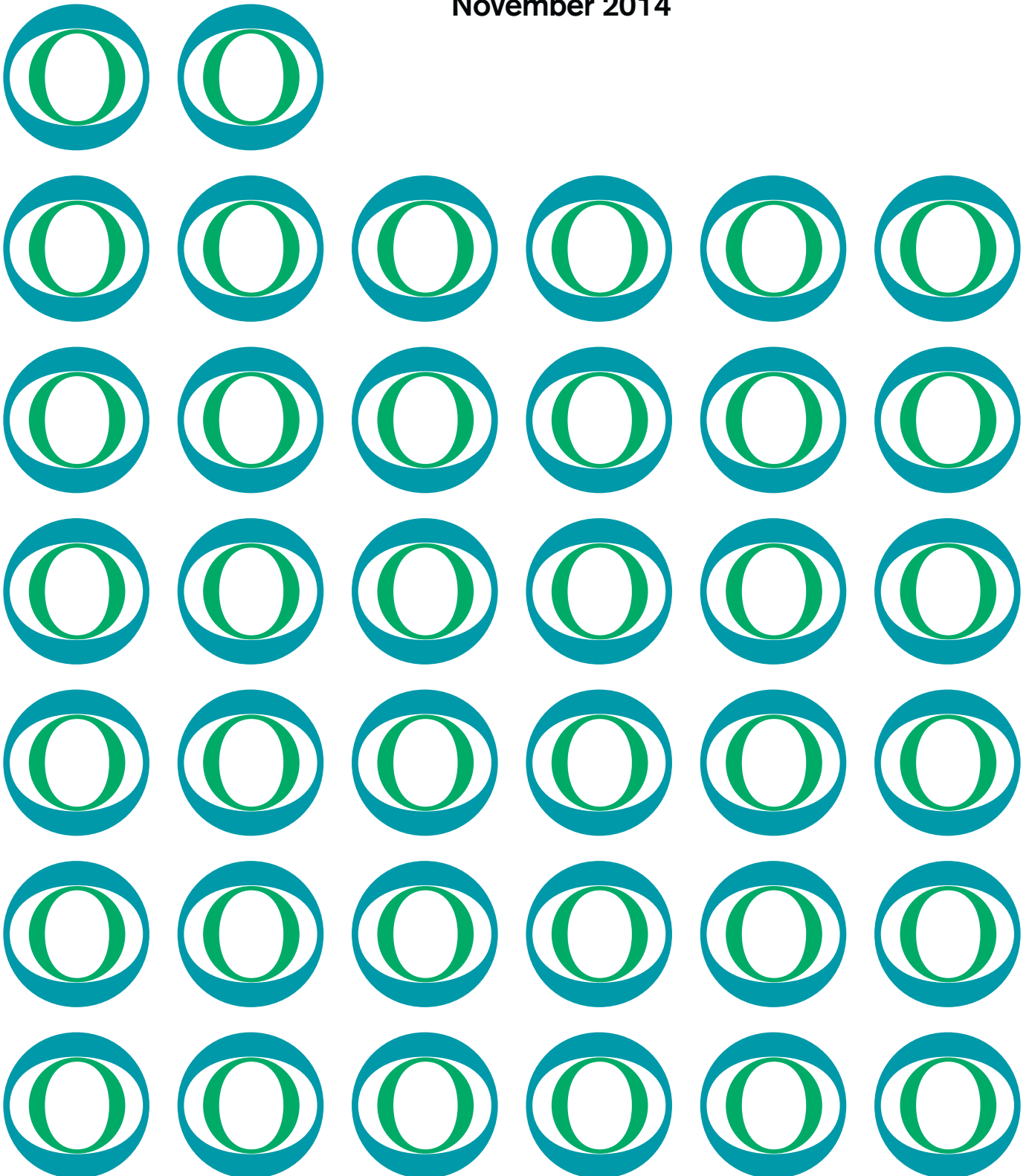


Ombudsman SA

An audit of state government agencies' complaint handling

November 2014



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EXECUTIVE SUMMARY

This report examines the systems and processes in place for South Australian government agencies to respond to complaints from the public and makes recommendations for improvement.

Effective and responsive complaint handling is integral to the service relationship between the public and government agencies. The best performing agencies welcome complaints as a way of maintaining sound service delivery to the public and triggering business improvement. A commitment to effective and transparent complaint handling is fundamental to sound governance and responsive program delivery.

Importantly, the report assesses accountability and learning outcomes which flow from complaint handling. The audit revealed that:

- complaint handling is largely unplanned and inconsistent across state agencies
- seven of the twelve agencies audited did not have a complaint handling policy in place at the time of the audit survey in December 2013¹
- only two of the twelve agencies had best practice complaint handling systems in place
- there were some excellent 'sub-agency' examples of complaints management
- most of the agencies had sub-agency or divisional expertise and experience in complaint handling which was not shared across the agency
- those agencies with established complaints policies and procedures in place were better positioned to respond to complaints and to learn from mistakes
- the Australian Standard for complaint handling was not broadly recognised as the appropriate authority for a customer focused approach to complaint handling
- few agencies had complaint handling procedures in place that sought to meet the needs of vulnerable groups
- few agencies had clear, concise information on making a complaint available on their website
- few agencies analysed complaint trends for systemic problems
- all agencies were able to link their complaints to service improvement outcomes
- most senior executives understood the importance of front line complaint handling and resolution of grievances, but were disconnected from that contact with the public
- providing remedies for agency mistakes such as an apology, ex gratia compensation, change of decision, expedited action or a change to policy or practice were reported as complaint outcomes by most agencies. However, the responses suggested that some agencies are reluctant to directly admit mistakes for fear of admitting liability.

A principal finding from the audit is that effective complaint handling is recognised by all agencies as a key to providing quality services to the public, and to upholding the reputation of the public service as efficient, fair, open and honest.



Megan Philpot
ACTING SA OMBUDSMAN

¹ Some of the seven agencies had complaint handling policies in place at the sub-agency level.

SUMMARY OF RECOMMENDATIONS

The following recommendations are made in the body of the report. They are directed at achieving change in complaint handling practices across agencies, and aim to:

- address administrative deficiencies
- guide agencies to implement changes that can improve their administrative processes
- achieve system reform in the area of public contact
- ensure compliance with the recognised Australian Standard
- improve the delivery of services
- improve the standard of public administration in South Australia.

1. Complaint handling standards and benchmarks

RECOMMENDATION 1

That the state government issue a Department of the Premier and Cabinet Circular requiring all agencies to have in place a complaint management system that conforms to the principles of the Australian Standard on Complaints Handling. The Circular could be modelled on the approach adopted by the Public Sector Commission of Western Australia (Circular Number 2009-27).

2. Complaint handling policies and procedures

RECOMMENDATION 2

That all state government agencies have an agency-wide complaints management policy in place by 31 March 2015. The policy should be:

- focussed on complaints from members of the public about the agency
- consistent with the current Australian Standard
- succinct and written in plain language
- accessible to people from non-English speaking backgrounds
- published on the agency website
- linked to sub-agency policies and procedures for particular services, where appropriate
- subject to 'fit for purpose' criteria relevant to the agency's business diversity.

Agencies should encourage their sub-agencies and reporting statutory authorities with a public interface to prepare their own complaint handling policy and/or procedure.

3. Public reporting standards for agency complaints

RECOMMENDATION 3

That the state government issue an update to the Department of the Premier and Cabinet Circular PC013 - Annual Reporting Requirements 2014 to incorporate annual reporting of complaints from members of the public. This should be included as a Mandatory Reporting Item in agency annual reports, and indicate the extent and main features of consumer complaints and any services improved or changed as a result of complaints or consumer suggestions made.

4. Making apologies count

RECOMMENDATION 4

That the state government consider amendment to the *Civil Liability Act 1936* to clarify that the provisions afford full legal protection to an apology made by any party. Ideally, the legislation should specifically provide that an apology does not constitute an admission of liability, and will not be relevant to a determination of fault or liability in connection with civil liability of any kind. Furthermore, the amendment should state that evidence of such an apology is not admissible in court as evidence of fault or liability. In conjunction with this, agencies should also consider creating policies regarding apologies.

5. Ongoing review of agency complaint handling systems

RECOMMENDATION 5

That, commencing by 1 July 2015, the Senior Management Council of agency Chief Executives conduct an annual assessment of agency complaint management systems. The assessment should ensure ongoing compliance with the Department of the Premier and Cabinet Circular on complaints management and annual reporting requirements. It should also be seen as an opportunity for agencies to share information and learning on significant complaint handling experiences and resource allocation issues.

PART 1

THE AUDIT PROCESS

Audit context and Ombudsman jurisdiction

1. Through Ombudsman SA investigations and a review of recommendations made in reports where administrative error has been found under the *Ombudsman Act 1972*, it is apparent that complaint handling in some state government agencies lacks structure, procedural fairness and consistency. Recent Ombudsman SA annual reports have highlighted examples of inadequate processes and failures to appropriately manage and investigate complaints.
2. For this reason, and as part of Ombudsman SA's role to promote administrative improvement in the public sector, the Ombudsman considered it was in the public interest to conduct an audit of twelve state government agencies' (**the agencies**) practices and processes in dealing with complaints from members of the public.
3. It is intended that this audit assist agencies to identify where they can improve their administrative practices and accountability to the public through application of a consistent best practice standard of complaint handling.

The audit group

4. The audit group consisted of the following agencies:
 - Attorney-General's Department (**AGD**)
 - Department for Communities and Social Inclusion (**DCSI**)
 - Department for Education and Child Development (**DECD**)
 - Department of Environment, Water and Natural Resources (**DEWNR**)
 - Department of Further Education, Employment, Science & Technology (**DFEEST**)
 - Department for Health and Ageing (**SA Health**)
 - Department for Manufacturing, Innovation, Trade, Resources & Energy (**DMITRE**)
 - Department of Planning, Transport and Infrastructure (**DPTI**)
 - Department of Primary Industries and Regions SA (**PIRSA**)
 - Department of the Premier and Cabinet (**DPC**)
 - Department of Treasury and Finance (**DTF**)
 - Environment Protection Authority (**EPA**)
5. The Department for Correctional Services (**DCS**) was not included in the audit. DCS has recently been the subject of an Ombudsman audit on its management of prisoner complaint handling. This audit report was published and tabled in the Parliament in June 2012.² The audit is at the 'recommendation implementation' stage.

Terms of Reference

6. The Ombudsman determined that the audit would assess:
 - the extent to which agencies have in place policies, practices and procedures established to ensure appropriate standards of complaint handling for members of the public
 - the extent to which the agencies have in place accessible information for the public to understand what might happen if they complain
 - the systems and staff management approaches which agencies have in place for ensuring best practice complaint handling and service improvement outcomes

² *An audit of prisoner complaint handling in the South Australian Department for Correctional Services - June 2012.*

- whether the agencies' complaint handling systems provide a reasonable means of responding to complaints from members of the public
- whether recommendations are needed to encourage agency complaint handling practices and systems improvement across the agencies.³

Audit methodology

7. The audit process was designed to proceed in several stages. Key tasks included:
 - determining which state agencies were to be the audit group and whether sub-agencies, divisions and statutory authorities were to be included
 - reviewing current literature on state and national public sector complaint handling standards and systems
 - designing a questionnaire to assess the existing agency complaint handling systems and practices
 - documenting the complaint handling systems existing in those agencies
 - assessing different approaches to complaint handling across agencies
 - developing tailored questions for each agency based on responses to the audit survey questionnaire
 - arranging interviews with relevant staff from the agencies to discuss responses to the questions with them directly
 - assessing written and oral responses to the interview questions and identifying examples of good and poor practice
 - discussing relevant agency practices with another external review body, the Health and Community Services Complaints Commissioner (HCSCC)
 - considering which complaint handling tools may be helpful for developing complaint handling expertise and capability in agencies
 - recommending changes to the systems and practices of the agencies subject to the audit and to the wider state government sector
 - recommending changes to the policy and legislative framework relevant to complaint handling
 - preparing a provisional report for agency feedback
 - considering agency responses to the provisional report
 - preparing this report.

Machinery of government changes

8. In May 2014, after the audit commenced, Cabinet approved structural changes to some state government agencies.
9. The major change has been the creation of the Department of State Development (DSD) which has been formed primarily through the amalgamation of DMITRE and DFEEST.
10. Further changes involved transfer of the Aboriginal Affairs and Reconciliation Division, Arts SA, the Office of the Economic Development Board and Invest SA from DPC to DSD.
11. In addition, Veteran's Affairs in DTF has transferred to DCSI and SafeWork SA has moved from DPC to AGD.

³ Examination of the effectiveness of agency complaint resolution outcomes was not within the scope of the audit.

12. Where appropriate to the findings of this audit, the complaint handling approaches of these agencies and divisions are referred to directly and in the context of their existing central agency structure.

Provisional report and responses

13. I released a copy of the provisional report to the agencies in September 2014, seeking comment. Agencies were asked to correct any errors of fact or misinterpretations in the draft agency assessments, or in the body of the text. They were also asked for feedback and comment on the proposed recommendations.
14. All agencies responded to the provisional report. Most agencies indicated that they had begun, or would soon commence, work to establish or upgrade their complaint handling management systems.
15. Five agencies (AGD, DCSI, PIRSA, DPC and the EPA) provided more detailed submissions. The Office for the Public Sector also provided substantial comment on behalf of the Commissioner for Public Sector Employment. I have made relevant corrections in this report. I also accepted three submissions about the proposed recommendations and have amended my report accordingly.
16. Ten agencies, (AGD, DECD, DEWNR, DSD, SA Health, DPTI, PIRSA, DPC, DTF and the EPA) directly or indirectly supported the five proposed recommendations in the provisional report. No agency opposed the proposed recommendations.

Release of new Australian Standard

17. A new and revised Australian Standard was released by Standards Australia (in association with Standards New Zealand) on 29 October 2014. The new Standard is formally known as *Guidelines for complaints management in organisations* (AS/NZS 10002-2014). It supersedes AS ISO 10002-2006, *Customer satisfaction - guidelines for complaints handling in organisations*. The new Standard is outlined in detail on page 9 of this report.

Publication of this report

18. Pursuant to section 26(2) of the Ombudsman Act, I consider it is in the public interest to release this report to the parliament and the public for the following reasons:
 - members of the community have an expectation that state agencies will listen and respond appropriately to their grievances about government services, and administrative decisions. They also expect that state agencies will conduct their business in an open and accountable manner, in accordance with the law
 - to provide a resource for agencies to use in further developing and refining their complaint handling systems, consistent with the public interest.
19. I intend to forward this report to the President of the Legislative Council and to the Speaker of the House of Assembly, in addition to a general release on the Ombudsman SA and AustLII websites.

PART 2

COMPLAINT HANDLING STANDARDS AND BENCHMARKS

Making good administrative decisions

20. Good governance and effective service delivery in public sector agencies is underpinned by sound and consistent decision making. Making good administrative decisions can mitigate complaints that may later be sustained.
21. Initiatives such as the draft Charter of Public Service Guarantee show a growing acceptance of the need for minimum standards across government and a greater understanding of the principles of administrative law. These provide a number of citizen rights and protections contained in legislation and the common law. Over time the courts have articulated a number of principles to ensure sound decision making. They include:⁴

A decision-maker must take into account all relevant considerations and not be guided by irrelevant considerations.

If legislation gives a designated person the power to decide something, no one else may require that person to make that decision in a particular way. The person can have regard to relevant rules or policies, but should not exercise a discretionary power in accordance with an administrative rule or policy without regard to the merits of the particular case.

Persons affected by a decision are usually entitled to procedural fairness, also known as natural justice, in relation to the decision. The actual procedure required will vary with the circumstances of the case. However, in general, the minimum requirements of procedural fairness are satisfied if the decision-maker is not biased and if the person affected by the decision is given a reasonable opportunity to comment on any relevant material adverse to them.

22. In essence, good administrative practice means the exercise of reasonableness, impartiality, fairness and ethics in the decision making process by officials acting in the public interest.
23. Failure to act within a power, or to comply with specific statutory requirements or general administrative law principles, can result in an application being made by a person affected by the decision for a review of the decision. The decision might be changed or reversed as a result of that application.
24. To avoid misunderstandings and misinterpretations, it is important that decision makers communicate the reasons behind their decision to the people affected. The main purpose of giving reasons for a decision is to enable the person affected by the decision to understand the facts and reasoning that formed the basis for the decision.
25. Even where there is no legal requirement, it is good administrative practice for decision makers to give reasons as it helps to instil public confidence in the decision making process. It also encourages decision makers to be more careful and rigorous in their task, whilst promoting greater transparency and accountability in decision making.⁵

The Australian Standard - guidelines for complaint management

26. Standards Australia is an independent, not-for-profit organisation recognised as the peak standards body in Australia. Standards Australia has developed, and recently revised, internationally recognised *Guidelines* for complaint handling in organisations;

⁴ Overview of Australian Administrative Law System, Commonwealth Attorney General's Department, September 2006, p5.

⁵ Queensland Ombudsman - *Good Decision Making Guide* - 2007, p10.

identified as AS/NZ 10002-2014.⁶ The Standard is currently recognised by government, non-government and business organisations across Australia, and is based on the International Standard ISO 10002:2004, *Customer satisfaction – Guidelines*.

27. The objective of the Standard is to provide guidance on complaint handling related to products or services within an organisation, including planning, design, operation, maintenance and improvement.
28. The Standard seeks to provide, *inter alia*, enhanced public confidence in an organisation by creating an environment that encourages feedback and complaints, and sees complaints managed in a timely and fair manner.⁷
29. The Standard defines a complaint as:

[An] expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.⁸

30. A 'complaint management system' encompasses all aspects of the policies, procedures, practices, staff, hardware, and software used by an organisation for the management of complaints.
31. The Standard outlines guiding principles for effective complaint management under four key headings.⁹ In summary, they are:

Enabling complaints

- *People focus* - everybody has a right to complain; a people-focussed and proactive approach to seeking feedback and complaints is required from the organisation
- *Ensuring no detriment to the complainant* - no detriment should be suffered by the complainant for making a complaint
- *Visibility and Transparency* - there should be well-publicised information about how and where a complaint can be made to the organisation
- *Accessibility* - the organisation should ensure that its complaint management system is accessible to everyone, particularly people who might require assistance
- *No charges* - no fees are to be charged for making a complaint

Managing complaints

- *Responsiveness* - the organisation should promptly acknowledge each complaint received and assess and advise complainants about process and timelines
- *Objectivity and fairness* - each complaint should be managed by the organisation in an objective and unbiased manner; conflicting interests should not interfere with, or be perceived to interfere with, the management and resolution of complaints
- *Equity* - complaints should be addressed in an equitable manner and in accord with the organisation's complaint management policy; policy should address the issue of unreasonable complainant behaviour
- *Privacy and disclosure* - personal information about any individual should only be disclosed or used in compliance with relevant privacy laws and ethical obligations
- *Communication* - to facilitate early resolution, the organisation should provide explanations for policies/procedures and decisions in its communication with complainants, particularly for the benefit of frontline complaint handling staff

⁶ *Guidelines for complaints management in organisations* (AS/NZS 10002 -2014). Standards Australia.

⁷ Ibid p5.

⁸ Ibid p6.

⁹ The revised 2014 Standard has expanded the guiding principles documented in the superseded 2006 version. It should be noted that the audit survey asked agencies questions about recognition of that 2006 Standard, not the latest version.

Managing the parties

- *Conduct of parties* - the organisation should make clear in complaint management policies/procedures the behaviour expected of both its staff and complainants
- *Work health and safety* - the organisation should develop policies/procedures to ensure the health and safety of complaint handling staff
- *Complaint involving multiple parties* - where a complaint involves multiple parties or multiple areas within the organisation, communication and information exchange should be pre-arranged and coordinated to facilitate investigation and response to a complaint
- *Empowerment of staff* - the organisation should empower staff to implement the complaint management system relevant to their role

Accountability, learning and prevention

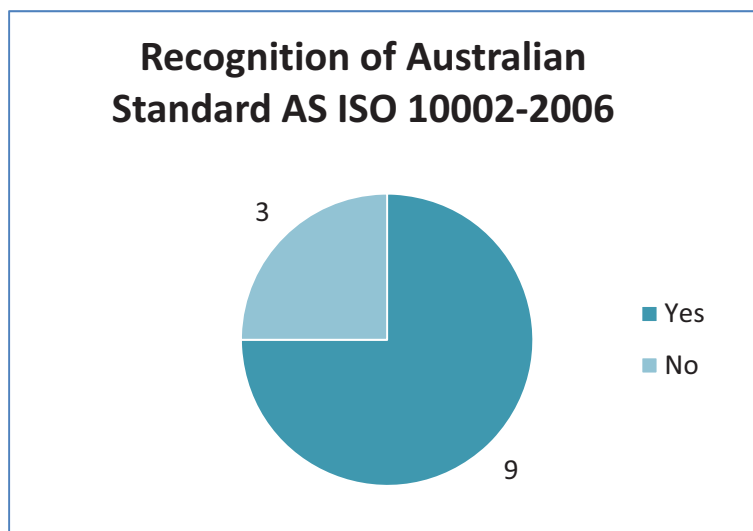
- *Accountability* - the organisation should ensure that accountability for the operation of its complaint management system is clear
- *Continuous improvement* - responding to and learning from complaints is essential for the organisation's commitment to continual quality improvement
- *Prevention of ongoing disputes* - the organisation should develop and implement systems to prevent complaints escalating into ongoing disputes.

32. In addition to these principles, most complaint handling procedures should stipulate that reasonable efforts should be made to investigate all relevant circumstances and information surrounding a complaint; and that appropriate corrective action or resolution is important to closure if a grievance is found to be justified.
33. The Standard also looks to:
- encourage development of organisational complaint management systems that include appropriate policies and procedures, clear lines of responsibility, and appropriate delegations
 - assign responsibility to the Chief Executive and other senior managers for the organisation's complaint management framework
 - establish reporting to senior management on significant complaints and systemic issues or trends identified through the receipt of complaints and service problems, with recommendations for improvements where appropriate
 - organisational planning for the identification and allocation of resources needed for an effective and efficient complaint management system.
34. The *Guidelines* document includes information to aid the effective implementation of the Standard. Advice is provided in relation to issues such as data collection, unreasonable complainant conduct and the use of apologies and other options for redress.
35. There is also recognition that many small organisations will receive few complaints, and have limited resources to set up and maintain a complaint management system. The Standard highlights key areas where small organisations can focus their attention to achieve maximum effectiveness and efficiency in their complaint management system.

Agency recognition of the Australian Standard

36. The twelve agencies involved in the audit were asked if their complaint handling systems recognised the Australian Standard. Nine of the twelve responded that their complaint handling policy, procedure or charter document recognised the Standard.

37. However, this encouraging 75% recognition rate falls to a more modest 42% (five of twelve) in light of the fact that four of the nine agencies only recognised the Standard at a sub-agency or divisional level. This demonstrates that the recognition came from only those divisions in the agency which had a complaint handling policy in place, as distinct from there being agency-wide recognition of the Standard.



38. The agencies were also asked if a different standard or guideline was used in the context of their complaint handling systems. Both DECD and DPTI cited the SA Government Customer Service Good Practice Guide. SA Health recognised the Australian Commission on Safety and Quality in Healthcare - Standard 1. SA Health and DCSI also acknowledged the HCSCC Charter of Health and Community Services Rights. These guidelines and standards were recognised or adhered to in addition to the Australian Standard.

The draft Charter of Public Service Guarantee

39. There is no current requirement for a complaints management policy or procedure in state agencies. However, the South Australian Government Reform Commission released a Customer Service Good Practice Guide in July 2008 that references a complaints process.
40. The Guide acknowledged a range of key considerations for improving service delivery throughout the South Australian public sector. In so doing, it made reference to targets in *South Australia's Strategic Plan 2007* relevant to customer satisfaction.
41. The Guide also contained information on how to develop a customer service charter that suggested approaches to communicating an agency's policy and commitment to customer service in plain language.
42. Step 6 of the approach is: 'Analyse complaints and other feedback'. It proposes informing the public about a complaints process and learning from the resolutions of the complaints it handles.¹⁰
43. A draft Charter of Public Service Guarantee has been prepared by the Office for Public Sector Renewal following a public sector reform policy commitment made by the state government.

¹⁰ *Customer Service - Good Practice Guide* - Government of South Australia 2006, p15.

44. The draft Charter has evolved from the *Change@South Australia* 90-day service excellence projects run with participation from all twelve agencies involved in this audit. The Guarantee it proposes will:

Ensure that citizens have a clearer understanding of the service standards they can expect and what to do if these standards are not met.¹¹

45. The essential elements of the draft Charter are:
- a commitment to ensuring a helpful and knowledgeable public service
 - a quick, fair and easy to use complaints process
 - providing information about a complaint outcome and reasons for the decision
 - openness to constructive resolutions if a matter cannot be resolved within a satisfactory time, and clear steps for a complainant to take a matter further
 - measuring and publicly reporting on customer satisfaction/customer experience.
46. As such, the draft Charter, and the commitment it makes to fair handling of complaints and to service improvement objectives, emphasises the concepts of due process, impartiality and accountability.
47. These are essential features of a public service. They are also the elements which distinguish complaint handling in public sector agencies from the predominantly consumer satisfaction approach of the private sector.
48. Full implementation of the commitments in the draft Charter is an important responsibility. Agencies have an opportunity to promote their complaint handling policy documents to highlight the message that good complaint handling is part of administrative improvement and the government's responsiveness to the public.

Complaints to Ombudsman SA

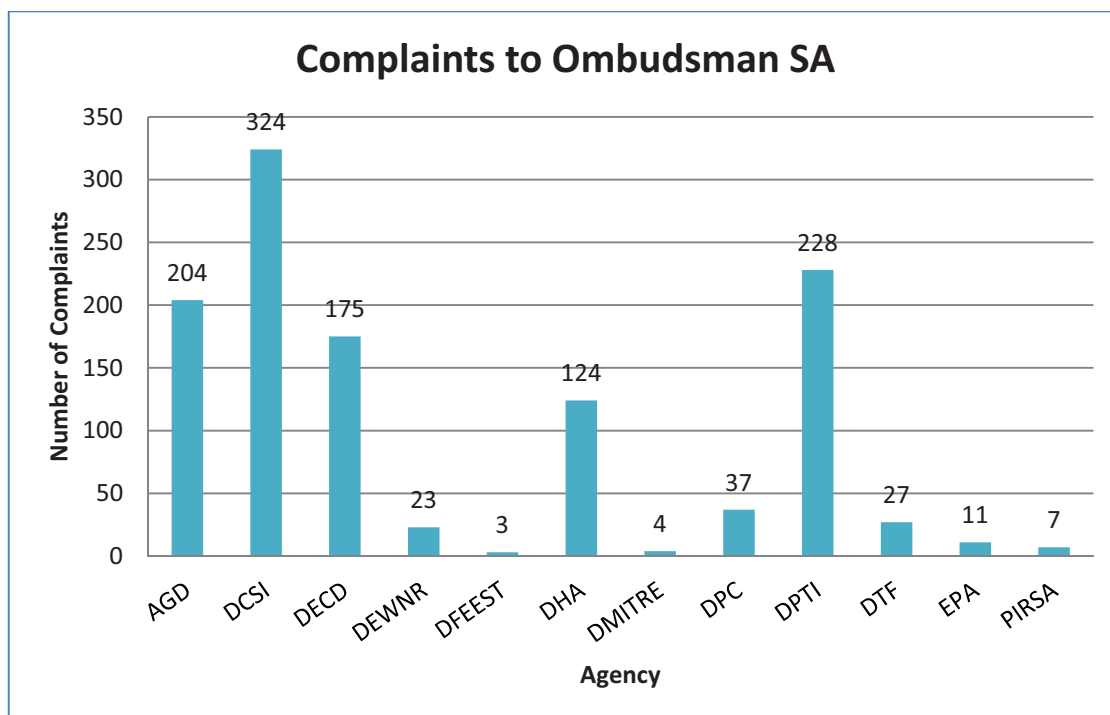
49. A primary role of the Ombudsman is to independently investigate administrative decisions of government agencies. The office is one of last resort; and a complainant is encouraged to exhaust all remedies available with the agency before contacting us. All complaints received are assessed against documented criteria to determine if an investigation should be conducted.¹²
50. Ombudsman SA receives complaints about each of the agencies included in this audit. However, the HCSCC investigates complaints about health and community services in South Australia.¹³ Services provided by three agencies within the ambit of the audit, SA Health, DCSI and Families SA¹⁴ may potentially fall within the HCSCC jurisdiction. All of these agencies provide reports on their complaint handling outcomes to the HCSCC.
51. In the 2013-2014 period the most significant numbers of complaints to Ombudsman SA related to DCSI (324), DPTI (228), AGD (204), DECD (175) and SA Health (124). In general terms these complaints can be categorised as being about the imposition or recovery of a penalty; unfair decision making; or inadequate responses to complainants. The graph below indicates overall complaint numbers for each of the agencies in the financial year 2013-2014.

¹¹ Government of South Australia *Building a Stronger South Australia* - Responsive Government, p10.

¹² Ombudsman SA Annual Report 2012-2013, p6.

¹³ The HCSCC is an independent statutory office established by the *Health and Community Services Complaints Act 2004*.

¹⁴ Families SA is part of the Department for Education and Child Development.



52. The vast majority of these matters were dealt with in one of the following ways:
 - referred by Ombudsman SA back to the agency for assessment and action
 - declined after an assessment or a preliminary investigation as a result of there being little substance to the complaint or further investigation was not justified
 - accepted but not investigated, as the complaint was premature because the agency was still in dialogue with the complainant.

53. It is relevant to note that many of the complaints attributed to a particular agency were generated by one of two areas of an agency’s business; usually in human services. An example is DCSI, where a high percentage of complaints relate to Housing SA. Similarly, the overall figures for DECD reflect a high proportion of child protection matters directed at Families SA. These complaints are usually referred to the HCSCC.

54. In May and June 2014, Ombudsman SA undertook an in-house survey of approximately 150 complaint matters that involved a state agency. The purpose was to identify complainants’ motivations for bringing their complaint to the Ombudsman and their perceptions of the first contact they had made with the agency concerned.

55. Some complainants were unsure of the complaints process in agencies or were not confident in knowing where to start. They sought advice and general direction from Ombudsman SA. A significant majority of these complainants considered that the agency had not been helpful; had taken insufficient action; or had failed to provide them with adequate information. Others complained of unreasonable delays in the agency responding to them and rang Ombudsman SA because of the lack of response.

Agency business - a ‘fit for purpose’ approach

56. Whilst it is important that agencies recognise established complaint handling standards and benchmarks, it is equally important that the practical realities of agency business are taken into account. The specific form of the complaint handling system should be determined by the agency’s functions.

57. An agency's complaint handling should be 'fit for purpose'. Some criteria for consideration may include:
- the number and demographics of the agency's customers, and how they generally communicate with the agency
 - the nature and breadth of the agency's interactions with the public
 - the level of complaints that is considered reasonable for the agency (by examining trends in its level of complaints over time and industry benchmarks)
 - review, appeal or complaint mechanisms mandated by statute or regulation
 - agency risk management strategies that specify complaint monitoring as an important way of mitigating risks
 - the value the agency derives, or wishes to derive, from complaints to improve its operations over time, as well as other information needs of management
 - the resources involved in operating a complaint handling system.
58. In saying this, eleven of the twelve agencies surveyed supported the proposition that there needs to be a standard minimum requirement or guideline in place for complaint handling across all government agencies. For example, DECD commented:

Such a standard would provide a clear statement of the government's commitment to customer service and continuous improvement, and the accountability of the public sector.

and DPC commented:

A guideline would provide all state government agencies with uniformity and guidance in regard to the handling of complaints.

RECOMMENDATION 1

That the state government issue a Department of the Premier and Cabinet Circular requiring all agencies to have in place a complaint management system that conforms to the principles of the Australian Standard on Complaints Handling. The Circular could be modelled on the approach adopted by the Public Sector Commission of Western Australia (Circular Number 2009-27).¹⁵

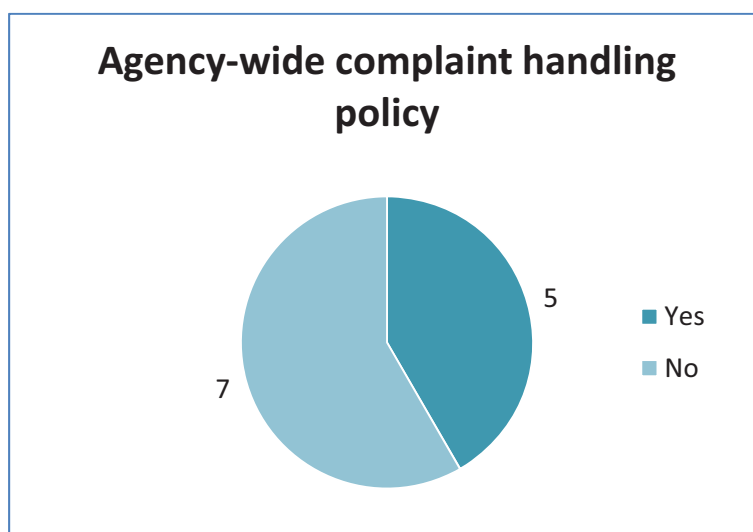
¹⁵ See Appendix 2 for full text. The Circular was reviewed and reissued in Western Australia in 2014.

PART 3

AN EFFECTIVE COMPLAINT HANDLING SYSTEM

Complaint handling policies and procedures

59. A sound complaint handling system should have at its foundation a clear and easy to understand policy. The policy would ideally reflect the principles laid out in the Australian Standard. The policy should suit the agency's governance, structure and modes of service delivery.
60. The policy should reflect the agency's culture and acknowledge the right of the public to complain when dissatisfied with a service. It would also be a vehicle to encourage people to provide the agency with feedback, which in turn assists the agency to improve its performance and interactions with the public. Making an explicit link between complaint handling and providing better services to the public is an important message in policy setting.
61. The policy could include statements that complaints:
- are an important part of customer service
 - are valued and will be managed professionally, efficiently and fairly
 - involve responsibilities on the part of the complainant and the agency
 - are about agency accountability
 - will be concluded giving reasons for decisions, and
 - can and should lead to service improvement from the agency.
62. An optional but important element of policy setting is the useful distinction between a complaint and a request for service. Some people will contact an agency to 'complain' about a matter that turns out simply to be a request for information or a service. Whilst the request may develop into a complaint if the provision or timeliness of the service is considered unsatisfactory, in the first instance, the contact should usefully be separated out from the complaint handling process. Drawing the distinction in the complaint handling policy (or the procedure) may be helpful for the agency and, particularly, for agency staff in customer service roles.
63. The audit asked the twelve agencies if they had an organisational policy in place for complaint handling. Seven of the twelve responded that they had a policy in place at the time of the audit.¹⁶



¹⁶ Two of the seven agencies, PIRSA and DFEEST, moved to put their complaint handling policy in place in the period between receiving the Ombudsman audit survey questionnaire in November 2013 and returning it in January 2014.

64. Some agencies did not have an agency-wide policy for complaint handling, but did have sub-agency or divisional policies in place. Examples of this were DECD which had no agency-wide policy, but had policies for the Education Complaints Unit and for Families SA. Similarly, AGD had no overarching policy, but the Public Trustee, which is a statutory office with a significant public interface, had a well-developed complaint handling policy and system in place.
65. Policy standards were variable. They ranged from SA Health's nationally recognised and accredited standard policy directive, to the EPA's internal policy that was two years past review date. It appeared that those agencies that had a policy in place, or have moved to put a policy in place, demonstrated a more thorough understanding of the relevance of complaints to service improvement objectives.
66. Those agencies and divisions of agencies with a current policy usually had well documented and publicly available procedures to accompany the policy.
67. In a practical sense, the procedure is the information that is most relevant to the public. A well designed complaint handling procedure should provide in succinct, plain language format, information for the public about:
 - how to lodge a complaint with the agency
 - who to lodge the complaint with in the agency
 - a statement about the responsibilities of the complainant
 - steps in the complaint handling and resolution process, including advice about response times and communication about progress on the matter
 - assistance to be provided to complainants, including special needs support
 - who, at senior level, will review the agency response to a complaint if the complainant remains dissatisfied with the outcome of a decision
 - where the complainant can go if they believe the agency has not handled the complaint properly.
68. Importantly, an additional key element in developing policies and procedures for agency complaint handling is identifying the responsibilities of complainants when they make a complaint. These usually include the need to provide all relevant information; to advise the agency about new developments and to cooperate with an investigation. In addition, it is important that agencies and case officers manage communication from the beginning to ensure complainants do not have unrealistic expectations about what will happen. Unrealistic expectations may lead to unreasonable conduct.¹⁷
69. As with the policy documents submitted to the audit, the standard and type of complaint handling procedures varied considerably across agencies. Revenue SA (a division of DTF) has moved very recently to put in place a policy and procedure that reflects the types of complaints it receives. Many of these result from follow-up on non-payment of monies owed to the state and associated taxation issues. Because of the nature of the business, the procedure is brief, clear and to the point.
70. By contrast, Families SA (a division of DECD) has a 20-page Client Feedback Guidelines document that incorporates a detailed complaints procedure. Because of the requirements of the *Children's Protection Act 1993*, the procedure necessarily involves experienced judgement calls about the level of seriousness of the complaint. It also determines who should handle the complaint and whether the complaint triggers internal or external reporting requirements, handling by a third party or requires a separate process.

¹⁷ NSW Ombudsman - *Managing unreasonable complainant conduct practice manual* 2nd edition, 2012, pp 24-28 available online at: www.ombudsman.sa.gov.au/publications.

RECOMMENDATION 2

That all state government agencies have an agency-wide complaints management policy in place by 31 March 2015. The policy should be:

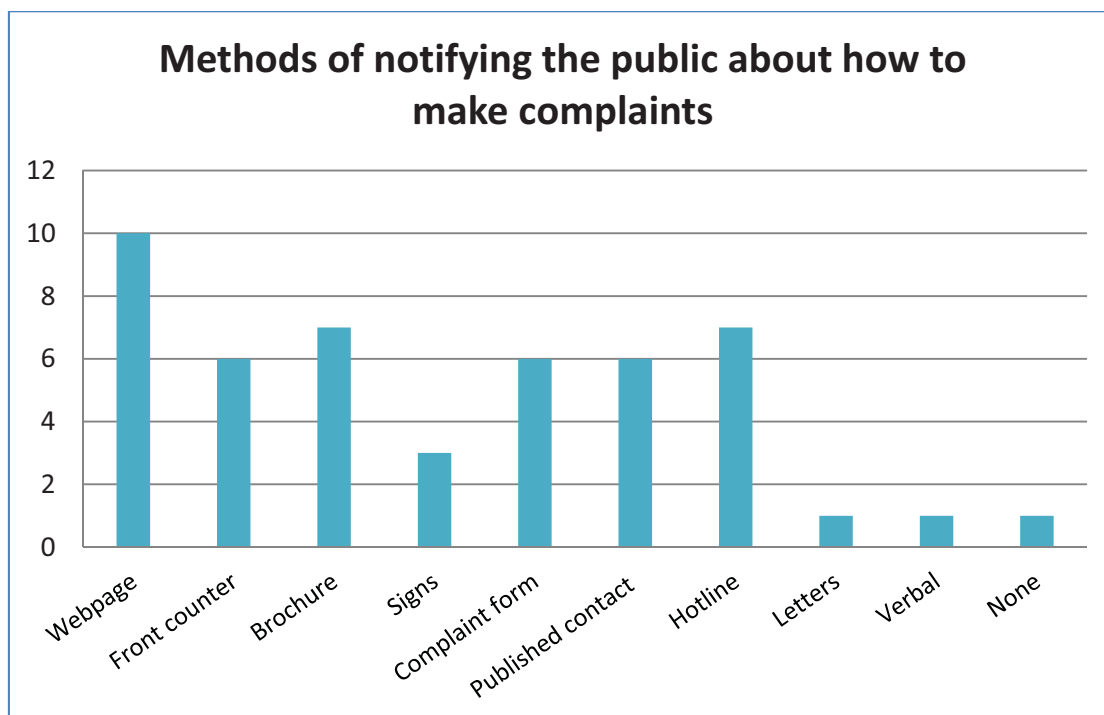
- focussed on complaints from members of the public about the agency
- consistent with the current Australian Standard
- succinct and written in plain language
- accessible to people from non-English speaking backgrounds
- published on the agency website
- linked to sub-agency policies and procedures for particular services, where appropriate
- ideally subject to 'fit for purpose' criteria relevant to agency business diversity.

Agencies should encourage all sub-agencies and reporting statutory authorities with a public interface to prepare their own complaint handling policy and/or procedure.

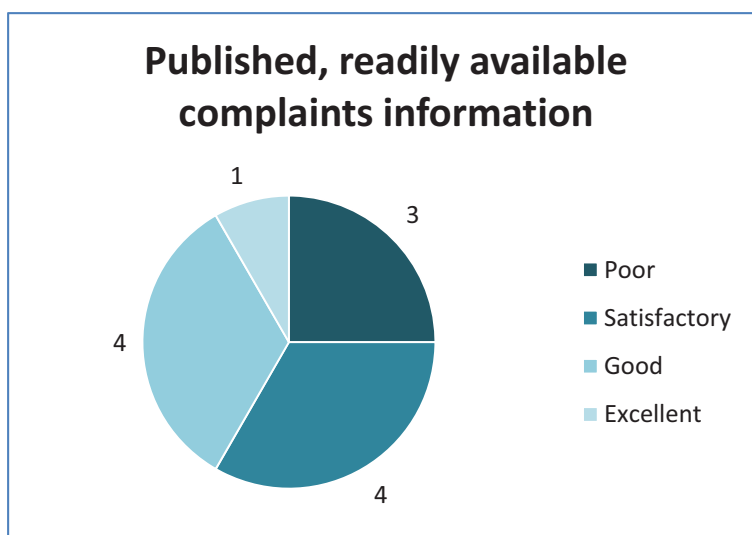
Information for the public

71. A key principle in best practice complaint handling is accessibility i.e. information for the public on how to complain in a clear and understandable form. Information should be predicated on the understanding that people have a right to make a complaint.
72. The public should be given a range of contact options. At a minimum, this means a telephone number (if appropriate, toll-free); an email address; a postal address and face-to-face contact with a staff member. Another preferable option is online lodgement of complaints.
73. Information about complaints should also be prominently displayed on agency and divisional unit websites, and should include access to summary and full versions of complaint handling policy and procedures.
74. It is important to make clear to the public whom they should approach if they wish to complain in person, and to whom and where they should write if they wish to be more formal. It is helpful to give telephone numbers, names and expected response times.¹⁸
75. Some agencies surveyed provided complaint handling information on their main agency website. SA Health and DCSI are two examples of this. However, the audit found that most complaints information is posted at sub-agency level, where business units, such as Super SA (DTF), Passenger Transport Services (DPTI), Traineeship and Apprenticeship Services (DFEEST) and Families SA (DECD) have their own internet presence.
76. The following table shows the range of methods the agencies use to advise the public of their complaint handling systems. I note that not all agencies have a website presence for complaints advice.

¹⁸ NSW Ombudsman - *Practice Note No.9 - Complaints Management in Councils*, 2009 p16.



77. As part of the audit process each agency provided a self-assessed comparison with the best practice elements of complaint handling in the Australian Standard. The Complaints Management Self-Rating Data is included in Part 5 of this report.
78. Element 4 of the Standard relates to publicised, readily available information about complaint handling processes, which is easy to read and understand. The twelve agencies rated themselves as follows:



79. In aggregate, seven of the twelve agencies rated themselves below best practice (poor or satisfactory), while five identified that they provide good complaints information to the public. Only one agency rated itself as excellent on this score.

80. Whether complaints systems are located within agency divisions, or centrally, a complainant should not have to struggle to identify which part of the agency the complaint should be sent to. That, and available officer contacts, should be clear in all publicity.
81. In their responses to the survey, several agencies raised an anomaly in their provision of information to the public. The EPA, Passenger Transport Services (DPTI), Families SA (DECD) and the PIRSA Fisheries division commented on their handling of complaints as regulating authorities. They highlighted the fact that their website displays are focussed on facilitating complaints reported to them as the appropriate authority with a compliance and/or enforcement responsibility.
82. The solution to any such confusion could be to make a clear distinction, on the agencies websites and in their printed material, between 'making a complaint' under the relevant statute, and 'complaints about our services'.

Front-line complaint handling

83. The agencies in the audit made frequent references to first point of contact resolution of grievances. Most agency complaints are initially handled by front-line staff. Often they are telephone operators working at a junior level and taking calls in large numbers from the public. Whether responding to a request for information or service, or calming an angry caller who has had to wait or believes they have been 'given the run-around', front-line staff are the standard-bearers of an agency's customer service for complaint handling.
84. Public perceptions of an agency are often formed over the telephone or at the front counter of a service desk. When complaints are made, reaching a solution at the earliest opportunity is important. Early resolution helps to enhance the complainant's perception of the agency, as well as their appreciation of the agency's complaints process and customer service. Minimising delays and resolving matters at the first point of contact also have obvious advantages for resource management.
85. Given the importance of a front-line operator's role, agencies should ensure that staff in these positions are adequately equipped to respond to complaints from the outset. The best way to do this is by providing them with appropriate training, authority, supervision and support. Recognition of their work by senior management is also important.
86. Front-line staff should also be aware of the limits of their responsibilities and know when to refer a matter to a senior colleague for further assessment, review or formal investigation. Remaining staff, at all levels of the agency, should also be aware of their responsibility to cooperate and assist front-line staff in this task when necessary.
87. It is also important that front-line staff be made aware of the policy, regulatory and legal framework for complaint handling within which the agency operates, as well as the details of the agency's complaint handling procedures and the relevant staff member to whom a complaint should be referred.¹⁹
88. In order to communicate with complainants effectively, front-line staff should be trained, as appropriate, in:²⁰
 - promptly identifying and understanding a complainant's needs and issues, as well as how to clarify them effectively
 - managing complainant expectations, particularly regarding expected outcomes

¹⁹ Ombudsman Western Australia - *Guidance for Complaint Handling Officers*, December 2010.

²⁰ NSW Ombudsman - *Effective Complaint Handling Guidelines* 2nd Edition, December 2010, p17.

- how to build rapport with a complainant
 - how to deal with unreasonable complainant conduct
 - how to listen, question, reflect and summarise effectively
 - conflict management skills, such as negotiation and conciliation
 - different communication styles and techniques, depending upon the complainant's demographic, and when to use them (written, verbal, social media).
89. It is also important that front-line staff (and other complaint handling staff) have a good understanding of the ethical issues that might arise as part of their role. These include issues in relation to:²¹
- conflicts of interest
 - procedural fairness
 - confidentiality, privacy, and reporting obligations
 - impartiality and objectivity
 - transparency, fairness and equity in the complaints process
 - responding to cultural differences, the vulnerable and the disadvantaged appropriately
 - fiduciary obligations
 - concluding the complaints process
 - any illegal or unethical conduct of the agency.
90. Attention also needs to be paid to the *Code of Ethics for the South Australian Public Sector*, the Office for Public Integrity reporting obligations, and to obligations under the *Whistleblowers Protection Act 1993*.
91. It is important to ensure that complex complaints and sensitive matters are dealt with at an appropriate level of seniority and experience within an agency. However, the tendency for referrals to frustrate complainants highlights the need to ensure that front-line staff are well equipped and supported to handle most grievances at the first point of contact, and to inform complainants of the process where their matter needs to be given more detailed consideration at a more senior level.

Recording complaints and reporting to senior management

92. It is good practice for front-line and other complaint handling staff to receive appropriate training with regard to an agency's record keeping system and relevant policies and procedures. By recording, filing and reporting first contact responses and outcomes to complaints, front-line staff can assist senior management in analysing any recurring themes and trends.
93. Records of complaints should include:
- the date and time of the complaint
 - nature of the complaint or issues raised
 - the complainant's details
 - mode of the complaint (oral, written, web-based)
 - services, programs or policies identified in the complaint
 - responsible staff member for the complaint
 - action taken and response time to the complaint
 - any outcome and systemic or policy implication.

²¹ Society of Consumer Affairs Professionals (SOCAP Australia), *Complaints Practice Guidelines*, May 2014.

94. The responsibility to record and report to senior management also falls on middle management where good records need to be maintained for 'second tier' complaint reviews and investigation outcomes. Senior management can then go on to identify any systemic issues, as well as implement any improved remedies or practices in response.²²
95. The audited agencies were each asked about their practices for reporting on complaint handling issues to a senior management or executive group. The following excerpts from their responses provide examples of reporting arrangements currently in place - or not, as is the case with some:

DMITRE is currently scoping opportunities to use the CRM system to record and report on departmental complaints.

In Families SA (DECD) quarterly reports on feedback and complaints are generated by the Riskman system and these are reviewed by the Families SA Executive Team. Key data provided in the reports includes:

- * *number of reports received*
- * *complaints rated by severity*
- * *issues raised via complaints*
- * *service portals to lodge complaints*
- * *performance data against KPIs*
- * *complaints lodged by ATSI customers.*

In Public Transport Services (DPTI) all complaints and feedback submitted, whether via the Adelaide Metro website, by letter, face to face, or over the phone, are collated through the CRM system and then analysed and reported on a monthly basis. Feedback is broken down by main categories and by the relevant service provider or unit within Public Transport Services. This enables the tracking of feedback, spikes, trends and improvements.

The DCSI Client Feedback and Integrated Incident Reporting Project Board meets quarterly to review both the number/types of complaints recorded and the effectiveness of the client feedback system. Reports are also provided to DCSI's Executive Leadership Team.

In DEWNR, for more serious complaints and allegations, the Executive receive periodic updates for review and consideration.

In DPC generally, issues are managed on a case by case basis at agency level. Formal complaints (written) are addressed by the Executive Director of the agency and formal responses are forwarded to the Chief Executive and where applicable the Minister. If 'Customer Service' focused agencies were to have recurring issues/complaints, it would be the responsibility of the Executive Director to address mitigating strategies with Directors and staff. Where applicable, analysis and mitigating responses to complaints are formally presented to the Chief Executive and the Minister.

96. Of the twelve agencies, seven had some form of protocol in place for reporting to senior management on complaint handling issues. It should be noted that most

²² Ombudsman Western Australia - op. cit.

agencies locate this responsibility at division management level rather than with the agency senior executive group. One agency has recently requested each division to provide an annual complaints summary report to the CEO for him to consider 'improved customer service'. Whilst this would be useful, an annual report of this kind may allow only limited scope for a continuous approach to service improvement initiatives.

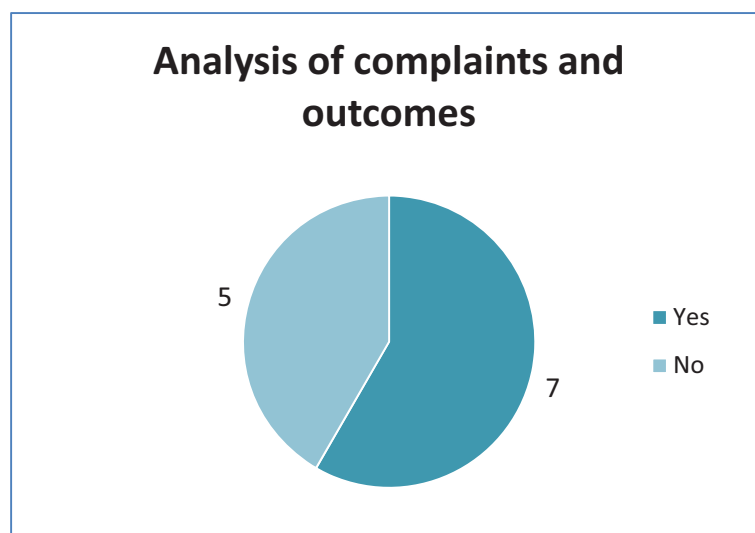
Complaint analysis and systemic improvement

97. Complaints analysis is an important tool that can be implemented as a part of an agency's continuous cycle of review and service improvement.²³ Complaints can provide agencies with a clear picture of weaknesses in existing procedures, programs, policies and service delivery. However, as noted, this can only be achieved if accurate and detailed records are kept in a centralised system with good retrieval access.
98. Analysis and classification of records data can be undertaken to identify any systemic problems, as well as other recurring themes, spikes or trends, which can subsequently be addressed and rectified.²⁴ For example, data revealing delays in resolving particular complaints might suggest that there is a need for greater efficiency in the agency or better liaison between units. Collection and analysis of complaint data can also be used for staff management by identifying those staff members or teams that are performing well, as well as those who may not be, and potentially some of the reasons for the difference.
99. Complaint data can be analysed in various ways, and care should be taken with interpreting numbers. For example, an increase in complaints could suggest problems with a new program or service, or it could reflect greater public awareness of the agency complaint mechanism. The Education Complaints Unit in DECD is an example of the latter, where publicity and service promotion in the school community has reportedly led to a 100 percent increase in complaints from 2013 to 2014. Root-cause analysis of complaints information is important information for business management.
100. Recurring concerns or problem areas identified can help senior management to determine development needs, as well as to refine and improve staff training. Ultimately, utilising information of this nature will help agencies to monitor their business outcomes and performance and ensure that service delivery remains dynamic and of a high standard.²⁵
101. Following the collection and analysis of complaints data, it is advisable that nominated staff within the agency be given the responsibility to produce reports at regular intervals, regarding any systematic problems or trends identified, for presentation to senior management. Senior management can then take steps to ensure that any proposed or required improvements to agency processes are implemented, and their progress monitored appropriately.
102. All twelve agencies were asked whether their complaints and complaint outcomes were analysed in any systemic way. Seven of the twelve indicated that they had some form of complaints analysis process in place. Many of these were practices at the sub-agency or divisional level, rather than agency-wide. Some agencies prepare analysis reports for senior executive to consider, along with recommendations and learnings that are applicable across the agency.

²³ Commonwealth Ombudsman, op. cit. p5.

²⁴ NSW Ombudsman, op. cit. p27.

²⁵ Commonwealth Ombudsman, op. cit. p5.



103. A notable example of an agency with a structured approach to complaint analysis and systemic improvement is DCSI. DCSI describes its senior review process as follows:

The DCSI Client Feedback and Integrated Incident Reporting Project Board meets quarterly to review both the number/types of complaints recorded and the effectiveness of the client feedback system. Reports are also provided to DCSI's Executive Leadership Team.

The initial core focus has been to promote, manage and record complaints. Complaint issues and complaint outcomes are recorded and reported every quarter at the Project Board level for discussion.

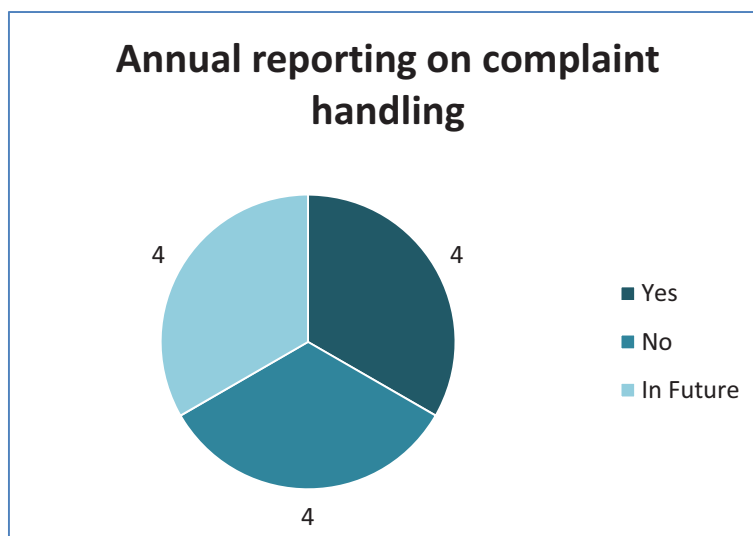
Divisions have responsibility to analyse their complaints and respond by initiating service improvements.

A current focus for the Project Board is the analysis of complaint reports and the management of those complaints that remain incomplete or have actions outstanding.

Public reporting of complaints made to agencies

104. Best practice complaint handling requires systems to be in place so that lessons are learned from mistakes made. Regular analysis and review is essential if senior management are to take real ownership of complaint practices and procedures. As noted with the DCSI example, it is helpful if a system is in place for receiving reports on complaints and outcomes. The aim is to ensure that any learning and improvement from complaints is properly disseminated and implemented.
105. Internal reporting should ideally be complemented by appropriate public reporting of complaints and complaint outcomes, including systemic improvements made. Most agencies involved in this audit could identify service improvement outcomes stemming from complaints made. However very few of these outcomes, or the original complaints which prompted them, are reported in the agencies' annual reports.
106. Of the twelve agencies, eight did not include information on complaints about the agency in their annual report. The following chart shows that four of the twelve included information on complaints and complaint outcomes in their annual report. Of

the eight, four indicated that they were open to inclusion of complaints information in future reports.



107. Public reporting of complaints made to public sector agencies is fundamentally about accountability. It shows that an agency is prepared to be open and transparent about public concerns and mistakes. It also provides an opportunity to disclose what has been done and learned when an agency might get it wrong. In other instances, it is an opportunity to highlight demand pressures on service delivery responsibilities that may have led to numbers of complaints.
108. Three agencies responded to the question about annual reporting of complaints by pointing out that the current DPC Circular PC013 - Annual Reporting Requirements 2014 does not require complaints information to be reported. The Circular does, however, note that:

Public sector annual reports are critical accountability documents from Chief Executives of government agencies...they ensure that Parliament and the public are fully informed about agency performance for each financial year...

[they should] provide information about service improvements.²⁶

109. It is relevant to note that most agencies see the benefit of this type of complaint handling reporting. Four of the eight agencies that do not currently include complaints in their annual reports commented on their openness to change:

This will be considered by the PIRSA Executive after they have received the first summary report regarding complaint handling. If the Executive decides that this information will be included in the Annual Report, it will most likely be in the 2014/15 report when the data for this period is available.

Nothing is currently reported in the AGD Corporate Annual Report. The AGD acknowledges that this requires further consideration, but a common definition of complaint across the agency is required first.

²⁶ DPC Circular PC013 - Annual Reporting Requirements 2014, p1.

The [EPA] annual report contains information required legislatively and as directed by the DPC Circular *PC013 - Annual Reporting Requirements*. Further information within the annual report includes commitments made by the organisation. Currently, complaints against the organisation do not fall within these categories. However, the EPA does not have an objection to reporting such information in the future once a data collection system has been established.

[In DMITRE] there has been nothing in the past but this may change in future with the establishment of the new Department of State Development.

110. It is also noteworthy that at local government level, the *Local Government Act 1999* and the subordinate *Local Government (General) Regulations 2013*, require local councils to publicly report on section 270 internal reviews of council actions.²⁷ This is effectively a public report on internal reviews of significant complaints.
111. A notable example of public sector complaint handling documentation is the Australian Broadcasting Corporation (ABC) annual report. The ABC has aligned its reporting with the internationally recognised Global Reporting Initiative (GRI) framework, that provides a common language for organisations to measure and report their sustainability performance. The ABC annual report contains details of complaints about program standards, scheduling, party political bias, other bias issues, matters of factual accuracy, balance in reporting and the like. KPIs on timeliness and finalisation of responses to complaints are recorded along with complaint outcomes.
112. In New South Wales, the *Annual Reports (Departments) Regulation 2010* requires government departments and statutory bodies (agencies) to report under the heading of 'consumer response' on:

The extent and main features of consumer complaints, indicating any services improved or changed as a result of complaints or consumer suggestions made.²⁸

The NSW Ombudsman's office reports that the requirement is a relevant and useful indicator of complaint handling monitoring within agencies.

RECOMMENDATION 3

That the state government issue an update to the Department of the Premier and Cabinet Circular PC013 - Annual Reporting Requirements 2014 to incorporate annual reporting of complaints from members of the public. This should be included as a Mandatory Reporting Item in agency annual reports, and indicate the extent and main features of consumer complaints and any services improved or changed as a result of complaints or consumer suggestions made.

²⁷ See *Local Government (General) Regulations 2013*, Regulation 35, clause (1)(2).

²⁸ *NSW Annual Reports (Departments) Regulation 2010*, Schedule 1 Report of operations.

The power of apology

113. How an agency responds to a complaint is a critical element in the complaint handling process. For example, if an investigation is conducted, explanations should be given about the particulars of the investigation, including any reasons or decisions reached. This may involve findings and explanations when errors or mistakes are found to have occurred.
114. If a complaint against an agency is upheld, the agency should provide appropriate redress where this is possible. Remedies may range from providing an apology, compensation, a further explanation, a change of decision, expedited action or changes to policies or practices. All of the above were referred to as appropriate remedies in Ombudsman SA's discussions with agencies during the course of the audit.
115. Some of the agencies commented on their experience providing apologies to complainants. In many instances, apologies were offered by agencies and accepted by complainants in a simple transaction. However, in other instances public servants (and also complainants to Ombudsman SA) have expressed frustration with the apparent reluctance of agencies to provide an apology for harm or inconvenience that may have been caused.
116. This reluctance appears to stem from recent trends whereby some complainants have demonstrated a preference for litigation; perhaps causing some legal advisors to conclude that offering an apology poses an unacceptable risk of conceding liability, and so should not be considered.²⁹ Some agencies referred to a 'risk averse' culture. There was also a concern that an apology construed as an admission of liability may have insurance implications.
117. The NSW Ombudsman has noted:³⁰

Apologies are not magic potions that work in every case, but they can be remarkably effective in addressing the key needs of people who have experienced harm. There will be some circumstances where an apology will serve no good purpose, but these will be the exception not the rule.

If a mistake or error led to harm, an appropriate apology is often seen by complainants as an essential prerequisite for, or part of, the proper resolution of their complaint. An appropriate apology is often the main thing they really want.

118. Apologies properly executed may avoid litigation or provide a resolution to a dispute at an early stage, but are generally underutilised owing to the perception that to apologise is to admit liability. In December 2002, the New South Wales Parliament amended the *Civil Liability Act 2002* (NSW) to give full legal protection to an apology made by any person. It states that an apology does not constitute an admission of liability, and will not be relevant to a determination of fault or liability in connection with civil liability of any kind. In addition, evidence of such an apology is not admissible in court as evidence of fault or liability.
119. Similar legislation has been enacted in both the ACT and Queensland. By contrast, section 75 of the *Civil Liability Act 1936* (SA) states:

²⁹ Prue Vines, 'The Power of Apology: Mercy, Forgiveness or Corrective Justice in the Civil Liability Arena?' *University of New South Wales Faculty of Law Research Series* 30, 2007.

³⁰ NSW Ombudsman *Apologies - a practical guide*, 2nd edition, 2009, p ii.

In proceedings in which damages are claimed for a tort, no admission of liability or fault is to be inferred from the fact that the defendant or a person for whose tort the defendant is liable expressed regret for the incident out of which the cause of action arose.

120. Unlike the NSW legislation, the South Australian provision provides protection for expressions of regret, but does not appear to include protection for any admission or acceptance of responsibility or fault.³¹ The term 'expression of regret' is not defined in the Act, and to date has not been the subject of judicial examination. It is not clear whether the absence of any reference to apology in the legislation was accidental; or whether the Parliament intended that an expression of regret would be synonymous with an apology; or whether parliament considered that the two constructs differ.
121. It is therefore not known whether a court would interpret a statement regarding fault as an admission of liability under the current South Australian provisions. Put simply, the South Australian provisions appear less generous than the provisions regarding apologies in other jurisdictions.
122. Anecdotal evidence and academic research suggests that the current practice in South Australia is often to refrain from offering an apology. The perception that only partial protection is afforded to public sector agencies that offer an apology requires that any 'expression of regret' statement must be precisely worded in order for it to be protected. Some agencies appear concerned that inaccurate wording might result in litigation, and so are hesitant to offer an apology.
123. Furthermore, evidence suggests that 'expression of regret' apologies can often appear insincere,³² as they do not adequately address a complainant's human need for validation of the harm done, and for someone to take ownership of the error.³³ This has the potential to leave a complainant unsatisfied and render the apology ineffective.
124. Affording full statutory protection to an apology does not guarantee that one will be given in the appropriate circumstances.³⁴ Therefore, to further encourage and facilitate full apologies, agencies might also consider addressing the issue at an internal management level. To develop policies of this kind recognises the need for a shift in culture from risk aversion, to one where risks are directly addressed so as to minimise their consequences.³⁵
125. Agencies may find it useful to develop an open disclosure policy that includes:³⁶
 - the circumstances in which apologies can, or should, be made
 - the content of the apologies, including any associated information or admissions that can be made
 - the method by which an apology will be communicated
 - who is responsible for making the apology, as well as any necessary delegations
 - who is responsible for co-ordinating the apology process
 - the forms of redress relevant to the circumstances likely to arise where an apology is warranted.

³¹ Chris Wheeler, Deputy Ombudsman NSW, 'Open Disclosure and apology - time for a unified approach', National Administrative Law Conference 2013.

³² Prue Vines, 'Apologising to Avoid Liability: Cynical Civility or Practical Morality' (2005) 27 *Sydney Law Review* pp 483 & 504.

³³ Chris Wheeler and Adam Johnston 2009, Lawyers encouraging apologies. Not a contradiction in terms' *Law Society Journal* pp75 & 77.

³⁴ *Apologies - A practical guide* - op. cit. p29.

³⁵ Chris Wheeler, 'Apologies - overcoming public sector reluctance' (2006) 51, *The Australian Institute of Administrative Law Forum* pp47 & 63.

³⁶ *Apologies - A practical guide* - op. cit. p64.

126. Whilst this framework still does not advocate apologies that include admissions of liability, it is an example of how to develop and maintain a more transparent approach to resolving complaints.
127. It should be noted that any move towards providing statutory protection for full apologies (other than in certain circumstances in New South Wales and Queensland and limited circumstances in the Australian Capital Territory) would be consistent with proposals for a uniform approach across Australia to the legal protection for apologies.

RECOMMENDATION 4

That the state government consider amendment to the *Civil Liability Act 1936* to clarify that the provisions afford full legal protection to an apology made by any party. Ideally, the legislation should specifically provide that an apology does not constitute an admission of liability, and will not be relevant to a determination of fault or liability in connection with civil liability of any kind. Furthermore, the amendment should state that evidence of such an apology is not admissible in court as evidence of fault or liability. In conjunction with this, agencies should also consider creating policies regarding apologies.

PART 4

COMPLAINT HANDLING IN INTERSTATE JURISDICTIONS

An overview of complaint handling in other Australian states

128. There is a variety of approaches taken to public sector complaint handling throughout state jurisdictions in Australia. Some states, notably Queensland, Western Australia and New South Wales, have enforceable instruments which set minimum standards or reporting requirements. The existing Australian Standard is universally identified as the appropriate benchmark.
129. The Queensland Ombudsman commenced a 'Complaints Management Program' in 2003 which resulted in a Public Service Commission Directive to assist agencies to develop effective complaints management systems. In 2013 the Directive was repealed. However, agencies have been instructed to 'maintain ... existing complaints management systems.'³⁷ As such, the complaints management systems mandated under the Directive remain in place. The Directive indicates that individual agencies should have regard to their own needs in determining the actual substance, form and complexity of their complaints management system.
130. Tasmanian agencies are not subject to any prescribed, universal complaint handling system. The exception is in relation to specific procurements where a Treasurer's Instruction mandates a formal complaints process to address procurement complaints.³⁸ Agencies must also report annually on all procurement complaints received during the financial year. The Tasmanian Ombudsman also produced complaint handling guidelines in January 2013. The primary focus is on responding to the customer and using the feedback implicit in complaints to improve agency operations.
131. Public sector agencies in New South Wales generally do not have legislative obligations requiring them to have established procedures to handle complaints. However, the complaint handling systems of a number of large agencies are subject to auditing for compliance against the Australian Standard.
132. New South Wales agencies are also subject to an annual reporting requirement on complaints handling. The *Annual Reports (Departments) Regulation 2010* requires all agencies to include a summary of 'Consumer response'. The content must cover 'the extent and main features of consumer complaints, indicating any services improved or changed as a result of complaints or consumer suggestions made'.
133. In Western Australia, a whole of government complaints management policy has been established. A Public Sector Commissioner's Circular requires a complaints management system for all agencies that conforms to the principles of the Australian Standard. Agencies are required to review their complaints management processes against the standard and determine what action is needed to meet or exceed the Standard. (see Appendix 2).
134. There are no overarching legislative or policy requirements for Victorian government agencies. Consequently, the approach to complaints management varies across departments. The Department of Human Services has developed a department-wide complaints management policy in line with its client services charter objectives. This comprehensive policy was developed in 2013 and aims for compliance with the Australian Standard. The Victorian Ombudsman published a 'Good Practice Guide' on complaint handling for Victorian public sector agencies in 2007.³⁹

³⁷ *Complaints Management Resources*, last modified 2013,

<http://www.ombudsman.qld.gov.au/PublicAgencies/EffectiveComplaintsManagement/ComplaintsManagementResources>

³⁸ Tasmania Department of Treasury and Finance, *The Complaints Process* available online at: <http://www.purchasing.tas.gov.au>.

³⁹ Victorian Ombudsman, *Good Practice Guide*, November 2007, available online at: <https://www.ombudsman.vic.gov.au/getmedia/90b1cdbc-448a-4977-b441-e43b3ffb4c1e/Complaint-handling-good-practice-guide-Dec-2012>.

PART 5

AGENCY PROFILES AND ASSESSMENTS

The twelve audit agencies

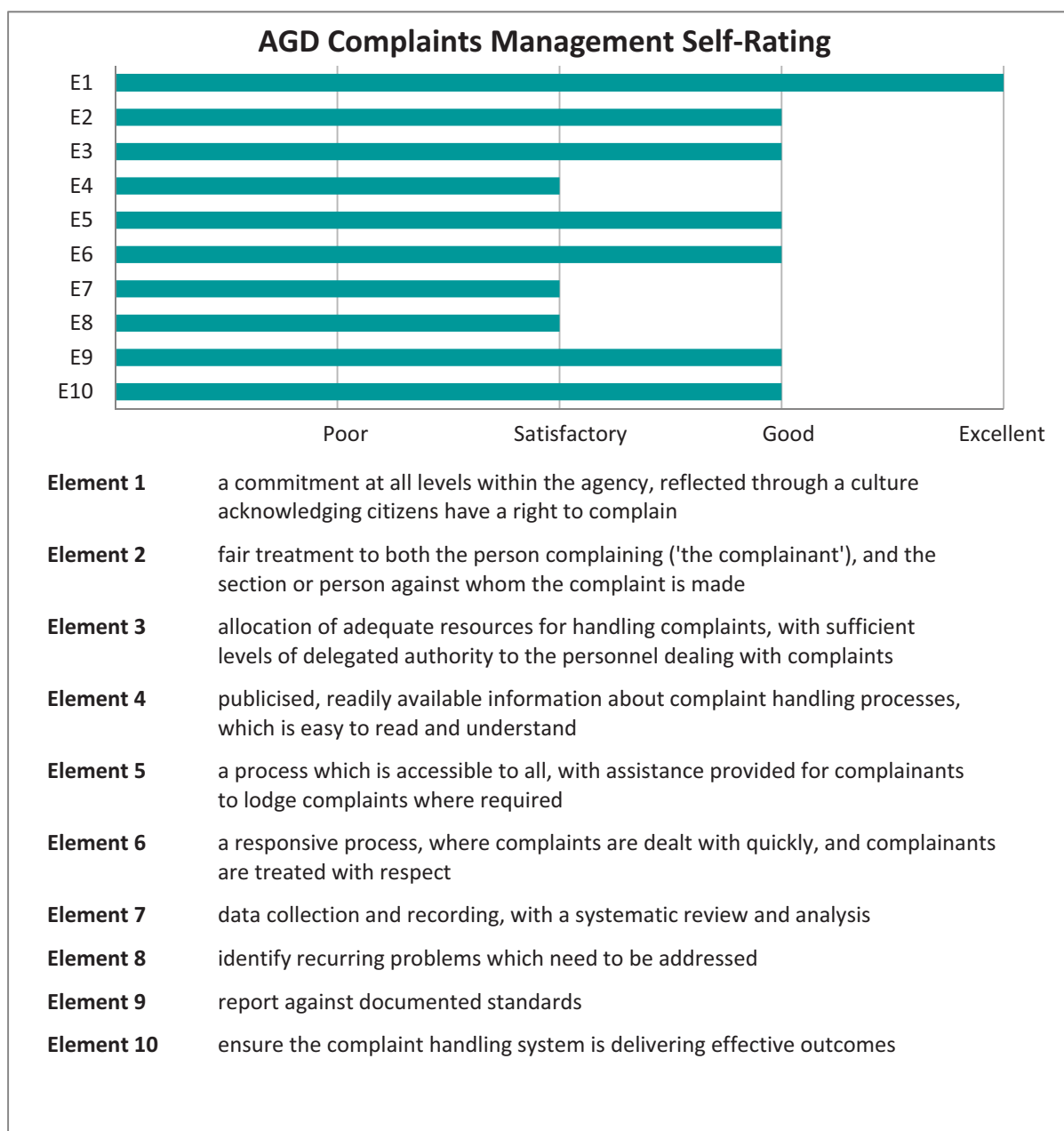
135. This part outlines the assessments from each of the twelve agencies involved in the audit.
136. The assessments are based on three elements:
 - the audit survey sent to the agencies in November 2013
 - interviews with the agencies and their written response to Ombudsman questions in May-June 2014
 - agency self-rating responses to the identified core elements of good complaint handling from the Australian Standard AS ISO 10002-2006.⁴⁰
137. Each assessment examines the agency's system using the three criteria: *Enabling complaints, Responding to complaints and Accountability and learning*. A case study is also included from each agency that exemplifies a positive outcome from a complaint or group of complaints made to the agency or to one of its business units. Finally, comments are included addressing the potential for improvement in complaint handling found in each assessment.
138. It should be noted that the assessments do not attempt to cover all areas of each agency's business and complaint handling practices. Notwithstanding the limitation of providing a summary analysis for each agency, the assessments are based on the evidence presented to the audit.
139. It is acknowledged that government policy decisions and inevitable service delivery resource constraints can be the cause of many complaints made to agencies by members of the public. Complaints may also be generated by an imperfect understanding or information on the part of some complainants; and many complaints alleging errors are found to be without substance.
140. Agency roles described at the beginning of each assessment are edited versions of the responses to the Ombudsman received from each agency. They are expressed in the language the agencies used to describe themselves and their business. The assessments which follow are a combination of agency reports, self-assessments and Ombudsman SA analysis of information received.

⁴⁰ The version of the Australian Standard in place at the time of the audit survey.

1. Attorney-General's Department

AGD provides high-level legal services and advice to Ministers and agencies across the whole of government; specialist policy advice; regulation and compliance; and direct service delivery to the public. AGD promotes fair, timely and economical access to justice through the provision of legal, civil, prosecutorial and legislative services. The agency fosters community safety and wellbeing by advocating for equality and protecting the rights of individuals; in particular the most vulnerable in the community. By working with business to achieve better compliance, the agency promotes a fair, secure and balanced marketplace, where consumers are protected and know their rights. AGD divisions include the Public Trustee (**PT**), Consumer and Business Services (**CBS**) and the Fines Enforcement and Recovery Unit (**FERU**). As at June 2013, AGD employed approximately 1330 FTEs.

<p><i>Enabling complaints</i></p>	<p>AGD has no agency-wide complaint handling policy and procedure. Business units manage their own complaints. Several business units, including the Office of the Director of Public Prosecutions, the Public Advocate and Medical Panels SA have avenues for making complaints directly. PT is the only unit in AGD to have a comprehensive complaints policy and procedure in place. It has regard to the Australian Standard and Commonwealth Ombudsman guidelines. Clients are advised of the basic complaints process on the PT website. CBS handles a significant number of complaints - many of which are escalated to managers for response and resolution. Current processes are informal. CBS proposes to formalise its policy and complaint handling processes in the near future. CBS states that it intends to create a single point of contact to receive and manage complaints as part of a new project. FERU came to AGD in February 2014. They state that they know when people are not happy but acknowledge they need to put a formal complaint handling process in place.</p>
<p><i>Responding to complaints</i></p>	<p>The Public Trustee reports a significant improvement in handling and response to complaints in recent years. All customer contacts are recorded; an internal review into complaints management has been conducted and a survey done of PT's 10,000 customers - with results published. The PT staff induction program includes specific information on the complaints policy and the complaints system. CBS reports an improvement in complaint handling with reviewed and reformed processes and systems in recent years. This includes the establishment of a customer services centre and informal mechanisms e.g. the Commissioner responding to customer concerns on radio. Whilst there are escalation avenues for unresolved complaints, there are no formal internal review processes available through PT, CBS or FERU.</p>
<p><i>Accountability and learning</i></p>	<p>PT internal reports are made to its Executive on a monthly basis, and address risk issues and previous year comparisons. A risk assessment framework is in place to ensure a course of appropriate action is taken on complaints. CBS does not currently have a complaint reporting regime in place. However, the CBS Executive have requested regular updates on the development of their system and decided that monthly branch reports to the Executive will now highlight risks and issues, including complex complaints. AGD identified several service improvement outcomes that have stemmed from complaints within business units. These include FERU introducing direct debits by phone, changes to occupational licensing and residential tenancies after review by CBS, and Standards of Service improvements to the administration of deceased estates by PT.</p>



Case study

Public Trustee response to communication complaints from residents of Supported Accommodation Facilities

The Public Trustee's office received a number of complaints and comments from Supported Residential Facilities (SRF) proprietors that both managers and residents were having difficulty contacting individual Estate Officers in the Public Trustee.

In order to improve customer service, a dedicated email address was created for the SRF and their Public Trustee customers. This email account is reviewed daily by selected Personal Estate Branch staff who immediately redirect the email to the relevant Estate Officer. This ensures that contact is made quickly, avoids phone lag, and enables issues to be addressed as soon as practicable.

Although this initiative has only recently been implemented, the PT has received positive feedback from some residential care staff that the email address has greatly removed communication issues and increased customer satisfaction for SRF clients.

Ombudsman comment

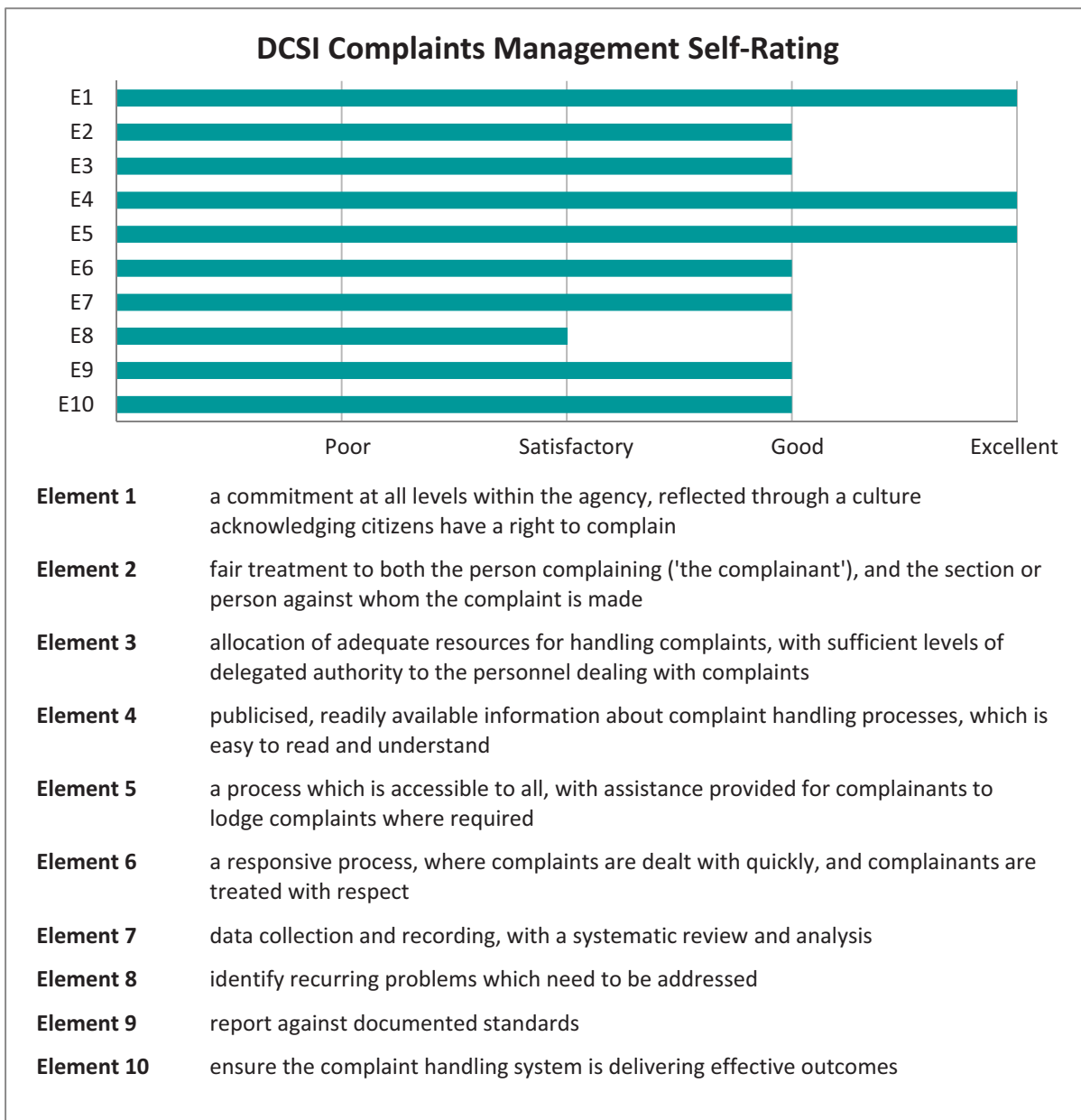
AGD's audit response states 'there is room for increased cohesion and consistency in complaint handling across the department, noting the independence of statutory authorities'. The agency is now considering a statement of commitment for AGD complaints management, and mandating associated key principles. It has acknowledged that once principles are set and communicated, consideration can be given to providing supporting tools for business units to establish or consolidate their complaint management system, including measurement tools for reporting to senior AGD management. AGD has also identified the potential for a risk averse approach across government to impede resolution of complaints, particularly with apologies and liability risk in mind. At the AGD business unit level, the Public Trustee is a good example of a well-established systems approach to complaint handling. This may usefully serve as an exemplar for other AGD business units and the AGD Executive. Consumer and Business Services is now responding to the gap identified in complaints management by putting its own unit-level policy and procedure in place.

It is also encouraging to note that the Public Trustee, Consumer and Business Services and the Fines Enforcement and Recovery Unit all have productive experience in dealing with complaints from people in vulnerable circumstances in the community. Collaboration between business units and independent statutory authorities on complaints management is desirable across AGD, as is a consistent policy approach to internal review of complaints.

2. Department for Communities and Social Inclusion

DCSI brings together a range of services and policies designed to support vulnerable people and to help build resilient communities. The services DCSI delivers are bound by legislation and regulation in the categories of families and communities, housing and disability services. As at June 2013, DCSI employed approximately 4622 FTEs across 15 business units. These include Concessions and Support Services, Disability SA, Disability Services, Domiciliary Care, Housing SA and Screening and Licencing. DCSI also incorporates smaller policy units including Youth Justice, Office for Women, Office for Youth and Multicultural SA.

<p><i>Enabling complaints</i></p>	<p>The DCSI Client Feedback System is a comprehensive, best practice system for 'promoting and responding to client feedback as part of a continuous quality improvement program'. The System incorporates a Client Feedback Policy; Client Feedback Procedure; Client Feedback Guidelines, and a Complaints Management Reference Tool. DCSI also has in place a Client Rights and Responsibilities Charter and recognises and reports against the HCSCC Charter. The Australian Standard is recognised as a benchmark for the Client Feedback Policy and Procedure. DCSI actively promotes the Client Feedback System to clients on its website and through a range of other media, including social media, posters and brochures. DCSI has a dedicated Complaints Advisor (Client Feedback Coordinator) who is responsible for developing policy and procedure, staff training and recording and reporting on complaints.</p>
<p><i>Responding to complaints</i></p>	<p>DCSI provided evidence of a 'no wrong door' approach to facilitate complaints lodgement and proven records management systems for oral, written and online complaints. All complaints are recorded and monitored on <i>RiskMan</i>. The agency provided data on complaint outcomes, including evidence of remedies provided when complaints have been sustained. These included offering explanations for action taken; apologies; changed decisions; policy changes; and compensation settlements. Using a graduated Severity Assessment Code for complaints, DCSI procedures emphasise acknowledgement, early resolution and recording of complaints. There is provision for escalation to a senior manager for assessment and investigation where a matter is more complex. Thereafter matters are referred to the HCSCC or to the Ombudsman, if the complainant is unsatisfied.</p>
<p><i>Accountability and learning</i></p>	<p>Complaints data is provided quarterly to the Client Feedback and Integrated Incident Reporting Project Board, to the DCSI Executive Leadership Team and to the HCSCC. The DCSI Annual Report refers to the Client Feedback System. Reports to the Leadership Team include numbers of complaints; complaints by severity rating; complaints by issue type; complaints by outcome; complaints acknowledged within 5 days; complaints closed/resolved within 30 days. There is evidence that the Chief Executive and the Executive Leadership Team support and monitor the Client Feedback System. DCSI cited a range of service improvement outcomes that have stemmed from complaints made to the agency. These include service delivery changes in Domiciliary Care services; policy changes in services provided by an NGO contracted by DCSI; and improvements in communication with clients around Concession Entitlements.</p>



Case study

Complaint regarding Domiciliary Care Services

A complainant was unhappy that Domiciliary Care would not transport the client for a social support shopping service, due to having an oxygen cylinder. Practices of using taxi services for this type of transport were inconvenient, costly and not monitored in terms of safety.

Domiciliary Care undertook a risk analysis and review of transport practices involving oxygen therapy and made changes involving purchasing oxygen securing devices, staff training and procedures. These now enable the safe securing of oxygen cylinders and transporting of clients when required.

Ombudsman comment

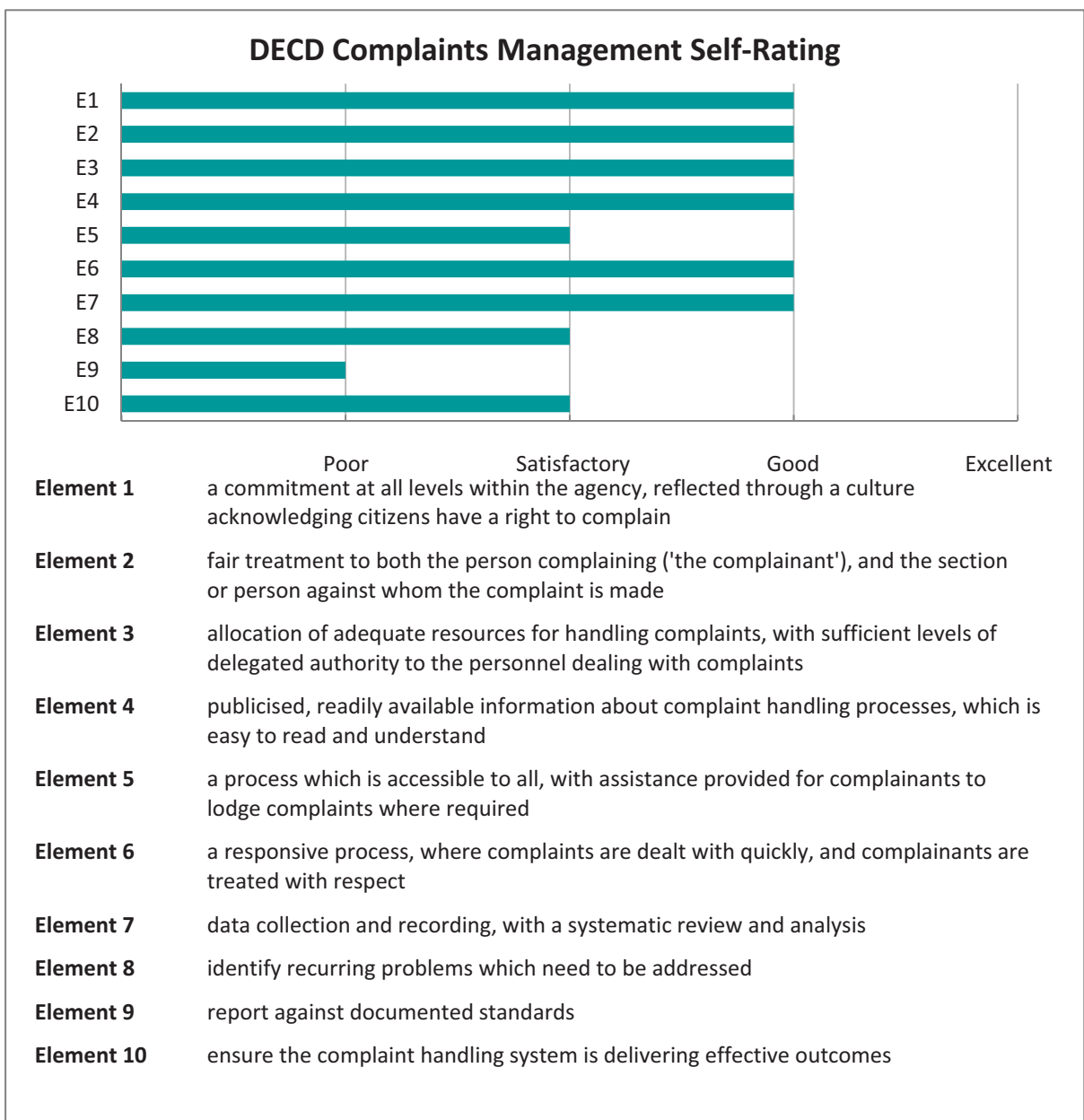
Since 2011, DCSI appears to have consolidated a sound complaint handling system which is supported by senior management and understood across the complex range of DCSI services. Whilst there is evidence of multiple points of access ('no wrong door') and inclusive planning for diverse client demographics, the agency recognises there is room for improvement in access promotion. Another identified area for development is to establish a process for conducting an internal review of the agency's decisions if a complainant is not satisfied with the initial handling of a complaint. This could involve a review process outlined in the Client Feedback Procedure. This process should not rely on a complainant knowing of the existence of the DCSI Complaints Advisor.

DCSI's holistic approach to complaints management is a recognised part of the agency's culture, and includes efforts to link complaints to service improvement outcomes.

3. Department for Education and Child Development

DECD's core purpose is to lead and manage South Australia's education system and to provide early childhood development and wellbeing services to the community. DECD provides some services previously delivered by Families SA and SA Health via the Women's and Children's Health Network, and is responsible for the state's statutory child protection framework. As at September 2013, DECD employed approximately 23,308 FTEs across ten separate divisions and 826 schools. These include Child Development, Families SA, the Office for Education and Student Aboriginal and Family Services. Education and Families SA maintain networks of regional offices around the state.

<p><i>Enabling complaints</i></p>	<p>DECD has no agency-wide complaint handling policy and procedure. However, the agency has in place the Parent Concerns and Complaints Policy and Procedure which applies to all government schools. Each school is required to have its own complaint handling policy and procedure. Appropriate website information is available, and complaints procedures are well promoted in schools and to the public. The Education Complaints Unit (ECU) receives complaints via the Education Complaint Hotline about most school matters e.g. uniforms; behaviour management; suspension and exclusion; bullying and harassment; staff communication with parents and zoning issues. Families SA (FSA) has the Client Feedback Policy and associated procedures in place centrally and across all FSA sites. The complaint handling system within FSA is well promoted on the DECD website and at regional office level. FSA deals with case management complaints about support services for children at risk, family breakdown, out of home care for children, guardianship and post-guardianship services.</p>
<p><i>Responding to complaints</i></p>	<p>DECD recognises that the current education complaint resolution process maintains a focus on specific incidents and events. It is currently considering how ECU can focus more on policy and program development and implementation. All ECU contacts, complaints, enquiries and feedback are recorded and stored. Similarly, each school and regional office is required to keep contact records, notes and all relevant supporting information. Contact calls to FSA are recorded in worker log books and remain in the Complaints Unit for reference. All complaints are recorded in <i>Riskman</i>. Complaints KPI for 30 day closure are in place for FSA. DECD states that internal review procedures for complaints are in place at ECU and regional office level and through the FSA Customer Services Unit. ECU has been able to facilitate apologies, changes of decision, expedited actions and policy changes in response to complaints. FSA records and reports publicly on a similar range of 'complaints outcome' data.</p>
<p><i>Accountability and learning</i></p>	<p>ECU complaints data is reported monthly to the Deputy Chief Executive. Numbers, issues, source and timelines for resolution are all reported. However, there is currently no formal analysis of education complaints data undertaken by the agency. FSA Executive team conduct a quarterly review of complaints by number, severity, issue, source and performance against KPI's. Complaints from Aboriginal clients are also reviewed. DECD have a project underway to upgrade their internet presence. It is envisaged that an analysis of emerging complaint themes and systemic responses to these themes will be a feature. DECD identified several service improvement outcomes that have stemmed from complaints. These include revision of some school policies and improvements in child abuse reporting.</p>



Case study

Education Complaint Unit responds to a primary school parent's bullying complaint

A parent of a primary school student complained to the ECU that her children were being bullied on the school bus every day. She stated that older students were bullying the younger students into moving from preferred seats on the bus by threatening and abusing them. The parent explained that she had raised the issue with the bus driver but felt that the matter had not been resolved.

The ECU contacted the principals of the schools involved in the bus route and DECD Transport Services to ensure a co-ordinated response. The school staff interviewed the children who used the bus service, and the bus driver. The schools followed behaviour management policies in relation to the students involved in the reported bullying. The schools and Transport Services also spoke to the manager of the bus company who spoke to all of their bus drivers about strategies for managing bullying on school buses.

In addition, the schools involved engaged the students in developing:

- a process for determining a fair seating allocation system on the bus. Each student was able to nominate a seat buddy, and a preferred seat on the bus. Based on these nominations, a seating plan was developed for the term. The students agreed that anyone who did not get their preferred seat for that term would have their preferred position in the next term's seating plan
- a set of expectations about conduct on the bus that all children on the bus were expected to abide by
- avenues for the students to complain if bullying behaviour persisted.

Rather than just looking at the specific incidents of bullying, the response from the school and the department empowered the students involved to change the way that the bus travel was managed to be fair and safe. The parent expressed her satisfaction with this response and stated that it was a fair resolution that addressed her concerns.

Ombudsman comment

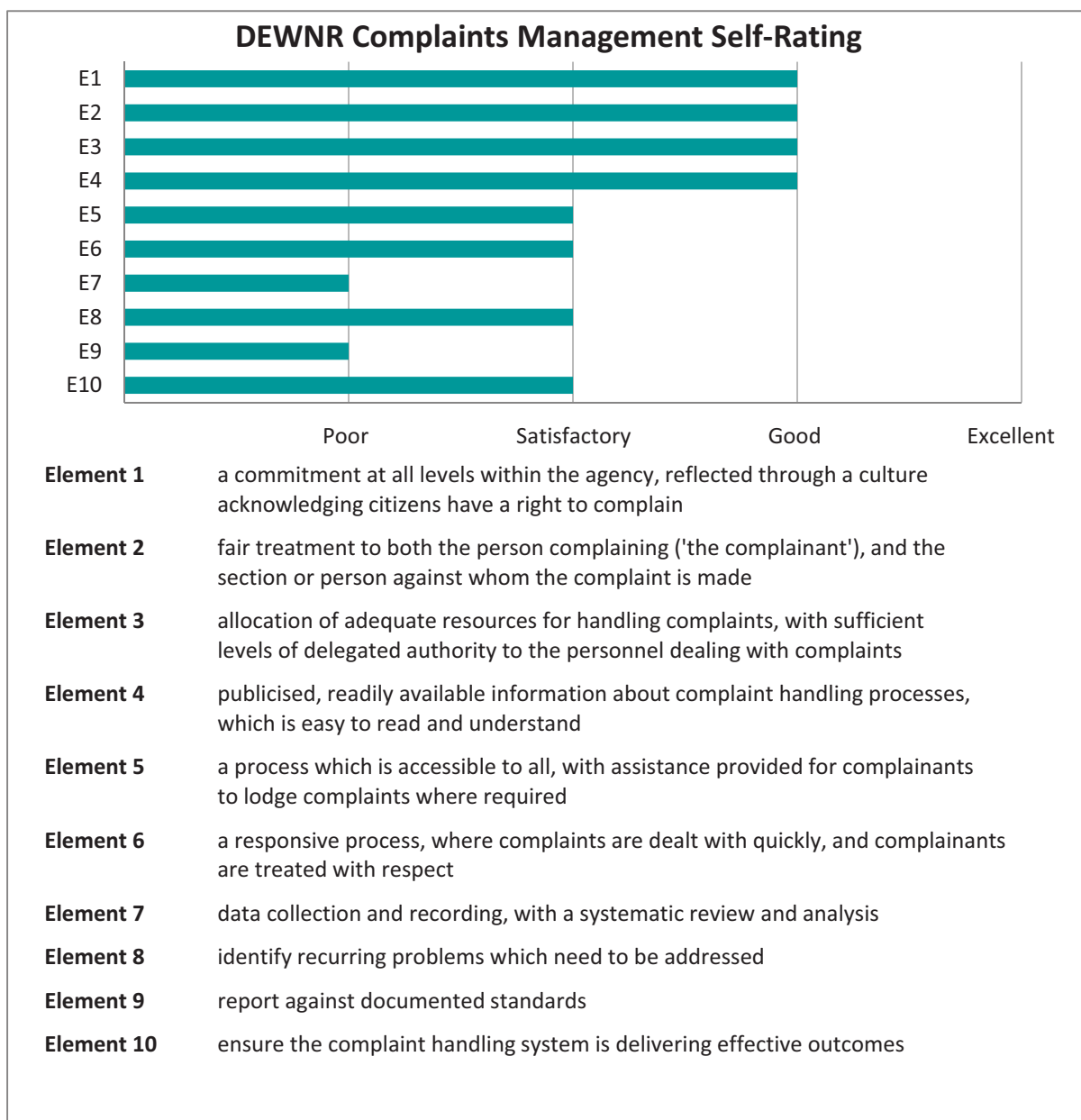
DECD has more work to do to consolidate its culture as an integrated agency with Education services and Families SA working closely together. This is apparent in the lack of an agency-wide policy for complaint handling and in the separate protocols for reporting complaints to senior executive. There are also different systems in place for public reporting. For example, there appears to be no reason why Families SA standard of reporting complaints data by number, severity, issue, source and performance against KPI could not be reflected in the Education services part of the DECD annual report. The project underway to upgrade the DECD internet presence and to incorporate emerging complaint themes is a productive initiative. It should reflect all elements of the agency's business.

The commitments expressed by the ECU to use complaints data to make systemic improvements in service delivery and of Families SA to overcome duplication in complaint handling are welcome objectives. A positive in both Education services and Families SA is the awareness of their complaint handling limitations, challenges and opportunities. There is considerable potential for both areas of the agency to learn from each other's complaint handling strengths.

4. Department of Environment, Water and Natural Resources

DEWNR leads the management of South Australia's natural resources to ensure the protection of the environment. The agency has responsibility for providing advice on, and administering under delegated authority, a range of legislation committed to the Minister for Sustainability, Environment and Conservation and Minister for Water and the River Murray. These Acts deal with the administration of Crown lands; the creation and management of conservation and pastoral areas; protection of vegetation and wildlife and the conservation, protection and management of natural resources, including water. As at November 2013, DEWNR employed approximately 1677 FTEs. DEWNR has 32 discrete 'business units' attached to the agency, including seven Natural Resource Management (NRM) Boards.

<p><i>Enabling complaints</i></p>	<p>DEWNR has recently endorsed an agency-wide Customer Service and Complaints Policy. It defines 'complaint' and allocates senior responsibility to various units within the agency, notably the Governance and Legal Unit and the People Capability and Culture Branch. The Chief Executive is cited as 'the ultimate arbiter of customer complaints'. The policy, which applies to all DEWNR staff, agents, contractors and volunteers, is not publicly available. However, under a website tab marked 'Provide Feedback' there is a portal which leads to a DEWNR 'Making a complaint' advisory. This canvasses how to make a complaint and tells people what happens to their complaint. Importantly, it stresses that early contact with service managers is the best way to have a complaint addressed. Three NRM Boards surveyed for the audit by the agency had no current complaints procedure in place. There is no data available for other business units.</p>
<p><i>Responding to complaints</i></p>	<p>DEWNR states that it has no central record keeping for complaints and requires each business unit that receives and addresses a complaint to be responsible for keeping its own records of the complaint. There is no central monitoring and reporting on complaints data. Whilst there has been no oversight of complaints across all business units prior to the introduction of the Customer Service and Complaints Policy in January 2014, there has been monitoring and review of serious complaints by the DEWNR Governance and Legal Unit. There have also been internal reviews of agency decisions which have attracted complaints. Some of these have been statutory, such as permit reviews conducted under the <i>National Parks and Wildlife Act 1972</i>. Others have been of a general administrative nature. DEWNR has provided some examples of resolved complaint outcomes, including payment of compensation and written apologies or expressions of regret to customers.</p>
<p><i>Accountability and learning</i></p>	<p>Complaints data is not currently reported routinely to the DEWNR Executive. For complaints or allegations regarded as serious, the Executive receives periodic updates for review and consideration. DEWNR identified several service improvement outcomes that have stemmed from complaints made to the agency. One of these involved improved training for authorised officers engaged in investigation of possible breaches of the <i>Natural Resource Management Act 2004</i>. The agency places considerable emphasis on addressing questions and concerns before they get to the point of being registered as a complaint.</p>



Case study

Complaints leading to improvements in financial controls

Reviews of serious complaints have, in some cases, highlighted possible failures of DEWNR's financial controls. This has led to their review and improvements currently being implemented as part of the agency's financial management compliance program. That program exists to ensure that the agency has in place the essential controls and processes for good financial management and that these are being reviewed regularly.

Part of the program involves an assessment of managers' understanding of the internal control environment and of those internal controls they should reasonably be aware of. In the improved financial management compliance program the response from managers will be used to identify where there is a potential weakness, either in the internal control, communication of the internal control or application of the internal control. Once identified, this will allow the control owner to address the weakness with the relevant manager.

Ombudsman comment

DEWNR is one of the most decentralised of the twelve audited agencies. There appears to be a significant devolution of management responsibility between central office and key operational functions, such as NRM Boards, park management and animal welfare. These entities are regarded as autonomous - albeit all are staffed by DEWNR employees. Until recently, the agency approach has been to leave all responsibility for complaint handling to individual business units. The agency-wide Customer Service and Complaints Policy is new and incorporates internal HR matters and procurement functions with general complaints. This is not recommended for a public sector complaints policy. Whilst individual 'serious' complaints are subject to ad hoc analysis and review - there is no formal mechanism for this - or for regular reporting at DEWNR Executive level.

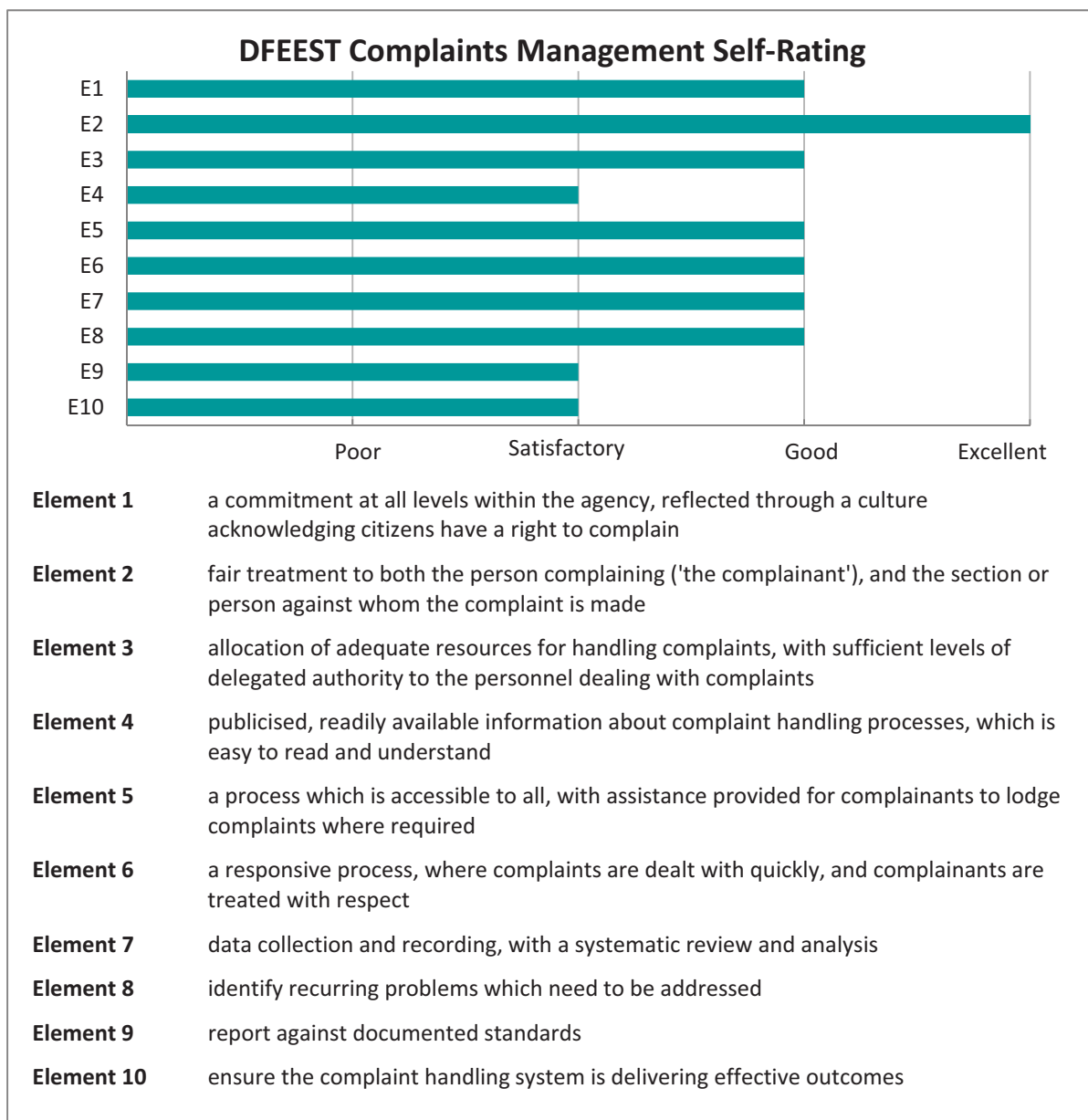
The agency identified resource constraints as an obstacle to improving complaint handling practices. It highlighted a need for assistance in developing a comprehensive complaint handling system and training for staff. This should include advice in interpreting and understanding the principles of administrative law, particularly in relation to the investigation of serious complaints.

5. Department of Further Education, Employment, Science and Technology⁴¹

DFEEST has responsibility for policy setting and the delivery of funding to training providers under Skills for All and for leading the Vocational Education and Training (VET) system in South Australia. DFEEST also develops and delivers programs and initiatives in partnership with state and federal agencies, industry bodies and enterprises to address the skilling needs of the South Australian workforce. DFEEST is responsible for regulating South Australia's traineeship and apprenticeship system under delegation from the state's Training and Skills Commission (TaSC). As at November 2013, DFEEST employed approximately 515 FTEs.

<p><i>Enabling complaints</i></p>	<p>DFEEST has draft complaint handling policy and procedure documents which are new and not yet publicly available on the agency website. The policy contains a definition of complaint and outlines customer complaint management principles and complaint handling responsibilities. The procedure is a smaller document which restates definitions and some practices outlined in the policy. Also included is the Operating Procedure for Handling Complaints about Traineeship and Apprenticeship Services (TAS). This document is dated 2007. Its focus is to establish complaint handling procedures for TAS; ensure complaints are addressed; and to take corrective action. Stakeholders are identified as employers, trainees/ apprentices or their parents, and Registered Training Organisations. Complaints are received by the Skills for All Infoline and the Traineeship and Apprenticeship Information Service. These are mainly about staff behaviour, policy decisions, timeliness, funded programs, and training course issues such as standards, assessments, exclusion and apprenticeship conditions.</p>
<p><i>Responding to complaints</i></p>	<p>Complaints are recorded in TRIM and also through SharePoint and the Enterprise Customer Relationship Management system. Excel spreadsheet records are used to track progress and the outcomes of complaints and, where a government contract is involved, subsequent actions taken by contracted training providers. The Office of the Training Advocate is the independent complaints handling authority covering the SA training system. The Training Advocate uses a case management approach to problem-solve with employers and to address complaints from VET students, trainees and apprentices and international students. There is a mechanism for internal review of complaints handled by the Training Advocate. The Training Advocate also provides support for apprentices and trainees in training contract matters through the SA Industrial Relations Commission dispute process.</p>
<p><i>Accountability and learning</i></p>	<p>The Director of Skills SA systematically reviews all complaint matters with regard to third party service delivery. The aim is to ensure satisfactory outcomes for complainants and to identify implications for the Skills for All policy. There is also regular monitoring of training provider compliance in their contracts with the Minister. Within TAS, complaint reports are provided to the TAS senior management group at monthly Innovation and Business Improvement Steering Group meetings. The Steering Group comprises senior officers from across the directorate and is responsible for fostering continuous improvement. DFEEST identified several service improvement outcomes that have stemmed from complaints. These include revision of TAS service standards and practices.</p>

⁴¹ On 1 July 2014, DFEEST merged with DMITRE and other sub-agencies to form the new Department of State Development.



Case study

Complaints bringing change to Skills for All and Traineeship and Apprenticeship Services

Analysis of complaint issues and trends within Skills SA and TAS have generated a range of service improvements, including:

- development of scripts which assist with the provision of consistent information to clients - such as when an eligible student is refused a Skills for All funded place by a training provider
- changes to enrolment forms used by Skills for All training providers to reflect feedback and complaints received
- a review of the Marketing and Identity Guideline under the Skills for All Training Provider Contract. It now requires all providers to publish their fees and any enrolment conditions information so that people can make a more informed choice of provider
- TAS has extended the time period within which an employer can lodge an application for registration renewal to address client concerns that it had not provided business with sufficient time to respond
- TAS has conducted a formal business review to identify improvements in the efficiency and timeliness of the service provided to clients.

Ombudsman comment

DFEEST's role in government is complex. It is a policy setting, funding provider and regulator of the commercial traineeship and apprenticeship system. It also develops and delivers programs in partnership with government and industry providers to address the skilling needs of the SA workforce. TAFE SA is a separate statutory corporation with its own established complaint handling system in place since 2007. DFEEST is clearly looking to improve its corporate monitoring of complaints. There is currently no formal process for complaints to be reported to DFEEST's Corporate Executive. However, intended improvements have been slowed by the 90-day service excellence project, and the merger with DMITRE as the Department for State Development.

DFEEST complaints information available to the public is currently confined to the complaints process for contracted training providers. Notwithstanding these limitations, a clear strength is the role of the independent Office of the Training Advocate. It provides information to students, handles complaints and prepares advice to the agency and to government, on ways to improve the training system.

6. Department for Health and Ageing (SA Health)

DHA uses SA Health as the brand name for the health portfolio of services and agencies responsible to the Minister for Health and Ageing and the Minister for Mental Health and Substance Abuse. SA Health is committed to protecting and improving the health of all South Australians by providing leadership in health reform, public health services, health and medical research, policy development and planning, with an increased focus on wellbeing, illness prevention, early intervention and quality care. SA Health also provides health services to prisoners across the state. As at October 2013, SA Health employed 30,627 FTEs. SA Health divisions include Central, Country, Northern and Southern Local Health Networks, the Women's and Children's Health Network and the SA Ambulance Service. There are also health units such as Breast Screen SA and Drug and Alcohol Services SA.

<p><i>Enabling complaints</i></p>	<p>SA Health released its Consumer Feedback and Complaints Management Policy Directive and the Guideline and Toolkit in January 2010. The Policy Directive defines a 'complaint', differentiates formal from informal complaints, cites the principle of natural justice and refers to the Australian Council for Safety and Quality in Health Care <i>Complaints Management Handbook for Health Care Services</i> (2005). The policy also cites the HCSCC Charter of Health and Community Services Rights. The Consumer Feedback Management Guideline and Toolkit details the complaint management process for staff which includes seven steps: Receive; Register and Acknowledge; Initial assessment; Investigate; Respond and Resolution. It also covers notification requirements, unresolved consumer complaints and requests for independent review. It does not include complaints about the competence or behaviour of clinicians.</p>
<p><i>Responding to complaints</i></p>	<p>SA Health encourages the community to provide feedback in the form of compliments, concerns or complaints to the relevant health care service. Complaints can be made in person, with the relevant health care service, via telephone, in writing via the health care service website or with the Consumer/Patient Advisor. All comments and complaints are recorded in the SA Health Safety Learning System Consumer Feedback Module. The SLS is an electronic system for the reporting and management of incidents and consumer feedback across SA Health. The Local Health Network Analytics and Reporting System portal is currently being developed to deliver local and corporate reports for a number of safety and quality key performance indicators, including categorisation of complaints and complaint response times and outcomes. Unresolved consumer complaints may be reviewed by a senior member of staff if approved by the Chief Executive.</p>
<p><i>Accountability and learning</i></p>	<p>Complaints data is reported monthly to the SA Health Portfolio Executive and the Safety and Quality Operational and Strategic Governance Committee - and to a range of consumer advisory and community groups in the health system. Reports are also provided to the HCSCC. SA Health also issues comprehensive reports titled 'Measuring Consumer Experience', and the 'SA Patient Safety Report', which report on consumer feedback and complaints aligned to the HCSCC Charter of Rights in the categories of: Quality; Access; Information; Respect; Privacy; Participation; Comment and Safety. As well as responding to individuals making a complaint, the system allows reporting, analysis of patterns of complaints on a larger scale and for SA Health to monitor the performance of health services in managing consumer complaints.</p>



Case study

Mental health treatment complaint from carer

A carer complained about the response to a mental health incident concerning her son. There was a delay in him receiving adequate treatment which contributed to him being detained under the *Mental Health Act 2009* with police and the SA Ambulance Service in attendance. When detained, he incurred expenses that he could not afford to pay, including a \$926 ambulance bill.

Following a meeting with the Northern Adelaide Local Health Network the carer was able to put her views and other information to the meeting. It was acknowledged that the response from the mental health team could have been handled better. As a result, the carer was assigned a full time care coordinator to manage her son's care. Previously he had been assigned a part-time coordinator. A further outcome was the development of a Crisis Management Plan that was concluded with the involvement of the carer and her son. The carer subsequently acknowledged her satisfaction with her son's revised service plan. The issue of the costs incurred by the consumer was satisfactorily resolved.

In addition the carer has now been recruited as a mental health representative on an advisory panel. Further, an action plan has been developed to allow for appropriate responses by the agency to any escalation of behaviours by consumers with a deteriorating mental state.

Ombudsman comment

The SA Health Safety Learning System is a best practice initiative that outlines reporting, analysis and complaint patterns across the many facets of health service delivery. Clinical, acute care and primary health services are all covered by the Consumer Feedback and Complaints Management Policy Directive and Toolkit. SA Health shows an appropriate sensitivity to vulnerable clients; to the reasons some people are reluctant to complain; and to strategies for pre-empting complaints and engaging people at community level. Further strengths are the complaints monitoring and reporting system in place at senior management level, and the consistent emphasis on service improvement.

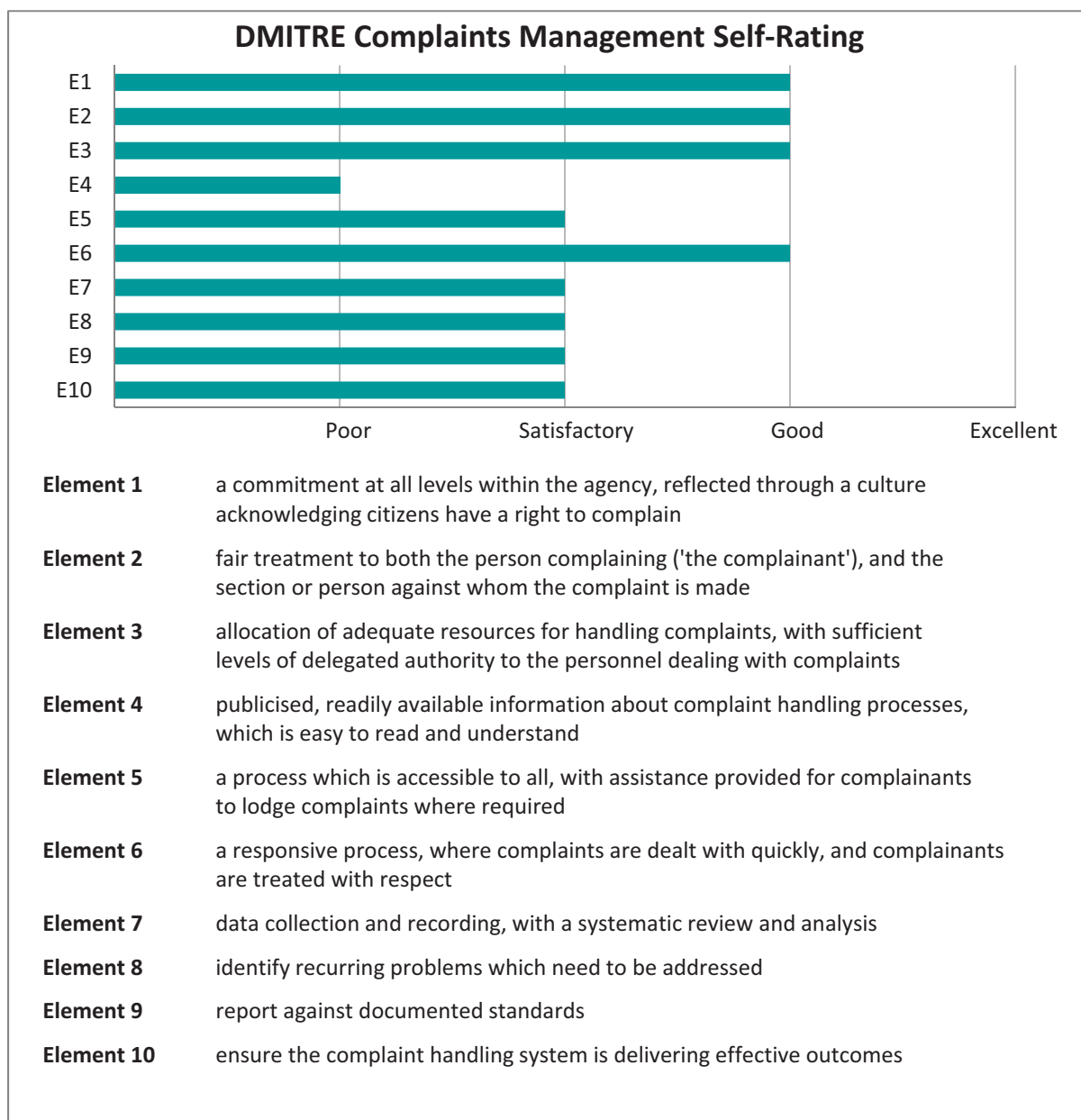
SA Health has identified a need to improve health consumer awareness about how to raise a concern or complaint and of the need to better promote the HCSCC Charter of Rights. A further area for improvement is the formalisation and facilitation of a mechanism for internal review where complainants remain dissatisfied. This should occur before a referral is made to the HCSCC or the Ombudsman.

7. Department for Manufacturing, Innovation, Trade, Resources and Energy⁴²

DMITRE brings together the government bodies responsible for the state's key economic development sectors - mineral and energy resources, manufacturing, trade and inward investment. DMITRE aims to drive economic development and to facilitate the sustainability of small and medium enterprises across the state. DMITRE is the lead agency for two of the state government's seven strategic priorities: *Realising the benefits of the mining boom for all* and *Growing Advanced Manufacturing*. As at November 2013, DMITRE employed approximately 462 FTEs across seven separate divisions.

<p><i>Enabling complaints</i></p>	<p>The DMITRE Complaint and Allegation Investigation document is designated as the main complaints procedure document for the agency. There is no policy currently in place. The procedure is comprehensive. It contains information, <i>inter alia</i>, on conflicts of interest, management responsibilities, whistleblower protection, investigation planning and natural justice. There is a requirement for files to be created and maintained for the duration of the complaint/resolution process. However, DMITRE has acknowledged that the procedure has a stronger focus on internal complaints from staff than from members of the public. DMITRE has developed customer service charters to proactively address the specific needs of groups such as prospective economic migrants and remote Indigenous communities. The SA Government Customer Service Good Practice Guide is the template for these charters.</p>
<p><i>Responding to complaints</i></p>	<p>DMITRE states that complaints are dealt with by the business division involved wherever possible, with support from a supervisor, team leader or line manager. More serious matters are referred to senior management and the division executive is notified and, where necessary, participates in the resolution. Each business division within DMITRE escalates complaints if they cannot be resolved at the first point of contact. There is currently no official departmental policy or procedure to guide this process. If staff are unable to resolve complaints at the point of service, they refer complaints requiring further action to a senior manager, subject expert or to the Chief Executive or the Minister.</p>
<p><i>Accountability and learning</i></p>	<p>Complaints data is not reported routinely to the DMITRE Executive. There is no overall systemic approach to analysing complaints. DMITRE is currently scoping opportunities to use the case records management system to record and report on departmental complaints. DMITRE has provided some examples of service improvement outcomes, including the development of a complaint handling procedure for the DMITRE procurement process as a result of a particular complaint. The agency is currently participating in a 90 day Service Excellence project facilitated by the Office for Public Sector Renewal. As part of the project DMITRE has undertaken self-assessment surveys of business divisions to measure service delivery and complaint management processes. The information is currently being developed into an action plan for the new Department of State Development.</p>

⁴² On 1 July 2014, DMITRE merged with DFEEST and other sub-agencies to form the new Department of State Development.



Case study

Complaints made about Immigration SA services

Recent feedback and complaints from Immigration SA stakeholders led to the division engaging them through a 90 day customer service project aiming to improve services generally. The key stakeholders were recruitment agents, unions, business associations and government employment support agencies.

Service improvement outcomes from the project have included:

- changes to the criteria for General Skilled Migration and to the Business Innovation and Investment program
- identification of appropriate elements of state evidence requirements for the Specific Regional Migration Scheme where adjustments can be made without affecting the integrity aspects of the program
- implementation of reduced evidence requirements.

Ombudsman comment

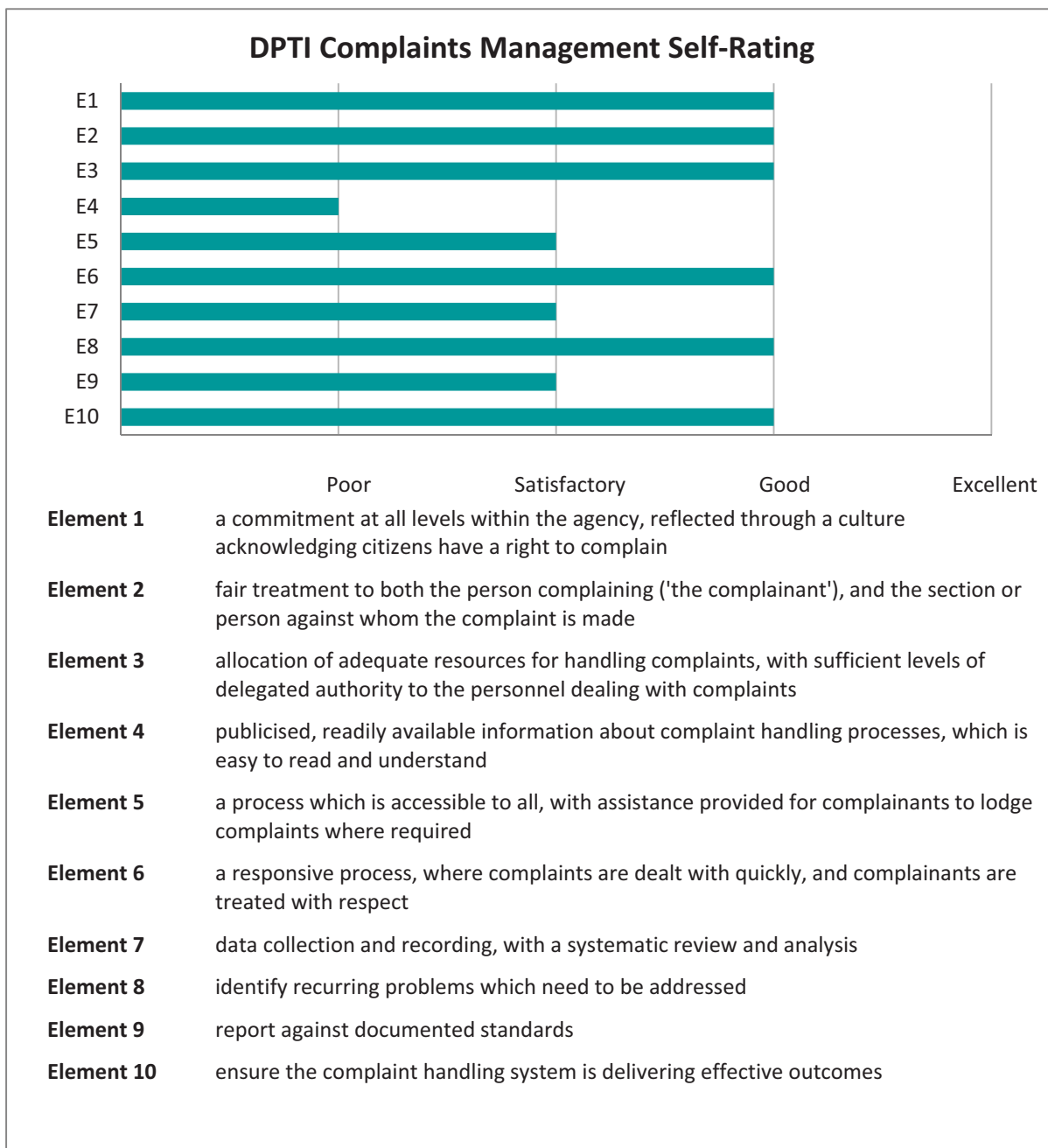
DMITRE emphasises its 'stakeholder engagement capability' and an organisational culture that supports service excellence. The agency has implemented a Stakeholder Engagement Framework to provide a proactive relationship with stakeholders and presumably, to pre-empt grievances and complaints. The agency aims to have a 'fit for purpose' approach to managing complaints within each business division. There has been a view held by senior management that service excellence and good management of stakeholder expectations will eliminate complaints.

DMITRE has some work to do to improve complaints information to the public; in data collection; and in internal reporting and complaints analysis. DMITRE has also identified the need for complaint handling consistency across the agency. Standards need to improve across all divisions and at corporate level. Senior agency staff have stated that review and reform will be part of a commitment to clear service excellence and complaints management proposals for the Department for State Development.

8. Department of Planning Transport and Infrastructure

DPTI has diverse responsibilities in relation to transport systems and services, infrastructure planning and provision, sporting infrastructure and strategic land use for South Australia. DPTI's goals are to ensure that the state's future needs for the movement of people and freight and the delivery of services across transport and infrastructure are met in a safe, efficient, cost-effective and sustainable manner. DPTI also plays a leadership role in the management of public sector building assets and infrastructure, elite sports pathways, administration of the state's land title and the state's land use and development planning. As at November 2013, DPTI employed approximately 3407 FTEs. The agency has seven business divisions.

<p><i>Enabling complaints</i></p>	<p>DPTI's complaint handling functions reflect the key service delivery roles of the agency and the complaint reporting and review requirements of legislation, including the <i>Passenger Transport Act 1991</i> and the <i>Valuation of Land Act 1971</i>. Public Transport Services (PTS) and, to a lesser extent, Road Safety, Registration and Licencing (RSR&L) have well developed complaint handling systems. An example is the Customer Relationship Management (CRM) system in PTS where face-to-face complaints are entered into the CRM system - as are written complaints to the Adelaide Metro website or via correspondence. There is daily monitoring by a Customer Feedback Coordinator who records spikes and trends and prepares monthly reports to managers. DPTI has no agency-wide complaint handling system. There is no practical complaint handling information posted on the agency website.</p>
<p><i>Responding to complaints</i></p>	<p>A significant risk for DPTI is the interface between Registration and Licencing business customers who deal directly with Service SA, which is located in the Department of Premier and Cabinet. Because the 'TRUMPS' system for managing registrations and licences is with DPTI, Service SA has experienced difficulties in the resolution of some inquiries and has to refer some matters back to DPTI. This 'interface' generates many complaints that ultimately require a response from Service SA. This risk is mitigated through the service agreement process between the agencies. DPTI has provided data on complaint outcomes, including evidence of appropriate remedies when complaints are sustained. These included providing apologies, further explanations, changed decisions and expedited actions. In PTS these occur daily. Changes to policy/practice and providing compensation are rarer actions. Resolution of complaints, including options for internal review, is devolved to DPTI divisions to manage according to their business. Where a matter is more complex, there is provision for escalation to a Director or to Corporate Services and the CEO for investigation/response.</p>
<p><i>Accountability and learning</i></p>	<p>PTS has a system of monthly complaints reporting to their divisional Executive Management team as part of the Business Services reporting regime. These reports detail trending complaint numbers and drivers and provide data for more detailed analysis. First contact resolution reviews include analysis of data and follow-up training programs. RSR&L is currently investigating IT software to provide complaint analysis capability and work flow management. DPTI cited a range of service improvement outcomes that have stemmed from complaints made to the agency. These included service delivery changes in public transport, transport services and the Recreation and Sport Active Grant Program.</p>



Case study

Complaints regarding registration expiry reminder after driver's licence revocation

Complaints were received from vehicle owners where a 'freeze' had been placed on the customer's file to prevent a driver's licence being issued, due to a vehicle owner failing to meet the requirements to hold a licence. This resulted in the computerised system not forwarding the registration renewal and placing other drivers of the vehicle potentially at risk of driving an unregistered vehicle.

The process has now been amended to ensure a notification of pending vehicle registration expiry is forwarded regardless of licencing status. In one case, where the partner of a customer was fined for driving unregistered due to the licence renewal not being sent, the agency provided a written apology and refunded the expiation fee.

Ombudsman comment

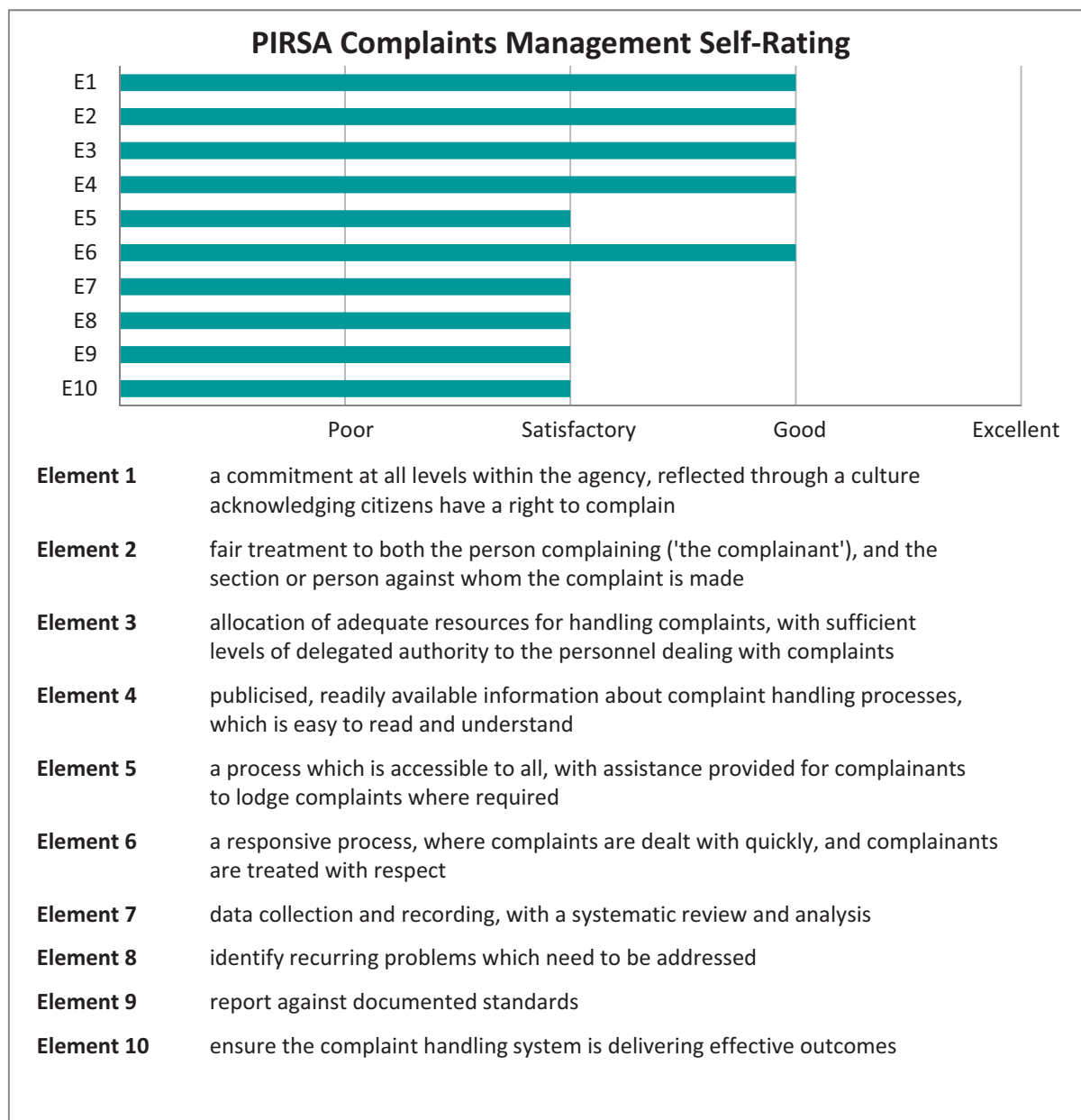
DPTI is a good example of a department with strong divisional autonomy but relatively weak agency-wide governance systems. For complaint handling, this means that the divisions with a strong public interface, such as public transport services and road safety, registration and licencing have well developed or improving complaint handling systems which are monitored and reported on regularly. PTS stands out as a best practice system with sophisticated reporting capability and relatively high public visibility. By contrast, other divisions appear to have less well developed practices for facilitating complaints. However, there is recent evidence that a stronger interface between DPTI Registration and Licencing business customers dealing with Services SA has resulted in improved responses to customer complaints in that area.

An emerging strength in the Planning, Transport Services and Recreation and Sport divisions appears to be an emphasis on community engagement to inform the public about projects, and to consult and mitigate grievances at an early stage. DPTI's consideration of a whole of agency customer management tool (or 'enterprise platform') with capacity to coordinate complaints management, is an encouraging sign. There are sound agency-wide models and approaches to learn from other areas of the state government.

9. Department of Primary Industries and Regions SA

PIRSA is a key economic development agency in state government. It works across a diverse range of industry sectors including agriculture, livestock, forestry, fishing and aquaculture and regional development. PIRSA facilitates the application of innovative new technologies and provides research and development capability delivering innovation in the food, fibre and bioscience industries. As at November 2013, PIRSA employed approximately 846 FTEs across seven separate divisions. These include Agribusiness and Regions, Fisheries and Aquaculture, SA Research and Development Institute, Rural Solutions SA and Biosecurity SA.

<p><i>Enabling complaints</i></p>	<p>The PIRSA Customer Service Policy and Charter were endorsed by the agency in December 2013. The Charter applies across the agency and is now published on the PIRSA website. A stated objective of the Charter is for PIRSA divisions to use customer feedback to inform and implement continuous improvement in performance and service standards. It is described as 'a form of mission statement' and makes commitments on responsiveness, objectivity, charges (none), confidentiality and accountability. However, the document does not outline the agency's complaint handling process. By contrast, the 2007 PIRSA Fisheries Complaint and Dispute Reporting and Response procedure defines the complaint handling process and dispute investigation process for that division only. Most complaints are related to the application or enforcement of fisheries regulations and associated cost recovery issues. Biosecurity SA also receives complaints about compliance and enforcement issues e.g. fruit fly infestations. There is little data on other complaints received by PIRSA.</p>
<p><i>Responding to complaints</i></p>	<p>PIRSA indicates that complaints are often received as phone calls and are resolved while speaking to the complainant. The agency has monitoring and review systems in place for written complaints, including website and email complaints. There is provision for escalation to a senior manager for further investigation where a complainant is not satisfied. In recent times, many complaints have centred on matters of government policy, such as Marine Parks legislation. PIRSA reports that internal review processes (specifically in relation to funding decisions) are in place. The process ensures that the original decision makers are not responsible for reviewing these cases. The agency has provided examples of complaint outcomes, including evidence of appropriate remedies provided when complaints are sustained. These included offering explanations for action taken and occasional reversal of funding eligibility decisions.</p>
<p><i>Accountability and learning</i></p>	<p>Complaints data is not currently reported routinely to the PIRSA Executive. Reports are provided from divisions at the request of the Office of the Chief Executive. PIRSA has recently decided to put in place an annual summary report of complaints data to the Chief Executive which will then be provided to the Executive for consideration. The report will include information on the origin of the feedback, how matters have been handled and any action taken or changes made in response. Recommendations which can be fed into the agency's continuous improvement process and /or learnings that are applicable across the agency will also be included. PIRSA has identified several service improvement outcomes that have stemmed from complaints made to the agency. Most of these relate to fisheries regulation.</p>



Case study

Complaints made about Rock Lobster licence renewal notifications and fishing regulations

A number of complaints were received in relation to Rock Lobster licence renewal notifications. The timeframes used by PIRSA met statutory obligations, but due to an internal issue, notifications were dispatched to licensees later than usual for a particular year. In response to complaints, systems were put in place to make sure that timeframes for licence renewal met the customer's needs - not just the statutory obligations.

Complaints have also been received that there has been too much paperwork involved in complying with the complex legislative requirements for fishing. In response to this, PIRSA introduced electronic processes and mobile phone applications ('apps') to check on minimum fish dimensions, bag limits etc. These are now in regular use by the commercial fishing community.

Ombudsman comment

PIRSA's complaint handling system is fully developed in one division only: Fisheries and Aquaculture. Other divisions and PIRSA central are a work in progress in response to this audit and to the Service Excellence in the public sector 90 day project. However, PIRSA has indicated that it will consider adapting the Fisheries Complaint Handling Procedure for use across the agency. It is acknowledged that the diversity of services and customers dealt with by PIRSA must be considered in building a system to manage complaints across complex contractual arrangements, industry development and regulatory functions. Whilst the PIRSA Customer Service Charter strongly promotes a customer-oriented culture, it does not currently outline procedures for complaint handling. However, internal complaint reviews (statutory and non-statutory) appear to be robust and to attract appropriate senior management attention.

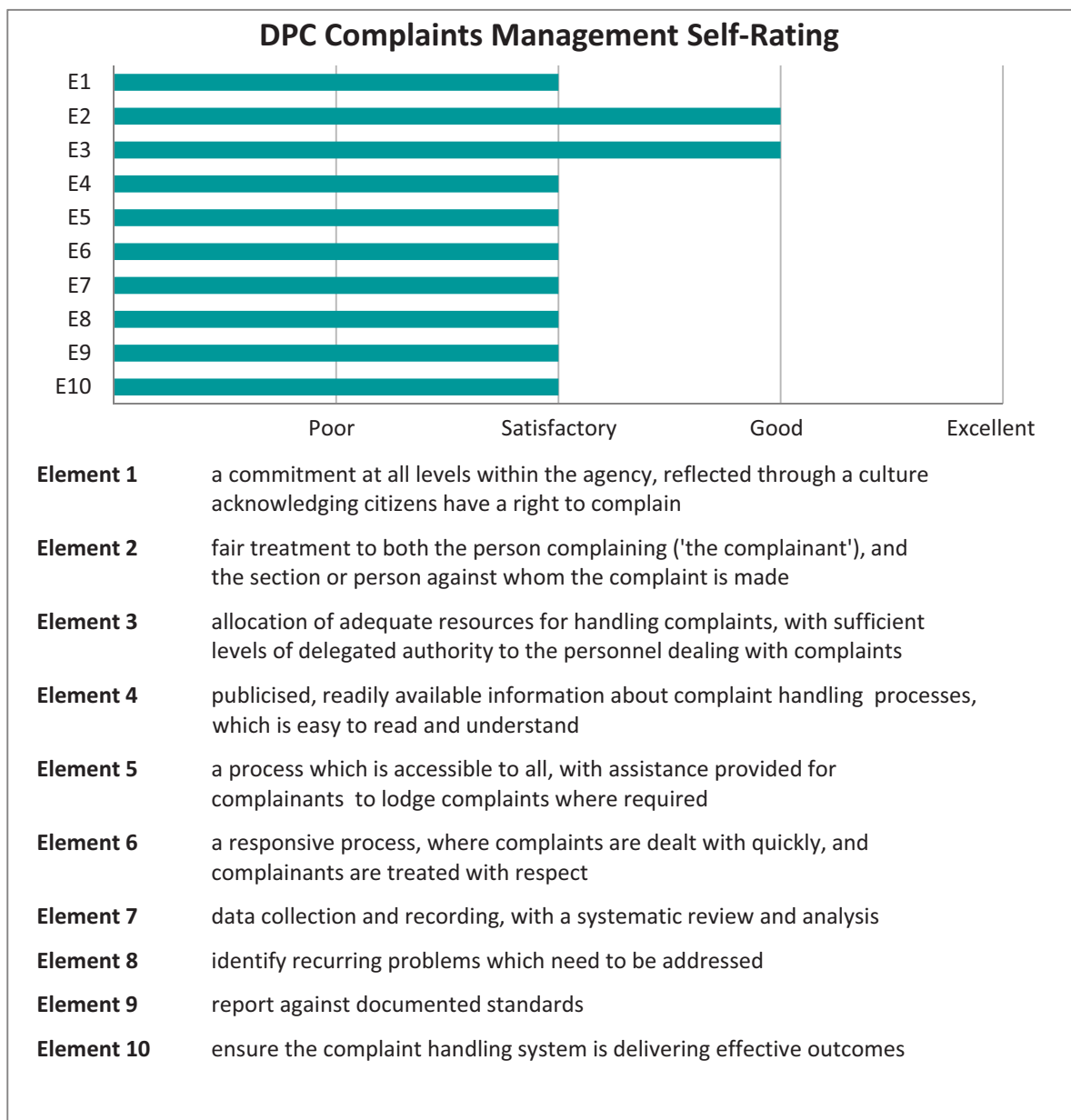
The proposed complaints annual summary report to the Chief Executive (to be considered by the PIRSA Executive), seems too infrequent to allow monitoring and assessment of complaints and to drive service improvement outcomes. Quarterly reports to the Chief Executive and to the PIRSA Executive would seem a more effective method to consolidate accountability and learning across the agency.

10. Department of the Premier and Cabinet

DPC provides central agency leadership and quality policy advice to the Executive and government more broadly to support the government's strategic priorities. DPC leads the implementation of the state's Strategic Plan and has overarching responsibility for federal-state relations. DPC works with agencies and other bodies to develop policies and deliver programs on a range of issues such as social inclusion, the arts, occupational health and safety and access to government records and preservation. As at June 2013, DPC employed approximately 2329 FTEs across eleven separate divisions. These included SafeWork SA, Arts and Cultural Affairs, Aboriginal Affairs and Reconciliation and the Government Services Group.⁴³

<p><i>Enabling complaints</i></p>	<p>Some DPC business units have a policy and/or procedure on complaint management but others do not. Aboriginal Affairs and Reconciliation acknowledged it provided no information on how to make a complaint. Arts SA provides information at its 'front counter'. SafeWork SA has implemented a Complaint Resolution Policy and Procedure aligned to the Australian Standard and has appointed a person to manage feedback and complaints. Internal and external review options are listed on notices issued by officers. Service SA has established a formal reporting and stakeholder engagement process to improve business outcomes through effective use of complaints data. DPC is now implementing a Service Excellence Framework which includes addressing customer feedback and complaints. Business units provide information on web sites. SafeWork SA provides a 1300 number to allow callers to access information and receive advice about issues including complaints and also social media for communication.</p>
<p><i>Responding to complaints</i></p>	<p>Aboriginal Affairs and Reconciliation treat all complaints as correspondence to be handled 'in confidence'. SafeWork SA receives both oral and formal written complaints. All complaints are systematically recorded and tracked through the complaints process. Some business units provide for decisions to be reviewed. SafeWork SA has an internal review mechanism but also recognises statutory reviews available in certain circumstances. DPC relies on the complainant contacting the relevant business unit and does not provide a separate review mechanism. There are no procedures for business units to conduct internal reviews. Service SA provides service under a delegation e.g. Registrar of Motor Vehicles, so reviews can be conducted by senior officers of the delegator or by senior Service SA officers. Service SA believes this area of its business could be improved.</p>
<p><i>Accountability and learning</i></p>	<p>SafeWork SA maintains an internal feedback register to inform management on various aspects of complaints and feedback received. Service SA receives reports identifying trends, policy complaint issues and service deficiencies. Both SafeWork SA and Service SA provide apologies to complainants when it is shown that there has been an error or delay by the business unit. Service SA also provides complainants with a summary of the findings and the actions being taken to remedy the problem. Service SA's front line managers are supported by the Service Recovery Unit in terms of advice and complaint escalation. DPC relies on the business units to analyse complaint outcomes. As a result, SafeWork SA and Service SA have identified service improvements, such as direct debit options for certain transactions and the issuing of consolidated invoices for multiple licences.</p>

⁴³ Machinery of Government changes have resulted in the transfer of some business units moving into the Department of State Development. SafeWork SA has moved to the Attorney-General's Department, and Arts SA and the Aboriginal Affairs and Reconciliation Division have moved to the Department for State Development.



Case Study

SafeWork SA change driven by criticism

SafeWork SA issued a business with a licence to manage the handling of explosives. The business lodged an application with a metropolitan council seeking development approval in relation to the storage of explosives within the council area. When the local community became aware the explosives were being stored in the general residential community there was a public outcry. Complaints were made against SafeWork SA for not informing the public that the business was licensed to store explosives in the area.

SafeWork SA has reflected on its process for handling the complaints and concluded that early mitigation action and an apology to residents would have avoided a protracted dispute. It has introduced a comprehensive community consultation process to inform the community about licensing applications prior to any application for development approval. This will enable the community to be heard on such matters at the earliest opportunity and for SafeWork SA to respond to community concerns at an early stage.

Ombudsman comment

DPC is comprised of a number of business units and there is no overarching policy or set of procedures to govern complaints management. The agency explains that this is because there are few complaints against the agency. However, some of the business units, for example, the Windmill Theatre (a public corporation) and SafeWork SA have developed complaint handling policies. DPC has a service charter that some business units subscribe to, but this does not deal with complaints. The development of a Complaint Resolution Policy and Procedure by SafeWork SA is a positive step to facilitate better management of complaints. It reflects the nature of the interaction between the unit, business and the community. Some business units acknowledged the importance of the proper management of complaints and considered that they responded to them appropriately. Nevertheless, they considered it was not necessary for them to provide a formal complaints policy or procedure.

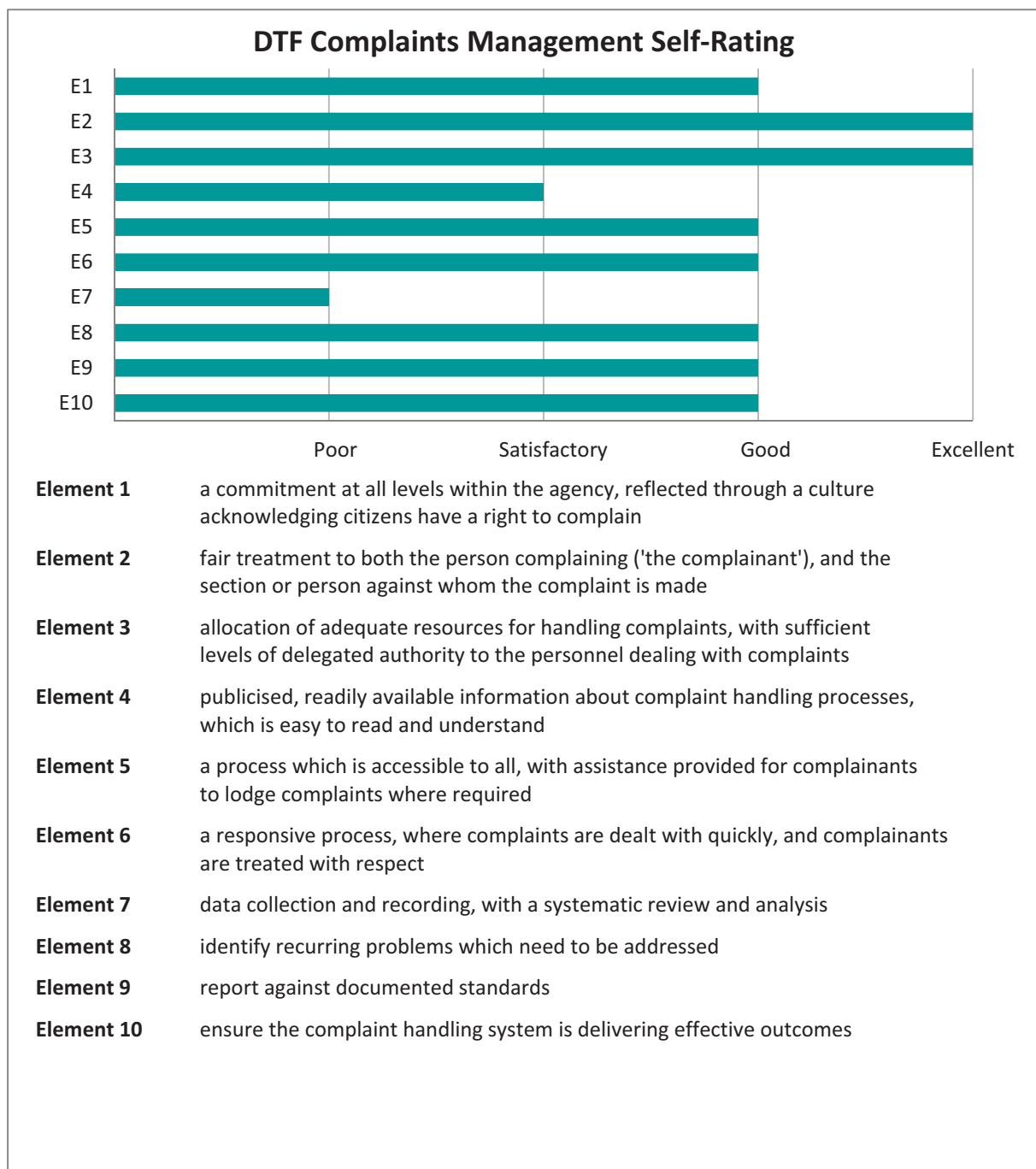
Service SA has an unusual role in providing a customer-facing service on behalf of the Department of Planning, Transport and Infrastructure and has engaged with customers and the agency to bring about improvements in customer service delivery. Implementation of an agency-wide policy should mandate 'fit for purpose' complaint handling procedures in discrete business units where no system is currently in place.

11. Department of Treasury and Finance

DTF is the lead agency for economic, social and financial policy outcomes. DTF ensures that the South Australian public sector is accountable in both policy and financial terms to the government of the day and provides economic and financial services to, and on behalf of, the state government. The agency manages taxation legislation, revenue collection and compliance systems and provides policy advice on taxation issues. DTF administers a range of public sector superannuation schemes and products through Super SA and taxation compliance through Revenue SA. As at November 2013, DTF employed approximately 694 FTEs.

<p><i>Enabling complaints</i></p>	<p>DTF has no agency-wide complaint handling policy and procedure. There are four business areas with direct public contact: Revenue SA, Super SA, Veterans SA⁴⁴ and the State Procurement Board. At the time of audit only Super SA had a complaint handling policy and procedure in place. In June 2014 Revenue SA updated its Service Standards to include a complaints management policy and complaints procedure. Super SA records all complaint details on an internal database of members. A physical copy of all complaint correspondence is maintained in official complaints files. There is an official complaints register which is updated daily by the Complaints Officer. Revenue SA publishes its Service Standards and the new complaints policy/procedure on its website. The procedure details the preferred first point of contact for resolution of a grievance and the escalation process if complainants are not satisfied with the initial response. Acknowledgement in writing, a complaints register and reporting arrangements are all succinctly explained.</p>
<p><i>Responding to complaints</i></p>	<p>Within Super SA a Complaints Officer is responsible for identifying a request for assistance or information when a written complaint is received. Where a complaint is identified as a request for information or assistance, the group leader or manager of the relevant team within Super SA is advised of the complaint and the matter is then reported and 'referred for action'. Super SA takes particular care with the investigation phase of complaint handling. The investigation may involve the Complaints Officer, subject matter experts, legal experts and executive staff as necessary to generate detailed responses to complaints. There is no formal internal review process available through Super SA or Revenue SA unless complaints are received through the Minister's office. In such cases a formal report is required.</p>
<p><i>Accountability and learning</i></p>	<p>Super SA internal reports address complaint volumes, service level standards, complaint statistics, complaint type allocation, challenges faced during the complaints process and business improvements made as a result of complaints. Super SA has quarterly volume and service level internal reporting requirements to the Super SA Board Executives. The Complaints Officer prepares an annual report for Executive Management, based on all data captured. Revenue SA has established six monthly reporting of numbers, types and resolution of complaints to the Commissioner of State Taxation and the Revenue SA Executive Group. DTF identified several service improvement outcomes that have stemmed from complaints. These include Super SA entitlement reforms and policy and procedural changes within Revenue SA prompted by the annual taxpayer survey.</p>

⁴⁴ By 1 July 2014, Veterans SA was transferred to the Department for Communities and Social Inclusion.



Case study

Super SA rule changes driven by member complaints

Consistent member concerns led to changes by the Super SA Board to policy covering release of death benefits to beneficiaries. The policy change allows Super SA to release death benefits to beneficiaries or the legal representative of a deceased member for balances up to \$15,000 (previously \$10,000) without the need for the applicant to produce Letters of Probate Administration.

On a related matter, Super SA has, since January 2012, acted on a number of concerns from members wanting to nominate a beneficiary on their account. Current legislation only allows the release of a deceased member's account to their surviving spouse or, in the case of no spouse, their estate. In response, the Minister for Finance has recently endorsed the Super SA Board's recommendation to implement a limited 'nomination of beneficiaries' regime.

Ombudsman comment

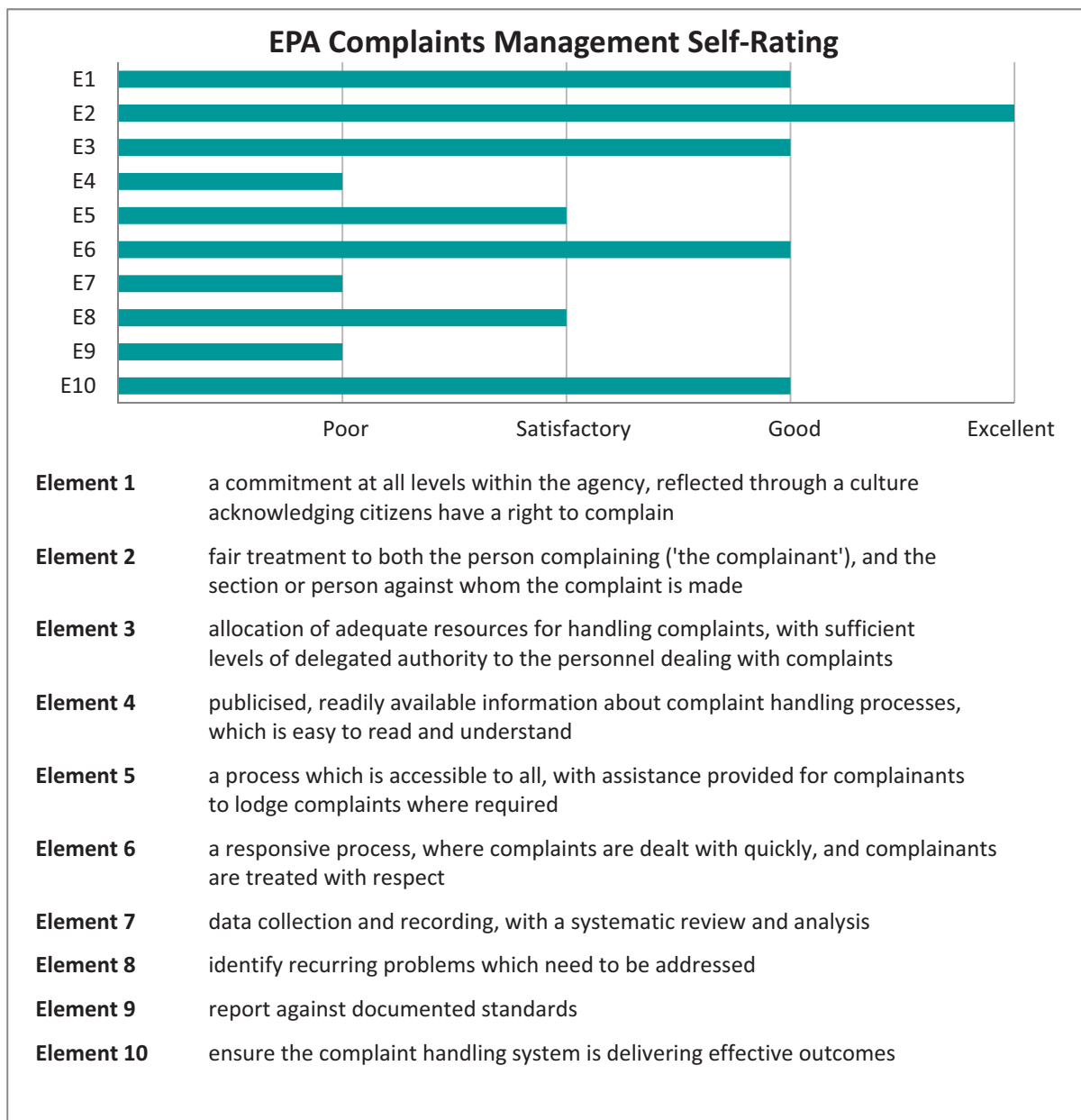
DTF has acknowledged that an agency-wide policy and standards approach to complaint handling is lacking and desirable. Of the four business areas with direct public contact, only Super SA has an established complaint handling policy in place. Super SA also has a detailed procedure for guiding staff through the steps necessary to achieve 'the required outcomes' - including capture of complaint information for reporting purposes. An excellent initiative is the Complaints Officer role to manage written complaints made to Super SA and to administer appeals to the Super SA Board. There is a clear line of accountability for complaints decision-making that rests with the Super SA Director, Governance Board and Corporate Support. As noted, Revenue SA has taken steps during the period of this audit to put in place and publish a comprehensive, easy to read complaints policy and procedure. This is intended to complement the existing processes for resolution of disputed assessments, formal objections and taxpayer appeals - and the annual taxpayer survey.

Notwithstanding the different approaches to complaint handling, both Super SA and Revenue SA can point to service improvement outcomes stemming from complaints. Both have also established ad hoc review mechanisms at the level of senior management. These have potential for improvement. DTF now has a solid foundation upon which to consolidate a best practice complaint handling system.

12. Environment Protection Authority

The EPA is the state's leading environment protection regulator and is responsible for the protection of air and water quality and the control of pollution, waste, noise and radiation. The EPA influences and regulates human activities in order to protect, enhance and restore the environment. The EPA has lead administration for three pieces of legislation: the *Environment Protection Act 1993*, the *Radiation Protection and Control Act 1982* and the *Plastic Shopping Bags (Waste Avoidance) Act 2008*. As a regulatory body, the EPA has powers to set and enforce standards and requirements that industry, businesses and individuals must comply with. The aim is to ensure that all reasonable and practicable measures are taken to protect and restore the quality of the environment. As at November 2013, the EPA employed approximately 215 FTEs.

<p><i>Enabling complaints</i></p>	<p>The EPA Complaints Management Policy (IOP 051) says the agency 'welcomes feedback, including complaints, about our operations or services'. It recognises that complaints present opportunities for improvement. However, the policy is not on the website and is not referred to under the 'Dispute resolution' section of the agency <i>Compliance and Enforcement</i> brochure. It is marked as an 'internal' document and distinguishes between front line/formal/serious complaints. There is some emphasis in the document on management of 'habitual or vexatious complainants'. Complainants deemed to be in these categories may be required to write to the Chief Executive explaining why their complaint has merit and should be investigated. Complaint 'review mechanisms' are addressed in the policy but are not explained. Email complaints are accepted, but the EPA does not currently have an on-line form for complaints on its website.</p>
<p><i>Responding to complaints</i></p>	<p>The agency recorded only two complaints in 2012-13. Both related to staff conduct. By contrast the agency attracts 15,000 contacts per year on environmental matters (noise, dust, site contamination, waste and re-cycling, air quality, dump hazards etc.) These calls are taken by an outsourced call centre using the CARES data base. Many are inquiries, as distinct from complaints to the EPA. When the EPA does deal with complaints about its services, the responsibility is shared between the coordinating officer, the relevant manager (if not directly involved in the complaint) the Chief of Staff and the Deputy Chief Executive. The Chief Executive is informed about any decision to undertake an investigation and is responsible for the final sign-off. The small number of official complaints has not provided a core body of information to enable the EPA to ascertain trends and patterns for reporting purposes. The agency provided information on responses to the two formal complaints handled in 2012-13. One letter apologised to a complainant for the conduct of an EPA officer.</p>
<p><i>Accountability and learning</i></p>	<p>Complaints made to the EPA about the EPA are not analysed by the agency in any systematic way. The agency has acknowledged that it will review internal complaint handling policy in the context of a wider review of policy management. This should include an overhaul of records management systems and data capture of complaints resolved by staff at the point of contact. The agency is currently drafting a Customer Service Charter as part of the broader program <i>EPASat</i>. This is an ongoing series of regular, integrated meetings that use data to analyse the type and level of results that the EPA is producing to identify policies and practices for service improvement. A recent outcome of the <i>EPASat</i> analysis is the awareness that complaints record keeping is inadequate and that there have been inconsistent responses to complaints made to the EPA. The analysis specifically relates to the EPA's role as a regulating authority.</p>



Case study

Staged response to 'local nuisance' complaints

The handling of 'local nuisance' complaints from householders and small businesses (people noise, animal noise, licenced premises, neighbourhood machine noise, construction noise etc) has long been an issue in the community, with local government and within the EPA. A review of the agency's responses to these complaints led to implementation of the EPA's 'staged response' process. These complaints are made to the EPA in its role as a regulating authority.

The process involves a triage assessment of the potential severity of the compliance breach. Responses may range from a cautionary advice and formal warning to court action which may result in a significant fine. If a matter escalates, the EPA draws upon specialist advice and, where necessary, contacts emergency services, police or fire services. Warnings, expiation notices and environment protection orders are available as compliance tools.

The staged response approach is consistent with the EPA's harms-based and problem solving approach to environmental regulation. The staged response has been highly effective in faster resolution of local nuisance complaints and contributes to an enhanced understanding of the role of the EPA in the community.

Ombudsman comment

The EPA has considerable work to do to improve its complaint handling systems and responses. Whilst there is evidence that the EPA is investing in policy and management reviews and has prioritised development of a Customer Service Charter, the agency needs to take account of its shortcomings in complaint management information systems. The absence of the internal Complaints Management Policy on the EPA website is acknowledged by the agency as an oversight that needs to be corrected. Staff training (including authorised officer training) and EPA Executive monitoring of complaints are also identified as important reforms by the agency.

It is acknowledged that the EPA has recently undertaken a comprehensive Stakeholder Initial Engagement Satisfaction Survey that recorded over 1000 customer responses over a three month period. Whilst customer satisfaction surveys can be a useful guide to call centre performance, they are not a good substitute for an efficient system of complaint data capture, complaint handling analysis and agency service improvement learning.

Conclusions

141. This audit has revealed a range of strengths and weaknesses in the complaint handling systems of the agencies audited. Whilst my inquiries found weaknesses at the whole of agency level, there were good practices evident in many agency divisions and statutory authorities.
142. Openness and transparency in government is the key to achieving the trust and confidence of the public as they seek access to information and services. By extension, an agency that considers the people it serves and its own reputation will be committed to good complaint handling. It will have a culture that recognises the value of complaints and that requires all staff to be committed to complaint resolution.⁴⁵
143. The state government has recently released a blueprint for a ‘modern and capable public sector that works with citizens, business and communities to deliver results for South Australia’.⁴⁶ The draft Charter of Public Service Guarantee is part of that commitment to better service delivery. There is a welcome emphasis in the draft document on the development of easy-to-use complaints processes across government. The key objectives are: speedy resolution of grievances; allowing people to be kept informed of the progress of their complaint; and providing reasons for decisions.
144. During the course of this audit, the Health and Community Services Complaints Commissioner was consulted about his experience with three of the audit agencies that can fall within his jurisdiction. The Commissioner made some salient points that should be highlighted in this context. He drew attention to the strength and sophistication of complaint handling in the health system driven by national standards and ‘real data reporting’. He warned that under-reporting is occurring in some disability care settings because of consumer fear of retribution if complaints are made. He also noted the significant under-representation of complaints from Aboriginal and Torres Strait Islander people in health and community services, especially in the child protection and disability environment. This is also the case with Ombudsman SA.
145. These comments are a reminder of the challenges still before us in the movement towards better public sector complaint handling. Similarly, there are concerns that the renewed emphasis on better complaint handling in agencies may be compromised if resource constraints impede complaint handling system development. If this is so, there is a potential risk that complaint handling may be seen as an optional extra. For this reason, it is important that there be an ongoing systems monitoring role for the Senior Management Council under the leadership of the Department of the Premier and Cabinet.

RECOMMENDATION 5

That, commencing by 1 July 2015, the Senior Management Council of agency Chief Executives conduct an annual assessment of agency complaint management systems. The assessment should ensure ongoing compliance with the Department of the Premier and Cabinet Circular on complaints management and annual reporting requirements. It should also be seen as an opportunity for agencies to share information and learning on significant complaint handling experiences and resource allocation issues.

⁴⁵ Commonwealth Ombudsman - *Better Practice Guide to Complaint Handling*, 2009, p5.

⁴⁶ Building a Stronger South Australia *op. cit.* p2.



STATE GOVERNMENT AGENCY COMPLAINT HANDLING

AUDIT SURVEY QUESTIONNAIRE

As part of its administrative improvement role, Ombudsman SA is undertaking an audit of 12 state government agencies within the jurisdiction of the Ombudsman.

Section 14A (1) of the *Ombudsman Act 1972* provides:

If the Ombudsman considers it to be in the public interest to do so, the Ombudsman may conduct a review of the administrative practices and procedures of an agency to which this Act applies.

The purpose of the audit is to identify and assess complaint handling approaches across state government agencies and make suggestions for improvement.

In preparing this survey, it is recognised that agencies and units within their administrative framework will have a 'fit for purpose' approach to complaint handling i.e. a system that fits the agency's business and is relevant to the number and types of complaints it receives.

Note on scope: Complaint handling here refers here to general complaints made by members of the public about government responsiveness, service delivery and administrative decision making. It does not include complaints made about government Ministers or their offices, or complaints from an agency's internal customers or other public sector bodies serviced by the agency are also not included.

This document commences the audit process. A report will be prepared for general feedback to agencies and possible publication.

Agency name.....

Agency documents required (please enclose hard copies and check box for inclusion):

- complaint handling policy
- complaint handling procedures or guidelines
- customer service charter or similar
- most recent internal report of complaint handling activities within the agency
- most recent public report of complaint handling activities within the agency
- numbers of complaints received and numbers upheld (in part or in full) in the financial year 2012-2013

(Please tick the relevant multiple choice boxes, add comments and additional material)

PART A: AGENCY INFORMATION

1. Please indicate the principal roles and functions of the agency as defined in policy and legislation.

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2. Please estimate the number of FTEs within the agency as at November 2013.

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3. Please list below the names of all discrete units with a business or administrative function within, or attached to, the agency. (OPTION: complaint handling material from sub-agencies is welcome but not required)

	agency unit/other authority
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

PART B: POLICIES AND PROCEDURES

4. Does your agency have an organisational policy in place for complaint handling?

- yes
 no

5. Does your agency have a procedure or guideline in place for managing complaints?

- yes
 no

6. Does your agency have a customer service charter or similar which is made available to the public?

- yes
- no

7. Does the charter advise people how to make a complaint?

- yes
- no
- n/a

8. If **yes** to question 4, 5 or 6, does the policy/procedure/charter recognise the Australian Standard for complaints handling (i.e. AS ISO 100002-2006)?

- yes
- no

9. Please indicate if an alternative standard or guideline is used by your agency.

10. Please indicate how frequently your policy/procedure /charter (please specify) is reviewed.

Our policy/procedure/charter is reviewed:

- annually
- biannually
- not reviewed
- other (please specify)

PART C: THE COMPLAINT HANDLING SYSTEM

11. How are members of the public told how to make a complaint about the agency?
(please tick all relevant boxes)

- web page
- brochure
- front counter
- sign in public area
- advertised 'hotline' to call
- feedback/complaint form
- published name of contact person

12. Complaint information can provide a picture of weaknesses in existing programs, policies and service and program delivery. Does your agency keep a record of:

oral complaints:

- yes
- no

written complaints (including emails):

- yes
- no

online complaints:

- yes
- no

If yes, please briefly describe your record keeping practices.

--

13. Does your agency have a process in place for 1) monitoring and 2) review of complaints and complaint handling practices for service improvement purposes?

1. monitoring

- yes
- no

2. review

- yes
- no

If yes, please briefly describe how your process works.

1. monitoring:
2. review:

PART D: SYSTEMS AND STAFF MANAGEMENT

14. Please describe how your agency manages and sorts out requests for assistance and/or information - as distinct from handling complaints.

15. Who takes responsibility for managing and making decisions on complaint handling in your agency? (please indicate position held)

16. Does your agency have a practice in place for reporting on complaint handling issues (e.g. reports to management group and/or annual reporting practice)?

- yes
 no

If yes, please describe how it works.

17. Is any training provided to staff in your agency to support complaint handling practices?

- yes
- no

If yes, what is it and who receives it?

18. Do any job and person specification documents in your agency (including executive employment contracts) identify responsibility for complaint handling?

- yes
- no

If yes, please indicate which ones (or enclose copies as appropriate)

19. If your agency has no formal complaint handling policy or procedure in place, please briefly outline below (or on an attachment) how you deal with complaints from members of the public about employees, services, facilities or other decisions affecting them.

PART E: SELF-ASSESSMENT: AREAS OF STRENGTH AND WEAKNESS

20. Overall, what do you think your agency does well in its complaint handling?

21. What do you think could be improved?

22. Are there any major obstacles to achieving improvements?

23. Is there any aspect of your complaint management that you consider to be best practice or particularly innovative that could be more broadly adopted across government? For example, solutions that address particular challenges in public administration.

PART F: AGENCY CONTACT & SIGN OFF

Please attach any other documents you believe are useful for the Ombudsman to understand the complaint handling policies, procedures or practices in your agency.

Additional information may include, for example, a relevant summary 'case study' of a recent complaint handling experience.

Please nominate a senior officer for follow-up contact and discussion with Ombudsman SA on matters arising from this survey.

Name.....

Telephone.....

Email.....

Chief Executive (for survey sign-off)

Name.....

Signature.....

Date.....

*Please return to Ombudsman SA, 5th floor, East Wing, 50 Grenfell Street, Adelaide SA 5000
- by cob Friday 20 December 2013.*



PUBLIC SECTOR COMMISSIONER'S CIRCULAR

Enquiries To: 9220 7555
Ombudsman Western Australia

Number: 2009-27
Issue Date: 11 March 2004
Review Date: November 2017

Supersedes: Premier's Circular 2004/04

TITLE: COMPLAINTS MANAGEMENT

POLICY

To promote effective complaints management across the sector all agencies are required to:

- have in place a complaints management system that conforms to the principles of the Australian Standard on Complaints Handling (AS ISO 10002); and
- have a direct link on the front page of their website to information assisting people to make a complaint about that agency (those agencies with websites).
- where complaints remain unresolved at the agency level, refer people to appropriate external bodies such as the Ombudsman.

Agencies are required to review their complaints management processes against AS ISO 10002-2006 and determine what action is needed to meet or exceed the Standard.

POLICY OBJECTIVES

These requirements form part of a broader strategy designed to increase:

- community access to complaints mechanisms;
- community knowledge of complaints mechanisms and what to expect regarding complaints procedures;
- capacity of agencies to meet an appropriate standard of complaints management, including suitable commitment and resources; and
- monitoring and evaluation of complaints processes and data received by agencies to ensure service delivery improvement.

APPLICABILITY OF POLICY

The policy is relevant to goods and services provided by all WA State Government agencies covered by the *Public Sector Management Act 1994*, that is, excluding those listed in Schedule 1 to the Act, unless expressly endorsed by Cabinet.

Certain matters are not considered complaints under this system, such as matters of administrative law, appeal decisions and judicial decisions. Nor is it intended to include complaint-handling processes that are an agency's core function, for example, consumer complaints lodged with the Department of Commerce, although complaints concerning the way in which the agency exercises that particular function would be within the scope of this policy.

IMPLEMENTATION TOOLS

AS ISO 1002-2006 can be purchased from SAI Global Limited at:

<http://www.saiglobal.com/shop>

Address: GPO Box 5420
SYDNEY NSW 2001

Telephone: 131 242

Fax: 1300 65 49 49

There is a Western Australian Government complaints information page for members of the public at <http://wa.gov.au/content/complaints>.

The Ombudsman Western Australia's website contains a suite of tools to assist agencies with their complaint handling role at www.ombudsman.wa.gov.au/Agencies/Agencies.htm

M C Wauchope
PUBLIC SECTOR COMMISSIONER

Other relevant Public Sector Commissioner's Circulars:	n/a
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The NSW Ombudsman's Complaint Handler's Tool Kit (2013) identifies the essential features of an effective complaint handling system.⁴⁷

The Tool Kit was originally prepared as an informative guide for:

- public sector agencies
- public officials
- members of the public

According to the Tool Kit, good complaint handling systems provide at least three tiers of complaint management:

Tier 1: Frontline Complaint Handling

- Complaints should be registered and resolution attempted by frontline staff
- Staff should be empowered with clear delegations to resolve complaints wherever possible at first contact
- Staff should log complaints and outcomes for later analysis

Tier 2: Internal Review or Investigation

- If the customer is still dissatisfied, unresolved complaints should be reviewed or investigated by more senior staff, or a designated complaint officer, who will consider options such as mediation, conciliation or negotiation

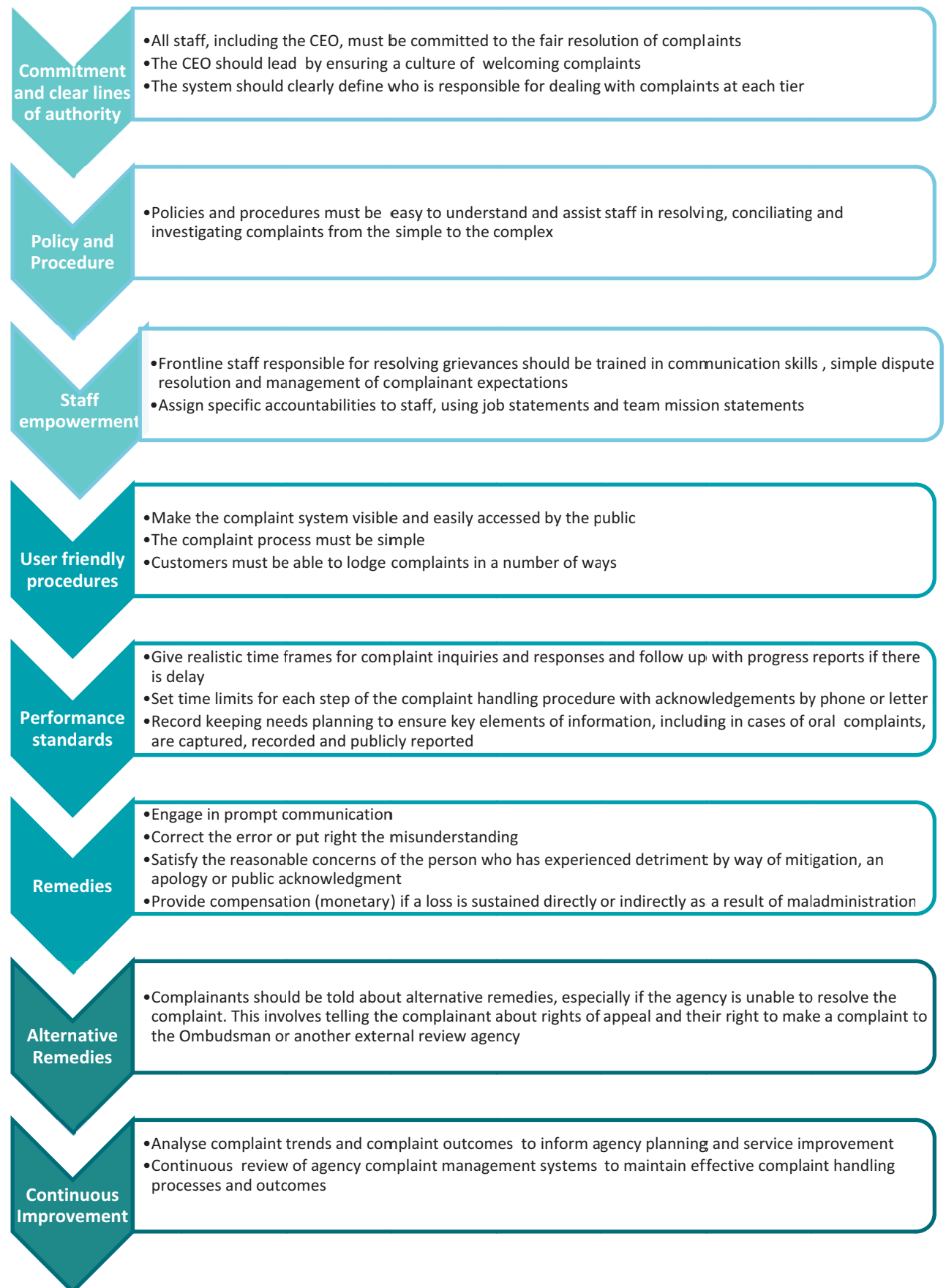
Tier 3: External Review

Complaints that are not resolved internally may be dealt with by:

- referring the complaint to an external agency (eg Ombudsman)
- an alternative dispute resolution procedure (eg mediation)
- informing the complainant of appeal procedures or other legal remedies

⁴⁷ For further detail see also Appendix H: 'Three Level Model of Complaint Handling' published in *Guidelines for complaints management in organisations* (AS/NZS 10002-2014). Standards Australia, pp.35-37.

Essential Features of an Effective Complaint Handling System⁴⁸



⁴⁸ Ombudsman SA 2014, adapted from NSW Ombudsman Complaint Handler's Tool Kit - versions 2004 and 2013.



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