name, misstating their date of birth or misfiling their application for a benefit or authorisation can have serious consequences. A mistaken record can result in a person being wrongly detained, incurring a penalty, losing or being denied a benefit, or having legal proceedings initiated against them.

Agencies must ensure that a strong agency culture supports good records management as essential to high quality decision making. Administrative systems must accurately record client details. Staff should be well trained and supported in good records management practices, with clear, accessible and current policy guidance. Quality assurance mechanisms should apply to all stages of records management.

2. Place adequate controls on the exercise of coercive powers

Government officers can have authority under legislation to enter premises, detain people, confiscate property, impose penalties, summon people and compel them to provide information. For practical reasons those coercive powers are often delegated to lower-level officers in

regional centres. The risk is that mistakes will be made unless those officers are properly trained, supported and receive ongoing supervision.

There must be strong checks and controls on the use of coercive powers. They should only be delegated to staff with the required skills. Staff should have practical and up-to-date policy guidance, with particular attention paid to special circumstances (such as when a child or person with a special need is involved). The use of those powers must be well documented, including the name of the officer exercising the power and the reason for doing so. There should be regular monitoring and auditing of how the powers are used.

3. Actively manage unresolved and difficult cases

While agencies usually have the collective wisdom and experience to deal with all problems, difficult cases can challenge the skills of even the most experienced officers. Cases that require high level judgement or that are likely to be difficult should be assigned to officers with the right skills and understanding. Similarly, cases that are unresolved or that are more difficult than first appreciated should be escalated to a more senior officer. Agency procedures should anticipate this need.

Difficulty and complexity in decision making should also be controlled by quality assurance, oversight and review of decisions, particularly in areas where a large number of decisions are made under tight pressures. Risk areas in decision making should be reviewed periodically. All agency staff should understand that it is their joint responsibility to ensure that problems are not overlooked or hidden.

4. Heed the limitations of information technology systems

We trust in technology, but automated systems are no better or more reliable than the data entered on them. Staff must not assume, for example, that information they find on their system about a person's status is always correct, or that conflicting

information received from a person is false or dubious. It is always possible that information on the system is incorrect, was wrongly entered, or was not retrieved fully because the wrong search parameters were used. Equally, a design or programming error can taint decisions that are based on the information in the system.

Agencies should ensure that IT systems reflect their business processes and the legislation they administer, and that they support accurate decision making. Where there are different systems for different business processes, they should be properly integrated. Staff training must emphasise the need for caution when entering or retrieving data and basing decisions on the data in a system.

5. Guard against erroneous assumptions

Experienced decision makers rely frequently on their knowledge and practical judgement. This contributes to efficient, sensible and consistent decision making. Yet there is a risk that officers who are accustomed to dealing with particular problems will be unthinkingly influenced by assumptions that lead to error. At one extreme there is a risk of unintended bias. There is an equal and more subtle risk of being too hasty and discounting relevant information or lines of enquiry, or giving undue weight to unconvincing information. For example, a common but erroneous preconception is that someone with a foreign accent was born overseas, that a child has the same citizenship status as its parents, or that an application presented in a muddled fashion is not well-founded.

Areas of potential risk in decision making need to be identified and strategies put in place to guard against error. Agency guidelines must give clear practical guidance on what to consider when making a discretionary decision. Training courses on decision making should include practical illustrations of how officers can be wrongly influenced by stereotypes and cultural habits. Reasons must be recorded for all decisions that affect people adversely, indicating the matters that were taken into account. Agencies should also regularly monitor, review and conduct quality assurance of all areas of discretionary decision making.

6. Control administrative drift

Delay is sometimes unavoidable, yet at other times matters are simply allowed to drift. Realistically, delay and procrastination will occur unless there are procedures in place to stop that happening.

Timeframes need to be built in to decision-making processes, supplemented by formal procedures for reviewing and escalating cases that breach those timeframes. Agencies should regularly appraise the time taken to make individual decisions, and examine those that took too long to see if there is a systemic problem. Areas of potential delay should be identified and strategies put in place to guard against that risk.

7. Remove obstacles to prudent information exchange with other agencies and bodies

Agencies often need to exchange information with each other or with other organisations and individuals. This is essential to evidence-based decision making. There are restrictions on what can be disclosed and to whom, for legal and privacy reasons. It is important that those information controls are not misapplied. To do so can impede good decision making. For example, if privacy principles are applied more strictly than the *Privacy Act 1988* requires, information necessary to identify a person or clarify their legal status may not be available to an agency that needs that information.

Where appropriate, agencies should have memorandums of understanding with other agencies to promote effective information exchange. Government contractors that provide services to the public must understand that relevant information they hold should be passed to the responsible agency. Agencies should monitor the reliability of information being received as well as given. Staff should be instructed about how to apply Information Privacy Principles and the need for caution when basing decisions on unverified information.

8. Promote effective communication in your own agency

Good internal communication becomes even more important as agencies grow larger, functions become more complex and decisions are made at separate offices around Australia and overseas.

Effective internal communication relies upon sound policies and procedures. Administrative manuals that provide guidance to staff on applying the agency's legislation must be easy to use and up-to-date, and staff should be promptly informed of important court and tribunal decisions. There must be regular monitoring, quality assurance and review of decisions to ensure consistency with policy and procedural guidelines. Agencies should also take care that information barriers and 'silos' within their structures do not interfere with decision making.

9. Manage complexity in decision making

Complexity now permeates many areas of government activity. Laws about taxation, customs, superannuation, social security, child support, health insurance, workplace relations, immigration, crime and anti-terrorism throw up many difficult issues. Staff who are both competent and well-intentioned can make factual and legal mistakes when they are out of their depth.

Complex areas of decision making need to be identified and staff must be given proper training, guidance and support. Lines of responsibility for resolving difficult and complex cases need to be clear. Wrong decisions should be examined to see if there are systemic problems that need to be addressed, and there should be ongoing review of whether legislative changes are needed to address difficulties in decision making. Staff are a valuable

resource: they should be encouraged to draw attention to difficulties in decision making and to workshop alternative approaches to dealing with problems.

10. Check for warning signs of bigger problems

All agencies experience problems in decision making. Sometimes the problems are one-off and exceptional, but more often a problematic case is not unique and points to a recurring difficulty in the agency. Through complaint handling, internal monitoring and quality control, agencies can pick up the warning signs and initiate reform.

Agencies should systematically review complaints to the agency and the Ombudsman, and relevant court and tribunal decisions, to see if they highlight problems that need to be addressed. Senior managers should look for and respond to administrative weaknesses highlighted by individual cases, and encourage staff to identify and report on errors and problems. Agencies should also heed case failures and administrative problems in other agencies.

FURTHER INFORMATION

For more detailed discussion of these principles, see:

- Commonwealth Ombudsman, *Lessons for Public Administration*, Report No 11/2007

More information?

If you would like copies of other Commonwealth Ombudsman fact sheets, more information about the work of the Ombudsman's office, or a more detailed briefing for agency staff, please contact the Director Public Affairs.

Phone: 1300 362 072 (higher rate from mobile phones)

Fax: 02 6249 7829

Email: ombudsman@ombudsman.gov.au

Web: www.ombudsman.gov.au

Postal: GPO Box 442, Canberra ACT 2601

The Ombudsman has offices in:

- Adelaide
- Alice Springs
- Brisbane
- Canberra
- Darwin
- Hobart
- Melbourne
- Perth
- Sydney

The Ombudsman has taken reasonable action to ensure that the information contained in this publication is accurate and adequately comprehensive for the purpose for which it was created. The Ombudsman is not responsible for any damage or loss claimed to arise from any error or omission in this information.