

MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE

**Embargoed until 10am Wednesday 20 October 2010**

## NSW Ombudsman **Annual Report 2009-2010**

### **Solving everyday problems quickly and effectively**

The NSW Ombudsman Bruce Barbour today tabled his Annual Report for 2009-2010.

Over 30,000 people contacted the Ombudsman during the year after hitting the brick wall of bureaucracy.

**‘Even small administrative problems cause trouble and stress for ordinary people’** said the Ombudsman. **‘It is amazing how frequently we need to ask questions before common sense prevails.’**

This year:

The Ombudsman helped an elderly non-English speaking couple to get a clear explanation from Housing NSW around why they were being moved as part of a Commonwealth funded housing project (**page 24, case study 1**).

He helped a contractor and Railcorp to overcome a three year payment dispute by simply arranging for the contractor to provide copies of some missing receipts (**page 89, case study 37**).

**‘Sometimes the parties involved cannot see the forest for the trees’** said the Ombudsman. **‘It takes an independent, impartial third party to bring about a satisfactory resolution.’**

A group of pensioners and concession holders were helped to get a clear answer from the RTA about registering their vehicles. The RTA recognised the existing process was confusing, and agreed to make it simple (**page 91, case study 43**).

**‘Contradictory advice can mean people don’t know where they stand’** Mr Barbour said. **‘Advice around everyday processes such as car registration needs to be as clear and simple as possible.’**

A debt incurred by a young man with a mental illness was cancelled after the Ombudsman got involved. The NSW Trustee and Guardian and the State Debt Recovery Office also put in place systems to allow them to work together more effectively in the future (**page 24, case study 2**).

**‘Government agencies need to work together better to provide services to people in need and cut red tape’** said the Ombudsman.

The Ombudsman helped an asylum seeker to regain his driver’s licence which had been unfairly cancelled (**page 89, case study 40**).

The Ombudsman helped a member of the public get a copy of a photo of his car taken by a council ranger as proof of a traffic offence. The council had refused access on the grounds of legal professional privilege, even though the man would have been given a copy of the photo if he had chosen to go to court to contest the fine (**page 108, case study 70**).

**‘Having the powers to get to the truth, bring parties together and overcome misunderstanding and confusion are the key to solving many administrative problems citizens face’** said the Ombudsman.

These are all matters where we helped to achieve a quick result to simple, everyday problems. In some situations, the issue is more complex and a getting a result takes more time and effort.

Following a lengthy investigation into unreasonable conduct associated with the removal of a mother’s children, we determined that Community Service’s actions were based on a flawed view of the evidence. We recommended they apologise and make an ex-gratia payment to the mother for the trauma suffered (**page 48, case study 6**).

MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE

**Embargoed until 10am Wednesday 20 October 2010**

## NSW Ombudsman **Annual Report 2009-2010**

### **Integrity essential foundation for NSW prosperity**

In launching his Annual Report which was tabled in Parliament today, the Ombudsman once again highlighted the need to raise standards of ethics and integrity right across the government and non-government sector in NSW.

**'The distrust and inefficiencies that arise from people not doing the right thing are costing our community too much'** said Ombudsman Bruce Barbour. **'NSW will only prosper when public servants and others can be relied upon to follow the rules and deliver the services the public expect.'**

The Ombudsman said **'Standards of integrity and ethical conduct are critical to ensuring NSW continues to have a strong public service that brings about improvements and follows best practice in service delivery. Sadly, it is always the actions of the few who do the wrong thing that bring the whole system into disrepute.'**

Mr Barbour said this was especially important in the current climate when many Government agencies are being asked to do more with less. He said this climate presented a real risk as it forced people to focus solely on outcomes and make short cuts that undermined systems and often involved ethical lapses.

The Ombudsman said **'NSW continues to be the only State that doesn't have legislation setting out basic standards and a public sector wide code of conduct.'**

**'Just as in all other States in Australia, we need to spell out clearly the expectations and obligations to which public sector employees will be held to account'** said Mr Barbour. **'This is fair to both public servants and the broader community.'**

**'NSW has been dragging its feet in this area and is being left behind by the other States and the Commonwealth.'**

**Embargoed until 10am Wednesday 20 October 2010**

## NSW Ombudsman **Annual Report 2009-2010**

### **Seeing the whole picture**

The NSW Ombudsman Bruce Barbour today tabled his annual report for 2009-2010.

The office's work around human services continues to be some of its most challenging. One of the re-occurring themes across this broad jurisdiction is the importance of seeing the whole picture.

This year, we reviewed the payment of compensation to children in care who had been the victims of violent crime (**page 51**). The Ombudsman said **'we found major systemic failings and inconsistencies which have resulted in delays in applications on behalf of children, or applications not being made at all. These children have lived through too much, and deserve the support to which they are entitled.'**

The office reviewed the systems in place to support young people leaving care. **'Agencies are required by law to prepare and support young people when they leave care'** said Mr Barbour. **'This is a time when these young people often face enormous social, financial and emotional challenges, and lack the supports available to those living with their families.'** We reviewed the planning in place for 124 young people leaving care in 2009. We found most of that group left care without an endorsed leaving care plan. **'The administrative processes around accessing vital supports are often confusing, cumbersome and protracted'** said the Ombudsman. We recommended a new case planning framework be developed to address these failings (**pages 51-2**).

The Ombudsman began work on an audit of the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities* (**page 33**). **'This is one of the broadest, most challenging projects my office has ever undertaken'** said the Ombudsman. **'It is vital that the frontline practice matches up to what is promised on paper.'**

We investigated the screening and probity checks Community Services conduct for its prospective carers (**pages 61-2**). **'We found there was a widespread failure to comply with probity checking requirements'** said the Ombudsman. **'When people are about to be entrusted with the care of children, we must ensure the department has all of the relevant information before making a decision.'**



**'We will continue to keep the systems in place to protect children in NSW under scrutiny'** said the Ombudsman. This will include closely monitoring the implementation of the *Keep Them Safe* reforms. **'The government has committed to a system based around shared responsibility. We have to make sure these reforms result in those tasked with protecting and caring for children seeing the whole picture, because without it they will not succeed.'**

---

MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE

**Embargoed until 10am Thursday 20 October 2010**

## NSW Ombudsman **Annual Report 2009-2010**

### **Police oversight is as important as ever**

The Annual Report of the Ombudsman tabled in Parliament today highlights the continuing importance of civilian oversight in keeping police honest and accountable for misconduct and corruption.

**‘Civilian oversight is needed to ensure police do not abuse their powers and obey the law like everyone else is expected to do’** said Ombudsman Bruce Barbour. **‘There is still a lot of bad conduct happening and we must be vigilant to ensure it is appropriately dealt with.’**

The Ombudsman reported that 66% of misconduct investigations resulted in some form of management action being taken against the officers concerned. In matters where disciplinary action was finalised during the year, 95 officers had been charged with a total of 300 criminal offences and 25 police had been removed from the force.

**‘Policing is a difficult job that deserves the community’s respect, but bad conduct by a few can erode that essential trust’** said Mr Barbour. **‘I am pleased that so many honest police step forward to report misconduct of their colleagues when it happens and that the Commissioner continues to take a tough stand on corruption and unprofessional conduct’** the Ombudsman said.

One in three complaints of serious police misconduct is actually made by other police officers according to the Ombudsman’s report. The Ombudsman monitors the quality of police internal investigations and ensures that any disciplinary action taken is fair and appropriate.

**‘Holding police accountable for their actions is a critical element of our democracy and good public administration and there is a continuing need for the Ombudsman’s oversight role to make sure this happens’** Bruce Barbour said. **‘Police are given significant powers. They must be used fairly, openly and with integrity.’**

## Police case studies

- *A group of young people at a police sponsored boot camp aimed at preventing youth offending were accused of stealing army clothing and had their bags searched. The supervising off duty officer had in fact put the clothing into a police vehicle and driven to a nearby service station, transferring it into his girlfriend's car. Another officer who witnessed this later complained. As a result of the investigation, the officer was charged with larceny, convicted and fined \$5000 and dismissed from the Police Force (page 76, case study 27).*
- *A local area commander misled his own staff when they pulled him up for speeding at 176kph. He said he was pursuing another driver for a traffic offence. The highway patrol officers joined the pursuit until they realised they were chasing a phantom. The superintendent later admitted he had lied to highway patrol officers and he was given a regional commander's warning notice, a fine and a six month licence suspension, decertified from driving police vehicles for the same period and required to requalify. The Ombudsman was highly critical that police failed to conduct a criminal inquiry into his conduct that could have constituted a public mischief or public justice offence (page 77, case study 31).*
- *A police investigation initially cleared police who had attended a residence of a person wanted for questioning and without consent opened their garage door and searched their mail box. The Ombudsman asked police to reconsider and they eventually agreed with him that the searches were unlawful. The officers were counselled and training provided to all general duties officers in the area about the legalities of such searches (page 77, case study 29).*
- *An Ombudsman investigation led to police agreeing to destroy the fingerprints of over 400 people who had charges withdrawn or had been acquitted of offences for which the fingerprints were taken. Police had initially refused to destroy the fingerprints even though the people had a legal right to have them destroyed and had gone to the trouble of applying for that to happen (page 78).*
- *In another case study the Ombudsman said the criteria for use of taser guns in Police standard operating procedures were capable of too wide an interpretation and left too much discretion to individual police officers. He again called for the procedures to be tightened to make clear tasers should only be used in situations where a person is violently confronting or resisting police and not as a compliance tool against individuals offering passive resistance (pages 78-9).*



MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE MEDIA RELEASE

**Embargoed until 10am Wednesday 20 October 2010**

## NSW Ombudsman **Annual Report 2009-2010**

### **Jump in local government complaints to Ombudsman**

NSW Ombudsman Bruce Barbour reported an increase in complaints about local councils in his Annual Report for 2009-2010 tabled today.

The office has received 20% more formal complaints this year than last year. There have been substantial increases in complaints about rates, charges and fees, development, enforcement, environmental services and engineering services.

**‘People often turn to their council when things go wrong in their neighbourhood’** Mr Barbour said. **‘Councils need to have good complaint handling and enforcement policies so they can competently and fairly deal with problems and enforce the law.’**

- *Castlereagh-Macquarie County Council ignored a legislative requirement to notify a land occupier of an intention to spray their property for a noxious weed. It hadn't even inspected the property to see if the weed was present. The spraying contractor managed to kill most of the plants on the property, including many valuable cacti and a 50 year old Kurrajong tree. After a complaint to the Ombudsman, the Council paid for the site to be cleaned up and for 20 new trees to be planted. The council also sought legal advice about its obligations when spraying land, agreed to review its pesticide notification plan and sent staff for training (page 103, case study 59).*
- *Pittwater Council admitted that it had no complaint handling policy, enforcement policy or written investigation policy when the Ombudsman investigated a complaint about the issuing of an order and a fine without communicating with the resident first. The resident's initial complaint involved different sections of the council and no one took responsibility for coordinating a proper response. As a result of our intervention, council reviewed the way it had handled the complaint, apologised to the resident and waived the fine. They also adopted a compliance and enforcement orders policy and new investigation and complaint handling procedures (page 104, case study 61).*

- *An investigation of Manly Council on complaints about discriminatory treatment and lack of action on unauthorised developments, found planning staff were inadequately supervised and left to interpret development controls and take enforcement action according to their personal views. Information from applicants was not checked thoroughly and planning reports and consents were poorly drafted. Failure to securely store copies of approved plans hampered its ability to deal with non-compliance issues that later arose (page 101).*

**'Some Manly Council staff incurred significant legal costs with little or no regard for the public interest, council's budget or their obligations under council's code of conduct and the Local Government Act. They then ignored legal advice when it went against their personal views to the detriment of the complainants'** said the Ombudsman.

Council's regulatory manager resigned during the investigation when he was not able to produce evidence of legal qualifications he purported to have.

**'All too often councils are aware of problems but they get put into the "too hard basket" until my office becomes involved'** said the Ombudsman. **'Failing to deal with complaints properly can seriously undermine a council's credibility in the eyes of the community.'**

**Embargoed until 10am Wednesday 20 October 2010**

NSW Ombudsman  
**Annual Report 2009-2010**

**Regional and suburban references**

Blacktown City Council	Case study 62	P106
Broken Hill Correctional Centre	Case study 5	P39
Canterbury City Council	Case study 58	P103
Castlereagh-Macquarie County Council	Case study 59	P103
Dawn de Loas Correctional Centre	Case study 52	P97
Glen Innes Correctional Centre	Case study 49	P96
Goulburn Correctional Centre		P99
Hills Shire Council	Case study 70	P108
Hunter Valley	Case study 67	P107
John Morony Correctional Centre		P94
Junee Correctional Centre	Case study 57	P98
Kariong Juvenile Correctional Centre	Case study 50	P96
Kariong Juvenile Correctional Centre		P99
Kempsey	Case study 4	P38
Lake Macquarie City Council	Case study 60	P104
Manly Council		P101
Metropolitan Special Programs Centre	Case study 51	P97
Mid North Coast Correctional Centre	Case study 48	P96
Pittwater Council	Case study 61	P104
Shellharbour City Council	Case study 65	P107
Silverwater Women's Correctional Centre	Case study 56	P98
Sutherland Shire Council		P102