

A change to our framework, and what it means to you

From 15 September 2024, a change will take effect within our current framework.

What's changing?

We have always been able to look at complaints about the decisions and actions of non-government entities that provide services on behalf of an agency. However, we could only investigate the agency not the administrative actions of the non-government entity.

From 15 September, we have the option of directly investigating a non-government entity that is performing a function of an agency.

It is reasonable for the community to perceive the conduct of a non-government entity to be the conduct of the agency that engaged the entity to act on its behalf when the non-government entity is delivering public services.

If we receive a complaint about a non-government entity engaged by an agency, we will continue to contact the relevant agency first. This provides the agency the opportunity to resolve the issue with the non-government entity.



Background

Who is the Ombudsman?

The Ombudsman is a person, supported by a team of people. Under the *Ombudsman Act 2007*, we investigate complaints about the actions and decisions of Queensland agencies. Our complaints assessment and investigation service is free and independent.

We favour informal resolution to resolve complaints - working with agencies and complainants to identify how a complaint can be managed. Importantly, most investigations are completed informally and cooperatively. Informal resolution meets the preference of most people and agencies as it generally results in a speedy resolution and focuses on practical outcomes.

Our vision is for fair and accountable public administration in Queensland. We work with agencies and complainants to help agencies improve their practices.

Complaints are useful sources of information about how to improve services.

Often our investigations lead us to making recommendations for positive change and improvement. We can't make an agency accept our recommendations, but our recommendations are nearly always accepted.

What is an agency?

We use the word 'agencies' to describe all of the Queensland state government departments, local councils, public universities and government authorities that we can investigate.

What is a non-government entity?

A non-government entity is:

- engaged to perform functions on behalf of a department, local government or public authority
- not a department, local government or public authority.

We can only look at administrative actions that a non-government entity performs on behalf of an agency.



What does this change mean for a **non-government entity**?

We have always been able to look at complaints about the decisions and actions of non-government entities that provide services on behalf of an agency. However, we could only investigate the agency not the administrative actions of the non-government entity.

If we receive a complaint about a non-government entity we will continue to contact the agency first.

In most cases we may be able to address the complaint with the agency. However, there may be times where we need to seek information from a non-government entity. In those cases, we will need the non-government entity's cooperation to provide requested information.



What does this change mean for an **agency (department, local government or public authority)**?



Agencies are responsible for carrying out their functions. Where non-government entities are engaged to perform functions on behalf of an agency, the agency remains responsible for providing that function. If someone complains about a function performed by the non-government entity, this needs to be addressed by the agency who engaged that entity. When we receive a complaint about a non-government entity, we will continue to contact, and may seek information from, the agency.



Agencies may wish to consider:

- including a clause(s) in contractual arrangements with non-government entities to clearly inform them that by performing services on behalf of the agency, the entity's administrative actions for carrying out that function are included in the jurisdiction of the Queensland Ombudsman
- including similar information in the agency's procurement documentation
- advising engaged non-government entities about this change and reiterating the agency's expectations for how entities handle complaints. We have a range of good decisions and complaints management [resources on our website](#) that can help communicate good practices to non-government entities.



What does this change mean for a **complainant**?

1. Please direct your complaint about administrative actions to the non-government entity first.
2. If you are not satisfied with the non-government entity's response, you could take your complaint to the agency that engaged the non-government entity to provide the service. The agency will consider your complaint using its complaints management system.
3. If you remain dissatisfied after the agency has considered your complaint, you can contact us for an external review of your complaint.

We generally require you to have gone through the agency's complaints management system before you complain to us. However, you can contact us if you are unsure about how to make a complaint. We can provide advice about what you need to do. We can help you identify who to send your complaint to and how to make a complaint.

Example case study

Council leases management of its swimming pool to a third party to run.

Someone complains that two swimming lanes are dedicated for morning training, to the exclusion of other patrons.

The complaint should be directed to the lessee in the first instance.

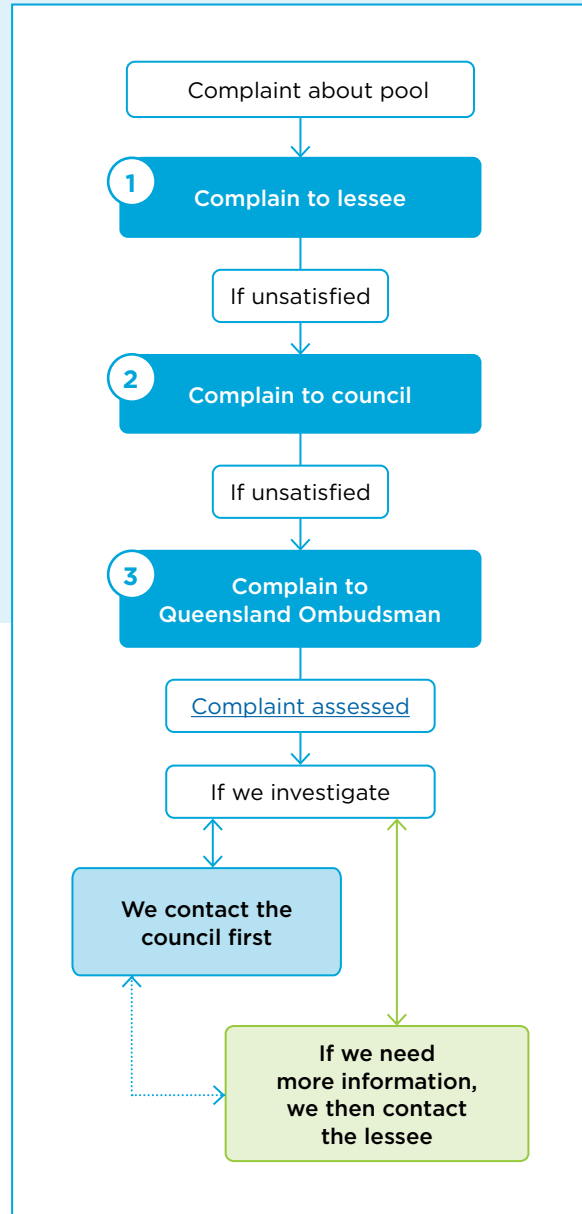
If not satisfied by the lessee's response, a complaint may be made to the council to handle under its complaints management system.

A complaint about council's response may then be made to the Ombudsman.

Mentioned website links in full:

<https://www.ombudsman.qld.gov.au/improve-public-administration/public-administration-resources>

<https://www.ombudsman.qld.gov.au/ArticleDocuments/563/The%20Ombudsman%20process.pdf.aspx>



Any questions?

More information will be provided on our website as it becomes available.

 www.ombudsman.qld.gov.au

If you have questions about how this will apply to your agency, please contact us:

 ombudsman@ombudsman.qld.gov.au

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