

Public confidence demands ombudsmen are real deal

SO YOU spoke to your energy company about the high bill, but they told you to pay or you would be disconnected. You rang your bank about some dodgy-looking credit card charges but they said pay them. Centrefink has taken you off benefits and they won't budget.

Your telco said you must have made all those calls to Asia and gave you a few days to pay the bill. Despite your objections, your local council approved a planning permit sought by a councillor. Your case of unfair treatment against your lecturer has been rejected by the university.

Isn't there an ombudsman who can help — someone independent who can check whether what the company, department, council or educational institution did was fair?

Well, yes, there is, but increasingly bodies that do not



FIONA McLEOD

Too many bodies do not meet the criteria to call themselves ombudsmen.

meet the fundamental criteria to be called an ombudsman are calling themselves ombudsmen. At one level it's understandable. An ombudsman is rightly viewed as someone who is truly independent, who can impartially assess whether what took place was fair and reasonable. The term ombudsman is synonymous with integrity, ethics,

fairness, and an even-handed assessment of the claims of the consumer or citizen, and the body complained about. The cachet of the term is an attractive opportunity.

Dispute resolution mechanisms are to be applauded. But what happens to public confidence if dispute resolution bodies that are not independent from those they investigate, call themselves ombudsmen?

Public confidence is being tested at present. Is a Fair Work "ombudsman", which can be directed by the Minister for Employment, independent? What about a supermarket ombudsman that handles complaints between businesses but does not offer customers any redress? What about the tolling customer ombudsman, which is employed by and reports to Transurban Citylink? What of the proposed Australian legal ombudsman, which will regu-

late standards, take complaints against lawyers and play a role in discipline? Many university ombudsmen are in fact employed by and accountable to the universities, as are local government "internal ombudsmen". Senator Nick Xenophon is calling for an online Facebook ombudsman to regulate content.

‘An ombudsman is rightly viewed as someone who is truly independent.’

So who gets to say who can use the name ombudsman? In New Zealand, Parliament has given the power to determine use of the term to the Chief Ombudsman. This is to ensure that public confidence is not eroded by the incorrect use of the name. In Australia no such protec-

tion exists. But does it matter? The Australian and New Zealand Ombudsman Association thinks it matters very much. And so does the public.

The association has recently issued principles — "Essential criteria for describing a body as an ombudsman" — to help those establishing a dispute resolution office ensure that the fundamentals are in place if they propose to call it an ombudsman. This is not a case of ombudsmen being clubby and protectionist — it is a public protection issue.

Australians need to know who is, and who isn't, truly independent from the bodies against which they lodge complaints. At the end of a complaint resolution process, confidence can be undermined if you find out that the investigating body is part of the organisation complained about. ANZOA welcomes the fact

that the ombudsman institution has evolved from its creation in Sweden 200 years ago. In Australia, from beginnings as parliamentary ombudsmen, we have seen the creation of industry-based ombudsmen in telecommunications, banking, energy, water, public transport, insurance and investments. The evolution has also generated ombudsmen in health and other professions.

The ombudsman institution changes and grows, but some things are immutable. One is that a genuine ombudsman is founded on the key principles of independence, comprehensive jurisdiction, appropriate powers, public accessibility, procedural fairness, and accountability.

Fiona McLeod is Victoria's Energy and Water Ombudsman and chairwoman of the Australian and New Zealand Ombudsman Association.