

Contents

Part I Comparative Analysis of the Ombudsman Institutions

1	Introduction	3
1.1	History	3
1.1.1	Origins	3
1.1.2	Spreading of a Concept	4
1.1.3	New Developments	6
1.2	Scope of Research	10
1.2.1	Background and Objectives	10
1.2.2	Geographical Scope	11
1.2.3	Thematic Scope	12
1.2.4	Methodology	17
	References	18
2	Legal Framework	21
2.1	Legal Basis	21
2.1.1	International Standards	21
2.1.2	Legal Basis of Ombudsman Institutions	22
2.1.3	Legal Basis for Additional Functions	22
2.2	Legal Status and Independence	23
2.2.1	International Standards	23
2.2.2	Independence and Connection to Parliament	24
2.2.3	Appointment Procedure	25
2.2.4	Monocratic or Collegial Body	26
2.2.5	Qualification Requirements	27
2.2.6	Term of Office	28
2.2.7	Removal and Suspension from Office	29
2.2.8	Incompatibilities	31
2.2.9	Immunity	32

2.2.10	Salary and Allowances	32
2.2.11	Functional Independence and Resources	33
2.3	Organisation	36
	References	36
3	Mandate	39
3.1	Object of Control	39
3.1.1	International Standards	39
3.1.2	Public Administration	40
3.1.3	Judiciary	46
3.1.4	Legislator	48
3.2	Standard of Control	49
3.2.1	International Standards	49
3.2.2	General Overview	50
3.2.3	Violation of Law	51
3.2.4	Good Governance	51
3.2.5	Maladministration or Derelict of Duty	53
3.2.6	Human Rights	53
3.3	Access	57
3.3.1	International Standards	57
3.3.2	Accessibility of the Institution	58
3.3.3	Discretion to Accept and Investigate a Complaint	59
3.3.4	<i>Proprio Motu</i> -Proceedings	60
3.3.5	Proceedings Following Referrals	62
	References	62
4	Powers	65
4.1	Administration	65
4.1.1	International Standards	65
4.1.2	Standard Functions	66
4.1.3	Additional Functions	74
4.1.4	Additional Roles and Functions under other Legislation	79
4.2	Judiciary	83
4.3	Legislator	84
	References	85
5	Awareness and Outreach	87
5.1	International Standards	87
5.2	Publications	88
5.3	Training and Outreach Activities	88
5.4	Cooperation with other Institutions and Organisations	89
	References	90

6	Good Practice Examples	91
6.1	General Overview	91
6.2	Legal Status and Independence	91
6.2.1	Appointment and Removal Procedure	91
6.2.2	Conflict of Interest	92
6.3	Mandate	92
6.3.1	Review of the Administration	92
6.3.2	Investigation of Human Rights Violations	93
6.3.3	Protection of the Term “Ombudsman”	94
6.3.4	Conciliation and Mediation	95
6.4	Powers	95
6.4.1	Protection against Victimisation	95
6.4.2	Injunction	96
6.4.3	Compensation	96
	References	97

Part II Reports on Different Jurisdictions

7	Australia: Commonwealth Ombudsman	101
7.1	General Information	101
7.2	The Ombudsman Institution	103
7.2.1	Overview	104
7.2.2	Mandate	107
7.2.3	Powers	110
7.2.4	Other Characteristics	113
7.2.5	Workload	114
7.2.6	Publications	114
7.2.7	Annotations	115
	References	115
8	Australia: Ombudsman New South Wales	117
8.1	General Information	117
8.2	The Ombudsman Institution	118
8.2.1	Overview	118
8.2.2	Mandate	121
8.2.3	Powers	123
8.2.4	Other Characteristics	127
8.2.5	Workload	128
8.2.6	Publications	128
8.2.7	Annotations	129
	Reference	129
9	Australia: Northern Territory Ombudsman	131
9.1	General Information	131
9.2	The Ombudsman Institution	132

9.2.1	Overview	132
9.2.2	Mandate	134
9.2.3	Powers	136
9.2.4	Other Characteristics	139
9.2.5	Workload	140
9.2.6	Publications	140
9.2.7	Annotations	141
	Reference	141
10	Australia: Queensland Ombudsman	143
10.1	General Information	143
10.2	The Ombudsman Institution	144
10.2.1	Overview	144
10.2.2	Mandate	147
10.2.3	Powers	149
10.2.4	Other Characteristics	151
10.2.5	Workload	152
10.2.6	Publications	152
10.2.7	Annotations	153
	Reference	153
11	Australia: South Australian Ombudsman	155
11.1	General Information	155
11.2	The Ombudsman Institution	156
11.2.1	Overview	156
11.2.2	Mandate	158
11.2.3	Powers	160
11.2.4	Other Characteristics	163
11.2.5	Workload	164
11.2.6	Publications	164
11.2.7	Annotations	164
	Reference	164
12	Australia: Tasmanian Ombudsman	165
12.1	General Information	165
12.2	The Ombudsman Institution	166
12.2.1	Overview	166
12.2.2	Mandate	169
12.2.3	Powers	170
12.2.4	Other Characteristics	173
12.2.5	Workload	174
12.2.6	Publications	174
12.2.7	Annotations	174
	Reference	175

13	Australia: Victorian Ombudsman	177
13.1	General Information	177
13.2	The Ombudsman Institution	178
13.2.1	Overview	178
13.2.2	Mandate	180
13.2.3	Powers	182
13.2.4	Other Characteristics	184
13.2.5	Workload	184
13.2.6	Publications	185
13.2.7	Annotations	185
	References	185
14	Australia: Western Australian Ombudsman	187
14.1	General Information	187
14.2	The Ombudsman Institution	188
14.2.1	Overview	188
14.2.2	Mandate	191
14.2.3	Powers	193
14.2.4	Other Characteristics	196
14.2.5	Workload	196
14.2.6	Publications	197
14.2.7	Annotations	197
	Reference	197
15	Hong Kong (Special Administrative Region of China): Ombudsman	199
15.1	General Information	199
15.2	The Ombudsman Institution	200
15.2.1	Overview	200
15.2.2	Mandate	203
15.2.3	Powers	205
15.2.4	Other Characteristics	207
15.2.5	Workload	208
15.2.6	Publications	208
15.2.7	Annotations	209
	References	209
16	Cook Islands: Ombudsman	211
16.1	General Information	211
16.2	The Ombudsman Institution	212
16.2.1	Overview	212
16.2.2	Mandate	214
16.2.3	Powers	216
16.2.4	Other Characteristics	219

16.2.5	Workload	219
16.2.6	Publications	219
16.2.7	Annotations	219
	References	220
17	New Zealand: Ombudsman	221
17.1	General Information	221
17.2	The Ombudsman Institution	222
17.2.1	Overview	222
17.2.2	Mandate	226
17.2.3	Powers	228
17.2.4	Other Characteristics	232
17.2.5	Workload	232
17.2.6	Publications	233
17.2.7	Annotations	233
	References	233
18	Papua New Guinea: Ombudsman Commission	235
18.1	General Information	235
18.2	The Ombudsman Institution	236
18.2.1	Overview	236
18.2.2	Mandate	239
18.2.3	Powers	241
18.2.4	Other Characteristics	245
18.2.5	Workload	246
18.2.6	Publications	246
18.2.7	Annotations	247
19	Samoa: Ombudsman	249
19.1	General Information	249
19.2	The Ombudsman Institution	250
19.2.1	Overview	250
19.2.2	Mandate	252
19.2.3	Powers	253
19.2.4	Other Characteristics	255
19.2.5	Workload	255
19.2.6	Publications	256
19.2.7	Annotations	256
20	Taiwan: Control Yuan	257
20.1	General Information	257
20.2	The Ombudsman Institution	258
20.2.1	Overview	258
20.2.2	Mandate	262
20.2.3	Powers	264
20.2.4	Other Characteristics	268

20.2.5	Workload	269
20.2.6	Publications	270
20.2.7	Annotations	270
	References	271
21	Tonga: Commissioner for Public Relations	273
21.1	General Information	273
21.2	The Ombudsman Institution	274
21.2.1	Overview	274
21.2.2	Mandate	276
21.2.3	Powers	278
21.2.4	Other Characteristics	280
21.2.5	Workload	280
21.2.6	Publications	280
21.2.7	Annotations	281
	Reference	281
22	Vanuatu: Ombudsman	283
22.1	General Information	283
22.2	The Ombudsman Institution	284
22.2.1	Overview	284
22.2.2	Mandate	287
22.2.3	Powers	288
22.2.4	Other Characteristics	291
22.2.5	Workload	292
22.2.6	Publications	293
22.2.7	Annotations	293
	Annex: Sample Questionnaire	295
	Bibliography	313