

foreword

This is the thirtieth annual report of the Commonwealth Ombudsman. A special theme of this report is the changes that have occurred in the office since it was established in July 1977. Those changes touch most aspects of the office, including the legislation, structure, functions, work methods, and activities.

The founding of the office marked the birth of a new approach to handling problems people encounter in dealing with government. Traditional mechanisms such as courts and members of parliament would remain, but the Ombudsman's office would provide a new avenue, with distinct features. There would be no formality or charge for lodging a complaint; the office could look at issues arising in nearly all areas of government; investigation powers akin to those of a royal commission could be used where necessary; the size and continuity of the office would enable it to develop expertise and a special relationship both with the public and with government agencies; and, most importantly, the office was guaranteed statutory independence.

The Ombudsman function encapsulated twin principles—people have a right to complain about government when things go wrong, and there is a duty on government to respond. Developments over the past thirty years have reinforced those principles. Other independent agencies with a statutory oversight or complaints function have been established, internal complaint-handling procedures have been implemented across government, and agencies have adopted service charters containing commitments to the public about the standards of service they can expect.

These changes have supplemented and changed the role of the Ombudsman's office, but not made it any less relevant. This thirtieth report contains many examples that illustrate



Commonwealth Ombudsman, Prof. John McMillan

the continuing need for a vibrant Ombudsman's office in the structure of government.

In 2006–07 the office received 33,322 approaches and complaints—a rise of 18% on the previous year. While a majority were about matters that did not require investigation or were beyond the office's jurisdiction, they nevertheless show the need for an independent office that people can trust and turn to with a complaint or query.

The growing complexity in the structure and functions of government lies behind the level of public contact with the office. Two examples discussed in this report concern complaints about security-related and other

issues in Australian airports, and complaints arising from the Welfare to Work initiatives that are administered jointly by a number of Australian Government agencies and non-government organisations. A new and extended jurisdiction covering complaints about the actions of contracted government service providers is an important evolution in the role of the Ombudsman.

Another initiative commencing in 2007 that will draw on this experience in dealing with complex government programs administered jointly by numerous agencies, is to work with communities and agencies in handling complaints arising from the Government's Northern Territory Emergency Response. Additional funding was provided to the Ombudsman's office in July 2007 to support this role.

The continuing relevance of the Ombudsman's office is also captured in the range of other roles the office has developed over thirty years. The two core functions of dealing with individual complaints and undertaking own motion investigations continue to provide the bulk of the work. A third function that has grown since it began in 1988, is to undertake periodic inspection of the records of law enforcement agencies to check for compliance with laws relating to telecommunications interception, electronic surveillance, controlled operations and stored communications. This scrutiny provides reassurance to Parliament and the public that law enforcement activities that are intrusive yet shielded from public gaze are conducted properly and lawfully.

A new function that commenced in 2005 is to prepare a report for tabling in Parliament on each person held in immigration detention for more than two years. Another function that commenced in 2007 is to conduct an annual review and report to Parliament on how the Australian Federal Police has handled complaints about its officers and operations.

These new and specialised functions in the office are mirrored in the distinctive titles that it has acquired. The profile of the office as Commonwealth Ombudsman has been enhanced by the additional role and titles of Defence Force Ombudsman, Taxation Ombudsman, Immigration Ombudsman, Postal Industry Ombudsman and Law Enforcement Ombudsman.

Two other proposals are currently under consideration within government—for the office, as Access Card Ombudsman, to perform a case review function in relation to disputes about the grant or refusal of an Access Card; and to undertake a periodic review of quarantine investigations.

It is a matter of pride for the Ombudsman's office that its stature and relevance has grown rather than diminished over thirty years. There was a pleasing mention of this point at a seminar in 2006 by Sir Anthony Mason, former Chief Justice of Australia and a member of the Commonwealth Administrative Review Committee that proposed the new system of Australian administrative law of which the Ombudsman is a part. Sir Anthony noted that 'Of the major reforms, the Ombudsman has perhaps been the most successful ... Ombudsmen have shown that it is possible to maintain good working relations with government departments without compromising independent decision making.'

The achievements of the Ombudsman's office derive from the commitment and innovation of staff over thirty years, working at offices located around Australia. An appropriate note on which to end this foreword to the thirtieth annual report is to pay tribute to the staff who have taken up the challenge to develop the office from a new idea to an energetic institution that plays an essential and growing role in the system of government.

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