



OmbudsmanSA

# 2022- 2023 ANNUAL REPORT

# What does Ombudsman SA do?

Ombudsman SA investigates complaints about South Australian government and local government agencies under the *Ombudsman Act 1972* as well as complaints about breaches of the service standards under the *Return to Work Act 2014*. Ombudsman SA also conducts Freedom of Information reviews and receives reports and complaints about misconduct and maladministration in public administration.

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

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

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

Level 8  
95 Grenfell Street  
Adelaide SA 5000

Telephone: 08 8226 8699  
Toll free (outside metro area): 1800 182 150  
9.00am - 4.30pm, Monday to Friday

[www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)



Ombudsman SA acknowledges Aboriginal people as the first Australians. We pay our respects to them and their cultures, and to their Elders past, present and future.

---

Cultural diversity | Respect | Inclusiveness

OFFICIAL

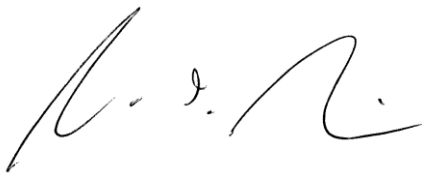


Hon Terry Stephens MLC  
President  
Legislative Council  
Parliament House  
ADELAIDE SA 5000

Hon Dan Cregan MP  
Speaker  
House of Assembly  
Parliament House  
ADELAIDE SA 5000

Hon Kyam Maher MLC  
Attorney-General  
GPO Box 464  
ADELAIDE SA 5001

It is my duty and privilege to submit the South Australian Ombudsman's Annual Report for 2022-23 to the Parliament, as required by section 29(1) of the *Ombudsman Act 1972*.



Wayne Lines  
SA OMBUDSMAN

27 September 2023

# Contents

Introduction .....	1
Introduction .....	2
Year highlights .....	3
Complaints and investigations .....	4
Ombudsman Act Jurisdiction .....	5
Misconduct and Maladministration .....	14
Return to Work Act Jurisdiction .....	17
Recommendations .....	21
Audits .....	25
Freedom of Information Act jurisdiction .....	29
Other activities .....	35
About Ombudsman SA .....	44
Summary data .....	51
Ombudsman Act Jurisdiction .....	52
FOI Act Jurisdiction .....	63
Appendices .....	68
Appendix A: Description of outcomes.....	69
Appendix B: Description of outcomes: RTW Act jurisdiction .....	72
Appendix C: Description of outcomes: FOI Act jurisdiction .....	74



# Introduction

# Introduction

The last few years have presented my Office with a number of challenges. Firstly, there was a sudden surge of complaints related to the COVID-19 pandemic restrictions. At the same time we received a record number of Freedom of Information external review requests. Then, in late 2021, Parliament enacted changes to my jurisdiction with very little warning, resulting in new responsibilities and a dramatic increase in complaints and reports about misconduct and maladministration in public administration. We had to play 'catch up' with our data system, case flow processes and recruiting additional staff in a short period of time. The previous reporting year saw the Office complete a record number of complaints and Freedom of Information external reviews as well as take in a record number of misconduct and maladministration complaints and reports.

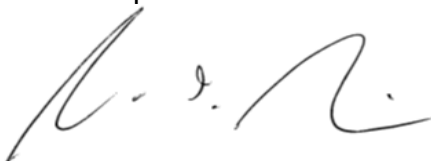
This year, the volume of work has settled to a degree. Although the amount of work coming in is still higher than in pre-COVID-19 times, we have been able to accommodate it and have been able to reduce the backlog of cases that built up over the last two years. I am pleased to be able to report that as at 30 June 2023, we have only two files that have been open for more than 12 months and all of our current Freedom of Information external reviews are less than 4 months old. In terms of a backlog, that is the best position my Office has been in since my appointment in December 2014.

With the amendments to the Ombudsman Act in October 2021, my Office was given a new function: *to conduct or facilitate the conduct of educational programs or the publication or distribution of educational materials designed to prevent or minimise misconduct and maladministration in public administration*. While grappling with the influx of complaints that occurred soon after the amendments, we have steadily worked towards developing an educational program in line with this new function. This has primarily been in the form of conducting information sessions with various agencies and interested organisations. However, the resourcing for this function is limited and it will take more time to establish a fully developed program that includes formats such as webinars, animated videos and online materials.

I extend my thanks and appreciation to my hardworking staff who always uphold the highest standards of integrity and professionalism and produce outstanding work.

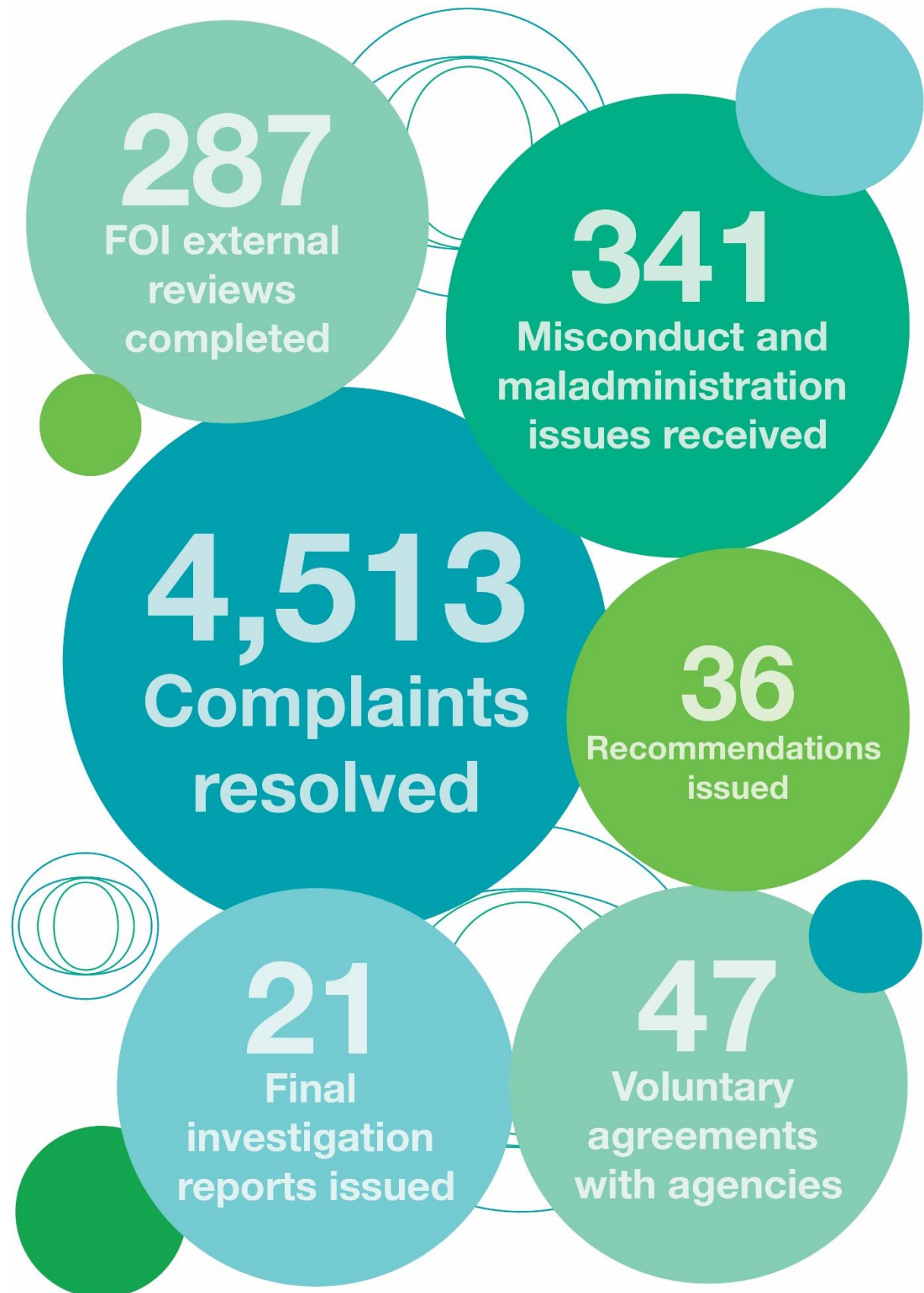
Having announced that I will retire on 31 December 2023, this is my last annual report. I can say whole heartedly that it has been an absolute honour to have served as the State's Ombudsman for the last nine years. I am enormously grateful to the parliament for entrusting me with this important Office.

It is my privilege to submit this report of the work of my Office in 2022-23 to the South Australian parliament.



Wayne Lines  
SA Ombudsman

## Year highlights





# Complaints and investigations



# Ombudsman Act Jurisdiction

Under the *Ombudsman Act 1972* (the Ombudsman Act), I receive, assess and investigate or otherwise deal with:

- complaints about public administration (i.e. 'administrative acts' by relevant agencies)
- complaints and reports about misconduct by public officers
- complaints and reports about maladministration by public officers and public authorities.

I must investigate matters within my jurisdiction which are referred to me by Parliament.

I can also conduct investigations on my own initiative.

Relevant agencies and public authorities include state government departments and authorities, universities and local government councils.

Limits on my complaint-handling include:

- a complainant must be directly affected by a relevant administrative act
- generally, a complaint must be made within 12 months of the complainant becoming aware of the matter (although I have discretion)
- generally, I do not investigate where the complainant has a statutory right of review, or legal remedy (although I have discretion)
- there needs to be a relevant administrative act (i.e. as opposed to a general policy, for example).

Those limits do not apply to reports by public officers about misconduct and maladministration.

In deciding whether to investigate a matter, I consider the public interest and the improvement of public administration. I have regard to the following factors:

- does the alleged administrative error amount to a serious failure to meet expected standards of public administration?
- is the complaint about matters of serious concern and benefit to the public rather than simply an individual's interest?
- is there evidence of ongoing systemic failure in public administration?
- are the circumstances of the complaint likely to arise again?
- is the complaint about an error of process?
- is the complaint about failures of ethical and transparent management?
- does the complaint relate to matters of public safety and security, the economic well-being of South Australia, the protection of public well-being, the protection of human rights or the rights and freedoms of citizens?
- has the complainant suffered significant personal loss or is the complainant in vulnerable circumstances?
- would investigation of the complaint be likely to lead to meaningful outcomes for the complainant and/or to improvement of public administration?
- has another review body considered the matter or is another body more appropriate for reviewing the matter?
- what is the likelihood of collecting sufficient evidence to support a finding of administrative error?
- would investigation of the complaint involve effort and resources that are proportionate to the seriousness of the matter?

Section 25(2) of the Ombudsman Act gives me broad power to make recommendations to an agency or public authority once an investigation is completed. I may recommend, for example, that:

- action is taken to rectify or mitigate the effects of an error
- a practice is varied
- legislation is amended
- disciplinary action is taken in relation to misconduct.

## Ombudsman Act complaints received and completed

This year my Office received 4,401 complaints, a decrease from the 5,062 complaints received in the previous financial year. This difference can be attributed to the significant reduction in COVID-19 related complaints I received, from 864 complaints received in 2021-22 to 44 in 2022-23. Despite this, my Office continues to see an upward trend in complaints, receiving more complaints in 2022-23 than it did in 2020-21.

My Office completed 4,513 matters this year. A decrease from the 4,948 matters completed last year, it nonetheless represents more matters closed than were received in the 2022-23 year, and reflects the work my Office has done to address its backlog of matters.

I issued 21 formal investigation reports during the year. In accordance with section 26 of the Ombudsman Act, I have published the report or a summary statement online when I have formed the opinion that it is in the public interest to do so. The published decisions can be found on the Ombudsman SA website at:

<https://www.ombudsman.sa.gov.au/publications/investigation-reports>

As discussed further below, a number of matters were also resolved through early resolution, with the cooperation of the parties.

The past year saw a decrease in matters received about government departments (2,674 compared with 3,450 in 2021-22), which correlates with the decrease in COVID-19-related complaints. I have, however, seen a notable increase in matters about local government (1,023 up from 921). I discuss local government matters further below. There has also been a small increase (704 up from 691) in matters about other public authorities.

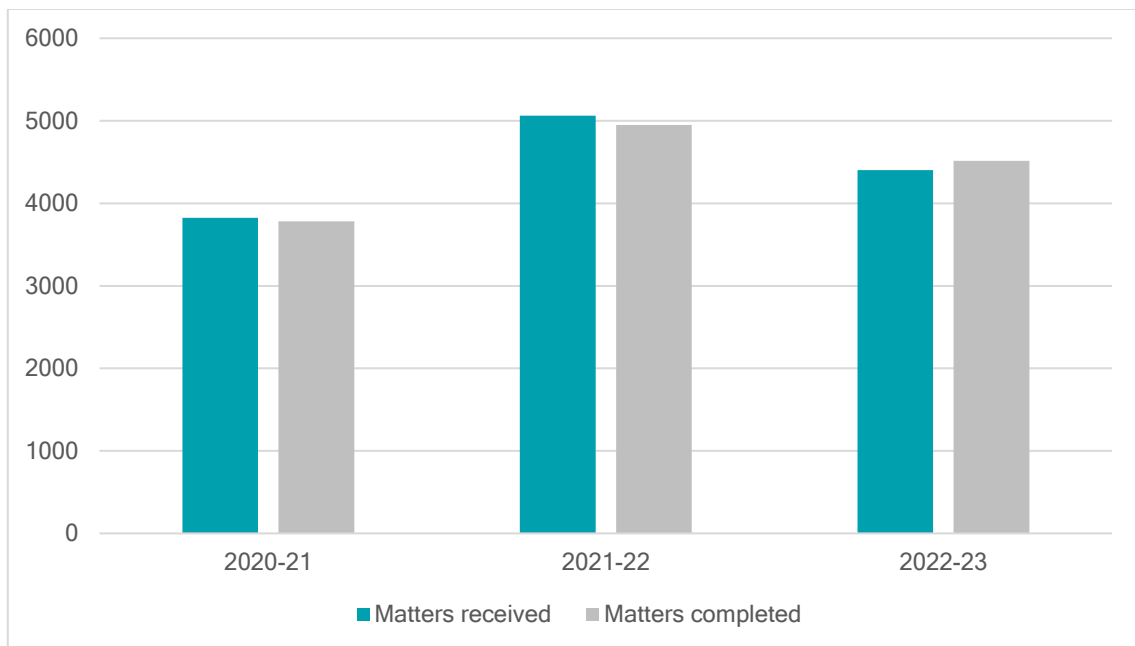
### Matters received and completed in 2022-23

	Received	Completed
Government Departments	2,674	2,737
Local Government	1,023	1,039
Other Authorities	704	737
<b>Total</b>	<b>4,401</b>	<b>4,513</b>

### Breakdown of matters received and completed by year

OMBUDSMAN ACT JURISDICTION	2020-21				2021-22				2022-23			
	Government Departments	Local Government	Other Authorities	Total	Government Departments	Local Government	Other Authorities	Total	Government Departments	Local Government	Other Authorities	Total
Matters received	2,351	892	582	3,825	3,450	921	691	5,062	2,674	1,023	704	4,401
Matters completed	2,341	851	588	3,780	3,406	893	649	4,948	2,737	1,039	737	4,513
Audits completed	1	0	1	2	1	0	0	1	1	0	0	1

### Matters received and completed by year



## Complaints from prisoners

While complaints from prisoners continue to constitute a significant proportion of complaints made to my Office, they have decreased significantly this reporting year (571 compared to 721 in 2021-22). The Department for Correctional Services has continued to demonstrate a capacity to respond effectively to complaints so that it has not been necessary for my Office to commence an investigation of any complaints from prisoners this year. For the most part, whenever I have had concerns about potential systemic issues, I have raised these with the department and received satisfactory responses.

### Complaints received by prison in 2022-23

Prison	Total
Adelaide Pre-Release Centre	5
Adelaide Remand Centre	82
Adelaide Women's Prison	70
Cadell Training Centre	14
James Nash House	1
Mobilong Prison	46
Mount Gambier Prison	95
Port Augusta Prison	52
Port Lincoln Prison	16
Yatala Labour Prison	190
<b>Total</b>	<b>571</b>

## Complaints and reports about local government

My Office received 1,023 matters concerning local government this year, an increase on last year. While many matters related to the provision of services by councils, a substantial number (127) involved allegations of misconduct and maladministration.

Changes during the year to the *Local Government Act 1999* have amended my jurisdiction and the obligations upon elected members. I now have jurisdiction to consider matters involving a contravention of, or a failure to comply with, an integrity provision in the Local Government Act by a member of a council. This has replaced the former Code of Conduct for Council Members and incorporates integrity provisions for elected members directly into the Local Government Act (integrity provisions are also to be found in regulation 7 of the *Local Government (General) Regulations 2013*). The amendments changed the description of some conflicts of interests for elected members, with the creation of a category of general conflicts of interest replacing the previous actual and perceived conflicts of interest.

The outcomes enumerated at section 263B of the Local Government Act, available to me on the conclusion of an investigation, have also changed: I can now make recommendations requiring a member to take certain action, such as issuing a public apology, in addition to recommendations requiring action of a council, including to suspend the member from any office under the Act for up to 3 months.

I note, too, that avenues for addressing behavioural issues and breaches of health and safety duties have also been incorporated into the Local Government Act, and that complaints alleging misbehaviour, repeated misbehaviour, or serious misbehaviour by a member of a council can now be referred to the Behavioural Standards Panel. While my Office continues to receive complaints and reports about the behaviour and health and safety duties of elected members, with time and further education I anticipate that the appropriate pathways for dealing with these will be clearer to complainants and reporters.

Local government matters constituted the majority of the investigation reports I published this year. Many of these concerned issues of misconduct or maladministration, as well as issues arising from my jurisdiction under the Local Government Act. Following are some examples of local government matters dealt with by my Office:

### **Maladministration and administrative error by a council**

I commenced an own initiative investigation into whether actions taken by a council in response to an investigation of its Chief Executive Officer (CEO) amounted to maladministration and/or were otherwise in error. Following allegations about the CEO's conduct, the council engaged a legal firm to investigate the CEO's behaviour. I investigated the council's response to the allegations with a particular focus on the council's response to the investigation, the subsequent decision to offer the CEO an ongoing pay increase, and the process the council followed for the reappointment of the CEO to their position.

I concluded that the council's decision to offer the CEO an ongoing pay increase constituted maladministration under the Ombudsman Act. I determined that the council's decision, the reason for which was unclear but that seemed to be in part because the CEO had undertaken additional duties, had resulted in a substantial mismanagement of public resources. My reasons for this included that the CEO had not continued to perform the additional duties for which the pay increase was, apparently, initially awarded, and the public did not gain any particular benefit from the expenditure continuing. I also concluded that the council's actions in response to the law firm's investigation of the CEO's conduct, and the process followed by the council for the reappointment of the CEO position, amounted to errors under the Ombudsman Act. My recommendations included a requirement that the council members and new CEO undertake training regarding misconduct and maladministration.

### **Investigation of employee recognition practices at a council**

This matter was an own initiative investigation of a local council's employee recognition practices, which included a biennial employee recognition function, employee service awards, staff incentive scheme, and retirement gifts. I concluded that the council had committed maladministration by holding employee recognition events and giving gifts to its employees, as the amount spent was excessive, inappropriate, and did not benefit the public. I made recommendations that the council cease the employee recognition practices and review its Human Resource Management Manual to remove or vary reference to its employee recognition practices. Mindful that my investigations and assessments can serve an educative function beyond the parties that are directly affected, a redacted version of the final report in this matter was sent to all councils, for their consideration and instruction.

### **Early resolution of a matter involving an elected member's alleged conflict of interest**

It was alleged that an elected member had failed to declare and manage a material conflict of interest in a matter involving behaviour by a fellow councillor that affected them personally. Having formed a preliminary view that the elected member may have had a general, rather than material, conflict of interest, I proposed an early resolution of the matter by way of the member giving an unqualified public apology. Initially, the elected member was resistant to our assessment and my proposed resolution, but chose to give a public apology following further engagement by my Office in writing and over the phone. Matters such as this illustrate how an early resolution approach may produce a meaningful result in the alternative to an investigation, both in educating individual elected members serving to remind elected members generally of their obligations under the Act.

## Early resolution

During the year, my Office dealt with 1,434 approaches relating to matters outside of my jurisdiction and responded to 716 general enquiries. These are usually dealt with on the same day or shortly afterwards.

About 99% of all complaints received are resolved during the assessment stage. The majority (79%) are completed within 14 days. The average period of completion at assessment is 19 days.

165 complaints were resolved with the co-operation of the agency. The following case studies provide examples of the significant outcomes achieved through early resolution of complaints by obtaining the agencies' co-operation.

### Early resolution case studies

#### District Council of Renmark Paringa

**Delay addressing complaint about neighbouring development resulting in flooding on property**

##### *Complaint*

The complainant contacted my Office because they were having issues with a neighbouring development that was causing flooding on their property. The complainant had reported this to the council on multiple occasions and had been unable to get a response beyond acknowledgements and being referred to the developer.

##### *Outcome*

After being contacted by my Office the council agreed to contact the complainant and explain the action that had been taken and the options going forward to resolve the problem.

#### Department for Correctional Services

**Unreasonable delay in responding to complaint**

##### *Complaint*

A prisoner contacted my Office complaining that the department was unable to locate their wallet, which contained identity documents that they required. The prisoner had been advised to send a family member to a police station to enquire about locating the wallet but advised my Office that their family members did not speak English with sufficient proficiency to do this.

##### *Outcome*

My Office made enquiries with the department. The department initially advised that there was no record of the prisoner being admitted with a wallet so it must be in the possession of South Australian Police (SAPOL). My Office then made enquiries with SAPOL. SAPOL was also unable to locate the wallet or any record of it. Following further enquiries from my Office and investigation by SAPOL it was determined that the property was provided to the employees of the company responsible for escorting the prisoner to court so it would most likely be in the custody of the Courts Administration Authority. My Office contacted the Courts Administration Authority who advised that they do not retain property. My Office contacted the department again and, ultimately the wallet was located inside one of the prisoner's shoes in the property storage at the prison. The prisoner was advised that the wallet had been located and it was registered on the prisoner's property record.

## Public Trustee

### Failure to provide leased accommodation for a client

#### *Complaint*

The complainant contacted my Office as they owned a property which they rented to a tenant whose finances were administered by the Public Trustee. The complainant had sold the property and the tenant had to vacate the property the following week but was still waiting on the Public Trustee to enter into a new lease agreement for the tenant at a new property. The Public Trustee had not assigned the tenant a case officer and had not returned the tenant's phone calls and they were at imminent risk of homelessness.

#### *Outcome*

In response to urgent enquiries my Office made with the Public Trustee, the agency took immediate steps to ensure that the tenant did not become homeless, including:

- acknowledging that there were calls received requesting a return call which did not occur and apologised for this
- taking immediate action to secure the new tenancy
- contacting the tenant
- assigning a senior employee to oversee the finalisation of the lease and to determine if the tenant needed further assistance with moving house.

## South Australian Housing Authority

### Unreasonable delay providing access to deceased brother's property

#### *Complaint*

The complainant contacted my Office as they wanted to collect the property of their sibling, who had passed away several weeks earlier, but were unable to gain access to the property.

#### *Outcome*

Following communication from my Office, the agency contacted the complainant and explained the reasons for the delay in providing access to the property, which were that the relationship needed to be confirmed and the property needed to be cleaned to make it safe. The agency advised the complainant when they would be given access to the property.

## South Australian Housing Authority

### Failure to respond to enquiries on behalf of client

#### *Complaint*

A financial counsellor contacted my Office on behalf of their client, who had incurred a debt with the agency after being forced to flee a property due to domestic violence and was placed in safe secure accommodation. The counsellor requested a debt waiver for the client and had not received any response from the agency, despite making several requests for an outcome.

#### *Outcome*

After contact from my Office, the agency acknowledged that the complainant's emails had not reached the correct area within the agency and had not been addressed. The agency promptly reviewed the financial hardship request and waived the remaining debt on the grounds of financial hardship.

## Own Initiative investigations and enquiries

This year I concluded six investigations using my own initiative powers in section 13(2) of the Ombudsman Act.

Own initiative investigations were conducted because I considered that there was a public interest in investigation, where potentially systemic issues had been identified. Those investigations included:

- investigation of a council's failure to have a formal contract for the construction of a public building, as well as its procurement of work for numerous projects. I concluded that the council's actions amounted to maladministration because:
  - there was no accurate monetary estimate of the building of the public building
  - there was no adequate contract for the construction
  - the council paid invoices as they were received without assessing their reasonableness
  - the council paid the full amount of the quoted price prior to the contractor undertaking any work, and
  - there was no report to the elected members of the council authorising the significant overrun of expenditure from the initial costing.

I recommended that the council's new Chief Executive Officer report the results of their investigation and reconciliation of costs to the council at a public meeting, and that my final report be provided to a public meeting of the council.

- investigation of the Department for Child Protection's assessment and response to notifications about children at risk of harm, and in particular its practice of referring notifications to other State authorities. My investigation concerned the department's inadequate response to an increased risk to the welfare of two sibling groups and, on some occasions, the department's failure to intervene despite requests from State authorities that it do so. My investigation revealed that the department appeared to refer notifications about at-risk children to a State authority without forming a reasonable belief that the State authority was the more appropriate agency to address the risk to the child. I concluded that the department failed to ensure that the protection of children and young people from harm was its paramount consideration.

I made five recommendations, including that when a State authority forms the view that risk to a child or young person is too high and cannot be sufficiently mitigated, and the matter is appropriately escalated by the State authority, the Department for Child Protection must open an investigation file and conduct a safety assessment for the relevant child or young person.

In addition, my Office made own initiative enquiries, without going to investigation, on:

- the management of rehabilitation programs by the Department for Correctional Services. In particular, whether the department could be incurring additional expenditure as a result of accommodating prisoners who would otherwise have been eligible for release on parole, but for being unable to access rehabilitation programs which are provided by the department. I found that significant resourcing appeared to have been invested into delivering rehabilitation services, and that the department was taking reasonable steps to ensure that the planning and resourcing of rehabilitation programs is sufficient. I therefore did not consider there to be grounds for investigation.



## OFFICIAL

- the complaint handling and external appeal processes utilised by the University of South Australia. Through an early resolution process, the University adopted a new Student Appeals Committee Procedure, and I did not consider there to be grounds for investigation.
- the actions and response taken by the Department for Education regarding the chronic absenteeism of four children. I was concerned that the department may have taken inadequate action to follow up on the children's absences and support their attendance. The department agreed to undertake an internal audit of the processes involved in escalating instances of chronic absenteeism and proposing steps to address any identified shortcomings. The department informed me that some efforts had already been made to address the issue, including cross-departmental collaboration with the Department for Child Protection. Therefore, I did not consider there to be grounds for investigation.
- the Department for Child Protection's failure to provide adequate information to a parent or caregiver when a child is removed. I was especially concerned that the parents or caregivers of a child who had been removed were not being provided with sufficient information regarding the removal of the child or the legal processes involved in the removal. The department advised me that it would review the process for providing information about the removal of a child to the parent or caregiver. The department subsequently updated its communication to ensure that parents and caregivers were provided with clear guidance on the removal process and the availability of legal support. Therefore, I did not consider there to be grounds for investigation.

# Misconduct and Maladministration

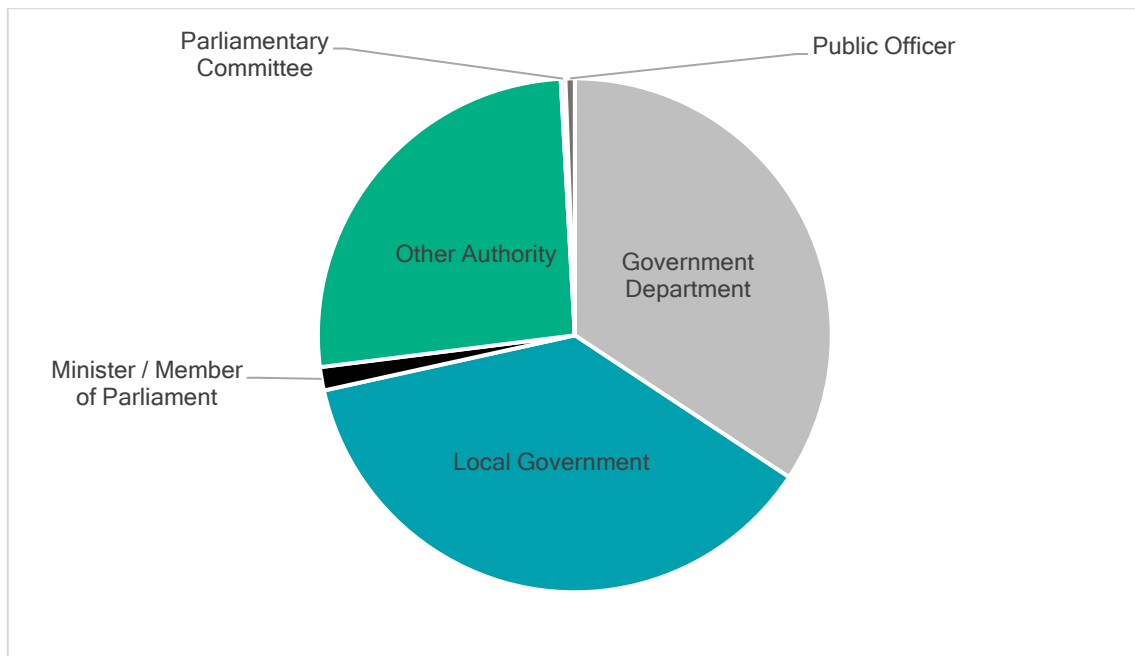
Complaints and reports<sup>1</sup> about misconduct<sup>2</sup> and maladministration are made directly to my Office by members of the public, public officers and public authorities.

I also receive referrals raising issues of misconduct and maladministration from both the Office for Public Integrity (OPI) and the Independent Commission Against Corruption (ICAC).

This financial year I received complaints, reports and referrals of 341 issues of misconduct and maladministration. My Office closed 399 issues of misconduct and maladministration.

## Respondent agency type for misconduct and maladministration issues received in 2022-23

Respondent Agency Type	Total
Government Department	117
Local Government	127
Minister / Member of Parliament	5
Other Authority	89
Parliamentary Committee	1
Public Officer	2
<b>Total</b>	<b>341</b>



<sup>1</sup> A 'complaint' refers to a complaint made by a member of the public, whereas a 'report' refers to a report made by a public officer or public authority pursuant to my Directions and Guidelines.

<sup>2</sup> I have jurisdiction to investigate breaches of the integrity provisions of the *Local Government Act 1993* by council members. My view is that the integrity provisions constitute a relevant code for the purposes of the definition of 'misconduct' and on that basis, these statistics include alleged misconduct by council members.

## Complaints and reports to Ombudsman SA

In the reporting period, complaints and reports about misconduct and maladministration raised directly with my Office significantly increased from 128 in the previous reporting period to 216. This is unsurprising given that, unlike the previous reporting period which encompassed changes to the Ombudsman Act in October 2021, I had direct jurisdiction over misconduct and maladministration for the entirety of the current reporting period.

My Office assesses complaints and reports about misconduct and maladministration to determine whether I should investigate them, refer them to another agency for investigation or take no action. In the event that a complaint or report about misconduct or maladministration raises a reasonable suspicion of corruption, I will report it to the OPI.

There have been two completed investigations arising from misconduct and maladministration issues raised with my Office in the reporting period.

10 issues were referred to other agencies for those agencies to deal with. My Office has monitored the agency's handling of those referred issues.

### Misconduct and maladministration issues received directly by Ombudsman SA or otherwise identified by Ombudsman SA and issues closed during 2022-23

	Issues Received	Issues Closed
Complaints/Reports to Ombudsman SA	213	244
Own Initiative	3	1
<b>Total</b>	<b>216</b>	<b>245</b>

## Referrals from the ICAC and OPI

The statistics below record each discrete issue of misconduct or maladministration dealt with by my Office, noting that a single referral from the OPI or the ICAC could contain a number of individual issues that are dealt with by my Office.

The ICAC made four referrals to my Office in the reporting period. While my Office completed four investigations on referrals from the ICAC, all of those had been referred prior to the reporting period.

The OPI made 98 referrals in the reporting period. In response to those 98 referrals, my Office identified 121 issues. 140 issues received by way of referral from the OPI were closed in the year. Of those closed issues, six issues that had been referred prior to the reporting period were finalised by way of investigation.

Seven issues were referred to other agencies for those agencies to deal with. My Office has monitored the agency's handling of those referred issues.

One issue was reported back to the OPI as raising a reasonable suspicion of corruption after initial enquiries were made.

### Misconduct and maladministration issues referred and closed during 2022-23

Referred by	Issues Referred	Issues Closed
ICAC	4	14
OPI	121	140
<b>Total</b>	<b>125</b>	<b>154</b>

# Return to Work Act Jurisdiction

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

Only a worker or an employer may lodge a complaint with my Office if they believe that the Service Standards have been breached. Where an investigation by my Office identifies that a breach of the Service Standards has occurred, I may require the respondent to provide a written or oral apology, furnish a written explanation or other remedies as outlined in clause 7 of Schedule 5 of the RTW Act. The powers of the Ombudsman under the Ombudsman Act apply to self-insured employers as if they are agencies to which the Ombudsman Act applies.

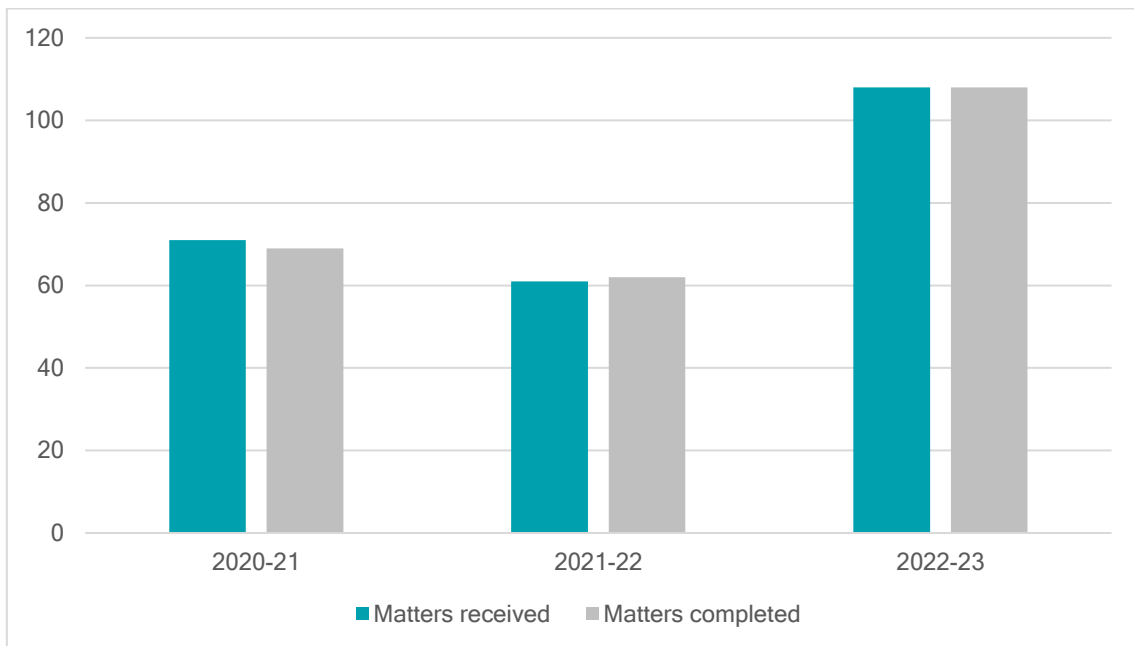
In addition, under section 180(8) of the RTW Act, the Ombudsman can consider a request to conduct an external review of the decision by RTWSA or self-insured employer in relation to a worker's request to access material relevant to their claim. At the conclusion of the review, the Ombudsman may confirm,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

There was a significant increase of 77% in the number of complaints received this year compared to the previous year in relation to the operation of the Return to Work Act although the number itself is not high. There is no reason I can identify for this increase. My Office continues to monitor the complaint data to discern any trends or systemic issues and will provide feedback to RTWSA if it becomes apparent that there are issues that require addressing.

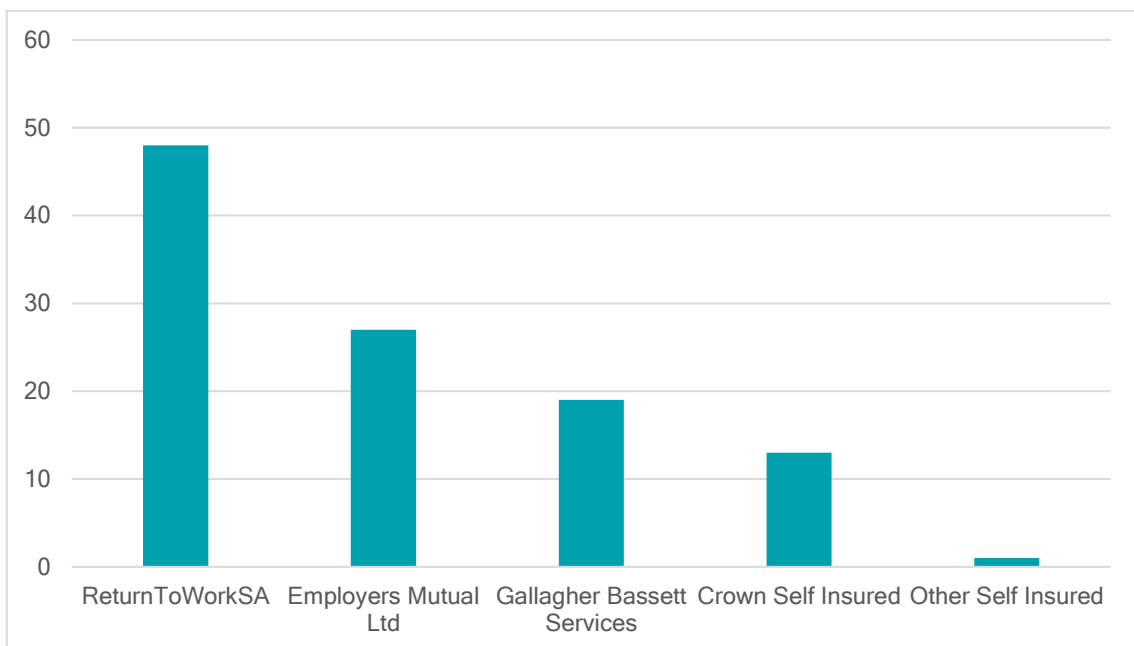
## Breakdown of matters received and completed by year

RTW ACT JURISDICTION	2020-21				2021-22				2022-23			
	Claims Agent	Self-Insurer	ReturnToWorkSA	Total	Claims Agent	Self-Insurer	ReturnToWorkSA	Total	Claims Agent	Self-Insurer	ReturnToWorkSA	Total
Matters received	44	14	13	71	21	5	35	61	46	14	48	108
Matters completed	43	15	11	69	23	3	36	62	46	14	48	108

### Matters received and completed by year



### Complaints received during 2022-23



### Issues of complaints

Issue	Total	%
Access to claims file	2	1.79%
Other	21	18.75%
Service Standards Sch 5 s4(a)	4	3.57%
Service Standards Sch 5 s4(b)	2	1.79%
Service Standards Sch 5 s4(d)	2	1.79%
Service Standards Sch 5 s4(e)	39	34.82%
Service Standards Sch 5 s4(f)	40	35.71%
Service Standards Sch 5 s4(i)	1	0.89%
Service Standards Sch 5 s4(j)	1	0.89%
<b>Total</b>	<b>112</b>	<b>100.00%</b>

### Complaint outcomes

Outcome	Total	%
Advice given	2	1.85%
Alternate remedy available with another body	1	0.93%
Breach of service standards not substantiated	1	0.93%
Complainant cannot be contacted	2	1.85%
Declined - Other Good Reason	44	40.74%
Out of Jurisdiction	2	1.85%
Referred back to Compensating Authority	48	44.44%
Resolved with Compensating Authority's co-operation	1	0.93%
s180 Review Decision varied	1	0.93%
Withdrawn by Complainant	6	5.56%
<b>Total</b>	<b>108</b>	<b>100.00%</b>

## Informal resolution case studies (RTW)

### Return to Work SA

#### Breach of service standards - failure to properly assess complaint

##### *Complaint*

The complainant had a RTW claim with a self-insured employer. The complainant had concerns about a medical examination they had attended, as they were not advised what injuries the practitioner had been requested to review and what information the medical provider had been given. They were also not provided a copy of the commissioning letter to the medical practitioner. When the complainant was eventually provided a copy of the commissioning letter, they identified that it contained errors. The self-insured employer had responded to the complainant's issues inadequately and failed to provide sufficient reasons for its decisions. The complainant had then lodged a complaint with RTWSA about the self-insured employer. Again, the complainant was not satisfied with RTWSA's handling of the complaint, including the process and the lack of outcome.

Specifically, the complaint alleged that:

1. the self-insured employer either failed to acknowledge errors or only partially acknowledged an error, and it was unclear whether RTWSA agreed there was an error
2. the RTWSA decision did not contain any reasoning from RTWSA, but merely repeated the submissions from the self-insured employer
3. neither the self-insured employer nor RTWSA addressed a key element of the complaint, which was about the self-insured employer's refusal to provide a doctor's commissioning letter prior to the appointment.

#### *Outcome*

My Office sought informal resolution of the matter. RTWSA, in response to my enquiries, acknowledged there were deficiencies in its complaint handling practice in relation to the complaint, and agreed to implement systemic improvements in order to improve its practice. RTWSA also advised the self-insured employer that it had erred by refusing to provide the commissioning letter.

## Review of decision to refuse access to claim file case study (RTW)

### Return to Work SA

#### **Section 180 decision to withhold information.**

I conducted one review of a decision by RTWSA to withhold information in response to a request for copies of documentary material from the applicant's claim files. The review was conducted pursuant to section 180(8) of the RTW Act rather than the Freedom of Information Act (FOI Act). The agency made a decision to not provide certain material to the applicant on the basis that the material was protected by legal professional privilege. In contrast to a review under the FOI Act which can involve consideration of numerous issues, including potential consideration of up to 19 different exemption clauses, my jurisdiction in a review under the RTW Act is confined to whether the agency was entitled to withhold information on one of three grounds, including legal professional privilege. In the course of the review, the agency conceded that some further information could be disclosed, but maintained that access to a substantial amount of information should be refused. I ultimately varied the agency's decision. While affirming that a substantial amount of material was protected by legal professional privilege, I determined that some further information could be disclosed as conceded by the agency.



# Recommendations

Once an investigation has been completed, the Ombudsman may make such recommendations as they think fit, pursuant to section 25(2) of the Ombudsman Act.

Before 7 October 2021, the Ombudsman could only make recommendations if they were satisfied that an error (as defined in section 25(1) of the Ombudsman Act) had occurred. As section 25(1) has now been removed from the Ombudsman Act, a finding of error is no longer required for the Ombudsman to make recommendations under section 25(2). This has broadened the Ombudsman's power to make recommendations.

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

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

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

In this reporting year, I issued 21 investigation reports and made a total of 36 recommendations. At the time of writing, 13 of those recommendations have been implemented, with the remaining 23 in progress. It should be noted that 15 of the recommendations made in this reporting year were made in June 2023.

Many of my recommendations aim to help agencies strengthen their own internal governance, policies, and procedures, so that they can more appropriately engage with their clients, customers, and community.

## Case studies

### Campbelltown City Council

#### Unreasonable release of personal information

##### *Complaint*

In October 2022, my Office received two separate complaints from objectors to a road closing process. The complainants alleged that the Campbelltown City Council had included their full name and address, as well as the addresses of other objectors, in a public agenda available on the council's website.

##### *Outcome*

On investigation, I determined that the council had released the information as alleged, and in doing so, the council had acted in error. The inclusion of this information in a public agenda was neither supported by the council's privacy policy or the Australian Privacy

Principles, and appeared to arise from the council misconstruing its obligations within its consultation process.

Following my recommendations for improvement, the council apologised to the individuals who had their information released and made a public apology acknowledging the error. The council also undertook a community engagement review which subsequently led to it amending its Privacy Policy and Public Consultation Policy to better reflect its obligations when conducting a community consultation, and mitigate the risk of the error reoccurring.

While agencies often commence work on implementing my recommendations in a timely manner, implementation may not be finalised until after the year the recommendation was made. This can be due to any number of factors, including, among others, the size and complexity of the reform undertaken to implement the recommendation and can be seen in implementation of my recommendations over this reporting year. This reporting year saw the implementation of 45 recommendations that I had made in previous reporting years.

## Department for Education

### **Failure to communicate with family about changes to self-regulation spaces for a student with autism**

#### *Complaint*

This investigation arose out of a complaint lodged by two members of the public, who are parents of a student attending a public high school within the Department of Education.

In 2019, the student commenced year 8 at the school. The student has Autism Spectrum Disorder and Sensory Processing Disorder, and as part of their learning plan, could access two linked self-regulation spaces. At the end of term 3, the school informed parents and students that they would be closing one of the self-regulation spaces, and changing the purpose for which the second space could be used. A new exit-card system was introduced for the student. In 2020, the second self-regulation space was closed without prior notice. The complainants repeatedly queried whether the student's exit-card system remained in place, with no response for four to five weeks. The removal of the self-regulation spaces and the lack of clarity around an exit-card system led to a number of incidents, and the student's mental health deteriorated to the point where by March 2020, the student refused to attend school. Throughout this time, the complainants made the school aware of the student's struggles, and made numerous requests for a copy of the learning plan to ascertain what supports were supposed to be in place, however a copy of the learning plan was not provided.

#### *Outcome*

I found that the school had not communicated appropriately with the student's parents regarding changes to the self-regulation spaces, or in regard to the student's learning plan. In doing so, the school, and by extension, the department, had acted in error.

Several international human rights instruments, ratified by Australia, establish the fundamental rights of children and young people to inclusive education, and impose various responsibilities on government departments that provide education services. These responsibilities have fed into national and state legislation, as well as the standards and policies of the department. In its failure to properly communicate and manage the self-regulation spaces, I found that the school had not met those standards and policies, or given effect to those rights.

I made a number of recommendations, which were implemented by the school and the department:

- the department apologised to the student's parents for the school's failure to communicate and outlined draft plans for discussion with the student's parents, to be put in place if the student were to return to the school
- the school created a strategy for the school to communicate with all students with disabilities and their parents and caregivers, and implemented training to ensure their staff are aware of their obligations under the strategy
- a copy of the student's 2019 learning plan was provided to the parents.

## Voluntary actions

I also aim to resolve complaints early where appropriate and monitor voluntary actions agreed to by agencies through that process. A matter may be amenable to formal early resolution where:

- the administrative act is clearly identifiable without the need for investigation
- on the face of the information provided by the complainant there appears to be error
- the agency has clearly acknowledged and accepted responsibility for the error
- the matter is not so serious or systemic that it would be in the public interest to investigate and issue a report in the matter
- there is no indication of corruption
- there is also no indication of misconduct or maladministration as defined within the *Ombudsman Act 1972*
- intervention is likely to support ongoing improvements in administrative practice being achieved in collaboration with the agency concerned.

This reporting year has seen a significant increase in the volume of complaints resolved through voluntary action, when compared to previous years. Throughout the reporting year, my Office resolved 47 complaints through a formal early resolution process, and agencies agreed to implement 65 actions.

Most of these were dealt with by referral to the agency for investigation. Often these will be referred where a complaint identifies behaviour that may be, on its face, misconduct under the *Public Sector Act 2009*, but does not meet the threshold for misconduct within the *Ombudsman Act 1972*.

Some related to councillors failing to declare conflicts of interest when participating in the deliberations of their council. A resolution might require that the councillor bring the conflict of interest to the attention of the council and apologise to the council. A complaint regarding a conflict of interest matter might be resolved in this manner where it is not of sufficient gravity or concern to warrant further action by my Office.

Also, some complaints were dealt with by the agency agreeing to reform their policies, procedures, or practices.

The following case studies provide examples of reforms initiated through my early resolution process.

## Case studies

### Department for Child Protection

#### **Own initiative enquiries into the communication with parents and caregivers when a child is removed under section 41 of the *Children and Young People (Safety) Act 2017***

In December 2022, my Office made enquiries with the Department for Child Protection. Using my own initiative powers, I asked the department about what information it included in a written notice provided to parents and caregivers, where a child or young person was to be removed from their care under section 41 of the *Child and Young People (Safety) Act 2017*.

I observed that while the notice repeated the relevant legislation, it did not explain a parent's or caregiver's rights, the fact that they may wish to seek legal advice or where to obtain it, or that the department may be applying for a court order and has five days to do so.

While I understand that this type of information will have been provided by child protection officers verbally, I questioned whether this information would be retained by the parent or caregiver, in what would likely be a highly emotional moment.

Following this feedback, the department included new information in the written notice. The notice now also provides information about the court process, contact arrangements and placement of a child following a removal. It also includes contact details for legal services and urges parties to engage a lawyer as soon as possible to provide representation at any initial Youth Court hearing.

### Attorney-General's Department

#### **Unreasonable response to a work health and safety complaint**

In February 2023, my Office was contacted by two individuals who said they had not received any information about how a complaint they had made to SafeWork SA had been dealt with, and that SafeWork SA had only advised them that their file had been closed.

My Office made enquiries with SafeWork SA and determined that the reason SafeWork SA had not provided an outcome was due to a lack of clarity in policies and templates relating to less serious matters. (SafeWork handled more serious matters using different, more robust processes).

Following discussion with my Office, SafeWork SA wrote to the complainants, acknowledging the error, apologising, and explaining the actions it was doing to improve its processes. SafeWork SA also updated its processes to include a requirement to provide information about the outcome and rights of review.

# Audits



## Ombudsman Act

No audits were conducted under the Ombudsman Act in this reporting year.

### Forensic procedures audit

Each year I am required to audit compliance with the *Criminal Law (Forensic Procedures) Act 2007 (CL(FP) Act)*. Responsibility for preparing the audit report has been delegated to the Deputy Ombudsman. On 26 September 2022 the audit report was submitted to the Attorney-General for the period 1 July 2021 to 30 June 2022.

The audit indicated that most statutory requirements were fully complied with. Where this was not the case, compliance against the relevant provisions was more common than not. The audit identified the following legislative requirements in respect of which further improvement might be achieved (in terms of actual compliance or recording compliance):

- clarifying the distinction between a 'relevant person' for the purposes of consenting to a volunteers and victims procedure carried out on a protected person and an 'appropriate representative' to witness that procedure
- ensuring that the legislative hierarchy for selecting an appropriate representative is applied
- amending references to gender to ensure consistency with current usage and the legislation
- ensuring that copies of applications for suspect procedure orders are provided to the suspect and that orders are appropriately recorded and provided to the suspect
- ensuring that introductions on audio-visual recordings are properly conducted and captured
- providing guidance to hospitals on humane treatment in conducting forensic procedures
- exploring options to ensure that as far as reasonably practicable, forensic procedures are carried out by a person of the same sex, and that the preference of the person subject to the procedure is recorded (this includes all section 21(3)<sup>3</sup> forensic procedures, including those not related to sexual assault)
- ensuring that access to forensic procedures is restricted to those persons reasonably necessary or required by statute.

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

---

<sup>3</sup> Section 21(3) of the *Criminal Law (Forensic Procedures) Act 2007* provides:

If reasonably practicable, a forensic procedure that involves exposure of, or contact with, the genital or anal area, the buttocks or the breast region of a female person or a transgender or intersex person who identifies as female, must not be carried out by a person of a different sex (other than at the request of the person on whom the forensic procedures is to be carried out).

## OFFICIAL

1. That the Commissioner of Police consider amending the form PD425 to clarify that a relevant person for the purpose of authorising a forensic procedure on a volunteer or victim who is a protected person, and an appropriate representative for witnessing a forensic procedure carried out on a volunteer or victim who is a protected person, have different definitions. The forms should clearly indicate that an appropriate representative must be chosen in accordance with the hierarchy of section 25(3), and evidence of consideration is to be recorded where a relative or friend is not available.
2. That the Commissioner of Police consider amending the PD425 form to include:
  - a question, or question similar to, 'In the case of an intrusive procedure (where section 21(3) applies), is it reasonably practicable to have [a] person conducting the procedure of the same gender as client?' with a Yes or No tick box
  - a question, or question similar to, 'If no, does client consent to FME with a person conducting the procedure NOT of the same gender?' with a Yes or No tick box.
3. That the Commissioner of Police consider amending the form PD184A, used for recording volunteers and victims procedures, to remove the term 'Transsexual' under the criteria of Sex, and replace it with the term 'Intersex'.
4. That the Commissioner of Police consider amending the relevant forms to include a prompt to ask the suspect the following question:
  - 'Do you have a relative or friend that you wish to have present?'The form should have a checkbox to record 'Yes' or 'No', and space to record reasons if the suspect requests a relative or friend, and a relative or friend is unavailable.
5. That the Commissioner of Police remind relevant police officers that a copy of the PD430 must be given to the suspect and that fact recorded on the form at the time of completing the application.
6. That the Commissioner of Police remind relevant police officers of the importance of completing the entirety of the PD431, including that a copy of the record must be given to the suspect at the time when the order is made.
7. That the Commissioner of Police remind relevant police officers of the requirements of the General Order 'Forensic procedures', namely, that once the audio-visual recording has commenced, they should:
  - introduce themselves
  - invite all other persons present to introduce themselves
  - seek an acknowledgement from the suspect that no persons other than those identified are present in the room.
8. That the Commissioner of Police consider making training material for contracted nurses available to SA Health to distribute as appropriate.

9. That the Commissioner of Police:
  - remind relevant police officers that alternative provider options must be explored to ensure compliance with section 21(3) of the CL(FP) Act, and
  - the suspect's preference as to the sex of the person carrying out the procedure should be recorded on the PD431.
10. That the Commissioner of Police consider amending the aide memoire to include a prompt for senior police officers to advise that the suspect may, at their own expense, organise for a medical practitioner of their choice to witness the procedure and provide space to record the suspect's response.
11. That the Commissioner of Police remind relevant police officers of the importance of restricting access to forensic procedures to those persons who are necessary for the carrying out of the procedure and/or to satisfy any relevant statutory requirements.

The Commissioner of Police has advised my Office that all recommendations have been implemented.

The report can be viewed at: <https://www.ombudsman.sa.gov.au/publication-documents/audit-reports/2022/Audit-of-compliance-with-the-CLFP-Act-2007-September-2022.pdf>



A large white circle with a teal outline is the central focus. To its top-left, there are several concentric teal circles. Below the main circle, there is a large, solid teal semi-circle on the left side. To the right of this semi-circle, there are more concentric teal circles, and at the bottom right, there is a small, solid teal circle.

# Freedom of Information Act jurisdiction

# Freedom of Information Act Jurisdiction

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

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

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

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

Parties to a FOI matter may have my determination reviewed by the South Australian Civil and Administrative Tribunal (prior to 8 December 2016 the appeal right lay to the District Court).

## External reviews

This year my Office received slightly fewer external review applications in comparison with the 2021-22 reporting year. In 2022-23, 322 review applications were received, which is a 15% decrease from the previous year where 378 applications were received.

The majority of external review applications received this year related to determinations by SA Police (18%), the Department for Correctional Services (12%), and the recently established Office of Hydrogen Power (7%). Consistent with previous years, the primary reason for seeking review concerned deemed access refusals (27%), where agencies had failed to determine the applications within the required statutory timeframe.

Members of Parliament continue to make frequent use of this Office's external review function, accounting for 37% (119 of 322) of applications received.

My team of legal officers managed to finalised 287 external review requests, with 178 matters (62%) finalised by way of formal determination. Of those formal determinations, 40% of agency determinations were confirmed, 14% were reversed, and 46% were varied. Of the remaining matters finalised, 38% were resolved by way of withdrawal following intervention from my Office or by settlement between the parties. My legal officers continue to develop their skills in facilitating negotiation between parties to resolve matters with expedience.

Pleasingly, the average time taken to complete external reviews continues to decrease. In 2022-23, the average number of days taken to finalise an external review has dropped to 57 days, compared with 86 days in 2021-22, and 153 days in 2020-21.

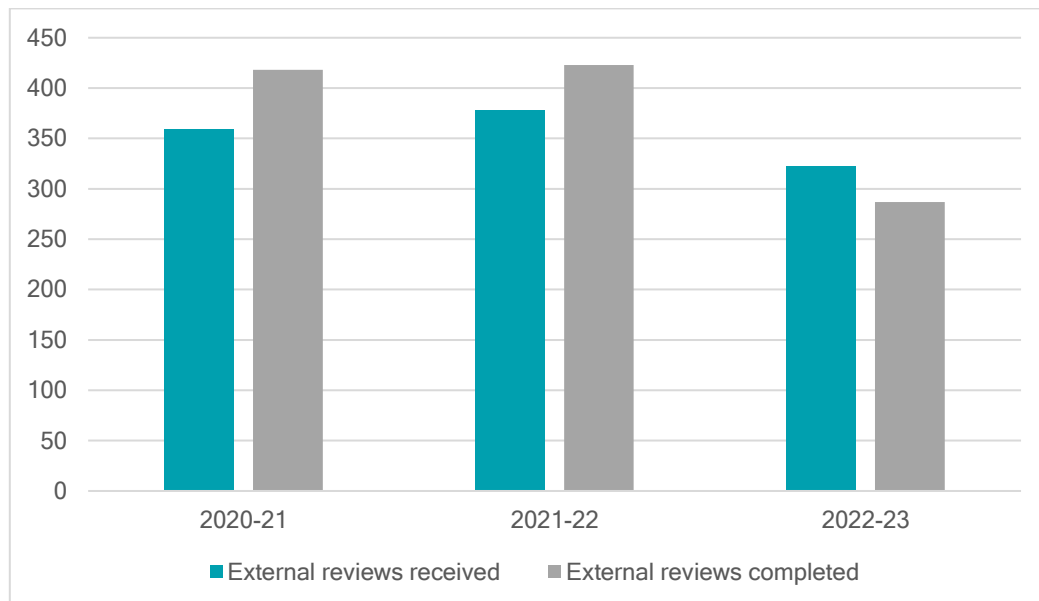
The efficiencies of my Office in completing external reviews have been recognised at a national level during the Commonwealth Parliament's Senate Standing Committee on Legal and Constitutional Affairs inquiry into 'The Operation of the Commonwealth Freedom of Information (FOI) laws'. Submissions have been provided to the Committee highlighting the expedience of this Office's external review process, and the efficiency of my Office in providing consistent and timely determinations.<sup>4</sup>

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

### Breakdown of external reviews received and completed by year

FOI JURISDICTION	2020-21					2021-22					2022-23				
	Government Departments	Local Government	Other Authorities	Minister	Total	Government Departments	Local Government	Other Authorities	Minister	Total	Government Departments	Local Government	Other Authorities	Minister	Total
External reviews received	189	33	113	24	359	277	25	69	7	378	202	28	48	44	322
External reviews completed	208	34	126	50	418	293	35	85	10	423	179	22	47	39	287

### External reviews received and completed by year



<sup>4</sup>See: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal and Constitutional Affairs/CommonwealthFOI2023/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/CommonwealthFOI2023/Submissions)

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

	<30 days	<120 days	<180 days	<270 days	<365 days	>365 days	Total
2020-21	63	161	66	61	28	39	418
2021-22	75	271	67	8	1	1	423
2022-23	91	190	3	2	1	0	287

## Complaints about FOI matters

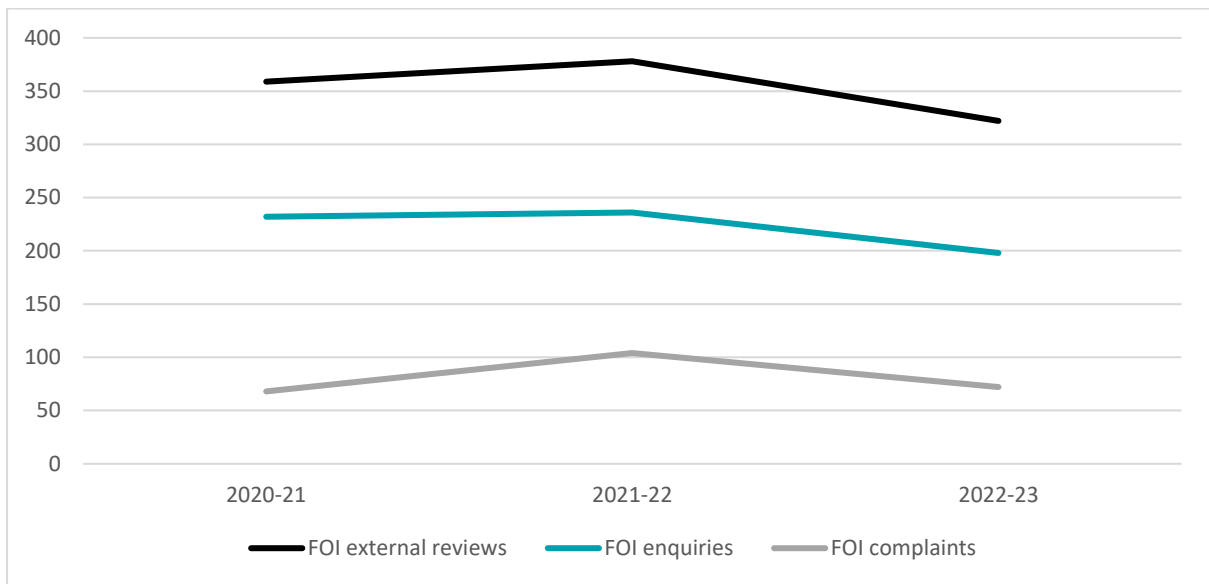
This year there was a decrease in requests to my Office for FOI advice, with 198 requests for advice received compared with 236 requests during 2021-22. My Office also received a 30% decrease in FOI complaints, with a 48% decrease in complaints relating to FOI practices and procedures. My Office has commenced monitoring agency compliance with my external review determinations, which appears to be driving an improvement in agency compliance contributing to fewer complaints regarding FOI practices and procedures. I am pleased to note that my Office has received 75% fewer complaints this year from applicants regarding failure to give effect to an external review determination compared with the 2021-22 financial year.

My team of legal officers reduced the timeframe for dealing with these complaints from 55 days in 2021-22 to 34 days in this year. This amounts to a 38% increase in timeliness for finalising complaints during 2022-23.

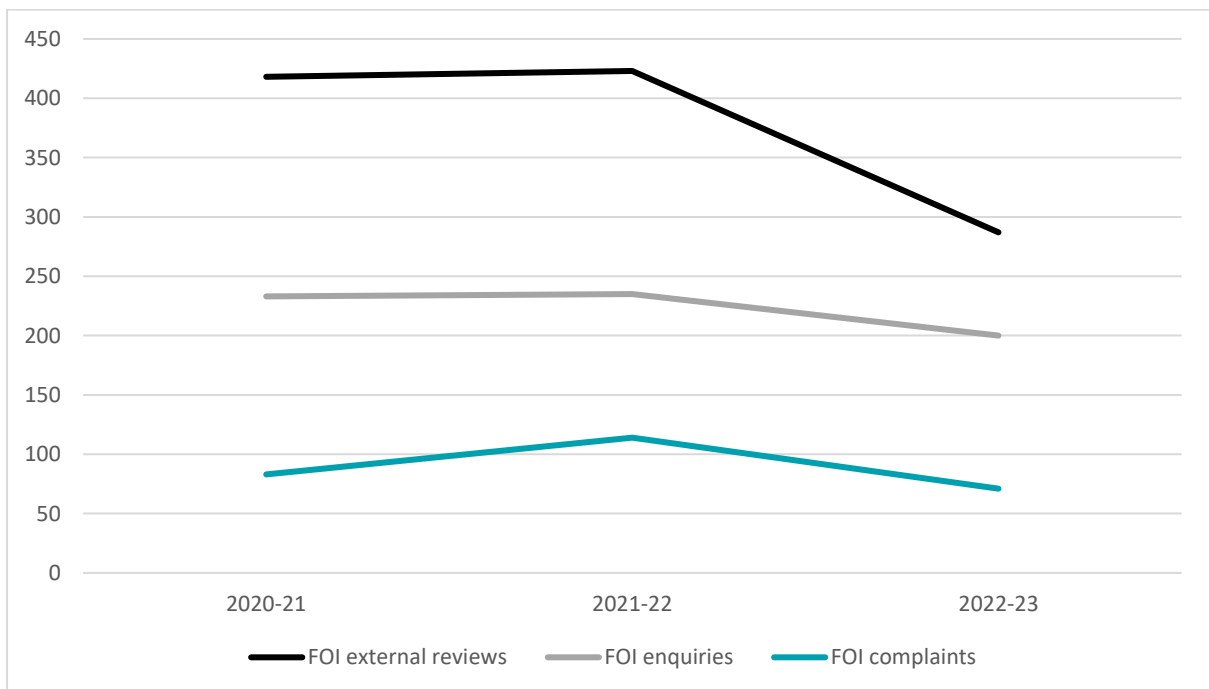
### FOI matters received and closed by year

	2020-21		2021-22		2022-23	
	Received	Closed	Received	Closed	Received	Closed
<b>Matter type</b>						
FOI external reviews	359	418	378	423	322	287
FOI enquiries	232	233	236	235	198	200
FOI complaints	68	83	104	114	72	71
<b>Summary of FOI complaints</b>						
FOI practices and procedures	47	62	82	87	43	42
Sufficiency of search	21	21	22	27	29	29

### Received external reviews, complaints and enquiries about FOI matters



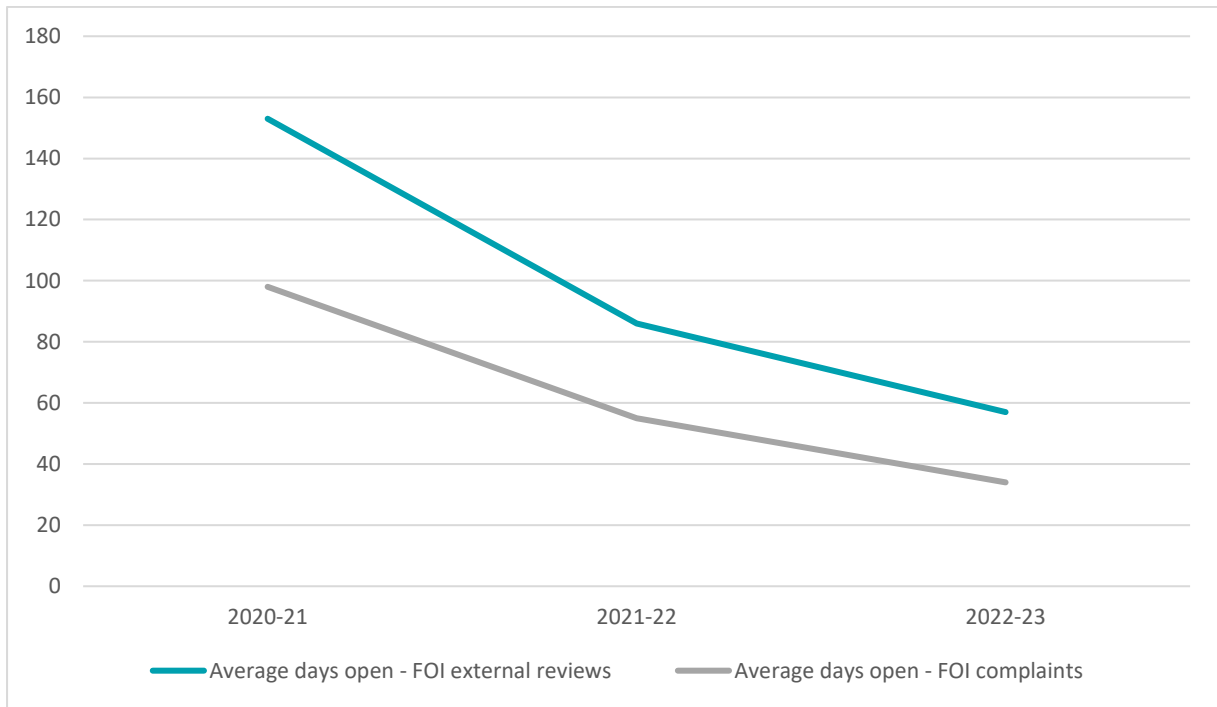
### Completed external reviews, complaints and enquiries about FOI matters



### Average days open for external reviews and complaints

	2020-21	2021-22	2022-23
Average days open - FOI external reviews	153 days	86 days	57 days
Average days open - FOI complaints	98 days	55 days	34 days

### Average days open for external reviews and complaints by year





# Other activities

## Submissions

I provided a written submission to the review of the *Children and Young People (Safety) Act 2017* in November 2022. My submission recommended:

- changes to the language of priorities and principles articulated in Chapter 2 of the Act
- improvements to section 12 of the Act regarding the application of the Aboriginal and Torres Strait Islander Child Placement Principle
- changes to section 33 so that further guidance is provided in relation to how referrals to other authorities are managed by the department so as to ensure that children and young people are protected from harm
- an amendment to section 164 of the Act to authorise the disclosure of information where necessary to prevent a serious risk to the health and safety of a person.

In May 2023, the Attorney-General invited me to make a submission on the *Members of Parliament (Register of Interests) Regulations 2008* which are due to expire on 1 September 2023. In June 2023, I provided a brief submission highlighting the need for 'material conflict of interest' to be defined and for further guidance to be provided as to the level of detail of an interest required for the Register.

## Conferences

In August 2022, I hosted a meeting of Parliamentary Ombudsmen from all Australian and New Zealand jurisdictions. Over two days we discussed developments and challenges in each of our jurisdictions and benefitted from a presentation by Associate Professor Dr Laura Grenfell reviewing the role of oversight bodies during the Covid pandemic state of emergency. A second meeting of Australian and New Zealand Ombudsmen was held in Hobart, Tasmania, in March 2023.

In October 2022, I travelled to Wellington, New Zealand, to represent South Australia at the New Zealand Ombudsman 60<sup>th</sup> Anniversary address and dinner. This coincided with the conference of the Asia Pacific Ombudsman Region where I delivered a presentation on the inter-relationship between the Ombudsman role and anti-corruption bodies.

In the reporting period, I attended two conferences of the Association of Information Access Commissioners. I am a member of this group by virtue of my role as an external reviewer of Freedom of Information determinations under the *Freedom of Information Act 1991*. The first meeting was in Wellington, New Zealand, in December 2022 and the second was in Sydney, New South Wales, in June 2023. These meetings have been useful in comparing the issues we each face as oversight bodies in this field and the performance of our respective statutory regimes governing access to government held information.

## Response to COVID-19 pandemic

In this reporting year, the Office received five enquiries on COVID-19 related issues and 44 complaints about government actions in regard to COVID-19 restrictions and related issues. This was a significant decrease in complaints from the last period.

The majority of complaints concerned the Department for Health and Wellbeing, with issues varied but including mandatory vaccination requirements for nursing homes, complaints about past hotel quarantine requirements and billing for hotel quarantine.



## OFFICIAL

Other complaints relating to COVID-19 mainly concerned the Department for Correctional Services, although my Office only received a comparatively small number of complaints about the Department, with seven received in the period. The majority were about the placement of COVID-positive prisoners, as well as a small number of other varied issues, but I did not identify any systemic issues warranting further enquiries using my own initiative powers.

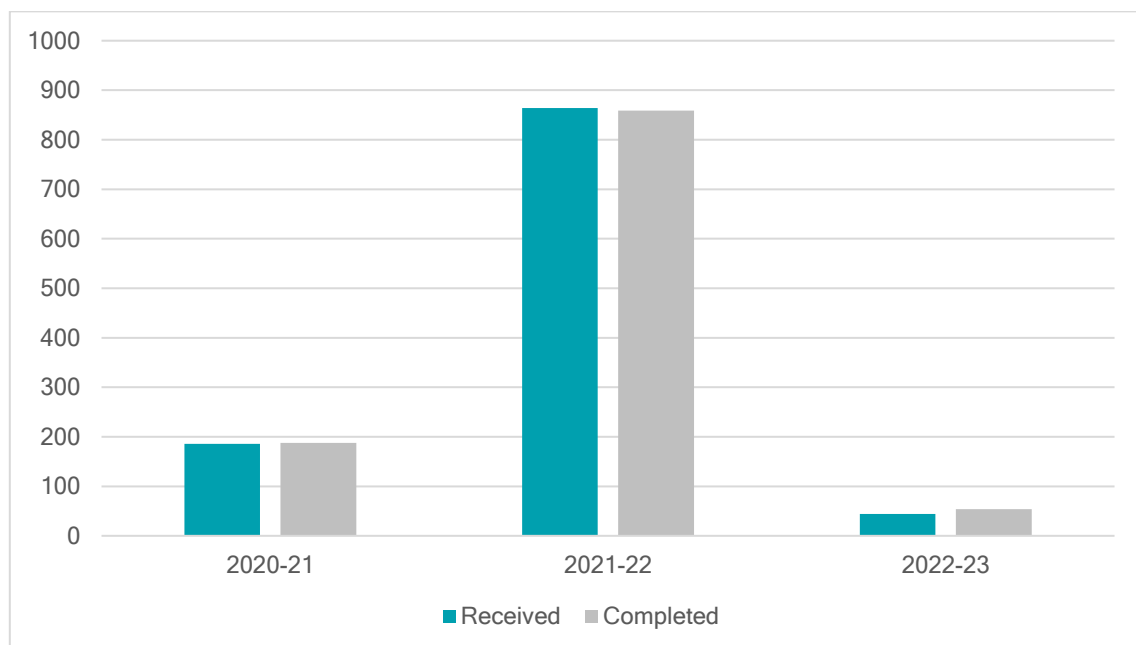
My Office also received a very small number of complaints about other agencies, including SA Ambulance, the Department for Education and the University of South Australia.

My Office only deemed it necessary to contact the agency in relation to one complaint, and it was determined not to be in the public interest to take any action in response to the rest of the complaints. On receiving a response on the one matter I made enquiries about, I was satisfied that there was no error by the agency. I have not needed to escalate any complaints to formal investigation.

### COVID-19 related complaints and referrals received and completed by year

	2020-21	2021-22	2022-23
Received	186	864	44
Completed	188	859	54

### COVID-19 related complaints received and completed by year



## Overview of the Department for Health and Wellbeing's response to COVID-19 using my 'own initiative' powers

In October 2022, given the easing of COVID-19 restrictions, I provided the newly appointed Chief Executive of the Department for Health and Wellbeing an overview of my Office's experiences of the department's handling of the COVID-19 pandemic response. I also provided a copy to the Police Commissioner, the Attorney-General's Department, the Department of the Premier and Cabinet, the Covid 19 Direction Accountability and Oversight Committee and the Crime and Public Integrity Policy Committee.

The purpose of reviewing and providing information about the work of my Office, and the complaints made by members of the public about the department's response to the pandemic, was to provide useful learnings for any future health emergency that may face South Australia.

I commenced by acknowledging the highly effective public health response to the pandemic in South Australia, as well as the dedication and effort of the staff of the department, and particularly those on the front-line.

I advised the Department that by 30 June 2021, my Office had received more than 200 complaints about government actions in response to COVID-19 since the commencement of the pandemic, and that the majority of these complaints concerned the Department for Health and Wellbeing, with issues mostly related to requests for quarantine exemptions and mandatory vaccination exemptions, as well as cross border travel. I further advised that other complaints mainly concerned the South Australian Police (**SAPOL**) and cross border travel applications, but that my Office only received a very small number of complaints about other agencies.

I set out the issues that my Office received complaints about, with the majority being about:

- refusals and delays in granting exemptions for unvaccinated people
- hotel quarantine requirements
- mandatory requirements (mask and vaccine)
- communication, and
- technology issues.

In response to COVID-19 related complaints made to my Office about the department I was generally of the view that many of the complaints were not matters that were appropriate for my Office to be dealing with, given that they were decisions which were reasonably open to the department to make based on an assessment of risk to public health.

My review explained that many people who complained to my Office about COVID-19 related issues had resorted to contacting my Office due to a lack of any other means to have their issues explained or responded to by the department. These people were often frustrated about not being able to seek timely and accurate information or responses from the department by either telephone or email.

By considering the complaints made to my Office relating to different agencies within my jurisdiction, I was able to provide an independent view of the issues that arose for members of the public when dealing with these agencies during the pandemic. However, whilst my jurisdiction to take complaints about South Australian agencies is broad, it also has limitations.

My Office has oversight of the administrative actions of the department; however, health related decisions are dealt with by the Health and Community Complaints Commissioner.

Similarly, my Office has oversight of the administrative actions of the South Australian Police; however, the Office for Public Integrity has oversight of the conduct of individual police officers. This meant that no one body in South Australia had oversight of the government's handling of the pandemic.

I understand that it was necessary for the management of the pandemic in South Australia to be multi-agency, given the scale of the pandemic and the significant public health risks. However, the existing oversight system in South Australia is not designed to align with a multi-agency response, and so it created some challenges for my Office.

It was, at times, difficult to determine which agency was responsible for a given decision raised by a complaint, or whether in fact multiple agencies may have had input to the decision. It was also difficult at times to establish whether my Office was the appropriate oversight body to deal with a complaint. No doubt, this was more confusing for complainants.

My review also identified that my Office had received numerous complaints from people when they were unable to use the technology required to deal with the department during the pandemic. The reasons for contacting my Office about technology issues varied but included, for example, complaints that:

- the technology was not working as it should
- it was not possible to log in from overseas
- identity documentation that they did not have were required to access the applications
- they lacked the necessary skills to use the technology, or
- they did not have access to the required technology.

My review considered the legal framework used to manage the pandemic. In South Australia, the primary tool used to 'legislate' the pandemic response was not legislation made by the people's duly elected Parliament, but largely by 'Directions' issued by the Commissioner of Police, being the State Co-ordinator under the *Emergency Management Act 2004 (SA)*. The declaring of a state of emergency from 22 March 2020 until 24 May 2022, empowered the State Co-ordinator to issue Directions detailing COVID-19 restrictions and controls.

I understand that these Directions were necessary in that they allowed for rapid and flexible action to meet rapidly changing circumstances. However, the Directions also allowed for Executive action which imposed significant intrusions on individual rights to be taken without ordinary Parliamentary consideration and oversight.

People who contacted my Office reported that the frequent changes to the Directions left them feeling overwhelmed, confused and uncertain about what they could and could not do on any given day. Further adding to the uncertainty was that the Directions were numerous, were frequently modified, highly legalistic and, at times, extremely confusing and difficult to understand.

My legal officers reported difficulties in interpreting the Directions, as well as reconciling decisions made by the department with the relevant Direction in place at the time. On occasions, decisions made by the department seemed at odds with the Direction in place. It became apparent to my Office early in the pandemic that staff of the department did not always understand the complexities of the Directions and were not always basing decisions on them. In other circumstances I would have considered it in the public interest to conduct

an investigation into the lack of compliance with the Directions. However, given the risk to public health and the rapidly changing circumstances at the time I decided not to.

Lastly, my review considered people's access to information during the pandemic. COVID-19 brought unprecedented challenges for our society and required public authorities to make significant decisions that affected public health, civil liberties and people's prosperity. In these circumstances, and when transparency was curtailed due to the Executive action being so urgent that it had to take place in the absence of the usual means of democratic transparency, such as parliamentary or public debate, transparency about how such decisions are made is vital.

I recognised that during a global pandemic resources will understandably be focused on protecting public health, however, the importance of the right to access information remains. Making government-held information available to the public is essential to building trust in the community. Greater transparency in the government's crisis response would result in greater public confidence in government decisions. Transparency and access to decisions, reasons and relevant material, would help to bring the public on board with decisions made in the interest of protecting public health.

I advised that, should we face similar circumstances in the future, I would encourage the planning in advance of processes for proactively releasing non-personal information surrounding decisions, including:

- a requirement to publish within seven days a statement of reasons for a decision to make Directions, including any relevant Chief Health Officer's advice
- entrenching proactive disclosure of non-personal information into department practices
- adopting a transparent approach to services delivery, decision-making and disclosure of information
- establishing proactive disclosure mechanisms
- identifying, on a continual basis, categories of information, including data, suitable for proactive disclosure.

In looking back on the challenging and unprecedented years of the COVID-19 pandemic, I noted that there was nothing that I saw to fault the genuine dedication and commitment of those who worked tirelessly to manage and mitigate the pandemic. I hope that in the work that my Office did it contributed positively to these efforts and that my suggestions provided valuable lessons for the future.

In summary, the suggestions I made based on my insights from complaints to my Office for any future health emergency that may face South Australia were as follows:

- be proactive about keeping oversight bodies informed
- provide oversight bodies with clear points of contact where they can receive rapid responses to complaints or queries
- establish complaint handling and review mechanisms in the department
- consider whether establishing a first-stage multi-agency complaint mechanism is necessary
- ensure there is a central source of accurate and up to date information, both for members of the public and for oversight bodies
- ensure that the public can have their questions answered (this could include staff of any telephone information line being able to seek relevant information or escalate matters for resolution)
- ensure that any published information about application processing times is realistic

- ensure the public is provided clear information as to different oversight bodies and their roles
- provide a dedicated service to address any technology issues faced by the public in using the required applications
- consider alternative access to required application processes for people unable to use the technology
- ensure that any emergency orders or directions are clear, comprehensible, and not overly legalistic
- embed requirements for reasons to be given for any decisions affecting people's rights
- establish and embed processes for proactively disclosing non-personal information surrounding decisions
- establish a mechanism to expeditiously release personal information to people without them having to go through the Freedom of Information process.

## Public Interest Disclosure Act disclosures

I am a 'relevant authority' for the purposes of receiving disclosures under the *Public Interest Disclosure Act 2018* where the information relates to an agency to which the Ombudsman Act applies. I am required to take action and to notify the informant and the Office for Public Integrity of action taken, and the outcome.

### PID Disclosures received during 2022-23

		Disclosures
Government Departments		24
Local Government		66
	Councils	49
	Elected Members	17
Other Public Officers and Authorities		25
<b>Total</b>		<b>115</b>

## Prison visits

During the reporting period, members of my staff and I visited:

- Mobilong Prison
- Port Lincoln Prison
- Cadell Training Centre

The visits were informative and helpful in increasing our understanding of prison operations. The visits consisted of a tour of the facilities as well as a variety of opportunities to speak directly with prisoners and prison staff. All three prisons appeared to be well maintained with some high quality facilities and programs directed towards rehabilitation.

The primary opportunity to engage with prisoners has been through prisoner-led consultative committees. Concerns raised at each of these committees broadly related to:

- how prisoner property is managed
- conduct of some prison staff, including the use of searches and the use of force
- how prisoners communicate with my Office
- processes around personal and professional visits, following the removal of arrangements relating to managing COVID-19.

The visits also provided an opportunity for my staff and I to discuss the functions of my Office with prisoners and staff, such as when and how to make a complaint, and what happens when a complaint is made.

My Office will continue to visit prisons during the next reporting year.

## Stakeholder engagement and education

The Ombudsman Act provides my Office with two broad and interconnected functions in relation to stakeholder engagement and education:

- to assist agencies to identify and deal with inappropriate or improper administrative acts, and
- to conduct or facilitate the conduct of educational programs or the publication or distribution of educational materials designed to prevent or minimise misconduct and maladministration in public administration.

Throughout the reporting year, we have steadily worked towards implementing an educational and engagement program and materials in line with these functions, based on the following principles:

- *creating awareness* of the characteristics of ethical and appropriate administrative action and decision making, including for example, how to prevent or minimise misconduct and maladministration
- *building capacity* for improved governance and public administration
- *identifying opportunities for systemic improvement*, most often through the exercise of the investigative function of my Office
- *collaboration and engagement*, in particular, communication, consultation and collaboration with public sector agencies, local government, and community organisations.

Within this framework, my staff and I have conducted information sessions with various agencies and interested organisations.

## Local Government

Throughout the year, my Office spoke with local government organisations, associations, and councils on a number of occasions. The issues discussed centred on integrity in local government. For example:

- I spoke at the Local Government Elections Breakfast on the topic of Local Government Elections and the Code of Conduct, in readiness for the Local Government Elections held in November 2022
- I spoke at the Eyre Peninsula Local Government Regional CEO's forum on preventing or minimising misconduct and maladministration in a local government context
- the Deputy Ombudsman and I spoke to the City of Onkaparinga on the application of the new behaviour and integrity provisions introduced in the amendments to the Local Government Act that commenced in November 2022.

## South Australian Public Sector

The reporting year also brought a number of opportunities to specifically engage with agencies within the South Australian public sector, outside of dealing with complaints, reports or applications for review. For example, during the year, members of my staff and I:

- spoke with the Office for Public Integrity on my approach to maladministration
- presented to the Office of the Guardian for Children and Young People regarding the functions of the Ombudsman and referring matters to my Office. Under section 12B(4) of the Ombudsman Act, the Guardian may make a complaint to my Office, notwithstanding they are not directly affected by the act to which the complaint relates
- spoke to the Crown Solicitor's Office on how my Office has dealt with change as an integrity agency.

I was also pleased to speak on the role of my Office at the launch of the Public Sector Integrity Framework led by the Commissioner for Public Sector Employment.

## Other organisations

My Office engaged with other organisations and associations in the community throughout the reporting year. For example, members of my staff and I:

- presented to the Australian Institute of Administrative Law regarding the Ministerial Code of Conduct and perceived conflicts of interest
- spoke about the Ombudsman's Child Protection jurisdiction at a Legal Professional Development day organised by Connecting Foster and Kinship Carers SA, the independent, peak representative body for foster and kinship carers across South Australia
- spoke at the National Public Sector Governance Forum on developments in the Ombudsman's functions, including investigation of misconduct and maladministration
- presented a guest lecture at the University of Adelaide Law School regarding the application of established human rights principles in exercise of the Ombudsman's functions
- presented to the Aboriginal Legal Rights Movement on the Ombudsman's functions and jurisdiction.



# About Ombudsman SA



## What we do

The Ombudsman is empowered to:

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

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

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

## The investigation process

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

Investigations may be initiated by Ombudsman SA in response to a complaint received by telephone, in person, in writing or through the website from any person (or an appropriate person acting on another's behalf); a complaint referred to the Ombudsman by a Member of Parliament or a committee of Parliament; or on the Ombudsman's own initiative. We may also undertake audits of the administrative practices and procedures of an agency.

If the Ombudsman decides to investigate a complaint, we advise the agency and the complainant accordingly. As part of this process, we identify the issues raised by the complainant along with any other issues that we consider relevant. The Ombudsman can choose to undertake enquiries or a formal investigation. If the Ombudsman decides not to investigate, the complainant is advised of this, along with the reasons for the decision.

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

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

The Ombudsman should not in any report, make adverse comments about any person or agency unless they have been provided with an opportunity to respond. The Ombudsman may make a recommendation to Parliament that certain legislation be reviewed.

We will often publish our reports and determinations on our website at [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au).

## Our jurisdiction

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

- private persons, businesses or companies
- Commonwealth or interstate government agencies
- government Ministers (unless misconduct or maladministration) and Cabinet
- courts and judges
- legal advisers to the Crown.

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

## Referral to other jurisdictions

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

## Service principles

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

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

## Complaints about Ombudsman SA

In accordance with Premier and Cabinet Circular 013, I report that my Office responded to 33 complaints made about my Office in the 2022-23 financial year. I provide a de-identified summary below.

Number	Title	Matter Outcome
2022/03085	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/03183	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/03487	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/03663	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/04753	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/05428	Complaint about OSA service	OSA Services\Not substantiated
2022/05473	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/05501	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/05601	Complaint about OSA service	OSA Services\Not substantiated
2022/05752	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/06258	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/06321	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/06531	Complaint about OSA service	OSA Services\Not substantiated
2022/06586	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/06600	Complaint about OSA decision	OSA Decisions\No Internal Review
2022/06957	Complaint about OSA service	OSA Services\Not substantiated
2022/07135	Complaint about OSA decision	OSA Decisions\No Internal Review
2023/00074	Complaint about OSA service	OSA Services\Not substantiated
2023/00325	Complaint about OSA service	OSA Services\Not substantiated
2023/00363	Complaint about OSA service	OSA Services\Not substantiated
2023/00364	Complaint about OSA service	OSA Services\Not substantiated
2023/00441	Complaint about OSA service	OSA Services\Not substantiated
2023/00669	Complaint about OSA service	OSA Services\Not substantiated
2023/00675	Complaint about OSA decision	OSA Decisions\No Internal Review
2023/01037	Complaint about OSA service	OSA Services\Not substantiated
2023/01280	Complaint about OSA decision	OSA Decisions\No Internal Review
2023/01389	Complaint about OSA decision	OSA Decisions\No Internal Review
2023/01500	Complaint about OSA decision	OSA Decisions\No Internal Review
2023/01571	Complaint about OSA service	OSA Services\Not substantiated
2023/01623	Complaint about OSA service	OSA Services\Not substantiated
2023/01726	Complaint about OSA decision	OSA Decisions\No Internal Review
2023/02427	Complaint about OSA decision	OSA Decisions\No Internal Review
2023/02939	Complaint about OSA decision	OSA Decisions\Internal Review\Outcome confirmed

## OFFICIAL

There has been a slight rise in complaints about my Office from 25 in the previous reporting period to 33 in the current reporting period.

None of the 13 complaints about **service** were substantiated.

In one matter, however, while the reviewer did not consider that the complaint about my Office's services was substantiated, they had concerns about unresolved safety and other issues identified by the complainant in relation to the agency. In light of that, extensive enquiries were made with the agency. Once the reviewer was satisfied that the agency had appropriately responded to those issues, the file was closed.

Of 20 requests for internal review of my **decisions**, only one internal review was conducted, which confirmed the original decision not to investigate, and 19 requests were declined.

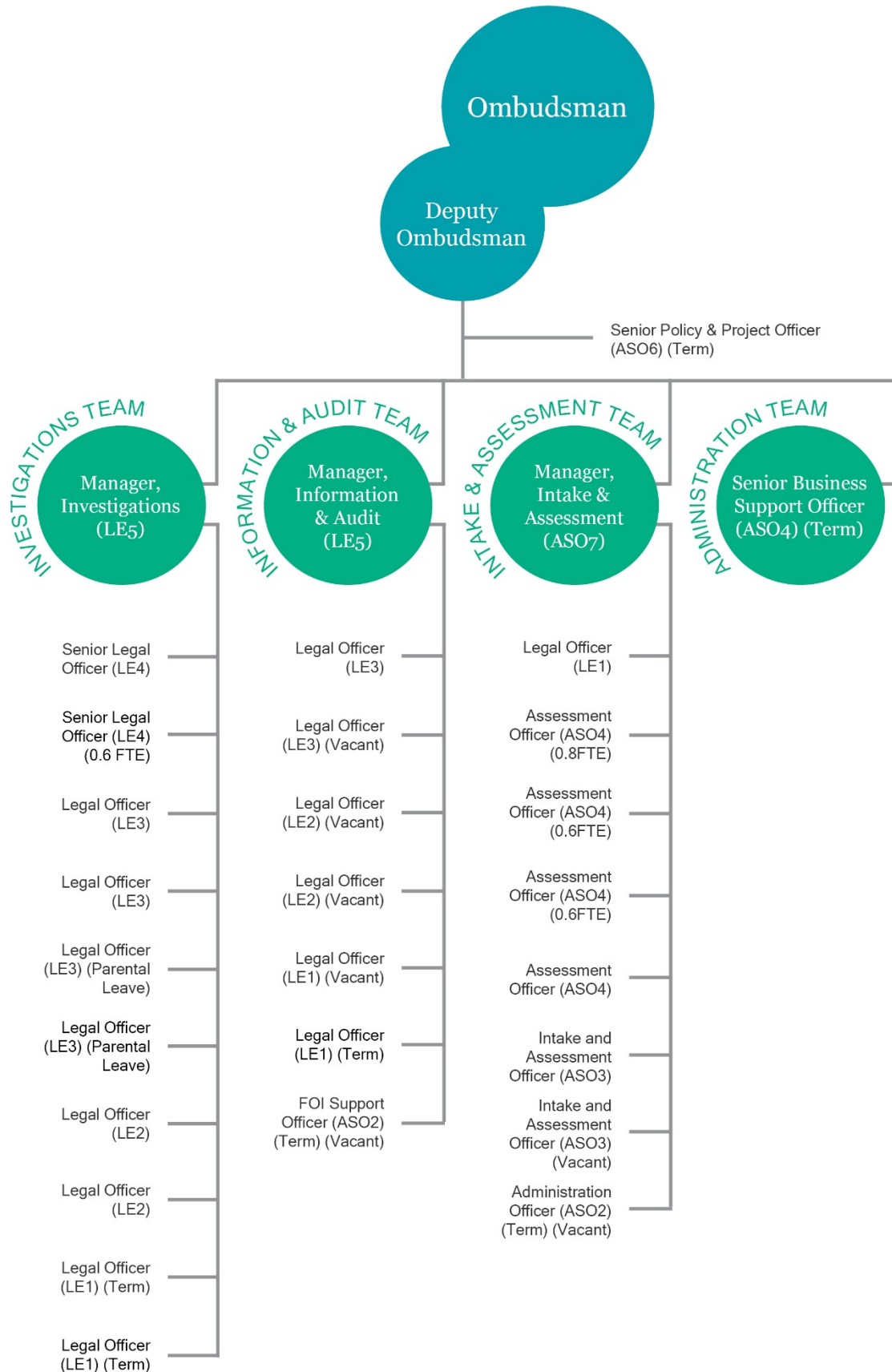
Only two of those declined requests for internal review related to an investigation, one of which was historical.

The remaining 17 requests related to decisions not to investigate. I have a broad discretion whether to investigate any particular complaint or report. It is only in exceptional circumstances that my Office would conduct an internal review in relation to a decision not to investigate.

That said, in some cases, while the reviewer declined the request for internal review, further enquiries with agencies were made. For example:

- the reviewer sought an explanation from an agency as to why an outcome had not been provided to a complainant, and confirmation that the outcome would be provided
- the reviewer sought a clearer explanation from an agency as to how a historical incident was reviewed, and communicated that to the complainant.

# Organisational chart



As at 30 June 2023

## Financial statement

Expenditure	2020-21	2021-22	2022-23
Annual report	0	0	0
Computer expenses	68,792	70,848	67,475
Equipment maintenance	0	0	0
Equipment purchases	293	5,155	2,280
* Fringe Benefits Tax	12,540	12,541	7,351
* Motor vehicles	15,494	15,120	14,793
Postage	3,518	1,481	1,725
Printing and stationery	1,968	876	1,447
Publications and subscriptions	1,897	2,259	327
Research Project	0	14,000	7,000
Staff development	14,627	6,329	10,331
Sundries	26,382	13,229	135,012
Telephone charges	7,436	5,376	4,981
Travel/taxi charges	257	3,575	11,338
Website development	47,949	0	0
<b>Sub-total</b>	<b>201,152</b>	<b>150,789</b>	<b>264,060</b>
* Accommodation and energy	214,873	213,616	212,780
Consultant/Contract staff/Prof costs	2,600	1,167	494
<b>Sub-total</b>	<b>217,473</b>	<b>214,783</b>	<b>213,274</b>
* Salaries	2,690,676	3,100,807	3,067,748
<b>Sub-total</b>	<b>2,690,676</b>	<b>3,100,807</b>	<b>3,067,748</b>
** Income	(354,000)	(361,000)	(368,000)
<b>Sub-total</b>	<b>(354,000)</b>	<b>(361,000)</b>	<b>(368,000)</b>
* Figures include expenses incurred by the Ombudsman position (funded by Special Acts)			
** Includes recovery of expenditure from ReturnToWorkSA			
<b>Net expenditure</b>	<b>2,755,301</b>	<b>3,105,379</b>	<b>3,177,082</b>

The page features a large, light teal circle in the upper center. To its left, a series of concentric teal circles are partially visible. Below the large circle, there is a solid teal semi-circle on the left and a series of concentric teal circles on the right. At the bottom right of these concentric circles is a small, solid teal circle.

# Summary data

# Ombudsman Act Jurisdiction

## Government departments

### Summary tables

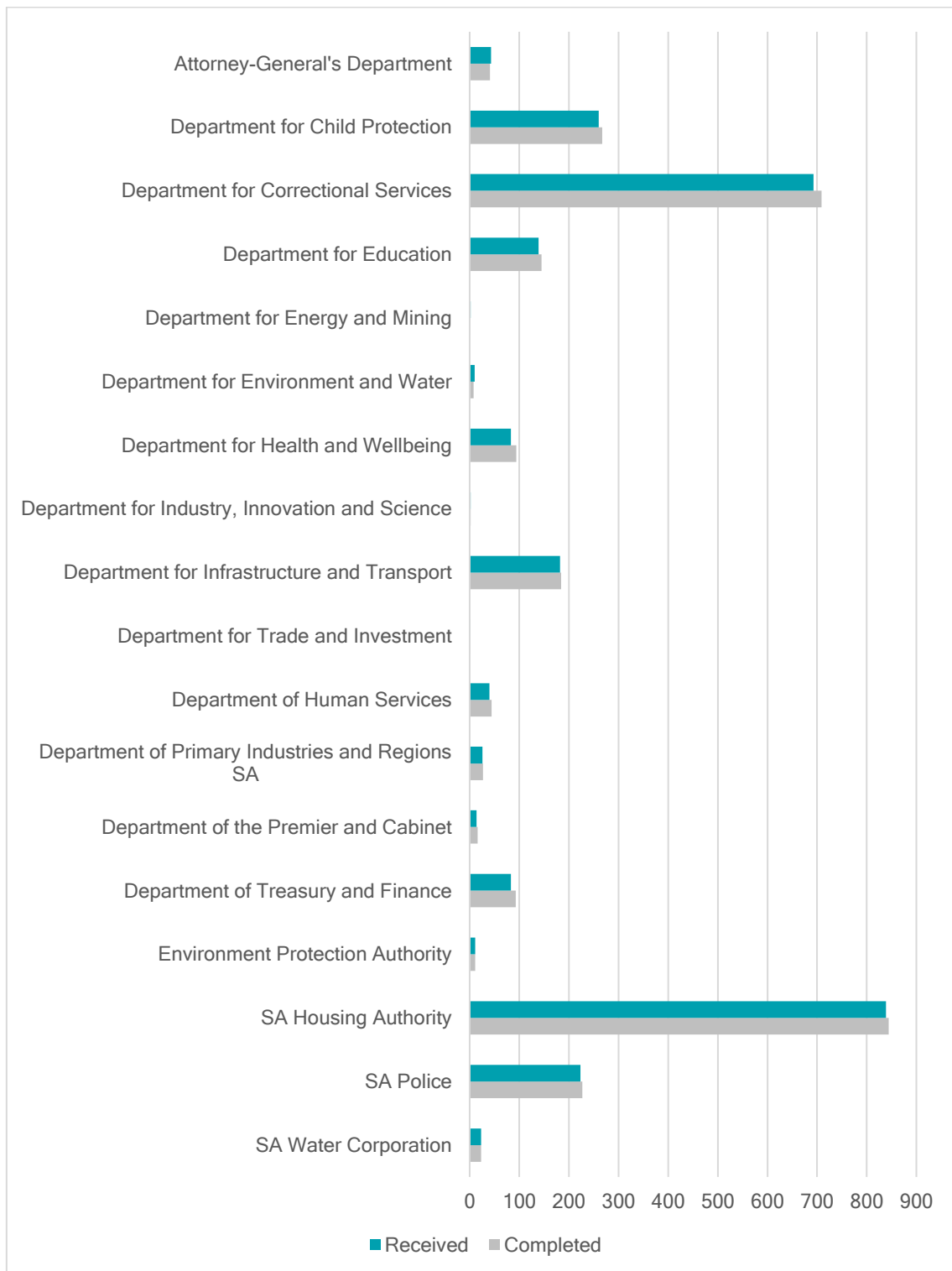
1 July 2022 - 30 June 2023

#### Complaints received and completed

Department	Received	%	Completed	%
Attorney-General's Department	43	1.61%	41	1.50%
Department for Child Protection	260	9.72%	267	9.76%
Department for Correctional Services	693	25.92%	709	25.90%
Department for Education	139	5.20%	145	5.30%
Department for Energy and Mining	2	0.07%	1	0.04%
Department for Environment and Water	10	0.37%	8	0.29%
Department for Health and Wellbeing	83	3.10%	94	3.43%
Department for Industry, Innovation and Science	2	0.07%	2	0.07%
Department for Infrastructure and Transport	182	6.81%	184	6.72%
Department for Trade and Investment	1	0.04%	1	0.04%
Department of Human Services	40	1.50%	44	1.61%
Department of Primary Industries and Regions SA	26	0.97%	27	0.99%
Department of the Premier and Cabinet	14	0.52%	16	0.58%
Department of Treasury and Finance	83	3.10%	93	3.40%
Environment Protection Authority	11	0.41%	11	0.40%
SA Housing Authority	839	31.38%	844	30.84%
SA Police	223	8.34%	227	8.29%
SA Water Corporation	23	0.86%	23	0.84%
<b>Total</b>	<b>2,674</b>	<b>100.00%</b>	<b>2,737</b>	<b>100.00%</b>



### Government departments complaints received and completed



## Complaint outcomes

Outcome	Total	%
Complainant Cannot be Contacted	22	0.80%
Declined s12H\Other Good Reason (s12H (1)(c))	2427	88.67%
Declined s12H\Previously Dealt With (s12H (1)(c))	19	0.69%
Declined s12H\Referred to Other Agency (s12H(1)(b))	12	0.44%
Declined s12H\Resolved with Agency Co-operation (s12H)	128	4.68%
Discontinued (s13(2a))	1	0.04%
Investigation Outcome\Partly substantiated	2	0.07%
Investigation Outcome\Substantiated	3	0.11%
Out of Jurisdiction\12B\Complainant not directly affected	4	0.15%
Out of Jurisdiction\13(3)\Statutory or legal remedy	15	0.55%
Out of Jurisdiction\No administrative act	3	0.11%
Out of Jurisdiction\SAPOL officer conduct	48	1.75%
Out of Time (s12C)	3	0.11%
Own initiative - discontinued	11	0.40%
Withdrawn by Complainant	39	1.42%
<b>Total</b>	<b>2,737</b>	<b>100.00%</b>

## Local government

### Summary tables

1 July 2022 - 30 June 2023

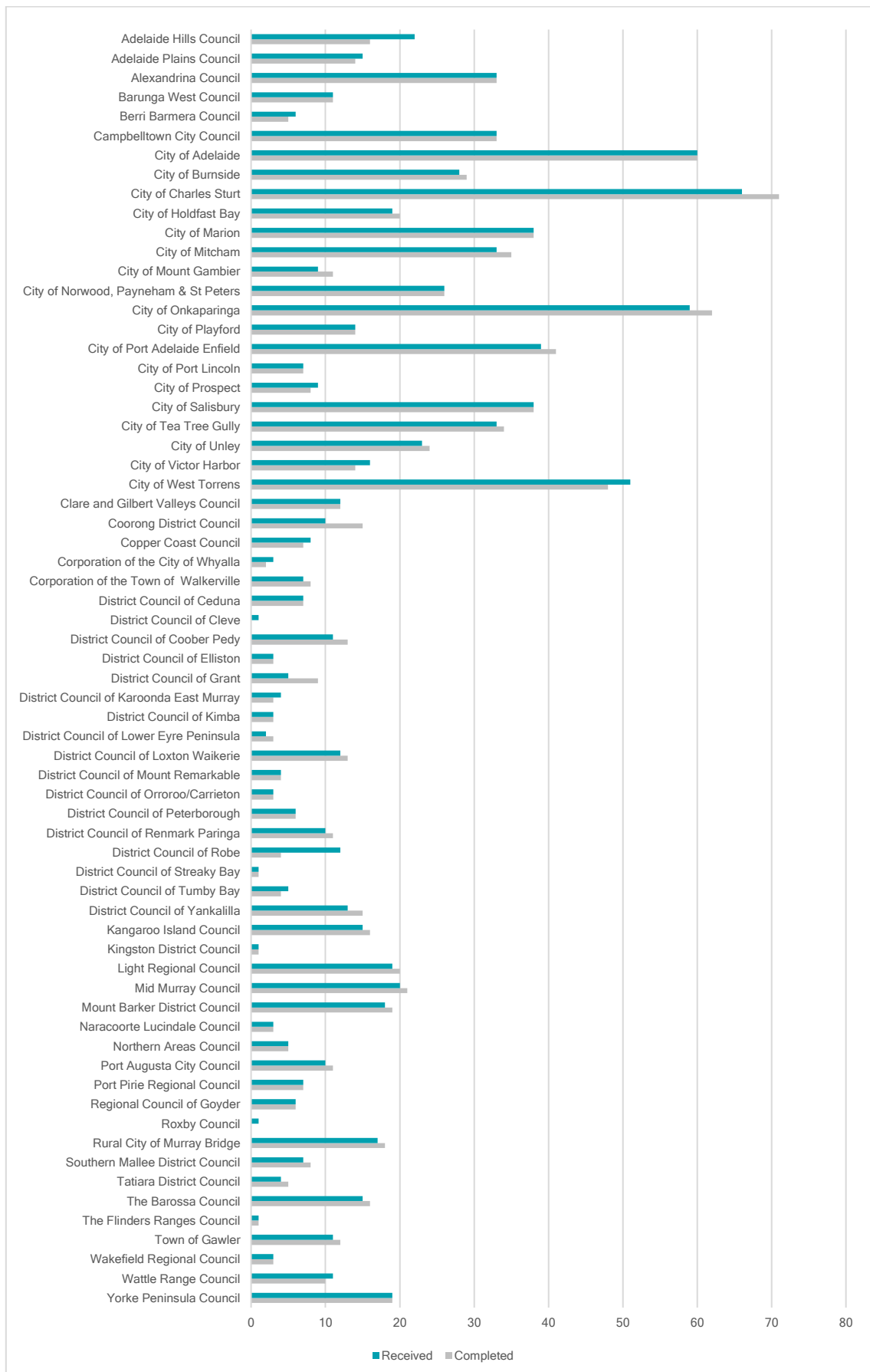
#### Complaints received and completed

Council	Received	%	Completed	%	Population 30 June 2022	Received / 10,000 pop	Completed / 10,000 pop
Adelaide Hills Council	22	2.15%	16	1.54%	41,448	5.31	3.86
Adelaide Plains Council	15	1.47%	14	1.35%	10,461	14.34	13.38
Alexandrina Council	33	3.23%	33	3.18%	29,780	11.08	11.08
Barunga West Council	11	1.08%	11	1.06%	2,676	41.11	41.11
Berri Barmera Council	6	0.59%	5	0.48%	10,713	5.60	4.67
Campbelltown City Council	33	3.23%	33	3.18%	56,013	5.89	5.89
City of Adelaide	60	5.87%	60	5.77%	26,120	22.97	22.97
City of Burnside	28	2.74%	29	2.79%	46,692	6.00	6.21
City of Charles Sturt	66	6.45%	71	6.83%	124,906	5.28	5.68
City of Holdfast Bay	19	1.86%	20	1.92%	38,061	4.99	5.25
City of Marion	38	3.71%	38	3.66%	96,658	3.93	3.93
City of Mitcham	33	3.23%	35	3.37%	68,403	4.82	5.12
City of Mount Gambier	9	0.88%	11	1.06%	27,771	3.24	3.96
City of Norwood, Payneham & St Peters	26	2.54%	26	2.50%	38,001	6.84	6.84
City of Onkaparinga	59	5.77%	62	5.97%	178,546	3.30	3.47
City of Playford	14	1.37%	14	1.35%	103,420	1.35	1.35
City of Port Adelaide Enfield	39	3.81%	41	3.95%	135,844	2.87	3.02
City of Port Lincoln	7	0.68%	7	0.67%	14,947	4.68	4.68
City of Prospect	9	0.88%	8	0.77%	22,741	3.96	3.52
City of Salisbury	38	3.71%	38	3.66%	148,003	2.57	2.57
City of Tea Tree Gully	33	3.23%	34	3.27%	102,666	3.21	3.31
City of Unley	23	2.25%	24	2.31%	39,085	5.88	6.14
City of Victor Harbor	16	1.56%	14	1.35%	16,720	9.57	8.37
City of West Torrens	51	4.99%	48	4.62%	63,105	8.08	7.61
Clare and Gilbert Valleys Council	12	1.17%	12	1.15%	9,393	12.78	12.78
Coorong District Council	10	0.98%	15	1.44%	5,569	17.96	26.93
Copper Coast Council	8	0.78%	7	0.67%	15,652	5.11	4.47
Corporation of the City of Whyalla	3	0.29%	2	0.19%	21,894	1.37	0.91
Corporation of the Town of Walkerville	7	0.68%	8	0.77%	8,179	8.56	9.78
District Council of Ceduna	7	0.68%	7	0.67%	3,650	19.18	19.18
District Council of Cleve	1	0.10%	0	0.00%	1,765	5.67	0.00
District Council of Coober Pedy	11	1.08%	13	1.25%	1,576	69.80	82.49
District Council of Elliston	3	0.29%	3	0.29%	1,037	28.93	28.93
District Council of Grant	5	0.49%	9	0.87%	8,925	5.60	10.08

# OFFICIAL

Council	Received	%	Completed	%	Population 30 June 2022	Received / 10,000 pop	Completed / 10,000 pop
District Council of Karoonda East Murray	4	0.39%	3	0.29%	1,028	38.91	29.18
District Council of Kimba	3	0.29%	3	0.29%	1,057	28.38	28.38
District Council of Lower Eyre Peninsula	2	0.20%	3	0.29%	6,100	3.28	4.92
District Council of Loxton Waikerie	12	1.17%	13	1.25%	11,928	10.06	10.90
District Council of Mount Remarkable	4	0.39%	4	0.38%	2,915	13.72	13.72
District Council of Orroroo/Carrieton	3	0.29%	3	0.29%	890	33.71	33.71
District Council of Peterborough	6	0.59%	6	0.58%	1,670	35.93	35.93
District Council of Renmark Paranga	10	0.98%	11	1.06%	10,044	9.96	10.95
District Council of Robe	12	1.17%	4	0.38%	1,583	75.81	25.27
District Council of Streaky Bay	1	0.10%	1	0.10%	2,254	4.44	4.44
District Council of Tumby Bay	5	0.49%	4	0.38%	2,889	17.31	13.85
District Council of Yankalilla	13	1.27%	15	1.44%	5,998	21.67	25.01
Kangaroo Island Council	15	1.47%	16	1.54%	5,084	29.50	31.47
Kingston District Council	1	0.10%	1	0.10%	2,389	4.19	4.19
Light Regional Council	19	1.86%	20	1.92%	16,332	11.63	12.25
Mid Murray Council	20	1.96%	21	2.02%	9,415	21.24	22.30
Mount Barker District Council	18	1.76%	19	1.83%	41,059	4.38	4.63
Naracoorte Lucindale Council	3	0.29%	3	0.29%	8,928	3.36	3.36
Northern Areas Council	5	0.49%	5	0.48%	4,671	10.70	10.70
Port Augusta City Council	10	0.98%	11	1.06%	14,456	6.92	7.61
Port Pirie Regional Council	7	0.68%	7	0.67%	17,648	3.97	3.97
Regional Council of Goyder	6	0.59%	6	0.58%	4,134	14.51	14.51
Roxby Council	1	0.10%	0	0.00%	4,105	2.44	0.00
Rural City of Murray Bridge	17	1.66%	18	1.73%	22,554	7.54	7.98
Southern Mallee District Council	7	0.68%	8	0.77%	2,013	34.77	39.74
Tatiara District Council	4	0.39%	5	0.48%	7,040	5.68	7.10
The Barossa Council	15	1.47%	16	1.54%	25,878	5.80	6.18
The Flinders Ranges Council	1	0.10%	1	0.10%	1,682	5.95	5.95
Town of Gawler	11	1.08%	12	1.15%	26,123	4.21	4.59
Wakefield Regional Council	3	0.29%	3	0.29%	6,958	4.31	4.31
Wattle Range Council	11	1.08%	10	0.96%	12,163	9.04	8.22
Yorke Peninsula Council	19	1.86%	19	1.83%	11,922	15.94	15.94
<b>Total</b>	<b>1,023</b>	<b>100.00%</b>	<b>1,039</b>	<b>100.00%</b>	<b>1,813,330</b>	<b>5.64</b>	<b>5.73</b>

## Local government complaints received and completed



## OFFICIAL

### Complaint outcomes

Outcome	Total	%
Complainant Cannot be Contacted	5	0.48%
Declined s12H\Other Good Reason (s12H (1)(c))	950	91.43%
Declined s12H\Previously Dealt With (s12H (1)(c))	7	0.67%
Declined s12H\Referred to Other Agency (s12H(1)(b))	6	0.58%
Declined s12H\Resolved with Agency Co-operation (s12H)	20	1.92%
Investigation Outcome\Not substantiated	5	0.48%
Investigation Outcome\Partly substantiated	1	0.10%
Investigation Outcome\Substantiated	11	1.06%
Out of Jurisdiction\13(3)\Statutory or legal remedy	14	1.35%
Out of Jurisdiction\No administrative act	1	0.10%
Out of Time (s12C)	3	0.29%
Own initiative - discontinued	4	0.38%
Withdrawn by Complainant	12	1.15%
<b>Total</b>	<b>1,039</b>	<b>100.00%</b>

## Other authorities

### Summary tables

1 July 2022 - 30 June 2023

#### Complaints received and completed

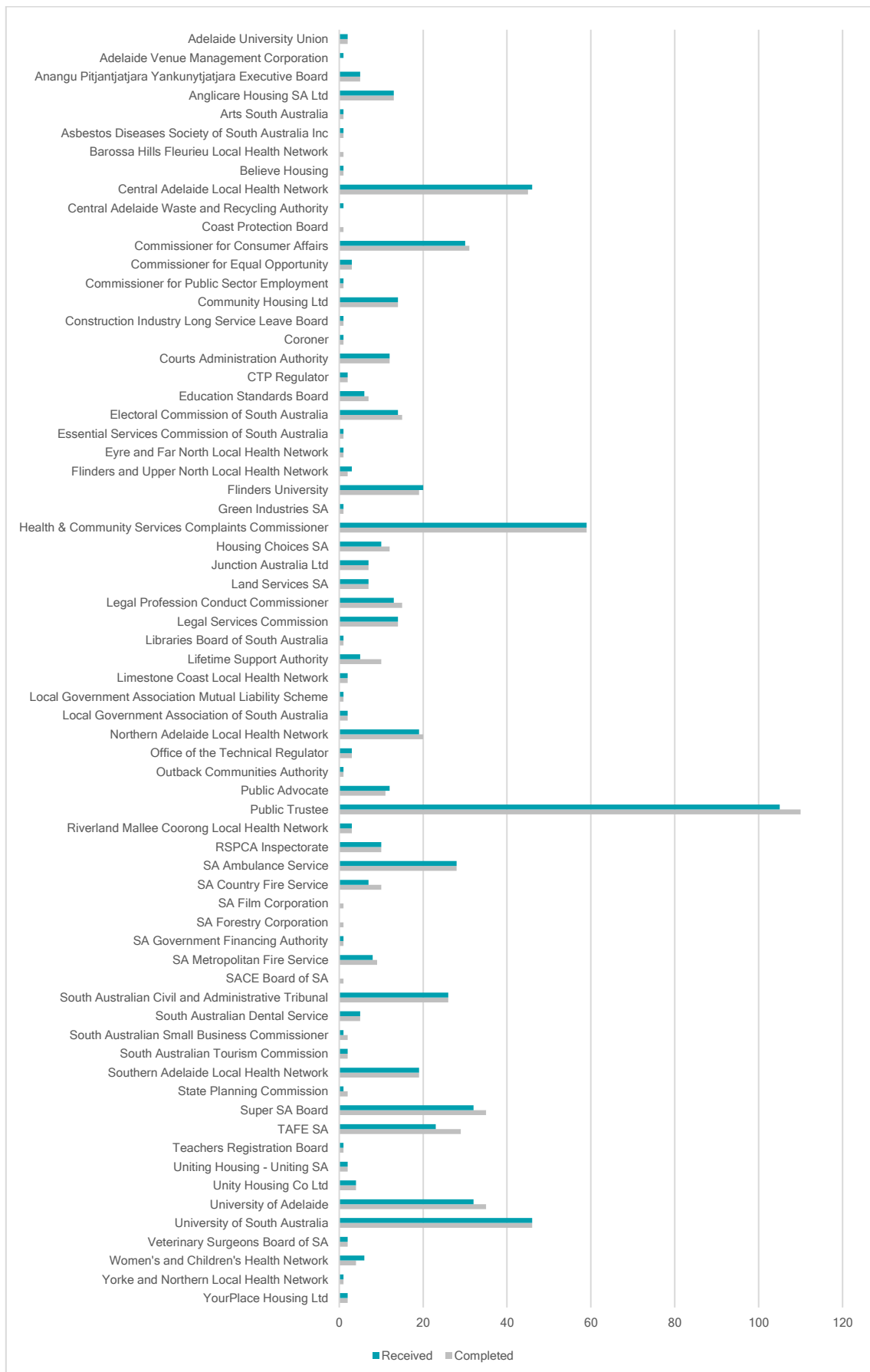
Agency	Received	%	Completed	%
Adelaide University Union	2	0.28%	2	0.27%
Adelaide Venue Management Corporation	1	0.14%	0	0.00%
Anangu Pitjantjatjara Yankunytjatjara Executive Board	5	0.71%	5	0.68%
Anglicare Housing SA Ltd	13	1.85%	13	1.76%
Arts South Australia	1	0.14%	1	0.14%
Asbestos Diseases Society of South Australia Inc	1	0.14%	1	0.14%
Barossa Hills Fleurieu Local Health Network	0	0.00%	1	0.14%
Believe Housing	1	0.14%	1	0.14%
Central Adelaide Local Health Network	46	6.53%	45	6.11%
Central Adelaide Waste and Recycling Authority	1	0.14%	0	0.00%
Coast Protection Board	0	0.00%	1	0.14%
Commissioner for Consumer Affairs	30	4.26%	31	4.21%
Commissioner for Equal Opportunity	3	0.43%	3	0.41%
Commissioner for Public Sector Employment	1	0.14%	1	0.14%
Community Housing Ltd	14	1.99%	14	1.90%
Construction Industry Long Service Leave Board	1	0.14%	1	0.14%
Coroner	1	0.14%	1	0.14%
Courts Administration Authority	12	1.70%	12	1.63%
CTP Regulator	2	0.28%	2	0.27%
Education Standards Board	6	0.85%	7	0.95%
Electoral Commission of South Australia	14	1.99%	15	2.04%
Essential Services Commission of South Australia	1	0.14%	1	0.14%
Eyre and Far North Local Health Network	1	0.14%	1	0.14%
Flinders and Upper North Local Health Network	3	0.43%	2	0.27%
Flinders University	20	2.84%	19	2.58%
Green Industries SA	1	0.14%	1	0.14%
Health & Community Services Complaints Commissioner	59	8.38%	59	8.01%
Housing Choices SA	10	1.42%	12	1.63%
Junction Australia Ltd	7	0.99%	7	0.95%
Land Services SA	7	0.99%	7	0.95%
Legal Profession Conduct Commissioner	13	1.85%	15	2.04%
Legal Services Commission	14	1.99%	14	1.90%
Libraries Board of South Australia	1	0.14%	1	0.14%
Lifetime Support Authority	5	0.71%	10	1.36%
Limestone Coast Local Health Network	2	0.28%	2	0.27%
Local Government Association Mutual Liability Scheme	1	0.14%	1	0.14%

## OFFICIAL

Agency	Received	%	Completed	%
Local Government Association of South Australia	2	0.28%	2	0.27%
Northern Adelaide Local Health Network	19	2.70%	20	2.71%
Office of the Technical Regulator	3	0.43%	3	0.41%
Outback Communities Authority	1	0.14%	1	0.14%
Public Advocate	12	1.70%	11	1.49%
Public Trustee	105	14.91%	110	14.93%
Riverland Mallee Coorong Local Health Network	3	0.43%	3	0.41%
RSPCA Inspectorate	10	1.42%	10	1.36%
SA Ambulance Service	28	3.98%	28	3.80%
SA Country Fire Service	7	0.99%	10	1.36%
SA Film Corporation	0	0.00%	1	0.14%
SA Forestry Corporation	0	0.00%	1	0.14%
SA Government Financing Authority	1	0.14%	1	0.14%
SA Metropolitan Fire Service	8	1.14%	9	1.22%
SACE Board of SA	0	0.00%	1	0.14%
South Australian Civil and Administrative Tribunal	26	3.69%	26	3.53%
South Australian Dental Service	5	0.71%	5	0.68%
South Australian Small Business Commissioner	1	0.14%	2	0.27%
South Australian Tourism Commission	2	0.28%	2	0.27%
Southern Adelaide Local Health Network	19	2.70%	19	2.58%
State Planning Commission	1	0.14%	2	0.27%
Super SA Board	32	4.55%	35	4.75%
TAFE SA	23	3.27%	29	3.93%
Teachers Registration Board	1	0.14%	1	0.14%
Uniting Housing - Uniting SA	2	0.28%	2	0.27%
Unity Housing Co Ltd	4	0.57%	4	0.54%
University of Adelaide	32	4.55%	35	4.75%
University of South Australia	46	6.53%	46	6.24%
Veterinary Surgeons Board of SA	2	0.28%	2	0.27%
Women's and Children's Health Network	6	0.85%	4	0.54%
Yorke and Northern Local Health Network	1	0.14%	1	0.14%
YourPlace Housing Ltd	2	0.28%	2	0.27%
<b>Total</b>	<b>704</b>	<b>100.00%</b>	<b>737</b>	<b>100.00%</b>



## Other Authorities complaints received and completed



## OFFICIAL

### Complaint outcomes

Outcome	Total	%
Complainant Cannot be Contacted	6	0.81%
Declined s12H\Other Good Reason (s12H (1)(c))	651	88.33%
Declined s12H\Previously Dealt With (s12H (1)(c))	7	0.95%
Declined s12H\Referred to Other Agency (s12H(1)(b))	9	1.22%
Declined s12H\Resolved with Agency Co-operation (s12H)	17	2.31%
Investigation Outcome\Substantiated	6	0.81%
Out of Jurisdiction\13(3)\Statutory or legal remedy	7	0.95%
Out of Jurisdiction\No administrative act	2	0.27%
Out of Time (s12C)	17	2.31%
Own initiative - discontinued	2	0.27%
Referral Withdrawn by OPI	1	0.14%
Report to OPI	1	0.14%
Withdrawn by Complainant	11	1.49%
<b>Total</b>	<b>737</b>	<b>100.00%</b>

# FOI Act Jurisdiction

## Summary tables

1 July 2022 - 30 June 2023

### Outcomes of external reviews conducted by the Ombudsman in 2022-23

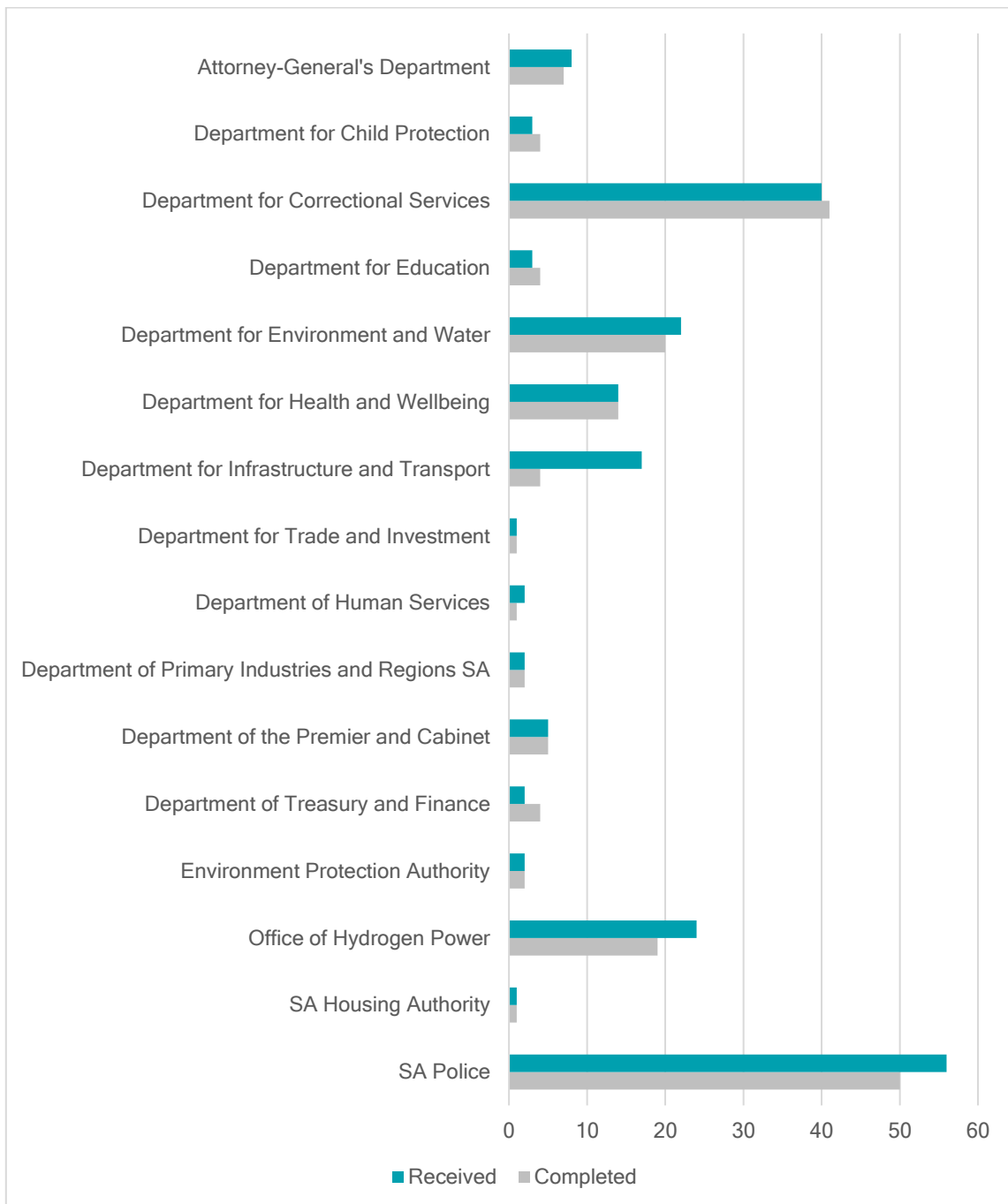
Matter Outcome	Total	%
FOI\Application for Review Withdrawn by Applicant	11	3.83%
FOI\Application for review withdrawn following OSA intervention	40	13.94%
FOI\Application Settled During Review (s39(5))	2	0.70%
FOI\Determination Confirmed (s39(11))	72	25.09%
FOI\Determination Reversed (s39(11))	23	8.01%
FOI\Determination Varied (s39(11))	81	28.22%
FOI\No Documents in Scope	2	0.70%
FOI\Outside of Jurisdiction	54	18.82%
FOI\Fees and Charges\Waive	2	0.70%
<b>Total</b>	<b>287</b>	<b>100.00%</b>

## Government departments

### External reviews received and completed

Department	Received	%	Completed	%
Attorney-General's Department	8	3.96%	7	3.91%
Department for Child Protection	3	1.49%	4	2.23%
Department for Correctional Services	40	19.80%	41	22.91%
Department for Education	3	1.49%	4	2.23%
Department for Environment and Water	22	10.89%	20	11.17%
Department for Health and Wellbeing	14	6.93%	14	7.82%
Department for Infrastructure and Transport	17	8.42%	4	2.23%
Department for Trade and Investment	1	0.50%	1	0.56%
Department of Human Services	2	0.99%	1	0.56%
Department of Primary Industries and Regions SA	2	0.99%	2	1.12%
Department of the Premier and Cabinet	5	2.48%	5	2.79%
Department of Treasury and Finance	2	0.99%	4	2.23%
Environment Protection Authority	2	0.99%	2	1.12%
Office of Hydrogen Power	24	11.88%	19	10.61%
SA Housing Authority	1	0.50%	1	0.56%
SA Police	56	27.72%	50	27.93%
<b>Total</b>	<b>202</b>	<b>100.00%</b>	<b>179</b>	<b>100.00%</b>

### Government departments external reviews received and completed

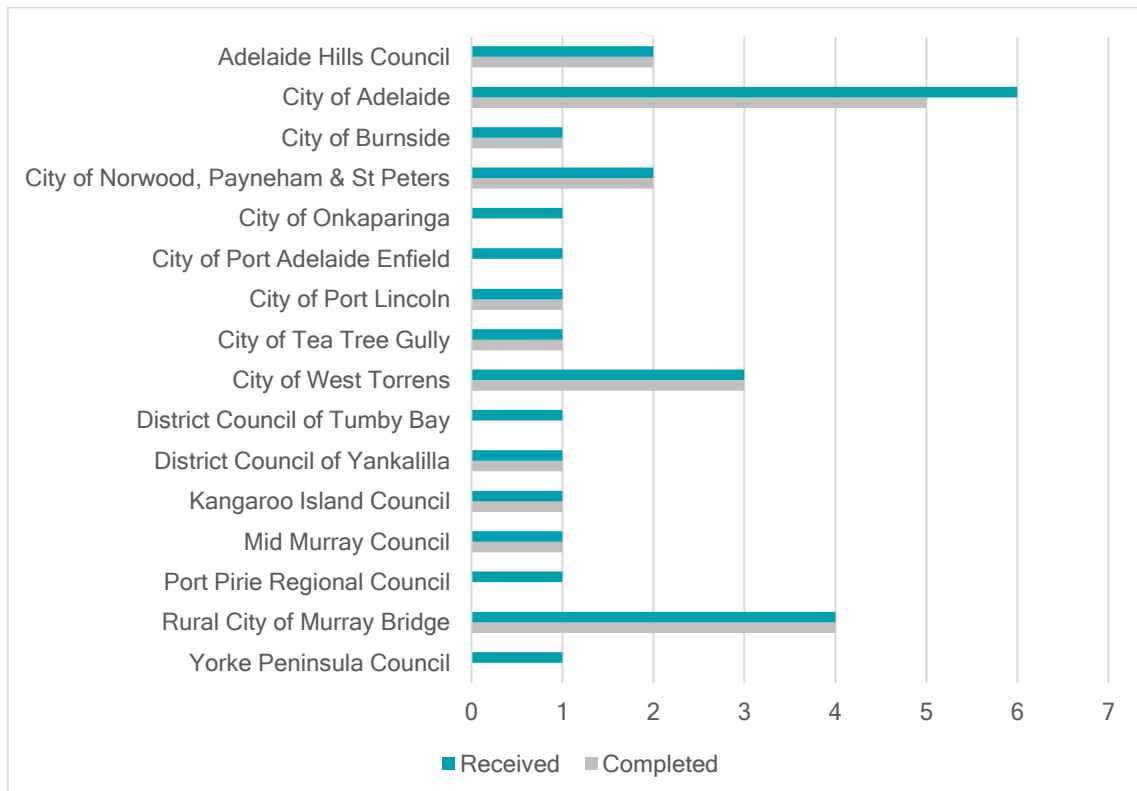


## Local government

### External reviews received and completed

Local Council	Received	%	Completed	%
Adelaide Hills Council	2	7.14%	2	9.09%
City of Adelaide	6	21.43%	5	22.73%
City of Burnside	1	3.57%	1	4.55%
City of Norwood, Payneham & St Peters	2	7.14%	2	9.09%
City of Onkaparinga	1	3.57%	0	0.00%
City of Port Adelaide Enfield	1	3.57%	0	0.00%
City of Port Lincoln	1	3.57%	1	4.55%
City of Tea Tree Gully	1	3.57%	1	4.55%
City of West Torrens	3	10.71%	3	13.64%
District Council of Tumby Bay	1	3.57%	0	0.00%
District Council of Yankalilla	1	3.57%	1	4.55%
Kangaroo Island Council	1	3.57%	1	4.55%
Mid Murray Council	1	3.57%	1	4.55%
Port Pirie Regional Council	1	3.57%	0	0.00%
Rural City of Murray Bridge	4	14.29%	4	18.18%
Yorke Peninsula Council	1	3.57%	0	0.00%
<b>Total</b>	<b>28</b>	<b>100.00%</b>	<b>22</b>	<b>100.00%</b>

### Local government external reviews received and completed

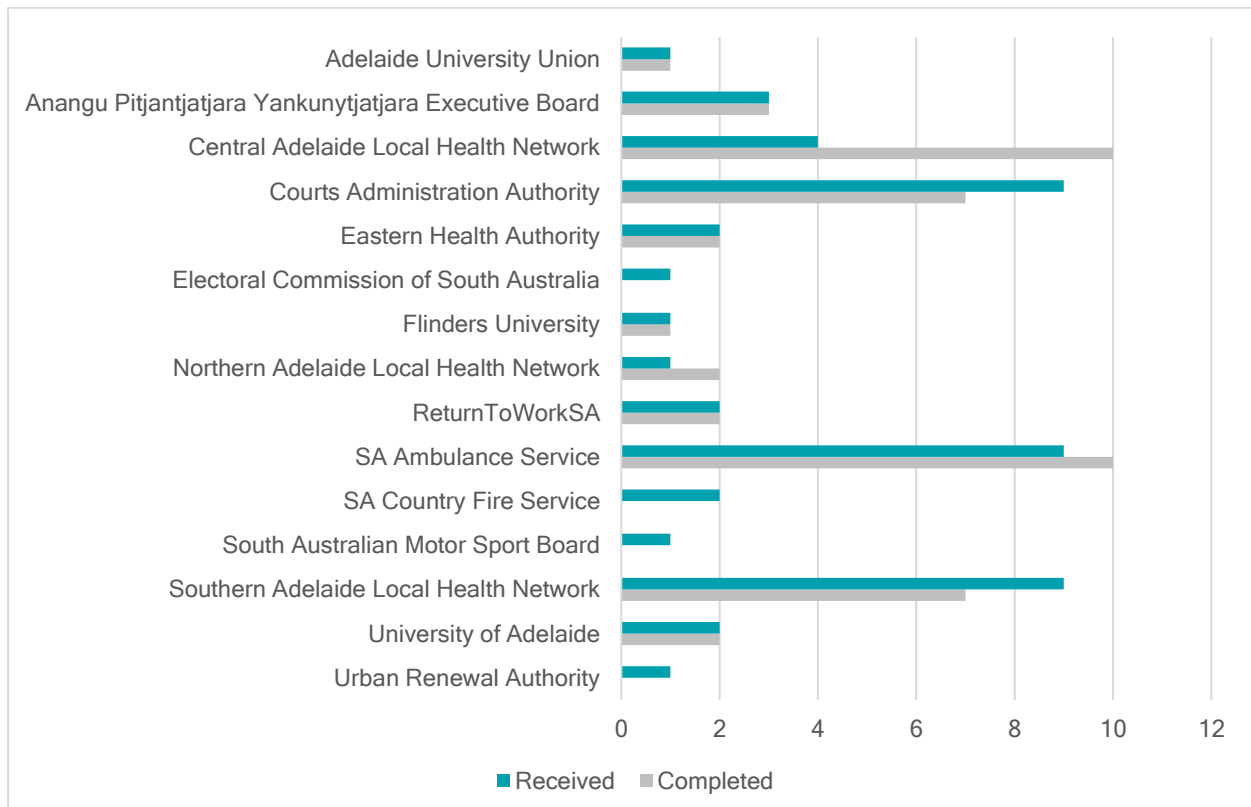


## Other authorities

### External reviews received and completed

Authority	Received	%	Completed	%
Adelaide University Union	1	2.08%	1	2.13%
Anangu Pitjantjatjara Yankunytjatjara Executive Board	3	6.25%	3	6.38%
Central Adelaide Local Health Network	4	8.33%	10	21.28%
Courts Administration Authority	9	18.75%	7	14.89%
Eastern Health Authority	2	4.17%	2	4.26%
Electoral Commission of South Australia	1	2.08%	0	0.00%
Flinders University	1	2.08%	1	2.13%
Northern Adelaide Local Health Network	1	2.08%	2	4.26%
ReturnToWorkSA	2	4.17%	2	4.26%
SA Ambulance Service	9	18.75%	10	21.28%
SA Country Fire Service	2	4.17%	0	0.00%
South Australian Motor Sport Board	1	2.08%	0	0.00%
Southern Adelaide Local Health Network	9	18.75%	7	14.89%
University of Adelaide	2	4.17%	2	4.26%
Urban Renewal Authority	1	2.08%	0	0.00%
<b>Total</b>	<b>48</b>	<b>100.00%</b>	<b>47</b>	<b>100.00%</b>

### Other authorities external reviews received and completed

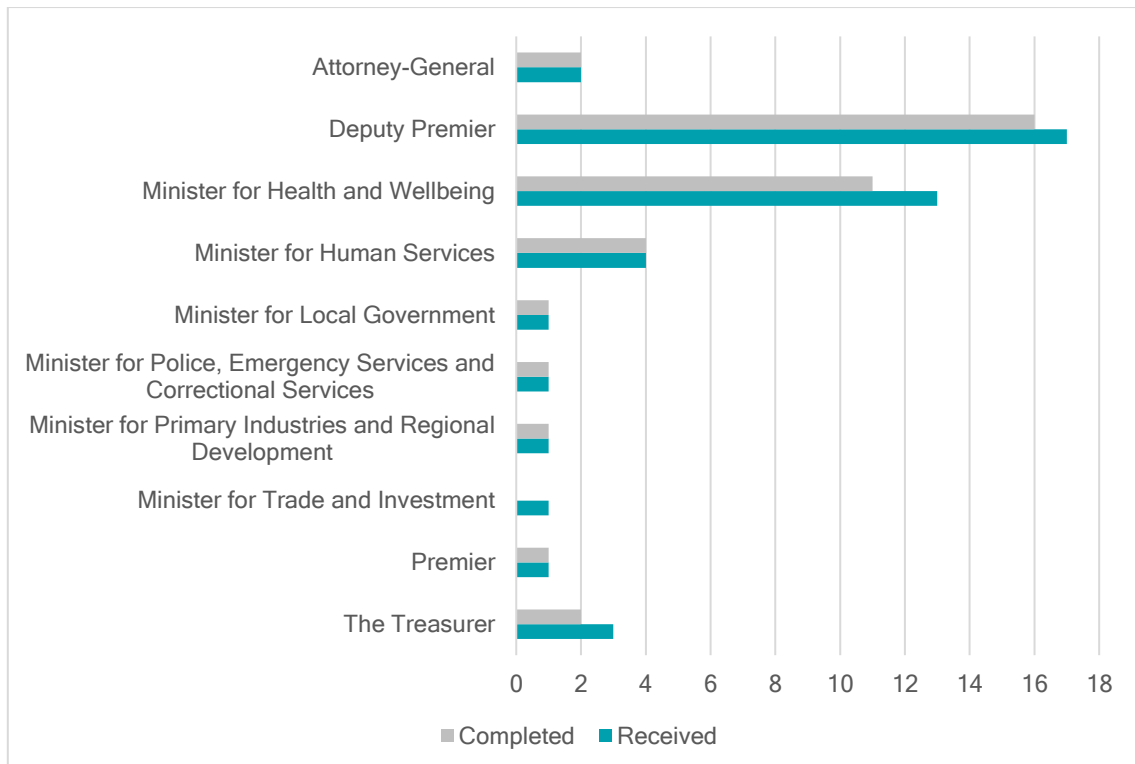


# Ministers

## External reviews received and completed

Minister	Received	%	Completed	%
Attorney-General	2	4.55%	2	5.13%
Deputy Premier	17	38.64%	16	41.03%
Minister for Health and Wellbeing	13	29.55%	11	28.21%
Minister for Human Services	4	9.09%	4	10.26%
Minister for Local Government	1	2.27%	1	2.56%
Minister for Police, Emergency Services and Correctional Services	1	2.27%	1	2.56%
Minister for Primary Industries and Regional Development	1	2.27%	1	2.56%
Minister for Trade and Investment	1	2.27%	0	0.00%
Premier	1	2.27%	1	2.56%
The Treasurer	3	6.82%	2	5.13%
<b>Total</b>	<b>44</b>	<b>100.00%</b>	<b>39</b>	<b>100.00%</b>

## Ministerial external reviews received and completed



# Appendices





# Appendix A

## Description of outcomes

The following table describes outcomes arising from the Ombudsman's jurisdiction, with the exception of the Ombudsman's Return to Work and Freedom of Information jurisdictions.

OUTCOME	DESCRIPTION
ADVICE GIVEN	<p>This outcome is used to record a response to a general enquiry, such as giving:</p> <ul style="list-style-type: none"> <li>- advice that does not relate to a specific approach or complaint</li> <li>- information or advice to the public about Ombudsman SA (e.g. address details, a request for a copy of an annual report, pamphlets or reporting guidelines)</li> <li>- FOI advice on a general query.</li> </ul> <p>This outcome cannot be used unless the type of matter is a general enquiry. For approaches or complaints, more specific outcomes must be used.</p>
COMPLAINANT CANNOT BE CONTACTED	<p>This outcome is used after all reasonable attempts have been made to contact the complainant by telephone, email, or letter. It can be used at any stage of an assessment or investigation.</p>
<b>DECLINED S12H</b> OTHER GOOD REASON s12H(1)(c)	<p>This outcome is used where the Ombudsman has determined it is not in the public interest to investigate the matter, or there is some other reason (not otherwise provided for in the outcomes) in the discretion of the Ombudsman not to investigate.</p> <p>This outcome is also used where a person who has approached the Office is advised to first raise their complaint with the subject agency, seeking resolution with that agency, before submitting a complaint to the Ombudsman for assessment.</p>
PREVIOUSLY DEALT WITH s12H(1)(b)	<p>This outcome is used where a matter is assessed as having been already dealt with by an 'inquiry agency' - the Ombudsman, ICAC or Judicial Conduct Commissioner.</p>
REFERRED TO OTHER AGENCY s12H(1)(b)	<p>This outcome is used where a matter is formally assessed as not raising an issue that should be investigated under the Ombudsman Act but rather is considered to raise some other issue that should be formally referred to a law enforcement agency, another inquiry agency, a public authority or a public officer.</p> <p>It can be distinguished from the outcome 'Other good reason' in that this outcome follows a formal assessment of a complaint received.</p>
RESOLVED WITH AGENCY COOPERATION s12H	<p>This outcome is used where the matter was resolved following the agency engaging in voluntary actions following communication with the Ombudsman and these actions appropriately address issues in the view of the Ombudsman.</p>
TRIVIAL / VEXATIOUS / FRIVOLOUS s12H(1)(c)	<p>This outcome is used where the matter is assessed as raising a matter that is considered trivial or frivolous, or the making of the complaint is determined to be vexatious.</p>

Note: This outcome is rarely used.

## OFFICIAL

INVESTIGATION OUTCOME NOT SUBSTANTIATED PARTIALLY SUBSTANTIATED SUBSTANTIATED	This outcome is used where the Ombudsman has completed an investigation and has formed a view as to the substantiation of the matter subject to investigation.
OSA DECISIONS INTERNAL REVIEW OUTCOME CONFIRMED OUTCOME VARIED NO INTERNAL REVIEW	This outcome is used where an internal review has been completed in relation to an Ombudsman SA decision and the original decision has been confirmed, varied, or substituted as relevant.
OSA SERVICES NOT SUBSTANTIATED PARTLY SUBSTANTIATED SUBSTANTIATED	This outcome is used where there was a request for an internal review, but the Ombudsman or Deputy Ombudsman (as relevant) did not consent to commencing a review.  This outcome is used where a complaint about the service provided by Ombudsman SA has been considered and records whether the complaint has been substantiated.
<b>OUT OF JURISDICTION</b>	
12B - COMPLAINANT NOT DIRECTLY AFFECTED	<p>This outcome is used where the complainant is not directly affected by the subject administrative act and thus the act is outside the jurisdiction of the Ombudsman.</p> <p>Note:</p> <ul style="list-style-type: none"> <li>- This outcome does not apply to a complaint relating to alleged misconduct or maladministration, which may be made by any person</li> <li>- The Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People and the Guardian for Children and Young People may make a complaint under the Ombudsman Act despite the fact they are not directly affected by the act to which the complaint relates.</li> </ul>
13(3) - STATUTORY OR LEGAL REMEDY	<p>This outcome is only used when:</p> <ul style="list-style-type: none"> <li>- the agency being complained about is within jurisdiction but</li> <li>- the complainant has a right of appeal, reference, or review with another body</li> </ul> <p>unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy (section 13(3)).</p> <p>Reasons for the outcome and details of the other agency must be recorded.</p>
AGENCY NOT WITHIN JURISDICTION	This outcome is used where the agency complained about is outside the jurisdiction of the Ombudsman, for example, as it relates to a Commonwealth agency.
JUDICIAL OFFICER CONDUCT	This outcome is used where the act complained about relates to the conduct of judicial officers outside of the exercise of judicial authority.
NO ADMINISTRATIVE ACT	This outcome is used where the complaint does not relate to an administrative act as defined in section 3 of the Ombudsman Act and is not otherwise misconduct or maladministration.
SAPOL OFFICER CONDUCT	This outcome is used where the act complained about relates to the conduct of South Australia Police Officers.
12C - OUT OF TIME	This outcome is used where a complaint has been made after 12 months from the day the complainant first had notice of the matters alleged in the complaint and the Ombudsman is not of the opinion that, in all the circumstances of the case, it is proper to entertain the complaint.
OWN INITIATIVE - DISCONTINUED	This outcome is used where the Ombudsman commenced and then discontinued an own initiative investigation. Comments providing reasons for the discontinuation should be provided on the file.

## OFFICIAL

### REFERRAL WITHDRAWN BY OPI

This outcome is used where the OPI withdraws a referral it has made to the Ombudsman pursuant to section 18F of the *Independent Commission Against Corruption Act 2012*.

### WITHDRAWN BY COMPLAINANT

This outcome means that the complaint has been withdrawn by the complainant.

Note that although a complaint has been withdrawn by a complainant, the Ombudsman may decide to commence a separate, own initiative investigation.

# Appendix B

## Description of outcomes: RTW Act Jurisdiction

OUTCOME	DESCRIPTION
RTW - ADVICE GIVEN	<p>This outcome must only be used when:</p> <ul style="list-style-type: none"> <li>giving advice that does not relate to a specific approach or complaint</li> <li>information has been received and only needs to be noted.</li> </ul> <p>*Note - more specific outcomes are preferable. Only use when no other outcome is suitable.</p>
RTW - OUT OF JURISDICTION	<p>This outcome is used where the complaint relates to a worker's compensation matter that relates to:</p> <ul style="list-style-type: none"> <li>an agency that is not in jurisdiction</li> <li>an interstate jurisdiction</li> <li>where the worker is located in South Australia, however the claim has been made under the Commonwealth worker's compensation Act i.e. Comcare or</li> <li>a judicial body i.e. SAET</li> </ul>
RTW - COMPLAINANT CANNOT BE CONTACTED	<p>This outcome is used after all reasonable attempts have been made to contact the complainant by telephone, email or letter. It can be used at any stage of an assessment or investigation.</p> <p>All attempts to contact the complainant must be clearly recorded.</p>
RTW - REFERRED BACK TO COMPENSATING AUTHORITY	<p>This outcome is used usually during the assessment phase, but may be used in the investigation phase.</p> <p>It is used when it is proper for the complainant to complain to, or seek a review of their complaint from the claims agent/RTW SA/self-insured employer - unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have raised the complaint with the Corporation or delegate.</p> <p>See s5(1)(a) of schedule 5, Return to Work Act.</p> <p>Reasons for the outcome must be recorded.</p>
RTW - ALTERNATE REMEDY AVAILABLE WITH ANOTHER BODY	<p>This outcome is only used where the complainant has right of appeal, reference or review with another body such as the SAET.</p>
RTW - RESOLVED WITH COMPENSATING AUTHORITY'S COOPERATION	<p>This outcome is usually used during the assessment phase of a complaint where Ombudsman SA has made contact with the agency, and the agency has taken action to remedy the complaint to the satisfaction of the complainant.</p>
RTW - WITHDRAWN BY COMPLAINANT	<p>Reasons for the outcome must be recorded.</p> <p>This outcome is used when the complainant expressly wishes to withdraw their complaint, even if Ombudsman SA has not contacted the respondent. It can be used at any stage of an assessment or investigation.</p> <p>It must be established and recorded that the complainant wishes to formally withdraw the complaint.</p> <p>It must not be used when Ombudsman SA cannot contact the complainant. See 'Cannot Contact Person' Outcome.</p> <p>Reasons for the outcome must be recorded.</p>

## OFFICIAL

RTW - DECLINED - TRIVIAL / VEXATIOUS / FRIVOLOUS	This outcome is used for a complaint, where the Ombudsman decides not to investigate because the matter is assessed as trivial, frivolous, or vexatious (s12H(1)(c) Ombudsman Act).
RTW - DECLINED - OTHER GOOD REASON	This outcome is used for a complaint where the Ombudsman decides not to take action in respect of the complaint, because the Ombudsman has determined it would not be in the public interest to do so. (s12H(1)(c) Ombudsman Act).
RTW - DECLINED - PREVIOUSLY DEALT WITH	This outcome is used where the Ombudsman assesses that the matter has already been dealt with by the Ombudsman or another appropriate authority and declines to investigate on that basis. (s12H(1)(c) Ombudsman Act).
RTW - DECLINED - REFERRED TO OTHER AGENCY	This outcome is used where the Ombudsman has assessed that the issue constituting the complaint is more appropriately dealt with by another agency and declines to investigate on that basis. (s12H(1)(b) Ombudsman Act).
OUT OF TIME	This outcome is used where the applicant or complainant has made their application or complaint outside of the relevant statutory timeframe for doing so.
RTW - BREACH OF SERVICE STANDARDS	This outcome is only used when making a finding of a breach of the service standards after an investigation.
RTW - BREACH OF SERVICE STANDARDS NOT SUBSTANTIATED	This outcome is used <ul style="list-style-type: none"> <li>• after an investigation and a report has been completed; and</li> <li>• when making a finding there has been no breach of the service standards.</li> </ul>
RTW - OMBUDSMAN COMMENT WARRANTED	No breach of the service standards has been found, but an issue worthy of the Ombudsman's comment has been identified.
RTW - S180 REVIEW APPLICATION WITHDRAWN BY APPLICANT	This outcome means that during or at the conclusion of the external review, the applicant decided to withdraw the application. For example, the applicant may have decided to pursue other avenues of redress; or with the passage of time, the applicant no longer wished to pursue document access.
RTW - S180 REVIEW DECISION CONFIRMED	This outcome does not include instances where the agency has revised its determination to give access to documents. This outcome means that at the conclusion of the external review, the Ombudsman agreed (in whole) with the Corporation's decision (section 180(10)(b)).
RTW - 180 REVIEW DECISION VARIED	This outcome means that at the conclusion of the external review, the Ombudsman agreed in part and disagreed in part with the Corporation's decision (section 180(10)(b)).
RTW - S180 REVIEW DECISION REVERSED	This outcome means that at the conclusion of the external review, the Ombudsman disagreed (in whole) with the Corporation's decision (section 180(10)(b)).
RTW - S180 REVIEW NO JURISDICTION	The outcome is relevant when the applicant seeks the s180 review before they have sought or finalised internal review processes, and hence the Ombudsman is unable to undertake a review.
RTW - S180 REVIEW REVISED DURING REVIEW	This outcome is used when the agency releases the documents after the commencement of the review.

# Appendix C

## Description of outcomes: FOI Act Jurisdiction

OUTCOME	DESCRIPTION
FOI APPLICATION FOR REVIEW WITHDRAWN BY APPLICANT	<p>This outcome means that during or at the conclusion of the external review, the applicant withdrew their application. For example, the applicant may have decided to pursue other avenues of redress; or with the passage of time, the applicant no longer wished to pursue document access.</p> <p>This outcome does not include instances where the agency has revised its determination to give access to documents and also does not include circumstances in which the application was withdrawn following actions by Ombudsman SA.</p>
FOI APPLICATION WITHDRAWN FOLLOWING OSA INTERVENTION	<p>This outcome means that during the course of an external review, the applicant was satisfied with informal actions taken by the Ombudsman and the applicant indicated that they did not need to continue with the review. For example, the agency may have decided to disclose documents or information sought by an applicant after being notified of an external review, or the Ombudsman may have clarified an issue for the applicant and the applicant no longer considered an external review to be necessary.</p> <p>This outcome does not include instances where the applicant withdrew an application for external review for reasons other than the Ombudsman's involvement, or where a formal settlement occurred under section 39(5)(c).</p>
FOI APPLICATION SETTLED DURING REVIEW (SECTION 39(5))	<p>This outcome means the Ombudsman exercised settlement powers under section 39(5)(c). A determination is sent to the parties giving effect to the settlement.</p>
FOI DETERMINATION CONFIRMED (SECTION 39(11))	<p>This outcome means that at the conclusion of the external review, the Ombudsman agreed (in whole) with the agency's determination (section 39(11)). Note: the Ombudsman's reasons may differ from the agency (for example, a different exemption clause may apply).</p>
FOI DETERMINATION REVERSED (SECTION 39(11))	<p>This outcome means that at the conclusion of the external review, the Ombudsman disagreed (in whole) with the agency's determination.</p>
FOI DETERMINATION REVISED BY AGENCY (SECTION 19(2a))	<p>This outcome means that all documents were released by the agency or agency submits the documents can be released after the commencement of the external review.</p> <p>The outcome may occur, for example, in an external review dealing with an agency's 'double deemed refusal', where the agency has had a chance to consider the documents and decides that the documents should be released.</p>

## OFFICIAL

FOI DETERMINATION VARIED (SECTION 39(11))	This outcome means that at the end of the external review, the Ombudsman agreed in part and disagreed in part with the agency's determination.
FOI EXTENSION OF TIME FOR APPLICATION FOR REVIEW (SECTION 39(4))	This outcome means that the Ombudsman did not exercise his discretion to accept an external review application out of time under section 39(4).
DISCRETION NOT VARIED FOI NO DOCUMENTS IN SCOPE	This outcome means that during the course of an external review, it came to light that the agency did not hold documents within the scope of an initial application for access. No practical outcome would have been achieved by continuing the external review and the Ombudsman declined to confirm, vary, or reverse the agency's determination.
FOI APPLICATION DISMISSED BECAUSE OF LACK OF COOPERATION OF APPLICANT (section 39(8))	This outcome means the Ombudsman considers the Applicant has failed to comply with section 39(7).

# Values

## Honesty

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

## Helpfulness

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

## Professionalism

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

## Fairness

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





OmbudsmanSA

## Contacting Ombudsman SA

Our business hours are  
9.00am - 5.00pm, Monday to Friday

Level 8  
95 Grenfell Street  
Adelaide SA 5000

Telephone 08 8226 8699  
Facsimile 08 8226 8602  
Toll free (outside metro area) 1800 182 150

[www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)