

CORPORATE GOVERNANCE

PREFACE

We aim to be an effective organisation. The development, implementation and maintenance of a robust system of governance is one way to achieve this aim. Included in any governance system are mechanisms to promote an ethical culture and the establishment and monitoring of organisational performance.

PURPOSE

The purpose of this policy is to demonstrate the Ombudsman's commitment to effective governance and to document how governance is managed within the office. Effective governance will strengthen Parliamentary and public confidence in the office by assisting the Ombudsman, senior managers, supervisors and staff to:

- enhance the performance of the office
- understand and manage risks
- ensure transparency and accountability
- show how we discharge our legal, social and ethical obligations
- provide a mechanism for benchmarking accountability
- better prevent and detect fraudulent, dishonest and/or unethical behaviour by staff.

This policy is supported by the Ombudsman Corporate Governance Framework, which identifies a number of existing policies that support the governance strategies of the Ombudsman.

RESPONSIBILITY

The Ombudsman is responsible for corporate governance strategies within the office. On a day to day basis however, all managers, supervisors and staff have a responsibility to ensure that this and other policies referred to in this document are implemented. Their specific responsibilities are clearly identified in each document.

LEGISLATIVE/POLICY FRAMEWORK

Public Finance and Audit Act 1983

Public Sector Employment and Management Act 2002

DEFINITIONS

Corporate governance – generally refers to the processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation (as defined by the Australian Audit Office).

NSW Ombudsman policy number:	50
Policy originally created:	8 June 2006
Last reviewed / updated:	8 June 2006
Version number:	1
Related policies:	All policies and internal procedures manuals
This policy does not supersede any other policy.	

POLICY STATEMENT

The Ombudsman is committed to the good governance of this office. Good governance requires:

- senior management appropriately guiding and monitoring our work
- management and staff disclosing all material matters in a timely and accurate manner
- policies to manage our relationship with our stakeholders including employees, Parliament and the public.

The corporate governance framework developed under this policy details the systems, policies and procedures we have to ensure good governance. It shows our commitment to effective governance, improved performance and public accountability. It is expected that senior management and all staff promote good governance not only within our office but also in our dealings with organisations within jurisdiction.

OMBUDSMAN APPROVAL

A handwritten signature in black ink, appearing to read "B. A. Barbour". The signature is written in a cursive style with a large initial "B" and a long, sweeping underline.

Bruce Barbour
OMBUDSMAN

CORPORATE GOVERNANCE FRAMEWORK

INTRODUCTION

As an independent and impartial oversight agency, the NSW Ombudsman makes sure that organisations we watch over fulfil their functions properly. As our work is about promoting good administration and effective accountability, we believe that we must work to the same standards that we promote throughout the sectors within our jurisdiction.

We pride ourselves on the quality of our work and the standard of our service. We must maintain a reputation for having high standards of administrative conduct and for being experts in this field. Without our reputation, we would find it difficult to persuade organisations within jurisdiction to accept our advice and implement our recommendations.

A robust system of corporate governance can give assurance to the Ombudsman, Parliament, government and the public that resources are being effectively used and that stated outcomes are being achieved. Within the limitations of our secrecy provisions, the implementation of corporate governance policies/strategies as detailed in this framework means that the work of the office is subject to proper scrutiny and that we can be held accountable for our decisions.

Corporate governance promotes improved efficiency and better organisational performance, which is consistent with the Ombudsman's statement of corporate purpose.

CORPORATE GOVERNANCE AND THE PUBLIC SECTOR

Most literature on good corporate governance systems is focused on the role of boards and responsibilities to shareholders. Because of this, corporate governance frameworks have not been readily applied to public sector agencies.

In preparing this document, we have adapted general governance principles into the context of the NSW Ombudsman as a general NSW public sector agency.

THE AUSTRALIAN STANDARD ON GOOD GOVERNANCE PRINCIPLES

The Australian standard on good governance principles (AS 8000-2003) provides a blueprint for the development and implementation of a generic system of governance for a variety of entities – but not for general public sector agencies. However, most of the elements and principles outlined in the standard can be adapted for general public sector agencies.

The office is commencing a program of review and consolidation following the development of our new Corporate Plan. Our focus is to go back to basics – ensuring that what we do and how we do it is providing the maximum results for the public. The work we need to do to implement our new Corporate Plan will give us the opportunity to consider and integrate the following corporate governance elements if appropriate into our existing framework. This will result in a strengthened and improved corporate governance system.

NSW OMBUDSMAN'S GOVERNANCE FRAMEWORK

The Ombudsman has in place systems, policies and procedures to provide appropriate levels of disclosure and accountability. They can be classified under the following twelve headings:

1. Legal framework

The Ombudsman's governance practices derive principally from the provisions of the following legislation:

- Ombudsman Act 1974

- Police Act 1990
- Community Services (Complaints, Reviews and Monitoring) Act 1993
- Freedom of Information Act 1989
- Protected Disclosures Act 1994
- Public Sector Employment and Management Act 2002
- State Records Act 1998
- Public Finance and Audit Act 1983
- Annual Reports (Departments) Act 1985
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy 2002

2. Public sector policy framework

Although the Ombudsman is independent of government and is considered to be an officer of the Parliament, the Ombudsman takes the view that the office should be seen as a good public sector agency and as such will implement government policy except where the implementation of a policy would impact on the independence of the office.

Many government policies have been tailored for our particular needs and are relabelled ‘Ombudsman policies’.

3. Ombudsman policy framework

To assist in fulfilling our corporate goals and to ensure consistency of work practices throughout the office, the Ombudsman has developed a number of policies. A policy is a statement or instruction from the Ombudsman that sets the way particular issues are to be addressed or particular decisions are to be made. Policies set the Ombudsman’s views on how the office should fulfil its vision, mission and goals.

Policies relating to conditions of work for staff outline the Ombudsman’s commitment to maintaining certain conditions of work as a best practice public sector employer. Where required these policies are developed in consultation with staff.

Staff are kept informed of our policies through induction, information sessions at staff meetings and team meetings or via email updates. All policies are accessible via our electronic document management system.

Key corporate governance related policies include the Code of Conduct, Conflict of Interests, Disclosure of Information and the Privacy Management Plan.

4. Office management

The office is structured around the work that we do. We have five teams – the general, police and child protection teams, the community services division and corporate team. An Assistant or Deputy Ombudsman head each of our core business teams, while corporate is headed by a manager. These positions are responsible for the strategic as well as the day to day management of their team. They meet weekly with the Ombudsman to discuss significant issues and work priorities.

Legislative requirements, policy or procedural manuals guide the work of the teams. Each team has a strategic business plan, which translates the Ombudsman’s vision and goals into actions and strategies.

The corporate team provides support services to the office, develops office-wide policy and coordinates strategic planning. The team also provides a consultancy service to core business in relation to human resources, financial, information management and technology issues.

Each team is allocated a budget and has broad administrative delegations.

5. Organisational performance

Information about the quantity, quality, timeliness and impact of our work is essential to achieving our corporate goals. Performance benchmarks measuring these factors are established at the corporate, team and individual staff level and workflow statistics are used to inform procedural changes.

We track our performance at two levels — in relation to individual matters including complaints and projects and in relation to our systems and structures for completing work.

Data from our case management systems is used to monitor turnaround times and identify where there may be backlogs, delays or inefficiencies. For example, we periodically review all files that have been open for more than six months and develop strategies to address any issues that may be causing unnecessary delay.

The integrity and accuracy of the data we keep is crucial to the effectiveness of our work and our ability to monitor our performance. We periodically conduct internal audits of the recording of information on our case management system to check that it is accurate.

Our assessment of complaints and notifications also needs to be sound and consistent. We have systems for consultation and discussion to ensure that the appropriate decision is made at the outset. We also make sure that if a complainant asks for a review of our decision, a more senior member of staff conducts the review.

We use close supervision and periodic file audits to review the quality and consistency of our work. This helps ensure that the decisions we make are sound and the management of files is efficient and effective.

It is also important that any correspondence and reports we send out are factually accurate and properly reasoned. We have rigorous procedures for supervising, checking and authorising these documents.

6. External accountability

Our office is accountable to the Parliament and the public in much the same way as any other NSW public sector agency. We come under the scrutiny of agencies such as the Auditor-General, the Independent Commission Against Corruption, the Privacy Commissioner, the Anti-Discrimination Board, State Records and Treasury.

In addition, the Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission (commonly known as the PJC) has broad responsibilities for monitoring and reviewing how we exercise our functions. The PJC is made up of parliamentarians from different political parties and both houses of Parliament. This ensures that we are accountable to Parliament, not to the government of the day, and is crucial to maintaining our independence.

The PJC can examine our policies, practices and systems, review our reports and performance measures, examine complaints made about us, and suggest ways in which we could improve how we operate. While it cannot review substantive decisions we have made about individual complaints, it can criticise the process by which those decisions were made.

7. Ombudsman committees

The Ombudsman has established a number of committees to oversee work in either a particular area or on a particular topic. Major committees are:

- (a) Senior Officer Meeting

The senior staff – the Ombudsman, two Deputy Ombudsman, three Assistant Ombudsman and the Manager Corporate – meet weekly to discuss matters and exchange information on current activities and issues.

These meetings consider a range of issues including proposed legislative changes, relationship with the Parliamentary Joint Committee, ongoing issues with particular agencies, internal policy issues, strategic direction and day to day complaint and other business matters.

(b) Team Manager Meeting

The managers of each business area and the Manager Corporate meet fortnightly to discuss significant matters and exchange information on current activities and issues.

These meetings consider a range of whole of office issues such as policy development and implementation, personnel management, training etc. It is a forum for team managers to raise, discuss and consider issues and ideas in an open and cooperative environment.

The team managers are often asked by the Ombudsman to review particular processes or practices and the team managers meeting is the forum for these issues to be progressed.

(c) Security Committee

The Security Committee co-ordinates the development of guidelines and procedures for the implementation of the Information Security Policy and the ISMS Framework and is responsible for the ongoing review of their effectiveness. The Committee ensures that all members of staff are fully informed of their obligations and responsibilities with respect to information security.

(d) Aboriginal Issues Steering Committee

This Committee provides a mechanism for a whole-of-office approach to Aboriginal issues. The Committee, which has representatives from all business units, sets the agenda for our work with organisations in jurisdiction that provide services to Aboriginal communities.

(e) Youth Issues Steering Committee

This Committee provides a mechanism for a whole-of-office approach to youth issues. The Committee, which has representatives from all business units, sets the agenda for our work with organisations in jurisdiction that provide services to children and young people.

8. Risk Management

Risk assessment is part of everyday work practice for Ombudsman staff. This includes decisions made when answering inquiries, writing letters and reports and representing the Ombudsman at external meetings. Risk assessments also are part of our decision-making framework, for example whether to conduct an investigation, a project, or to develop a new internal policy.

Much risk assessment is intuitive and informal, and is part of the unspoken process of making decisions. Sometimes, however, there is a need to document the risk assessment of an individual matter, or the process of risk assessment to be used by staff for particular functions.

In core business related activities, risk identification, measurement and the development of mitigation strategies is the responsibility of the relevant statutory officer. There are guidelines available to staff to assist in assessing risks. There are also programs in place to manage the risk in specific areas such as information security, OH&S, business continuity planning, accounting, leave management and payroll.

The potentially adverse financial impact associated with certain risk exposures (eg fire) are limited by the purchase of appropriate insurance coverage.

The ongoing effectiveness of risks are reviewed by senior staff. We are subject to independent reviews of some of our risks management practices. For example, our accounting, personnel and payroll activities are audited annually and our information security program is audited twice a year.

9. Internal audit

We use an accounting firm to undertake the financial based internal audit function. This internal audit consists of an audit of internal controls within the accounting, payroll and leave functions.

We have also been addressing a range of risk management issues including internal control, corruption prevention, fraud control, office security, disaster recovery and preventative maintenance of equipment.

10. External audit

The Auditor General carries out the independent audit of the office. The purpose of this audit is to provide reasonable assurance to the Parliament that the financial report of the office is free of misstatement.

From time to time, the Auditor General reviews systems and/or issues as part of his general performance audit program. A report is submitted to both the Ombudsman and Parliament on any concerns that arise from these performance audits.

11. Delegation of functions

Section 10(1) of the Ombudsman Act allows the Ombudsman to delegate the exercise of functions of the Ombudsman, ie to commit to another officer the powers, authorities, duties or functions conferred on the Ombudsman by legislation. The Ombudsman delegates widely.

The more commonly exercised delegations are made when an officer commences work. Delegations are formal documents and are signed by the Ombudsman. Delegations are to be exercised in accordance with any directions set out in the team procedure manuals and office policies and are subject to established approval procedures.

12. Secrecy/Privacy

A good deal of our work involves sensitive information. In our work with the police and correctional centres, for example, we are often provided with names of informers or other sensitive information, which, if disclosed, could seriously jeopardise the safety of individuals or more generally impede the detection of crime.

Sometimes information may be subject to statutory provisions that prohibit its disclosure. In fact there is no unfettered right to disclose information obtained during the course of office. Legal requirements of secrecy, privacy and confidentiality that do or may apply are set out in:

- sections 17, 34 and 35 of the *Ombudsman Act 1974*,
- sections 163 and 164 of the *Police Act 1990*,
- section 22 of the *Protected Disclosures Act 1994*,
- section 52(4) of the *Freedom of Information Act 1989*,
- section 32 of the *Witness Protection Act 1995*,
- section 21 of the *Telecommunications (Interception) (NSW) Act 1997*,
- section 24 of the *Law Enforcement (Controlled Operations) Act 1997*,
- sections 17, 18, 62 and 63 of the *Privacy and Personal Information Protection Act 1998*, and
- sections 68 and 69 and schedule 1, clause 11 of the *Health Records and Information Privacy Act 2002*.

The primary statutory limitation on disclosure of information is section 34 of the *Ombudsman Act*. In summary, section 34 generally provides that unless it can be demonstrated that it is necessary to disclose information obtained from others for the purpose of discharging functions under an Act, information can only be disclosed with the consent of the party who provided it. Information can also be disclosed in certain limited circumstances specified in the section.

Information that is considered to be 'personal information' must be handled in accordance with the PPIP Act and the Ombudsman's Privacy Management Plan.