

17 March 2009

The Hon Julia Gillard MP
Minister for Employment and Workplace Relations
PO Box 6022
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Minister

USE OF THE TERM "OMBUDSMAN"

I write to you in my capacity as Chair of the Australian and New Zealand Ombudsman Association (ANZOA) for two reasons. The first is to let you know of the Association's existence and a little bit about us. Secondly, and more importantly, I would like to raise a current issue of concern to the Association.

Firstly, the Australian and New Zealand Ombudsman Association is an Incorporated Association of 18 Ombudsman members across Australia and New Zealand who meet strict eligibility criteria in the areas of:

- accessibility
- independence
- fairness
- accountability
- efficiency
- effectiveness.

The Association has a number of purposes. Our primary purpose is to act as an organisation of peers in both the private and public sectors to share knowledge, information, initiatives and learning. We are all committed to the highest quality standards in the roles of Ombudsmen, an institution which is 200 years old and celebrating this significant anniversary during 2009. We also have close links with our peers in the United Kingdom through the British and Irish Ombudsman Association.

ANZOA members:

Executive:

- **Chair:** Fiona McLeod, Energy and Water Ombudsman (Victoria)
- **Treasurer:** Colin Neave, Chief Ombudsman, Financial Ombudsman Service, Australia
- **Secretary:** Liz Brown, Banking Ombudsman, New Zealand

Australian and New Zealand Ombudsman Association

Registered Association Number A0044196B

• Executive Committee Members:

- Simon Cohen, Public Transport Ombudsman Victoria
- Professor John McMillan, Commonwealth Ombudsman
- Clare Petre, Energy & Water Ombudsman NSW
- Karen Stevens, Insurance & Savings Ombudsman, New Zealand

The current membership of ANZOA is:

- Barry Adams, Energy Ombudsman Queensland
- Simon Allston, Ombudsman Tasmania
- George Brouwer, Ombudsman Victoria
- Liz Brown, Banking Ombudsman, New Zealand
- Simon Cohen, Public Transport Ombudsman Victoria
- Chris Field, Energy Ombudsman WA
- Chris Field, Ombudsman WA
- Judi Jones, Electricity and Gas Complaints Commissioner, New Zealand
- Alison Maynard, Ombudsman, Investments, Life Insurance and Superannuation
- Fiona McLeod, Energy and Water Ombudsman (Victoria)
- Professor John McMillan, Commonwealth Ombudsman
- Colin Neave, Chief Ombudsman, Financial Ombudsman Service, Australia
- Sam Parrino, Insurance Ombudsman
- Clare Petre, Energy & Water Ombudsman NSW
- Deirdre O'Donnell, Telecommunications Industry Ombudsman
- Carolyn Richards, Ombudsman for the Northern Territory
- Karen Stevens, Insurance & Savings Ombudsman, New Zealand
- Beverly Wakem, Chief Ombudsman, New Zealand

The role of Ombudsman has demonstrated its importance in both the public and private sectors for a number of decades in Australia and New Zealand.

ANZOA members comply with the highest standards of independence, integrity and accountability to ensure that those who complain to us are assured that we are genuinely independent and not at the direction of any other body.

Use of the term “Ombudsman” for the “Fair Work Ombudsman”

It is with this in mind that I am authorised by the ANZOA Executive to write to you to express our concern at the use of the term “Ombudsman” for the Federal government’s new role of “Fair Work Ombudsman”. We note that the role was advertised in mid-February this year. However, from the public information about this role we believe that it does not meet the criteria for use of the term “Ombudsman”.

One of ANZOA’s concerns over a number of years has been the inappropriate use of the term “Ombudsman” by those who are not independent. Examples include “Ombudsman” for particular insurance companies, local government bodies or newspapers which are, in reality, internal positions within the organisations.

ANZOA is currently finalising guidelines on the use of the term "Ombudsman" and these will shortly be available for public information. However, we felt it important to write to you as soon as possible to seek your assistance in changing the name of the Fair Work Ombudsman role to one which better represents the actual work of that office.

ANZOA is aware that our Executive Member, Professor John McMillan, the Commonwealth Ombudsman, recently wrote to you, (email dated Monday 16 February 2009), about this matter. We strongly support the points he has made in relation to the description of the Fair Work Ombudsman as being entirely inconsistent with the primary role of an Ombudsman: that is, complaint handling, which is completely independent of complainants and the agencies or organisations complained about.

Ombudsmen do not carry out regulatory functions such as "inspectorates and enforcement" as described for the Fair Work Ombudsman. While Ombudsmen offices often help to restore the relationship between a consumer and a service provider, it is not their primary role to "promote harmonious and co-operative relations" between consumers and the companies or departments and agencies complained about.

It is part of the role of an Ombudsman to provide assistance and advice to parties to complaints, but again, that is not the primary role of an Ombudsman. Further, the interchangeability of the Fair Work Ombudsman and General Manager of Fair Work Australia is clear indication that the Fair Work Ombudsman is not an Ombudsman. The advertisement advises applicants that they could apply for one or both positions as if the duties and responsibilities of a General Manager of the organisation Fair Work Australia (i.e. an employee of that organisation) are interchangeable with that of an Ombudsman.

Professor McMillan makes the point in his recent correspondence with you that Australia, unlike New Zealand, has no strict controls on the use of the word "Ombudsman". This is why the Australian and New Zealand Ombudsman Association is addressing this issue through the publication of guidelines.

The issue is not one of semantics. It is a fundamental issue for the protection of the institution of Ombudsman. Incorrect use of the term may lead to a misunderstanding both of the role of the Fair Work Ombudsman, and the role of Ombudsman offices generally. There is potential for real damage to public confidence in the existing ombudsman schemes. This confidence has been painstakingly built up over the years. We believe we can now say that the public know that if they approach a person or body with the title of Ombudsman, they can be assured that their privacy will be maintained and their complaint considered from a completely independent viewpoint. To use the title for a person employed by and working with an organisation, who cannot be truly independent, risks undermining that confidence both in the work of the Fair Work Ombudsman and Ombudsman offices generally.

We therefore seek the Federal government's assistance in reconsidering the title "Fair Work Ombudsman". We would be very pleased to provide further information to you about the institution of Ombudsman or to discuss this matter with you.

I would be grateful for your response.

Please don't hesitate to contact me on the contact details in this letter.

Yours sincerely



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