



The Department of Education, Employment and Workplace Relations

ADMINISTRATION OF THE NATIONAL SCHOOL CHAPLAINCY
PROGRAM

July 2011

Report by the Commonwealth Ombudsman,
Mr Allan Asher, under the *Ombudsman Act 1976*

REPORT NO. **06|2011**

Reports by the Ombudsman

Under the *Ombudsman Act 1976* (Cth), the Commonwealth Ombudsman investigates the administrative actions of Australian Government agencies and officers. An investigation can be conducted as a result of a complaint or on the initiative (or own motion) of the Ombudsman.

The *Ombudsman Act 1976* confers five other roles on the Commonwealth Ombudsman—the role of Defence Force Ombudsman, to investigate action arising from the service of a member of the Australian Defence Force; the role of Immigration Ombudsman, to investigate action taken in relation to immigration (including immigration detention); the role of Postal Industry Ombudsman, to investigate complaints against private postal operators; the role of Taxation Ombudsman, to investigate action taken by the Australian Taxation Office; and the role of Law Enforcement Ombudsman, to investigate conduct and practices of the Australian Federal Police (AFP) and its members. There are special procedures applying to complaints about AFP officers contained in the *Australian Federal Police Act 1979*. Complaints about the conduct of AFP officers prior to 2007 are dealt with under the *Complaints (Australian Federal Police) Act 1981* (Cth).

Most complaints to the Ombudsman are resolved without the need for a formal report. The Ombudsman can, however, culminate an investigation by preparing a report that contains the opinions and recommendations of the Ombudsman. A report can be prepared if the Ombudsman is of the opinion that the administrative action under investigation was unlawful, unreasonable, unjust, oppressive, improperly discriminatory, or otherwise wrong or unsupported by the facts; was not properly explained by an agency; or was based on a law that was unreasonable, unjust, oppressive or improperly discriminatory. A report can also be prepared to describe an investigation, including any conclusions drawn from it, even if the Ombudsman has made no adverse findings.

A report by the Ombudsman is forwarded to the agency concerned and the responsible minister. If the recommendations in the report are not accepted, the Ombudsman can choose to furnish the report to the Prime Minister or Parliament.

These reports are not always made publicly available. The Ombudsman is subject to statutory secrecy provisions, and for reasons of privacy, confidentiality or privilege it may be inappropriate to publish all or part of a report. Nevertheless, to the extent possible, reports by the Ombudsman are published in full or in an abridged version.

Copies or summaries of the reports are usually made available on the Ombudsman website at www.ombudsman.gov.au. Commencing in 2004, the reports prepared by the Ombudsman (in each of the roles mentioned above) are sequenced into a single annual series of reports.

ISBN 978 0 9870657 7 3

Date of publication: July 2011

Publisher: Commonwealth Ombudsman, Canberra Australia

© Commonwealth of Australia 2011

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Australian Government, available from the Attorney-General's Department.

Requests and enquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Copyright Law Branch, Attorney-General's Department, National Circuit, Barton ACT 2601, or posted at <http://www.ag.gov.au/cca>.

Requests and enquiries can be directed to the Director Public Affairs, Commonwealth Ombudsman, GPO Box 442, Canberra ACT 2601; email ombudsman@ombudsman.gov.au or phone 1300 362 072 (calls from mobiles charged at mobile phone rates). This report is available on the Commonwealth Ombudsman's website <http://www.ombudsman.gov.au>.

CONTENTS

EXECUTIVE SUMMARY	1
BACKGROUND	3
Northern Territory Ombudsman Report	3
The National School Chaplaincy Program	4
Scope of Investigation.....	5
INVESTIGATION	7
Application Process.....	7
<i>Community Consultation</i>	7
<i>Qualifications</i>	9
<i>Verification of qualifications</i>	9
Funding Agreement.....	10
Guidelines, Monitoring and Reporting.....	11
<i>Definitions</i>	11
<i>Role</i>	12
<i>Consent</i>	12
<i>Monitoring</i>	14
Complaint Handling.....	15
CONCLUSION, RECOMMENDATIONS AND AGENCY RESPONSES	18
OMBUDSMAN’S COMMENTS ON AGENCY’S RESPONSE TO RECOMMENDATIONS	23

EXECUTIVE SUMMARY

The Commonwealth Ombudsman's office began an own motion investigation into the Department of Education, Employment and Workplace Relations (the Department)'s administration of the National School Chaplaincy Program (the Chaplaincy Program) in December 2010. This was in response to a report released by the Northern Territory Ombudsman (the NT Ombudsman's Report), following her office's investigation of complaints about the program in five NT schools.¹ The NT Ombudsman's Report identified issues with the Department's administration of the Chaplaincy Program, which the NT Ombudsman was unable to investigate due to lack of jurisdiction.

While the Commonwealth Ombudsman's office acknowledges that there is a high level of community support for the Chaplaincy Program, as evidenced by the 2,675 schools currently participating in the program, we are also aware that some sectors of the community are concerned about a program that creates demand for the services of, predominantly, religious-based groups. The merit of the underlying policy is a matter for Government and was not the subject of this investigation.

Rather, this office is interested in the Department's administration of the Chaplaincy Program, particularly given that it generates demand for services delivered to children. Therefore the focus of this investigation was on the:

- application process
- funding agreements
- guidelines
- monitoring and acquittal of funds
- complaint handling by the Department.

The investigation found that, although the Department provided some guidance in its program documentation, there has been insufficient guidance by the Department in relation to:

- the consultation that schools were expected to undertake as part of the application process
- key terms used within the program guidelines and code of conduct
- minimum qualification requirements
- the promotion of complaint-handling processes and escalation procedure.

The need for further information is reflected in the recommendations of this report. In making our recommendations, we seek to assist the Department to strengthen its administration of a program that is obviously valued by many, but concerning to some.

The Ombudsman considers that, although schools were involved in the application process and agreed to the conditions of the program guidelines, it would have been preferable for government schools to be a party to the funding agreement. This would

¹ *Investigation Report on the Operation of the Chaplaincy Services within Five Government Rural Schools of the Northern Territory, November 2010. Published at <http://www.ombudsman.nt.gov.au/wp-content/uploads/2009/07/INVESTIGATION-REPORT-ON-THE-OPERATION-OF-THE-CHAPLAINCY-SERVICES-WITHIN-5-GOVT-RURAL-SCHOOLS-OF-THE-NT.pdf>*

ensure that the Department has direct control over how those schools manage the program. In recognition that there are currently obstacles that would prevent the Department from doing this, the Ombudsman has made recommendations that are designed to make schools more accountable to the Department for day-to-day administration of the Chaplaincy Program. The Ombudsman considers this to be important in protecting the rights of parents and children affected by the program.

Regarding the Chaplaincy Program funding agreements, the investigation focused on the program in government schools, where funding agreements were entered into with a chaplaincy service provider rather than the school in most instances.²

Overall, the Ombudsman has made eight recommendations about work that should be undertaken by the Department to improve its processes and guidance material. Implementation of the recommendations will improve the effective administration of the Chaplaincy Program. It is recommended that the Department have regard to the best practice principles set out in this office's previous report Executive Schemes – 12/2009 when considering these recommendations.³

In its response to the Ombudsman's Report, the Department claims that references to the NT Ombudsman's report are inappropriate on the basis that the alleged incidents occurred prior to the commencement of the Chaplaincy Program funding in the NT schools. Whilst acknowledging that, this office remains of the view that the NT Ombudsman's report provided relevant context to this report, and many of the issues investigated by the NT Ombudsman were relevant to the administration of a chaplaincy program, irrespective of which government administers it.

The Ombudsman also rejects the Department's assertion that the relatively low level of complaints received about the Chaplaincy Program to date indicates wholesale acceptance of all aspects of the program and a robust complaint handling procedure. It is the Ombudsman's view that the Department should embrace a wider, more citizen-centric and accessible complaint handling model. Such a model should be effective in capturing complaints and concerns across the administration of the program through promotion of its Chaplaincy Program complaint procedure amongst community groups, parents, schools, chaplaincy service providers and State and Territory education authorities

In response to the Department's request that this office include case study examples of positive support for the Chaplaincy Program, we advise that we did not receive any approaches from members of the public that supported administration of the Program.

The Ombudsman advises that in view of the Department's response to this report, and acceptance of the recommendations, that the Department provides this office with a report about its progress in the implementation of the recommendations within about three months, as the Ombudsman intends to publically comment on the Department's implementation of the recommendations within about six months.

² The investigation revealed that there were also other funding models employed. For example, funding agreements were entered into directly with non-government schools and Parent and Citizenship Committees. These funding models are not the subject of this investigation.

³ *Executive Schemes*, Report No 12 of 2009, Commonwealth Ombudsman

BACKGROUND

Northern Territory Ombudsman Report

1.1 In late November 2010 the Northern Territory Ombudsman released a report⁴ of an investigation into chaplaincy services at five Northern Territory Schools.⁵ This followed complaints to the NT Ombudsman from parents who were concerned about chaplain conduct and the adequacy of oversight by the schools and the Northern Territory Department of Education and Training of the chaplaincy service.

1.2 The chaplains who were the focus of the investigation were nominees of organisations that were in receipt of grants under the National School Chaplaincy Program. The Chaplaincy Program is an executive scheme administered by the Department of Education, Employment and Workplace Relations (the Department).

1.3 The Commonwealth Ombudsman understands that the alleged incidents that were the subject of the NT Ombudsman's investigation occurred before the Chaplaincy Program commenced in those schools. Nevertheless, the NT Ombudsman's report raised concerns about the administration of the Chaplaincy Program in relation to the application process, grant guidelines, funding agreements, monitoring and acquittal process, and the Department's investigation of complaints made by some of the parents with children in the schools.⁶

1.4 Although the NT Ombudsman expressed concern about the above aspects of the Department's administration of the Chaplaincy Program her office was unable to conduct its own investigation into those issues due to lack of jurisdiction.

1.5 For this reason the NT Ombudsman made the following recommendation to the Commonwealth Ombudsman:⁷

13. A copy of this report to be provided to the Commonwealth Ombudsman for his consideration under the Memorandum of Understanding with my office, to consider the practices of [The Department of Education, Employment and Workplace Relations (DEEWR)] with respect to:

- 13.1 The administration by DEEWR of the whole of the National Schools Chaplaincy Program including:
 - 13.1.1 The manner in which DEEWR monitors compliance with the guidelines of the NSCP.
 - 13.1.2 Whether or not DEEWR has adequate procedures to ensure acquittal of the funds granted under the NSCP.
 - 13.1.3 Whether or not DEEWR verifies information provided to it by schools who apply for funding.
 - 13.1.4 Whether or not the practice of requiring an application for funding to be made by a school, requiring a school to report progress and certify that funds, not received by the schools, have been used only for the NSCP when the school or an education department are not party to the agreement is good public administration.

⁴ The NT Ombudsman's Report - *Op. cit.*

⁵ Humpty Doo Primary School, Berry Springs Primary School, Bees Creek Primary School, Girraween Primary School, Taminmin Primary School.

⁶ The NT Ombudsman's Report *Op. cit.*

⁷ *Ibid*

13.1.5 Whether or not the investigation by DEEWR into complaints about chaplains in late 2007 early 2008 was adequate and whether DEEWR has an adequate system for managing complaints about the NCSP.⁷

1.6 In response to the request by the NT Ombudsman the Commonwealth Ombudsman began an own motion investigation in December 2010.

The National School Chaplaincy Program

1.7 On 29 October 2006 the then Prime Minister, the Hon John Howard, announced the Government's decision to provide funding for chaplains to play a part in the nation's schools.

1.8 A total of \$165 million was initially allocated to the program and funding rounds took place in July and October of that year. Under the program, schools were able to apply for a maximum of \$20,000 per year to establish or expand chaplaincy services to the school community.

1.9 In 2008 the then Deputy Prime Minister approved changes to the Chaplaincy Program permitting schools that were unable to recruit a suitable chaplain to appoint alternative individuals such as counsellors, youth workers or other secular support staff. Under the program these individuals were to be described as 'secular pastoral care workers'. In November 2009 the Government announced an additional \$42.8 million to extend the program in all participating schools until December 2011.

1.10 Special funding was also granted through the Chaplaincy Program to schools affected by the 2009 Victorian bushfires and the 2011 Queensland floods, to make additional chaplaincy services available.

1.11 In August 2010, the Australian Government announced that a further \$222 million would be provided to extend the Chaplaincy Program to December 2014. The additional funding will support up to 1,000 schools, including those in disadvantaged, rural and remote communities. This coincided with a review of the Chaplaincy Program announced by the Department.

1.12 Stage one of the review gathered feedback about the program through a series of stakeholder meetings and invited written submissions, leading into the second stage of the review with the public release of a Discussion Paper on 11 February 2011 by the Minister for School Education, the Hon Peter Garrett.⁸ Feedback in response to the Discussion Paper closed on 18 March 2011.

1.13 On 10 May 2011, as part of the 2011-12 Commonwealth Budget, Minister Garrett announced funding to extend the Chaplaincy Program for the approximately 2,700 schools that currently have a chaplain and allow up to 1,000 additional schools to access a chaplain.⁹

1.14 As the Chaplaincy Program is an executive scheme, decisions made under it are not reviewable under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act), and the merits of decisions made under this type of scheme are not reviewable by generalist or specialist tribunals.

⁸ National School Chaplaincy Program 2011 - Have Your Say - A Discussion Paper – 11 February 2011

⁹ http://www.deewr.gov.au/Ministers/Garrett/Media/Releases/Pages/Article_110510_190613.aspx

1.15 The Commonwealth Ombudsman previously published a report about executive schemes.¹⁰ In that report the Ombudsman observed that the creation of a program through use of executive power has its advantages and disadvantages. An advantage of executive schemes is that they can be quickly implemented by Government, as they do not need to proceed through the parliamentary process (unlike a program that is created by statute). A disadvantage of executive schemes is that potential issues are overlooked as they are not subject to the same level of consultation and scrutiny as legislation.¹¹ In light of this our office has a particular interest in reviewing the operation and decision making of executive schemes like the Chaplaincy Program.

1.16 The Ombudsman's report about executive schemes identified a number of best practice principles for agencies to consider when developing and administering executive schemes¹². These include the need to ensure that guidelines are legally and technically sound, that effective liaison with other organisations occurs, and that complaint handling mechanisms are established in the absence of external review of decisions made under executive schemes.

Scope of Investigation

1.17 The Chaplaincy Program Guidelines (the Guidelines) describe the role of the chaplain as follows:

[R]eference point for students, staff and other members of the school community on religious, spiritual issues, values, human relationships and wellbeing issues. This includes providing support for grief, family breakdown and other crisis situations.¹³

1.18 This has led some individuals and groups to express concern that chaplains may be placed in situations where they are required to deal with a range of student related issues, such as substance abuse, physical and emotional abuse, neglect, anxiety, depression, self-harm and suicide. Some have questioned whether this is appropriate, particularly given the potential for the role of a school chaplain to become confused with that of a counsellor or therapist. This concern is reflected in the NT Ombudsman's Report.¹⁴

1.19 Criticism around chaplains' religious affiliations is due to almost all chaplains funded under the program having links to Christian organisations.¹⁵ This aspect of the program has been a source of concern for some parents in public schools who believe there is no place for religion in a secular educational environment.¹⁶

¹⁰ *Executive Schemes Op. cit.*

¹¹ *Ibid* – p.3

¹² *Ibid* – p.27

¹³ DEEWR NSCP Guidelines – Code of Conduct, 16 February 2010 – p.18

¹⁴ NT Ombudsman's Report *Op. cit.*

¹⁵ Discussion Paper *Op. cit.* – p.7

¹⁶ Inter alia:

- The Submission to the Consultation Process for the NSCP by the Australian Psychological Society Ltd 1 July 2010 at <http://www.psychology.org.au/Assets/Files/APS-Submission-School-Chaplains-July2010.pdf>;
- The Australian Secular Lobby at <http://www.australiansecularlobby.com/>;
- The Greens policy initiative to replace the NSCP with a "Schools Community Fund" at <http://greens.org.au/files/SchoolsCommunityFund.pdf> and <http://www.johnkaye.org.au/campaigns/education/chaplaincy-program-study-flawed-and-biased-conclusions-not-justified>;
- Australian Council for the Defence of Government Schools (DOGS) at <http://www.adogs.info/images/pr412.htm> and <http://www.adogs.info/images/pr396.htm>; (cont)

However, this office does recognise that there is also a high level of community support for the benefits of the program, as highlighted in the Department's recent Discussion Paper, and the take-up of the program in school communities.

1.20 Although this office understands that there is a level of concern from different sectors of the community about the policy itself,¹⁷ responsibility for such a program ultimately rests with the Government of the day. It is the role of the Ombudsman's office to ensure that the framework within which the policy operates and the way the program is implemented is consistent with what can be considered good public administration.

1.21 Therefore, this office decided to examine the Department's administration of the Chaplaincy Program, with a focus on:

- the application process
- funding agreements
- guidelines
- monitoring and acquittal of funds
- complaint handling.

1.22 This office is aware that the NT Ombudsman did ask that the Commonwealth Ombudsman look specifically at the Department's handling of individual complaints in 2007 and 2008. The Ombudsman decided not to look at those specific investigations, on the basis that it was unlikely (given the changes to the Chaplaincy Program over the intervening years) to lead to any meaningful comment by the Ombudsman. However, we have looked more broadly at the way the Department handles complaints and inquiries about the Chaplaincy Program.

(continued from previous page)

- Rationalist Society of Australia at <http://www.rationalist.com.au/submissions-and-letters/238-submission-to-nscp-review-no-2>;
- Humanist Society of Victoria at <http://www.victorianhumanist.com/2010/08/victorian-humanists-object-to-expansion-of-school-chaplaincy/>;
- Humanist Society of Queensland at <http://www.hsq.org.au/News/>;
- Humanist Society of New South Wales at <http://www.hsnsw.asn.au/homepage.php>;
- The Australian Secular Lobby at <http://www.hsnsw.asn.au/homepage.php>;
- Australian Council of State School Organisations at <http://www.acsso.org.au/>;
- Stop the National Chaplaincy Program at <http://www.stophenscp.org>;
- Victorian Association for Philosophy in Schools at http://vaps.vic.edu.au/?page_id=952.

¹⁷ The office also notes that High Court has recently granted leave for a case to proceed which seeks to challenge the program on constitutional grounds. See *Williams v The Commonwealth of Australia & Ors*, S307/2010

INVESTIGATION

2.1 The investigation focused on specific aspects of the Department's administration of the Chaplaincy Program.

2.2 The investigation was also informed by the content of the NT Ombudsman's Report.

2.3 In assessing the Department's administration of the Chaplaincy Program, the office also had regard to the Australian National Audit Office report *Implementing Better Practice Grants Administration Better Practice Guide* (the Better Practice Guide)¹⁸ and the Commonwealth Grant Guidelines.¹⁹

2.4 The investigation considered publicly available documents about the Chaplaincy Program, briefings and internal documents provided by the Department to this office, and information provided by the Department in response to our specific questions.

Application Process

2.5 To be eligible for funding under the Chaplaincy Program in the first two funding rounds Government and non-government school principals were required to among other things:²⁰

- provide a statement identifying the need for a chaplain in the school community
- name the proposed chaplain and describe their qualifications / religious denomination
- give details about the endorsement of the proposed chaplain by a recognised religious institution or chaplaincy service provider
- demonstrate the school community's support for the program and provide evidence of community consultation.

Community Consultation

2.6 An important aspect of the application process was the applicant's ability to show community support for the program at their school. For this reason, in the first two application rounds, schools needed to show that they had consulted with their school community. Schools were required to provide details of the consultation process.

2.7 In the two funding rounds conducted under the program the information provided to applicants about what was expected by the Department, as contained in the 19 January 2007 and 1 July 2008 Guidelines, stated:

Where a school and its community wishes to engage the services of a school chaplain/secular Pastoral Care Worker under this Program, its members will work together through the school principal to determine demand and support for chaplaincy services within the school and to undertake the steps required to seek funding. School communities

¹⁸ Australian National Audit Office – *Implementing Better Practice Grants Administration – Better Practice Guide*, June 2010

¹⁹ Department of Finance and Deregulation, *Commonwealth Grant Guidelines - Policies and Principles for Grants Administration*, Financial Management Guidance No. 23, July 2009

²⁰ DEEWR *NSCP Guide to Preparing an Application*

are expected to work through the school principal or project leader who will work closely with and assist the funding recipient to monitor and report on the activities funded under the Program according to the terms of the funding agreement.²¹

2.8 Although the Department's school application form, applicant guide and program guidelines clearly note the requirement for community consultation, and the application form and guidelines provide examples of how to consult with and gauge the community support, the Ombudsman believes the Department should set a minimum standard for actions required to gauge community support.

2.9 The impact on some parents of different approaches taken by schools is highlighted by the following individual feedback provided to our office in response to the own motion investigation.

Case study: Parental concern about indifference to the views of the school community

Ms X advised that the principal and staff at her child's school decided that having a chaplain would be beneficial and began the application process.

According to Ms X, the school has a high representation of families from non-Christian backgrounds and that few of the parents of these families speak English, with most being of a particular language group.

Ms X explained that in order to gauge community support, the school distributed a survey via children's schoolbags in the last week of term 2, which was to be returned early in term 3. Ms X said that although the survey was accompanied by information from the Department's website about the role of chaplains, she was concerned information was very one sided in favour of the program and did not explain that chaplains were not necessarily equipped to fulfil a counselling role.

It became apparent to Ms X that many parents had not been made aware of the survey's existence, and that it was not translated into the language used by a substantial proportion of parents.

Ms X alleged that on balance the responses that were provided did not support the Chaplaincy Program application. Ms X alleged that despite this the school council voted in favour of the application, as it did not consider it was bound by the results of the survey. The application was subsequently deemed successful by the Department.

Ms X explained that she felt that her views and those of other parents were overlooked, and that the school's decision was made in line with the agenda of school council members and the staff of the school. In particular, she believes that the decision was based on the mistaken belief that a chaplain could effectively fulfil a counsellor's role.

2.10 The Ombudsman considers that the setting of a minimum standard for consultation will not only promote greater consistency, but also help parents to better assess the adequacy of their own school's consultation process. In developing such a standard the Department should ensure that there is also an objective means by which schools are expected to regularly monitor community support, in recognition of the changing nature of school communities over the funding period.

²¹ *The Guidelines* 19 January 2007 and 1 July 2008

Qualifications

2.11 There is currently no requirement for chaplains to have minimum qualifications to attract grant funding. At present it appears that there are a wide range of non-credentialed courses a chaplain candidate can record as having undertaken. In the recent Discussion Paper, the Department acknowledges this and notes that there is “currently ... no nationally consistent employment standards for school chaplains in relation to minimum qualifications, role and duty statements.”²²

2.12 The absence of any educational or professional requirement makes it difficult for the Department to ensure that chaplains have particular knowledge and skills. This sets chaplains apart from all other staff working directly with children in a school environment. This office notes that, in its recent Discussion Paper, the Department raised the question of whether a minimum qualification for school chaplains be established.²³ The Ombudsman supports the Department giving further consideration to chaplains’ professional qualifications.

Verification of qualifications

2.13 In anticipation of minimum qualifications being set it is important that there be a thorough vetting process for all relevant courses and that the chaplains’ attainment of the qualification can be easily verified. The NT Ombudsman’s Report illustrates the importance of this, as that investigation found that the information provided by a chaplain who was the subject of an investigation differed between applications lodged by the different schools he worked at. Further, the NT Ombudsman noted that neither of the chaplains in that investigation was qualified to deliver some of the programs named in the applications. For example, in one case the NT Ombudsman found that a book title was listed such that it appeared to be a program the individual was qualified to deliver.²⁴

2.14 In light of the above, this office asked the Department about its procedures for cross checking applications and verifying information provided by applicants.

2.15 In response, the Department itemised the cross checks that assessing officers carried out against the Application Guides specifically prepared for each funding round. It also identified that a quality assurance review of a percentage of assessed applications was conducted. This is an independent review conducted by senior Department Quality Assurance Reviewers. The Department also advised that it considers two risk management issues in relation to applications. It checks whether non-government, non-systemic schools may have an unsatisfactory history of accounting for and reporting on the expenditure of past grants. It also checks schools which have identified “other” under the chaplain’s religious denomination. We consider these processes to be good practice.

2.16 However, the Department did not identify any practice by which it cross checks information provided to it by schools concerning their nominated chaplain’s capacity to deliver elements of the program. Although it is apparent that the ‘vet function’ for the second funding round was more thorough than the first, this office was not able to establish that this would guard against a chaplain providing services that they were not qualified to provide. This reinforces the Ombudsman’s view that inclusion of minimum qualifications should be accompanied by a more rigorous verification process, given chaplains are delivering a service to children in schools.

²² Discussion Paper *Op. cit.* – p.13

²³ *Ibid*

²⁴ NT Ombudsman’s Report *Op. cit.*

Funding Agreement

2.17 The NT Ombudsman expressed concern that schools and education authorities are not parties to the funding agreement despite having a role to play in the application process and being required to assist the Department in monitoring chaplains' compliance with grant guidelines.²⁵ The Department confirms that the Chaplaincy Program funding agreements are made between the Department and the chaplain's employer (for example, this may be the school, a chaplaincy service provider or a parent and citizen committee).²⁶

2.18 In discussing a principal's obligation to take reasonable steps to ensure that chaplains comply with the code of conduct, the NT Ombudsman observed:

If either [the NT Department of Education and Training] or the School Principal is not a party to the contract with [the Department] there is no pathway for [the Department] to monitor or enforce compliance with an obligation of the School Principal.²⁷

2.19 In response to the investigation by this office the Department explained that although State and Territory education authorities were generally supportive of the Chaplaincy Program in schools, they had adopted an 'arm's length' approach to the program. As a result State and Territory schools and education authorities have not been party to the funding agreements, despite schools actively participating in the application process.

2.20 Given schools are expected to play a role in assisting the Department to monitor compliance with the Guidelines, this office is concerned that there is currently no direct means by which the Department can hold schools or education authorities to account for the quality of the monitoring they undertake. The Ombudsman considers this to be a significant issue, as Commonwealth funding has generated demand for chaplaincy services. Therefore, the public would expect that schools would be held accountable by the Department for their day to day administration of the Chaplaincy Program.

2.21 Although this office understands that this situation has arisen due to States and Territories preferring an 'arm's length' approach, the Ombudsman considers this is not best administrative practice. The Ombudsman considers that it would be preferable that all agreements were entered into directly with the school, while appreciating that without State and Territory cooperation this is currently not possible.

2.22 In response to the Ombudsman's investigation, the Department has noted it is willing to consider ways in which the obligation of the school principal can be made clearer and also to consider whether the performance of these obligations can be linked to the contract with the chaplaincy provider. In the event that the Department is not able to establish protocols with State and Territory authorities, the Ombudsman supports this proposal by the Department, subject to the Department ensuring that any such protocols are nationally consistent.

2.23 On this basis the Ombudsman recommends that the Department work with relevant stakeholders, including State and Territory education authorities, to further consider how to ensure that schools manage the program consistently and in accordance with program guidelines before any further funding rounds take place. In

²⁵ NT Ombudsman's Report *Op. cit.*

²⁶ Proof Committee Hansard, SENATE, Education, Employment and Workplace Relations Legislation Committee Estimates (Additional Estimates) Thursday, 24 February 2011

²⁷ NT Ombudsman's Report *Op. cit.*

doing so, the Department should keep in mind recommendations made in 'Ahead of the Game – Blueprint for Reform of Australian Government Administration' published in 2010, which aims to improve outcomes for citizens through a whole of government approach to the delivery of services."²⁸

Guidelines, Monitoring and Reporting

Definitions

2.24 Public comment from interested stakeholder groups reveals that there is a level of concern about adequacy of the Chaplaincy Program guidelines to assert control over the activities of chaplains in schools. This is because terms used in the grant guidelines and in the code of conduct for chaplains are not clearly defined. Specific concerns relate to the terms 'pastoral care', 'chaplain' and 'proselytise'. The terms chaplain and pastoral care are significant, as they go to the heart of what the Chaplaincy Program is designed to deliver in schools. Further, the code of conduct seeks to limit the influence of a chaplain's religious affiliation through the prohibition of proselytising.

2.25 The Guidelines describe how a school can recognise someone who may be qualified to deliver chaplaincy services, and the code of conduct prescribes features of a chaplain's role in a school. However, while the Guidelines and Code of Conduct provide some detail on the role of chaplains and specifically prohibit proselytising, they do not specifically define the terms 'pastoral care' or 'proselytise', leaving it up to interested parties to base their interpretation on the ordinary meaning of the words.

2.26 The problem this creates is best illustrated in relation to lack of guidance around the term 'proselytise'. The objective of the Chaplaincy Program is to place people with religious beliefs into schools²⁹. On considering the role of chaplains, as set out in the Guidelines, it is anticipated that chaplains will provide some level of spiritual guidance to students. This means that there is some tolerance for chaplains talking about their faith within their school community. However, the Code of Conduct places a limit on the extent that a chaplain is permitted to talk about their faith, through the above-mentioned prohibition on proselytising.

2.27 The prohibition of proselytising is designed to protect students from being unduly influenced by a chaplain's religious beliefs. However, there is limited value in such a protection if there is no guidance provided about the difference between a chaplain merely talking about their faith and proselytising. This makes it more difficult, except in very extreme cases, to determine whether a chaplain has crossed the line. This in turn makes this part of the code of conduct almost impossible to enforce, limiting the protection the code of conduct was designed to provide.

2.28 The following brief extract of a recent Senate Estimates exchange shows the difficulties in practice of determining whether or not a chaplain has exceeded their role.³⁰

Senator MASON—They [chaplains] can talk about Jesus Christ, is that right?³¹

²⁸ At - http://www.dpmc.gov.au/publications/aga_reform/aga_reform_blueprint/docs/APS_reform_blueprint.pdf

²⁹ vide paragraph 2.5 supra, and media release of the Hon John Howard 29 October 2006 at <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FD7MV6%22>

³⁰ Hansard *Op. cit.*

³¹ Senator the Hon Brett Mason, Senator for Queensland, Liberal Party of Australia

Ms Wall—I think it is fair to say that in the course of some conversations within schools, particularly when initiated by students, conversations around God would arise. There is a difference between having a conversation and any individual, including a chaplain, trying to promote a religion and trying to influence the student accordingly.³²

Senator MASON—That is a pretty fine line. If a chaplain says to you, 'God loves you,' is that proselytising?

Ms Wall—I think that would depend upon the context.

2.29 In response to our investigation, the Department acknowledged that more could be done to explain instances of what might or might not be considered as proselytising, and to ensure that there is a clear distinction at school level between a chaplaincy service and other activities (such as religious education) which are not part of the Chaplaincy Program-funded service.

2.30 The Ombudsman considers that the definitions of pastoral care, chaplain and proselytising are ambiguous and that individual intent and perception in schools will always be a variable set of circumstances, especially for program monitoring purposes.

Role

2.31 The investigation revealed that it is permissible for a chaplain who holds a particular qualification, such as a social work degree, to undertake activities for which they are qualified. For example, a person holding such a degree may be engaged as a chaplain, but be permitted to provide counselling to students at the school where the school has identified a need.

2.32 The Discussion Paper released by the Department in February 2011 highlights that one of the key advantages from the perspective of schools is the flexibility the Chaplaincy Program offers. Although this office considers flexibility to be important, it must not be ignored that Chaplaincy Program funding facilitates the delivery of a service to children within schools. In such an environment it is important that the scope of the service is clear to all involved, including parents and teachers. The problems created by not providing such clarification can be seen in the NT Ombudsman's Report, where a parent permitted their child to have one-on-one sessions with the chaplain, based on the mistaken belief that the chaplain was qualified to provide counselling.³³ Although this incident occurred in a school prior to the chaplain in question being funded by the National School Chaplaincy Program, the Ombudsman believes it highlights the need for further guidance in the administration of the program for schools.

2.33 For this reason this office considers that the Department should review its Guidelines to clarify the extent to which chaplains are permitted to become involved in wider professional activities when they hold specific additional skills such as religious, counselling or teaching qualifications. Any such review should consider the management of risks associated with chaplains who hold other positions within a school.

Consent

2.34 This office also observed an absence of guidance by the Department in relation to how schools should seek parental consent for children to have contact

³² Ms Catherine Wall, Acting Deputy Secretary, Schools and Youth, Department of Education, Employment and Workplace Relations

³³ NT Ombudsman's Report *Op. cit.* – p 98

with a chaplain or chaplain-run program within the school. Some parents are keen to ensure their rights as parents to control contact between the chaplain and child are preserved, as illustrated by the following feedback to our office from a member of the public during the course of the investigation.

Case study: 'Chappy'

Mr Y contacted the office to bring his experience with the Chaplaincy Program in his child's school to the attention of the Ombudsman. He advised that it is his experience that the chaplain at his school has unfettered and unsupervised access to students. For example, he explained that three days after his five-year-old daughter started school she came home and told him, 'Today I played hide 'n' seek with Mr Chappy!' This caused him some concern as he understands that the chaplain does not hold any qualifications in education, early childhood learning, counselling or psychology.

Mr Y advised that he then became aware that the chaplain is a missionary of a local Christian church and that this church has an agreement with the school to use its facilities on weekends to, among other activities, conduct miracle healing sessions. Mr Y advised that this church is also part of a religious movement which believes childhood behavioural disorders are caused by demonic possession.

Although Mr Y recognises that the chaplain is generally cited as being a "good bloke" by many at the school, he is seriously concerned that if he requests that the chaplain has no access to his children there will be no choice but to exclude his children from regular play time, school sporting activities, school camps, and the numerous other school activities in which the chaplain is heavily involved. Because of these issues, Mr Y believes that the implementation of the Chaplaincy Program at his local primary school is starting to foster principles of exclusion and discrimination, and he also believes that chaplaincy is becoming a divisive issue within an otherwise harmonious school community.

This highlights the difficulties in practice of managing chaplain contact with students in the school environment.

2.35 The investigation revealed that the Department does not give any direction to schools about how they formalise contact arrangements between children and the chaplain. Nor does it provide direction to schools about engagement with the parents of the children subject to the chaplaincy. The Department leaves decisions about this aspect of the program to the schools and State based education authorities. As a result, quite different approaches are taken in different States and Territories, and in different schools. For example in the NT, a parent must opt-in if they wish their child to have contact with the school chaplain. However, in other places within Australia an opt-out process applies.³⁴

2.36 Although the Ombudsman accepts that the Department does not have any capacity to control how a school elects to obtain parental consent, this does not mean that it should not provide guidance around what it considers to be best practice; particularly as the presence of a chaplain on the school grounds is a product of Commonwealth funding. In response to questions about this issue, the Department advised that it is of the view that, providing they comply with the guidelines, it is up to schools to determine how the voluntary nature of the Chaplaincy Program is communicated to parents/students and the school community and implemented within the school. The Department advised that parental consent,

³⁴ Hansard *Op. cit.*

and whether to adopt an opt-in or opt-out approach, is therefore a matter for the principal and the school community to decide.

2.37 The Ombudsman does not consider it is satisfactory for the Department to absolve itself of responsibility in respect to this aspect of the program, as it has an obligation to ensure some level of consistency in parent and student experience of this national program. On this basis the Ombudsman recommends that the Department review the guidance it provides to schools regarding parental consent.

Monitoring

2.38 As mentioned above, despite government schools not being a party to the funding agreement and not receiving any direct funding from the Department, all schools are required to assist the Department in monitoring chaplain compliance with the grant guidelines through regular reporting. For example, schools are required to report the following information to the Department as part of the acquittal process:

- whether the chaplain has changed since commencement of Chaplaincy Program funding
- any gap in service of more than four weeks
- evidence that the school community still supports the chaplaincy service
- any complaints or allegations about the chaplain or chaplaincy service in the previous 12 months.

It was apparent that the Department can only verify the accuracy of information provided by principals in their progress report by conducting an audit by site visit. For example, the progress report does not scrutinise processes used by principals to capture the above information. This means the Department ultimately has to accept the information it is provided by principals unless there is some obvious discrepancy.

2.39 The NT Ombudsman's Report questioned the process followed by the Department to verify the accuracy of information provided by schools³⁵. On investigation by this office, the Department advised that it regularly conducts audits of compliance which includes visiting approximately 10% of participating schools and meeting with school principals, who are required to complete the reporting documentation.

2.40 On questioning the Department about the audit process, the Department provided this office with a copy of its site visit audit template document entitled "NSCP monitoring form for schools". It requires Departmental officers to satisfy themselves and sight relevant documents on a number of issues including

- the consultation process used by the school
- information provided to parents
- the process for voluntary participation of students
- in-kind support
- the number of days a week the chaplain is in the school
- police checks on the chaplain,
- line management of the chaplain
- linkages between the chaplain and other student well-being services in the school

³⁵ NT Ombudsman's Report *Op. Cit.*

- procedures in place to ensure that chaplains do not provide services for which they are not qualified
- information about chaplains' qualifications relevant to the services they are providing

However, it is not evident from the site visit audit template document that Departmental officers are required to make inquiries about complaints concerning the chaplaincy service. This places Departmental officers in the position of having to rely on principals' reporting about complaints but not having a prescribed requirement to record how schools follow up complaints in site audit reports when Departmental officers would potentially be best placed to make inquiries of the school and its community.

2.41 To ensure the Department can satisfy itself that there has been effective and efficient use of public money and the outcomes of the program have been achieved, the Ombudsman considers it would be appropriate for the Department to provide better guidance to its officers to check the validity of information provided by schools as part of the reporting and acquittal process, and require the schools that are subject to site audits to report on complaints.

Complaint Handling

2.42 In her report the NT Ombudsman expressed particular concern about how schools, the NT Department of Education and Training and the Department handled complaints from concerned parents³⁶. This office understands that some of these complaints pre-date the commencement of the Chaplaincy Program in some of those schools. Although the Commonwealth Ombudsman has elected not to look specifically at the investigation conducted by the Department in late 2007, it has closely examined the Department's current complaint handling procedures.

2.43 The Department's current complaint handling procedure consists of the Chaplaincy Program Complaints Code (which is available on its website)³⁷ and a confidential Department complaints processes and procedures template of instructions for Department officers. The latter is a relatively short document that sets out expected processes in a checklist form.

2.44 On face value the complaint handling procedure the Department has adopted for the purposes of the Chaplaincy Program does not appear unreasonable. The Department considers that it has an effective complaint management process that takes complaints seriously, noting that it has followed up on every complaint regarding the Chaplaincy Program that has come to its attention. However, the adequacy of the procedure can only be properly assessed by how it works in practice. It is here that the investigation found that the complaint handling procedures must be improved. It is our concern that there needs to be a better awareness of the complaint handling procedure applicable to the Chaplaincy Program, i.e. that many complaints and concerns about chaplains are not brought to the Department's attention.

2.45 The complaint handling procedures envisage the Department being made aware of the complaint in a timely manner. This relies on schools and parents making

³⁶ *Ibid*

³⁷ National School Chaplaincy Program (NSCP) Complaints Code at <http://www.deewr.gov.au/Schooling/NationalSchoolChaplaincyProgram/Documents/NSCPComplaintsCode.pdf>

the Department aware of concerns about the Chaplaincy Program and/or chaplain compliance with the grant guidelines and code of conduct. In its initial briefing to this office the Department advised that in the past four years it had only received 35 complaints about the Chaplaincy Program. This is despite chaplains being funded in 2,681 schools across Australia. Nationally, around half (45.6 per cent) of independent schools, 28 per cent of government schools and 17 per cent of Catholic schools receive funding under the program.³⁸ In a subsequent briefing, the Department advised the Ombudsman that it had actually received 277 complaints, and that it was still conducting quality assurance checks on its database. Given the level of interaction between children, parents and chaplains over the last four years, this office is not convinced that the current complaint handling procedures have been adequately designed to capture and accurately monitor complaints about the Chaplaincy Program.

2.46 On being questioned about why it considers so few complaints have been received, the Department indicated during a briefing to this office that it may be due to schools successfully addressing complaints directly with parents. This office later asked the Department what types of complaint it considers schools should be able to resolve directly. In response the Department advised that it requires that it is immediately notified of all complaints by school principals and funding recipients,³⁹ no matter what action may have been taken by the school, provider or chaplain to resolve the issue. However, it also advised that low category administrative complaints are dealt with by schools in the first instance, prior to being referred to the Department. The Department advised that complaints rated as high or medium risk would generally be dealt with by the Department, and if they had already been dealt with by the school, the Department would review the investigation and outcome to determine if appropriate action had been taken.

2.47 Although schools are required to notify the Department of complaints, the Ombudsman was unable to identify any guidelines provided to schools by the Department about complaint handling or about how complaint handling protocols are made known to parents. It is unclear whether parents would be aware of their right to complain directly to the Department about chaplaincy issues, or have any understanding about complaint notification or escalation within schools or the Department.

2.48 It is in this setting that this office sought to understand how the Department works to ensure that it is made aware of complaints in a timely manner, particularly where there might be cross jurisdictional issues. While noting that the Department has working relationships with State and Territory authorities, the Department confirmed that there are no written guidelines or protocols, other than the grant guidelines, to ensure all complaints are captured by the Department. This is of concern to this office, given that an essential element in complaint handling is a clearly articulated recording and escalation procedure.⁴⁰ This office notes that the Department's confidential internal complaints procedure document refers to escalation of complaints,⁴¹ however in the absence of an agreed protocol between the Department and State education authorities it is understandable that teachers will work to resolve complaints from parents in ignorance of their responsibility to refer the complainant on to the Department. This in turn impacts on the principal's capacity

³⁸ Discussion Paper *Op. cit.*

³⁹ The Guidelines 19 January 2007 p25; 1 July 2008 p27; 16 February 2010 p20

⁴⁰ Better Practice Guide to Complaint Handling, Commonwealth Ombudsman, April 2009

⁴¹ National School Chaplaincy Program (NSCP) Complaints Code - *Op. cit.* and National School Chaplaincy Program – Complaints Processes and Procedures – DEEWR internal Confidential Document

to accurately report the number of complaints received by the Department and has the potential to frustrate parents who want timely access to an appropriate complaint resolution pathway.

2.49 On being asked why it does not have written protocols with State/Territory education authorities for the handling of problems associated with the Chaplaincy Program, the Department advised that the State and Territory Education Departments generally support the Chaplaincy Program in schools, but as previously mentioned have adopted an 'arm's length' approach. As such, they did not want to develop formal protocols or Memorandums of Understanding (MOUs) regarding the Chaplaincy Program. The Department advised that it is of the view that existing complaint handling protocols within schools are already robust, but that it proposes to re-enter discussions with education authorities with a view to formalising current working relationships with State/Territory education authorities in the context of managing complaints.

2.50 The Ombudsman is concerned about the approach to complaints handling (including schools' responsibilities) and believes it is essential that a program that delivers services to children must have protocols in place to ensure that roles and responsibilities of the Department and State/Territory education authorities are clearly defined. In the absence of such protocols there is a serious risk that complaints will fall through the gaps and that there will be an inconsistent approach to the management of issues depending on where the child attends schools. It would appear, based on the low number of complaints received by the Department over the last four years, that the Department's complaint handling procedures should be reviewed to ensure they are accessible to and understood by parents and students.

2.51 Because the protection of children's and parental rights is important, the Ombudsman does not consider the current informal arrangements in the management of complaints received by schools and State/Territory authorities to be adequate. As a result the Ombudsman considers it is essential that the Department work to remedy this situation as soon as possible.

CONCLUSION, RECOMMENDATIONS AND AGENCY RESPONSES

3.1 Although there are numerous levels of bureaucracy of the Chaplaincy Program, the Department is ultimately responsible for its administration. While we accept that this program may be complex to administer given the number of parties involved and a sharing of responsibility across jurisdictions, we believe the Department must play a more strategic role in management and oversight of the program.

3.2 Fundamental to the Chaplaincy Program is the provision of chaplaincy services. Our office has concerns that this key aspect of the program is not sufficiently defined by the Department. Further, we are concerned that there is a lack of guidance by the Department about the limits of chaplain role and behaviours.

3.3 The investigation also found that the Department needs to play a greater role in setting expectations in relation to the process followed by schools to gauge community support for the service. Further, this office found that more should be done by the Department to ensure consistency of approach in obtaining parental consent for participation by students across the program.

3.4 Some schools and education authorities are not currently a party to the funding agreement. This is despite schools playing an important role in the day to day administration of the Chaplaincy Program. To ensure good public administration, the Ombudsman proposes that the Department should give consideration to ways of ensuring schools manage the program consistently and in accordance with program guidelines.

3.5 Similarly, the investigation found that the current monitoring and reporting processes used for the acquittal of funds by the Department should be improved to ensure the effective and efficient use of public money in the program, and that information is better captured and verified.

3.6 The investigation also found that current complaint handling procedures do not appear to adequately serve parents and students and should be improved, as it was not apparent that the Department has an adequate process for capturing complaints regarding chaplains and the program. In particular, the Ombudsman is concerned about the absence of any formal protocols between State and Territory education authorities and the Department regarding the day to day administration of the Chaplaincy Program.

3.7 The Ombudsman understands that the program is currently under review and makes the following recommendations:

Recommendation 1

When reviewing the Chaplaincy Program, the Department should have regard to the principles outlined in the Commonwealth Ombudsman's previous reports

- Executive schemes – 12/2009,⁴² in particular principles 2, 6 and 8, with a view to developing more complete internal and external guidelines about the [Chaplaincy Program]; and more effective liaison with other organisations involved in the delivery of the [Chaplaincy Program]; and
- Best Practice Guide to Complaint Handling⁴³ with a view to developing more thorough complaint handling processes with which to better capture and deal with complaints about the Chaplaincy Program.

Agency response

The Program Guidelines have effectively guided the operation of the Program since 2007. In the context of the Program Review, DEEWR has identified opportunities to further clarify departmental expectations concerning communication and liaison responsibilities for school communities, governing bodies and school principals. Relevant principles in the Executive schemes - 12/2009 report will guide this consideration.

DEEWR is aware of the Best Practice Guide to Complaint Handling and has demonstrated a strong commitment to the effective handling of complaints.

The vast majority of stakeholders are both supportive of the Program objectives and satisfied with the administration of the Program. Since the Program began in late 2007, DEEWR has received and handled 277 complaints about the Program. Each complaint has been systematically investigated with outcomes recorded.

Less than one third of the complaints relate directly to the behaviour of a chaplain, with the remainder of complaints relating to administrative and implementation matters. The 277 complaints need to be understood in the context of 2,675 schools funded by the Program, comprising a combined school population of some hundreds of thousands of parents, students and teachers. Thus the complaints represents less than 1 per cent of students and families attending schools with a chaplain funded by the Program. DEEWR notes that the number of complaints, compared to the number of schools, students and parents, would indicate that the program is generally well supported – and that this conclusion is reinforced by the outcomes of the consultation.

DEEWR also notes that the report makes the statement in section 2.44, 'that many complaints and concerns about chaplains are not brought to the Department's attention'. The report offers no evidence to support this conclusion. DEEWR is already taking action to raise awareness of the current robust complaint handling process.

⁴² Executive Schemes *Op. cit.*

⁴³ Better Practice Guide to Complaint Handling – Commonwealth Ombudsman – 1 April 2009

Recommendation 2

The Department provide more and better guidance in any future funding round regarding the minimum expected standard of consultation used by schools to gauge community support for a chaplaincy service.

Agency response

Schools are already required to demonstrate community support in order to be eligible for Program funding. DEEWR, through the review of the Program administrative arrangements, has identified revised requirements for schools to provide additional detail demonstrating community support in the future arrangements for the Program. This will include further guidance to schools about appropriate consultation with parents and school communities and will outline the expectations of schools regarding ongoing consultation to monitor community support throughout the funding period.

Recommendation 3

The Department work to review funding agreements utilised in any future funding rounds, to

- ensure that all key participants in the program are accountable under the funding agreement;
- ensure that the protection of children and parental rights is central to the administration of the program
- reassess mechanisms to ensure schools manage the program in accordance with guidelines; and
- develop mechanisms for consistent national monitoring of the program by schools and the Department officials.

Agency response

The protection of children's rights, as demonstrated in the National School Chaplaincy Program Guidelines and Code of Conduct, has always been central to the administration of the Program. Robust processes to address issues are in place and have been exercised to ensure the protection of children in schools being funded under the Program.

In preparation for the upcoming funding round, DEEWR has been reviewing the funding agreement and related documentation in order to build on lessons learnt from the administration of the program to date.

Recommendation 4

The Department amend guidelines to:

- More clearly define the terms 'chaplain' and 'pastoral care'; and
- Mandate a minimum qualification for the position of chaplain

It is noted that, in its recent Discussion Paper, the Department raised the question of whether a minimum qualification for school chaplains should be established.

Agency response

The Program Guidelines currently define 'chaplain' and describe the services delivered by chaplains. The Code of Conduct, signed by every chaplain, details expected behaviours and clearly identified unacceptable behaviours.

DEEWR will examine the potential to strengthen the definitions in the Program Guidelines however it must be acknowledged that definitions cannot encompass the diversity of situations encountered by chaplains and schools.

DEEWR raised the issue of minimum qualifications in the 2011 Discussion Paper on the future directions for the Program and sought public input on the matter. The response to this consultation process is now under consideration by the Government.

Recommendation 5

The Department review internal guidance it provides to its officers to improve measures used to cross check and verify information used as part of future applications and as part of the ongoing acquittal process.

Agency response

DEEWR is already reviewing this as part of its ongoing business improvement processes, and will use the revised internal guidance and reviewed process when assessing applications for the upcoming funding round.

Recommendation 6

The Department review the Chaplaincy Program code of conduct, with a particular focus on providing clarity regarding what actions could be considered to be in breach of the requirement that chaplains are not permitted to proselytise, and to clarify this with the public.

Agency response

The Code of Conduct clearly states that proselytising is unacceptable. To the end of May 2011 DEEWR had received only 17 complaints about proselytising, representing only 0.6% of the total number of chaplaincy services funded under the Program. As a proportion of these complaints relate to role confusion, DEEWR intends to ensure that there is a clear distinction at the school level between the activities of a chaplain funded under the Program and the other roles the chaplain might also have (such as religious education instructor) which are not part of chaplaincy services funded under the Program.

DEEWR notes this recommendation and is reviewing relevant documentation for the future funding round, with a view to providing more specific examples of what might or might not be considered as proselytising.

Recommendation 7

The Department consider giving guidance to schools and education authorities regarding what it considers to be best practice in how parental consent for participation in the program is to be obtained.

Agency response

The Program guidelines require the school principal/project leaders to undertake consultation with the school community to assess the demand, support for and nature of chaplaincy services. The school must also ensure that all parents understand that participation is voluntary. They must provide evidence that there has been formal endorsement of the chaplain by a parent body representative, a school's

governing body and a recognised religious institution or state or territory government approved chaplaincy service.

Furthermore, the annual progress report submitted to DEEWR requires a written explanation about how the school community support is being maintained.

In the context of the Program Review, DEEWR will consider options for the provision of more detailed advice on consultation processes. It should be noted however that every school has existing mechanisms for parent consultation which are appropriate for the specific school.

Recommendation 8

The Department work with State and Territory education authorities to develop protocols for the day-to-day administration of the Chaplaincy Program and the management of complaints about the program.

Agency response

DEEWR notes that, given the low percentage of complaints about the Program, the vast majority of school communities receiving funding under this Program are satisfied.

In general, state and territory education authorities have advised that they are satisfied with existing reporting arrangements and do not wish to be involved in the administration of the Program in schools, DEEWR notes this recommendation and will continue to seek input from education authorities on the development of operating protocols.

OMBUDSMAN'S COMMENTS ON AGENCY'S RESPONSE TO RECOMMENDATIONS

In further responding to the Ombudsman's report, the Department observed: -

DEEWR notes that there are numerous references to the Northern Territory Ombudsman's Report throughout the Commonwealth Ombudsman's Report. DEEWR's investigation of the Northern Territory complaints confirmed that the alleged incidents occurred prior to the commencement of the Program funding in the concerned schools. DEEWR considers that the Northern Territory Ombudsman's remarks do not have, and cannot be implied to have, probative value in relation to the Program which is the subject of the Commonwealth Ombudsman's Report.

Whilst acknowledging the above, we remain of the view that the NT Ombudsman's report provided relevant context to this report, and many of the issues investigated by the NT Ombudsman were relevant to the administration of a chaplaincy program, irrespective of which government administers it.

The Department also observed that:-

Notwithstanding the acknowledgement in the Executive Summary of the report 'that there is a high level of community support for the Chaplaincy Program, as evidenced by the 2,675 schools currently participating in the program', the Case Studies used in the report are only representative of views that deal with alleged problems with the Program. DEEWR does not consider that the Case Studies are representative of the true nature of support for the Program. The report fails to give any Case Study examples of positive support for the program.

In response to the Department's request that this office include case study examples of positive support for the Chaplaincy Program, we advise that we did not receive any approaches from members of the public that supported administration of the Program.

The Department mentioned its current review of the Chaplaincy Program:-

A review of the program has recently been undertaken by DEEWR and the Government is currently considering the findings of that review. The consultations confirmed very strong support for the Program which is assisting schools to support the social, emotional and spiritual development of all students, as articulated in the Melbourne Declaration on Educational Goals for Young Australians. Furthermore, many stakeholders advised that chaplains have become a valued part of the student wellbeing structure within schools, often working in teams with guidance counsellors, social workers and others to meet the range of wellbeing needs in a School community.

The Ombudsman notes that the above is reflected in the Department's response to Recommendation 1 of this report where the Department uses complaint numbers and makes other assertions regarding present review of the program to claim adherence to good practices. The Ombudsman maintains that such claims were not clearly evident in the investigation, and in view of the importance of the issues raised in this investigation, and the broader reforms the Department is currently undertaking in the

Chaplaincy Program at this time, the Ombudsman's office intends to continue to monitor implementation of the recommendations.

Further on its reforms, the Department notes:-

In preparation for the expansion of the Program in 2012 and consistent with our commitment to continuous improvement, DEEWR is currently reviewing our administrative arrangements, including the Program Guidelines. I also wish to advise that I have asked the Department's Chief Internal Auditor to review the Program's revised administrative arrangements for 2012 once these are determined by the Government.

In order to be able to properly monitor these reforms, the Ombudsman requests the Department advise this office of the progress of its implementation of these recommendations within about three months. The Ombudsman advises that this office will be publically reporting on the Department's implementation of the recommendations in about six months after publication of this report.