

Professor John McMillan AO
Reviewer

By email: oqo.strategic.review@justice.qld.gov.au

Dear Professor McMillian,

Strategic Review of the Office of the Queensland Ombudsman

The Office of the Information Commissioner (OIC) welcomes the opportunity to participate in the Strategic Review of the Office of the Queensland Ombudsman (Review).

OIC notes the Review is required to examine whether the Queensland Ombudsman's functions are being performed economically, effectively and efficiently, including from the experience of other oversight bodies.

In response to the Public Consultation Paper, OIC's comments relate to collaboration with the Ombudsman's office, as well as the use of technology in the Ombudsman's work and across the Queensland public sector in delivering administrative services to the public.¹

About the OIC

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and is charged with functions under the *Right to Information Act 2009 (RTI Act)* and the *Information Privacy Act 2009 (IP Act)*.

Along with the Ombudsman's office, OIC forms part of Queensland's integrity framework. The Information Commissioner, as the independent regulator of information access and information privacy rights in Queensland has a broad range of investigative, monitoring, reporting, audit, review and support functions. In addition, the Information Commissioner is responsible for leading the improvement of public sector privacy and access to information administration under the IP Act and RTI Act respectively.²

The RTI Act promotes openness, accountability and transparency by facilitating greater access to government-held information. It supports its release as a matter of course with formal applications for government-held information to be used as a last resort.

The IP Act provides safeguards for the handling of personal information in the public sector environment. It sets out the Queensland Privacy Principles which govern the collection, management, use and disclosure of personal information by Queensland public sector agencies, and also provides for the Mandatory Notification of Data Breach scheme.

¹ [Public Consultation Paper](#) at pages 5 and 6.

² See Information Commissioner's functions outlined in *Right to Information Act 2009* and *Information Privacy Act 2009*; section 135(1)(b) of *Information Privacy Act 2009*.

Observations

Provisions in the RTI Act, IP Act and *Ombudsman Act 2001 (Ombudsman Act)* support the Information Commissioner and Ombudsman to exercise their respective statutory functions in a complimentary fashion, which avoids duplication.

This complementarity is illustrated by various provisions in the RTI Act which have regard to the important Constitutional role played by the Ombudsman in investigating administrative actions by agencies. Examples include:

- a) provisions that support maintaining secrecy of information obtained by the Ombudsman in the conduct of investigations by providing that such information is exempt information under Schedule 3, section 12 of the RTI Act; and
- b) provisions that invoke a public interest harm factor in respect of the conduct of investigations by the Ombudsman when access to documents are requested under the RTI Act.³

Equally, the IP Act provides that a privacy complaint may be referred to the Information Commissioner by the Ombudsman.⁴ Further, if the subject of a privacy complaint could be the subject of a complaint made under the Ombudsman Act, the Information Commissioner may refer the privacy complaint to the Ombudsman.⁵

Pursuant to the Ombudsman Act, the Ombudsman must not investigate administrative action taken by the Information Commissioner in the performance of the Commissioner's support, decision-making, external review, or performance monitoring functions⁶ under the RTI Act, or performance monitoring, investigation, support or decision-making functions⁷ under the IP Act.⁸

Engagement and collaboration with Ombudsman's office

Whilst the OIC and Ombudsman's office maintain regular engagement, there is an opportunity to strengthen collaboration and promote greater public confidence in and awareness of Queensland's integrity framework.

This could be achieved through a Memorandum of Understanding (**MOU**) outlining arrangements for information sharing, referrals and other areas of mutual concern. This may go some way to advance greater awareness by members of the community about the respective differences between the functions of the two Offices and facilitate easier transition between the two if matters are submitted to the incorrect place. Currently such requests are addressed by advising members of the community to redirect their enquiry, complaint or concern. It would be essential that all dealings are transparent and open, giving due regard to the importance of maintaining the requisite independence of each agency in the performance of their functions.⁹

This approach would be consistent with the IP Act, which provides that the Information Commissioner may enter into an arrangement with the Ombudsman in relation to the referral of complaints.¹⁰

³ See section 49 and Schedule 4, Part 3, item 18 and Schedule 4, Part 4, item 2 of the RTI Act.

⁴ Section 165(2)(a) of IP Act.

⁵ Section 169(1) of IP Act.

⁶ Section 128 to 131 of RTI Act.

⁷ Section 135 to 136 of IP Act.

⁸ Section 16(2)(h) of Ombudsman Act.

⁹ In 2024-25, the Ombudsman received eight complaints about OIC ([Queensland Ombudsman Annual Report 2024-25](#) Appendix B, Table 4, page 37) and OIC received 3 external review applications involving the Queensland Ombudsman ([Office of the Information Commissioner Annual Report 2024-25](#) at page 70).

¹⁰ Section 170 Act of IP Act.

We note a collaborative approach has been adopted at the federal level between the Office of the Australian Information Commissioner and the Commonwealth Ombudsman.¹¹ It is noted that the Commonwealth Ombudsman's *Better Practice Guide: Automated Decision Making* (March 2025) was recently updated in collaboration with the Office of Australian Information Commissioner and Attorney-General's department.¹²

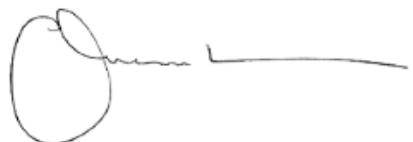
Use of new technologies by Ombudsman and public sector

A function of the Ombudsman is to assist agencies about ways of improving the quality of their administrative practices and procedures.¹³ With many Queensland government agencies employing a range of artificial intelligence (AI) systems,¹⁴ the Ombudsman (along with other Queensland integrity agencies) may need to plan for the application and adoption of new and emerging technologies to ensure efficiency in the undertaking of its functions and also to stay abreast of the rapidly evolving technological changes likely to take place in the Queensland public sector in the next three to five years and beyond. This includes the greater use of AI tools and agents to deliver and carry out public services.

For example, NSW Ombudsman, Paul Miller, recently released research by the University of Newcastle on *Utilising Generative Artificial Intelligence (GenAI) to assist complainants who speak English as a Second Language*.¹⁵ This research 'focused on how a customised GenAI complaint portal could help address language, literacy or cultural barriers, reduce potential bias and boost the accessibility and effectiveness of complaints systems'.¹⁶ This type of research may be relevant to the Ombudsman's office, which recorded that 45% of complainants identified as having a home language other than English in the last reporting year,¹⁷ as well as other Queensland government agencies with complaints handling functions.

I trust this submission will assist with the Review and thank you for providing the opportunity to participate. Should you require further information, please contact my Office at policy@oic.qld.gov.au or on 07 3234 7373.

Yours sincerely



Joanne Kummrow
Information Commissioner

¹¹ See [Memorandum of Understanding between the Commonwealth Ombudsman and the Office of the Australian Information Commissioner](#) (2010).

¹² [Better Practice Guide: Automated Decision Making](#) (2025).

¹³ Section 12 of Ombudsman Acts; see also section 5 (Objects of Act).

¹⁴ Queensland Audit Office [Managing the ethical risks of artificial intelligence \(Report 2: 2025-26\)](#).

¹⁵ [Utilising Generative Artificial Intelligence \(GenAI\) to assist complainants who speak English as a Second Language](#).

¹⁶ [NSW Ombudsman explores potential of AI model to improve complaint accessibility](#).

¹⁷ Consultation Paper at page 2 noting percentage based on those providing demographic information.