

**Submission  
No 41**

**THE IMPLEMENTATION OF PORTFOLIO COMMITTEE No. 2  
RECOMMENDATIONS RELATING TO THE DELIVERY OF SPECIFIC HEALTH  
SERVICES AND SPECIALIST CARE IN REMOTE, RURAL AND REGIONAL NSW**

**Organisation:** NSW Ombudsman

**Date Received:** 26 April 2024

26 April 2024

Dr Joe McGirr MP  
Committee Chair  
Select Committee on Remote, Rural and Regional Health  
By email: [remoteruralregionalhealth@parliament.nsw.gov.au](mailto:remoteruralregionalhealth@parliament.nsw.gov.au)

Dear Dr McGirr

**NSW Ombudsman submission – implementation of Portfolio Committee No 2 recommendations relating to delivery of specific health services and specialist care in remote, rural and regional NSW**

Thank you for your invitation to make a submission to the above inquiry dated 23 February 2024.

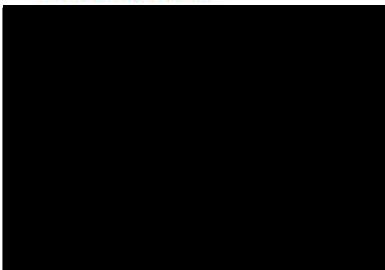
Under Terms of Reference dated 9 February 2024, the Committee is seeking any updates or further observations relating to the progress of implementing Portfolio Committee No. 2 recommendations relating to workforce issues, workplace culture and funding issues, as per the Select Committee on Remote, Rural and Regional Health's previous inquiry<sup>1</sup>.

The NSW Ombudsman provided submissions on 13 October 2023 and December 2022, which are included by way of background. In essence, the Committee made a number of recommendations to Government, including a recommendation (41) to establish a 'health administration ombudsman'. As the NSW Ombudsman already holds the statutory functions proposed of a health administration ombudsman, additional funding was sought and received to raise awareness and enhance our capacity to respond to health administration complaints.

Our December 2022 submission set out proposed actions of the NSW Ombudsman's office to address issues including visibility, awareness, investigations capacity and whistle-blower protections. Attached is our April 2024 status update on those proposed actions.

Please contact me if you require further information.

Yours sincerely



Paul Miller  
NSW Ombudsman

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<sup>1</sup> Portfolio Committee No 2 May 2022 report, 'Health outcomes and access to health and hospital services in rural, regional and remote NSW'

## Proposed actions by the NSW Ombudsman: Health administration – April 2024 status update

Issue	Gap	Actions	Existing/ Planned/New	Resourcing	April 2024 status update
1. The statutory functions of the NSW Ombudsman	No gap	None necessary.	New	Budget bid – 2023/24	N/A
2. Visibility, awareness and accessibility of NSW Ombudsman	Limited visibility – no active engagement/awareness raising in health system	2A. Engage with NSW Health to include Ombudsman awareness-raising material in onboarding and staff training materials	New	Within existing	NSW Ombudsman has engaged with NSW Health to include information about its office and functions on the NSW Health website: <a href="https://www.nsw.gov.au/help-for-a-workplace-issue-workplace-culture">Help for a workplace issue - Workplace culture (nsw.gov.au)</a>  The Health Administration Branch will develop and deliver awareness raising material and face-to-face delivery through appropriate avenues, in consultation with the Ministry and NSW Health Districts.
		2B. Offer to assist NSW Health/HCCC to develop awareness/cultural ('speak up') campaign and collateral	New	Within existing	NSW Ombudsman has made 'speak up' and awareness materials available to NSW Health and HCCC as part of the PID Act 2022 rollout. The materials may be downloaded from the NSW Ombudsman website or accessed via the YouTube page.
		2C. Submit budget bid in 23/24 to fund a Deputy Ombudsman (and associated unit) to focus on the Ombudsman's existing functions in respect of the health administration sector, including to lead awareness campaign and sector/regional engagement	New	Budget bid – 2023/24	Through the 2023/24 budget process, funding was received to establish a Health Administration Branch consisting of 4 new positions led by a dedicated Deputy Ombudsman. The Deputy Ombudsman Health Administration commenced in late February 2024 and recruitment to the remaining 3 roles for Health Administration Branch will occur by Q3 2024.



		2D. Subject to funding, conduct regional visits and engagement with LHDs and workers.	New	Budget bid – 2023/24	Planning is underway for the Deputy Ombudsman Health Administration to conduct initial visits to the Murrumbidgee and Western LHDs in May 2024 with additional visits to regional LHDs to follow.
		2E. Explicitly consider health administration when developing new website and digital complaint tools	Existing (2023/24)	Within existing	Health administration complaints tools will be available on the NSW Ombudsman’s new website which will be launched in October 2024
3. Complaint allocation and referral (between HCCC and Ombo)	Referrals may not always be timely; there may be potential failures to identify all complaints (or parts of complaints) that should be referred	3A. Agree revised MoU between HCCC/Ombo	In progress	Within existing	MoU revised and executed in July 2023 to ensure more effective referral of complaints and information sharing.
		3B. Publish and promote MoU	Planned	Within existing	The revised MoU is published on the NSW Ombudsman’s website: <a href="https://www.ombo.nsw.gov.au/information-sharing-and-complaint-referral-mou-hccc-and-ombo-signed-final.pdf">Information sharing and complaint referral MOU - HCCC and Ombo - signed (final).pdf (nsw.gov.au)</a>
		3C. Ensure awareness training to HCCC and Ombo staff on identifying referrals, timeliness and process	Planned	Within existing	The Ombudsman’s office conducted internal training on the MoU in early 2024 and further training is planned to ensure increased awareness of complaints and information sharing.  The new Deputy Ombudsman Health Administration will engage with HCCC leadership in Q2 2024 to discuss awareness training of the MoU principles.
4. Ombudsman investigations of maladministration	Matters raised in complaints that warrant investigation not always investigated by the Ombudsman due to limited resources	4A. Utilise the additional funding for staff that has been provided from the 22/23 budget to increase investigations (including related to the health sector, where identified)	Planned	Within existing	The Ombudsman’s office has established a review group, including the Deputy Ombudsman Health Administration, to review and provide early advice on health administration complaints. This process is designed to upskill case officers and to identify significant matters promptly.  The review group is a precursor to a revised process for early assessment of matters identified as significant, including those matters that may warrant investigation. This will include health administration matters and will be introduced in May 2024. This process will align with a change to our

				management of complaints, which will see health complaints streamed to a dedicated team of complaint handlers.	
		4B. Submit budget bid to fund a Deputy Ombudsman (and associated unit) to focus on the Ombudsman's existing functions in respect of the health administration sector, including to focus on health administration investigations of allegations of serious/systemic maladministration	New	Budget bid – 2023/24	In addition to the funding for a new Health Administration Branch consisting of 4 positions, increased core funding has been received to expand the investigations team. Complaints will be streamed into dedicated teams including health services, which is anticipated to result in early identification and investigatory action.
	There is limited own-motion and pro-active monitoring by Ombudsman of potential maladministration in health system (ie responsive only if a 'complaint' is made)	4C. Submit a budget bid to fund a Deputy Ombudsman (and associated unit) to focus on the Ombudsman's existing functions in respect of the health administration sector, including to focus on pro-active monitoring of health administration	New	Budget bid – 2023/24	Part of the ongoing work of the Health Administration Branch will be to identify system issues in health administration for proactive monitoring
	Limited specialist clinical and other expertise to support Ombudsman investigations (nb: there is existing provision in Ombo Act for experts to be engaged)	4D. Identify resourcing needs for experts to support health administration complaint-handling/investigations and submit budget bid as required	New	Budget bid – 2023/24	Part of the ongoing work of the Health Administration Branch will be to deliver subject matter expertise to health-related complaints within existing statutory provisions.
5. Whistle-blower protections	Inconsistent protection for whistle-blowers who report clinical incidents/failures or other risks to public health/safety	5A. Ask PID Steering Committee (in consultation with HCCC) to consider and advise government on the proposal raised by the Ombo to provide equivalent protections to health disclosures as apply to other PIDs	Planned	Within existing	The NSW Ombudsman will collect additional information to provide to the Steering Committee over the next six months to inform consideration of additional categories of serious wrongdoing, including health disclosures that do not fall within the current categories of serious wrongdoing in the PID Act. This will include consultation with the HCCC.



	There may be potential failures to identify PIDs where a disclosure is received as a grievance or a clinical incident report (but where it in fact includes allegations of maladministration or other serious wrongdoing eg, a failure to properly deal with or to cover up an incident)	5B. Ensure new guidance, advice and training associated with new PID Act 2022 clearly sets out the need to identify when 'incident reports'/'grievances' may also be or include a PID	Planned	Withing existing	<p>NSW Ombudsman has conducted internal training to improve identification of PIDs where the disclosure relates to a clinical incident. As noted above, triage processes have also been enhanced.</p> <p>The NSW Ombudsman PID guidance and training provided to agencies (and to internal staff) states that a PID can be made alongside other concerns or allegations, and the person making the report does not need to state that they are making a PID.</p> <p>The Ombudsman's office has established a Community of Practice for public authorities to canvass and share information on matters such as these. Separate to this, the Ministry of Health has indicated that it has established a health specific PID Community of Practice.</p>
		5C. Consider LHDs as the subject for future 'Public Interest disclosures' audit	Planned	Within existing	The NSW Ombudsman is preparing to receive the first round of annual returns from agencies under the PID Act 2022. Agencies will also be provided with an agency self-assessment audit to address some of the aspects not covered by the annual returns. The information collected through both of these processes will inform the PID audit schedule for the next year. LHDs will be part of this process.
6. Related Ombudsman functions	Potential to leverage related functions not realised due to resourcing constraints	6A. Consider one or more LHD as the subject for future 'review of complaint-handling system'	New	Within existing (but following completion of current review of DCJ child protection complaint handling system in 2023)	NSW Ombudsman is in the process of establishing a Complaints Handling Review team. This small team will establish a program of complaint-handling system reviews by Q4 2024. A program of systematic review of health services will be included.
		6B. Consider end-to-end review of the health system complaints system for a review (would require additional funding)	New	Budget bid – 2023/24	As above