

CHRIS READ — DISCLOSURE REGARDING OSCAR PROJECT

Motion

Resumed from 4 June on the following motion moved by Hon Helen Morton —

That this house directs the Standing Committee on Public Administration to inquire into matters following disclosure by Mr Chris Read in 1999 of inappropriate practices regarding the OSCAR project whilst he was working at the office of the Ombudsman. In particular, the committee should consider —

- (1) contractual arrangements with Mr Chris Read whilst he was working in the Ombudsman's Office;
- (2) circumstances relating to the transfer of Mr Read from the Ombudsman's Office to the Department of the Premier and Cabinet;
- (3) actions taken by various government departments in relation to Mr Read regarding this matter; and
- (4) legislative changes necessary to ensure that people who work in the Ombudsman's Office have access to objective and impartial investigation and, if appropriate, redress relating to internal administrative decisions.

HON HELEN MORTON (East Metropolitan) [2.03 pm]: Given that it has been more than a week since I talked about this matter, it is necessary for me to recap. Members will recall that I was talking about the agencies listed in schedule 1 of the Parliamentary Commissioner Act 1971, which provides a list of agencies for which the Ombudsman in Western Australia has no responsibility. Those agencies listed in schedule 1 are unable to have their concerns considered by the Ombudsman. The act does not apply to all those agencies, including the Parliamentary Commissioner for Administrative Investigations and the Deputy Commissioner for Administrative Investigations. The Ombudsman's Office is unable to have an administrative matter considered by the Ombudsman, which sounds fairly reasonable, and that includes all the parliamentary commissioner's delegates and the work undertaken in the office of the parliamentary commissioner and not just the commission itself. The Ombudsman is precluded from being involved in an issue that occurs in that office for which a person would normally seek the Ombudsman's involvement. I was seeking an agency that would look at the Chris Read issue in a way that is consistent with the manner in which the Ombudsman's Office would look at it.

When this motion was last debated, I referred to the Ombudsman's redress guidelines. Basically, the agencies should provide redress to remedy the relevant situation. The Ombudsman has a code of conduct and organisational values for which the principle of openness requires acknowledging mistakes, explaining actions and apologising. Those principles underlie the redress guidelines. They are important principles that have been missing in all the other agencies. In the Ombudsman's view, the ethical principles in the code of conduct of public sector agencies are consistent with a redress framework that provides that when people are unfairly or unreasonably affected by decisions, the agency should take all fair and reasonable steps to make good. The fourth principle is about redress being fair and reasonable. That means that decisions should not be based entirely on legal grounds. Technical legal questions cannot and should not be ignored. However, fairness involves considering all the ways in which the circumstances in question have affected the complainant and the wider community. That involves legal and non-legal issues.

The guidelines state that an approach guided solely by legal principles risks being rigid and lacks the flexibility necessarily for customer-focused agencies and that appropriate weight should be given to broad questions of reasonableness, the effect of decisions and the ethical obligations of fairness and accountability. The fourth principle includes equal treatment and resources not being used to disadvantage a complainant and states that agencies that are typically large and have access to resources and advice not usually afforded to most citizens should not use them to disadvantage the complainant, as that only exacerbates the detriment that the person has already suffered. The final principle that I will raise is proportion. The guidelines state that the redress should be proportional to the detriment suffered. In this respect, the guidelines refer also to restoration. Generally, when a person suffers a detriment, wholly or partly as a result of the inappropriate actions of an agency, that person should be restored to his original position. When that is not possible, fair and reasonable alternatives should be offered.

The guidelines refer also to the necessity to make it possible for a matter to be addressed without having to pursue legal remedies. Agencies have a duty to correct or rectify problems arising from maladministration for which the agency is responsible. Agencies should make sensible decisions to reach out of court settlements whenever possible.

Extract from Hansard

[COUNCIL - Wednesday, 18 June 2008]

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Hon Helen Morton; President; Hon Ljiljana Ravlich; Hon Norman Moore; Hon Paul Llewellyn; Hon Barry House

Having given that background on the manner in which this matter should have been redressed, I then in a nutshell talked about what had actually occurred around this longstanding public servant by the name of Chris Read. He is a 57-year-old man who has not worked for the past eight years, although he has continued to receive a salary and allowances. He is now only partially fit and can undertake only light duties. He does not believe himself that he has any skills. He feels unemployable and he feels very much that he carries the stigma of having been a whistleblower. I went on to talk about some of the personal aspects of Mr Read so that members could understand that this is a real person. I am not talking about somebody who is some sort of nameless, faceless person. This is a real person who has children, has a partner, lives in Mandurah and is someone I have come to know reasonably well in the past three years.

The situation that Chris Read finds himself in has occurred in this way. In 1986 Chris Read worked for the Western Australian Industrial Relations Commission as a level 6 information technology manager. For various reasons, he left that work and went to work for the Ombudsman's Office in 1993 on a three-month trial as a level 6 investigating officer. He was seconded for one year on the basis that the Ombudsman found his work satisfactory. I have with me a copy of a document that was signed by the parliamentary commissioner asking to have that position made permanent, that it was specifically related to Chris Read and indicating that it was to become a permanent position in the Ombudsman's Office. He then went on to have two further three-year extensions there, so that in total he worked there for seven years. In that time he was successful, along with some others, in applying for and being granted a reclassification to level 7.3. I will later show members some documents that state that it was the understanding of both the Ombudsman's Office and Chris Read that that was a proper reclassification that took place, with a panel and all the bits and pieces that are required when a reclassification occurs. Unfortunately, during that time Chris Read noticed inappropriate practices that were being undertaken by the Ombudsman in relation to a computer program that was being installed. Chris Read spoke to the Ombudsman about it and suggested that some rectification needed to take place around the way it was being managed. The Ombudsman did not consider that the advice of rectification was worthy at the time. Chris Read pursued that issue with the Ombudsman and eventually said to the Ombudsman basically that if he did not do something about it, he was going to get the Auditor General to have a look at it. All aspects of this matter were being managed in-house. At that stage, in an attempt to settle the matter, the Ombudsman asked another government agency—I think it was a retired person at that stage—to conduct an internal review and report on the matter. That report came out for the Ombudsman saying basically, "Look, it's a bit out of the ordinary but it's not real bad." In essence I would call that a whitewash. Nevertheless the damage had been done. The Ombudsman said at that stage that he would not renew Mr Read's contract; that Mr Read was coming to the end of his second three-year term and was looking for a third three-year term; and that the contract would not be renewed because of unwarranted criticism and unsatisfactory performance. However, on appeal the Ombudsman resiled from the claim of unsatisfactory performance. As I said, it was probably a good idea that he did because only a few weeks before that Chris Read had received his latest increment to level 7.3. Nevertheless, the situation in the office had become quite tense at that stage; therefore, not too many people were surprised that the decision was made that Chris Read would have to leave that office.

What happened after that is probably some of the most interesting elements of this matter, in my view anyway. The WA Industrial Relations Commission office was where Chris Read had been working before he went to the Ombudsman's Office, but that office had not seen him for the previous seven years and things had moved on considerably from there. The Industrial Relations Commission basically said that it was not in a situation to have him back, that the full-time equivalent position had been moved permanently to the Ombudsman's Office and that it did not want to take him back. It was therefore left to the Department of the Premier and Cabinet to take him. However, the Department of the Premier and Cabinet basically said that it would take him only at level 6, which meant that he would lose his reclassification and increments to level 7.3. Bear in mind that Chris Read had been working in the Ombudsman's Office for seven years, had progressed and had gone through a properly constituted panel to get to level 7.3. In some respects I believe he was tricked in that process; I will explain how I believe that occurred. However, before I do, it is worthwhile mentioning that I had spent a lot of time trying to negotiate an outcome in this matter with the Department of the Premier and Cabinet. Despite many attempts, the Department of the Premier and Cabinet made it absolutely clear that the issue I was raising with the department was not an issue for that department but, rather, was an issue between Mr Read and the Ombudsman's Office. To clarify that point, I will read from one part of the letter —

Your correspondence asserts that Mr Read has suffered financial and career/health detriment, as a direct result of his 'whistleblower' action. The Department of the Premier and Cabinet had no involvement in that matter and therefore cannot comment on it. The differences between Mr Read and the former Ombudsman have had no influence on his management since his transfer to the Department of the Premier and Cabinet.

I will refer to that letter again in various parts of my speech. However, the Department of the Premier and Cabinet basically said that this matter is between the Ombudsman's Office and Mr Read. However, through various freedom of information requests and other documentation received, a letter to the Ombudsman from the Department of the Premier and Cabinet—in fact, the manager of human resources branch—makes it absolutely clear that Mr Read was employed at level 6 but was then advanced to level 7; and the letter attached copies of the papers that led to that reclassification. The letter written by the Deputy Ombudsman states —

In my view Mr Read should be treated as a Level 7 officer for all purposes.

. . .

However, I see the situation in question being sufficiently different from the norm to warrant the approach which I recommend . . .

The act states that when a person is returned to the public service after working in an agency that is outside of the public service, such as the Ombudsman's agency, that person must return to the public service at no less than the level at which the person entered the agency. There is no point about the fact that the person cannot return to a level above that which the person entered. The letter from the Deputy Ombudsman goes on —

3. This Office and Mr Read regarded his 1997 reclassification to be of a permanent nature. His submission was assessed by a panel which included an external consultant . . .

The letter goes on to reiterate that the act states —

. . . provided that an officer “shall return . . . with a classification **at least equal** to that held immediately prior to the secondment” . . . To me it comes down to your people recognising the particular circumstances of this case and making what in my view is the only equitable decision available. To do otherwise would simply create an unnecessary problem.

That issue continues to be of some difficulty. I do not want to refer in this speech to the issue of whether the position is level 6 or level 7, but it is an ongoing issue.

I have with me a statutory declaration that I will read in full. It is from Laurene Veda Dempsey of 4 Regent Street, West Mt Lawley. She states —

1. I was employed by the Parliamentary Commissioner for Administrative Investigations (State Ombudsman) between October 1997 and November 2001 as a solicitor.
2. During that time, and in the course of my employment I was requested by both the then State Ombudsman, Murray Allen, and Senior Investigator, Chris Read, to be Chris Read's support person in relation to his employment at the Office of the State Ombudsman (the Office). In this capacity I accompanied Mr Read in discussions during June 2000 with Mr Malcolm Wauchope, Mr Murray Allen and Mr Les Smith.

Les Smith conducted the internal informal review of the complaint being made by Chris Read. The document continues —

I was also used as a sounding board by Mr Read and Mr Errington, Deputy Ombudsman, who was charged with handling this matter on behalf of the State Ombudsman.

3. Chris Read had been seconded to the Office from the Industrial Relations Commission (the Commission) as a Level 6 officer for a fixed term during the appointment of the previous State Ombudsman, Robert Eadie. The term had been renewed on a number of occasions.
4. During the period of the appointment of Murray Allen as State Ombudsman, Chris Read had been reclassified by Mr Allen to a level 7. This was regarded by the State Ombudsman and Mr Read as a permanent classification. Mr Read was not acting as a Level 7
5. Chris Read's then current contract of employment with the State Ombudsman finished on 30 June 2000 and Murray Allen had indicated to Chris Read that he would probably not be renewing his contract.
6. I understood there was no position at the Commission —

Meaning the Industrial Relations Commission —

for Mr Read to return to.

7. Mr Allen proposed to transfer the employment of Mr Read to the Department of the Premier and Cabinet (the Department) at the termination of his term with the State Ombudsman. The

- Department was expected to redeploy Mr Read into an appropriate vacancy in some other agency.
8. However, the Department later suggested that, notwithstanding Mr Read's reclassification at the Office, he should transfer to the Department as a Level 6 employee, as he was when he was transferred from the Commission to the Office.
 9. Chris Read flatly refused to be transferred to the Department on that basis. I was present when he made it very clear to Mr Malcolm Wauchope (then and now the Director General of the Department) that he would not consider employment on the basis of regression or "salary maintenance" which was understood to mean that Mr Read would, over time, eventually be paid the same as other level 6.3s.
 10. Mr Wauchope gave an explanation of the prevailing situation in which different agencies were covered by different Workplace Agreements providing different salaries and increments payable at different times. He appeared to be saying that it was open for Mr Read to be paid increments more or less equivalent to whatever Level 7 officers in the Office continued to receive but that the details could not be described precisely at that time because of the uncertainty regarding Mr Read's eventual employer.
 11. By the last week of Mr Read's term of secondment, no decision had been taken either about Mr Read's classification or whether the State Ombudsman would renew his secondment. As a result, the situation in the Office became very tense.
 12. Eventually during the final week of June 2000, Mr Errington told me it had been decided Mr Read could be appointed as a Level 7. However, on 27 June 2000, Mr Read received a draft letter from the Department offering him employment at Level 6.3 and a vaguely worded commitment to further salary increments such that Mr Read was concerned that the Department meant to impose salary maintenance if he were to transfer to the Department. Mr Read rejected this offer.
 13. On the morning of 30 June 2000, Mr Read's last day in the Office, there was an impromptu meeting in Mr Errington's room which ran for two and a half hours. I attended with Mr Allen, Mr Errington and Mr Read. No agreement was reached and Mr Read was adamant that he would turn up for work at the Office as usual on Monday morning 3 July 2000 for work. I was aware that his solicitor, a senior partner in a prominent practice, was offering to accompany him and arrange media coverage.
 14. The situation was very politically sensitive because it stemmed from Mr Read's criticism of Mr Allen's management of an in-house computer project. It was judged to be important to avoid this matter overflowing into the public arena. As it happened, Mr Read subsequently made public allegations about the project, some of which were vindicated and was one of the factors leading to Mr Allen's resignation in September 2001.
 15. Neither Mr Allen nor Michelle Reynolds (on behalf of Mr Wauchope) would speak directly with Mr Read. Also, Mr Read received family news of a distressing nature and was unfit to undertake further negotiations.

I subsequently saw an email from the author of this statutory declaration to the Department of the Premier and Cabinet, outlining those distressing personal circumstances. Mr Read's father had suddenly been taken seriously ill and Mr Read was asked to attend the hospital immediately. The document continues —

16. It was eventually agreed between Mr Allen, Ms Reynolds and Mr Read that he would be transferred to the Department on the basis that he would be classified as a Level 6.3 but would continue to be paid at a Level 7.3 and would receive all pay rises applicable to a level 7.3. The term "No Disadvantage" was adopted and agreed as the basis for the transfer.
17. It was generally understood that Mr Read would be placed in other agencies by the Department with a view he would find a permanent placement in due course. It was highly likely that such agency would have significantly different terms and conditions of employment.
18. Under the hurried circumstances, the detail was not fleshed out regarding the specific dates or amounts of Mr Read's continuing Level 7 increases or which agency would be responsible for paying the "premium" above his substantive Level 6 entitlements. Nor could it be, given the prevailing Workplace Agreement situation pointed out by Mr Wauchope. It was broadly agreed that Mr Read would receive the August 2000 pay rise under the Office's workplace

Agreement and thereafter would receive appropriate Level 7 salary increases depending on the agency with which he was placed and the details of its workplace Agreement.

19. This agreement is reflected in the letter from Mr Wauchope to Mr Read of 30 June 2000, which was altered from the draft letter of 27 June. It was never intended or agreed by any party that Mr Read would be subject to “salary maintenance” at Level 6.3.

This is a declaration made under the Oaths, Affidavits and Statutory Declarations Act 2005 on 7 September 2007.

Around the same time, executive management at the Public Sector Management Office provided advice to the Department of the Premier and Cabinet about the mechanisms by which it could make the level 7 payment to Chris Read. I refer to a memo sent from Ms Reynolds to Ken Jones, acting manager of human resources at the Public Sector Management Office. It states —

Therefore it appears that the only other option is to seek your assistance in determining whether a personal classification might be granted to Mr Read given the circumstances.

Advice was certainly offered to the Department of the Premier and Cabinet about mechanisms by which it could make those arrangements. More recently I have asked questions about whether the Ombudsman’s Office was given advice about this matter. I specifically wrote to the Director General of the Department of Consumer and Employment Protection last year. A response came back to advise me that in early 2004 the Ombudsman’s Office was given advice by the labour relations service of the Department of Consumer and Employment Protection about other members of the Ombudsman’s Office who were moving from that office to the Corruption and Crime Commission. The letter states —

It appears to us that the cumulative effect of these clauses is to deem an officers service with the Parliamentary Commissioner, service as a public servant in the public service and promotions, leave accruals, etc. accrued whilst with the Parliamentary Commissioner are carried back into the public service.

That was quite interesting advice because it was the first time that I had got something specific about it. Accompanying the cover letter was a letter from the minister, Hon Jon Ford, indicating that a search of Department of Consumer and Employment Protection’s records had provided this letter and a copy of this advice in respect of the conversion of promotions that were found in the parliamentary officer’s employment. The minister then goes on —

The advice, at **Attachment A**, includes promotions in the description of ‘rights’. Promotions are not rights or entitlements, nor are they based upon length of service. It would appear the mention of promotions in the context of rights provides misleading advice.

I asked questions about when this was reviewed. It was reviewed only on the basis of my asking for the documents. The original advice was provided to the Ombudsman on 4 June 2003 and was subsequently corrected on 12 February 2008 after I started asking questions.

Although the Ombudsman was being given advice that it was appropriate to carry those reclassifications back into the public service, when I started asking questions I was told, “No, that is not how it is meant to be. The advice that was provided way back then was incorrect. As of now”—which was 12 February 2008—“that advice is incorrect.” I mention all that because this is the kind of business that has been thrown at Chris Read time after time.

I wrote to the Corruption and Crime Commission and asked it of all the staff that were transferred to it from the Ombudsman’s Office and how many transferred at their current level or went at a higher level. Not one single person was transferred to the Corruption and Crime Commission at a level lower than the level that any person had been either working at or acting at in the Ombudsman’s Office. Once again, it was an indication to me that there was some special treatment being given to Chris Read in the form of, dare I say it, punishment. There was special treatment given to Chris Read that was not given to other people working in the Ombudsman’s Office.

Nevertheless, it was clear that Chris Read had to go. I think he was quite relieved to be moving out of the Ombudsman’s Office because of the amount of tension that had occurred there. Things started to go very badly; things started to regress quite rapidly once he got there. There were issues surrounding his redeployment and salary negotiations.

Fourteen months after he went there, he still had not got the opportunity of a permanent redeployment anywhere. In September 2001—which is 14 months after that time—the State Supply Commission and the public service commissioner both tabled reports that showed that the Ombudsman had failed to follow appropriate procedures, and the Ombudsman resigned.

That was relatively significant news in Western Australia. I refer to page 3 of *The West Australian* on 19 September 2001 under the heading “Watchdog forced to quit” —

State Ombudsman found to have broken rules

STATE Ombudsman Murray Allen has quit after two damning reports into his office’s buying and recruitment practices.

Mr Allen told Premier Geoff Gallop of his resignation yesterday morning, shortly before Dr Gallop tabled the reports by Public Sector Standards Commissioner Don Saunders in Parliament.

The reports outline breaches relating to the ill-fated OSCAR computer system, established under Mr Allen’s watch in 1997.

The investigation took place after Chris Read, a former senior investigator working in the Ombudsman’s office, went public in June with claims that the project had been subject to gross incompetence on Mr Allen’s behalf.

... ran three years and hundreds of thousands dollars over budget, the Ombudsman’s office did not comply with public sector guidelines covering value for money, competition, risk management and integrity and ethics.

Mr Allen had authorised more than \$185,000 to be spent on consultants for the project without the State Supply Commission being notified or the contract to implement OSCAR going to public tender.

Investigations into buying between July 1999 and July 2001 revealed another public tender opportunity that had been waived without SSC approval and a failure to follow a written quotation process for some purchases above \$5000.

Mr Saunders also found recruitment practices were breached in January 1999 when Mr Allen personally hired a former colleague to work as a technical expert on OSCAR without advertising or interviewing candidates. He had notified the Office of Public Sector Standards that the man would be hired on a casual basis for four months, but the man was employed for two years.

It goes on to say that Mr Allen will stay in the post until the new person starts —

Mr Read, whose contract was not renewed after he raised his concerns, said Mr Allen should leave his post immediately.

That issue led to Murray Allen resigning.

One would think that at that point in time Chris Read might have felt vindicated. Unfortunately, that is not how things always work in the public service. Nevertheless, six months later he tried to go back to work in the Ombudsman’s Office. He made contact with the Ombudsman’s Office and wanted to go back on a trial basis, if necessary. Chris Read was certainly told that that was not possible, that it would be too embarrassing and that they did not want him to go back there because it would make life difficult at the Ombudsman’s Office.

Chris Read made contact with the new Ombudsman when she arrived in March 2002. Again, he asked for a three-month trial to show that he could come back to work without rocking the boat, that things would be fine and that people could get on and work with him. He indicated he wanted to do the work that he had previously been doing. Again, he was knocked back.

What really stuns me is that in May 2002, while Mr Read was still a redeployee, he still had no permanent job. This is nearly two years after he had left the Ombudsman’s Office. The Ombudsman advertised for a level 6 senior investigating officer position. Chris Read had been at a level 7.3. Most people would be aware that in the public service, redeployees are meant to have offers of employment made to them first before they are advertised. Chris Read had not even heard about the position; nobody had mentioned it to him. Only two months before that he had been trying to go back there on a three-month trial basis to do the work that he had previously done.

He was not offered an interview until there was parliamentary intervention. At that time, Hon Cheryl Edwardes made contact with the Deputy Premier and he organised for Chris Read to be given an interview. Even before he got the interview, he knew that it was a set-up. He knew it was a set-up because the interview was going to be conducted by the new Ombudsman and one other person, Robert Cock, QC, the Director of Public Prosecutions. The DPP was going to sit in on the interview. The interview took place and I have a copy of some of the comments that came out of that interview process. The comments are also quite telling. The new Ombudsman made it clear that, as the comments state, they were assessing —

... Mr Read's suitability for placement in either of the current positions ... based on the criterion "whether Mr Read can fulfil the requirements of the job within a reasonable time,

That is actually the requirement under redeployment. If a person can fill the requirements of the job within a reasonable time, he will be given the job. The comments continue —

... having regard to whether, in the event that uncertainty might exist as to his ability to undertake the requirements of the position within a reasonable period of time, he ought to be provided with an opportunity to "try out" in the position on a re-training basis.

He was looking for only a three-month trial when this job came up. One would have thought that he would have been given the opportunity to go back on the basis of a three-month trial. She states in part of her response to his interview —

Mr Read's answers clearly demonstrated his confidence in his skills and qualities. He has had no previous experience of either police or prisons work, but rather of the remaining organisations or agencies within the "General" stream. However I do not believe this would be an impediment.

... Mr Read's answers were competent.

...

The ability to work effectively as a member of a team is a key personal characteristic for the Investigating Officer roles, but Mr Read's answers did not demonstrate strength in this area.

...

In my opinion, Mr Read did not appear to have the necessary qualities to slot into such a structure and make a contribution within a reasonable time.

Here we have somebody saying that he could work as a team member but he still could not get a three-month trial. She continues —

What I did not get a sense of was any empathy with a complainant, or an ability to put himself in the shoes of another person and understand their interests and concerns.

In his comments about the Ombudsman's interview record, Chris Read states —

At interview Robert Cock QC repeatedly commented on the fact that my CV achievements are focused on outcomes achieved for complainants.

That was in response to the fact he may not be able to work in a strategic manner. The complaint was that he was too focused on finding outcomes for complainants. There is no doubt in my mind that that was another attempt to do whatever was necessary and to ensure that the interview panel comprised someone whose views would not be questioned. That person was probably from the Office of the Director of Public Prosecutions.

By the time all this was over in 2002, which was two years after he had left, and after having experienced constant knock-backs, Chris Read suffered severe stress and depression and had become unproductive. He was told by his employer, the Department of the Premier and Cabinet, to go home and await instructions. That is where he has stayed. His health has deteriorated. He has become untrusting of the Department of the Premier and Cabinet, his employer, and all other government enforcement agencies. He has also become very cynical. I do not blame him.

Who else have I approached in an attempt to have this matter dealt with? I have spent most of my time trying to have this matter addressed and resolved via the Department of the Premier and Cabinet, which is Mr Read's current employer. However, the director general of that department quite correctly indicated that the differences between the Ombudsman's Office and Mr Read were not of the department's concern. I wrote to the director general on 10 January and three months later, after I asked a question about this issue in this house, I received a response. The response advised that the Department of the Premier and Cabinet had no involvement in the detriment that followed Mr Read's whistleblowing, and that it therefore could not comment on it.

That it took three months before I received a response to my simple inquiry is indicative of the fact that we are up against a very big organisation. The Department of the Premier and Cabinet is merely the vehicle in which Mr Read has been parked for eight years. A separate action relating to Mr Read's salary level is ensuing. I have touched on that issue, but that is not the reason that I have moved this motion. The question as to whether Mr Read should be a level 7.3 or a level 6 is not the reason that I have moved this motion.

I looked at why this matter has not been dealt with by the State Administrative Tribunal. I asked the Ombudsman to whom schedule 1 employees should turn if they have a complaint that would normally be investigated by the

Ombudsman but could not be investigated by the Ombudsman because of the exclusion of schedule 1 agencies. In another brief conversation that I had with the Ombudsman he mentioned that such people could turn to either the State Administrative Tribunal, a court, a member of Parliament or Parliament. Why has this matter not been referred to the State Administrative Tribunal? The State Administrative Tribunal Act came into effect in January 2005, five years after the alleged injustice took place. The enabling act under which this matter would have been brought before SAT is the Public Interest Disclosure Act 2003. Its provisions for remedies of acts of victimisation were not retrospective. Under the heading "Remedies for acts of victimisation", section 15(6) of the Public Interest Disclosure Act reads —

Despite any other provision of this Act, this section has no retrospective operation and no proceeding may be taken under this section in relation to an act of victimisation that occurred before the commencement of this Act.

The main reason that this matter could not be taken to the State Administrative Tribunal is that the alleged injustice was actioned by the then Ombudsman who, since leaving that office, has become a senior member of SAT. It is clear from the history of this matter that this case would not have been heard impartially in those circumstances.

To what extent has this matter been pursued through our courts and tribunals? A few attempts have been made to have this matter heard by a court. Mr Read has not been a member of a union since I have known him. When the initial act of victimisation took place, he invoked the workplace agreement acts by alleging a breach of contract renewal in the provision of the Ombudsman's workplace agreement. The matter went to arbitration and involved a barrister who was a member of the Institute of Arbitrators and Mediators Australia. The then Ombudsman failed to attend the initial conference and sent a Crown Law representative instead. The arbitrator chose to allow legal representation and this transformed from a supposedly no-cost environment into a circus for the lawyers. This happened before the reports were tabled in Parliament that vindicated Mr Read's claims that the then Ombudsman had behaved inappropriately. Mr Read hired the lawyers who had helped him during the arbitration process. According to Mr Read, they lodged his case with the Industrial Relations Commission. After the matter had not been heard for 12 months, Mr Read withdrew it. At that stage pursuing the matter had cost him \$7 000, which was money that he could not afford.

On 25 August, Mr Read was successful in his application to WorkCover to recoup some minor medical expenses that were incurred while he was still working. A year or so later, when he sought payment for a few more medical and psychologist bills, he was told that his file had been closed. On 15 June 2001, the Anti-Corruption Commission advised Mr Read that there was insufficient evidence to establish his case beyond reasonable doubt. That action took place before the report had been tabled and before Mr Murray Allen had been forced to resign. The notion that alternative employment with the Department of the Premier and Cabinet had been equivalent to what Mr Read had been enjoying at the Ombudsman's Office continued to be advanced. It is unbelievable that somebody could say that what Mr Read had been offered and how he had been working at the Department of the Premier and Cabinet was somehow equivalent to what he had enjoyed at the Ombudsman's Office. The line that alternative employment had been found and that Mr Read had therefore suffered no detriment continued to be advanced. By this time Mr Read had become very ill. He was unaware of any further avenue of appeal. He does not recall complaining to the Law Society of WA. It was also the same time that the Public Interest Disclosure Bill was introduced into Parliament. He believed, and the people he was working with at that time believed, that its provisions would be applied retrospectively and that his issue would be considered under that act. As we now know, that was not the case. His requests for financial assistance have been knocked back by Legal Aid WA and the Law Society of WA. I recently wrote to both the Premier and the Director General of the Department of the Premier and Cabinet seeking financial aid for legal representation to take this matter to court. However, both of these were knocked back as well, and it is little wonder. Why would they want this information against them to be aired with the assistance of a lawyer?

Mr Read, with my assistance, has taken his argument about the level 6-level 7 issue to the Western Australian Industrial Relations Commission, but that has stalled. I assisted Mr Read in those hearings in that I acted as a support person to him; I certainly was not qualified to assist in a technical way. The deputy commissioner said quite clearly in the first hearing that if Mr Read could simply go back to the Ombudsman's Office and find some documentation that says that the reclassification took place, this would be all over and done with. Therefore, Mr Read returned to the Ombudsman's Office, got the documentation of the interview panel, the description of what took place and the approval for the reclassification and everything, and took it to our next hearing. However, by then the goalposts had moved. At that time it was stated that it did not matter what reclassification took place whilst Mr Read was working in the Ombudsman's Office, it was not considered to be part and parcel of the Public Sector Management Act as the appointment was made by the Governor, and therefore there was no mechanism to influence his reclassification when he went back to the public service. Now, if we want to look at

things on pure legal technical grounds, there is some truth in that. However, that is not actually the issue. The issue is about fairness and reasonableness. The Industrial Relations Commission will now look at the matter on the basis of only that legal technical argument. Consequently, the commissioner said quite clearly in my presence, "Don't come back if you haven't got legal representation. You are going to get done over here." She did not use those words; they are my words.

Hon Ljiljana Ravlich: You can't put words in her mouth.

Hon HELEN MORTON: Yes.

That is where the process has stalled. I would say that we tried—I mention that now since we are talking about it—to get legal assistance for Mr Read. After our request for financial assistance was knocked back by the Department of the Premier and Cabinet, we tried to find a pro bono lawyer who would do it. We had found somebody who was willing to do it; however, that lawyer needed the full chronology of events and all the documentation that we had. I might add that I did not have it all at that stage, so I put in a freedom of information request for it. Remember that this is a gentleman who has been severely ill, whose marriage has broken down and who has shifted from his family home. He moved from his house in Perth to a house in Mandurah and at that time his documentation was all over the place. He was scrambling to find things that I was asking for. Therefore, we made a freedom of information request to the Office of the Public Sector Standards Commissioner, the State Solicitor's Office, the Department of the Premier and Cabinet, the Department of Consumer and Employment Protection, the State Supply Commission, the Western Australian Industrial Relations Commission, the Department of Treasury and Finance, the justice department, and the Department of Industry and Resources. We made requests for information to the Office of the Director of Public Prosecutions, the Office of the Auditor General, the Ombudsman and the Corruption and Crime Commission. Everybody responded favourably. Some departments did not have any documentation; some did. When I say that everybody responded favourably, that was with one exception—the Department of the Premier and Cabinet. It did not want to supply that information. Come hell or high water the Department of the Premier and Cabinet was not going to supply that information! The department wanted us to narrow the scope so that it applied to only this or that—it did not want us to have all the documentation that it had. I think that the scope of our freedom of information request was quite reasonable; it was always related to Chris Read and this issue. It was not looking for stuff outside that. There have been ongoing difficulties getting that information. However, it is coming through because we are getting it in dribs and drabs. Month after month we ask for another bit so that the freedom of information request is broken down into this long drawn-out procedure to try to get the information we seek. However, we will get there on that. That is to do with the stalled business that is taking place in the Western Australian Industrial Relations Commission.

I now return to the issue of this motion. The matter I want the committee to examine relates to how Mr Read was treated by the Ombudsman's Office in the first instance, how government departments appear to have colluded to continue to victimise Mr Read and how there is nowhere for a person in Mr Read's position to go to get this matter resolved without substantial personal cost. I went to the Office of the Public Sector Standards Commissioner. Mr Read was a public servant before he went to the Ombudsman's Office, which was by appointment of the Governor. As such, part 3 of the Public Sector Management Act, which covers the areas of recruitment, selection and appointment, does not apply. I met with and asked the Commissioner for Public Sector Standards to review the matter to see if there was anything she could do to assist. The commissioner was unable to; however, she felt that it was in the public interest to have the matter resolved and she offered, if it was at all useful and applicable, to make an exemption. However, when I went back to the Department of the Premier and Cabinet again on that matter, it was made quite clear to me that it was not now dealing with—although it had previously said it could not deal with this, that or the other because of public sector standards regulations—the matter because it was something outside the purview of the Commissioner for Public Sector Standards. A letter to me from the Director General of the Department of the Premier and Cabinet states, in part —

The final paragraph of your letter asks me to consider seeking an exemption from the Commissioner for Public Sector Standards under section 25 of the *Public Sector Management Act 1994* . . . to enable the reclassification of Mr Read. The powers of the Public Sector Standards Commissioner set out in section 21 of the Act do not include classification of officers and positions. This power is granted to employing authorities . . . I am required to act independently in carrying out this function.

Therefore, once again an offer has been made and options have been put to the Director General of the Department of the Premier and Cabinet, but he has not wanted to look at them.

I spoke most recently to the current Ombudsman but he, I think quite correctly, says this matter is now seven years old. He cannot look into the matter as an Ombudsman and he did not want to personally, as a chief executive officer, look at a decision of a previous chief executive officer of seven years ago. Once again, his

recommendation was that the only place to look at this matter is this house. I know that Mr Read has seen quite a number of members of Parliament; for example, he has had some connection with Hon Ed Dermer, who represented him to the then Premier, Geoff Gallop, and I have seen the response to that. I know that he had contact with Hon Cheryl Edwardes before he met with me. I have mentioned as much as I intend to about the issue of the freedom of information requests.

This matter could have been easily resolved if there had been a will to do so. However, it rests on whether there was an initial injustice. Has the initial injustice been added to by the lack of redeployment, by the dismissal of the reclassification claims or by the fact that Mr Read has been left as a level 6 rather than a level 7? Has it been added to by what I consider to be ongoing victimisation—that continues—by the legal action that he could not afford or by the lack of financial assistance for legal action? Has it been added to by the moving of the goalposts at the Industrial Relations Commission, by the objections that were put to us in response to our freedom of information requests or by the difficulty we incurred in trying to get information? More recently the Department of Consumer and Employment Protection has indicated that the advice it was given in 2004 was misleading advice—that came about when I started to make use of it this year. Do the current assertions by the Department of the Premier and Cabinet that because the department paid for psychiatric support, rehabilitation support and personal counselling for seven years —

The PRESIDENT: Order, members! There is too much conversation going on in the chamber on the part of very senior members who should know better.

Hon HELEN MORTON: We need also to consider whether the current assertions by the Department of the Premier and Cabinet—namely, that it paid for Chris Read's psychiatric support, rehabilitation support and personal counselling for seven years, that he has not been required to access his personal leave, and that he continues to receive a full salary and accrue all other entitlements whilst not turning up to work at the Department of the Premier and Cabinet—demonstrate the department's support for Mr Read or rather acknowledge that the system has done a job on him.

This has now become a cross-agency issue. Who other than a parliamentary committee can inquire and make recommendations in a manner outlined by the Ombudsman's guidelines? Who other than a parliamentary committee can inquire in a manner that will acknowledge cross-government mistakes, apologise and operate in a manner that is based on reasonableness and fairness and not wholly and solely on legal technicalities?

Chris Read knows that he is now not capable of returning to the Ombudsman's Office. He is a shell of the man he was. He wants the apology. He is quite bitter and cynical. He is not very easy to work with. I thought I would bring along a couple of things to show members in that regard, but I say that we are not here to work only with nice happy people; we are here to work with all sorts of people. Mr Read does have a sense of humour, as demonstrated when he wrote to me as follows —

Hi Helen

Sorry to bother you again but I am starting to feel desperate.

I went for passport photos this week and got quite a shock, The silly girl gave me a picture of a sick old man, who looked sour and bitter.

Under all these circumstances, the guy still has a great sense of humour. However, I have another example in which we can see no sense of humour whatsoever. I am in two minds about reading this out, but I think members need to know about this. This is a letter to a government agency that knocked Mr Read back for assistance. In it, he states —

You are as useless as a stick figure crayon etching of a doctor at a plane crash.

You are a pathetic byproduct of tokenism and quotaism.

You are a disgrace to everything you represent and a pathetic excuse for a human being.

Hon Ljiljana Ravlich: Who wrote that?

Hon HELEN MORTON: A sick man wrote that. I am trying to paint a picture for members: on one hand, Mr Read has a sense of humour about what this has done to him, but, on the other hand, reading some of the information that he provides makes it clear that he is a sick man who is cynical, depressed and bitter about what has occurred. This is because the system has done a job on him. He has been offered a standard redundancy package to walk away from the whole thing. That is unacceptable because it comes with neither the apology nor the backdated pay calculated to his level 7 position to which he is entitled. I have tried to negotiate better outcomes, but the Department of the Premier and Cabinet, the organisation with which I have attempted to work, has not been forthcoming.

In conclusion, the Chris Read matter was excluded for investigation by the Ombudsman's schedule 1 exclusions, but the matter could have been dealt with properly by that body. This is not a crime and corruption issue—it is about admitting mistakes and making an apology; it is about fairness, reasonableness and restoration. This is not an issue for the Industrial Relations Commission. The legitimacy of the level 6 or level 7 may be; in fact, it continues to be before the commission. However, the matter before us today is about what happened to Chris Read in his dealings with the Ombudsman's Office. The court system is biased heavily against Chris Read unless the government will agree to fund his representation, but it will not. The matter cannot go to the State Administrative Tribunal because the enabling legislation—that is, the Public Interest Disclosure Act—precludes retrospective matters. The Office of the Public Sector Standards Commission cannot deal with this matter because staff at the Ombudsman's Office are appointed by the Governor and, therefore, are not considered to be in the public service. The Ombudsman's Office is not covered by part 3 of the Public Sector Management Act; if it were, the reclassification issue would have been resolved. The Department of the Premier and Cabinet has shown itself to be biased, obstructive, unreliable and intent on not resolving this matter in a fair and reasonable way that admits mistakes and apologises. In particular, the intent of the Department of the Premier and Cabinet is to base its decisions on entirely legal grounds, and to use its resources to further exacerbate the situation to the detriment of Mr Read. The department is not interested in restoration or fair or reasonable alternatives for Mr Read. In fact, its intent is the very opposite. I am not sure why that is so, but I have a view. Therefore, I ask members to support the motion to have the Standing Committee on Public Administration consider this issue and to make recommendations to the Parliament.

HON LJILJANNA RAVLICH (East Metropolitan — Minister for Local Government) [3.04 pm]: The government will oppose this motion. This is a very sad case that has been going on for a considerable length of time. I have no doubt that Mr Read has been caused some measure of discomfort. It is, indeed, a sad course of events when such an issue is so protracted and there is very little preparedness to bring the matter to some form of conclusion.

I understand that Mr Read was seconded from the Western Australian Industrial Relations Commission to the Ombudsman's Office in 1993. Mr Read was a permanent officer and wished to retain his permanency. His secondment was not extended on expiry in June 2000. Given the issues that existed with his employer, the WA Industrial Relations Commission, Mr Read did not return to work, and was therefore transferred to the Department of the Premier and Cabinet. He has consistently made allegations about various authorities in relation to the OSCAR information technology project. In his report, the Auditor General found that although the OSCAR system did meet some of the operational needs of the Ombudsmen's Office, its development had been protracted and costly. Following the tabling of the Auditor General's report in Parliament, the then Ombudsman, Mr Murray Allen, resigned in September 2001. I know that somebody tried to draw a long bow saying that Mr Allen may have resigned as a result of Mr Read's issue or because of the supposed issues surrounding the OSCAR project. I do not know. However, it is a fact that Mr Allen resigned in 2001. Certainly, Mr Read and Hon Helen Morton consider Mr Read to be a whistleblower who has suffered considerable discrimination as a consequence of a number of courses of action.

He is a substantive level 6.4 public service officer, and during his secondment to the Ombudsman's Office he was given a remuneration review to level 7 in accordance with the Ombudsman's workplace agreement. The review was not a reclassification because Mr Read was only a secondee and not a permanent occupant of the position; therefore, I guess he was not entitled to reclassification on that basis. His substantive employer, the WA Industrial Relations Commission, was not advised of any change to his remuneration. At the time of his transfer to the Department of the Premier and Cabinet, Mr Read was advised that the department considered his substantive classification to be level 6. The WA Industrial Relations Commission confirmed Mr Read's status as a level 6 employee at the time he left the IRC on secondment, and the commission was not in a position to support his reclassification to level 7, because, it would seem, it had no idea of that reclassification. DPC provided salary maintenance to a level of 7.3 until February 2004, when the public sector general agreement increases absorbed the difference between the level 6.4 and the level 7.3. Mr Read has consistently argued that he was substantively reclassified to a level 7. I am advised that Mr Read could not have been reclassified to a level 7 other than in a manner compliant with approved procedures under the Public Sector Management Act 1994. In other words, he would have had to have gone through a proper comprehensive selection process and beat other applicants to have substantively acquired that level 7 position rather than have it just ticked off by a senior officer somewhere in an agency in which he was being housed. There has clearly been some misunderstanding about the means by which somebody gets to a higher position under the Public Sector Management Act. Can it be authorised because one is acting in a position or does one have to go through the comprehensive and fairly stringent application process?

I understand that the classification dispute was referred to the WA Industrial Relations Commission in December 2005. Although Mr Read advised that he did not believe the commission was the appropriate forum to address his issues, he has continued to attend subsequent conferences, missing only one in November 2006 due to ill health. The department continues to seek a resolution to this dispute via an arbitrated decision on Mr Read's classification. I would imagine that parties would get together and come to some sort of arrangement about what is agreeable to both parties. The original commissioner has now passed this dispute to another commissioner who is waiting for Mr Read to be well enough to attend such a meeting so that this matter can be pursued. On receipt of advice from Mr Read's medical practitioner, the WA Industrial Relations Commissioner has deferred the matter pending Mr Read's improvement in health. The department continues to have regular contact with Mr Read and his rehabilitation provider.

The department has paid for Mr Read to receive clinical psychological support to the value of \$10 235 over the past eight years and rehabilitation counselling and support to the tune of \$10 830 over the past five years. Mr Read is currently placed with a private sector financial consulting firm for 16 hours a week. The department has approached the Government Employees Superannuation Board unsuccessfully with a view to a return-to-work plan for Mr Read, who has expressed some desire to be a financial planner. Mr Read's rehabilitation provider has sought support from the department to fund Mr Read's request to undertake financial planning studies.

There is no doubt that this is a long, drawn out dispute between the parties. There is no doubt that the sooner the parties get together, the quicker a resolution can be found. There is no doubt that dragging this matter on even further is not good for either party, in particular for Mr Read's health. I am not a medical expert but I am certainly aware of other cases in which a preoccupation with an issue such as this can become all-consuming. I understand that Mr Read continues on special leave on full pay. He has been required to use only normal annual leave until assessed by his medical practitioner. If he is deemed not well enough to return to work, he will be placed on personal leave. If he is deemed to be well enough to return to work, the department will seek to have him participate in the graduated public sector based return-to-work program.

These events go back to 1993. The government will not support this motion because it is clearly a matter that should be tidied up between the relevant parties. There is very little that can be learnt in terms of public interest. We have made the point time and again that the resources of this place are stretched. Enormous resources have gone into dealing with this matter over a long period. I understand that Hon Giz Watson has foreshadowed that she will not support the motion moved by Hon Helen Morton because it would not fit the framework of the Standing Committee on Public Administration. In other words, if the Standing Committee on Public Administration were to consider these terms of reference, certain parts of this motion would not adequately fit within its terms of reference. She has proposed that there be an amended motion, which would be a more general motion rather than a specific motion as moved by Hon Helen Morton. The government will not support either of those motions.

HON NORMAN MOORE (Mining and Pastoral — Leader of the Opposition) [3.15 pm]: I had not planned to get involved in this debate until I heard the speech of the Minister for Local Government. We have a situation in which an individual person has sought redress for his problems by going to a vast number of organisations and people to try to get some satisfaction. As yet, in his mind at least, he has not received any satisfaction. A member of Parliament in this house has decided to take up his cause. I suspect that all of us have received letters from Mr Read at various times over the past 10 or so years. Most people say, "Another letter from him" and put it in the too-hard basket. Hon Helen Morton has taken a very proper course of action and decided to seek to assist the man. She has explained to the house what she has done to try to assist him, what he has done to try to assist himself and how difficult the whole process is.

Anybody who has tried to fight city hall knows that generally when city hall says that someone is going to lose, that person loses. When we look at these things very carefully, we see that there is often one officer in some agency who says, "I'm putting my foot on the hose here." The process goes around and around until it reaches him, he puts his foot on the hose, the person starts again, it goes around and around, comes back to him again and the foot goes back on the hose again. For some reason this happens because there is often a particular person in the public sector who has a reason for saying no, or thinks he has a reason for saying no. I have come across countless examples of this in my time in this place. People feel completely helpless when they try to take on the government—when I say "the government", I mean the public sector—because it is impenetrable. People do not make decisions. If somebody is trying to ensure that a decision is not made, it does not get made. Hon Helen Morton has quite properly and quite rightly said that this issue, which has been going on for a very long time, has reached the stage at which there is nowhere else to go but Parliament, a place where one hopes one might get a

response. Quite clearly, it is not possible for this chamber to have a debate about this matter and try to resolve Mr Read's problems. That is why we have committees.

If I were Mr Read, I would have found the Minister for Local Government's comments quite offensive. "Just sort it out. Just get it arbitrated. Surely people can come together and sort it out", she said. Did the minister not listen to Hon Helen Morton's speech? She went through all the processes Mr Read has been through and there has been no outcome. The minister then said that Mr Read might get even more sick if a parliamentary inquiry is held because of his obsession with this issue. The minister also said that she has seen examples of people who go on with these things and who find that the longer these processes continue, the worse their health becomes. The minister is right. However, Mr Read did not tell Hon Helen Morton that he did not want an inquiry into this matter. He wants it to happen. That is why he has been working with a member of our side to get an inquiry established.

What offended me the most about the minister's speech was that she said that the resources of this house are so stretched that we probably could not afford to conduct an inquiry into the matter. Is the minister telling me and the public of Western Australia that this house will not deal with issues of consequence because there is not enough money? Is that what the minister is saying? The argument that the house cannot do its job because it does not have enough money has been used twice in recent weeks. The other day we were told that we could not have another upper house committee because there was not enough money. During the budget hearings, a member of this house said that the government has more important things to do with its money than look after the Legislative Council. Let the minister sit on a plastic chair, for all I care. Is it not interesting that just the other day, in response to a question I asked about money being spent on ministerial offices, the Minister for Education and Training said that in the past two years he has spent \$640 000 on setting up his office at 197 St Georges Terrace? We were told also that he had a few more things added to his portfolio at a cost of another \$40 000. I could build a really big house for \$640 000. In addition, the Attorney General spent \$500 000 on his office. In the 2006-07 budget, this government allocated \$2.1 million to upgrade ministerial offices, of which \$600 000 was allocated to Mr McGowan, \$500 000 to Mr McGinty and \$900 000 to the rest of them. That was a special allocation of \$2.1 million. The Legislative Council made a request for an amount in that vicinity and was told that it was not on the list of the government's priorities, yet the ministerial upgrades cost about the same amount of money.

This is a heart-wrenching story about a citizen of Western Australia whose circumstances have been relayed to the house by Hon Helen Morton, and we are told by the minister that there is not enough money to hold an inquiry into this matter. How pathetic! How appalling! I wonder what the people of Western Australia think about that. The ministers of this government can, in one year, consume \$2.1 million to upgrade their offices so that they are even bigger and more plush than they used to be, yet the local government minister says that the upper house does not have the resources to inquire into a man's genuine concerns. The inquiry would be conducted by a committee that already exists and has the resources to do the job. That is a very serious reflection on this government and on the minister who has just told us the government's position. There was a time when the minister would have been the first to get on her feet and argue the same case Hon Helen Morton has argued. That is what the minister used to be like. She has become too used to the trappings of office. To be told that the Greens (WA) will not support this motion because technically it does not fit into the terms of reference —

Hon Paul Llewellyn interjected.

Hon NORMAN MOORE: I have to take the minister's word that that is the case because I have not heard from the Greens yet.

Hon Paul Llewellyn: Wait to hear what we have to say before you jump to conclusions.

Hon NORMAN MOORE: I have jumped to the conclusion that was delivered to the house by the minister. If the member has a different reason, I will be glad to hear it. If the reason the Greens will not support this motion is that the inquiry would not be within the terms of reference of the committee, all I can say to Mr Read is that it is a pity this issue is not about fur seals or old-growth forests. What a pity it is not about one of those issues that the government takes an interest in. I hope that the Greens' position is not as the minister has described it and I hope that the Greens will support this motion.

This motion at least would give Mr Read some hope that an independent assessment of what has happened in the public service of Western Australia might deliver him an outcome that makes his life a bit more attractive. On the other hand, it might not. I suspect that this is an issue that is almost impossible to resolve. At least we should give Mr Read his day in the sun. He should be able to take on board, recognise and acknowledge that at least one house of Parliament has said that it will investigate his concerns and tell the Parliament whether he has been treated fairly. That is not too much to ask.

I hope that the Greens will change their mind and support this motion. If there is a technical reason that it does not fit within the terms of reference, that can be sorted out quite simply. This seems to be a public administration issue to me. If it is not, let us fix that and do our job properly as a house of Parliament and seek to provide redress for a citizen of Western Australia who does not seem to be able to get redress from anywhere else. We have already heard of the number of places he has been to try to achieve that.

HON PAUL LLEWELLYN (South West) [3.26 pm]: Members are aware that Hon Giz Watson was dealing with this matter and she has asked me at short notice to deal with it on her behalf. Fortunately, she has excellent notes. I will go through those notes and present the arguments that have been clearly laid out by the Greens (WA). With all respect, we need to look at the terms of reference of various committees. The Greens will not sidestep the issue of dealing with the substantial matters. It will be useful for us to hear the debate and make out our argument.

The case of Chris Read made headlines and contributed to the resignation of the then Ombudsman, Murray Allen. I understand that my colleagues and former Greens members Hon Jim Scott and Hon Robin Chapple worked with Chris Read in the past to assist him to get justice. I note that that is one of the four pillars of the Greens.

Chris Read worked for seven years at the Ombudsman's Office after being seconded from the Western Australian Industrial Relations Commission. He received a salary review and promotion from level 6 to level 7 at the office. During this time his three-year contract was renewed twice. I understand that he discovered some irregularities with the Ombudsman's Statistics and Complaints Automated Register—OSCAR. Although he reported his concerns to his superiors, they were not addressed in-house. Chris Read then addressed his concerns outside the office and effectively became a whistleblower, allegedly affecting the likelihood of his contract being renewed.

The motion before us today asks us to direct the Standing Committee on Public Administration to investigate particular points. I will not go through them because they have been clearly laid out by Hon Helen Morton. The first question is whether each of the points fall within the terms of reference of the public administration committee. I would like to make some comments on whether the request to investigate these matters is warranted on their merits. I will briefly review the terms of reference of the Standing Committee on Public Administration, although I will sidestep all of them. The functions of the committee are fairly well laid out. However, paragraph 7.4, which I will abbreviate, states —

The Committee is not to make inquiry with respect to —

- (a) the constitution, functions or operations . . .
- (b) the Governor's establishment;
- (c) the constitution and administration of Parliament;
- (d) the judiciary;
- (e) a decision made by a person acting judicially;
- (f) a decision made by a person to exercise, or not exercise, a power . . .

However, paragraph 7.4(g) states —

- (g) the merits of a particular case or grievance that is not received as a petition.

I note that in the past the Standing Committee on Environment and Public Affairs dealt with the case of Neil Winzer. I think the committee has reported on that matter. Mr Winzer himself went on a very long mission to get some justice.

Paragraph 7.4(g) of the Standing Committee on Public Administration's terms of reference excludes an investigation into a particular case or grievance that has not been received as a petition. The Greens (WA) understand that the terms of reference were changed about five years ago to include this clause because previously the committee had spent a lot of time investigating particular grievances such as that in the Neil Winzer case. In effect, it is likely that we will open a Pandora's box of new requests and motions for particular grievances to be investigated before the committee, instead of fixing the systemic problem in the first place and reviewing the procedures for addressing problems within the public sector. The Greens believe that there is a more systemic issue here about reviewing procedures and addressing problems within the public sector that need to be dealt with in general terms, and that in effect the cases of Chris Read and Neil Winzer are good examples.

The Greens have some difficulties with the proposal put forward by Hon Helen Morton, particularly the first three parts of the motion, effectively because they relate to Chris Read's case in particular and therefore to a specific grievance that has not come before the house as a petition. The motion in part reads —

- (1) contractual arrangements with Mr Chris Read whilst he was working in the Ombudsman's Office;
- (2) circumstances relating to the transfer of Mr Read from the Ombudsman's Office to the Department of the Premier and Cabinet;
- (3) actions taken by various government departments in relation to Mr Read regarding this matter; and

The Greens would rather the committee use Mr Read's case as a case study and conduct a more general study into the issues. This is where it gets difficult, as I am reading Hon Giz Watson's notes and they refer to her in the first person. Firstly, Hon Giz Watson suggests that the committee examine the implementation of sections 61 and 65 of the Public Sector Management Act 1994, which deals with secondment of public officers, executive officers and other executive officers, especially addressing the status of officers seconded for longer periods—that is, more than two years—with a focus on clarifying salary changes whilst on secondment. The employees who are seconded for a longer period often lose contact and touch with their substantive employing agencies. They need to be better protected so that they do not fall through the cracks. One of the issues Hon Giz Watson would like the committee to investigate is whether the procedures guiding salary changes during secondment are effective and suitable, and how seconded employees who receive salary changes are protected upon ending their secondment. Secondment is a voluntary placement of an employee into a position with another employer for a defined period, with the requirement that the employee return to the substantive position on completion of the secondment. In Hon Giz Watson's view it is an artificial arrangement and should not last for more than one or two years. After such a period, the seconded employees are part of the new agency where they are line managers and part of a new team. Hon Giz Watson has similar views on employees in long-term lasting or acting positions. The Greens would rather there were legislative changes that limited secondments and acting positions to a certain maximum period, increasing people's job security and clarifying the status of employees in these situations. I think that is the more systemic issue that has been exposed in the Chris Read case.

The second issue is for the committee to review the protection of whistleblowers who are seconded under the Public Interest Disclosure Act 2003. Hon Giz Watson understands that the act has a three-year review clause and that the last review was likely undertaken in 2006. She does not recall the outcome of that review, but is aware of a recent report by the Commissioner for Public Sector Standards, who raised general concerns about the protection of whistleblowers, the limited number of public disclosure cases and the issues of protection of employees; and she would like the committee to establish whether the act provides adequate protection for seconded employees.

Finally, Hon Giz Watson believes that part (4) of the motion is valid but somewhat limited. Employees having nowhere to go with their internal concerns are probably sitting in most agencies, if not the whole public sector. The public sector must become better at implementing a new culture that embraces critical feedback with a view to improving service delivery outcomes. Complaints from external complainants are addressed through the whole-of-government complainant management strategy, which was last reviewed through the Premier's circular of 2004. However, it is, unfortunately, limited to external complainants. The strategy needs to be implemented as well for complainants in agencies and it needs to welcome such internal suggestions, feedback and complaints to help improve service outcomes for all Western Australians. Hon Giz Watson therefore considers that part (4) of Hon Helen Morton's motion is somewhat limited and is keen on a more general committee inquiry into the general suitability of internal feedback procedures. It is a most important matter that in Hon Giz Watson's view affects all agencies, and she would like the committee of inquiry to be limited to feedback procedures in the independent agencies that the committee oversees. This includes the Parliamentary Commissioner for Administrative Investigations, the Commissioner for Public Sector Standards and the Information Commissioner. I seek to amend the motion and effectively to replace the terms of Hon Helen Morton's motion. This amendment constitutes a compromise solution through the use of a general inquiry for which there would be no limitations on using the case of Chris Read.

Amendment to Motion

Hon PAUL LLEWELLYN: I move —

To delete all words after “into” and insert —

the following matters —

- (1) Review of the status of employees seconded for more than two years under sections 61 and 65 of the Public Sector Management Act 1994.
- (2) Review of the protection of seconded employees who make a public disclosure under the Public Interest Disclosure Act 2003.
- (3) Review of the current internal feedback and complaints procedures observed by seconded and substantial employees in the offices of the Parliamentary Commissioner for Administrative Investigations, the Public Sector Standards Commissioner and the Information Commissioner.

The Greens (WA) cannot support the motion moved by Hon Helen Morton. I hope members will support the amendment. As I understand it, Hon Barry House will move an additional amendment that will effectively be part (4) of this motion. I believe it is a modification of an earlier part (4).

The PRESIDENT: The honourable member has moved the amendments; he referred to three points. I take it he has a signed copy of the amendments to the motion. If at an appropriate time I can be given a copy, I will put the amendments to the house. Hon Paul Llewellyn has the call.

Hon PAUL LLEWELLYN: I thank Hon Giz Watson's excellent researcher, who writes so fluently. English is her second language, and there was a fair amount of German English in the motion that was skipped over!

The PRESIDENT: Members, I trust that papers are now being provided around the chamber.

HON BARRY HOUSE (South West) [3.45 pm]: As the Chairman of the Standing Committee on Public Administration, I might be able to throw a little light on this debate. Mr Read's grievances are not new to many members of Parliament. It is timely for Parliament to do something on his behalf. He is a gentleman who feels that he has had no other recourse for his grievances over the years, and that he has met stumbling blocks wherever he has turned. I therefore believe that it is well and truly within Parliament's obligations to address his issues as best we can. Hon Helen Morton's motion relates to the terms of reference of the public administration committee. The committee's terms of reference are based on systemic issues and appear on page 148 of the standing orders. Reference is made to the committee's functions. It states —

The functions of the Committee are to inquire into and report on —

- (a) the structure, efficiency and effectiveness of the system of public administration; . . .

Reference is also made to procedural fairness and to the existence, adequacy or availability of merit and judicial review of administrative acts or decisions. The terms refer to the committee's obligation to consult regularly with statutory office holders of Parliament, such as the Parliamentary Commissioner for Administrative Investigations, who is involved in this exercise; the Commissioner for Public Sector Standards; the Information Commissioner; and others. The terms of reference also provide that the committee is not to make inquiries into a range of different bodies or into the merits of a particular case or grievance that is not received as a petition. The key phrase is "the merits of a particular case or grievance". It does not stop us inquiring into circumstances surrounding a particular event.

Hon Helen Morton's original proposal was to inquire into things like the contractual arrangements with Mr Read while he was working in the Ombudsman's Office, the actions taken by various government departments and legislative changes that may be necessary. I do not believe that the original proposal put by Hon Helen Morton is outside the remit of the committee's terms of reference. Nevertheless, I acknowledge what was said by Hon Paul Llewellyn on behalf of Hon Giz Watson. Hon Giz Watson and I had a brief chat before she had to leave the house on parliamentary business, and I think her intentions align with those of Hon Helen Morton. I believe the amendment put forward by Hon Paul Llewellyn will cover the bulk of the issues that Hon Helen Morton wants considered on behalf of Mr Read.

The only additional suggestion I have is a further amendment to add paragraph (4) to Hon Paul Llewellyn's amendment. It reads —

- (4) The grievances of Mr Chris Read be considered as a case study in the committee's inquiry into these matters.

It is important to make that statement, because that will be what the committee's inquiry revolves around. The inquiry will consider the circumstances surrounding Mr Read's grievances within the public sector and how that sector relates to specific acts, how it relates to policies involving secondment from various agencies, and how it might relate to some of Mr Read's specific issues, which, in turn, then become systemic issues. For those who might say that that cannot be done when looking at a certain case, I remind the house that a few years ago the Standing Committee on Public Administration, at the behest of the then Minister for Local Government and

Regional Development, Hon Tom Stephens, received terms of reference relating to the Local Government Act and certain policies within the sphere of local government. The specific case study referred to us then was the Joondalup City Council. It was a very interesting inquiry. The committee inquiry into the Joondalup City Council clearly highlighted and demonstrated generic and systemic issues within governance of local government, as well as some of the dysfunctional aspects of that particular council. As a consequence of that inquiry, an act was changed a couple of years ago. It may be a minor matter, but it was important in terms of the issue involved and preventing it arising again.

The only other point I raise is in response to the minister's comments about the committee's capacity to deal with an inquiry. The capacity of our committee is already in place. The Standing Committee on Public Administration is resourced with five members from this chamber and has staff in the Legislative Council Committee Office. In terms of our workload, yes, we have ongoing issues. Earlier today I tabled a report relating to some work that we have already done. Nevertheless, we are not without the capacity to take on this job. I can assure the minister that if the house refers the terms of reference to the committee in this form, as proposed through this series of amendments, we can do the job. I am not quite sure of the time frame, as all of us in this place are not quite sure of the time frame in a pre-election atmosphere, but we have the resources and the capacity to conduct an inquiry.

The words proposed by Hon Paul Llewellyn certainly fit within the committee's parameters. I would like to move a further amendment on the amendment —

After paragraph (3) — To insert the following —

- (4) The grievances of Mr Chris Read be considered as a case study in the committee's inquiry into these matters.

The PRESIDENT: Hon Barry House has foreshadowed an amendment on the amendment. I refer the house to standing order 185. Before that foreshadowed amendment can be moved, the question that the words proposed to be deleted be deleted must be resolved by the house. Standing order 185 is quite explicit on that point. If Hon Barry House has finished his observations on the current question before the house, I will put that question. If the house agrees to that proposition, I propose to give Hon Barry House the call.

Question (words to be deleted) put and passed.

Amendment on the Amendment

Hon BARRY HOUSE: I move —

After paragraph (3) — To insert the following —

- (4) The grievances of Mr Chris Read be considered as a case study in the committee's inquiry into these matters.

The PRESIDENT: The motion currently before the house is —

That this house directs the Public Administration Committee to inquire into —

Hon Paul Llewellyn has moved that the following words be inserted —

the following matters —

- (1) Review of the status of employees seconded for more than two years under Section 61 and 65 Public Sector Management Act 1994.
- (2) Review of the protection of seconded employees who make a public disclosure under the Public Interest Disclosure Act 2003.
- (3) Review of the current internal feedback and complaints procedures observed by seconded and substantial employees in the offices of the Parliamentary Commissioner for Administrative Investigations, the Public Sector Standards Commissioner and the Information Commissioner.

I point out to Hon Paul Llewellyn that this amendment is not in the handwriting of Hon Giz Watson! Hon Barry House has moved a further amendment to add after paragraph (3) —

- (4) That the grievances of Mr Chris Read be considered as a case study in the committee's inquiry into these matters.

HON HELEN MORTON (East Metropolitan) [3.58 pm]: I quickly say that I support this amendment in its four parts. Having the case study considered will satisfy the first three points that I sought to cover in my original motion; namely, the case study will allow the contractual arrangements to be looked at; will allow the circumstances relating to the transfer to be looked at; and will allow the actions taken by government

departments in relation to Mr Read to be considered. Those things are important. The minister's response focused on the reclassification issue, which, as I indicated, is being dealt with by the Industrial Relations Commission. In the minister's contribution, I heard very much his reference to matters between Chris Read and the Ombudsman's Office. I think the minister was off the mark there. If the government is genuinely interested in allowing the parties to sort out the level 6-level 7 issue, it should provide Chris Read with financial assistance so that the matter can be heard by the Industrial Relations Commission. The Department of the Premier and Cabinet has reneged on its original agreement to not involve lawyers in the matter. Chris Read does not have the financial means to hire a lawyer, nor does he have access to financial assistance. If the government wants the matter to proceed—I think it should be heard in the Industrial Relations Commission—it should find a way to secure him financial assistance. I support the amendment to use Chris Read's case as a case study.

HON PAUL LLEWELLYN (South West) [4.01 pm]: I do not think that it is Hon Giz Watson's handwriting, although it may look like it.

The PRESIDENT: I was not making that point. I was making the point that what I was reading out was not written in Hon Giz Watson's handwriting; therefore, I did not have the same experience as Hon Paul Llewellyn when he referred to Hon Giz Watson's notes.

Hon PAUL LLEWELLYN: My notes were in German English!

I reiterate that the thrust of the Greens' alternative proposal is to have a systemic inquiry into the way in which sections 61 and 65 of the Public Sector Management Act, which deal with employees who have been seconded for more than two years, are implemented. Although I do not have a difficulty with the provision that will effectively make Mr Chris Read's grievance a case study, I do not think that it should be the primary focus of the inquiry. I do not think that the inquiry should be limited. The Greens will support the amendment provided there is a clear understanding that the intention of the inquiry is to look at the systemic issues. Chris Read's case should be used only as a case study and should not be the focus of the entire inquiry.

Question (amendment on the amendment) put and passed.

Amendment to Motion, as Amended

Question put and passed.

Motion, as Amended

Question put and passed.