

Commonwealth Ombudsman National Conference

Session A: Minding your own business—policy challenges for decision-makers and strategies for managing risks in the complaint-handling process

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Introduction:

Not long after joining the Ombudsman's office I was handed a series of complaints about a rather complex government scheme designed to provide financial support to individuals in a specific, difficult circumstance. All the complaints had a similar theme: the complainants could not understand why they were denied a payment. On file we had the letters of explanation. They were carefully crafted template letters, in precise language, courteously phrased, with a very fulsome explanation complete with references to published explanatory brochures, eligibility criteria, government policy, and public announcements. Only one small problem; they were incomprehensible.

When I and our specialist for the relevant agency met with staff from the team responsible for administering the program they had a full team ready for us. Experts in the origins and policy of the scheme, accompanied by lawyers, and headed by senior officers with a strong determination to set us straight as to why the complainants were in the wrong and they were in the right.

My first question to the senior staff member was, not surprisingly, 'what does this letter of explanation mean?' I was quickly advised that the letter had been cleared by the lawyers and they would explain. This they did, very eruditely, but every bit as incomprehensibly as the letters to the complainants. I was none the wiser despite my two university degrees, and 25 years as a bureaucrat, including 10 as a government lawyer myself. I turned back to the senior officer in the team hoping for a translation but it was clear that she both knew what I was about to ask, and that she could no more comprehend the explanation than I could.

As it turned out the meeting was a major success. Despite the a couple of the less enthusiastic members of the team insisting that all the decisions were right and that was after all the point, the senior people quite excited by the idea that a few simple explanations could avoid a lot of appeals and complaints. The end result was a new suite of letters, less erudite and completely lacking in footnotes, but easy to understand. Another key change was that not every letter querying a decision was treated as an appeal. In effect what was created was an option to question or complain, not just an administrative law right to appeal.

The bottom line was that a program that was generating 25 complaints a month to us before the meeting soon dropped to 8 complaints a months, and now sits at about one complaint a month. But the real gains were in not needing a team of lawyers to deal with every complaint as an appeal, and not spending most of the time trying to explain things to customers in terms that even senior staff could not understand.

I want to spend the next little while talking about some of the lessons that I learned at that meeting. But in case you fall asleep before I get to the end I will tell you the punch lines now:

If you want to deliver any service to the public as effectively and efficiently as possible the easiest way to do it is to listen to your customers, clients or stakeholders. This means having a system for handling complaints effectively, one that:

1. Reflects a culture that values complains;
2. Is founded on the principles of fairness, accessibility, responsiveness, efficiency, and integration;
3. Is staffed by the right sort of people with the right training, properly supervised and able to engage with the rest of the organisation;
4. Is built around processes that take complaints effectively from the start to the finish, from acknowledgement through to response, that provide for follow-up and further, have the capacity to identify systemic issues; and
5. Has the capacity to analyse the data coming out of complaints to best exploit the opportunities to improve both complaint handling and core business.

The really astute among you may have noticed that I just ran through the table of contents of our office's publication *Better Practice Guide to **Complaint Handling***.

I will now turn to these themes in a little more detail.

Culture

Another of my early experiences in my role as Deputy Ombudsman involved a dispute over \$186. By the time it came to my attention there had probably been over \$10,000 worth of bureaucratic time spent on the dispute over a period of nine months. The deputy Secretary in the agency agreed with me that it was probably quite reasonable that the individual should be paid the money. He was rather surprised when I told him he could do just that and bring the matter to an end.

What had gone wrong was that the department had provided copious advice to defend its decision not to pay the money. Certainly they could deny the payment. But no one had asked the lawyers 'can we pay him if we want to?' No one had asked the question 'ought we to pay him?'

A culture focussed on defending decisions and 'dealing with complainants' will not allow an organisation to find effective ways to fix problems, both for individuals and in terms of improving systems and services. In contrast a culture of openness and responsiveness to complaints will not only achieve these outcomes but will improve customer loyalty and relations with the public, and will improve future service delivery.

Of course it is easy to talk in general terms about a culture of openness, but in reality this can be a serious challenge. If the post office readily agrees to compensate for damaged articles, without proof of damage or loss, it is likely to get flooded with claims by opportunists who see this as an easy ploy to get a few bucks. If, on the other hand, they insist on watertight proof they will be on a path to litigation, endless dispute, and customer dissatisfaction. Problems in the postal system that result in damage will not come to light because there will be almost no proven cases to point to the problem. In the end, getting the balance right will be about getting the culture right and will require an attitude coming from the top down. It will also require building systems that can be responsive and make good decisions.

The key to this is to start with a complaints system, formalised and deliberate, with high level backing and resources sufficient to handle the task.

Principles

The principles of an effective complaint handling system are quite basic, fairness, accessibility, responsiveness, and efficiency. Complainants must be given a fair go, with the assurance that their complaint will be considered openly, kept confidential, and that they will know what is happening to their case and the reasons for any decisions made.

Of course it is fundamental that the complaints system is accessible, and care needs to be taken in designing a system that is responsive to those likely to want to complain. We recently had cause to express concern about a complaint system that had very short deadlines within which the often very elderly complainants had to follow up on decisions if they wanted them further considered. This is unlikely to be accessible to many of the complainants for whom even a trip to the post office to mail a letter might be a major undertaking.

But perhaps the biggest challenge in establishing the principles on which a complaints system is founded, is that the system must integrate with the organisation at large, and indeed, in today's interconnected world integrate with other service delivery organisations that are part of the service continuum. In government this shows up increasingly in service delivery that runs across two or more departments, and across two or more levels of government. The Australian government's Northern Territory intervention is a good example, involving as it does numerous federal departments, the Northern Territory government and local government.

In the health sector we can be faced with a resident of an aged care facility, receiving care from a private physician, taken to a hospital, under a war veteran's support program. It is potentially covered by the Federal Health Department, Federal Veterans Department, the state hospital, or the private practitioner. Indeed we currently have a complaint about the level of care in an aged care facility (a Federal matter) but one that arose from an ACAT Assessment (an Aged Care Assessment Team assessment) which is a state responsibility. We are now looking at a joint project with a state Ombudsman's office to consider ACAT/Aged care level of care issues.

The key to complaint handling across organisations is communication, but unfortunately that is an easy word to say, but a hard outcome to deliver.

People

Some time ago I received a complaint about our Ombudsman office service. A complaint to us about delay in an agency's service had been left unattended for over two weeks, well outside our service standards. These things happen. I apologised and we got straight onto the case, resolving it to everyone's satisfaction. But what left me distressed was that my investigation officer responded to my concerns by justifying the delay in terms of heavy workloads and suggesting that our complainant should wait his turn like everyone else. Yes the workload was high, and we shouldn't make other complainants wait while we give preference to the squeaky wheel, but that is our problem and we need to respond to it, not accept that we can deliver inadequate service to complainants.

To get the right people with the right attitude making the right decisions about complaints all the time is an impossible dream. On the other hand we have to take on

the challenge of trying for this impossible goal. This does mean recruiting the right kind of person and providing ongoing training and development.

At the Commonwealth Ombudsman's office we have found that an additional key element is quality control. With over 100 investigation staff spread across Australia we have found that a very deliberate quality assurance regime is a key to delivering consistent and appropriate service. Our regime involves numerous elements including:

- supervisor support, mentoring and checking;
- peer checking;
- review by specialists;
- opportunity for review of decisions by an independent team; and
- sample checking of cases by a specialist panel.

This last program samples approximately 100 case per month and gives us an excellent view of both our systems and the performance of our investigators across the board. I should note it has also been a very reassuring process, in that we have identified a considerable amount of feedback that we can usefully provide, and also identified system improvements we can make, but we are very pleased to see consistently high levels of service, with very few errors affecting the end service we deliver to complainants.

Process

A good complaint handling process mirrors the needs of good administration in any aspect of business. It requires a clear path from start to finish, with roles clearly identified and responsibilities clearly laid out. In the case of complaint handling the process should include:

- prompt acknowledgement of the complaint, including setting out some expectations for progress of the case;
- assessment of the complaint with an appropriate response, such as a decision to investigate, decline, or expedite it as appropriate;
- any investigation should be planned, and then promptly carried out;
- there must be a clear response to the complainant;
- the process should end with appropriate follow-up; and
- there must be a capacity to consider any broader implications such as the need for systemic reform.

Managing any complaint in a timely manner will be one of the major challenges. Just as with general administration there is the general pressure of workloads but also a high risk of what John McMillan has termed administrative drift. The need for extensive liaison with service delivery areas, for difficult judgements, for checking of facts and for engaging with numerous players can see timeframes grow quickly and can see cases that are allowed to linger. Constantly monitoring timeliness is a key to avoiding timeframes drifting out to unacceptable levels.

Equally challenging is developing the capacity to stand back sufficiently from individual complaints to be able to identify systemic issues. While this is a benefit of using an external complaint mechanism, such as an Ombudsman, it is important for internal complaint handling processes to try also to pick up on these broader opportunities for organisations to improve service delivery. This leads to the most significant opportunity that effective complaint handling provides to an agency but also the biggest challenge.

Analysis

To obtain maximum benefit from complaints it is important to go beyond the use of complaint information to resolve individual issues. Organisations must develop a capacity for deliberate analysis of overall complaint data. Changes in complaint numbers, geographical distribution, subject matter, and character can all provide valuable information about both the organisation generally and about the complaint systems. Harvesting this data can hold exciting results for organisations and deliver very real gains. It can also be very difficult to do effectively.

In our office we have a sophisticated electronic complaint management system. We also have teams of specialists monitoring complaint data from specific agencies. Even so it is a major challenge to identify important complaint data and trends. The importance that our office places on this broader use of complaint data is reflected in the shift to great use of major reports. In the current calendar year we will publish close to 20 major reports, compared to less than five per year when John McMillan was appointed Ombudsman.

The interesting feature of these reports is how a few cases, sometimes a very few cases, can lead to significant and import reforms on a large scale. The consequences of two prominent immigration cases, Rau and Alvarez, are well known, leading to very substantial reforms in the processes and practices, as well as the laws surrounding immigration detention. There are many other such examples: five cases of wrongful rejection of funding assistance in the Equine Influenza Business Assistance Grants program lead to a review of 799 cases and well over \$2million of additional payments. Examples such as these abound in our files.

Conclusion

I have presented many challenges with few solutions. Our *Better Practice Guide to **Complaint handling***, and indeed our report on *Ten Lessons for Public Administration*, drawn from a series of immigration cases referred to our office, both provide good clues for how to address some of the challenges that complaints present. The key lies in serious and high level commitment within an organisation to embracing complaints not as something to be dealt with and disposed of, but rather something to be taken seriously as a part of core business and holding the potential to benefit an organisation.

I will finish with another anecdote. About 18 months ago I was investigating some payments for my mother-in-law, Prue, for whom I have power of attorney. A brochure informed me, at the bottom of page 7, that the minimum payment that Prue would receive was \$21.90. When her payments came through at about \$19 I wrote to the agency concerned and queried the payment. I got a lengthy letter in return explaining very clearly, courteously and helpfully exactly how the payment was calculated and why. Yes, \$19 was correct. I then rang the complaint line to let them know that page 7 of the brochure was misleading. I was informed that, had I read the brochure properly, I would have found on page 22 a qualifier that explained it all to me. This was true, but I did suggest that it would be very helpful if the statement on page 7 could be qualified with the words 'subject to page 22'. When the telephone operator said she would pass my suggestion on, her tone made it clear that I shouldn't hold my breath!

And 18 months later the brochure is unchanged. I am sure that the agency still gets calls and letters about the issue and I am sure they continue to give clear, courteous and helpful replies, but if only they would change the brochure people would not

need to write or ring with a question that the agency would not need to respond to.
Like those eternal questions of life (for example 'is there another word for synonym?')
I often wonder why, in the age of modern communications, so many organisations
don't know about their service what everyone else knows about it.