

Queensland Government Response

to the

Review of the role and functions of the Queensland
Workplace Rights Ombudsman (the Ombudsman)
and the Queensland Workplace Rights Office
(QWRO)



Government Response

The Government has considered the recommendations arising from the independent Review of the role and functions of the Queensland Workplace Rights Ombudsman (the Ombudsman) and the Queensland Workplace Rights Office (QWRO).

The Ombudsman's role was established in response to recommendations by the Queensland Industrial Relations Commission (QIRC), following a 2006 inquiry which reported "...serious concerns about the social and economic impact of Work Choices." The Inquiry accepted evidence that WorkChoices, through Australian Workplace Agreements, had commenced a trend towards lower wages and conditions of employment; hence recommended the establishment of an independent oversight body.

The Government acknowledges the contribution of the Ombudsman and the QWRO in protecting the rights and interests of Queensland workers during one of the darkest periods in the history of industrial relations in Australia.

However, since the establishment of the Ombudsman in July 2007, the industrial landscape has changed. WorkChoices legislation has been repealed and the Federal 'Fair Work' industrial relations system is now operational. The State has referred its industrial relations powers for the private sector to the Federal jurisdiction, believing this to be in the best interests of Queensland employees and employers.

As part of the 'Fair Work' industrial relations system, the Commonwealth Government has established the Fair Work Ombudsman, which undertakes similar work as the Ombudsman for employees in the Federal industrial relations system with the significant difference that the Fair Work Ombudsman has the power to compel compliance and the power to prosecute for non-compliance. However, as we continue the transition to the Federal system, the Government accepts that the Ombudsman continues to play an important role, particularly for vulnerable workers who, during the transitional period, can still fall through the cracks. It is therefore proposed to continue the Office albeit with changes.

The Government would like to acknowledge the current Ombudsman, the Queensland Industrial Relations Commissioner Don Brown, for his leadership of the Office, and the independence with which he has exercised his functions.

From 1 January 2011, Commissioner Brown resumed duty in the QIRC, but continued to perform the role of Ombudsman until 31 March 2011. Given increased workloads faced by the QIRC his contribution as a valued and experienced member of the QIRC is much needed and welcomed.

Commissioner Brown has subsequently been reappointed to the position of Ombudsman on a part-time basis of 50% of full-time, commencing on 1 April 2011 and ending on 31 December 2011. Commissioner Brown will perform the functions of Commissioner and Ombudsman at the same time.

The QWRO will continue to provide an information, advisory and referral service for vulnerable workers during the transition to the Federal system, while the Department of Justice and Attorney-General will continue to examine any potential gaps in services to ensure workers have easy access to a comprehensive referral service.

The Queensland Government also accepts recommendations 12, 13, and 15, and will continue to work with our Federal counterparts to ensure Queensland employees and employers can access the 'one-stop shop' for industrial services they need. In particular, the implementation strategy indicates that the Attorney-General and Minister for Industrial Relations will seek to formally meet with Senator the Honourable, Christopher Evans, Federal Minister for Tertiary Education, Skills, Jobs and Workplace Relations regarding the provision of services and information for vulnerable workers. It is anticipated that the Attorney-General and Minister for Industrial Relations will be accompanied by a small delegation from Queensland unions.

Likewise, the Queensland Government, in accepting recommendation 14, believes the existing powers of the QIRC to undertake strategic reviews of industries and cross sectoral industrial matters should be preserved. In addition, the Ombudsman will retain the capacity to conduct industry reviews, but at the direction of the Minister.

The Queensland Government agrees with the Ombudsman's assessment that it is time to again highlight the toll exacted from individuals and enterprises by workplace harassment and bullying. The Government accepts the review recommendations 16 and 17 in relation to workplace bullying and acknowledges it as a matter of priority to be addressed by the next Ombudsman. Building on the extensive work of Workplace Health and Safety Queensland, and together with the QWRO, unions and employers, the Government will harness its collective strengths to inform and promote a 'zero tolerance' approach to workplace harassment. This includes strategies to improve bullying and harassment related complaints management in the public sector.

In addition to the above strategies, the review report will be publicly released as will the Queensland Government's response.