



OmbudsmanSA

Annual Report
2020-21

What does Ombudsman SA do?

Ombudsman SA investigates complaints about South Australian government and local government agencies under the *Ombudsman Act 1972* as well as complaints about breaches of the service standards under the *Return to Work Act 2014*. Ombudsman SA also conducts Freedom of Information reviews and receives referrals from the Independent Commissioner Against Corruption to investigate allegations of misconduct and maladministration.

From 1 July 2019 the Ombudsman is a relevant authority for receiving information about state and local government activities confidentially from informants under the *Public Interest Disclosure Act 2018*.

If you're not sure whether Ombudsman SA can help you, we are happy to discuss your matter further. If it is not under our jurisdiction, we will be happy to point you to another agency who may be able to assist.

Visit our website for further information about our services or to register a complaint directly online:
<https://www.ombudsman.sa.gov.au/>

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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 South Australian Ombudsman's Annual Report for 2020-21 to the Parliament, as required by section 29(1) of the *Ombudsman Act 1972*.

A handwritten signature in black ink, appearing to read 'W. Lines', is positioned above the printed name.

Wayne Lines
SA OMBUDSMAN

6 October 2021

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Introduction

Introduction

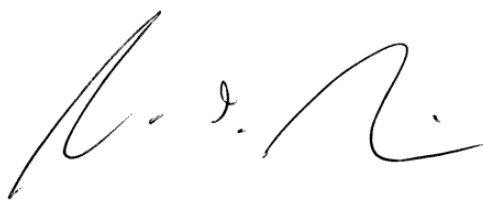
Introduction

In December 2020 the United Nations General Assembly adopted Resolution 75/186 concerning the role of the Ombudsman institution. The Resolution provides strong endorsement of the key principles of Ombudsman institutions including independence, objectivity, transparency, fairness and impartiality. The Resolution also recognises the important role of Ombudsman institutions in promoting the rule of law, good administration, human rights and good governance. The adoption of the Resolution is an important step towards strengthening independent and autonomous Ombudsman institutions worldwide and for raising awareness at the international level of the essential role Ombudsman institutions play in the protection and promotion of human rights.

In the South Australian context, the work of Ombudsman SA bears testimony to what can be achieved by an independent body empowered to scrutinise the actions of executive and local government. A number of significant investigations were completed this year which have resulted in important improvements to public administration. My office also completed a record number of external reviews of agency Freedom of Information decisions, thereby promoting transparency and accountability. In addition, my office assessed and resolved 3,780 complaints and so providing many citizens with a review of government action that they would not otherwise have.

Although the State, along with the rest of the country, is in the grip of trying to contain the effects of the COVID-19 pandemic, Ombudsman SA has demonstrated the capacity to maintain performing its functions for the benefit of the public. I wish to thank my dedicated and professional staff for their resilience and resolute determination to support me in discharging my responsibilities. Together we have accomplished much in difficult times and shown that we can be relied upon to deliver good outcomes for the State of South Australia.

It is my privilege to submit this report of the work of my office in 2020-21 to the South Australian Parliament.



Wayne Lines
SA OMBUDSMAN

Year at a Glance

3,780

Complaints resolved

31

ICAC referrals
completed

32

Final investigation
reports issued

86

Recommendations
issued

418

FOI external reviews
completed

Complaints and Investigations

Ombudsman Act Jurisdiction

Return to Work Act Jurisdiction

Independent Commissioner Against Corruption Act Jurisdiction

Recommendations

Complaints and investigations

Ombudsman Act Jurisdiction

The *Ombudsman Act 1972* (the Ombudsman Act) empowers me to investigate complaints about state government departments and authorities, universities and local government councils (agencies). I am also able to undertake investigations referred to me by Parliament and conduct investigations on my own initiative.

I have comprehensive powers to investigate administrative acts where I consider an agency's decision-making process or decision is flawed; section 25(1) of the Act empowers me to make findings that an administrative act was unlawful, unreasonable or otherwise wrong.

Some of my jurisdictional limits are: I must not investigate policy, a complainant must be directly affected by the relevant administrative act, generally the complaint must be made within 12 months of the complainant becoming aware of the matter, and generally I do not investigate where the complainant has an alternative right of review. Further, I can decide not to investigate under section 17(2) of the Act a matter where in all the circumstances of the case, it is trivial or an investigation is unnecessary or unjustifiable.

In exercising my discretion as to whether to investigate a matter I consider the public interest and the improvement of public administration, and am guided by the following criteria:

- 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 an error of process?
- 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, the protection of human rights or the rights and freedoms of citizens?
- Has the complainant suffered significant personal loss or is the complainant in vulnerable circumstances?
- Would investigation of the complaint be likely to lead to meaningful outcomes for the complainant and/or to improvement of public administration?
- Has another review body considered the matter or is another body more appropriate for reviewing 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?

Where I have formed the view that there has been an administrative error, I am able to make recommendations to the agency involved. For example, I may recommend that action be taken to rectify or mitigate the effects of the error, that a practice be varied or legislation amended.

The Office received 3,825 complaints within the Ombudsman Act jurisdiction, down from 3,972 in the previous year which, in turn, was a reduction on the 4,201 received in the year before that. Overall there has been a 9% reduction in complaints since the pandemic was declared. I have no evidence to confidently say that the two occurrences are connected, but intuitively I think they are. It seems likely to me that the disruption to jobs, travel and relationships due to the pandemic restrictions has been of greater concern and preoccupation to some people than their dissatisfaction with government and this has led to fewer complaints to my office.

Ombudsman Act complaints received and completed

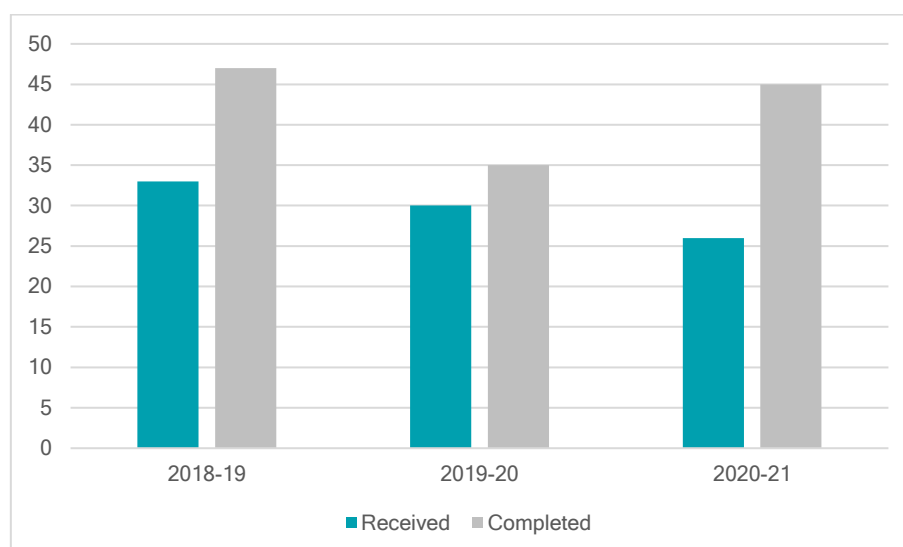
Ombudsman Act jurisdiction matters received and completed in 2020-21

	Received	Completed
Government Departments	2351	2341
Local Government	892	851
Other Authorities	582	588
Total	3825	3780

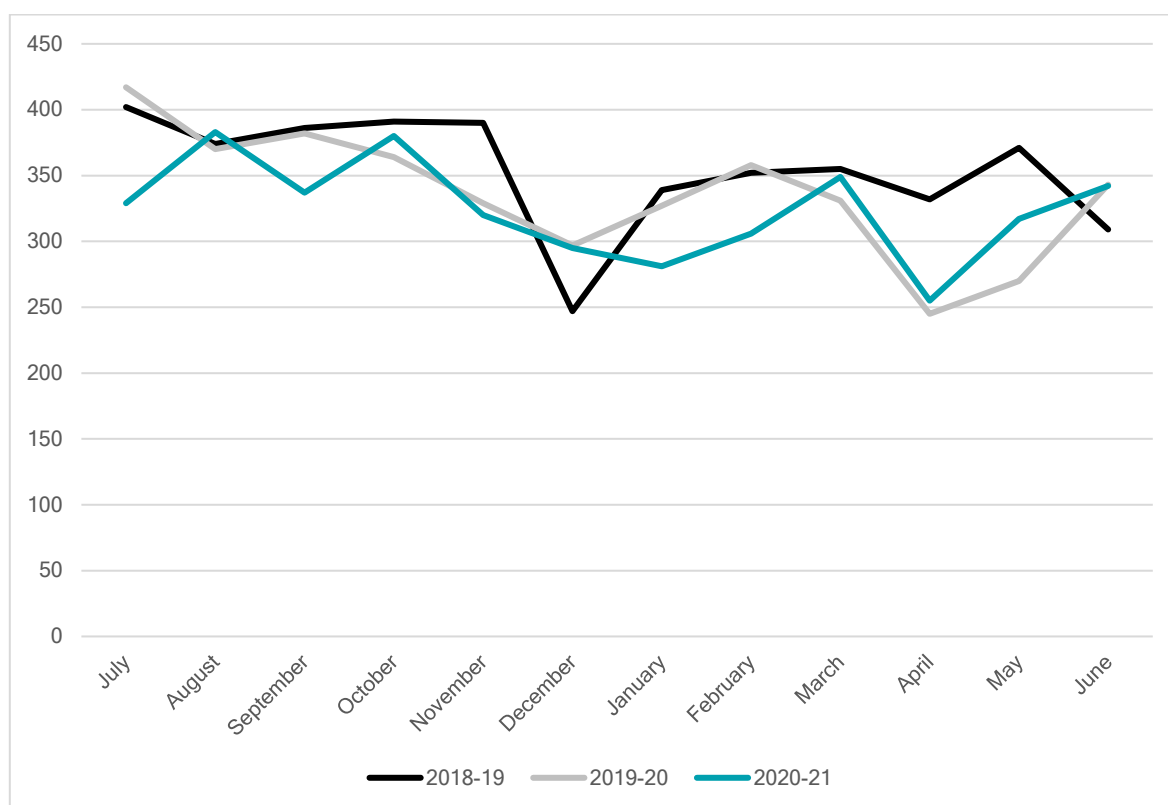
Ombudsman Act jurisdiction breakdown of matters received and completed by year

OMBUDSMAN ACT JURISDICTION	2018-19				2019-20				2020-21			
	Government Departments	Local Government	Other Authorities	Total	Government Departments	Local Government	Other Authorities	Total	Government Departments	Local Government	Other Authorities	Total
Matters received	2291	968	942	4201	2334	947	691	3972	2351	892	582	3825
Matters completed	2306	990	946	4242	2302	888	645	3835	2341	851	588	3780
Audits completed	1	0	0	1	1	0	0	1	1	0	1	2

Ombudsman Act jurisdiction matters received and completed by year



Ombudsman SA complaints received



This year I issued 32 formal investigation reports. Half of these related to investigations that originated under the Ombudsman Act and the other half related to ICAC referrals.

In accordance with section 26(3) of the Ombudsman Act I have published the report or a summary statement online when I have formed the opinion that it is in the public interest to do so. The published reports can be found on the Ombudsman SA website at <https://www.ombudsman.sa.gov.au/publications/investigation-reports>

Almost a quarter of complaints received relate to Local Government and 22 of the 32 formal investigations completed related to Local Government. The majority of these Local Government investigations (13) concerned allegations against council members for breaches of the Code of Conduct. The allegations were substantiated in 11 of these cases.

Although complaints from prisoners continue to be a significant source of complaints, the Department for Correctional Services has been very effective in responding to matters raised by my office. The main topics of complaint by prisoners are their correspondence and records, the handling of their personal property, health related services, access to rehabilitation programs and telephones, and prison discipline. Very few prisoner complaints have been escalated to investigation. In this reporting period I issued only one report about the department concerning prisoner complaints and this related to its failures in handling applications from prisoners for documents under the *Freedom of Information Act 1991* (FOI Act).

Complaints received from prisoners 2020-21

Prison	Total
Adelaide Pre-Release Centre	7
Adelaide Remand Centre	156
Adelaide Womens Prison	90
Cadell Training Centre	7
Mobilong Prison	38
Mount Gambier Prison	172
Port Augusta Prison	65
Port Lincoln Prison	26
Yatala Labour Prison	178
Total	739

Ombudsman Act Complaints - Early Resolution

My office fielded 1,303 approaches relating to matters outside of my jurisdiction and handled 810 general enquiries. These are usually finalised immediately. Close to 99% of incoming complaints were dealt with at the assessment stage. 78% of these matters were completed within 14 days. The average period for completion is 13 days. Approximately 8% of complaints are resolved with the co-operation of the agency.

The following case studies provide examples of the important outcomes that are able to be achieved by my office with the co-operation of agencies.

Early resolution case study

Attorney-General's Department - Fines Enforcement and Recovery Unit
Unreasonable expiations
2021/02270

Complaint

The complainant made a complaint to my office about an outstanding fine. The complainant had registered a new vehicle at Service SA and whilst there had also requested to register a work vehicle for three months. Unbeknownst to the complainant, the Service SA officer erred and applied the three months registration to the new vehicle and not the work vehicle. The complainant was subsequently issued a fine by SAPOL for driving an unregistered/uninsured vehicle. The complainant was told at the time by the SAPOL officer that they would also have been picked up by cameras for this offence, but that they would not be fined twice for the same offence.

The complainant subsequently received another fine for the same offence. The complainant tried to resolve the matter however Service SA refused to take responsibility for the error made at their office. The complainant also had the fines reviewed by SAPOL who declined to waive the fines.

Outcome

My office raised the matter with the Fines Enforcement and Recovery Unit. They agreed to review the fines at no cost to the complainant and subsequently waived the fines.

Early resolution case study

Department of Infrastructure and Transport Mishandling of FOI application 2021/01162

Complaint

The complainant lodged an online FOI application with the department seeking access to any and all documents relating to his driver's licence application from the 1980s. As the complainant was a concession card holder, his FOI application fee was waived.

Shortly after the lodgement of his FOI application, the DIT FOI Unit directed the complainant to utilise a separate information access scheme under the *Motor Vehicles Act 1959* (SA) to obtain information regarding motor vehicle / client information (MR1415 application). It was also understood that although the MR1415 application attracted a lesser fee than the FOI application, the discretion to waive the MR1415 fee was of a higher threshold than the FOI application fee. In other words, the complainant would potentially be financially worse off to apply for the same documents through the MR1415 application process than the FOI application process.

Outcome

I wrote to the department, stating that despite there being other means available to the complainant to access the requested documents, the fact that he had opted to apply for the information pursuant to the FOI Act meant that his application must be dealt with in accordance with the FOI Act. The other avenue, being the MR1415 application, available to the complainant does not invalidate his FOI application, regardless of whether the other avenue may be more practical and / or result in a more meaningful outcome for the complainant. I sought the department's position on whether it accepted that complainant's FOI application remained valid and should be dealt with in accordance with the FOI Act.

The department advised that they had located the documents and that it accepted that the complainant's FOI application remained valid and would be dealt with in accordance with the FOI Act.

During the course of assessing the complaint, the department brought to my attention that its website informed prospective FOI applicants to use the MR1415 application process and not the FOI application process when applying for motor vehicle registration and licence information.

I considered that information on the department's website to be incorrect and should be amended to reflect that applicants may utilise the FOI process to access the motor vehicle registration and licence details information and to also note that there may be more efficient avenues available, such as the MR1415 application process. I requested the department amend its FOI information on its website to be in line with the FOI Act.

The department agreed to update its website to reflect the availability of both the FOI application process and the MR1415 application process and the costs associated with both types of applications.

Return to Work Act Jurisdiction

As of 1 July 2015, the *Workers Rehabilitation and Compensation Act 1986* was repealed and my jurisdiction under Schedule 5 of the *Return to Work Act 2014* (RTW Act) to investigate complaints about breaches of the Service Standards commenced. The Service Standards apply to both Return to Work SA (RTWSA) and the Crown and Private self-insured insurers, including providers of services engaged by the self-insured employers.

Only a worker or an employer may lodge a complaint with my office if they believe that the Service Standards have been breached. Where an investigation by my office identifies that a breach of the Service Standards has occurred, I may

require the respondent to provide a written or oral apology, furnish a written explanation or other remedies as outlined in clause 7 of Schedule 5 of the RTW Act. The powers of the Ombudsman under the Ombudsman Act apply to self-insured employers as if they are agencies to which the Ombudsman Act applies.

In addition, under section 180(8) of the RTW Act, the Ombudsman can receive a request to conduct an external review of the decision by RTWSA or self-insured employer in relation to a worker's request to access material relevant to their claim. At the conclusion of the review, the Ombudsman may confirm, vary or modify the decision under review.

Statement of Service Standards

Clause 4 of Schedule 5 of the RTW Act sets out the service standards that apply to RTWSA, claims agents and self-insured employers. They are required to:

- a. View a worker's recovery and return to work as the primary goal if a worker is injured while at work;
- b. Ensure that early and timely intervention occurs to improve recovery and return to work outcomes including after retraining (if required);
- c. With the active assistance and participation of the worker and the employer, consistent with their obligations under this Act, ensure that recovery and return to work processes focus on maintaining the relationship between the worker and the employer;
- d. Ensure that a worker's employer is made aware of, and fulfils, the employer's recovery and return to work obligations because early and effective workplace-based coordination of a timely and safe return to work benefits an injured worker's recovery;
- e. Treat a worker and an employer fairly and with integrity, respect and courtesy, and comply with stated timeframes;
- f. Be clear about how the Corporation can assist a worker and an employer to resolve any issues by providing accurate and complete information that is consistent and easy to understand (including options about any claim, entitlements, obligations and responsibilities);
- g. Assist a worker in making a claim and, if necessary, provide a worker with information about where the worker can access advice, advocacy services and support;
- h. Take all reasonable steps to provide services and information in a worker's or employer's preferred language and format, including through the use of interpreters if required, and to demonstrate respect and sensitivity to a person's cultural beliefs and values;

- i. Respect and maintain confidentiality and privacy in accordance with any legislative requirements;
- j. Provide avenues for feedback or for making complaints, and to be clear about what can be expected as a response;
- k. Recognise a right of a worker or an employer to be supported by another person and to be represented by a union, advocate or lawyer.

In the reporting year, the Office received 71 complaints relating to the Service Standards. As in previous years the majority of the complaints were about being treated fairly, respectfully and within stated timeframes (Standard 4(e)) and being given assistance to resolve issues (Standard 4(f)).

An investigation into one complaint was completed. In that case I determined that the claims agent had breached the service standards by failing to notify the complainant, an injured worker, that certain claims for medical services were rejected, by failing to adequately communicate with the complainant about how to resolve issues related to his work injury claim and by an unreasonable delay in resolving unpaid invoices related to the claim. To remedy these breaches I recommended that the claims agent apologize to the complainant and also improve its internal processes by providing written guidance to staff for notifying injured workers and service providers when an invoice cannot be paid and processing payment of invoices as soon as possible. The claims agent implemented those recommendations without hesitation.

A redacted version of the investigation report is available online at <https://www.ombudsman.sa.gov.au/publications/investigation-reports/2020-investigation-decisions>

All of the other complaints were resolved without formal investigation.

Early resolution RTW case study

Gallagher Bassett Services (GBS)
Unreasonable delay reimbursing travel expenses
 2020/03423

Complaint

My office received a complaint about the way the claims agent managed an injured worker's request for a permanent impairment assessment under section 22 of the *Return to Work Act 2014*. The complainant and their legal representative complained to my office about many aspects of the process.

Outcome

My office considered whether GBS had breached the Service Standards set out in Schedule 5 of the RTW Act and determined that:

1. GBS had potentially breached Service Standard 4(e) by failing to treat the complainant and their legal representative fairly and with integrity, respect and courtesy, and comply with stated timeframes
2. GBS had potentially breached Service Standard 4(f) by failing to be clear about how it could assist the complainant and their legal representative to resolve any issues by providing accurate and complete information that was consistent and

easy to understand (including options about any claim, entitlements, obligations and responsibilities)

3. it was unclear whether GBS breached Service Standard 4(g) by failing to 'assist a worker in making a claim, and, if necessary, provide a worker with information about where the worker can access advice, advocacy services and support'.

After my office raised these issues with GBS and requested a response, GBS acknowledged breaches of Service Standards 4(e), 4(f) and 4(g) and agreed to remedy the acknowledged breaches by formally apologising to the complainant and their legal representative. GBS formally wrote to both the complainant and their legal representative:

- acknowledging the errors that arose in its handling of the matter
- acknowledging the particular Service Standards that it breached
- advising of actions taken internally in respect of those breaches
- inviting their feedback about any response it provided during the relevant process; and
- formally apologising for any inconvenience that its actions caused.

On this basis I was able to close the file without having to undertake a formal investigation.

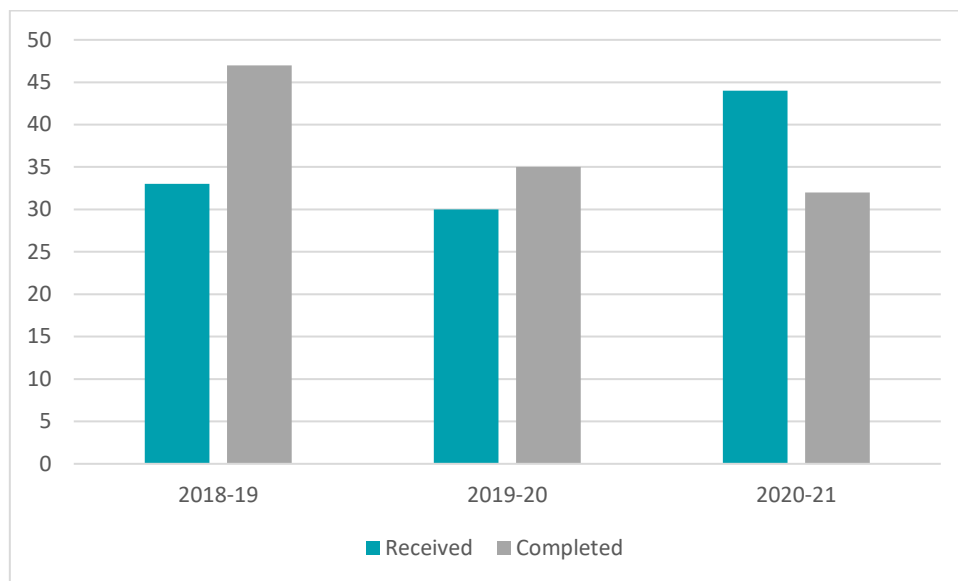
Access to Claims Files

I have not been called upon to review a decision by RTWSA or a self-insured employer under section 180(8) of the RTW Act in regard to a worker having access to their claims file. I queried RTWSA as to how many requests they receive for access to information and was advised that in 2020-21, 1477 applications were received for access to information. Of these, 1234 (84%) were lodged under Section 180 of the RTW Act and 243 (16%) under the FOI Act. In 2020-21, RTWSA received only one internal review under Section 180 of the RTW Act and one internal review under the FOI Act.

It seems, then, that RTWSA's handling of requests for access to information has been satisfactory to those who have made the requests.

RTW ACT JURISDICTION	2018-19				2019-20				2020-21			
	Claims Agent	Self-Insurer	ReturnToWorkSA	Total	Claims Agent	Self-Insurer	ReturnToWorkSA	Total	Claims Agent	Self-Insurer	ReturnToWorkSA	Total
Matters received	79	20	22	121	67	15	27	109	44	14	13	71
Matters completed	82	23	24	129	69	14	28	111	43	15	11	69

Return to Work Act jurisdiction matters received and completed by year



Independent Commissioner Against Corruption Act Jurisdiction

The Independent Commissioner Against Corruption (ICAC) may refer matters that raise potential issues of 'misconduct' and/or 'maladministration' in public administration to the Ombudsman for investigation. The *Independent Commissioner Against Corruption Act 2012* (the ICAC Act) defines misconduct and maladministration and sets out what constitutes 'public officers' and 'public authorities' for the purposes of the Act. The matters referred may derive from complaints made to the Office for

Public Integrity (OPI) by members of the public ('complaints') or by reports made to the OPI by public officers ('reports').

Pursuant to section 14B of the Ombudsman Act, a matter referred to the Ombudsman by the Commissioner is dealt with under the Ombudsman Act as if a complaint had been made under the Ombudsman Act. Accordingly, the Ombudsman investigates such referrals by exercising his powers under the Ombudsman Act.

The ICAC referred 28 complaints and reports of misconduct or maladministration in public administration to my office pursuant to section 24(2)(a) of the ICAC Act. In the reporting period I completed 31 referred matters. I note that a gradual reduction to the backlog has been achieved over the last few years. At time of writing I still have five ongoing investigations of referred matters that were commenced more than 12 months ago.

In this reporting period I issued 16 formal reports arising from ICAC referrals and in eight of those reports I concluded that allegations of misconduct and maladministration were substantiated. The substantiated allegations of misconduct related to seven public officers, six of whom were council members who had breached the Council Member Code of Conduct and one was former Minister Knoll who had breached the Ministerial Code of Conduct. The one instance of maladministration by a public authority related to the City of Burnside.

I exercised my discretion to publish six of these reports on the basis that it was in the public interest to do so. The published reports may be found on the Ombudsman SA website at <https://www.ombudsman.sa.gov.au/publications/investigation-reports>.

In addition to matters that raise a potential issue of misconduct and maladministration in public administration that the ICAC has referred to me pursuant to section 24(2)(a) of the ICAC Act, the ICAC has referred a number of other matters to me under section 24(3) of the ICAC Act where the matter has been assessed as raising another issue other than misconduct or maladministration. Each of these matters is dealt with as a complaint under the Ombudsman Act. In the reporting period the ICAC referred 16 matters to me under this provision of the ICAC Act and my office closed 14 of them.

ICAC ACT JURISDICTION	2018-19					2019-20					2020-21				
	Government	Local	Government	Other	Total	Government	Local	Government	Other	Total	Government	Local	Government	Other	Total
Matters received under s24 referral	2	26	5		33	1	27	1	1	30	3	24	1	0	28
Matters completed	8	31	8		47	4	25	6		35	2	28	0	1	31

ICAC Act jurisdiction matters received under s24 referral and completed



Recommendations

Pursuant to section 25(2) of the Ombudsman Act, the Ombudsman may make such recommendations as he sees fit if, upon investigating a matter, the Ombudsman is of the opinion that an administrative error has occurred.

The Ombudsman is required to provide a copy of any report or recommendation made under section 25(2) of the Ombudsman Act to the responsible Minister and, according to section 25(4), the principal officer of the agency in relation to which the recommendation is made must, upon the Ombudsman's request, report on what steps have been taken to give effect to the recommendation or give reasons why there has been inaction.

If the Ombudsman is not satisfied with the action taken to give effect to the recommendations, the Ombudsman may, pursuant to sections 25(5) and (6), report this, firstly, to the Premier and then to the Houses of Parliament.

Under section 27(2), the Ombudsman must advise the complainant if the Ombudsman is of the opinion that reasonable steps have not been taken to implement the recommendation within a reasonable time.

In this reporting year I issued 32 investigation reports. In 23 of these reports I made recommendations to remedy administrative errors which I identified had been committed by agencies or public officers.

Altogether I made 86 recommendations. As at time of writing 72 or 84% have been implemented. Implementation of a further 13 recommendations are in progress.

Once completed this will represent an implementation rate of 99%.

Although recommendations are often not implemented within the year in which they are reported, my office monitors implementation even though this sometimes takes several years. A noteworthy example of this is the report I issued in October 2018 into allegations of misconduct, in the nature of bullying and harassment by Mr Lance Bagster, a former councillor of Burnside Council. In that report I concluded that the allegations were substantiated and observed that the statutory framework at that time appeared ill-equipped to deal with conduct of an elected member that creates a risk to health and safety. I recommended that the State Government review the *Local Government Act 1999* and *Work Health and Safety Act 2012* to determine whether either Act should be amended to more adequately address bullying or harassment committed by elected members and take such action as may be necessary to give effect to recommendations arising from that review. When reforms to the Local Government Act were developed in 2019, I ensured that this recommendation was considered.

I am pleased to report that that recommended action has now been taken. With the passing of the *Statutes Amendment (Local Government Review) Act 2021*, assented to on 17 June 2021, the Local Government Act has been amended with the insertion of a new section 75G which, for the first time, sets out an obligation of elected members to take reasonable care that their acts or omissions do not adversely affect the health and safety of other elected members or council employees. A failure to comply with this obligation will

meet the definition of 'serious misbehaviour' which may be referred to the newly created Behavioural Standards Panel as a complaint.

Under section 26 of the Ombudsman Act I have a discretion to publish investigation reports if I am of the opinion that it is in the public interest to do so. In most cases when I have reached the conclusion that administrative error has occurred and issued recommendations, I form the view that it is in the public interest to publish the report. Publication promotes transparency of my office's operations as well as the accountability of agencies and public officers. In this reporting year I exercised my discretion to publish 16 of my final reports or a summary statement of them.

The published reports can be viewed at
<https://www.ombudsman.sa.gov.au/publications/investigation-reports>.

I have an 'Early Resolution' Policy, whereby I will adopt a formal early resolution process where my office has undertaken an assessment of the merits of the complaint and a potential administrative error has been identified but it appears likely that the same or similar outcome to an investigation could be achieved voluntarily and in a shorter timeframe.

I applied this early resolution process in five cases resulting in an agency or public officer entering a voluntary agreement to remedy an error instead of me completing a formal investigation report and issuing recommendations under section 25 of the Ombudsman Act. This has been appropriate when the agency has unequivocally acknowledged the error and accepted responsibility and the matter being complained about is not so serious that the public interest requires a formal investigation to be completed.

Examples of early resolutions include:

- The Department for Correctional Services inadvertently and wrongly disclosed personal information of the complainant, a victim of domestic violence, to a third party without considering the Information Sharing Guidelines. The department agreed to establish a formal framework for assessing any release of information pertaining to a potential victim of domestic violence within the context of internal misconduct investigations.
- A council member had failed to declare a perceived conflict of interest at a meeting of council when a Local Government Association Governance Panel report about his conduct was considered. When my office pointed this out to him, he agreed to make a statement at a subsequent council meeting acknowledging the error and apologising for it.



Audits

Audits

Ombudsman Act

Pursuant to section 14A of the Ombudsman Act, the Ombudsman may conduct a review of the administrative practices and procedures of an agency to which the Act applies where the Ombudsman considers it in the public interest to do so.

In this reporting year, I reviewed the compliance of four agencies with their complaint handling obligations in the management of workers compensation claims.

In 2014 the legislation which governs the recovery, return to work and support of employees who are injured at work was overhauled. On 1 July 2015 the *Return to Work Act 2014* (the RTW Act) came into effect, replacing the *Workers Rehabilitation and Compensation Act 1986*. In place of the former WorkCover Ombudsman, the new Act gave jurisdiction to the State Ombudsman. Since then, my office has dealt with complaints under the RTW Act.

Work injury claims are managed by either the Return To Work Corporation, the two claims agents (Employers Mutual Limited and Gallagher Bassett Services) or by self-insured employers.

Schedule 5 of the RTW Act prescribes the Service Standards, which set out the principles that will be observed by an agency when it is dealing with a worker or an employer; provide a procedure for lodging and dealing with complaints about breaches of the Service Standards; and provide remedies for breaches of these standards. The aim of the Service Standards is to encourage positive relationships between the agencies managing the claims, the workers, and the employers, enabling these bodies to work together in order to achieve the best outcomes.

I have an oversight function under the RTW Act. Workers who are dissatisfied with the manner in which their complaint under the Service Standards was handled by the relevant agency may bring that complaint to my office. I have experienced relatively low complaint numbers since the introduction of the RTW Act. One purpose of the audit was to determine whether those low complaint numbers are the product of effective case management and complaint handling by the agencies, or the result of poor communication by the agencies about the availability of complaint processes. Another purpose was to identify best practice in complaint handling and to provide recommendations to the agencies for improvements.

The four agencies included in this audit were: the Return to Work Corporation of South Australia, Gallagher Bassett Services, Employers Mutual Limited and the Work Injury Services (WIS) division of the Department of Treasury and Finance.

The key sources of evidence considered in this audit were written responses from each of the agencies, including any supporting documentation, and a sample of complaint files from each of the agencies. The agencies were also provided with a provisional audit report and had an opportunity to provide further submissions in response.

The evidence indicated that each of the agencies is providing a high standard of complaint handling and is consistently meeting most of the Service Standards. The agencies are meeting the benchmarks for timeliness, accessibility of complaint handling information and information relating to claim management, and continuous improvement. Each of the agencies also has a complaints process which is reasonably easy to navigate.

Areas for improvement identified by my audit were compliance with the requirement to inform complainants of their right to escalate a complaint to my office, and improved consistency in the way complainants are advised of the outcome of their complaint and the reasons for that decision. I recommended to each of the agencies that they adopt a process of informing complainants of their complaint outcome in writing, and that they implement a file closure checklist. I made one additional recommendation to WIS regarding the contents of the form used to record complaints and complaint outcomes.

All four agencies indicated that they accept my recommendations.

The report can be viewed at <https://www.ombudsman.sa.gov.au/publications/news/audit-of-complaint-handling-and-compliance-with-return-to-work-act-2014-service-standards>.

Forensic procedures audit

Each year I am required to audit compliance with the *Criminal Law (Forensic Procedures) Act 2007* (CL(FP) Act). I have delegated to my Deputy Ombudsman the responsibility of preparing the audit report. On 24 September 2020 the audit report was submitted to the Attorney-General for the period 1 July 2019 to 30 June 2020.

The audit identified very few instances of non-compliance. For example:

- records of volunteers and victims procedures indicated there were no issues of non-compliance apart from 3 cases where records were not destroyed within 21 days of a request being made
- records of all simple identity procedures audited indicated full compliance
- there were no cases of non-compliance with requirements relating to suspect procedures authorised by senior police officers.

The CL(FP) Act does not provide the Ombudsman with specific power to make recommendations, but the following suggestions were made with a view to achieving improvements to practice or to the recording of procedures:

- | | |
|-------------------------|--|
| Recommendation 1 | That the Commissioner of Police consider amending the form used for recording volunteer and victims procedures to include a prompt to record whether the person is reasonably fluent in English and, if not, the details of the interpreter. |
| Recommendation 2 | That relevant documentation be amended to advise volunteers and victims that requests for destruction are to be made in writing to the attention of the Officer in Charge, DNA Management Unit and that an email address be included. |
| Recommendation 3 | That consideration be given to amending relevant forms to prompt officers to consider and record consideration of the hierarchy for determining an 'appropriate representative' under sections 17(3) and 25(3) of the CL(FP) Act. |

- Recommendation 4** That the Commissioner of Police consider amending General Order 'Forensic procedures' so as to require police officers making audio-visual records of intrusive procedures on suspects to:
- introduce themselves
 - invite all other persons present to introduce themselves
 - seek an acknowledgement from the suspect that no persons other than those identified are present in the room.
- Recommendation 5** That the Commissioner of Police consider the development of an information sheet to be provided to appropriate representatives so that they are informed of the nature and importance of their role.
- Recommendation 6** That Commissioner of Police consider amending the form used to make assimilation orders (PD434) to ensure that it includes the terms of an assimilation order.
- Recommendation 7** That the Commissioner of Police consider amending the form authorising the taking of a blood sample to test for communicable diseases under Regulation 4A to include an invitation for the suspect to nominate a medical practitioner to receive the results of the testing.

It is noteworthy that compliance with the Act has greatly improved since the first audit conducted by my office in 2018, in large part due to the implementation of recommendations made in previous audits.

The report can be viewed at <https://www.ombudsman.sa.gov.au/publication-documents/audit-reports/2020/Audit-of-compliance-with-the-Criminal-Law-Forensic-Procedures-Act-2007-2.pdf>

The background is a solid teal color. Overlaid on this are several concentric circles of varying shades of teal, creating a layered, tunnel-like effect. The circles are centered on the left side of the image, with the largest circle being the darkest shade and the smallest being the lightest shade.

Freedom of Information Act Jurisdiction

Freedom of Information Act Jurisdiction

The *Freedom of Information Act 1991* (FOI Act) gives every member of the public a right of access to documents held by state government-related agencies, Ministers, statutory authorities, councils, public hospitals and universities, subject to certain exceptions.

Examples of documents that may be exempt include:

- documents that would lead to an unreasonable disclosure of another person's personal affairs
- documents that contain trade secrets or information of commercial value
- documents affecting law enforcement and public safety
- documents of exempt agencies as declared by the *Freedom of Information (Exempt Agency) Regulations, 2008*.

Parties who are dissatisfied with determinations made by agencies may apply to my office for an external review of the decision concerning access to documents. I can confirm, vary or reverse the agency's determination. In some cases, my office may facilitate a settlement between parties.

The FOI Act also gives any person a right to have records which concern their personal affairs amended, if those records are incomplete, incorrect, out of date or misleading. I am also able to review agency decisions in relation to the amendment of records.

Parties to a FOI matter may have my determination reviewed by the South Australian Civil and Administrative Tribunal.

External reviews

The Office experienced another record year of external review requests received and completed. This year, 359 requests were received; an increase of 31% on the previous year, which, before this year, had been a record year of requests received.

Members of Parliament make frequent use of this Office's external review function accounting for 34% (121 of 359) of requests received.

With the concerted effort of my team of legal officers exercising greater control of our processes and focussing on early triaging of incoming requests, the Office has managed to complete and close 59 more external review requests than were received in the year. This has meant that we reduced our backlog of requests that had built up in the preceding years.

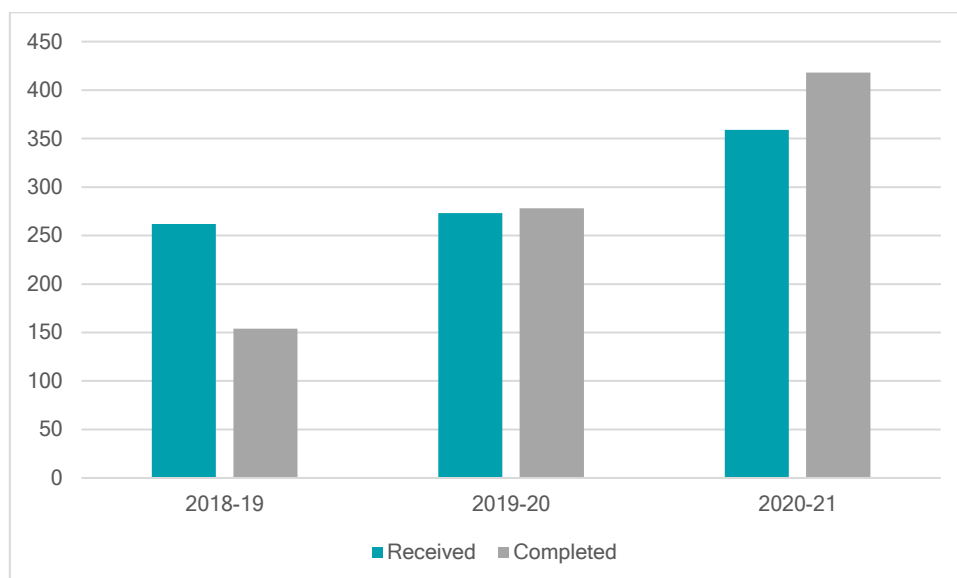
272 requests (65%) were completed by way of formal determination, which again is a record for this Office.

It is pleasing to see that, despite the dramatic increase in requests received and the record number of formal determinations issued, the average time taken to complete an external review reduced by seven weeks: from 194 days in 2019-20 to 153 days in 2020-21.

I exercised my power under section 39(4) of the FOI Act to publish 23 of my formal, external review determinations on the Ombudsman SA website. These may be accessed at <https://www.ombudsman.sa.gov.au/publications/foi-determinations>.

FOI JURISDICTION	2018-19					2019-20					2020-21				
	Government Departments	Local Government	Other Authorities	Minister	Total	Government Departments	Local Government	Other Authorities	Minister	Total	Government Departments	Local Government	Other Authorities	Minister	Total
External reviews received	150	26	46	40	262	119	17	79	58	273	189	33	113	24	359
External reviews completed	84	14	37	19	154	146	21	57	54	278	208	34	126	50	418

External reviews received and completed by year



External reviews completed within time periods for the last three financial years

	<30 days	<120 days	<180 days	<270 days	<365 days	>365 days	Total
2018-19	55	54	19	21	4	1	154
2019-20	41	65	36	60	39	37	278
2020-21	63	161	66	61	28	39	418

Complaints and enquiries about FOI matters

There was a slight increase in requests for advice sought about FOI processes and complaints about agencies' practices and procedures. Delays by agencies determining applications and communicating appropriately with applicants are common causes of frustration for complainants.

This year, my team of legal officers reduced the backlog of complaints, completing 15 more than were received in the year. The average time for completing complaints improved from 186 days in 2019-20 to 98 days this year.

Matter type	2018-19		2019-20		2020-21	
	Received	Closed	Received	Closed	Received	Closed
FOI external reviews	262	154	273	278	359	418
FOI advices	130	129	215	216	232	233
FOI complaints	50	39	54	47	68	83
Summary of FOI complaints						
FOI practices and procedures	16	11	36	23	47	62
Sufficiency of search	34	28	18	24	21	21

Average days open for external reviews and complaints

	2018-19	2019-20	2020-21
Average days open - FOI external reviews	86 days	194 days	153 days
Average days open - FOI complaints	49 days	186 days	98 days



Other Activities

Other Activities

Submissions

At the invitation of the Attorney-General I provided submissions on the following draft legislation:

- *Freedom of Information (Fees and Charges) Waiver Regulations 2020* and *Freedom of Information (Fees) Notice 2020*
- OPCAT Implementation Bill 2021

In March 2021, I made a submission to the Minister for Education in response to the recommendations made by the *Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools* (the Inquiry) about establishing a new Education Ombudsman. My submission was to the effect that the volume of education related complaints does not justify the creation of a new, statutory office and such a body, if created, would probably prove non-viable in the long term.

Conferences (virtual)

With COVID-19 restrictions firmly in place, my involvement in conferences with interstate and overseas associations has been limited to internet screen connections. Even so, these times have been beneficial in keeping me engaged in and informed of issues confronting my interstate and international counterparts.

Twice in the year I participated in conferences with the Association of Information Access Commissioners comprised of Information Commissioners and Ombudsmen from around the country and New Zealand. In September 2020 we collaborated on the release of a joint statement in support of International Access to Information Day. The statement focussed on government response to the pandemic:

‘As countries around the world manage the impacts of COVID-19 and other crises facing communities, access to information becomes even more essential. Open, transparent and accountable governments that proactively release information to the community remain fundamental to a democratic society.’

The proactive release of information by governments is an important issue that we will continue to promote.

I joined one meeting of Australian and New Zealand parliamentary ombudsmen that was convened in April 2021. In the same month I participated in a meeting of the Australasian and Pacific Ombudsman Region. At both meetings our responses to the pandemic were shared and discussed.

In May 2021, I participated in the International Ombudsman Institute World Conference and General Assembly hosted in Dublin, Ireland. Originally, the conference was to be held in May 2020, but due to the pandemic had to be deferred and was convened virtually this year instead. The theme of the conference was ‘Giving Voice to the Voiceless’.

Public Interest Disclosure Act disclosures and notifications

The *Public Interest Disclosure Act 2018* (PID Act) commenced operation on 1 July 2019. Under that Act, I am a relevant authority for receiving disclosures of public interest information that relates to an agency to which the Ombudsman Act applies.

Pursuant to section 7(1)(c) of that Act, I am required to notify the Office for Public Integrity of each disclosure I receive under the Act in accordance with the ICAC guidelines. In 2019-20, I received 33 public interest disclosures. This year I received 59 public interest disclosures that I then reported to the Office for Public Integrity.

These disclosures concerned various agency groups as follows:

		Disclosures
Government Departments		10
Local Government		41
	<i>Councils</i>	15
	<i>Elected Members</i>	26
Other Authorities		8
Total		59

Response to COVID-19 pandemic

In this reporting year, the Office received 89 enquiries on COVID-19 related issues and 186 complaints about government actions in regard to the COVID-19 restrictions. The majority of these complaints concerned the Department for Health and Wellbeing, with issues mostly relating to quarantine conditions and requests for quarantine exemptions, as well as cross border travel. Other complaints mainly concerned SAPOL and cross border travel applications, as well as the Department for Correctional Services and restrictions placed on prisoners due to COVID-19. The Office also received a very small number of complaints about other agencies.

Each time a complaint has raised issues that warranted further enquiry, I have brought the matter to the attention of the relevant agency for a response. To date I have been satisfied that each agency has responded appropriately to the concerns raised with them and I have not needed to escalate the complaint to formal investigation.

At various times throughout the year, my office has contacted the Department for Health and Wellbeing to request changes to their website information about the exemption process when it has been incorrect or required updating due to changes in directions or circumstances. The department has generally acted promptly to comply with such requests.

In November 2020 a Correctional Services Officer at the Yatala Labour Prison tested positive to COVID-19. I made enquiries with the Department for Correctional Services about the measures they were taking to protect prisoners given an Officer had tested positive. I subsequently met with the Deputy Chief Executive and Executive Director, Office for Correctional Services Review to receive a briefing on the protective measures taken by the department to mitigate the risk of the virus transmitting to prisoners. I was satisfied with the

prompt and effective action taken by the department, noting that no other officers tested positive and there was no transmission to prisoners.

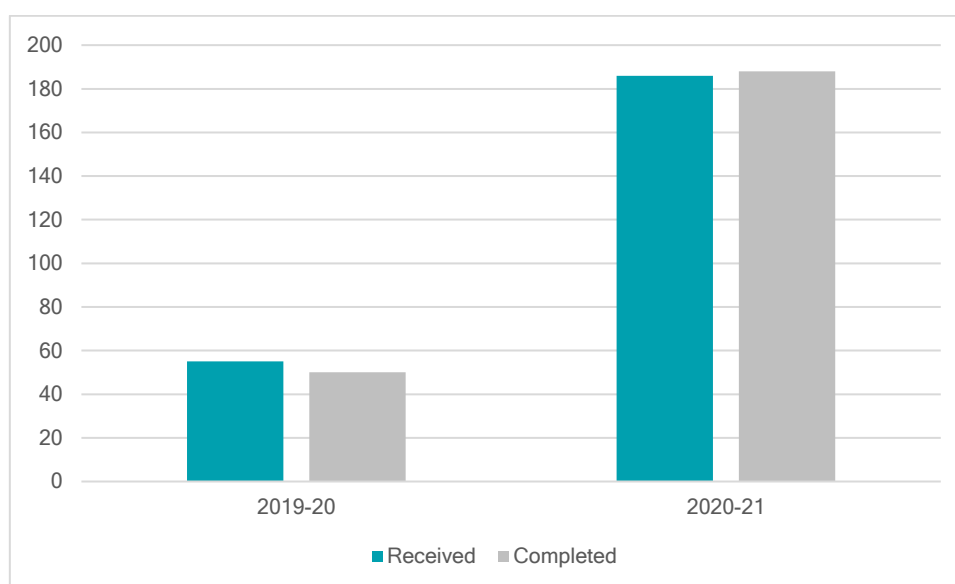
In May 2021, I enquired with the Department for Correctional Services about its rollout of the COVID-19 vaccine to prisoners. The department responded in June to confirm that it has in place a vaccine strategy as approved by the Department for Health and Wellbeing that will see a staged progression of the rollout to prisoners, staff and contractors. At that time over 1000 staff and prisoners had been vaccinated.

In June 2021, I visited the Adelaide Remand Centre and spoke with the General Manager and Deputy General Manager. I was advised that at that time about 30% of staff and 25% of prisoners had received their first dose of the vaccination.

I will continue to monitor the department's progress with its vaccination strategy.

COVID-19 related complaints received and completed by year

	2019-20	2020-21
Received	55	186
Completed	50	188



COVID-19 complaint case study

Department for Health and Wellbeing

COVID - Unreasonable lack of access to fresh air in medi-hotel quarantine and suitability of rooms

2020/05305

Complaint

In 2020 I received a number of complaints about the Department for Health and Wellbeing and the conditions in medi-hotel quarantine, specifically the lack of access to fresh air and the failure to provide suitable accommodation and facilities for families.

Complainants had contacted my office reporting physical and mental symptoms resulting from a lack of fresh air. I also received complaints from several parents about their families being provided rooms that were not suitable for children because they lacked facilities including:

- meals suitable for children
- facilities for preparing bottles and/or baby food
- suitable furniture for children (ie a table)
- bath tub
- laundry facilities.

Outcome

Upon being advised of my concern about these issues, the department conducted the following improvement actions regarding the hotel quarantine process:

1. undertook an audit across the contracted hotel facilities to identify the extent of rooms suitable for family groups
2. sought additional hotel sites such that no single site has to operate at 100% occupancy
3. improved materials provided to arriving guests with an emphasis on ensuring multilingual information and translating service are available at time of arrival
4. worked with the hotel facilities to develop suitable 'baby packs' for offering to families with arriving infants
5. liaised with the Commonwealth Government to enable earlier access to incoming flight information with airlines to improve guest hotel planning.
6. established a dedicated COVID-19 hotel facility for all returning Australians who test positive to the virus.

I advised the department that access to fresh air is a basic human right and that all people in hotel quarantine should have access to fresh air. In February 2021 the department advised me that it had adopted my position that access to fresh air was a human right and that it was only commissioning 80% of the capacity of medi-hotels for quarantine purposes to ensure that all guests would have access to fresh air

either through provision of a balcony or an opening window in line with the minimum standard recommended by the Queensland Human Rights Commission.¹

Given the prompt and positive cooperation by the department, it was not necessary for me to conduct an investigation into these issues.

Complaints about medi-hotel quarantine conditions reduced markedly after this intervention.

COVID-19 complaint case study

Department for Health and Wellbeing
COVID - Unreasonable medi-hotel quarantine limitations
2020/05767

Complaint

The complainant was overseas undertaking cancer treatment and was granted a travel exemption to return to Australia. Due to the treatment the complainant had a highly compromised immune system which meant that they had to prepare their own food to reduce the risk of exposure to bacteria. The complainant contacted my office after being advised by the department that appropriate kitchen facilities were not available in the medi-hotels.

Outcome

After my office brought this matter to the department's attention, it arranged suitable hotel quarantine accommodation for the complainant.

Judicial Review

In August 2020 I completed an investigation into an allegation of misconduct in public administration against then Minister for Planning, Mr Stephan Knoll. The matter had been referred to me by the Independent Commissioner Against Corruption. My investigation concluded that Mr Knoll had committed misconduct and, after consulting with the parties, I exercised my discretion under section 26(3) of the Ombudsman Act to publish the report as I held the opinion that it was in the public interest to do so.

Mr Knoll brought a Judicial Review application in the Supreme Court to challenge both the conclusion of my report and my decision to publish. The Court ordered suppression of the proceedings and my report in order to preserve Mr Knoll's rights pending the outcome of the Judicial Review. This meant I could not publish the report. While my legal team was ready to proceed to a hearing by early 2021, the Court could not hear the matter until July 2021. As it turned out, South Australia went into lockdown just before the hearing date and the hearing was deferred for a fortnight.

¹ Queensland Human Rights Commission, Hotel quarantine, Unresolved complaint report under section 88 *Human Rights Act 2019*, 15 October 2020, <https://www.qhrc.qld.gov.au/resources/legal-information/reports-on-unresolved-human-rights-complaints>

In the week before the new hearing date, Mr Knoll sought to settle the matter. A settlement was reached which resulted in Mr Knoll discontinuing the proceedings and me being able to proceed with publishing the report as I had intended 12 months previously.

I am perplexed by the action taken by Mr Knoll in this case. It has resulted in a considerable waste of the Court's time, my time and public money, which funded my legal fees, without achieving any change to my report or judicial interpretation of my jurisdiction and powers. The only gain for Mr Knoll was the 12 month delay in publishing my report. I query whether this is appropriate action for an elected public figure to take especially when the conduct in question was undertaken in a ministerial capacity.

About Ombudsman SA

What we do

The Ombudsman is empowered to:

- investigate misconduct and maladministration in public administration and the administrative acts of state government agencies, local government councils and statutory authorities
- conduct audits of the administrative practices and procedures of state government agencies, local government councils and statutory authorities
- conduct Freedom of Information reviews about release of information
- receive information about state and local government activities confidentially from informants under the *Public Interest Disclosure Act 2018*
- investigate complaints about breaches of service standards under the *Return to Work Act 2014*.

The aim of Ombudsman SA is to safeguard fairness and integrity in public administration for the benefit of South Australians.

Visit our website for further information about our services or to register a complaint directly online at <https://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. We may also undertake audits of the administrative practices and procedures of an agency.

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 will often publish our reports and determinations on our website at <https://www.ombudsman.sa.gov.au>.

Our jurisdiction

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

- employers - on matters that affect their employees
- private persons, businesses or companies
- Commonwealth or interstate government agencies
- government Ministers 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
- ensure confidentiality
- 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

In accordance with Premier and Cabinet Circular 013, which was updated as a result of a recommendation made by the former Acting Ombudsman in 2014, I report that my office responded to 40 complaints made about my office in the 2020-21 financial year and I set out a summary of them below.

Number	Title	Matter Outcome
2020/01770	Request for Internal Review of OSA decision	OSA Decisions\Internal Review\Outcome confirmed
2020/01770	Complaint about OSA service	OSA Services\Partly substantiated - apology provided to complainant for delay by OSA
2020/01907	Request for Internal Review of OSA decision	OSA Decisions\Internal Review\Outcome confirmed
2020/02125	Request for Internal Review of OSA decision	OSA Decisions\Internal Review\Outcome confirmed
2020/02471	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2020/02844	Complaint about OSA service	OSA Services\Not substantiated
2020/02855	Complaint about OSA service	OSA Services\Not substantiated
2020/02877	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2020/03098	Complaint about OSA service	OSA Services\Not substantiated
2020/03233	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2020/03268	Complaint about OSA decision	OSA Decisions\No Internal Review
2020/03332	Complaint about OSA service	OSA Services\Partly substantiated - processes reviewed to ensure more efficient acknowledgment of applications, staff reminded to give a contact when requested
2020/03370	Complaint about OSA service	OSA Services\Not substantiated
2020/04234	Request for internal review of OSA decision	OSA Decisions\No Internal Review
2020/04266	Request for internal review of OSA decision	OSA Decisions\No Internal Review
2020/04277	Complaint about OSA service	OSA Services\Not substantiated
2020/04626	Complaint about OSA service	OSA Services\Not substantiated
2020/04647	Request for internal review of OSA decision	OSA Decisions\No Internal Review
2020/05018	Request for internal review of OSA decision	OSA Decisions\Internal Review\Outcome confirmed
2020/05108	Complaint about OSA service	OSA Services\Partly substantiated - apology to complainant and reminder to staff OSA policy for accepting verbal complaints
2021/00405	Complaint about OSA decision	OSA Decisions\No Internal Review
2021/00434	Complaint about OSA service	OSA Services\Not substantiated
2021/00563	Complaint about OSA decision	OSA Decisions\No Internal Review
2021/00563	Complaint about OSA decision	OSA Decisions\No Internal Review
2021/00587	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2021/00665	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2021/00958	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2021/01126	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2021/01126	Complaint about OSA service	OSA Services\Not substantiated
2021/01448	Request for internal review of OSA decision	OSA Decisions\Internal Review\Outcome confirmed
2021/01547	Complaint about OSA decision	OSA Decisions\No Internal Review
2021/01580	Request for Internal Review of OSA decision	OSA Decisions\Internal Review\Outcome confirmed
2021/01639	Request for Internal Review of OSA decision	OSA Decisions\No Internal Review
2021/01776	Complaint about OSA service	OSA Services\Not substantiated
2021/02048	Complaint about OSA service	Withdrawn by Complainant
2021/02269	Request for internal review of OSA decision	OSA Decisions\No Internal Review

Number	Title	Matter Outcome
2021/02307	Request for internal review of OSA decision	OSA Decisions\Internal Review\Outcome confirmed
2021/02520	Request for internal review of OSA decision	OSA Decisions\No Internal Review
2021/02521	Request for internal review of OSA decision	OSA Decisions\No Internal Review
2021/02729	Complaint about OSA service	OSA Services\Not substantiated

Financial statement

Expenditure	2018-19	2019-20	2020-21
Annual report	3 654		
Computer expenses	71 148	90 960	68 792
Contributions to projects			
Equipment maintenance	2 376	1 366	
Equipment purchases	2 578	822	293
* Fringe Benefits Tax	13 755	11 471	12 540
* Motor vehicles	16 786	14 398	15 494
Postage	3 997	7 655	3 518
Printing and stationery	11 034	5 292	1 968
Publications and subscriptions	3 218	2 225	1 897
Staff development	24 234	17 553	14 627
Sundries	30 159	24 351	26 382
Telephone charges	15 303	18 489	7 436
Travel/taxi charges	15 643	9 251	257
Website development	3 435	22 305	47 949
Sub-total	217 320	226 138	201 152
* Accommodation and energy	385 000	391 271	214 873
Consultant/Contract staff/Prof costs	85 497	42 476	2 600
Sub-total	470 497	433 747	217 473
* Salaries	2 909 892	2 837 953	2 690 676
Sub-total	2 909 892	2 837 953	2 690 676
** Income	(653 000)	(611 621)	(354 000)
Sub-total	(653 000)	(611 621)	(354 000)

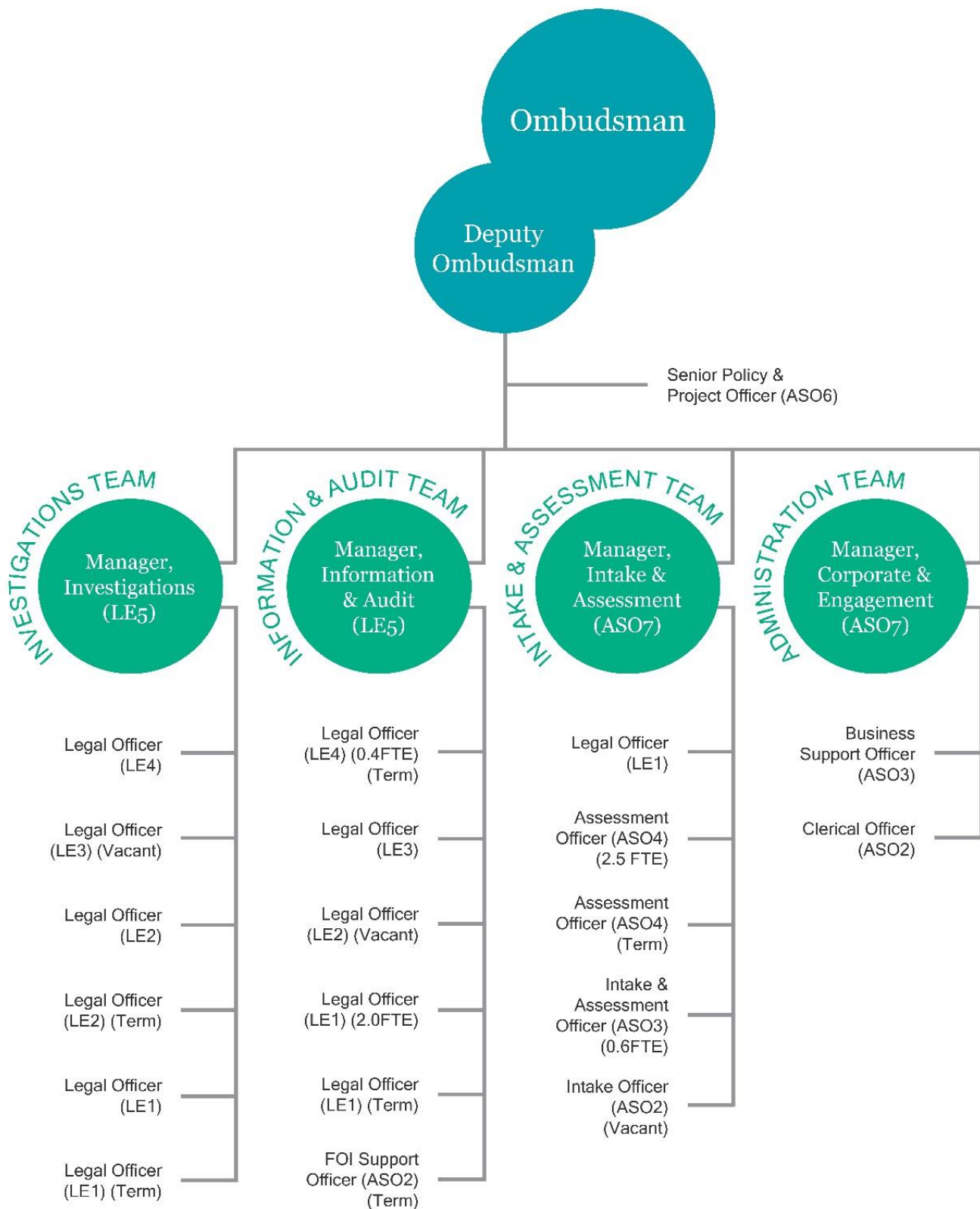
* Figures include expenses incurred by the Ombudsman position (funded by Special Acts)

** Includes recovery of expenditure from ReturnToWorkSA

Net expenditure	2 697 419	2 886 217	2 755 301
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Organisational chart

Ombudsman SA organisational chart at 30 June 2021.



Summary data

Ombudsman Act jurisdiction

Government departments

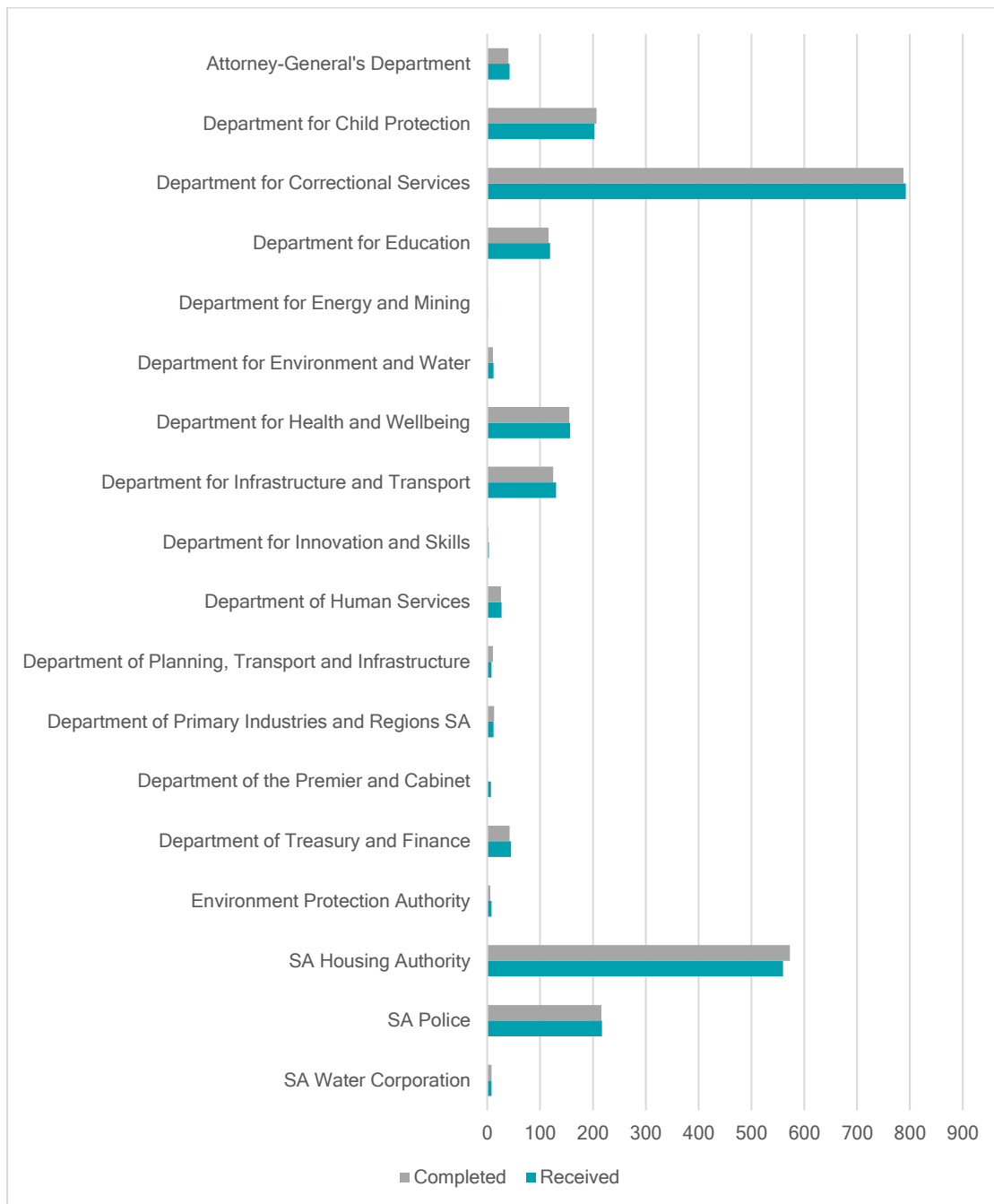
Summary tables

1 July 2020 - 30 June 2021

Complaints received and completed

Department	Received	Percentage	Completed	Percentage
Attorney-General's Department	42	1.79%	40	1.71%
Department for Child Protection	203	8.63%	207	8.84%
Department for Correctional Services	792	33.69%	788	33.66%
Department for Education	119	5.06%	116	4.96%
Department for Energy and Mining	1	0.04%	1	0.04%
Department for Environment and Water	12	0.51%	11	0.47%
Department for Health and Wellbeing	157	6.68%	155	6.62%
Department for Infrastructure and Transport	130	5.53%	125	5.34%
Department for Innovation and Skills	3	0.13%	2	0.09%
Department of Human Services	27	1.15%	26	1.11%
Department of Planning, Transport and Infrastructure	8	0.34%	11	0.47%
Department of Primary Industries and Regions SA	12	0.51%	13	0.56%
Department of the Premier and Cabinet	7	0.30%	1	0.04%
Department of Treasury and Finance	45	1.91%	42	1.79%
Environment Protection Authority	8	0.34%	6	0.26%
SA Housing Authority	560	23.82%	573	24.48%
SA Police	217	9.23%	216	9.23%
SA Water Corporation	8	0.34%	8	0.34%
Total	2351	100.00%	2341	100.00%

Government departments complaints received and completed



Complaint outcomes

Outcome	Total	Percentage
Alternate Remedy Available with Another Body	257	10.98%
Complainant Cannot be Contacted	41	1.75%
Declined\Investigation Unnecessary or Unjustifiable	546	23.32%
Declined\No Sufficient Personal Interest or Not Directly Affected (s17(2))	13	0.56%
Declined\Out of Time	1	0.04%
Declined\Trivial, Frivolous, Vexatious, Not Made in Good Faith (s17(2))	1	0.04%
Not Substantiated / No s25 Finding	3	0.13%
Out of Jurisdiction\Agency Not Within Jurisdiction	10	0.43%
Out of Jurisdiction\Employment	10	0.43%
Out of Jurisdiction\Judicial Body	4	0.17%
Out of Jurisdiction\Minister	3	0.13%
Out of Jurisdiction\Police Matter	5	0.21%
Out of Jurisdiction\Policy	1	0.04%
Referred Back to Agency	1158	49.47%
Report to OPI	2	0.09%
Resolved with Agency Co-operation	211	9.01%
S25 Finding\s25(1)(a) Finding / Contrary to Law	1	0.04%
S25 Finding\s25(1)(b) Finding / Unreasonable	2	0.09%
S25 Finding\s25(1)(g) Finding / Wrong	2	0.09%
Withdrawn by Complainant	70	2.99%
Total	2341	100.00%

Local government

Summary tables

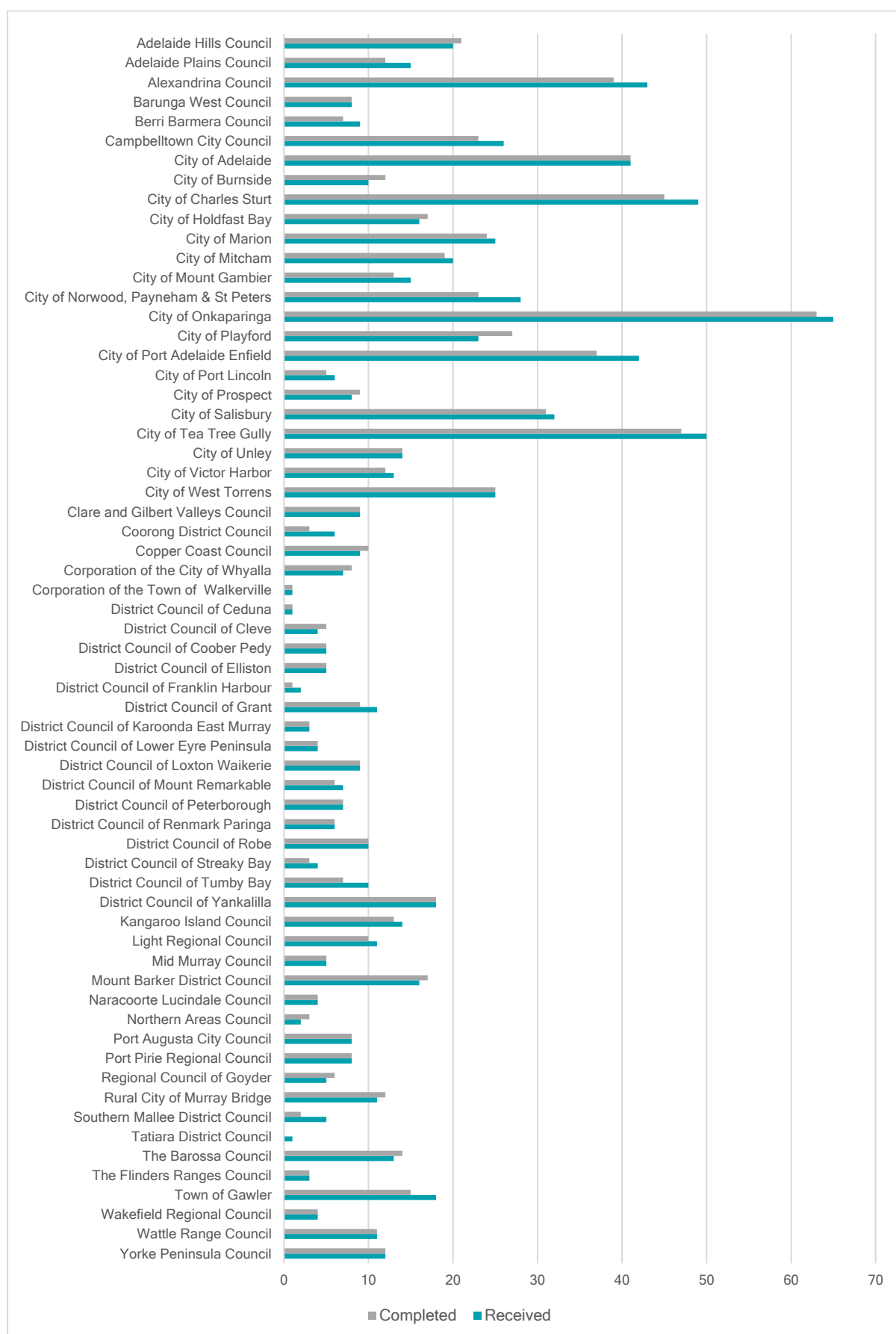
1 July 2020 - 30 June 2021

Complaints received and completed

Council	Received	%	Completed	%	Population 30 June 2020	Received / 10,000 pop	Completed / 10,000 pop
Adelaide Hills Council	20	2.24%	21	2.47%	40,162	5.0	5.2
Adelaide Plains Council	15	1.68%	12	1.41%	9,441	15.9	12.7
Alexandrina Council	43	4.82%	39	4.58%	27,876	15.4	14.0
Barunga West Council	8	0.90%	8	0.94%	2,550	31.4	31.4
Berri Barmera Council	9	1.01%	7	0.82%	10,836	8.3	6.5
Campbelltown City Council	26	2.91%	23	2.70%	53,082	4.9	4.3
City of Adelaide	41	4.60%	41	4.82%	26,177	15.7	15.7
City of Burnside	10	1.12%	12	1.41%	46,127	2.2	2.6
City of Charles Sturt	49	5.49%	45	5.29%	120,733	4.1	3.7
City of Holdfast Bay	16	1.79%	17	2.00%	37,784	4.2	4.5
City of Marion	25	2.80%	24	2.82%	94,879	2.6	2.5
City of Mitcham	20	2.24%	19	2.23%	67,907	2.9	2.8
City of Mount Gambier	15	1.68%	13	1.53%	27,433	5.5	4.7
City of Norwood, Payneham & St Peters	28	3.14%	23	2.70%	37,462	7.5	6.1
City of Onkaparinga	65	7.29%	63	7.40%	174,575	3.7	3.6
City of Playford	23	2.58%	27	3.17%	96,547	2.4	2.8
City of Port Adelaide Enfield	42	4.71%	37	4.35%	129,530	3.2	2.9
City of Port Lincoln	6	0.67%	5	0.59%	14,750	4.1	3.4
City of Prospect	8	0.90%	9	1.06%	21,827	3.7	4.1
City of Salisbury	32	3.59%	31	3.64%	144,872	2.2	2.1
City of Tea Tree Gully	50	5.61%	47	5.52%	100,862	5.0	4.7
City of Unley	14	1.57%	14	1.65%	39,416	3.6	3.6
City of Victor Harbor	13	1.46%	12	1.41%	15,724	8.3	7.6
City of West Torrens	25	2.80%	25	2.94%	61,735	4.0	4.0
Clare and Gilbert Valleys Council	9	1.01%	9	1.06%	9,470	9.5	9.5
Coorong District Council	6	0.67%	3	0.35%	5,415	11.1	5.5
Copper Coast Council	9	1.01%	10	1.18%	15,128	5.9	6.6
Corporation of the City of Whyalla	7	0.78%	8	0.94%	21,506	3.3	3.7
Corporation of the Town of Walkerville	1	0.11%	1	0.12%	8,094	1.2	1.2
District Council of Ceduna	1	0.11%	1	0.12%	3,423	2.9	2.9
District Council of Cleve	4	0.45%	5	0.59%	1,780	22.5	28.1
District Council of Coober Pedy	5	0.56%	5	0.59%	1,820	27.5	27.5
District Council of Elliston	5	0.56%	5	0.59%	1,011	49.5	49.5
District Council of Franklin Harbour	2	0.22%	1	0.12%	1,304	15.3	7.7
District Council of Grant	11	1.23%	9	1.06%	8,619	12.8	10.4
District Council of Karoonda East Murray	3	0.34%	3	0.35%	1,101	27.2	27.2

Council	Received	%	Completed	%	Population 30 June 2020	Received / 10,000 pop	Completed / 10,000 pop
District Council of Lower Eyre Peninsula	4	0.45%	4	0.47%	5,814	6.9	6.9
District Council of Loxton Waikerie	9	1.01%	9	1.06%	11,737	7.7	7.7
District Council of Mount Remarkable	7	0.78%	6	0.71%	2,913	24.0	20.6
District Council of Peterborough	7	0.78%	7	0.82%	1,668	42.0	42.0
District Council of Renmark Paringa	6	0.67%	6	0.71%	9,926	6.0	6.0
District Council of Robe	10	1.12%	10	1.18%	1,472	67.9	67.9
District Council of Streaky Bay	4	0.45%	3	0.35%	2,204	18.1	13.6
District Council of Tumby Bay	10	1.12%	7	0.82%	2,733	36.6	25.6
District Council of Yankalilla	18	2.02%	18	2.12%	5,679	31.7	31.7
Kangaroo Island Council	14	1.57%	13	1.53%	5,021	27.9	25.9
Light Regional Council	11	1.23%	10	1.18%	15,501	7.1	6.5
Mid Murray Council	5	0.56%	5	0.59%	9,143	5.5	5.5
Mount Barker District Council	16	1.79%	17	2.00%	37,744	4.2	4.5
Naracoorte Lucindale Council	4	0.45%	4	0.47%	8,574	4.7	4.7
Northern Areas Council	2	0.22%	3	0.35%	4,625	4.3	6.5
Port Augusta City Council	8	0.90%	8	0.94%	13,697	5.8	5.8
Port Pirie Regional Council	8	0.90%	8	0.94%	17,576	4.6	4.6
Regional Council of Goyder	5	0.56%	6	0.71%	4,170	12.0	14.4
Rural City of Murray Bridge	11	1.23%	12	1.41%	22,847	4.8	5.3
Southern Mallee District Council	5	0.56%	2	0.24%	2,089	23.9	9.6
Tatiara District Council	1	0.11%	0	0.00%	6,827	1.5	0.0
The Barossa Council	13	1.46%	14	1.65%	25,245	5.1	5.5
The Flinders Ranges Council	3	0.34%	3	0.35%	1,688	17.8	17.8
Town of Gawler	18	2.02%	15	1.76%	24,718	7.3	6.1
Wakefield Regional Council	4	0.45%	4	0.47%	6,773	5.9	5.9
Wattle Range Council	11	1.23%	11	1.29%	12,060	9.1	9.1
Yorke Peninsula Council	12	1.35%	12	1.41%	11,331	10.6	10.6
Total	892	100.00%	851	100.00%	1,754,733	5.1	4.8

Local government complaints received and completed



Complaint outcomes

Outcome	Total	Percentage
Alternate Remedy Available with Another Body	66	7.76%
Complainant Cannot be Contacted	10	1.18%
Declined\Investigation Unnecessary or Unjustifiable	341	40.07%
Declined\No Sufficient Personal Interest or Not Directly Affected (s17(2))	4	0.47%
Declined\Out of Time	5	0.59%
Declined\Trivial, Frivolous, Vexatious, Not Made in Good Faith (s17(2))	1	0.12%
Not Substantiated / No s25 Finding	1	0.12%
Out of Jurisdiction\Employment	1	0.12%
Out of Jurisdiction\Judicial Body	1	0.12%
Out of Jurisdiction\Policy	1	0.12%
Referred Back to Agency	334	39.25%
Report to OPI	15	1.76%
Resolved with Agency Co-operation	37	4.35%
S25 Finding\s25(1)(a) Finding / Contrary to Law	6	0.71%
S25 Finding\s25(1)(g) Finding / Wrong	2	0.24%
Withdrawn by Complainant	26	3.06%
Total	851	100.00%

Other authorities

Summary tables

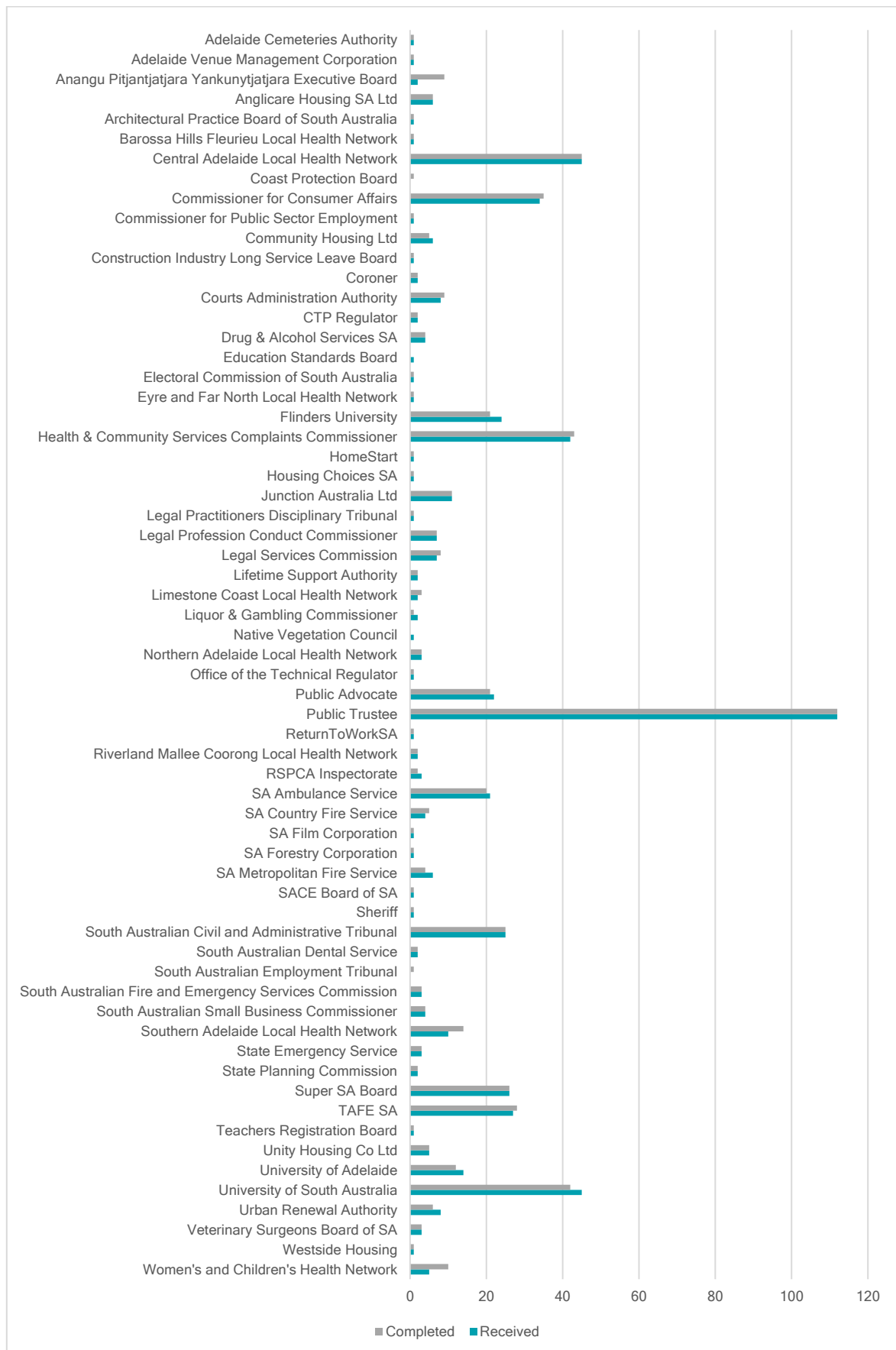
1 July 2020 - 30 June 2021

Complaints received and completed

Authority	Received	Percentage	Completed	Percentage
Adelaide Cemeteries Authority	1	0.17%	1	0.17%
Adelaide Venue Management Corporation	1	0.17%	1	0.17%
Anangu Pitjantjatjara Yankunytjatjara Executive Board	2	0.34%	9	1.53%
Anglicare Housing SA Ltd	6	1.03%	6	1.02%
Architectural Practice Board of South Australia	1	0.17%	1	0.17%
Barossa Hills Fleurieu Local Health Network	1	0.17%	1	0.17%
Central Adelaide Local Health Network	45	7.73%	45	7.65%
Coast Protection Board	0	0.00%	1	0.17%
Commissioner for Consumer Affairs	34	5.84%	35	5.95%
Commissioner for Public Sector Employment	1	0.17%	1	0.17%
Community Housing Ltd	6	1.03%	5	0.85%
Construction Industry Long Service Leave Board	1	0.17%	1	0.17%
Coroner	2	0.34%	2	0.34%
Courts Administration Authority	8	1.37%	9	1.53%
CTP Regulator	2	0.34%	2	0.34%
Drug & Alcohol Services SA	4	0.69%	4	0.68%
Education Standards Board	1	0.17%	0	0.00%
Electoral Commission of South Australia	1	0.17%	1	0.17%
Eyre and Far North Local Health Network	1	0.17%	1	0.17%
Flinders University	24	4.12%	21	3.57%
Health & Community Services Complaints Commissioner	42	7.22%	43	7.31%
HomeStart	1	0.17%	1	0.17%
Housing Choices SA	1	0.17%	1	0.17%
Junction Australia Ltd	11	1.89%	11	1.87%
Legal Practitioners Disciplinary Tribunal	1	0.17%	1	0.17%
Legal Profession Conduct Commissioner	7	1.20%	7	1.19%
Legal Services Commission	7	1.20%	8	1.36%
Lifetime Support Authority	2	0.34%	2	0.34%
Limestone Coast Local Health Network	2	0.34%	3	0.51%
Liquor & Gambling Commissioner	2	0.34%	1	0.17%
Native Vegetation Council	1	0.17%	0	0.00%
Northern Adelaide Local Health Network	3	0.52%	3	0.51%
Office of the Technical Regulator	1	0.17%	1	0.17%
Public Advocate	22	3.78%	21	3.57%
Public Trustee	112	19.24%	112	19.05%
ReturnToWorkSA	1	0.17%	1	0.17%
Riverland Mallee Coorong Local Health Network	2	0.34%	2	0.34%
RSPCA Inspectorate	3	0.52%	2	0.34%

Authority	Received	Percentage	Completed	Percentage
SA Ambulance Service	21	3.61%	20	3.40%
SA Country Fire Service	4	0.69%	5	0.85%
SA Film Corporation	1	0.17%	1	0.17%
SA Forestry Corporation	1	0.17%	1	0.17%
SA Metropolitan Fire Service	6	1.03%	4	0.68%
SACE Board of SA	1	0.17%	1	0.17%
Sheriff	1	0.17%	1	0.17%
South Australian Civil and Administrative Tribunal	25	4.30%	25	4.25%
South Australian Dental Service	2	0.34%	2	0.34%
South Australian Employment Tribunal	0	0.00%	1	0.17%
South Australian Fire and Emergency Services Commission	3	0.52%	3	0.51%
South Australian Small Business Commissioner	4	0.69%	4	0.68%
Southern Adelaide Local Health Network	10	1.72%	14	2.38%
State Emergency Service	3	0.52%	3	0.51%
State Planning Commission	2	0.34%	2	0.34%
Super SA Board	26	4.47%	26	4.42%
TAFE SA	27	4.64%	28	4.76%
Teachers Registration Board	1	0.17%	1	0.17%
Unity Housing Co Ltd	5	0.86%	5	0.85%
University of Adelaide	14	2.41%	12	2.04%
University of South Australia	45	7.73%	42	7.14%
Urban Renewal Authority	8	1.37%	6	1.02%
Veterinary Surgeons Board of SA	3	0.52%	3	0.51%
Westside Housing	1	0.17%	1	0.17%
Women's and Children's Health Network	5	0.86%	10	1.70%
Total	582	100.00%	588	100.00%

Other authorities complaints received and completed



Other authorities complaint outcomes

Outcome	Total	Percentage
Alternate Remedy Available with Another Body	97	16.50%
Complainant Cannot be Contacted	11	1.87%
Declined\Investigation Unnecessary or Unjustifiable	145	24.66%
Declined\No Sufficient Personal Interest or Not Directly Affected (s17(2))	1	0.17%
Declined\Out of Time	5	0.85%
Not Substantiated / No s25 Finding	1	0.17%
Out of Jurisdiction\Agency Not Within Jurisdiction	2	0.34%
Out of Jurisdiction\Employment	8	1.36%
Out of Jurisdiction\Judicial Body	9	1.53%
Out of Jurisdiction\Minister	1	0.17%
Referred Back to Agency	230	39.12%
Report to OPI	2	0.34%
Resolved with Agency Co-operation	52	8.84%
S25 Finding\s25(1)(b) Finding / Unreasonable	2	0.34%
S25 Finding\s25(1)(g) Finding / Wrong	2	0.34%
Withdrawn by Complainant	20	3.40%
Total	588	100.00%

Return to Work Act jurisdiction

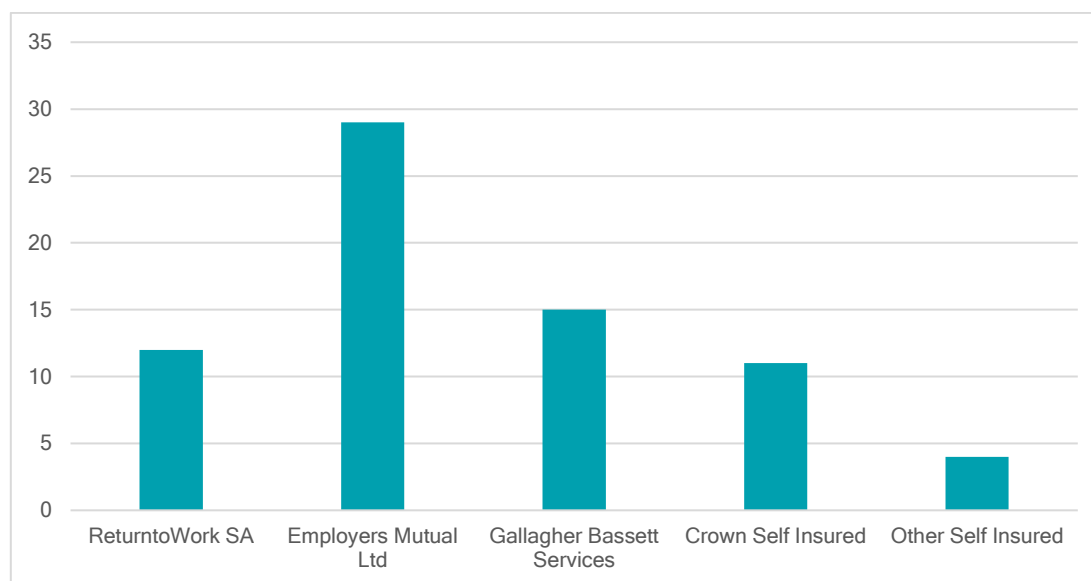
Summary tables

1 July 2020 - 30 June 2021

RTW Act complaints received per respondent per month

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
ReturntoWork SA	0	1	0	0	0	1	2	1	2	1	0	4	12
Employers Mutual Ltd	4	3	0	3	3	4	4	2	1	1	2	2	29
Gallagher Bassett Services	1	3	2	0	3	1	0	1	2	0	0	2	15
Crown Self Insured	1	1	2	2	0	2	0	1	1	0	0	1	11
Other Self Insured	0	1	0	2	0	0	0	0	0	1	0	0	4
Total	6	9	4	7	6	8	6	5	6	3	2	9	71

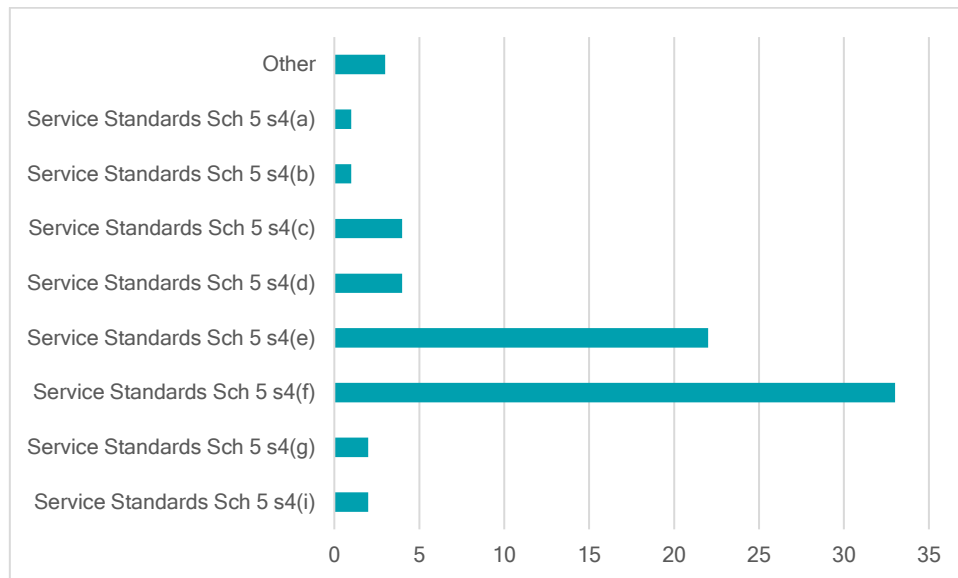
RTW Act complaints received during 2020-21



Issues

Issues	Total	Percentage
Other	3	4.17%
Service Standards Sch 5 s4(a)	1	1.39%
Service Standards Sch 5 s4(b)	1	1.39%
Service Standards Sch 5 s4(c)	4	5.56%
Service Standards Sch 5 s4(d)	4	5.56%
Service Standards Sch 5 s4(e)	22	30.56%
Service Standards Sch 5 s4(f)	33	45.83%
Service Standards Sch 5 s4(g)	2	2.78%
Service Standards Sch 5 s4(i)	2	2.78%
Total	72	100.00%

Issue of complaints



Complaint outcomes

Outcome	Total	Percentage
Alternate remedy available with another body	16	23.19%
Breach of service standards	1	1.45%
Declined - Investigation unnecessary or unjustifiable	14	20.29%
Out of time	1	1.45%
Referred back to Compensating Authority	30	43.48%
Resolved with Compensating Authority's cooperation	4	5.80%
Withdrawn by Complainant	3	4.35%
Total	69	100.00%

Independent Commissioner Against Corruption Act jurisdiction

Summary tables

1 July 2020 - 30 June 2021

Response to proposed referrals

	Government Departments	Local Government	Other Authorities	Minister	Total
Agree to referral	3	17	1	0	21
Disagree to referral	1	2	1	0	4
Partially agree	0	1	0	0	1
Total	4	20	2	0	26

Findings made on ICAC referrals

	Government Departments	Local Government	Other Authorities	Minister	Total
S25 Finding\ s25(1)(b) Finding / Unreasonable	1	0	0	0	1
Declined\ Investigation Unnecessary or Unjustifiable	1	9	0	0	10
S25 Finding\ s25(1)(a) Finding / Contrary to Law	0	1	0	0	1
S24(2)(a) ICAC Act\ Finding of misconduct	0	7	0	1	8
S24(2)(a) ICAC Act\ Finding of maladministration	0	1	0	0	1
S24(2)(a) ICAC Act\ No finding of misconduct or maladministration	0	9	0	0	9
S24(2)(a) ICAC Act\ Discontinued	0	1	0	0	1
Total	2	28	0	1	31

Freedom of Information Act jurisdiction

Summary tables

1 July 2020 - 30 June 2021

Outcomes of external reviews conducted by the Ombudsman in 2020-21

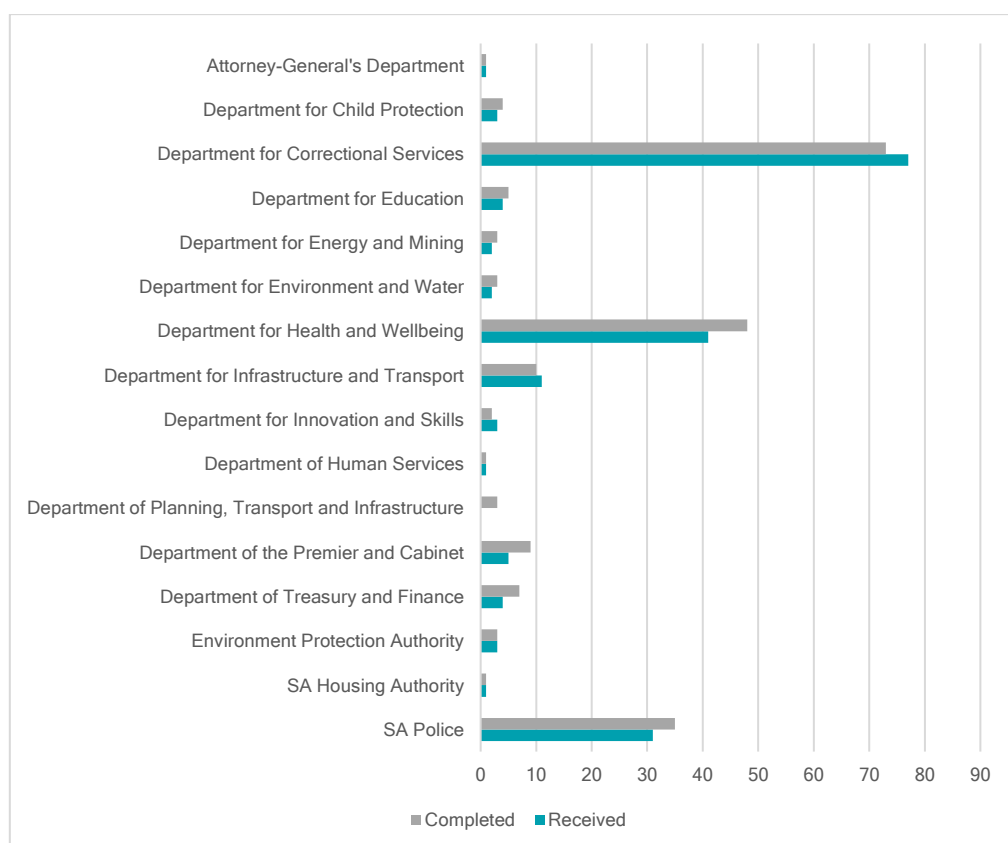
Matter Outcome	Total	Percentage
Application for Review Withdrawn by Applicant	34	8.13%
Application for review withdrawn following OSA intervention	20	4.78%
Application Settled During Review	13	3.11%
Application Dismissed Because of Lack of Cooperation of Applicant (s39(8))	4	0.96%
Determination Confirmed	62	14.83%
Determination Reversed	67	16.03%
Determination Revised by Agency	2	0.48%
Determination Varied	143	34.21%
Outside of Jurisdiction	73	17.46%
Total	418	100.00%

Government departments

External reviews received and completed

Department	Received	Completed
Attorney-General's Department	1	1
Department for Child Protection	3	4
Department for Correctional Services	77	73
Department for Education	4	5
Department for Energy and Mining	2	3
Department for Environment and Water	2	3
Department for Health and Wellbeing	41	48
Department for Infrastructure and Transport	11	10
Department for Innovation and Skills	3	2
Department of Human Services	1	1
Department of Planning, Transport and Infrastructure	0	3
Department of the Premier and Cabinet	5	9
Department of Treasury and Finance	4	7
Environment Protection Authority	3	3
SA Housing Authority	1	1
SA Police	31	35
Total	189	208

Government departments external reviews received and completed

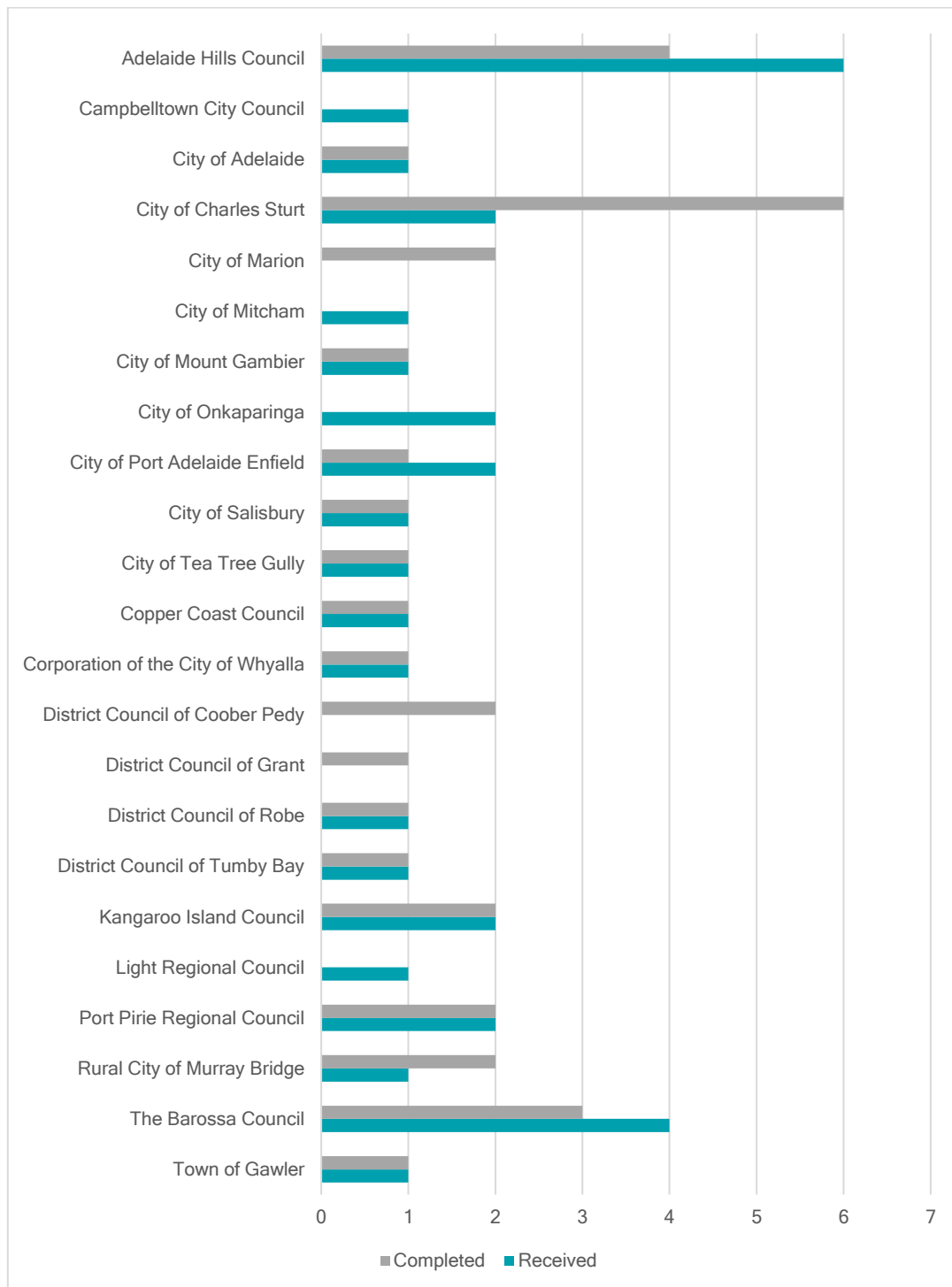


Local government

External reviews received and completed

Council	Received	Completed
Adelaide Hills Council	6	4
Campbelltown City Council	1	0
City of Adelaide	1	1
City of Charles Sturt	2	6
City of Marion	0	2
City of Mitcham	1	0
City of Mount Gambier	1	1
City of Onkaparinga	2	0
City of Port Adelaide Enfield	2	1
City of Salisbury	1	1
City of Tea Tree Gully	1	1
Copper Coast Council	1	1
Corporation of the City of Whyalla	1	1
District Council of Coober Pedy	0	2
District Council of Grant	0	1
District Council of Robe	1	1
District Council of Tumby Bay	1	1
Kangaroo Island Council	2	2
Light Regional Council	1	0
Port Pirie Regional Council	2	2
Rural City of Murray Bridge	1	2
The Barossa Council	4	3
Town of Gawler	1	1
Total	33	34

Local government external reviews received and completed

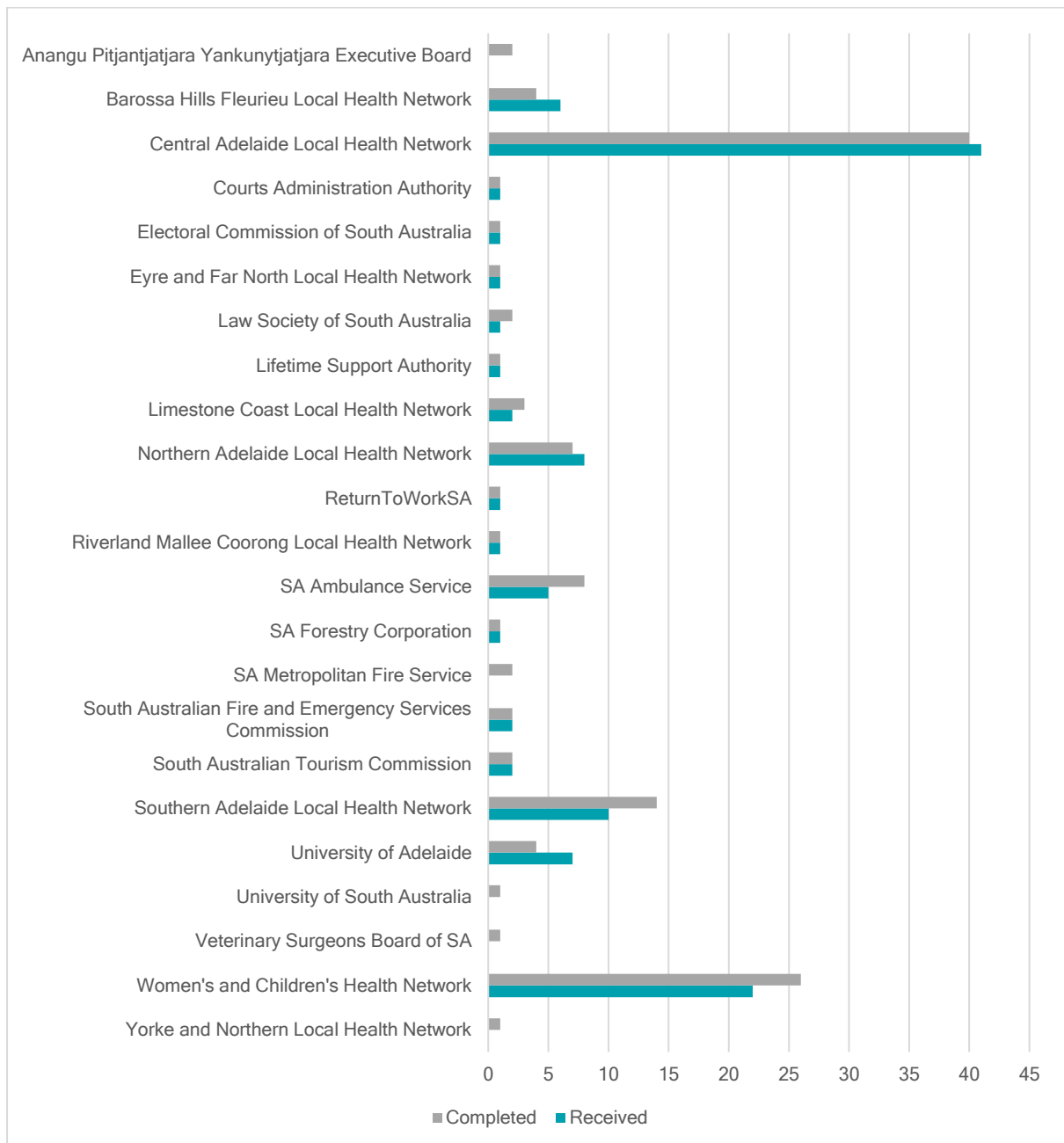


Other authorities

External reviews received and completed

Authority	Received	Completed
Anangu Pitjantjatjara Yankunytjatjara Executive Board	0	2
Barossa Hills Fleurieu Local Health Network	6	4
Central Adelaide Local Health Network	41	40
Courts Administration Authority	1	1
Electoral Commission of South Australia	1	1
Eyre and Far North Local Health Network	1	1
Law Society of South Australia	1	2
Lifetime Support Authority	1	1
Limestone Coast Local Health Network	2	3
Northern Adelaide Local Health Network	8	7
ReturnToWorkSA	1	1
Riverland Mallee Coorong Local Health Network	1	1
SA Ambulance Service	5	8
SA Forestry Corporation	1	1
SA Metropolitan Fire Service	0	2
South Australian Fire and Emergency Services Commission	2	2
South Australian Tourism Commission	2	2
Southern Adelaide Local Health Network	10	14
University of Adelaide	7	4
University of South Australia	0	1
Veterinary Surgeons Board of SA	0	1
Women's and Children's Health Network	22	26
Yorke and Northern Local Health Network	0	1
Total	113	126

Other authorities external reviews received and completed

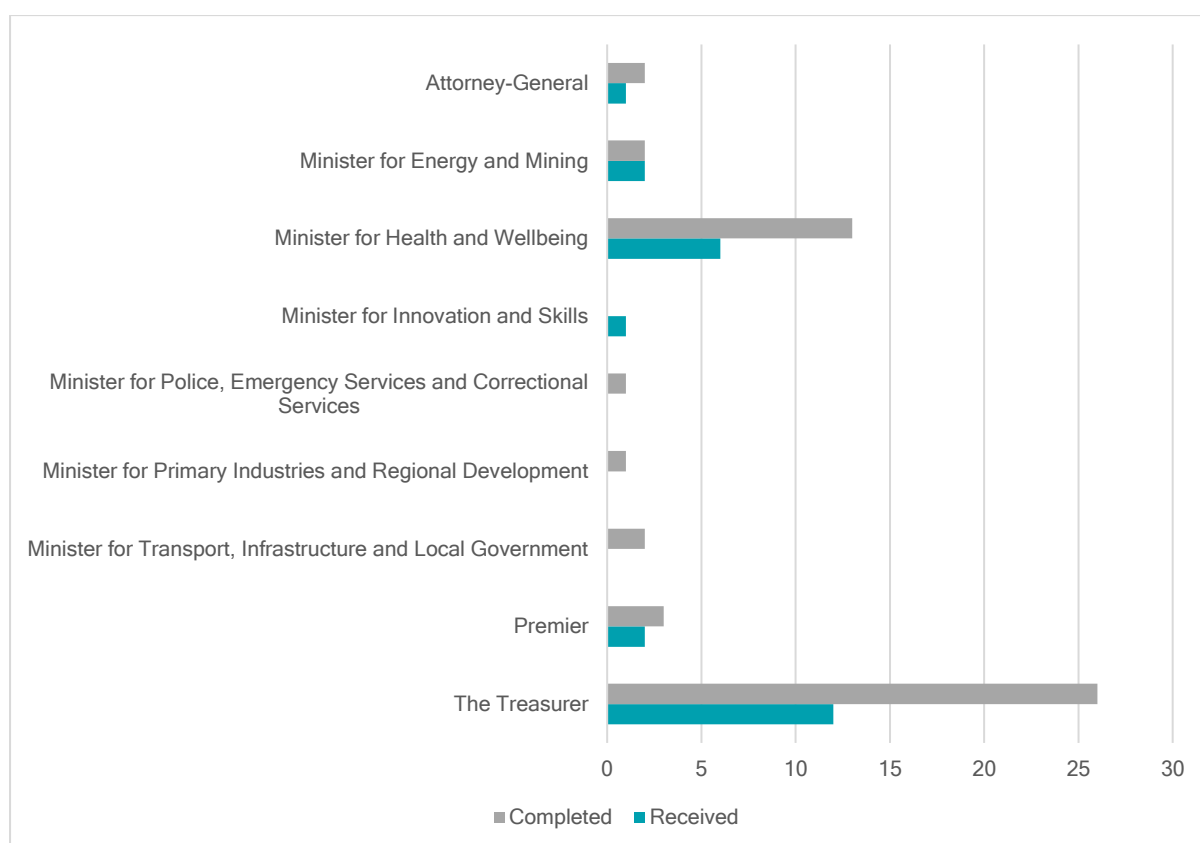


Ministers

Ministerial external reviews received and completed

Minister	Received	Completed
Attorney-General	1	2
Minister for Energy and Mining	2	2
Minister for Health and Wellbeing	6	13
Minister for Innovation and Skills	1	0
Minister for Police, Emergency Services and Correctional Services	0	1
Minister for Primary Industries and Regional Development	0	1
Minister for Transport, Infrastructure and Local Government	0	2
Premier	2	3
The Treasurer	12	26
Total	24	50

Ministerial external reviews received and completed



Appendices

Appendix A: Description of outcomes - Ombudsman Act Jurisdiction

Appendix B: Return to Work Act Jurisdiction

Appendix C: Independent Commissioner Against Corruption Act Jurisdiction

Appendix D: Freedom of Information Act Jurisdiction

Appendix E: Acronyms

Appendix A

Description of outcomes: Ombudsman Act jurisdiction

OUTCOME	DESCRIPTION
ADVICE GIVEN	<p>This outcome is used when:</p> <ul style="list-style-type: none"> giving advice that does not relate to a specific approach or complaint 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 giving FOI advice. <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"> the complaint body is not an 'agency' (section 3) the act was performed by a Minister of the Crown the complaint is not about an 'administrative act' because it was <ul style="list-style-type: none"> done in the discharge of a judicial authority (section 3) done in the capacity of legal adviser to the Crown (section 3) the act relates to a police matter (section 5(2)) the act was strictly a policy decision (<i>City of Salisbury v Biganovsky</i> 54 SASR 117) the act is a complaint by an employee about their current or past employer (section 17(1))
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"> 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 the complainant has a right of appeal, reference or review with the agency such as: <ul style="list-style-type: none"> with a council under section 270 of the Local Government Act review processes for students in universities review processes for prisoners in the Department for Correctional Services review and appeal regarding land tax under the Taxation Administration Act <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</p>

OUTCOME	DESCRIPTION
ALTERNATE REMEDY AVAILABLE WITH ANOTHER BODY	<p>or should have resorted to that appeal, reference, review or remedy (section 13(3)).</p> <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"> the Health and Community Services Complaints Commissioner the Environment Resources and Development Court <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"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because:</p> <ul style="list-style-type: none"> the complaint is trivial (section 17(2)(a)) the complaint was frivolous, vexatious or not made in good faith (section 17(2)(b)).
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"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because:</p> <ul style="list-style-type: none"> the complainant or their representative did not have sufficient personal interest (section 17(2)(c)) the complainant was not directly affected by the administrative act (section 15(3a)).
DECLINED/ OUT OF TIME	<p>This outcome is used for a complaint, where the Ombudsman decides:</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <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>
DECLINED/ INVESTIGATION UNNECESSARY OR UNJUSTIFIABLE	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <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"> 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) the complaint is minor the complainant and/or the agency has taken action to rectify the problem

OUTCOME	DESCRIPTION
	<ul style="list-style-type: none"> it would not be in the public interest for the Ombudsman to investigate or continue investigating the complaint.
NOT SUBSTANTIATED/NO SECTION 25 FINDING	<p>This outcome is used:</p> <ul style="list-style-type: none"> after a preliminary (or more rarely a full) investigation and a report has been completed, and there is no administrative error under section 25(1)(a)-(g).
OMBUDSMAN COMMENT WARRANTED	<p>This outcome is used <i>only</i> after a <i>preliminary</i> investigation. 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	<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 25(1)(e) FINDING: NO REASON GIVEN	
SECTION 25(1)(f) FINDING: MISTAKE OF LAW OR FACT	
SECTION 25(1)(g) FINDING: WRONG	

Appendix B

Description of outcomes: Return to Work Act jurisdiction

OUTCOME	DESCRIPTION
RTW - ADVICE GIVEN	<p>This outcome must only be used when:</p> <ul style="list-style-type: none"> giving advice that does not relate to a specific approach or complaint. information has been received and only needs to be noted. <p>*Note - more specific outcomes are preferable. Only use when matter is Cat 1 and no other outcome is suitable.</p>
RTW - OUT OF JURISDICTION	<p>This outcome is used where the complaint relates to a worker's compensation matter that relates to:</p> <ul style="list-style-type: none"> an agency that is not in jurisdiction; an interstate jurisdiction; where the worker is located in South Australia, however the claim has been made under the Commonwealth worker's compensation Act i.e. Comcare; or a judicial body i.e. SAET
RTW - 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> <p>Where a white telephone contact slip is responded to, this outcome is used when:</p> <ul style="list-style-type: none"> if there is no answer, a recorded message has been left stating the officer's name and that s/he is from Ombudsman SA. If the complainant does not respond, the file can be closed if there is no facility for a recorded message to be left, three contact attempts have been made over 2-3 days. If no contact has been made, the file can be closed where email or postal contact details have been provided, contact is attempted by this means, but no response is received within 7 days.
RTW - REFERRED BACK TO COMPENSATING AUTHORITY	<p>All attempts to contact the complainant must be clearly recorded.</p> <p>This outcome is used usually during the assessment phase, but may be used in the investigation phase.</p> <p>It is used when it is proper for the complainant to complain to, or seek a review of their complaint from the claims agent/RTW SA/self-insured employer - 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 raised the complaint with the Corporation or delegate.</p> <p>See s5(1)(a) of schedule 5, Return to Work Act.</p> <p>Reasons for the outcome must be recorded.</p>
RTW - ALTERNATE REMEDY AVAILABLE WITH ANOTHER BODY	<p>This outcome is only used where the complainant has right of appeal, reference or review with another body such as the SAET.</p>

OUTCOME	DESCRIPTION
RTW - RESOLVED WITH COMPENSATING AUTHORITY'S 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>Reasons for the outcome must be recorded.</p>
RTW - 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 respondent. It can be used at any stage of an assessment or investigation.</p> <p>It must be established and recorded that the complainant wishes to formally withdraw the complaint.</p> <p>It must not be used when Ombudsman SA cannot contact the complainant. See 'Cannot Contact Person' Outcome.</p> <p>Reasons for the outcome must be recorded.</p>
RTW - DECLINED/TRIVIAL, FRIVOLOUS, VEXATIOUS, NOT MADE IN GOOD FAITH	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because:</p> <ul style="list-style-type: none"> the complaint is trivial (section 17(2)(a) Ombudsman Act) the complaint is frivolous or vexatious or is not made in good faith (section 17(2)(b)) Ombudsman Act)
RTW - DECLINED/NO SUFFICIENT PERSONAL INTEREST OR NOT DIRECTLY AFFECTED	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because:</p> <ul style="list-style-type: none"> the complainant or their representative did not have sufficient personal interest the complainant was not directly affected by the breach of service standards.
RTW - DECLINED/ INVESTIGATION UNNECESSARY OR UNJUSTIFIABLE	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because, having regard to the circumstances of the case, such action is unnecessary or unjustifiable (section 17(2)(d) Ombudsman Act). For example:</p> <ul style="list-style-type: none"> after assessing or commencing an investigation of the complaint, it appears that there is no evidence of a breach of service standards the complaint is minor the complainant and/or the agency has taken action to rectify the problem it would not be in the public interest for the Ombudsman to investigate or continue investigating the complaint.
RTW - BREACH OF SERVICE STANDARDS	<p>This outcome is only used when making a finding of a breach of the service standards after an investigation.</p>
RTW - BREACH OF SERVICE STANDARDS NOT SUBSTANTIATED	<p>This outcome is used</p> <ul style="list-style-type: none"> after a preliminary (or more rarely a full) investigation and a report has been completed; and

OUTCOME	DESCRIPTION
	<ul style="list-style-type: none"> when making a finding there has been no breach of the service standards.
RTW - OMBUDSMAN COMMENT WARRANTED	<p>This is to be used only after a preliminary investigation. No breach of the service standards has been found, but an issue worthy of the Ombudsman's comment has been identified.</p>
RTW - S180 REVIEW APPLICATION 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>This outcome does not include instances where the agency has revised its determination to give access to documents.</p>
RTW - S180 REVIEW DECISION CONFIRMED	<p>This outcome means that at the conclusion of the external review, the Ombudsman agreed (in whole) with the Corporation's decision (section 180(10)(b)).</p>
RTW - 180 REVIEW DECISION VARIED	<p>This outcome means that at the end of the external review, the Ombudsman agreed in part and disagreed in part with the Corporation's decision (section 180(10)(b)).</p>
RTW - S180 REVIEW DECISION REVERSED	<p>This outcome means that at the conclusion of the external review, the Ombudsman disagreed (in whole) with the Corporation's decision (section 180(10)(b)).</p>
RTW - S180 REVIEW NO JURISDICTION	<p>The outcome is relevant when the applicant seeks the s180 review before they have sought or finalised internal review processes, and hence the Ombudsman is unable to undertake a review.</p>
RTW - S180 REVIEW REVISED DURING REVIEW	<p>This outcome is used when the agency releases the documents after the commencement of the review.</p>

Appendix C

Description of outcomes: Independent Commissioner Against Corruption Act jurisdiction

OUTCOME	DESCRIPTION
Response to proposed referral	The Commissioner must seek the views of the Ombudsman in relation to a matter raising a potential issue of misconduct or maladministration before deciding to exercise the Ombudsman's powers in respect of the matter or referring the matter to the Ombudsman for investigation (see sections 36A and 37 of the ICAC Act).
Agree to referral	This outcome means the Ombudsman agreed with OPI/ICAC that a matter raising a potential issue of misconduct or maladministration in public administration should be referred to this Office.
Disagree to referral	This outcome means the Ombudsman, in response to a proposal by OPI/ICAC that a matter raising a potential issue of misconduct or maladministration in public administration should be referred to this Office for investigation, expressed a view that the matter should not be referred to him.
ICAC exercise Ombudsman powers	This outcome means the Ombudsman considers that a matter raising a potential issue of misconduct or maladministration in public administration should be investigated by the Commissioner by exercising the powers of the Ombudsman.
Partially agree with Referral	This outcome means the Ombudsman, in response to a proposal by OPI/ICAC that matters raising potential issues of misconduct or maladministration in public administration should be referred to this Office for investigation, expressed a view that some but not all of the matters should be referred to this Office.
ICAC Investigation	The Commissioner may refer matters raising potential issues of misconduct or maladministration to the Ombudsman for investigation (see section 24(2)(a) of the ICAC Act).
Discontinued	This means that the Ombudsman has determined that an investigation into misconduct or maladministration on referral from the Commissioner is unnecessary or unjustifiable (for example, because of a lack of evidence).
Finding of Maladministration	This means a matter that has been referred from the Commissioner has resulted in the Ombudsman making a finding of 'maladministration' as defined in the <i>ICAC Act 2012</i> .
Finding of Misconduct	This means a matter that has been referred from the ICAC has resulted in the Ombudsman making a finding of 'misconduct' as defined in the <i>ICAC Act 2012</i> .
No finding of Misconduct or Maladministration	This means a matter that has been referred from the ICAC has resulted in the Ombudsman making a finding there has not been 'misconduct' or 'maladministration' as defined in the <i>ICAC Act 2012</i> .

Appendix D

Description of outcomes: Freedom of Information Act 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 FOR REVIEW WITHDRAWN FOLLOWING OSA INTERVENTION	<p>This outcome means that during the course of an external review, the applicant was satisfied with informal actions taken by the Ombudsman and the applicant indicated that they did not need to continue with the review. For example, the agency may have decided to disclose documents or information sought by an applicant after being notified of an external review, or the Ombudsman may have clarified an issue for the applicant and the applicant no longer considered an external review to be necessary.</p> <p>This outcome does not include instances where the applicant withdrew an application for external review for reasons other than the Ombudsman's involvement, or where a formal settlement occurred under section 39(5)(c).</p>
FOI APPLICATION SETTLED DURING REVIEW (SECTION 39(5))	<p>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).</p>
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))	<p>This outcome means that at the conclusion of the external review, the Ombudsman disagreed (in whole) with the agency's determination (section 39(11)).</p>
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</p>

OUTCOME	DESCRIPTION
	consider the documents and decides that the documents should be released.
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)) DISCRETION NOT VARIED	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

Acronyms

DCS	Department for Correctional Services
DHW	Department for Health and Wellbeing
DIT	Department for Infrastructure and Transport
DTF	Department of Treasury and Finance
FERU	Fines Enforcement and Recovery Unit
FOI	Freedom of Information
ICAC	Independent Commissioner Against Corruption
ICT	Information and Communication Technology
OPI	Office for Public Integrity
OSA	Ombudsman SA
RTWSA	Return to Work SA
SACAT	South Australian Civil and Administrative Tribunal
SAPOL	South Australia Police



OmbudsmanSA

Values

Honesty

Truthful, faithful, keeping promises, taking responsibility for our behaviour, admitting mistakes, sincere

Helpfulness

Empathetic, accessible, approachable, open to reason, encouraging, constructive, solution focussed, pleasant, embracing diversity, considerate, thinking the best of others

Professionalism

Striving for excellence, continuously improving, curious, courteous, respectful, ethical, undeterred by criticism, resilient, diligent, respectful of authority, efficient, self-reflective

Fairness

Impartial, objective, factual, evidence based, open-minded, consistent



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