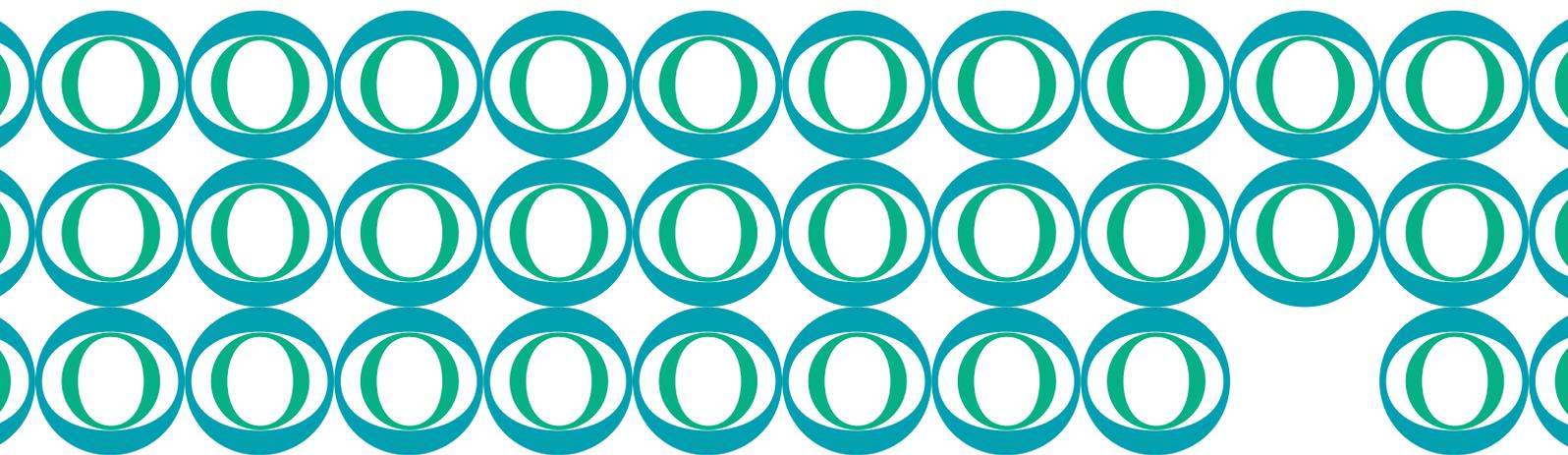


Ombudsman SA

ANNUAL REPORT
2012 / 2013



OmbudsmanSA

What does Ombudsman SA do?

Ombudsman SA investigates complaints about South Australian government and local government agencies, and conducts Freedom of Information reviews.

The Ombudsman can also receive information about state and local government activities confidentially from whistleblowers.

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

Ombudsman SA

Level 5, East Wing
50 Grenfell Street
Adelaide SA 5000

Telephone 08 8226 8699

Facsimile 08 8226 8602

Toll free 1800 182 150 (outside metro area)

Email ombudsman@ombudsman.sa.gov.au

www.ombudsman.sa.gov.au



OmbudsmanSA

The Honourable President
LEGISLATIVE COUNCIL
Parliament House
Adelaide

The Honourable Speaker
HOUSE OF ASSEMBLY
Parliament House
Adelaide

It is my duty and privilege to submit the South Australian Ombudsman's 41st Annual Report for 2012–13 to the Parliament, as required by section 29(1) of the Ombudsman Act 1972.

Richard Bingham
SA OMBUDSMAN

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Key Features: 2012 - 13

- Approaches made to Ombudsman SA increased by more than 2 000, or 22.9%
- More stringent criteria applied to the evaluation of approaches, to determine the most appropriate and effective response
- Average age of outstanding matters decreased from 87 to 66.9 days
- 'Putting it right' report: over the past four years 97% of recommendations to state agencies and councils have been accepted and 80% fully implemented
- Assumed responsibility for the Information Sharing Guidelines for Promoting Safety and Wellbeing
- Commenced audits of 12 government agencies' handling of Freedom of Information applications

THE YEAR IN REVIEW

Increasing workload of the office

Information Sharing Guidelines

Ombudsman Act – highlights

Freedom of information reviews

Report against the 2012-13 Business Plan

Looking ahead: Initiatives for 2014

The Year in Review

Since the establishment of this office 40 years ago, Ombudsman SA has provided an effective and impartial service to the South Australian public; investigating and resolving complaints; conducting systemic investigations into government bodies; and recommending improvements to administrative processes.

During 2012–13 my office has continued to work diligently in all these areas, maintaining a high standard of service and meeting the various challenges the year has produced, including a significant increase in workload as staff numbers remained static. The effectiveness of our work was clearly demonstrated in the 'Putting it right' report tabled in Parliament, which showed that over a four-year period 97% of the recommendations we made relating to state agencies and councils had been accepted and that 80% had, at the time of assessment, been fully implemented.

During the year Ombudsman SA was assigned responsibility for overseeing the Information Sharing Guidelines for Promoting Safety and Wellbeing, with the scope extended to include not only children, young people and their families but all vulnerable adults. This will be an important area of development for us in the year ahead as we clarify how the legal guidelines will operate.

In presenting this Annual Report, which summarises our activities, initiatives and achievements for 2012–13, I believe we demonstrate Ombudsman SA's ongoing commitment to helping make South Australia a state where all communities and individuals are treated fairly.

The increasing workload of the office

The past year has seen a continued increase in workload, mainly due to a marked rise in the number of approaches made to our office. The following table summarises the position.

Ombudsman SA workload, 2010–2013

	2010–11	2011–12	2012–13	Change 2011–12 to 2012–13 (%)
Approaches	9 238	9 690	11 960	+23.4%
Complaints to Ombudsman	3 167	3 457	3 278	-5.2%
Freedom of Information reviews	233	203	150	-26.1%
Total matters (i.e. Ombudsman complaints and FOI reviews)	3 400	3 660	3 428	-6.7%
Average time taken to resolve matters (days) (as at 30 June 2013)	72.0	87.0	66.9	-23.1%

Measures my office has put in place to manage this workload more effectively have included:

- redesigning our website to assist people to seek their own remedies, rather than approaching my office
- referring complainants back to the agency which they have complained about, to seek further review. In particular, this has involved referring more prisoners to the Prisoner Complaints Line, and advising local government complainants to seek internal review under section 270 of the *Local Government Act 1999*. Our capacity to do this reflects the benefits of the audit work which we undertook in 2011–12 on the complaint handling capacity of the Department for Correctional Services and local government respectively
- applying stricter tests before agreeing to commence an investigation under the *Ombudsman Act 1972*. This is reflected in the fact that despite more than 2000 additional approaches to the office, we have maintained the number of Ombudsman investigations at a comparable level. We now consider the following factors in determining whether to investigate a complaint:
 - › Does the alleged administrative error amount to a serious failure to meet expected standards of public administration?
 - › Is the complaint about matters of serious concern and benefit to the public rather than simply an individual's interest?
 - › Is there evidence of ongoing systemic failure in public administration?
 - › Are the circumstances of the complaint likely to arise again?
 - › Is the complaint about matters of process as well as outcomes?
 - › Is the complaint about failures of ethical and transparent management?



- › Does the complaint relate to matters of public safety and security, the economic well-being of South Australia, the protection of public well-being and morals or the rights and freedoms of citizens?
- › Has the complainant suffered significant personal loss?
- › Would investigation of the complaint be likely to lead to meaningful outcomes for the complainant and/or to the improvement of public administration?
- › Has another review body considered the matter?
- › What is the likelihood of collecting sufficient evidence to support a finding of administrative error?
- › Would investigation of the complaint involve effort and resources that are proportionate to the seriousness of the matter?

Last year, I noted my hope that the establishment of the Office for Public Integrity (OPI) will reduce my office's workload in providing advice and guidance to people who contact us with approaches which do not fall within our jurisdiction. Over 60% of approaches to my office are in this category. The establishment of OPI did not occur during the year under review, but I am hopeful that with the commencement of OPI's operation scheduled for 1 September 2013 we will soon see some benefit.

Whilst FOI review numbers decreased over 2012-2013 when compared to the previous year, a significant number remained under investigation at the end of 2012-2013.

In 2011-12 the average age of outstanding matters as of 30 June had increased to 87.0 days, up 20% (72.0 days) from 2010-11. Pleasingly, this has decreased by 23% over the past year to 66.9 days, reflecting my intention that the office should deal more expeditiously with matters, and the fact that a number of significant investigations were completed late in the year.

Over the past year, we have had a total of 14 FTE (full-time equivalent) staff, with an additional 1.6 FTE seconded from the Office for State/Local Government Relations. As a result of the changes in the operation of that office, we expect that three staff will transfer to my office in the near future. This will coincide with our increased responsibilities, particularly in relation to elected member conduct, under the amendments to the Local Government Act resulting from the *Independent Commissioner Against Corruption Act 2012*.

The Information Sharing Guidelines

In March 2013 I assumed responsibility for oversight and the provision of advice to government and non-government agencies about the Information Sharing Guidelines (ISG), which had to that point applied only to promoting the safety and well-being of children, young people and their families. At the same time, the South Australian Cabinet directed that the scope of the ISG should be broadened to include information sharing for all vulnerable adults, irrespective of their status as parents or caregivers. This enabled service providers to apply the ISG to *all* clients with whom they work and aligned information sharing practices across both adult and child services.

The ISG were originally designed to give providers of services to children, young people and their families confidence in sharing information appropriately with each other. The need for sharing information arises when there is reasonable suspicion that a person is at risk of harm – from others or as a result of their own actions – and when they believe adverse outcomes can be predicted unless service provision is coordinated.

One FTE staff member was transferred to my office from the Office of the Guardian for Children and Young People to enable me to fulfil this responsibility.

Ombudsman Act – highlights

Common causes for Ombudsman investigation over the year have been the treatment of prisoners by the Department for Correctional Services; questions of probity at both state and local government level relating to procurement and contracts; and issues regarding development approvals and the subsequent enforcement of development approval conditions.

Some of the more significant reports tabled in Parliament over the past year are summarised below.

October 2012: District Council of Yorke Peninsula – Investigation into waste and recycling service charge

I investigated whether the council had wrongly imposed a waste collection service charge for services which it was unable to deliver, and whether its imposition of the service charge had an unfair or unreasonable impact on an individual ratepayer. I concluded that the council had made errors, and recommended that it should recalculate the ratepayers' liabilities according to a scale approved by Parliament. It declined to do so.

November 2012: Councils – An audit of the use of meeting confidentiality provisions of the Local Government Act in South Australian councils

Following complaints that councils were improperly making important and sensitive decisions at meetings behind closed doors, I tabled a report on an audit of selected councils in South Australia.

March 2013: Investigation into the Growth Investigation Areas Report procurement

This report followed a Parliamentary referral.

In order to prepare a significant plan for the Mount Barker area (amongst others), the state planning department engaged consultants who were also working for developers in the Mount Barker area. The investigation found that the department didn't properly check and deal with the consultants' conflicts of interest.

The investigation also related to five Freedom of Information applications, each of which was refused by the department. Following the conduct of external reviews, I decided differently in each case. The government appealed two of my determinations, but they were upheld by the District Court.

May 2013: Department for Correctional Services – Treatment of a prisoner

This investigation focused on an individual prisoner with complex mental health needs. The investigation found that ideally she shouldn't have been held in a corrections facility; but that her treatment was wrong, and in some respects contrary to law.

'Putting it right': A report on the implementation of the Ombudsman's recommendations

On 20 June 2013 I tabled this report in Parliament. It documents the action taken by state agencies and councils in response to Ombudsman recommendations for the four-year period ending in March 2013.

Of the 230 recommendations made, 224 were accepted, and 186 of those had been fully implemented as at the date of the report. This is a very pleasing result.

I intend to report on the implementation of recommendations as a regular feature in future annual reports.

Section 25 reports

At the conclusion of this section I have listed the 64 reports that I have provided to Ministers during the past year under section 25 of the Ombudsman Act.

Section 25 reports are prepared after a full investigation finds that an administrative error has been made, and often contain recommendations intended to remediate the error. Where I consider that the public interest requires it, I have sought to have some section 25 reports tabled in Parliament, and I have published others on my website. All section 25 reports completed in 2012–13 are listed at the end of this section, and some of the case studies have been included in the body of this Annual Report.

Freedom of Information reviews

Section 12 of the *Freedom of Information Act 1991* (FOI Act) provides members of the public with a legally enforceable right to access an agency's documents.¹

My office undertakes external reviews under the FOI Act, a responsibility which in most other Australian jurisdictions sits with a separate Information Commissioner. I support the current arrangements, which permit me to deal efficiently with overlap between the two responsibilities from my Ombudsman Act jurisdiction and enable my office to apply lessons learnt in one jurisdiction to the other.

On 13 June 2013 I wrote to the Chief Executives of 12 state government departments, advising that, as part of my administrative improvement role, I had commenced an audit under the Ombudsman Act of their agency's fulfilment of its responsibilities under the FOI Act.

The aim of the audit is to improve FOI understanding and the FOI responses of these departments, and agencies generally across South Australia. The audit will focus on:

- FOI staffing
- FOI policies, procedures and templates
- FOI searching for documents
- ministerial noting of FOI applications and determinations
- understanding FOI Act obligations, and FOI training
- number of FOI applications and response times
- use of FOI exemptions in determinations
- proactive disclosure of information outside FOI.

¹ The term 'agency' is defined in section 4 of the FOI Act.

The audit group comprises:

- Attorney-General's Department
- Department for Communities and Social Inclusion
- Department for Correctional Services
- Department for Education and Child Development
- Department for Health and Ageing
- Department of Environment, Water and Natural Resources
- Department of Further Education, Employment, Science and Technology
- Department for Manufacturing, Innovation, Trade, Resources and Energy
- Department of Planning, Transport and Infrastructure
- Department of Primary Industries and Regions SA
- Department of the Premier and Cabinet
- Department of Treasury and Finance.

I currently expect to complete the audit by the end of 2013.

Report against the 2012–13 Business Plan

During 2012–13 my office identified the following initiatives, amongst others:

- measuring the implementation of section 25 recommendations for the Annual Report
- implementing a new internal search facility for accessing produced reports
- releasing Ombudsman SA reports and decisions on appropriate websites and databases. This includes the legal information website AustLII, and our own website.

We have successfully completed each of these initiatives this year.

Looking ahead: initiatives for 2014

In the period to 2014 we plan to:

- establish and manage an effective working relationship with the newly created role of Independent Commissioner Against Corruption
- focus on capacity building for state and local government
- better identify priority issues for proactive investigation through trends in complaints and use of corporate knowledge
- continue to ensure that Ombudsman SA has a strong and recognisable brand
- review and expand our outreach and communication activities
- improve our case management, and internal accountability and performance measurement.

Acknowledgements

I again record my sincere appreciation to the staff of my office, who have made an outstanding contribution over the past year.



A handwritten signature in black ink, which appears to read 'Richard Bingham'. The signature is fluid and cursive.

Richard Bingham
SA OMBUDSMAN
September 2013

Section 25 Reports completed 2012-13

Number	Complainant	Respondent Agency	Nature of Matter	Summary in this Report
2010/07383	Private individual	Regional Council of Goyder	Unreasonable development assessment process	yes
2011/03946	Ombudsman own initiative	District Council of Mount Remarkable	Alleged improper conduct by CEO	yes
2011/04720	Ombudsman own initiative	Department for Correctional Services	Inappropriate handling of a prisoner	no
2011/04816	Private individual	Department for Transport, Energy and Infrastructure	Alleged errors in project design	yes
2011/05543	Ombudsman own initiative	Courts Administration Authority	Unreasonable decision to disqualify licence	no
2011/06606	Private individual	South Australian Heritage Council	Alleged conflict of interest of decision maker	yes
2011/07919	Private individual	District Council of Yorke Peninsula	Imposition of a waste and recycling charge	yes
2012/00110	Private individual	Department for Correctional Services	Unreasonable failure to transport prisoner property	yes
2012/00146	Private individual	District Council of Grant	Unlawful decisions regarding use of Land Management Agreements	yes
2012/00157	Ombudsman own initiative	Attorney-General's Department	Failure to comply with legislative requirements	no
2012/01161	Private individual	Department for Correctional Services	Shackling and inhumane treatment of a prisoner	yes
2012/01626	Ombudsman own initiative	City of West Torrens	Unreasonable failure to comply with traffic control code	no
2012/01790	Private individual	City of Holdfast Bay	Breach of code of conduct	yes
2012/02510	Ombudsman own initiative	City of Mitcham	Unlawful confidentiality of council meeting	no
2012/02671	Private individual	SA Ambulance Service	Unreasonable requirement to disclose identity details	no
2012/03461	Private individual	District Council of Mallala	Breach of confidentiality by elected member	no
2012/03666	Private individual	Campbelltown City Council	Confidentiality order wrongly made under s90(3)(e); breaches of code of conduct and meeting procedures	no
2012/03914	Private individual	City of Marion	Alleged elected member conflict of interest	no
2012/04341	Private individual	Department of Treasury and Finance/ Super SA Board	Failure to provide authority for demands	yes
2012/04432	Private individual	City of Burnside	Alleged lack of action regarding neighbouring property	yes

Number	Complainant	Respondent Agency	Nature of Matter	Summary in this Report
2012/04503	Private individual	Health and Community Services Complaints Commissioner	Unreasonable investigation of complaint	no
2012/04516	Private individual	District Council of Mount Barker	Failure to consult regarding Aboriginal Heritage Sites	yes
2012/04639	Private individual	Wakefield Regional Council	Unreasonable conduct	no
2012/04706	Private individual	City of Onkaparinga	Failure to honour terms of lease agreement	no
2012/04708	Private individual	SA Ambulance Service	Unreasonable assessment of hardship application	yes
2012/04715	Private individual	City of Onkaparinga	Failure to enforce development conditions	yes
2012/05139	Private individual	City of Salisbury	Alleged unlawful disposal of tyres to company without development approval, nor EPA licence	no
2012/05284	Private individual	District Council of Robe	Failure to follow proper process in road closure	no
2012/05312	Private individual	The Flinders Ranges Council	Failure to adhere to due process	no
2012/05362	Private individual	Veterinary Surgeons Board	Alleged failure to appropriately investigate complaint	yes
2012/05374	Private individual	Veterinary Surgeons Board	Alleged failure to declare a conflict of interest	yes
2012/05612	Ombudsman own initiative	City of Charles Sturt	Failure to declare a conflict of interest	yes
2012/05836	Private individual	Wattle Range Council	Unreasonable termination of services	no
2012/05982	Private individual	District Council of Mount Barker	Alleged conflict of interest of council employee	yes
2012/06361	Private individual	Consumer and Business Services	Publication of false or misleading information in a media release	yes
2012/06454	Private individual	City of Playford	Unreasonable investigation of dog attack complaint	yes
2012/06710	Private individual	City of Charles Sturt	Acted contrary to law in issuing an enforcement notice	yes
2012/06963	Ombudsman own initiative	Town of Gawler	Breach of code of conduct	no
2012/07008	Private individual	SA Housing Trust	Failure to lodge bond in association with private rental assistance	no
2012/07185	Private individual	Department for Correctional Services	Unreasonable restraint and security procedure in medical assessment	yes

Number	Complainant	Respondent Agency	Nature of Matter	Summary in this Report
2012/07386	Private individual	Department of Further Education, Employment, Science and Technology	Alleged breach of confidentiality	no
2012/07478	Ombudsman own initiative	Town of Gawler	Breach of code of conduct	no
2012/07682	Private individual	Department for Correctional Services	Unreasonable banning of the complainant from visiting his brother.	no
2012/08257	Private individual	Department for Correctional Services	Unreasonable treatment of prisoner including shackling and failure to keep adequate records	yes
2012/08265	Private individual	Kingston District Council	Unreasonable charges for unauthorised work	yes
2012/08372	Private individual	Wakefield Regional Council	Failure to review confidentiality orders	yes
2012/09073	Private individual	Department of Treasury and Finance	Unreasonable management of FOI application	no
2012/09804	Private individual	District Council of Mount Remarkable	Alleged breaches of legislation	no
2012/09847	Private individual	City of Playford	Unlawful disposal of tyres to company without development approval or EPA licence	yes
2012/09908	Private individual	Rural City of Murray Bridge	Alleged breach of meeting procedure and breach of confidentiality	no
2012/09911	Private individual	Rural City of Murray Bridge	Alleged breach of meeting procedure and breach of confidentiality	no
2012/09916	Ombudsman own initiative	Rural City of Murray Bridge	Failure to disclose and manage a personal interest	yes
2012/10227	Ombudsman own initiative	District Council of Tumby Bay	Alleged elected member conflict of interest	no
2012/10276	Private individual	Health & Community Services Complaints Commissioner	Unreasonable investigation of complaint	no
2012/10619	Private individual	Outback Communities Authority	Alleged breach of constituted powers	no
2013/00396	Ombudsman own initiative	Public Trustee	Alleged conflict of interest	yes
2013/00623	Private individual	Environment Protection Authority	Unreasonable change of jurisdiction of FOI application	no
2013/00830	Private individual	District Council of Peterborough	Unreasonable investigation of conduct complaint	no
2013/00899	Ombudsman own initiative	District Council of Elliston	Alleged conflict of interest of council chairman	yes
2013/01120	Private individual	City of Port Adelaide Enfield	Unlawful disposal of tyres to company without development approval or EPA licence	no

Number	Complainant	Respondent Agency	Nature of Matter	Summary in this Report
2013/01297	Private individual	District Council of Yankalilla	Inadequate review of code of conduct complaint	yes
2013/02700	Private individual	Alexandrina Council	Unreasonable termination of services	no
2013/02793	Private individual	City of Port Adelaide Enfield	Alleged elected member conflict of interest	no
2013/02938	Private individual	City of Charles Sturt	Unreasonable conduct of councillor	no



Summary of Statistical Information

Ombudsman Jurisdiction	2010–11						2011–12						2012–13					
	Government agencies	Local government	Other Authorities	Minister	Total		Government agencies	Local government	Other Authorities	Minister	Total		Government agencies	Local government	Other Authorities	Minister	Total	
Open complaints																		
Cases open at beginning of period	48	48	35		131	42	56	10		108	39	52	21		112			
Cases opened during period	1781	794	459	2	3036	2007	878	546	6	3448	1850	852	548	2	3252			
Total cases open	1829	842	494	2	3167	2049	934	556	6	3556	1889	904	569	2	3364			
Less closures																		
Advice given	244	125	91	2	462	180	109	66	6	361	64	38	27	2	131			
Alt remedy another body	139	41	66		246	316	80	95		491	284	46	101		431			
Complainant cannot be contacted	5	2			7	40	23	14		77	27	21	15		63			
Declined	99	54	25		178	178	90	52		320	555	283	145		983			
S18(5) Referred evidence of misconduct to principal officer												1			1			
s25 Finding/ Contrary to law						5	14	2		21	2	23	5		30			
s25 Finding/ Improper or irrelevant consideration		1			1													
s25 Finding/ Mistake of law		2			2			1		1								
s25 Finding/No reason given	1				1	1				1								
s25 Finding/ Unlawful		7	1		8													
s25 Finding/ Unreasonable	2	1			3	1	2			3	4	4	3		11			
s25 Finding/ Unreasonable law or practice	2	1			3		1			1			1		1			

Ombudsman Jurisdiction	2010–11						2011–12						2012–13					
	Government agencies	Local government	Other Authorities	Minister	Total		Government agencies	Local government	Other Authorities	Minister	Total	Government agencies	Local government	Other Authorities	Minister	Total		
s25 Finding/ Wrong		5	3		8		5	6	4		15	5	13	4		22		
Not substantiated/ No s25 finding	325	167	75		567	267	112	67		446	12	25	12		49			
OMB comment warranted	6	3	3		12	8				8	4	1	1		6			
Out of time	5	9	2		16	4	3	3		10								
Outside of jurisdiction	14	2	12		28	18	2			20	27	7	13		47			
Referred back to agency	605	269	132		1006	680	353	167		1200	664	337	180		1181			
Resolved with agency cooperation	258	51	45		354	222	52	41		315	147	37	24		208			
Withdrawn by complainant	81	46	29		156	85	36	22		143	67	17	18		102			
Total complaints closed	1786	786	484	2	3058	2010	883	534	6	3445	1862	853	549	2	3266			
Still Under Investigation	43	56	10	0	109	39	51	22	0	111	40	51	20	0	111			
Audit completed							12			12		12			12			

FOI Jurisdiction	2010–11						2011–12						2012–13					
	Government agencies	Local government	Other Authorities	Minister	Total		Government agencies	Local government	Other Authorities	Minister	Total		Government agencies	Local government	Other Authorities	Minister	Total	
Open external reviews																		
Cases open at beginning of period	14	2	2	10	28	81	5	8	31	125	17	7	9				33	
Cases opened during period	142	7	37	19	205	61	14	24	12	111	114	12	21	24			171	
Total cases open	156	9	39	29	233	142	19	32	43	236	131	19	30	24			204	
Less closures																		
FOI App withdrawn applicant	10		1	2	13	17		3	2	22	11		2	5			18	
FOI App settled during review	11	1			12	24	1		31	56	11	2	2	1			16	
FOI Determination confirmed	19	1	2	5	27	8	3	15	4	30	20	6	4	4			34	
FOI Determination reversed	6		3	6	15	8	1	1	1	11	16	4	4	1			25	
FOI Determination revised by Agency	13		1	2	16	23				23	2			1			3	
FOI Determination varied	14	2	2	6	24	43	6	4	5	58	29	4	5	4			42	
FOI Extension of time\ Discretion not exercised						1	1	1		3	1						1	
FOI Outside of jurisdiction											7	1	2	1			11	
Total external reviews closed	73	4	9	21	107	124	12	24	43	203	97	17	19	17			150	
STILL UNDER INVESTIGATION	83	5	30	8	126	18	7	8	0	33	41	3	13	8			65	

Note: Explanations of the Ombudsman and FOI outcomes are in Appendices B and C respectively.

GOVERNMENT AGENCY INVESTIGATIONS

- Inappropriate and inhumane restraint of prisoners
- Consultant conflict of interest in procurement process
- Failure to consult local council on planning matters
- Need to consider Australian Standards in project design
- Driver's licence issues
- Shared water meters in Housing Trust tenancies

Government Agency investigations

The treatment of prisoners is always a significant issue for the Ombudsman. Recent reports have pointed to the need for some substantive improvements in Correctional Services' practice, particularly in relation to the restraint of prisoners. There are also issues that are significant to greater numbers of prisoners such as how the department deals with prisoner complaints, and with the transfer of property when a prisoner moves to another prison. Complaints have indicated that there are continuing problems in these areas but it is pleasing to note that the department generally has responded positively.

Conflicts of interest relating to procurement practices were also the subject of investigations this past year. When the government fails to follow rigorous and accountable procurement processes in engaging consultants, it loses community confidence.

Department for Correctional Services

Shackling and inhumane treatment of a prisoner

2012/01161

Complaint summary

The complainant was transferred from the Adelaide Women's Prison to Yatala Labour Prison (YLP) in July 2011, following a number of self-harm attempts. She alleged that during the next eight months, when she was in the YLP Health Centre and, on occasion, in G Division, she was shackled for the majority of the time and that she was submitted to a harsh and inhumane regime.

Ombudsman investigation

During my investigation, I examined the complainant's Prison file (including relevant plans), Assessment file, Offender file, part of her Psychology Services files, and received evidence from the complainant and Dr John Brayley, the Public Advocate. In its response to me, the department submitted that it restrained the complainant primarily in order to stop her from self-harming (and also from harming correctional officers).

It was evident that the department and health professionals in contact with the complainant agreed that the most appropriate place for her was within the Forensic Mental Health system, not a correctional facility. However, the consistent medical advice was that the complainant's diagnosis of Borderline Personality Disorder meant she did not fit the criteria for admittance into a mental health facility such as James Nash House.

“...it was unsatisfactory that there appeared to be a lack of meaningful dialogue between the department and the council, culminating in a complaint to my office about an issue that is plainly of significant consequence to the electors of both state and local government.”

Outcome and opinion

My investigation found that for the majority of the eight months she was at Yatala Labour Prison's Health Centre, the complainant was cuffed to her bed for around 22 hours a day. For most of the time she was restrained, each of her hands was cuffed to the bed whilst she lay on her back.

I accepted that:

- the department was primarily concerned to ensure that the complainant did not self-harm
- the risk of un-restraining her was high
- the department engaged specialist psychiatric services to provide advice on how to manage her
- she presented with complex needs that are best dealt with outside of a custodial setting.

However, I formed the view that the department was under an obligation to treat the complainant humanely. The length of time in a day she was generally restrained, the manner in which she was restrained, and the length of time the regime lasted was not in accordance with accepted national and international standards. Further, her self-harming behaviour appeared to be directly associated with her mental health condition.

For these reasons, I found that the department acted in a manner that was 'wrong', within the meaning of the Ombudsman Act.

In addition, I formed the view that there were occasions when the department acted contrary to section 86 of the *Correctional Services Act 1982*; that is, there were times when it was not reasonably necessary in

the circumstances of the particular case to restrain the complainant (for example, during professional visits and when she received communion).

In relation to the complainant's regime I found that:

- she was not always allowed access to the toilet
- she was fed an unhealthy diet
- she was dressed in a canvas smock
- she had minimal access to an outside area
- at times, she was not able to brush her hair or teeth.

I concluded that this treatment, especially when implemented in the context of the restraint regime, also was 'wrong'.

I commented that the complainant required mental health care, that it was entirely inappropriate that prisoners requiring mental health care were denied that care, and that it was concerning that it appeared to be the result of insufficient mental health beds.

I recommended that the department, in consultation with mental health services, implement a policy in relation to the restraint and associated management of mentally ill prisoners. I also reiterated my previous recommendation that, when the circumstances justify the use of restraints, a soft form of restraint should be used.

I note that the complainant was moved to James Nash House in July 2012, and has been accommodated at Port Augusta Prison since October 2012. I understand she is now being managed in a humane manner, and that this has had a positive effect on her mental health.

Department for Correctional Services

Unreasonable treatment of prisoner including shackling and failure to keep accurate records

2012/08257

Complaint summary

In this case, the complaint was made by the Public Advocate on behalf of a client. The client provided his permission for the Public Advocate to bring the complaint to my office.

The Public Advocate alleged that the man was inappropriately shackled and restrained whilst he was receiving psychiatric care in hospital, under the supervision of the Department for Correctional Services.

In early 2011, following the escape of three prisoners from hospital escorts in 2010, the department ordered a review of the security arrangements for prisoners in non-secure locations (such as hospitals), and issued an instruction. The resulting Executive Director's Instruction (EDI) 51-11 set new minimum standards for the restraint of prisoners. It required that prisoners being held in hospital should be handcuffed to the bed using chain; leg cuffed to the bed; and should have their legs shackled together.

I received several complaints from medical professionals who were concerned about the excessive restraining of prisoners in South Australian hospitals and I commenced an 'own initiative' investigation into the matter. The final report was released in July 2012. One of the main recommendations from my investigation was the requirement that the department consider the individual circumstances and the level of restraint that are required for each set of circumstances.

Following this investigation the department issued a new EDI amending the requirements for restraining prisoners in non-secure locations such as hospitals. The EDI was issued on 3 September 2012.

The Public Advocate's client was taken to the Royal Adelaide Hospital, under the supervision of the department, on 3 September 2012.

Ombudsman investigation

My investigation included an assessment of the Standard Operating Procedures (SOPs) of the department, consideration of the client's medical records and consideration of the department's paperwork relating to such matters as the man's hospital stay and guarding.

Outcome and opinion

My investigation found that the client was unnecessarily restrained and kept in an inhumane manner for four days, before a psychiatric bed became available for him in a secure facility.

Whilst I recognise that there are instances where the risks associated with a prisoner require them to be restrained, my investigation concluded that:

- the department failed to consider the individual circumstances of the Public Advocate's client and whether the restraints were necessary in the circumstances. As such, I found that, in restraining the client for four days, the department acted in a manner



that was unlawful within the meaning of section 25(1) (a) of the Ombudsman Act

- the department did not keep clear or accurate records about the movements of the client
- the department failed to undertake daily compliance checks on the client when he was in hospital. This was contrary to the new EDI that the department issued after my earlier investigation which required that restraint levels of all prisoners in hospital are reviewed every 24 hours.

The department advised me that it was continuing to manage the changes required to ensure that its restraining of prisoners was compliant with governing legislation. The department informed me of numerous steps it was taking, which included staff training, revision of operating procedures and reviews of documentation associated with prisoner escorts and prisoner hospital watches. The department has been keeping me informed of its progress in managing these changes.

Department for Correctional Services

Unreasonable restraint and security procedure in medical assessment

2012/07185

Complaint summary

A prisoner made a complaint to my office alleging that he was unreasonably escorted by two female officers to a medical appointment for a testicular ultrasound.

He further alleged that, since making the initial complaint he had been victimised by staff of the department on a daily basis. He alleged that this included being given a false drug urine test result.

Ombudsman investigation

I determined to investigate the following allegations in relation to the complaint:

- whether proper arrangements were made for the complainant to attend a medical appointment
- whether the department erred in concluding that the complainant's drug test result was positive for methadone. The complainant claimed that he had been given methadone for pain relief in the past and was allergic to it. He had very severe reactions to methadone and as such would never take it. He alleged

that the department gave him a false positive drug test result to punish him for complaining to my office

- whether the complainant was provided with the results of his drug test
- whether the department unreasonably refused the complainant's request to be re-tested
- whether the complainant was victimised for lodging a complaint with my office.

Outcome and opinion

My investigation concluded that:

- the department failed to make proper arrangements for the complainant to attend his medical appointment. I determined that, given the sensitive nature of the medical appointment, arrangements should have been made to have male escorts take the prisoner to the appointment. As such, I found that the department acted in a manner that was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.
- my office spoke to a nurse at the prison who confirmed that the complainant was allergic to methadone and that he had witnessed the complainant violently vomiting in reaction to it when it was prescribed as pain relief for him. He confirmed that the complainant would have definitely had to present himself to the health clinic had he taken methadone and he had not presented with any symptoms. Further, the nurse told my investigation that the complainant had had his pain relief medication changed around the time of the positive drug test result and that changes in medication often lead to false positives. I found the nurse and the complainant to be credible and considered that it was possible that the complainant was allergic to methadone and that the drug test provided a false positive. However, the complainant's medical records were lacking in clarity and I had no evidence to determine to the necessary standard of proof that the department had erred in concluding that the drug test was positive.
- the department acted in a manner that was unreasonable within the meaning of section 25(1) (b) of the Ombudsman Act as it failed to provide the complainant with a copy of the laboratory test result for the positive drug test result as it is required to do by its SOP 008.
- the complainant said that he made several requests to be re-tested. It would have been open to the department to re-test the complainant. However, the Correctional Services Act provides the Chief



Executive with the discretion to require a drug test in any circumstances, and does not impose any positive obligation on the department to do so. As such, I found no administrative error in the department refusing to carry out another test and my final view was that the department did not act in a manner that was unlawful, unreasonable or wrong within the meaning of the Ombudsman Act.

- the complainant was credible and it is possible that officers of the department made various comments, and took action against him as a result of his approaching my office. However, having regard to the necessary standard of proof, I was unable to conclude that the department victimised the complainant for making a complaint to my office.

I recommended that the department amend its forms for the booking of escorting officers to medical appointments to include a section to note whether it is preferred that escorting officers be the same gender as the prisoner. The department agreed to follow this recommendation.

Department for Correctional Services

Unreasonable failure to transport prisoner property

2012/00110

Complaint summary

The complainant was transferred from Mobilong Prison to Port Augusta Prison via Yatala Labour Prison. There was a delay in the prisoner's property being delivered to Port Augusta Prison. The prisoner had complained to the department's Prisoner Complaint Line but the problem was not resolved. My office receives a significant number of complaints about prisoner property issues.

Ombudsman investigation

I conducted a full investigation of the complaint. The department has a SOP providing broad direction in managing prisoners' property. Each prison has its own interpretation of the SOP to meet the particular needs of the institution.

The prisoner was removed at short notice for security reasons. It took five days for him to be placed in Port Augusta Prison. The movement of his property took 33 days. The SOP envisages the property accompanying the prisoner during the transfer. Although it is recognised that this is not always possible, the SOP allows for a maximum of seven days delivery. The prisoner's property

was kept at Yatala for 23 days even though the prisoner had been transferred from there to Port Augusta Prison. The department acknowledged that errors were made by property staff at Yatala. Even though this occurred over the Christmas period, during which there can be staff shortages, there was no satisfactory reason given to explain the delay in moving the property.

The prisoner also made enquiries to prison staff and the department's Prisoner Complaint Line with no adequate resolution of his concerns.

Outcome and opinion

In my opinion the delay in transferring the property was in contravention of the SOP. I recommended that the department conduct a review of its SOP and relevant operational guidelines across all prisons.

Further, I found that the department did not adequately respond to the prisoner's complaints about the whereabouts of his property. In that regard I made recommendations consistent with recommendations made following my audit of complaint handling in the department published in June 2012. These recommendations related to the operational focus of the Prisoner Complaints Line and the development of a SOP on prisoner complaint management.

Department of Planning, Transport and Infrastructure; Department of Primary Industries and Regions, SA; State Procurement Board

Consultant conflict of interest – procurement process for the preparation of Growth Investigation Areas report

2012/01952

Complaint summary

Concerns were expressed in the Mount Barker community and the Parliament about the potential conflict of interest of consultants Connor Holmes, where Connor Holmes had been engaged to conduct an investigation into potential growth areas of land (the GIA project) to feed into the 30-Year Plan for Greater Adelaide (including Mount Barker), but at the same time were representing land developers who were advocating expansion to the Minister in the Mount Barker area.

The Legislative Council referred the matter to my office for investigation and report, raising issues of the probity of the procurement process undertaken in engaging Connor Holmes.

Ombudsman investigation

Exercising the powers of a royal commission under the *Royal Commissions Act 1917*, I summonsed documents from the three main agencies above; took evidence under oath from a former president of the Planning Institute of Australia (SA); and met with and received submissions from the agencies, the District Council of Mount Barker and the Hon Mark Parnell MLC.

Outcome and opinion

My investigation found *inter alia* that the acquisition planning process in the procurement was deficient and contrary to the State Procurement Board's guidelines. It failed to address conflict of interest.

Further, before and during the procurement, as well as at the time of being awarded the consultancy, Connor Holmes were making concerted representations to the Minister on behalf of five developers (the Mount Barker Consortium) to expand and rezone Mount Barker. In my view, Connor Holmes were clearly conflicted between this role and their GIA project consultancy role. The failure to identify Connor Holmes' conflict of interest tainted the probity of the procurement process.

I commented in the Executive Summary of my report that where the government chooses to engage consultants to assist in achieving its planning objectives, the community is entitled to expect that rigorous and accountable procurement processes will be followed — including ensuring consultant probity and identifying and dealing with conflicts of interest. Where government fails to do this, community confidence is lost. This view was supported at the time by the Crown Solicitor, who commented that:

In any Government procurement process the basic starting point should be that, unless there are compelling reasons to the contrary, a conflict of interest situation whether actual or perceived should not be permitted...

... in the context of Government procurement processes the generally accepted principal [sic] is that processes must be free, and be seen to be free, of conflict and bias in decision-making. This is essential for maintaining public confidence in the integrity of these processes. Public perception as to the operation of such processes is of the utmost importance.

Department of Planning, Transport and Infrastructure

Alleged errors in project design

2011/04816

Complaint summary

The complainant owned a property situated near the Blackwood railway station. He was concerned about the impact on his property of light spill from a recently completed upgrade of the station car park.

The department had tested the amount of light spill, and concluded it was within acceptable limits. Although the department had made some modifications in response to the complainant's concerns, he remained dissatisfied.

Ombudsman investigation

The project had been designed having regard to Australian Standard AS 1158 *Lighting for Roads and Public Spaces* (AS 1158), but the complainant drew my attention to the existence of Australian Standard AS 4282 — 1997 *Control of the obtrusive effects of outdoor lighting* (AS 4282).

The department conceded that it had not utilised AS 4282 in designing the project.

Outcome and opinion

I concluded that on its face, AS 4282 applied to the project and, whilst there was no legal obligation to do so, it would have been good practice for the department to have considered the standard.

The department acknowledged my provisional findings and agreed to ensure that AS 4282 is considered in any the design of future similar projects. I considered that it had taken reasonable steps to address the complainant's direct concerns, so I declined to make any further recommendations.

Department of Planning, Transport and Infrastructure

Alleged failure to consult

2012/10540

Complaint summary

The Chief Executive Officer of the City of Burnside (the council), complained on behalf of the council

that the department had breached the State-Local Government Relations Agreement in its conduct of the Inner Metropolitan Growth Project (the IMG project). His complaint followed a resolution passed by the council at its meeting held on 11 December 2012, in which it requested the CEO ask me to investigate the matter.

Following consideration of the council's request, I decided to conduct a preliminary investigation of this complaint under section 18(1) of the Ombudsman Act.

Ombudsman investigation

My investigation was limited to a consideration of the administrative acts of the department. In particular, in my view the department's assessment of the extent of the council's likely support for a Ministerial Development Plan Amendment (MDPA) amounted to a policy decision, and it was therefore outside my jurisdiction. Further, the assessment was made with Ministerial knowledge and apparent endorsement. On both bases, therefore, it was beyond the scope of my investigation and I refrained from expressing any view about its merit.

In the initial engagement between the department and the council, the council had expressed reservations about what was proposed. From December 2011 the department's preparation of the MDPA was delayed by other priorities until approximately May 2012. After that time, it was apparent that the consultation between the department and the council occurred only at the instigation of the council.

This could be contrasted with the access afforded to other councils, notably the City of Prospect, to which a draft of the MDPA was released on 25 July 2012. It was not until the draft MDPA was publicly released on 3 December 2012 that similar access was provided to the City of Burnside.

Over the period from May 2012 to December 2012, it appeared to me that the department formed the view that because the City of Burnside was unlikely to support the anticipated form of the MDPA, there was little point in continuing dialogue.

Outcome and opinion

Having regard to the terms of the State-Local Government Relations Agreement, I formed the view that the department did not act in a manner that was unlawful, unreasonable or wrong within the meaning of

section 25(1) of the Ombudsman Act; and that further investigation was unnecessary or unjustifiable.

However, I commented that it was unsatisfactory that there appeared to be a lack of meaningful dialogue between the department and the City of Burnside, culminating in a complaint to my office, about an issue that is plainly of significant consequence to the electors of both state and local government. Accordingly I sought the views of the department on how the impasse could be resolved, and encouraged it to re-engage with the City of Burnside.

At the conclusion of my investigation I was pleased to note that dialogue had resumed, and I encouraged both the department and the City of Burnside to continue to engage constructively in considering the issue.

Department of Planning, Transport and Infrastructure

Unreasonable requirement to undergo further assessment

2013/02485

Complaint summary

The complainant's wife held driver's licences from Syria and Lebanon. On applying for a South Australian licence her driving competence was assessed by an authorised private sector licence examiner. Subsequently the Registrar of Motor Vehicles required that she undertake a further validation assessment conducted by a departmental officer. The complainant objected as he considered there was no requirement for her to undertake this assessment because she had satisfied the licence testing regime.

Ombudsman investigation

I conducted a preliminary investigation of the complaint. Australian governments have agreed a list of countries recognised as having robust licensing systems. Licensees from these countries are regarded as safe and competent drivers for Australian licensing purposes. Any country not included on the list is a non-recognised country. The licences held by the complainant's wife were deemed to be issued by non-recognised countries.

Section 80 of the *Motor Vehicles Act 1959* empowers the Registrar to assess the ability or fitness of a person to hold a licence. The Registrar can, with the approval of the Minister, direct that a person undergo such tests as the Registrar may require to prove their fitness to drive a motor vehicle.

Applicants required to undergo validation assessments are selected shortly after having been assessed by a private examiner. This is done using a random selection process. Information on the testing regime is contained on the department's website and relevant information is given to applicants at the time of applying for a licence.

The complainant's wife subsequently undertook the validation assessment and was issued with a driver's licence.

Outcome and opinion

In my opinion the Registrar's decision to require the complainant's wife to undertake the further validation assessment was not an administrative error. I was also of the view that the continuation of the Registrar's direction under section 80 of the Motor Vehicles Act was not unreasonable having regard to the Registrar's responsibility to the broader community under the Motor Vehicles Act.

SA Housing Trust

Charges for shared water meters

2013/02148

Complaint summary

Following a conversation with the Minister for Social Housing, the Hon Tony Piccolo MP, I decided to commence an 'own initiative' investigation into the administrative actions of Housing SA in managing the allocation of water charges for tenancies that utilise shared meters.

Under the *Ombudsman Act 1972*, my role is to investigate complaints about the administrative actions of government agencies such as Housing SA. However, based on the authority of *City of Salisbury v Biganovsky*², I do not have jurisdiction to investigate complaints about the policies of these agencies.

I therefore limited the scope of this investigation to a consideration of the administrative acts undertaken by Housing SA in pursuance of its policy.

Ombudsman investigation

I was advised that the Housing SA charging policy was introduced following a budget direction in 2006. Under the policy, Housing SA is responsible for payment of the supply charge for tenancies which use a single shared water

meter, and 30% of the consumption charge. All remaining charges are apportioned between the tenants.

I considered the legislative authority for the policy; whether the policy operated fairly as amongst tenants, having regard to the factors which Housing SA was required to balance in formulating it; and the extent of complaints received by my office in relation to it. I noted that these complaints totalled 31 from 1 July 2008 to 30 April 2013, which I did not consider to be a significant number.

I noted also that the Energy and Water Ombudsman of South Australia had advised me that whilst his jurisdiction relates to the actions of the relevant water and sewerage provider rather than Housing SA, this is not an issue that has figured prominently in complaints to his office.

Outcome and opinion

Having examined the relevant legislation and policy documents, I considered that Housing SA had implemented the policy in accordance with the relevant law. I noted that the same conclusion was reached by my predecessor in his earlier consideration of the matter in 2008.

It appeared to me also that, as evidenced by its program of redevelopment work, Housing SA had not applied the policy without regard to the specific circumstances of individual tenants who may be affected.

Attorney-General's Department – Consumer and Business Services

Unreasonable delay investigating licence issue

2012/04829

Complaint summary

The complainant held a building work contractor's licence in conjunction with another person who held a supervisor's licence for their business partnership. In January 2012 the partnership dissolved and the complainant visited the agency to notify them.

To upgrade his licence, the complainant needed to submit to further testing to allow him to operate his own business. This process took four months. The complainant was concerned that the agency was aware of the dissolved partnership but took no action against the former partner whom he alleged was now operating a business contrary to the conditions of his licence.

² (1990) 54 SASR 117.

Ombudsman investigation

My investigation established that the agency currently maintains the licence register and investigates breaches, but it is the licence holder's responsibility to ensure that the licence is correct for the work being performed and any cancellation of a licence is done by court application.

As a result of my investigation, the agency required the complainant's former partner to upgrade his licence, allowing for the register to be altered to show that they were not joint licence holders.

Outcome and opinion

The agency acknowledged that it had fallen into poor work practices. Writing to the partner of a joint licence business when one party notifies the agency of its cessation is a proactive step to remind the other licence holder of their legal obligation to upgrade or change their licence.

Attorney-General's Department – Consumer and Business Services

Publication of false or misleading information in a media release

2012/06361

Complaint summary

The complainant had a building company which was party to court proceedings brought by the Commissioner for Consumer Affairs regarding construction of a veranda.

The complainant alleged that a media release about the matter published on the agency's website contained false or misleading information regarding the defects in the veranda, the proceedings that took place, and the court's favourable comments about complainant's reputation.

Furthermore, despite a request within the agency to remove the media release until it could be amended, it was removed only as a result of investigation by my office 16 months later.

Ombudsman investigation

My investigation concluded that whilst the media release contained accurate information in part, it did contain false or misleading information regarding the court proceedings; the omission of the court's findings that the company had corrected its practices; and that the company had an otherwise 'untarnished record'.

In this instance there were failures in the agency's internal consultation process about the draft media release. Further, there was no reasonable justification for information known by the agency to be false or misleading to remain publicly available for a further 16 months without action.

Outcome and opinion

I concluded that the agency acted in a manner that was unreasonable within the meaning of Ombudsman Act and recommended that the agency send a letter of apology to the complainant for its errors. It was agreed that the issuing of an amended media release was inappropriate, in that it would likely bring more attention to the complainant, and appear as a 'new release'.

Following confirmation that the media release remained accessible through Google searches, I recommended that the agency take immediate steps to ensure the complete removal of the media release and its parts from the internet.

Department of Treasury and Finance – Super SA Board

Failure to provide authority for demands, failure to answer questions

2012/04341

Complaint summary

The agency requested that the complainant, a retired judge, sign a 'Confirmation of Income Entitlements' form to confirm that he was still alive and still entitled to receive the pension he was entitled to under the *Judges' Pension Scheme Act 1971*. The complainant refused to sign the form and the agency said it would suspend his pension if he did not complete the form. The judge asked the agency upon what authority could it rely upon to demand that he annually complete the form, and upon what authority could it rely upon to suspend his pension if he failed to complete the form?

Ombudsman investigation

I conducted an investigation of the complainant's allegations that the agency had failed to answer his questions, and was wrong in threatening to suspend his pension.

Outcome and opinion

I determined that the agency, whilst it corresponded with the complainant, did not respond adequately to the complainant. I understood the reasoning behind the agency's use of the 'Confirmation of Income Entitlements' form and could see that it may have been the most cost effective way for the agency to confirm members' pension entitlements. However, it was my view that the agency had no legal authority to request pension recipients to complete the form.

In my view, the agency was entitled to cease payments if after making all reasonable enquiries it could not confirm that a pensioner is still alive; but the matter must be approached with an appropriate degree of sensitivity. In this instance, the agency knew that the complainant was alive and was entitled to receive the pension.

I determined that the agency acted in a manner that was wrong within section 25(1)(g) of the Ombudsman Act. To remedy this, I recommended that the agency amend the process it uses to confirm members' entitlements.

Summary tables - Government Agencies - 1 July 2012 to 30 June 2013

Complaints: Received

Government Department	No.	Percentage of Total Complaints
Attorney-General's Department	3	0.2%
Department for Communities and Social Inclusion	66	3.6%
Department for Correctional Services	542	29.2%
Department for Education and Child Development	180	9.7%
Department for Environment and Natural Resources	3	0.2%
Department of Health and Ageing	14	0.7%
Department of Environment, Water and Natural Resources	25	1.3%
Department of Further Education, Employment, Science and Technology	28	1.5%
Department of Manufacturing, Innovation, Trade and Resources	7	0.3%
Department of Planning, Transport and Infrastructure	335	18.2%
Department of Primary Industries and Regions SA	9	0.4%
Department of the Premier and Cabinet	49	2.7%
Department of Treasury and Finance	36	1.9%
Electoral Commission of South Australia	1	0.1%
Environment Protection Authority	15	0.8%
Office of Zero Waste SA	1	0.1%
SA Housing Trust	351	19.0%
SA Water Corporation	185	10.0%
TOTAL	1850	100%

Complaints: Issues

Issue	Department							Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	SA Water Corporation	Department for Education and Child Development			
Abuse or Assault/Physical/By other detainees		1						1	0.1%
Abuse or Assault/Physical/By staff		4						4	0.2%
Abuse or Assault/Sexual/By other detainees		1						1	0.1%
Abuse or Assault/Verbal/Harassment/Threats/By staff		8						8	0.4%
Advice	1			2				3	0.2%
Complaint Handling/Delay	8	11	13	8	7	7		54	2.8%
Complaint Handling/Inadequate processes	20	3	5	10	6	39		83	4.4%
Complaint Handling/Inadequate reasons	4	1	1	1	3	7		17	0.9%
Complaint Handling/Inadequate remedy	8	9	16	6	8	15		62	3.2%
Complaint Handling/Wrong conclusion	8	4	4	3	4	6		29	1.5%
Conduct/Discourtesy	6	6	3	3	1	6		25	1.3%
Conduct/Misconduct	8	6	1	4		5		24	1.2%
Correspondence/Communications/Records/Breach of privacy/confidentiality		1	2	1		1		5	0.3%
Correspondence/Communications/Records/Delayed/No response	9	8	5	9	1	5		37	1.9%
Correspondence/Communications/Records/Incorrect	4	2	1	12	1	2		22	1.1%
Correspondence/Communications/Records/Lost	2	1		4	1			8	0.4%
Correspondence/Communications/Records/Withholding of information	1	5	1			2		9	0.5%
Correspondence/Communications/Records/Wrongful disclosure of information	2	2	4	1		3		12	0.6%
Custodial Services/Canteen		8						8	0.4%
Custodial Services/Cell conditions		14						14	0.7%
Custodial Services/Clothing/Footwear		8						8	0.4%
Custodial Services/Educational programs		3						3	0.2%
Custodial Services/Employment		6						6	0.3%
Custodial Services/Food		11						11	0.6%
Custodial Services/Health related services		52						52	2.7%

Issue	Department							Total	Percentage	
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	SA Water Corporation	Department for Education and Child Development				
Custodial Services/Legal resources		4						4	0.2%	
Custodial Services/Prisoner accounts		15						15	0.8%	
Custodial Services/Prisoner mail		17						17	0.9%	
Custodial Services/Property		66						66	3.5%	
Custodial Services/Recreation programs and services		6						6	0.3%	
Custodial Services/Rehabilitation programs		4						4	0.2%	
Custodial Services/Telephone		20						20	1.0%	
Employer/Employee							1	1	0.1%	
Employment	6	3		1			4	14	0.7%	
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land					2			2	0.1%	
Financial/Procurement/Facilities/Compensation/Damage/Physical injury							1	1	0.1%	
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged	1		3	4	4		2	14	0.7%	
Financial/Procurement/Facilities/Debts	8						3	3	14	0.7%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use	1	1						2	0.1%	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage					2	2		4	0.2%	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Fencing			1					1	0.1%	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Inadequate			1					1	0.1%	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Sale/Lease					1			1	0.1%	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition						1		1	0.1%	
Financial/Procurement/Facilities/Procurement by Agencies/Decisions	2			1				3	0.2%	
Financial/Procurement/Facilities/Procurement by Agencies/Tenders	2				2		2	6	0.3%	
FOI advice	29	4	4	2	1		7	47	2.5%	

Issue	Department										Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	SA Water Corporation	Department for Education and Child Development						
FOI practices and procedures	3									1	4	0.2%
Home detention		9									9	0.5%
Housing/Abandoned goods			4								4	0.2%
Housing/Allocation			20								20	1.0%
Housing/Arrears/Debt recovery			5								5	0.3%
Housing/Categorisation			12								12	0.6%
Housing/Damages			1								1	0.1%
Housing/Disruptive tenants			34								34	1.8%
Housing/Maintenance			87								87	4.6%
Housing/Rent			18								18	0.9%
Housing/Termination			23								23	1.2%
Housing/Transfer			30								30	1.5%
Prison Management/Discipline/Security/Daily regimen		17									17	0.9%
Prison Management/Discipline/Security/Discipline/Management		41									41	2.1%
Prison Management/Discipline/Security/Drug testing		10									10	0.5%
Prison Management/Discipline/Security/Inspections/Body searches		5									5	0.3%
Prison Management/Discipline/Security/Protection		5									5	0.3%
Prison Management/Discipline/Security/Transport		3									3	0.2%
Prison Management/Discipline/Security/Visits		30									30	1.5%
Prison Records/Official Correspondence/Delayed/No response		3									3	0.2%
Prison Records/Official Correspondence/Incorrect		4									4	0.2%
Records management	2	1									3	0.2%
Regulation and Enforcement/Complaint handling	1			1					1		3	0.2%
Regulation and Enforcement/Enforcement Action/Excessive		2		8	1				4		15	0.8%

Issue	Department										Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	SA Water Corporation	Department for Education and Child Development						
Regulation and Enforcement/Enforcement Action/Insufficient	2									1	3	0.2%
Regulation and Enforcement/Enforcement Action/Unfair	3	14	8	24						3	52	2.7%
Regulation and Enforcement/Fees				3							3	0.2%
Regulation and Enforcement/Infringements/Incorrect details				2							2	0.1%
Regulation and Enforcement/Infringements/Unreasonably issued				2							2	0.1%
Regulation and Enforcement/Inspections	5		1	5							11	0.6%
Regulation and Enforcement/Licensing/Conditions	11			17							28	1.4%
Regulation and Enforcement/Licensing/Refusal	2			12							14	0.7%
Regulation and Enforcement/Licensing/Renewal	6			7							13	0.7%
Regulation and Enforcement/Permits				1							1	0.1%
Revenue Collection/Land Tax	14										14	0.7%
Revenue Collection/Stamp duty	4										4	0.2%
Revenue Collection/Water & sewerage	1		6		85						92	4.8%
Roads and Traffic/Charges/Fines				2							2	0.1%
Roads and Traffic/Licensing/Conditions				15							15	0.8%
Roads and Traffic/Licensing/Demerit points				2							2	0.1%
Roads and Traffic/Licensing/Fail to issue renewal				7							7	0.4%
Roads and Traffic/Licensing/Incorrect details on license				3							3	0.2%
Roads and Traffic/Licensing/Medical test				5							5	0.3%
Roads and Traffic/Licensing/Tests				3							3	0.2%
Roads and Traffic/Registration/Conditions				6							6	0.3%
Roads and Traffic/Registration/Failure to issue renewal				16							16	0.8%
Roads and Traffic/Registration/Fees/Charges				8							8	0.4%
Roads and Traffic/Registration/Incorrect details on registration				1							1	0.1%
Roads and Traffic/Registration/Roadworthy				2							2	0.1%
Roads and Traffic/Registration/Transfer without consent				4							4	0.2%

Issue	Department							Total	Percentage
	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport & Infrastructure	SA Water Corporation	Department for Education and Child Development			
Roads and Traffic/Road Management				4				4	0.2%
Sentence Management/Parole		10						10	0.5%
Sentence Management/Placement/Location		27						27	1.4%
Sentence Management/Transfers		17						17	0.9%
Service Delivery/Abuse in care		3				3		6	0.3%
Service Delivery/Assessment	1				1	5		7	0.4%
Service Delivery/Conditions	4	2	1	13	2	3		25	1.3%
Service Delivery/Debts	1		1		3			5	0.3%
Service Delivery/Eligibility for services	14	11	7	19	2	4		57	3.0%
Service Delivery/Failure to Act/Provide	26	23	20	32	12	18		131	6.9%
Service Delivery/Fees and charges	8	4	15	8	35	4		74	3.8%
Service Delivery/Financial assistance	5	1		1		1		8	0.4%
Service Delivery/Quality	13	8	6	28	4	15		74	3.8%
Service Delivery/Termination of services	2	1	2					5	0.3%
Superannuation	1							1	0.1%
Whistleblower Protection Act advice	4							4	0.2%
TOTAL	263	566	366	340	188	181		1904	100%

Complaints: Completed

Government Department	No.	Percentage of Total
Attorney-General's Department	3	0.2%
Department for Communities and Social Inclusion	65	3.5%
Department for Correctional Services	543	29.2%
Department for Education and Child Development	180	9.7%
Department of Environment and Natural Resources	4	0.2%
Department for Health & Ageing	16	0.8%
Department of Transport, Energy & Infrastructure	2	0.1%
Department for Water	1	0.1%
Department of Environment, Water and Natural Resources	23	1.2%
Department of Further Education, Employment, Science & Technology	30	1.6%
Department for Manufacturing, Innovation, Trade and Resources	6	0.3%
Department of Planning, Transport and Infrastructure	337	18.1%
Department of Primary Industries & Regions SA	9	0.5%
Department of the Premier and Cabinet	47	2.5%
Department of Treasury and Finance	36	1.9%
Electoral Commission of South Australia	1	0.1%
Environment Protection Authority	16	0.8%
Office of Zero Waste SA	1	0.1%
SA Housing Trust	353	18.9%
SA Water Corporation	189	10.2%
Total	1862	100%

Complaints: Outcomes

	Other	Department for Correctional Services	SA Housing Trust	Department of Planning, Transport Infrastructure ¹	SA Water Corporation	Department for Education and Child Development	Total	Percentage
Advice given	34	6	7	8	1	8	64	3.4%
Alternate remedy available with another body	33	40	38	13	108	52	284	15.3%
Complaint cannot be contacted	2	1	11	7	1	5	27	1.4%
Declined/Investigation unnecessary or unjustifiable	68	164	103	122	43	27	527	28.3%
Declined/No sufficient personal interest or not directly affected		13	5	2			20	1.1%
Declined/Out of time	4	1		1			6	0.3%
Declined/Trivial, frivolous, vexatious, not made in good faith			1	1			2	0.1%
Not substantiated/No s25 finding	1	2	3	5		1	12	0.6%
Ombudsman comment warranted	1			2		1	4	0.2%
Out of Jurisdiction/Employment	4			2		2	8	0.4%
Out of Jurisdiction/Minister	1						1	0.1%
Out of Jurisdiction/Policy	6	1	1	9		1	18	1.0%
Referred back to agency	81	225	134	124	27	73	664	35.7%
Resolved with agency cooperation	11	69	29	29	4	5	147	7.9%
s25 Finding/Contrary to law	1	1					2	0.1%
s25 Finding/Unreasonable	1	2	1				4	0.2%
s25 Finding/Wrong	1	3		1			5	0.3%
Withdrawn by complainant	9	15	20	13	5	5	67	3.6%
TOTAL	258	543	353	339	189	180	1862	100%
	13.9%	29.1%	19.0%	18.2%	10.1%	9.7%		

¹ Figures for DPTI include DTEI.

Local Government investigations

Elected member conduct, particularly in relation to conflict of interest, has been a significant part of our local government work. This anticipated the fact that we were to assume greater responsibility for this subject when amendments to the Local Government Act commenced operation, as part of the ICAC Act, on 1 September 2013.

The other significant work has been in development issues, both in terms of approval processes and the subsequent enforcement of the conditions imposed when a development receives approval.

City of Burnside

Alleged lack of action regarding neighbouring property 2012/04432

Complaint summary

The complainant made a complaint alleging that the council had failed to take action in relation to the stability of a wall on a neighbouring property.

Ombudsman investigation

The complainant first complained to the council in December 2008 that a wall on a neighbouring property was being 'propped up by timbers.'

My investigation revealed that in March 2009 the council engaged an engineer to assess the stability of the wall. The engineer advised the council that the bracing of the wall was currently structurally stable but that it might not last for more than 18 months. The engineer suggested that the council arrange for an engineer to inspect the wall every six months.

The council wrote to the property owner in March 2009 requesting that she engage a structural engineer to assess the wall on a six-monthly basis and to confirm the stability of the structure. The property owner did not do so. The council wrote to her again in June 2010 and August 2010 requesting that she provide the requested engineer's report or the council would commence legal proceedings.

The council arranged for an engineer to inspect the wall on 15 November 2010. It was advised that the wall was currently stable. My investigation revealed that, following the election of the property owner as a member of council in November 2010, no further action was taken by the council about the wall until Mr David Pisoni MP wrote to the council about the issue in April 2012. In June 2012 the complainant approached my office.

Outcome and opinion

In my view, the council should have followed up on the requests it had made of the property owner, and should have continued to monitor the adequacy of the bracing and the safety of the wall every six months. In light of this, I determined that the council acted in a manner that was wrong within section 25(1)(g) of the Ombudsman Act.

The council acknowledged the deficiencies in its compliance tracking system and is implementing a new system in response to this investigation.

City of Charles Sturt

Failure to declare a conflict of interest

2012/05612

Complaint summary

This investigation stemmed from a disclosure made under the protections of the *Whistleblowers Protection Act 1993*. The original disclosure alleged that at a meeting of the council's asset management committee, a council member had failed to disclose an interest in an item concerning the removal of a tree located near the member's home, and instead voted on a resolution which conferred a personal benefit.

The member had also failed to disclose an interest when the full council considered the asset management committee's recommendation.

Ombudsman investigation

I considered the information provided in the original disclosure, and sought a statutory declaration from the relevant council member. From this I was able to consider all the information against the relevant conflict of interest sections in the Local Government Act.

Because no valid meeting confidentiality order was in place, the council should have conducted the meeting in a place open to the public. I concluded that the council acted in a manner that was contrary to law.

Outcome and opinion

I concluded that the council member did have an interest in the item considered at the council meeting, and that in failing to disclose this he was in breach of the Local Government Act and had acted in manner contrary to law.

In the absence of specific evidence from individual members of the council, it was difficult for me to determine whether the council member's failure to declare an interest had influenced the outcome. Applying the necessary standard of proof, I concluded that while the member was in breach of the Act, the failure to declare the interest had not been decisive.

City of Charles Sturt

Acted contrary to law in issuing an enforcement notice

2012/06710

Complaint summary

The complainant was the owner of a house in Brompton. Upon a complaint from the next door neighbour, the council development officer made an unscheduled inspection of the renovations. The council immediately issued an enforcement notice because the structure was built without development approval and did not comply with building standards. The complainant claimed that they were told by the council that the renovations did not require development approval because they were 'repairs to existing'. The enforcement notice required the owner to apply for development approval, or demolish the structure.

The complainant also made allegations in relation to the next door neighbour being a relative of a senior council employee.

Ombudsman investigation

I met with the mayor of the council and put the allegations to her. We discussed the long history of this matter including the Environment, Resources and Development Court proceedings which found that the council issued the enforcement notice 'out of time' because the renovations were completed much earlier than it had initially thought. I read the material the complainant had submitted, along with a transcript of the court proceedings. I found the council's response reasonable in relation to the conflict of interest allegation. However I found that the council had acted contrary to law in issuing the enforcement notice because it needed to satisfy itself of the date of the renovations, and this was not done at the time the notice was issued.

I also found that since the event the council had implemented a new enforcement policy which provided guidance to staff on issuing enforcement notices.

Outcome and opinion

I concluded that if the enforcement policy had been implemented at the time of the events, the council would have considered the matter differently and would not have issued the notice in the manner that it did. I felt satisfied that the current policy protected the council from taking excessive action against ratepayers, and therefore made no further recommendations in this regard.

District Council of Elliston

Alleged conflict of interest by council chairman

2013/00899

Complaint summary

This was an 'own initiative' investigation pursuant to section 13(2) of the Ombudsman Act. The chairman of the District Council of Elliston had been contracted by the council to perform various building works including the Elliston emergency beach access ramp worth approximately \$10,000. The contracting of the chairman never came before the council as it was under the threshold amount listed in the council's Contracts and Tendering Policy.

Ombudsman investigation

I interviewed the chairman and asked the works manager for a statutory declaration in relation to the tendering process. I discovered that there was a concern by the works manager in relation to the chairman's potential conflict of interest and that the council sought legal advice. This advice said that the works manager had complied with the Contracts and Tendering Policy, and therefore the matter did not need to go before a full council. I considered the relevant sections of the Local Government Act, the council's policies and took into account the chairman's and council's view of the matter.

Outcome and opinion

I found that whilst the chairman and the council complied with the Act and the council's policies, there was still an actual and perceived conflict of interest in engaging the chairman to perform council works. I made a finding that the chairman acted wrongly. I recommended that the council prepare a conflict of interest policy with clear guidelines that provided assistance to those who felt they

had a conflict of interest in a matter. The council also needed to address its Contracts and Tendering Policy to include the requirement that where an elected member proposed to undertake work for the council, the matter must come before the council for it to decide whether to engage the person to do the work.

District Council of Grant

Unlawful decisions regarding the use of Land Management Agreements

2012/00146

Complaint summary

This complaint concerned the council's use and administration of Land Management Agreements (LMAs) to permit the construction of second dwellings. The complainant was concerned that the council was using its LMA policy, in conjunction with its second dwelling policy, to circumvent the objectives in the council's Development Plan.

The complainant further alleged that the council had not been properly keeping its LMA register, and had not been properly enforcing its LMAs.

Ombudsman investigation

I considered whether the council had complied with the law and its policies when undertaking its development assessment function.

I assessed also whether the council had properly kept a register of LMAs, and whether it had undertaken a review of its LMA register, as required by its policy Environmental Services 2.1 Land Management Agreements.

Outcome and opinion

The council had adopted policies relating to the approval of second dwellings which were inconsistent with its development plan, and consequently I made a finding that it had acted contrary to law. I recommended under section 25(2) of the Ombudsman Act that the council review the existing second dwelling and LMA policies to ensure that they are consistent with its development plan.

On the other issues raised by the complainant, the council had commenced, though not completed, a compliance review of its LMAs. I made no finding of administrative error in this respect.

I found also that the council had not been keeping a register of LMAs in the form and detail required by the *Development Act 1993*. In failing to meet these requirements I found that the council had acted in a manner that was contrary to law.

Regional Council of Goyder

Unreasonable development assessment process

2010/07383

Complaint summary

The complaint concerned the council's assessment of a development application for a proposed storage shed. After a disclosure from my office, the complainant alleged that, as a partner of one of the applicants was an employee of Ombudsman SA, she had influenced the assessment process. In particular, it was alleged that her presence at a Council Development Assessment Panel (CDAP) meeting had influenced the CDAP's decision to consent to the application.

The complaint further alleged that there had been errors in the council's assessment process; that it had been unreasonable for the council to rely upon its planning advisers; and that the council had failed to take appropriate enforcement action against the applicant.

Ombudsman investigation

In view of the allegations about an Ombudsman SA staff member, I requested an independent investigation by the Office of the Commonwealth Ombudsman.

I also referred the allegations that the complainant had made about the staff member to the Anti-Corruption Branch (ACB) of SAPOL (South Australian Police) for it to assess whether the allegations disclosed anything that could be considered criminal in nature. The ACB later advised that the circumstances of the complaint did not warrant a criminal investigation. The ACB recommended that the conduct complained of instead be considered against the Code of Ethics for the South Australian Public Sector.

The Commonwealth Ombudsman reviewed the allegations made in the complaint and formally interviewed my employee. He reported that he had not established that my employee's involvement in the application had impacted upon the performance of her public duties. The Commonwealth Ombudsman considered that the risk of this had been managed appropriately by her involvement in the application being identified and disclosed to the

complainants by my office, and by the steps that I had taken to ensure that she had no involvement with or access to the complaint thereafter. On this basis, the Commonwealth Ombudsman concluded that my office could independently and impartially investigate the complaint.

Outcome and opinion

My own investigation found that my employee's interaction with a council officer may have resulted in the officer obtaining a further expert opinion; but this did not undermine the integrity of the development assessment process. I did not consider that this represented an administrative error on the part of the council.

However, I considered that my employee's conduct fell short of the expectations that I have of my officers and was contrary to the current Ombudsman SA policies, which were adopted in February 2011. I referred this matter to the Commissioner for Public Sector Employment under the *Public Sector Act 2009* for assessment.

A review conducted by the Commissioner found that whilst there was a potential conflict of interest in my employee's actions, there was no case to answer in respect of a possible misconduct finding. No further action was taken on this matter.

On the matter of errors in the assessment process, my investigation found that the council's processes fell short in its failure to alert the applicants and the complainants to the rights of appeal and review available in the Environment, Resources and Development Court.

I considered that the principles of fair and responsible governance require that people be advised of the existence of such rights, or be encouraged to seek legal advice in relation to their rights in the planning process. I concluded that in failing to advise the complainants of their rights under section 86 of the Development Act, the council acted wrongly.

On the related matters concerning council's reliance on its planning advisers and its decision not to take enforcement action in relation to the development, I found the council had not erred.

My final report recommended that the council should implement the practice of advising applicants and adjoining landowners and occupiers in writing of the decision of a delegate as to the category of development and the reasons for the determination, and their rights of review.

City of Holdfast Bay

Breach of code of conduct

2012/01790

Complaint summary

The complainant made a complaint to the deputy mayor of the council alleging that the mayor had breached the council's Code of Conduct for Elected Members; the Local Government (Procedures at Meetings) Regulations; and certain provisions of the Local Government Act. The complaint was subsequently forwarded to my office at the recommendation of the council's Executive Committee and by resolution of the council. The complainant provided my office with further concerns about the mayor's conduct.

Ombudsman investigation

The complaint included the following allegations:

1. The mayor made public statements to the *Messenger* newspaper regarding the sale of the council-owned former Trinity Church at 25 Moseley Street, Glenelg. The allegation claimed that, despite chairing the confidential discussions in which the sale conditions were set, the mayor made wrong and misleading statements to the press which effectively 'talked down' the potential sale price, to the detriment of council.
2. The mayor published an incorrect statement about the council's work with the elderly in *Holdfast Bay Views*, the council's quarterly bulletin.
3. At the council meeting on 14 February 2012, the mayor disregarded the *Local Government (Procedures at Meetings) Regulations 2000*.
4. The mayor made statements to *The Advertiser* newspaper in which he described council staff as 'exceedingly devious'.
5. At the council meeting on 14 February 2012, the mayor made derogatory comments about a staff member.
6. The mayor failed to observe the code of conduct requirement 2.2.
7. The mayor led a campaign against a council decision, instead of raising his concerns through the chamber.
8. At the 14 February 2012 council meeting, the mayor made it known in the council chamber that he would resign if an agenda item was not passed.
9. At the 14 February 2012 council meeting, the mayor publicly announced that he would not attend council budget discussions.

10. The mayor released to the media material that was provided to the council about the proposed Ozone Cinema development.
11. The mayor released confidential information about the sale of the over 50s club.
12. The mayor misused his position in hosting a Christian prayer breakfast.
13. The mayor is unable to fulfil his role under section 58(1)(b) of the Local Government Act in that he refuses to meet with the council's CEO.

I decided to commence an investigation into the allegations in the complaint numbered 1–10 and 13 above.

Outcome and opinion

I found that the mayor acted contrary to the code of conduct in relation to:

- making statements in the *Holdfast Bay Views* (allegation 2)
- making a statement to *The Advertiser* about council staff (allegation 4)
- campaigning against the council decision of 27 September 2011 (allegation 7)
- making material that was provided to the council about the proposed Ozone Cinema development available to the media (allegation 10).

I found that the council acted contrary to law in disregarding the Local Government (Procedures at Meetings) Regulations (allegation 3).

Kingston District Council

Unreasonable charges for unauthorised work

2012/08265

Complaint summary

The complainant noted that works were being undertaken by the council on the driveways opposite his house and approached the council for a price to resurface his driveway. Work was therefore undertaken on the complainant's driveway and he was invoiced accordingly.

The complainant has refused to pay. There was a dispute of facts between the complainant and the council works officers as to the price quoted and whether the work would be undertaken.

Ombudsman investigation

I ascertained that the council did not have a 'private works' policy and its 'footpath policy' was silent in relation to driveways. I noted that there was no written agreement between the council and the complainant that would have clarified the arrangement between the parties.

Outcome and opinion

I recommended that the council adopt a 'private works quotation form' which is to be completed and signed by the resident when it is agreed that the council will perform private works. I also recommended that the invoice sent to the complainant be halved, with the council to pay the other half as it could not be determined what agreement had been made between the council and the complainant. The council adopted both of the recommendations.

City of Marion

Unreasonable recovery of unpaid rates

2012/05369

Complaint summary

The complainant bought her property in mid-2009. At the time of purchase, through her conveyancer she arranged to pay a proportion of the rates for the 2009/2010 financial year. When she received her first rates notice she saw she was being charged for past unpaid rates. When she questioned the council she was advised that there were outstanding rates for her property which the previous owner had only partly settled in court. The complainant spent considerable time corresponding with the council, her conveyancer and the previous owner's conveyancer. She was not provided with any clear communication regarding the debt and her obligation to pay.

Ombudsman investigation

My office checked with the council and was provided with numerous documents. It is lawfully correct that the owner of a property is responsible for any unpaid rates. What became apparent was that the former owner of the property had not paid their rates and was significantly in arrears. The council had pursued an old debt in the court but even though this was settled the current rates were not paid. Records show that the council did continue to pursue the debt until it was informed of the change of ownership.

At the time of settlement neither conveyancer applied to the council for an updated rates certificate which would have detailed all monies owed. The failure by the complainant's conveyancer to do this directly resulted in her having no knowledge of the debt prior to settlement.

The council recognised that the complainant had paid all her rates from when she had taken ownership. To assist the complainant, the council provided her with more information to better explain the matter and to facilitate her in resolving it with her conveyancer (or finally by court action). The council also waived all fines and charges attached to the debt.

Once the complainant was fully aware of the circumstances she then referred the matter back to her conveyancer who contacted the other conveyancer. They jointly agreed to pay the full amount of the debt by the prescribed time.

Outcome and opinion

The council in this matter had not erred in its administration and had attempted to explain the details of the issue to the complainant. The council then provided better information concerning the history of the debt which allowed the complainant to successfully remedy the matter after three years. The council's decision to waive all fees and charges was fair and reasonable given the lapse of time and the clear commitment by the complainant to pay her rates and address the debt.

District Council of Mount Barker

Alleged unreasonable approval of a development

Alleged conflict of interest of council employee

2012/05982

Complaint summary

The complainant originally complained to me that a development on a property adjoining his should not have been approved by a council delegate, having regard to the relevant provisions of the council's Development Plan. I declined to investigate this complaint on the basis that:

- only a court of competent jurisdiction has power to quash a development plan consent once it has been granted
- the council had undertaken an informal review of the delegate's decision to issue development plan consent, and concluded that the decision was not unreasonable
- the council had been working with the complainant and the developer to negotiate a satisfactory outcome.

The complainant also raised a concern about stormwater runoff, which he alleged had caused damage to his land. I was satisfied that the council was dealing with him to resolve this issue.

The complainant also complained that the developer was a council employee. He was concerned that this may have influenced the council delegate's decision to approve the development, and the council's subsequent approach to his complaint about the alleged stormwater runoff.

Ombudsman investigation

I investigated whether the council employee had failed to disclose their interest in relation to the development application.

Part 4, Division 2 of the Local Government Act requires the CEO of each council, and other prescribed council officers, to lodge annual returns which together constitute an employee Register of Interests. The council advised me that its employee register contained completed returns from 37 staff for 2012/13, and that the staff to submit returns were selected based on their involvement with tenders, planning decisions and delegation levels. The council employee who was the subject of this complaint was not required to complete an annual return as part of this process.

I noted also that there are a number of policies, procedures and guidelines which speak to the management by council staff of conflicts between personal and public interests. Largely, these policies, procedures and guidelines apply to council employees who are making decisions in the course of their employment. This was not the case in this instance.

However, the council's employee code also required employees to reveal any financial interests and potential conflicts of interest in contracts being negotiated by either the employee or someone else on their behalf on any land, building or service within the council district, and to declare interests as they occur to their manager in writing.

Outcome and opinion

I concluded that the employee apparently had not met the requirements of the employee code of conduct, and that the council had failed to enforce the code of conduct. I concluded that the council had acted in a way which was wrong.

In accordance with my obligation under section 18(5) of the Ombudsman Act, I reported the evidence of the employee's breach of duty or misconduct to the mayor. In so doing, I noted that the council had already taken

disciplinary and remedial action in relation to the issue, and that I saw no need to make any further recommendation.

District Council of Mount Barker

Failure to consult regarding Aboriginal heritage sites

2012/04516

Complaint summary

The complainant, the Chairperson of the Peramangk Heritage Association Incorporated (the PHA), asserted that the Peramangk people have heritage interests in the Mount Barker council area, including the Mount Barker Township Expansion area. The complainant argued that the council failed to consult with the PHA on various Aboriginal heritage issues.

Ombudsman investigation

The first issue under consideration was whether the council breached section 20 of the *Aboriginal Heritage Act 1988*, which provides that landowners who discover Aboriginal sites, objects or remains must report the discovery to the Minister for Aboriginal Affairs. The complainant submitted that the council had information before it, contained in two reports including a desk top survey undertaken as part of the Ministerial DPA by Connor Holmes P/L (the Wood Report), that Aboriginal sites exist in areas of land held by the council. I determined that the receipt of such reports does not amount to discovering sites 'on the land'; rather section 20 is intended to refer to circumstances where the landowner is provided with physical evidence of the site.

The second issue I considered was whether the council adequately considered Aboriginal heritage issues as part of its development approval process in relation to the Mount Barker Township Expansion area. Section 33 of the Development Act requires assessment of the provisions of the Development Plan, and Objective 62 in the Mount Barker Development Plan requires care to be taken to consider the likelihood that a place of Aboriginal heritage may exist and be affected by the intended development. Where evidence of likely Aboriginal significance occurs, all reasonable measures should be taken to ensure such sites are conserved.

I considered 14 development applications approved by a council delegate between 2010 and 2012 within the Mount Barker Township Expansion area. I understood that the council delegate relied on documents entitled

'Government Administrative Interests' which stated there were no Aboriginal interests recorded on the Land Ownership and Tenure System (LOTS). However, it was my understanding that the LOTS system does not record such interests, and it was unclear whether the Development Assessment Commission process involved consulting with the Department of the Premier and Cabinet's Aboriginal Affairs and Reconciliation Division.

I determined that the council delegate failed in these obligations in respect of 14 development applications and, accordingly, I found that the council acted contrary to law.

In any event, in my view, the Wood report effectively put the council on notice that there were likely to be Aboriginal sites and objects in the area. I formed the view that the council, having this information in its possession, was under an obligation to take 'all reasonable measures' to ensure any Aboriginal heritage is conserved; that is, the council delegate should have done more to ensure heritage would not be damaged as a result of the proposed development.

I acknowledged the council's submission that this may involve visiting the site and writing to the applicant about their obligations under the Aboriginal Heritage Act. Further, I noted that visiting the site would be useful given the council had been advised by the complainant that there were significant numbers of culturally modified trees in the Mount Barker area (via the 2002 Report and the 2012 Report).

In the circumstances, I took the view that the council erred in not taking any positive measures to ensure the protection of likely Aboriginal heritage within the area of the 14 development applications considered by the council delegate.

The third issue raised by the complainant was whether the council had a duty of care in relation to Aboriginal sites and had failed in that duty. I formed the view that neither the Aboriginal Heritage Act nor the common law invokes such a duty (noting that, by contrast, the *Aboriginal Cultural Heritage Act 2003* (Qld) does). Accordingly, I found no error in respect of this issue.

Outcome and opinion

I determined that the council, in failing to consider Aboriginal heritage issues in accordance with the Development Plan in respect of 14 development applications, acted in a manner that was contrary to law.

I recommended that the council adopt a policy or procedure to ensure Aboriginal heritage is considered during the development application process in accordance with the Development Plan.

District Council of Mount Remarkable

Alleged improper conduct by the CEO

2011/03946

Complaint summary

This investigation stemmed from a disclosure made under the protections of the Whistleblowers Protection Act. The disclosure alleged firstly that the CEO had been conflicted in his dealings over a grant report prepared for the council. It alleged that, in addition to his council duties, the CEO had been employed as an independent financial consultant for the report, and had witnessed a statutory declaration required for the report.

It was further alleged that he had provided misleading information to the council, and had misapplied council resources to support the operations of a business in which he was a partner.

Ombudsman investigation

In accordance with my obligations under the Whistleblowers Protection Act, I referred the matter to the Anti-Corruption Branch. It advised me that there was insufficient evidence of any criminal offence, and that this was not a matter it would investigate. I therefore commenced my own investigation.

Outcome and opinion

I concluded that in failing to declare his interest as a financial consultant, and in signing off as an auditor on the financial statements, the CEO had acted in a manner which was contrary to law. Further I found that in witnessing the statutory declaration, the CEO may have acted in a manner which was contrary to the code of conduct with which Justices of the Peace are expected to comply.

In relation to the latter two allegations, I considered that there was no evidence that the CEO provided any misleading evidence, or that he misapplied council resources to support his business. Therefore I found that the CEO had not acted in a manner that was unlawful, unreasonable or wrong.

Rural City of Murray Bridge

Failure to disclose and manage a personal interest

2012/09916

Complaint summary

The complaint arose from the conduct of three councillors in relation to a decision of the council, having received legal advice, to not appeal an unfavourable court decision. The three councillors made a request that they receive resources to obtain independent legal advice in relation to the prospects of an appeal.

The complainant alleged that when this request was considered by the council the three councillors each failed to comply with some of the requirements of the Local Government Act and the council's code of conduct in relation to conflict of interest declarations. In particular:

- one councillor failed to disclose an interest in the matter
- two councillors, having disclosed an interest, failed to provide full and accurate details of the interest
- all three councillors remained in the vicinity of the debate.

The councillors also made statements to the press in relation to the council's decision to not appeal the decision, allegedly in breach of council confidentiality.

The original complaint attracted the protections of the Whistleblowers Protection Act. In order to protect the whistleblower's identity I commenced an 'own initiative' investigation.

Ombudsman investigation

My investigation found that the first councillor had failed to disclose an interest in the matter. If the motion were supported she would have received a direct pecuniary benefit by obtaining access to independent legal advice at the council's expense.

The other two councillors disclosed an interest but failed to provide details of the interest. All three remained in the vicinity of the debate on the item.

This was not the first time that I had found the first councillor to have failed to declare an interest contrary to the Local Government Act. All three councillors were experienced elected members and in their roles had undergone extensive training and received extensive information on conflict of interest.

My investigation also revealed that the three councillors had made statements that disclosed the council's confidential legal advice to the press. The statements demonstrated a lack of respect for the council's previous decision to not appeal the court's decision.

Outcome and opinion

I found that:

- in failing to declare an interest the first councillor had breached the Local Government Act and the code of conduct
- in failing to provide full and accurate details of the relevant interest two councillors had breached the Local Government Act and the code of conduct
- in remaining in the vicinity of the debate at the council meeting the three councillors breached the Local Government Act and the code of conduct
- in releasing confidential information to the press the three councillors had breached confidentiality orders and their fiduciary obligations
- in making statements to the press the councillors demonstrated a lack of respect for the council's decision to not pursue an appeal and acted contrary to the council's code of conduct.

I recommended that the Minister for State/Local Government Relations consider lodging with the District Court a complaint against the first councillor for her failure to disclose a conflict of interest.

City of Onkaparinga

Poor processes in approving a community facility

2012/00793

Complaint summary

This complaint stemmed from concerns about the council's intention to redevelop a former kindergarten facility into a community centre. The complainants had taken action in the Environment Resources and Development Court against the council's approval of the redevelopment, but had been unsuccessful.

Under section 13(3) of the Ombudsman Act, I must not investigate any administrative act where the complainant has a right of review by a court, tribunal or other body, unless I am of the opinion that it is not reasonable for the complainant to resort to that remedy. In this case, the complaint concerned the administrative processes

undertaken by the council, rather than the substantive decision to approve the redevelopment. Accordingly I considered that it was appropriate to exercise my discretion under this section to consider the complaint.

Ombudsman investigation

I investigated the complainants' allegation that the council's decision was made in reliance on the results of a misleading community survey conducted in 2007.

The complainants alleged also that the council had inadequately assessed demand for the facility, and that it had failed to address community concerns about the redevelopment. I noted the actions taken by the council, and the fact that it had undertaken a social impact assessment study before confirming its decision.

Outcome and opinion

I examined various shortcomings in the survey alleged by the complainants, but concluded that no findings of administrative error were warranted. Similarly, I found no unlawful, unreasonable or wrong act in the way the council had assessed the demand for the facility, and responded to community concerns about the redevelopment.

City of Onkaparinga

Failure to enforce development conditions

2012/04715

Complaint summary

The complainant raised several issues of concern regarding the council's handling of matters in relation to the development of a deck and associated privacy screening on his neighbour's land. I commenced an investigation into the council's regulatory response to the development.

The neighbour sought retrospective approval from the council for a deck that had already been constructed. The complainant made representations against the proposal in particular with respect to privacy. The neighbour amended his proposal to include a free-standing screen to reduce direct views of the complainant's land. The council's development assessment panel (CDAP) refused the application and the neighbour was issued with a notice directing him to remove the deck.

The neighbour appealed the decision to refuse the application, and the issue of the notice. The complainant was joined to the proceedings. The court used the conference

process to see whether the concerns of the CDAP and the complainant could be satisfied. The neighbour amended the proposal and indicated that the part of the deck closest to the complainant's land would not be used, and that proposed screening would render it inaccessible. The parties agreed to consent orders being made, approving the deck and associated screening, subject to conditions.

During the construction of the screen the complainant observed that a gate had been installed, notwithstanding that no gate appeared on the plans submitted for approval.

The council took the view that the development was not unlawful, as long as the gate was screwed in place.

Ombudsman investigation

My investigation concluded that the screen had not been constructed in accordance with the approval. Even with the gate screwed into place, the development was different from that which was accepted by the CDAP and approved by order of the court.

Outcome and opinion

I concluded that in deciding not to take formal enforcement action, the council had acted in a manner that was unreasonable. In coming to this view I had regard to the difficulty of future enforcement, and in particular enforcement by a third party. I was conscious of the fact that in this case, there had been a protracted dispute between the parties resolved by the making of a court order. In such circumstances the council should have taken the necessary steps to ensure strict compliance with the intended outcome.

By the time I had published my final view, the council had required the neighbour to remove the hinges from the gate rather than simply requiring that it be fixed. This had the effect of converting the gate into an integral part of the screen, and preventing access by that means to the portion of the deck which overlooks the complainant's land.

City of Playford

Unreasonable investigation of dog attack complaint

2012/06454

Complaint summary

The complainant was involved in a dog attack in her neighbour's backyard which resulted in the death of her own dog and caused her serious injury. She contacted the

council to investigate the incident. The complainant was unsatisfied with the council's investigation and in August 2012 she brought her complaint to my office. She believed the council failed to respond appropriately to the attack.

My investigations considered the council's decision not to take action under the Dog and Cat Management Act, and whether it complied with the procedural requirements of that Act.

Ombudsman investigation

If it could be established the neighbour's dogs had attacked and killed the complainant's dog, the council could issue an expiation notice, a control order and/or prosecute the neighbour. These are powers given to the council under sections 21(1), 44(2), 50(1)–(3), 51(1)(b) and 51(2)(b) of the Act. The council also has SOPs for dog attacks which outline how investigations take place and should be completed.

I found the council inspector's investigation of the incident to be unreasonable. Whilst there were no witnesses to the initial attack on the complainant's dog, the council also took no action in relation to the attack on the complainant.

I also found a procedural error in the apparent exclusion of the Registrar of Dogs from the final determination. The guidelines require that the Registrar must be given all investigations for final determination of what action to take.

Outcome and opinion

I concluded that the council's decision that it could not take enforcement action under the Dog and Cat Management Act in relation to the incident was wrong.

I concluded also that the combined effect of the council's errors in its investigation of the incident, and wrongly concluding that it could not take enforcement action under the Act, had resulted in an outcome that was unreasonable within the meaning of section 25(1)(b) of the Ombudsman Act.

I made a number of recommendations reflecting the council CEO's proposals for a resolution of the matter. As well as specific actions regarding the dogs involved in the incident, my recommendations included a review of council policies and procedures governing such investigations.

City of Playford

Unlawful disposal of tyres to a company without development approval or EPA licence

2012/09847

Complaint summary

The complainant was the owner of commercial premises. He leased these premises to a company which was engaged by the council to dispose of tyres. This company had not obtained proper council development approval for operating a waste disposal facility or obtained the proper EPA licence to operate a waste transfer facility. The complainant complained that tyres were illegally disposed of by the council to his premises because the council failed to undertake due diligence and satisfy itself as to where the tyres were being taken.

Ombudsman investigation

I asked the council about its procurement process in such circumstances. I ascertained that the council officers who procured the disposal of the tyres had not checked that the contractor had complied with the law.

Outcome and opinion

I recommended that the council collect the tyres it disposed of and deal with them appropriately, and amend its procurement policy to include an onus on the council to perform due diligence, even in small value procurements. The council accepted both recommendations.

City of Port Adelaide Enfield

Unreasonable investigation of complaint and failure to compensate

2013/02920

Complaint summary

A golf ball from the Regency Park golf course hit the complainant's travelling vehicle resulting in minor damage to the vehicle. The complainant made a claim against the council for damages. The council referred the claim to its insurer, the LGA Mutual Liability Scheme (MLS).

The MLS at first instance rejected the claim. The complainant came to my office, dissatisfied with the outcome and concerned that the golf course might pose an ongoing risk to public safety.

Ombudsman investigation

For the purposes of assessing the complaint, I sought information from the council in relation to the claim, including information about development undertaken in relation to the golf course arising from the South Road Superway Project. It transpired that in April 2011 some of the high fencing associated with the golf course had been replaced with lower temporary fencing.

On receiving this further information from the council in early May, the MLS identified that the changes to the fencing increased the risk of wayward golf balls, and advised the complainant that it was prepared to satisfy the claim.

Outcome of investigation

On the basis that the risk had since been reduced when the temporary fencing was replaced with permanent 16 metre fencing, I declined to commence an investigation.

Port Augusta City Council

City Safe dog patrol

2012/07169

Complaint summary

After conducting an external review of the council's decision relating to the imposition of fees for the release of documents under the FOI Act, I decided to commence an 'own initiative' investigation of the City Safe dog patrol operated by the council.

The council advised me that:

The CitySafe Patrol was initially set up to provide security for the protection of Council property. It has evolved into a program that assists persons at risk from substance misuse and more generally is a conduit for the various State Government Agencies and SAPOL. It is the only program in the City that operates into the early hours of the morning. On numerous occasions, this patrol has assisted itinerant persons with accommodation overnight and on other occasions helped young families without funds for bus fares back to the APY Lands, as well as acting as an agent to seek help for people who just 'slip through the gap'. This might be in terms of dealing with the Red Cross, the Salvation Army or Anglicare.

Ombudsman investigation

I was concerned that the patrol officers were carrying weapons and using dogs to undertake welfare activities

that fall outside the authorised functions of a security agent. I was also concerned that the reports compiled by the officers did not adequately detail the nature of the activities which they performed, and that the council therefore was not able to sufficiently oversee the operation of the patrol.

After studying the materials provided by the council, I visited the council to observe the patrol in operation. I noted also that very few complaints about the patrol's operations had been made to the council, and none to my office.

Outcome and opinion

I found no unlawful, unreasonable or wrong act in the way the council managed the patrol, and I concluded that further investigation was unnecessary or unjustifiable under section 17(2)(d) of the Ombudsman Act.

District Council of Streaky Bay

Alleged improper creation of position and appointment of candidate

Alleged conflict of interest

2012/06643

Complaint summary

Following an anonymous complaint to the Minister for State/Local Government Relations, I undertook an 'own initiative' investigation concerning the council's appointment of a Building Project Manager. It was alleged that the position was created specifically for the person appointed, and that no proper selection process was undertaken.

As a result of the mayor's acquaintance with the appointed person, it was alleged that the mayor had a conflict of interest.

Ombudsman investigation

As the council could not fill a project manager role to manage the implementation of development projects for which the council had received substantial grants, it created a more limited Building Project Manager position. A candidate who had applied for the broader role, and who was qualified in project management regarding building works, but not civil engineering works, was appointed by the CEO.

My investigation revealed that the mayor was a friend of the person appointed, but that the mayor had no role in considering the appointment.

Outcome and opinion

I found no administrative error with respect to the process of creating the Building Project Manager position. The CEO acted reasonably in meeting his responsibilities under the Local Government Act in proposing the position and preparing a report for the council.

However, I commented that no public explanation had been given for the new selection process, and that this omission could give rise to the perception that the successful candidate was appointed for reasons other than merit. It did not assist in demonstrating that the CEO had met his obligation to use sound human resource management practices.

I concluded that in the circumstances, the mayor's association with the successful candidate was not sufficient to constitute an interest within the meaning of the legislation, as no benefit would accrue to the mayor from the candidate's appointment.

Wakefield Regional Council

Failure to review confidentiality orders

2012/08372

Complaint summary

The complaint concerned council meeting procedures and the attempted re-making of a 2005 document confidentiality order over a council agenda item. The complainant alleged that the presiding member of the council had breached the Local Government (Procedures at Meetings) Regulations by failing to table documents requested by an elected member at the August 2012 meeting of the council. The complainant also alleged that the mayor had breached the regulations by allowing a motion to be withdrawn after there had been a request for documents to be tabled. The complaint also raised questions about the validity of the original confidentiality order and the re-making of that confidentiality order by the council.

Ombudsman investigation

My investigation found that whilst the mayor and the CEO had erred in not ensuring information relevant to the 2005 agenda item was at hand for elected members to consider for the August 2012 meeting, they did not act to prevent discussion, debate or dissent from being expressed by councillors when they insisted that such information be made available to them. I found no administrative error on this, or on the related issue of withdrawal of the motion in dispute.

On the matter of the validity of meeting and document confidentiality orders, I found the council's failure to provide details of its reasons to exclude the public under section 90(2) and 90(3)(d) of the Local Government Act, at a meeting in 2005, had rendered the original resolution for the agenda item invalid. Because no valid meeting confidentiality order was in place, the council should have conducted the meeting in a place open to the public. As such, I concluded that the council acted in a manner that was contrary to law. I made the same finding in relation to an invalid document confidentiality order from that meeting which had been extended several times without legal authority.

Outcome and opinion

My final report made five recommendations, including that the council should record details of its reasons for excluding the public from council meetings under section 90(2) and the relevant sections of section 90(3) of the Local Government Act, and that the council identify all outstanding section 90(2) confidential meeting orders to ensure they comply with the Act and take lawful remedial action as required. I also recommended that the council review and amend its Code of Practice for Access to Meetings and Associated Documents to stipulate a process for review and re-making section 91(7) orders according to law.

The council accepted my recommendations. The council has endorsed a new Code of Practice for Access to Meetings and Associated Documents that clearly identifies the need to record details of its reasons for excluding the public from council meetings. The new code includes a revised section that specifies the correct process for the review and re-making of orders. The council has also released and made available on its website all documents held in confidence that were deemed to be non-compliant with the legislation.

Corporation of the Town of Walkerville

Allegations against CEO's handling of various matters

2012/03677, 2012/03659

Complaint summary

These matters came to my attention via whistleblowers who were concerned about the behaviour of the CEO. I decided to conduct an 'own initiative' investigation pursuant to section 13(2) of the Ombudsman Act. I invited the whistleblowers' lawyers to put representations to me, which formed a series of allegations against the CEO and

mayor of the council. These allegations included a potential conflict of interest by the CEO in handling a complaint a whistleblower had made against her, and potential wrongdoing in relation to the CEO's trip to China, including financial mismanagement.

Ombudsman investigation

I invited both the CEO and mayor to come in for an interview; however this was declined. It was clear that the council wanted to answer the allegations by submitting responses via its lawyers. This caused a significant delay in my investigation.

Outcome and opinion

I found that there was no administrative error in the way the CEO and mayor had handled the whistleblower complaints; however the delay in the council responding to their concerns was unnecessary. The required information could have been provided directly to my investigation by the people involved.

District Council of Yankalilla

Inadequate review of code of conduct complaint

2013/01297

Complaint summary

The complainant made a complaint to the council about the conduct of a councillor. The council initiated an investigation of the complaint. The complainant approached my office with her concern that the council had not followed correct procedures or guidelines when handling her complaint. On the basis that the complainant had an avenue for review under the section 270 policy I considered it appropriate that the council undertake a review under that policy, and declined to investigate.

The complainant returned to my office, disappointed with the review that had been undertaken by the council. It became clear that the review had not been undertaken in accordance with the council's adopted policy. The council agreed to undertake a formal review against its policy. The review upheld the complainant's grievances in relation to inadequate communication with respect to the complaint handling process and a failure to involve her in the review process.

After the review had been completed the complainant remained aggrieved. She wrote to my office saying that she disputed a number of facts within the report and had issues with the process.

Ombudsman investigation

I determined to investigate the complaint. My investigation revealed that the review was not undertaken in accordance with the relevant policy. Errors were made against the policy including:

- the council erred in determining who should undertake the review
- the review did not revisit the original decision under review (in particular whether the councillor acted contrary to the code of conduct)
- the report did not record what information was considered by the reviewer
- the report did not contain enough information to enable the elected members to stand in the shoes of the decision maker and undertake a merits review
- appropriate steps were not taken to avoid a conflict of interest
- no appropriate response or recommendations were made.

Outcome and opinion

I formed the view that in undertaking the review of the complaint, the council acted in a manner that was unreasonable and wrong. I made a recommendation that the council:

- seek advice in relation to the requirements of its section 270 policy
- undertake training in how to deal with code of conduct complaints.

District Council of Yorke Peninsula

Imposition of a waste and recycling charge

2011/07919

Complaint summary

This complaint arose from the council's decision to impose a waste and recycling service charge on its ratepayers. It had two elements – one relating to whether the council had made an administrative error in the way in which it imposed the charge, and a second relating to whether the charge had an unfair or unreasonable impact on the complainant.

The second element arose under section 187B of the Local Government Act, which was enacted by the Parliament and commenced operation in 2007. It conferred a specific new jurisdiction on the Ombudsman.

Ombudsman investigation

The council put to me that because of a 1990 decision of the Supreme Court,³ under section 187B I was not able to investigate the policy behind the decision to declare the service charge. I do not agree with this suggestion. Indeed, I consider that section 187B in effect *requires* me to consider that policy, to determine whether it may involve an unfair or unreasonable impact on a particular ratepayer.

In other words, the section confers a different jurisdiction from that conferred by the Ombudsman Act, although it empowers me to exercise the same powers as are available under the Ombudsman Act.⁴

On the facts of the matter, I considered that the council had not made any administrative error in the process which it had adopted to impose the service charge. However, I considered that the impact of the charge on the complainant was unfair and unreasonable.

This was because the service to rural ratepayers was more limited than for town ratepayers (by providing two bins, not three); and because access to the service was considerably more inconvenient than for town ratepayers (by requiring rural residents to deposit and collect bins from a collection site). Town residents receive a green waste collection, which rural residents do not. In my view, the level of the service charge for town and rural ratepayers was not sufficiently different to properly reflect these factors.

During the course of the debate between the complainant and the council about his liability to pay the charge, the government introduced the *Local Government (Accountability Framework) Amendment Bill 2009* to the Parliament. This Bill proposed the introduction of the following new subsection in section 155:

(11) If a prescribed service, in relation to a particular piece of land, is not provided at the land and cannot be accessed at the land, a council may not impose in respect of the prescribed service a service rate or annual service charge (or a combination of both) in relation to the land unless the imposition of the rate or charge (or combination of both)–

(a) is authorised by the regulations; and

³ City of Salisbury v. Biganovsky (1990) 54 SASR 117.

⁴ Further, section 187B was inserted in the Local Government Act in 2005 (i.e. after the decision in City of Salisbury and Biganovsky) and commenced operation on 25 January 2007.

- (b) complies with any scheme prescribed by the regulations (including regulations that limit the amount that may be imposed or that require the adoption of a sliding or other scale established according to any factor, prescribed by the regulations, for rates or charges (or a combination of both) imposed under this section).

This provision was enacted and commenced operation on 10 December 2011. It has been supplemented by amendments to the regulations, which were gazetted on 10 May 2012. New regulation 9B(2) sets out the applicable sliding scale, as envisaged by section 155(11) (b) of the Act.⁵

These new provisions operate to permit the council to impose a service charge on the complainant after 1 July 2012, which is calculated in accordance with the formula in the regulations.

Outcome and opinion

Having regard to the circumstances of the case, I recommended that the council should recalculate the amount of the service charge due to it from the complainant for the period from 13 October 2008, when the service charge was imposed, to 10 December 2011 when the amendment to section 155 of the Local Government Act commenced operation.

I recommended that this recalculation should apply the same 'sliding scale' as is now in force under regulation 9B.

I recommended also that the council should write off the difference between the recalculated amount and the service charge and fines accrued by the complainant between 13 October 2008 and 10 December 2011.

Further, I recommended that the council should consider the suggestion made by the complainant about changing the current collection route in his area, i.e. to move the route 'from where it is currently servicing 4 properties to around the Cockle Beach Road where it could service 13 properties for only another 4 kms'; and should provide reasons as to whether it considers this suggestion feasible.

In response to my report, the council advised me that:

- it would not adopt my recommendation that it should recalculate the service charge due from the complainant for the period 13 October 2008 to 10 December 2011
- it considers that my recommendation to recalculate the amount owed by the complainant and not for every other affected ratepayer would establish an inequitable precedent
- it declined to implement the suggested changes to the collection route as they would result in a net additional cost to council of \$3675.

I therefore decided to table my report in Parliament and to draw it to the attention of the Premier under section 25(5) of the Ombudsman Act.

⁵ 9B—Rates and charges for services not provided at the land
 (1) For the purposes of section 155(11), a council is authorised to impose a service rate or annual service charge (or a combination of both) for a prescribed service in respect of the collection of domestic waste in accordance with the scheme set out in subregulation (2).
 (2) For the purposes of subregulation (1), the following provisions apply to the imposition of rates or charges in relation to a particular piece of land:
 (a) if the prescribed service is provided no more than 500 metres from the access point to the land—the full service rate or annual service charge (or a combination of both) may be charged for the prescribed service;
 (b) if the prescribed service is provided more than 500 metres but no more than 2 km from the access point to the land—75% of the service rate or annual service charge (or a combination of both) may be charged for the prescribed service;
 (c) if the prescribed service is provided more than 2 km but less than 5 km from the access point to the land—50% of the service rate or annual service charge (or a combination of both) may be charged for the prescribed service;
 (d) if the prescribed service is provided 5 km or more from the access point to the land—no rate or annual service charge may be charged for the prescribed service (but nothing in this paragraph prevents a council from entering into an agreement for the provision of a prescribed service in respect of the collection of waste that involves the payment of an amount for the provision of the prescribed service).
 (3) In this regulation—
 'access point' means the point on the land where the land is generally accessed
 'domestic waste' means waste produced in the course of a domestic activity.

Summary tables - local government - 1 July 2012 to 30 June 2013

Complaints: Received

Local Council	Received	%	Population 30 June 2012	Complaints per 10,000 Population
Adelaide, City of	80	9.4%	21 618	37.0
Adelaide Hills Council	29	3.4%	39 903	7.3
Alexandrina Council	16	1.9%	24 529	6.5
Barossa Council, The	10	1.2%	22 611	4.4
Barunga West, District Council of	4	0.5%	2 476	16.1
Berri Barmera Council	8	0.9%	10 781	7.4
Burnside, City of	23	2.7%	44 207	5.2
Campbelltown, Corporation of the City of	13	1.5%	50 250	2.6
Ceduna, District Council of	5	0.6%	3 692	13.5
Charles Sturt, City of	68	8.0%	109 721	6.2
Clare and Gilbert Valleys Council	4	0.5%	8 929	4.5
Cooper Pedy, District Council of	1	0.1%	1 784	5.6
Coorong, District Council of	6	0.7%	5 661	10.6
Copper Coast, District Council of the	15	1.7%	13 314	11.3
Elliston, District Council of	8	0.9%	1 051	76.1
Flinders Ranges Council, The	4	0.5%	1 709	23.4
Franklin Harbour, District Council of	1	0.1%	1 284	7.8
Gawler, Corporation of the Town of	24	2.8%	21 220	11.3
Goyder, Regional Council of	1	0.1%	4 193	2.4
Grant, District Council of	6	0.7%	7 988	7.5
Holdfast Bay, City of	27	3.2%	36 421	7.4
Kangaroo Island Council	15	1.8%	4 522	3.3
Kingston District Council	3	0.4%	2 350	12.8
Light Regional Council	7	0.8%	14 166	4.9
Lower Eyre Peninsula, District Council of	5	0.6%	5 072	9.8
Loxton Waikerie, District Council of	5	0.6%	11 445	4.4
Mallala, District Council of	9	1.0%	8 544	10.5
Marion, Corporation of the City of	26	3.0%	86 396	3.0
Mid Murray Council	13	1.5%	8 230	15.8
Mitcham, City of	25	2.9%	65 385	3.8
Mount Barker, District Council of	19	2.2%	31 011	6.1

Local Council	Received	%	Population 30 June 2012	Complaints per 10,000 Population
Mount Gambier, City of	2	0.2%	25 911	0.8
Mount Remarkable, District Council of	3	0.4%	2 907	10.3
Murray Bridge, Rural City of	15	1.8%	20 420	7.3
Naracoorte Lucindale Council	1	0.1%	8 333	1.2
Northern Areas Council	3	0.4%	4 548	6.6
Norwood, Payneham & St Peters, City of	10	1.2%	36 706	2.7
Onkaparinga, City of	47	5.5%	164 977	2.8
Orroroo/Carrieton, District Council of	2	0.2%	889	22.5
Peterborough, District Council of	5	0.6%	1 752	28.5
Playford, City of	27	3.2%	83 067	3.2
Port Adelaide Enfield, City of	56	6.6%	118 295	4.7
Port Augusta City Council	7	0.8%	14 539	4.8
Port Lincoln, City of	3	0.4%	14 629	2.0
Port Pirie Regional Council	9	1.0%	17 635	5.1
Prospect, City of	6	0.7%	20 969	2.9
Renmark Paringa, District Council of	6	0.7%	9 400	6.4
Robe, District Council of	6	0.7%	1 422	42.2
Salisbury, City of	33	3.9%	133 905	24.6
Southern Mallee District Council	4	0.5%	2 108	19.0
Streaky Bay, District Council of	5	0.6%	2 210	22.6
Tea Tree Gully, City of	43	5.0%	98 399	4.4
Tumby Bay, District Council of	3	0.4%	2 629	11.4
Unley, Corporation of the City of	14	1.6%	38 534	3.6
Victor Harbor, City of	5	0.6%	14 291	3.5
Wakefield Regional Council	12	1.4%	6 771	17.7
Wattle Range Council	4	0.5%	11 723	3.4
West Torrens, City of	18	2.1%	57 454	3.1
Whyalla, Corporation of the City of	3	0.4%	22 734	1.3
Wudinna District Council	1	0.1%	1 262	7.9
Yankalilla, District Council of	8	0.9%	4 478	17.9
Yorke Peninsula, District Council of	11	1.3%	11 176	9.8
TOTAL	852	100%		

Complaints: Issues

	Other	Adelaide, City of	Charles Sturt, City of	Port Adelaide Enfield, City of	Onkaparinga, City of	Tea Tree Gully, City of	Total	Percentage
Complaint handling/Conflict of interest	5	1	1				7	0.7%
Complaint handling/Delay	17	1	2	3	4	1	28	3.0%
Complaint handling/Inadequate processes	35	2	3	4	4	1	49	5.3%
Complaint handling/Inadequate reasons	8		1				9	1.0%
Complaint handling/Inadequate remedy	32		1	5	3	8	49	5.3%
Complaint handling/Wrong conclusion	14			2			16	1.7%
Conduct/Discourtesy	15	2	4	1	1	2	25	2.6%
Conduct/Failure to declare conflict of interest	10		4	2			16	1.7%
Conduct/Failure to follow proper process	24	1	1	1		1	28	3.0%
Conduct/Misconduct	22		10	1	1		34	3.7%
Correspondence/Communications/Records/Access	3	1					4	0.4%
Correspondence/Communications/Records/Breach of privacy/confidentiality	1						1	0.1%
Correspondence/Communications/Records/Breach of privacy/confidentiality (CCR)	3			1		1	5	0.5%
Correspondence/Communications/Records/Delay/No response	14	2	1	1	3	1	22	2.3%
Correspondence/Communications/Records/Incorrect	6				2		8	0.9%
Correspondence/Communications/Records/Wrongful disclosure of information			1				1	0.1%
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land	1						1	0.1%
Financial/Procurement/Facilities/Compensation/Damage/Physical injury	2						2	0.2%
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged	4		3		1		8	0.9%
Financial/Procurement/Facilities/Compensation/Damage/Psychological injury	1						1	0.1%
Financial/Procurement/Facilities/Debts/Recovery action	4			1	1		6	0.6%
Financial/Procurement/Facilities/Debts/Unreasonable charge	4						4	0.4%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings	4	1			1		6	0.6%

	Other	Adelaide, City of	Charles Sturt, City of	Port Adelaide Enfield, City of	Onkaparinga, City of	Tea Tree Gully, City of	Total	Percentage
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage	5				3		8	0.9%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens	5		1				6	0.6%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities	3		2				5	0.5%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets	17			2	1		20	2.1%
Financial/Procurement/Facilities/Other fees and charges	17	1	2	1	1		22	2.3%
Financial/Procurement/Facilities/Procurement by agencies/Decisions	1			1			2	0.2%
Financial/Procurement/Facilities/Procurement by agencies/Late payment						1	1	0.1%
Financial/Procurement/Facilities/Procurement by agencies/Tenders	3					1	4	0.4%
Financial/Procurement/Facilities/Rates/Administration	6			2		1	9	1.0%
Financial/Procurement/Facilities/Rates/Amount	18		2	1		4	25	2.6%
Financial/Procurement/Facilities/Rates/Recovery action	16			6	1		23	2.4%
Financial/Procurement/Facilities/Rates/Valuations	1	1					2	0.2%
FOI advice	13	3	2		4	2	24	2.5%
Governance/Confidentiality	8	1	2				11	1.2%
Governance/Failure to follow proper process (Governance)	51	2	2		2		57	6.1%
Governance/Prudential	4						4	0.4%
Governance/Public consultation	17		4			1	22	2.3%
Improper release of documents	3						3	0.3%
Regulation and enforcement/Animals/Excessive action	13			3		2	18	1.9%
Regulation and enforcement/Animals/Failure to act on complaints	7		1	1			9	1.0%
Regulation and enforcement/Building/Failure to enforce condition	3			2			5	0.5%
Regulation and enforcement/Building/Failure/Delay to issue permit	1						1	0.1%
Regulation and enforcement/Building/Inappropriate construction allowed	8		1			2	11	1.2%
Regulation and enforcement/Building/Unreasonable conditions imposed	6					1	7	0.7%
Regulation and enforcement/Building/Unreasonable enforcement	5				1		6	0.6%

	Other	Adelaide, City of	Charles Sturt, City of	Port Adelaide Enfield, City of	Onkaparinga, City of	Tea Tree Gully, City of	Total	Percentage
Regulation and enforcement/Environmental protection/Excessive action	3						3	0.3%
Regulation and enforcement/Environmental Protection/Failure to action on complaints	3				1		4	0.4%
Regulation and enforcement/Local laws/Failure to enforce	4			1			5	0.5%
Regulation and enforcement/Local laws/Improper/Inappropriate	5	1		1			7	0.7%
Regulation and enforcement/Local laws/Unreasonable enforcement	3			1			4	0.4%
Regulation and enforcement/Nuisances/Failure to action on complaints	2	1	1				4	0.4%
Regulation and enforcement/ Parking/Failure to enforce restrictions	1						1	0.1%
Regulation and enforcement/Parking/Permits	1	1					2	0.2%
Regulation and enforcement/Parking/Restrictions	5			1			6	0.6%
Regulation and enforcement/ Parking/Unreasonable enforcement	39	56	10	2	2	12	121	12.9%
Regulation and enforcement/Planning & Development/Failure to enforce condition	10	1	1		3		15	1.6%
Regulation and enforcement/Planning & Development/Failure to notify	6		2	1			9	1.0%
Regulation and enforcement/Planning & Development/Failure/ Delay to issue permit	10		1	2	1	1	15	1.6%
Regulation and enforcement/Planning & Development/Inappropriate development allowed	38		7	4	3		52	5.6%
Regulation and enforcement/Planning & Development/Unreasonable conditions imposed	24	1	1	1	5	1	33	3.6%
Regulation and enforcement/Planning & Development/Unreasonable enforcement	10	1		1	1	1	14	1.5%
Regulation and enforcement/Public health/Failure to act on complaints	4			1	1	1	7	0.7%
Regulation and enforcement/Public health/Unreasonable conditions imposed	1						1	0.1%
Regulation and enforcement/Public health/Unreasonable enforcement	3			2			5	0.5%
TOTAL	632	81	74	59	51	46	943	100%



Complaints: Completed

Local Council	Completed	%	Population 30 June 2012	Complaints per 10,000 Population
Adelaide, City of	80	9.4%	21 618	37.0
Adelaide Hills Council	30	3.6%	39 903	7.5
Alexandrina Council	16	1.9%	24 529	6.5
Barossa Council, The	9	1.1%	22 611	4.0
Barunga West, District Council of	3	0.3%	2 476	12.1
Berri Barmera Council	8	0.9%	10 781	7.4
Burnside, City of	27	3.2%	44 207	6.1
Campbelltown, Corporation of the City of	14	1.6%	50 250	2.8
Ceduna, District Council of	5	0.6%	3 692	13.5
Charles Sturt, City of	65	7.7%	109 721	5.9
Clare and Gilbert Valleys Council	4	0.5%	8 929	4.5
Cooper Pedy, District Council of	1	0.1%	1 784	5.6
Coorong, District Council of	5	0.6%	5 661	8.8
Copper Coast, District Council of the	17	2.0%	13 314	12.8
Elliston, District Council of	8	0.9%	1 051	7.6
Flinders Ranges Council, The	5	0.6%	1 709	29.2
Franklin Harbour, District Council of	1	0.1%	1 284	7.8
Gawler, Corporation of the Town of	22	2.6%	21 220	10.4
Goyder, Regional Council of	2	0.2%	4 193	4.8
Grant, District Council of	7	0.8%	7 988	8.8
Holdfast Bay, City of	24	2.8%	36 421	6.6
Kangaroo Island Council	16	1.9%	4 522	35.4
Kingston District Council	3	0.3%	2 350	12.8
Light Regional Council	7	0.8%	14 166	4.9
Lower Eyre Peninsula, District Council of	5	0.6%	5 072	9.8
Loxton Waikerie, District Council of	5	0.6%	11 445	4.4
Mallala, District Council of	9	1.1%	8 544	10.5
Marion, Corporation of the City of	27	3.2%	86 396	3.1
Mid Murray Council	11	1.3%	8 230	13.4
Mitcham, City of	26	3.0%	65 385	4.0
Mount Barker, District Council of	18	2.1%	31 011	5.8

Local Council	Completed	%	Population 30 June 2012	Complaints per 10,000 Population
Mount Gambier, City of	2	0.2%	25 911	0.8
Mount Remarkable, District Council of	4	0.5%	2 907	13.5
Murray Bridge, Rural City of	16	1.9%	20 420	7.8
Naracoorte Lucindale Council	1	0.1%	8 333	1.2
Northern Areas Council	3	0.3%	4 548	6.6
Norwood, Payneham & St Peters, City of	11	1.3%	36 706	3.0
Onkaparinga, City of	45	5.3%	164 977	2.7
Orroroo/Carrieton, District Council of	2	0.2%	889	22.5
Peterborough, District Council of	5	0.6%	1 752	28.5
Playford, City of	27	3.2%	83 067	3.2
Port Adelaide Enfield, City of	55	6.5%	118 295	4.6
Port Augusta City Council	8	0.9%	14 539	5.5
Port Lincoln, City of	3	0.3%	14 629	2.0
Port Pirie Regional Council	8	0.9%	17 635	4.5
Prospect, City of	6	0.7%	20 969	2.9
Renmark Paringa, District Council of	6	0.7%	9 400	6.4
Robe, District Council of	6	0.7%	1 422	42.2
Salisbury, City of	32	3.8%	133 905	2.4
Southern Mallee District Council	4	0.5%	2 108	19.0
Streaky Bay, District Council of	4	0.5%	2 210	18.1
Tea Tree Gully, City of	43	5.1%	98 399	4.4
Tumby Bay, District Council of	2	0.2%	2 629	7.6
Unley, Corporation of the City of	13	1.5%	38 534	3.4
Victor Harbor, City of	6	0.7%	14 291	4.2
Walkerville, Corporation of the Town of	2	0.2%	7 345	2.7
Wakefield Regional Council	13	1.5%	6 771	19.2
Wattle Range Council	4	0.5%	11 723	3.4
West Torrens, City of	19	2.2%	57 454	3.3
Whyalla, Corporation of the City of	3	0.3%	22 734	1.3
Wudinna District Council	1	0.1%	1 262	7.9
Yankalilla, District Council of	7	0.8%	4 478	15.6
Yorke Peninsula, District Council of	12	1.4%	11 176	10.7
TOTAL	853	100%		

Complaints: Outcomes

	Other	Adelaide, City of	Charles Sturt, City of	Pt Adelaide Enfield, City of	Onkaparinga, City of	Tea Tree Gully, City of	Total	Percentage
Advice given	23	6	3		4	2	38	4.4%
Alternate remedy available with another body	26	11	3	1	2	3	46	5.3%
Audit completed	11				1		12	1.4%
Complaint cannot be contacted	17	1	1			2	21	2.4%
Declined/Investigation unnecessary or unjustifiable	170	43	18	15	12	15	273	31.6%
Declined/No sufficient personal interest or not directly affected	3	1	1	1			6	0.7%
Declined/Out of time	3						3	0.3%
Declined/Trivial, frivolous, vexatious, not made in good faith			1				1	0.1%
Not substantiated	19		5	1			25	2.9%
Ombudsman comment warranted	1						1	0.1%
Out of jurisdiction/ Police matter			1		1		2	0.2%
Out of jurisdiction/Policy	5						5	0.6%
Referred back to agency	230	14	25	31	18	19	337	39.0%
Resolved with agency cooperation	23	3	3	2	4	2	37	4.3%
Referred evidence of misconduct to principal officer	1						1	0.1%
s25 Finding/Contrary to law	19		3		1		23	2.6%
s25 Finding/Unreasonable	3				1		4	0.5%
s25 Finding/Wrong	11			2			13	1.5%
Withdrawn by complainant	11	1	1	2	2		17	2.0%
TOTAL	576	80	65	55	46	43	865	100%
	66.6%	9.2%	7.5%	6.4%	5.3%	5.0%		

INVESTIGATIONS OF OTHER AUTHORITIES

Conflict of interest of members and staff of statutory authorities

Unreasonable appointment of chair of statutory authority

Failure to review marks awarded by school and to comply with grievance code

Unreasonable assessment of hardship application

Refund of tuition fees

Investigations of Other Authorities

The wide range of issues reflects the different nature of the bodies that fall within this category.

Again, the number of instances concerning conflict of interest confirms that this particular issue is not just confined to local government. As well as being crucial to the maintenance of the community's trust in organisations, proper management of conflict of interest has been widely recognised as an important corruption prevention measure. This has been cogently expressed in a joint NSW Independent Commission Against Corruption and Queensland Crime and Misconduct Commission publication from November 2004, called 'Managing Conflicts of Interest in the Public Sector – Guidelines':

The community expects that public officials will perform their duties in a fair and impartial way, putting the public interest first at all times.

Conflicts of interest are not wrong in themselves – public officials are also private individuals and there will be occasions when their private interests come into conflict with their duty to put the public interest first at all times – but such conflicts must be disclosed and effectively managed.

A transparent system that is observed by everyone in an organisation as a matter of course will also demonstrate to members of the public and others who deal with the organisation that its proper role is performed in a way that is fair and unaffected by improper considerations.

Failure to identify, declare and manage a conflict of interest is where serious *corruption* often begins and this is why managing conflicts of interest is such an important *corruption* prevention strategy.

Environment Protection Authority

Unreasonable appointment of chair

2012/09668

Complaint summary

The complaint concerned the appointment of a former parliamentary candidate to the position of chair of the Authority's Board. The complainant alleged that the appointee lacked the relevant qualifications under the *Environment Protection Act 1993*.

Ombudsman investigation

Members of the Board are appointed by the Governor, on the advice of the Minister. Neither of these offices fall within the definition of 'agency to which this Act applies' under the Ombudsman Act, and as such I had no jurisdiction to conduct an investigation.

Outcome and opinion

As the complainant had stated publicly that this matter had also been referred to the Auditor-General, after discussion with him, I referred a copy of the complaint to him.

SACE Board of SA

Failure to review marks awarded by school

Failure to comply with grievance code

2012/06124

Complaint summary

The complainant sought to have the Board review the grade awarded to her son by his school teacher for his SACE Stage 2 Physics subject. The teacher's marking practices had been moderated by the Board, but this moderation had not encompassed the student's work. The teacher later stated that he had made an error in the award given to the student.

The complainant also alleged that in dealing with her complaint, the Board had not complied with its grievance policy.

Ombudsman investigation

I noted that an investigation of the appropriateness of the grade awarded to the student would require an expert assessment of the student's work. This was not a matter on which I was able to express a view. In accordance with my powers under the Ombudsman Act, my investigation was limited to a consideration of the administrative acts of the Board.

Consequently I examined whether the Board's acts were consistent with its legislative obligations, and in accordance with its stated policies.

In particular, the Board had adopted and published a policy of not reviewing school assessments. Nonetheless, in the circumstances of this matter, it arranged for a re-assessment of the student's work. This confirmed the teacher's original award.

Outcome and opinion

I found no administrative error by the Board. Its refusal to review the teacher's award was not inconsistent with its legislative obligations; and the process complied with the Board's published policy framework, its quality policy and its moderation procedures.

I found that in dealing with the complaint, the Board did not strictly follow its grievance code. However, in arranging a review of the student's work, the Board went beyond its obligations, and its correspondence with the complainant was clear and prompt. Consequently there was substantial effective compliance, and there were no grounds to find administrative error in this respect.

SA Ambulance Service

Unreasonable assessment of hardship application

2012/04708

Complaint summary

The complainant used the transport services of the SA Ambulance Service (SAAS). She subsequently received an account and submitted a financial hardship application.

SAAS agreed to waive her service account, on the condition that she purchase and maintain a membership for ambulance cover with SAAS.

The complainant came to my office raising concerns about this and the way her matter had been handled. The complainant explained the financial imposition of taking out ambulance cover and asked that the account be unconditionally waived.

Ombudsman investigation

My office contacted SAAS in relation to the complaint and asked that it review its decision. On review, SAAS confirmed its decision.

My investigation found that there was no basis under the *Health Care Act 2008* or SAAS-endorsed policies to impose a requirement on a person to take out ambulance cover.

Further, my investigation revealed that the agency was seeking to recover a debt other than in accordance with Treasurer's Instruction 5.

Conflict of interest is not just an issue confined to local government. As well as being crucial to maintaining the community's trust in organisations, proper management of this issue is an important corruption prevention measure.

Outcome and opinion

I found that the agency had acted in a manner that was contrary to law and unreasonable. I recommended that the agency:

- seek advice as to whether those people who had taken out ambulance cover on the understanding that they were legitimately required to do so, should be recompensed
- inform those people that they are not required to maintain their ambulance cover
- ensure that SAAS practice, procedure and documentation is reviewed in light of my findings and the advice of the Crown Solicitor
- take any other appropriate action consistent with the advice of the Crown Solicitor.

South Australian Heritage Council

Alleged conflict of interest of decision-maker

2011/06606

Complaint summary

This complaint concerned the SAHC's decisions under the *Heritage Places Act 1993* about the Cheltenham racecourse grandstand, which was under demolition. The decisions were made by the chair of the SAHC under delegation. The complainant alleged that the chair had a conflict of interest because she was also a member of the Land Management Corporation Board (LMC).

The complaint also alleged that the SAHC had wrongly failed to issue a stop order, and to provisionally list, the grandstand on the SA Heritage Register.

Ombudsman investigation

To determine whether the chair had a conflict of interest, my investigation considered the sequence of events and the role which the LMC had played in the development of the area. I considered that the LMC's role was significant, and culminated in obligations set out in a Commitment Deed finalised in March 2009.

However, the chair stated that the LMC Board discussions of the issue after her appointment on 18 February 2008 were limited. She stated that she 'did not connect [the grandstand] to these discussions' before making her decisions (on 5 September 2011).

I noted that the Code of Ethics for the South Australian Public Sector provides the following in relation to conflicts of interest:

- conflicts of interest can pose a major hazard to honest public administration. It is vital that the public has confidence that the public sector and its employees will act impartially and without prejudice. Public sector employees must not have a personal interest in, or be party to, decisions they make in the performance of their duties
- a conflict of interest can be actual or potential. It relates to circumstances where the employee is or could be influenced, or there is potential for them to be influenced. Employees will avoid actual or potential conflicts of interest
- employees will disclose in writing to the agency heads any actual or potential conflicts of interest at the earliest available opportunity and comply with any lawful and reasonable direction issued by a person with authority to issue such direction to resolve the conflict or potential conflict, including written direction by a relevant authority pursuant to the *Public Sector (Honesty and Accountability) Act 1995*.

A Department of Premier and Cabinet publication⁶ summarises the requirements of the *Public Sector (Honesty and Accountability) Act 1995* insofar as it imposes duties on the members of 'corporate agencies'.⁷ These duties include the obligation to disclose any 'personal or pecuniary interest in a matter decided or under consideration by the agency', and to withdraw from any

⁶ Department of the Premier and Cabinet, *Honesty and Accountability for Members of Government Boards*, March 2011.

⁷ 'Corporate agency member' is defined in section 2(1) of the *Public Sector (Honesty and Accountability) Act 1995* as including a member of a public sector agency that is a body corporate. This includes the SAHC.

meeting at which the matter is considered.⁸ It is an offence to fail to comply with this obligation.

I also considered the chair's obligations in relation to apprehension of bias in decision-making.

Outcome and opinion

I concluded that because of her conflict of interest the chair should not have exercised delegated powers in relation to the Cheltenham grandstand, and in so doing had acted contrary to law. However, I did not consider that apprehended bias on her behalf could be established.

Having regard to all the evidence, I concluded that in making its substantive decisions not to issue a stop order, and not to provisionally list the Cheltenham grandstand, the SAHC did not act in a manner that was unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act.

South Australian Heritage Council

Alleged failure to consider a submission

2012/06362

Complaint summary

This complaint was made on behalf of the Cheltenham Park Residents' Association, and it alleged that the SAHC had failed to properly consider the association's submission in support of a further nomination of the Cheltenham racecourse grandstand to the SA Heritage Register. This further nomination was made on 3 August 2012, and followed the process outlined in the previous case study.

The grandstand continued to be under immediate threat of demolition, and the SAHC's delegate made a decision not to list it on the register on the same day that the submission was received by the SAHC.

Ombudsman investigation

My investigation revealed that a number of heritage assessments had been previously carried out over the grandstand, both by the department and independently, for both state and local heritage listing. Two of these had been conducted after the process outlined in the case study above.

⁸ Section 8(1) of the *Public Sector (Honesty and Accountability) Act 1995*.

Whilst the association's submissions provided the SAHC with considerably more detail, they had not introduced significant new material on the central question of whether the building was a place of heritage significance for the purposes of the *Heritage Places Act 1993*. They were assessed by departmental officers with heritage expertise prior to the SAHC decision being made.

Outcome and opinion

In all the circumstances, I found that it was not unreasonable for the SAHC to have made a decision on the same day as it received the submission, and that it had not acted in a manner that was unlawful, unreasonable or wrong.

I also considered that the SAHC had acted reasonably in making its decision not to provisionally list the grandstand, and to refuse to issue a stop work order, on the basis of the heritage assessments previously carried out.

The SAHC advised me that it has drafted a complaints policy and guideline, as the first step to resolving issues arising from complaints from members of the public about a decision regarding a nomination for state heritage listing. The Act (section 20) only deals with an owner's appeal against the SAHC's decision whether or not to confirm an entry of a place in the heritage register. It does not deal with those nominators from the public who are non-owners. I welcome this initiative.

TAFE SA Board

Unreasonable refusal to provide refund of tuition fees 2013/04443

Complaint summary

The complainant was a migration agent. In June 2009, the complainant made application on behalf of one of his clients to participate in TAFE SA'S Concessional English scheme. This scheme terminated at the end of June 2009, and applications had to be made before that date. The complainant paid the requisite \$2500 tuition fee, but the application was made in the wrong name.

This mistake was not discovered by the complainant until after the cut-off date. Nevertheless, the complainant approached TAFE SA in August 2009 requesting that the tuition fees be transferred to a new application in the correct name, and that the application be back-dated to reflect the date shown on the application that was made in error. For visa purposes, the Department of Immigration and Citizenship required proof by way of receipt that the application to TAFE

SA was made prior to the end of June 2009. Should TAFE SA have been unwilling to do as the complainant requested, then the complainant asked that the tuition fees be refunded to him. TAFE SA declined both requests.

Ombudsman investigation

I sought clarification from TAFE SA as to whether the facts, as presented by the complainant, were correct. I also sought verification that, in the circumstances, there was nothing TAFE SA could do to assist the complainant to rectify his mistake.

In response, TAFE SA confirmed that, as a matter policy, it would not transfer funds between student accounts, back-date receipts or make amendments to Department of Immigration and Citizenship applications on behalf of a migration agent. However, recognising there was nothing further it could do in this case at this time, TAFE SA made an offer, in good faith, to refund the application fee of \$2500 to the complainant.

Outcome and opinion

Quite reasonably, in my view, TAFE SA was not in a position to alter details on the application at the behest of the complainant. Whereas this aspect of the complaint remained unresolved for the complainant, TAFE SA reversed its earlier decision not to refund the application fee.

Public Trustee

Alleged conflict of interest 2013/00396

Complaint summary

This was an 'own initiative' investigation pursuant to section 13(2) of the Ombudsman Act. An employee of the Public Trustee was using her son's electrical business to service her estate clients. This occurred on seven occasions over a period of two and a half years. In an interview with the Public Trustee, the employee stated that her motivation was to assist her estate clients and not to further promote her son's business.

Ombudsman investigation

I looked into the Public Trustee's current policies in relation to procurement and conflicts of interest. I found that that the employee had not breached these. I met a representative of the Public Trustee and discovered that it had new draft procurement standards in place.

The representative informed me that the Public Trustee was looking into disciplinary proceedings against the employee and confirmed that this was a 'one-off' occasion and the practice was not systemic. I also considered whether the employee had breached the Public Sector Code of Ethics.

Outcome and opinion

I recommended that the Public Trustee approve the draft procurement standard, and that the Public Trustee adopt and maintain a conflicts of interest register. I concluded that it was a matter for the Public Trustee to determine if the employee had breached the Code of Ethics and discipline the employee or not; but I reported her actions to the principal officer under section 18(5) of the Ombudsman Act.

Registrar of the Veterinary Surgeons Board

Alleged failure to declare a conflict of interest

2012/05374

Complaint summary

The complainant was a veterinary surgeon about whom allegations were made concerning his fitness to practice. The Registrar of the Veterinary Surgeons Board advised him that he was under investigation, and the Board subsequently made orders against him. The complainant then made threats to the Registrar. He was charged with two counts of assault and pleaded guilty to both counts.

The Registrar continued to take action in relation to the complainant including:

- applying under section 60(a) of the *Veterinary Practice Act 2003*, seeking the Board to inquire into the complainant's medical fitness to practice
- monitoring compliance with the Board's Orders, and considering complaints relating to the complainant's conduct and competence as a veterinary surgeon
- conducting preliminary investigations into such complaints
- referring serious complaints to the Crown Solicitor's Office for formal investigation
- renewing the complainant's annual registration as a veterinary surgeon
- making decisions as to whether Letters of Good Standing should be provided (provided to NSW in 2008 but declined in 2012).

The complainant submitted that the Registrar had a conflict of interest in these matters by virtue of his assault and the court proceedings. The complainant also submitted that the Registrar could not possibly approach any matter concerning him without bias.

Ombudsman investigation

Section 27 of the *Public Sector (Honesty and Accountability) Act 1995* (PSHA Act) creates obligations for public sector employees who have 'a pecuniary or other personal interest that conflicts or may conflict with the employee's duties'. I found that the Registrar was a 'public sector employee' for the purposes of section 27 of the PSHA Act.

Further, I found that after the assault, the Registrar had a personal interest in all matters pertaining to the complainant, and that that interest may have conflicted with her duties. She was therefore under an obligation to disclose the conflict to the Minister and to comply with any written directions given by the Minister in relation to the conflict.

I noted that the Registrar is also bound by the Code of Ethics for South Australian Public Sector Employees and accordingly, also had an obligation to disclose her conflict of interest to the board. I found that the Registrar complied with this obligation.

I found that most of the Registrar's duties in relation to the complainant did not constitute decisions affecting the 'rights, interests or legitimate expectations' of the complainant and therefore were not subject to the doctrine of apprehended bias. In particular:

- while the Registrar made applications to the Board pursuant to section 60(a) of the *Veterinary Practice Act*, it is the board which determines whether the person is medically unfit to provide veterinary treatment
- apprehended bias cannot attach to the Registrar's role in conducting preliminary investigations into complaints made about the complainant and in referring serious complaints to the Crown Solicitor's Office. These actions are preliminary in nature, and ultimately it is the Board which decides whether there are grounds for disciplinary action
- monitoring the complainant's compliance with the board's orders does not constitute a 'decision' to which apprehended bias could attach. The Registrar is simply required to advise the Board whether test results and doctors' reports have been submitted by the complainant in accordance with the Orders and the content of those reports.

In relation to the Registrar's decision to renew the complainant's registration as a veterinary surgeon, I found that there could be no determination of apprehended bias.

I found that there was no apprehended bias in relation to the Registrar's decision not to provide the complainant with a Letter of Good Standing in 2012. I understood that the decision was in accordance with the normal practice not to provide such a letter when a veterinarian is the subject of an unresolved complaint.

Outcome and opinion

I considered that in failing to declare a conflict of interest as required under the section 12 of the PSHA Act, the Registrar acted in a manner that was contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act. However, I found there was no evidence of apprehended bias on the part of the Registrar.

Registrar of the Veterinary Surgeons Board

Alleged failure to appropriately investigate complaint 2012/05362

Complaint summary

The complainants were representatives of the organisation Stop Tasmanian Animal Cruelty. They wrote to the Board complaining about the treatment of sheep on a livestock carrier in Port Adelaide in September 2011. They referred to a veterinarian who was reported in the media to have provided veterinary services for the Australian Livestock Export Corporation (ALEC) on a consignment of sheep unloaded from the carrier.

Their complaints in summary were:

- the veterinarian was not registered to practise in South Australia
- the sheep were not properly assessed and tested for reloading, resulting in a high number of deaths.

The Board advised the complainants that:

- the veterinarian was not carrying out acts of veterinary treatment when he was engaged by ALEC, and was not required to register as a veterinary surgeon in South Australia
- the assessment and testing of sheep reloaded onto the vessel was the responsibility of the Australian quarantine authorities. Further, the Board did not have jurisdiction over veterinarians in international waters,

and the death of sheep on the carrier was therefore a matter beyond its remit.

Ombudsman investigation

I decided to investigate the following issues:

- whether the Board failed to take appropriate action in response to the complaint
- whether the Board failed to investigate the veterinary treatment provided to sheep aboard the carrier while it was in SA waters.

In relation to the first issue, the Board submitted that it could only investigate complaints against veterinary surgeons registered to practise in South Australia. Whilst I accepted this submission, I considered that it did not prevent the Board from undertaking preliminary enquiries into a veterinarian's registration status to establish whether their conduct amounted to an offence under the *Veterinary Practice Act 2003*.

I found that it was premature for the Board to conclude there was 'insufficient evidence' to investigate the complaint without it having first established the nature of the veterinarian's employment contract with ALEC.

In relation to the second issue, I found that the Board's declaration that the events occurred in international waters was not consistent with the evidence which it had accepted.

Further, the Board appeared to have treated the second complaint as referring only to the veterinarian employed by ALEC. The Board did not take any steps to investigate whether treatment provided by any other veterinarians could have amounted to unprofessional conduct.

Accordingly, I considered that the Board failed to properly investigate the second issue.

In response to my provisional report, the Board submitted that the complainants lacked the necessary legal standing to make a complaint, because they were not 'a person who is aggrieved' by the conduct of a registered veterinary surgeon for the purposes of section 62(1)(c) of the *Veterinary Practice Act*.

As the Board had not raised this lack of standing over the seven months of its own preliminary investigation, I was not persuaded that it was a relevant consideration, nor that it was reasonable.



Outcome and opinion

I considered that by failing to properly investigate both issues, the Board acted in a manner that was unreasonable.

To remedy its errors, I recommended that:

- the Board ask for a copy of the veterinarian's employment contract, and if that contract indicated he was employed as a veterinary surgeon, review its assessment of the first issue accordingly
- the Board review its investigation of the second issue, with a view to ascertaining if any of the other veterinary surgeons involved in providing treatment to the sheep were engaged in unprofessional conduct.

Summary tables - Other Authorities - 1 July 2012 to 30 June 2013

Complaints: Received

Authority	Received	%
Anangu Pitjantjatjara Yankunytjatjara Executive Board	1	0.2%
Central Adelaide Local Health Network	36	6.6%
Central Irrigation Trust	1	0.2%
Children, Youth and Women's Health Service	2	0.4%
Commissioner for Equal Opportunity	4	0.7%
Commissioner for Victims' Rights	1	0.2%
Construction Industry Training Board	1	0.2%
Consumer and Business Services	58	10.5%
Coroner	6	1.1%
Country Health SA Local Health Network	10	1.8%
Courts Administration Authority	18	3.3%
Development Assessment Commission	3	0.5%
Dog and Cat Management Board	1	0.2%
Drug and Alcohol Services SA	4	0.7%
Eastern Health Authority	1	0.2%
Electricity Industry Superannuation Scheme	2	0.4%
Eyre Peninsula Natural Resources Management Board	1	0.2%
Flinders University	15	2.7%
Guardianship Board	11	2.0%
Health and Community Services Complaints Commissioner	45	8.2%
HomeStart	10	1.8%
Legal Practitioners Conduct Board	10	1.8%
Legal Services Commission	10	1.8%
Liquor and Gambling Commissioner	7	1.3%
Lotteries Commission	2	0.4%
Motor Accident Commission	19	3.5%
Native Vegetation Council	2	0.4%
Northern Adelaide Local Health Network	6	1.1%
Office of the Technical Regulator	1	0.2%
Outback Communities Authority	2	0.4%

Authority	Received	%
Public Advocate	14	2.5%
Public Trustee	55	10.0%
Residential Tenancies Tribunal	13	2.4%
RSPCA Inspectorate	5	0.9%
SA Ambulance Service	21	3.8%
SA Country Fire Service	3	0.5%
SA Film Corporation	2	0.4%
SA Government Financing Authority	1	0.2%
SACE Board of SA	6	1.1%
South Australia Murray Darling Basin Natural Resources Management Board	1	0.2%
South Australian Dental Service	3	0.5%
South Australian Heritage Council	2	0.4%
South Australian Small Business Commissioner	2	0.4%
South Australian Tertiary Admissions Centre	2	0.4%
Southern Adelaide Local Health Network	10	1.8%
Super SA Board	24	4.4%
TAFE SA Board	24	4.4%
Teachers Registration Board	3	0.5%
The Art Gallery Board	1	0.2%
University of Adelaide	15	2.7%
University of South Australia	27	4.9%
Urban Renewal Authority	5	0.9%
Veterinary Surgeons Board	2	0.4%
Women's and Children's Health Network	4	0.7%
WorkCover Corporation	13	2.4%
TOTAL	548	100%

Complaints: Issues

	Other	Consumer and Business Services	Public Trustee	Health and Community Services Complaints Commissioner	Central Adelaide Local Health Network	SA Ambulance Service	Total	Percentage
Advice	1						1	0.2%
Complaint handling/Conflict of interest	2		1				3	0.5%
Complaint handling/Delay	10	4	3		3	2	22	3.9%
Complaint handling/Inadequate processes	33	4	3	10	4	3	57	10.1%
Complaint handling/Inadequate reasons	6			10	2		18	3.2%
Complaint handling/Inadequate remedy	15	4	1	6			26	4.7%
Complaint handling/Wrong conclusion	23	3		12	1		39	6.9%
Conduct/Assault	1						1	0.2%
Conduct/Discourtesy	8	1	1				10	1.8%
Conduct/Misconduct	10		2				12	2.1%
Correspondence/Communications/Records/Breach of privacy/Confidentiality	1	1					2	0.3%
Correspondence/Communications/Records/ Delayed/ No response	11	5	2	1	1		20	3.5%
Correspondence/Communications/Records/Incorrect	10	2		1	2		15	2.6%
Correspondence/Communications/Records/Lost	2	1					3	0.5%
Correspondence/Communications/Records/ Withholding of information	6	1	1			2	10	1.8%
Correspondence/Communications/Records/Wrongful disclosure of information	1					1	2	0.3%
Custodial services/Health related services	1				1		1	0.2%
Employment	2		1				3	0.5%
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land							1	0.2%
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury	3						3	0.5%
Financial/Procurement/Facilities/Compensation/Damage/ Property lost/Damaged	1						1	0.2%
Financial/Procurement/Facilities/Debts	9		3			1	13	2.3%

	Other	Consumer and Business Services	Public Trustee	Health and Community Services Complaints Commissioner	Central Adelaide Local Health Network	SA Ambulance Service	Total	Percentage
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use	1						1	0.2%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use			1				1	0.2%
Financial/Procurement/Facilities/Procurement by agencies/Decisions	1		1				2	0.3%
FOI advice	13		1		6	1	21	3.7%
Records management	1						1	0.2%
Regulation and enforcement/Complaint handling	1			1			2	0.3%
Regulation and enforcement/Enforcement action/Excessive	4	1			2		7	1.2%
Regulation and enforcement/Enforcement action/Unfair	9	1					10	1.8%
Regulation and enforcement/Fees	4						4	0.7%
Regulation and enforcement/Infringements / Unreasonably issued	2						2	0.3%
Regulation and enforcement/Inspections		1					1	0.2%
Regulation and enforcement/Licensing/Refusal	1	1					2	0.3%
Regulation and enforcement/Licensing/Renewal	1	3					4	0.7%
Regulation and enforcement/Permits	1						1	0.2%
Roads and Traffic/Charges/Fines	3						3	0.5%
Service Delivery/Abuse in care	1				1		2	0.3%
Service Delivery/Assessment	9						9	1.6%
Service Delivery/Conditions	5	4	2				11	1.9%
Service Delivery/Debts	2					2	4	0.7%
Service Delivery/Eligibility for services	20	5	1			1	27	4.9%
Service Delivery/Failure to act/Provide	46	7	19	3	7	1	83	14.7%
Service Delivery/Fees and charges	17	4	1			8	30	5.3%
Service Delivery/Financial assistance	5		1				6	1.1%
Service Delivery/Quality	25	5	10	1	5		46	8.1%

	Other	Consumer and Business Services	Public Trustee	Health and Community Services Complaints Commissioner	Central Adelaide Local Health Network	SA Ambulance Service	Total	Percentage
Service Delivery/Termination of services	8				1		9	1.6%
Superannuation	13						13	2.3%
Whistleblower Protection Act advice	1						1	0.2%
TOTAL	350	58	55	45	36	22	566	100%



Complaints: Completed

Authority	Completed	%
Central Adelaide Local Health Network	36	6.6%
Central Irrigation Trust	1	0.2%
Children, Youth and Women's Health Service	2	0.4%
Commissioner for Equal Opportunity	5	0.9%
Commissioner for Victims' Rights	1	0.2%
Construction Training Industry Board	1	0.2%
Consumer and Business Services	61	11.1%
Coroner	6	1.1%
Country Health SA Local Health Network	10	1.8%
Courts Administration Authority	17	3.1%
Development Assessment Commission	3	0.5%
Dog and Cat Management Board	1	0.2%
Drug and Alcohol Services SA	4	0.7%
Eastern Health Authority	1	0.2%
Electricity Industry Superannuation Scheme	1	0.2%
Eyre Peninsula Natural Resources Management Board	1	0.2%
Flinders University	15	2.7%
Guardianship Board	11	2.0%
Health and Community Services Complaints Commissioner	45	8.1%
HomeStart	10	1.8%
Legal Practitioners Conduct Board	10	1.8%
Legal Services Commission	10	1.8%
Liquor and Gambling Commissioner	7	1.3%
Lotteries Commission	2	0.4%
Motor Accident Commission	19	3.5%
Native Vegetation Council	2	0.4%
Northern Adelaide Local Health Network	6	1.1%
Office of the Technical Regulator	1	0.2%
Outback Communities Authority	2	0.4%
Public Advocate	14	2.5%

Authority	Completed	%
Public Trustee	55	10.0%
Residential Tenancies Tribunal	13	2.4%
RSPCA Inspectorate	5	0.9%
SA Ambulance Service	22	4.0%
SA Country Fire Service	3	0.5%
SA Film Corporation	1	0.2%
SA Government Financing Authority	1	0.2%
SACE Board of SA	5	0.9%
South Australia Murray-Darling Basin Natural Resources Management Board	1	0.2%
South Australian Dental Service	3	0.5%
South Australian Heritage Council	3	0.5%
South Australian Small Business Commissioner	1	0.2%
South Australian Tertiary Admissions Centre	2	0.4%
Southern Adelaide Local Health Network	10	1.8%
State Procurement Board	1	0.2%
Super SA Board	26	4.7%
TAFE SA Board	24	4.4%
Teachers Registration Board	2	0.4%
The Art Gallery Board	1	0.2%
University of Adelaide	15	2.7%
University of South Australia	28	5.1%
Urban Renewal Authority	4	0.7%
Veterinary Surgeons Board	2	0.4%
Women's and Children's Health Network	3	0.5%
WorkCover Corporation	13	2.4%
TOTAL	549	100%



Complaints: Outcomes

	Other	Consumer and Business Services	Public Trustee	Health and Community Services Commissioner	Central Adelaide Local Health Network	University of South Australia	Total	Percentage
Advice given	19	1	1		6		27	4.9%
Alternate remedy available with another body	57	5	1	6	28	4	101	18.4%
Complainant cannot be contacted	8	1	3	1		2	15	2.7%
Declined/Investigation unnecessary or unjustifiable	70	13	24	22		10	139	25.3%
Declined/No sufficient personal interest or not directly affected	2						2	0.4%
Declined/Out of time	3			1			4	0.7%
Not substantiated	8			2		2	12	2.2%
Ombudsman comment warranted	1						1	0.2%
Out of jurisdiction/Employment	1						1	0.2%
Out of jurisdiction/Judicial body	5						5	0.9%
Out of jurisdiction/Police matter		1					1	0.2%
Out of jurisdiction/Policy	3	2		1			6	1.1%
Referred back to agency	117	27	17	9	1	9	180	32.8%
Resolved with agency cooperation	12	7	3		1	1	24	4.4%
s25 Finding/Contrary to law	4	1					5	0.9%
s25 Finding/Unreasonable	2	1					3	0.5%
s25 Finding/Unreasonable law or practice				1			1	0.2%
s25 Finding/Wrong	2		1	1			4	0.7%
Withdrawn by complainant	10	2	5	1			18	3.3%
TOTAL	324	61	55	45	36	28	549	100%
	59.0%	11.1%	10.0%	8.2%	6.6%	5.1%		

FREEDOM OF INFORMATION

Public interest in people having access to what is recorded about them

Access to a report arising from a workplace complaint

Documents can consist of video footage

Unreasonable management of an FOI application

Whether fees charged for processing an FOI application were fair and reasonable

Freedom of Information

Under the Freedom of Information jurisdiction, Ombudsman SA undertook reviews in conjunction with the Independent Education Inquiry relating to the sexual abuse of children (see box below). Our reports on the inquiry have been published on our website (www.ombudsmansa.gov.au).

We also commenced audits into 12 state Government agencies, examining the fulfilment of their responsibilities under the FOI Act. We expect to release the results of the audits towards the end of 2013.

Department for Education and Child Development

FOI applications for information considered by the Independent Education Inquiry – 21 reviews The Freedom of Information Act 1991 and the Children's Protection Act 1993

An explanation of Ombudsman FOI determinations dealing with information about abuse of children in schools

In early 2013, several applicants requested FOI access to documents about incidents of sexual abuse against a child or children at a state government school, from the Department for Education and Child Development, the Minister for Education and Child Development, and the Premier. The agencies determined to refuse access to the documents, and I subsequently received requests to review 21 determinations.

The FOI Act provides that a person has a legally enforceable right to be given access to an agency's documents in accordance with the Act. It provides that upon receipt of an application for access to documents, an agency is able to make a determination to refuse access where the documents are 'exempt'.

Exemption: disclosure an offence against the Children's Protection Act

One example is where disclosure of the documents would be an offence under another Act, such as the Children's Protection Act. Subject to certain exceptions, that Act makes it an offence for any person to 'divulge' personal information relating to abuse or neglect of a child, which has been obtained while engaged in the administration of the Act.

My reviews considered the Children's Protection Act, and what the word 'divulge' meant. I determined that it would not be a 'divulgence' (and thus an offence under the Children's Protection Act) to release information that has previously been officially and legitimately disclosed and is in the public domain. Examples are where the information is reported in *Hansard*, the Government Gazette, or where the information has been previously disclosed by the agency, provided that that disclosure was not in itself a breach of the Act.

I noted the release of certain identifying information in the Government Gazette dated 10 December 2012; and in my reviews, I proceeded on the basis that the disclosure of this information was not in itself an offence under the Children's Protection Act.

I determined that the release of any information in the documents that had already been published in the Gazette would not be an offence against the Children's Protection Act.

Exemption: unreasonable disclosure of information about a child

Another example of an exempt document under the FOI Act is where disclosure of information about a child would be unreasonable, having regard to the need to protect the child's welfare. In some of my reviews, I determined that any information in the documents that would tend to identify a child would also be exempt, having regard to the need to protect a child's welfare.

Neither admitting nor denying the existence of documents

The FOI Act also provides that an agency is not required to include in a notice of determination any information if its inclusion in the notice would result in the notice being an 'exempt' document. Some of my reviews considered this issue; and I determined that even admitting the existence of documents could result in the agency's notice being an exempt document, and therefore the agency would be in breach of the Children's Protection Act. In other reviews, I determined that the agency should confirm the existence of documents, as this would not be in breach of the Act.

District Council of the Copper Coast

The meaning of 'copyright' and 'consent'

2013/02553

Application for access

The applicant sought copies of documents relating to the development approval of her property at Port Hughes.

The agency determined that it was unable to release any documents consisting of building plans, on the basis that consent was not provided by the relevant builder, whom the agency believed owned the copyright.

Based on its determination and submissions to my office, it appeared that the agency claimed that the documents were exempt under the business affairs exemption and were subject to copyright.

Ombudsman review

Under the FOI Act, if providing the applicant with a copy of a document would involve an infringement of copyright, the agency may give access in another way, such as by allowing the applicant to inspect the document (section 22(2)(c)). In my review, I noted the distinction between a document being subject to copyright and a document being exempt.

Determination and comments

By its initial and internal review determinations, the agency had already released some documents to the applicant. I decided that although some of the documents may contain information concerning the business affairs of a third party, no evidence had been put forward (by either the agency or the third party following consultation) to satisfy me that release could reasonably be expected to destroy or diminish the commercial value of the information and would, on balance, be contrary to the public interest (as required for the business affairs exemption in clause 7(1)). I decided that none of the documents were exempt.

In considering the issue of copyright, I commented that copyright does not protect general concepts or ideas. I decided that in relation to some of the documents, however, providing the applicant with a copy might involve an infringement of copyright. In light of this, I determined that the agency should give access by allowing the applicant to inspect the documents.

Department for Correctional Services

Public interest in people having access to what is recorded about them

2013/00948

Application for access

The applicant, a prisoner, applied for access to a psychological report prepared after he had participated in a program conducted by the agency's Rehabilitation Programs Branch. The applicant did not want access to other people's names.

Ombudsman review

The applicant applied to me for an external review of the agency's determination refusing him access to parts of the report.

The agency claimed that the report contained observations, opinions and recommendations made by staff and it was therefore an internal working document (clause 9(1)(a)). The agency further claimed that disclosure of information within the report 'would prejudice the effectiveness of procedures used by ... staff when undertaking their required functions... and could allow for manipulation of any future responses to assessments' (clause 16(1)(a)(i)). The agency explained that clinicians did not intend for the information to be released.

According to the agency, professional opinion dictated that the release of such information 'allows for increased transparency and the ability of the respondent to provide invalid responses or attempt to present themselves in a favourable light' and therefore release would, on balance, be contrary to the public interest.

The agency submitted that the risk that reoffending would pose to members of the public was another factor making disclosure, on balance, contrary to the public interest (clauses 9(1)(b) and 16(1)(b)). In addition, the agency expressed concern about the effect that disclosure of further information would have on the applicant's emotional state.

The applicant indicated that he had been told about some of the deleted information during post-treatment discussions, but expressed the desire to understand the outcomes of the course and his future treatment needs.

Following my provisional view, the agency abandoned its claims of exemption over some information, but maintained that numerous parts of the report were exempt.



Internal wording document exception

I accepted that the report contained opinions and recommendations, and that it would assist the agency in making decisions about the applicant's future treatment needs, among other reasons.

I noted that information released to the applicant addressed the applicant's motivations for seeking access to the report to some extent.

That said, I was not satisfied that disclosure of the majority of the information claimed exempt would, on balance, be contrary to the public interest. In reaching this conclusion I was particularly mindful of the objects of the FOI Act. The report was about the applicant, and there is clearly a public interest to individuals having access to what is recorded about them. In addition, some of the information related to past events and information disclosed elsewhere, albeit at times with a different emphasis.

Conduct of agency test exemption

I was not satisfied that disclosure of information in the report could reasonably be expected to prejudice the effectiveness of any method or procedure for the conduct of tests, examinations or audits by the agency.

The fact that information in a document represents a clinical opinion, clinical formulation, clinical recommendation or behavioural observation does not make it automatically exempt under the FOI Act.

The report was specific to the applicant. In addition, the information underpinning the report was complex, and obtained over a lengthy period of time. It was clear from the body of the report that the authors were informed by multiple factors, and not just statements made by the applicant. In addition, the significance accorded to the results of tests administered to the applicant during the program, and details of which tests were administered, was not apparent from the body of the report. The authors had clearly used their professional skills in formulating the report. I concluded that subsequent events would influence any future reports about the applicant, and might result in different opinions, conclusions and recommendations being reached.

Determination and comments

The report contained two small parts that I was satisfied were exempt under the personal affairs exemption. I considered that it would be practicable to release the report after deleting these parts.

With the FOI Act in operation for more than 20 years, agencies should be well aware that expectations about what information will and will not be released must always be subject to the provisions of the FOI Act.

In response to the concerns expressed by the agency about the effect that release of additional information would have on the applicant, I noted that the agency was in a position to monitor and support the applicant.

It is also important to bear in mind that expectations about what will and will not be released must always be subject to the provisions of the FOI Act:

... and cannot be affected by any representation by the respondent that greater confidentiality might be accorded to material than properly reflects the effect of the FOIA.⁹

The FOI Act has been in operation for more than 20 years. Agency staff should therefore be well aware that all documents held by agencies are subject to the provisions of the FOI Act.

Department for Education and Child Development

Access to an independent report arising from the investigation of a workplace complaint

2012/03217

Application for access

The applicant had lodged three complaints about the behaviour of her line manager. The complaint was investigated at first instance by way of an internal review. The applicant was dissatisfied with the outcome and requested a further review. On the request of the applicant, a third review (a review of the first two investigations) was undertaken by an independent contractor.

⁹ *Ipx Information Technology Group Pty Ltd v Department of Information Technology Services SA (1997) 192 LSJS 54 at 70 per Judge Lunn.*

The applicant applied for access to the full report arising from this third review.

The agency made a determination to refuse access to the report.

Ombudsman review

The agency submitted that the report was exempt on the grounds that it contained:

- information about the personal affairs of individuals
- information concerning the commercial affairs of a third party including methodologies and processes used for facilitating investigations and forensic interviews
- internal agency information, which if released, could negatively impact upon the agency's ability to deliberate in sensitive matters like investigations into allegations of employee conduct
- information obtained in confidence which could reasonably be expected to affect the future supply of such information
- information that could reasonably be expected to have a substantial adverse effect on the agency's ability to investigate allegations of employee conduct in the future.

The author of the report made submissions as an interested party; and these were reflected in the agency's submissions.

Determination and comments

Most of the exemptions claimed by the agency and third party required that disclosure of the matter would, on balance, be contrary to the public interest. I took the view that there is a public interest in the applicant gaining information about her held by the agency, including information related to the agency's handling of her complaints.

Ordinarily, information about the conduct of a public servant in a daily work context does not constitute 'personal affairs' information. However, small portions of the report disclosed the emotional effect that workplace incidents had on one staff member, and I considered that this was exempt. It was relevant to my determination that the applicant had reframed her application to exclude the name of individuals, and that the issues canvassed in the report were dated and had lost any sensitivity that they may have once had.

I was not satisfied that the report contained information with a commercial value to any agency or any other person. There was nothing distinctive about the investigation methodology used by the author of the report that would attract such value. In any event, the report had been provided to other parties.

Government agencies and their contractors are expected to be aware of the operation and effect of the FOI Act in their dealings. Moreover, investigations into workplace allegations can and do find their way into proceedings before courts, and in this way, usually into the public domain. For these reasons, it is unrealistic for an agency or its contractor to give assurances of confidentiality to the witnesses in their investigations.

I determined that the report should be released, with the personal names (as agreed by the applicant) and information concerning the personal affairs of a person other than the applicant, deleted.

Department of Environment, Water and Natural Resources

Applicants are entitled to responses to their job applications in a recruitment process

2012/09699

Application for access

The applicant was a redeployee and requested access to documents showing the agency's responses to his job applications across government. The agency refused access to some of the documents on the grounds of the 'personal affairs' and 'operations of agencies' exemptions.

Ombudsman review

During my review, the applicant withdrew pursuing access to the personal affairs exemption documents, as they consisted of a person's home address and banking details.

Determination and comments

I was not persuaded by the 'operations of agencies' exemption claimed by the agency. The agency had not shown how disclosure of the (one) document could reasonably be expected to have a serious or significant adverse effect on the relevant agencies' management or assessment of their personnel or the agency's recruitment practices. I considered that the information in the document was of the type that a government agency would reasonably expect to provide as feedback to a person in the applicant's position.



It was also not evident that the information in the document was 'obtained on the premise of confidence' by the agencies involved. I noted that it was indicated in one of the emails that a party would treat certain information in confidence. Any undertakings of confidence can only ever be subject to the operation of the FOI Act.

Further, I was not persuaded that disclosure of the document could reasonably be expected to deter public servants from expressing their views in the future about recruitment issues.

I considered finally that the agency had failed to weigh the competing public interest factors to show that on balance, disclosure of the document would be contrary to the public interest. It was my view that the public interest factors in favour of disclosure of the document far outweighed those factors against disclosure which had been put forward in the agency's determination.

I determined that there was a public interest not only in the fulfilment of the objects of the FOI Act, but in this particular case, the applicant accessing information held by government which concerned him. Release of the document would also serve the public interest by:

- providing the applicant with contextual information about why he was not apparently engaged by a particular agency
- enhancing agency accountability in recruitment processes.

Environment Protection Authority

Transferring an FOI application - Ombudsman Act investigation

2013/00623

Application for access

The complainant was a member of the opposition who lodged an application under the FOI Act for access to correspondence between the Chair of the EPA Board and the Minister for Sustainability, Environment and Conservation.

Six days after lodging her application, the applicant was advised that her application had been transferred to the Minister under section 16 of the FOI Act.

My investigation considered:

- whether the department conducted an appropriate search for documents before transferring the

complainant's application under the FOI Act to the office of the Minister; and

- whether the department transferred the complainant's application in accordance with section 16 of the FOI Act.

Ombudsman review

I considered that before transferring an application under section 16(1) of the FOI Act, an agency is first required to determine whether it holds any documents that fall within the scope of the application. This means conducting a reasonable internal search for such documents.

The agency submitted that it conducted internal searches for documents that fell within the scope of the application; however, I found that the relevant documents were not identified by the department until five days after the application was transferred to the Minister's office.

The agency also submitted that its internal search for documents was hampered by the absence of key staff; however, I rejected this as a justification for the agency's failure to adhere to its obligations under the FOI Act, and in particular section 16.

Based on the information provided to my investigation, it appeared that the agency did not conduct a reasonable search for documents and was therefore not in a position to satisfy itself that the complaint's application was more closely related to the functions of another agency before the application was transferred to the Minister's office.

Section 16(3) of the FOI Act provides that when an agency transfers an application to another agency, it must notify the applicant of that fact. Section 16(4) states that a notice of transfer must specify the day on which, and the agency to which, the application was transferred.

My investigation found that the agency's notice of transfer did not indicate the date on which the transfer was made.

Determination and comments

I found that the agency's failure to search for documents before transferring the complainant's application to the Minister's office was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.

I also found that the agency's failure to advise the complainant of the date on which the transfer was made was contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act.

I commented that the agency's failure to search for documents before transferring the application to the Minister's office, in conjunction with its failure to advise the complainant of the date on which the transfer was made, may suggest a deficiency in its understanding of the FOI Act.

I recommended that the agency consider:

- reviewing its practices for transferring an application; and
- providing additional or refresher training for the FOI unit within the agency.

Department of the Premier and Cabinet (SafeWork SA)

Information obtained in the course of an investigation under the former *Occupational Health, Safety and Welfare Act 1986*

2013/01432

Application for access

A solicitor, on behalf of his client (the applicant), sought access to documents relating to an incident at the Minlaton Football Clubrooms in which a number of people suffered injury as a result of a wall collapsing.

Ombudsman review

Ninety-seven documents were identified, but the agency failed to determine the application within the statutory timeframes at first instance and at internal review. On this basis, the external review came to my office as a 'double deemed refusal' by the agency to grant access to the documents.

Enclosed with the documents, the agency provided me with a schedule showing the names of the author, addressee, date, description and the claimed exemption status of each document, including the personal affairs exemption (clause 6(1)) and the secrecy exemption (clause 12(1)).

The agency provided no submissions to my office to justify its claim, and merely listed the clause.

Determination and comments

I decided that the secrecy exemption may be relevant by virtue of the confidentiality provisions in either the *Occupational Health, Safety and Welfare Act 1986* or the *Work Health and Safety Act 2012*. The Work Health and Safety Act came into operation on 1 January 2013

and Part 8 of Schedule 6 to that Act repealed the earlier *Occupational Health, Safety and Welfare Act*.

On the basis that access to the relevant documents was deemed to have been refused by the agency before the *Work Health and Safety Act* came into operation, I decided to assess the documents against the confidentiality provisions in the repealed *Occupational Health, Safety and Welfare Act*, to determine whether the secrecy exemption applied. The applicant and agency did not object to this.

I considered that many of the documents were exempt under the secrecy exemption or personal affairs exemption. In any event, during the course of my review, the applicant's solicitor advised me that the applicant did not seek access to any information that would, in being disclosed, constitute a breach of the confidentiality provisions of the *Occupational Health, Safety and Welfare Act*; or any information that concerned the personal affairs of other parties.

I determined that the remainder of the information should be released to the applicant.

District Council of Mount Barker

Powers of external review delegated to the Crown Solicitor

2012/02873

Application for access

The applicant sought access to specific documents considered in confidence by the council under sections 90(3)(a) and 91(7) of the *Local Government Act 1999*.

Ombudsman review

Fifty-one documents were identified by the council as falling within the scope of the application for access. Some of the documents were duplicates and others were made publicly available on the council's website during the course of my review. In light of this, I decided that only 28 documents were subject to external review.

Many of the documents concerned correspondence between my office and the council or complainants, relating to investigations being conducted at the time by the Acting Ombudsman, Mr Ken MacPherson, under the *Ombudsman Act*.

In light of this, and out of an abundance of caution, I decided that there was a possible conflict of interest if I



conducted at least that part of the review which concerned Ombudsman correspondence, investigations and reports.

To address this issue, I decided to split the external review and determine only those documents about which I was not possibly conflicted.

I delegated my powers of external review to the Crown Solicitor (under section 9(2) of the Ombudsman Act) for him to conduct that part of the review which concerned documents generated and received by my office under the Ombudsman Act.

Determination and comments

Four documents were subject to my part of the external review. I considered whether the documents were exempt under the personal affairs exemption. I decided that information detailing the conduct of a public sector employee, including a council staff member, which occurs in the course of employment duties, is not information concerning their 'personal affairs'. I commented that this kind of information is better described as information concerning the employment affairs of that employee.

In relation to one document, I decided that the information went beyond the realm of the 'employment affairs' of a council staff member complainant and councillor. I was satisfied that the information concerned the parties' personal affairs and that it would be unreasonable to release it based on the sensitive nature of the information. I determined that the remaining three documents were not exempt.

The Crown Solicitor made his own determination under section 39(11) of the FOI Act in relation to the 24 documents subject to his external review.

SA Water

Documents can consist of video footage

2013/00791

Application for access

The applicant had a problem with land erosion on the border of his property, which he believed to be caused by damaged underground pipes. The applicant sought access to the CCTV footage taken during a sewer main inspection of the pipes that surround his property in 2010. In the course of clarifying his application, the applicant also sought CCTV footage from a 2012 inspection.

Ombudsman review

The agency determined that one document fell within the scope of the application, namely footage from the 2012 inspection. The agency claimed that it no longer held the 2010 footage. The applicant believed that additional footage existed.

Determination and comments

Under the FOI Act, a document includes anything in which information is stored or from which information may be reproduced. I considered video footage to be a document.

In his request for my external review, the applicant raised concerns about the sufficiency of the agency's search for documents, specifically regarding 20 cm of missing footage from the 2012 inspection and the lost footage from 2010.

The FOI Act does not prescribe the manner in which an agency must search for documents within the scope of an application. I consider my role in an external review is to determine, on the evidence provided to me, whether the agency has conducted a *reasonable* search for documents.

I concluded that the agency had conducted a reasonable search for documents.

I was also encouraged that the agency provided the applicant with detailed explanatory information in its determination, including generating a map of the sewer pipe network.

Department of Treasury and Finance

Unreasonable management of an FOI application - Ombudsman Act investigation

2012/09073

Application for access

The complainant was a member of the media who lodged an application under the FOI Act for access to specific information about an expected growth in the number of pokie machines in South Australia. The complainant lodged his FOI application in April 2011. The agency acknowledged receipt of the FOI application two days later.

Some 13 months later, in June 2012, the agency's FOI officer purported to determine to refuse access to the relevant document under section 19(2a) of the FOI Act.

My investigation considered:

- whether the agency erred by not advising the complainant of his review and appeal rights under the FOI Act
- whether the agency erred in its processing of the complainant's application under the FOI Act
- whether the agency erred in making a 'determination' under section 19(2a) of the FOI Act to refuse access
- whether the agency erred in its consideration of the scope of the complainant's application under the FOI Act.

Ombudsman review

Based on the documents provided to my investigation, it appeared that the complainant was not advised of his review and appeal rights under the FOI Act in any of the correspondence sent from the agency. The agency advised me that it had corrected this by improving its acknowledgement letter template.

I found that in this instance the department erred by failing to advise the complainant of his review appeal rights. However, I was satisfied that the department's new acknowledgement letter template sufficiently addressed this issue for future applications.

It appeared that much of the agency's work in actively dealing with the FOI application was conducted by 1 June 2011; however, the complainant wasn't contacted again until June 2012. In light of this, I found that it was unreasonable that the agency then took over a year to contact the complainant to advise him that the relevant document would not be released.

By failing to make an active determination within the 30 day statutory timeframe, in accordance with section 19(2) of the FOI Act, the agency was taken to have determined the application by refusing access to the document. In light of this the agency's purported 'determination' under section 19(2a) of the FOI Act had no status in law.

Determination and comments

Based on the documents provided to my investigation, it also became apparent that the document identified by the agency was outside the temporal scope of the application as it was produced after the date on which the application was lodged. The end result of the agency's misapplication of the scope of the FOI request was that the applicant waited for over a year, only to be informed, through my investigation, that the agency did not hold any documents

that fell within the scope of his application. I found that the department erred in its consideration of the scope of the complainant's application under the FOI Act.

I commented that the agency's misapplication of the scope of the FOI request, in conjunction with its failure to advise the applicant of his review and appeal rights and its significant delay, may suggest a deficiency in understanding its obligations under the FOI Act. Under section 25(2) of the Ombudsman Act, I recommended that the agency should consider:

- assisting the complainant to resubmit his application in accordance with the FOI Act with a suitably broad temporal scope
- waiving the application fees in accordance with section 53(2)(a) of the FOI Act
- having the Principal Officer of the agency determine the new application, in order to expedite the process
- providing the complainant with a copy of the Deputy Under Treasurer's minute dated 1 June 2011, in light of the objects of the FOI Act
- providing additional training or refresher training for the FOI unit within the department.

Minister for Manufacturing, Innovation and Trade

Legal professional privilege

2012/10624

Application for access

The applicant applied for access to a letter of advice from the Crown Solicitor's Office to the Minister that discussed whether mineral/royalty rights applied to a certificate of title held by the applicant and her family.

The Minister refused access to the document on the basis that it contained matter that would be privileged from production in legal proceedings on the grounds of legal professional privilege (clause 10).

Ombudsman review

The applicant accepted that legal professional privilege had existed over the letter of advice. She argued, however, that communications between herself and the Minister's office had resulted in an implied waiver of that privilege and therefore the document was not exempt.

On external review, discussions were held with the parties with a view to effecting a settlement. My officer pointed



out that section 20(1)(a) of the Act provides a discretion to the agency to give access to a document, despite its exempt status.

Following negotiations, the Minister agreed to provide the applicant with a copy of the legal advice notwithstanding that he did not accept that legal professional privilege had been waived over the document.

Determination and comments

The common sense approach of the Minister in this matter led to an early resolution. Agencies are encouraged to consider release of documents which, although technically exempt, may help to resolve substantive disputes and avoid protracted litigation.

Department of Planning, Transport and Infrastructure

Determination to extend the period within which it was required to deal with the application

2013/04129

Application for access

The applicant sought access to documents provided to the state government by Interfleet Technology P/L regarding the rail electrification project. The CEO of the agency relied on section 14A of the FOI Act to extend the period that he was required to deal with the application by 40 days. The applicant requested my review of the agency's determination to extend the time period.

Ombudsman review

The agency identified eleven documents and one party to consult. During my review, I considered the steps taken by the agency to process the application within the statutory timeframe.

Determination and comments

My review found that the agency's FOI unit began processing the application immediately; however, there was a delay in the relevant divisions within the agency responding to the FOI unit's search requests. I commented that the applicant should not have to bear the delay caused by the agency's internal management of the application.

Having considered the nature of the documents, I was satisfied that consultation was required; however, in light of the relatively small number of documents, and the fact that

there was only one interested party to consult, I formed the view that this could, and should, have occurred within the 30 day time period provided for by the Act.

I commented that section 14A of the FOI Act does not provide for the agency to extend the time for dealing with an application on the basis that the divisions within the agency are slow to provide the relevant documents.

I was not satisfied that the period of time as extended by the agency was reasonable having regard to the circumstances. In light of this, I reversed the agency's determination.

South Australian Tourism Commission

Whether release of documents would affect the effective performance of the agency

2012/08258

Application for access

The applicant applied for all documents detailing timeframes, objectives and costs of work commissioned by the SATC to be undertaken by BDA Marketing Planning, relating to tourism in the Barossa region for the periods of 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011.

Ombudsman review

The Commission determined there was one document within the scope of the application and granted partial access to the document. The Commission claimed as exempt information detailing the fees to be paid to BDA Marketing Planning on the basis that it was information that:

- had commercial value to BDA Marketing Planning and its disclosure could reasonably be expected to diminish that commercial value (clause 7(1)(b))
- concerned the business affairs of BDA Marketing Planning and its disclosure could reasonably be expected to have an adverse effect on those affairs (clause 7(1)(c))
- could prejudice the future supply of such information to the Commission (clause 7(1)(c))
- if disclosed could reasonably be expected to have a substantial adverse effect on the effective performance by an agency of the agency's functions (clause 16(1)(iv))

and would, on balance, be contrary to the public interest.

Determination and comments

I rejected the Commission's claims on the following basis:

- the document contained a clause that provided that it may be disclosed to any person under the FOI Act, so clearly both parties knew when signing the agreement that public scrutiny of its terms was a possibility
- I was not convinced that the fees charged, which were settled in 2008, had any current commercial value, nor that the release of that information could have any adverse effect on the business affairs of BDA Marketing Planning
- I was not convinced that a business such as BDA Marketing Planning would forego the chance of obtaining work with the government merely due to the possibility of tender information being disclosed to the public
- there was no evidence to support the Commission's claim that release of the fees paid would have a 'substantial adverse effect' on the effective performance of its functions
- I was not satisfied that disclosure of the information would, on balance, be contrary to the public interest. The government must always act in the public interest, whether it is engaging in commercial dealings with other entities, or putting out tenders for services. The government is accountable for its decisions and actions, and this may necessitate releasing information concerning other parties. If no information, or substantially no information, about a commercial enterprise or a tender process involving the government is released, the openness and accountability of the project or process will suffer.

Registrar of the Veterinary Surgeons Board

Whether fee charged for processing an application under the FOI Act was fair and reasonable

2013/01719

Application for review of fees and charges

The applicant, a veterinary surgeon under investigation by the Veterinary Surgeons Board, requested all documents in relation to himself held by the Registrar of the Board, including any complaints made about him. The Registrar determined to release 90 documents, to grant partial access to 2, and to refuse access to 55 documents. The applicant was advised he could arrange a time to inspect the documents, an opportunity he did not avail himself of.

The determination also stated that the fee for making the determination was \$920. By way of email, the applicant's solicitor at the time requested that the agency waive the fee as the applicant was not then employed. The Registrar declined that request on the grounds that the applicant was employed at the time he made the application and that he should have been aware of the cost involved. During the subsequent external review process, the applicant advised that he was willing to reduce the scope of his application, and the review proceeded on the basis that there was one document within the scope of the revised application. At the conclusion of the external review process, the Registrar sought recovery of the amount of \$920.

Ombudsman review

Section 53(4) of the FOI Act empowers me to review the agency's decision not to waive the fee and make a determination of what is fair and reasonable in the circumstances.

The agency advised that it spent 30 hours on the application and that it charged the applicant by reference to the *Freedom of Information (Fees and Charges) Regulations 2003*. While I was of the view that it would have been preferable had the agency provided a breakdown of how the fees were calculated, I accepted the amount was calculated in accordance with the legislation and that the processing took as long as submitted.

That said, in my view it was a considerable sum of money to charge and I was concerned that the applicant could not have known that the processing of his application would attract such a fee. I noted that section 17 of the FOI Act, while it does not create a legal obligation, allows agencies to require advance deposits. The purpose of section 17 is to ensure the agency does not complete works the costs of which it cannot recover and to ensure the applicant is forewarned of likely cost and afforded the opportunity to decline to proceed if the cost is prohibitive.

Determination and comments

I acknowledged that the agency undertook the necessary work to process the application and that the applicant chose not to access the documents. However, in my view, applicants cannot know the likely costs of an application (even where a solicitor is involved); they cannot know how the agency's documents are organised, how many are involved or how long it would take to sort and compile them. By contrast, it must have been clear to the agency at the outset that the cost of dealing with the applicant's application was going to be high, and certainly higher than



the application fee. It was therefore my view that it would have been appropriate for the agency, at the very least, to provide the applicant with an estimate of the cost involved. It may also have resulted in the narrowing of the scope of the application which occurred at the external review stage.

I found that it was fair and reasonable in the circumstances that the applicant pay half of the original bill of \$920, and I accordingly varied the determination pursuant to section 53(4) of the FOI Act.

Summary tables - Freedom of Information Reviews - 1 July 2012 to 30 June 2013

External reviews: Received

Applicant	No. Received
Anangu Pitjantjatjara Yankunytjatjara Executive Board	10
Attorney-General's Department	4
Campbelltown City Council	1
Central Adelaide Local Health Network Inc.	3
City of Adelaide	1
City of Charles Sturt	1
City of Onkaparinga	1
Department for Communities and Social Inclusion	2
Department for Correctional Services	9
Department for Education and Child Development	27
Department for Health and Ageing	3
Department of Environment, Water and Natural Resources	6
Department of Further Education, Employment, Science & Technology	4
Department for Manufacturing, Innovation, Trade and Resources	9
Department of Planning, Transport and Infrastructure	7
Department of Primary Industries and Regions SA	1
Department of the Premier and Cabinet	33
District Council of Elliston	1
District Council of Grant	3
District Council of Mount Barker	1
District Council of the Copper Coast	1
District Council of Yankalilla	1
Environment Protection Authority	7
Minister for Aboriginal Affairs and Reconciliation	2
Minister for Correctional Services	1
Minister for Education and Child Development	15
Minister for Emergency Services	1
Minister for Manufacturing, Innovation, Trade and Resources	1
Premier	4
Rural City of Murray Bridge	1
SA Police	1

Applicant	No. Received
SA Water Corporation	1
South Australian Tourism Commission	3
Southern Adelaide Local Health Network Inc.	2
University of Adelaide	1
Veterinary Surgeons Board	1
WorkCover Corporation	1
TOTAL	171

Freedom of Information reviews: Issues

	Other	Department of the Premier and Cabinet	Department for Education and Child Development	Minister for Education and Child Development	Department for Correctional Services	Department for Manufacturing, Innovation, Trade, Resources & Energy	Total	Percentage
Access to documents/Deemed refusal	10	22	7	8		2	49	19.7%
Access to document/Form of access/s22	1						1	0.4%
Access to documents/Sufficiency of search	9	4	4	4			21	8.5%
Agency Determination to extend time (s14A)	6		4			2	12	4.8%
Agency Determination to refuse to deal with application/ Abuse of process (s18(2a))	1						1	0.4%
Agency Determination to refuse to deal with application/ Voluminous application (s18(1))	10			2	1		13	5.2%
Agency FOI processing errors			1				1	0.4%
Amendment of records					1		1	0.4%
Exemptions/Business affairs	6	7				2	15	6.0%
Exemptions/Cabinet documents	4	1	1				6	2.4%
Exemptions/Confidentiality	3						3	1.2%
Exemptions/Internal working documents	7		1		1	2	11	4.4%
Exemptions/Judicial functions		1					1	0.4%
Exemptions/Law enforcement	1						1	0.4%
Exemptions/Legal professional privilege	7	10	1				18	7.2%
Exemptions/Operation of agencies	5				6		11	4.4%
Exemptions/Other	4		1			2	7	2.8%
Exemptions/Personal affairs	15	7	4		1		27	10.9%
Exemptions/Secrecy provisions in legislation	2	2	12	2	3		21	8.5%
Exemptions/Subject to contempt	1		1	1			3	1.2%
Fees and charges (s53)	1						1	0.4%
Jurisdiction issues/Agency identity	1						1	0.4%
Jurisdiction issues/Extension of time for application for review (s39(4))	3	9			1		13	5.2%

	Other	Department of the Premier and Cabinet	Department for Education and Child Development	Minister for Education and Child Development	Department for Correctional Services	Department for Manufacturing, Innovation, Trade, Resources & Energy	Total	Percentage
Jurisdiction issues/Premature application for external review	5		1	1		2	9	3.6%
Regulation and enforcement/Fees	1						1	0.4%
Third party applicant review						1	1	0.4%
TOTAL	103	63	38	18	14	13	249	100%
	41.4%	25.3%	15.3%	7.2%	5.6%	5.2%		

Freedom of Information reviews: Completed

Applicant	No. Completed
Attorney-General's Department	4
Campbelltown City Council	1
Central Adelaide Local Health Network	6
City of Adelaide	1
City of Charles Sturt	4
City of Marion	1
Country Health SA Local Health Network	1
Department for Communities and Social Inclusion	4
Department for Correctional Services	6
Department for Education and Child Development	26
Department for Health and Ageing	3
Department of Environment, Water and Natural Resources	5
Department of Further Education, Employment, Science & Technology	5
Department for Manufacturing, Innovation, Trade and Resources	5
Department of Planning, Transport & Infrastructure	5
Department of the Premier and Cabinet	26
Department of Treasury and Finance	1
District Council of Coober Pedy	1
District Council of Elliston	1
District Council of Grant	3
District Council of Mount Barker	2
District Council of the Copper Coast	1
Environment Protection Authority	5
Minister for Aboriginal Affairs and Reconciliation	1
Minister for Correctional Services	1
Minister for Education and Child Development	11
Minister for Emergency Services	1
Minister for Manufacturing, Innovation and Trade	1
Port Augusta City Council	1
Premier	2
Rural City of Murray Bridge	1



Applicant	No. Completed
SA Police	1
SA Water Corporation	1
South Australian Tourism Commission	4
Southern Adelaide Local Health Network	3
University of Adelaide	2
Veterinary Surgeons Board	2
WorkCover Corporation	1
TOTAL	150

Freedom of Information reviews: Outcome

	Other	Department of the Premier and Cabinet	Department of Education and Children's Services	Minister for Education and Child Development	Central Adelaide Local Health Network	Department for Correctional Services	Total	Percentage
FOI/application for review withdrawn by applicant	3	4	5	4	2		18	12.0%
FOI/Application settled during review (s39(5))	10	1	3		1	1	16	10.7%
FOI/Determination confirmed (s39(11))	19	2	9	1	1	2	34	22.6%
FOI/Determination reversed (s39(11))	16	5	2	1	1		25	16.7%
FOI/Determination revised by agency (s19(2a))	1	2					3	2.0%
FOI/Determination varied (s39(11))	18	12	6	4		2	42	28.0%
FOI/Extension of time/Discretion not exercised	1						1	0.7%
FOI/Outside of jurisdiction	7		1	1	1	1	11	7.3%
TOTAL	75	26	26	11	6	6	150	100%
	50.0%	17.3%	17.3%	7.4%	4.0%	4.0%		

About Ombudsman SA

Ombudsman SA is a completely independent authority serving all South Australians and is responsible for:

- investigating complaints about state and local government agencies and other authorities
- conducting Freedom of Information reviews
- receiving information about state and local government activities confidentially from whistleblowers.

Ombudsman SA investigates, conciliates and resolves complaints; undertakes investigations referred by Parliament; and has the power to initiate administrative audits and investigations.

Acting in accordance with the *Ombudsman Act 1972*, the ultimate aim of Ombudsman SA is to contribute to sound public administration by state and local government agencies in South Australia.

The investigation process

Any individual person or organisation who is directly affected by an administrative action of a government department, authority or council under our jurisdiction can make a complaint.

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

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

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

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

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

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

Our jurisdiction

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

- the South Australian Police
- agencies where they are acting in the capacity of an employer, on matters which affect their employees
- private persons, businesses or companies unless they are acting under a contract for services with the Crown or an agency
- Commonwealth or interstate government agencies
- government Ministers and Cabinet
- courts and judges
- legal advisers to the Crown.

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

Referral to other jurisdictions

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

Service principles

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

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



APPENDICES

Appendix A: Financial statement

Appendix B: Description of outcomes: Ombudsman jurisdiction

Appendix C: Description of outcomes: Freedom of Information jurisdiction

Appendix D: Speeches and staff development

Appendix E: Complaints received 2012–13: Breakdown of issues

Appendix A

Financial statement

Expenditure	2011/12	2012/13
Annual report	1 729	3 726
Computer expenses	42 993	55 334
Equipment maintenance	5 444	2 545
Equipment purchases	1 841	440
Fringe benefits tax	3 498	5 687
Motor vehicles*	11 811	18 151
Postage	4 320	3 563
Printing and stationery	15 109	14 949
Publications and subscriptions	3 901	1 159
Recruitment costs	887	
Staff development	10 332	17 880
Sundries	31 134	36 814
Telephone charges	14 190	9 946
Travel/taxi charges	16 289	9 015
Website development	3 850	9 514
	Sub-total	167 328
Accommodation and energy*	129 413	135 813
Consultant/Contract staff	199 917	183 552
	Sub-total	329 330
Salaries*	1 365 987	1 374 588
	Sub-total	1 365 987
INCOME	(5 412)	(38 369)
	Sub-total	(5 412)
* Figures include expenses incurred by the Ombudsman position (funded by Special Acts)		
NET EXPENDITURE	1 857 233	1 844 307

Appendix B

Description of outcomes: Ombudsman jurisdiction

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



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

Outcome	Description
Declined / Investigation unnecessary or unjustifiable	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because having regard to the circumstances of the case, such action is unnecessary or unjustifiable (section 17(2)(d)). For example:</p> <ul style="list-style-type: none"> after assessing or commencing an investigation of the complaint, it appears that there is no evidence of administrative error under section 25(1)(a)-(g) the complaint is minor the complainant and/or the agency has taken action to rectify the problem it would not be in the public interest for the Ombudsman to investigate or continue investigating the complaint.
Not substantiated / no section 25 finding	<p>This outcome is used:</p> <ul style="list-style-type: none"> after a preliminary (or more rarely a full) investigation and a report has been completed, and there is no administrative error under section 25(1)(a)-(g).
Ombudsman comment warranted	<p>This outcome is used <i>only</i> after a <i>preliminary</i> investigation.</p> <p>No administrative error has been found under section 25(1)(a)-(g), but an issue worthy of the Ombudsman's comment has been identified.</p>
Section 25(1)(A) Finding: Contrary To Law	<p>These outcomes are used <i>only</i> when making a finding of administrative error after a <i>full</i> investigation, and reflect section 25(1)(a)-(g) of the Ombudsman Act.</p>
Section 25(1)(B) Finding: Unreasonable	
Section 25(1)(C) Finding: Unreasonable Law Or Practice	
Section 25(1)(D) Finding: Improper Purpose Or Irrelevant Grounds Or Considerations	
Section 25(1)(E) Finding: No Reason Given	
Section 25(1)(F) Finding: Mistake Of Law Or Fact	
Section 25(1)(G) Finding: Wrong	



Appendix C

Description of outcomes: Freedom of Information jurisdiction

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

Appendix D

Speeches and staff development

Speeches and training provided by Ombudsman SA staff for agencies and councils (Adelaide unless noted)

20 July 2012

AIAL National Conference

Local Government Bias and Bylaws – Commentary

Richard Bingham

26 July 2012

SOCAP

Managing Unreasonable Complainant Conduct

Richard Bingham

31 July 2012

City of Mitcham

The role of Ombudsman SA

Richard Bingham

15 August 2012

Barossa and Districts Justices Group

The role of Ombudsman SA

Richard Bingham

28 August 2012

Town of Gawler

The role of Ombudsman SA

Richard Bingham

3 September 2012

The University of Adelaide Law School

The role of the Ombudsman and FOI

Megan Philpot

5 October 2012

Murray Mallee Local Government Association

The role of Ombudsman SA

Richard Bingham and 1 staff member

18 October 2012

Legal Services Commission

The role of Ombudsman SA – course for community workers

Megan Philpot

19 October 2012

Southern and Hills Local Government Association

The role of Ombudsman SA

Victor Harbor

Richard Bingham and Megan Philpot

31 October 2012

TAFE – ESL students

The role of Ombudsman SA

2 staff

8-9 November 2012

9th National Investigations Symposium

'When the going gets tough...'

Sydney

Megan Philpot

9 November 2012

Central Local Government Region of Councils

The role of Ombudsman SA

Port Broughton

Richard Bingham

14-16 November 2012

10th World Conference of the International Ombudsman Institute

Ombudsman and FOI jurisdictions – the benefits of sharing them

Wellington, New Zealand

Richard Bingham

27 November 2012

Light Regional Council

The role of Ombudsman SA

Richard Bingham

27 November 2012

Department for Correctional Services

The role of Ombudsman SA – for new recruits

2 staff

7 December 2012

Eyre Peninsula Local Government Association

The role of Ombudsman SA

Whyalla

Richard Bingham



5 April 2013
South East Local Government Association
The role of Ombudsman SA
Bordertown
Richard Bingham

12 April 2013
Department for Correctional Services
The role of Ombudsman SA – for new recruits
Port Augusta
2 staff

15 April 2013
Commonwealth Children's Commissioner
Meeting – Information Sharing Guidelines
Sydney
SA Principal Advisor Information Sharing

15 April 2013
Office of the Commonwealth Privacy Commissioner
Meeting – Information Sharing Guidelines
Sydney
SA Principal Advisor Information Sharing

16 April 2013
NSW Keeping them Safe interagency Senior Officers group
Meeting – Information Sharing Guidelines
Sydney
SA Principal Advisor Information Sharing

29 April 2013
City of Charles Sturt
Elected members workshop
Richard Bingham

29 April 2013
Northern Integration Project, Elizabeth
Information Sharing Guidelines
SA Principal Advisor Information Sharing

8 May 2013
Department for Correctional Services
The role of Ombudsman SA – for new recruits
2 staff

23 May 2013
University of Tasmania Alumni
Role and function of the Ombudsman
Richard Bingham

Staff training and conferences attended (Adelaide unless noted)

4 July 2012
Australian Government Solicitor
Protection of government information
Megan Philpot

5 July 2012
USALSA
'Speed dating night' for law student careers advice
2 staff

9–12 July 2012
Victorian Ombudsman
Investigation Skills Workshop
Melbourne
1 staff

18 July 2012
Professor A J Brown
State of concern – Whistleblowing and anti-corruption in SA
4 staff

18 July 2012
Parliamentary Ombudsman
Meeting
Richard Bingham

19–20 July 2012
AIAL
Conference
Richard Bingham, Megan Philpot, 4 staff

23–27 July 2012
SA Police
Investigative interviewing course
1 staff

26 July 2012 Adelaide Law School <i>Recent developments in land use planning law in SA</i> 3 staff	10 October 2012 IPAA <i>Editing and proofreading in your agency</i> 1 staff
6 August 2012 Council of Australian Governments <i>Review of counter terrorism laws Committee</i> Sydney Richard Bingham	25 October 2012 Chartered Secretaries Australia <i>Annual Public Sector Update/Governance workshops</i> 1 staff
18 August 2012 Admin sound bite session with Commonwealth Ombudsman office <i>Policy v Administration</i> All staff	30 October 2012 Women's Information Service <i>Outreach</i> 1 staff
18 August 2012 State Procurement Board <i>Procurement fundamentals</i> 1 staff	8–9 November 2012 <i>9th National Investigation Symposium</i> Sydney Megan Philpot
20 August 2012 Information Commissioners <i>Meeting</i> Sydney Richard Bingham	12 November 2012 Australasian and Pacific Ombudsman Region <i>Meeting</i> Wellington, New Zealand Richard Bingham
21–22 August 2012 <i>Creating Open Government Conference</i> Sydney Richard Bingham and 1 staff	12–13 November 2012 <i>Deputy Ombudsman meeting</i> Wellington, New Zealand Megan Philpot
3 September 2012 Law Society <i>Risk Management refresher course</i> 1 staff	13 November 2012 International Ombudsman Institute <i>General Assembly</i> Wellington, New Zealand Richard Bingham
13 September 2012 IPAA <i>Editing and proofreading in your agency</i> 1 staff	14–16 November 2012 International Ombudsman Institute <i>10th World Conference</i> Wellington, New Zealand Richard Bingham and Megan Philpot
20 September 2012 Admin sound bite session <i>Conflict of interest</i> All staff	14 November 2012 Chubb <i>Accredited warden and fire extinguisher training</i> 1 staff

16 November 2012
Australian and New Zealand Ombudsman Association
Annual General Meeting/Executive Committee
Richard Bingham

26 November 2012
Workplace officer conduct training
1 staff

6 December 2012
IPAA
Introduction to public policy
1 staff

29 January 2013
Women's Information Service
Outreach
1 staff

5 February 2013
IPAA
Creating productive and healthy organisations
Megan Philpot

7 January 2013
DECD Special Investigations Unit
Presentation
All staff

15 March 2013
Attorney-General's Department
Aboriginal Cultural Awareness workshop
4 staff

26 March 2013
Women's Information Service
Outreach
1 staff

12 April 2013
Information Sharing Guidelines
Risk management training for board members
SA Principal Advisor Information Sharing

18 April 2012
SA Health
Overview of SA Public Health Act 2011
All Staff

8 May
Chubb
Accredited warden and fire extinguisher training
1 staff

9 May 2013
Letter writing for complaint handling
2 staff

11 May 2013
Law Week
Courts Open Day
Selected staff

28 May 2013
Women's Information Service
Outreach
1 staff

30 May 2013
Business SA
Health and Safety Representative bridging course
1 staff

5–7 June 2013
Attorney-General's Department
Leadership program – Momentum
2 staff

7 June 2013
Electus
Office 2010 upgrade
1 staff

25 June 2013
Women's Information Service
Outreach
1 staff

28 June 2013
NSW Ombudsman
Managing unreasonable complainant conduct
2 staff

Appendix E

Complaints received 2012–13: Breakdown of issues

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013										
	Attorney-General's Department	DCSI	DCS	DECD	DENR	Dept for Health and Ageing	DEWNR	DFEESSET	DMITRE	
Abuse or Assault/Physical/By other detainees			1							
Abuse or Assault/Physical/By staff			4							
Abuse or Assault/Sexual/By other detainees			1							
Abuse or Assault/Verbal/Harassment/Threats/By staff			8							
Advice										
Complaint Handling/Delay		3	11	7			1	1	2	
Complaint Handling/Inadequate processes		10	3	39		1	3			
Complaint Handling/Inadequate reasons			1	7						
Complaint Handling/Inadequate remedy		1	9	15		1		1		
Complaint Handling/Wrong conclusion		2	4	6			1	1		
Conduct/Discourtesy		2	6	6				1		
Conduct/Misconduct	1	1	6	5			2	2		
Correspondence/Communications/Records/Breach of privacy/confidentiality			1	1						
Correspondence/Communications/Records/Delayed/ No response		1	8	5			1			
Correspondence/Communications/Records/Incorrect		1	2	2			1			
Correspondence/Communications/Records/Lost			1							
Correspondence/Communications/Records/Withholding of information		1	5	2						
Correspondence/Communications/Records/Wrongful disclosure of information		1	2	3			1			
Custodial Services/Canteen			8							
Custodial Services/Cell conditions			14							
Custodial Services/Clothing/Footwear			8							
Custodial Services/Educational programs			3							
Custodial Services/Employment			6							
Custodial Services/Food			11							

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	Attorney-Generals Department	DCSI	DCS	DECD	DENR	Dept for Health and Ageing	DEWNR	DFESET	DMITRE
Custodial Services/Health related services			52						
Custodial Services/Legal resources			4						
Custodial Services/Prisoner accounts			15						
Custodial Services/Prisoner mail			17						
Custodial Services/Property			66						
Custodial Services/Recreation programs & services			6						
Custodial Services/Rehabilitation programs			4						
Custodial Services/Telephone			20						
Employer/Employee				1					
Employment		2	3	4				2	
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land									
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury				1					
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/Damaged		1		2					
Financial/Procurement/Facilities/Debts		1		3		1		4	
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Denial of use		1	1						
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Drainage									
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Fencing									
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Inadequate									
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Sale/Lease									
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Unsafe condition									
Financial/Procurement/Facilities/Procurement by Agencies/ Decisions						1			1

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	Attorney-Generals Department	DCSI	DCS	DECD	DENR	Dept for Health and Ageing	DEWNR	DFESET	DMITRE
Financial/Procurement/Facilities/Procurement by Agencies/ Tenders				2			1		
FOI advice	2	8	4	7	1	7	2	3	1
FOI practices and procedures				1					
Home detention			9						
Housing/Abandoned goods									
Housing/Allocation									
Housing/Arrears/Debt recovery									
Housing/Categorisation									
Housing/Damages									
Housing/Disruptive tenants									
Housing/Maintenance									
Housing/Rent									
Housing/Termination									
Housing/Transfer									
Prison Management/Discipline/Security/Daily regimen			17						
Prison Management/Discipline/Security/Discipline/ Management			41						
Prison Management/Discipline/Security/Drug testing			10						
Prison Management/Discipline/Security/Inspections/ Body searches			5						
Prison Management/Discipline/Security/Protection			5						
Prison Management/Discipline/Security/Transport			3						
Prison Management/Discipline/Security/Visits			30						
Prison Records/Official Correspondence/Delayed/No response			3						
Prison Records/Official Correspondence/Incorrect			4						
Records management		1	1					1	
Regulation and Enforcement/Complaint handling				1					

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	Attorney-Generals Department	DCSI	DCS	DECD	DENR	Dept for Health and Ageing	DEWNR	DFESET	DMITRE
Regulation and Enforcement/Enforcement Action/Excessive			2	4					
Regulation and Enforcement/Enforcement Action/ Insufficient				1					
Regulation and Enforcement/Enforcement Action/Unfair		2	14	3					
Regulation and Enforcement/Fees									
Regulation and Enforcement/Infringements/Incorrect details									
Regulation and Enforcement/Infringements/ Unreasonably issued									
Regulation and Enforcement/Inspections							2		1
Regulation and Enforcement/Licensing/Conditions							5		
Regulation and Enforcement/Licensing/Refusal							2		
Regulation and Enforcement/Licensing/Renewal							1		
Regulation and Enforcement/Permits									
Revenue Collection/Land Tax									
Revenue Collection/Stamp duty									
Revenue Collection/Water & sewerage							1		
Roads and Traffic/Charges/Fines									
Roads and Traffic/Licensing/Conditions									
Roads and Traffic/Licensing/Demerit points									
Roads and Traffic/Licensing/Fail to issue renewal									
Roads and Traffic/Licensing/Incorrect details on license									
Roads and Traffic/Licensing/Medical test									
Roads and Traffic/Licensing/Tests									
Roads and Traffic/Registration/Conditions									
Roads and Traffic/Registration/Failure to issue renewal									
Roads and Traffic/Registration/Fees/Charges									
Roads and Traffic/Registration/Incorrect details on registration									
Roads and Traffic/Registration/Roadworthy									
Roads and Traffic/Registration/Transfer without consent									

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	Attorney-Generals Department	DCSI	DCS	DECD	DENR	Dept for Health and Ageing	DEWNR	DFEESSET	DMITRE
Roads and Traffic/Road Management									
Sentence Management/Parole			10						
Sentence Management/Placement/Location			27						
Sentence Management/Transfers			17						
Service Delivery/Abuse in care			3	3					
Service Delivery/Assessment		1		5					
Service Delivery/Conditions		1	2	3		1			1
Service Delivery/Debts								1	
Service Delivery/Eligibility for services		8	11	4				1	
Service Delivery/Failure to Act/Provide		9	23	18	1			5	
Service Delivery/Fees and charges			4	4			1	3	
Service Delivery/Financial assistance		5	1	1					
Service Delivery/Quality		5	8	15		1		1	1
Service Delivery/Termination of services		2	1						
Superannuation									
Whistleblower Protection Act advice					1	1		2	
Total	3	70	566	181	3	14	25	29	7



Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	DPTI	PIRSA	DPC	DTF	Electoral Commission of SA	Environment Protection Authority	Office of Zero Waste SA	SA Housing Trust	SA Water Corporation	Grand Total
Abuse or Assault/Physical/By other detainees										1
Abuse or Assault/Physical/By staff										4
Abuse or Assault/Sexual/By other detainees										1
Abuse or Assault/Verbal/Harassment/Threats/By staff										8
Advice	2		1							3
Complaint Handling/Delay	8		1					13	7	54
Complaint Handling/Inadequate processes	10		5	1				5	6	83
Complaint Handling/Inadequate reasons	1	1	1	1		1		1	3	17
Complaint Handling/Inadequate remedy	6			1		4		16	8	62
Complaint Handling/Wrong conclusion	3		2	2				4	4	29
Conduct/Discourtesy	3		2				1	3	1	25
Conduct/Misconduct	4		1			1		1		24
Correspondence/Communications/Records/Breach of privacy/confidentiality	1							2		5
Correspondence/Communications/Records/Delayed/No response	9		5	1		1		5	1	37
Correspondence/Communications/Records/Incorrect	12	1	1					1	1	22
Correspondence/Communications/Records/Lost	4		2						1	8
Correspondence/Communications/Records/Withholding of information								1		9
Correspondence/Communications/Records/Wrongful disclosure of information	1							4		12
Custodial Services/Canteen										8
Custodial Services/Cell conditions										14
Custodial Services/Clothing/Footwear										8
Custodial Services/Educational programs										3
Custodial Services/Employment										6
Custodial Services/Food										11

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	DPTI	PIRSA	DPC	DTF	Electoral Commission of SA	Environment Protection Authority	Office of Zero Waste SA	SA Housing Trust	SA Water Corporation	Grand Total
Custodial Services/Health related services										52
Custodial Services/Legal resources										4
Custodial Services/Prisoner accounts										15
Custodial Services/Prisoner mail										17
Custodial Services/Property										66
Custodial Services/Recreation programs & services										6
Custodial Services/Rehabilitation programs										4
Custodial Services/Telephone										20
Employer/Employee										1
Employment	1		2							14
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land	2									2
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury										1
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/Damaged	4							3	4	14
Financial/Procurement/Facilities/Debts			1	1					3	14
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Denial of use										2
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Drainage	2								2	4
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Fencing								1		1
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Inadequate								1		1
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Sale/Lease	1									1
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Unsafe condition									1	1
Financial/Procurement/Facilities/Procurement by Agencies/ Decisions	1									3

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	DPTI	PIRSA	DPC	DTF	Electoral Commission of SA	Environment Protection Authority	Office of Zero Waste SA	SA Housing Trust	SA Water Corporation	Grand Total
Financial/Procurement/Facilities/Procurement by Agencies/ Tenders	2		1							6
FOI advice	2	1	2			2		4	1	47
FOI practices and procedures				2		1				4
Home detention										9
Housing/Abandoned goods								4		4
Housing/Allocation								20		20
Housing/Arrears/Debt recovery								5		5
Housing/Categorisation								12		12
Housing/Damages								1		1
Housing/Disruptive tenants								34		34
Housing/Maintenance								87		87
Housing/Rent								18		18
Housing/Termination								23		23
Housing/Transfer								30		30
Prison Management/Discipline/Security/Daily regimen										17
Prison Management/Discipline/Security/Discipline/ Management										41
Prison Management/Discipline/Security/Drug testing										10
Prison Management/Discipline/Security/Inspections/ Body searches										5
Prison Management/Discipline/Security/Protection										5
Prison Management/Discipline/Security/Transport										3
Prison Management/Discipline/Security/Visits										30
Prison Records/Official Correspondence/Delayed/No response										3
Prison Records/Official Correspondence/Incorrect										4
Records management										3

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	DPTI	PIRSA	DPC	DTF	Electoral Commission of SA	Environment Protection Authority	Office of Zero Waste SA	SA Housing Trust	SA Water Corporation	Grand Total
Regulation and Enforcement/Complaint handling	1					1				3
Regulation and Enforcement/Enforcement Action/Excessive	8								1	15
Regulation and Enforcement/Enforcement Action/ Insufficient						2				3
Regulation and Enforcement/Enforcement Action/Unfair	24				1			8		52
Regulation and Enforcement/Fees	3									3
Regulation and Enforcement/Infringements/Incorrect details	2									2
Regulation and Enforcement/Infringements/ Unreasonably issued	2									2
Regulation and Enforcement/Inspections	5	2						1		11
Regulation and Enforcement/Licensing/Conditions	17	3	3							28
Regulation and Enforcement/Licensing/Refusal	12									14
Regulation and Enforcement/Licensing/Renewal	7		5							13
Regulation and Enforcement/Permits	1									1
Revenue Collection/Land Tax				14						14
Revenue Collection/Stamp duty		1	3							4
Revenue Collection/Water & sewerage								6	85	92
Roads and Traffic/Charges/Fines	2									2
Roads and Traffic/Licensing/Conditions	15									15
Roads and Traffic/Licensing/Demerit points	2									2
Roads and Traffic/Licensing/Fail to issue renewal	7									7
Roads and Traffic/Licensing/Incorrect details on license	3									3
Roads and Traffic/Licensing/Medical test	5									5
Roads and Traffic/Licensing/Tests	3									3
Roads and Traffic/Registration/Conditions	6									6
Roads and Traffic/Registration/Failure to issue renewal	16									16
Roads and Traffic/Registration/Fees/Charges	8									8
Roads and Traffic/Registration/Incorrect details on registration	1									1

Government Agencies Complaints Received: Issues 1 July 2012 to 30 June 2013

	DPTI	PIRSA	DPC	DTF	Electoral Commission of SA	Environment Protection Authority	Office of Zero Waste SA	SA Housing Trust	SA Water Corporation	Grand Total
Roads and Traffic/Registration/Roadworthy	2									2
Roads and Traffic/Registration/Transfer without consent	4									4
Roads and Traffic/Road Management	4									4
Sentence Management/Parole										10
Sentence Management/Placement/Location										27
Sentence Management/Transfers										17
Service Delivery/Abuse in care										6
Service Delivery/Assessment								1		7
Service Delivery/Conditions	13		1					1	2	25
Service Delivery/Debts								1	3	5
Service Delivery/Eligibility for services	19		2	3				7	2	57
Service Delivery/Failure to Act/Provide	32		7	2		2		20	12	131
Service Delivery/Fees and charges	8		1	3				15	35	74
Service Delivery/Financial assistance	1									8
Service Delivery/Quality	28		4	1				6	4	74
Service Delivery/Termination of services								2		5
Superannuation				1						1
Whistleblower Protection Act advice										4
Total	340	9	50	36	1	15	1	366	188	1904

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Adelaide Hills Council	Alexandrina Council	Berrill Council	Campbelltown City Council	City of Adelaide	City of Burnside	City of Charles Sturt	City of Holdfast Bay	City of Marion	City of Mitcham	City of Mt Gambier
Complaint handling/Conflict of interest					1	1	1				
Complaint handling/Delay	3			2	1		2		1		
Complaint handling/Inadequate processes	1			1	2	1	3	1	2	2	
Complaint handling/Inadequate reasons	1		1				1	1			
Complaint handling/Inadequate remedy	3	1				2	1		2		1
Complaint handling/Wrong conclusion		1	1			1		1			
Conduct/Discourtesy	1				2	1	4	2	1		
Conduct/Failure to declare conflict of interest							4	1			
Conduct/Failure to follow proper process	1			1	1	1	1	1			
Conduct/Misconduct						1	10	2			1
Correspondence/Communications/Records/Access					1	1			1		
Correspondence/Communications/Records/Breach of privacy/confidentiality									1		
Correspondence/Communications/Records/Breach of privacy/confidentiality (CCR)											
Correspondence/Communications/Records/Delay/No response	1	2	1		2		1				
Correspondence/Communications/Records/Incorrect											
Correspondence/Communications/Records/Wrongful disclosure of information							1				
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land								1			
Financial/Procurement/Facilities/Compensation/Damage/Physical injury											
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged		1					3				
Financial/Procurement/Facilities/Compensation/Damage/Psychological injury											
Financial/Procurement/Facilities/Debts/Recovery action											
Financial/Procurement/Facilities/Debts/Unreasonable charge											



Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Adelaide Hills Council	Alexandrina Council	Berr Barmera Council	Campbelltown City Council	City of Adelaide	City of Burnside	City of Charles Sturt	City of Holdfast Bay	City of Marion	City of Mitcham	City of Mt Gambier
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings					1						
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens			1				1	2	2		
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities		1					2			1	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets		1							1	2	
Financial/Procurement/Facilities/Other fees and charges	1		1		1		2	1			
Financial/Procurement/Facilities/Procurement by agencies/Decisions											
Financial/Procurement/Facilities/Procurement by agencies/Late payment											
Financial/Procurement/Facilities/Procurement by agencies/Tenders									1		
Financial/Procurement/Facilities/Rates/Administration	1							1			
Financial/Procurement/Facilities/Rates/Amount	1						2			1	
Financial/Procurement/Facilities/Rates/Recovery action	1	1							2		
Financial/Procurement/Facilities/Rates/Valuations					1				1		
FOI advice			1	2	3		2	1			
Governance/Confidentiality					1		2			1	
Governance/Failure to follow proper process (Governance)	1	2		1	2	5	2	6		3	
Governance/Prudential											
Governance/Public consultation	1	1					4	2		1	
Improper release of documents											
Regulation and enforcement/Animals/Excessive action		2							1		
Regulation and enforcement/Animals/Failure to act on complaints		1					1				

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Adelaide Hills Council	Alexandrina Council	Berri Barmera Council	Campbelltown City Council	City of Adelaide	City of Burnside	City of Charles Sturt	City of Holdfast Bay	City of Marion	City of Mitcham	City of Mt Gambier
Regulation and enforcement/Building/Failure to enforce condition				1							
Regulation and enforcement/Building/Failure/Delay to issue permit										1	
Regulation and enforcement/Building/Inappropriate construction allowed		1				2	1		2	1	
Regulation and enforcement/Building/Unreasonable conditions imposed										1	
Regulation and enforcement/Building/Unreasonable enforcement								1			
Regulation and enforcement/Environmental protection/Excessive action		1									
Regulation and enforcement/Environmental Protection/Failure to action on complaints											
Regulation and enforcement/Local laws/Failure to enforce	1							1			
Regulation and enforcement/Local laws/Improper/Inappropriate	1				1						
Regulation and enforcement/Local laws/Unreasonable enforcement	1							1	1		
Regulation and enforcement/Nuisances/Failure to action on complaints				1	1		1				
Regulation and enforcement/ Parking/Failure to enforce restrictions											
Regulation and enforcement/Parking/Permits					1						
Regulation and enforcement/Parking/Restrictions						2					
Regulation and enforcement/ Parking/Unreasonable enforcement	4			2	56	3	10	4	1	5	
Regulation and enforcement/Planning & Development/Failure to enforce condition	1				1	3	1		1		
Regulation and enforcement/Planning & Development/Failure to notify			1			1	2			1	
Regulation and enforcement/Planning & Development/Failure/Delay to issue permit							1		1	1	



Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Adelaide Hills Council	Alexandrina Council	Berr Barmera Council	Campbelltown City Council	City of Adelaide	City of Burnside	City of Charles Sturt	City of Holdfast Bay	City of Marion	City of Mitcham	City of Mt Gambier
Regulation and enforcement/Planning & Development/Inappropriate development allowed	2	1		2		4	7	1	3	2	
Regulation and enforcement/Planning & Development/Unreasonable conditions imposed	3	1	1		1		1	1		1	
Regulation and enforcement/Planning & Development/Unreasonable enforcement					1	1		1		2	
Regulation and enforcement/Public health/Failure to act on complaints								1			
Regulation and enforcement/Public health/Unreasonable conditions imposed											
Regulation and enforcement/Public health/Unreasonable enforcement											
Total	30	18	8	13	81	30	74	34	25	26	2

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	City of Norwood, Payneham & St Peters	City of Onkaparinga	City of Playford	City of Port Adelaide Enfield	City of Port Lincoln	City of Prospect	City of Salisbury	City of Tea Tree Gully	City of Unley	City of Victor Harbor	City of West Torrens
Complaint handling/Conflict of interest											
Complaint handling/Delay		4	2	3			2	1			1
Complaint handling/Inadequate processes	1	4	3	4		1	2	1			
Complaint handling/Inadequate reasons											1
Complaint handling/Inadequate remedy	1	3	1	5			4	8	1		1
Complaint handling/Wrong conclusion			1	2			2				
Conduct/Discourtesy	1	1		1				2			1
Conduct/Failure to declare conflict of interest				2							
Conduct/Failure to follow proper process			1	1	1		1	1			
Conduct/Misconduct		1		1							
Correspondence/Communications/Records/Access											
Correspondence/Communications/Records/Breach of privacy/confidentiality											
Correspondence/Communications/Records/Breach of privacy/confidentiality (CCR)				1			1	1			
Correspondence/Communications/Records/Delay/No response	1	3	1	1				1			
Correspondence/Communications/Records/Incorrect		2	1						1	1	
Correspondence/Communications/Records/Wrongful disclosure of information											
Financial/Procurement/Facilities/Compensation/Damage/ Acquisition of land											
Financial/Procurement/Facilities/Compensation/Damage/ Physical injury							1		1		
Financial/Procurement/Facilities/Compensation/Damage/ Property lost/Damaged		1					2				
Financial/Procurement/Facilities/Compensation/Damage/ Psychological injury							1				
Financial/Procurement/Facilities/Debts/Recovery action		1	1	1	1		1		1		
Financial/Procurement/Facilities/Debts/Unreasonable charge			1								

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	City of Norwood, Payneham & St Peters	City of Onkaparinga	City of Playford	City of Port Adelaide Enfield	City of Port Lincoln	City of Prospect	City of Salisbury	City of Tea Tree Gully	City of Unley	City of Victor Harbor	City of West Torrens
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings		1	1								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage		3									
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets		1	1	2			1		2		
Financial/Procurement/Facilities/Other fees and charges		1	2	1							
Financial/Procurement/Facilities/Procurement by agencies/Decisions				1							
Financial/Procurement/Facilities/Procurement by agencies/Late payment								1			
Financial/Procurement/Facilities/Procurement by agencies/Tenders								1			
Financial/Procurement/Facilities/Rates/Administration				2				1		1	
Financial/Procurement/Facilities/Rates/Amount				1			1	4			1
Financial/Procurement/Facilities/Rates/Recovery action	1	1	2	6	1		1		1	1	2
Financial/Procurement/Facilities/Rates/Valuations											
FOI advice		4				1		2	1		
Governance/Confidentiality											
Governance/Failure to follow proper process (Governance)		2					1				
Governance/Prudential											
Governance/Public consultation								1			
Improper release of documents											
Regulation and enforcement/Animals/Excessive action			1	3			3	2			1
Regulation and enforcement/Animals/Failure to act on complaints			3	1			1				

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	City of Norwood, Payneham & St Peters	City of Onkaparinga	City of Playford	City of Port Adelaide Enfield	City of Port Lincoln	City of Prospect	City of Salisbury	City of Tea Tree Gully	City of Unley	City of Victor Harbor	City of West Torrens
Regulation and enforcement/Building/Failure to enforce condition				2							
Regulation and enforcement/Building/Failure/Delay to issue permit											
Regulation and enforcement/Building/Inappropriate construction allowed						1		2			
Regulation and enforcement/Building/Unreasonable conditions imposed								1			
Regulation and enforcement/Building/Unreasonable enforcement		1					1				1
Regulation and enforcement/Environmental protection/ Excessive action											
Regulation and enforcement/Environmental Protection/Failure to action on complaints		1									
Regulation and enforcement/Local laws/Failure to enforce				1							
Regulation and enforcement/Local laws/Improper/ Inappropriate				1		1					
Regulation and enforcement/Local laws/Unreasonable enforcement				1							
Regulation and enforcement/Nuisances/Failure to action on complaints											
Regulation and enforcement/ Parking/Failure to enforce restrictions											
Regulation and enforcement/Parking/Permits											1
Regulation and enforcement/Parking/Restrictions				1					1		
Regulation and enforcement/ Parking/Unreasonable enforcement		2	4	2		1	3	12	4		3
Regulation and enforcement/Planning & Development/Failure to enforce condition		3					2				
Regulation and enforcement/Planning & Development/Failure to notify				1							1
Regulation and enforcement/Planning & Development/Failure/ Delay to issue permit	1	1	1	2				1			1



Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	City of Norwood, Payneham & St Peters	City of Onkaparinga	City of Playford	City of Port Adelaide Enfield	City of Port Lincoln	City of Prospect	City of Salisbury	City of Tea Tree Gully	City of Unley	City of Victor Harbor	City of West Torrens
Regulation and enforcement/Planning & Development/ Inappropriate development allowed	4	3		4		1			2	1	3
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed		5		1			2	1			1
Regulation and enforcement/Planning & Development/ Unreasonable enforcement	1	1	1	1				1		1	
Regulation and enforcement/Public health/Failure to act on complaints		1		1				1			
Regulation and enforcement/Public health/Unreasonable conditions imposed											
Regulation and enforcement/Public health/Unreasonable enforcement			2	2							
Total	11	51	30	59	3	6	33	46	15	6	18

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Clare & Gilbert Valleys Council	Coorong District Council	City of Whyalla	DC of Barunga West	DC of Ceduna	DC of Coober Pedy	DC of Elliston	DC of Franklin Harbour	DC of Grant	DC Lower Eyre Peninsula
Complaint handling/Conflict of interest							2			
Complaint handling/Delay	1									
Complaint handling/Inadequate processes	1	1					1			
Complaint handling/Inadequate reasons										
Complaint handling/Inadequate remedy						1				1
Complaint handling/Wrong conclusion										
Conduct/Discourtesy					1					
Conduct/Failure to declare conflict of interest		1					2			1
Conduct/Failure to follow proper process					2		1			
Conduct/Misconduct	1									
Correspondence/Communications/Records/Access										
Correspondence/Communications/Records/Breach of privacy/confidentiality										
Correspondence/Communications/Records/Breach of privacy/confidentiality (CCR)										
Correspondence/Communications/Records/Delay/No response										
Correspondence/Communications/Records/Incorrect										
Correspondence/Communications/Records/Wrongful disclosure of information										
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land										
Financial/Procurement/Facilities/Compensation/Damage/Physical injury										
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged										
Financial/Procurement/Facilities/Compensation/Damage/Psychological injury										
Financial/Procurement/Facilities/Debts/Recovery action										
Financial/Procurement/Facilities/Debts/Unreasonable charge										

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Clare & Gilbert Valleys Council	Coorong District Council	City of Whyalla	DC of Barunga West	DC of Ceduna	DC of Coober Pedy	DC of Elliston	DC of Franklin Harbour	DC of Grant	DC Lower Eyre Peninsula
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings							1			
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage							1			
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets										
Financial/Procurement/Facilities/Other fees and charges										
Financial/Procurement/Facilities/Procurement by agencies/Decisions										
Financial/Procurement/Facilities/Procurement by agencies/Late payment										
Financial/Procurement/Facilities/Procurement by agencies/Tenders					1					
Financial/Procurement/Facilities/Rates/Administration										
Financial/Procurement/Facilities/Rates/Amount										1
Financial/Procurement/Facilities/Rates/Recovery action										
Financial/Procurement/Facilities/Rates/Valuations										
FOI advice							1		2	
Governance/Confidentiality							1			
Governance/Failure to follow proper process (Governance)	1	1	3	2			1			
Governance/Prudential							1	1		
Governance/Public consultation		1						1		
Improper release of documents										
Regulation and enforcement/Animals/Excessive action									1	
Regulation and enforcement/Animals/Failure to act on complaints										

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Clare & Gilbert Valleys Council	Coorong District Council	City of Whyalla	DC of Barunga West	DC of Ceduna	DC of Coober Pedy	DC of Elliston	DC of Franklin Harbour	DC of Grant	DC Lower Eyre Peninsula
Regulation and enforcement/Building/Failure to enforce condition										
Regulation and enforcement/Building/Failure/Delay to issue permit										
Regulation and enforcement/Building/Inappropriate construction allowed									1	
Regulation and enforcement/Building/Unreasonable conditions imposed		1								
Regulation and enforcement/Building/Unreasonable enforcement										
Regulation and enforcement/Environmental protection/Excessive action										
Regulation and enforcement/Environmental Protection/Failure to action on complaints										
Regulation and enforcement/Local laws/Failure to enforce				1						
Regulation and enforcement/Local laws/Improper/Inappropriate										
Regulation and enforcement/Local laws/Unreasonable enforcement										
Regulation and enforcement/Nuisances/Failure to action on complaints										
Regulation and enforcement/ Parking/Failure to enforce restrictions										
Regulation and enforcement/Parking/Permits										
Regulation and enforcement/Parking/Restrictions										
Regulation and enforcement/ Parking/Unreasonable enforcement										
Regulation and enforcement/Planning & Development/Failure to enforce condition										
Regulation and enforcement/Planning & Development/Failure to notify										
Regulation and enforcement/Planning & Development/Failure/Delay to issue permit									1	



Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Clare & Gilbert Valleys Council	Coorong District Council	City of Whyalla	DC of Barunga West	DC of Ceduna	DC of Coober Pedy	DC of Elliston	DC of Franklin Harbour	DC of Grant	DC Lower Eyre Peninsula
Regulation and enforcement/Planning & Development/Inappropriate development allowed										1
Regulation and enforcement/Planning & Development/Unreasonable conditions imposed		1		1	1				1	
Regulation and enforcement/Planning & Development/Unreasonable enforcement										
Regulation and enforcement/Public health/Failure to act on complaints										
Regulation and enforcement/Public health/Unreasonable conditions imposed										
Regulation and enforcement/Public health/Unreasonable enforcement										1
Total	4	6	3	4	5	1	12	2	6	5

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Loxton Waikerie	DC of Mallala	DC of Mount Barker	DC of Mount Remarkable	DC Ororo/Carrington	DC Peterborough	DC Renmark Paringa	DC of Robe	DC of Streaky Bay	DC of Copper Coast	DC of Tumby Bay
Complaint handling/Conflict of interest											
Complaint handling/Delay			1				1				
Complaint handling/Inadequate processes			1			3				1	
Complaint handling/Inadequate reasons		1									
Complaint handling/Inadequate remedy		1	2			1		1		1	
Complaint handling/Wrong conclusion			1	1						1	
Conduct/Discourtesy						1				1	
Conduct/Failure to declare conflict of interest		1		1							2
Conduct/Failure to follow proper process				3				1	1		
Conduct/Misconduct		1	1	2							
Correspondence/Communications/Records/Access						1					
Correspondence/Communications/Records/Breach of privacy/confidentiality											
Correspondence/Communications/Records/Breach of privacy/confidentiality (CCR)			1								
Correspondence/Communications/Records/Delay/No response			1								1
Correspondence/Communications/Records/Incorrect						1					
Correspondence/Communications/Records/Wrongful disclosure of information											
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land											
Financial/Procurement/Facilities/Compensation/Damage/Physical injury											
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged											
Financial/Procurement/Facilities/Compensation/Damage/Psychological injury											
Financial/Procurement/Facilities/Debts/Recovery action											
Financial/Procurement/Facilities/Debts/Unreasonable charge	1										

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Loxton Waikerie	DC of Mallala	DC of Mount Barker	DC of Mount Remarkable	DC Ororo/Carnieton	DC Peterborough	DC Renmark Paringa	DC of Robe	DC of Streaky Bay	DC of Copper Coast	DC of Tumby Bay
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage									1	3	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets								1	1	1	
Financial/Procurement/Facilities/Other fees and charges	1		2	1			1		1		
Financial/Procurement/Facilities/Procurement by agencies/Decisions											
Financial/Procurement/Facilities/Procurement by agencies/Late payment											
Financial/Procurement/Facilities/Procurement by agencies/Tenders											
Financial/Procurement/Facilities/Rates/Administration											
Financial/Procurement/Facilities/Rates/Amount	1		1				1	1		2	
Financial/Procurement/Facilities/Rates/Recovery action											
Financial/Procurement/Facilities/Rates/Valuations											
FOI advice										2	
Governance/Confidentiality						1					
Governance/Failure to follow proper process (Governance)			1		1		1			2	
Governance/Prudential											
Governance/Public consultation	1	1	1					1			1
Improper release of documents											
Regulation and enforcement/Animals/Excessive action	1	1				1					
Regulation and enforcement/Animals/Failure to act on complaints											

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Loxton Waikerie	DC of Mallala	DC of Mount Barker	DC of Mount Remarkable	DC Ororoo/Carrieton	DC Peterborough	DC Renmark Paringa	DC of Robe	DC of Streaky Bay	DC of Copper Coast	DC of Tumby Bay
Regulation and enforcement/Building/Failure to enforce condition											
Regulation and enforcement/Building/Failure/Delay to issue permit											
Regulation and enforcement/Building/Inappropriate construction allowed											
Regulation and enforcement/Building/Unreasonable conditions imposed											
Regulation and enforcement/Building/Unreasonable enforcement											
Regulation and enforcement/Environmental protection/Excessive action		1	1								
Regulation and enforcement/Environmental Protection/Failure to action on complaints											
Regulation and enforcement/Local laws/Failure to enforce											
Regulation and enforcement/Local laws/Improper/Inappropriate											
Regulation and enforcement/Local laws/Unreasonable enforcement											
Regulation and enforcement/Nuisances/Failure to action on complaints											
Regulation and enforcement/ Parking/Failure to enforce restrictions							1				
Regulation and enforcement/Parking/Permits											
Regulation and enforcement/Parking/Restrictions			1				1				
Regulation and enforcement/ Parking/Unreasonable enforcement			2								
Regulation and enforcement/Planning & Development/Failure to enforce condition					1				1		
Regulation and enforcement/Planning & Development/Failure to notify											
Regulation and enforcement/Planning & Development/Failure/Delay to issue permit			1								



Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Loxton Waikerie	DC of Mallala	DC of Mount Barker	DC of Mount Remarkable	DC Ororo/Carnieton	DC Peterborough	DC Renmark Paringa	DC of Robe	DC of Streaky Bay	DC of Copper Coast	DC of Tumby Bay
Regulation and enforcement/Planning & Development/ Inappropriate development allowed		1	2			1		1	1		
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed										1	
Regulation and enforcement/Planning & Development/ Unreasonable enforcement		1	1								
Regulation and enforcement/Public health/Failure to act on complaints											
Regulation and enforcement/Public health/Unreasonable conditions imposed		1									
Regulation and enforcement/Public health/Unreasonable enforcement											
Total	5	10	21	8	2	10	6	6	6	15	4

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Yankaililla	DC of Yorke Peninsula	Kangaroo Island Council	Kingston District Council	Light Regional Council	Mid Murray Council	Naracoorte Lucindale Council	Northern Areas Council	Port Augusta City Council	Pt Pirie Regional Council	Regional Council of Goyder
Complaint handling/Conflict of interest											
Complaint handling/Delay									1		
Complaint handling/Inadequate processes	1		4			1	1				
Complaint handling/Inadequate reasons								1			
Complaint handling/Inadequate remedy				1	1					2	
Complaint handling/Wrong conclusion		2									
Conduct/Discourtesy						1			1		
Conduct/Failure to declare conflict of interest											
Conduct/Failure to follow proper process	1		1								
Conduct/Misconduct	1				1			1		1	
Correspondence/Communications/Records/Access											
Correspondence/Communications/Records/Breach of privacy/confidentiality											
Correspondence/Communications/Records/Breach of privacy/confidentiality (CCR)											
Correspondence/Communications/Records/Delay/No response						1				1	
Correspondence/Communications/Records/Incorrect						1					
Correspondence/Communications/Records/Wrongful disclosure of information											
Financial/Procurement/Facilities/Compensation/Damage/Acquisition of land											
Financial/Procurement/Facilities/Compensation/Damage/Physical injury											
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged					1						
Financial/Procurement/Facilities/Compensation/Damage/Psychological injury											
Financial/Procurement/Facilities/Debts/Recovery action											
Financial/Procurement/Facilities/Debts/Unreasonable charge			2								

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Yankaililla	DC of Yorke Peninsula	Kangaroo Island Council	Kingston District Council	Light Regional Council	Mid Murray Council	Naracoorte Lucindale Council	Northern Areas Council	Port Augusta City Council	Pt Pirie Regional Council	Regional Council of Goyder
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings						1					
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities	1										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets	1	1			1	2			1		
Financial/Procurement/Facilities/Other fees and charges		1		1					1	2	
Financial/Procurement/Facilities/Procurement by agencies/Decisions	1										
Financial/Procurement/Facilities/Procurement by agencies/Late payment											
Financial/Procurement/Facilities/Procurement by agencies/Tenders											
Financial/Procurement/Facilities/Rates/Administration			1			1					
Financial/Procurement/Facilities/Rates/Amount		1						1	1	1	
Financial/Procurement/Facilities/Rates/Recovery action			1								
Financial/Procurement/Facilities/Rates/Valuations											
FOI advice		1									
Governance/Confidentiality			2		1						
Governance/Failure to follow proper process (Governance)	2		3			2					
Governance/Prudential						1					
Governance/Public consultation	1		1								
Improper release of documents											
Regulation and enforcement/Animals/Excessive action										1	
Regulation and enforcement/Animals/Failure to act on complaints			1								

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Yankaililla	DC of Yorke Peninsula	Kangaroo Island Council	Kingston District Council	Light Regional Council	Mid Murray Council	Naracoorte Lucindale Council	Northern Areas Council	Port Augusta City Council	Pt Pirie Regional Council	Regional Council of Goyder
Regulation and enforcement/Building/Failure to enforce condition											
Regulation and enforcement/Building/Failure/Delay to issue permit											
Regulation and enforcement/Building/Inappropriate construction allowed											
Regulation and enforcement/Building/Unreasonable conditions imposed		2		1							1
Regulation and enforcement/Building/Unreasonable enforcement						1			1		
Regulation and enforcement/Environmental protection/Excessive action											
Regulation and enforcement/Environmental Protection/Failure to action on complaints		1									
Regulation and enforcement/Local laws/Failure to enforce											
Regulation and enforcement/Local laws/Improper/Inappropriate				1					2		
Regulation and enforcement/Local laws/Unreasonable enforcement											
Regulation and enforcement/Nuisances/Failure to action on complaints						1					
Regulation and enforcement/ Parking/Failure to enforce restrictions											
Regulation and enforcement/Parking/Permits											
Regulation and enforcement/Parking/Restrictions											
Regulation and enforcement/ Parking/Unreasonable enforcement			1								
Regulation and enforcement/Planning & Development/Failure to enforce condition										1	
Regulation and enforcement/Planning & Development/Failure to notify		1									

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	DC of Yankaililla	DC of Yorke Peninsula	Kangaroo Island Council	Kingston District Council	Light Regional Council	Mid Murray Council	Naracoorte Lucindale Council	Northern Areas Council	Port Augusta City Council	Pt Pirie Regional Council	Regional Council of Goyder
Regulation and enforcement/Planning & Development/Failure/Delay to issue permit						1					
Regulation and enforcement/Planning & Development/Inappropriate development allowed	1		1								
Regulation and enforcement/Planning & Development/Unreasonable conditions imposed		1			1	3					
Regulation and enforcement/Planning & Development/Unreasonable enforcement											
Regulation and enforcement/Public health/Failure to act on complaints	1					1					
Regulation and enforcement/Public health/Unreasonable conditions imposed											
Regulation and enforcement/Public health/Unreasonable enforcement											
Total	11	11	18	3	7	18	1	3	8	9	1

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Rural City of Murray Bridge	Southern Mallee District Council	The Barossa Council	Flinders Ranges Council	Town of Gawler	Wakefield Regional Council	Wattle Range Council	Wudinna District Council	Grand Total
Complaint handling/Conflict of interest						2			7
Complaint handling/Delay	1						1		28
Complaint handling/Inadequate processes	1		1	2		1			49
Complaint handling/Inadequate reasons			1		1				9
Complaint handling/Inadequate remedy			1		1	1			49
Complaint handling/Wrong conclusion			1	1					16
Conduct/Discourtesy	1				1		1		25
Conduct/Failure to declare conflict of interest						1			16
Conduct/Failure to follow proper process	1				6				28
Conduct/Misconduct		2		1	4	2			34
Correspondence/Communications/Records/Access									4
Correspondence/Communications/Records/Breach of privacy/confidentiality									1
Correspondence/Communications/Records/Breach of privacy/confidentiality (CCR)					1				5
Correspondence/Communications/Records/Delay/No response	1				3				22
Correspondence/Communications/Records/Incorrect				1					8
Correspondence/Communications/Records/Wrongful disclosure of information									1
Financial/Procurement/Facilities/Compensation/Damage/ Acquisition of land									1
Financial/Procurement/Facilities/Compensation/Damage/ Physical injury									2
Financial/Procurement/Facilities/Compensation/Damage/ Property lost/Damaged									8
Financial/Procurement/Facilities/Compensation/Damage/ Psychological injury									1
Financial/Procurement/Facilities/Debts/Recovery action									6
Financial/Procurement/Facilities/Debts/Unreasonable charge									4

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Rural City of Murray Bridge	Southern Mallee District Council	The Barossa Council	Flinders Ranges Council	Town of Gawler	Wakefield Regional Council	Wattle Range Council	Wudinna District Council	Grand Total
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings		1							6
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage									8
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens									6
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Recreational facilities									5
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets									20
Financial/Procurement/Facilities/Other fees and charges	1								22
Financial/Procurement/Facilities/Procurement by agencies/Decisions									2
Financial/Procurement/Facilities/Procurement by agencies/Late payment									1
Financial/Procurement/Facilities/Procurement by agencies/Tenders			1						4
Financial/Procurement/Facilities/Rates/Administration					1				9
Financial/Procurement/Facilities/Rates/Amount			1		1		1		25
Financial/Procurement/Facilities/Rates/Recovery action									23
Financial/Procurement/Facilities/Rates/Valuations					1	1			2
FOI advice	1								24
Governance/Confidentiality						1	1		11
Governance/Failure to follow proper process (Governance)	5	2	1		2	1	1		57
Governance/Prudential		1							4
Governance/Public consultation		1	1		1				22
Improper release of documents	3								3
Regulation and enforcement/Animals/Excessive action									18
Regulation and enforcement/Animals/Failure to act on complaints				1					9

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Rural City of Murray Bridge	Southern Mallee District Council	The Barossa Council	Flinders Ranges Council	Town of Gawler	Wakefield Regional Council	Wattle Range Council	Wudinna District Council	Grand Total
Regulation and enforcement/Building/Failure to enforce condition	1				1				5
Regulation and enforcement/Building/Failure/Delay to issue permit									1
Regulation and enforcement/Building/Inappropriate construction allowed									11
Regulation and enforcement/Building/Unreasonable conditions imposed									7
Regulation and enforcement/Building/Unreasonable enforcement									6
Regulation and enforcement/Environmental protection/Excessive action									3
Regulation and enforcement/Environmental Protection/Failure to action on complaints					1	1			4
Regulation and enforcement/Local laws/Failure to enforce	1								5
Regulation and enforcement/Local laws/Improper/Inappropriate									7
Regulation and enforcement/Local laws/Unreasonable enforcement									4
Regulation and enforcement/Nuisances/Failure to action on complaints									4
Regulation and enforcement/ Parking/Failure to enforce restrictions									1
Regulation and enforcement/Parking/Permits									2
Regulation and enforcement/Parking/Restrictions									6
Regulation and enforcement/ Parking/Unreasonable enforcement					2				121
Regulation and enforcement/Planning & Development/Failure to enforce condition									15
Regulation and enforcement/Planning & Development/Failure to notify	1								9
Regulation and enforcement/Planning & Development/Failure/Delay to issue permit	1				1				15

Local Government Complaints Received: Issues 1 July 2012 to 30 June 2013

	Rural City of Murray Bridge	Southern Mallee District Council	The Barossa Council	Flinders Ranges Council	Town of Gawler	Wakefield Regional Council	Wattle Range Council	Wudinna District Council	Grand Total
Regulation and enforcement/Planning & Development/ Inappropriate development allowed			1		2				52
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed	1		1			1	1		33
Regulation and enforcement/Planning & Development/ Unreasonable enforcement						1			14
Regulation and enforcement/Public health/Failure to act on complaints								1	7
Regulation and enforcement/Public health/Unreasonable conditions imposed									1
Regulation and enforcement/Public health/Unreasonable enforcement									5
Total	20	7	10	6	30	13	6	1	943

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	APY Executive Board	Central Adelaide Local Health Network	Central Irrigation Trust	Children, Youth & Women's Health Service	Commissioner for Equal Opportunity	Commissioner for Victims' Rights	Construction Industry Training Board	Consumer and Business Services
Advice								
Complaint handling/Conflict of interest								
Complaint handling/Delay		3						4
Complaint handling/Inadequate processes		4			1			4
Complaint handling/Inadequate reasons		2			1			
Complaint handling/Inadequate remedy								4
Complaint handling/Wrong conclusion		1			1	1		3
Conduct/Assault								
Conduct/Discourtesy								1
Conduct/Misconduct								
Correspondence/Communications/Records/Breach of privacy/Confidentiality								1
Correspondence/Communications/Records/ Delayed/No response		1						5
Correspondence/Communications/Records /Incorrect		2						2
Correspondence/Communications/Records/Lost								1
Correspondence/Communications/Records/ Withholding of information								1
Correspondence/Communications/Records/ Wrongful disclosure of information								
Custodial services/Health related services		1						
Employment								
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land								
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury								
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged								
Financial/Procurement/Facilities/Debts								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use								

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	APY Executive Board	Central Adelaide Local Health Network	Central Irrigation Trust	Children, Youth & Women's Health Service	Commissioner for Equal Opportunity	Commissioner for Victims' Rights	Construction Industry Training Board	Consumer and Business Services
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use								
Financial/Procurement/Facilities/Procurement by agencies/Decisions								
FOI advice		6						
Records management	1							
Regulation and enforcement/Complaint handling					1			
Regulation and enforcement/Enforcement action/Excessive		2						1
Regulation and enforcement/Enforcement action/Unfair				1				1
Regulation and enforcement/Fees								
Regulation and enforcement/ Infringements/ Unreasonably issued								
Regulation and enforcement/Inspections								1
Regulation and enforcement/Licensing/Refusal								1
Regulation and enforcement/Licensing/Renewal								3
Regulation and enforcement/Permits								
Roads and Traffic/Charges/Fines								
Service Delivery/Abuse in care		1						
Service Delivery/Assessment								
Service Delivery/Conditions								4
Service Delivery/Debts								
Service Delivery/Eligibility for services								5
Service Delivery/Failure to act/Provide		7	1				1	7
Service Delivery/Fees and charges								4
Service Delivery/Financial assistance								
Service Delivery/Quality		5		1				5
Service Delivery/Termination of services		1						
Superannuation								
Whistleblower Protection Act Advice								
Total	1	36	1	2	4	1	1	58

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Coroner	Country Health SA Local Health Network	Courts Administration Authority	Development Assessment Commission	Dog & Cat Management Board	Drug & Alcohol Service SA	Eastern Health Authority	Electricity Industry Superannuation Scheme
Advice								
Complaint handling/Conflict of interest								
Complaint handling/Delay	2		1					
Complaint handling/Inadequate processes								
Complaint handling/Inadequate reasons								
Complaint handling/Inadequate remedy								
Complaint handling/Wrong conclusion					1			
Conduct/Assault		1						
Conduct/Discourtesy		1						
Conduct/Misconduct								
Correspondence/Communications/Records/Breach of privacy/Confidentiality								
Correspondence/Communications/Records/ Delayed/No response	1		1					
Correspondence/Communications/Records /Incorrect			3			1		
Correspondence/Communications/Records/Lost								
Correspondence/Communications/Records/ Withholding of information								
Correspondence/Communications/Records/ Wrongful disclosure of information								
Custodial services/Health related services								
Employment								
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land					1			
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury								
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged								
Financial/Procurement/Facilities/Debts			2					
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use								

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Coroner	Country Health SA Local Health Network	Courts Administration Authority	Development Assessment Commission	Dog & Cat Management Board	Drug & Alcohol Service SA	Eastern Health Authority	Electricity Industry Superannuation Scheme
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use								
Financial/Procurement/Facilities/Procurement by agencies/Decisions								
FOI advice		1						
Records management								
Regulation and enforcement/Complaint handling								
Regulation and enforcement/Enforcement action/Excessive			1					
Regulation and enforcement/Enforcement action/Unfair			2	1				
Regulation and enforcement/Fees								
Regulation and enforcement/ Infringements/ Unreasonably issued			1				1	
Regulation and enforcement/Inspections								
Regulation and enforcement/Licensing/Refusal								
Regulation and enforcement/Licensing/Renewal								
Regulation and enforcement/Permits					1			
Roads and Traffic/Charges/Fines			2					
Service Delivery/Abuse in care		1						
Service Delivery/Assessment						1		
Service Delivery/Conditions								
Service Delivery/Debts			1					
Service Delivery/Eligibility for services		1						
Service Delivery/Failure to act/Provide		1	1			2		
Service Delivery/Fees and charges	1	1	2					
Service Delivery/Financial assistance		1						
Service Delivery/Quality	2	2	1					
Service Delivery/Termination of services								
Superannuation								2
Whistleblower Protection Act Advice								
Total	6	10	18	3	1	4	1	2

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Eyre Peninsula NRM Board	Flinders University	Guardianship Board	Health & Community Services Complaints Commissioner	HomeStart	Legal Practitioners Conduct Board	Legal Services Commission	Liquor & Gambling Commissioner	Lotteries Commission	Motor Accident Commission
Advice			1							
Complaint handling/Conflict of interest										
Complaint handling/Delay			1		1					1
Complaint handling/Inadequate processes		3		10		2		2		
Complaint handling/Inadequate reasons		1		10						
Complaint handling/Inadequate remedy			1	6	1	2				2
Complaint handling/Wrong conclusion		3	2	12		4				
Conduct/Assault										
Conduct/Discourtesy							1	1		1
Conduct/Misconduct						1				
Correspondence/Communications/Records/Breach of privacy/Confidentiality								1		
Correspondence/Communications/Records/ Delayed/No response		1		1						1
Correspondence/Communications/Records /Incorrect				1					1	
Correspondence/Communications/Records/Lost										
Correspondence/Communications/Records/ Withholding of information	1		2							
Correspondence/Communications/Records/ Wrongful disclosure of information			1							
Custodial services/Health related services										
Employment										
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land										
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury										3
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged										



Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Eyre Peninsula NRM Board	Flinders University	Guardianship Board	Health & Community Services Complaints Commissioner	HomeStart	Legal Practitioners Conduct Board	Legal Services Commission	Liquor & Gambling Commissioner	Lotteries Commission	Motor Accident Commission
Financial/Procurement/Facilities/Debts		2								1
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use		1								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use										
Financial/Procurement/Facilities/Procurement by agencies/ Decisions										
FOI advice			1			1	1			
Records management										
Regulation and enforcement/Complaint handling				1						
Regulation and enforcement/Enforcement action/Excessive										
Regulation and enforcement/Enforcement action/Unfair								1		
Regulation and enforcement/Fees										1
Regulation and enforcement/ Infringements/ Unreasonably issued										
Regulation and enforcement/Inspections										
Regulation and enforcement/Licensing/Refusal										
Regulation and enforcement/Licensing/Renewal										
Regulation and enforcement/Permits										
Roads and Traffic/Charges/Fines										1
Service Delivery/Abuse in care										
Service Delivery/Assessment		2			1					1
Service Delivery/Conditions					1					
Service Delivery/Debts					1					
Service Delivery/Eligibility for services							6	1		1
Service Delivery/Failure to act/Provide		2	2	3	1			1		5
Service Delivery/Fees and charges		1			1		1			

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Eyre Peninsula NRM Board	Flinders University	Guardianship Board	Health & Community Services Complaints Commissioner	HomeStart	Legal Practitioners Conduct Board	Legal Services Commission	Liquor & Gambling Commissioner	Lotteries Commission	Motor Accident Commission
Service Delivery/Financial assistance					3		1			
Service Delivery/Quality		1		1					1	
Service Delivery/Termination of services										1
Superannuation										
Whistleblower Protection Act Advice										
Total	1	17	11	45	10	10	10	7	2	19



Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Native Vegetation Council	Northern Adelaide Local Health Network	Office of the Technical Regulator	Outback Communities Authority	Public Advocate	Public Trustee	Residential Tenancies Tribunal	RSPCA Inspectorate	SA Ambulance Service	SA Country Fire Service
Advice										
Complaint handling/Conflict of interest						1				
Complaint handling/Delay					1	3	1		2	
Complaint handling/Inadequate processes			1		4	3			3	
Complaint handling/Inadequate reasons					1					
Complaint handling/Inadequate remedy						1	2			1
Complaint handling/Wrong conclusion					1					
Conduct/Assault										
Conduct/Discourtesy						1				1
Conduct/Misconduct						2		2		
Correspondence/Communications/Records/Breach of privacy/Confidentiality										
Correspondence/Communications/Records/ Delayed/No response						2	1			
Correspondence/Communications/Records /Incorrect							1			
Correspondence/Communications/Records/Lost							1			
Correspondence/Communications/Records/ Withholding of information						1	1		2	
Correspondence/Communications/Records/ Wrongful disclosure of information									1	
Custodial services/Health related services										
Employment						1				
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land										
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury										
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged										
Financial/Procurement/Facilities/Debts						3			1	

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Native Vegetation Council	Northern Adelaide Local Health Network	Office of the Technical Regulator	Outback Communities Authority	Public Advocate	Public Trustee	Residential Tenancies Tribunal	RSPCA Inspectorate	SA Ambulance Service	SA Country Fire Service
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use						1				
Financial/Procurement/Facilities/Procurement by agencies/Decisions		1				1				
FOI advice		2				1		1	1	
Records management										
Regulation and enforcement/Complaint handling										
Regulation and enforcement/Enforcement action/Excessive								2		
Regulation and enforcement/Enforcement action/Unfair							1			
Regulation and enforcement/Fees				2						
Regulation and enforcement/ Infringements/ Unreasonably issued										
Regulation and enforcement/Inspections										
Regulation and enforcement/Licensing/Refusal										
Regulation and enforcement/Licensing/Renewal										
Regulation and enforcement/Permits										
Roads and Traffic/Charges/Fines										
Service Delivery/Abuse in care										
Service Delivery/Assessment										
Service Delivery/Conditions	1				1	2				
Service Delivery/Debts									2	
Service Delivery/Eligibility for services						1	2		1	
Service Delivery/Failure to act/Provide	1	2			4	19	2		1	1
Service Delivery/Fees and charges				1		1	1		8	
Service Delivery/Financial assistance						1				
Service Delivery/Quality		2			2	10				

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Native Vegetation Council	Northern Adelaide Local Health Network	Office of the Technical Regulator	Outback Communities Authority	Public Advocate	Public Trustee	Residential Tenancies Tribunal	RSPCA Inspectorate	SA Ambulance Service	SA Country Fire Service
Service Delivery/Termination of services										
Superannuation										
Whistleblower Protection Act Advice										
Total	2	7	1	3	14	55	13	5	22	3

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	SA Film Corporation	SA Government Financing Authority	SACE Board of SA	SA Murray Darling Basin NRM Board	SA Dental Service	SA Heritage Council	SA Small Business Commissioner	SATAC	Southern Adelaide Local Health Network	Super SA Board	TAFE SA Board
Advice											
Complaint handling/Conflict of interest										1	
Complaint handling/Delay			1							1	
Complaint handling/Inadequate processes			3					1	2		2
Complaint handling/Inadequate reasons											
Complaint handling/Inadequate remedy			1							1	1
Complaint handling/Wrong conclusion									1		2
Conduct/Assault											
Conduct/Discourtesy											1
Conduct/Misconduct						2	1				1
Correspondence/Communications/Records/Breach of privacy/Confidentiality											
Correspondence/Communications/Records/ Delayed/No response					1					2	
Correspondence/Communications/Records /Incorrect		1						1			1
Correspondence/Communications/Records/Lost											
Correspondence/Communications/Records/ Withholding of information	1									1	
Correspondence/Communications/Records/ Wrongful disclosure of information											
Custodial services/Health related services											
Employment											
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land											
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury											
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged											
Financial/Procurement/Facilities/Debts											3
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use											

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	SA Film Corporation	SA Government Financing Authority	SACE Board of SA	SA Murray Darling Basin NRM Board	SA Dental Service	SA Heritage Council	SA Small Business Commissioner	SATAC	Southern Adelaide Local Health Network	Super SA Board	TAFE SA Board
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use											
Financial/Procurement/Facilities/Procurement by agencies/Decisions											
FOI advice			1						3		
Records management											
Regulation and enforcement/Complaint handling											
Regulation and enforcement/Enforcement action/Excessive											
Regulation and enforcement/Enforcement action/Unfair											
Regulation and enforcement/Fees											
Regulation and enforcement/ Infringements/ Unreasonably issued											
Regulation and enforcement/Inspections											
Regulation and enforcement/Licensing/Refusal											
Regulation and enforcement/Licensing/Renewal				1							
Regulation and enforcement/Permits											
Roads and Traffic/Charges/Fines											
Service Delivery/Abuse in care											
Service Delivery/Assessment						1				1	1
Service Delivery/Conditions										1	
Service Delivery/Debts											
Service Delivery/Eligibility for services					1				1	2	2
Service Delivery/Failure to act/Provide	1		2		1		1		1	3	4
Service Delivery/Fees and charges											7
Service Delivery/Financial assistance											
Service Delivery/Quality			1						2	1	1
Service Delivery/Termination of services											1
Superannuation										11	
Whistleblower Protection Act Advice											
Total	2	1	9	1	3	3	2	2	10	25	27

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Teachers Registration Board	The Art Gallery Board	University of Adelaide	University of South Australia	Urban Renewal Authority	Veterinary Surgeons Board	Women's & Children's Health Network	WorkCover Corporation	Total
Advice									1
Complaint handling/Conflict of interest						1			3
Complaint handling/Delay									22
Complaint handling/Inadequate processes		1	2	6		1	1	1	57
Complaint handling/Inadequate reasons				3					18
Complaint handling/Inadequate remedy			2	1					26
Complaint handling/Wrong conclusion			2	3		1		1	39
Conduct/Assault									1
Conduct/Discourtesy			1	1					10
Conduct/Misconduct			1				1	1	12
Correspondence/Communications/Records/Breach of privacy/Confidentiality									2
Correspondence/Communications/Records/ Delayed/No response				1	1			1	20
Correspondence/Communications/Records /Incorrect				1					15
Correspondence/Communications/Records/Lost								1	3
Correspondence/Communications/Records/ Withholding of information									10
Correspondence/Communications/Records/ Wrongful disclosure of information									2
Custodial services/Health related services									1
Employment						1		1	3
Financial/Procurement/Facilities/Compensation/ Damage/ Acquisition of land									1
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury									3
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged								1	1
Financial/Procurement/Facilities/Debts								1	13

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Teachers Registration Board	The Art Gallery Board	University of Adelaide	University of South Australia	Urban Renewal Authority	Veterinary Surgeons Board	Women's & Children's Health Network	WorkCover Corporation	Total
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use									1
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Denial of use									1
Financial/Procurement/Facilities/Procurement by agencies/Decisions									2
FOI advice						1	1		21
Records management									1
Regulation and enforcement/Complaint handling									2
Regulation and enforcement/Enforcement action/Excessive			1						7
Regulation and enforcement/Enforcement action/Unfair				3					10
Regulation and enforcement/Fees			1						4
Regulation and enforcement/ Infringements/ Unreasonably issued									2
Regulation and enforcement/Inspections									1
Regulation and enforcement/Licensing/Refusal	1								2
Regulation and enforcement/Licensing/Renewal									4
Regulation and enforcement/Permits									1
Roads and Traffic/Charges/Fines									3
Service Delivery/Abuse in care									2
Service Delivery/Assessment	1								9
Service Delivery/Conditions				1					11
Service Delivery/Debts									4
Service Delivery/Eligibility for services	1			2					27
Service Delivery/Failure to act/Provide			1	3	2				82
Service Delivery/Fees and charges			1						30
Service Delivery/Financial assistance									6
Service Delivery/Quality			2	1			1	4	46

Other Authorities Complaints Received: Issues 1 July 2012 to 30 June 2013

	Teachers Registration Board	The Art Gallery Board	University of Adelaide	University of South Australia	Urban Renewal Authority	Veterinary Surgeons Board	Women's & Children's Health Network	WorkCover Corporation	Total
Service Delivery/Termination of services			2	3				1	9
Superannuation									13
Whistleblower Protection Act Advice							1		1
Total	3	1	16	29	5	3	5	13	566



Our Vision

Our vision is for this office, and for each agency within our jurisdiction, to provide services of the highest quality to the South Australian community.

Our Mission

Our mission is to help make South Australia a state where all communities and individuals are treated fairly by:

- promoting sound public administration and accountability within state and local government; and
- keeping the Parliament, the government and the community informed of matters of public importance.

Our Values

In performing our work we are committed to these values:

Maintain independence and impartiality

We are committed to acting in a manner that maintains the independence and objectivity of the Ombudsman.

Facilitate access to our services

We are committed to ensuring people can, and know how to, access our services through a range of technologies and avenues.

Respect the views of all parties

We are committed to ensuring that all parties' points of view are heard and considered.

Fairness and integrity

We are committed to acting in accordance with our powers, basing our actions on relevant considerations and at all times acting in good faith.

Accountability in our dealings

We are committed to keeping people informed about their rights and any decisions affecting them, and to using our resources efficiently, effectively and responsibly. We will strive to refine means to measure and report on our performance.

Responsiveness in our service delivery

We are committed to providing prompt service and facilitating speedy resolutions where appropriate.



OmbudsmanSA

Contacting Ombudsman SA

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

Level 5, East Wing
50 Grenfell Street
Adelaide SA 5000

Telephone 08 8226 8699
Facsimile 08 8226 8602
Toll free (outside metro area) 1800 182 150
Email ombudsman@ombudsman.sa.gov.au
www.ombudsman.sa.gov.au

