

Ministry of Social Development’s Advisory Panel made administrative change as a result of complaint

Legislation	Ombudsmen Act 1975
Ombudsman	Leo Donnelly
Case number(s)	407470
Date	2017

Complaint about Ministry of Social Development CEO’s Advisory Panel— Ministry of Social Development appointed panel outside governing terms of reference—chair of panel was formerly employed by Child Youth and Family —Ombudsman found composition of panel reasonable in the circumstances – Ministry of Social Development agreed to make change to panel reports to include specific records of consideration of compensation requests and reasons why payment would or would not be recommended

The Ombudsman received a complaint about the composition of the Chief Executive’s Advisory Panel as well as whether the Ministry of Social Development (the Ministry) had all available information to make a decision on the complainant’s request for compensation.

Following his investigation, the Ombudsman concluded that although the panel was not comprised of three members as set out in the terms of reference, he was satisfied that before the panel hearing took place, the complainant and her advocate were provided with the terms of reference and all other relevant information necessary to make a decision whether to object to the fact that there were only two panel members, including the chair.

The Ombudsman did not consider that the quorum of two panel members resulted in an unfair hearing of the complainant’s complaints. The Ombudsman also found that the appointment of the chairperson (who had previously worked at CYF), was not unreasonable as there was no evidence to show that this appointment resulted in actual bias or perceived bias in favour of the Ministry.

However, the Ombudsman was critical of the fact that the panel did not appear to consider the complainant's request for consideration of compensation.

The Ombudsman advised the Ministry that it should reconvene to discuss the matter and, if it was not to be offered, the panel should explain the reasons why. The Ministry agreed to take this step.

The issue was not whether compensation should or should not be recommended but whether the panel properly considered the matter. As the Ombudsman noted, it is relatively common for complainants to ask for compensation at hearings before the panel.

The Ombudsman suggested to the Ministry that it advise its panels to note explicitly in their reports where such a claim has been made, and that it has been considered as part of its deliberations. The panel should also set out reasons in their reports to explain why compensation would not be recommended. The Ministry accepted the Ombudsman's suggestions in this regard and undertook to ensure that this would happen in future.

Although this particular complaint was not sustained, the concerns raised about the panel's apparent omission to consider the compensation request, did result in an improvement to the Ministry's administrative practice.

Comment

The Chief Executive's Advisory Panel is now a function of the new Ministry for Children (Oranga Tamariki) and as such is part of a wider review of that agency's complaints systems.

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