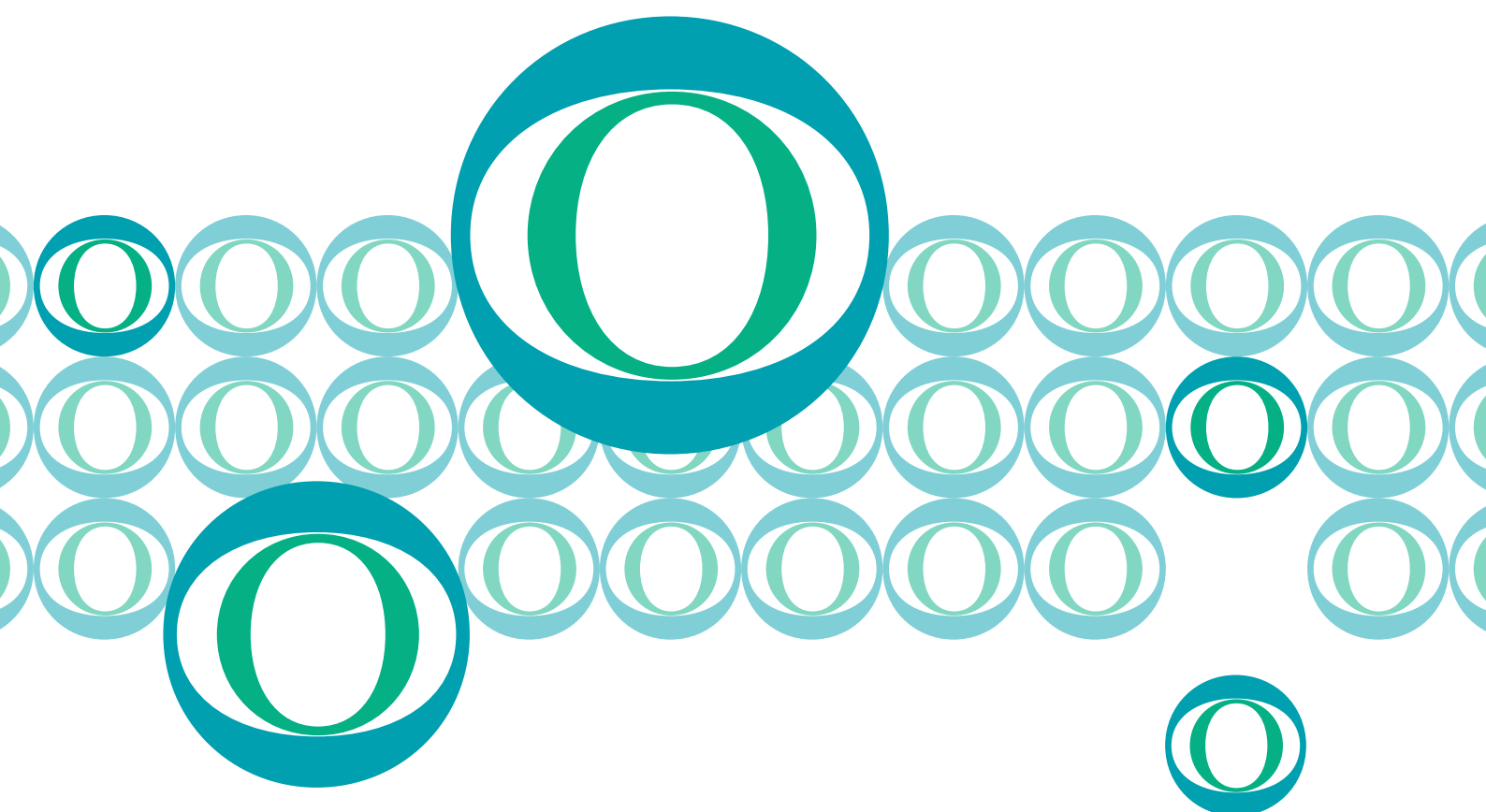


# Ombudsman SA

ANNUAL REPORT  
2013 / 2014



OmbudsmanSA

# What does Ombudsman SA do?

The Ombudsman is empowered to:

- investigate the administrative acts of state government agencies, local government councils and statutory authorities; and also misconduct and maladministration in public administration on referral from the Independent Commissioner Against Corruption
- conduct audits of the administrative practices and procedures of state government agencies, local government councils and statutory authorities
- conduct Freedom of Information reviews of agencies' determinations about release of information
- receive information about state and local government activities confidentially from whistleblowers
- administer and provide advice on the Information Sharing Guidelines.

Visit our website for further information about our services or to register a complaint directly online:  
[www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)

## Ombudsman SA

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The Honourable President  
Legislative Council  
Parliament House  
Adelaide

The Honourable Speaker  
House of Assembly  
Parliament House  
Adelaide

It is my duty and privilege to submit the former South Australian Ombudsman's 42nd annual report for the year 2013-14, as required by section 29(1) of the *Ombudsman Act 1972*.

A handwritten signature in black ink, which appears to read 'Megan Philpot'. The signature is fluid and cursive, with a large, stylized 'M' and 'P'.

**Megan Philpot**  
ACTING SA OMBUDSMAN



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# THE YEAR IN REVIEW

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# The Year in Review

On 31 May 2014 I completed five years in office as the fifth South Australian Ombudsman. This is my final annual report as SA Ombudsman, as on 1 July 2014 I was appointed as Queensland Integrity Commissioner.

In presenting this annual report, which summarises our activities, initiatives and achievements for 2013–14, I believe we demonstrate Ombudsman SA's ongoing commitment to helping make South Australia a state where all communities and individuals are treated fairly.

## The Independent Commissioner Against Corruption

On 1 September 2013, the *Independent Commissioner Against Corruption Act 2012* (ICAC Act) commenced operation.

This change has had significant impacts on my office, which over time will require major changes to our case management system, and the focus and style of our investigations.

### 'One stop shop' for complaints in South Australia

In previous annual reports I expressed the hope that the commencement of the Office of Public Integrity (OPI) as a part of the new integrity arrangements would reduce my office's workload in providing advice and guidance to people who contact Ombudsman SA with approaches which do not fall within our jurisdiction.

Over 68% of approaches to my office were in this category this reporting year. This number is not diminishing.

The establishment of OPI has not reduced my office's workload. As the figures below demonstrate, people are still contacting Ombudsman SA at a similar rate as they were previously, to seek advice about how to deal with their problems.

The Attorney-General's review of the integrity regime in November 2010 referred to the current complaints system being 'confusing' and suggested that OPI should be a 'one stop shop' for taking complaints for the public.<sup>1</sup> I have been a strong advocate for such an approach in my

“It is indeed confusing for the public and agencies alike to know which complaints handling body deals with which matters, and to decide which door they need to open to have their matter considered.”

submissions,<sup>2</sup> but to date this initiative has not eventuated. It is indeed confusing for the public and agencies alike to know which complaints handling body deals with which matters, and to decide which door they need to open to have their matter considered.

### Breadth of the ICAC jurisdiction and overlap with *Ombudsman Act 1972*

There is now an additional workload for my office occasioned by the need to advise OPI and/or ICAC about action which we have taken in relation to a matter that has also been reported to that office; and to negotiate with ICAC about who will do what when the Commissioner determines that an investigation is required.

This is a necessary feature of establishing two separate systems with jurisdictions which overlap to the extent set out in the ICAC Act. In my view the extent of this overlap is unfortunate.

The ICAC Act specifies that the primary object of the Commissioner is to investigate serious or systemic corruption in public administration; and (whilst giving guidance and directions) to refer other matters to the relevant body<sup>3</sup>. However, ICAC's jurisdiction is not limited to corruption matters, and its reach also extends to matters of 'misconduct' and 'maladministration' in 'public administration', as defined in the ICAC Act.

ICAC 'misconduct' is broadly defined. It means a 'contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action'; or 'other

<sup>1</sup> *Integrated Model: A review of the Public Integrity institutions in South Australia and an integrated mode for the future*, dated November 2010, at 5.0.4, 5.11.

<sup>2</sup> Attorney-General's review of public integrity in South Australia, Submission by the SA Ombudsman, June 2010.

<sup>3</sup> *Independent Commissioner Against Corruption Act 2012*, section 3(2).





misconduct of a public officer while acting in his or her capacity as a public officer'.<sup>4</sup> The last paragraph covers any inappropriate behaviour at work.

By contrast, there is no definition of misconduct in the Ombudsman Act; and thus at Ombudsman SA we give the term its ordinary dictionary meaning.

In general terms, under the Ombudsman Act I have an obligation to report any evidence of breach of duty or misconduct on the part of a public officer which I might uncover during an investigation, to the principal officer of the agency.<sup>5</sup>

However, the ICAC Act itself confers a specific misconduct jurisdiction on the Ombudsman, in relation to elected members of local government councils. This now extends not just to conflict of interest (as used to be the case) but also to:

- any breach of a council member's general duties
- any failure to comply with the new single legislated council member code of conduct
- any failure to comply with the council member register of interest provisions.

In some ways this is a curious situation. On the one hand, the Parliament has conferred jurisdiction on ICAC in relation to anything which can be described as 'other misconduct' by a public officer. It has provided for ICAC to exercise all the powers of the Ombudsman when the Commissioner decides to investigate a matter which he has referred to the Ombudsman;<sup>6</sup> and for any reference to the Ombudsman in any Act to be taken to include a reference to the Commissioner.<sup>7</sup>

On the other hand, in the same Act it has required that no proceedings can be taken in the District Court for misconduct by a council member unless a specified body (i.e. the Ombudsman) has first investigated the matter.<sup>8</sup>

There is considerable ambiguity in this situation.

There is a similar overlap in relation to 'maladministration in public administration'. Whilst it doesn't appear in the Ombudsman Act, maladministration is a term which is

often applied to the Ombudsman jurisdiction. However, because it is arguably imprecise, I prefer to use the shorthand phrase 'unlawful, unreasonable or wrong' to describe the various types of administrative error under the Ombudsman Act.<sup>9</sup>

The ICAC term 'maladministration in public administration' encompasses two elements:

- the first is 'irregular and unauthorised use of public money or substantial mismanagement of public resources'
- the second is 'substantial mismanagement'.<sup>10</sup>

These elements seem to be derived from the definitions in the *Whistleblowers Protection Act 1993* (WP Act), and are quite restricted. The use of the term 'substantial mismanagement' suggests a level of seriousness which goes well beyond a simple administrative error; and many administratively erroneous acts occur without the irregular and unauthorised use of public moneys.

By contrast, an Ombudsman Act 'unlawful, unreasonable or wrong' finding can be made in respect of any 'administrative act' by 'an agency to which the Act applies'. It can include all acts which:

- are contrary to the law
- are unreasonable, unjust, oppressive, or improperly discriminatory
- are done in accordance with an unreasonable, unjust, oppressive or improperly discriminatory law or practice
- are done for an improper purpose, or based on irrelevant grounds
- are done without giving reasons for the decision
- are based wholly or in part on a mistake of law or fact
- are wrong.<sup>11</sup>

This is a broader scope than the ICAC 'substantial mismanagement', or 'irregular and unauthorised use of public moneys'. The Ombudsman's jurisdiction is much wider, and the Ombudsman can investigate administrative acts which arguably may not be within the investigative jurisdiction of ICAC.

4 *Independent Commissioner Against Corruption Act 2012*, section 5(3).

5 *Ombudsman Act 1972*, section 18(5).

6 *Independent Commissioner Against Corruption Act 2012*, section 37(5).

7 *Independent Commissioner Against Corruption Act 2012*, section 37(5)(e).

8 *Local Government Act 1999*, section 264(2)(a).

9 *Ombudsman Act 1972*, section 25(1)(a)-(g).

10 *Independent Commissioner Against Corruption Act 2012*, section 5(4).

11 *Ombudsman Act 1972*, section 25(1)(a)-(g).

## Investigations must be done under the ICAC Act

There are other practical issues which have arisen as a consequence of the terms of the ICAC Act.

When the Commissioner refers a matter to me, I am required to conduct an investigation under that Act, not the Ombudsman Act. This has the result that the jurisdictional limits under the Ombudsman Act do not apply. For example, I can investigate police; Members of Parliament; Ministerial decisions; industrial issues; matters which occurred more than 12 months ago; and employer-employee complaints – none of which I can do under the Ombudsman Act.

However, in my view this arrangement also has two significant shortcomings.

### ICAC Act investigations - outcome of an Ombudsman investigation

First, the focus of an investigation into misconduct or maladministration under the ICAC Act is not clear.

An Ombudsman Act investigation is directed towards establishing if an administrative error occurred. If so, under the Ombudsman Act:

- I can publish a report with an appropriate degree of publicity
- I can make remedial recommendations
- I can report on any agency failure to comply with the recommendations
- Further, I am obliged to report this to the relevant Minister.

This is an important way of ensuring accountability; that the findings of an investigation are made public; and that remedial action is taken

When I am conducting an investigation under the ICAC Act, it appears that none of those powers are available to me.

My view arises because these powers are expressed as applying to 'any investigation conducted by the Ombudsman as a result of which the Ombudsman is of the opinion that [an administrative error of the type set out in the section has occurred]'. Because an investigation under the ICAC Act is directed to misconduct or maladministration in public administration as defined in that Act, I am not able to form the necessary opinion as a precondition to the exercise of the powers.

A similar issue arises if the Commissioner undertakes the investigation.

Further, the ICAC Act does not otherwise provide for a public report encompassing findings at the conclusion of an investigation into misconduct or maladministration under that Act. At most, the Commissioner may refer a matter to the department or agency concerned for further investigation and potential disciplinary action,<sup>12</sup> or may make recommendations for modification of relevant policies.<sup>13</sup>

As a consequence, and with the increase in referral numbers for my investigation from ICAC, my investigations will not be able to be published and I am not able to make recommendations for administrative improvement. In my view, accountability will be significantly diminished.

### ICAC Act investigations - sanctions for council member misconduct

Second, depending on whether a misconduct or maladministration matter is reported to OPI or to my office, different paths and sanctions may follow. For example, a complaint about misconduct of a council member made to my office may result in proceedings in the District Court under the *Local Government Act 1999*.

That course does not appear to be open for a matter which is reported to OPI and investigated under the ICAC Act, because section 264(2)(a) of the Local Government Act explicitly requires that a complaint cannot be lodged 'unless the matter has been investigated by the Ombudsman'. In my view it is certainly arguable that this may not extend to the situation where an investigation is carried out under the ICAC Act.

Prior to my resignation, I commenced discussions with the Commissioner, with a view to clarifying these issues and raising them with the government to seek legislative amendment. I am pleased to note that his recent annual report notes the need for some reassessment of the legislative framework under which he operates, and I hope these issues can be addressed in that context.

---

<sup>12</sup> *Independent Commissioner Against Corruption Act 2012*, section 36(b).

<sup>13</sup> *Independent Commissioner Against Corruption Act 2012*, section 41(1).

## ICAC's lack of powers to investigate misconduct and maladministration

ICAC has extensive investigatory powers under the ICAC Act in relation to corruption in public administration; but no powers to investigate misconduct or maladministration.

I do not envy the Commissioner his ability to exercise powers only in respect of one element of his jurisdiction. In my experience, it is often not until after all the evidence is collected, that I am able to form a view about the nature of the administrative error which is in issue.

By contrast to the ICAC situation, under the Ombudsman Act, Royal Commission powers are available in any investigation into any administrative act.

If the Commissioner decides that he needs such powers to investigate misconduct or maladministration in public administration, he must exercise powers under the Ombudsman Act, because none exist under the ICAC Act. In order to use these Ombudsman Act powers, the ICAC Act requires that the Commissioner must first consult with the Ombudsman; and then refer the matter to the Ombudsman.

This is an unnecessarily cumbersome process. The Commissioner should have adequate powers to investigate all matters within his jurisdiction.

## Confidentiality provisions inhibiting investigations

The Commissioner has commented publicly about the difficulties associated with the confidentiality provisions in the ICAC Act. I will not repeat those comments, but suffice it to say that I agree with them. In my view this aspect of the ICAC Act would benefit from reconsideration.

“... with the increase in referral numbers for my investigation from ICAC, my investigations will not be able to be published and I am not able to make recommendations for administrative improvement. In my view, accountability will be significantly diminished.”

## Ombudsman SA contacts with OPI/ICAC 1 Sept 2013–30 June 2014

Nature of contact	Number of matters
OPI/ICAC enquiries to the Ombudsman	14
Section 37(1) ICAC Act referrals to the Ombudsman for consultation	36
Section 24(2)(a) ICAC Act referrals for investigation by the Ombudsman under the ICAC Act	18
Section 24(2)(a) ICAC Act referrals for investigation by the Commissioner exercising the Ombudsman powers under the Ombudsman Act	11
Section 24(3) ICAC Act referrals to Ombudsman SA for investigation under Ombudsman Act	0
Ombudsman SA reports to OPI	12

*These figures may differ from those produced by ICAC. This is likely to be the result of our respective office's differences in our categorisation of matters.*



## The workload of the office

We have maintained our workload at slightly less than previous years, whilst still coping with the additional and significant demands arising from the ICAC/OPI issues and increased responsibilities regarding council member conduct outlined above.

The following table summarises our position.

### Ombudsman SA workload, 2011–2014

	2011–12	2012–13	2013–14
Approaches	9 690	11 960	10 995
Complaints to Ombudsman	3 457	3 278	3 090
Freedom of Information reviews	203	150	116
Total matters (i.e. Ombudsman complaints and FOI reviews)	3 660	3 428	3 206
Average time taken to resolve matters (as at 30 June)	87.0 days	66.9 days	*133.5 days

- \* *I have changed the method of measuring the average time taken to resolve matters, commencing this financial year. Now, only Ombudsman matters that proceed to formal investigation are included, in addition to Freedom of Information reviews. This has led to an apparent increase in the time taken to resolve matters.*
- \* *This figure is within our Key Performance Indicators of 4 months for a preliminary investigation; 6 months for a full investigation; and 4 months for the conduct of an Freedom of Information review.*
- \* *The average time taken to close matters that were assessed by my office, but did not proceed to investigation, was 3.9 days. This figure is well within our Key Performance Indicator of 14 days.*

To ensure appropriate use of my office's resources, I have continued to apply stricter tests before agreeing to commence an investigation under the Ombudsman Act. I have adopted the following factors to assist in determining whether to investigate a complaint:

- Does the alleged administrative error amount to a serious failure to meet expected standards of public administration?
- Is the complaint about matters of serious concern and benefit to the public rather than simply an

individual's interest?

- Is there evidence of ongoing systemic failure in public administration?
- Are the circumstances of the complaint likely to arise again?
- Is the complaint about matters of process as well as outcomes?
- Is the complaint about failures of ethical and transparent management?
- Does the complaint relate to matters of public safety and security, the economic well-being of South Australia, the protection of public well-being and morals or the rights and freedoms of citizens?
- Has the complainant suffered significant personal loss?
- Would investigation of the complaint be likely to lead to meaningful outcomes for the complainant and/or to the improvement of public administration?
- Has another review body considered the matter?
- What is the likelihood of collecting sufficient evidence to support a finding of administrative error?
- Would investigation of the complaint involve effort and resources that are proportionate to the seriousness of the matter?

Applying these factors has resulted in my office dismissing some matters which previously would have been investigated.

## Highlights

### Ombudsman Act

Common causes for Ombudsman investigation over the year have again been the treatment of prisoners by the Department for Correctional Services; code of conduct and meeting confidentiality breaches at the local government level; and deficiencies in handling of complaints by state and local government agencies.

### Freedom of Information Audit

On 3 June 2014 I tabled my report in Parliament on an audit under the Ombudsman Act of 12 state government departments' fulfilment of their responsibilities under the *Freedom of Information Act 1991* (FOI Act).

The aim of the audit was to improve FOI understanding and the FOI responses of these departments, and agencies generally across South Australia.



The audit found that:

- the Act is outdated and its processes belong to pre-electronic times
- the agencies' implementation of the Act is wanting, and demonstrates a lack of understanding or commitment to the democratic principles which underpin the Act
- most of the agencies are not coping with the volume and complex nature of recent FOI requests
- six of the 12 agencies failed to determine over 50 percent of access applications within the timeframe required by the Act
- most of the agencies do not understand how to apply the exemptions and the public interest test under the Act
- it is common practice across all of the agencies to provide copies of FOI applications, determinations (draft or otherwise) and documents to their Minister to 'get the green light' prior to finalisation of access requests. While the Act permits a Minister to direct their agency's determination, evidence provided to the audit strongly suggests that ministerial or political influence is brought to bear on agencies' FOI officers, and that FOI officers may have been pressured to change their determinations in particular instances. If a ministerial decision or direction is involved, it should be clearly set out in the agencies' determinations
- the agencies' Chief Executives are not providing FOI or pro-information disclosure leadership. In nine out of the 12 agencies, there is no directive at all from the Chief Executive, senior management or the Minister about the operation or implementation of the Act
- only one agency stated that it has ever released an exempt document, despite the discretion to do so under the Act.

My office will be contacting the 12 agencies later in 2014 to learn of their progress in implementing my recommendations.

## Section 25 investigation reports

Section 25 reports are prepared after a full investigation finds that an administrative error has been made by an agency, and often contain recommendations intended to remediate the error. Where I consider that the public interest requires it, I have some section 25 reports tabled in Parliament, and I publish others on the Ombudsman SA website and on AustLII.

My office completed 45 section 25 reports in 2013–14. They are listed at the end of this section. Some of the case studies have been included in the body of this annual report.

## Implementation of Ombudsman recommendations (1 April 2013 - 30 June 2014)

In June 2013 I tabled my report in Parliament on the implementation of Ombudsman recommendations for the period 1 July 2009 to 31 March 2013. In that report, I noted that future outcome reporting on recommendations made to agencies would form part of the Ombudsman annual report.

I also noted that reporting on implementation of my recommendations represents an important accountability measure, not only for agencies within my jurisdiction, but also for my office.

During the 15 month period (1 April 2013 - 30 June 2014), there were 51 investigation reports where I found administrative error and made recommendations under the Ombudsman Act.

I made 142 recommendations in total: 132 or 93% of my recommendations were accepted across all agencies. Of the two recommendations not accepted, one was overturned by judicial review and the other was procedurally redundant. Three agencies have yet to respond to recommendations made with a requested reply date after 30 June 2014.

Of the 142 recommendations, 105 have been implemented as at the date of this report: this is an implementation rate of almost 74%. Some of the remaining recommendations proposed undertakings that were to be implemented over a period of time. Others related to consideration of legislative change by the government, which has not yet reached a final outcome. For example, a significant number of recommendations 'pending action' are concerned with proposed amendments to the Local Government Act.

## Freedom of Information Reviews

Section 12 of the FOI Act provides members of the public with a legally enforceable right to access an agency's documents.<sup>14</sup>

<sup>14</sup>The term 'agency' is defined in section 4 of the *Freedom of Information Act 1991*.

My office undertakes external reviews under the FOI Act, a responsibility which in most other Australian jurisdictions sits with a separate Information Commissioner. I support the current arrangements, which permit me to deal efficiently with overlap between the two responsibilities from my Ombudsman Act jurisdiction and enable my office to apply lessons learnt in one jurisdiction to the other. However, in my view, the jurisdiction needs an independent FOI champion who can not only conduct reviews, but also provide training and monitor agencies' compliance with information disclosure. I addressed this issue in my audit which I have referred to above.

## Information Sharing Guidelines

In 2013, Cabinet directed that the scope of the 2008 *Information Sharing Guidelines for promoting the safety and wellbeing of children, young people and their families* (ISG) be broadened to include information sharing for all vulnerable population groups, including all adults, irrespective of their status as parents or caregivers.

This decision enables service providers to apply the expanded guidelines to all people with whom they work; and they align information sharing practice across both adult and child services. To comply with the Cabinet directive, it was necessary to update the ISG.

After a considerable period of consultation and input from government agencies, NGOs, the Commonwealth Privacy Commissioner, the SA Privacy Committee and other key stakeholders, the new guidelines, the *Information Sharing Guidelines for Promoting Safety and Wellbeing* have been completed. See [www.ombudsman.sa.gov.au/isg](http://www.ombudsman.sa.gov.au/isg).

## Ombudsman SA Strategic Plan

This year, we developed our Strategic Plan for the period 2014-2017. Our plan's objectives focus on ensuring:

- good governance in agencies within the Ombudsman jurisdiction
- agencies' accountability, as well as Ombudsman SA accountability
- accessibility of Ombudsman SA
- effective and efficient handling of our matters
- effective use of our professional resources
- continuous business improvement.

## Report against Ombudsman SA 2013–14 Business Plan

For 2013–14, my office identified the need to develop the policies, business rules, workflows and changes to our case management system (Resolve) necessitated by the commencement of the new integrity regime established by the ICAC Act. These changes to my office's resources were not included within the scope of the ICAC implementation project run and resourced by the Attorney-General's Department.

As a result we have dealt with these matters as best as we have been able to, having regard to the need to deal with our daily work. Whilst we have published new policies and implemented new business rules, we have not yet been able to complete the necessary changes to our workflows and case management system to properly integrate the new procedures required by the introduction of ICAC.

However, we have successfully achieved the following initiatives from our Business Plan:

- contributing to the Department for Correctional Services' trainee corrections officer program
- measuring the implementation of our recommendations, for publication in this annual report
- finalising enhanced management reporting against our Key Performance Indicators, with a view to publishing this information on our website.

We have also:

- implemented the expanded jurisdiction conferred on the office under amendments to the Local Government Act, and the new local government codes of conduct
- published the Recommendations Implementation Report for *In the Public Eye* - an audit of the use of confidentiality provisions of the Local Government Act by South Australian Councils
- commenced an audit on complaint handling in state government agencies
- broadened the scope of the Information Sharing Guidelines to include information sharing for all vulnerable population groups where there are threats to safety and wellbeing
- increased accessibility to Ombudsman SA by providing 20 new language options on the website.

## Looking Ahead: Initiatives for 2014-15

In 2014-15 Ombudsman SA plans to:

- appoint additional specialist staff to handle education related complaints due to specific additional four year funding
- complete the audit of state agencies' complaint handling and table a report on the findings in the Parliament
- follow up state agencies' implementation of my recommendations in the FOI audit
- commission a third party review of Ombudsman SA
- a customer satisfaction survey.

As noted above, this is my final report as SA Ombudsman. I have greatly enjoyed and appreciated the opportunity to hold the office; and I record my thanks to all who have assisted me, including my Parliamentary Ombudsman colleagues, my fellow executive members on the Australian and New Zealand Ombudsman Association, and relevant staff in the South Australian Attorney-General's Department.

In particular, I am deeply grateful for the extraordinary professionalism and friendship of the staff of the office.



Richard Bingham  
**SA OMBUDSMAN**  
June 2014

“...reporting on implementation of my recommendations represents an important accountability measure, not only for agencies within my jurisdiction, but also for my office.”

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## Section 25 Reports completed 2013-14

File Reference	Respondent Agency	Nature of Matter
2012/06102	City of Onkaparinga	Inadequate management of waste water treatment plant
2012/08745	District Council of Tumby Bay	Council member conflict of interest
2012/09755	District Council of Yorke Peninsula	Unreasonable outcome of s270 internal review
2012/10227	District Council of Tumby Bay	Council member conflict of interest
2013/01865	Women's and Children's Health Network	Failure to deal with whistleblower complaint
2013/05038	The Barossa Council	Improper confidentiality orders and investigation of complaint
2013/05532	City of Port Adelaide Enfield	Unreasonable regulation of development
2013/05605	City of Holdfast Bay	Council member conflict of interest
2013/06129	District Council of Mallala	Council member conflict of interest
2013/08079	District Council of Mount Barker	Unreasonable staff appointment process
2013/10394	Kangaroo Island Council	Unreasonable council confidentiality order and management of Council Member Code of Conduct complaint
2013/12066	Guardianship Board	Failure to inform complainant about hearing regarding her daughter
2014/00069	Department for Correctional Services	Unreasonable restraint of prisoner during hospitalisation
2014/00175	City of Playford	Council member conflict of interest
2014/03477	City of Onkaparinga	Breach of Council Member Code of Conduct
2014/03554	Kangaroo Island Council	Breach of Council Member Code of Conduct
2013/00462	Legal Practitioners Conduct Board	Unreasonable investigation of complaint
2013/04905	City of Port Adelaide Enfield	Unreasonable imposition of rates regarding marina berth
2013/07936	City of Burnside	Council member conflict of interest
2013/09405	District Council of Yorke Peninsula	Breach of Council Member Code of Conduct
2013/10346	District Council of Lower Eyre Peninsula	Breach of Council Member Code of Conduct
2012/04207	Department for Education and Child Development	Unreasonable handling of report of sexual assault
2012/05547	Department for Education and Child Development	Unreasonable decision to remove family day care provider from register
2013/00295	SA Ambulance Service	Failure to provide information about patient to relative
2013/01746	Department of the Premier and Cabinet	Inaccurate information published on website
2012/03998	Department for Correctional Services	Unreasonable regime for forensic patient
2013/00591	Department of Environment, Water and Natural Resources	Failure to provide accurate information about grazing rights
2013/00788	Courts Administration Authority	Failure to contact party before taking enforcement action



File Reference	Respondent Agency	Nature of Matter
2013/02175	Mid Murray Council	Unreasonable management of effluent disposal sites
2013/04634	Department of the Premier and Cabinet	Inadequate handling of complaint
2013/04650	Town of Gawler	Wrongful management of stormwater pond
2013/05044	District Council of Yankalilla	Unreasonable decision to establish a quarry
2013/05926	Anangu Pitjantjatjara Yankunytjatjara Executive Board	Unreasonable conduct of the Executive Board
2013/05954	University of South Australia	Unreasonable expulsion from pilot course
2013/06171	Department for Correctional Services	Failure to explain prison transfer rules
2013/06192	City of Burnside	Improper process for re-appointment of board members
2013/06992	City of Playford	Unreasonable procurement, recruitment and record keeping processes
2013/07060	District Council of Cleve	Unreasonable banning of dogs from boardwalk
2013/07344	University of South Australia	Unreasonable expulsion from pilot course
2013/08471	Department for Health and Ageing	Breach of the <i>Whistleblowers Protection Act 1993</i> , improper complaint handling process, and victimisation
2013/08906	City of Holdfast Bay	Breach of Council Member Code of Conduct
2013/09483	Department for Education and Child Development	Failure to respond appropriately to a report of sexual assault
2013/11077	Department for Education and Child Development	Failure to properly manage the alleged sexual harassment and bullying of a student
2013/11458	Department for Health and Ageing	Unauthorised detention of forensic patient
2013/00830	District Council of Peterborough	Unreasonable investigation of conduct complaint

## Summary of Statistical Information

Ombudsman Act Jurisdiction																	
2011–12							2012–13							2013–14			
	Government Departments	Local government	Other Authorities	Minister	Total		Government Departments	Local government	Other Authorities	Minister	Total		Government Departments	Local government	Other Authorities	Minister	Total
Open Approaches & Complaints																	
Cases open at beginning of period	42	56	10		108		39	52	21		112		40	39	21		100
Cases opened during period	2007	878	546	6	3448		1850	852	548	2	3252		1585	929	574	2	3090
Total cases open	2049	934	556	6	3556		1889	904	569	2	3364		1625	968	595	2	3190
Less Closures																	
Advice given	180	109	66	6	361		64	38	27	2	131		75	50	33	2	160
Alt remedy another body	316	80	95		491		284	46	101		431		195	77	128		400
Complainant Cannot be Contacted	40	23	14		77		27	21	15		63		15	15	9		39
Declined	178	90	52		320		555	283	145		983		348	258	133		739
S18(5) Referred evidence misconduct to principal officer								1			1						
s25 Finding/ Contrary to law	5	14	2		21		2	23	5		30		1	12	2		15
s25 Finding/ Mistake of Law			1		1												
s25 Finding/No reason given	1				1										1		1
s25 Finding/ Unreasonable	1	2			3		4	4	3		11		3		1		4
s25 Finding/ Unreasonable law or practice		1			1				1		1			4			4
s25 Finding/ Wrong	5	6	4		15		5	13	4		22		7	7	4		18
Not substantiated/ No s25 Finding	267	112	67		446		12	25	12		49		3	17	5		25

Ombudsman Act Jurisdiction							2011–12							2012–13							2013–14		
	Government Departments	Local government	Other Authorities	Minister	Total		Government Departments	Local government	Other Authorities	Minister	Total		Government Departments	Local government	Other Authorities	Minister	Total						
Comment warranted	8				8		4	1	1		6												
Out of time	4	3	3		10																		
Outside of jurisdiction	18	2			20		27	7	13		47		14	6	14			34					
Referred back to agency	680	353	167		1200		664	337	180		1181		761	423	222			1406					
Resolved with agency cooperation	222	52	41		315		147	37	24		208		129	20	19			168					
Advice to authority													3	5				8					
Withdrawn by Complainant	85	36	22		143		67	17	18		102		35	24	14			73					
<b>Total Approaches &amp; Complaints Closed</b>	2010	883	534	6	3445		1862	853	549	2	3266		1589	918	585	2		3094					
<b>Still Under Investigation</b>	39	51	22	0	111		40	51	20	0	111		36	50	10			96					
<b>Audit Completed</b>		12			12			12			12		12					12					

FOI Jurisdiction	2011–12						2012–13						2013–14					
	Government Departments	Local government	Other Authorities	Minister	Total		Government Departments	Local government	Other Authorities	Minister	Total		Government Departments	Local government	Other Authorities	Minister	Total	
Open External Reviews																		
Cases open at beginning of period	81	5	8	31	125		17	7	9		33		34	2	11	7	54	
Cases opened during period	61	14	24	12	111		114	12	21	24	171		74	14	25	3	116	
Total cases open	142	19	32	43	236		131	19	30	24	204		108	16	36	10	170	
Less Closures																		
Withdrawn by applicant	17		3	2	22		11		2	5	18		11	2	1	1	15	
Settled during review	24	1		31	56		11	2	2	1	16		11		11		22	
FOI Determination confirmed	8	3	15	4	30		20	6	4	4	34		20	2	12	2	36	
FOI Determination reversed	8	1	1	1	11		16	4	4	1	25		3				3	
FOI Det revised by Agency	23				23		2			1	3			1			1	
FOI Determination varied	43	6	4	5	58		29	4	5	4	42		45	4	1	7	57	
FOI Extension of time\ Discretion not exercised	1	1	1		3		1				1			1			1	
FOI/Outside of jurisdiction																		
Total External Reviews Closed	124	12	24	43	203		90	16	17	16	139		98	13	29	10	150	
Still Under Investigation	18	7	8	0	33		41	3	13	8	65		10	3	7	0	20	

**Note:** Explanations of the Ombudsman Act and FOI Act outcomes are in Appendices C and D respectively.

## GOVERNMENT AGENCY INVESTIGATIONS

Shackling of an infirm prisoner during hospitalisation

Best practice complaint handling and the Whistleblowers Protection Act

Responding to a student report of sexual assault on school campus

Agency investigation of a complaint

Housing transfer in exceptional circumstances

Providing information about time limits on a learner's permit

# Government Agency Investigations

## Department for Correctional Services

### Shackling of an infirm prisoner during hospitalisation 2014/00069

#### *Complaint*

The complainant, a 53 year old female prisoner, was transferred to the Royal Adelaide Hospital suffering from breathing difficulties. She spent 13 days in hospital, during which time she was shackled with various restraints including leg restraints and handcuffs. The complainant submitted that the use of restraints was unreasonable and unnecessary in the circumstances.

#### *Investigation and Outcome*

I considered whether:

- the department's shackling of the complainant complied with section 86 of the *Correctional Services Act 1982* which provides that the department may use force against a person as is reasonably necessary in the circumstances of the particular case
- the complainant was shackled in accordance with departmental policies and procedures.

My investigation found:

- that it was not 'reasonably necessary' to shackle the complainant at all during her hospital stay. The complainant had been admitted to hospital after collapsing due to breathing difficulties; she required oxygen during her hospital stay; and I was informed that she relied on a walking frame to walk more than a few steps at a time. The complainant's condition was such that it necessitated a 13 day hospital stay. In light of those factors and the lack of issues or concerns about the complainant's conduct, I found that the complainant did not constitute a threat to hospital staff or the community and there was little risk of escape
- that the department should have exercised its discretion not to shackle the complainant, and in failing to do so, the department acted contrary to law.

The department acknowledged its error and advised me that staff had been reminded of the necessity to follow the process and timeframes outlined in departmental procedures. The department also instigated a review of the relevant policy.

## Department for Health and Ageing

### Best practice complaint handling and the *Whistleblowers Protection Act 1993 (WP Act)*

2013/08471

#### *Complaint*

The complainant, a nurse, emailed the CEO through the department's website called 'Ask the CEO', raising concerns about the practice of a doctor who was allegedly causing delays to patient procedures. The complainant said that he was writing to inform the CEO of the practice and to seek advice as to what should be done. The department treated the email as a complaint and initiated an investigation, without acknowledging the email or informing the complainant. The complainant alleged that the department then revealed his identity in breach of the WP Act in its investigation; and that he had been victimised by the department as a result of his disclosure.

#### *Investigation and Outcome*

I considered that the complaint was an 'appropriate disclosure of public interest information' within the meaning of the WP Act, and thus attracted the protection of the complainant's identity.

My investigation found:

- the department ought to have protected the complainant's identity as a whistleblower. The department submitted that the complainant did not request this or advise that he was making his complaint under the WP Act. I found that the department did not appear to properly understand its obligations under the WP Act
- in relation to the complainant's concerns about victimisation, I referred him to the Equal Opportunity Commission which has the relevant statutory remit
- when the complainant accessed the 'Ask the CEO' link, he did not consider that he was making a complaint; however, I determined that it was reasonable for the department to interpret the email as a complaint
- the department failed to apply standards of appropriate complaint handling practice.

## Department for Education and Child Development

### Responding to a student report of sexual assault on school campus

2013/09483

#### *Complaint*

Following an approach from the Chief Executive of the department, I conducted an own initiative investigation into the department's actions arising from an alleged sexual assault committed on a student on a school campus in 2010. While the investigation focussed on behaviour directed at one student, the response of the department to a number of other students who were also allegedly subject to unwanted sexual behaviour, was relevant.

#### *Investigation and Outcome*

My investigation considered whether the department:

- failed to notify the Child Abuse Report Line (CARL) and/or SA Police about the alleged sexual assault of the student
- responded adequately to the alleged sexual assault to protect the interests of the child and other children at the school
- advised the child's parents about the alleged sexual assault
- responded adequately to the subsequent complaint by the parents
- had adequate policies in place to deal with the sexual assault of students at the relevant time
- adequately advised the Minister in 2013 about the alleged sexual assault.

My investigation considered whether departmental staff had complied with sections 11 and 58 of the *Children's Protection Act 1993* (CP Act); the department's policies on Sexual Behaviour, Sexual Behaviour Management, and Extra-Familial Notifications; and relevant recommendations of the Independent Education Inquiry Report (IEI Report).

My investigation found:

- the alleged behaviour constituted sexual abuse for the purposes of section 11(1) of the CP Act and that school staff failed to notify the CARL pursuant to their obligations under the CP Act. I recommended that the department should provide clear guidelines for staff on its mandatory reporting obligations and provide such guidance in mandated training for all staff

- there was no record, and there were differing views from staff interviewed, as to whether counselling was provided to the subject students. I concluded that the school did not provide adequate support to one student in the aftermath of the alleged assault
- the school failed to contact parents of some of the students affected by the alleged behaviour
- a departmental response was drafted in response to a complaint by a parent to the Parent Complaint Unit, but it was not sent; and no adequate written response was made to a follow up emails from the parent. I noted the department had subsequently established a dedicated unit to ensure proper coordination of responses in such situations and therefore no recommendation was required
- the department had adequate policies in place on Sexual Behaviour, Sexual Behaviour Management, and Extra-Familial Notifications. However, these policies were not adequately implemented in this instance. I accepted subsequent advice from the department on its implementation of recommendations from the IEI Report on sexual behaviour policy and notification obligations; and as a result, I did not consider it necessary to make any further recommendations
- a notification was made about the alleged assault to the CARL in 2013. The Minister was subsequently and appropriately advised of the incident.

## Department of the Premier and Cabinet (SafeWork SA)

### Agency investigation of a complaint

2013/04634

#### *Complaint*

The complaint concerned SafeWork SA's investigation of the complainant's allegations of bullying at the Department of Environment, Water and Natural Resources (formerly the Department for Water).

#### *Investigation and Outcome*

My investigation considered:

- whether the agency erred in failing to take action to ensure the complainant had a safe and fair workplace
- whether the agency erred in the manner in which it handled the complainant's matter.

My investigation found that the agency acted reasonably in requiring DEWNR's internal investigation to proceed first. Further, it did not err in not acting to remove the complainant from contact with the alleged perpetrators of the bullying; as it was necessary to first establish whether the bullying could be substantiated.

However, my investigation found that the agency erred in failing to provide the complainant with adequate reasons as to why it decided not to take action; and the correspondence to the complainant did not offer any real explanation of the agency's assessment of the issues raised by the complainant.

## **Commissioner for Consumer Affairs**

### **Cancellation of occupational licence**

2014/02148

#### *Complaint*

The complainant approached the agency to enquire about the renewal of his occupational licence. The agency advised that the licence had been cancelled three years previously as it had not been renewed in time. The complainant was adamant that all necessary payments had been made, including penalty fees.

#### *Investigation and Outcome*

My investigation put the complainant's concerns to the agency, including the relevant receipt numbers. The agency then discovered that there was a system error that delayed recognition of the payments. That delay had caused the cancellation of the complainant's licence.

The agency reinstated the licence and adjusted the licensing fees for the current period. Further, it advised that the staff member who spoke with the complainant should have identified this error, and that it would conduct training to prevent future oversights.

## **SA Housing Trust**

### **Housing transfer in exceptional circumstances**

2014/01541

#### *Complaint*

The complainant, a single mother with five children, applied to be transferred from her home. The agency allocated to her a 'category one' status, as there had been an incident which involved a person firing a gun into her property. The

offender had been imprisoned and then released; and the complainant requested to move as soon as possible in case of repercussions. The agency was unable to find alternative accommodation that suited the complainant's needs. The complainant was aware that the agency managed two lists when allocating tenancies: one for new and transfer tenants, and one for tenants who were required to move by the agency. The complainant requested that she be considered for housing from both lists, and this was denied.

#### *Investigation and Outcome*

My investigation found:

- the agency utilised a two list system
- given the unique circumstances of the complainant, the agency should have considered whether it would be reasonable to consider housing from both lists in assessing the complainant's application.

The agency acknowledged the special circumstances of the complainant's application and that it was difficult with her requirements to rehouse her. A decision was made that it would be reasonable for the agency to access both lists when considering her application.

## **Department of Planning, Transport and Infrastructure**

### **Providing information about time limits on a learner's permit**

2014/02589

#### *Complaint*

The complainant reapplied for a learner's permit to ride a motor bike. He successfully completed the course and attended a Service SA office to pay for his permit. The complainant claimed that he thought he paid for a two year permit as set out in the department's brochure. Some months later, the complainant was stopped by a police officer for riding his motor bike without the appropriate permit. Upon checking the permit, the complainant realised that the permit was only valid for nine months. The complainant believed that the counter officer had failed to inform him of the lesser permit time, and that the relevant brochure was wrong.

#### *Investigation and Outcome*

My investigation found:

- the time period for permits of this type was increased to two years in 2008, and the option to take a permit





for the lesser time of 9 months and pay a reduced fee was introduced. Service SA counter staff were expected to advise applicants who had previously held a permit of this type that the option of a nine month permit was available

- the complainant had paid for and been issued a nine month permit
- while the counter officer could not recall talking to the complainant, she was confident that this information would have been provided to him
- the brochure provided to these applicants indicated that the permit was for a two year period only
- there was no error in the processing of the complainant's permit (the onus rested with him to read and understand the conditions of the permit). However, I suggested and the department agreed, that to avoid this situation recurring and to clearly inform new and repeating applicants of the lesser time frame, the information in the brochure and on the website needed amending.

## Department for Education and Child Development

### Decision to remove family day care provider from the department's register

2012/05547

#### *Complaint*

The complainant had provided family day care services for a number of years. After a departmental investigation into a complaint made by a family using the complainant's services, the complainant was advised that she had been removed from the department's family day care register, and was unable to continue providing family day care services.

The complainant alleged she was not afforded natural justice during the investigation. She complained that she was not advised of all of the allegations made against her, and that it was not made clear to her what the process, or possible outcomes would be. The complainant further alleged that the department had not adequately explained the new legislative scheme to her and other educators, and that its policies were outdated.

#### *Investigation and Outcome*

My investigation found:

- the department had not gone far enough to afford the complainant natural justice

- in particular, the department did not follow its adopted policy (which had not been revised to reflect a new legislative regime)
- the complainant was not given a fair hearing, due to deficiencies in the interview process
- the department did not give adequate reasons for its decision.

I recommended that the department:

- provide the complainant with reasons for its decisions
- improve its systems, including updating its policies and procedures and developing a training plan on those procedures.

## Department for Health and Ageing (DHA)

### Department for Correctional Services (DCS)

#### Placement of a forensic patient in G Division of Yatala Labour Prison

2013/11458

2012/03998

#### *Complaint*

In 2008 the complainant's son was found not guilty of attempted murder by reason of mental incompetence, was declared liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935* (CLC Act) and was committed to detention for a term of 13 years. The complainant's son was admitted as a forensic patient to James Nash House.

In September 2009 following a series of incidents at James Nash House, the complainant's son was transferred to Yatala Labour Prison (YLP). In November 2009 he was sentenced to a one month term of imprisonment for an indecent assault that occurred prior to his incarceration at James Nash House.

In December 2009 the complainant's son reverted to being a forensic patient but remained in YLP. The complainant alleged that the treatment of her son, who had not been found guilty of an offence but was being held as a forensic prisoner, was excessively harsh and had led to a deterioration in his mental state.

### *Investigation and Outcome*

My investigation considered:

- the validity of the complainant's son being held in custody pursuant to section 269V of the CLC Act. This provides that where a court has made a 'supervision order', the defendant is in the custody of the Minister for Mental Health and Substance Abuse and the Minister may give directions for the custody, supervision and care of the defendant as the Minister considers appropriate
- whether DHA provided the complainant's son with adequate mental health care
- whether it was reasonable that the complainant's son be held in G Division maximum security and be subject to the regime incumbent with that environment.

My investigation found:

- DHA erred in failing to seek a ministerial direction pursuant to section 269V, prior to 2009
- The consequence of this was that I found that DCS had no legal authority to hold the son in prison from December 2009 until March 2010
- DHA failed to ensure that valid directions were given by the Minister for the period December 2009 to March 2010
- DHA had failed to provide the complainant's son with adequate mental health care. I recommended that the department offer the complainant's son psychiatric and/or psychological services on an ongoing and regular basis
- DCS had not erred in detaining the complainant's son in G Division. The complainant's son was placed in G Division due to his history of aggressive behaviour, and DCS had a duty to ensure the safety of correctional officers and other prisoners
- However, in subjecting the complainant's son to a particularly harsh regime (he was subject to continuous confinement in a cell for 22 hours per day) DCS acted in a manner that was unjust
- DCS should make adjustments to the complainant's son's regime to ensure he had the best opportunity to rehabilitate. I recommended that it continue to review and, where appropriate, make improvements to his regime and provide him a copy of his two-stage transition and program plan to move him out of G Division
- I also expressed the view that DCS and DHA should cooperate to ensure my recommendations are implemented.

## **Department of Environment, Water and Natural Resources**

### **Refusal to issue grazing rights licence**

2013/00591

#### *Complaint*

The complainant purchased a farm near a river comprising freehold land, a crown lease to be made freehold, and a licence to occupy certain crown land. The complainant submitted that the department had led him to believe that the existing rights (including grazing rights) over the crown land would be transferred to him upon settlement of the freehold portions. However, the new licence did not contain grazing rights. The complainant argued he would not have purchased the property had he known that he would not be granted grazing rights. The complainant also submitted that the department did not provide a reason for removing the grazing rights from the licence.

#### *Investigation and Outcome*

My investigation found:

- the department had fallen into error by representing to the complainant that he would be granted grazing rights, and should have provided the complainant with appropriate and transparent advice as to the decision making process in relation to the licence
- the department did not make it clear to the complainant that the decision was a ministerial one, to be made after purchase of the land, and that there were a number of factors that had to be taken into account in making the decision
- the fact that it is unusual for grazing rights to be renewed on the land (floodplain) should have been communicated to the complainant
- the department erred in not providing a clear explanation of the reasons why grazing rights were not granted.

The department acknowledged the errors and responded that it would review its policies and procedures and implement training for staff to ensure better administrative practice in the future. I also recommended that the department reconsider an application for a licence for grazing over the land, should the complainant submit a fresh application.

# Summary tables - Government Agencies

## 1 July 2013 - 30 June 2014

### Complaints: Received

Government Department	No.	Percentage of Total Complaints
Attorney-General's Department	67	4.2%
Department for Communities and Social Inclusion	39	2.5%
Department for Correctional Services	510	32.2%
Department for Education and Child Development	194	12.2%
Department for Health and Ageing	9	0.6%
Department of Environment, Water and Natural Resources	26	1.7%
Department of Further Education, Employment, Science and Technology	5	0.3%
Department of Manufacturing, Innovation, Trade, Resources and Energy	4	0.2%
Department of Planning, Transport and Infrastructure	239	15.1%
Department of Primary Industries and Regions SA	7	0.4%
Department of the Premier and Cabinet	43	2.7%
Department of Treasury and Finance	30	1.9%
Electoral Commission of South Australia	3	0.2%
Environment Protection Authority	14	0.9%
SA Housing Trust	312	19.7%
SA Police	2	0.1%
SA Water Corporation	81	5.1%
<b>Total</b>	<b>1 585</b>	<b>100%</b>

## Complaints: Issues

Government Departments - Approaches and Complaints Received: Issues 1 July 2013 to 30 June 2014

Issue	Department							Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	Department for Education and Child Development	SA Water Corporation			
Abuse or Assault/Physical/By other detainees		2						2	0.1%
Abuse or Assault/Physical/By staff		3						3	0.2%
Abuse or Assault/Sexual/By other detainees		1						1	0.1%
Abuse or Assault/Verbal/Harassment/Threats/By staff		15						15	0.9%
Advice		1						1	0.1%
Complaint Handling/Delay	1	13	10	3	15	3		45	2.7%
Complaint Handling/Inadequate processes	13	5	8	3	41	1		71	4.3%
Complaint Handling/Inadequate reasons	4	1		4	8			17	1.0%
Complaint Handling/Inadequate remedy	3	1	8	3	7	2		24	1.5%
Complaint Handling/Wrong conclusion	4		6	2	11	1		24	1.5%
Conduct/Assault		1			1			2	0.1%
Conduct/Discourtesy	2	11	6		7			26	1.6%
Conduct/Misconduct	12	6	1	2	9			30	1.8%
Correspondence/Communications/Records/Breach of privacy/confidentiality	1	1	1	2				5	0.3%
Correspondence/Communications/Records/Delayed/No response	28	7	4	14	6			59	3.5%
Correspondence/Communications/Records/Incorrect	12	2	3	19	3			39	2.4%
Correspondence/Communications/Records/Lost	3	2	1	4		1		11	0.7%
Correspondence/Communications/Records/Withholding of information		9	4	4	3	1		21	1.3%
Correspondence/Communications/Records/Wrongful disclosure of information	1	1	1		2			5	0.3%
Custodial Services/Building and Facilities		2						2	0.1%
Custodial Services/Canteen		19						19	1.2%
Custodial Services/Cell conditions		19						19	1.2%
Custodial Services/Clothing/Footwear		13						13	0.8%
Custodial Services/Educational programs		2						2	0.1%

Issue	Department										Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	Department for Education and Child Development	SA Water Corporation						
Custodial Services/Employment		16									16	0.9%
Custodial Services/Food		17									17	1.0%
Custodial Services/Health related services		32									32	1.9%
Custodial Services/Leave		2									2	0.1%
Custodial Services/Legal resources		5									5	0.3%
Custodial Services/Prisoner accounts		14									14	0.8%
Custodial Services/Prisoner mail		18									18	1.0%
Custodial Services/Property		50									50	3.0%
Custodial Services/Recreation programs and services		2									2	0.1%
Custodial Services/Rehabilitation programs		3									3	0.2%
Custodial Services/Telephone		31									31	1.9%
Employment	1	2		2		2					7	0.4%
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land				2							2	0.1%
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged	1		1	3		1					6	0.4%
Financial/Procurement/Facilities/Debts	5		3	1		1	1				11	0.6%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use		1	1								2	0.1%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Inadequate		1									1	0.1%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Nuisance				3							3	0.2%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition	1	1					1				3	0.2%
Financial/Procurement/Facilities/Procurement by Agencies/Decisions	1										1	0.1%
Financial/Procurement/Facilities/Procurement by Agencies/Tenders	2			1		1					4	0.3%
FOI advice	19	4	7	2		15	3				50	3.0%
FOI practices and procedures	1										1	0.1%

Issue	Department										Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	Department for Education and Child Development	SA Water Corporation						
General advice/FOI matters		1									1	0.1%
Home detention		5									5	0.3%
Housing/Allocation			19								19	1.2%
Housing/Arrears/Debt recovery			7								7	0.4%
Housing/Categorisation			7								7	0.4%
Housing/Damages			3								3	0.2%
Housing/Disruptive tenants			16								16	0.9%
Housing/Maintenance			103								103	6.2%
Housing/Rent			19								19	1.2%
Housing/Termination			11								11	0.6%
Housing/Transfer			20								20	1.2%
Corruption											2	0.1%
Other matters to report											1	0.1%
Serious or systemic maladministration (substantial mismanagement of public resources)											3	0.2%
Serious or systemic maladministration (unauthorised/irregular use of public money)											2	0.1%
Serious or systemic misconduct											1	0.1%
Improper release of documents			1								1	0.1%
Prison Management/Discipline/Security/Daily regimen		14									14	0.8%
Prison Management/Discipline/Security/Discipline/Management		35									35	2.2%
Prison Management/Discipline/Security/Drug testing		5									5	0.3%
Prison Management/Discipline/Security/Inspections/Body searches		3									3	0.2%
Prison Management/Discipline/Security/Transport		1									1	0.1%
Prison Management/Discipline/Security/Visits		24									24	1.4%
Prison Records/Official Correspondence/Delayed/No response		2									2	0.1%
Prison Records/Official Correspondence/Incorrect		1									1	0.1%

Issue	Department										Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	Department for Education and Child Development	SA Water Corporation						
Records management				1							1	0.1%
Regulation and Enforcement/Complaint handling	2					2					4	0.3%
Regulation and Enforcement/Enforcement Action/Excessive	11	2		1		4					18	1.0%
Regulation and Enforcement/Enforcement Action/Insufficient	1										1	0.1%
Regulation and Enforcement/Enforcement Action/Unfair	14	4		5		1					24	1.4%
Regulation and Enforcement/Fees	5			1							6	0.4%
Regulation and Enforcement/Infringements/Excessive penalty	3			4							7	0.4%
Regulation and Enforcement/Infringements/Incorrect details	1										1	0.1%
Regulation and Enforcement/Infringements/Unreasonably issued	2			3							5	0.3%
Regulation and Enforcement/Inspections	1			4		1					6	0.4%
Regulation and Enforcement/Licensing/Conditions	10			13		1					24	1.4%
Regulation and Enforcement/Licensing/Refusal				15							15	0.9%
Regulation and Enforcement/Licensing/Renewal	1			6							7	0.4%
Regulation and Enforcement/Licensing/Suspension				5							5	0.3%
Regulation and Enforcement/Permits	2			1							3	0.2%
Revenue Collection/Land Tax	19			3							22	1.3%
Revenue Collection/Stamp duty	4										4	0.3%
Revenue Collection/Water & sewerage	2		3						31		36	2.2%
Roads and Traffic/Charges/Fines	2										2	0.1%
Roads and Traffic/Licensing/Conditions	1			15							16	0.9%
Roads and Traffic/Licensing/Demerit points				7							7	0.4%
Roads and Traffic/Licensing/Fail to issue renewal	1			6							7	0.4%
Roads and Traffic/Licensing/Fees/Charges				1							1	0.1%
Roads and Traffic/Licensing/Incorrect details on license				1							1	0.1%
Roads and Traffic/Licensing/Medical test				5							5	0.3%

Issue	Department								Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	Department for Education and Child Development	SA Water Corporation				
Roads and Traffic/Licensing/Tests				3					3	0.2%
Roads and Traffic/Registration/Conditions				2					2	0.1%
Roads and Traffic/Registration/Failure to issue renewal				4					4	0.3%
Roads and Traffic/Registration/Fees/Charges	1			11					12	0.7%
Roads and Traffic/Registration/Incorrect details on registration				1					1	0.1%
Roads and Traffic/Registration/Roadworthy				3					3	0.2%
Roads and Traffic/Registration/Stolen vehicles				1					1	0.1%
Roads and Traffic/Registration/Transfer without consent				1					1	0.1%
Sentence Management/Classification		2							2	0.1%
Sentence Management/Parole		10							10	0.6%
Sentence Management/Placement/Location		30							30	1.8%
Sentence Management/Transfers		33							33	2.0%
Service Delivery/Abuse in care		1				2			3	0.2%
Service Delivery/Assessment	3		1			4			8	0.5%
Service Delivery/Conditions	6	1	3	1		5			16	0.9%
Service Delivery/Eligibility for services	7	6	8	7		3			31	1.9%
Service Delivery/Failure to Act/Provide	16	15	12	15		36	3		97	5.9%
Service Delivery/Fees and charges	6		16	6		4	25		57	3.5%
Service Delivery/Financial assistance	3						2		5	0.3%
Service Delivery/Quality	13	4	7	14		8	4		50	3.0%
Service Delivery/Termination of services	1		1	1		1			4	0.3%
Whistleblowers Protection Act advice	1	1				1			3	0.2%
<b>Total</b>									<b>1647</b>	<b>100%</b>



## Complaints: Completed

Government Departments - Approaches and Complaints Completed 1 July 2013 to 30 June 2014

Government Department	No.	Percentage of Total
Attorney-General's Department	65	4.1%
Department for Communities and Social Inclusion	38	2.4%
Department for Correctional Services	510	32.1%
Department for Education and Child Development	194	12.2%
Department for Health and Ageing	10	0.6%
Department of Environment, Water and Natural Resources	27	1.7%
Department of Further Education, Employment, Science and Technology	5	0.3%
Department of Manufacturing, Innovation, Trade, Resources and Energy	5	0.3%
Department of Planning, Transport and Infrastructure	244	15.4%
Department of Primary Industries and Regions SA	8	0.5%
Department of the Premier and Cabinet	42	2.6%
Department of Treasury and Finance	28	1.8%
Electoral Commission of South Australia	3	0.2%
Environment Protection Authority	13	0.8%
SA Housing Trust	313	19.7%
SA Police	2	0.1%
SA Water	82	5.2%
<b>Total</b>	<b>1589</b>	<b>100%</b>

## Complaints: Outcomes

Government Departments - Complaints Completed: Outcome 1 July 2013 to 30 June 2014

	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport Infrastructure <sup>1</sup>	Department for Education and Child Development	SA Water Corporation	Total	Percentage
Advice given	25	12	13	4	16	5	<b>75</b>	4.7%
Alternate remedy available with another body	18	25	18	10	57	67	<b>195</b>	12.3%
Complainant cannot be contacted	4	1	3	6	1		<b>15</b>	0.9%
Declined/Investigation unnecessary or unjustifiable	59	124	61	63	14	3	<b>324</b>	20.3%
Declined/No sufficient personal interest or not directly affected	1	9	5	4			<b>19</b>	1.2%
Declined/Out of time	1		2		1		<b>4</b>	0.3%
Declined/trivial, frivolous, vexatious, not made in good faith	1						<b>1</b>	0.1%
Not substantiated/No s25 finding		1		1	1		<b>3</b>	0.2%
Out of Jurisdiction/Employment	1	1		1	3		<b>6</b>	0.4%
Out of Jurisdiction/Minister				1			<b>1</b>	0.1%
Out of Jurisdiction/Policy	5			2			<b>7</b>	0.4%
Referred back to agency	99	267	165	133	92	5	<b>761</b>	47.9%
Advice to authority	3						<b>3</b>	0.2%
Resolved with agency cooperation	17	62	30	16	4		<b>129</b>	8.1%
s25 Finding/Contrary to law		1					<b>1</b>	0.1%
s25 Finding/Unreasonable	1				2		<b>3</b>	0.2%
s25 Finding/Wrong	4	2			1		<b>7</b>	0.4%
Withdrawn by complainant	7	5	16	3	2	2	<b>35</b>	2.2%
<b>Total</b>	<b>246</b>	<b>510</b>	<b>313</b>	<b>244</b>	<b>194</b>	<b>82</b>	<b>1589</b>	<b>100%</b>
	<b>15.5%</b>	<b>32.1%</b>	<b>19.7%</b>	<b>15.3%</b>	<b>12.2%</b>	<b>5.2%</b>		



# Local Government Investigations

## District Council of Mallala

### Breach of the conflict of interest provisions of the Local Government Act; breach of the Council Member Code of Conduct

2013/06129

#### *Complaint*

I received a complaint alleging that a council member had breached the conflict of interest provisions of the Local Government Act by voting on matters relating to a previous investigation I had conducted into a code of conduct complaint about that council member.

The complaint also alleged that the council member had breached the Council Member Code of Conduct, by speaking to the media and acting as a representative of the council without the authority of the council.

#### *Investigation and Outcome*

My investigation found:

- at one council meeting, the council member declared an interest in a matter, but breached section 74(4) of the Local Government Act by remaining in the room, taking part in discussion, and voting on the matter
- in relation to the council member voting on matters at two council meetings, the council member had a conflict of interest in the relevant resolutions and acted contrary to law
- I had no evidence that while speaking to the media, the council member did not make it clear to the journalist that he was expressing a private view
- I recommended that the council member attend conflict of interest training.

## City of Onkaparinga

### Compliance with council policy - development

2013/05153

#### *Complaint*

A developer subdivided a block of land. Prior to the subdivision, the council had written to the developer and advised him that if the project was to go ahead, a fee for an additional connection to the Community Wastewater Management System (CWMS) scheme of \$2 945 would be payable. The project went ahead and the developer did not pay the fee. Nor was he ever invoiced for the fee.

The complainant purchased one of the subdivided blocks and commenced building a house on the property. The council advised that the connection fee had not been paid and that it would need to be paid before any CWMS connection approval was granted. The complainant believed that he should not have to pay for the connection and complained to the council under section 270 of the Local Government Act, requesting that the council consider waiving the connection fee.

#### *Investigation and Outcome*

My investigation found:

- the council had no legal basis under the *Development Act 1993* or *Development Regulations 2008* to place the condition on the developer that the fee for the CWMS connection be paid for at the time that he subdivided the land
- the council was not required at law to advise the complainant that the CWMS fee had not been paid. My conclusion was that the onus was on the complainant to seek this information from the developer when he purchased the land
- the council handled the complaint appropriately, and advised the complainant of the outcome within seven days of the date on which it said it would
- it should be simple for a purchaser to ascertain whether a connection fee would be payable in such circumstances as arose in this case. As such, I drew my report to the attention of the Minister for Planning, with a suggestion that he consider whether the Local Government Act should be amended to include an obligation on councils to provide purchasers of land with more information, including information about the status of the connection of a sewage system to the land.

## City of Playford

### Whistleblower complaint – procurement, recruitment and keeping records

2014/06992

#### Complaint

A whistleblower alleged that:

- the council did not follow its policies and guidelines when it engaged an external company to undertake projects
- the council did not follow proper processes when it recruited staff
- the council members failed to properly keep records of their email correspondence on the council's server.

#### Investigation and Outcome

In relation to the first issue, my investigation found:

- the council appeared to have given insufficient consideration to its procurement policy when it engaged the company, and the council did not conduct an adequate risk assessment
- even if the council had, it failed to adequately keep records. I recommended that all general managers, managers and other relevant council staff, attend procurement training

In relation to the second issue, my investigation found:

- the council had followed documented processes in relation to one of the two staff members complained about. The council was not required to follow its recruitment and policy guidelines when it recruited the Corporate Services Manager, because it was a short term position that needed to urgently be filled.

In relation to the third issue, the council advised me that some council members have in place auto diverts on their council email addresses to forward the emails to their private email addresses, from which they correspond about council issues. My investigation found:

- it was not appropriate for council members' emails to be excluded from the council's record keeping system; and it was likely that council members had correspondence that they had not preserved in accordance with the council's records management policy or the provisions of the *State Records Act 1997*
- it was wrong of the council to permit the forwarding of emails to private email addresses, without ensuring

that the necessary procedures and policies were put in place to prevent breaches of the State Records Act. To remedy this error, I recommended that the council ensure all council members use their council email addresses and council members undertake training in record management.

## City of Playford

### Council member conflict of interest

2014/00175

#### Complaint

A council member was a director of a company which supplied vegetables to a large nursery. The council considered many matters concerning the nursery, including a Development Plan Amendment under the Development Act. The council member declared a conflict of interest in matters relating to the nursery on at least six previous occasions. However, on one occasion, the Strategic Planning Committee passed a resolution endorsing the Statement of Intent to be submitted to the Minister pursuant to the Development Act. The council member did not declare an interest and participated in the voting.

During the course of my investigation it was apparent that the council may not have properly recorded the council member's interests in the minutes of meetings. I decided to add this issue to my investigation.

#### Investigation and Outcome

My investigation found:

- the council member had a conflict of interest in the matter by virtue of his company being 'closely associated' with him within the meaning of the Local Government Act; and the council member failed to declare his interest, took part in discussion and voted in relation to the matter in breach of section 74 of the Act
- the council had failed to adequately record details of the council member's interest in the minutes of previous council and Strategic Planning Committee meetings.

I recommended:

- the council member undergo training in conflict of interest
- the council review its practice of recording council members' declarations of interest in its minutes
- the Local Government Act be amended to address council member perceived conflicts of interest.



## District Council of Cleve

### Council consultation about prohibiting dogs from a boardwalk

2013/07060

#### Complaint

The council made a decision to ban dogs from the Arno Bay boardwalk. The complainant was concerned that the council had failed to consult the community about the decision.

#### Investigation and Outcome

My investigation found:

- the council made its decision as a result of a council member raising an incident that occurred several years previously, in which his granddaughter had been frightened by a dog on the boardwalk
- the council had the power under section 90 of the *Dog and Cat Management Act 1995* to make a by-law to prohibit dogs from the boardwalk
- the council was not legally obliged to conduct community consultation about the decision to ban dogs from the boardwalk. However, given that its public consultation policy provided that the community should be involved and informed about potential and actual decisions affecting them, it should have consulted the community.

I recommended that the council undertake community consultation in accordance with its public consultation policy and, based on the outcome of that consultation, review its decision.

## District Council of Peterborough

### Bullying of a volunteer and ensuring currency of council policies

2013/00830

#### Complaint

The complainant had been a volunteer with the council for several years and complained to my office about the manner in which the council had dealt with allegations of bullying.

#### Investigation and Outcome

As a result of my investigation, the council undertook to conduct an investigation into the bullying allegations.

“... it was not appropriate for council members’ emails to be excluded from the council’s record keeping system; and it was likely that council members had correspondence that they had not preserved in accordance with the council’s records management policy or the provisions of the State Records Act 1997”

However, during the course of my investigation, it came to my attention that the council may have acted contrary to law in not making its minutes and agenda available on the internet, and failing in its maintenance and implementation of its policies.

As a result, I recommended that the council:

- ensure that its agendas and minutes are available on its website as required by section 132 of the Local Government Act
- review its policies, practices and procedures in relation to code of conduct complaints, grievances and management of allegations of workplace bullying
- confirm the currency of its policies, and ensure that they are easily accessible on its website.

## District Council of Mount Barker

### Exercise of confidentiality powers under the Local Government Act

2013/04354

#### Complaint

The complainant had sought Freedom of Information access to documents considered in confidence by the council under the Local Government Act. Many documents concerned correspondence between my office and the council or complainants about investigations being conducted at the time by my predecessor pursuant to the Ombudsman Act. Out of an abundance of caution, I had decided that there

was a possible conflict of interest in my conducting at least that part of the FOI review which concerned Ombudsman correspondence, investigations and reports.

To address this issue, I decided to split the external review, and determined only those documents about which I was not possibly conflicted. I delegated my powers to the Crown Solicitor to conduct that part of the review which concerned documents generated and received by my office under the Ombudsman Act.

The Crown Solicitor confirmed the council's FOI determination in relation to the particular documents; and advised the complainant that he could bring a complaint to my office pursuant to section 94 of the Local Government Act concerning the reasonableness of the council's confidentiality orders. The complainant followed this advice and lodged his complaint with my office. I agreed to investigate the lawfulness and reasonableness of the confidentiality orders.

#### *Investigation and Outcome*

My investigation found:

- the information requested concerned either the personal affairs of third parties the disclosure of which would be unreasonable, or information concerning a confidential agreement between the council and a third party complainant
- in making the confidentiality orders, the council did not act in a manner that was contrary to the Local Government Act.

### **City of Unley**

#### **Development approval processes and a bakery**

2013/09794

#### *Complaint*

The complainants lived next to a bakery on a busy street, and raised concerns with the council about noise from airconditioners and other equipment, an unapproved shed, and the expansion in seating capacity for bakery patrons.

#### *Investigation and Outcome*

My investigation considered:

- whether the council had erred in granting retrospective approval for four roof-top airconditioners
- whether the council had taken appropriate action in relation to the installation of a shed, fridge/freezer and

fan in the yard of the bakery

- whether the council had erred in failing to take action in relation to increasing the intensity of use of the bakery.

My investigation found no error because:

- I was prevented from investigating the retrospective approval for the roof top airconditioners as the complainants had been aware of them for more than 12 months. (I was not persuaded that it was reasonable for me to exercise my discretion to investigate.) However, I noted that the air conditioning units complied with Environment Protection Authority (EPA) noise level requirements
- the council had advised the bakery owner that its shed lacked development approval, and required removal. The bakery owner subsequently applied for retrospective approval that was being processed at the time of my report
- Equipment in the shed did not require development approval, and noise issues caused by the equipment were being considered by the EPA
- the increased intensity in the use of the bakery was in accordance with existing development approval.

### **The Barossa Council**

#### **Council's investigation of a complaint regarding a breach of the council member code of conduct**

2013/05038

#### *Complaint*

The complainant alleged that the council failed to properly investigate a potential breach of the code of conduct by the Mayor. In particular, the complaint focussed on the confidential treatment of information provided during the investigation by the council under the Local Government Act.

#### *Investigation and Outcome*

My investigation considered:

- whether it was appropriate to make the confidentiality orders at the relevant council meetings
- whether the council adequately responded to the complainant's enquiries.

My investigation found:

- the council had failed to provide reasons for the confidentiality orders in accordance with the Local Government Act. Further, I could see no basis for the council to make the orders that it did



- the council correctly made a decision to suppress some information that would have disclosed information provided in confidence by third parties to the panel investigating the complaint
- the council had responded appropriately to the complainant.

## Mid Murray Council

### Management of effluent disposal sites

2013/02175

#### *Complaint*

After receiving a whistleblower disclosure, I commenced an 'own initiative' investigation into the council's tendering process regarding a contract for the disposal of shack area septic effluent at Walker Flat, Nildottie and Swan Reach (the three sites). The complainant was concerned that the three sites had not been authorised for effluent disposal; that the successful contractor was also a council employee; and that other tenderers may have been disadvantaged on the basis that they did not have access to the three sites.

#### *Investigation and Outcome*

My investigation found:

- there was no evidence that the council employee had received preferential treatment in the tender process
- the council's tender processes fell short of expected standards in procurement
- the council should have better managed the perceived conflict of interest arising out of the contract
- the council should have maintained a register of approved disposal sites and undertaken a review of the sites applicable to the tender
- the council did not properly discharge its responsibilities with respect to its oversight of the effluent disposal works contracts
- the council had failed to take appropriate action once it became aware that the septic tank disposal on the three sites was unacceptable.

I recommended that the council take appropriate action including inspecting the three sites; notifying land owners and contractors of the issues; and making a report to the EPA.

## City of Port Adelaide Enfield

### Regulation of development of a warehouse

2013/05532

#### *Complaint*

This complaint related to the handling of a development application for the expansion of an existing warehouse. The development was approved by the council with conditions attached, but with no reference to conditions that continued to apply under a previous approval. The complainants were concerned about the impact of the expansion on their residential amenity, in particular regarding noise and dust.

The complainants alleged:

- the council had failed to properly consult on the development. They were concerned that the consultation didn't adequately represent the true nature and scope of the development – in particular with respect to the lawful hours of operation
- the council failed to address their complaints about activities on the land
- their petition with respect to the land use was not properly handled by the council.

The council had undertaken its own review of the complaint under its internal review policy; but in the circumstances, I saw fit to undertake an investigation.

#### *Investigation and Outcome*

My investigation found that:

- the council erred in the processing of the application, including
  - › failing to assess the application as an application to vary a condition of a previous approval to extend the hours of operation
  - › failing to properly ascertain the subject land and the proposed use of that land
  - › failing to properly classify the development for public notification purposes
  - › failing to recognise the likely impacts of the actual development on the neighbourhood
  - › failing to impose conditions to regulate the impacts
- the council erred in seeking to broker a solution with the developer and residents without taking steps to ensure the legal enforceability of the 'solution' or to regularise the land use



- it was not clear that the developer had a lawful authorisation for the extended hours; and the council had not adopted a firm view on what the lawful hours of operation were
- the council had not given sufficient regard to the importance for the residents and the developer of regularising the land use
- while the council's own review had identified errors, the council had not gone on to consider whether its errors contributed to the nuisance impacts experienced by the complainant
- the council failed to deal with a petition in accordance with the *Local Government (Procedures at Meeting) Regulations 2000*. The council's review identified this failure regarding the petition, and notice of the council's error had been put before the council.

I recommended that the council:

- seek comprehensive legal advice in relation to the lawful use of the land
- prepare a checklist to assist planning staff with the development assessment process
- provide training on the development assessment process and assessment of applications
- seek advice from its insurer in relation to the findings of its internal review and my investigation
- revise its decision notification form templates and standard conditions to refer to ongoing conditions imposed under previous approvals.

## City of Victor Harbor

### Council communication about the complainant published in local newspaper

2014/01741

#### Complaint

The complaint concerned a failure by the council to issue a public apology through the local newspaper to the complainant, in its response to the complainant's letter to the newspaper. The complainant took issue with the tone of the council's response and considered it was a strategy to publicly humiliate him. The council had conducted a review of its decision under section 270 of the Local Government Act and concluded that it had not erred.

#### Investigation and Outcome

I conducted a preliminary investigation, having regard to the media reports on the matter together with the council's media policy; the council's grievance handling policy and the code of conduct for council employees. I considered whether the person making statements on behalf of the council was authorised to do so; and whether the council should have anticipated that its communication with the newspaper would be published.

My investigation found:

- the officer who communicated with the newspaper on behalf of the council was properly authorised; and prior to doing so, had informed the council of her proposed response
- the response was restricted to matters of fact and the exercise of her professional judgement which was consistent with the code of conduct
- the newspaper was responsible for the accuracy of some of the information, and not the council
- there was no error in how the council conducted the section 270 review and its conclusion.

## City of Burnside

### Selection process for the Board of the Burnside Retirement Services Inc

2013/06192

#### Complaint

The complaint concerned the council's actions in appointing the board of Burnside Retirement Services Inc, an incorporated association of which the council was the sole member.

The complainant was a member of the previous board, and was aggrieved about the conduct of some council members in relation to the appointment process. He lodged a code of conduct complaint against them, which was investigated by the Local Government Governance Panel (LGGP).

The complainant was also aggrieved by the way in which the council had dealt with the appointment of the new board and the LGGP's report, particularly in not providing him with an opportunity to respond to allegations made against him – although he had participated in the LGGP's investigation.

### *Investigation and Outcome*

My investigation considered:

- whether a council member had breached the conflict of interest provisions of the Local Government Act by participating in council deliberations on the board appointments, after one candidate had lodged a code of conduct complaint against her
- whether the council member demonstrated apprehended bias in participating on the selection panel for the new board members
- whether the council had failed to make appropriate arrangements to protect the integrity of the interview and selection process
- whether the council should have dismissed the code of conduct complaint simply on the basis of the LGGP report, without providing the complainant with a 'natural justice' opportunity to comment directly on the allegations made against him.

My investigation found:

- the council member's participation in council deliberations on the board appointments after the complainant had lodged a code of conduct complaint against her did not breach the Local Government Act. Nonetheless it could have been perceived that the council member was conflicted; and I recommended that the Local Government Act be amended to address perceived conflicts of interest on the part of council members
- the LGGP is not an agency to which the Ombudsman Act applies. Further, there was no contractual relationship between the council and the LGGP (but rather between the council and the Local Government Association of South Australia). Consequently I could not investigate the LGGP
- there were no unlawful, unreasonable or wrong actions in the other matters which I investigated.

### **Kangaroo Island Council**

#### **Handling of a council member code of conduct complaint**

2013/10394

#### *Complaint*

A council member complained about a resolution passed at a Special Council Meeting referring a code of conduct issue about him to me for investigation. He claimed that

false and misleading information had been provided to the council by the mayor in the agenda report, and also that the council failed to effect the 'double test' required in section 90(3) of the Local Government Act to justify excluding the public from the meeting.

The resolution also required the council member to communicate with the council CEO through an intermediary; and he complained that limiting his means of communication in this way infringed on his ability to perform his role as a council member and inhibited his rights as a ratepayer.

### *Investigation and Outcome*

My investigation found:

- the mayor provided reasonable advice to the council for the stated purpose of informing a decision about the council's OH&S responsibilities and to refer allegations of breaches of the code of conduct to me for investigation
- the council had relied on the 'personal affairs' criterion of section 90(3)(a) to exclude the public from the meeting. However, it had not considered both elements of the provision in compliance with the Local Government Act to show how and why:
  - › the information was of a personal nature
  - › disclosure of the information would be unreasonable
- the council had acted appropriately in putting in place an alternative channel of communication through the intermediary. I disagreed with the complainant's view that limiting his means of communication prevented him from complying with clause 2.12 of the code of conduct
- by expressing in the resolution that the communication arrangement should not detract from the complainant's rights as a council member, the council was aware of its obligation to protect his role to perform his duties. I found no evidence that the arrangement, although uncomfortable, restricted the complainant's ability to perform his role as a member of the council
- there was no restriction on the council member's interaction with council staff as an ordinary citizen. I concluded that the council should maintain an intention to remove the communication arrangement in the future, when the council no longer had concerns. I urged the council and the complainant to cooperatively seek a lasting solution.

# Summary tables - Local Government

## 1 July 2013 - 30 June 2014

### Complaints: Received

Local Government - Approaches and Complaints Received 1 July 2013 to 30 June 2014

Local Council	Received	%	Population 30 June 2013	Complaints per 10,000 Population
Adelaide, City of	103	11.1%	22 200	46.0
Adelaide Hills Council	18	1.9%	39 832	4.0
Alexandrina Council	22	2.4%	24 824	8.0
Barossa Council, The	12	1.3%	22 808	5.2
Barunga West, District Council of	3	0.3%	2 452	12.2
Berri Barmera Council	2	0.2%	10 611	1.8
Burnside, City of	25	2.7%	44 500	5.6
Campbelltown, Corporation of the City of	16	1.7%	50 893	3.1
Ceduna, District Council of	4	0.4%	3 670	10.8
Charles Sturt, City of	45	4.9%	111 236	4.0
Clare and Gilbert Valleys Council	8	0.8%	8 994	8.8
Cleve, District Council of	1	0.1%	1 751	5.7
Cooper Pedy, District Council of	6	0.6%	1 787	33.5
Coorong, District Council of	6	0.6%	5 586	10.7
Copper Coast, District Council of the	28	3.0%	13 687	20.4
Elliston, District Council of	6	0.6%	1 068	56.1
Flinders Ranges Council, The	7	0.8%	1 649	42.2
Franklin Harbour, District Council of	1	0.1%	1 297	7.7
Gawler, Corporation of the Town of	8	0.9%	21 590	3.7
Goyder, Regional Council of	4	0.4%	4 239	9.4
Grant, District Council of	7	0.8%	8 012	8.7
Holdfast Bay, City of	22	2.4%	36 763	5.9
Kangaroo Island Council	17	1.8%	4 553	37.3
Karoonda East Murray, District Council of	1	0.1%	1 016	9.8
Light Regional Council	16	1.7%	14 459	11.0
Lower Eyre Peninsula, District Council of	4	0.4%	4 997	8.0
Loxton Waikerie, District Council of	1	0.1%	11 454	0.8
Mallala, District Council of	17	1.8%	8 611	19.7
Marion, Corporation of the City of	22	2.4%	87 574	2.5
Mid Murray Council	17	1.8%	8 281	20.5
Mitcham, City of	28	3.0%	65 720	4.2

Local Council	Received	%	Population 30 June 2013	Complaints per 10,000 Population
Mount Barker, District Council of	13	1.4%	31 325	4.1
Mount Gambier, City of	8	0.9%	26 092	3.0
Mount Remarkable, District Council of	7	0.8%	2 785	25.1
Murray Bridge, Rural City of	13	1.4%	20 579	6.3
Naracoorte Lucindale Council	1	0.1%	8 441	1.1
Northern Areas Council	4	0.4%	4 508	8.8
Norwood, Payneham and St Peters, City of	11	1.2%	36 868	2.9
Onkaparinga, City of	52	5.6%	166 435	3.1
Orroroo/Carrieton, District Council of	3	0.3%	860	34.8
Peterborough, District Council of	6	0.6%	1 785	33.6
Playford, City of	40	4.4%	85 069	4.7
Port Adelaide Enfield, City of	50	5.4%	120 427	4.1
Port Augusta City Council	6	0.6%	14 605	4.1
Port Lincoln, City of	8	0.9%	14 732	5.4
Port Pirie Regional Council	11	1.2%	17 625	6.2
Prospect, City of	11	1.2%	21 133	5.2
Renmark Paringa, District Council of	3	0.3%	9 346	3.2
Robe, District Council of	2	0.2%	1 387	14.4
Roxby Council	6	0.6%	5 031	11.9
Salisbury, City of	37	4.0%	135 922	2.7
Southern Mallee District Council	1	0.1%	2 076	4.8
Streaky Bay, District Council of	7	0.8%	2 245	31.1
Tea Tree Gully, City of	39	4.3%	98 378	3.9
Tumby Bay, District Council of	20	2.2%	2 706	73.9
Unley, Corporation of the City of	21	2.3%	38 695	5.4
Victor Harbor City Council	12	1.3%	14 639	8.1
Wakefield Regional Council	5	0.5%	6 826	7.3
Walkerville, Corporation of the Town of	2	0.2%	7 368	2.7
Wattle Range Council	7	0.8%	11 669	5.9
West Torrens, City of	24	2.6%	58 158	4.1
Whyalla, Corporation of the City of	6	0.6%	22 562	2.6
Yankalilla, District Council of	5	0.5%	4 556	10.9
Yorke Peninsula, District Council of	11	1.2%	11 119	9.8
<b>Total</b>	<b>929</b>	<b>100%</b>		

## Complaints: Issues

Local Government - Approaches and Complaints Received: Issues 1 July 2013 to 30 June 2014

	Other	Adelaide, City of	Onkaparinga, City of	Port Adelaide Enfield, City of	Playford, city of	Charles Sturt, City of	Total	Percentage
Advice	1						1	0.1%
Complaint handling/Conflict of interest	2					1	3	0.3%
Complaint handling/Delay	21		2	1		3	27	2.7%
Complaint handling/Inadequate processes	42	4	4	4	2	1	57	5.7%
Complaint handling/Inadequate reasons	16	2	1	3			22	2.2%
Complaint handling/Inadequate remedy	20		3	5	1		29	2.9%
Complaint handling/Wrong conclusion	21		3	2	1	1	28	2.8%
Conduct/Discourtesy	11	1	1	2	1	4	20	2.0%
Conduct/Failure to declare conflict of interest	21				2	1	24	2.4%
Conduct/Failure to follow proper process	12	1	1				14	1.4%
Conduct/Misconduct	26		1		1	2	30	3.0%
Correspondence/Communications/Records/Access	8			1		2	11	1.1%
Correspondence/Communications/Records/Breach of privacy/Confidentiality	7						7	0.7%
Correspondence/Communications/Records/Delay/No response	14		2		3	1	20	2.0%
Correspondence/Communications/Records/Incorrect	12		3		1	1	17	1.7%
Correspondence/Communications/Records/Wrongful disclosure of information		1					1	0.1%
Council member code of conduct/Breach of part 2	14				1		15	1.5%
Council member code of conduct/Breach of part 3/Act honestly	1						1	0.1%
Council member code of conduct/Breach of part 3/Lodge register of interests	1						1	0.1%
Council member code of conduct/Breach of part 3/Bias and conflict of interest	15				5		20	2.0%
Council member code of conduct/Breach of part 3/Repeated or sustained part 2 behaviour	1						1	0.1%
Council member code of conduct/Breach of part 3/Failure to comply with part 2 finding	1						1	0.1%

	Other	Adelaide, City of	Onkaparinga, City of	Port Adelaide Enfield, City of	Playford, city of	Charles Sturt, City of	Total	Percentage
Council member code of conduct/Breach of part 3/Perform duties with reasonable care	1						1	0.1%
Council member code of conduct/Breach of part 3/Divulge confidential information	2		1		2		5	0.5%
Council member code of conduct/Breach of part 3/Perform unauthorised function					1		1	0.1%
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land	1		1				2	0.2%
Financial/Procurement/Facilities/Compensation/Damage/Physical injury	1			1			2	0.2%
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged	10		2	1	1		14	1.4%
Financial/Procurement/Facilities/Debts/Incorrect calculation	1						1	0.1%
Financial/Procurement/Facilities/Debts/Recovery action	2			1			3	0.3%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings	2	1				1	4	0.4%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage	7					1	8	0.8%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens	2	1	1				4	0.4%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities	4			1	1	1	7	0.7%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets	10	1	1		1	1	14	1.4%
Financial/Procurement/Facilities/Other fees and charges	10	1			1		12	1.2%
Financial/Procurement/Facilities/Procurement by agencies/Decisions	1						1	0.1%
Financial/Procurement/Facilities/Procurement by agencies/Late payment	1						1	0.1%
Financial/Procurement/Facilities/Procurement by agencies/Tenders	6		1	2	1		10	1.0%
Financial/Procurement/Facilities/Rates/Administration	10					1	11	1.1%
Financial/Procurement/Facilities/Rates/Amount	25	2	1	1	1	1	31	3.1%
Financial/Procurement/Facilities/Rates/Recovery action	18			5	4		27	2.1%
Financial/Procurement/Facilities/Rates/Valuations	2						2	0.2%

	Other	Adelaide, City of	Onkaparinga, City of	Port Adelaide Enfield, City of	Playford, city of	Charles Sturt, City of	Total	Percentage
FOI advice	17		1				18	1.8%
FOI practices and procedures	1						1	0.1%
General advice/Ombudsman matters	2						2	0.2%
Governance/Confidentiality	11		2		2		15	1.5%
Governance/Electoral	1						1	0.1%
Governance/Failure to follow proper process (Governance)	35	1	1	2	2	2	43	4.3%
Governance/Prudential	1						1	0.1%
Governance/Public consultation	10						10	1.0%
Potential corruption							1	0.1%
Other matters to report							1	0.1%
Potential serious or systemic maladministration							1	0.1%
Potential serious or systemic misconduct							3	0.3%
Records management	1		1				2	0.2%
Regulation and enforcement/Animals/Excessive action	9		1	1		2	13	1.3%
Regulation and enforcement/Animals/Failure to act on complaints	3			1			4	0.4%
Regulation and enforcement/Building/Failure to enforce condition				1			1	0.1%
Regulation and enforcement/Building/Failure/Delay to issue permit			1				1	0.1%
Regulation and enforcement/Building/Inappropriate construction allowed	6		1		1	1	9	0.9%
Regulation and enforcement/Building/Unreasonable conditions imposed	1		1	1	1		4	0.4%
Regulation and enforcement/Building/Unreasonable enforcement	6						6	0.6%
Regulation and enforcement/Environmental protection/Excessive action	4						4	0.4%
Regulation and enforcement/Environmental Protection/Failure to action on complaints	3						3	0.3%
Regulation and enforcement/Local laws/Failure to enforce	2						2	0.2%
Regulation and enforcement/Local laws/Improper/Inappropriate	9	1					10	1.0%
Regulation and enforcement/Local laws/Unreasonable enforcement	7	1	1			1	10	1.0%
Regulation and enforcement/Nuisances/Excessive action	1						1	0.1%

	Other	Adelaide, City of	Onkaparinga, City of	Port Adelaide Enfield, City of	Playford, city of	Charles Sturt, City of	Total	Percentage
Regulation and enforcement/Nuisances/Failure to action on complaints	8			2		1	11	1.1%
Regulation and enforcement/ Parking/Failure to enforce restrictions	2			1			3	0.3%
Regulation and enforcement/Parking/Permits	1	2	1				4	0.4%
Regulation and enforcement/Parking/Restrictions	5	4	2	1	2	1	15	1.5%
Regulation and enforcement/ Parking/Unreasonable enforcement	42	75	1	4	6	6	134	13.3%
Regulation and enforcement/Planning & Development/Failure to enforce condition	6				1	2	9	0.9%
Regulation and enforcement/Planning & Development/Failure to notify	7	1				1	9	0.9%
Regulation and enforcement/Planning & Development/Failure/ Delay to issue permit	17	1	2	3		2	25	2.5%
Regulation and enforcement/Planning & Development/Inappropriate development allowed	44	1	8	3	1	1	58	5.8%
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed	21		3		1	2	27	2.7%
Regulation and enforcement/Planning & Development/ Unreasonable enforcement	17		1	1		1	20	2.0%
Regulation and enforcement/Public health/Failure to act on complaints	6			1			7	0.7%
Regulation and enforcement/Public health/Quality of service delivered	2	1					3	0.3%
Regulation and enforcement/Public health/Unreasonable conditions imposed	1						1	0.1%
Regulation and enforcement/Public health/Unreasonable enforcement	1					1	2	0.2%
Whistleblower Protection Act advice	1						1	0.1%
<b>Total</b>							<b>1007</b>	<b>100%</b>



## Complaints: Completed

Local Government - Approaches and Complaints Completed 1 July 2013 to 30 June 2014

Local Council	Completed	%	Population 30 June 2013	Complaints per 10,000 Population
Adelaide, City of	104	11.3%	22 200	46.8
Adelaide Hills Council	18	2.0%	39 832	4.5
Alexandrina Council	22	2.4%	24 824	8.8
Barossa Council, The	13	1.4%	22 808	5.6
Barunga West, District Council of	4	0.4%	2 452	16.3
Berri Barmera Council	2	0.2%	10 611	1.8
Burnside, City of	25	2.7%	44 500	5.6
Campbelltown, Corporation of the City of	16	1.7%	50 893	3.1
Ceduna, District Council of	4	0.4%	3 670	10.8
Charles Sturt, City of	49	5.3%	111 236	43.6
Clare and Gilbert Valleys Council	7	0.8%	8 994	7.7
Cleve, District Council of	1	0.1%	1 751	5.7
Coober Pedy, District Council of	6	0.7%	1 787	33.5
Coorong, District Council of	7	0.8%	5 586	12.5
Copper Coast, District Council of the	23	2.5%	13 687	16.8
Elliston, District Council of	3	0.3%	1 068	28.0
Flinders Ranges Council, The	2	0.2%	1 649	12.1
Gawler, Corporation of the Town of	9	1.0%	21 590	4.1
Goyder, Regional Council of	4	0.4%	4 239	9.4
Grant, District Council of	7	0.8%	8 012	8.7
Holdfast Bay, City of	23	2.5%	36 763	6.2
Kangaroo Island Council	15	1.6%	4 553	32.9
Karoonda East Murray, District Council of	1	0.1%	1 016	9.8
Light Regional Council	15	1.6%	14 459	10.3
Lower Eyre Peninsula, District Council of	4	0.4%	4 997	8.0
Loxton Waikerie, District Council of	1	0.1%	11 454	0.8
Mallala, District Council of	16	1.7%	8 611	18.5
Marion, Corporation of the City of	18	2.0%	87 574	2.0
Mid Murray Council	18	2.0%	8 281	21.7
Mitcham, City of	27	2.9%	65 720	4.0
Mount Barker, District Council of	14	1.5%	31 325	4.4

Local Council	Completed	%	Population 30 June 2013	Complaints per 10,000 Population
Mount Gambier, City of	8	0.9%	26 092	3.0
Mount Remarkable, District Council of	7	0.8%	2 785	25.1
Murray Bridge, Rural City of	13	1.4%	20 579	6.3
Naracoorte Lucindale Council	1	0.1%	8 441	1.1
Northern Areas Council	4	0.4%	4 508	8.8
Norwood, Payneham and St Peters, City of	10	1.1%	36 868	2.7
Onkaparinga, City of	57	6.2%	166 435	3.4
Orroroo/Carrieton, District Council of	3	0.3%	860	34.8
Peterborough, District Council of	6	0.7%	1 785	33.6
Playford, City of	32	3.5%	85 069	3.7
Port Adelaide Enfield, City of	53	5.8%	120 427	4.4
Port Augusta City Council	6	0.7%	14 605	4.1
Port Lincoln, City of	8	0.9%	14 732	5.4
Port Pirie Regional Council	12	1.3%	17 625	6.8
Prospect, City of	10	1.1%	21 133	4.7
Renmark Paringa, District Council of	3	0.3%	9 346	3.2
Robe, District Council of	2	0.2%	1 387	14.4
Roxby Council	6	0.7%	5 031	11.9
Salisbury, City of	38	4.1%	135 922	2.7
Southern Mallee District Council	1	0.1%	2 076	4.8
Streaky Bay, District Council of	8	0.9%	2 245	35.6
Tea Tree Gully, City of	39	4.3%	98 378	3.9
Tumby Bay, District Council of	19	2.1%	2 706	70.2
Unley, Corporation of the City of	22	2.4%	38 695	5.6
Victor Harbor City Council	11	1.2%	14 639	7.5
Wakefield Regional Council	4	0.4%	6 826	5.8
Walkerville, Corporation of the Town of	2	0.2%	7 368	2.7
Wattle Range Council	7	0.8%	11 669	5.9
West Torrens, City of	24	2.6%	58 158	4.1
Whyalla, Corporation of the City of	6	0.7%	22 562	2.6
Yankalilla, District Council of	6	0.7%	4 556	13.1
Yorke Peninsula, District Council of	12	1.3%	11 119	10.7
<b>Total</b>	<b>918</b>	<b>100%</b>		

## Complaints: Outcomes

Local Government - Approaches and Complaints Completed: Outcome 1 July 2013 to 30 June 2014

	Other	Adelaide, City of	Onkaparinga, City of	Pt Adelaide Enfield, City of	Charles Sturt, City of	Tea Tree Gully, City of	Total	Percentage
Advice given	35		5	4	2	4	<b>50</b>	5.4%
Alternate remedy available with another body	55	14	2	2	2	2	<b>77</b>	8.4%
Complaint cannot be contacted	10	3		1	1		<b>15</b>	1.6%
Declined/Investigation unnecessary or unjustifiable	150	43	15	7	14	10	<b>239</b>	26.1%
Declined/No sufficient personal interest or not directly affected	10		1				<b>11</b>	1.2%
Declined/Out of time	5	2		1			<b>8</b>	0.9%
Not substantiated	12		2	1	2		<b>17</b>	1.9%
Out of Jurisdiction/Police matter	2						<b>2</b>	0.2%
Out of Jurisdiction/Policy	1	1		1		1	<b>4</b>	0.4%
Referred back to agency	289	36	27	31	24	16	<b>423</b>	46.1%
Advice to authority	3			1		1	<b>5</b>	0.5%
Resolved with agency cooperation	12	1	2	1		4	<b>20</b>	2.2%
s25 Finding/Contrary to law	9		2	1			<b>12</b>	1.3%
s25 Finding/Unreasonable	3			1			<b>4</b>	0.4%
s25 Finding/Wrong	7						<b>7</b>	0.8%
Withdrawn by complainant	13	4	1	1	4	1	<b>24</b>	2.6%
<b>Total</b>	<b>616</b>	<b>104</b>	<b>57</b>	<b>53</b>	<b>49</b>	<b>39</b>	<b>918</b>	<b>100%</b>
	<b>67.1%</b>	<b>11.3%</b>	<b>6.2%</b>	<b>5.8%</b>	<b>5.3%</b>	<b>4.3%</b>		



## INVESTIGATIONS OF OTHER AUTHORITIES

Jurisdiction in light of avenues for resolution under the Development Act 1993

Conduct of meetings and provision of minutes

Expulsion from pilot course

Disclosing a patient's ambulance destination information to a relative of the patient

Charges for irrigated water

Decision to issue fines enforcement suspension order

## Small Business Commissioner (SBC)

### Jurisdiction in light of avenues for resolution under the *Development Act 1993*

2013/02350

#### *Complaint*

A complaint was made by a council CEO about the SBC exceeding his powers under the *Small Business Commissioner Act 2011* (SBC Act), by intervening in a land division application process under the *Development Act 1993*. The applicant was a private citizen, but was represented by a surveying consultancy (the business). There were conflicts of opinion between the council and the business about the application; and the business approached the SBC, who then intervened to advocate on behalf of the business.

The CEO claimed, in effect, that:

- the dealings between the council and the business were not about the affairs of the business, but about the applicant (a private citizen) and her wish for land division
- in any event, the SBC Act does not anticipate intervention by the SBC in planning issues, as there are review and appeal procedures specifically tailored for such matters in the *Development Act*.

#### *Investigation and Outcome*

My investigation found:

- the *Development Act* provides rights of review in the case of conflict in the planning assessment process
- with respect to certain developments, the council is required to consult with a prescribed referral body. In some cases, the agreement of the referral body is required before the council can approve a development. The SBC is not a referral body for the purposes of the *Development Act*; and as such, his support is not relevant to the council's assessment of a development
- the SBC Act makes no express mention of the SBC's power or function to intervene on behalf of small businesses in the development application process with local government councils
- the corollary is also true in that the *Development Act* does not prohibit parties from advocating on behalf of an applicant in the development application process
- sections 5(1)(b) and 5(1)(h) of the SBC Act are expansively drafted in their description of the SBC's functions; and the SBC is entitled to intervene in any

dealings between small businesses and councils - whether the business has a legislative or administrative right of review or appeal, and whether or not the business is representing other parties

- it was easy to appreciate why the council may have interpreted that the SBC effectively offered another avenue of review for the business about the application, apart from the *Development Act*
- the 'dispute' that arose between the parties might have been avoided had they better observed the statutory process under the *Development Act*
- the intervention of the SBC did not change and could not have changed the assessment process, review and appeal rights available to the parties under the *Development Act*
- the SBC's influence was limited to that of a mere advocate for the business.

## Anangu Pitjantjatjara Yankunytjatjara (APY) Executive Board - former APY General Manager

### Conduct of meetings and provision of minutes

2013/05926

#### *Complaint*

The complainants were members of the APY community. They alleged:

- they had been denied access to minutes of APY meetings by the former APY General Manager
- they had been excluded from Executive Board meetings
- a request for a special general meeting had been ignored
- the Board failed to act on a complaint about the General Manager pursuant to the APY Code of Conduct.

#### *Investigation and Outcome*

My investigation found:

- the General Manager handled the complainants' request for access to minutes in a manner that had the practical effect of significantly complicating and delaying access, having regard to the distance and communication logistics involved for the complainants
- the General Manager should have facilitated access to minutes for the period requested and further, should have provided copies of the minutes free of charge on request. I recommended that the current General Manager send the complainants a copy of all Board

meeting minutes from May 2010 to the present at no charge

- I was unable to find that the complainants were excluded from meetings in June 2010 and May 2013
- there was insufficient evidence to determine whether a request by letter by the complainants that a special general meeting be held, had been received by the Board. I was therefore unable to find that the Board failed to call a special general meeting
- there was insufficient evidence for me to find that the Board had received the code of conduct complaint concerning the General Manager, and therefore had failed to act on it.

I also considered it reasonable that the Board nominate a specific (and reasonable) time period from the date of Board meetings, after which minutes would be available in order to avoid Anangu travelling large distances to access minutes only to find they are not yet available. I further suggested the Board give consideration to resuming the practice of posting copies of the full minutes on its website.

## University of South Australia

### Expulsion from pilot course

2013/05954

#### *Complaint*

The complainant was a student at the University's Aviation Academy flight program. Following two incidents of concern in training flights, the Academy determined that the complainant could not consistently operate an aircraft safely and that he could not therefore not continue with the program.

#### *Investigation and Outcome*

My investigation considered:

- whether the complainant was given sufficient notice of a panel review meeting at which the matter of his ability to consistently perform safe operations was considered
- whether the complainant was afforded the opportunity to respond to all of the issues which led to the decision to refuse him permission to fly
- whether the complainant was provided with adequate reasons for that decision
- whether sufficient steps were taken to re-train, educate and resolve the safety concerns of the Chief Pilot with the complainant

- whether the complainant was adequately notified of the Chief Pilot's powers and of the process which might lead to the Academy withdrawing him from the program.

My investigation found:

- in failing to provide the complainant with two week's notice of the Panel Review Meeting, as prescribed by the guidelines, the agency acted in a manner that was wrong. However, the inadequate notice did not impact on the complainant's ability to make representations to the Panel, and I therefore declined to make a recommendation in respect of this finding
- the complainant was afforded adequate opportunity to respond to all of the issues which led to the decision to refuse him permission to fly at the Academy
- the complainant was sent brief advice by email that he was no longer able to continue the course, with no reasons provided. I found the agency erred in this regard
- the agency erred in failing to make it clear to the complainant that the Panel Review Meeting could decide that he could not continue his training
- the complainant had been given opportunities to re-train and resolve the safety concerns with the Chief Pilot.

I recommended:

- the complainant be provided with reasons for the decision
- the guidelines be amended to ensure that, following a Panel Review Meeting, students are provided with written reasons for a decision of the Chief Pilot
- the University include in its induction material for students, an explanation of the reasons that may lead to, and the process involved in, the University deciding to withdraw a student from the program.

## SA Ambulance Service

### Disclosing a patient's ambulance destination information to a relative of the patient

2013/00295

#### *Complaint*

The complainant was concerned that the agency's call centre staff would not disclose the whereabouts of his elderly relative who suffered from dementia and blindness. The relative had been transferred by ambulance from a nursing home to a hospital. The agency had cited privacy concerns as well as obligations under the *Health Care Act 2008*.



### *Investigation and Outcome*

My investigation found:

- in declining to divulge the destination of the patient to the complainant, the call taker was seeking to comply with agency policy
- in not disclosing the ambulance destination information the agency acted unreasonably.

The agency provided me with documents confirming that the policy of the agency was not to provide transport details to family members or friends of patients. In response to my provisional report, the agency indicated that it had updated its process so that if a similar situation was to occur, the nursing home could make a follow-up call, on the family member's behalf, to the agency to confirm the whereabouts of the patient.

While I noted the complainant's concerns that it may be difficult to involve the nursing home in this process, in my view it achieved a sensible balance between complying with relevant laws and disclosing patient whereabouts on compassionate grounds. I recommended that this process should be clearly conveyed to the agency's call centre staff and available in a policy or process document.

In response to my final report, both the agency and the Minister confirmed that the agency had drafted a new procedural document 'Release of Information Regarding Patient Destination' for inclusion in its official policy framework intranet site (available to all staff). The document was communicated to all staff of the Emergency Operations Centre.

## **Central Irrigation Trust**

### **Charges for irrigated water**

2012/03350

#### *Complaint*

The agency manages ten irrigation trusts, including the Waikerie Irrigation Trust of which the complainant was a member. The complainant alleged that the agency:

- unlawfully charged him a service fee for domestic water supply as the meter was not connected and he had not accessed the water for 14 years
- allowed a local council to unlawfully use its 'irrigation entitlement' for purposes such as watering parks and environmental reserves
- unlawfully charged different prices for different classes of water where the water is the same
- set charges that are inequitable across its service areas
- adopted an unlawful policy which allows a person to sell their irrigation water entitlement, but retain their domestic supply.

#### *Investigation and Outcome*

My investigation concluded that the agency had not acted in a manner that was unlawful, unreasonable or wrong, in particular that:

- the agency had the power, under the *Irrigation Act 2009* to charge the complainant a service fee for domestic water supply
- the council's use of water complied with the terms of its water licence
- the agency was compliant with section 42 of the *Irrigation Act*, which allows a trust to declare different charges for water on the basis that it is supplied for irrigation, domestic or other purposes
- there was no requirement that charges declared by a trust be dependent on the quality of the water supplied
- the fixing of charges was a policy decision over which I have no jurisdiction
- the agency's 'Domestic Water Supply Policy' was lawful.



## Courts Administration Authority (CAA)

### Decision to issue fines enforcement suspension order 2013/00788

#### *Complaint*

In 2012, the complainant's wife (Ms W) was issued with a \$10.00 expiation notice under the *Electoral Act 1985*. The notice was sent to her address recorded on the electoral roll. It transpired this was not her address at the time. A reminder notice was sent to the same address. Ms W informed the Registrar of Motor Vehicles of her new address on 10 January 2011, and the Registrar's TRUMPS database was amended accordingly. The CAA sent a notice of enforcement to Ms W at the address supplied by the Electoral Commissioner. As there was no response, the CAA sent a reminder notice to the same address. This notice was returned 'unclaimed'. The CAA then issued a notice suspending Ms W's driver's licence.

Ms W complained that her licence had been suspended for non-payment of a fine, of which she had been unaware.

#### *Investigation and Outcome*

My investigation found:

- the Electoral Commissioner referred the matter to the CAA for enforcement some 21 months after the TRUMPS database was amended
- at no time did the Electoral Commissioner or the CAA appear to check with the TRUMPS database to ascertain if there was an alternative address for Ms W
- the CAA was wrong to suspend Ms W's driver's licence. (It transpired that the Electoral Commissioner relies solely on the address recorded on the electoral roll when issuing notices)
- a suspension notice should only be issued in appropriate circumstances
- in this matter there was no check to determine if there was an alternative address.

I recommended that reasonable checks be conducted to ascertain debtor whereabouts before and after a matter is referred for enforcement.

## Essential Services Commission of SA (ESCOSA)

### Providing information about tariff scheme 2014/00875

#### *Complaint*

The complaint against ESCOSA related to misleading information about the electricity feed-in tariff which the complainant was eligible to receive. The complainant contended that there was no information given that the determination of the tariff could be varied before a nominated expiry date. He stated that had he been aware this could happen, he may not have entered into the electricity market.

#### *Investigation and Outcome*

I found that:

- on 27 January 2012, ESCOSA made a price determination for the feed-in tariff and published it in the Government Gazette. The published determination prescribed the tariff amount to be applied over each subsequent financial year expiring on 30 June 2014.
- ESCOSA subsequently announced that it was going to vary the 2012 determination and bring the expiry date forward from 30 June 2014 to 31 December 2013. This information was circulated in the media. It was published in the Government Gazette and consequently, revoked the first determination.
- ESCOSA then undertook a review of the price determination and sought public comment. A new determination was published in the Government Gazette on 19 December 2013. This had the effect of revoking the second determination and fixing a new tariff which is valid for the 2014 calendar year.

I considered that there was no clear nexus between the absence of the information about the capacity to change the tariff and the complainant's decision to enter into the market. Notwithstanding this view, I did raise the matter with ESCOSA requesting that it consider providing a statement in future publications, that a determination can be changed before its nominated expiry date.



## Guardianship Board

### Having an interest in proceedings and natural justice

2013/12066

#### *Complaint*

The complainant's daughter had been subject to Guardianship Board orders under the *Mental Health Act 2009* since 2005. For eight years the Board had considered the complainant to have a 'proper interest' in proceedings relating to her daughter, and had given the complainant and other family members notice of proceedings and the opportunity to make submissions.

The complainant became aware that a hearing had been held, about which she had not been advised. The complainant was then informed that she would no longer be notified of Board hearings relating to her daughter, because a decision had been made to no longer advise members of the family of such proceedings.

#### *Investigation and Outcome*

My investigation found:

- the decision that the complainant was not a person who had an interest in her daughter's proceedings, was a decision that directly affected the complainant's rights and interests
- the complainant should have been notified of the impending decision to remove her rights, and should have been provided the opportunity to make submissions
- by not affording the opportunity to make submissions, I was of the opinion that the Board denied the complainant (and the other members of the family who previously held the same right) natural justice.

To remedy this, the Board advised me that it would conduct a hearing for the complainant and her family members to make submissions about who had a proper interest in proceedings concerning the complainant's daughter.

# Summary tables - Other Authorities

## 1 July 2013 - 30 June 2014

### Complaints: Received

Other Authorities - Approaches and Complaints Received 1 July 2013 to 30 June 2014

Authority	Received	%
Adelaide and Mt Lofty Ranges Natural Resources Management Board	1	0.2%
Adelaide Cemeteries Authority	2	0.3%
Anangu Pitjantjatjara Yankunytjatjara Executive Board	2	0.3%
Boundary Adjustment Facilitation Panel	1	0.2%
Centennial Park Cemetery	1	0.2%
Central Adelaide Local Health Network	82	14.3%
Central Irrigation Trust	2	0.3%
Commissioner for Consumer Affairs	58	10.1%
Commissioner for Equal Opportunity	4	0.7%
Construction Industry Training Board	1	0.2%
Coroner	2	0.3%
Country Health SA Local Health Network	8	1.4%
Courts Administration Authority	10	1.7%
Development Assessment Commission	1	0.2%
Domiciliary Care SA	1	0.2%
Drug and Alcohol Services SA	2	0.3%
Eastern Health Authority	2	0.3%
Essential Services Commission of South Australia	1	0.2%
Flinders University	9	1.6%
Guardianship Board	12	2.1%
Health and Community Services Complaints Commissioner	35	6.2%
HomeStart	6	1.1%
Legal Practitioners Conduct Board	6	1.1%
Legal Services Commission	10	1.7%
Liquor and Gambling Commissioner	2	0.3%
Local Government Association Mutual Liability Scheme	1	0.2%
Lotteries Commission	4	0.7%
Motor Accident Commission	13	2.3%
National Rail Safety Regulator	1	0.2%
Northern Adelaide Local Health Network	6	1.1%

Authority	Received	%
Northern Adelaide Waste Management Authority	1	0.2%
Office of the Technical Regulator	2	0.3%
Outback Communities Authority	6	1.1%
Public Advocate	13	2.3%
Public Trustee	64	11.2%
Residential Tenancies Tribunal	10	1.7%
RSPCA Inspectorate	2	0.3%
SA Ambulance Service	23	4.0%
SA Country Fire Service	3	0.5%
SA Film Corporation	3	0.5%
SA Forestry Corporation	1	0.2%
SA Government Financing Authority	2	0.3%
SA Metropolitan Fire Service	2	0.3%
SACE Board of SA	2	0.3%
South Australian Dental Service	6	1.1%
South Australian Fire and Emergency Services Commission	2	0.3%
South Australian Small Business Commissioner	1	0.2%
South Australian Tertiary Admissions Centre	2	0.3%
Southern Adelaide Local Health Network	17	3.0%
State Emergency Service	3	0.5%
Super SA Board	23	4.0%
TAFE SA Board	33	5.7%
Teachers Registration Board	2	0.3%
University of Adelaide	6	1.1%
University of South Australia	37	6.5%
Urban Renewal Authority	5	0.9%
Women's and Children's Health Network	3	0.5%
WorkCover Corporation	11	1.9%
WorkCover Ombudsman	3	0.5%
<b>Total</b>	<b>574</b>	<b>100%</b>

## Complaints: Issues

Other Authorities - Approaches and Complaints Received: Issues 1 July 2013 to 30 June 2014

	Other	Central Adelaide Local Health Network	Public Trustee	Commissioner for Consumer Affairs	University of South Australia	Health and Community Services Complaints Commissioner	Total	Percentage
Complaint handling/Delay	12	2	6	7	1	2	30	5.1%
Complaint handling/Inadequate processes	21	7	5	11	7	8	59	10.0%
Complaint handling/Inadequate reasons	7	2		1	2	2	14	2.4%
Complaint handling/Inadequate remedy	7			5	2	2	16	2.7%
Complaint handling/Wrong conclusion	12			1	1	10	24	4.1%
Conduct/Discourtesy	10	4			1		15	2.5%
Conduct/Misconduct	6	2	4				12	2.0%
Correspondence/Communications/Records/Breach of privacy/Confidentiality	1				3		4	0.7%
Correspondence/Communications/Records/ Delayed/No response	10	1	5	6		2	24	4.1%
Correspondence/Communications/Records/Incorrect	8		1	2	1		12	2.0%
Correspondence/Communications/Records/ Withholding of information	6	2	1	1	1		11	1.8%
Correspondence/Communications/Records/Wrongful disclosure of information	1	1		1			3	0.5%
Employment	4						4	0.7%
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury	4						4	0.7%
Financial/Procurement/Facilities/Compensation/Damage/ Property lost/Damaged	1						1	0.2%
Financial/Procurement/Facilities/Debts	15		1				16	2.7%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Inadequate	1						1	0.2%
Financial/Procurement/Facilities/Procurement by agencies/ Decisions	3						3	0.5%
Financial/Procurement/Facilities/Procurement by agencies/ Tenders	2						2	0.3%
Financial/Procurement/Facilities/Rates/Administration	1						1	0.2%
FOI advice	16	3		3	1		23	3.8%

	Other	Central Adelaide Local Health Network	Public Trustee	Commissioner for Consumer Affairs	University of South Australia	Health and Community Services Complaints Commissioner	Total	Percentage
Corruption							1	0.2%
Serious or systemic maladministration							4	0.7%
Serious or systemic misconduct (breach of code of conduct)							1	0.2%
Serious or systemic misconduct (other misconduct)							1	0.2%
Regulation and enforcement/Enforcement action/Excessive	2						2	0.3%
Regulation and enforcement/Enforcement action/Unfair	2	1					3	0.5%
Regulation and enforcement/Fees	4						4	0.7%
Regulation and enforcement/Infringements/Excessive penalty	1			1			2	0.3%
Regulation and enforcement/Infringements/Incorrect details	1						1	0.2%
Regulation and enforcement/Infringements /Unreasonably issued		1					1	0.2%
Regulation and enforcement/Inspections	1						1	0.2%
Regulation and enforcement/Licensing/Conditions	1			4			5	0.8%
Regulation and enforcement/Licensing/Refusal				2			2	0.3%
Regulation and enforcement/Licensing/Renewal				1			1	0.2%
Roads and Traffic/Charges/Fines	3				1		4	0.7%
Roads and Traffic/Licensing/Medical test	1						1	0.2%
Roads and Traffic/Road management	1						1	0.2%
Service Delivery/Abuse in care		1					1	0.2%
Service Delivery/Assessment	6	3		1	1		11	1.8%
Service Delivery/Conditions	8	1	2	2	3		16	2.7%
Service Delivery/Eligibility for services	14		3	2	3		22	3.7%
Service Delivery/Failure to act/Provide	39	34	22	8	5	7	115	19.4%
Service Delivery/Fees and charges	20	1	5	1	1		28	4.7%
Service Delivery/Financial assistance	2		3				5	0.8%
Service Delivery/Quality	33	13	8		4	1	59	10.0%
Service Delivery/Termination of services	1	4		1	2		8	1.4%
Superannuation	12						12	2.0%
<b>Total</b>							<b>591</b>	<b>100%</b>

## Complaints: Completed

Other Authorities - Approaches and Complaints Completed 1 July 2013 to 30 June 2014

Authority	Completed	%
Adelaide and Mt Lofty Ranges Natural Resources Management Board	1	0.2%
Adelaide Cemeteries Authority	2	0.3%
Anangu Pitjantjatjara Yankunytjatjara Executive Board	2	0.3%
Boundary Adjustment Facilitation Panel	1	0.2%
Centennial Park Cemetery	1	0.2%
Central Adelaide Local Health Network	82	14.1%
Central Irrigation Trust	3	0.5%
Commissioner for Consumer Affairs	57	9.8%
Commissioner for Equal Opportunity	4	0.7%
Construction Industry Training Board	1	0.2%
Coroner	2	0.3%
Country Health SA Local Health Network	8	1.4%
Courts Administration Authority	12	2.1%
Development Assessment Commission	1	0.2%
Domiciliary Care SA	1	0.2%
Drug and Alcohol Services SA	2	0.3%
Eastern Health Authority	2	0.3%
Essential Services Commission of South Australia	1	0.2%
Flinders University	7	1.2%
Guardianship Board	12	2.1%
Health and Community Services Complaints Commissioner	37	6.4%
HomeStart	6	1.0%
Legal Practitioners Conduct Board	6	1.0%
Legal Services Commission	10	1.7%
Liquor and Gambling Commissioner	2	0.3%
Local Government Association Mutual Liability Scheme	1	0.2%
Lotteries Commission	4	0.7%
Motor Accident Commission	14	2.4%
National Rail Safety Regulator	1	0.2%
Northern Adelaide Local Health Network	6	1.0%

Authority	Completed	%
Northern Adelaide Waste Management Authority	1	0.2%
Office of the Technical Regulator	2	0.3%
Outback Communities Authority	6	1.0%
Public Advocate	13	2.3%
Public Trustee	66	11.3%
Residential Tenancies Tribunal	10	1.7%
RSPCA Inspectorate	2	0.3%
SA Ambulance Service	24	4.1%
SA Country Fire Service	3	0.5%
SA Film Corporation	4	0.7%
SA Forestry Corporation	1	0.2%
SA Government Financing Authority	2	0.3%
SA Metropolitan Fire Service	2	0.3%
SACE Board of SA	3	0.5%
South Australian Dental Service	6	1.0%
South Australian Fire and Emergency Services Commission	2	0.3%
South Australian Small Business Commissioner	2	0.3%
South Australian Tertiary Admissions Centre	2	0.3%
Southern Adelaide Local Health Network	17	2.9%
State Emergency Service	3	0.5%
Super SA Board	23	3.9%
TAFE SA Board	33	5.7%
Teachers Registration Board	3	0.5%
University of Adelaide	7	1.2%
University of South Australia	38	6.5%
Urban Renewal Authority	6	1.0%
Women's and Children's Health Network	4	0.7%
WorkCover Corporation	9	1.5%
WorkCover Ombudsman	2	0.3%
<b>Total</b>	<b>585</b>	<b>100%</b>



## Complaints: Outcomes

Other Authorities - Approaches and Complaints Completed: Outcome 1 July 2013 to 30 June 2014

	Other	Commissioner for Consumer Affairs	Public Trustee	Commissioner for Consumer Affairs	University of South Australia	Health and Community Services Complaints Commissioner	Total	Percentage
Advice given	23	4		3	1	2	33	5.6%
Alternate remedy available with another body	44	66	3	2	6	7	128	21.9%
Complainant cannot be contacted	6		1		2		9	1.5%
Declined/Investigation unnecessary or unjustifiable	62	2	19	15	8	20	126	21.5%
Declined/No sufficient personal interest or not directly affected		1	1				2	0.3%
Declined/Out of time	2	1		1		1	5	0.9%
Not substantiated	4					1	5	0.9%
Out of jurisdiction/Employment	1						1	0.2%
Out of jurisdiction/Judicial body	4						4	0.7%
Out of jurisdiction/Police matter	6						6	1.0%
Out of jurisdiction/Policy	2				1		3	0.5%
Referred back to agency	129	6	35	29	18	5	222	37.9%
Resolved with agency cooperation	7	1	5	6			19	3.3%
s25 Finding/Contrary to law	2						2	0.3%
s25 Finding/Unreasonable	1						1	0.2%
s25 Finding/No reason given	1						1	0.2%
s25 Finding/Wrong	2				2		4	0.7%
Withdrawn by complainant	9	1	2	1		1	14	2.4%
<b>Total</b>	<b>305</b>	<b>82</b>	<b>66</b>	<b>57</b>	<b>38</b>	<b>37</b>	<b>585</b>	<b>100%</b>
	<b>52.2%</b>	<b>14.0%</b>	<b>11.3%</b>	<b>9.7%</b>	<b>6.5%</b>	<b>6.3%</b>		
	<b>59.0%</b>	<b>11.1%</b>	<b>10.0%</b>	<b>8.2%</b>	<b>6.6%</b>	<b>5.1%</b>		



## IMPLEMENTATION OF RECOMMENDATIONS

Recommendations made pursuant to audit *In the Public Eye*  
Recommendations made pursuant to s25 investigations finding agency error

# Implementation of Recommendations

## Recommendations made pursuant to audit *In the Public Eye*

In 2012 I conducted an audit of the use of meeting confidentiality provisions in 12 local government councils. My audit *In the Public Eye*, found that too many confidential meeting orders were being issued by councils. Also, many of these orders were being made without fully considering or explaining the reason for excluding members of the public from council meetings.

Other confidentiality orders suppressing meeting minutes and meeting documents were not being applied correctly. In many cases information which should have been made public was not, and often the release of information was being done in such a way as to restrict public access to released documents.

The audit made nine recommendations for change in local government. They included updating codes of practice to ensure compliance with the Local Government Act; observance of an aspirational target of not more than 3% of agenda items to be considered in confidence; publication of Confidential Items Registers on council websites; and improved annual reporting disclosure standards.

In November 2013, 12 months after the release of *In the Public Eye*, I contacted all 67 councils in the local government sector and asked them to participate in a review of the implementation progress made by councils on each of my recommendations.

All councils<sup>1</sup> responded to a survey pro forma which asked a series of questions about their use of the Local Government Act's confidentiality provisions.

The results showed clear evidence that councils responded to the message about the need for greater openness. On the central issue of the rate of meeting confidentiality orders, I found that the average rate of 9% in 2012 had been halved to 4.6% a year after the audit report was delivered.

I welcomed less frequent use of the confidentiality provisions as good news for more open, responsive and accountable local government in South Australia.

The audit implementation survey also revealed that:

- 11 of the 12 councils involved in the original audit reported substantially lower rates of meeting confidentiality orders one year after the audit concluded

“... council websites should clearly show which documents are currently retained in confidence and which documents have been released, as well as the dates of the meetings at which confidentiality orders have been made.”

- 46 councils reported full implementation of recommendation one. This called for councils to update their section 92 code of practice, to ensure all procedures, including citing reasons for an order, comply with the Local Government Act. 21 councils have accepted and/or partially implemented the recommendation
- 40 councils reported full implementation of recommendation three that called for dealing with 3% or less of agenda items in confidence under section 90(2). 19 councils accepted and/or partially implemented the recommendation
- 40 councils reported full implementation of recommendation five that called for a review of procedures for making section 91(7) document confidentiality orders. 25 councils accepted and/or partially implemented the recommendation
- 48 councils reported full implementation of recommendation six that called for establishment or update of council Confidential Items Registers to monitor timely release of confidential documents. 19 councils have accepted and/or partially implemented the recommendation
- only 17 councils reported full implementation of recommendation seven that called for all councils to post their Confidential Items Register on their website. 50 councils accepted and/or partially implemented the recommendation.

Despite the overall progress made, the report registered my concern with the poor implementation by many councils of recommendation seven. This concerned public access to release of previously confidential documents.

<sup>1</sup> Sections 90 and 91 of the *Local Government Act 1999* do not apply to the Municipal Council of Roxby Downs.

I emphasised that council websites should clearly show which documents are currently retained in confidence and which documents have been released, as well as the dates of the meetings at which confidentiality orders have been made.

I note that the Local Government Association of SA (LGA) has revised and updated its Model Code of Practice for Access to Council and Committee Meetings and Associated Documents to take into account the findings and recommendations from *In The Public Eye*.

The LGA has also developed Confidentiality Guidelines that are designed to assist councils with the application of the provisions in the Act to restrict public access to meetings and/or documents. Both publications are available on the LGA website. These are invaluable resources for councils seeking to review and refine their policies and practices on the use of the confidentiality provisions of the Act.

I will continue to make enquiries of councils that come to my attention for possible breaches of the provisions.



## Recommendations made pursuant to s25 investigations finding agency error 1 April 2013 – 30 June 2013

Report Date	Agency and Investigation	Recommendations	Accepted	Implemented	If not implemented, why not?
2013/00623	<b>Environmental Protection Authority</b> <i>Failure to search for documents</i>	2	2	2	
2013/00396	<b>Public Trustee</b> <i>Wrongful engagement of relative and lack of adequate conflict of interest policies</i>	2	2	2	
2012/01161	<b>Department for Correctional Services</b> <i>Wrongful restraint of a prisoner</i>	2	2		Agency working towards implementation
2012/07185	<b>Department for Correctional Services</b> <i>Failure to make proper arrangements for a prisoner to attend medical appointment</i>	1	1		Agency working towards implementation
2013/01120	<b>City of Port Adelaide Enfield</b> <i>Failure to follow policy to ensure legislative compliance</i>	1			Recommendation overturned following Judicial Review brought by council
2013/00899	<b>District Council of Elliston</b> <i>Conflict of interest in chairman undertaking work on ramp for council</i>	3	3	3	
2012/10619	<b>Outback Communities Authority</b> <i>Failure to adequately consult with the community</i>	2	2	2	
2013/02700	<b>Alexandrina Council</b> <i>Unlawful refusal of membership application</i>	3	2	2	Ombudsman determined that the first recommendation is now unnecessary
2013/02938	<b>City of Charles Sturt</b> <i>Failure to declare an interest</i>	1	1		Recommended amendment to Local Government Act to be considered by Minister
2013/00830	<b>District Council of Peterborough</b> <i>Wrongful investigation of a complaint</i>	4	4	4	
2013/02793	<b>City of Port Adelaide Enfield</b> <i>Failure to declare an interest</i>	2	2		Recommended amendment to Local Government Act to be considered by Minister
2012/10276	<b>Health and Community Services Complaints Commissioner</b> <i>Unreasonable investigation of a complaint</i>	2	2	2	
2013/01297	<b>District Council of Yankalilla</b> <i>Wrongful review of Code of Conduct complaint</i>	3	3	3	
2012/09916	<b>Rural City of Murray Bridge</b> <i>Failure to declare an interest</i>	1	1	1	

## Recommendations made pursuant to s25 investigations finding agency error 1 July 2013 – 30 June 2014

Report Date	Agency and Investigation	Recommendations	Accepted	Implemented	If not implemented, why not?
2013/00295	<b>SA Ambulance Service</b> <i>Failure to provide information about patient to relative</i>	1	1	1	
2012/10227	<b>District Council of Tumby Bay</b> <i>Council member conflict of interest</i>	2	2	1	Recommended amendment to Local Government Act to be considered by Minister
2012/08745	<b>District Council of Tumby Bay</b> <i>Council member conflict of interest</i>	2	2	1	Recommended amendment to Local Government Act to be considered by Minister
2013/00788	<b>Courts Administration Authority</b> <i>Failure to contact party before taking enforcement action</i>	2	2	2	
2013/05605	<b>City of Holdfast Bay</b> <i>Council member conflict of interest</i>	2	2	1	Recommended amendment to Local Government Act to be considered by Minister
2013/04650	<b>Town of Gawler</b> <i>Wrongful management of stormwater pond</i>	3	3	3	
2013/07344	<b>University of South Australia</b> <i>Unreasonable expulsion from pilot course</i>	1	1	1	
2013/01746	<b>Department of the Premier and Cabinet</b> <i>Inaccurate information published on website</i>	2	2	2	
2013/00591	<b>Department of Environment, Water and Natural Resources</b> <i>Failure to provide accurate information about grazing rights</i>	6	6		Agency working towards implementation
2013/05954	<b>University of South Australia</b> <i>Unreasonable expulsion from pilot course</i>	3	3	3	
2012/04207	<b>Department for Education and Child Development</b> <i>Unreasonable handling of report of sexual assault</i>	28	28	28	
2013/05547	<b>Department for Education and Child Development</b> <i>Unreasonable decision to remove family day care provider from register</i>	4	4	2	Agency working towards implementation
2012/06102	<b>City of Onkaparinga</b> <i>Inadequate management of waste water treatment plant</i>	3	3	3	

Report Date	Agency and Investigation	Recommendations	Accepted	Implemented	If not implemented, why not?
2013/06171	<b>Department for Correctional Services</b> <i>Failure to explain prison transfer rules</i>	2	2	2	
2013/06129	<b>District Council of Mallala</b> <i>Council member conflict of interest</i>	3	3	3	
2013/08079	<b>District Council of Mount Barker</b> <i>Unreasonable staff appointment process</i>	2	2	2	
2013/05532	<b>City of Port Adelaide Enfield</b> <i>Unreasonable regulation of development</i>	8	8	8	
2013/00462	<b>Legal Practitioners Conduct Board</b> <i>Unreasonable investigation of complaint</i>	1	1	1	
2013/07060	<b>District Council of Cleve</b> <i>Unreasonable banning of dogs from boardwalk</i>	2	2	2	
2013/05926	<b>Anangu Pitjantjatjara Yankunytjatjara Executive Board</b> <i>Unreasonable conduct of the Executive Board</i>	1	1	1	
2013/04905	<b>City of Port Adelaide Enfield</b> <i>Unreasonable imposition of rates regarding marina berth</i>	1	1	1	
2013/02175	<b>Mid Murray Council</b> <i>Unreasonable management of effluent disposal sites</i>	5	5	5	
2013/05044	<b>District Council of Yankalilla</b> <i>Unreasonable decision to establish a quarry</i>	4	4	4	
2013/08906	<b>City of Holdfast Bay</b> <i>Breach of Council Member Code of Conduct</i>	1	1	1	
2013/09405	<b>District Council of Yorke Peninsula</b> <i>Breach of Council Member Code of Conduct</i>	1	1		Recommended amendment to Local Government Act to be considered by Minister
2013/10346	<b>District Council of Lower Eyre Peninsula</b> <i>Breach of Council Member Code of Conduct</i>	1	1		Recommended amendment to Local Government Act to be considered by Minister
2013/08471	<b>Department for Health and Ageing</b> <i>Breach of the Whistleblowers Protection Act 1993, improper complaint handling process, and victimisation</i>	2	2	1	Agency working towards implementation



Report Date	Agency and Investigation	Recommendations	Accepted	Implemented	If not implemented, why not?
2013/10394	<b>Kangaroo Island Council</b> <i>Unreasonable council confidentiality order and management of Council Member Code of Conduct complaint</i>	1	1	1	
2014/00175	<b>City of Playford</b> <i>Council member conflict of interest</i>	3	3	2	Recommended amendment to Local Government Act to be considered by Minister
2013/11458	<b>Department for Health and Ageing</b> <i>Unauthorised detention of forensic patient</i>	1	1		Agency working towards implementation
2012/03998	<b>Department for Correctional Services</b> <i>Unreasonable regime for forensic patient</i>	2	2		Agency working towards implementation
2013/06992	<b>City of Playford</b> <i>Unreasonable procurement, and record keeping processes</i>	3	3	2	Agency working towards implementation
2014/00069	<b>Department for Correctional Services</b> <i>Unreasonable restraint of prisoner during hospitalisation</i>	1		Pending	Agency considering its position
2014/03477	<b>City of Onkaparinga</b> <i>Breach of Council Member Code of Conduct</i>	1	1		Agency considering its position
2014/03554	<b>Kangaroo Island Council</b> <i>Breach of Council Member Code of Conduct</i>	2		Pending	Agency considering its position
2013/09483	<b>Department for Education and Child Development</b> <i>Failure to respond appropriately to a report of sexual assault</i>	5		Pending	Agency considering its position
2013/07936	<b>City of Burnside</b> <i>Council member conflict of interest</i>	1	1		Recommended amendment to Local Government Act to be considered by Minister

## Summary of implementation of recommendations - s25 investigations finding agency error

Category	Total Number
Reports 1 April 2013 – 30 June 2013	15
Reports 1 July 2013 – 30 June 2014	36 (51 in total)
Recommendations	142
Recommendations Accepted	132
Recommendations Not Accepted	2
Recommendations Not Yet Accepted	8
Recommendations Implemented	105
Recommendations NOT Implemented*	37 (includes 9 to amend the <i>Local Government Act 1999</i> )

\*Includes:

- a) those that were NOT accepted and NOT implemented; and
- b) those that were accepted, but whose implementation has not commenced, or has commenced but is incomplete.



# Freedom of Information Reviews

## Department of Environment, Water and Natural Resources

### Information about an RSPCA investigation

2012/10298

#### *Access application*

The applicant requested access to correspondence, the report and all executive level communication held by the agency concerning an investigation and prosecution conducted by the RSPCA against cattle farmers in the state's south-east.

#### *Review*

The 21 documents within the scope of the application consisted of emails, minutes to the Minister and a report prepared by the Solicitor-General about an investigation and prosecution by the RSPCA.

The agency claimed that some of the documents were exempt under the FOI Act as they contained either information containing allegations or suggestions of criminal or other improper conduct (clause 6(2)); information concerning business affairs (clause 7); or information subject to legal professional privilege (clause 10).

#### *Determination and Comment*

My review found:

- some of the documents contained allegations or suggestions of criminal or other improper conduct on the part of a former RSPCA employee and other parties. The identities and details of the allegations were exempt
- some of the documents concerned the business affairs of the farmers involved, and they identified the fact that the farmers were charged with breaching the *Animal Welfare Act 1985*
- the documents also contained information concerning the business affairs of the RSPCA as they focussed on the Solicitor-General's review of the RSPCA's investigation and prosecution of the relevant parties. However, I was not provided with any evidence to demonstrate that release of the documents could reasonably be expected to have an adverse effect on those affairs, and I considered that disclosure, on balance, would not be contrary to the public interest. I therefore found the documents were not exempt under clause 7(1)
- some of the documents contained legal advice which was exempt under clause 10(1).

In light of these considerations, I varied the agency's determination.

## Department of Further Education, Employment, Science and Technology

### Internal working document exemption claimed over general administrative documents

2013/05991

#### *Access application*

The applicant was the CEO of a company which had a patent for its Recognised Prior Learning tool certified by IP Australia. A Notice of Opposition to that patent had been filed by a private business. A number of statutory declarations had been sworn by employees of the agency in support of the opposition notice. The applicant applied for access to the documents relating to the statutory declarations and communications between agency employees and the private business.

#### *Review*

The agency refused access to 25 documents on the basis of the legal professional privilege exemption (clause 10(1)) and 69 documents on the basis of the internal working documents exemption (clause 9(1)).

#### *Determination and Comment*

I was not persuaded that the documents were captured by clause 9(1). Many of the documents detailed routine administrative information, such as meeting times and places. Secondly, the agency did not identify with any specificity, the decision-making function associated with the documents.

Notwithstanding this view, I considered whether disclosure of the documents would, on balance, be contrary to the public interest.

I considered the following factors were irrelevant:

- disclosure of the information could reasonably be expected to cause embarrassment to the government or to cause loss of confidence in the government
- disclosure of the information could reasonably be expected to result in the applicant misinterpreting or misunderstanding the documents.

I identified the following public interest factors which favoured disclosure:

- achievement of the objects of the FOI Act
- disclosure of the information could reasonably be expected to enhance the government's accountability by providing information relating to the decision of public servants to support the opposition to the applicant's patent
- disclosure of the information could reasonably be expected to reveal the reason and context for decisions which affected the applicant.

I did not identify any public interest that would be harmed by disclosure of the information.

I upheld the agency's claim of legal professional privilege exemption over other documents.

## Attorney-General's Department

### Public interest considerations in access to consultants' reports

2014/01145

#### Access application

The applicant sought access to final versions of consultants' reports for projects costing over \$10,000 'held or possessed by the Chief Executive (or equivalent head of the Department) ... including, if complete ... the sum paid for the work leading to the report'.

#### Review

The agency refused access to three documents, as follows:

- Document 1 - Review of the Industrial Relations Court and Commission and associated jurisdictions
- Document 2 - Criminal Justice Sector Reform Council Report
- Document 3 - Corporate Services Review - Attorney-General's Department.

The agency claimed that the documents were exempt as either:

- Cabinet documents - clause 1(1)(a)
- internal working documents - clause 9(1)
- documents concerning the operations of agencies - clause 16(1)(a)(v) and (1)(b).

I concluded that document 1 was a Cabinet document.

I was not satisfied that release of document 2 would, on balance, be contrary to the public interest. I considered that a number of factors favoured disclosure, including:

- it was apparent from the document that the ideas it contained were preliminary in nature
- any risks associated with the use of anecdotal evidence received from individuals consulted for the purposes of the document's creation were slight given the individuals' seniority and likely knowledge of the relevant issues
- some information in the document appeared to be in the public domain
- the general acceptance that organisations will explore ways to improve efficiency and reduce costs, not all of which will be adopted, given the tight economic times and ongoing budget reductions
- the public interest in fulfilling the objects of the FOI Act, in particular promoting openness; facilitating debate about criminal justice sector reform; and enhancing public participation in the reform process
- Parliament's intention that discretions under the FOI Act be exercised, as far as possible, in a way that favours disclosure without infringing personal privacy.<sup>1</sup>

I was satisfied that the proposed numbers of full time equivalent positions (FTEs) in various divisions (as opposed to the total number), along with comparisons to benchmarks in document 3, was exempt information under clause 16(1)(a)(v) and (1)(b). In so doing, I accepted that the disclosure of such information could reasonably be expected to cause affected staff considerable anxiety.

I was not satisfied that disclosure of the remainder of the information in the document could reasonably be expected to have a substantial adverse effect on the conduct of industrial relations by the agency. I formed this view having particular regard to the contents of the document; information available to agency staff, including emails sent by the agency's Chief Executive; and the economic climate, including budget forecasts.

I accepted that the document contained opinions, advice and recommendations obtained to assist the agency to make decisions about its future structure, and therefore satisfied clause 9(1)(a).

I was not satisfied that disclosure of document 3, after deleting the numbers of FTEs in various divisions along with comparisons to benchmarks, would, on balance, be

<sup>1</sup> Freedom of Information Act 1991, section 3A(1)(b). I did not consider that releasing document 2 would infringe personal privacy.

contrary to the public interest. In reaching this conclusion I considered the factors set out above. I was also mindful of the public interest in facilitating debate about departmental restructuring; and enhancing staff and public participation in the process.

I determined that document 3 was exempt under clause 16(1)(a)(v) and (1)(b). Nevertheless, I considered that it would be practicable to release the document after deleting the numbers of FTEs in various divisions, along with comparisons to benchmarks, in accordance with section 20(4).

#### *Determination and Comment*

I varied the agency's determination to enable document 2 and the majority of document 3 to be released.

The agency in this case claimed that releasing document 2 'would be premature and may lead to confusion and unnecessary debate'. They represent some of 'the Howard factors'.<sup>2</sup> I rejected these claims. My recent FOI audit also recommended that agencies 'develop a policy ... [to] reject the Howard factors...' and an amendment to the FOI Act to provide, among other things, that confusion to the public is irrelevant when assessing whether disclosure would, on balance, be contrary to the public interest.<sup>3</sup> To the extent that there may be confusion regarding the contents of document 2, I considered that the agency could clarify the situation, and provide further information or explanation.

### **Department for Education and Child Development**

#### **Access to documents generated while in foster care** 2013/04973

##### *Access application*

The applicant sought access to all records held by the agency concerning her time as a child in foster care under the care and control of the state, between 1967 and 1985. The agency determined to release some of the documents but refuse access to others on the basis that the release of these documents would involve the unreasonable disclosure of information concerning the personal affairs of third parties - clause 6(1).

<sup>2</sup> *Re Howard and the Treasurer of the Commonwealth of Australia* (1985) 7 ALD 626, 634-5.

<sup>3</sup> See 'An audit of state government departments' implementation of the *Freedom of Information Act 1991* (SA), May 2014, Part 7B, recommendation 23, available at <http://www.ombudsman.sa.gov.au/wp-content/uploads/An-audit-of-state-government-departments-implementation-of-the-Freedom-of-Information-Act-1991-SA.pdf>.

##### *Review*

The applicant was pursuing her request because she believed it may further inform her about her time in foster care. I considered that the following factors favoured disclosure of some information:

- the information was dated and concerned many parties who had long since died. Much of the information had relevance to the applicant's time as a child in foster care. Because of this, disclosure of the information would not be unreasonable
- it was in the public interest for the applicant to access as much of the information as possible, as it may assist her to understand the agency's actions concerning the people involved in her foster placements during her time in care
- release of much of the information may assist the applicant to understand events and motivations of certain key people during her time in care.

#### *Determination and Comment*

I determined that certain information was exempt:

- on the basis of clause 12(1) as disclosure would be an offence under the *Children's Protection Act 1993*
- on the basis of clause 6(1) as it concerned the applicant's foster siblings and the thoughts of third parties.

I varied the agency's determination.

### **Department of the Premier and Cabinet (SafeWork SA)**

#### **Secrecy provisions in work safety legislation** 2013/08951

##### *Access application*

The applicant had suffered an injury in a work accident; and sought access to all documents generated by the agency in the course of its investigation into that accident.

##### *Review*

The agency failed to determine the application within the statutory timeframes at first instance and at internal review; and the review came to my office as a 'double deemed refusal' by the agency to grant access.



The agency submitted that 110 of the 150 documents were wholly or partially exempt as documents subject to secrecy provisions in legislation (clause 12(1)) or as containing matter obtained in confidence (clause 13(1)(b)).

I formed the opinion that as the information in issue was obtained by SafeWork SA in the course of administering the (now repealed) *Occupational Health, Safety and Welfare Act 1986* (the OHSW Act) the effect of disclosure of the information should be assessed in accordance with the provisions of that Act.

Section 55 of the OHSW Act provided that it was an offence to disclose information in the exercise of any function under the OHSW Act where that information was, relevantly, about the physical or mental condition, or the personal circumstances or affairs, of an employee. However, section 55(1a)(c) provided that disclosure would not constitute an offence if the disclosure was made with the consent of the person to whom the information relates.

#### *Determination and Comment*

I was satisfied that by applying for access to the documents, the applicant had consented to the disclosure of information relating to himself, and therefore disclosure was not an offence.

The agency submitted that particular information was exempt on the basis that it had been provided to SafeWork under an assurance of confidentiality and that the disclosure of the information could be expected to prejudice the supply of such information in the future if informants were aware that an assurance of confidentiality could be 'overridden' by the FOI process.

As the OHSW Act provided power to workplace inspectors to compel parties to provide information, I did not accept this argument.

By way of comment, I noted that the information collected by the agency was in relation to a workplace incident where a decision was to be made as to whether the OHSW Act had been breached. I noted that workplace inspectors should not rely on 'off the record' comments to determine whether or not there has been a breach of the Act. In addition, they should be aware of the FOI Act, and not offer assurances of confidentiality that cannot be maintained.

## **Electoral Commission of South Australia**

### **Substantial and unreasonable diversion of agency's resources**

2013/11604

#### *Access application*

The applicant sought access to 'copies of all documents relating to complaints made against the Liberal Party by the Labor Party under the Electoral Act in all electorates during the period 1 July 2009 and 31 March 2010'.

The agency determined to refuse to deal with the application on the basis that to do so would substantially and unreasonably divert the agency's resources from their use by the agency in the exercise of its functions (section 18(1) FOI Act). The agency estimated that it would take more than two working weeks to deal with the application, and would divert the agency from its primary responsibilities of conducting elections (the determination was made when the 2014 state election was less than four months away). The agency identified 177 documents within the scope of the application, totalling 631 pages.

#### *Review*

I was not satisfied that the agency had endeavoured to assist the applicant to narrow the scope of the application for access as required by section 18(2) of the FOI Act.

Although not strictly necessary for me to do so, I also considered whether dealing with the application would substantially and unreasonably divert the agency's resources. While I agreed that the agency was small and had limited staff, I was not satisfied that the work required would be particularly onerous having regard to the number and types of documents as described in the agency's schedule of documents. I also considered that the agency had an increased capacity to deal with the application because the state election process had concluded by the time I made my determination.

#### *Determination and Comment*

I reversed the agency's determination, and required the agency to deal with the application in accordance with the FOI Act.

## **WorkCover Corporation**

### **Refusal to deal with an application (abuse of the right of access)**

2013/09961, 2013/06526, 2013/04519

#### *Access application*

The applicant lodged three applications seeking documents relating to the agency's administration of her WorkCover claim.

In each case, the agency refused to deal with the application pursuant to section 18(2a) of the FOI Act and concluded that each was a duplicate of a previous application and formed 'part of conduct that amounts to an abuse of the right of access...'

#### *Review*

In conducting these external reviews, I had regard to five previous applications the applicant had made to the agency. I concluded that the scope of the applications were written so as to capture the same documents. I also had regard to the Ombudsman's external reviews conducted in 2008 and 2011 in relation to the earlier access applications.

#### *Determination and Comment*

In each case I was satisfied that there were sufficient grounds for the agency to reasonably form the view that the applicant's applications (seen in the light of earlier applications), formed 'part of a pattern of conduct that amounts to an abuse of the right of access or is made for a purpose other than to obtain access to information'. I confirmed the agency's three determinations.

## **Minister for Education and Child Development**

### **Fair and Reasonable Fee or Charge for access to documents**

2013/08279

#### *Access application*

The applicant sought access to all emails which referred directly or indirectly to Mr David Pisoni MP between Minister Portolesi's ministerial staff and other ministerial offices, media outlets and the Premier's office, between August 2012 and when Minister Portolesi ceased to be the Minister for that portfolio. A broader application was originally made, however the scope of the application was

narrowed on a number of occasions throughout numerous review processes.

#### *Review*

The agency advised the applicant that due to a portfolio reshuffle which had resulted in the appointment of a new Minister, locating the emails sought would require Telstra to restore mailbox services to the previous Minister's office staff, at a cost of \$13,800. Under section 53(2aa) of FOI Act, the agency determined that this cost should be passed on to the applicant. The agency however conceded that it still might not be possible to retrieve the emails by restoring mailboxes.

Dissatisfied with this determination, the applicant sought my review of the decision pursuant to sections 53(4) and 53(4a) of the FOI Act.

In conducting the review it was necessary for me to consider what was fair and reasonable in the circumstances, so that I could decide whether to waive, confirm or vary the charge imposed by the agency.

In my provisional decision, I informed the parties that I intended to waive the agency's fees as I did not consider it would be fair or reasonable to charge the applicant in the circumstances. My provisional decision was, in part, based on what appeared to be the agency's failure to retain the emails, which would likely be considered 'official records', in accordance with the *State Records Act 1997*.

In response to my provisional decision, the agency submitted a different basis in support of its decision to charge the applicant to deal with the application. The agency no longer submitted that it would be necessary for Telstra to restore mailboxes of former Ministerial staff. Rather, the agency submitted that in accordance with its obligations under the State Records Act and the General Disposal Schedules, its practice was to add official records, including emails, to a hard copy file. The agency advised that it would need to search the 2605 hard files created during the period covered by the application to locate any relevant emails. It estimated that this would take five minutes per file, which would cost \$10,155.60.

#### *Determination and Comment*

I accepted that the agency would be required to search at least 2,605 hard copy files to locate any relevant emails. However I estimated that this would take two minutes, on average, per file, which would cost \$4,063.64.



Finally, in consideration of the history of the application, including significant delays caused by the agency's actions, I considered that it would be fair and reasonable in the circumstances to charge the applicant \$3,500 for dealing with the narrowed application.

### **Anangu Pitjantjatjara Yankunytjatjara (APY) Executive Board**

#### **Settlement following a refusal to deal with multiple applications for access**

2013/04019

##### *Access applications*

The applicant made nine separate applications for access to the following documents:

- reports about land management, natural resources management and/or environmental matters
- emails between the APY General Manager and a third party
- a report presented at a particular APY executive meeting
- documents relevant to a code of conduct complaint
- consultants' reports about APY restructure, realignment or governance
- documents relevant to remuneration, allowances, and/or terms of engagement of the APY Executive Board's Chairperson
- documents relating to any retainers paid and/or invoices received from individuals and a firm of solicitors
- notices of meetings and agendas for all Executive Board meetings
- minutes of Executive Board meetings.

##### *Review*

The agency refused to deal with the applications because doing so 'would substantially and unreasonably divert the [agency's] limited resources ... from their proper use in the exercise of its functions' (section 18(1) FOI Act).

I met with the agency's General Manager and its solicitor. It was clear from this meeting that the agency had not endeavoured to assist the applicant to amend the applications for access as required by section 18(2) of the FOI Act. The agency undertook to do so and promptly wrote to the applicant. The agency reiterated its refusal to deal with the applications 'because eight of the nine Applications

seek access to documents falling within broad topics which may or may not have been created over a period of almost three years ... for which it is not possible or practical for APY to search its records.' The agency therefore invited the applicant to refine the scope of the applications.

The applicant responded to the agency with comments relevant to each of the applications for access, noting some were for a specific document/s.

As a result, one of my solicitors and I met with the applicant, the agency's General Manager and its solicitor to try and effect a settlement (section 39(5)(c) FOI Act). At the meeting, the agency indicated that it would no longer refuse to deal with the applications, but that it did not hold documents within the scope of some of the applications.

The agency subsequently determined to release 170 documents in full or in part. It refused access to one document. The agency also undertook to make a determination regarding 26 documents once consultation required by the FOI Act had been undertaken. In addition, the agency released the notices, agendas and minutes of Executive Board meetings outside of the FOI Act, on the basis that they were publicly available to the APY community.

##### *Settlement and Comment*

Ultimately I considered that a settlement between the parties had been effected. I noted that if the applicant remained aggrieved by the determination refusing access to the documents, he could apply to the agency's principal officer for an internal review.

This case highlights the benefits of my office meeting with the parties. Even if a settlement is not achieved, meetings between my office and the parties, whether together or separately, often result in the issues in dispute being narrowed. Such approaches assist me to utilise my office's resources as efficiently and effectively as possible.

# Summary tables - Freedom of Information Reviews

## 1 July 2013 - 30 June 2014

### External reviews: Received

Freedom of Information External Reviews Received 1 July 2013 to 30 June 2014

Applicant	No. Received
Alexandrina Council	1
Anangu Pitjantjatjara Yankunytjatjara Executive Board	1
Attorney-General's Department	2
City of Charles Sturt	1
City of Mitcham	1
Courts Administration Authority	5
Department for Communities and Social Inclusion	4
Department for Correctional Services	8
Department for Education and Child Development	19
Department for Health and Ageing	6
Department of Environment, Water and Natural Resources	1
Department for Manufacturing, Innovation, Trade, Resources and Energy	1
Department of Planning, Transport and Infrastructure	11
Department of the Premier and Cabinet	10
District Council of Grant	3
District Council of Tumby Bay	4
Domiciliary Care SA	1
Electoral Commission of South Australia	1
Environment Protection Authority	5
Flinders University	1
Legal Practitioners Conduct Board	2
Minister for Correctional Services	1
Minister for Education and Child Development	2
Northern Adelaide Local Health Network	1
Port Augusta City Council	1
SA Housing Trust	1
SA Police	2
SA Water Corporation	3
SACE Board of SA	1
Southern Adelaide Local Health Network	5

Applicant	No. Received
The Flinders Ranges Council	1
Town of Gawler	1
University of Adelaide	1
University of South Australia	1
Urban Renewal Authority	2
Wattle Range Council	1
Women's and Children's Health Network	1
WorkCover Corporation	3
<b>Total</b>	<b>116</b>



## Freedom of Information reviews: Issues

Freedom of Information External Reviews: Issues 1 July 2013 to 30 June 2014

	Other	Department for Education and Child Development	Department of Planning, Transport and Infrastructure	Department of the Premier and Cabinet	Department for Correctional Services	Environment Protection Authority	Department for Health and Ageing	Total	Percentage
Access to documents/Deemed refusal	3	6	4	8		1	1	23	14.8%
Access to document/Form of access/s22			1					1	0.6%
Access to documents/Sufficiency of search	10	2	1	1	1	2	1	18	11.5%
Agency Determination to extend time (s14A)	2		1			1		4	2.6%
Agency Determination to refuse to deal with application/Abuse of process (s18(2a))	4							4	2.6%
Agency Determination to refuse to deal with application/Advanced deposit (s18(3))							1	1	0.6%
Agency Determination to refuse to deal with application/Voluminous application (s18(1))	2				1			3	1.9%
Agency FOI processing errors	1							1	0.6%
Amendment of records		1			1			2	1.3%
Exemptions/Business affairs	3		2			1	3	9	5.8%
Exemptions/Cabinet documents	1		3	2				6	3.9%
Exemptions/Confidentiality	2		1	1				4	2.6%
Exemptions/Intergovernmental relations	1	2						3	1.9%
Exemptions/Internal working documents	1		2		1			4	2.6%
Exemptions/Judicial functions	5				1			6	3.9%
Exemptions/Law enforcement			1		1	1		3	1.9%
Exemptions/Legal professional privilege	4		1					5	3.2%
Exemptions/Operation of agencies	3		1					4	2.6%
Exemptions/Other	1							1	0.6%
Exemptions/Personal affairs	10	5			2		1	18	11.5%
Exemptions/Secrecy provisions in legislation	2	6		3	3			14	9.0%
Exemptions/Subject to contempt			1					1	0.6%

	Other	Department for Education and Child Development	Department of Planning, Transport and Infrastructure	Department of the Premier and Cabinet	Department for Correctional Services	Environment Protection Authority	Department for Health and Ageing	Total	Percentage
Fees and charges (s53)	1							1	0.6%
FOI advice	1							1	0.6%
Jurisdiction issues/Agency identity	1							1	0.6%
Jurisdiction issues/Extension of time for application for review (s39(4))	2			2				4	2.6%
Jurisdiction issues/Premature application for external review	7	3	1		1			12	7.7%
Third party applicant review	1					1		2	1.3%
<b>Total</b>	<b>68</b>	<b>25</b>	<b>20</b>	<b>17</b>	<b>12</b>	<b>7</b>	<b>7</b>	<b>156</b>	<b>100%</b>
	<b>43.6%</b>	<b>16.0%</b>	<b>12.8%</b>	<b>10.9%</b>	<b>7.7%</b>	<b>4.5%</b>	<b>4.5%</b>		



## Freedom of Information Reviews: Completed

Freedom of Information External reviews completed 1 July 2013 to 30 June 2014

Applicant	No. Completed
Alexandrina Council	1
Anangu Pitjantjatjara Yankunytjatjara Executive Board	11
Attorney-General's Department	2
City of Charles Sturt	1
City of Onkaparinga	1
Court Administration Authority	5
Department for Communities and Social Inclusion	5
Department for Correctional Services	10
Department for Education and Child Development	23
Department for Health and Ageing	5
Department of Environment, Water and Natural Resources	1
Department of Further Education, Employment, Science and Technology	1
Department for Manufacturing, Innovation, Trade, Resources and Energy	5
Department of Planning and Local Government	1
Department of Planning, Transport and Infrastructure	14
Department of Primary Industries and Regions SA	1
Department of the Premier and Cabinet	16
District Council of Grant	3
District Council of Tumby Bay	4
District Council of Yankalilla	1
Domiciliary Care SA	1
Electoral Commission of South Australia	1
Environment Protection Authority	8
Flinders University	1
Legal Practitioners Conduct Board	1
Minister for Aboriginal Affairs and Reconciliation	1
Minister for Correctional Services	1
Minister for Education and Child Development	6
Port Augusta City Council	1
Premier	2

Applicant	No. Completed
SA Housing Trust	1
SA Police	2
SA Water Corporation	2
Southern Adelaide Local Health Network	5
Town of Gawler	1
Women's and Children's Health Network	1
WorkCover Corporation	4
<b>Total</b>	<b>150</b>



## Freedom of Information Reviews: Outcome

Freedom of Information External Reviews Completed: Outcome 1 July 2013 to 30 June 2014

	Other	Department for Education and Children's Services	Department of the Premier and Cabinet	Department of Planning, Transport and Infrastructure	Anangu Pitjantjatjara Yankunytjatjara Executive Board	Department for Correctional Services	Total	Percentage
FOI/application for review withdrawn by applicant	9	1	1	4			15	10.0%
FOI/Application settled during review (s39(5))	6	3	2	2	9		22	14.6%
FOI/Determination confirmed (s39(11))	23	3	2	3	1	4	36	24.0%
FOI/Determination reversed (s39(11))	1		1	1			3	2.0%
FOI/Determination revised by agency (s19(2a))	1						1	0.7%
FOI/Determination varied (s39(11))	27	12	10	3		5	57	38.0%
FOI/Extension of time/Discretion not exercised	1						1	0.7%
FOI/Outside of jurisdiction	8	4		1	1	1	15	10.0%
<b>Total</b>	<b>76</b>	<b>23</b>	<b>16</b>	<b>14</b>	<b>11</b>	<b>10</b>	<b>150</b>	<b>100%</b>
	50.7%	15.3%	10.7%	9.3%	7.3%	6.7%		



ABOUT OMBUDSMAN SA

# About Ombudsman SA

## What we do

The Ombudsman is empowered to:

- investigate the administrative acts of state government agencies, local government councils and statutory authorities; and also misconduct and maladministration in public administration on referral from the Independent Commissioner Against Corruption
- conduct audits of the administrative practices and procedures of state government agencies, local government councils and statutory authorities
- conduct Freedom of Information (FOI) reviews of agencies' determinations about release of information
- receive information about state and local government activities confidentially from whistleblowers
- administer and provide advice on the Information Sharing Guidelines.

The aim of Ombudsman SA is to contribute to sound public administration within state and local government agencies in South Australia.

Visit our website for further information about our services or to register a complaint directly online:  
[www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)

## The investigation process

Any party who is directly affected by an administrative act of a government department, council or statutory authority under our jurisdiction can make a complaint.

Investigations may be initiated by Ombudsman SA in response to:

- a complaint received by telephone, in person, in writing or through the website from any person (or an appropriate person acting on another's behalf)
- a complaint referred to the Ombudsman by a Member of Parliament or a committee of Parliament;
- or on the Ombudsman's own initiative
- a matter referred from the Independent Commissioner Against Corruption.

If the Ombudsman decides to investigate a complaint, we advise the agency and the complainant accordingly. As part of this process, we identify the issues raised by the complainant along with any other issues that we consider relevant. The Ombudsman can choose to conduct either an informal or a formal investigation (preliminary or full). If the

Ombudsman decides not to investigate, the complainant is advised of this, along with the reasons for the decision.

Investigations are conducted in private and we can only disclose information or make a statement about an investigation in accordance with specified provisions of the Ombudsman Act.

At the conclusion of an investigation, the Ombudsman may recommend a remedy to the agency's principal officer, or recommend that practices and procedures are amended and improved to prevent a recurrence of the problem.

The Ombudsman should not in any report, make adverse comments about any person or agency unless they have been provided with an opportunity to respond.

The Ombudsman may make a recommendation to Parliament that certain legislation be reviewed.

We usually publish our investigation and audit reports and FOI determinations on our website at <http://www.ombudsman.sa.gov.au/>.

## Our jurisdiction

Certain bodies are outside Ombudsman SA's jurisdiction. We do not have the power to investigate actions and decisions of:

- the South Australian Police
- employers – on matters that affect their employees
- private persons, businesses or companies
- Commonwealth or interstate government agencies
- government Ministers (except FOI) and Cabinet
- courts and judges
- legal advisers to the Crown.

The Ombudsman can decide whether to commence or continue an investigation. Some of the factors that may influence this decision include whether the matter is more than 12 months old; whether the complainant has a legal remedy or right of review or appeal and whether it is reasonable to expect the complainant to resort to that remedy; or whether a complaint appears to be frivolous, trivial, vexatious, or not made in good faith. In some cases an investigation may not be warranted, such as where an agency is still investigating the complaint or a complaint has not yet been made to the agency, or where another complaint-handling body may be more appropriate.

## Referral to other jurisdictions

Ombudsman SA also has an important referral role. Even though we may be unable to be of direct assistance to people who approach the office about matters that are not within our jurisdiction, we are often able to refer them to another appropriate source of assistance.

## Service principles

If the complaint is within the Ombudsman's jurisdiction, we will, in normal circumstances:

- provide an accessible and timely service, with equal regard for all people with respect for their background and circumstances
- provide impartial and relevant advice and clear information about what we can and cannot do
- provide timely, impartial and fair investigation of complaints
- keep people informed throughout the investigation of a complaint
- provide concise and accurate information about any decisions or recommendations made and provide reasons wherever possible.

## Complaints about Ombudsman SA

Parties who are unhappy with our service can find our complaints policy and procedures at <http://www.ombudsman.sa.gov.au/about-us/complaints-about-us/>.





## APPENDICES

**Appendix A:** Organisation Chart

**Appendix B:** Financial Statement

**Appendix C:** Description of outcomes - Ombudsman jurisdiction

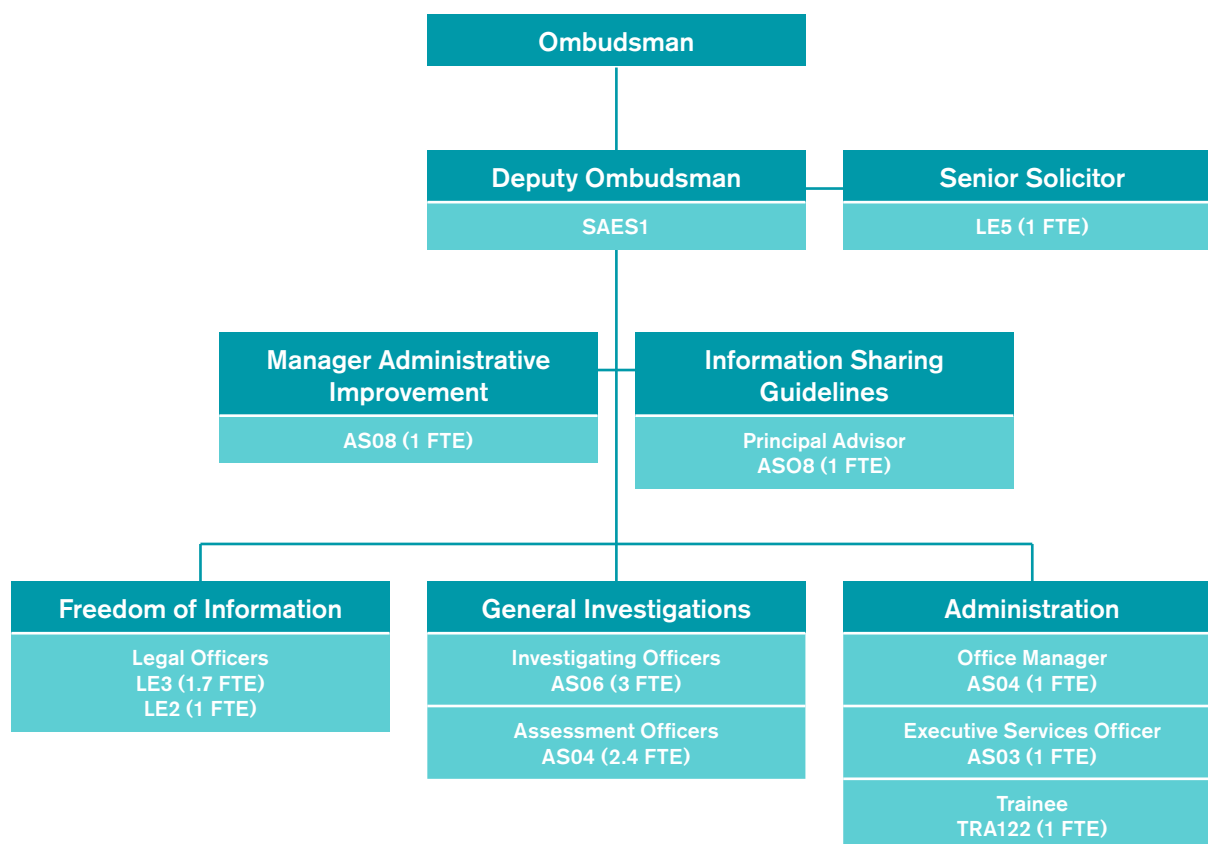
**Appendix D:** Description of outcomes - Freedom of Information jurisdiction

**Appendix E:** Presentations and Professional Development

**Appendix F:** Complaints received 2013-14 - Breakdown of issues

# Appendix A

## Organisation Chart



# Appendix B

## Financial statement

Expenditure	2012/13	2013/14
Annual Report	3 726	6 370
Computer expenses	55 334	63 954
Conference costs		16 191
Equipment maintenance	2 545	3 683
Equipment purchases	440	1 197
Fringe Benefits Tax	5 687	7 473
*Motor vehicles	18 151	14 757
Postage	3 563	1 305
Printing and stationery	14 949	6 445
Publications and subscriptions	1 159	1 307
Staff development	17 880	13 749
# Sundries	36 814	35 389
Telephone charges	9 946	9 780
Travel/taxi charges	9 015	9 547
Website development	9 514	6 189
Sub-total	188 723	197 336
*Accommodation and energy	135 813	146 973
Consultant/Contract staff/Prof costs	183 552	106 869
Sub-total	319 365	253 842
*Salaries	1 374 588	1 883 039
Sub-total	1 374 588	1 883 039
<b>Income</b>	<b>(38 369)</b>	<b>(179)</b>
Sub-total	(38 369)	(179)
*Figures include expenses incurred by the Ombudsman position (funded by Special Acts)		
# Sundries includes items such as grant contributions, professional organisations & memberships, interpreting costs, occupational health & safety, storage & archives		
<b>Net expenditure</b>	<b>1 844 307</b>	<b>2 334 038</b>

# Appendix C

## Description of outcomes: Ombudsman jurisdiction

Outcome	Description
Advice Given	<p>This outcome is used when:</p> <ul style="list-style-type: none"> <li>giving advice that does not relate to a specific approach or complaint</li> <li>giving information or advice to the public about Ombudsman SA e.g. address details, a request for a copy of an annual report or pamphlets</li> <li>giving FOI advice.</li> </ul> <p>For approaches or complaints, more specific outcomes are used — such as ‘Referred Back to Agency’, ‘Alternate Remedy Available with Another Body’, ‘Out of Jurisdiction’.</p>
Out Of Jurisdiction	<p>This outcome is not available when a matter reaches the stage of a complaint.</p> <p>It is used when:</p> <ul style="list-style-type: none"> <li>the complaint body is not an ‘agency’ (section 3)</li> <li>the act was performed by a Minister of the Crown</li> <li>the complaint is not about an ‘administrative act’ because it was <ul style="list-style-type: none"> <li>done in the discharge of a judicial authority (section 3)</li> <li>done in the capacity of legal adviser to the Crown (section 3)</li> </ul> </li> <li>the act relates to a police matter (section 5(2))</li> <li>the act was strictly a policy decision (<i>City of Salisbury v Biganovsky</i> 54 SASR 117)</li> <li>the act is a complaint by an employee about their current or past employer (section 17(1))</li> </ul>
Complainant Cannot Be Contacted	<p>This outcome is used after all reasonable attempts have been made to contact the complainant by telephone, email or letter. It can be used at any stage of an assessment or investigation.</p>
Referred Back To Agency	<p>This outcome is used usually during the assessment phase, but may be used in the investigation phase.</p> <p>It is used when:</p> <ul style="list-style-type: none"> <li>it is proper for the complainant to complain to the agency, or go back to the agency to seek a review of their complaint (Ombudsman SA policy — the Ombudsman is an ‘office of last resort’), or</li> <li>the complainant has a right of appeal, reference or review with the agency such as: <ul style="list-style-type: none"> <li>with a council under section 270 of the Local Government Act</li> <li>review processes for students in universities</li> <li>review processes for prisoners in the Department for Correctional Services</li> <li>review and appeal regarding land tax under the Taxation Administration Act</li> </ul> </li> </ul> <p>unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy (section 13(3)).</p>



Outcome	Description
Alternate Remedy Available With Another Body	<p>This outcome is only used when the agency being complained about is within jurisdiction.</p> <p>It is used where the complainant has a right of appeal, reference or review with another body such as:</p> <ul style="list-style-type: none"> <li>• the Health and Community Services Complaints Commissioner</li> <li>• the WorkCover Ombudsman</li> <li>• the Environment Resources and Development Court</li> </ul> <p><i>unless</i> the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy (section 13(3)).</p>
Resolved With Agency Cooperation	<p>This outcome is used usually during the assessment phase of a complaint where Ombudsman SA has made contact with the agency, and the agency has taken action to remedy the complaint to the satisfaction of the complainant.</p> <p>It is not used if Ombudsman SA has not had contact with the agency. In this case, the outcome 'Withdrawn by Complainant' will probably be applicable.</p>
Withdrawn By Complainant	<p>This outcome is used when the complainant expressly wishes to withdraw their complaint, even if Ombudsman SA has not contacted the agency. It can be used at any stage of an assessment or investigation.</p>
Declined/Trivial, Frivolous, Vexatious, Not Made In Good Faith (Section 17(2))	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> <li>• not to commence an assessment or investigation or</li> <li>• not to continue with an assessment or investigation</li> </ul> <p>because:</p> <ul style="list-style-type: none"> <li>• the complaint is trivial (section 17(2)(a))</li> <li>• the complaint was frivolous, vexatious or not made in good faith (section 17(2)(b))</li> </ul>
Declined/No Sufficient Personal Interest Or Not Directly Affected (Section 17(2))	<p>This outcome is used for a complaint, where the Ombudsman decides:</p> <ul style="list-style-type: none"> <li>• not to commence an assessment or investigation or</li> <li>• not to continue with an assessment or investigation</li> </ul> <p>because:</p> <ul style="list-style-type: none"> <li>• the complainant or their representative did not have sufficient personal interest (section 17(2)(c))</li> <li>• the complainant was not directly affected by the administrative act (section 15(3a)).</li> </ul>
Declined/Out Of Time	<p>This outcome is used for a complaint, where the Ombudsman decides:</p> <ul style="list-style-type: none"> <li>• not to commence an assessment or investigation or</li> <li>• not to continue with an assessment or investigation</li> </ul> <p>because the complaint was made more than 12 months after the day on which the complainant first had notice of the events alleged in the complaint.</p>



Outcome	Description
Declined/Investigation Unnecessary Or Unjustifiable	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> <li>not to commence an assessment or investigation or</li> <li>not to continue with an assessment or investigation</li> </ul> <p>because having regard to the circumstances of the case, such action is unnecessary or unjustifiable (section 17(2)(d)). For example:</p> <ul style="list-style-type: none"> <li>after assessing or commencing an investigation of the complaint, it appears that there is no evidence of administrative error under section 25(1)(a)-(g)</li> <li>the complaint is minor</li> <li>the complainant and/or the agency has taken action to rectify the problem</li> <li>it would not be in the public interest for the Ombudsman to investigate or continue investigating the complaint.</li> </ul>
Not Substantiated/No Section 25 Finding	<p>This outcome is used:</p> <ul style="list-style-type: none"> <li>after a preliminary (or more rarely a full) investigation and a report has been completed, and</li> <li>there is no administrative error under section 25(1)(a)-(g).</li> </ul>
Ombudsman Comment Warranted	<p>This outcome is used <i>only</i> after a <i>preliminary</i> investigation.</p> <p>No administrative error has been found under section 25(1)((a)-(g), but an issue worthy of the Ombudsman's comment has been identified.</p>
Section 25(1)(a) Finding: Contrary To Law Section 25(1)(b) Finding: Unreasonable Section 25(1)(c) Finding: Unreasonable Law Or Practice Section 25(1)(d) Finding: Improper Purpose Or Irrelevant Grounds Or Considerations Section 25(1)(e) Finding: No Reason Given Section 25(1)(f) Finding: Mistake Of Law Or Fact Section 25(1)(g) Finding: Wrong	<p>These outcomes are used <i>only</i> when making a finding of administrative error after a <i>full</i> investigation, and reflect section 25(1)(a)-(g) of the Ombudsman Act.</p>
Section 18(5) Referred Evidence Of Misconduct To Principal Officer	<p>This outcome is used where the Ombudsman has referred evidence of breach of duty or misconduct on the part of a member, officer or employee of an agency to which the Ombudsman Act applies to the principal officer of the agency.</p>

# Appendix D

## Description of outcomes: Freedom of Information jurisdiction

Outcome	Description
FOI Application For Review Withdrawn By Applicant	<p>This outcome means that during or at the conclusion of the external review, the applicant decided to withdraw the application. For example, the applicant may have decided to pursue other avenues of redress; or with the passage of time, the applicant no longer wished to pursue document access.</p> <p>The outcome is relevant when the applicant seeks the external review before they have sought or finalised internal review processes, and hence the Ombudsman is unable to undertake an external review. This outcome does not include instances where the agency has revised its determination to give access to documents.</p>
FOI Application Settled During Review (Section 39(5))	This outcome means that the Ombudsman exercised settlement powers under section 39(5)(c). A 'Notice of Finalisation' is sent to parties. There is no formal determination by the Ombudsman under section 39(11).
FOI Determination Confirmed (Section 39(11))	<p>This outcome means that at the conclusion of the external review, the Ombudsman agreed (in whole) with the agency's determination (section 39(11)).</p> <p>*Note – the Ombudsman's reasons may differ from the agency (for example, a different exemption clause may apply).</p>
FOI Determination Reversed (Section 39(11))	This outcome means that at the conclusion of the external review, the Ombudsman disagreed (in whole) with the agency's determination (section 39(11)).
FOI Determination Revised By Agency (Section 19(2)(A))	<p>This outcome means that all documents were released by the agency under section 19(2A) after the commencement of the external review.</p> <p>The outcome may occur, for example, in an external review dealing with an agency's 'double deemed refusal', where the agency has had a chance to consider the documents and decides that the documents should be released.</p>
FOI Determination Varied (Section 39(11))	This outcome means that at the end of the external review, the Ombudsman agreed in part and disagreed in part with the agency's determination (section 39(11)).
FOI Extension Of Time For Application For Review (Section 39(4))	This outcome means that the Ombudsman did not exercise his discretion to accept an external review application out of time under section 39(4).



# Appendix E

## Professional Development and Presentations 2013-2014

### Staff development 2013-2014

Program	Audience
AGD Leadership - Momentum	Senior staff
Resolve conference	Admin staff
Resolve report training	Admin staff
Procurement (local government focus)	All staff
Safe Work Week seminars	OH&S rep
National Victims of Crime conference	All staff
JusticeNet SA- Fundamentals of Judicial Review	Legal staff
IPAA - Editing and proofing (advanced)	Legal staff
IPAA - Providing performance feedback	Legal staff
Norman Waterhouse-Planning and enforcement case law review	All staff
Fire warden training	Needs based
Bomb threat and mail handling procedures	Frontline staff
Dealing with aggressive and threatening behaviour	Frontline staff
Fines Enforcement and Recovery unit visit	Investigators and Assessment staff
Ombudsman SA strategic planning day	All staff
AHRC - Statutory conciliation training in human rights	Selection of staff
Aboriginal cultural awareness workshop	All staff
ICAC and its implications for lawyers	Legal staff
Uni SA Law Students' Association 2014 Careers Fair	All staff
Flinders University, Whistleblower Reform: From theory to practice	Legal staff
The Ombudsman and FOI in Brazil	All staff
Telephone courtesy and etiquette	Admin staff
Jobs4YouthSA Trainee orientation, cultural awareness and mentoring	Trainee
Jobs4YouthSA supervisor training	Trainee
AGD - Writing a job and person specification	Assessment officers
Leading and Developing an effective team	Senior staff
Wordpress course	Admin staff
A first review of web accessibility	Admin staff
Minutes matter workshop	Admin staff
Ongoing Continuing Legal Education seminars	Legal staff

## Conferences/Meetings

Program	Audience
Australian Ombudsman meetings	Ombudsman
Australian Deputy Ombudsman meetings	Deputy Ombudsman
Victorian Ombudsman 40th Anniversary, Melbourne	Ombudsman
Australian and New Zealand Ombudsman Association AGM 2013, Melbourne	Ombudsman
Australasian and Pacific Ombudsman Region conference, Adelaide	All staff
Australian Public Sector Anti-Corruption Conference	Ombudsman
33 <sup>rd</sup> Australian and New Zealand Association of Psychiatry, Psychology And Law Annual Congress	Senior manager
University of South Australia Law Students' Association Careers Fair	Selection of staff
Australian and New Zealand Ombudsman Association Conference 2014, New Zealand	Ombudsman

## Presentations

Presentation	Audience/Location
Role of Ombudsman SA	Department for Correctional Services recruits (x3) Department for Correctional Services SIP Bridging Program Department for Correctional Services, Port Augusta Brownhill Creek Ladies Probus Club Legal Services Commission Local Government CEO Network OPI/ICAC South Australian Association of School Parents Clubs Executive
Public Integrity reform	SA Public Sector
Council Member Code of Conduct	Metropolitan region - Local Government Association (LGA) Wudinna - LGA Loxton - LGA Naracoorte - LGA Port Pirie - LGA Council Executive and Personal Assistants - LGA Council Residential Seminar CEOs - LGA Mayor and Chairpersons - LGA
Freedom of Information	Councils - LGA Rural City of Murray Bridge
FOI and the ICAC framework	Council governance officers - LGA
Ongoing Outreach - Women's Information Service	Various clients

# Appendix F

Government Departments - Complaints Received: Issues 1 July 2013 to 30 June 2014

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
Attorney-General's Department						1							1		11	4		
Department for Communities and Social Inclusion													1		13			
Department for Correctional Services	2	3	1	15	1	13	5	1	1		1	11	6	1	7	2	2	9
Department for Education and Child Development						15	41	8	7	11	1	7	9		6	3		3
Department for Health and Ageing							2			1				1				
Department of Manufacturing, Innovation, Trade and Resources													1			1		
Department of Environment, Water and Natural Resources							1	3	2				5		1	2		
Department of Further Education, Employment, Science and Technology															1			
Department of Planning, Transport and Infrastructure						3	3	4	3	2			2	2	14	19	4	4
Department of Primary Industries and Regions SA													2					
Department of the Premier and Cabinet							3	1	1	1		1	2		1	4	3	
Department of Treasury and Finance												1						
Electoral Commission of South Australia							1									1		
Environment Protection Authority						1	5			2					1			
SA Housing Trust						10	8		8	6		6	1	1	4	3	1	4
SA Police																		
SA Water Corporation						3	1		2	1							1	1
<b>Total</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>15</b>	<b>1</b>	<b>55</b>	<b>71</b>	<b>17</b>	<b>24</b>	<b>24</b>	<b>2</b>	<b>26</b>	<b>30</b>	<b>5</b>	<b>59</b>	<b>39</b>	<b>11</b>	<b>21</b>

	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ
Attorney-General's Department	1																	
Department for Communities and Social Inclusion																		
Department for Correctional Services	1	2	19	19	13	2	16	17	32	2	5	14	18	50	2	3	31	2
Department for Education and Child Development	2																	2
Department for Health and Ageing																		
Department of Manufacturing, Innovation, Trade and Resources																		
Department for Environment, Water and Natural Resources																		
Department of Further Education, Employment, Science and Technology																		
Department of Planning, Transport and Infrastructure																		2
Department of Primary Industries and Regions SA																		
Department of the Premier and Cabinet																		1
Department of Treasury and Finance																		
Electoral Commission of South Australia																		
Environment Protection Authority																		
SA Housing Trust	1																	
SA Police																		
SA Water Corporation																		
<b>Total</b>	<b>5</b>	<b>2</b>	<b>19</b>	<b>19</b>	<b>13</b>	<b>2</b>	<b>16</b>	<b>17</b>	<b>32</b>	<b>2</b>	<b>5</b>	<b>14</b>	<b>18</b>	<b>50</b>	<b>2</b>	<b>3</b>	<b>31</b>	<b>7</b>



	AK	AL	AM	AN	AO	AP	AQ	AR	AS	AT	AU	AV	AW	AX	AY	AZ	BA	BB
Attorney-General's Department			2							1								
Department for Communities and Social Inclusion		1	1							7	1							
Department for Correctional Services				1	1		1			4		1	5					
Department for Education and Child Development			1						1	15								
Department for Health and Ageing										2								
Department of Manufacturing, Innovation, Trade and Resources										1								
Department of Environment, Water and Natural Resources							1	1	1	1								
Department of Further Education, Employment, Science and Technology																		
Department of Planning, Transport and Infrastructure	2	3	1			3			1	2								
Department of Primary Industries and Regions SA																		
Department of the Premier and Cabinet			1						1	3								
Department of Treasury and Finance			1															
Electoral Commission of South Australia																		
Environment Protection Authority										2								
SA Housing Trust		1	3	1						7				19	7	7	3	16
SA Police										2								
SA Water Corporation		1	1				1			3								
<b>Total</b>	<b>2</b>	<b>6</b>	<b>11</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>50</b>	<b>1</b>	<b>1</b>	<b>5</b>	<b>19</b>	<b>7</b>	<b>7</b>	<b>3</b>	<b>16</b>



	BC	BD	BE	BF	BG	BH	BI	BJ	BK	BL	BM	BN	BO	BP	BQ	BR	BS	BT
Attorney-General's Department																		
Department for Communities and Social Inclusion																		
Department for Correctional Services											14	35	5	3	1	24	2	1
Department for Education and Child Development																		
Department for Health and Ageing																		
Department of Manufacturing, Innovation, Trade and Resources																		
Department for Environment, Water and Natural Resources																		
Department of Further Education, Employment, Science and Technology																		
Department of Planning, Transport and Infrastructure																		
Department of Primary Industries and Regions SA																		
Department of the Premier and Cabinet																		
Department of Treasury and Finance																		
Electoral Commission of South Australia																		
Environment Protection Authority																		
SA Housing Trust	103	19	11	20						1								
SA Police																		
SA Water Corporation																		
<b>Total</b>	<b>103</b>	<b>19</b>	<b>11</b>	<b>20</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>14</b>	<b>35</b>	<b>5</b>	<b>3</b>	<b>1</b>	<b>24</b>	<b>2</b>	<b>1</b>



	BU	BV	BW	BX	BY	BZ	CA	CB	CC	CD	CE	CF	CG	CH	CI	CJ	CK	CL
Attorney-General's Department		1	10		13	3	3		2									
Department for Communities and Social Inclusion																		
Department for Correctional Services			2		4													
Department for Education and Child Development		2	4		1						1							
Department for Health and Ageing										1								
Department of Manufacturing, Innovation, Trade and Resources											1							
Department of Environment, Water and Natural Resources											5				1			2
Department of Further Education, Employment, Science and Technology			1															
Department of Planning, Transport and Infrastructure	1		1		5	1	4		3	4	13	15	6	5	1	3		
Department of Primary Industries and Regions SA						1					3				1			
Department of the Premier and Cabinet		1									1							
Department of Treasury and Finance					1	1										19	4	
Electoral Commission of South Australia																		
Environment Protection Authority				1				1					1					
SA Housing Trust																		3
SA Police																		
SA Water Corporation										1								31
<b>Total</b>	<b>1</b>	<b>4</b>	<b>18</b>	<b>1</b>	<b>24</b>	<b>6</b>	<b>7</b>	<b>1</b>	<b>5</b>	<b>6</b>	<b>24</b>	<b>15</b>	<b>7</b>	<b>5</b>	<b>3</b>	<b>22</b>	<b>4</b>	<b>36</b>

	CM	CN	CO	CP	CQ	CR	CS	CT	CU	CV	CW	CX	CY	CZ	DA	DB	DC	DD
Attorney-General's Department	2										1							
Department for Communities and Social Inclusion																		
Department for Correctional Services															2	10	30	
Department for Education and Child Development																		
Department for Health and Ageing																		
Department of Manufacturing, Innovation, Trade and Resources																		
Department for Environment, Water and Natural Resources																		
Department of Further Education, Employment, Science and Technology																		
Department of Planning, Transport and Infrastructure		15	7	6	1	1	5	3	2	4	11	1	3	1	1			
Department of Primary Industries and Regions SA																		
Department of the Premier and Cabinet		1		1														
Department of Treasury and Finance																		
Electoral Commission of South Australia																		
Environment Protection Authority																		
SA Housing Trust																		
SA Police																		
SA Water Corporation																		
<b>Total</b>	<b>2</b>	<b>16</b>	<b>7</b>	<b>7</b>	<b>1</b>	<b>1</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>12</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>10</b>	<b>30</b>



	DE	DF	DG	DH	DI	DJ	DK	DL	DM	DN	DO	
Attorney-General's Department						6	2		3			
Department for Communities and Social Inclusion				3	2	4		2		1		
Department for Correctional Services	33	1		1	6	15			4		1	
Department for Education and Child Development		2	4	5	3	36	4		8	1	1	
Department for Health and Ageing					1				2		1	
Department of Manufacturing, Innovation, Trade and Resources												
Department of Environment, Water and Natural Resources				1			3					
Department of Further Education, Employment, Science and Technology			2		1							
Department of Planning, Transport and Infrastructure				1	7	15	6		14	1		
Department of Primary Industries and Regions SA						1						
Department of the Premier and Cabinet			1	2	2	4	1		6			
Department of Treasury and Finance					1	1		1	1			
Electoral Commission of South Australia										1		
Environment Protection Authority												
SA Housing Trust			1	3	8	12	16		7	1		
SA Police												
SA Water Corporation						3	25	2	4			
<b>Total</b>	<b>33</b>	<b>3</b>	<b>8</b>	<b>16</b>	<b>31</b>	<b>97</b>	<b>57</b>	<b>5</b>	<b>50</b>	<b>4</b>	<b>3</b>	<b>1647</b>

## Government Departments

A	Abuse or assault/Physical/By other detainees	AI	Custodial services/Telephone
B	Abuse or assault/Physical/By staff	AJ	Employment
C	Abuse or assault/Sexual/By other detainees	AK	Financial/Procurement/Facilities/Compensation/ Damage/Acquisition of land
D	Abuse or assault/Verbal/Harassment/Threats/By staff	AL	Financial/Procurement/Facilities/Compensation/ Damage/Property lost/Damaged
E	Advice	AM	Financial/Procurement/Facilities/Debts
F	Complaint handling/Delay	AN	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Cost of use
G	Complaint handling/Inadequate processes	AO	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Inadequate
H	Complaint handling/Inadequate reasons	AP	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Nuisance
I	Complaint handling/Inadequate remedy	AQ	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Unsafe condition
J	Complaint handling/Wrong conclusion	AR	Financial/Procurement/Facilities/Procurement by agencies/Decisions
K	Conduct/Assault	AS	Financial/Procurement/Facilities/Procurement by agencies/Tenders
L	Conduct/Discourtesy	AT	FOI advice
M	Conduct/Misconduct	AU	FOI practices and procedures
N	Correspondence/Communications/Records/ Breach of privacy/confidentiality	AV	General advice/FOI matters
O	Correspondence/Communications/Records/ Delay/No response	AW	Home detention
P	Correspondence/Communications/Records/ Incorrect	AX	Housing/Allocation
Q	Correspondence/Communications/Records/Lost	AY	Housing/Arrears/Debt recovery
R	Correspondence/Communications/Records/ Withholding of information	AZ	Housing/Categorisation
S	Correspondence/Communications/Records/ Wrongful disclosure of information	BA	Housing/Damages
T	Custodial services/Buildings and facilities	BB	Housing/Disruptive tenants
U	Custodial services/Canteen	BC	Housing/Maintenance
V	Custodial services/Cell conditions	BD	Housing/Rent
W	Custodial services/Clothing/Footwear	BE	Housing/Termination
X	Custodial services/Educational programs	BF	Housing/Transfer
Y	Custodial services/Employment	BG	Corruption
Z	Custodial services/Food	BH	Other matters to report
AA	Custodial services/Health related services	BI	Serious or systemic maladministration (substantial mismanagement)
AB	Custodial services/Leave	BJ	Serious systemic maladministration (unauthorised/ irregular use)
AC	Custodial services/Legal resources	BK	Serious or systemic misconduct
AD	Custodial services/Prisoner accounts	BL	Improper release of documents
AE	Custodial services/Prisoner mail	BM	Prison management/Discipline/Security/Daily regimen
AF	Custodial services/Property	BN	Prison management/Discipline/Security/
AG	Custodial services/Recreation programs and services		
AH	Custodial services/Rehabilitation programs		

	Discipline/Management	CT	Roads and traffic/Licensing/Tests
BO	Prison management/Discipline/Security/Drug testing	CU	Roads and traffic/Registration/Conditions
BP	Prison management/Discipline/Security/Inspections/Body searches	CV	Roads and traffic/Registration/Failure to issue renewal
BQ	Prison management/Discipline/Security/Transport	CW	Roads and traffic/Registration/Fees/Charges
BR	Prison management/Discipline/Security/Visits	CX	Roads and traffic/Registration/Incorrect details on registration
BS	Prison records/Official correspondence/Delayed/No response	CY	Roads and traffic/Registration/Roadworthy
BT	Prison records/Official correspondence/Incorrect	CZ	Roads and traffic/Registration/Stolen vehicles
BU	Records management	DA	Roads and traffic/Registration/Transfer without consent
BV	Regulation and enforcement/Complaint handling	DB	Sentence management/Classification
BW	Regulation and enforcement/Enforcement action/Excessive	DC	Sentence management/Parole
BX	Regulation and enforcement/Enforcement action/Insufficient	DD	Sentence management/Placement/Location
BY	Regulation and enforcement/Enforcement action/Unfair	DE	Sentence management/Transfers
BZ	Regulation and enforcement/Fees	DF	Service delivery/Abuse in care
CA	Regulation and enforcement/Infringements/Excessive penalty	DG	Service delivery/Assessment
CB	Regulation and enforcement/Infringements/Incorrect details	DH	Service delivery/Conditions
CC	Regulation and enforcement/Infringements/Unreasonably issued	DI	Service delivery/Eligibility for services
CD	Regulation and enforcement/Inspections	DJ	Service delivery/Failure to act/Provide
CE	Regulation and enforcement/Licensing/Conditions	DK	Service delivery/Fees and charges
CF	Regulation and enforcement/Licensing/Refusal	DL	Service delivery/Financial assistance
CG	Regulation and enforcement/Licensing/Renewal	DM	Service delivery/Quality
CH	Regulation and enforcement/Licensing/Suspension	DN	Service delivery/Termination of services
CI	Regulation and enforcement/Permits	DO	Whistleblower Protection Act advice
CJ	Revenue collection/Land tax		
CK	Revenue collection/Stamp duty		
CL	Revenue collection/Water and sewerage		
CM	Roads and traffic/Charges/Fines		
CN	Roads and traffic/Licensing/Conditions		
CO	Roads and traffic/Licensing/Demerit points		
CP	Roads and traffic/Licensing/Fail to issue renewal		
CQ	Roads and traffic/Licensing/Fees/Charges		
CR	Roads and traffic/Licensing/Incorrect details on license		
CS	Roads and traffic/Licensing/Medical test		

Local Government - Complaints Received: Issues 1 July 2013 to 30 June 2014

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
Adelaide Hills Council				3		1					3		1		1			
Alexandrina Council				3					1						1			
Berri Barmera Council																		
Campbelltown City Council			1	3														
City of Adelaide				4	2			1		1						1		
City of Burnside				1	1		1	1	1	1	1			1	2		1	
City of Charles Sturt		1	3	1			1	4	1		2	2		1	1			
City of Holdfast Bay				2	1			2		1	4			1	1		3	
City of Marion			2	3	1		2		1		1		1		1			
City of Mitcham			1	2		1	3						1	3				
City of Mt Gambier				1					1		1							
City of Norwood, Payneham and St Peters			1												1			
City of Onkaparinga			2	4	1	3	3	1		1	1			2	3			
City of Playford				2		1	1	1	2		1			3	1		1	
City of Pt Adelaide Enfield			1	4	3	5	2	2				1						
City of Pt Lincoln															1			
City of Prospect			1		1		1								1			
City of Salisbury			2	1	2	2		1									4	
City of Tea Tree Gully			1	5	1	3	3	1	1			1		1	1			
City of Unley							1				1			1				
City of Victor Harbor				1		1	3	1			2	1						
City of West Torrens			1			2		1										
Clare and Gilbert Valleys Council			1	1														
Coorong District Council															1			
City of Whyalla								2		1								
City of Walkerville			1															
DC of Barunga West																		
DC of Ceduna			1		1										1			
DC of Cleve																		
DC of Coober Pedy							1											
DC of Elliston		1							4		1							
DC of Franklin Harbour																		

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
DC of Grant				1														
DC Karoonda East Murray						1												
DC Lower Eyre Peninsula									2									
DC of Loxton Waikerie																		
DC of Mallala				1			1				2						3	
DC of Mt Barker				1	1	1	1			2								
DC of Mount Remarkable			3			1				1								
DC Orroroo/Carrieton																		
DC Peterborough				2							1							
DC Renmark Paringa																		
DC of Robe										1	1							
DC of Streaky Bay				1														
DC of Copper Coast					1	2		1		1		1	1	1	1			
DC of Tumby Bay								1	3		3	1	1	1			1	
DC of Yankalilla							1				1							
DC of Yorke Peninsula					2				3			1						
Kangaroo Island Council						1			1			1					1	
Light Regional Council				1			1		1									
Mid Murray Council			2			1			2	1	2				1			
Naracoorte Lucindale Council																		
Northern Areas Council			1		1													
Pt Augusta City Council				1			1			1					1			
Pt Pirie Regional Council				1	2										1			
Regional Council of Goyder					1					1								
Roxby Council	1															1		
Rural City of Murray Bridge				3		1	1				1	1						
Southern Mallee DC										1								
The Barossa Council			1	1		1					1	1	1					
Flinders Ranges Council				1													1	
Town of Gawler		1		1														
Wakefield Regional Council				1										1				1
Wattle Range Council			1			1												
<b>Total</b>	<b>1</b>	<b>3</b>	<b>27</b>	<b>57</b>	<b>22</b>	<b>29</b>	<b>28</b>	<b>20</b>	<b>24</b>	<b>14</b>	<b>30</b>	<b>11</b>	<b>7</b>	<b>20</b>	<b>17</b>	<b>1</b>	<b>15</b>	<b>1</b>



	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ
Adelaide Hills Council																		
Alexandrina Council															1			
Berri Barmera Council																		
Campbelltown City Council																		
City of Adelaide													1		1		1	1
City of Burnside																		
City of Charles Sturt													1	1		1	1	
City of Holdfast Bay										1					1			1
City of Marion		3	1							1								2
City of Mitcham																1		
City of Mt Gambier																		
City of Norwood, Payneham and St Peters																		
City of Onkaparinga						1		1		2					1		1	
City of Playford		5				2	1			1						1	1	1
City of Pt Adelaide Enfield									1	1		1				1		
City of Pt Lincoln												1						
City of Prospect																		
City of Salisbury								1	1	1								1
City of Tea Tree Gully										3								1
City of Unley						1				1								1
City of Victor Harbor																	1	
City of West Torrens										1		1					2	
Clare and Gilbert Valleys Council		1								1							1	
Coorong District Council										1								
City of Whyalla																		
City of Walkerville																	1	
DC of Barunga West																	1	
DC of Ceduna		1																
DC of Cleve																		
DC of Coober Pedy																		
DC of Elliston																		
DC of Franklin Harbour																		
DC of Grant															1			

	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ
DC Karoonda East Murray																		
DC Lower Eyre Peninsula																		
DC of Loxton Waikerie																		
DC of Mallala		2											1					
DC of Mt Barker																		
DC of Mount Remarkable																		
DC Orroroo/Carrieton																		
DC Peterborough																		
DC Renmark Paringa																		
DC of Robe																		
DC of Streaky Bay																		
DC of Copper Coast		3												2				
DC of Tumby Bay		2												2			1	
DC of Yankalilla																		
DC of Yorke Peninsula													1			1		
Kangaroo Island Council	1	1		1	1									1				
Light Regional Council		1															1	1
Mid Murray Council																		
Naracoorte Lucindale Council																		
Northern Areas Council																	2	
Pt Augusta City Council																1		
Pt Pirie Regional Council																		
Regional Council of Goyder																		
Roxby Council																		2
Rural City of Murray Bridge																		
Southern Mallee DC																		
The Barossa Council														1				
Flinders Ranges Council						1												
Town of Gawler																		
Wakefield Regional Council		1																
Wattle Range Council											1					1		1
<b>Total</b>	<b>1</b>	<b>20</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>14</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>8</b>	<b>4</b>	<b>7</b>	<b>14</b>	<b>12</b>

	AK	AL	AM	AN	AO	AP	AQ	AR	AS	AT	AU	AV	AW	AX	AY	AZ	BA	BB
Adelaide Hills Council					1								2					
Alexandrina Council					1			1					4	1				
Berri Barmera Council																		
Campbelltown City Council																		
City of Adelaide					2								1					
City of Burnside						1							3		2			
City of Charles Sturt				1	1								2					
City of Holdfast Bay					1			2							1			
City of Marion					1			1			3							
City of Mitcham					1			2					1					
City of Mt Gambier						1			1				1					
City of Norwood, Payneham and St Peters																		
City of Onkaparinga			1		1			1			2		1					
City of Playford			1		1	4					2		2					
City of Pt Adelaide Enfield			2		1	5							2					
City of Pt Lincoln						1		1					1					
City of Prospect					2													
City of Salisbury			1		2	4					1							
City of Tea Tree Gully					1	1					3							
City of Unley					1			1		1	1		1					
City of Victor Harbor			1		1			1										
City of West Torrens						2												
Clare and Gilbert Valleys Council															1			
Coorong District Council					1						1							
City of Whyalla																		
City of Walkerville																		
DC of Barunga West				1	1													
DC of Ceduna																		
DC of Cleve															1			
DC of Coober Pedy												1	1					
DC of Elliston																		
DC of Franklin Harbour															1			
DC of Grant				1				2			1							



	AK	AL	AM	AN	AO	AP	AQ	AR	AS	AT	AU	AV	AW	AX	AY	AZ	BA	BB
DC Karoonda East Murray																		
DC Lower Eyre Peninsula																		
DC of Loxton Waikerie																		
DC of Mallala					1	1												
DC of Mt Barker						1							1					
DC of Mount Remarkable				1	1													
DC Orroroo/Carrieton	1												1					
DC Peterborough																		
DC Renmark Paringa						1												
DC of Robe																		
DC of Streaky Bay													1					
DC of Copper Coast			1	1	2			3					1					
DC of Tumby Bay						2		1							1			
DC of Yankalilla			1												2			
DC of Yorke Peninsula																		
Kangaroo Island Council													10		1			
Light Regional Council				1		1							4					
Mid Murray Council		1			2			1					1					
Naracoorte Lucindale Council			1															
Northern Areas Council																		
Pt Augusta City Council						1												
Pt Pirie Regional Council					4													
Regional Council of Goyder						1												
Roxby Council				1	1													
Rural City of Murray Bridge			1	2														
Southern Mallee DC																		
The Barossa Council																		
Flinders Ranges Council			1					1					2					
Town of Gawler						1	1			1	1							
Wakefield Regional Council				1														
Wattle Range Council																		
<b>Total</b>	<b>1</b>	<b>1</b>	<b>10</b>	<b>11</b>	<b>31</b>	<b>27</b>	<b>2</b>	<b>18</b>	<b>1</b>	<b>2</b>	<b>15</b>	<b>1</b>	<b>43</b>	<b>1</b>	<b>10</b>	<b>1</b>	<b>1</b>	<b>1</b>

	BC	BD	BE	BF	BG	BH	BI	BJ	BK	BL	BM	BN	BO	BP	BQ	BR	BS	BT
Adelaide Hills Council			1					1					2	1				
Alexandrina Council			1	2					1				1	1		1		
Berri Barmera Council																		
Campbelltown City Council			2							1	1		1					
City of Adelaide													1	1				2
City of Burnside			1						1				1					
City of Charles Sturt			2				1							1		1		
City of Holdfast Bay																		
City of Marion																		
City of Mitcham																		
City of Mt Gambier																		
City of Norwood, Payneham and St Peters							3									1		
City of Onkaparinga		1	1			1	1	1						1				1
City of Playford							1	1										
City of Pt Adelaide Enfield			1	1	1			1								2	1	
City of Pt Lincoln																		
City of Prospect																		
City of Salisbury			1				1									3		
City of Tea Tree Gully										1						1		
City of Unley							1						1					
City of Victor Harbor																		
City of West Torrens									1					1		2		1
Clare and Gilbert Valleys Council																		
Coorong District Council																		
City of Whyalla																		
City of Walkerville																		
DC of Barunga West																		
DC of Ceduna																		
DC of Cleve			1															
DC of Coober Pedy									1									
DC of Elliston																		
DC of Franklin Harbour																		
DC of Grant																		



	BC	BD	BE	BF	BG	BH	BI	BJ	BK	BL	BM	BN	BO	BP	BQ	BR	BS	BT
DC Karoonda East Murray																		
DC Lower Eyre Peninsula																		
DC of Loxton Waikerie																		
DC of Mallala			1						1	1			1		1			
DC of Mt Barker									1	1								
DC of Mount Remarkable																		
DC Orroroo/Carrieton																1		
DC Peterborough														1				
DC Renmark Paringa																		
DC of Robe																		
DC of Streaky Bay															1			
DC of Copper Coast																	2	
DC of Tumby Bay											1			1				
DC of Yankalilla																		
DC of Yorke Peninsula							1				1							
Kangaroo Island Council															1			
Light Regional Council												1						
Mid Murray Council														1	1			
Naracoorte Lucindale Council																		
Northern Areas Council																		
Pt Augusta City Council																		
Pt Pirie Regional Council																		
Regional Council of Goyder			1															
Roxby Council																		
Rural City of Murray Bridge																		
Southern Mallee DC																		
The Barossa Council				1														
Flinders Ranges Council			1															
Town of Gawler																		
Wakefield Regional Council																		
Wattle Range Council																		
<b>Total</b>	<b>3</b>	<b>2</b>	<b>13</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>9</b>	<b>4</b>	<b>6</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>10</b>	<b>10</b>	<b>1</b>	<b>11</b>	<b>3</b>	<b>4</b>

	BU	BV	BW	BX	BY	BZ	CA	CB	CC	CD	CE	CF	CG
Adelaide Hills Council					1	2							
Alexandrina Council		1		1		1							
Berri Barmera Council						1	1						
Campbelltown City Council		3	2		1		1						
City of Adelaide	4	75		1	1	1				1			
City of Burnside		4		1	3	3		1					
City of Charles Sturt	1	6	2	1	2	1	2	1				1	
City of Holdfast Bay		1			2	2							
City of Marion		2											
City of Mitcham		4			1	4	3	3					
City of Mt Gambier	1		1				1						
City of Norwood, Payneham and St Peters		2		1		1	1						
City of Onkaparinga	2	1			2	8	3	1					
City of Playford	2	6	1			1	1						
City of Pt Adelaide Enfield	1	4			3	3		1	1				
City of Pt Lincoln				1	1	2				1			
City of Prospect		2				3							
City of Salisbury		4		1	1		1	1					
City of Tea Tree Gully	1	5				2				1			
City of Unley	2	3	1			3	1	1					
City of Victor Harbor						1							
City of West Torrens		7			1	2			1				
Clare and Gilbert Valleys Council						1			1				
Coorong District Council							1	1					
City of Whyalla		1	1				1						
City of Walkerville													
DC of Barunga West													
DC of Ceduna													
DC of Cleve													
DC of Coober Pedy						1		1					
DC of Elliston													
DC of Franklin Harbour													
DC of Grant						1							



	BU	BV	BW	BX	BY	BZ	CA	CB	CC	CD	CE	CF	CG	
DC Karoonda East Murray														
DC Lower Eyre Peninsula						1	1							
DC of Loxton Waikerie										1				
DC of Mallala								1						
DC of Mt Barker	1						1	1						
DC of Mount Remarkable														
DC Orroroo/Carrieton	1													
DC Peterborough							1	1						
DC Renmark Paringa							1							
DC of Robe														
DC of Streaky Bay					1	1	1			1				
DC of Copper Coast	1					1	1	2						
DC of Tumby Bay						3								
DC of Yankalilla						1								
DC of Yorke Peninsula							1							
Kangaroo Island Council					1	1								
Light Regional Council						1	1	1						
Mid Murray Council	1					1	1		2					
Naracoorte Lucindale Council														
Northern Areas Council														
Pt Augusta City Council														
Pt Pirie Regional Council								1	1			1		
Regional Council of Goyder														
Roxby Council	1			1			1	1						
Rural City of Murray Bridge														
Southern Mallee DC														
The Barossa Council	1						2	3						
Flinders Ranges Council														
Town of Gawler					1	1								
Wakefield Regional Council								1						
Wattle Range Council						1	1							
Total	15	134	9	9	25	58	27	20	7	3	1	2	1	1007



## Local Government

A	Advice	AB	Financial/Procurement/Facilities/Compensation/ Damage/Property lost/Damaged
B	Complaint handling/Conflict of interest	AC	Financial/Procurement/Facilities/Debts/Incorrect calculation
C	Complaint handling/Delay	AD	Financial/Procurement/Facilities/Debts/Recovery action
D	Complaint Handling/Inadequate processes	AE	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Buildings
E	Complaint Handling/Inadequate reasons	AF	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Drainage
F	Complaint Handling/Inadequate remedy	AG	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Parks and gardens
G	Complaint Handling/Wrong conclusion	AH	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Recreational facilities
H	Conduct/Discourtesy	AI	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Roads/Streets
I	Conduct/Failure to declare conflict of interest	AJ	Financial/Procurement/Facilities/Other fees and charges
J	Conduct/Failure to follow proper process	AK	Financial/Procurement/Facilities/Procurement by agencies/Decisions
K	Conduct/Misconduct	AL	Financial/Procurement/Facilities/Procurement by agencies/Late payment
L	Correspondence/Communications/Records/ Access	AM	Financial/Procurement/Facilities/Procurement by agencies/Tenders
M	Correspondence/Communications/Records/ Breach of privacy/Confidentiality (CCR)	AN	Financial/Procurement/Facilities/Rates/ Administration
N	Correspondence/Communications/Records/ Delay/No response	AO	Financial/Procurement/Facilities/Rates/Amount
O	Correspondence/Communications/Records/ Incorrect	AP	Financial/Procurement/Facilities/Rates/Recovery action
P	Correspondence/Communications/Records/ Wrongful disclosure of information	AQ	Financial/Procurement/Facilities/Rates/ Valuations
Q	Council member code of conduct/Breach of Part 2	AR	FOI advice
R	Council member code of conduct/Breach of Part 3/3.1 Act honestly	AS	FOI practices and procedures
S	Council member code of conduct/Breach of Part 3/3.11 Lodge register of interests	AT	General advice/Ombudsman matters
T	Council member code of conduct/Breach of Part 3/3.13 Bias and conflict of interest	AU	Governance/Confidentiality
U	Council member code of conduct/Breach of Part 3/3.17 Repeated or sustained Part 2 behaviour	AV	Governance/Electoral
V	Council member code of conduct/Breach of Part 3/3.18 Failure to comply with Part 2 finding	AW	Governance/Failure to follow proper process
W	Council member code of conduct/Breach of Part 3/3.2 Perform duties with reasonable care	AX	Governance/Prudential
X	Council member code of conduct/Breach of Part 3/3.3 Divulge confidential information	AY	Governance/Public consultation
Y	Council member code of conduct/Breach of Part 3/3.4 Perform unauthorised function	AZ	Corruption
Z	Financial/Procurement/Facilities/Compensation/ Damage/Acquisition of land	BA	Other matters to report
AA	Financial/Procurement/Facilities/Compensation/ Damage/Physical injury	BB	Serious or systemic maladministration
		BC	Serious or systemic misconduct

BD	Records management	CB	Regulation and enforcement/Planning & Development/Unreasonable enforcement
BE	Regulation and enforcement/Animals/Excessive action	CC	Regulation and enforcement/Public health/Failure to act on complaints
BF	Regulation and enforcement/Animals/Failure to act on complaints	CD	Regulation and Enforcement/Public health/Quality of service delivered
BG	Regulation and enforcement/Building/Failure to enforce condition	CE	Regulation and enforcement/Public health/Unreasonable conditions imposed
BH	Regulation and enforcement/Building/Failure/Delay to issue permit	CF	Regulation and enforcement/Public health/Unreasonable enforcement
BI	Regulation and enforcement/Building/Inappropriate construction allowed	CG	Whistleblowers Protection Act advice
BJ	Regulation and enforcement/Building/Unreasonable conditions imposed		
BK	Regulation and enforcement/Building/Unreasonable enforcement		
BL	Regulation and enforcement/Environmental protection/Excessive action		
BM	Regulation and enforcement/Environmental protection/Failure to action on complaints		
BN	Regulation and enforcement/Local laws/Failure to enforce		
BO	Regulation and enforcement/Local laws/Improper/Inappropriate		
BP	Regulation and enforcement/Local laws/Unreasonable enforcement		
BQ	Regulation and Enforcement/Nuisances/Excessive action		
BR	Regulation and enforcement/Nuisances/Failure to action on complaints		
BS	Regulation and enforcement/Parking/Failure to enforce restrictions		
BT	Regulation and enforcement/Parking/Permits		
BU	Regulation and enforcement/Parking/Restrictions		
BV	Regulation and enforcement/Parking/Unreasonable enforcement		
BW	Regulation and enforcement/Planning & development/Failure to enforce condition		
BX	Regulation and enforcement/Planning & Development/Failure to notify		
BY	Regulation and enforcement/Planning & Development/Failure/Delay to issue permit		
BZ	Regulation and enforcement/Planning & Development/Inappropriate development allowed		
CA	Regulation and enforcement/Planning & Development/Unreasonable conditions imposed		

Other Authorities - Complaints Received: Issues 1 July 2013 to 30 June 2014

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Adelaide and Mt Lofty Ranges Natural Resources Management Board																
Adelaide Cemeteries Authority	1															
Anangu Pitjantjatjara Yankunytjatjara Executive Board																
Boundary Adjustment Facilitation Panel					1											
Centennial Park Cemetery																
Central Adelaide Local Health Network	2	7	2			4	2		1		2	1				
Central Irrigation Trust					1											
Commissioner for Consumer Affairs	7	11	1	5	1				6	2	1	1				
Commissioner for Equal Opportunity		1														
Construction Industry Training Board										1						
Coroner			1	1												
Country Health SA Local Health Network	1					1										
Courts Administration Authority									2	1						1
Development Assessment Commission																
Domiciliary Care SA																
Drug and Alcohol Services SA																
Eastern Health Authority		1														
Essential Services Commission of South Australia											1					
Flinders University		1	1		1											
Guardianship Board		1		2		1	1				1	1				
Health and Community Services Complaints Commissioner	2	8	2	2	10				2							
HomeStart		1					1									
Legal Practitioners Conduct Board	1	1			3											
Legal Services Commission					1					1						
Liquor and Gambling Commissioner									1							
Local Government Association Mutual Liability Scheme							1									
Lotteries Commission		1			1											
Motor Accident Commission	2														2	
National Rail Safety Regulator			1													

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Northern Adelaide Local Health Network		3														
Northern Adelaide Waste Management Authority																
Office of the Technical Regulator		1					1									
Outback Communities Authority																
Public Advocate			1		2			1		1						
Public Trustee	6	5					4		5	1	1					1
Residential Tenancies Tribunal	2	1		1		1			1							
RSPCA Inspectorate										1						
SA Ambulance Service	2	1		1					1							5
SA Country Fire Service		2														
SA Film Corporation											1					
SA Forestry Corporation													1			
SA Government Financing Authority							1								1	
SA Metropolitan Fire Service													1			
SACE Board of SA		1			1											
South Australian Dental Service																
South Australian Fire and Emergency Services Commission			1													1
South Australian Small Business Commissioner				1		1										
South Australian Tertiary Admissions Centre											1					
Southern Adelaide Local Health Network	1					2	1				1					
State Emergency Service		1	1													
Super SA Board	1															
TAFE SA Board		2				4			5	3			1			7
Teachers Registration Board					1											
University of Adelaide		2											1			1
University of South Australia	1	7	2	2	1	1		3		1	1					
Urban Renewal Authority	1															
Women's and Children's Health Network																
WorkCover Corporation											1			2		
WorkCover Ombudsman			1	1												
<b>Total</b>	<b>30</b>	<b>59</b>	<b>14</b>	<b>17</b>	<b>24</b>	<b>15</b>	<b>12</b>	<b>4</b>	<b>25</b>	<b>12</b>	<b>11</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>16</b>

	Q	R	S	T	U	V	W	X	Y	AA	AB	AC	AD	AE	AF	AG
Adelaide and Mt Lofty Ranges Natural Resources Management Board											1					
Adelaide Cemeteries Authority																
Anangu Pitjantjatjara Yankunytjatjara Executive Board					1											
Boundary Adjustment Facilitation Panel																
Centennial Park Cemetery																
Central Adelaide Local Health Network					3						1				1	
Central Irrigation Trust	1															
Commissioner for Consumer Affairs					3								1			
Commissioner for Equal Opportunity																
Construction Industry Training Board																
Coroner																
Country Health SA Local Health Network			1													
Courts Administration Authority										1		1				
Development Assessment Commission																
Domiciliary Care SA					1											
Drug and Alcohol Services SA																
Eastern Health Authority					1											
Essential Services Commission of South Australia																
Flinders University																
Guardianship Board					1											
Health and Community Services Complaints Commissioner																
HomeStart																
Legal Practitioners Conduct Board					1											
Legal Services Commission																
Liquor and Gambling Commissioner																
Local Government Association Mutual Liability Scheme																
Lotteries Commission																
Motor Accident Commission														1		
National Rail Safety Regulator																
Northern Adelaide Local Health Network																



	Q	R	S	T	U	V	W	X	Y	AA	AB	AC	AD	AE	AF	AG
Northern Adelaide Waste Management Authority																
Office of the Technical Regulator																
Outback Communities Authority				1								1				
Public Advocate																
Public Trustee																
Residential Tenancies Tribunal																
RSPCA Inspectorate																1
SA Ambulance Service												1				
SA Country Fire Service																
SA Film Corporation																
SA Forestry Corporation																
SA Government Financing Authority																
SA Metropolitan Fire Service													1			
SACE Board of SA																
South Australian Dental Service					2											
South Australian Fire and Emergency Services Commission																
South Australian Small Business Commissioner																
South Australian Tertiary Admissions Centre																
Southern Adelaide Local Health Network		1			7											
State Emergency Service					1											
Super SA Board																
TAFE SA Board										1		1				
Teachers Registration Board																
University of Adelaide												1				
University of South Australia					1											
Urban Renewal Authority																
Women's and Children's Health Network		1			1											
WorkCover Corporation		1	1													
WorkCover Ombudsman																
<b>Total</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>23</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>

	AH	AI	AJ	AK	AL	AM	AN	AO	AP	AQ	AR	AS	AT	AU	AV	AW
Adelaide and Mt Lofty Ranges Natural Resources Management Board																
Adelaide Cemeteries Authority														1		
Anangu Pitjantjatjara Yankunytjatjara Executive Board											1					
Boundary Adjustment Facilitation Panel																
Centennial Park Cemetery										1						
Central Adelaide Local Health Network							1	3	1		34	1		13	4	
Central Irrigation Trust																
Commissioner for Consumer Affairs	4	2	1						1	2	2	8	1		1	
Commissioner for Equal Opportunity										1	2					
Construction Industry Training Board																
Coroner																
Country Health SA Local Health Network											3	1		1		
Courts Administration Authority				1						2	1					
Development Assessment Commission									1							
Domiciliary Care SA																
Drug and Alcohol Services SA								2								
Eastern Health Authority																
Essential Services Commission of South Australia																
Flinders University											2			4		
Guardianship Board											4			2		
Health and Community Services Complaints Commissioner											7			1		
HomeStart									2	1			1			
Legal Practitioners Conduct Board																
Legal Services Commission								1		2	3	1	1			
Liquor and Gambling Commissioner	1															
Local Government Association Mutual Liability Scheme																
Lotteries Commission											1			1		
Motor Accident Commission				2				1	1	1	1	1			1	
National Rail Safety Regulator																
Northern Adelaide Local Health Network														3		

	AH	AI	AJ	AK	AL	AM	AN	AO	AP	AQ	AR	AS	AT	AU	AV	AW
Northern Adelaide Waste Management Authority														1		
Office of the Technical Regulator																
Outback Communities Authority						1					1	2				
Public Advocate												4			4	
Public Trustee									2	3	22	5	3	8		
Residential Tenancies Tribunal											1			3		
RSPCA Inspectorate																
SA Ambulance Service									1	1	2	8				
SA Country Fire Service														1		
SA Film Corporation											2					
SA Forestry Corporation																
SA Government Financing Authority																
SA Metropolitan Fire Service																
SACE Board of SA														1		
South Australian Dental Service											1			3		
South Australian Fire and Emergency Services Commission																
South Australian Small Business Commissioner																
South Australian Tertiary Admissions Centre										1						
Southern Adelaide Local Health Network					1							1		2		
State Emergency Service																
Super SA Board								1	2	3	2	1		1		12
TAFE SA Board									1		3	5		1		
Teachers Registration Board											1					
University of Adelaide								1			1			1		
University of South Australia				1				1	3	3	5	1		4	2	
Urban Renewal Authority																
Women's and Children's Health Network														1		
WorkCover Corporation										1	2			2		
WorkCover Ombudsman											1					
<b>Total</b>	<b>5</b>	<b>2</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>11</b>	<b>16</b>	<b>24</b>	<b>116</b>	<b>28</b>	<b>5</b>	<b>58</b>	<b>8</b>	<b>591</b>



## Other Authorities

A	Complaint handling/Delay
B	Complaint handling/Inadequate processes
C	Complaint handling/Inadequate reasons
D	Complaint handling/Inadequate remedy
E	Complaint handling/Wrong conclusion
F	Conduct/Discourtesy
G	Conduct/Misconduct
H	Correspondence/Communications/Records/ Breach of privacy/Confidentiality
I	Correspondence/Communications/Records/ Delay/No response
J	Correspondence/Communications/Records/ Incorrect
K	Correspondence/Communications/Records/ Withholding of information
L	Correspondence/Communications/Records/ Wrongful disclosure of Information
M	Employment
N	Financial/Procurement/Facilities/Compensation/ Damage/Physical injury
O	Financial/Procurement/Facilities/Compensation/ Damage/Property lost/Damaged
P	Financial/Procurement/Facilities/Debts
Q	Financial/Procurement/Facilities/Facilities owned/Controlled by authority/Inadequate
R	Financial/Procurement/Facilities/Procurement by agencies/Decisions
S	Financial/Procurement/Facilities/Procurement by agencies/Tenders
T	Financial/Procurement/Facilities/Rates/ Administration
U	FOI advice
V	Corruption
W	Serious or systemic maladministration
X	Serious or systemic misconduct (breach of code of conduct)
Y	Serious or systemic misconduct (other misconduct)
Z	Regulation and enforcement/Enforcement action/ Excessive
AA	Regulation and enforcement/Enforcement action/ Unfair
AB	Regulation and enforcement/Fees

AC	Regulation and enforcement/Infringements/ Excessive penalty
AD	Regulation and enforcement/Infringements/ Incorrect details
AE	Regulation and enforcement/Infringements/ Unreasonably issued
AF	Regulation and enforcement/Inspections
AG	Regulation and enforcement/Licensing/Conditions
AH	Regulation and enforcement/Licensing/Refusal
AI	Regulation and enforcement/Licensing/Renewal
AJ	Roads and traffic/Charges/Fines
AK	Roads and traffic/Licensing/Medical test
AL	Roads and traffic/Road management
AM	Service delivery/Abuse in care
AN	Service delivery/Assessment
AO	Service delivery/Conditions
AP	Service delivery/Eligibility for services
AQ	Service delivery/Failure to act/Provide
AR	Service delivery/Fees and charges
AS	Service delivery/Financial assistance
AT	Service delivery/Quality
AU	Service delivery/Termination of services
AV	Superannuation





## Ombudsman SA values

Integrity - Impartiality - Fairness

## Our Culture

Ethical

Professional

Efficient

Learning

Communicating

Collaborating



OmbudsmanSA

## Contacting Ombudsman SA

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