



GOVERNANCE RISK & OPERATIONS

Ombudsman Jurisdiction: Even the Regulators Admit the Line Isn't Always Clear

Most associations sit outside it for their core work. Government-funded service delivery can bring them within it, and the line isn't always clear

Most associations sit outside a state or territory Ombudsman's jurisdiction for their ordinary membership and governance activities, and this is reassuring for most boards. The exception, an association delivering government-funded services, deserves specific attention, and at least one Ombudsman office has publicly acknowledged real uncertainty about where their own jurisdiction actually begins and ends.

Which rules apply to your association?

The law depends on how your association is set up. A **company limited by guarantee** follows the Corporations Act 2001 (Cth) and its constitution. An **incorporated association** follows its state or territory associations Act and its rules. A **registered charity** also follows the ACNC Act and the ACNC Governance Standards, and some Corporations Act rules are replaced for charities that are companies. Check your own governing documents, and get advice before decisions with legal consequences.

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Why Most Associations Simply Are Not Within Scope

State Ombudsman offices exist primarily to oversee public authorities and government agencies, investigating whether administrative action has been unlawful, unreasonable, unjust, or otherwise improper. A private incorporated association conducting its own ordinary membership and governance activities generally sits outside this jurisdiction entirely. Where a governance dispute or complaint arises within an association itself, the first step is the dispute resolution or grievance procedure in its rules or constitution. The state or territory regulator, or the ACNC for a registered charity, deals with compliance concerns but generally does not resolve internal disputes, and a general state Ombudsman is not the pathway.

Where Funded Services Change The Picture

Where the picture changes is for an association delivering a government-funded community service. In some states this is set by legislation: the NSW Ombudsman, for example, has jurisdiction over community services provided by non-government organisations funded or authorised by the NSW Government. In others, such as Victoria, it has been uncertain. The Victorian Ombudsman's July 2022 investigation into complaint handling in the Victorian social housing sector is directly instructive here. Community housing in Victoria is delivered by not-for-profit organisations with funding and support from state and Commonwealth governments, and the Ombudsman's own report stated directly that the office received comparatively few complaints about these providers, partly due to uncertainty about its own jurisdiction to deal with them, and its March 2024 progress report noted that this jurisdiction had still not been clarified. This is an important, honest detail: the question of whether a state Ombudsman can investigate a specific government-funded service an association delivers is not always settled, even from the Ombudsman's own perspective, and it should not be assumed either way without checking the specific

circumstances. If a state Ombudsman's own office has publicly acknowledged uncertainty about its jurisdiction over a government-funded service delivered by a not-for-profit, an association in a comparable position should not assume the answer is obvious in either direction.

The Further, Distinct Layer: Sector-Specific Complaint Bodies

Separate from general Ombudsman jurisdiction, dedicated sector-specific complaint bodies exist for regulated activities. Aged care, disability (NDIS), health services, financial services, and telecommunications each carry their own specialised complaints commissioner or ombudsman scheme, distinct from both general regulators and state Ombudsman offices. An association operating in any of these specifically regulated sectors should confirm which body has jurisdiction over which of its activities, rather than assuming general regulator or ACNC oversight automatically covers everything.

- Confirm your association's own governance and membership activities generally sit outside general state Ombudsman jurisdiction, using your own dispute resolution or grievance procedure as the first step for internal governance complaints.
- Investigate directly, with legal advice where the stakes warrant it, whether any government-funded or contracted service your association delivers brings that specific activity within a state or Commonwealth Ombudsman's jurisdiction, and check your funding agreement, which may set complaint handling and external review obligations.
- Do not assume jurisdictional clarity exists simply because it seems obvious, given that at least one Ombudsman office has acknowledged uncertainty in directly comparable circumstances.
- Identify whether your association's specific activities fall within a dedicated sector complaints body, such as aged care, disability (NDIS), health, financial services, or telecommunications, distinct from general regulatory oversight.
- Direct internal member complaints through your own complaints process, connecting directly to the member complaints handling discipline discussed earlier in this series, rather than assuming an external Ombudsman pathway exists for them.

Understanding which body has jurisdiction over which part of an association's activities protects the organisation from responding to the wrong complaint process, or assuming a clarity about its own exposure that does not actually exist. Most associations can set this concern aside for their core work. An association delivering a government-funded service should confirm the position specifically, rather than guess.

This is one of the practical governance topics built into our Board Director course, alongside the papers, tools and frameworks that turn the principle into your board's actual practice. [Explore the course](#)

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BOARDROOM ACTION WORKSHEET

Ombudsman Jurisdiction: Even the Regulators Admit the Line Isn't Always Clear

Turn the resource into evidence, a decision and an accountable next step. Keep the completed record in your association's approved board records system.

1 What is the issue or decision?

State the governance question in one clear sentence.

2 What evidence do we already have?

Record the facts, source documents and stakeholder evidence available now.

3 What evidence is still needed?

Identify the legal, regulatory, financial, member or operational information still required.

4 What is the agreed next action?

Capture the owner, timeframe and how the matter will return to the board.

Action owner	Review date	Board decision or resolution

General education, not legal, financial, tax, clinical or governance advice. Confirm specifics at the relevant primary source or with your own qualified adviser. Nexus Leadership is operated by Lipstick Consulting Pty Ltd · ABN 15 619 120 482.

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