



OmbudsmanSA

Enquiries: Richard Bingham
Telephone: (08) 8226 8699
Ombudsman reference: 2010/00199
Agency reference:

Mr Greg Andresen
PO Box 1292
BONDI JUNCTION NSW 1355

Dear Mr Andresen

Your complaint about the Attorney-General's Department

I refer to my revised provisional views report dated 4 May 2010, and your response dated 17 May 2010. I refer also to our phone conversations on 24 June 2010 and 11 August 2010.

I have now concluded my investigation, and the purpose of this letter is to provide you with my final views in relation to your complaint. They are set out in the enclosed report. I have sent a copy to the Attorney-General's Department.

I have also sent a copy of my report to the Minister for the Status of Women as required by the *Ombudsman Act 1972*.

Yours sincerely

Richard Bingham
SA OMBUDSMAN

11 August 2010

Encl

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Telephone: (08) 8226 8699
Ombudsman reference: 2010/00199
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FINAL REPORT

Date complaint received 18 December 2009

Agency Attorney-General's Department (Office for Women)

Complainant Mr Greg Andresen

Allegations

- 1) Publication of false and misleading information on the *Don't Cross the Line* website
- 2) Failure to correct information once errors were brought to attention
- 3) Unreasonable delay in taking action to correct information

Jurisdiction

Insofar as this complaint relates to the administrative actions of the Office for Women (OFW), which is a part of the Attorney General's Department (AGD), it is fully within the jurisdiction of the Ombudsman.

The complainant originally raised his concerns with the Minister for the Status of Women, and other Members of Parliament (both State and Federal). He has acknowledged that my Office does not have jurisdiction over the actions of Ministers or Members of Parliament, and has specified that his complaint is against OFW.

Investigation

My investigation has comprised:

- assessing the information provided by the complainant
- seeking expert advice on the allegations
- seeking a response from the agency
- preparing a provisional views report and providing it to the agency for comment
- considering the response from the agency
- preparing a revised provisional views report, and seeking comment from the parties
- inviting a response from the agency to the comment from the complainant
- preparing this final report.

Final Views

Background

1. On 11 September 2009, OFW launched the *Don't Cross the Line* campaign aimed at reducing violence in the community. A major component of the campaign was a website¹, which provides resources to assist people in understanding the issues. One section of the website provides information for the media, and a subsection titled 'Facts and Stats' lists relevant facts and statistics.
2. From 23 September 2009 until 25 January 2010, the complainant (who is responsible for research and media liaison with an organisation named Men's Health Australia) communicated with OFW and others, drawing attention to a number of alleged deficiencies in the information published in the 'Facts and Stats' section of the website. On 11 February 2010 he complained to my Office. He alleged that OFW had acted unreasonably by publishing false and misleading information on the *Don't Cross the Line* website; had failed to act to correct the information when alleged errors were pointed out; and had unreasonably delayed taking action to correct the information.
3. In order to assess the complaint, I sought advice from Dr Adam Tomisic, the Director of the Australian Institute of Criminology (AIC). He provided advice to me on 9 March 2010, and I record my appreciation for Dr Tomisic's assistance to my investigation. At Attachment 1 is the table of advice provided by Dr Tomisic.
4. In light of the contents of Dr Tomisic's advice, in accordance with section 18(1a) of the *Ombudsman Act 1972* I wrote to the Chief Executive Officer (CEO) of AGD to advise him as the principal officer of the agency that I would conduct a full investigation of the complaint.
5. On 15 April 2010 I received a report from the CEO about the issues in the complaint. It outlined the actions taken by the agency in response to Mr Andresen's communications and otherwise, and the actions proposed to be taken following the CEO's consideration of the advice to me from the AIC.

Whether OFW published false and misleading information on the *Don't Cross the Line* website

6. The original complaint contested 10 pieces of information on the website. In the view of the AIC, 7 of those objections were substantiated, 2 were partially substantiated and 1 was *unsubstantiated*. Details appear in Attachment 1.

Whether OFW failed to correct the information once errors were brought to its attention

7. The complainant originally raised his concerns with OFW on 23 September 2009. On 1 October 2009 he received a reply from OFW noting his concerns, and advising that the statistics 'are accurate and come from reliable Commonwealth and State Government sources'. In response, on 4 October 2009 the complainant sought accurate citations for each statistic. He states that he followed up this request by phone with the then Director of

¹ <http://www.dontcrosstheline.com.au/>

OFW on 12 October 2009, and was advised that the citations would be provided as soon as possible.

8. I note that on 14 October 2009, the Minister for the Status of Women (the Hon Gail Gago MLC) received a question in Parliament about the accuracy of the statistics from another Member (the Hon S. G. Wade MLC)². This question came about as a consequence of the complainant raising his concerns with other Members of Parliament. In part the question was as follows:

To this end, it is vital that the campaign impact is not undermined by debate as to whether the information that undergirds it is reliable. I therefore ask the Minister: has the government responded to the concerns raised by Men's Health Australia and, if so, what was the response? Also, what action has the government taken to ensure that the information used in the campaign is both robust and effective?

9. After he initiated some further phone and email exchanges with OFW (on 27 October 2009 and 17 November 2009), on 27 November 2009 the complainant received the citations for the statistics which he had requested. OFW explained to him that the delay in providing the information had been caused by a relevant staff member being on leave. Also on 27 November 2009, OFW sought amendments to the wording of two statistics on the website.
10. Following receipt of the citations, on 1 December 2009 the complainant again queried the information, and asked that OFW should respond by rectifying alleged errors within the next fortnight. He indicated that he would be issuing a media release, and lodging a complaint with my Office, if this did not occur. He states that as at the date of lodging his complaint with my Office (11 February 2010) he had heard nothing more from OFW.
11. OFW has advised that on 8 January 2010 it provided the Minister with a brief and draft correspondence to Mr Andresen about the issues (although this correspondence was not sent). It has also advised that on 22 January 2010 the Director of OFW met with officers from the Office of Crime Statistics and Research (OCSAR), which is another part of AGD, to discuss the possibility that OCSAR might undertake research on the source data for the published statistics.
12. On 1 February 2010, OFW sought a further amendment to the wording of one statistic on the website, and on 24 February 2010, OCSAR provided a research report on the statistics to OFW.
13. On 12 April 2010 I was advised by the CEO of AGD that OFW had considered the advice provided by the AIC, together with the original allegations by Mr Andresen, and proposed a number of actions to address the issues raised. A summary of the specific proposed actions was provided to me.
14. In summary, after the complainant's concerns were first raised (on 23 September 2009), OFW twice sought amendments to the information on the website (on 27 November 2009, and 1 February 2010). Those amendments affected the wording of three statistics in total. Between 27 November 2009 and 11 February 2010 (when the complaint was lodged with my Office), OFW commenced discussions with OCSAR about confirming the accuracy of the statistics. However, during that period OFW did not communicate with the complainant, presumably because it anticipated that the Minister would correspond with him.

² http://hansard.parliament.sa.gov.au/pages/loaddoc.aspx?e=2&eD=2009_10_14&c=5

Whether the agency unreasonably delayed action to correct information on the website

15. Paragraphs 8-11 above set out the timeframes within which OFW considered the issues raised by the complainant. In summary, it appears to me that OFW sought some minor amendments two months after the complainant first raised his concerns. It commenced discussions with OCSAR about a broader review, and sought a further amendment, some four months after that date.

Revised Provisional Views

16. Following my investigation, I sought comment from the parties on the following views:

Based upon the advice provided by the AIC, my revised provisional view is that OFW originally published some false and/or misleading information on the Don't Cross the Line website. My revised provisional view is that this was unreasonable and wrong administrative action, within the meaning of section 25(1)(b) and (g) of the Ombudsman Act 1972.

My revised provisional view is that OFW failed to correct information on the website once the possible errors were brought to its attention. My revised provisional view is that this was unreasonable and wrong administrative action, within the meaning of section 25(1)(b) and (g) of the Ombudsman Act 1972.

My revised provisional view is that OFW failed to act with reasonable diligence and speed once possible errors were brought to its attention. My revised provisional view is that this was unreasonable and wrong administrative action, within the meaning of section 25(1)(b) and (g) of the Ombudsman Act 1972.

The Chief Executive Officer of AGD has acknowledged that some errors were made and has advised my office of a number of proposed specific actions in response. He confirmed on 4 May 2010 that OFW is taking steps to address any outstanding issues as a matter of priority. In these circumstances I see no need to make any recommendations under section 25(2) of the Ombudsman Act 1972.

Responses to my Revised Provisional Views Report

17. In his response to these views, dated 18 May 2010, the CEO of AGD advised me that OFW would use the information provided by the AIC to correct the website, and that it had contracted specialist technical support to do this as soon as possible.
18. In his response to my views, dated 17 May 2010, the complainant sought that I should exercise my powers under section 25(2) of the *Ombudsman Act 1972* to recommend that the agency should take certain actions. I summarise his proposals as follows:
- that he should be provided with a list of the 'proposed specific actions' to be undertaken by AGD to amend the website
 - that he be provided an opportunity to comment on those actions
 - that I should recommend to AGD a specific target date or timetable for implementing the actions; and that he should be advised of this date and any reasons why it could not be achieved
 - that the Director of OFW should write to him directly, acknowledging errors and detailing the corrective actions taken by OFW
 - that a written acknowledgement be posted on the website acknowledging that statistical errors were made, and that these have been remedied.

On 20 May 2010, I wrote to the CEO of AGD, seeking a list of the specific changes to be made to the website, and an indication of when they would occur. I also sought the CEO's response to the other requests made by the complainant prior to finalising my views.

19. On 22 June 2010, the Minister for the Status of Women made a Ministerial Statement about the website to the Legislative Council, in which she commented:

However, as a result of continuing concerns by some individuals regarding the information on the website, the Office for Women asked the Office of Crime Statistics and Research in the Attorney-General's Department to review all the data on the website, including source documents. As a result of this, it was identified that there were some contextual and terminology concerns, as well as some transcribing errors which I am advised have now been rectified.

In order that there can be no doubt about the Parliamentary record, and for the sake of clarity and transparency, I inform the Chamber today that changes to the website have been undertaken.³

20. On 23 June 2010, I received advice from the CEO of AGD that changes had been made to the website on 21 May 2010. I was also provided with drafts of:
- a letter which the Director of OFW proposed to send to the complainant; and
 - a statement which she proposed to include on the website, acknowledging that concerns had been expressed about material previously on the site, that the website was updated on 21 May 2010 and that feedback on the website would continue to be monitored.

On 24 June 2010, the Director of OFW advised me that she had sent the letter to the complainant, and that the statement had been included on the website.

21. I note that in a media release dated 23 June 2010, the complainant has stated that:

We are pleased that the Minister now acknowledges that her campaign misled the public and the media for nine months about the reality of relationship abuse in Australia. However, her claim that the errors have been rectified couldn't be further from the truth.


22. In my view, AGD has responded in a reasonable way to the suggestions made by the complainant in his response to my revised provisional views. In these circumstances I will not make any recommendations under section 25(2) of the *Ombudsman Act 1972*.

Opinion

23. Based upon the advice provided by the AIC, my view is that OFW originally published some false and/or misleading information on the *Don't Cross the Line* website. My opinion is that this was unreasonable and wrong administrative action, within the meaning of section 25(1)(b) and (g) of the *Ombudsman Act 1972*.
24. My view is that OFW failed to correct information on the website once the possible errors were brought to its attention. My opinion is that this was unreasonable and wrong administrative action, within the meaning of section 25(1)(b) and (g) of the *Ombudsman Act 1972*.

³ Parliamentary Debates (Hansard), *Legislative Council*, Tuesday 22 June 2010, pp313-4

25. My view is that OFW failed to act with reasonable diligence and speed once possible errors were brought to its attention. My opinion is that this was unreasonable and wrong administrative action, within the meaning of section 25(1)(b) and (g) of the *Ombudsman Act 1972*.



Richard Bingham
SA OMBUDSMAN

11 August 2010

Contested information on Don't Cross the Line (DCL) site	Substance of Men's Health Australia (MHA) objection	Australian Institute of Criminology (AIC) comment
Domestic violence (DV) costs the Australian economy approximately 13.6 billion every year. This figure is expected to rise to 15.6 billion by 2021-22	These costs don't just apply to DV but to all violence against women and their children, including non-DV. They do not include DV against men, who make up over 1/3 of victims. Readers may be misled by the omission of 'if there is no reduction in current rates'.	<p>Substantiated. The error has been corrected in part - the DCL site now states: '<i>Violence against women</i> costs the Australian economy approximately \$13.6 billion every year. This figure is expected to rise to 15.6 billion by 2021-22' (emphasis added).</p> <p>This information would seem to be taken from the National Plan to Reduce Violence against Women (see http://www.dvirc.org.au/UpdateHub/FACS_37004_Violence_Against_Women.pdf: 2). However, it does not include reference to children, which the full report does, and doesn't make any reference to possible future reductions in cost.</p>
Three women are killed in DV situations every fortnight across Australia	Unreferenced/unsubstantiated reference. Two women and one man are killed in DV situations every 2½ weeks across Australia (based on AIC's 2006-7 NHMP data - 42 females and 23 males victims of intimate partner homicide in 2006-7)	<p>Substantiated. For completeness, it should also be noted that DV homicides also include children victims – 27 children under 15 years old were killed in 2006-7 by a parent, of whom 22 were killed by a parent (see Dearden J & Jones W 2009. <i>Homicide in Australia: 2006-07 National Homicide Monitoring Program annual report</i>. Monitoring Report no. 1. Canberra: AIC http://www.aic.gov.au/publications/current_series/mr/1-20/01.aspx).</p> <p>A correct statement would therefore be that in 2006-7, there were three DV homicides (including children) every fortnight.</p>
'It is estimated that in every year, approximately 350,000 and 125,000 will experience physical and sexual violence respectively.	These figures only refer to <i>women</i> and conflate DV with violence against women. Approximately 114,600 will experience DV each year.	<p>Substantiated. The first error has been corrected - the DCL site now states: 'It is estimated that in every year, approximately 350,000 and 125,000 <i>women</i> will experience physical and sexual violence respectively' (emphasis added).</p> <p>MHA's point that this includes non-DV incidents is acknowledged – technically as this quote comes under the heading 'Domestic violence: a summary of key statistics', the figure included should refer only to DV incidents.</p> <p>One solution would be to add the words 'although not all of this occurs within the context of a domestic relationship'. Another option, also referred to below, would be to change the heading 'Domestic Violence' to something like 'Violence against women and domestic violence'.</p>

Contested information on Don't Cross the Line (DCL) site	Substance of Men's Health Australia (MHA) objection	Australian Institute of Criminology (AIC) comment
<p>DV is the main cause of death, disability and illness in Victorian women 15-44 years. It is more harmful than smoking, alcohol and obesity combined.</p>	<p>This misquotes the reference (which refers to intimate partner homicide (IPV) as 'the leading contributor... responsible for more of the disease burden than many well-known risk factors such as high blood pressure, smoking and obesity'). MHA objects to the quote on a number of bases, including that the Victorian study refers to <i>risk</i> factors and appears to confuse causes and contributors. The objection goes on to cite Australian figures re causes of death and illness. It also criticises the Victorian study in relation to the assumed health consequences for 'true IPV' and other violence, arguing that 'the leading contributor to death, disability and illness [combined] in Victorian women 15-44 years is actually non-intimate partner violence'.</p>	<p><u>Substantiated in part.</u> The error has been corrected in part. The DCL site now states: 'Domestic violence is <i>the leading contributor</i> to death, disability and illness in Victorian women 15-44 years. It is more harmful than smoking, alcohol and obesity combined'.</p> <p>MHL appears to be trying to refute the Victorian study with Australian figures; the DCL site does not purport to be referring to Australian data in this context and it would be confusing to combine Victorian and Australian data.</p> <p>It is arguable that the DCL site is not an appropriate forum for correcting any perceived inadequacies in the methodology of the Victorian study in relation to 'true' IPV.</p> <p>Finally, the MHA objection does not appear to have noted that the DCL quote refers to alcohol. In fact, the correct quote makes no such reference and it should therefore be removed..</p>
<p>At least 1 in 17 women is a victim of domestic violence each year.</p>	<p>The quote refers to violence generally, not just DV. MHA goes on to cite figures from the ABS personal safety survey (1/67 women and 1/268 victims of DV each year).</p>	<p><u>Substantiated</u> – the quote refers to violence generally, not DV. But it is not clear from the ABS data to which MHA refers how they got their figures. The ABS figures refer to the proportions of men/women who experienced different types of violence in the last 12 months. This is <i>not</i> the same as those experiencing it 'each year'.</p> <p>As noted above, the word <i>domestic</i> should be removed from the heading of the DCL site if information of this nature is retained.</p>
<p>1 in 8 high school students will be in a DV relationship before they leave school</p>	<p>This source is unreferenced; approximately equal numbers of victims will be male and female.</p>	<p><u>Unsubstantiated.</u> There is nothing in the statement to suggest that more victims will be female; accordingly, there is no need to correct such an inference. It would, however, be helpful to have the primary reference and any actual gender breakdown arising from research studies.</p>

Contested information on Don't Cross the Line (DCL) site	Substance of Men's Health Australia (MHA) objection	Australian Institute of Criminology (AIC) comment
<p>95% of DV involves a male perpetrator and female victim. The other 5% includes same sex relationships or a female perpetrator to the victim</p>	<p>Unreferenced; correct information is that up to 2/3 of DV victims are female and at least 1/3 are male</p>	<p><u>Partially substantiated</u> –</p> <p>It is true that when considering female victims of DV only, the majority of offenders will be male.</p> <p>However, while the site to which MHA was referred does include the '95% of victims are women' figure, (reportedly derived from information from various agencies, including the AIC), the figure is unusually high. It might therefore be better for DCL to use other sources/data which would be likely to report different proportions of male and female victims/offenders.</p> <p>Note that the DCL site has been amended slightly and currently states: '90-95% of victims of domestic violence are women, and the perpetrators are their male partners or ex-partners. The remainder includes same sex relationships or a female perpetrator to the victim'.</p>
<p>About 7% of non-Aboriginal women reported experiencing physical violence during 2005, compared to 20% of aboriginal women</p>	<p>Notes that this figure include non-domestic violence by men against women (but not violence by women against women)</p>	<p><u>Substantiated</u> . It should be clarified that this was violence by men against women (not just DV). As in the third point above, the heading for the DCL site could be changed to include 'violence against women'. There are, however, reliable data on Indigenous women's exposure to DV which could be included, in addition or instead of the information currently presented.</p>
<p>Young women experience higher rates of sexual assault and run higher risks, at least 3 to 4 times higher, than the overall population of women.</p>	<p>MHA could not find the statistic in the reference cited, which states: '<i>International studies have shown that for young women, the risk of violence by a partner is 3-4 times higher than the risk for women overall</i>'. MHA suggests the site should refer to young people, whose risk is at least twice that of the overall population (citing ABS data).</p>	<p><u>Substantiated</u> . The AIC paper cited does not refer to sexual assault: see Young M, Byles J & Dobson A 2000. <i>The effectiveness of legal protection in the prevention of domestic violence in the lives of young Australian women</i>. Trends & Issues in Crime and Criminal Justice no. 148. Canberra: AIC http://www.aic.gov.au/publications/current_series/tandi/141-160/tandi148.aspx.</p> <p>The DCL site should be amended to correctly state the quote from this paper.</p>

Contested information on Don't Cross the Line (DCL) site	Substance of Men's Health Australia (MHA) objection	Australian Institute of Criminology (AIC) comment
25% of young people have witnessed physical domestic violence against their mother.	Unreferenced DV booklet; correct data that 23% of young people have witnessed physical DV against their (step) mother, and 22% against their (step) father.	<u>Substantiated</u> . While 25% exposure is in the 'ballpark' for published research, the DCL site should be updated with referenced data. A balanced use of the data would be to also describe the % exposed to DV perpetrated on father figures (using referenced data), although the focus of DCI is on violence against women.