



Ombudsman
South Australia

33rd Annual Report 2004-2005

OMBUDSMAN South Australia

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Ombudsman South Australia

The Honourable President
LEGISLATIVE COUNCIL

The Honourable Speaker
HOUSE OF ASSEMBLY

It is my duty and privilege to submit my 33rd Annual Report for 2004/05 as required pursuant to subsection (1) of section 29 of the *Ombudsman Act 1972*.

Eugene Biganovsky
OMBUDSMAN
30 June 2005

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Introduction

"Your theme- "Balancing the Obligations of Citizenship with the Recognition of Individual Rights and Responsibilities" - goes straight to the heart of what has always been sought in civic life. What is the duty owed by a citizen to the state? What are the rights of the citizen in a civil and democratic society? In a time when institutionalised selfishness and marketplace greed are rampant, the insistent and constant honouring of our basic humanity is important. While too much state or corporate power is an obvious problem, unrestrained individualism also carries a curse: a chronic sense of grievance, of perpetual entitlement, of civic ignorance, and a wilful disregard of history.

As ombudsmen, you have been assigned to moderate governmental authority."

**Opening speech by Her Excellency the Right Honourable Adrienne Clarkson,
Governor General of Canada**

(8th International Ombudsman Conference, Quebec City, Canada
7-10 September, 2004)

For some time now, Parliamentary Ombudsmen around the world have held the view that whatever differences may be found in their primary legislation, and whatever the extent of their jurisdictional reach, there are four essential elements of the Parliamentary Ombudsman which go to the heart of its existence and operations. These include the independence of the Ombudsman, the credibility of the Ombudsman, the Ombudsman's procedural flexibility and the Ombudsman Office's accessibility. I think that the demands of different socio-political systems and significant changes within each jurisdiction have amply demonstrated the existence of the fifth element, namely the adaptability of the Ombudsman to do that which a Parliament requires of the Ombudsman. Throughout the year the South Australian Ombudsman has adapted to a number of significant changes.

Throughout the world a number of Ombudsman institutions have been given constitutional recognition as matter of public interest. In the Australian setting, the Victorian *Constitution (Parliamentary Reform) Act 2003* contains special provisions providing for the independence of the Ombudsman and the Electoral Commissioner. In South Australia, of no less significance has been the start of operation of the *Ombudsman (Honesty and Accountability in Government) Amendment Act 2002* on 1 July 2004. In particular, the new provisions of section 31 of the *Ombudsman Act* confer upon the Statutory Officers Committee of the Parliament the function of considering matters relating to the general operation of the *Ombudsman Act*. The Committee has held its first meeting with the Ombudsman on 31 March 2005 during which I outlined a number of possible fields of enquiry which appeared relevant to the work of the Committee. The existence of this direct line of communication with the Parliament is I think of importance to the Ombudsman, to Parliament and to the public.

It is, in the proper balance of the Ombudsman's effective and efficient operations of his Office, of no less significance for the Ombudsman to have the essential continuing logistical support, without detriment to the Ombudsman's independence, of the government itself.

That practical reality is properly realised in my customary meetings with the Attorney - General who is responsible for the administration of the *Ombudsman Act*. Independence should not be confused with remoteness of communication or accountability. An appropriate and continuing balance must be kept in the Ombudsman's execution of his role and functions, between his overriding relationship with accountability to the Parliament and the practical connection with the workings of Government itself as these may affect the logistical support for the Ombudsman.

The provisions of the *Freedom of Information (Miscellaneous) Amendment Act 2004* came into operation on 1 January 2005. A number of applications for review by the Ombudsman will be dealt with and determined in accordance with these new provisions. On 1 June 2005 the District Court delivered its decision on *Department of Premier & Cabinet v. Redford* (2005) SADC 58 in which it took the view that even if an agency chooses not to rely upon an exemption notwithstanding that it is readily apparent from the face of the document, one would ordinarily expect the Ombudsman to consider the exemption. This approach requiring more input from the Ombudsman will require further adaptation by the Ombudsman of his functions under that legislation which "lies somewhere between the adversarial function of a court and the inquisitorial function of an administrative body".

With the anticipated operation of the *Health and Community Services Complaints Act 2004*, practical discussions took place with the Commissioner as to which of the health related complaints with the Ombudsman may be transferred to the Commissioner.

Preparations have been made to conduct several audits for the purposes of section 14a of the Ombudsman Act. Several matters of concern were the subject of preliminary inquiries with several Councils during the year including the practices and procedures for ensuring compliance with the requirements of section 50(10) of the *Development Act 1993*, section 61 of the *Local Government Act 1999* and regulation 19 of the *Local Government (Procedures at Meetings) Regulations 2000* and the practices and procedures in the case of development involving concerns relating to native vegetation and the matter of wider application being the practices and procedures for the making of lawful delegations under the *Local Government Act*. I propose to advise all Local Government Councils early in August 2005 of my proposed audit review for which a representative sample of some fifteen Councils will be selected for review. I will be assisted in my review by staff who excel at critical thinking, essential for an effective audit review.

The Ombudsman's adaptation to this new and significant role provides another way forward in promoting and maintaining good governance by public agencies. I am also pleased to observe in my preliminary discussions with the leaders of several metropolitan Councils, a genuine level of enthusiasm for this process that will benefit not only Councils but ultimately, the community itself.

An audit review has also commenced with a major government Department of its practices and procedures relating to compliance with the requirements of the *Freedom of Information Act*. The results of any such audit could also benefit the wider public sector. I have been reliably informed that a number of Councils have taken the opportunity to critically review all relevant documentation, which adds further value to the remedial objectives of any proposed audit.

Audit reviews will require a high order of critical thinking and evaluation by the Ombudsman and a widening and deepening of the essential knowledge of administrative systems including some exploration of potential risks. Probing questions need to penetrate beneath the surface of issues that would normally be more obvious in a "complaint-driven" investigation. Finally there needs to be a thoughtful and meaningful analysis of the results; followed by organised, insightful and meaningful discussion with the agency leaders and responsible staff. While these expectations may initially appear to be demanding, regard will be had as much for the whole as for individual parts of the matters under review, encouraging improvement and when appropriate, innovation and change. I believe that the Ombudsman, working in a practical manner with agencies, will succeed in implementing the spirit of the Ombudsman legislation.

During the year there were in excess of 9100 matters considered by the Ombudsman Office. While this amply demonstrates the accessibility of the Ombudsman, whether matters required investigation or not, I believe that once again, the Ombudsman has realised his educative function, with the public and the agencies within his jurisdiction.

As one renowned inventor and thinker observed from his own experiences - "*Nine thousand times I have learned what doesn't work!*" - before I would equally observe the vast majority of cases before the Ombudsman are edifying for agencies and the public.

Finally, the constant lodestar to good governance is fairness of administrative action; and thus, public administration will continue to meet the reasonable expectations of the public whom it serves.

The expenditure of the Office has been kept within the limits of my budget allocation despite sustaining a 0.5% expenditure cut. The statement of administrative expenses is shown in Appendix A of this report.

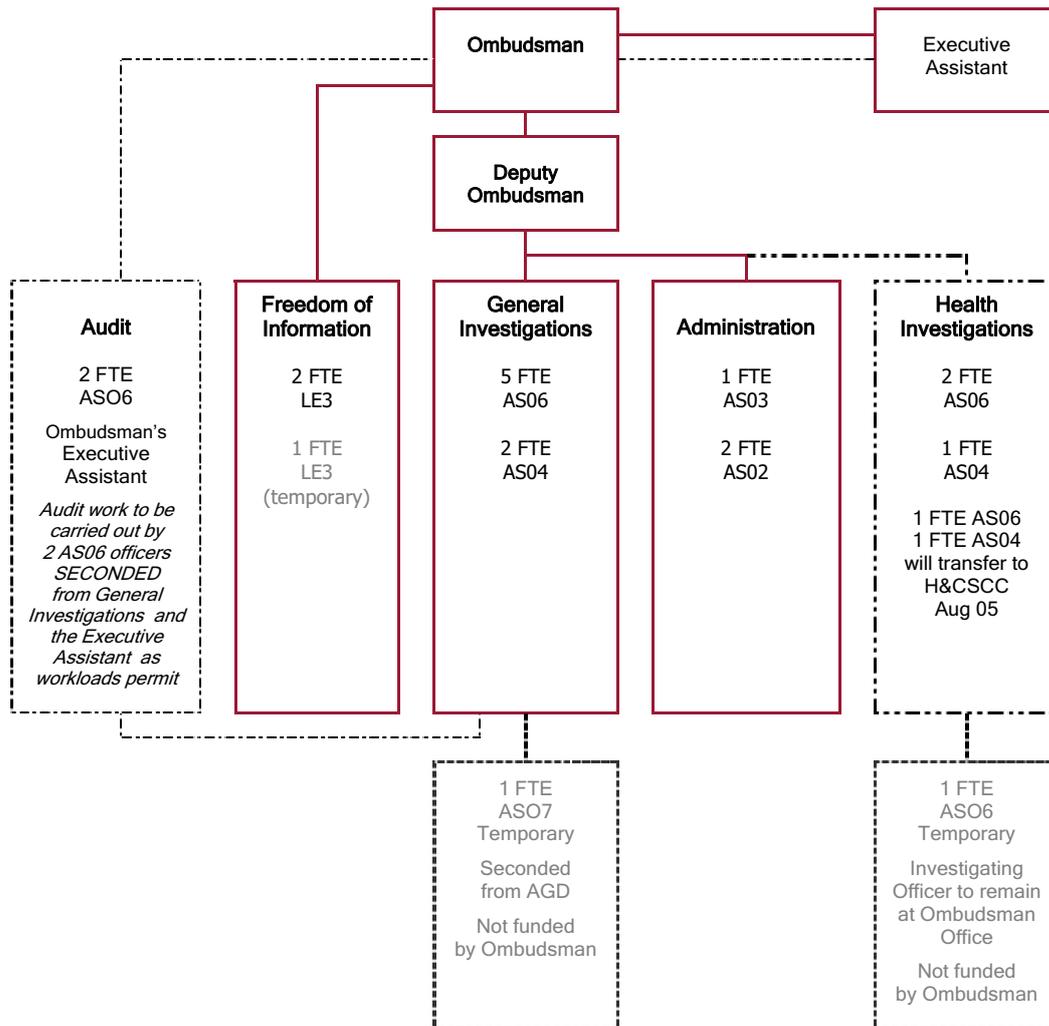
In 1991 the South Australian Ombudsman hosted the 12th conference of Australasian and Pacific Ombudsmen. There is likely to be an opportunity for the South Australian Ombudsman to host such a conference in 2007. It will be necessary for there to be a one-off allocation of additional funds to allow this significant event to be held in South Australia. The conference will be of interest to parliamentary Ombudsmen from the Australasian and Pacific regions, with representation from Asia and other parts of the world.

Staff resources are shown in the Organisational Chart below. As the chart shows the resources are limited and have been utilized to their full capacity. There is provision to hold one temporary position in the legal unit to carry out the Freedom of Information review work within the Ombudsman Office until June 2006. This is an area which demonstrably requires three full time staff to efficiently and effectively carry out all the work as required by the *Freedom of Information Act* and related activities. It is further necessary to convert into a permanent position, that which is currently a third temporary position within the Legal-FOI unit.

Any additional Ombudsman Office resources would be welcome and as I have intimated in my previous reports, it would be desirable for there to be provision of at least one further permanent investigating officer position to assist with audit review work.

Details of staff resources and movement within the Ombudsman Office are shown in Appendix B.

Ombudsman Office Organisational Chart



Ombudsman's complaints data-base - (RAEMOC)

RAEMOC is a database application designed to handle the management of complaints. The original version was developed as a Microsoft Access 2 database. Version 3 upgraded it to Microsoft Access 97. RAEMOC comprises two (server and client) databases. The server, or backend, database is designed to reside on a file server and stores most of the data relating to cases. The client database is designed to reside on each user's machine and communicate with the server over a Local Area Network. The client database is the front-end, acting as a user interface and data manipulation tool.

November 2000	RAEMOC Version 3 operational with conversion of previous database records to new system
March 2004	Services of local contractor to supply additional reporting
June 2005	Cessation of support for RAEMOC by the Tasmanian Ombudsman's Office and Verdant Pty Ltd

■ CURRENT DIFFICULTIES

When RAEMOC was purchased, it was anticipated that, with a number of users and the assistance of the Tasmanian Ombudsman's Office and the ACT Health and Community Services Commissioner, support and further development of the system would be assured. Unfortunately this has not occurred and now with very few users of the system and both of the above bodies withdrawing support, there is no ongoing technical support arrangement. There has already been one total system failure because there was no one in South Australia with expert knowledge of the system, which led to database unavailability for almost a week.

In addition there are faults in the system which limit the ability to identify related cases and to analyse and report in a comprehensive manner. When a specific report was required, the cost became significant because a local contractor with limited knowledge of the system had to be engaged. At present there is no prospect of further development of the existing system which necessitates consideration of replacement alternatives.

■ FUTURE OPTIONS

- An alliance with existing RAEMOC users to share maintenance and development costs (limited technological scope, but no data migration necessary).
- A system to replace RAEMOC (substantial functionality enhancement possible, but data migration required).

Complaint overview

During the year a substantial portion of the work of the Ombudsman included preliminary and full investigations into actions relating to matters of administration on the part of government agencies and Local Government Councils, as well as statutory and proclaimed authorities.

There were more than 9100 (8600 - *previous year 2003-04*) matters considered by the Ombudsman Office during the year, of which 3456 (3292- *p/y*) were complaints within the general jurisdiction of the Ombudsman; and 610 (497- *p/y*) complaints were against public hospitals and health services; and 343 (371- *p/y*) matters were treated under the *Freedom of Information Act*. Other non-jurisdictional contacts and referrals were in excess of 4700 (4500- *p/y*) matters.

■ General jurisdiction

The general jurisdiction covers State Government agencies, Other Authorities and Local Government Councils and accounted for 3147 (3005 *p/y*) new complaints. When these were added to 309 (287- *p/y*) existing complaints under investigation from the previous year, the Ombudsman Office considered 3456 (3292- *p/y*) complaints during 2004-05.

Of these, the Office conducted investigations (preliminary or full) into 1846 (1674- *p/y*) complaints; and of the remaining complaints, 1284 (1166- *p/y*) complaints were resolved by provision of advice to complainants; 7 (17- *p/y*) complaints resulted in conciliation conferences, 5 (8- *p/y*) determinations were made by the Ombudsman pursuant to section 132 of the *Water Resources Act 1997* and a further 111 (118- *p/y*) complaints were disposed of as being outside jurisdiction, declined or withdrawn. At the end of the reporting year 203 (309- *p/y*) complaints were left over for investigation during 2005-06.

The level of new complaints increased by 4.7 % (2.0% - *p/y*) (3005 to 3147) and the number of matters finalised increased by 9.1% (3.3% - *p/y*) (2983 to 3253). Whilst the staffing establishment of my Office remained unchanged, the management of the increased workload and output could not have been achieved without staff commitment to continual improvement and an additional officer on a work training program as an Investigating Officer since July 2004.

The number of General complaints under investigation less than six months old increased from 65% of total number of General complaints under investigation in 2003-04 to 67.5% in the current reporting year. This is pleasing as it demonstrates that a greater number of complaints were finalised within six months giving complaints a quick outcome even if it were that there was no error of administration on the part of the agency. Whilst there will always be complex matters that can take up to two years to finalise this year saw the number of General matters greater than 12 months old decrease from 51 to 28.

GENERAL JURISDICTION 01 Jul 2004 to 30 Jun 2005			
	2004-05	2003-04	Variation
Number of cases open 01 Jul 04	309	287	8%
Number of cases opened 01 Jul 04 to 30 Jun 05	3147	3005	5%
Number of cases closed 01 Jul 04 to 30 Jun 05	3253	2983	9%
Number of cases still under investigation 01 Jul 05	203	309	-34%

■ Freedom of Information

Another responsibility of the Ombudsman is to conduct reviews under the Freedom of Information legislation. During the year there were 281 (341- p/y) contacts, of which 124 (78- p/y) were applications requesting review by my Office. With 62 (30- p/y) reviews carried over from the previous year, the total number of matters requiring review/advice during the year was 343 (371- p/y).

My Office determined 106 (48- p/y) applications for external review and conducted full and preliminary investigations into 3 (9- p/y) matters. Of the remaining 234 (314- p/y) matters, 185 (160- p/y) were satisfied with the provision of advice and 0 (92- p/y) were disposed of as being outside jurisdiction or withdrawn. Reviews continued into 49 (62- p/y) matters at the conclusion of the year of this report.

The level of new requests for review increased by 60.% (27%- p/y) (78 to 124) and the number of matters finalised increased by 108.3% (-18.3%- p/y) (48 to 106).

In this area of work the number of applications for review less than six months old decreased from 74.2% of the total number of FOI review applications under consideration in 2003/2004 to 57.1% in the current reporting year. This is of concern to me as the number of determinations to be made greater than 12 months old increased from 2 to 15.

FREEDOM OF INFORMATION 01 Jul 2004 to 30 Jun 2005			
	2004-05	2003-04	Variation
Number of cases open 01 Jul 04	62	30	107%
Number of cases opened 01 Jul 04 to 30 Jun 05	281	341	-18%
Number of cases closed 01 Jul 04 to 30 Jun 05	294	309	-5%
Number of cases still under investigation 01 Jul 05	49	62	-21%

■Health jurisdiction

The Health Complaints Unit of the Office considered 543 (439- p/y) new complaints pertaining to public health agencies; with another 67 (58- p/y) under investigation from the previous year. The total number of complaints which required investigation during the year were 610 (497- p/y). My Office conducted investigations (preliminary or full) into 337 (252- p/y) matters; 206 (139- p/y) complaints were the subject of advice only; 29 (39- p/y) complaints were disposed of as being outside jurisdiction, declined or withdrawn; and 38 (67- p/y) complaints are yet to be completed.

The level of new health complaints increased by 23.7% (-6.84%- p/y) (430 to 543) and the number of matters finalised increased by 33% (-8.1%- p/y) (430 to 572).

The number of complaints less than six months old decreased from 59% of all of health complaints in 2003/2004 to 58% in the current reporting year. This was a very sensitive area of my jurisdiction and it is pleasing to note that despite this, the majority of matters were able to be resolved within six months.

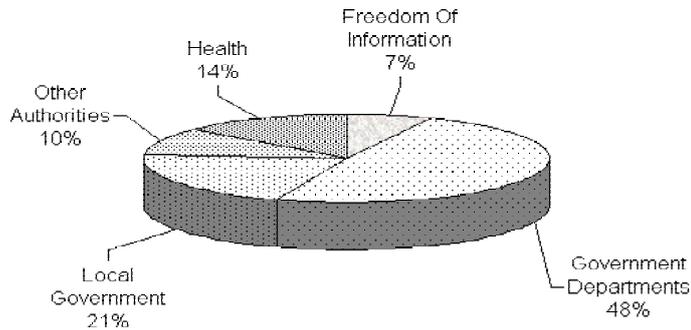
HEALTH 01 Jul 2004 to 30 Jun 2005			
	2004-05	2003-04	Variation
Number of cases open 01 Jul 04	67	58	16%
Number of cases opened 01 Jul 04 to 30 Jun 05	543	439	24%
Number of cases closed 01 Jul 04 to 30 Jun 05	572	430	33%
Number of cases still under investigation 01 Jul 05	38	67	-43%

■Complaints outside jurisdiction

In addition to investigative and advisory roles, the Office receives numerous other enquiries from the public which are referred to other review or complaint handling agencies, such as the Commonwealth Ombudsman, Employee Ombudsman, Police Complaints Authority, Banking Ombudsman and various Industry complaint handling agencies. While these referrals are not routinely recorded, periodical data suggests these contacts would have exceeded 4700 (4500- p/y).

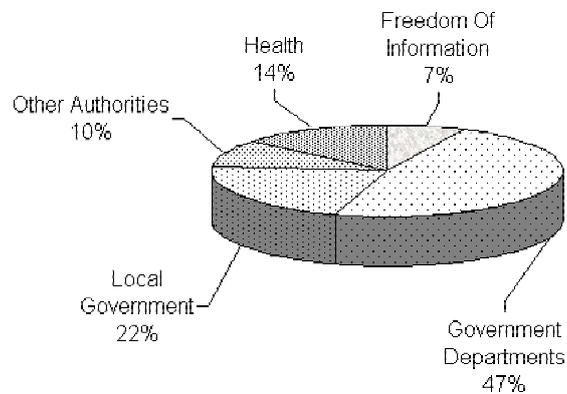
OMBUDSMAN AND FREEDOM OF INFORMATION MATTERS RECEIVED
01 Jul 2004 to 30 Jun 2005

New Cases	2004-05	2003-04	Variation
Government Departments	1921	1885	+2%
Local Government	831	783	+6%
Public Hospitals and Health Services	543	439	+24%
Other Authorities	395	337	+17%
Freedom of Information	281	341	-18%



COMPLETED OMBUDSMAN AND FREEDOM OF INFORMATION MATTERS
01 Jul 2004 to 30 Jun 2005

Complaint/Application	2004-05	2003-04	Variation
Government Departments	1961	1891	+4%
Local Government	891	762	+17%
Public Hospitals and Health Services	572	430	+33%
Other Authorities	401	330	+22%
Freedom of Information	294	309	-5%



The Ombudsman Office

Fundamental values

The fundamental values in Australian public administration include openness, fairness, participation, impartiality and rationality.

The core elements of justice delivered by administrative law decision-makers include lawfulness, rationality and fairness. Other elements on the process side include accessibility and affordability by the citizen, equitable cost to the community, timeliness and intelligible explanation of decision-making.

The idea of the Ombudsman is to extend fairness to those circumstances in public administration which existing systems of justice may be unable to correct and also recommend that due process be observed. The Ombudsman has adopted within reasonable bounds, a receptive, albeit detached approach to jurisdiction and functions which are now governed by the provisions of the Ombudsman Act, Royal Commissions Act, Local Government Act, Freedom of Information Act and the Whistleblowers Protection Act.

The Ombudsman has not preferred an unduly legalistic or technical approach; but that does not mean that the Ombudsman is at liberty to exceed his jurisdiction or will simply pursue an outcome which is not supported by relevant facts and demands of fairness.

Unless the complaint is obviously misconceived the Ombudsman proceeds on the basis of a presumption which weakly favours the complainant, until such time as a reasonable explanation is provided by the authority in response to his enquiries.

The Ombudsman has said in previous reports, that he cannot act simply as an aloof observer of a contest between the citizen and the agency, who will eventually decide the issue according to the weight of evidence presented to the Ombudsman.

In such contest the agency, supported by greater resources, would almost always be in the superior position. Generally, the Ombudsman considers his task as Ombudsman is to actively elicit and test the information from all sides who may be involved.

Pursuit of fairness

The staff of the Ombudsman Office function as a support team with a commitment to fairness and professionalism in the pursuit of their various tasks as assigned or delegated by the Ombudsman.

The synergy required to carry out all the various functions of such a jurisdictionally diverse office results from a common understanding of the institution of Ombudsman.



Fairness in administration

The State Ombudsman will in the exercise of Office core functions, promote the betterment of administrative actions and just, fair and reasonable treatment of all persons by State and local authorities.

The realisation of the fairness vision for the Office of the Ombudsman will be achieved by a continuing commitment to the pursuit of the aims and strategies laid down in the Office's Service Principles.



The Ombudsman's role

The role of the South Australian Ombudsman is to promote fairness, openness and good public administration in South Australia.

The Ombudsman will:

- promote awareness of the role of the Ombudsman and the right to complain or seek review;

and

- independently and objectively:
 - consider complaints and where appropriate investigate and recommend remedies;
 - conduct external reviews and issue decisions pursuant to Freedom Of Information legislation;
 - conduct conciliation conferences; and
 - encourage agencies to effectively respond to complaints made directly to them.

The above role is undertaken with reference to the following legislation:

- Ombudsman Act
- Freedom of Information Act
- Local Government Act
- Royal Commissions Act
- Whistleblower's Protection Act
- Other legislation affecting the Ombudsman



Ombudsman Office principles

The Ombudsman Office work performance is based on the following principles:

■ **Maintaining independence and impartiality**

A commitment to act in a manner that maintains the independence and objectivity of the Ombudsman.

■ **Facilitating access to services**

A commitment to ensuring people can, and know how to, access the services through a range of technologies and other avenues.

■ **Respect for the views of all parties**

A commitment to ensuring that all parties' points of view are heard and considered so that action can be taken with regard to all relevant facts.

■ **Fairness and integrity**

A commitment to lawful action based on relevant considerations and at all times acting in good faith.

■ **Transparency in dealings**

A commitment to keeping people informed about their rights and any decisions affecting them, and in an appropriate manner.

■ **Responsiveness in service delivery**

A commitment to providing prompt service and facilitating speedy resolutions as defined by the Service Principles of the Office.

■ **Accountability for actions**

A commitment to using the Office resources efficiently, effectively and responsibly with a results oriented approach with ongoing critical appraisal and reports on performance.



Service principles

The Ombudsman Office will consider all public complaints and will act within the statutory powers and the limits of the office resources.

If the complaint is within the Ombudsman jurisdiction, the Office will, in normal circumstances:

- (i) Provide prompt service, but with equal regard for other complainants;
- (ii) Give careful consideration to matters which the Ombudsman deems to be relevant;
- (iii) Provide, if possible, a timely resolution.

Throughout the enquiry the Ombudsman will be independent, impartial, fair and reasonable in the consideration of the complaint. The Ombudsman will **not** act as an advocate for any interested party including the complainant and the agency.

If the complaint is found to be justified, the Ombudsman will, if he thinks it appropriate, devise and recommend an appropriate remedy.

The Ombudsman may also recommend such administrative changes, as he thinks appropriate, in the circumstances of the case.

If the complainant has not received a result or progress report from the Ombudsman Office after eight weeks, it is reasonable to telephone the officer assigned to consider the complaint to enquire about the progress. If the complainant is not satisfied with the response, the complainant is at liberty to contact the Ombudsman's Administrative Assistant and the complainant's concerns will be directly conveyed to the Ombudsman (or the Deputy Ombudsman) for further consideration and action, if necessary. Except in exceptional circumstances, the matter will not be reassigned to any other person within the Office.

Note

These principles are only advisory in nature and do not affect any duties, functions or discretionary powers under the relevant legislation.

There are similar Service Principles for the review process under the Freedom of Information Act.

Conciliation

17A—Conciliation

- (1) The Ombudsman may, at any time, decide to attempt to deal with a complaint by conciliation.
- (2) The Ombudsman may, in attempting conciliation under this section, act personally or through some other person.
- (3) The Ombudsman may, if satisfied that the subject of a complaint has been properly resolved by conciliation under this section, determine that the complaint should not be investigated or further investigated under this Act.

Ombudsman Act 1972

Case study

District Council of Ceduna

The Complaint

A complaint was received against the Council regarding the Council's access to land and the removal of rubble from the site at a time when no agreement was in force between the Council and the complainant. There was concern on the part of the owner of the land, that the Council was excavating the quarry beyond the property boundary without approval from the neighbour.

There were also allegations that the Council had failed to secure the access after use and when the owner of the land locked the access gate and advised the Council of this, it next accessed the property along a track it made through a fence around the gate.

These concerns were promptly rectified when the owner of the land brought it to the Council's attention, however the Council had not responded to concerns raised by the complainant in relation to its compliance with previous agreement to quarry the site and its failure to enter into negotiation for a new agreement.

The Council was also alleged to have made public statements about the complaint and the fact that the Ombudsman was investigating the complaint.

Ombudsman's Investigation

Following a preliminary investigation, it was resolved that this matter should proceed to a conciliation conference to be chaired by the Ombudsman.

Prior to the conference the Ombudsman conducted a site inspection in the presence of the complainant.

The Ombudsman then held preliminary discussions with the Council as to its actions and opinions on the matter and then brought the parties together in an attempt to reach a resolution.

The Council was represented at the conciliation conference by the Mayor, the Chief Executive Officer and the Manager - Technical Services & Works.

At the outset of the conference the Mayor expressed regret as to what had transpired over time and apologised to the complainant. The complainant gave account of his treatment at the hands of Council staff during his earlier attempts to have his concerns resolved. It was claimed that the Council breached the original agreement and that the Council was unreasonably delaying entering into a new agreement.

There was discussion as to the access to the property and whether the access road was public or private.

The "confidentiality" as to the details afforded by the conference enabled the parties to discuss and respond openly and honestly to the matters raised resulting in an acceptable resolution being reached.

Outcome and Ombudsman's opinion

It was agreed by all parties that the terms of the resolution would remain confidential except for the media release relating to the Council's formal apology, the wording of which would be recommended to the Council by the Ombudsman.

The importance of maintaining confidentiality during the process of an Ombudsman investigation was emphasized. This is not only in keeping with the *Ombudsman Act 1972* which leans in favour of confidentiality; not displaced by the provisions of the *Local Government Act 1999*, but protects all parties whose matter is yet to be determined. Once the investigation is complete, apart from any confidential terms of settlement, the parties and the Ombudsman may publish the results of an investigation insofar as these affect them.

There may be cases when a Council may wish to publish information prior to the conclusion of an Ombudsman's investigation, in order to correct any earlier publication of misleading information or an erroneous account of a matter as had occurred in this case.

Freedom of Information

The full impact of the *Freedom of Information (Miscellaneous) Amendment Act 2004* which came into operation on 1 January 2005 is yet to be felt with cases under review by the Ombudsman. Applications for extension of time, pursuant to section 39 (4) of the *Freedom of Information Act*, and the displacement of section 21 of the *Ombudsman Act 1972*, which applies to Cabinet documents and amendments to the confidentiality provisions pertaining to Crown contracts, have yet to make a significant appearance before the Ombudsman.

A number of reviews during the year have resulted in determinations by the Ombudsman. The majority of reviews have been completed under the provisions of the *Freedom of Information Act 1991* (as they predate the 2004 Amendment Act).

In my previous report to Parliament (32nd Annual Report at page 40), I referred to persistent resource constraints for Freedom of Information reviews in the Ombudsman Office (two permanent positions) and my past efforts to obtain an additional position within the Legal (Freedom of Information) Unit of the Ombudsman Office.

Since that report this temporary arrangement has been extended for a further year. I express my appreciation to the Attorney-General and the Justice Department for this support. Two significant factors now provide unequivocal rationale for converting this temporary position into a permanent FTE position. First, there has been 60% growth in the number of new applications for review during the reporting year and an increase in the number of other Freedom of Information-related contacts with the Office. The legal unit is required to assist in the training of agency staff and in the audit of relevant Freedom of Information practices and procedures.

The Legal (FOI) Unit does not merely conduct Freedom of Information external reviews. The unit plays a close advisory and educative role with State Records in the administration of the *Freedom of Information Act*, and, as the statistics show, time is regularly spent providing formal and informal advice to government and the public about freedom of information issues and concerns. (See Appendix D - an example of a typical educational package provided by the Ombudsman legal (FOI) unit to agencies.)

Apart from the agency personnel training sessions mentioned above, the Legal Unit also regularly conducts seminars and workshops for the public on the provisions of the Act.

Section 54A provides that the Minister administering the *Freedom of Information Act* must develop and maintain training programmes to assist agencies in complying with the Act, in consultation with the Ombudsman (and the Police Complaints Authority).

Dedicated extra resources are required to expand this role and assist a greater number of agencies in this respect.

There is an extended role of the Ombudsman in reviewing, and in appropriate cases revising, the original determinations of all agencies.

In the appeal of the *Department of Premier and Cabinet v Redford (2005) SADC 58 (1 June 2005)*, the Court further observed:

“It seems to me that the function of the Ombudsman on an external review lies somewhere between the adversarial function of a court and the inquisitorial function of an administrative body. The function of a court is to determine a matter upon the basis of the material put before it by the parties without any enquiry of its own and by reference if necessary to an onus of proof. The function of an administrative body, unless constrained by legislative direction, is to arrive at the correct or preferable decision on the material before it, including any material that it has gathered as the result of its own enquiry. The function of the Ombudsman is neither wholly inquisitorial nor wholly adversarial. Not wholly inquisitorial, because an onus is imposed upon the agency by s.48. Not wholly adversarial, because the results of an investigation (if the Ombudsman chooses to conduct one), or the interests of the public (whether for or against disclosure), or the interests of a third person (as determined by consultation), may need to prevail over the wishes of the parties.

In the result, I consider that the Ombudsman has a discretion rather than an obligation to consider exemptions not relied upon by an agency. It necessarily follows, and counsel for the respondent did not contend otherwise, that his review is not confined, as a matter of law, to exemptions relied upon by the agency.

This is an unusual case. The appellant now takes the position, to take document 60 as an example, that the document attracts on its face the business affairs exemption in clause 7 of schedule 1. Yet the appellant made no such submission to the Ombudsman on the external review. As the Ombudsman observed in his reasons, the appellant did not choose to make a formal ‘claim’ with respect to the exemption.

Clearly, the Ombudsman’s task extends beyond the boundaries laid down by the parties to the review. This extended task, realistically considered, requires as a full complement, three permanent FTE positions, with the requisite legal knowledge and experience and an appropriate remuneration comparable to those employed in parallel positions within the public sector.

**FREEDOM OF INFORMATION
Received 01 July 2004 to 30 June 2005**

Adelaide Hills Health Service	1	0.4%
Alexandrina Council	3	1.1%
Attorney-General's Department	8	2.8%
Board of Examiners (Law Society)	2	0.7%
Central Northern Adelaide Health Service	27	9.6%
Children, Youth and Women's Health Service	3	1.1%
City of Adelaide	1	0.4%
City of Charles Sturt	6	2.1%
City of Holdfast Bay	1	0.4%
City of Norwood, Payneham & St Peters	1	0.4%
City of Onkaparinga	2	0.7%
City of Port Adelaide Enfield	4	1.4%
Commissioner for Equal Opportunity	1	0.4%
Corporation of the City of Adelaide	6	2.1%
Corporation of the City of Unley	2	0.7%
Corporation of the Town of Walkerville	3	1.1%
Country Fire Services Board	8	2.8%
Courts Administration Authority	3	1.1%
Dental Board of South Australia	3	1.1%
Department for Correctional Services	12	4.3%
Department for Environment and Heritage	3	1.1%
Department for Families and Communities	20	7.1%
Department of Admin and Information Services	7	2.5%
Department of Education & Children's Services	19	6.8%
Department of Health	7	2.5%
Department of Primary Industries & Resources	1	0.4%
Department of the Premier and Cabinet	2	0.7%
Department of Transport & Urban Planning	6	2.1%
Department of Treasury and Finance	1	0.4%
Department of Further Education, Employment, Science & Technology	1	0.4%
District Council of Yankalilla	1	0.4%
Environment Protection Authority	9	3.2%
Flinders University Council	5	1.8%
Gawler Health Service Inc	1	0.4%
Guardianship Board	1	0.4%
Institute of Medical & Veterinary Science	2	0.7%
Legal Services Commission	1	0.4%
Liquor & Gambling Commissioner	3	1.1%
Medical Board of SA	5	1.8%
Metropolitan Domicillary Care	1	0.4%
Mid-Murray Council	3	1.1%
Mid-North Regional Development Board	1	0.4%
Mid-West Health Services	3	1.1%
Minister of Health	1	0.4%
Mt Gambier & Districts Health Service Inc	1	0.4%
Northern Metropolitan Community Health Service	1	0.4%
Nurses Board of SA	7	2.5%
Police Complaints Authority	1	0.4%
Public Advocate	2	0.7%
Public Trustee	1	0.4%
Regional Council of Goyder	9	3.2%
Registrar of Nurses Board	10	3.6%
Renmark Paringa Council	1	0.4%
Renmark Paringa District Hospital Inc	1	0.4%
RSPCA Inspector	1	0.4%
SA Ambulance Service	3	1.1%
SA Housing Trust	3	1.1%
SA Superannuation Board	2	0.7%
SA Water Corporation	4	1.4%
Southern Adelaide Health Service	9	3.2%
The Berri Barmera Council	1	0.4%
The Corporation of the City of Whyalla	4	1.4%
The District Council of Mallala	1	0.4%
The Treasurer	1	0.4%
Trans Adelaide	1	0.4%
University of Adelaide Council	1	0.4%
Whyalla Hospital and Health Services Inc.	1	0.4%
WorkCover Corporation	14	5.0%
TOTAL	281	

**FREEDOM OF INFORMATION
Completed 01 July 2004 to 30 June 2005**

Adelaide Hills Health Service	1	0.3%
Alexandrina Council	4	1.4%
Architects Board of South Australia	2	0.7%
Attorney-General's Department	8	2.7%
Board of Examiners (Law Society)	1	0.3%
Central Northern Adelaide Health Service	26	8.8%
Children, Youth and Women's Health Service	3	1.0%
City of Adelaide	1	0.3%
City of Charles Sturt	4	1.4%
City of Holdfast Bay	1	0.3%
City of Norwood, Payneham & St Peters	1	0.3%
City of Onkaparinga	2	0.7%
City of Port Adelaide Enfield	3	1.0%
City of Tea Tree Gully	1	0.3%
Commissioner for Equal Opportunity	1	0.3%
Corporation of the City of Adelaide	6	2.0%
Corporation of the City of Unley	2	0.7%
Corporation of the Town of Walkerville	2	0.7%
Country Fire Services Board	7	2.4%
Courts Administration Authority	3	1.0%
Dental Board of South Australia	3	1.0%
Department for Correctional Services	15	5.1%
Department for Environment and Heritage	3	1.0%
Department for Families and Communities	17	5.8%
Department of Admin and Information Services	10	3.4%
Department of Education & Children's Services	19	6.5%
Department of Health	7	2.4%
Department of Human Services	4	1.4%
Department of Primary Industries & Resources	1	0.3%
Department of the Premier and Cabinet	3	1.0%
Department of Transport & Urban Planning	5	1.7%
Department of Treasury and Finance	5	1.7%
Department of Further Education, Employment, Science & Technology	1	0.3%
District Council of Yankalilla	1	0.3%
Environment Protection Authority	10	3.4%
Flinders University Council	5	1.7%
Gawler Health Service Inc	1	0.3%
Guardianship Board	1	0.3%
Institute of Medical & Veterinary Science	2	0.7%
Legal Services Commission	1	0.3%
Medical Board of SA	5	1.7%
Metropolitan Domicillary Care	1	0.3%
Mid-Murray Council	4	1.4%
Mid-West Health Services	1	0.3%
Minister for Emergency Services	1	0.3%
Minister for Industrial Relations	3	1.0%
Minister for Health	2	0.7%
Mt Gambier & Districts Health Service Inc	1	0.3%
North Western Adelaide Health Service	1	0.3%
Northern Metropolitan Community Health Service	1	0.3%
Nurses Board of SA	7	2.4%
Police Complaints Authority	1	0.3%
Public Advocate	2	0.7%
Public Trustee	1	0.3%
Regional Council of Goyder	12	4.1%
Registrar of Nurses Board	10	3.4%
Renmark Paringa Council	4	1.4%
Renmark Paringa District Hospital Inc	1	0.3%
Royal Adelaide Hospital	1	0.3%
RSPCA Inspector	1	0.3%
Rural City of Murray Bridge	1	0.3%
SA Ambulance Service	2	0.7%
SA Housing Trust	3	1.0%
SA Superannuation Board	2	0.7%
SA Water Corporation	5	1.7%
Southern Adelaide Health Service	7	2.4%
The Berri Barmera Council	1	0.3%
The Corporation of the City of Whyalla	3	1.0%
The District Council of Mallala	1	0.3%
The Treasurer	1	0.3%
University of Adelaide Council	1	0.3%
Whyalla Hospital and Health Services Inc.	1	0.3%
WorkCover Corporation	13	4.4%
TOTAL	294	



Freedom of Information - description of outcomes

Apart from the Ombudsman's function to review agencies' determinations as an external review body under the *Freedom of Information Act 1991* the Ombudsman provides advice and conducts investigations into freedom of information related administrative actions of agencies under the Ombudsman's jurisdiction pursuant to the *Ombudsman Act 1972*.

■ FOI Advice given

Formal or informal freedom of information advice was provided to the public and/or agency.

■ FOI Review - Revised determination directed

At the conclusion of external review, the Ombudsman was satisfied that a different determination should be made by the agency in the circumstances of the case and directed the agency to make a revised determination in specified terms; or substituted his own determination (when dealing with determinations made after the commencement of the amendments to the Act on 1 January 2005).

■ FOI Review - Agency revised determination

During external review and after receiving comment from the Ombudsman, the agency recognised that a revised determination was appropriate in part or in whole. There was no need for a formal direction by the Ombudsman to revise the determination/substituted determination.

■ FOI Review - Determination confirmed

At the conclusion of external review, the Ombudsman was satisfied that a different determination did not need to be made.

■ FOI Review - Withdrawn

During or at the conclusion of external review, the applicant decided to withdraw the application. The applicant may have decided to pursue other avenues of redress or document access; or with the assistance of the Ombudsman, the applicant's grievance with the agency may have been resolved in part or in whole; or with the passage of time, the applicant no longer wished to pursue document access.

■ FOI Investigation - Reasonable resolution

A formal or informal investigation was conducted into the FOI complaint and a reasonable resolution was achieved. This could involve delays in processing, locating missing documents, dealing with destruction of documents, etc.

■ FOI Investigation - Not sustained

The investigation of the FOI complaint revealed no administrative error on the part of the agency.

■ Outside jurisdiction

It was concluded that either the body the subject of complaint was not "an agency" for the purposes of the *Freedom of Information Act 1991*, or the application for review to the Ombudsman was premature and the Ombudsman therefore lacked the jurisdiction to conduct the review.

The extracts and case studies which follow, represent the first practical opportunity for the Ombudsman to publish his decisions as envisaged by the recent amendments to the Freedom of Information Act. As this Report will be available on the Ombudsman's website (www.ombudsman.sa.gov.au), this provided the most practical form of public access to the Freedom of Information cases. Future improvements to scope and mode of publication will evolve in conjunction with similar expectations in other areas of the Ombudsman's work.

Freedom of Information matters of significance

The following cases before the Ombudsman represent some of the issues of significance for agencies.

■ Department for Correctional Services

A prisoner was seeking a copy of a Psychological report dated June 2004 - recommendations for case management.

The agency relied on clause 16(1)(a)(i) to refuse access to the report:

Documents concerning operations of agencies

16. (1) A document is an exempt document if it contains matter the disclosure of which—
- (a) could reasonably be expected—
 - (i) to prejudice the effectiveness of any method or procedure for the conduct of tests, examinations or audits by an agency; ... and
 - (b) would, on balance, be contrary to the public interest.

This is an extract of the decision **which upheld the agency's refusal of access**. I have highlighted the more interesting aspects of the case:

1. *In reaching my decision I have taken into account the contents of the report that have been released to the applicant. I have also taken into account the confidential submissions referred to in paragraph 23 of this decision. I have also had regard to the decision of the New Zealand High Court in the case of Dean Wickliffe and the Parole Board and the AG (M 139/00 (CO); decision of the New Zealand High Court handed down on 29 June 2000) in which Anderson J referred (at paragraph 4) to the refusal of the release a copy of a Psychopathy Checklist ('PCL assessment') which detailed the methodology in assessment of the risk of re-offending as 'those who might be assessed could deliberately distort the results if they knew the details.' At paragraph 7 he also made the following comment: '[g]iven that disclosure of the documentation could very well lead to the destruction of its utility'. The agency also referred me to the case of Jason Burke and the Superintendent of Wellington Prison and the Parole Board and the AG. (CP 144/ 02; decision of the New Zealand High Court handed down 4 April 2003). In that case the court commented that notwithstanding the fact that the document was not released to the applicant, nevertheless the Parole Board could rely upon the contents, as it was in the public interest to do so. The court indicated however that the report would be released only to 'properly qualified people [eg including registered psychologists acting for prisoners] who because of their qualifications, will understand and abide by the necessary confidentiality and ethical restraints.*

This case also addressed and supported the agency's position as to the utility of the test being compromised if the assessment criteria were released into the public domain. By analogy, and in light of the agency's submissions and the contents of those portions of the document the subject of review by me, I am persuaded that the agency has justified its determination of refusing access to the remaining portion of the report claimed exempt on the basis that such release could reasonably be expected to prejudice the utility of the test both in respect of the prisoner and in its general application.

- I consider that the public interest issues in favour of disclosure have been adequately addressed by the material that has been released to the applicant. The report contains a history of his offending, his personal history, relevant physical and mental health history, and a summary of his psychological assessment. In relation to the public interest factors against disclosure, I consider that there is a significant public interest in identifying those persons in the prison population who are at risk of re-offending for the purpose of inter alia assessing the suitability of that person for parole and in the development of treatment plans for the purpose of reducing this risk while that person is in the prison population.*

■ Department of Health

- Decision on cabinet documents upholding the agency's determination to refuse access on the basis of clause 1 of Schedule 1 to the Act. The relevant portion below relates to the agency's processing of the application and its conduct during external review:

Processing of the application

I consider it appropriate to comment on your agency's handling of the application and the review stages. It was not until the meeting on 16 February 2005 that the existence of the final report was disclosed. And it was not until the Ombudsman's delegate reviewed your agency's file that she became aware of the existence of the draft reports. Until that point in time your agency had indicated that there were no documents that fell within the scope of the application. Clearly that was incorrect. I consider that the draft reports are documents falling within the scope of the application. Unless an applicant specified that he or she was only seeking a final report then I do not think that your agency should assume that is what is sought. Each application would need to be dealt with on its merits - if there is uncertainty then clarification can always be sought from the applicant. I understand that the system for processing of application under the Act has since been changed and that in future drafts will be identified where appropriate and dealt with as part of the process.

*Further, during the course of the review I received somewhat confusing submissions from your agency to the effect that the document did not exist, but that in any event it was a Cabinet document. I am however satisfied following the meeting between the Ombudsman and your officers that your agency now understands that the issue as to whether a document is exempt needs to be dealt with **after** the document has been identified as being a document falling with the scope of the application. That a document may fall within an exemption provision contained in Schedule 1 to the Act is not a basis for excluding it when processing an application under the Act. In the present case, that the final report is to be submitted to Cabinet does not mean that it is not your agency's document and therefore capable of being the subject of an application under section 12 of the Act.*

■ SA Water

A s18(2a) decision in which agency agreed to process the application after conciliation conference. Extract of the agreement is as follows:

Section 18(2a) of the Act provides as follows:

(2a) An agency may refuse to deal with an application if, in the opinion of the agency, the application is part of a pattern of conduct that amounts to an abuse of the right of access or is made for a purpose other than to obtain access to information.

An extract of the agreement reached at the conference follows:

1. that, in consultation with the Ombudsman, you will attempt to refine the scope of your application so as to include the precise documents you are seeking;
2. that the agency will agree to this amendment and consider your application accordingly;
3. that the agency will withdraw its determination regarding section 18(2a) of the Act;
4. that the current review will be suspended pending the above;
5. that in an effort to minimise the resources to be devoted to any future applications under the Act you will endeavour to be more specific and/ or more focussed in your requests;
6. that at the time of receipt of any future applications, the agency will endeavour to clarify with you the scope of such application, in an effort to expedite the process and minimise the resources which are required to be devoted to such applications; (In accordance with the spirit of the Act and the obligations as set out in section 15)
7. that the agency has indicated an intention in future to impose fees in respect of applications under the Act, as per the *Freedom of Information (Fee and Charges) Variation Regulation 2004* (a copy of which is **enclosed**);
8. that you have indicated that Mr X is willing to assist you in any future applications in light of the agency's decision in respect of the imposition of fees;
9. that the agency will consider any future applications in light of the requirements of section 18(1) and (2) of the Act;
10. that the agency representative will endeavour to provide you with a summary of the actions undertaken in response to the various allegations which you raised during (and subsequent to) your employment about mismanagement within the agency.

■ Parliamentary Privilege

This was the first decision on **Parliamentary Privilege** [clause 17(c) of Schedule 1 to the Act] by the Ombudsman there being no decisions of the courts in this state dealing with the issue in the context of FOI.

Clause 17(c) provides as follows:

17—Documents subject to contempt etc

A document is an exempt document if it contains matter the public disclosure of which would, but for any immunity of the Crown—

or
(c) infringe the privilege of Parliament.

The following is an extract from the decision:

In light of the above, in my view there are **two issues** to be addressed when considering the protection afforded by parliamentary privilege and clause 17(c):

- (1) Whether the agency has shown that the documents have the status of 'proceedings in parliament' (the first requirement); and
- (2) If the first requirement is satisfied, the second requirement is for the agency to establish that the disclosure pursuant to the Act would amount to an 'impeachment' or 'questioning' of those proceedings within the meaning of Article 9 ('the second requirement').

Applicability of clause 17(c)

Proceedings in Parliament - the first requirement

1. In the context of all of the above analysis, I consider that that Estimates hearings can be considered to be 'proceedings in parliament' within the meaning of Article 9.
2. Article 9 allows us to include documents which were specifically prepared for briefing for the purposes of these proceedings. Documents prepared for answering questions in Estimates/Parliament are covered. However, there must be *a close proximity* between the documents and the proceedings. The agency must show this proximity to the Ombudsman, if it is not evident from the face of the document. However I note that 'source material/ documents' from which privileged documents were copied or prepared would **not** be protected.
3. I am satisfied however that Document 1 falls within the scope of proceedings in parliament.

Impeachment or questioning - the second requirement

4. In my view, an application under the Act calling for the production of a document which meets the first requirement would infringe the privilege of parliament. Having regard to the purpose for the creation of the privilege, and the case law dealing with the issue, albeit limited in the context of an application under the Act, I consider that **the release of the document pursuant to an application for access under the Act** amounts to impeachment for the purposes of clause 17(c) of Schedule 1 to the Act. That is because release pursuant to the Act is to be taken as public disclosure for the purposes of clause 17(c).
5. If a Member of Parliament could resist a subpoena for the production of a document in court, release of the same document under the Act would, in my view, infringe the privilege of Parliament. A Member of Parliament can resist the subpoena for documents if he or she can prove that it was prepared for the 'purpose of or incidental to the transacting of business' of the House of Assembly or Legislative Council, or one of their committees, or for 'proceedings in Parliament'. This is in fact even more reason to resist production in an FOI context, as subpoenaed docs can only be used for the purposes of the particular case, whereas FOI disclosure is disclosure to the world at large.
6. I regard the process of considering an agency's claims with respect to this aspect of clause 17(c) as similar in effect to when I am considering the application of clause 10 (which deals with claims of exemption on the basis of legal professional privilege). That is, once I am satisfied that a document can properly be regarded as being privileged from production on the grounds of legal professional privilege it is irrelevant to a claim being successful pursuant to clause 10(1) that the specific contents of the appear to be innocuous. That may be a proper basis for the agency to consider waiving its privilege but it is certainly not a basis for me to overturn the claim of the exemption, although (in proper cases) I may suggest to the agency that it consider such waiver.
7. It follows therefore that the second requirement of clause 17(c) has been met.

There were 4 other decisions involving parliamentary privilege that were determined shortly thereafter with similar outcomes to this.

■ Ombudsman's audit of agency's Freedom of Information process

The Ombudsman wrote to Department of Education and Children's Services on 30 March 2005 commencing the audit of that agency's Freedom Of Information processes, pursuant to section 14A of the *Ombudsman Act 1972*. The Ombudsman's audit is scheduled for September 2005.

■ A matter of jurisdiction

The Ombudsman declined jurisdiction in relation to an application under the Act directed at the Board of Examiners (established under the *Legal Practitioners Act 1981*):

I advise that in light of all submissions received in this matter, and my own investigations, I consider that the Freedom of Information Act 1991 ('the Act') does not apply to the Board. In the circumstances, I consider that I do not have jurisdiction to conduct an external review under the Act in relation to the Board. Notwithstanding that I consider that the Board is any agency as defined in section 4 of the Act, I also consider that the Board performs work of a quasi-judicial nature and therefore by virtue of section 6 of the Act, the Act does not apply to it save and except in relation to its administrative functions.

■ Agency claimed exemption under clause 10(1) of Schedule 1 to the Act:

- (1) *A document is an exempt document if it contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.*
- (2) *A document is not an exempt document by virtue of this clause merely because it contains matter that appears in an agency's policy document.*

An essential element to a claim under clause 10(1) is the confidentiality of the information in the document. The release of the document from SAPOL to DAIS raised issues about whether confidentiality had been lost and/ or whether legal professional privilege had been waived.

The Ombudsman wrote [via email] to agency as follows:

Dear Mr D

As discussed I have spoken with Ms H regarding the circumstances surrounding the receipt of the letter from the CSO addressed to SAPOL.

Ms H indicated that she was given the letter as 'background material' by Mr P from SAPOL. She does not recall there being claim of confidence by SAPOL.

I confirm that you have agreed to withdraw the claim of exemption pursuant to clause 10 for this document on the basis that the document does not appear to pass the test of being a confidential communication.

It would be appropriate for your agency to advise SAPOL in due course as they may wish to seek a review of this decision.

*I shall advise the applicant of your decision. **You should now release a copy of the document to her direct.***

The agency therefore in effect revised its decision during the course of the external review which is reflected in the Ombudsman's decision [see below] - however it would not have done so but for our intervention.

■ Relationship between FOI and discovery process

Rights under the Act are in addition to those in court proceedings - but facts in the case need to be taken into account as well as restraints on use to which documents can be put in discovery vis a vis access under Act in determining whether documents are exempt and/ or whether it is unreasonable to provide such access under the Act.

Extract from decision:

1. In the absence of prosecutorial obligations of disclosure I might have taken a different view of the public interest and where the balance lies in this matter. My counterpart the WA Information Commissioner in the decision of *Veale and Town of Bassendean, Re* analysed the relationship between freedom of information legislation and discovery where there are criminal proceedings on foot. At paragraph 45 he made the following comments which I adopt in this review:

Although *Green* is distinguishable on its facts, the reasoning of the Tribunal is applicable to a consideration of the complaint of the applicant. The Tribunal took the view that there were differences between disclosure under FOI and production of documents in accordance with the rules of evidence in court proceedings. Because of this, considerations of whether justice would be frustrated in the applicant's trial, were not matters to which the Tribunal should give weight so as to tilt the balance in favour of disclosure under FOI. Whether or not justice is frustrated was considered to be a matter of public interest and therefore one of the factors, together with questions of privilege and public interest immunity, taken into account when considering whether documents, the subject of a subpoena, must be produced in particular civil or criminal proceedings. However the Tribunal found that the same degree of weight should not be accorded to those issues in the context of the FOI Act.

2. Although the applicant is acting for Mr "X" in civil matters I have not placed a significant amount of weight on this in my consideration of where the public interest lies. This is because Mr "X" would clearly be able to gain access to a number of the documents in pre-trial discovery in civil proceedings or by way of subpoena in civil proceedings. Although rights under the Act are in addition to such legal rights, given that Mr "X" is aware of the contents of most (if not all) of the documents, he would clearly be in a position to specify the documents in any such a request. This in turn would free him from the implied restrictions imposed on the disclosure obtained via the criminal proceedings. At the same time however it would enable the civil court to impose any restrictions it thought appropriate as to the use such information ought to be put. I consider that I ought to take into account that no such restrictions would exist (nor am I empowered to place such restrictions under the Act) were such documents to be provided under the Act when assessing the parties' submissions in this matter, particularly in relation to the issues of where the public interest lies and/ or what would amount to an unreasonable disclosure of personal affairs.

I must stress however that my overall approach to such matters is very much influenced by the specific contents of the documents the subject of this review. I am not suggesting that a party ought to be required to seek discovery - whether pre-trial or otherwise - prior to exercising his or her rights under the FOI Act. In fact my views on this issue are the opposite and coincide with those of the WA Information Commissioner in *Veale and Town of Bassendean, Re*:

Section 3(3) of the FOI Act states that the Act is not intended to inhibit access being given by other legal means available. The Act creates an **additional** means of gaining access to document, a legally enforceable right. It is inimical to the principles of our legal system to suggest that the exercise of one right, namely to commence proceedings where there is a right of action in defamation, should, in the absence of an express provision, extinguish another legal right, namely the right of access under the FOI Act.

This is the effect of the argument that once an action is commenced in the civil courts, the procedural rules of those courts assume supremacy and prevail over other rights including the right of access to documents under FOI. I am unable to accept the legitimacy of that conclusion and I do not believe that Parliament intended that to be the position.

■ **Personal affairs of carer of unaccompanied minor formerly of Woomera detention centre- whether unreasonable disclosure**

Extracts from decision

1. The applicant is the solicitor for an unaccompanied minor (the child) previously in detention at the Woomera Detention Centre in South Australia ('Woomera'), pursuant to the *Migration Act 1958*. This centre is under the responsibility of the Department of Immigration and Multicultural and Indigenous Affairs ('DIMIA').
2. The respondent, the Department for Families and Communities ('the agency'), formerly known as the Department for Human Services, is charged with the responsibility for child protection matters in South Australia under the *Child Protection Act 1993*.
3. The Minister responsible for the administration of DIMIA ('the Minister') is also the guardian of the child pursuant to the *Immigration (Guardianship of Children) Act 1946*.
4. There exists an arrangement between DIMIA and the agency for the provision of services by the respondent in relation to minors in immigration detention in South Australia pursuant to a Memorandum of Understanding dated 6 December 2001 ('the MOU').
5. The child was granted a Temporary Protection Visa under the *Migration Act* on 18 June 2003. The Minister thereafter consented to the applicant acting as the child's legal representative on 23 July 2003, in the context of an offer of repatriation to the child's country of origin (Afghanistan).
6. By application dated 17 April 2003, the applicant sought, pursuant to the *Freedom of Information Act 1991* ('the Act') copies of:

Any emails, letters, correspondence, reports and or memorandums which discuss and/or relate to:-

1. the child's time in detention
2. his time in the Woomera Detention Centre
3. his emotional and psychological condition
4. any grief and or loss issues regarding separation from his family members
5. Family and Youth Services care of Mohammad and outcomes

In assessing the issue of reasonableness of disclosure, I have also taken into account the findings of the Human Rights and Equal Opportunity Commission ('HREOC') inquiry into the issue of children in detention, as outlined in '*A Last Resort? The report of the National Enquiry into Children in Immigration Detention*'.

In addition, in light of the applicant's appointment to represent the child in the context of a repatriation offer by DIMIA, I have taken into account the history of the conflict in the child's country of origin, Afghanistan, from the decision in the Refugee Review Tribunal of V03/16106 (under the heading 'General Background'):

The agency has not provided any submissions in respect of the public interest aspect underlying the issue of reasonableness of disclosure. I consider that scrutiny of the exercise of executive power in respect of immigration detention is a matter of significant public interest, particularly in light of the decision in Behrooz v Secretary of the Department of Immigration and Multicultural and Indigenous,

A revised determination [in part] was directed although a number of documents were found to be exempt on basis of clause 12 of the Act.

■ **Mr W and Regional Council of Goyder**

This case involved the Ombudsman issuing a letter to show cause why he should not dismiss an application for external review for an applicant's refusal to attend meeting under s39(3c) of the Act; discussion of purpose of such meetings and also the nature of this section and section 39(3a) [of the former Act] which provided as follows:

(3a) The Ombudsman or the Police Complaints Authority may—

(a) try to effect a settlement between the participants to a review at any time during the review; and

(b) at the request of the agency, suspend proceedings under this section at any time to allow an opportunity for a settlement to be negotiated.

(3b) The agency and the applicant must cooperate in the process proposed by the Ombudsman or the Police Complaints Authority for the purposes of the conduct of a review under this section (including any attempt of the Ombudsman or the Police Complaints Authority to effect a settlement between the participants), and must do all such things as are reasonably required to expedite the process.

(3c) The Ombudsman or the Police Complaints Authority may dismiss an application if the Ombudsman or the Police Complaints Authority considers that the applicant has failed to comply with subsection (3b).

An extract from my letter to the applicant follows:

I encourage you to reconsider your position in regards to participating in a conference with the agency, chaired by my office. It would be a most unfortunate outcome if your unjustifiable lack of willingness to participate resulted in the dismissal of your applications for review. Although you may consider that such conference is unnecessary and unlikely to achieve what *you* desire, in my experience, such meetings provide *me* with the opportunity to fully understand the positions and motivations of the parties, as well as a valuable opportunity to endeavour to resolve some or even all of the underlying or current issues between the parties.

I also see benefit in exploring settlement options in an external review, in particular where an agency has claimed the provisions of section 18(2a) of the Act and refused to deal with an application for access to documents.

As you may be aware, section 18(2a) is a relatively new provision. It has significant and broad implications: whereas the Objects of the Act are to extend "as far as possible, the rights of the public to access government held documents", section 18(2a) effectively bars an applicant from exercising his or her legal rights of access to documents. The provision is unique, in that whereas motives are generally disregarded when dealing with applications under the Act, they are the very focus of this provision.

In the three determinations which are the subject of external review, the agency has relied upon both limbs of this provision. The agency submits that it considers that your applications are in essence part of a vendetta you have against the agency arising from an earlier development application concerning your residential property. It further considers that your intention in respect of your applications is to oust the current council. It says that these motives satisfy the second limb, as they amount to an improper purpose. In addition, it says that your repeated applications dealing with the same issues amount to attempts to have these issues redetermined, and that this amounts to an abuse of the right of access.

In a review of a determination where section 18(2a) has been relied upon, an applicant's motives for seeking access to documents are undoubtedly in question; and there is usually a history of dealings between the applicant and the agency which clearly have a bearing in the matter. In the proposed conference, I wish to flesh these issues out in more detail as well as the background to your three applications, and I wish to hear the details of the agency's position. I consider this can be more efficaciously achieved by engaging in a dialogue with both parties present in a conference; and may well expedite the review process. Given your interest in exercising your rights under the Act, I will also endeavour to explore the possibility of settling your reviews or seeking alternative approaches to resolving your concerns.

I understand that you may feel that you have legitimate reasons why you do not wish to participate in this conference; and I acknowledge that there will be occasions where a conference between the parties in a review would not be productive, or indeed may be inappropriate. In this review, however, and in the absence of compelling reasons to the contrary, I consider that a conference should be held, given the provisions of the Act being relied upon by the agency to refuse your applications.

In light of this, if you are unwilling or unable to participate in the proposed conference, I ask you to show to my office your reasons why.

Ultimately the applicant was persuaded to attend a meeting and it was not necessary to dismiss the application.

Background Summary

1. Mrs 'C' ('the applicant') made an application to the Central Northern Adelaide Health Service for access to the medical records from the Royal Adelaide Hospital ('the Hospital') of her late husband, Mr 'C', who had been an in-patient at the Hospital for two periods in 2004, as well as attending the Hospital's Oncology Department as a day patient on 15 occasions during the course of 2004 .
2. In November 2004, Mr C was admitted to Modbury Hospital, where he remained as a patient until he died in December 2004.
3. By letter of determination dated 31 March 2005 the agency advised the applicant that although access to the documents sought was granted, her husband's medical records had been unable to be located.
4. The applicant denied receiving this letter, and stated that despite her telephoning the agency on five occasions, it failed to notify her of the status of her freedom of information application, and, further, that she was only informed that her late husband's medical records were missing by a message left on her answering machine.
5. The agency conducted an internal review and upheld the initial determination. It also wrote to the applicant, advising:

"The freedom of information office has made several requests to the Medical Record Department who have exhausted all avenues as to the whereabouts of the said medical record. On inquiry the following information was ascertained; as is usual practice the Medical Record Department had forwarded your deceased husbands medical records to their off-site storage area at Brambles, the staff are contracted by the Royal Adelaide Hospital and are responsible for filing and retrieving the record should the occasion warrant it. Unfortunately the record could not be found and it was presumed that it had been filed wrongly. The Brambles staff have executed a search of several surrounding archive boxes and have been unable to locate your late husbands notes.

I apologise for the inconvenience but I assure you that both the Freedom of Information Office and the Medical Record Department have done their utmost to locate your late husband's medical records."

6. The applicant denies receiving either this letter or the outcome of the internal review. I have no reason to disbelieve Mrs C on this point, however I also have no reason to believe that the Hospital did not sent this correspondence, or the other letters referred to above.

External Review

7. The applicant applied for an external review by my office of the agency's determination pursuant to section 39 of the Act.
8. I then issued a notice of External Review to the agency and, after receiving its report, provided the applicant with a copy. This report confirmed that the medical records were still missing, but nevertheless contained a number of records that had been able to be retrieved through print-offs from OASIS, the Hospital's computerised data storage system.



9. The applicant was invited to make submissions in the light of the Hospital's report. These submissions centred around a suspicion that a certain member of staff of the Hospital had deliberately destroyed or misplaced the medical records in question, or conspired with others in an attempt to conceal from her deficiencies in that staff member's treatment of her late husband. The applicant is particularly concerned to obtain the Hospital's case notes pertaining to her late husband from a period in November 2004.
10. I have read the agency's report outlining the steps taken to attempt to locate the medical records. In addition, one of my officers questioned Ms E of the agency, who coordinated its search for the records. Prior to the current freedom of information application, Ms E had never met nor spoken to the applicant. The Hospital's freedom of information section operates independently of its records section, both of which are themselves separate from the medical service, patient focussed aspects of the Hospital.
11. Ms E further advised that either she or her colleague Ms B, also of the Hospital's freedom of information section, personally spoke to all persons within the Hospital who, in her opinion, may have had knowledge of the whereabouts of the documents sought. Ms E explained the steps taken by her to locate the records pertaining to Mr C and to satisfy herself that the records had been sent to Brambles for storage. She explained that the Hospital has a distinct records section, together with a dedicated system for dealing with the thousands of medical records created in the course of its service delivery. Once a patient has been discharged from the Hospital, his or her medical records are sent to the Hospital's records section. Ms E, who had no part in Mr C's medical treatment by the Hospital, confirmed that, according to the available documentation, Mr C's records had been sent to the records section, and, on 19 January 2005, according to its computerised 'Homer' system, had been sent for storage to Brambles.
12. Ms E explained that there is simply no capacity for a member of the Hospital medical staff to prevent this occurrence, and, significantly, that there is no evidence of any kind to indicate that Mr C's records had not been sent to Brambles.
13. In addition, once a patient's records have been received by Brambles, medical staff from the Hospital are unable to retrieve them without utilising records staff, which would itself create an audit trail which was not evident in the present matter.
14. According to Ms E, the most likely explanation is that, despite the system in place, the records have been misfiled. Brambles holds over 18,000 archive boxes containing the Hospital's records, comprising over 540,000 separate records.
15. It follows that, in order for a member of the Hospital's medical staff to deliberately hide or remove records, he or she would have to involve members of the Hospital's own records section, (and perhaps Brambles as well), who, one would have thought, would have had little motive to assist and would have run the risk of detection and instant dismissal.
16. While I do not purport to be investigating the Hospital's treatment of Mr C for the purposes of this external review, I note that he had been diagnosed with an inoperable terminal illness in January 2004 and that he underwent various treatments from that point in time.



'Sufficiency of Search'

17. As is apparent from the above, the applicant asserts that staff of the agency have conspired to remove or withhold documents in its possession. If this were correct, then, in doing so, any such staff would be blatantly disregarding the agency's obligations under the Act. This distinguishes the present matter from common external reviews, where the dispute relates to the release of documents rather than whether they exist and are held by an agency. In this respect I adopt the reasoning of the Queensland Information Commissioner (at paragraphs 18 to 23) in the matter of *Re Shepherd and Department of Housing, Local Government and Planning* (1991) 1 QAR 464, who stated that in such cases the:

Basic issue for determination is whether the respondent agency has discharged its obligation, which is implicit in the FOI Act, to locate and deal with ... all documents of the agency ... to which access has been requested.

18. The Information Commissioner went on to state that the two relevant questions in such cases are:

- (a) whether there are reasonable grounds to believe that the requested documents exist and are documents of the agency ...
and if so,
- (b) whether the search efforts made by the agency to locate such documents have been reasonable in all the circumstances of a particular case.

19. I have every sympathy for Mrs C, who has suffered significant distress and anxiety from the unfortunate fact that her late husband's medical records cannot presently be located. This has exacerbated concerns that she already had about the quality of her late husband's treatment by the Hospital, and I accept that she has a genuine belief in some type of conspiracy or 'cover up' by the Hospital or one or more of its employees. However I see no credible basis, given the investigation conducted during the course of my external review, upon which I could be satisfied that the documents sought have been deliberately withheld from the applicant.

20. I am satisfied that the agency's efforts have fulfilled its obligation to conduct all reasonable searches and inquiries to locate the requested documents.

21. On the basis of the above, pursuant to section 39(11) of the Act, I confirm the determination the subject of review.

22. This concludes my review.

Background Summary

1. Mr 'B' ('the applicant'), a journalist with The Advertiser newspaper, made an application to the Attorney-General's Department ('the agency') under section 13 of the *Freedom of Information Act 1991* ('the Act') for access to:

The written response of the DPP, to the draft findings of the Solicitor-General, on the matter of Paul Nemer and associated issues.

2. One document was found to fall within the terms of the request, a minute dated 24 March 2004 ('the minute') from the Director of Public Prosecutions ('the DPP') to the Solicitor General, entitled 'Charge negotiations final report'. By determination dated 15 June 2004, the agency refused access to the minute. The refusal was based on clauses 9(1) and 6(2) of Schedule 1 to the Act.
3. The applicant then sought an internal review of this refusal. The Chief Executive of the agency, varied the earlier determination to release a passage from paragraph 5 of the minute, as well as paragraph 6 in its entirety. He confirmed the determination in relation to the remainder of the minute, relying on clause 9(1) of Schedule 1 to the Act.
4. The applicant requested an external review of the agency's determination and I sought a detailed report from the agency.

Submissions from the agency

5. The agency, in its submissions, made a number of points, including the following:
 - The task for the decision-maker is to balance reasons favouring release against other reasons favouring non-disclosure. Although the agency considered the applicant's views on the public interest, its view is that the reasons favouring non-disclosure carry the greater weight in relation to the minute.
 - The Solicitor-General provided a copy of a draft report involving issues of importance to the Office of the Director of Public Prosecutions to the then DPP. In doing so, the Solicitor-General had sought a response from the DPP in order to determine whether he had misunderstood any relevant facts, or failed to take into account any relevant facts.
 - The draft report was also provided as part of the Solicitor-General's legal obligation to afford the DPP and his Office natural justice - that is, the opportunity to comment on material that might be regarded as critical of the DPP or his Office.
 - This process did result in some changes to the final report.
 - It would defeat the purpose of the process of affording natural justice to make the material publicly available.
 - The minute is a written response by the DPP to the draft report and discloses a robust exchange of views between the Offices of the DPP and the Solicitor-General.
 - Disclosure would prejudice the future working relationship of the offices of the DPP and the Solicitor-General.
 - Disclosure would inhibit the 'free and frank' exchange of views amongst senior public servants in the future.



- The minute concerns a version of the report that was not publicly released, ie the final draft. Public debate should be based on the version that was publicly released, not on the final draft (or on any other earlier draft). This public interest was recognised and given the greater weight in the balancing exercise in *Re Wallace and Merit protection and Review Agency* (1995) 38 ALD 773 at page 779.
- Whilst the applicant advises that the DPP consents to the release of the minute, the agency understands that he did not have a copy of the minute in front of him when he spoke to the applicant. The minute only contains a small amount of information directly concerning the DPP's own personal and professional affairs. The majority of the minute concerns more general issues and also issues that concern other people who might not consent to release.
- Release of the minute will not give the public the first opportunity to hear the other side of the story, as the minute simply addresses the draft final report. It does not put 'the other side of the story'.
- If one or both of the parliamentary committees conducting reviews into similar issues wants the minute, they have the power to require its production. Public disclosure of the minute before the committees have reached their decisions may well inhibit rather than help their deliberations.

Submissions from the applicant

6. The applicant has argued that release of the DPP's response, and that of his office, is very much in the public interest:

Particularly given the ongoing interest of the Parliament in having both the Economic and Finance Committee and a Legislative Council Select Committee currently with terms of reference to look at the resources and other matters associated with the office of the DPP.

7. In oral submissions to my office, the applicant made the point that the DPP was criticised in the Solicitor-General's report and later resigned. Consequently, his response to the Solicitor-General's report has never been put in the public arena, so that, in effect, the public has never heard his side of the story, and should be afforded this opportunity.
8. In addition, the applicant supplied my office with various articles from the Advertiser, together with radio transcripts relating to the *Nemer* case, the role of the DPP, the DPP's resignation and related issues from April 2004. The applicant also provided *Hansard* references associated with these issues.

Clause 9(10 of schedule 1 to the Act

9. Clause 9(1) provides:

Internal working documents

9. (1) A document is an exempt document if it contains matter—

(a) that relates to—

- (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
- (ii) any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and

(b) the disclosure of which would, on balance, be contrary to the public interest.



10. I accept that the minute satisfies the requirements of clause 9(1)(a). The real question in issue is whether the agency has satisfied the requirement of clause 9(1)(b) that disclosure of the minute would, on balance, be contrary to the public interest.
11. What constitutes 'the public interest' is not defined in the Act. In *Ipex Information Technology Group Pty Ltd v Department of Information Technology Services SA* ('*Ipex*') Lunn J outlined the responsibility of an agency arguing clause 9(1)(b):

This does not mean merely showing that there is something adverse to the public interest likely to flow from disclosure of the document, but that **on balance** the factors in the public interest against disclosure outweigh the factors in favour of disclosure. [my emphasis]
12. Thus, a balancing process must be applied by the agency to show that release of a document would be contrary to the public interest. It is clear in this instance that the agency has weighed up the public interest factors both for and against disclosure.
13. There is a manifest public interest in disclosure of the minute. The Office of the DPP and the role and conduct of the DPP is of great public significance. The Solicitor-General's final report was not only publicly available, but its contents were widely reported in a number of arenas. The report was critical of the DPP, who, for a number of reasons, ultimately resigned from his office. Therefore one would imagine there to be strong public interest in publishing the DPP's view of the draft final report. Such publication could be said to promote transparency and accountability in terms of the process which occurred.
14. However this must be weighed against the contrary arguments marshalled and considered by the agency, some of which carry greater force than others. For example, the Court in *Ipex* placed little weight on an argument, similar to the one put forward by the agency in the present matter, (but expressed in terms of 'candour and frankness') that disclosure would inhibit the 'free and frank' exchange of views amongst senior public servants. For similar reasons I attach some, but little, weight to the argument against disclosure of the minute on the grounds of the inhibition of 'free and frank' exchange of such views.
15. Having read the minute, I am however of the opinion that its disclosure would prejudice the future working relationship of the respective Offices and that this is a factor of some significance.
16. Whilst I will not specifically address each argument raised by the agency, I have considered them, both individually and in terms of their combined weight.
17. There is also clearly an argument that it would defeat the purpose of making submissions on a draft report that resulted in changes to the final published document if those submissions were themselves made public at a later date. In addition, both the DPP and the Office of the DPP have had the opportunity to comment on the final report of the Solicitor-General. Further, the DPP was able to 'put his side of the story' in other fora irrespective of whether the minute is released into the public domain. The DPP's favourable attitude to the release of the minute is but one factor amongst others to be considered, particularly as he is no longer the DPP and only some of the Solicitor-General's report related to his own conduct.
18. On balance, weighing up the combined weight of the respective contentions, I am persuaded by the agency's submissions that release of the document would be contrary to the public interest.
19. For these reasons, I am not satisfied that a different determination should be made in the circumstances of the case.
20. Finally, having considered the nature of the minute, I am of the view that it is not practicable in the circumstances to give access to a copy of the minute with the exempt matter deleted.

Background Summary

1. Mr 'B' ('the applicant') made an application to the Department of Education and Children's Services ('the agency') to have a large number of documents removed or amended from his 'various files'.
2. Mr B's application consisted of nine pages of type written comments relating to a variety of issues concerning his employment as a temporary relief teacher with the agency over a considerable period of time. As such, it was at times difficult to ascertain the precise documents that he was referring to.
3. By letter of determination, the agency refused to amend its records. The applicant then sought an internal review of this refusal. The Chief Executive of the agency confirmed the initial determination.
4. The applicant then requested an external review of the agency's determination.

Submissions from the agency

5. The agency made a number of submissions to my office, which included the following points:

Mr B was inappropriately attempting to use the freedom of information process to simply amend the various agency records so that they reflect his views on a particular matter or issue.

Mr B had previously made a number of freedom of information applications to the agency and had been provided with in excess of 1400 pages of material, much of which is nothing more than factual information, letters of communication between Mr B and the agency and letters between agencies and other interested parties and it would be inappropriate and contrary to statute for such information to be "simply removed" from agency records as he has requests.

6. In the present matter, the agency has based its refusal to amend records on section 35 of the Act, which provides:

Refusal to amend records

35. *An agency may refuse to amend its records in accordance with an application—*

- (a) if it is satisfied that its records are not incomplete, incorrect, out-of-date or misleading in a material respect; or*
- (b) if it is satisfied that the application contains matter that is incorrect or misleading in a material respect; or*
- (c) if the procedures for amending its records are prescribed by or under the provisions of a legislative instrument other than this Act, whether or not amendment of those records is subject to a fee or charge.*



Onus on applicant and the agency

7. The burden of justifying the agency's determination rests with the agency, by virtue of the provisions of section 48 of the FOI Act. However, it is my view that where an applicant seeks amendment of records under section 30 of the FOI Act, the applicant bears an evidentiary onus to provide some measure of evidence in support of the application for amendment. This approach is supported by my counterpart in Queensland, the Information Commissioner, in relation to the Queensland *Freedom of Information Act 1993* in the matter of *Re Doelle and Legal Aid Office (Queensland)* (1993) 1 QAR 207 ('*Doelle*') at paragraph 18:

Pursuant to s.81 of the FOI Act, [the agency] has the onus of establishing that its decision is justified. There is nothing on the face of the documents in issue which indicates that the information they contain is in some way inaccurate, incomplete, out of date or misleading...[W]hile on a review under Part 5 of the FOI Act the ultimate legal onus remains on [the agency] a practical or evidentiary onus shifts to [the applicant] to provide evidence to support his entitlement to relief under Part 4 of the FOI Act on the basis that the documents in issue contain information that is inaccurate, incomplete, out-of-date or misleading.

8. I note also the Australian Law Reform Commission's comments in its report *Open Government: A Review of the Federal Freedom of Information Act, 1982* (1995) at 12.22:

While an agency has a duty to consider an application for amendment, the Review considers that the onus of satisfying the agency that there are grounds for amendment rests largely on the applicant. The agency may make inquiries and take action to satisfy itself about those grounds, but it should only be required to do whatever is reasonable in the circumstances. If an applicant seeks review of a decision refusing to amend a document the agency must justify its decision. **It does not have to prove that its record is accurate;** (Emphasis added).

and also a comment on the NSW Freedom of Information Act 1989:

The applicant is required to provide sufficient material to justify the claim for an amendment in order to convince the agency or minister that the material is incomplete, out of date, incorrect or misleading.

Destruction or abandonment of records

9. To the extent that the applicant has requested the removal of the various records referred to above pursuant to the FOI Act, in my opinion this action is not provided for under this Act, which deals with the 'amendment' rather than the removal or destruction of records. I note that the Queensland Information Commissioner stated the following in respect of similar provisions relating to 'correction or amendment' in the Queensland freedom of information legislation in the matter of *Re Banks and Queensland Corrective Services Commission* (1995) 2 QAR 461 (at paragraph 19):

At paragraphs 61-63 of my decision in *Re Doelle*, I held that the words 'correction or amendment' in s.53 of the FOI Act do not authorise the destruction of documents or removal of documents from files, even if information contained in the documents is established to be inaccurate, incomplete, out-of-date or misleading. On the facts of this case, therefore, even if the applicant were to succeed in demonstrating that all or part of the Report is inaccurate, incomplete, out-of-date or misleading, s.53 of the FOI Act would not permit the Report to be destroyed or removed from the relevant file(s) of the QCSC.



10. I consider this reasoning applicable to the FOI Act, Part 4 of which is concerned with the 'amendment' of records, and provides a mechanism to achieve this purpose. The FOI Act does not contain a definition of the word 'amendment'. The Macquarie Dictionary defines the word 'amendment' as meaning:
1. the act of amending; correction; improvement.
 2. the alteration of a motion, bill, constitution, etc.
 3. a change so made, either by way of correction or addition.
11. In my opinion, the term 'amendment' in the context of the FOI Act connotes replacing something that is incomplete, incorrect, out-of-date or misleading with something that is not, or is less so - rather than the complete removal of records.
12. This interpretation is supported by the objects of the FOI Act, which include 'To extend the rights of the public to obtain access to information held by government.' To construe section 30 of the FOI Act to allow for the destruction or removal of a particular document would be inconsistent with this object.
13. In addition, I note that section 17(2) of the State Records Act provides that 'authority to dispose of an official record may only be conferred by or under this or any other Act.' 'Dispose of' an official record is defined to mean:
- (a) destroy or abandon the record; or
 - (b) carry out an act or process as a result of which it is no longer possible or reasonably practicable to reproduce the whole or a part of the information contained in the record; or
 - (c) transfer or deliver ownership or possession of or sell the record, or purport to do so,
- but does not include to transfer or deliver the record to State Records or between one agency and another;
14. Consequently I do not consider that the FOI Act provides for the 'disposal' of records in the sense of their destruction or abandonment.

Amendment of the records

15. The applicant has stated that, if his records will not be removed, he would like them amended pursuant to the FOI Act. The difficulty in the present case, however, is that in the main the records that the applicant seeks to have removed (or, in the alternative, amended - although the applicant does not explain how such amendments are to be achieved) are not, in the strict sense, incomplete, inaccurate or out-of-date per se. Many of the documents have been authored by the applicant himself. The applicant is generally not suggesting that they be altered, in the sense of being replaced or corrected - he is asking for the removal of entire documents. It follows that, because I am of the opinion that it is not appropriate to remove the documents, the only alternative would be to keep the physical documents themselves in the possession of the agency, but obliterate the contents with heavy black lines.
16. Judge Anderson of the District Court provided for the amendment of certain portions of a record in the matter of *Jeffries v South Australia Police* [2003] SADC 2 (at paragraph 37) by the putting of a 'heavy black line' through the offending words. However in that case the words were demonstrably incorrect and only represented a small proportion of the documents in question. This can be distinguished from the present case, in which the applicant complains of entire documents, and the practical result of the placement of a heavy black line over the material would be to effectively provide for the defacto destruction of the records in question, which, for the reasons elicited above, is not appropriate in this instance. Another of the practical problems in dealing with the application is that it is difficult to 'amend' the records because the applicant has failed to properly identify the offending documents or the specific references within them, nor has he generally suggested how they be amended. For all of these reasons, with one exception (dealt with below), the application fails.



Misleading

17. Having read the applicant's voluminous submissions, the only possible basis of the applicant's argument under section 30 of the FOI Act, it seems to me, can be that the documents are 'misleading'. The applicant's argument in this regard amounts to the claim that because (he maintains) the documents in question were made in his capacity as a private citizen, or arose from complaints made by him as an individual, they are therefore irrelevant to the fact that he is or was a teacher employed by the agency. Consequently, the only purpose or effect that can be achieved by the presence of the documents on his file(s) is a negative, counter-productive one. This is similar to the assertion of the applicant in the matter of *Doelle*, whose argument (at paragraph three) was that the documents 'should not have been put there in the first place' and that therefore most of the documents were not relevant to the particular file in question.
18. I am not satisfied that in raising this point the applicant has discharged the evidential onus to provide some measure of evidence in support of the application for amendment outlined above. That is, I am not satisfied that this amounts to evidence that the records in question are 'misleading' and for this reason the application (with one exception) cannot succeed. This is particularly so where the documents are authored by the applicant and sent to the agency, or any of its staff, schools, or students at its schools, or are related to issues of education or complaints about the agency, where there is a corresponding clear nexus to the applicant's employment relationship, or potential relationship, with the agency. The agency possesses a statutory duty under the State Records Act to retain correspondence for a certain period of time and also possesses a wide discretion to keep information that it considers relevant to persons employed by it. As will be seen below, despite previous complaints by the applicant, there is nothing to suggest that the agency has ever taken into account irrelevant considerations in its dealings with him, based on its overall holdings. The agency has initiated policies for safeguarding against the inappropriate use of information in its possession and, if the agency were to act in such a fashion, the applicant would be at liberty to seek legal redress.
19. The difficulty inherent in describing documents as misleading simply because they are on an agency's 'file' was also identified in *Doelle*, where the Information Commissioner noted in relation to section 53 of the Queensland Freedom of Information Act (at paragraph 240):
- The focus on s53 of the FOI Act is on whether information contained in a document is inaccurate, incomplete, out-of-date or misleading and not on whether information in a document which is not itself inaccurate, incomplete, out-of-date or misleading can somehow have misleading consequences if placed inappropriately on a particular file.
20. In any event, the applicant's complaint about the misleading nature of the documents in issue appears to be based on a repeated misconception of the agency's records management system. The applicant has failed to appreciate that simply because the agency as a whole holds documents relating to him (for example related to ministerial correspondence or investigations), such documents are not necessarily held on his personnel file or capable of being accessed to his detriment by officers of the agency dealing with the question of his employment as a teacher.
21. I am not satisfied (with one exception) that the applicant has shown that the documents in question are misleading in the sense that he complains.
22. In coming to this conclusion I note that in the District Court matter of *Kronen v South Australian Police* [1998] 3815 SADC Judge Lunn held that in considering whether to amend records pursuant to Division 1 of Part 4 of the Act, one must have regard to the 'records' as a whole, and not simply an individual document. I bear in mind His Honour's comment in that case (at page 3 of the judgement) that:



However, it is not the Court's function to say whether the appellant has a legitimate sense of grievance about the contents of this document or whether the document could have been constructed in some way less objectionable to the appellant, but only to decide whether the relevant requirements of the FOIA have been satisfied.

23. Part of the difficulty for the applicant in the present matter is that section 31 of the Act is more readily applied in a situation where the applicant can point to a clear-cut error or misinformation, for example an incorrect date or name. Once more complex, subjective issues are introduced, it becomes more difficult to apply. With this in mind, I turn to the documents themselves, bearing in mind the lengthy submissions raised by the applicant, and the responses made by the agency.

The documents

Letter of complaint from parents

24. The agency stated, in respect of the above:

The letter is a statement of the views of its authors and I can find no basis on which to amend that statement, so that your request for amendment is refused, However, I am happy to add a copy of the documents from your Annexure 5 to the file ... to present the alternative views.

25. The applicant made further submissions to the agency (received 5 January 2004), stating that he had evidence from other parents contradicting the letter of complaint:

...when our parents, the people directly involved, who know, say that the anonymous letter is not accurate, that complies with a ground for amendment.

26. In my opinion, this illustrates the applicant's misconception about the operation of the relevant sections of the FOI Act. Given the nature of the document in question, it is not my function to call for the applicant's response to the complaint and to amend or replace the earlier with the latter. The document in question may be characterised as a complaint. Its existence in the agency's holdings does not mean that the substance of the complaint is correct, rather, it merely records the nature of the complaint. The applicant has been invited to place his response to the complaint on the agency's records.

27. In my opinion, the applicant has not raised sufficient evidence to show that information in the records is incomplete, incorrect, out-of-date or misleading, and the agency has satisfied me that its records are not incomplete, incorrect, out-of-date or misleading in a material respect.

All references that Mr B lied on oath in his health declarations

28. The applicant, at page 5 of his application under the FOI Act, stated as follows:

I also seek to have all references on my files that I lied on oath about not receiving any support for stress or emotional disorders amended. I have seen various letters, including from the CEO accusing me of lying about not receiving professional support. I include letter from Dr P to prove this.

29. The applicant attached a copy of the fourth page of a document signed by the Acting Manager, Employment Opportunity Unit on 5 May 2003 and by the Executive Director Strategic HR Management and Organisational Development on 14 May 2003, which contained the following paragraph:

Prior to 2002 Mr B failed to disclose on his Health Declarations he had suffered from any mental or emotional disorders, including anxiety, which required medical support.



30. Mr B supplied my office with a copy of a medical report by Dr P which, after describing the nature and purpose of the applicant's consultations with him up to and including 2002, contained the following:

... it is my opinion that he has not breached the Oath in relation to health declarations which required medical support from me ...

31. In my opinion, had the document merely alleged that the applicant was suspected of breaching the *Oaths Act 1936*, then the situation would have been analogous to that in *Kronen's* case, where Lunn J stated (at page 3 of the judgement):

Merely because subsequent events have shown that the accused was not so properly designated as a 'suspect' or an 'accused' at the specified date cannot change the fact that he was so designated at that date, and those subsequent events do not thereby make out of date a designation confined to the earlier date.

32. However, given the contents of Dr P's report, combined with the fact that the applicant has not been charged with making a false declaration, I find that in this instance, the applicant has provided sufficient information to raise the question of whether information in the above quoted document is incorrect and/or misleading, and the agency has not provided submissions that unequivocally convince me to the contrary.

33. I therefore direct the agency to place a heavy black line over the words:

Consequently Mr B has breached the Oaths Act, 1936 on a number of occasions

from the document, and to delete any similar statements contained in any of its records.

34. I also note the comments of Judge Anderson in the matter of *Jeffries v South Australia Police* [2003] SADC 2 (at paragraph 38) as apposite to the present case:

I recognise that the effect of this direction is to disrupt the historical integrity of the [document]. However, that is as it must be for I am unable to see that it was the intention of Parliament to preserve the historical integrity of incorrect factual assertions and any opinion based thereon.

Conclusion

35. The agency has striven to accommodate Mr B's voluminous requests in the present matter, despite the manifest difficulties in comprehending what documents he is referring to and the precise nature of his requests. The agency claims that it has provided Mr B with over 1400 pages of material under the FOI Act. With the exception of the records relating to the assertion that Mr B has breached the Oaths Act, I am not prepared to direct that the records be amended. I do however invite Mr B to take up the agency's offer to add his various submissions as notations to its records, pursuant to section 37 of the FOI Act, which provides as follows:

Notations to be added to records

37. (1) If an agency has refused to amend its records, the applicant may, by notice in writing lodged at an office of the agency, require the agency to add to those records a notation—

(a) specifying the respects in which the applicant claims the records to be incomplete, incorrect, out-of-date or misleading; and

(b) if the applicant claims the records to be incomplete or out-of-date—setting out such information as the applicant claims is necessary to complete the records or to bring them up-to-date.



- (2) An agency must comply with the requirements of a notice lodged under this section and must cause written notice of the nature of the notation to be given to the applicant.
- (3) If an agency discloses to any person (including any other agency) any information contained in the part of its records to which a notice under this section relates, the agency—
- (a) must ensure that, when the information is disclosed, a statement is given to that person—
 - (i) stating that the person to whom the information relates claims that the information is incomplete, incorrect, out-of-date or misleading; and
 - (ii) setting out particulars of the notation added to its records under this section; and
 - (b) may include in the statement the reason for the agency's refusal to amend its records in accordance with the notation.
- (4) Nothing in this section is intended to prevent or discourage agencies from giving particulars of a notation added to its records under this section to a person (including any other agency and any Minister) to whom information contained in those records was given before the commencement of this section.

Background Summary

- Ms H ('the applicant') made an application to the Alexandrina Council ('the agency') under section 13 of the *Freedom of Information Act 1991* ('the Act'), for access to:

All of the documents in the personal file of Ms H and Mr B, including

- *The number and nature of complaints, including the names of the people who complained to the council about the applicant and Mr B;*
 - *The name of the Council inspector who visited in July 2003 and talked to Mr B, and his ensuing report;*
 - *Details of the applicant and Mr B's meeting with the Council in July 2003 and any action taken;*
 - *Development application and approval for utility barn.*
- The agency made a determination to allow access to four documents whilst refusing access to another four, by letter dated 2 March 2004. The agency claimed that the documents were exempt pursuant to the operation of clauses 9(1) and 13 of Schedule 1 to the Act.
 - The agency couched its determination of 2 March 2004 in the following terms:

I have determined to refuse access to you of documents that fall within the provisions of Section 20 of the Act and as described in the Schedule marked B which is provided pursuant to the provisions of Section 23(2)(f)(i)(A) and 23(2)(d) of the Act and attached hereto.

SCHEDULE B
Documents to which access is refused

Description of document	Ground for refusal pursuant to Section 20	Provision in Schedule 1
Email between members of staff of Alexandrina Council & some handwritten notes	Exempt document pursuant to Section 20(1)(a) of the Act	Clause 9(1) & Clause 13 of Part 3 of Schedule 1 of the Act
Print out of computer screen map and some handwritten notes by staff of Council	Exempt Document pursuant to Section 20(1)(a) of the Act	Clause 9(1) of Part 3 of Schedule 1 of the Act
Handwritten note by Council Staff member on Document No 4	Exempt note pursuant to Section 20(1)(a) of the Act	Clause 9(1) & Clause 13 of Part 3 of Schedule 1 to the Act
Coversheet on Document No 5	Exempt pursuant to Section 20(1)(a) of the Act	Clause 9(1) of Part 3 of Schedule 1 of the Act

- The applicant subsequently sought an internal review of the agency's determination pursuant to section 29 of the Act.
- The principal officer of the agency then conducted an internal review of the agency's refusal and, on 10 March 2004, notified the applicant that the agency had confirmed the determination under review. The principal officer's internal review relevantly contained the following:



I have noted the relevant documents in the agency's possession, the determination and the application for review.

*I **DETERMINE** upon a review of the abovementioned material that the determination was appropriately made under the Act in that the information sought comprised an exempt document. I **CONFIRM** the decision under review.*

External Review

6. The applicant applied to my office on 15 March 2004 for an external review of the agency's determination, pursuant to section 39 of the Act. By notice dated 17 March 2004, I formally advised the agency of my review. In my notice, as is my custom, I alerted the agency to its onus of proof during the review, pursuant to section 48 of the Act, in the following terms:

In the external review process, the onus of establishing to the ombudsman that the determination was properly made lies with your agency. A mere recitation of the provisions of the Act which are being relied upon by your agency in the determination, or mere assertions by your agency without evidentiary support, will not be sufficient to discharge the onus of establishing that the determination is justified. In such circumstances, the Ombudsman may direct your agency to make a determination providing for disclosure of the documents which are the subject of the review.

7. I called for a report from the agency in justification of its determination. In addition, I pointed out to the agency that in its initial determination of 2 March 2004, it had failed to adequately provide reasons for its refusal to grant access to the documents, as required under section 23(2)(f)(i) and (ii) of the Act. Far from being rectified, this inadequacy was compounded by the principal officer's internal review. In my view, the agency has at the very least manifestly failed to provide any reasons why disclosure of the documents would be contrary to the public interest, a task which is mandatory, pursuant to section 23(2)(f)(i)(B) of the Act, for both clause 9(1)(b) and clause 13(b).
8. The agency provided its report to my office by letter dated 8 April 2004. I note with some disquiet that despite the contents of my notice of external review, the agency stated in this report that:

With respect I believe that Schedule B does satisfy the requirements of Section 23(2)(f)(i) and (ii) of the Act. The documents to which access has been refused speak for themselves. Nevertheless as requested we respond as follows:- ...

9. As will be seen, at no stage has the agency provided reasons as to why disclosure of the documents would be contrary to the public interest.

External Review Process

10. My task in this review is to decide whether I am satisfied that a different determination should be made by the agency in the circumstances of the case, within the meaning of section 39(3)(b) of the Act. This will depend on whether the agency has discharged its burden, under section 48 of the Act, of justifying its determination to refuse access to the documents, or parts thereof. If I am so satisfied, I may direct the agency to make a new determination in specified terms.



Consideration of the relevant exemption provisions claimed by the agency

Clause 9(1) - Internal Working Documents

11. Clause 9(1) provides:

Internal working documents

9. (1) A document is an exempt document if it contains matter—

- (a) that relates to—
 - (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (ii) any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and
- (b) the disclosure of which would, on balance, be contrary to the public interest.

12. To justify claiming this clause as a basis for protecting the documents from disclosure, the agency must show that the documents satisfy paragraphs (a) and (b) in clause 9(1). I accept that the four documents containing the claimed exempt matter fall within the ambit of clause 9(1)(a).

Clause 9(1)(b) - “*contrary to the public interest*”

13. His Honour Judge Lunn of the District Court in *Ipex Information Technology Group Pty Ltd v Department of Information Technology Services SA* (*‘Ipex’*) outlined the responsibility of the agency in relation to clause 9(1)(b):

This does not mean merely showing that there is something adverse to the public interest likely to flow from disclosure of the document, but that on balance the factors in the public interest against disclosure outweigh the factors in favour of disclosure.

14. Thus, a balancing process must be applied by the agency to show that release of the documents would be contrary to the public interest. However, the agency has failed to provide any evidence that it undertook such an exercise. I have carefully read the agency’s submissions, although in the case of **document 1** I am not at liberty to quote them in full, as to do so may reveal exempt matter. However, in respect of the public interest test in relation to **Documents 2 to 4**, the agency simply stated: “*The document is an internal working document of council and it was determined that disclosure of the document would, on balance, be contrary to the public interest.*” In doing so, the agency failed to provide reasons either for or against disclosure, let alone demonstrate an appreciation of the need to weigh up the competing reasons.

15. In the case of **Document 1**, the agency maintained that its disclosure would reveal the identity of a person named therein, and that this “probably” amounted to a breach of confidence. In my view, such a submission does not adequately discharge the agency’s burden in respect of clause 9(1)(b).

Clause 13

16. Clause 13 provides:

13. A document is an exempt document—

- (a) if it contains matter the disclosure of which would found an action for breach of confidence; or
- (b) if it contains matter obtained in confidence the disclosure of which—
 - (i) might reasonably be expected to prejudice the future supply of such information to the Government or to an agency; and
 - (ii) would, on balance, be contrary to the public interest.



17. The agency has failed to specify whether it is claiming clause 13(a) or (b). Consequently I deal with each in turn.

Clause 13(a)

18. The following four requirements must be met by the agency in order to claim clause 13(a) as a basis for refusing access to the documents. Should any of these requirements not be satisfied, an action for breach of confidence will not lie and reliance upon the clause as a basis for withholding access to the documents under clause 13(a) will not be justifiable.

18.1 The information in issue in the document must be specifically identifiable and ascertainable;

18.2 The information in issue must possess a "necessary quality of confidence". It must possess a degree of secrecy or inaccessibility sufficient for it to be the subject of an obligation of confidence, arising from the circumstances in or through which the information was communicated or obtained;

18.3 The information in issue must have been communicated by the confider in such circumstances as to fix the confidant with an equitable obligation of conscience not to use the confidential information in a way that is not authorised by the confider.

18.4 It must be established that disclosure would constitute a misuse, or unauthorised use of the confidential information in issue, and be to the detriment of the confider.

19. In respect of **document 1**, the agency has merely stated that disclosure of the document would "probably" be a breach of confidence as to the circumstances in which the information was provided to the agency. In my opinion such a bald, unsupported assertion is not enough to overcome the agency's onus under section 48.

20. In the case of **documents 2 to 4**, the agency has claimed clause 13, but has provided no information of any kind to support its claim. Accordingly, it has not discharged its burden pursuant to section 48 of the Act.

Clause 13(b)

21. Each element of clause 13(b) must be satisfied in order for a document to be exempt from disclosure under the Act. Consequently the agency must satisfy me that the claimed exempt documents;

- *contain matter obtained in confidence;*
- *the disclosure of which might reasonably be expected to prejudice the future supply of such information to the Government or to an agency; and*
- *would, on balance, be contrary to the public interest.*

22. In the case of **documents 2 to 4**, the agency has claimed clause 13, but has simply provided no information of any kind to support its claim. Accordingly, it has not discharged its burden pursuant to section 48 of the Act.

23. In respect of **document 1**, the agency has merely stated that "*It was determined to refuse to allow access to the document as disclosure would disclose the identity of 'x' which it was determined would, on balance, be contrary to the public interest and probably a breach of confidence as to the circumstances in which 'x' provided the information to council.*" In my opinion such an assertion, made as it is without evidentiary support, is not enough to overcome the agency's onus under section 48. In particular, no evidence was provided, nor argument presented, that disclosure of **document 1** might reasonably be expected to prejudice the future supply of such information to the Government or to an agency. In addition, nothing was put forward to illustrate that a balancing process was undertaken in relation to the public interest component of clause 13(b), and even the claim that disclosure would result in a breach of confidence was qualified by the word "probably".

Conclusion

24. For the above reasons, I am satisfied that in the circumstances of the case a different determination should be made and I **direct** the agency to make a fresh determination providing for the release of **documents 1 to 4** to the applicant.

Background summary

1. Mrs E ('the applicant') made an application to the Department of Education and Children's Services ('the agency') under section 13 of the Freedom of Information Act 1991 ('the Act') dated 3 November 2003. The application was for access to the following documents:
 - documents numbered 1 to 4 contained in File **S 7448/03/153**;
 - documents numbered 1 to 18 in File **S 7448/01/224**;
 - documents numbered 1 to 2 in File **40/3/926**;
 - documents numbered 1 to 5 in File **40/3/926A**;
 - documents numbered 1 to 23 in File **40/16/41**;
 - documents numbered 1 to 22 in File **40/16/41A**;
 - documents numbered 1 to 3 in File **40/16/41B**;
 - documents numbered 1 to 5 in File **40/16/41E**;
 - document 1 in File **40/16/158**;
 - document 1 in File **40/16/175**;
 - document 1 in File **40/3/926A**;
 - documents loose and held together within rubber band relating to Appeals, numbered 1 to 5; and
 - documents loose in manilla folder numbered 1 to 5.
2. By determination dated 5 December 2003, access to all but five of the documents was denied by the agency. The agency claimed that the documents were exempt pursuant to the operation of clause 10(1) of Schedule 1 to the Act.
3. By letter dated December 2003, the applicant sought an internal review of the agency's determination, pursuant to section 29 of the Act.
4. The principal officer of the agency then conducted an internal review of the agency's refusal and, on 14 January 2004, confirmed the determination under review.

External Review

5. By letter dated 14 January 2004, the applicant requested an external review of the agency's determination pursuant to section 39 of the Act.
6. By notice dated 12 March 2004, I sought a detailed report from the agency. In my notice, I outlined the agency's onus of proof in an external review under the Act, pursuant to section 48.

Submissions from the agency

7. The agency responded to my notice of review by letter dated 28 April 2004. I will quote from this correspondence at length, as it provides useful background to the present application:

Mrs E is a teacher, who was dismissed from the teaching service of the State in 1992 as a result of her failing to submit to a medical examination. Legal action in relation to the dismissal was discontinued in 1997. More recently, Mrs E has applied for employment as a Temporary Relieving Teacher and the Department has refused the application. Mrs E has made a number of Freedom of Information applications, both around the time of the dismissal and also in recent months.



In an application received on 11 January 1993 Mr E, Mrs E's husband, requested access to documents concerning Mrs E. [The agency] made a determination on 18 January 1993 that 112 documents contained exempt matter and other documents from some 20 files were released. [The agency] claimed that all the documents were exempt, in each case citing clause 10 of Schedule 1 of the *Freedom of Information Act 1991* (legal professional privilege) and for some documents, some other clauses in addition. Mr E was not satisfied with the determination and initiated an external review, followed by external review by the Ombudsman. In a decision dated 7 June 1993 the Ombudsman found that the agency had sufficiently justified its determination in the case of all documents except five. The Department was directed to make a new determination to release those five documents and it did so on 8 July 1993. Mr E then appealed to the District Court for a further external review of the decision, but subsequently withdrew.

On 6 November 2003, the Department received a Freedom of Information application from Mrs E, in which she requested a copy of specified documents. The list of documents was the same list of documents claimed exempt in the determination of 18 January 1993.

8. I have examined the documents in question. I note that the operation of Clause 10 of Schedule 1 to the Act was (and is) claimed for all documents. Clause 10 provides as follows:

Documents subject to legal professional privilege

10. (1) *A document is an exempt document if it contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.*
(2) *A document is not an exempt document by virtue of this clause merely because it contains matter that appears in an agency's policy document.*

9. I further note that subsequent to my previous external review of 7 June 1993, the High Court decision of *Esso Australia Resources Limited v The Commissioner of Taxation* ('*Esso*') broadened the operation of legal professional privilege to encompass the 'dominant purpose test'. This test provides that legal professional privilege attaches to confidential communications between a client and his or her solicitor, which have been brought into existence for the dominant purpose of seeking or giving legal advice; or a confidential communication made for the dominant purpose of use, or obtaining material for use in pending or anticipated legal proceedings. Consequently clause 10(1) allows an agency to refuse an applicant access to a document where the document would be able to be withheld from disclosure in any hypothetical legal proceedings on the grounds of legal professional privilege.
10. The applicant, having withdrawn the appeal to the District Court against the agency's determination of 18 January 1993, is effectively asking me to redetermine my external review of 7 June 1993. This is analogous to the matter of *Knight v CORE* [2003] VCAT 501 in which Deputy President MacNamara held that the applicant was 'seeking to re-agitate issues which have as a matter of substance already been determined in prior decisions' and consequently found those proceedings to be an abuse of process and liable to be summarily dismissed. Similarly I note the Deputy Queensland Information Commissioner's finding in the matter of *Price and Local Government Association of Queensland Inc.*, (S 111/01 29 June 2001 at paragraph 15) that:

A litigant cannot seek multiple hearings of the same issues between parties - that is vexatious and oppressive to the other party and to the relevant court or tribunal, and unfair to other citizens waiting their turn to use the dispute resolution services, provided from public funds, by courts and tribunals.

11. In my opinion I do not possess the jurisdiction to entertain the applicant's application. However even if my jurisdiction is enlivened, I am satisfied that clause 10 is still applicable to the documents in issue and, consequently, I would not be satisfied that a different determination should be made in the circumstances of this case.

Background summary

This was a complaint arising following the conclusion of an external review under the *Freedom of Information Act 1991* ('the Act') concerning the apparent destruction of a document during the course of that review. The outcome of the external review in this matter is reported at page 58 of the Ombudsman's Annual Report for the period 2003/2004. This complaint involved the investigation under the *Ombudsman Act 1972* into the administrative processes associated with that application under the Act.

It appeared that the agency had destroyed a document the subject of an application under the Act **after** it the application was received by the agency and during the initial consultation phase pursuant to sections 26 and 27 of the Act. The destruction appeared to have occurred following an objection from the third party consulted by the agency who was the author of the document.

Issues

The primary issue for consideration was whether the document had been destroyed by the agency contrary to its obligations under the *State Records Act 1997*.

A subsidiary issue was whether the circumstances surrounding the destruction amounted to an offence under the *State Records Act 1997*.

Outcome

Section 17 of the *State Records Act 1997* provides as follows:

17. (1) If a person, knowing that he or she does not have proper authority to do so, intentionally--
 - (a) damages or alters an official record; or
 - (b) disposes of an official record or removes an official record from official custody,the person commits an offence.

The Act provides for the establishment of various destruction schedules to be used by agency's. In addition the concept of *Normal Administrative Practice* (NAP) is utilised in the application of these schedules. The State Records web site provides the following definition of NAP:

NAP is the concept that material can be destroyed according to 'normal administrative practices'. This provides for the routine destruction of drafts, duplicates and publications, with the test that it is obvious that no information of continuing value to the organisation will be destroyed.

Material that can be disposed of under **NAP** comprises items of an ephemeral or transitory nature created, acquired or collected by agency officers in the course of their official duties. Such material has no ongoing value and is not usually incorporated into the agency recordkeeping system.



NAP falls into six main groups:

- transitory or short term items, e.g. phone messages, notes, compliment slips, office notices and circulars
- rough working papers and / or calculations created in the preparation of official records
- drafts not intended for further use or reference, **excluding** official version drafts of agreements, submissions and legal documents
- duplicate copies of material retained for reference purposes only
- published material which does not form an integral part of an agency record
- system printouts used to verify or monitor data, or answer ad hoc queries, that are not part of regular reporting procedures and not required for ongoing use

The Ombudsman sought an explanation from the agency as to the circumstances surrounding the apparent destruction of the document. The agency's initial response (with applicant's details deleted) was as follows:

I refer to the 2nd paragraph of your letter in regards to the circumstances surrounding the deletion of Dr C's letter to Ms C-B...

I have been informed the following reasons of the destruction of Dr C's letter to Ms B:

- The destruction of the letter took place upon receipt of Dr C's letter informing the agency that she did not want the information released to 'X'
- The document was only a copy of the original kept at The Queen Elizabeth Hospital and Health Service.
- The letter was not treated as original record because 'X' was neither registered nor provided services at the Lyell McEwin Health Service, Mental Health Division
- It was not appropriate to keep a document where 'X' was not referred to the Mental Health Division for consultation or treatment
- The destruction of the letter was in accordance to the State Records Act of 1997. It was actioned by a "Normal Administrative Process (NAP)". The LMHS FOI Officer had discussed the matter with the State Records staff although the agency was not required to notify the State Records

I understand how frustrating it can be for 'X' when information is deleted without the full knowledge of the State Records Act 1997. In the future, I encourage the LMHS FOI Officer to include the State Records Act 1997 where appropriate in an effort to reduce unnecessary complaints to the Ombudsman.

Upon receipt of this letter the Ombudsman wrote to the agency seeking further comment and submissions from the agency concerning the apparent destruction of a document the subject of an application under the Act. Relevant extracts from that letter are set out below:

1. The fact that during the consultation phase under the freedom of information process a third party indicates their objection to the release of a document to an applicant is not a basis for the destruction of that document. Indeed such destruction in the circumstances would appear to be extremely irregular. On what basis do you consider such destruction appropriate?



2. The fact that the document was a copy of a document held elsewhere may be relevant to the retention of the document pursuant to *Normal Administrative Practice*, however at the time of the review the Lyell McEwin Health Service (LMHS) did not appear to consider that it 'held' the document. I refer to the agency's letter dated 22 December 2003 at page 2:

Deleted and no longer on site.

3. It would appear therefore that when the document was destroyed by LMHS, this was under the (erroneous) understanding that it did not exist at TQEH. This is hardly consistent with your agency's comment that 'the document was only a copy of the original kept at The Queen Elizabeth Hospital & Health Service.' **One interpretation of the circumstances surrounding the document's destruction is that it was destroyed to put it beyond the reach of the applicant via the freedom of information process.** [emphasis added]

Relevant extracts of the agency's response are set out below:

The issues raised in your correspondence have been the subject of internal investigation requested by myself. I am now in receipt of the investigation findings and can advise as follows:

- The copy of this letter (Dr C to Ms B) is said to have been deleted and no longer available, but no one can identify who in fact has deleted the letter or brought about its destruction, if in fact it has been destroyed. The word 'delete' may not have been accurate or appropriate in confirming the status of the subject information
- The interpretation of the FOI Act (1991) and relevant disposal and retention schedules (RDS 2000/0012, 0013 and GDS15) appears to have been incorrect
- There has been an unclear path between the information provided in the responses to 'X' and the basis used to make these determinations. Our FOI officer has relied upon 'word-or-mouth' and this has been conflicting when interviewing the above mentioned parties
- Mis-communication between parties (Mental Health, FOI Officer, TQEH FOI Officer and queries addressed to State Records) has played a part in this where hearsay has contributed to inaccurate information in the FOI response. I do not know what question was put to State Records duty archivist on the matter of NAP, but it appears that it was put in a manner in which they would have confirmed the FOI Officer's statement of understanding of Normal Administrative Process (NAP) as opposed to the circumstances of the particular documentation in question
- It is believed that the Dr C's letter was not correctly identified as being part of our Community Services file (in Mental Health, NACIS Unit) governed by the RDS 2000/0013, but more as a duplicate record held by NWAHS in an administrative way which is governed by GDS 15 having been part of their Personnel File on 'X'

It is clear that regardless of the fact that 'X' received a copy of the information (correspondence from Dr C) from The Queen Elizabeth Hospital, inappropriate action was taken in respect to a copy of that information held by the Lyell McEwin Health Service. On this basis, I have resolved that the following action should occur with immediate effect:



- That the employee be counselled concerning the action taken in this matter and the issues raised associated with appropriate interpretation of the requirements of the FOI Act, including relevant policies and procedures relating to the retention and disposal of information
- That the existing organisational structure be reviewed to ensure that the designated position responsible for all Freedom of Information requests report directly to the Manager, Patient Information and Administrative Services
- That the Manager, Patient Information and Administrative Services directly oversee and authorise all responses to requests for information under the provisions of the FOI Act (1991)
- That the Job and Person specification for the designated position be reviewed to ensure compliance with contemporary industry standards for such a position.
- That the designated position (referred to above) be established as a substantive vacancy (it is presently occupied by on a temporary secondment basis) and appropriate recruitment processes apply to the filling of this position on a substantive basis
- That regardless of the outcome of the selection process, the incumbent be required to attend appropriate training programmes to ensure compliance with relevant legislation, regulations and policies governing the administration of the FOI Act
- That regular supervision arrangements be established for the designated position by the Manager, Patient Information and Administrative Services
- That the recently established Information Management Committee assume responsibility for co-ordinating agency level involvement in the provision of an FOI Service and support the role of the Manager Patient Information and Administrative Services and the designated position in fulfilling these responsibilities. The Committee will be responsible for reviewing statistical information and sharing information generally regarding the administration of this function.
- That these arrangements be reviewed by myself on an annual basis consistent with the LMHS Human Resource Management policies and procedures

In light of the above, the Ombudsman considered that the agency responded with an appropriate appreciation of the issues, acknowledging the errors in interpretation of its obligations under the Act and under the *State Records Act*, and undertook to put in place a number of remedial actions to prevent a recurrence of the conduct that gave rise to this complaint. The agency also provided the complainant with a written apology. Accordingly the Ombudsman wrote to the agency in the following terms:

I am satisfied that your agency has dealt with this complaint appropriately and that the likelihood of a similar act occurring has been substantially reduced. I commend your agency on the approach taken in dealing with this complaint.

In relation to the actions undertaken (or to be undertaken) I believe it would also be productive if the Manager, Patient Information and Administrative Services achieve accreditation as an FOI Officer. In addition, there are a range of workshops and training provided by State Records which would be of benefit.

Comment

This case demonstrates the importance of following the procedures set out in the Act for the determination of applications under the Act and for ensuring that appropriately trained individuals are allocated the tasks of processing such applications.



In addition, the importance of compliance with the obligations under the *State Records Act 1997* was also illustrated. The outcome of the underlying substantive external review could well have been significantly different for the applicant had this been the sole copy of the document held by the agency.

The Ombudsman was however satisfied that there was no suggestion of impropriety and in particular that there was no evidence that the person who destroyed the document acted knowingly in breach of his or her obligations under the *State Records Act 1997*. In light of this finding the Ombudsman did not see the need to take the matter further.

Case study

Department for Families and Communities

Background summary

The application for external review of three determinations was received by the Ombudsman on 4 November 2004. A Notice of External Review in relation to each determination was issued by the Ombudsman on 18 November 2004. A response from the agency was due on 10 December 2004.

A request for an extension by the agency was received on 5 January 2005, setting out a suggested revised timetable by the agency for the three external reviews, as follows:

Determination 4 - 14 January 2005
Determination 5 - 21 January 2005
Determination 6 - 4 February 2005

On 13 January 2005 the Ombudsman's delegate advised the agency that this extension had been granted and asked that the agency ensure that it be met the revised timetable.

On 9 February 2005 the Ombudsman wrote to CEO of the agency in the following terms:

In your letter dated 5 January 2005 you indicated that you needed further time and requested that you be allowed until 4 February 2005 to comply with my Notice.

On 13 January 2005 [you were] ... advised that I was prepared to accede to your request provided that the revised timetable was complied with. To date I have not received any further communication from your agency about this matter.

*It has now been nearly 12 weeks since the Notice of External Review was issued and I have not received any submissions from your agency in response. Accordingly, I require a full response to the Notice of External Review by close of business on **18 February 2005**. I remind you that section 39(3)(a) of the Act allows me to exercise the powers conferred on the Ombudsman by the Ombudsman Act 1972. Those powers are set out in section 19 of the Ombudsman Act 1972, which provides as follows:*



19. Ombudsman to have powers of a Royal Commission

For the purposes of an investigation the Ombudsman has the powers of a commission as defined in the Royal Commissions Act 1917 and that Act applies as if—

- (a) the Ombudsman were a commission as so defined; and*
- (b) the subject matter of the investigation were set out in a commission of inquiry issued by the Governor under that Act.*

I trust that it shall not be necessary for me to utilise these powers.

On 23 February 2005, in light of the fact that over three months had elapsed since the Notice of External Review had been issued, and with nothing of substance forthcoming from the agency in that period to justify a further extension, the Ombudsman issued a summons in this matter requiring the attendance of the CEO of the agency before him pursuant to section 19 of the *Ombudsman Act 1972* and section 10 of the *Royal Commissions Act 1917*.

Issues

The agency's gross delay in responding to the Notice of External Review and the potential prejudice to an applicant associated with such delay.

The potential for undermining of the effectiveness of the external review process in the absence of the ability to provide a timely outcome to the parties in particular the applicant in this case.

The potential compromising of the applicant's confidence in the independence of the external review process if the conduct of such process appears to be controlled by the agency.

The desirability of the Ombudsman being in a position to effectively case-manage the external review process.

The maxim "justice delayed is justice denied" and its applicability to the FOI process.

Outcome

Ultimately the agency responded to the Notice of External Review upon receipt of the summons and it was not necessary to seek oral submissions in this matter.

The agency's determinations were dealt with and finalised after the end of the reporting period and they were both persuasive and helpful in resolving the matter.

This appears to have been a case where delay in responding to the Notice of External Review was due to resources constraints and difficulty in obtaining timely assistance in light of a significant volume of documents the subject of external review.

Comment

Whilst the Ombudsman understands the difficulties faced by an agency in dealing with the external review process, particularly where a large number of sensitive documents are involved, this case serves as a reminder of the need for timely submissions and an appreciation that an agency cannot delegate its responsibilities under the Act to its external advisors.

Ultimately, as occurred in this case, if the Ombudsman is not satisfied with the an agency's efforts in responding to a Notice of External Review, he will take the appropriate action to ensure that the timely conduct of the external review is not compromised.

The case also demonstrates the importance of communication and the need to keep the Ombudsman apprised of developments. Where there are genuine grounds for an extension of time and a persuasive submission is made by the agency, with evidence of attempts being made to meet due dates, the Ombudsman is generally inclined to be accommodating of such requests.

Background summary

This was a complaint under the *Ombudsman Act 1972* arising from the delay in the processing of an application under the *Freedom of Information Act 1991* ('the Act').

The agency had received a broad application for personal records relating to the applicant who was a teacher. Some nine months had elapsed since the application had been received and no determination under the Act had been made.

The agency had not advised the applicant either upon receipt of her application, or after the expiry of the 30 days in which the agency was required to process the application, of the provisions of section 19(2) of the Act which provides as follows:

- (2) If—
- (a) —
- (i) *the principal officer of an agency has, under section 14A, extended the period within which an application must be dealt with by the agency; and*
- (ii) *the agency fails to determine the application within the period as so extended; or*
- (b) *in any other case—an agency fails to determine an application **within 30 days after receiving the application,** the agency is to be taken to have determined the application by refusing access to the document to which it relates for the purposes of the provisions of Division 3 and Part 5.[emphasis added]*

Issues

Whether the delay in processing of the application was unreasonable in the circumstances.

Whether the agency ought to have invoked the provisions of section 18(1) of the Act (concerning the unreasonable diversion of resources).

Whether the agency's actions in all the circumstances had been unreasonable.

Outcome

Following the Ombudsman's intervention the agency expedited the processing of the application. A determination was issued within 2 months of the Ombudsman's intervention. It would appear that was a significant volume of documents (in excess of 1000) to be considered by the agency, many of which contained information about other people. A number of these documents were claimed to be exempt under the Act. During the course of this investigation it began apparent to the Ombudsman that the agency had omitted to consider the provisions of section 18(1) of the Act which provides as follows:

18—Agencies may refuse to deal with certain applications

- (1) *An agency may refuse to deal with an application if it appears to the agency that the nature of the application is such that the work involved in dealing with it within the period allowed under section 14 (or within any reasonable extension of that period under section 14A) would, if carried out, substantially and unreasonably divert the agency's resources from their use by the agency in the exercise of its functions.*
- (2) *An agency must not refuse to deal with such an application without first endeavouring to assist the applicant to amend the application so that the work involved in dealing with it would, if carried out, no longer substantially and unreasonably divert the agency's resources from their use by the agency in the exercise of its functions.*



It would seem that, in relation to section 18(2), the agency was under the impression that the applicant acquiesced in the delay and that the applicant did not want to narrow the scope of her application. There did not seem to be any documentary evidence of this however and it was denied by the applicant. It would have been prudent to have written to the applicant and confirmed such agreement as this would have been both corroborative of its actions and may have caused the applicant to reflect on the matter further (particularly if she had been made aware at any early stage of the time it would take and the cost involved in dealing with her application in the terms that it was framed).

It would appear that the lack of recourse to section 18(1) was also based on an erroneous view of the meaning of the term "unreasonable" in that the agency considered that, given that the application on its face appeared reasonable (in terms of what it sought), it had no basis to refuse to process it, notwithstanding that to do so clearly involved a considerable allocation of resources. Given the delay involved in the processing of the matter it seemed to the Ombudsman that it was self evident that section 18(1) would have been appropriate to consider, particularly in light of the provisions of section 18(2). It should not be the responsibility of the applicant to take charge of the situation; the agency is best placed to do so as it knows or ought to know what its resources are and whether dealing with the application would involve a substantial and unreasonable diversion of such resources.

In addition, although the applicant is deemed to know the provisions of the law, the Ombudsman considers that best practice would dictate that the application be acknowledged upon its receipt and advice given about the process to be followed, including advice about deemed determinations etc [see page 48 of the Ombudsman's 2002/2004 Annual Report].

The agency had also failed to seek an advance deposit from the applicant or given the applicant any advice about the likely cost of processing the application prior to undertaking the work involved in processing the application which was substantial. Had the agency done so it may have had the effect of encouraging the applicant to amend and refine her application so as to focus on those documents that were of particular interest to her. This would have avoided the time and effort required in processing the application and may have resulted in the applicant obtaining access to those documents which were of particular interest to her at a much earlier point in time. Although not required by the Act to do so, the Ombudsman considers that such actions represent best practice and generally lead to more appropriate and acceptable outcomes for all parties.

At the end of the day the applicant did not obtain access to any documents as she failed to pay the agency's account (which was levied upon her at the conclusion of the matter) in the sum of \$1442.10 representing almost 40 hours of work by the agency.

Had the agency acknowledged her application and advised her of the process and her review and appeal rights in the event of a deemed determination, the applicant would have been in a position to exercise these rights at an earlier opportunity, or at least make an informed decision whether to agree to an extension of time for the agency to process her application. Further the agency would not have been exposed to criticism in its handling of the matter or undertaken the work involved in processing the application which it has at the date of the report, elected not to recover.

Comment

The Ombudsman encourages agencies to consider the mechanisms in the Act for narrowing the scope of applications where such applications involve an unreasonable diversion of its resources.

Where applicants are advised of the likely cost of processing of such applications in the Ombudsman's experience this is often associated with a narrowing in the scope of such applications thus saving the agency much time in the processing of the application and the applicant a considerable amount of money in respect of such processing.



Freedom of information is not equated with the provision of **free** information. It is perfectly appropriate for an agency to utilise the mechanisms in the Act designed to achieve more expeditious and efficient outcomes. It would seem to be contrary to the spirit of the Act that an application lie dormant for months due to the resource implications associated with dealing with it. A much better outcome can usually be achieved by the utilisation of section 18(1), in conjunction with section 18(2). Even in cases which do not amount to an unreasonable diversion of resources, it is desirable to clarify with the applicant exactly what is sought, and this can often have the effect of narrowing the scope to such documents, which has obvious resource implications for an agency. At the very least it can enable an agency to deal with those aspects of the application that are most pressing from the applicant's viewpoint.

Background summary

The agency had refused to process a number of applications lodged by the applicant, who had a history of lodging a number of applications under the Act with the agency, relating to non-personal information held by the agency. The determination pursuant to section 18(2a) of the Act was made by the agency on the basis that such applications amounted to an abuse of the right of access or were made for an improper purpose pursuant to section 18(2a) of the Act which provides as follows:

(2a) An agency may refuse to deal with an application if, in the opinion of the agency, the application is part of a pattern of conduct that amounts to an abuse of the right of access or is made for a purpose other than to obtain access to information.

This was the first determination the subject of an external review relating to section 18(2a) which involved a decision by the Ombudsman as to whether the agency's determination was justified. In previous matters, the Ombudsman was able to resolve such reviews by agreement.

There were three separate determinations however the decision on external review dealt with them as one, given their commonality.

Issues

Whether the agency was justified in its determinations.

In the absence of any decisions on the interpretation of this provision, what did the expressions "an abuse of the right of access" and "is made for a purpose other than to obtain access to information" mean.

What was required by the agency to justify such determination(s).

Was there any correlation with the vexatious litigant provision of the general law.

Whether there were any pre-conditions to the exercise of section 18(2a).

Outcome

In light of the provisions of section 48 of the Act, the Ombudsman did not consider that the agency's three determinations were justified in all the circumstances.

Relevant extracts of the Ombudsman's letter to the applicant advising of his decision in the three reviews are set out below:

I refer to the meeting held on Friday 19 November 2004 ...Although matters remain unresolved, the issues that were discussed at this meeting were significant in enabling me to reach my decision in relation to these reviews.

The Determinations

These reviews relate to the three determinations made by the agency in respect of the following applications following the agency's determination to refuse to deal with these applications pursuant to section 18(2a) of the Freedom of Information Act 1991 ('the Act'):



Section 18(2a)

As you are aware, section 18(2a) provides:

Agencies may refuse to deal with certain applications

18. (1)...

(2)...

(2a) An agency may refuse to deal with an application if, in the opinion of the agency, the application is **part of a pattern of conduct** that amounts to an **abuse of the right of access** or is made for a **purpose other than to obtain access to information**. [emphasis added]

There are two limbs to this provision:

1. An application could be part of a pattern of conduct that amounts to an abuse of the right of access ('abuse of right of access');

or

2. An application could be made for a purpose other than to obtain access to information ('improper purpose').

As my delegate advised during this meeting, the issues surrounding these reviews are both novel and complex. One of the reasons for this is that there are no decided cases on the interpretation of section 18(2a) of the Act. In addition, there are no equivalent provisions in any interstate Freedom of Information legislation which would assist in the interpretation of this section. Whilst the agency has provided me with details of legislation and case law in overseas jurisdictions, I am not persuaded that this is of any relevance to the application to section 18(2a) of the Act in the circumstances of this case, in light of the differences between the requirements of section 18(2a) and these overseas pieces of legislation.

1. Pursuant to section 48 of the Act the agency has the legal onus of satisfying me that its determinations are justified.

Decision

In summary, I advise as follows:

1. having taken into account the written and oral submissions of the parties, I am not persuaded that the three determinations the subject of review are justified;
2. I consider that the agency has not laid a proper foundation for the imposition of section 18(2a);
3. that I do not consider that your motives in *inter alia* seeking to remove the CEO of the agency or in seeking to hold the agency accountable to ratepayers amount to an improper purpose pursuant to section 18(2a);
4. that, in relation to issues concerning diversion of resources, the agency should consider the further utilisation of section 18(1) in dealing with current or future applications lodged by you;



5. that in relation to applications which do not necessarily give rise to diversion of resource issues, the agency should also consider the imposition of fees and charges and/ or the requirement of advance deposits pursuant to section 17 of the Act in order to assist in *narrowing the scope* of any application which you care to lodge;
6. that the agency has given inadequate regard to the requirements of section 12 of the Act and your legal right of access;
7. the agency should consider its obligations under section 15 of the Act in relation to any application which is vaguely worded;
8. that, notwithstanding the Act's encouragement of the provision of information outside the confines of the Act, it would be prudent for the agency to ensure that all subsequent requests for information lodged by you are dealt with pursuant to the Act;
9. that the agency is not obliged to *create* a document in response to requests for information lodged by you, nor does the Act require that the agency deal with repeated requests for information;
10. that issues pertaining to dealing with your requests for responses to your numerous queries, and requests for responses to criticism levelled at the agency by you, are more appropriately dealt with in accordance with general policies regarding community consultation and feedback;
11. that concerns pertaining to allegations of harassment of staff by you are more appropriately dealt with as a human resource issue;
12. that any other issues of a legal nature be dealt with in the appropriate forum;
13. that you give careful consideration to your future conduct with the agency in light of my delegate's comments to you that, whilst I am not persuaded at present that the agency's use of section 18(2a) is justified, I leave open the question as to whether it may be appropriate in relation to subsequent determinations.

Future Relations

In light of the above ... I propose to provide a care-taking role in relation to the processing of the three determinations the subject of the above review. ... I propose to direct the agency, pursuant to section 39(3)(b) of the Act, to deal with the applications lodged by you which were the subject of review by me.

Comment

An agency must lay a proper foundation for a refusal to process an application pursuant to section 18(2a) of the Act.

Whilst not suggesting that recourse to section 18(2a) must necessarily be a last resort option, an agency must be able to demonstrate to the satisfaction of the Ombudsman that either or both of the limbs of section 18(2a) are justified on the facts, noting that the agency bears the legal onus in this regard. A history of conduct will often be relevant here particularly where a party is seeking to re-litigate an issue or is seeking to harass an agency. ►

In the absence of any purpose being required to exercise a right of access under the Act however it is often difficult, in the absence of substantial independent evidence, to uphold an agency's assessment that an applicant's purpose is improper. More clear cut cases arise under section 18(2a) where repeated applications for the same (or similar) information are made. Or where there is concrete evidence of a purpose that would be regarded as improper (eg designed with the dominant purpose of harassing an agency or a staff member of such agency). The fact that an applicant may be perceived to be a nuisance to an agency is not necessarily relevant to such an assessment. Much however will depend on the facts.

In appropriate cases the Ombudsman will uphold a determination on the basis of section 18(2a). The Ombudsman has recently done so in a separate external review (not involving the parties to this external review) which was finalised outside of the reporting period and will be the subject of a case study in the 2005-06 Annual Report

Case study

Department for Correctional Services

Background summary

The agency had refused an application for amendment of records.

The applicant, a serving prisoner, sought to utilise the provisions of section 37 in lieu of seeking a review of the earlier refusal to amend his records.

The applicant had thereafter applied for a notation to be added to his records pursuant to section 37 of the Act which provides as follows:

Notations to be added to records

37. (1) If an agency has refused to amend its records, the applicant may, by notice in writing lodged at an office of the agency, require the agency to add to those records a notation—

(a) specifying the respects in which the applicant claims the records to be incomplete, incorrect, out-of-date or misleading; and

(b) if the applicant claims the records to be incomplete or out-of-date—setting out such information as the applicant claims is necessary to complete the records or to bring them up-to-date.

(2) An agency must comply with the requirements of a notice lodged under this section and must cause written notice of the nature of the notation to be given to the applicant.



(3) If an agency discloses to any person (including any other agency) any information contained in the part of its records to which a notice under this section relates, the agency—

(a) must ensure that, when the information is disclosed, a statement is given to that person—

(i) stating that the person to whom the information relates claims that the information is incomplete, incorrect, out-of-date or misleading; and

(ii) setting out particulars of the notation added to its records under this section; and

(b) may include in the statement the reason for the agency's refusal to amend its records in accordance with the notation.

(4) Nothing in this section is intended to prevent or discourage agencies from giving particulars of a notation added to its records under this section to a person (including any other agency and any Minister) to whom information contained in those records was given before the commencement of this section. [emphasis added]

The agency had refused to add the notation in the format required by the applicant. Although the changes made by the agency were not substantial and the substance of the applicant's (contrary) viewpoint was still apparent, the applicant was not satisfied with this and wanted his original notation to be entered without any amendment or alteration by the agency.

Issues

Whether the agency could refuse to comply with the requirements of section 37 of the Act?

Whether the agency was entitled to have any input in the form of the notation?

In the absence of any express limitations in section 37, whether there were any limitations inherent in the application of section 37?

Outcome

The Ombudsman considered the terms of section 37(2) were clear. In contrast with the Commonwealth FOI Act and a number of interstate FOI Acts, there are no express limitations or qualifications in section 37, which was perhaps understandable when one considered the context of section 37 (ie that it could only be invoked after an applicant had unsuccessfully sought an amendment of personal records under the Act). Section 37(1) provides that it is the applicant's version that will be the subject of a notation, and that this will be clear from the record. Further, that it should be apparent from the application of section 37(3), that the applicant's version is not accepted by the agency (had it done so it would no doubt *not* have refused to amend the record in the first place).

The Ombudsman did not consider that there was any scope to allow the agency to modify the notation sought in the circumstances of this case. The Ombudsman left open the issue of whether such modification would ever be justified. The agency agreed to add the notation in the format requested by the applicant (ie without any modification), effectively accepting the Ombudsman's view of the interpretation of section 37, although it reserved the right to do so in other cases.

The Ombudsman considered that this was an acceptable resolution to the matter and did not proceed to a formal decision.



Comment

An applicant can only seek a notation if he or she has already sought to amend the agency's records and such application has been refused. During this process the applicant bears the onus of establishing whether the records are "incomplete, incorrect, out-of-date or misleading" as required by section 31 of the Act. However in relation to an application for a notation the agency does not have any input into the form of such notation in general.

The purpose of a notation, which is to ensure that the record reflects the fact that it is incomplete, incorrect, out-of-date or misleading, would be undermined if the agency had the ability to modify the applicant's version during this process.

In contrast to the Commonwealth Act there are no express limitation in section 37 dealing with what an agency is obliged to do in relation to "irrelevant, defamatory or unnecessarily voluminous" notations. The Ombudsman was not obliged to determine this issue however in light of the agreement reached in this matter. It is doubtful that, even if such limitations are implicit in section 37, that they would have had the effect of enabling the agency to modify the notations sought in this review.

Case study

WorkCover Corporation

Background summary

The agency had processed an application under the Act primarily on the basis of documents in its physical possession at the time of the application, without taking into account a range of documents held by its external service providers including its legal advisers, its claims agents, and a range of other bodies engaged on its behalf (either directly or indirectly) in relation to an investigation of fraud involving the applicant who was at the time, in receipt of benefits under the *Workers Rehabilitation and Compensation Act 1986*.

The applicant considered that the scope of his application incorporated all of the agency's documents, even if they were not at the time of his application in the physical possession of the agency.

Section 12 of the Act provides that "a person has a legally enforceable right to be given access to an agency's documents in accordance with this Act."

Section 4(4) of the Act provides that "an agency is to be taken to hold a document if the agency has an immediate right of access to the document."



Issues

Whether the documents held by the agency's external service providers fell within the scope of the application.

Whether the agency was required in processing the application to take into account all or any of the documents held by its external service providers.

What are an agency's documents for the purposes of the Act?

What is the relationship between sections 4(4) and 12 of the Act?

Outcome

The Ombudsman considered that the agency had been deficient in its processing of the application. In particular the Ombudsman did not accept that documents held by a number of external service providers were beyond the scope of an application under the Act. Ownership and possession are not to be equated. Over-reliance on the concept of physical possession and the meaning of "immediate right of access" appears to have caused the agency to neglect its responsibilities under the Act. When in doubt, recourse to the law of principal and agency in interpreting the provisions of section 12 would appear to be a preferable starting point, particularly in light of the objects of the Act.

Relevant extracts from the Ombudsman's letter to the agency advising of his view of the matter are set out below. Although this decision is specific to this review, such views have application to a range of government agencies, particular those involving **outsourcing** of its functions:

After careful consideration of the above documents I inform you that I have formed the view that I do not accept a number of the conclusions reached by JWS regarding the issue of 'immediate right of access'. I consider that documents that are in the possession of a number of your agency's external service providers are, as a matter of law, 'the agency's documents' for the purpose of section 12 of the *Freedom of Information Act, 1991* ('the Act'), and therefore they may be required to be taken into account when considering an application for access to documents under the Act, depending on the terms of the application.

I set out in detail below my reasons for forming this view.

IMMEDIATE RIGHT OF ACCESS

JWS stated that the term 'immediate right of access' in section 4(4) of the Act means more than just a right of access.

I accept that the word 'immediate' has some importance in qualifying the words 'right of access', and therefore cannot be ignored when interpreting this provision. However, I am not convinced that the concept of an 'immediate right of access' is inconsistent with the notion of requiring documents, which are not currently in the agency's possession but which are agency documents, to be retrieved by the agency giving reasonable notice, with some relatively small time delay involved in the documents coming in to the agency's possession.

Having said that, I do not consider it necessary to decide that issue in the context of this matter, as I consider the documents in question to be the property of your agency, for reasons that will become apparent.



OBJECTS OF THE ACT

JWS referred to section 3(2)(b) of the Act, referring to one of the objects of the Act as:

...conferring on each member of the public a legally enforceable right to be given access to documents held by government, subject only to such restrictions as are reasonably necessary for the proper administration of government.

JWS concluded that it was unlikely that South Australian courts would impose an obligation on your agency to obtain copies of documents held by all external service providers in response to each and every application under the Act, as it would be an 'impossible obligation' and would be inconsistent with the proper administration of government.

No doubt you are aware of the amendments to the Act that took effect on 1 January 2005. The Act as amended no longer has the version of section 3(2)(b) quoted above. The current section 3(2)(b) reads:

- (2) The means by which it is intended to achieve these objects are as follows:
 - (b) conferring on each member of the public and on Members of Parliament a legally enforceable right to be given access to documents held by government, subject only to such restrictions as are consistent with public interest (including maintenance of the effective conduct of public affairs through the free and frank expression of opinions) and the preservation of personal privacy.

I presume your agency will argue, in light of these amendments, that an obligation on your agency to obtain copies of documents held by all external service providers in response to each and every application under the Act would be an impossible obligation and would be inconsistent with public interest.

However, section 3(2)(b) is only a general 'objects' provision, and the mere fact that something may not (in an agency's eyes) be in the public interest is not of itself a proper reason to defuse access to documents, nor is it a proper basis on which to determine what documents are to be considered for the purposes of an application under the Act.

I will now address the various external service providers raised in the JWS advice.

LEGAL SERVICE PROVIDERS

Legal professional privilege

JWS stated that if documents are created for the dominant purpose of seeking or providing legal advice, then they are exempt by virtue of legal professional privilege, so the issue of immediate right of access does not come into it.

I agree with this proposition in principle, but make the comment that this puts the cart before the horse. The question of whether the agency has an immediate right of access to the documents must be addressed before the issue of whether the documents are exempt by virtue of legal professional privilege.



The legal services agreement

JWS then refers to Clause 4 of the Legal services agreement, which provides as follows:

The Corporation will be entitled to access all documents held by the Service Provider which it has received from a User or worker in the course of providing the Panel Services, pursuant to an application under section 39 of the Legal Practitioners Act 1981 (delivery up of legal papers).

JWS concludes that as your agency has to take certain steps (ie applying to the Supreme Court) to access files held by its solicitors, this can hardly be termed an 'immediate' right of access.

I observe that your agency would have this right anyway under section 39 of the Legal Practitioners Act 1981, whether or not this provision existed.

More to the point, I consider that the issue gets down to who owns the documents. Section 12 of the Act provides:

'A person has a legally enforceable right to be given access to **an agency's documents** in accordance with this Act.' [Emphasis added]

The concept of 'an agency's documents' (which is not defined in the Act) in my view connotes the idea of ownership of those documents, and while section 4(4) of the Act assists by developing the concept of immediate right of access to documents, this is not the determining factor in deciding what are 'an agency's documents' to which an applicant has a legally enforceable right of access. I interpret section 4(4) as a deeming provision with respect to determining what documents are 'held' by an agency, a term that appears in a number of provisions of the Act.

However, the crucial section conferring the right of access to documents specifically confers that right to a person in respect of 'an agency's documents' rather than 'documents held by an agency'. Just as I accept that the significance of the word 'immediate' cannot be ignored in the interpretation of section 4(4), the difference in expression in section 12 from those provisions of the Act referring to documents 'held' by an agency cannot be ignored in determining what documents are subject to an application under the Act.

In circumstances in which your agency (or a claims agent) instructs solicitors in relation to a matter, there will undoubtedly be documents on the solicitor's file that are 'owned' by your agency, and to that extent I consider that they are 'the agency's documents' for the purposes of section 12 of the Act.

To conclude otherwise would allow an agency to avoid the provisions of the Act simply by forwarding to its solicitors any material that is undoubtedly the property of the agency that is not otherwise exempt, but which for whatever reason it does not wish to disclose to the applicant. I do not consider that such a conclusion was intended by Parliament.

It is worth pointing out that the issue of who owns which documents on a solicitor's file is not totally straightforward, as both *Wentworth* and the decision of the Information Commissioner of Queensland in *Price v Nominal Defendant*, indicate. Certain documents on a solicitor's file will belong to the solicitor (for example, file copies of letters sent to the client, original letters sent by the client to the solicitor, and notes of attendances on the client), whereas others will belong to the client (for example briefs to counsel and correspondence with third parties).



The point to make is that upon receipt of an application for access to documents under the Act, I consider that an agency which has retained solicitors to act in relation to the subject matter of the application is required to obtain all documents on its solicitor's file and determine which are 'the agency's documents' as defined in the above discussion.

EXTERNAL INVESTIGATORS

I consider that, essentially, an external investigator appointed pursuant to an investigation agreement is an agent of your agency (or the claims agent), and as a result all documents on their file with the exception of the types of handwritten notes and the like produced by the investigator for his or her own purposes, they belong to your agency and accordingly are 'the agency's documents' for the purposes of section 12 of the Act.

The claims management agreement

For the same reasons as expressed above, your agency, not the claims agent, owns these documents, and therefore in my view they are 'the agency's documents' for the purposes of section 12 of the Act and are therefore required to be considered in the context of an application for access to documents under the Act.

The general argument raised by your agency that South Australian courts would not impose an obligation on your agency to obtain copies of documents held by all external service providers in response to each and every application under the Act as it would be an 'impossible obligation' and would be inconsistent with the proper administration of government, is not valid to the extent that documents held by any external service providers with whom your agency has agreements (such as the rehabilitation agreement and the investigation agreement) are the property of your agency and are therefore 'the agency's (i.e. your agency's) documents'.

In responding to any particular application under the Act, your agency will know the external service providers with whom it is dealing or has dealt. That will in all likelihood be a limited number, and if the terms of an application under the Act potentially encompasses documents that are in that provider's possession, then I consider that it should obtain the documents held by that provider and consider such documents in the determination of the application.

While this may create more work for your agency in dealing with applications under the Act, it is hardly an 'impossible obligation', and as your agency and the external service provider have agreed (pursuant to what is effectively a proforma contract which I am certain was prepared by or on behalf of your agency) that the property in the documents in the possession of the external service provider remain with your agency, it can hardly be said to be contrary to the public interest, given the wording of section 12 of the Act.

Comment

In processing an application under the Act an agency must give careful consideration to the range of documents it holds or is deemed to hold in light of the scope of the application. In particular, outsourcing arrangements do not abrogate its responsibilities under the Act however administratively cumbersome this may be to an agency.

The importance of adequate records management and communication is demonstrated in the processing of this application.

Government Departments

GOVERNMENT DEPARTMENTS Complaints Received 01 July 2004 to 30 June 2005

Department for Correctional Services	868	45.2%
South Australian Housing Trust	230	12.0%
Department for Families and Communities	175	9.1%
Department of Transport & Urban Planning	141	7.3%
SA Water Corporation	113	5.9%
Department of Education & Children's Services	110	5.7%
Attorney-General's Department	81	4.2%
Department of Treasury and Finance	70	3.6%
Department of Admin and Information Services	44	2.3%
Department of Further Education, Employment, Science & Technology	19	1.0%
Environment Protection Authority	17	0.9%
Department of Water, Land & Biodiversity Conservation	15	0.8%
Department for Environment and Heritage	14	0.7%
Department of Primary Industries & Resources	13	0.7%
Department of the Premier and Cabinet	7	0.4%
Department of Transport, Energy and Infrastructure	2	0.1%
Department of Trade and Economic Development	1	0.1%
State Electoral Office	1	0.1%
TOTAL	1921	

GOVERNMENT DEPARTMENTS Complaints Completed 01 July 2004 to 30 June 2005

Department for Correctional Services	869	44.3%
SA Housing Trust	235	12.0%
Department for Families and Communities	167	8.5%
Department of Transport & Urban Planning	147	7.5%
SA Water Corporation	117	6.0%
Department of Education & Children's Services	111	5.7%
Attorney-General's Department	84	4.3%
Department of Treasury and Finance	69	3.5%
Department of Admin and Information Services	48	2.4%
Environment Protection Authority	21	1.1%
Department for Environment and Heritage	19	1.0%
Department of Further Education, Employment, Science & Technology	19	1.0%
Department of Water, Land & Biodiversity Conservation	18	0.9%
Department of Primary Industries & Resources	16	0.8%
Department of Human Services	9	0.5%
Department of the Premier and Cabinet	8	0.4%
Central Hills District Soil Conservation Board	1	0.1%
Department of Trade and Economic Development	1	0.1%
Department of Transport, Energy and Infrastructure	1	0.1%
State Electoral Office	1	0.1%
TOTAL	1961	

GOVERNMENT DEPARTMENTS
Complaints Received : Issues
01 July 2004 to 30 June 2005

	Other	Department for Correctional Services	Department for Families & Communities	Department of Transport & Urban Planning	South Australian Housing Trust	SA Water Corporation	TOTAL	PERCENTAGE
Access to educational services	17	0	0	0	0	0	17	0.9%
Access to Information	0	1	1	0	0	0	2	0.1%
Access to treatment	0	9	0	0	0	0	9	0.5%
Administration	72	21	33	43	14	16	199	10.4
Administration/general management	0	0	0	0	1	0	1	0.1%
Administrative practices/policies	117	39	94	37	19	15	321	16.7
Approvals (permits, licenses, registrations)	16	0	0	19	0	0	35	1.8%
Case Review	1	10	0	0	0	0	11	0.6%
Citizen Rights	5	2	1	0	0	1	9	0.5%
Communication	11	5	9	3	2	2	32	1.7%
Conduct	7	1	0	0	0	0	8	0.4%
Curriculum issues	4	0	0	0	0	0	4	0.2%
Daily routine	2	212	0	0	0	0	214	11.1
Discipline	1	9	0	0	0	0	10	0.5%
Double up cells	0	15	0	0	0	0	15	0.8%
Drains/Sewers	1	0	0	0	0	3	4	0.2%
Duty of care	3	8	6	1	0	0	18	0.9%
Fees/charges/levies	32	2	0	9	2	23	68	3.5%
Financial assistance	3	0	8	0	1	2	14	0.7%
Financial issues	55	9	8	6	10	35	123	6.4%
Funding	1	0	0	0	0	0	1	0.1%
Health	6	0	0	0	0	2	8	0.4%
Home Detention	0	38	0	0	0	0	38	2.0%
Housing	3	0	1	0	177	0	181	9.4%
Land Use	3	0	0	1	0	1	5	0.3%
Leave	0	11	0	0	0	0	11	0.6%
Mail	0	10	1	0	0	0	11	0.6%
Medical	1	7	0	0	0	0	8	0.4%
None	9	16	3	3	1	3	35	1.8%
Officer misconduct	1	7	3	3	0	0	14	0.7%
Ordinances, Regulations, By-laws	4	0	0	5	1	0	10	0.5%
Other	2	82	1	1	1	0	87	4.5%
Planning and development	1	0	0	2	0	0	3	0.2%
Policy development and implementation	0	1	0	0	0	0	1	0.1%
Property	0	128	0	0	0	0	128	6.7%
Punishment	1	44	0	0	0	0	45	2.3%
Quality of treatment	1	3	4	0	0	0	8	0.4%
Rates and charges	6	0	0	0	1	5	12	0.6%
Record keeping	3	5	2	2	0	0	12	0.6%
Roads	0	0	0	4	0	0	4	0.2%
Security	0	11	0	0	0	0	11	0.6%
Segregation	0	4	0	0	0	0	4	0.2%
Services	2	4	0	2	0	5	13	0.7%
Tenders	1	0	0	0	0	0	1	0.1%
Transfers	1	86	0	0	0	0	87	4.5%
Transport	1	1	0	0	0	0	2	0.1%
Visits	0	47	0	0	0	0	47	2.4%
Work and education	0	20	0	0	0	0	20	1.0%
TOTAL	394	868	175	141	230	113	1921	
	20.5%	45.2%	9.1%	7.3%	12.0%	5.9%		

**GOVERNMENT DEPARTMENTS
Complaints Completed
- Outcomes
01 July 2004 to 30 June 2005**

	Other	Department for Correctional Services	Department for Families and Communities	Department of Transport & Urban Planning	South Australian Housing Trust	SA Water Corporation	TOTAL	PERCENTAGE
Advice Given	195	209	85	59	79	60	687	35.0%
Conciliated	1	1		1			3	0.2%
Declined	9	10	6	4	4	4	37	1.9%
Determination	5						5	0.3%
Full Investigation	25	13	2	3	1	4	48	2.4%
Preliminary Investigation	188	626	69	77	148	46	1154	58.8%
Withdrawn	2	10	5	3	3	3	26	1.3%
TOTAL	426	869	167	147	235	117	1961	
	21.7%	44.3%	8.5%	7.5%	12.0%	6.0%		

**DEPARTMENT FOR CORRECTIONAL SERVICES
Complaints Received : Issues 01 July 2004 to 30 June 2005**

Access to Information	1	0.1%
Access to treatment - Delay in receiving assessment/admission/treatment	7	0.8%
Access to treatment - Refusal to admit and/or treat	2	0.2%
Administration - Delay	8	0.9%
Administration - Inadequate investigation of complaint	4	0.5%
Administration - Other	1	0.1%
Administration - Unreasonable administrative decision/policy	8	0.9%
Administrative practices/policies	1	0.1%
Administrative practices/policies - Child Placement	1	0.1%
Administrative practices/policies - Conduct contrary to policies	4	0.5%
Administrative practices/policies - Conflict of interest/bias	1	0.1%
Administrative practices/policies - Delay	4	0.5%
Administrative practices/policies - Erroneous decisions	6	0.7%
Administrative practices/policies - Failure to give reasons for decisions	4	0.5%
Administrative practices/policies - Failure to investigate or act	5	0.6%
Administrative practices/policies - Failure to respond	1	0.1%
Administrative practices/policies - Inadequate/inaccurate records maintained	3	0.3%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	1	0.1%
Administrative practices/policies - Unfair/discriminatory practices/policies	4	0.5%
Administrative practices/policies - Unreasonable use of authority/power	4	0.5%
Case Review	5	0.6%
Case Review - Disputes Decision	5	0.6%
Citizen Rights - Breach of privacy/confidentiality	2	0.2%
Communication	1	0.1%
Communication - Lack of care or consideration shown	2	0.2%
Communication - Unprofessional conduct/attitude of staff	2	0.2%
Conduct	1	0.1%
Daily routine - Access to amenities/activities/	48	5.5%
Daily routine - Duty of care	35	4.0%
Daily routine - Food/diet	22	2.5%
Daily routine - General treatment	37	4.3%
Daily routine - Other	39	4.5%
Daily routine - Use of telephones	31	3.6%
Sub Total	300	

	Carried forward	300	
Discipline - Exclusion		2	0.2%
Discipline - Punishment		7	0.8%
Double up cells		15	1.7%
Duty of care - Breach of policy/guidelines		1	0.1%
Duty of care - Failure to provide		7	0.8%
Fees/charges/levies - Method of calculation		2	0.2%
Financial issues - Cost recovery		4	0.5%
Financial issues - Delays/refusal to pay		1	0.1%
Financial issues - Miscalculation		2	0.2%
Financial issues - Overcharge/payment		2	0.2%
Home Detention - Declined home detention application		12	1.4%
Home Detention - Delays in processing home detention application		21	2.4%
Home Detention - Inappropriate Method of Urine Testing		1	0.1%
Home Detention - Other		4	0.4%
Leave - Refusal		11	1.3%
Mail		2	0.2%
Mail - Delays		4	0.5%
Mail - Interception		4	0.5%
Medical - Access to dental, optical and medical services		7	0.8%
Officer misconduct		1	0.1%
Officer misconduct - Threats/harassment/racism/intimidation		1	0.1%
Officer misconduct - Unreasonable use of power		4	0.5%
Officer misconduct - Unwarranted/unreasonable use of force or discipline		1	0.1%
Other		98	11.3%
Policy development and implementation		1	0.1%
Property		17	2.0%
Property - Confiscation		9	1.0%
Property - Damage		8	0.9%
Property - Delay in transferring		29	3.3%
Property - Failure to compensate		9	1.0%
Property - Loss		19	2.2%
Property - Refusal to Accept or Release		37	4.3%
Punishment		5	0.6%
Punishment - Excessive/Unfair		39	4.5%
Quality of treatment - Inadequate treatment/care		2	0.2%
Quality of treatment - Incorrect diagnosis/treatment/care		1	0.1%
Record keeping - Inaccurate records		3	0.3%
Record keeping - Sentence calculation		2	0.2%
Security		1	0.1%
Security - Cell and strip searches		4	0.5%
Security - Urine analysis		6	0.7%
Segregation - Unreasonable/illegal		4	0.5%
Services		1	0.1%
Services - Access		2	0.2%
Services - Termination		1	0.1%
Transfers		12	1.4%
Transfers - Delay		10	1.2%
Transfers - Disputes Decision		48	5.5%
Transfers - Failure to approve		13	1.5%
Transfers - Form of transport		3	0.3%
Transport		1	0.1%
Visits - Access		4	0.5%
Visits - Bans		39	4.5%
Visits - Treatment		4	0.5%
Work and education - Access to		10	1.2%
Work and education - Payment for		2	0.2%
Work and education - Removal of access		8	0.9%
	TOTAL	868	

DEPARTMENT FOR CORRECTIONAL SERVICES
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	134	15.4%
Advice Given to Agency	1	0.1%
Advice Given - Other/General	1	0.1%
Advice Given - Referred to Agency	73	8.4%
Conciliated - Reasonable Resolution	1	0.1%
Declined - Alternate Remedy	5	0.6%
Declined - Out of Time	1	0.1%
Declined - Refused to Investigate	4	0.5%
Full Investigation - Not Sustained	2	0.2%
Full Investigation - Not Sustained - Explanation Given	2	0.2%
Full Investigation - Partly Resolved in Favour of Complainant	3	0.3%
Full Investigation - Reasonable Resolution	6	0.7%
Preliminary Investigation	1	0.1%
Preliminary Investigation - Not Sustained	36	4.1%
Preliminary Investigation - Not Sustained - Explanation Given	326	37.5%
Preliminary Investigation - Partly Resolved in Favour of Complainant	95	10.9%
Preliminary Investigation - Reasonable Resolution	168	19.3%
Withdrawn by Complainant	10	1.2%
TOTAL	869	

DEPARTMENT FOR CORRECTIONAL SERVICES

Reforms by the Department following Ombudsman investigations

As I noted in my 2002-03 Annual Report, this Office was regularly made aware of incidents where prisoners claimed that they were being punished for specific actions, but the process set out in the Correctional Services Act in relation to minor breaches was not being followed. This appeared to result in punishment being imposed without the opportunity for the prisoner to properly defend his actions. Because of further examples raised with my Office, I wrote to the Chief Executive of the Department and commenced an investigation of my own initiative.

It will always be a matter of genuine concern where there are specific provisions in legislation and agency staff take action which effectively circumvents the plain intention of the legislation.

The Department acknowledged that this problem existed and practices which were contrary to the intention of the legislation were continuing. Legal advice was prudently obtained to guide the Department as to changes in practices which would then be consistent with the legislation. The Department established a project group which was responsible for designing new processes and establishing properly documented policies.

After some months, I was invited to a meeting with the Chief Executive and the project group to hear a presentation about the new practices which the Department intended to implement. I was satisfied that there was a determination to reform the practices so that the practices would be consistent with the intention of the legislation. The Department then commenced an extensive education process to instruct staff in relation to the new procedures. At the end of the year several prisons were about to implement the new practices. The following months should reveal the level of attainment of the sound and proper objects of the revised practices. My staff will continue to monitor incidents of this nature to assess the effectiveness of the Department's actions.

I was satisfied, following a period of recurring incidents, that the Department has properly acknowledged the problem and taken positive action which I hope will address the issue in order to provide a long term solution to the problem.



DEPARTMENT FOR CORRECTIONAL SERVICES

Nature, purpose and objectives of review into practices and procedures

In my previous 32nd annual report to parliament I referred to my special investigation which simulated an audit review of practices and procedures involving prisoners at risk of self-harm. The process of extensive investigation and meetings with department officials, prisoners, health and other professionals took 15 months to reach a satisfactory conclusion and involved the Ombudsman himself, an investigation officer (with “mental health” experience) and the Ombudsman’s executive assistant.

Relevant documentation relating to practices and procedures, application and understanding on part of management and relevant staff and officials was also the subject of scrutiny and consideration by the Ombudsman in the case of all prisons. Discussions and visits took place throughout the year and these also included Forensic Health Services, James Nash House, other professional persons and groups discussions with Visiting Justices, Prison Chaplains, Offenders’ Aid and Rehabilitation Services of SA and a number of prisoners.

The observations and opinions of the Ombudsman on the various matters have been provided to the Chief Executive for the Department for Correctional Services and discussed with the Department’s executive staff and prison managers. The Department’s positive response to my investigation was provided in March 2005 . Following the discussions on the outcomes of my review into deaths in custody, the Department proceed with the implementation and development of highly relevant initiatives, including

- Cell Design to meet recognised Safe Cell Requirements
- New Prison Infrastructure Project
- Prisoner management suite of procedures
- Standard Operating Procedures Development-Risk Management
- Drug & Alcohol/Mental Health Initiatives :Project
- Alcohol, Smoking and Substance Involvement Screening Test (Assist)
- Risk Assessment
- At Risk Prisoners
- Mental Health First Aid
- Joint Systems Protocols
- Unit Manager, Officer in Charge Training.

On or about 27 May 2005, upon being satisfied that the Department with its project team have now proceeded to deal with the all-inclusive consideration of these matters, I exercised my discretion to discontinue my full investigation to allow the Department to have full opportunity to proceed effectively with the development and implementation of the initiatives particularised in its preliminary report dated March 2005 to the Ombudsman.

While the approach taken by me had the flavour of an “audit review”, it should be noted that I had proceeded on a firm basis under section 13 of the *Ombudsman Act* , with an “own initiative” systemic investigation. Moreover, there were several specific cases of prisoners who had possibly been at risk of self-harm and persons who claimed that certain prisoners were at risk. Section 14a of the *Ombudsman Act* (audit review) only came into operation on 1 July 2004; and my systemic investigation provided a good indication of the extent to the value of ‘audits’ into practices and procedures and the requisite level of evaluation of the connection practices and procedures and their application.

Modern forward-thinking agencies are mostly aware of the significance and value of internal audits in their risk management environments. I commended the executive staff of the Department for their positive response and contribution to this demanding area of administration. I have imitated to the Department that I will look forward to an update on the progress of the development and implementation of the relevant initiatives in early December 2005.

■ The Complaint

Section 36(2)(a) of the Correctional Services Act ("the Act") provides for a prisoner to be kept separately and apart from all other prisoners *"in the interests of the proper administration of justice where an investigation is to be conducted into an offence alleged to have been committed by the prisoner"*. The prisoner was suspected of having used another prisoner's telephone access code and became involved in a verbal exchange with officers. The prisoner acknowledged that he did dispute a decision by officers to terminate a telephone call he was engaged in at about 10.00 am in the morning; that he did make a derogatory comment about another officer who had refused him an officer assisted call about the same matter; but claimed that he was not abusive towards the officers he spoke with. He claimed that, following this exchange, there did not seem to be a problem; he returned to his cell and the rest of the day was incident free; it was not until about 5.00 pm that afternoon that officers came to his cell and he was separated. The prisoner felt there was no good reason why he needed to be separated pending an investigation into his conduct and that it was a means of punishing him. He also questioned why he was subjected to a harsher regime when he was only being investigated and had not been proven guilty of any offence.

■ Ombudsman Investigation

In a previous letter to the Chief Executive of the Department for Correctional Services about the punishment of prisoners, I had commented as follows:

"It would seem from recent information that some areas of the Department may have shifted to using section 36 to perhaps circumvent the requirements of the Act. I understand that the Standard Operating Procedure (SOP) in relation to section 36 indicates that this section should only be used as a last resort. Further the very requirement of the section that the use of the section must be reported to the Minister would suggest that the intention was that this section should be used infrequently rather than as a standard procedure to impose punishment on prisoners".

The Department claimed the prisoner was separated whilst his actions were being investigated. It was claimed that, had he not been separated, he could have influenced other prisoners to support his position and therefore jeopardise any subsequent Tribunal hearing. It was claimed the fact that the investigation took 3 days was not unusual, given that the Act provided staff with up to 30 days to complete an investigation, the reluctance of prisoners to talk, the general unreliability of the information they provide and the need for corroborating information.

In relation to the prisoner having to endure a harsher regime whilst the matter was investigated, the Department maintained it was necessary to remove the prisoner from associating with other prisoners to prevent him influencing any inquiries and that the only cells available were those which were set aside for the management of difficult prisoners who required close management. It was claimed it would not have been feasible nor possible to structure an individual regime for every prisoner transferred to that area.

■ Ombudsman Opinion

The essential element of the complaint was that section 36(2)(a) of the Act had been used inappropriately to effectively punish a prisoner and perhaps to circumvent the requirements of the Act. I noted that a number of similar occurrences had been reported to my Office.

Despite claiming that the prisoner's separation was to allow for an investigation to be conducted into an offence alleged to have been committed by the prisoner, the Department did not provide any evidence to show that further investigation was actually undertaken.



According to the Direction to Keep a Prisoner Separate and Apart Form, the only matter to be investigated was the allegation that the prisoner was disruptive in that he was abusive towards staff. The only relevant document provided to me was an officer's report, completed 2-3 hours before the decision to separate the prisoner was taken. I was of the opinion that further deliberations at management level did not constitute 'investigation' as contemplated by the Act. I was not persuaded that it was necessary to separate him from other prisoners on the basis that *"he could have influenced other prisoners to support his position and jeopardise any subsequent Tribunal Hearing"*. It seemed to me that, if the prisoner was so inclined, he could have done so at any time up to the date of the hearing, including in the 6-7 hours which elapsed after the incident and prior to him being separated. In any event, the matter itself was not really dependent on other witnesses.

I also expressed the view that I did not believe it was intended that section 36 of the Act be used for such routine and minor matters as this. The Department's own Standard Operating Procedure relating to Separation stated *"However, the Department recognises that separation is a management option of last resort and that under normal circumstances prisoners are to be accommodated in a least restrictive environment"*.

Given that no evidence was provided that some substantial investigation had actually occurred, I was inclined to the opinion that, unless the Department could provide some justification, then the prisoner's separation was not for legitimate investigation but rather a form of punishment.

Further discussions occurred with the Department and it was agreed that further inquiries were unlikely to clarify the situation. The Department acknowledged it would have been entirely inappropriate if punishment had been the intention of the separation. The Department agreed that all inquiries should be properly documented and an audit trail be available for later scrutiny and undertook to advise all General Managers that proper documentation must be kept for all future separations for investigation purposes. The Department also undertook to advise General Managers that prisoners subject to investigation do not have to be specifically separated in a cell area reserved for that purpose - that there were various other graduated options available including separation in their own cell or Wing/Unit/Division or simply returning them to a more secure environment.

SOUTH AUSTRALIAN HOUSING TRUST
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration - Delay	2	0.9%
Administration - Inadequate investigation of complaint	6	2.6%
Administration - Unreasonable administrative decision/policy	6	2.6%
Administration/general management of Councils -	1	0.4%
Administrative practices/policies - Conduct contrary to policies	3	1.3%
Administrative practices/policies - Delay	2	0.9%
Administrative practices/policies - Erroneous decisions	2	0.9%
Administrative practices/policies - Failure to investigate or act	3	1.3%
Administrative practices/policies -Inadequate/inaccurate records maintained	1	0.4%
Administrative practices/policies - Misleading/wrong information or advice	1	0.4%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	2	0.9%
Administrative practices/policies - Unfair/discriminatory practices/policies	4	1.7%
Administrative practices/policies - Unreasonable use of authority/power	1	0.4%
Communication - Lack of care or consideration shown	1	0.4%
Communication - Unprofessional conduct/attitude of staff	1	0.4%
Fees/charges/levies - Imposition	2	0.9%
Financial assistance - Eligibility criteria	1	0.4%
Financial issues - Cost recovery	6	2.6%
Financial issues - Level of charges	3	1.3%
Financial issues - Miscalculation	1	0.4%
Housing	2	0.9%
Housing - Abandoned Goods	1	0.4%
Housing - Agreements	5	2.2%
Housing - Allocation	40	17.4%
Housing - Arrears/debt recovery	5	2.2%
Housing - Damages	3	1.3%
Housing - Disruptive tenants	26	11.3%
Housing - Maintenance	43	18.7%
Housing - Rent	9	3.9%
Housing - Sale	8	3.5%
Housing - Termination	9	3.9%
Housing - Transfer	26	11.3%
None	1	0.4%
Ordinances, Regulations, By-laws - Unreasonable Determination	1	0.4%
Other	1	0.4%
Rates and charges - Remissions/discounts	1	0.4%
TOTAL	230	

SOUTH AUSTRALIAN HOUSING TRUST
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	68	28.9%
Advice Given - Referred to Agency	11	4.7%
Declined - Alternate Remedy	2	0.9%
Declined - Refused to Investigate	2	0.9%
Full Investigation - Partly Resolved in Favour of Complainant	1	0.4%
Preliminary Investigation - Not Sustained	4	1.7%
Preliminary Investigation - Not Sustained - Explanation Given	70	29.8%
Preliminary Investigation - Partly Resolved in Favour of Complainant	28	11.9%
Preliminary Investigation - Reasonable Resolution	46	19.6%
Withdrawn - Withdrawn by complainant	3	1.3%
TOTAL	235	

SOUTH AUSTRALIAN HOUSING TRUST

Alleged failure to adequately follow up complaint about noise generated by neighbours during the Christmas period.

■ The complaint

The complainant stated that during January to November every year the tenants in her block of units, on the whole, acted within the Conditions of Tenancy. However, during December the tenants in the units decorated their homes with lights and often spent longer periods of time outside the units in the evenings and had more visitors.

The complainant had made complaints to the SAHT about the use of Christmas lights and the accompanying increased noise and number of visitors and felt that it was unreasonable that for the month of December each year, the Conditions of Tenancy did not seem to be enforced by the Trust. It was not the complainant's preference to move to another residence due to the costs of moving and the effort she had put into her garden. It was clear from her complaint that the use of Christmas lights and the accompanying festivities at the units were an inconvenience to the complainant.

■ Ombudsman's Investigation

During the investigation of this complaint, my investigating officer considered whether the Trust was unreasonable in its response to the complainant's concerns about noise and disruption at the units during the month of December. In doing so my officer examined the Trust's Conditions of Tenancy that tenants are obliged to abide to.

The relevant condition states:

The Tenant must not:

- 7 e) *cause or permit any interference with the reasonable peace, comfort or privacy of other tenants of the Trust or any person who resides in the vicinity of the premises.*

The Trust stated that it did not have a policy on the use of Christmas lights by tenants and that it did not plan to have such a policy in the near future. The Trust further stated that the use of Christmas lights by tenants did not breach the Conditions of Tenancy. In response to the complaint, the Trust consulted the City of Salisbury Council and the Environmental Protection Authority and established that there were no relevant guidelines or By-laws relating to Christmas lights.

The Trust stated that in response to the initial complaint, the Housing Manager had spoken with the complainant and her neighbours who agreed to dismantle the Christmas lights by 9.45pm and then to be as quiet as possible. The Trust later acknowledged that the complainant felt that the Christmas lights and festivities of her neighbours continued to affect her peace and tranquillity. To address this the Trust made a commitment to provide mediation to attempt to arrive at a mutually agreeable plan about appropriate Christmas festivities at the Units. The Trust also offered to transfer the complainant to alternative accommodation, which the complainant ultimately accepted.

■ Ombudsman's opinion

It was clear that there was a conflict between the complainant's expectation for peace and quiet and the Trust's attempt to encourage and support their tenants in community participation. As South Australia's public housing authority, the Trust attempts to create sustainable communities by promoting tenants' community participation and thus decreasing social isolation. It was appropriate for the Trust to conduct their own investigation of the complainant's concerns; and that the Trust responded to the complaint by using the suggested interventions in the Trust's Difficult and Disruptive Tenants Policy. It is my view that the Trust responded appropriately by proposing a negotiated resolution and an endeavour to satisfy all parties to the complaint within the guidelines of Difficult and Disruptive Tenants Policy. I acknowledged that the complainant did not agree that enough was done by the Trust to satisfy her concerns and ultimately chose to move to another residence to avoid the problem she had encountered each festive season. Having regard to all the circumstances of the case, I did not think it necessary to suggest any further attempts by the Trust to address the issues raised in the complaint.

Case study

SOUTH AUSTRALIAN HOUSING TRUST

Unreasonable decision against construction of a fence alongside common strata title property by the Housing Trust (as the owner of two thirds of the units).

■ The Complaint

The complainant looks after her two pre-school-age children, one of whom has special needs due to a developmental health condition. There is a relatively large (as it involves a block of six adjacent units) lawn on common ground alongside the main driveway and in front of the complainant's dwelling. In order to safeguard her children, the complainant wished to receive permission to erect a fence enclosing the grassed areas, and undertook to install child-proof locks so that her children could be secured and the SA Housing Trust (the Trust) tenants occupying four of the six units could retain use of the grassed area.

■ Ombudsman's investigation

The roadside perimeter of the complainant's property (and the adjacent unit) indeed abuts the public footpath and it may well be hard for the complainant to monitor every move of her children all the time whilst they play on the lawn.

Two thirds of the units are owned by the Trust and common areas are supposed to serve all tenants, both current and future, and occupants of the other units, as well as any invited visitors that these units might receive.

The Trust opposed the scenario favoured by the complainant, primarily because a complete fence enclosure would produce the impression of exclusivity of use and even ownership and because it was not known what needs future tenants of the Trust might have.

■ Ombudsman's Opinion

After the Ombudsman's intervention, a reasonable compromise solution was proposed by the Trust, namely that the complainant would be allowed to build a straight fence along the full stretch of the public footpath, including the common driveway, and the Trust would contribute a new gate for the driveway. This would safeguard the complainant's children behind a physical barrier, all the occupants and invited visitors would continue to have unimpeded use of the common lawn (without implying exclusive use or ownership by some units), and the six units would all gain extra privacy when screened from the public path by a full-length fence.

To its credit, through the proposal submitted to the Ombudsman, the Trust demonstrated an ability to protect its tenants' right to use a common amenity, and to recognize that future tenants might have their own unique needs, without ignoring the complainant's legitimate concern for the safety of her children.

DEPARTMENT FOR FAMILIES AND COMMUNITIES
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to Information	1	0.6%
Administration - Delay	5	2.9%
Administration - Inadequate investigation of complaint	13	7.4%
Administration - Other	1	0.6%
Administration - Unreasonable administrative decision/policy	14	8.0%
Administrative practices/policies	1	0.6%
Administrative practices/policies - Child Placement	42	24.0%
Administrative practices/policies - Conduct contrary to policies	2	1.1%
Administrative practices/policies - Delay	4	2.3%
Administrative practices/policies - Erroneous decisions	5	2.9%
Administrative practices/policies - Failure to give reasons for decisions	3	1.7%
Administrative practices/policies - Failure to investigate or act	14	8.0%
Administrative practices/policies - Failure to respond	7	4.0%
Administrative practices/policies - Inadequate/inaccurate records maintained	1	0.6%
Administrative practices/policies - Misleading/wrong information or advice	3	1.7%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	4	2.3%
Administrative practices/policies - Unfair/discriminatory practices/policies	5	2.9%
Administrative practices/policies - Unreasonable use of authority/power	3	1.7%
Citizen Rights - Breach of privacy/confidentiality	1	0.6%
Communication	2	1.1%
Communication - Lack of care or consideration shown	4	2.3%
Communication - Unprofessional conduct/attitude of staff	3	1.7%
Duty of care - Breach of policy/guidelines	1	0.6%
Duty of care - Failure to provide	5	2.9%
Financial assistance	1	0.6%
Financial assistance - Eligibility criteria	6	3.4%
Financial assistance - Methods of payment	1	0.6%
Financial issues - Concessions	2	1.1%
Financial issues - Cost recovery	1	0.6%
Financial issues - Delays/refusal to pay	3	1.7%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	2	1.1%
Housing - Transfer	1	0.6%
Mail - Interception	1	0.6%
None	3	1.7%
Officer misconduct	1	0.6%
Officer misconduct - Unreasonable use of power	2	1.1%
Other	1	0.6%
Quality of treatment - Inadequate treatment/care	4	2.3%
Record keeping - Failure to reply/supply information	1	0.6%
Record keeping - Inaccurate records	1	0.6%
TOTAL	175	

DEPARTMENT FOR FAMILIES AND COMMUNITIES
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	62	37.1%
Advice Given - Referred to Agency	23	13.8%
Declined - Alternate Remedy	1	0.6%
Declined - Refused to Investigate	5	3.0%
Full Investigation - Not Sustained - Explanation Given	2	1.2%
Preliminary Investigation - Not Sustained	5	3.0%
Preliminary Investigation - Not Sustained - Explanation Given	44	26.3%
Preliminary Investigation - Partly Resolved in Favour of Complainant	9	5.4%
Preliminary Investigation - Reasonable Resolution	11	6.6%
Withdrawn by Complainant	5	3.0%
TOTAL	167	

■ The Complaint

At the time of the death of the mother of the two children (a girl and a boy) the relatives could not be located. The children were therefore placed in foster care with the complainant. When the sister of the deceased mother became aware some three years later of the death and the situation of the children, she made contact with the Department and sought access with the children, with the eventual possibility of the children going to live with her and her family. The initial access visit was supervised by a Departmental Social Worker. The next few visits were supervised by a volunteer and later visits were unsupervised. Four months after the first access visit, an overnight access visit was planned during the school holidays. This was then changed to a five night unsupervised access visit. The complainant was concerned that the access visits were proceeding and the decision had been made for a five night access visit without properly assessing the impact of this access on the children. The Department's records show that the only information the Department had about the visits was the notes of the first access visit, some verbal reports from the volunteer who supervised subsequent visits (none of which were documented on the file) and the report of one visit to the children by the Social Worker just before the decision was made to have a five night access visit. During this process, little consultation had occurred with the complainant and she was not included in any of the decision making meetings within the Department. After the five night access visit further visits occurred and eventually the Department made the decision to reunify the children with their aunt and uncle.

■ Ombudsman's investigation

Whilst I accepted that once the aunt had identified herself and indicated a desire to reunify with the children, it was appropriate to explore this path, I was concerned that there was no proper process to assess the impact of the visits on the children, nor was there any proper recording of information about these access visits. There was also a significant lack of contact from Departmental staff to the children in the period May to September at a time when these access visits were occurring. In fact there is no evidence that any staff member of the Department made contact with the children from 20 May to early September. The Department advised that during this time it was having contact with significant adults in the lives of the children, but this amounted to contact with the aunt and uncle and the foster carer, each of whom could be seen to have a vested interest in how the visits were reported to the Department.

I was concerned that the foster carer was seen to be so keen to retain care of the children that staff did not involve her in discussions about the future of the children and did not seek information regularly from her.

I was further concerned that a decision was taken for the children to have a five night unsupervised visit with the aunt and her family without adequate assessment of the possible impact of this.

In my opinion the agency appeared defensive in its responses provided to the Ombudsman. The Department maintained that there had been adequate contact with the children but this was patently not so. In addition, the Department maintained that it had adequate information about the access visits such that it was able to arrange the five night access visit. However the information the Department had consisted of notes of the first access visit in May, verbal comments by the volunteer who supervised some of the subsequent access visits, which comments were not documented anywhere, and one visit with the children.

In relation to the involvement of the foster carer in discussions about the future of the children, the Department maintained that it was not possible to involve her because she was so committed to keeping the children in her care.



■ Ombudsman's opinion

There was no practical remedy in this case. The Ombudsman accepted that in fact in the final event, the children did want to eventually reside with the aunt and her family and so placement there was appropriate. However I did write to the Department detailing a number of concerns that I suggested should be addressed by the Department with various staff. I also provided a copy of this letter to the complainant.

After considerable investigation and communication with the Department, I was still of the opinion that a number of actions of the Department were deficient. I advised the Department of the following concerns:

1. There was inadequate contact with the children in the period when the access visits were occurring with the aunt.
2. The case notes did not record important information relevant to the case, including comments about the access visits.
3. The assessment of the appropriateness of a five night access visit was inadequate, notwithstanding that the visit did proceed well.
4. Apart from the first access visit, there was no attempt to assess the children after the access visits.
5. There was inadequate involvement of the foster carer in consideration of the future of the children.

DEPARTMENT OF TRANSPORT AND URBAN PLANNING
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration	1	0.7%
Administration - Delay	5	3.5%
Administration - Inadequate investigation of complaint	2	1.4%
Administration - Payments	2	1.4%
Administration - Unreasonable administrative decision/policy	33	23.4%
Administrative practices/policies - Delay	5	3.5%
Administrative practices/policies - Erroneous decisions	5	3.5%
Administrative practices/policies - Failure to give reasons for decisions	4	2.8%
Administrative practices/policies - Failure to investigate or act	2	1.4%
Administrative practices/policies - Failure to respond	3	2.1%
Administrative practices/policies - Inadequate/inaccurate records maintained	3	2.1%
Administrative practices/policies - Misleading/wrong information or advice	5	3.5%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	1	0.7%
Administrative practices/policies - Unfair/discriminatory practices/policies	9	6.4%
Approvals (permits, licenses, registrations, applications) - Failure to	8	5.7%
Approvals (permits, licenses, registrations, applications) -	11	7.8%
Communication - Other	1	0.7%
Communication - Unprofessional conduct/attitude of staff	2	1.4%
Duty of care - Failure to provide	1	0.7%
Fees/charges/levies	1	0.7%
Fees/charges/levies - Eligibility criteria	1	0.7%
Fees/charges/levies - Imposition	5	3.5%
Fees/charges/levies - Method of calculation	2	1.4%
Financial issues - Cost recovery	3	2.1%
Financial issues - Level of charges	2	1.4%
Financial issues - Overcharge/payment	1	0.7%
Land Use - Purchase, acquisition, sale or lease	1	0.7%
None	3	2.1%
Officer misconduct - Threats/harassment/racism/intimidation	1	0.7%
Officer misconduct - Unreasonable use of power	2	1.4%
Ordinances, Regulations, By-laws - Unreasonable Determination	5	3.5%
Other	1	0.7%
Planning and development - Failure to enforce compliance	1	0.7%
Planning and development - Permits and approvals	1	0.7%
Record keeping - Inaccurate records	2	1.4%
Roads - Opening and Closing	1	0.7%
Roads - Traffic control	3	2.1%
Services - Access	2	1.4%
TOTAL	141	

DEPARTMENT OF TRANSPORT AND URBAN PLANNING
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	45	30.6%
Advice Given - Referred to Agency	14	9.5%
Conciliated - Reasonable Resolution	1	0.7%
Declined - Alternate Remedy	2	1.4%
Declined - Refused to Investigate	2	1.4%
Full Investigation - Not Sustained - Explanation Given	1	0.7%
Full Investigation - Reasonable Resolution	2	1.4%
Preliminary Investigation	1	0.7%
Preliminary Investigation - Not Sustained	4	2.7%
Preliminary Investigation - Not Sustained - Explanation Given	47	32.0%
Preliminary Investigation - Partly Resolved in Favour of Complainant	8	5.4%
Preliminary Investigation - Reasonable Resolution	17	11.6%
Withdrawn by Complainant	3	2.0%
TOTAL	147	

■ The complaint

The complainants contacted this Office following the Department's refusal to acquire their home. It was possible that the whole or part of the complainants' property would be required in the future by the Department for a road widening project. At the time, the complainants were concerned that they would be unable to sell their property at a fair price as potential buyers may have been deterred by the proposed road widening project.

■ Ombudsman's investigation

I commenced a full investigation into this matter and received a response to my initial questions from the Department in a report in February 2004. At that time the Department indicated that in order to satisfy the hardship criteria pursuant to Section 20 BA, *Highways Act, 1926*, the complainants would have to provide evidence of three failed attempts to sell their property at a reasonable market value, to demonstrate hardship.

The Department stated that the complainants would be required to provide the following evidence to confirm three failed attempts at a sale of their property.

Three purchaser initiated contracts that were withdrawn during the cooling off period *or* The property remaining on the market for a significant period of time, at a reasonable price, without an offer.

I assumed that failing to sell at auction with a reasonable reserve would also constitute a failed attempt at a sale. It was my view that it was not unreasonable for the Department to require some evidence of failed attempts at a sale prior to considering entering into an owner initiated purchase. However, if the complainants had proceeded with this course of action, I would have requested further clarification from the Department about firstly, *exactly* what evidence was required and secondly, if this evidence was provided, what was the likelihood that the Department *would* enter negotiations to purchase the complainants' property.

The complainants had concerns about the length of time, costs and emotional stress that was likely to be caused by attempting to meet the Department's hardship criteria and contacted their Member of Parliament who wrote to the Minister for Transport about their concerns. The complainants' contact with their Member of Parliament resulted in a changed position by the Minister and in May 2004 the Department initiated acquisition of the complainants' property. In a letter to the complainants from the Minister for Transport the complainants were informed that the Minister had directed the Department to commence negotiations for the purchase of their property on an owner approach basis, without the need to prove three failed attempts at sale.

A process of valuation and negotiation between the complainants and the Department followed and in June the complainants contacted my Investigating Officer stating that they were concerned that due to a difference in valuation, it was not possible for them to reach an agreement with the Department by the deadline of 30 June 2004.

On 28 June 2004 I wrote to the Department stating my view that the timeframe allowed for the complainants to enter an agreement with the Department was unreasonable. I recommended that the deadline be extended for a further two weeks. My letter was faxed and mailed to the Department on 28 June 2004 and the Chief Executive confirmed that he received the letter on 28 June 2004. He then issued a directive that my recommendation to extend the deadline be followed. It became clear that this information was not provided to the complainants or the relevant Departmental staff prior to a meeting of the parties on 30 June 2004. Without the knowledge that an extension had been granted, the complainants understandably felt that the meeting was their last opportunity to enter into an agreement with the Department and they did so.



I informed the Department that it was unreasonable not to advise the complainants of the deadline extension prior to their attendance at the meeting and the Department agreed to re-negotiate with them if they wished to do so. My investigating officer advised me that at that point the complainants felt exhausted by the process and did not wish to re-enter negotiations with the Department. The complainants accepted the Department's final offer and the process of settlement proceeded as agreed.

■ Ombudsman's opinion

I acknowledged that the complainants found the process of dealing with the Department in the owner approach property purchase, difficult and protracted. I hold the view that the Department contributed to the complainants' frustrations by not informing them that the deadline extension had been granted prior to the meeting of 30 June 2004. This knowledge would have allowed the complainants to conduct further negotiations without the pressure of an immediate deadline. However, an agreement had been reached between the parties and any further involvement in the matter by my Office was neither necessary nor justified.

SA WATER CORPORATION		
Complaints Received : Issues 01 July 2004 to 30 June 2005		
Administration - Delav	1	0.9%
Administration - Inadequate investigation of complaint	1	0.9%
Administration - Other	2	1.8%
Administration - Unreasonable administrative decision/policy	12	10.6%
Administrative practices/policies - Erroneous decisions	2	1.8%
Administrative practices/policies - Failure to give reasons for decisions	2	1.8%
Administrative practices/policies - Failure to investigate or act	5	4.4%
Administrative practices/policies - Inadequate/inaccurate records maintained	1	0.9%
Administrative practices/policies - Misleading/wrong information or advice	3	2.7%
Administrative practices/policies - Unfair/discriminatory practices/policies	2	1.8%
Citizen Rights - Breach of privacy/confidentiality	1	0.9%
Communication - Lack of care or consideration shown	2	1.8%
Drains/Sewers - Easements	1	0.9%
Drains/Sewers - Wastewater management	2	1.8%
Fees/charges/levies - Imposition	17	15.0%
Fees/charges/levies - Method of calculation	6	5.3%
Financial assistance - Methods of payment	2	1.8%
Financial issues - Concessions	4	3.5%
Financial issues - Cost recovery	5	4.4%
Financial issues - Delays/refusal to pay	2	1.8%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	2	1.8%
Financial issues - Level of charges	18	15.9%
Financial issues - Miscalculation	4	3.5%
Health - Pollution/environmental concerns	2	1.8%
Land Use - Purchase, acquisition, sale or lease	1	0.9%
Other	3	2.7%
Rates and charges - Composition of rates	2	1.8%
Rates and charges - Recovery	3	2.7%
Services - Access	4	3.5%
Services - Termination	1	0.9%
TOTAL	113	

SA WATER CORPORATION		
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005		
Advice Given	50	42.7%
Advice Given - Other/General	1	0.9%
Advice Given - Referred to Agency	9	7.7%
Declined	1	0.9%
Declined - Alternate Remedy	3	2.6%
Full Investigation - Not Sustained	1	0.9%
Full Investigation - Not Sustained - Explanation Given	1	0.9%
Full Investigation - Partly Resolved in Favour of Complainant	2	1.7%
Prelim Investigation - Not Sustained	3	2.6%
Preliminary Investigation - Not Sustained - Explanation Given	19	16.2%
Preliminary Investigation - Partly Resolved in Favour of Complainant	4	3.4%
Preliminary Investigation - Reasonable Resolution	20	17.1%
Withdrawn by Complainant	3	2.6%
TOTAL	117	

Case study

SA WATER CORPORATION

Unreasonable refusal to compensate complainants for the cost of installation of an aerobic waste water system.

■ The complaint

The complainants contact this Office, stating that the refusal of SA Water and/or the Adelaide Hills Council to compensate them for the cost of the installation of an aerobic waste water system was unreasonable.

In March 2003 the complainants applied to the Council to install an aerobic waste water system. This was approved and the system was installed soon afterwards. Prior to deciding to install the system the complainants consulted with SA Water and ascertained that at that time, there were no immediate plans to sewer the area.

In late July 2003 a local Primary School notified the Council of its concerns about stormwater contaminated by effluent on site and at the beginning of August 2003 the Council wrote to SA Water requesting extension of the sewer main within the vicinity and in the complainants' street, due to the issues at the Primary School as well as a number of failing septic systems in the area. In response to the request of Council, SA Water confirmed that it was in support of extending the sewer to that area.

The complainants felt aggrieved by the situation and were frustrated by the timing of the sewer extension. They suggested to me that either SA Water or the Council should reimburse them for the cost of installing their waste water system.

■ Ombudsman's Investigation

My investigation carefully considered the complainants' current situation in that they had installed an waste water system and since then, had the option of connecting to the sewer. However, there was no evidence of error or maladministration on behalf of the Council or SA Water. It was my view that there was no evidence to show that the Council or SA Water gave the complainants incorrect or misleading advice prior to their application to install an aerobic waste water system. At the time, SA Water did not intend to sewer the area in the immediate future. The Council later appealed to SA Water to reconsider its priorities after concerns were raised by a local Primary School. SA Water did reconsider, resulting in an extension to the sewer being approved. It is my view that the action of SA Water in agreeing to immediately sewer this area in response to the Council's urgent request was not unreasonable.

I was advised by SA Water that if the complainants chose to use the aerobic waste water system rather than connect to the sewer, they would be able to defer the cost of the Standard Capital Contribution. Further, if the complainants continued to use their waste water system, they would be required, as per the *Sewerage Act 1929*, to pay the minimum sewerage rates even though they may not have a connection to the sewer. It appeared that the complainant's only loss in this situation was the ongoing payment of sewer rates as they would be able to defer the other costs until/if they decided to connect to the sewer.

■ Ombudsman's opinion

It was my view that the complainants were treated equitably as the statutory cost is required to be paid by all home owners in their position. At the time of their application and installation of the waste water system, neither SA Water nor the Council knew that the area would be provided with a sewer connection in the near future. I was not able to reach a view that SA Water or the Council should be responsible for the cost of installing the system. Having considered all of the information, it was my view that the actions of SA Water and the Council were not unreasonable and as such I did not seek to suggest any further action by the Council or SA Water.

GOVERNMENT DEPARTMENTS - OTHER
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to educational services	2	0.5%
Access to educational services - Ineligible to start school	1	0.3%
Access to educational services - Provision of special education services	11	2.8%
Access to educational services - Student choice of school	3	0.8%
Administration - Delay	14	3.6%
Administration - Inadequate investigation of complaint	20	5.1%
Administration - Other	2	0.5%
Administration - Payments	1	0.3%
Administration - Unreasonable administrative decision/policy	35	8.9%
Administrative practices/policies - Conduct contrary to policies	1	0.3%
Administrative practices/policies - Conflict of interest/bias	2	0.5%
Administrative practices/policies - Delay	15	3.8%
Administrative practices/policies - Erroneous decisions	7	1.8%
Administrative practices/policies - Failure to give reasons for decisions	2	0.5%
Administrative practices/policies - Failure to investigate or act	32	8.1%
Administrative practices/policies - Failure to respond	5	1.3%
Administrative practices/policies - Inadequate/inaccurate records maintained	13	3.3%
Administrative practices/policies - Misleading/wrong information or advice	6	1.5%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	8	2.0%
Administrative practices/policies - Unfair/discriminatory practices/policies	22	5.6%
Administrative practices/policies - Unreasonable use of authority/power	4	1.0%
Approvals (permits, licenses, registrations, applications) - Failure to advise	3	0.8%
Approvals (permits, licenses, registrations, applications) - Failure to	5	1.3%
Approvals (permits, licenses, registrations, applications) - Unreasonable	2	0.5%
Approvals (permits, licenses, registrations, applications) -	6	1.5%
Case Review - Disputes Decision	1	0.3%
Citizen Rights - Breach of privacy/confidentiality	2	0.5%
Citizen Rights - Duty of care	3	0.8%
Communication - Failure to provide adequate/correct info re	1	0.3%
Communication - Lack of care or consideration shown	2	0.5%
Communication - Unprofessional conduct/attitude of staff	8	2.0%
Conduct - Students	1	0.3%
Conduct - Teachers/staff	6	1.5%
Curriculum issues - Subject range	1	0.3%
Curriculum issues - Teaching quality	3	0.8%
Daily routine - Duty of care	1	0.3%
Daily routine - General treatment	1	0.3%
Discipline - Suspension	1	0.3%
Drains/Sewers - Wastewater management	1	0.3%
Duty of care	1	0.3%
Duty of care - Failure to provide	2	0.5%
Fees/charges/levies - Eligibility criteria	2	0.5%
Fees/charges/levies - Imposition	14	3.6%
Fees/charges/levies - Method of calculation	16	4.1%
Financial assistance - Eligibility criteria	3	0.8%
Financial issues	1	0.3%
Financial issues - Concessions	2	0.5%
Financial issues - Cost recovery	11	2.8%
Financial issues - Delays/refusal to pay	7	1.8%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	2	0.5%
Financial issues - Level of charges	17	4.3%
Financial issues - Miscalculation	3	0.8%
Financial issues - Penalty/refund	11	2.8%
Financial issues - Undercharge/payment	1	0.3%
Funding - Inequitable distribution of funding	1	0.3%
Health - Noise control	3	0.8%
Health - Pollution/environmental concerns	3	0.8%
Housing - Damages	1	0.3%
Housing - Maintenance	2	0.5%
Land Use - Purchase, acquisition, sale or lease	3	0.8%
Medical - Access to dental, optical and medical services	1	0.3%
Officer misconduct - Unwarranted/unreasonable use of force or discipline	1	0.3%
Ordinances, Regulations, By-laws - Failure to enforce	2	0.5%
Ordinances, Regulations, By-laws - Unreasonable Determination	2	0.5%
Other	11	23.5%
Planning and development - Permits and approvals	1	0.3%
Punishment - Excessive/Unfair	1	0.3%
Quality of treatment - Inadequate treatment/care	1	0.3%
Rates and charges - Composition of rates	1	0.3%
Rates and charges - Late payments	2	0.5%
Rates and charges - Objections/appeals	1	0.3%
Rates and charges - Recovery	2	0.5%
Record keeping - Failure to reply/supply information	1	0.3%
Record keeping - Inaccurate records	2	0.5%
Services - Access	2	0.5%
Tenders - Unfair/improper/illegal practices	1	0.3%
Transfers	1	0.3%
Transport - Access to service	1	0.3%
TOTAL	394	

GOVERNMENT DEPARTMENTS - OTHER		
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005		
Advice Given	151	35.4%
Advice Given - Referred to Agency	44	10.3%
Conciliated - Reasonable Resolution	1	0.2%
Declined - Alternate Remedy	5	1.2%
Declined - Out of Time	1	0.2%
Declined - Refused to Investigate	3	0.7%
Determination - Section 132 Water Resources Act	5	1.2%
Full Investigation - Not Sustained	3	0.7%
Full Investigation - Not Sustained - Explanation Given	14	3.3%
Full Investigation - Partly Resolved in Favour of Complainant	3	0.7%
Full Investigation - Reasonable Resolution	4	0.9%
Full Investigation - Sustained - sec 25(1)(b) - unreasonable, unjust, etc.	1	0.2%
Preliminary Investigation	1	0.2%
Preliminary Investigation - Not Sustained	7	1.6%
Preliminary Investigation - Not Sustained - Explanation Given	90	21.1%
Preliminary Investigation - Partly Resolved in Favour of Complainant	32	7.5%
Preliminary Investigation - Reasonable Resolution	58	13.6%
Withdrawn by Complainant	3	0.5%
TOTAL	426	

Case study

DEPARTMENT OF EDUCATION AND CHILDREN'S SERVICES

Failure to adequately investigate sexual harassment allegations, to properly manage the situation and then to adequately review the matter.

■ The Complaint

The complainant, the mother of a young girl (6 years old at the time), alleged her daughter and another girl were sexually harassed in the classroom by a boy of the same age. She further alleged that certain strategies, including letting them play in a designated "safe place", effectively punished them by separating them from their friends while the boy was allowed to roam free; that she was accused of maligning a teacher and lying; that nothing was done when the boy repeated his actions on at least one other girl; that he continued to physically and verbally abuse her daughter and no action was taken; and that when she complained at the District level about the school's actions, the subsequent investigation was seriously flawed.

■ Ombudsman's Investigation

The complainant was interviewed and outlined what she hoped to achieve in lodging the complaint. Preliminary enquires were made of the Department and the relevant file was provided. There was then a delay of several months before the investigation could be progressed. Contact was maintained with the complainant who expressed her concern at the delay. It is the case, given the limited resources within my Office and the workloads carried by my staff, that judgements need to be made about the priority of dealing with matters and one of the factors taken into account is if people are still involved in the situation or circumstances which gave rise to the complaint, and are suffering on-going detriment. This did not seem to be the case in this matter and the required investigation seemed to be more in the nature of a review of what had occurred.

Following a further meeting with the complainant to receive further information and to identify the course of the investigation, I wrote to the Chief Executive to advise him of my full investigation and that I required access to all relevant documents and that it would be necessary to interview certain staff, particularly the principal, who had been closely involved in the investigation and management of the allegations at the school level. Subsequent to this, my investigating officer met with the complainant to convey the information obtained and to receive her comments. Given that certain aspects of the other parties' versions of events were challenged by the complainant, it was necessary to try to "test" this information. A number of witnesses were then interviewed, including the mother of the other young girl who was sexually harassed at the same time as the complainant's daughter, the classroom teacher at the relevant time and the mother of another girl who was allegedly sexually harassed by the same boy shortly after the earlier incidents. As further information was obtained it was put to the complainant and the principal to test. Their respective comments were noted and followed up as appropriate.



■ Ombudsman's Opinion

As a result of this process, I then reached an opinion on the following key areas of complaint:

1. **That the complainant was accused of "maligning a teacher" and that she and her daughter were accused of lying by the principal.**

The complainant claimed this occurred in a conversation with the principal and arose over the issue of whether or not the girls told the classroom teacher what had happened to them. She was adamant that the principal was doing more than publicly protecting a teacher, that she went on the attack and made the above accusations.

The complainant stated that what she found unacceptable was that she was accused of "maligning" the classroom teacher and, by inference, that she and her daughter had lied. She expressed the view that she was owed an apology.

The principal's contemporaneous notes indicate she checked the teacher's claim that the girls did not actually tell her what happened, with the other girl in the presence of her mother and the other girl confirmed they had not. Her notes also indicated that when she spoke to the complainant outside of her daughter's classroom she told her this and that, when the complainant insisted that the girls had told the teacher, she then said to the complainant that she was "*concerned that was being unfairly maligned*". The notes indicate that, when they both subsequently met to talk with the daughter, she (the daughter) also confirmed that, although she had tried on two occasions, she had not actually told the teacher. They further record that the complainant said to her daughter "*but you told me on Friday that you did tell Mrs*" and that the daughter said "*no, I didn't*". The principal's position is that she did not accuse the complainant, rather it was a cautionary statement; she did not doubt that the girls had been subjected to sexually inappropriate behaviour by the male student; she knew the complainant was concerned about what had happened to her daughter and that she tried to be sensitive to her feelings; she felt these dealings with the complainant ended amicably.

Whilst the complainant perceived the conversation in one way, there was no basis on which I could conclude the principal acted improperly and that an apology was appropriate. I confirmed that I did not consider it appropriate to pursue this aspect of the complaint further.

2. **The girls were separated from their friends at recess and lunch time and told to go and play in a 'safe place' at the front of the school which was not in sight of teachers. Other teachers were not told the girls had been given special permission to be there so they were often confronted by teachers to whom the girls had to try to explain the situation. The girls were segregated while the boy was left to roam and play with other children on the play equipment.**

I understood that the issue here was that the victims were effectively punished while nothing adverse happened to the perpetrator and that this sent the wrong message to the complainant's daughter and any others who may report sexual harassment.

I was advised as follows: in consultation with the complainant, the girls and the other girl's mother, a range of on-going strategies were put in place to ensure any future incidents were appropriately managed and that the girls felt supported and safe; one of these strategies was to allow the girls to play in a 'safe area' and that the complainant initially concurred with this; the girls were allowed to invite two friends at any one time to play there with them; all teachers were advised at a staff meeting of the situation and the strategies in place; the principal checked with the girls and the class teacher every day for about 2 weeks and did not receive any advice or indication that they weren't happy; the principal's recollection was that this arrangement only lasted for about 2 weeks, when the complainant raised her concern, and a strategy of alternating, separate areas of the playground for the girls and the perpetrator, was implemented.



The complainant was very clear that the girls remained in the 'safe area' for virtually a whole term and this discrepancy was tested. The classroom teacher's recollection is as follows: she felt the girls saw the arrangement as something special and a privilege; the original arrangement was that everyone would see how it went for a couple of weeks but with the understanding the girls could stay there for as long as they wanted and that the principal's door was always open to them; they weren't forced to stay there and did go into the yard from time to time; the girls did stay there for quite some time, probably about a term; she discussed the arrangement with them a few times and they were always happy with it; they were able to take girlfriends there and at times there were 6-12 children there; information was provided to all teachers about the arrangement, it was discussed at a staff meeting and, if the girls were challenged it must have been because some teachers forgot; if she had any perception that the girls weren't happy then the arrangement would have been changed; at the end of the term she spoke to the girls and said it was time they rejoined the others.

It would seem that the principal was wrong about the time the girls spent in the safe area. I did not see this as anything other than a mistaken recollection and, in any event, did not see it as really leading anywhere. The complainant refuted the school's claim that the girls regarded the 'safe place' as special and claimed her daughter only liked the 'safe place' because she felt safe from the perpetrator during play times and didn't have to worry about him.

Even allowing for this, it seemed that neither the complainant's daughter nor the other girl expressed any concern to anyone at the school about being there - on the contrary, by observation and asking the girls directly, the school was of the view they were happy there and it seems it was at the class teacher's initiative that they went back into the yard at play time. It would seem the school made genuine attempts, following appropriate consultation, to make both girls feel supported and safe and monitored the situation appropriately. It was regrettable the complainant had a different view but I was unable to conclude the school's actions were unreasonable and I advised that I did not intend to pursue this aspect further.

In relation to the perpetrator, both the principal and the classroom teacher outlined a range of strategies aimed at managing his behaviour. It was the case that this boy did have behavioural problems. It was not appropriate for me to detail the problems or the management strategies put in place, but I was satisfied they were appropriate and that the complainant's observation that he was able to "roam free" and that he was not subject to sanctions and on-going management, was not correct.

3. The boy repeated his actions on at least one other girl.

During the course of the investigation this girl was identified and, with the assistance of the principal, contact was made with her mother. She confirmed her daughter did tell her a couple of days after the event that this boy had put his hand down the front of her pants - she checked with her daughter who said she told the classroom teacher who sent her to see the principal. Further information was sought, through the mother, about what the principal and teacher said or did when her daughter reported the incident - the mother advised that she checked with her daughter but she said she couldn't remember. The mother advised that the school didn't contact her and she didn't contact the school about the incident.

This information was put to both the principal and the teacher. The principal was adamant that neither this girl nor any other girl reported a further incident to her. She said it is such a serious matter and, coming so soon after the incident with the complainant's daughter, she would have responded immediately had she known. Similarly, the classroom teacher said she was not aware of any incident with this other girl and had she been, then she would certainly have told the principal and taken action to address it. She said this other girl was one of the friends who regularly played in the 'safe area' with the complainant's daughter.

Given the girl was unable to provide any further detail to support her recollection that she did report the incident and the clear denials by the principal and the teacher, I was not able to conclude that they were told and did nothing. I considered that scenario most unlikely, given the immediate and considered response to investigating and dealing with the incident concerning the complainant's daughter.



4. **The boy continued to physically and verbally bully the complainant's daughter throughout the remainder of that school year and into the following school year, causing physical pain and mental anguish because she 'told the teacher'.**

In the complainant's letter of complaint she claimed that the principal *"although learning of the continued harassment by writing, did nothing to control the situation until I finally again brought it to her attention again during a telephone conversation. The boy in question was again spoken to and my daughter was left to deal with the physical and mental hurt without any assistance or care from or the school"*.

It was identified with the complainant that, in order to pursue this aspect, further substantial evidence would need to be provided to support the allegation that the principal was told about continued harassment and did nothing. The complainant claimed she continued to speak to the classroom teacher and the principal about her concerns over on-going problems and felt sure she had written another letter to the principal, but was unable to provide a copy. The records obtained during the investigation showed that the next written communication received from the complainant was a letter to the District Superintendent, dated May of the following year. In that letter the complainant raised a number of concerns about the way in which the school was being managed.

The issue of *"segregating victims of sexual harassment and bullying from the main body of the school whilst the perpetrator remains able to play in the playground and mix with the children as normal"* was one of 14 issues she raised. The District Superintendent's recollection from a meeting he had with the complainant to discuss these issues, is that this was one of the examples she raised in the context of alleged mismanagement by the principal.

The next chronological record noted in the school journal by the principal about this matter, was a telephone conversation she had with the complainant in September of that year. Her notes indicated as follows: the complainant alleged that the boy had regularly harassed her daughter throughout that year; that he had recently deliberately bumped into her and that he had said it was *"for telling the teacher"*; she (the principal) told the complainant she had not been made aware of any other incidents involving the complainant's daughter and this boy, but undertook to follow up; the complainant then raised her concerns about her son's situation and her daughter's academic achievements, being particularly critical of a teacher's maths teaching; she claimed that her daughter didn't want to come to school because of her lack of achievement in maths and because of her fear of the boy in question; she said her daughter had asked to see a child psychologist as a result of the boy's bullying.

The principal investigated these further allegations regarding the complainant's daughter and the boy and noted as follows: the complainant's daughter was clear that the boy did not say anything when she asked him why he bumped into her; the daughter did not support the complainant's contention that the boy had regularly bullied or harassed her throughout the year - she said the bumping incident was the only occasion she could remember; they worked out a reserved playing space for her and a separate one for the boy, who was in a separate class that year; she talked to the daughter about the complainant's claim that she wanted to see a child psychologist and if it was because of the boy; the daughter said it was about the boy *"and about Daddy"*; her observation was that the daughter left the meeting seemingly happy with the arrangements to minimise her contact with the boy. The principal then spoke to the boy to explain the arrangements and make it clear that he needed to keep right away from the complainant's daughter. She then telephoned the complainant to advise her of the action taken. This seemed to me a reasonable and appropriate response.

5. **The significance of a drawing by the complainant's daughter, indicating this was proof she remained scared of the boy and that he was still bullying/harassing her.**

As best the complainant could identify, the drawing was done sometime later in the year the sexual harassment occurred. The complainant claimed as follows; she found this drawing in her daughter's room, it depicted her and a bigger person and her daughter commented that she was scared of the bigger person; the complainant showed it to the



classroom teacher, who said drawings were done by all the class, as part of work on bullying generally, and it was not intended that parents see it; the complainant then showed the drawing to the principal, who took possession of it and said she would investigate; the principal got back to the complainant with the same explanation that it was a class project; the drawing subsequently 'disappeared'. As I understood it, the complainant's view was that this was another example of the school being told of the on-going harassment of the complainant's daughter and doing nothing about it.

I did not share this view. The complainant acknowledged to my investigating officer that she "*went in softly about this*". The teacher and the principal provided a consistent, reasonable explanation, the complainant's concern was followed up and the outcome reported back to her. The complainant did not pursue the matter at the time and it seemed to me the school was entitled to believe the matter had been dealt with satisfactorily. In addition, their opinion at the time, based on observation of the daughter's demeanour and their interaction with her, was that she had no on-going problem either with the boy or as a result of the incident with him earlier in the year. It seemed to me the 'disappearance' of the drawing is more likely to have a guileless explanation than a sinister one.

6. The investigation of the complainant's complaint by the District Superintendent was seriously flawed.

The complainant wrote to the District Superintendent and specifically referred to the sexual harassment of her daughter by a male student and expressed her opinion that the management of that situation was "*inadequate and disadvantaged those who were the victims*". She then set out her complaint against the principal and the school in essentially the same terms as her letter to the Ombudsman.

The District Superintendent sought a report from the principal. In responding to the allegations, the principal provided copies of entries she made in the school journal which outline her contacts with the complainant and others, the investigations undertaken and the actions implemented. The District Superintendent responded to the complainant and it was my view it was reasonable for him, in all the circumstances, to reach the conclusion that "*As there is substantial evidence of ongoing monitoring and age-appropriate intervention, I am satisfied that handled this matter in a manner consistent with Departmental policy*".

The complainant wrote back to the District Superintendent, advised him she was not satisfied with his investigation or the response from the principal and requested a full Departmental investigation. The District Superintendent sought advice from the Department's Legal Unit before responding to the complainant, setting out his and the Department's position. It was accepted the complainant did not receive this response until later and after further follow up. The District Superintendent explained he was not aware the complainant had not received this response and apologised that it did not get to her at the time it was first sent. This information was conveyed to the complainant, together with the view that the actions in this regard, seemed reasonable. The complainant concurred that the investigation from that point on would focus on the school based actions.

I accepted the complainant had strong views about the way in which the principal, in particular, managed the sexual harassment of her daughter by another student and then the subsequent situations which followed from that. I understood her desire to want to protect her daughter and to ensure that all was well for her. For my part, I needed to base my findings on factual, tested and substantial evidence. For the reasons which were set out above, I was unable to conclude that the administrative actions of any DECS officer in the matter were unreasonable. Could some things have been done differently and perhaps better? Possibly. But, having regard to all of the information available to me, it seemed to me, people took reasonable actions in trying to manage both the complainant's daughter's well being and the behavioural issues of the boy, that were appropriate to their ages at the time. I did not consider they acted with other than the daughter's best interests at heart. I expressed the hope that the information obtained through the investigation and the explanations provided, may have allowed the complainant, to some extent, to have reached the same view and that she and her daughter could move forward from the events.

Local Government

There are many cases in my experience which involve Councils' reliance on legal advice as to the legality of Councils' actions or proposed actions before, during or even as the direct result of the Ombudsman's investigation.

Rather than discourage Council from seeking advice, there have been instances when I have encouraged Councils to seek independent legal advice. As a general proposition I have long adopted the view that it is consistent with good administration for Council to obtain independent advice from qualified legal practitioners and act upon such advice. Cases such as *Dunlop v. Woollahra Municipal Council* (1981) 1 All E R 1202, 1209 show that it is proper for Councils to obtain and rely on advice of qualified solicitors whose competence there is no reason to doubt, and until there is conclusive judgement on the matter, the answer on a question of law may remain "evenly balanced".

The Ombudsman, for the purpose of the *Ombudsman Act*, cannot have any conclusive effect on questions of law as they relate to acts of administration. While it is the Ombudsman's "know-how" and experience as a legal practitioner which enables him to form relevant legal opinions each day on the operation of the *Ombudsman Act*, *Local Government Act*, *Freedom of Information Act* and \ other laws affecting his own role and functions, there may be occasions when the Ombudsman will need to have the benefit of further independent advice.

Where it concerns general questions of law, I do not see it to be the Ombudsman's role to determine what the law is. In one case, a lawyer wrote to me on behalf of his clients advising me that they had been endeavouring to obtain a rating assessment from a Council. The clients, Mr and Mrs D, were joint tenants of properties A and C. Mr D was a sole owner of property B located between properties A and C. The lawyer claimed that Mr and Mrs D were entitled to claim the benefit of contiguous rating under the *Local Government Act 1999*. Council did not agree. The lawyer rejected the Council's reasoning and insisted that by the very nature of the joint tenancy, each is the owner of all the land contained within the allotments; and that Mr D was the owner within the definition of "owner" under section 5 of the *Local Government Act, 1999* and therefore entitled to the benefit of the relevant section of the Act. I considered the arguments put forward by the lawyer to be reasonable and worthy of further consideration. During my inquiries Council sought to rely on independent legal advice previously given to it. I had the benefit of that advice and found it to be relevant to the circumstances of the case.

Thus it seemed to me, that there were at least good and compelling reasons to hold the opinion that, while there may have been one common owner to the subject properties, the fact that another person was registered as an owner of the other property meant that the rates could not be assessed in aggregate notwithstanding that it might be contiguous.

Simply stated, the properties did not share common ownership. Upon further reflection I was of the opinion that the relevant provisions of the Act were "tax" provisions and the language of such provisions would be strictly construed and applied. In any event, while I considered the submissions to me by both parties to be at least equally compelling, the Ombudsman's task is at all times focussed on the relevant administrative actions and not centred on determining conclusively, questions of law.



I advised both parties that any dispute concerning the true intent of sections 152(2)(c), 158(2)(c) and 148 and other relevant provisions of the *Local Government Act* would need to be resolved in a Court of competent jurisdiction; and that if the property owners felt that the provisions were simply unfair in their application then an approach to the local member of Parliament should be made. The Ombudsman's recommendations may only be the logical consequence of a finding of defective administration on the part of the agency. In the instant case I was presented with a legal dispute. This and others before me during the year, do raise the question on how far the Ombudsman should proceed in dealing with opposing legal arguments on the application of law to administrative action.

What has been clear to me throughout such cases is that if an agency seeks to place reliance on any legal advice, that advice must be based on all relevant facts. I will not accept the recipient's opinion as to the relevance and contents of advice. In other words, I must see the relevant facts upon which the advice has been sought and provided, especially when the basis of the complaint itself is that the administrative action is defective as it was not based on all relevant facts or was based on irrelevant considerations. Independent legal advice of good quality is based on a request which itself is clear and unambiguous as to the facts of the case; and the advice clearly identifies the relevant factual material.

Once an administrator proceeds to extrapolate his own views on such advice and or seek to extend the application of the advice to other circumstances, those other views no longer fall within the frame of the legal opinion itself; and should not in my view be accorded the same consideration by the Ombudsman as the legal opinion itself.

There are also cases where it is abundantly clear that the agency desires to maintain legal professional privilege in respect of the advice. As confidentiality is a paramount consideration to any Ombudsman investigation (see section 22 of the *Ombudsman Act*) I am prepared to observe that privilege unless it has been previously waived by the agency itself. Providing the Ombudsman with a copy of privileged advice is consistent with the intent of the *Ombudsman Act* itself; and not only is the Ombudsman exempt from the provisions of the Freedom of Information Act, but has succeeded in claiming immunity from a subpoena to produce documents (see: *Rana v State Ombudsman and Flinders University* s.33 of 2004, Federal Court of Australia). As legal professional privilege would normally apply, the normal inquisitorial functions of the Ombudsman do not properly accommodate a process of legal debate.

Across the whole of Local Government of course, it would be desirable to have as much consistency of legal opinion on issues of significance as may be possible. Consistency of opinion and consistency of approach, especially in maintaining common policies practices and procedures in areas of administrative significance would I think be a worthy objective. Some consideration should be given to the sharing of legal advice as it may have general application throughout local government.

During the year I commenced preparations for an audit review of practices and procedures pertaining to four areas of administration. All these areas have been the subject of separate investigation. While it is not my intention to publicly disclose the names of the Councils involved at any stage or disclose intimate details of any audit review, I think it would be of considerable educative value for any "general findings" and "pitfalls" to be made available to the whole of Local Government. It is also my intention to encourage internal audits in order to further good governance.

LOCAL GOVERNMENT
Complaints Received 01 July 2004 to 30 June 2005

City of Charles Sturt	69	8.3%
City of Onkaparinga	57	6.9%
City of Port Adelaide Enfield	41	4.9%
Corporation of the City of Adelaide	37	4.5%
City of Mitcham	34	4.1%
City of Burnside	30	3.6%
City of Salisbury	28	3.4%
The Corporation of the City of Marion	28	3.4%
City of Playford	26	3.1%
City of West Torrens	26	3.1%
Clare and Gilbert Valleys Council	24	2.9%
Adelaide Hills Council	23	2.8%
City of Holdfast Bay	23	2.8%
City of Tea Tree Gully	21	2.5%
City of Victor Harbor	20	2.4%
City of Norwood, Payneham & St Peters	17	2.0%
Corporation of the City of Unley	17	2.0%
Alexandrina Council	16	1.9%
Light Regional Council	16	1.9%
The District Council of Mount Barker	15	1.8%
Kangaroo Island Council	13	1.6%
The Barossa Council	13	1.6%
The Berri Barmera Council	13	1.6%
Mid Murray Council	12	1.4%
The District Council of Mallala	12	1.4%
The District Council of Robe	12	1.4%
District Council of Yorke Peninsula	11	1.3%
The Corporation of the City of Campbelltown	11	1.3%
The District Council of Mount Remarkable	11	1.3%
District Council of the Copper Coast	9	1.1%
Rural City of Murray Bridge	9	1.1%
District Council of Yankalilla	8	1.0%
Naracoorte Lucindale Council	8	1.0%
Port Pirie Regional Council	8	1.0%
Northern Areas Council	7	0.8%
Wattle Range Council	7	0.8%
City of Mount Gambier	6	0.7%
City of Port Lincoln	6	0.7%
Corporation of the Town of Gawler	6	0.7%
District Council of Loxton Waikerie	6	0.7%
The Corporation of the City of Port Augusta	6	0.7%
The District Council of Tumby Bay	6	0.7%
Corporation of the City of Prospect	5	0.6%
District Council of Lower Eyre Peninsula	5	0.6%
The District Council of Ceduna	5	0.6%
District Council of Grant	4	0.5%
Southern Mallee District Council	4	0.5%
The Coorong District Council	4	0.5%
The Corporation of the City of Whyalla	4	0.5%
Wakefield Regional Council	4	0.5%
District Council of Coober Pedy	3	0.4%
District Council of Peterborough	3	0.4%
Regional Council of Goyder	3	0.4%
Renmark Paringa Council	3	0.4%
Roxby Downs Council	3	0.4%
The District Council of Elliston	3	0.4%
Corporation of the Town of Walkerville	2	0.2%
Kingston District Council	2	0.2%
The District Council of Tatiara	2	0.2%
District Council of Barunga West	1	0.1%
District Council of Cleve	1	0.1%
The District Council of Streaky Bay	1	0.1%
The Flinders Ranges Council	1	0.1%
TOTAL	831	

LOCAL GOVERNMENT
Complaints Completed 01 July 2004 to 30 June 2005

City of Charles Sturt	76	8.6%
City of Onkaparinga	61	6.8%
City of Port Adelaide Enfield	46	5.2%
Corporation of the City of Adelaide	40	4.5%
City of Mitcham	35	3.9%
City of Playford	33	3.7%
City of Burnside	30	3.4%
The Corporation of the City of Marion	29	3.3%
City of Salisbury	28	3.1%
City of West Torrens	28	3.1%
City of Holdfast Bay	24	2.7%
Clare and Gilbert Valleys Council	24	2.7%
City of Victor Harbor	23	2.6%
Adelaide Hills Council	22	2.5%
City of Tea Tree Gully	21	2.4%
Corporation of the City of Unley	21	2.4%
The District Council of Mount Barker	18	2.0%
City of Norwood, Payneham & St Peters	17	1.9%
Light Regional Council	15	1.7%
Alexandrina Council	14	1.6%
The Corporation of the City of Campbelltown	13	1.5%
District Council of Lower Eyre Peninsula	12	1.3%
District Council of Yorke Peninsula	12	1.3%
Kangaroo Island Council	12	1.3%
Mid Murray Council	12	1.3%
The Berri Barmera Council	12	1.3%
The District Council of Mallala	12	1.3%
Port Pirie Regional Council	11	1.2%
The Barossa Council	11	1.2%
The District Council of Mount Remarkable	11	1.2%
City of Port Lincoln	10	1.1%
Rural City of Murray Bridge	10	1.1%
District Council of Yankalilla	9	1.0%
Naracoorte Lucindale Council	9	1.0%
The District Council of Robe	9	1.0%
District Council of the Copper Coast	8	0.9%
Northern Areas Council	8	0.9%
City of Mount Gambier	7	0.8%
The Corporation of the City of Port Augusta	7	0.8%
The District Council of Tumby Bay	7	0.8%
District Council of Grant	6	0.7%
District Council of Loxton Waikerie	6	0.7%
The District Council of Ceduna	6	0.7%
Wattle Range Council	6	0.7%
Regional Council of Goyder	5	0.6%
The Corporation of the City of Whyalla	5	0.6%
Corporation of the City of Prospect	4	0.4%
Corporation of the Town of Gawler	4	0.4%
Southern Mallee District Council	4	0.4%
The Coorong District Council	4	0.4%
The District Council of Elliston	4	0.4%
Wakefield Regional Council	4	0.4%
Corporation of the Town of Walkerville	3	0.3%
District Council of Coober Pedy	3	0.3%
District Council of Peterborough	3	0.3%
Renmark Paringa Council	3	0.3%
Roxby Downs Council	3	0.3%
District Council of Barunga West	2	0.2%
District Council of Franklin Harbour	2	0.2%
The District Council of Streaky Bay	2	0.2%
The District Council of Tatiara	2	0.2%
District Council of Cleve	1	0.1%
Kingston District Council	1	0.1%
The Flinders Ranges Council	1	0.1%
TOTAL	891	

**LOCAL GOVERNMENT
Complaints Received : Issues
01 July 2004 to 30 June 2005**

	Other	City of Charles Sturt	City of Mitcham	City of Onkaparinga	City of Port Adelaide Enfield	Corporation of the City of Adelaide	TOTAL	PERCENTAGE
Administration	26	4	2	5	0	1	38	4.6%
Administration/general management	108	11	5	13	5	5	147	17.7%
Administrative practices/policies	72	5	3	6	7	9	102	12.3%
Animals	5	1	0	1	1	0	8	1.0%
Approval (permits,licenses,registrations)	28	4	1	1	2	0	36	4.3%
Citizen Rights	3	0	0	0	0	0	3	0.4%
Communication	3	1	0	0	0	0	4	0.5%
Drains/Sewers	12	0	1	3	0	0	16	1.9%
Duty of care	1	0	0	0	0	1	2	0.2%
Fees/charges/levies	24	5	1	2	3	3	38	4.6%
Financial issues	16	2	3	2	2	2	27	3.2%
Funding	1	0	0	0	0	0	1	0.1%
Health	11	1	0	1	0	0	13	1.6%
Housing	1	0	0	0	0	0	1	0.1%
Land Use	2	0	0	0	0	0	2	0.2%
Maintenance	20	0	0	1	0	0	21	2.5%
None	7	0	0	0	2	1	10	1.2%
Officer misconduct	1	1	0	0	0	0	2	0.2%
Ordinances, Regulations, By-laws	35	6	6	4	5	4	60	7.2%
Other	2	1	0	0	1	0	4	0.5%
Parking	13	10	2	2	1	6	34	4.1%
Planning and development	144	11	5	9	9	4	182	21.9%
Rates and charges	26	3	2	2	0	0	33	4.0%
Record keeping	1	0	0	0	0	0	1	0.1%
Roads	11	1	2	3	1	1	19	2.3%
Services	2	0	0	0	0	0	2	0.2%
Tenders	0	0	0	0	1	0	1	0.1%
Transport	1	0	0	0	0	0	1	0.1%
Trees	17	2	1	2	1	0	23	2.8%
TOTAL	593	69	34	57	41	37	831	
	71.4%	8.3%	4.1%	6.9%	4.9%	4.5%		

**LOCAL GOVERNMENT
Complaints Completed- Outcomes
01 July 2004 to 30 June 2005**

	Other	City of Charles Sturt	City of Mitcham	City of Onkaparinga	City of Port Adelaide Enfield	Corporation of the City of Adelaide	TOTAL	PERCENTAGE
Advice Given	298	30	21	30	16	24	419	47.0%
Conciliated	3						3	0.3%
Declined	14				2	1	17	1.9%
Full Investigation	38	3	1	4	5		51	5.7%
Preliminary Investigation	270	43	13	27	22	14	389	43.7%
Withdrawn	9	1			1	1	12	1.3%
TOTAL	632	77	35	61	46	40	891	
	71.0%	8.6%	3.9%	6.8%	5.2%	4.5%		

CITY OF CHARLES STURT
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration - Unreasonable administrative decision/policy	4	5.8%
Administration/general management of Councils - Communication/attitude	2	2.9%
Administration/general management of Councils - Complaint handling	3	4.3%
Administration/general management of Councils - Exercise of powers	5	7.2%
Administration/general management of Councils - Financial management	1	1.4%
Administrative practices/policies - Delay	1	1.4%
Administrative practices/policies - Erroneous decisions	2	2.9%
Administrative practices/policies - Failure to investigate or act	1	1.4%
Administrative practices/policies - Unfair/discriminatory practices/policies	1	1.4%
Animals - Impounding	1	1.4%
Approvals (permits, licenses, registrations, applications) - Unreasonable	2	2.9%
Approvals (permits, licenses, registrations, applications) -	2	2.9%
Communication - Lack of care or consideration shown	1	1.4%
Fees/charges/levies	1	1.4%
Fees/charges/levies - Imposition	2	2.9%
Fees/charges/levies - Method of calculation	2	2.9%
Financial issues - Level of charges	1	1.4%
Financial issues - Miscalculation	1	1.4%
Health - Garbage removal	1	1.4%
Officer misconduct - Unreasonable use of power	1	1.4%
Ordinances, Regulations, By-laws - Failure to enforce	2	2.9%
Ordinances, Regulations, By-laws - Unreasonable Determination	4	5.8%
Other	1	1.4%
Parking fines	10	14.5%
Planning and development - Failure to enforce compliance	2	2.9%
Planning and development - General processing	3	4.3%
Planning and development - Permits and approvals	6	8.7%
Rates and charges - Composition of rates	3	4.3%
Roads - Traffic control	1	1.4%
Trees - Removal	2	2.9%
TOTAL	69	

CITY OF CHARLES STURT
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	21	27.3%
Advice Given - Referred to Agency	9	11.7%
Full Investigation - Not Sustained	1	1.3%
Full Investigation - Not Sustained - Explanation Given	1	1.3%
Full Investigation - Partly Resolved in Favour of Complainant	1	1.3%
Preliminary Investigation - Not Sustained	2	2.6%
Preliminary Investigation - Not Sustained - Explanation Given	19	24.7%
Preliminary Investigation - Partly Resolved in Favour of Complainant	6	7.8%
Preliminary Investigation - Reasonable Resolution	16	20.8%
Withdrawn by Complainant	1	1.3%
TOTAL	77	

CITY OF CHARLES STURT

Failure to take appropriate action in relation to noise and disruption from late night entertainment venues.

■ The Complaint

A resident complained about the City of Charles Sturt's handling of repeated grievance reports from him regarding noise and disruption brought about by late night entertainment operations at licensed premises in Henley Square.

The complainant alleged that:

- The Council has assumed a stance that favours late night entertainment operators at the expense of residents;
- Although the car park adjacent to the complainant's dwelling is not open to the public late at night, there has been no attempt to lock it or enforce the closure period;
- A *Master Plan* has been compiled for the district at great expense, and yet provisions it contains have not been activated;
- The Council was tardy in its response to your grievances, in contravention of its own grievance resolution procedures.

■ Ombudsman's Investigation

My investigation revealed that all but one of the concerns related to matters within the authority of the Council's Elected Members, rather than Council administration.

The Council did not dispute that seasonal social problems existed in the area. That however, did not necessarily mean that the Council were obliged to assent to the complainant's requests. Elected Members had considered the matters raised in the complainant's grievance several times and the Council exercised its lawful authority to hold a different view from that of the complainant with respect to what should be done to alleviate the problems.

Contrary to the complainant's assertion, the Council's *Master Plan* had not been rejected in its totality; rather, its recommendations had not been accepted by the Elected Members (a decision that an elected body of the Council was entitled to make).

The complete closure of the car park as requested by the complainant and the Residents Association, had been flatly rejected by the Council due to the likely displacement of the problem to other areas. Council's Elected Members were authorized to make that determination, after due consideration.

The Council emphasized that it must balance residents' and traders' rights. Some Elected Members had empathy with residents, whereas others supported the traders. There was nonetheless, consensus amongst the Council's Elected Members that any future social problems that arise during late summer nights can be appropriately managed.

Other issues raised by the complainant, such as the disorderly behaviour of venue patrons, venue operating hours and licensing conditions, were plainly outside of the Council's authority and were matters that should be referred to South Australia Police and the Liquor and Gambling Commissioner. Council's administration acknowledged delays in dealing with the grievance and took the necessary steps to avert their recurrence (including the tabling of complaint-handling procedures at the February 2005 meeting of Council).

■ Ombudsman's Opinion

Upon all the information before me, I was unable to form an opinion that the approach of the Council towards Henley Square licensed premises and associated matters had been unjust or unfair to the complainant or that Council administration had acted unreasonably, except for the acknowledged delay in processing the complainant's grievance, which was eventually addressed.



I formed the opinion that further consideration of the complaint was neither necessary nor justifiable within the meaning of §17(2)(d) of the SA *Ombudsman Act 1972*, and consequently discontinued my investigation.

■ **Ombudsman further comment**

Subsequently, on further request from the complainant I reviewed all the material pertinent to the complaint and as a result of my extensive further investigation, I was of the opinion that:

- contrary to the viewpoint of the complainant, it is not for the Ombudsman to direct a Council how it should act with respect to changes to its Development Plan. This is more properly addressed through a democratic process, that is to say the general public convincing enough Councillors to effect any changes to the Development Plan; and such changes are to be effected in accordance with the *Development Act*; and
- as Council administration had reviewed its grievance handling mechanisms, I was satisfied that no further Ombudsman intervention was justified.

The complainant sought advice as to what other avenues might be available to him if the Ombudsman did not reopen the investigation.

I was advised of the existence of the Henley-Grange Licensing Accord group which comprises parties who are pivotal to entertainment venues and their impact upon the neighbourhood, such as local residents, venue licensees, council representatives, Police and liquor and gambling inspectorate delegates. The group is one of twenty such groups located throughout the State. I was advised that this group can be very effective in dealing with entertainment related noise and public demeanour issues. I advised the complainant to attend a meeting of the group (the next one due before the forthcoming summer season) to raise his views at that forum.

Another potential course of action for the complainant is to obtain support for his viewpoint from another nine nearby residents who are affected by the same issue (however, the law does allow this requirement for ten signatories to be waived in exceptional circumstances); and instigate proceedings pursuant to §106(1)(a)(b) of the SA *Liquor Licensing Act 1997* in relation to a complaint regarding noise from licensed premises and the behaviour of patrons on their way to or from an entertainment venue. Of essence in such a complaint, would be verifiable proof of a direct link between the noise or demeanour and a specific venue.

Alternatively, I advised the complainant that he could approach the Liquor and Gambling Commissioner with a view to securing the Commissioner's assessment of the situation at Henley Square and possibly considering additional license conditions (§43 of the *Liquor Licensing Act*) in relation to identified venues. By coincidence, there are legal proceedings currently in progress with respect to licensed premises at another location. That action seeks imposition of modified opening hours and has been brought by the Liquor and Gambling Commissioner and SA Police Commissioner.

■ The Complaint

The complaint alleged there was an unreasonable delay in the removal of a semi-built property and a failure by the Council to respond to his telephone/written complaints about the dwelling that was considered unsafe and in an unsightly condition.

■ Ombudsman's Investigation

A preliminary investigation was conducted into the complaint. I requested that the Council outline in writing the manner in which the complaint(s) had been dealt with over a number of years.

The response from Council, as outlined in a "*Council Record of Activity*", in relation to 68 Cedar Avenue, revealed the following:

- In March 1996, the Council received a complaint regarding unsafe placement of lintels over openings in the dwelling. Council responded by having its building surveyor inspect the property. The building surveyor concluded that the work carried out on the property appeared to be of an excellent standard.
- In November 1998, a letter was sent from the Council to the owner of the semi-built property requesting a completion date of the building. The Council received no response to this request. The Council did not follow up re the lack of a response from the owner.
- In September 1999, a site inspection was carried out by the Council and concluded that the site only presented a danger to persons trespassing; also, that the site should be fenced off at the owner's expense. The Council did not follow up this recommendation with the owner.
- In January 2001, the Council interviewed the owner of the property with the assistance of an interpreter to determine if and when the building would be completed. The answer received by the owner was "*yes, when finances were available*". The Council did not pursue this matter further.
- In February 2001, the Council requested legal advice on determining unsightly land and action the Council may take, pursuant to *Section 255 of the Local Government Act*. Council did not act either on the verbal nor documented advice.
- File notes from Council planning officers concluded that they did not consider the land to be unsightly. There did not appear to be any record of site inspections undertaken by the Council.
- A letter was sent to the owner from the Council in February 2003 requesting all external openings of the dwelling be securely boarded and the site fenced off. Council followed up this matter.
- The Council's compliance officer visited the site on several occasions through June/ July 2004 and determined that the site was unsightly due to recent deterioration.
- In July 2004, the Council sought legal advice and proceeded with a notice of Proposed Order, which was issued on 13 September 2004, pursuant to section 255(1) of the Local Government Act. The Notice gave the owner 28 days to show why the proposed action of issuing an Order should not be undertaken.
- In October 2004, the Council served the owner with the Order, which required the owner to complete the dwelling or remove the semi-built construction within 60 days. The owner made no appeal and carried out demolition the dwelling on 20 January 2005.

The Council outlined in its written response to my Office that the property had been under construction since January 1993 and planning approval for the dwelling was approved by Council in 1991. However, under the *Developmental Act 1993*, the Council did not have the power to require completion of any property within a defined timeframe; therefore, the Council did not require the owner to complete the building works that were the subject of this complaint.



The Council, through a qualified planner, conducted several site inspections over the years and initially formed the view that the property was not deemed unsightly. It was not until June/July 2004 that the Council changed its view, as by then the site had deteriorated appreciably, with parts of the structure partially demolished by vandals.

My Investigating Officer facilitated a Conciliation Conference in January 2005. The purpose of the Conference was to discuss the reasons why the Council took a prolonged period of time to address your complaints, as well as to request the owner of the semi-built dwelling to comply with Council's ongoing requests. The outcome of the meeting resulted in the Council recognising the need to record all verbal legal advice provided, documentation of all site inspections, as well as the documentation and systematic process of both oral and written complaints. The Council's Manager, Planning and Development agreed at the Conference that she would keep the complainant informed on the time and date the dwelling would be demolished. I understand that this information was conveyed to the complainant in writing in early February 2005.

■ Ombudsman's opinion

Taking into consideration all of the above information, I was of the opinion that the Council had not acted in an unreasonable manner in assessing the condition of the semi-built property.

I was of the opinion that the time taken by the Council to resolve this matter may have proved frustrating to the complainant. The Council accordingly apologised to the complainant for the delay. The dwelling was demolished, and I considered that the complaint was reasonably resolved.

The Council assured me that its complaint-handling process would be reviewed to make certain that in the future ratepayers would be informed of the Council's complaint-handling process and any ensuing action taken by Council to address grievances from residents.

CITY OF ONKAPARINGA
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration - Inadequate investigation of complaint	2	3.5%
Administration - Payments	1	1.8%
Administration - Unreasonable administrative decision/policy	2	3.5%
Administration/general management of Councils	1	1.8%
Administration/general management of Councils - Communication/attitude	2	3.5%
Administration/general management of Councils - Complaint handling	4	7.0%
Administration/general management of Councils - Exercise of powers and	5	8.8%
Administration/general management of Councils - Financial management	1	1.8%
Administrative practices/policies - Conflict of interest/bias	1	1.8%
Administrative practices/policies - Delay	1	1.8%
Administrative practices/policies - Failure to investigate or act	3	5.3%
Administrative practices/policies - Unfair/discriminatory practices/policies	1	1.8%
Animals - Fines	1	1.8%
Approvals (permits, licenses, registrations, applications) - Unreasonable	1	1.8%
Drains/Sewers - Wastewater management	3	5.3%
Fees/charges/levies - Imposition	2	3.5%
Financial issues - Level of charges	1	1.8%
Financial issues - Penalty/refund	1	1.8%
Health - Noise control	1	1.8%
Maintenance - Streets	1	1.8%
Ordinances, Regulations, By-laws - Failure to comply	1	1.8%
Ordinances, Regulations, By-laws - Failure to enforce	1	1.8%
Ordinances, Regulations, By-laws - Unreasonable Determination	2	3.5%
Parking - Parking fines	2	3.5%
Planning and development - Failure to enforce compliance	3	5.3%
Planning and development - General processing	4	7.0%
Planning and development - Permits and approvals	2	3.5%
Rates and charges - Composition of rates	1	1.8%
Rates and charges - Late payments	1	1.8%
Roads - Opening and Closing	1	1.8%
Roads - Traffic control	2	3.5%
Trees - Lopping	1	1.8%
Trees - Removal	1	1.8%
TOTAL	57	

CITY OF ONKAPARINGA
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	26	42.6%
Advice Given - Referred to Agency	4	6.6%
Full Investigation - Not Sustained - Explanation Given	1	1.6%
Full Investigation - Partly Resolved in Favour of Complainant	2	3.3%
Full Investigation - Reasonable Resolution	1	1.6%
Prelim Investigation - Not Sustained - Explanation Given	12	19.7%
Prelim Investigation - Partly Resolved in Favour of Complainant	6	9.8%
Prelim Investigation - Reasonable Resolution	9	14.8%
TOTAL	61	

CITY OF PORT ADELAIDE ENFIELD
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration/general management of Councils - Complaint handling	4	9.8%
Administration/general management of Councils - Exercise of powers and	1	2.4%
Administrative practices/policies - Failure to give reasons for decisions	1	2.4%
Administrative practices/policies - Failure to investigate or act	2	4.9%
Administrative practices/policies - Inadequate/inaccurate records maintained	1	2.4%
Administrative practices/policies - Misleading/wrong information or advice	1	2.4%
Administrative practices/policies - Unfair/discriminatory practices/policies	1	2.4%
Administrative practices/policies - Unreasonable use of authority/power	1	2.4%
Animals - Fines	1	2.4%
Approvals (permits, licenses, registrations, applications)	2	4.8%
Fees/charges/levies - Imposition	2	4.9%
Fees/charges/levies - Method of calculation	1	2.4%
Financial issues - Cost recovery	1	2.4%
Financial issues - Delays/refusal to pay	1	2.4%
Ordinances, Regulations, By-laws - Failure to comply	1	2.4%
Ordinances, Regulations, By-laws - Failure to enforce	3	7.3%
Ordinances, Regulations, By-laws - Unreasonable Determination	1	2.4%
Other	3	4.8%
Parking - Parking fines	1	2.4%
Planning and development - Changes to development plan	1	2.4%
Planning and development - General processing	4	9.8%
Planning and development - Permits and approvals	4	9.8%
Roads - Traffic control	1	2.4%
Tenders - Unfair/improper/illegal practices	1	2.4%
Trees - Removal	1	2.4%
TOTAL	41	

CITY OF PORT ADELAIDE ENFIELD
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	13	28.3%
Advice Given - Referred to Agency	3	6.5%
Declined - Alternate Remedy	2	4.3%
Full Investigation - Not Sustained	1	2.2%
Full Investigation - Not Sustained - Explanation Given	2	4.3%
Full Investigation - Partly Resolved in Favour of Complainant	1	2.2%
Full Investigation - Reasonable Resolution	1	2.2%
Preliminary Investigation - Not Sustained - Explanation Given	14	30.4%
Preliminary Investigation - Partly Resolved in Favour of Complainant	2	4.3%
Preliminary Investigation - Reasonable Resolution	6	13.0%
Withdrawn by Complainant	1	2.2%
TOTAL	46	

CITY OF PORT ADELAIDE ENFIELD

Failure to enforce certain planning approval conditions and improper action in relation to activities associated with an adjacent supermarket.

■ The complaint

The complainants alleged that the Council failed to enforce certain planning approval conditions and had in other ways, not acted properly in relation to activities associated with an adjacent supermarket. The issue of heavy vehicles and other traffic using the area was also of concern to residents and Council for many years.

■ Ombudsman's Investigation

I wrote to the Council at the beginning of October 2003, enclosing a copy of the complainant's letter dated August 2003 and sought a response to each of the issues raised by the complainants. The Council's subsequent response (excluding the Council's attachments) was forwarded to the complainants for comment. My Investigating Officer met with the complainant in November 2003 to discuss the Council's response and how the matter was to proceed. The complainant was able to read the attachments provided by Council and in particular, a report commissioned by the Supermarket on the delivery area. The complainant's comments and suggestions were noted and my investigating officer advised the complainant of his intention to meet with the Council's Director, Environmental Services to discuss the situation further.

My Investigating Officer met with Council staff to discuss the issues, the current status of the matter from Council's perspective and also undertook a site inspection. My officer then reported to the complainants that there were legal factors impacting on the situation and that the Council appeared to be taking reasonable action. The Council agree to contact the complainants in around two weeks, following a further meeting with representatives of the Supermarket, to explain the current status of the matter. The complainants indicated a broad acceptance that some action was occurring to try to address the issues but expressed their concern that Council had given similar undertakings in the past and they had not been met. My Investigating Officer offered to monitor the situation and agreed with the complainant to keep each other informed.

Whilst subsequent events may not have occurred as quickly as the complainants would have liked, there were attempts by the Council over the ensuing months, to advance the matter. The Council kept both the complainants and this Office informed of developments, either by letter or telephone. It seemed that the Council initially tried a conciliatory approach with the supermarket operator and the complainants, but when it became apparent this was unlikely to lead to a timely outcome, Council sought formal written legal advice on action available to it to effect a long term sustainable solution. The Council's letter to the complainants in August 2004 confirmed verbal advice given to them about the legal advice received and its intentions in relation to achieving a workable solution to the matter. In essence, the Council advised the complainants and supermarket operator that it would take enforcement action under section 222 of the *Local Government Act 1999* if a development approval and subsequent construction (of a loading and unloading bay on site) was not in place by 30 October 2004.

Council subsequently advised the complainants that a development application had been lodged, an assessment of it was proceeding and that it had granted an extension of time so that enforcement action would commence six weeks after any development approval is issued. That action was designed to prevent the use of forklifts for unloading on the street and the adjoining footpath.

Following a letter from the complainants expressing their concerns about Council's actions, my Investigating Officer sought and was provided with, copies of two separate examples of legal advice obtained by Council in relation to this matter. It was my opinion that it was reasonable for Council to act in accordance with proper legal advice. Whilst I could not provide the complainants with a copy of the legal advice, I was able to provide (or confirm as the case may be) certain information which may have assisted in their understanding of Council's actions. The key points were:



- Residents who live in Newman Street are on the boundary of a Residential Zone and abut a Non-Residential Zone which Council's Development Plan envisages will accommodate a range of shopping, administrative, cultural, community entertainment, education, tourism, recreation, religious and residential facilities appropriate to the nature and character of the zone as a traditional seaside main street serving residents of the district and visitors to the coast.
- The land on which the supermarket is located would appear to be in Policy Area 15 which is a Major Shopping Historic (Conservation) Policy Area in which Principle of Development Control No 6 states that "*Off-street car parking and service areas should be located behind buildings with access from Newman Street and Swan Street so as to allow a continuous edge of building form adjoining Semaphore Road*".
- There is the proposition that people who live in residential properties which abut a non-residential zone cannot expect the same level of amenity as people who live within the centre of a residential zone. There is legal precedent for this proposition with the most frequently cited authority being Papadopoulos v Woodville City Council (1985) 39 SASR 569. That proposition must be given some weight, particularly in circumstances where the non-residential uses in the adjoining non-residential zone have been in existence for many years and the road way, namely Newman Street, has always been a means of obtaining rear access to those non-residential properties.
- In these circumstances, Council's decision not to exclude trucks (irrespective of weight) using Newman Street to deliver to the site, would not seem to be unreasonable
- There is nothing in any of the development approvals which have been issued which restricts either the operating hours of the supermarket or imposes any noise constraints on the operators of the supermarket. If noise is an issue then that is something which adjoining residents can take up with the Environment Protection Authority. If the trading hours are an issue then that is covered by the *Shop Trading Hours Act 1977*, administered by the Workplace Services Division of the Department for Administrative and Information Services.
- There are now inconsistencies between the requirements of the various development approvals granted over a period of years in relation to the supermarket. The inconsistencies are such that Council would face some difficulty in seeking to argue that the supermarket owner is failing to comply with condition 3 of the 1998 approval that "*all loading and unloading of vehicles and manoeuvring of vehicles shall be done entirely on the subject land*". It is unlikely that enforcement action on this condition would be successful.
- Revocation of the Land Management Agreement which covers car parking on the supermarket land and a portion of Institute Lane would be problematic. There are considerations in relation to time, reinstatement works, cost and other legal/management issues such that it would seem Council's decision not to pursue such an option is not unreasonable.



■ Ombudsman's opinion

Having regard to all the information available to me, I was unable to conclude Council had acted unreasonably in this matter. Certainly, the Council had taken considerable steps to alleviate some of the difficulties the complainants and other residents were experiencing. It seemed that the action eventually taken by Council may have resulted in a long term sustainable solution which was appropriate and achievable, bearing in mind the rights and needs of both residents and the supermarket operator.

I understood that the complainants had doubts that the proposed action would provide the best solution and that they remained particularly concerned by the on-going prospect of trucks banking up in the street waiting to unload, thus causing disruption to traffic flow in the street and access difficulties for the complainants and others. I suggested that the complainants continue to communicate with the Council to maintain the achieved amicable resolution.

CORPORATION OF THE CITY OF ADELAIDE		
Complaints Received : Issues 01 July 2004 to 30 June 2005		
Administration - Unreasonable administrative decision/policy	1	2.7%
Administration/general management of Councils	1	2.7%
Administration/general management of Councils - Complaint handling	1	2.7%
Administration/general management of Councils - Exercise of powers and	2	5.4%
Administration/general management of Councils -	1	2.7%
Administrative practices/policies - Conduct contrary to policies	2	5.4%
Administrative practices/policies - Erroneous decisions	2	5.4%
Administrative practices/policies - Failure to give reasons for decisions	1	2.7%
Administrative practices/policies - Failure to respond	2	5.4%
Administrative practices/policies - Unfair/discriminatory practices/policies	2	5.4%
Duty of care - Failure to provide	1	2.7%
Fees/charges/levies - Imposition	2	5.4%
Fees/charges/levies - Method of calculation	1	2.7%
Financial issues - Cost recovery	2	5.4%
Ordinances, Regulations, By-laws - Unreasonable Determination	5	12.8%
Parking - Parking fines	6	16.2%
Planning and development - Failure to enforce compliance	1	2.7%
Planning and development - General processing	3	8.1%
Roads - Traffic control	1	2.7%
TOTAL	37	

CORPORATION OF THE CITY OF ADELAIDE		
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005		
Advice Given	20	50.0%
Advice Given - Referred to Agency	4	10.0%
Declined - Alternate Remedy	1	2.5%
Preliminary Investigation - Not Sustained - Explanation Given	8	20.0%
Preliminary Investigation - Partly Resolved in Favour of Complainant	3	7.5%
Preliminary Investigation - Reasonable Resolution	3	7.5%
Withdrawn by Complainant	1	2.5%
TOTAL	40	

CITY OF MITCHAM
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration - Inadequate investigation of complaint	1	2.9%
Administration - Unreasonable administrative decision/policy	1	2.9%
Administration/general management of Councils	1	2.9%
Administration/general management of Councils - Communication/attitude	1	2.9%
Administration/general management of Councils - Complaint handling	1	2.9%
Administration/general management of Councils - Exercise of powers and	2	5.9%
Administrative practices/policies - Failure to give reasons for decisions	1	2.9%
Administrative practices/policies - Failure to investigate or act	1	2.9%
Administrative practices/policies - Unreasonable use of authority/power	1	2.9%
Approvals (permits, licenses, registrations, applications) - Unreasonable	1	2.9%
Drains/Sewers - Easements	1	2.9%
Fees/charges/levies - Method of calculation	1	2.9%
Financial issues - Delays/refusal to pay	1	2.9%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	1	2.9%
Financial issues - Miscalculation	1	2.9%
Ordinances, Regulations, By-laws - Failure to enforce	4	11.8%
Ordinances, Regulations, By-laws - Unreasonable Determination	2	5.9%
Parking - Parking fines	2	5.9%
Planning and development - Failure to enforce compliance	1	2.9%
Planning and development - General processing	1	2.9%
Planning and development - Permits and approvals	3	8.8%
Rates and charges - Composition of rates	1	2.9%
Rates and charges - Recovery	1	2.9%
Roads - Traffic control	2	5.9%
Trees - Lopping	1	2.9%
TOTAL	34	

CITY OF MITCHAM
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	18	51.4%
Advice Given - Referred to Agency	3	8.6%
Full Investigation - Not Sustained - Explanation Given	1	2.9%
Preliminary Investigation - Not Sustained - Explanation Given	5	14.3%
Preliminary Investigation - Partly Resolved in Favour of Complainant	4	11.4%
Preliminary Investigation - Reasonable Resolution	4	11.4%
TOTAL	35	

LOCAL GOVERNMENT - OTHER
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration	1	0.2%
Administration - Delay	3	0.5%
Administration - Inadequate investigation of complaint	4	0.7%
Administration - Unreasonable administrative decision/policy	18	3.0%
Administration/general management of Councils	9	1.5%
Administration/general management of Councils - Communication/attitude	15	2.5%
Administration/general management of Councils - Complaint handling	32	5.4%
Administration/general management of Councils - Exercise of powers	34	5.7%
Administration/general management of Councils - Financial management	5	0.8%
Administration/general management of Councils - Meetings	5	0.8%
Administration/general management of Councils -	8	1.3%
Administrative practices/policies - Conduct contrary to policies	2	0.3%
Administrative practices/policies - Conflict of interest/bias	1	0.2%
Administrative practices/policies - Delay	4	0.7%
Administrative practices/policies - Erroneous decisions	11	1.9%
Administrative practices/policies - Failure to give reasons for decisions	8	1.3%
Administrative practices/policies - Failure to investigate or act	22	3.7%
Administrative practices/policies - Failure to respond	3	0.5%
Administrative practices/policies - Misleading/wrong information or advice	6	1.0%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	1	0.2%
Administrative practices/policies - Unfair/discriminatory practices/policies	7	1.2%
Administrative practices/policies - Unreasonable use of authority/power	7	1.2%
Animals - Fines	4	0.7%
Animals - Impounding	1	0.2%
Approvals (permits, licenses, registrations, applications)	2	0.3%
Approvals (permits, licenses, registrations, applications) - Failure to advise	1	0.2%
Approvals (permits, licenses, registrations, applications) - Failure to	6	1.0%
Approvals (permits, licenses, registrations, applications) - Unreasonable	14	2.4%
Approvals (permits, licenses, registrations, applications) -	5	0.8%
Citizen Rights - Breach of privacy/confidentiality	2	0.3%
Citizen Rights - Discrimination/harassment/racism/intimidation	1	0.2%
Communication - Lack of care or consideration shown	1	0.2%
Communication - Unprofessional conduct/attitude of staff	2	0.3%
Drains/Sewers - Drainage schemes	1	0.2%
Drains/Sewers - Easements	1	0.2%
Drains/Sewers - Illegal discharge	1	0.2%
Drains/Sewers - Septic tanks	1	0.2%
Drains/Sewers - Sewage schemes	4	0.7%
Drains/Sewers - Wastewater management	4	0.7%
Duty of care - Failure to provide	1	0.2%
Fees/charges/levies	1	0.2%
Fees/charges/levies - Imposition	13	2.2%
Fees/charges/levies - Method of calculation	10	1.7%
Financial issues - Concessions	1	0.2%
Financial issues - Cost recovery	8	1.3%
Financial issues - Delays/refusal to pay	3	0.5%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	1	0.2%
Financial issues - Penalty/refund	3	0.5%
Funding - Inequitable distribution of funding	1	0.2%
Health - Garbage removal	3	0.5%
Health - Health inspections	2	0.3%
Health - Noise control	2	0.3%
Health - Pollution/environmental concerns	4	0.7%
Housing - Maintenance	1	0.2%
Land Use - Purchase, acquisition, sale or lease	1	0.2%
Land Use - Recreational use	1	0.2%
Maintenance - Recreation facilities	1	0.2%
Maintenance - Streets	19	3.2%
Officer misconduct - Threats/harassment/racism/intimidation	1	0.2%
Ordinances, Regulations, By-laws	2	0.3%
Ordinances, Regulations, By-laws - Failure to comply	4	0.7%
Ordinances, Regulations, By-laws - Failure to enforce	13	2.2%
Ordinances, Regulations, By-laws - Unreasonable Determination	16	2.7%
Other	9	1.2%
Parking - Parking fines	13	2.2%
Planning and development - Changes to development plan	4	0.7%
Planning and development - Failure to enforce compliance	28	4.7%
Sub-Total	423	

	Carried forward	423	
Planning and development - General processing		64	10.8%
Planning and development - Permits and approvals		48	8.1%
Rates and charges - Composition of rates		18	3.0%
Rates and charges - Late payments		3	0.5%
Rates and charges - Objections/appeals		1	0.2%
Rates and charges - Remissions/discounts		4	0.7%
Record keeping - Inaccurate records		1	0.2%
Roads - Opening and Closing		4	0.7%
Roads - Traffic control		7	1.2%
Services - Access		1	0.2%
Services - Termination		1	0.2%
Transport - Access to service		1	0.2%
Trees - Lopping		2	0.3%
Trees - Planting		1	0.2%
Trees - Removal		14	2.4%
	TOTAL	593	

LOCAL GOVERNMENT - OTHER
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given		246	38.9%
Advice Given - Advice Given to Agency		1	0.2%
Advice Given - Other/General		3	0.5%
Advice Given - Referred to Agency		48	7.6%
Conciliated - Reasonable Resolution		3	0.5%
Declined - Alternate Remedy		6	0.9%
Declined - Refused to Investigate		8	1.3%
Full Investigation - Not Sustained		5	0.8%
Full Investigation - Not Sustained - Explanation Given		20	3.2%
Full Investigation - Partly Resolved in Favour of Complainant		6	0.9%
Full Investigation - Reasonable Resolution		7	1.1%
Preliminary Investigation - Not Sustained		14	2.2%
Preliminary Investigation - Not Sustained - Explanation Given		158	25.0%
Preliminary Investigation - Partly Resolved in Favour of Complainant		38	6.0%
Preliminary Investigation - Reasonable Resolution		61	9.6%
Withdrawn		1	0.2%
Withdrawn by Complainant		8	1.3%
	TOTAL	633	

CITY OF PLAYFORD

Allegation that Council roadwork resulted in rupture to complainant's water pipe and ensuing excessive water bill.

■ The Complaint

The historical billing pattern for the household showed that, for an equivalent period, the excess water account should have been about \$100. The actual bill was for approximately \$3000 and whilst the complainant was adamant that Council was liable, Council was just as convinced that it had not caused the water leak. Meanwhile, SA Water wanted someone to pay the bill. The complainant was particularly aggrieved at Council employees having dug up the water pipe without prior permission, but the employees stated that they had done so only because they had found water seepage and - by way of a goodwill gesture - proceeded to fix the problem at Council expense.

Due to the climatic conditions (lots of residual water alongside the road after natural rainfall), it was impossible for Council employees or anyone else to ascertain whether there had been a leak and for how long. Council's assertion was that the leak must have been present for some time, whilst the complainant insisted there had been no seepage before the roadwork. Reportedly, Council employees' efforts to repair the pipe proved at first unsuccessful and, when he went to speak with them, the complainant was told that yet another pipe joiner was required for the leak to be arrested. This was also how the complainant first learnt about the water leak.

■ Ombudsman's investigation

Council's argument was that the roadwork needed to proceed and Council employees tried to deal with the situation as best they could at the time. Moreover, Council pointed to the fact that on another occasion (several years prior), there had been an instance of the same water pipe rupture. On that occasion Council conceded liability and paid for the escaped water. So it was Council's contention that if it had again been at fault, it would have admitted liability; however, the situation was now different. Council also referred to the physical location of the water leak, namely at a distance of several hundred metres from the complainant's hose, asserting that the remoteness of the site contributed to inattention on the part of the complainant who had clearly failed to detect the leak and mend the pipe. Overall, Council rejected the allegation and admitted no unfair or unreasonable act.

■ Ombudsman opinion

It became evident that, in the absence of any additional authoritative evidence, it was not feasible to determine the cause of the leak, because it could just as well have been either Council's roadwork, or the complainant's lack of pipe scrutiny and maintenance, or a combination of both. The Ombudsman, with conflicting submissions before him, was not in a position to prefer either version of events. As the investigation progressed, it emerged that central to the whole incident was that the complainant was told of the leak only when he went to find the workers already engaged in repairing his pipe. The Ombudsman formed a view that the lack of advance notice of repairs and no warning from Council employees to the complainant about any problems lay at the administrative heart of this matter. Consequently, the Council paid majority of the water bill (close to \$2900). The Ombudsman recognized, however, that Council should not be liable for what would have been normal water usage by the household for the period and recommended that the complainant cover the equivalent of the household average use for the period.

This case illustrates the importance of seeking residents' permission prior to undertaking any work on their property. Although Council employees may well have had good intentions when attending to the leaking pipe, omission of an express agreement from the complainant for the pipe to be repaired, in this case, was an administrative deficiency on Council's part.

Case study

DISTRICT COUNCIL OF YORKE PENINSULA Inadequate arrangements to control stormwater.

■ The complaint

The complainant alleged that a swale drain to control stormwater run off from a development above the complainant's property, was constructed by the Council without proper consultation, that work commenced without notification, that part of the drain encroached on the complainant's property and did not effectively remove the stormwater. It was the complainant's view that Council had adopted a "*we have the right to do anything we like*" attitude.

■ Ombudsman's investigation

The Council felt the swale drain was the most practical and cost effective solution which was supported by an independent engineering assessment. It was also claimed that the area of the complainant's land which the drain traversed was a registered easement and Council did not require the owner's permission to undertake any work on the easement. The Council also claimed that the swale drain construction had been discussed with the complainant's son and it was understood that, whilst he had doubts about the effectiveness of the drain, he had agreed on a "wait and see" approach with the understanding that Council would reconsider if problems emerged.

The investigating officer ascertained that Council was required to register the easement for stormwater purposes, that such registration process required the written consent of the land owner and further, that Council did not have any legal right to undertake work on the complainant's property without permission. The matter was taken to a conciliation conference where these errors were discussed and the respective positions were clarified. The Council sought time to consider the situation and the conference was adjourned on this basis. The parties subsequently entered into further discussion and negotiation, guided by the investigating officer. An amicable resolution was reached, which included additional work to improve the drain and to site it closer to the boundary of the complainant's property.

■ Ombudsman's opinion

This investigation was a good example of the benefit that can be gained through conciliation, both in the formal conference and facilitated negotiations settings, allowing an opportunity for the strengths and weaknesses of the respective positions to be discussed and clarified in a controlled environment. It was pleasing to note the Council officer directly involved said that he had learnt a lot from the complaint and the process adopted.

Case study

PORT PIRIE REGIONAL COUNCIL

Failure to remove or lop the height of the Athol pine trees near complainant's home.

■ The complaint

The complainant alleged that the Council acted unreasonably by failing to remove or lop the height of the Athol pine trees near her home. The complainant was concerned that leaf and flower litter from the Athol pines were blown by the wind onto her property and had made a number of inquiries about gutter guards to prevent the build up of leaves in her gutters.

■ Ombudsman's investigation

The Ombudsman's preliminary investigation of the matter considered the following information:

- There are genuine environmental reasons for retaining trees wherever possible. These reasons include oxygen production, prevention of soil erosion and provision of habitat for wildlife. It is the accepted standard by Councils across the State to remove trees only when absolutely necessary.
- There is some distance between the boundary of the complainant's property and the Athol pine trees. Although the Council stated that there is between 10-20m between the boundary of the property and the offending trees, the complainant's view was that this distance is less. The Council explained that it generally only prunes trees when branches overhang a boundary. In this situation I was advised that both the complainant and the Council agreed that the branches of the Athol pines did not overhang the boundary fencing.
- The Council explained that it was the opinion of experts in the area that it was not advisable to trim the trees to reduce their height.
- A pest inspection of the complainant's property was conducted and the inspection found no evidence of termites or termite damage on the property. Although the complainant had obtained her own independent pest inspection which documented that the Poplar trees and Athol pines '*may attract subterranean termite infestation*', the risk rating of her property overall was '*moderate*', the lowest possible rating on the scale provided.

My Investigating Officer spoke with Council staff who advised that they were aware of a new gutter guard product on the market that is solid steel and may be far more efficient at protecting the complainant's gutters from debris, more effective than the traditional products available on the market. It was suggested to the complainant that she contact her local hardware store to make further inquiries if the product was of interest to her. The Council also advised that a Council handyman may be able to do small jobs such as clean gutters for a nominal \$10 donation and suggested that the complainant contact the appropriate officer at the Council to discuss the eligibility criteria for this service.

■ Ombudsman's opinion

It was my view that the Council had not been unreasonable in assessing and responding to the complainant's concerns about the Athol pine trees adjacent to her property. My investigation did not find any persuasive evidence to recommend removal of the trees. Although the complainant had suggested that the Council contribute towards the cost of the gutter guard, there was no administrative error made by the Council and consequently my investigating officer did not pursue the complainant's suggestion with the Council. It was my view that the Council's offer to lop any overhanging branches but not the height of the tree was appropriate and in accordance with the expert advice obtained by Council.

■ The complaint

The complainants alleged that Council had failed to take adequate action regarding the nuisance caused by dogs in their neighbourhood. The original complaint to the Council about the dogs was lodged at the beginning of 2003. Since then the complainants regularly communicated to the Council their concerns about persistent barking by the dogs and subsequently, later in 2003 an Order under the *Dog and Cat Management Act 1995* was made after the Council Community Inspector observed that the dogs were barking to an extent that warranted an Order.

■ Ombudsman's investigation

It is not my role to investigate whether the dogs were a nuisance as defined by the *Dog and Cat Management Act*. It is my role to investigate the complainant's allegation that the Council's actions in responding to the complaints about these dogs were unreasonable.

My investigation revealed that following the issuing of the Order, the Council undertook a number of actions to attempt to substantiate the complainant's ongoing concerns including:

- Assessment of barking by conducting site visits - the Community Inspector carried out a number of site visits since the Order was made. He stated that apart from the incident when he issued the Order, he was unable to establish that the dogs posed an ongoing nuisance. The Inspector acknowledged that the dogs do bark when their property is approached but that this is accepted and expected of dogs in protecting a property.
- Suggesting modifications to the residence to reduce nuisance - The complainants stated in their initial complaint to Council that the dogs had a limited view of passers-by at a steel gate that opens from the carport to the front veranda. The Council suggested some modifications and confirmed that the dog owner had since placed an internal fence at the rear of the carport and closed off the gate entering into the carport from the front of the property.
- Interviewing neighbours to assess the impact of the dogs on other residents - The Inspector made a number of inquiries to neighbours about the behaviour of the dogs. He reported that from these contacts, he was unable to substantiate that other residents shared the complainants' concerns. The complainants disputed this finding and conducted their own inquiries, resulting in a survey completed by five other residents that was forwarded to the Council. The complainants stated that this survey showed that there was '*adequate and strong support*' for their claim that the dogs created a nuisance. The Council advised that the dog owner also conducted a survey and received a different set of responses. The Council then undertook further inquiries with neighbouring residents. These residents indicated that they felt compromised by being approached by both parties to the complaint. The Council stated that it would not encourage residents to conduct their own surveys as neighbours can feel a sense of obligation to the person asking for their opinion, potentially resulting in a response that is influenced by the approaching party.

■ Ombudsman's opinion

Given that the Council issued an Order when the behaviour of the dogs warranted it; conducted regular site visits to assess the barking complaint; spoke with neighbours on more than one occasion, but was subsequently unable to verify that a serious and persistent problem existed that justified further action under the Act, I formed the view that the actions of the Council in responding to the complainants were not unreasonable.

CAMPBELLTOWN CITY COUNCIL

Unreasonable decision by Council regarding payment of full refund of bond money lodged for stormwater drainage for a subdivided property

■ The complaint

The complaint alleged that the Council was unreasonable in not refunding in full the complainant's bond money lodged for stormwater drainage for a subdivided property.

In February 2000, land division was approved by the Council and in March 2000 the required bond was paid to the Council by the complainant for two pump and sumps. In August 2000 the property was sold. In May 2001 a site inspection was carried out and it was the inspector's opinion that satisfactory arrangements for the control and disposal of excess stormwater had *not* been made and that drainage works were necessary. Three years elapsed since the development approval and bond monies were paid respectively and in August 2003 development approval for a carport on the property was requested by the owners and subsequently granted by the Council. In September 2003 the Council wrote to the complainant advising that he had 30 days to complete drainage requirements on the property.

■ Ombudsman's investigation

I conducted a full investigation into this matter. On receipt of the Council's response to my initial letter I formed a tentative view that the Council's actions in instigating the completion of the drainage requirements by utilising the bond monies was not unreasonable for the following reasons:

- The land division approval dated 15 February 2000 stated the following requirement:
"Satisfactory arrangements being made for the control and disposal of all excess stormwater from each of the allotments"
- The complainant paid a bond of \$3067 to the Council in March 2000 to *"provide 2 x P & Sumps \$1250 ea..."*. The lodgement of this bond satisfied the drainage requirement of approval. The Council stated that one of these pump and sumps was for the original property and the other to be shared on another new community titled property. The plans submitted by the complainant for the community titled property only showed one pump and sump for the two new residences. From this information, I accepted that one of the pump and sumps bonded was for the original property and the other for the community titled development.
- The Council's Engineering Project Officer visited the site during the approval period and advised that drainage works were necessary. The Council had provided documentation to support that the site visit had occurred.

In September 2003, the Council moved to initiate completion of drainage works by writing to the complainant advising of its intentions to utilise bond monies if the work was not completed. The Council undertook this course of action pursuant to the *Development Act 1993*, Part 4, Development Assessment which provides:

56—Completion of work

(1) Where—

(a) an approval is granted under this Part; but

(b) the development to which the approval relates has been substantially but not fully completed within the period prescribed by the regulations for the lapse of the approval,

a relevant authority may, by notice in writing, require the owner of the relevant land to complete the development within a period specified in the notice.

(2) If an owner fails to carry out work as required by a notice under subsection (1), the relevant authority may cause the necessary work to be carried out..

(3) The reasonable costs and expenses incurred by the relevant authority (or any person acting on behalf of the relevant authority) under this section may be recovered by the relevant authority as a debt due from the owner.



The relevant regulation of the Development Regulations 1993 provides:

48–Lapse of consent or approval

- (1) *Subject to this or any other regulation, any consent or approval under Part 4 of the Act (whether subject to conditions or not) will lapse at the expiration of–*
- (a) *subject to the operation of paragraph (b)–12 months from the operative date of the consent or approval;*
 - (b) *if–*
 - (i) *the relevant development has been lawfully commenced by substantial work on the site of the development within 12 months from the operative date of the approval–three years from the operative date of the approval, unless the development has been substantially or fully completed within those three years (in which case the approval will not*

It was clear that the Council had to wait for three years from the date of approval before it could move to complete the work utilising the bond money. This explains why the Council did not approach the complainant until 2003 requesting the drainage work be completed. The Council had stated that during the three year approval timeframe, the Council had to assume that the applicant intended to complete the required work. The *Development Act* and *Development Regulations* do not give the Council authority to act before the three year time frame has expired.

I considered the complainant's concern that the installation of a carport by the new owners of one property affected the drainage of the site and this in turn prompted the Council to act and utilise part of the bond money to install a pump and sump. The Council had evidence from 2001 (report completed in May 2001) and 2002 (letter from Council to the new owners dated July 2002) that drainage works were required by Council on one of the properties, but had not yet been completed by the applicant. I accepted that the Council had always expected drainage works to be completed by the applicant (the complainant) and the installation of a carport at a later date by the new owners did not initiate this requirement.

■ **Ombudsman's Opinion**

There was a delay between the expiration of the three year timeframe and the Council's contact with the complainant stating an intention to undertake the required drainage works. It is the Ombudsman's opinion that the Council ought to have contacted the complainant immediately after the expiration of the three years from the approval date rather than in September 2003. However, given there was evidence to support that the Council always intended to pursue the matter, it is not unreasonable that Council pursued a resolution at that time. Whether the new owner prompted the Council to act or whether the Council initiated its own actions in September 2003 is, in my view, not relevant as the work was clearly defined as required prior to that time. In any event, I was advised that the complainant was not disputing *when* the Council chose to pursue this matter, rather that it was pursuing the matter at all.

The complainant recalled conversations with Council staff that, in his recollection, supported his view that only one pump and sump was required. In particular, the complainant stated that a Council planning officer previously involved in this matter may also have recalled the facts of the situation.

In October 2004, the planning officer who no longer worked for the Council was interviewed. The planning officer stated that due to the time elapsed since his involvement, he was unable to recall the specific details of this application. In particular, when questioned, he was unable to recall if there was a verbal agreement that a pump and sump was not required on the second property. The Ombudsman accepted that substantial time that had passed since the planning officer's initial involvement in this matter and it was not unreasonable for him not to recall specific details. Without any further corroboration, the Ombudsman was unable to proceed further in the matter.

The Ombudsman reached a view that the Council's actions in instigating the completion of the drainage requirements by utilising the bond monies was not unreasonable and accordingly, discontinued the investigation of this matter.

Case study

CITY OF MARION

Alleged failure to appropriately assess a development on a site adjoining the complainant's property.

■ The complaint

The complainant owned a two storey house in a sloping seaside area. Her neighbours applied to extend their house by adding a second storey. Because the development was a complying development, Council did not consult the complainant. However she became aware of the development and expressed her concerns to the Council about the possible loss of privacy as a result of this development. The Council considered the complainant's views, but still approved the development.

The concern was that her neighbours would easily be able to view activities in the complainant's rear yard from the rear second storey balcony. It was necessary to consider what assessment was made of this possible impact when the Council staff assessed the development application. To fully understand the situation, staff of the Ombudsman Office inspected the subject property and took photographs of the development.

■ Ombudsman's Investigation

The Council expressed the view that when assessing overlooking, consideration needed to be given to the nature of the area in which the development exists. In this case, the land is sloping. There are many two storey houses constructed to take advantage of views to the sea, and this new development was consistent with others in the area. Council did concede that there was a degree of overlooking but considered that in the circumstances it was not unreasonable.

It is not the role of the Ombudsman to determine matters of law; and in any event, the development had been approved and the Ombudsman has no power to reverse a development approval. I was therefore not able to suggest any remedy in respect of the overlooking, even if I had been of such a mind. However the complainant had focussed on a number of statements from the Council's web site in respect of development. She believed that these statements supported her view and led her to an assessment that the overlooking was unreasonable. The Council acknowledged that parts of the information were misleading and agreed to amend the information.

■ Ombudsman's opinion

As development in the metropolitan area intensifies, the Ombudsman is more frequently confronted with concerns about overlooking from multi-storey properties. It is difficult to make proper judgements as to what degree of overlooking is unreasonable, and the Ombudsman's role in doing this is limited. However the Ombudsman can consider how the Council assesses such matters and the reasons given for approving the development. In this case, although the Ombudsman accepted there was a significant degree of overlooking, he formed the view that in all of the circumstances, the Council's opinion that the overlooking was not excessive, was itself not unreasonable administrative action.

■ The Complaint

A complaint was lodged against the council alleging that it had unreasonably introduced a new rating policy without proper consultation and the resultant rating policy increased their rates by nearly one thousand per cent.

The complainant sought relief against this exorbitant increase and asked the Council to consider and accept a lesser amount. Council declined the offer on the basis that an acceptance of the offer would have created a position of inequity and unfairness for all other ratepayers.

■ Ombudsman's Investigation.

During the course of the investigation Council provided information on:

- the processes applied in the formulation of the rating policy.
- the basis of rejection of the complainant's offer of an alternative payment as advised to the complainant and further that the complainant had not provided any evidence of hardship to pay the rate requested or proposed any alternative offer.

■ Ombudsman's Opinion

At the time it was not the Ombudsman's role to determine the reasonableness of decisions by a council such as the level of rates or rate increases but the Ombudsman must be satisfied that the administrative process applied in reaching its determination is not unreasonable.

In this matter I was satisfied that Council's appointment of a consultant to examine its existing rating policy and provide it with recommendations for a number of models to consider was not unreasonable.

The Ombudsman was further satisfied that the public consultations occurred in accordance with council's public consultation policy and that the consultant submitted a number of rating models for consideration.

The consultant's report drew the Council's attention that the adoption of some models would result in significant increases to some ratepayers and recommended that it consider offering rebates.

Council considered the report and recommendations and approved one of the rating models. However, there was no evidence provided by the Council that demonstrated that it had turned its mind to offering rebates or any other form of relief to ratepayers who were to receive significant increases their rates.

The Ombudsman was of the opinion that there was no error of administration on the part of the council in the methods applied in determining, or selecting an appropriate rating model. The Ombudsman did, however consider that the Council erred in not considering applying a rebate on the recommendation of the consultant. It was the Ombudsman's further opinion that the Council erred in not interpreting the complainant's offer of an alternative payment as an application for a rebate.

It was the Ombudsman's view that the council and its administration should have given due consideration to the provisions of section 166 of the *Local Government Act 1999* and in particular section 166(l), an amendment to the Act introduced specifically to give Councils the discretion to grant rebates in circumstances where there were significant increases in rates. Section 166(l) of the *Local Government Act* provides that a council may grant a rebate:



where the rebate is considered by the council to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to—

- (i) a redistribution of the rates burden within the community arising from a change to the basis or structure of the council's rates; or*
- (ii) a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.*

The Ombudsman acknowledges that the granting of a rebate is discretionary but in this case it was the opinion of the Ombudsman that the council erred in not considering the granting of rebates. The Ombudsman was aware that some councils were providing rebates where rate increases were between 10% and 30%.

The Ombudsman's opinions were presented to the council and it reconsidered its position and submitted a proposal that offered a rebate to ratepayers that had received a rate increase greater than 31%. From the information provided by council, 36% of ratepayers had received increases greater than 10% and the proposed rebate would apply to 18% of ratepayers.

The proposal did not appear unreasonable and Council was advised that a reasonable resolution to the matter would be:

- ◇ provision of the rebate as proposed
- ◇ letter of explanation to rate payers received the rebate as approved by me
- ◇ notice to all ratepayers of the rebate to be published in the local magazine.

Council agreed to this and the matter was considered to be reasonably resolved.

Case study

CITY OF NORWOOD, PAYNEHAM AND ST PETERS Alleged unreasonable delay in removal of street trees

■ The Complaint

The complainants alleged that some trees which had been planted in their street caused them to have serious medical problems requiring them to leave their home each year during the pollen season. The couple said they had first taken their request that the trees be removed to Council several years earlier and it had asked them to provide additional information before a decision would be made on the matter. The complainants said they had complied with all requests and it was their allegation that 3 years after their initial complaint Council had still not made a decision regarding the removal of the trees from the street.

■ Ombudsman's Investigation

The complainants reported that approximately 17 Chinese Elm trees had been planted in the immediate vicinity of their home and in nearby streets. They first approached Council in 2002 at which time they were advised the matter of removal would be considered.

In January 2003 the couple were told the Chinese Elms were healthy and as they provided part of an established street scape Council was a reluctant to cut them down. They were told to seek an alternative medical solution to their allergy problems and to provide Council with further information from their specialist. In the meantime Council pruned the tree nearest the family's home to reduce the amount of allergy-causing pollen.

In May 2003 Council conducted a further inspection of the site as the complainants were requesting that all 16 trees be taken out. Council advised that the trees would not be removed and the couple were again asked to provide medical information for consideration.

After a number of requests from Council the complainants provided the specialist's report and in February 2004 Council advised that an independent expert in the area of allergies would review all the information provided.

In October 2004 the complainants wrote again to Council seeking a decision on the issue of the trees and the Council responded that the medical expert engaged to review all the materials would like to meet with the couple and visit the site.

In January 2005 as the matter still had not been resolved and the complainants contacted the Ombudsman with their complaint.

Following intervention from my Office querying why the process had taken so long Council met and agreed it would remove the tree outside the complainants' home immediately and 3 others in the vicinity of the house once neighbours had been advised. Council said the Chinese Elms would be replaced by semi-advanced similar species of tree which did not have the pollen problems of the existing ones. The specialist who had consulted Council on the trees would assess the suitability of the trees to be planted.

Council said it would not take out the other trees the complainants wanted removed because they were not in the immediate vicinity of the home and, furthermore, the other homeowners may not wish to have the trees in their streets replaced.

■ Ombudsman's Opinion

There was no doubt that the process from the time of the couple's initial complaint to resolution, was unduly lengthy. Nevertheless, I formed the view that Council did take into consideration the ongoing concerns of the complainants and that it tried to balance their needs against those of the broader community. It sought medical information from the couple and it engaged an expert to provide independent information on the matter. When it was agreed the trees in the immediate vicinity of the home should be removed Council again sought expert advice on the most appropriate replacement and it contacted nearby residents to advise them of the plans. Complaints concerning street trees and their perceived impact on structures and the amenity of the locality are raised by the public not infrequently. It is the Ombudsman's experience that in most cases reasonable consideration is given to the matter by Councils. Consideration will be given by the Ombudsman to whether some practical guidelines to complaint resolution, based on past experience, may assist local government administration in this and related areas.

Other Authorities

OTHER AUTHORITIES		
Complaints Received 01 July 2004 to 30 June 2005		
Public Trustee	88	22.3%
WorkCover Corporation	77	19.5%
Courts Administration Authority	31	7.8%
SA Ambulance Service	22	5.6%
Aboriginal Housing Authority	21	5.3%
Legal Services Commission	19	4.8%
Motor Accident Commission	14	3.5%
SA Superannuation Board	13	3.3%
Guardianship Board	12	3.0%
University of South Australia Council	10	2.5%
University of Adelaide Council	10	2.5%
Police Complaints Authority	10	2.5%
Public Advocate	9	2.3%
Flinders University Council	7	1.8%
Home Start	6	1.5%
Development Assessment Commission	5	1.3%
Legal Practitioners Conduct Board	4	1.0%
Country Fire Services Board	4	1.0%
Commissioner for Equal Opportunity	4	1.0%
Trans Adelaide	3	0.8%
SA Community Housing Authority	3	0.8%
RSPCA Inspector	3	0.8%
Torrens Catchment Water Management Board	2	0.5%
Passenger Transport Board	2	0.5%
Native Vegetation Council	2	0.5%
Lotteries Commission	2	0.5%
Animal and Plant Control Commission	2	0.5%
Veterinary Surgeons Board	1	0.3%
Teachers Registration Board	1	0.3%
South Australian Local Government Grants Commission	1	0.3%
Sheriff Office	1	0.3%
Local Government Superannuation Board	1	0.3%
Commissioner of State Taxation	1	0.3%
Fleurieu Animal and Plant Control	1	0.3%
Citrus Board	1	0.3%
Adelaide Festival Corporation	1	0.3%
Adelaide Cemeteries Authority	1	0.3%
TOTAL	395	

OTHER AUTHORITIES
Complaints Completed 01 July 2004 to 30 June 2005

Public Trustee	89	22.2%
WorkCover Corporation	74	18.5%
Courts Administration Authority	30	7.5%
Aboriginal Housing Authority	23	5.7%
Legal Services Commission	23	5.7%
SA Ambulance Service	21	5.2%
Motor Accident Commission	16	4.0%
Guardianship Board	11	2.7%
SA Superannuation Board	11	2.7%
University of Adelaide Council	11	2.7%
University of South Australia Council	10	2.5%
Flinders University Council	8	2.0%
Legal Practitioners Conduct Board	8	2.0%
Police Complaints Authority	8	2.0%
Country Fire Services Board	7	1.7%
Public Advocate	6	1.5%
Commissioner for Equal Opportunity	5	1.2%
Home Start	5	1.2%
Passenger Transport Board	4	1.0%
Development Assessment Commission	3	0.7%
SA Community Housing Authority	3	0.7%
Trans Adelaide	3	0.7%
Animal and Plant Control Commission	2	0.5%
Lotteries Commission	2	0.5%
Native Vegetation Council	2	0.5%
RSPCA Inspector	2	0.5%
Torrens Catchment Water Management Board	2	0.5%
Adelaide Cemeteries Authority	1	0.2%
Adelaide Festival Corporation	1	0.2%
Architects Board of South Australia	1	0.2%
Commissioner of State Taxation	1	0.2%
Land Management Corporation	1	0.2%
Local Government Superannuation Board	1	0.2%
SA Tourism Commission	1	0.2%
Sheriff's Office	1	0.2%
State Emergency Service	1	0.2%
State Supply Board	1	0.2%
Teachers Registration Board	1	0.2%
West Beach Trust	1	0.2%
TOTAL	401	

OTHER AUTHORITIES
Complaints Received : Issues
01 July 2004 to 30 June 2005

	Other	Aboriginal Housing Authority	Courts Administration Authority	Public Trustee	South Australian Ambulance Service	WorkCover Corporation	TOTAL	PERCENTAGE
Access to educational services	1	0	0	0	0	0	1	0.3%
Access to Information	0	0	0	1	0	0	1	0.3%
Administration	30	0	6	18	5	15	74	18.7%
Administration/general management of	1	0	0	0	1	0	2	0.5%
Administrative practices/policies	59	1	15	27	4	12	118	29.9%
Approvals (permits/licenses/registrations)	3	0	0	0	0	1	4	1.0%
Citizen Rights	0	0	1	1	0	3	5	1.3%
Communication	9	2	0	4	2	1	18	4.6%
Conduct	1	0	0	0	0	0	1	0.3%
Curriculum issues	1	0	0	0	0	0	1	0.3%
Daily routine	1	0	0	0	0	0	1	0.3%
Duty of care	1	0	0	0	0	1	2	0.5%
Fees/charges/levies	6	0	1	1	0	2	10	2.5%
Financial assistance	3	0	0	4	0	0	7	1.8%
Financial issues	12	1	6	25	5	8	57	14.4%
Funding	1	0	0	0	0	0	1	0.3%
Housing	3	16	0	0	0	1	20	5.1%
Land Use	1	0	0	0	0	0	1	0.3%
None	1	0	0	1	0	1	3	0.8%
Officer misconduct	1	0	0	1	0	0	2	0.5%
Ordinances, Regulations, By-laws	0	0	1	0	0	0	1	0.3%
Other	0	1	0	1	0	0	2	0.5%
Parking	1	0	1	0	0	0	2	0.5%
Patient Rights	1	0	0	0	1	0	2	0.5%
Planning and development	3	0	0	0	0	0	3	0.8%
Quality of treatment	0	0	0	0	1	0	1	0.3%
Rates and charges	0	0	0	0	2	0	2	0.5%
Record keeping	1	0	0	3	0	0	4	1.0%
Services	5	0	0	1	0	1	7	1.8%
Superannuation/Retirement Benefits	7	0	0	0	0	0	7	1.8%
Tenders	2	0	0	0	0	0	2	0.5%
Trees	1	0	0	0	0	0	1	0.3%
Workers Compensation	0	0	0	0	1	31	32	8.1%
TOTAL	156 39.5%	21 5.3%	31 7.8%	88 22.3%	22 5.6%	77 19.5%	395	

**OTHER AUTHORITIES
Complaints Completed - Outcomes
01 July 2004 to 30 June 2005**

	Other	Aboriginal Housing Authority	Courts Administration Authority	South Australian Ambulance Service	Public Trustee	WorkCover Corporation	TOTAL	PERCENTAGE
Advice Given	68	8	10	6	28	58	178	44.4%
Conciliated	1						1	0.2%
Declined	8				1	2	11	2.7%
Full Investigation	14			1	4	4	23	5.7%
Preliminary Investigation	67	14	20	14	56	10	181	45.1%
Withdrawn	6	1					7	1.7%
TOTAL	164	23	30	21	89	74	401	
	40.9%	5.7%	7.5%	5.2%	22.2%	18.5%		

**PUBLIC TRUSTEE
Complaints Received : Issues 01 July 2004 to 30 June 2005**

Access to Information	1	1.1%
Administration - Delay	9	10.2%
Administration - Inadequate investigation of complaint	1	1.1%
Administration - Payments	2	2.3%
Administration - Unreasonable administrative decision/policy	6	6.8%
Administrative practices/policies - Conduct contrary to policies	3	3.4%
Administrative practices/policies - Delay	7	8.0%
Administrative practices/policies - Erroneous decisions	5	5.7%
Administrative practices/policies - Failure to give reasons for decisions	1	1.1%
Administrative practices/policies - Failure to investigate or act	6	6.8%
Administrative practices/policies - Failure to respond	2	2.3%
Administrative practices/policies - Inadequate/inaccurate records maintained	1	1.1%
Administrative practices/policies - Misleading/wrong information or advice	1	1.1%
Administrative practices/policies - Unfair/discriminatory practices/policies	1	1.1%
Citizen Rights - Breach of privacy/confidentiality	1	1.1%
Communication	1	1.1%
Communication - Lack of care or consideration shown	2	2.3%
Communication - Unprofessional conduct/attitude of staff	1	1.1%
Fees/charges/levies - Method of calculation	1	1.1%
Financial assistance - Eligibility criteria	3	3.4%
Financial assistance - Methods of payment	1	1.1%
Financial issues	2	2.3%
Financial issues - Concessions	1	1.1%
Financial issues - Cost recovery	3	3.4%
Financial issues - Delays/refusal to pay	14	15.9%
Financial issues - Miscalculation	2	2.3%
Financial issues - Overcharge/payment	2	2.3%
Financial issues - Undercharge/payment	1	1.1%
Officer misconduct - Unreasonable use of power	1	1.1%
Other	2	2.2%
Record keeping - Funds held in trust	1	1.1%
Record keeping - Inaccurate records	2	2.3%
Services - Access	1	1.1%
TOTAL	88	

PUBLIC TRUSTEE Complaints Completed : Outcomes 01 July 2004 to 30 June 2005		
Advice Given	23	25.8%
Advice Given - Other/General	1	1.1%
Advice Given - Referred to Agency	4	4.5%
Declined - Alternate Remedy	1	1.1%
Full Investigation - Not Sustained - Explanation Given	2	2.2%
Full Investigation - Reasonable Resolution	2	2.2%
Preliminary Investigation - Not Sustained	3	3.4%
Preliminary Investigation - Not Sustained - Explanation Given	21	23.6%
Preliminary Investigation - Partly Resolved in Favour of Complainant	13	14.6%
Preliminary Investigation - Reasonable Resolution	19	21.3%
TOTAL	89	

Case study

PUBLIC TRUSTEE

Inadequate administration of finances

■ The Complaint

In this matter the complainant alleged that the Public Trustee ("the Trustee") failed to act in his friend's best interest in its capacity as administrator of his finances. The complainant believed that the Trustee failed to intervene in the disputed Will after the man's death despite concerns he was being exploited by individuals wanting to benefit from his estate.

■ Ombudsman's Investigation

The complainant had been a long-time friend of the now-deceased person and a tenant in his home for many years. He alleged that while his friend was convalescing in hospital after an illness, he was visited by a couple who asked him to make a Will leaving his estate to a woman friend of theirs and in return she would care for him for the rest of his life.

An employee at the hospital believed the man may be exploited by the visitors and the community health case manager was notified about the agency's concerns. An application for an Administration Order was made and granted by the Guardianship Board. The Public Trustee was engaged to manage the man's financial affairs and to undertake an investigation to establish whether or not he had testamentary capacity at the time of making his Will.

The Public Trustee conducted an investigation and interviewed a number of individuals relevant to the matter. Medical reports were sought, one of which indicated that the man did not have testamentary capacity to make a Will at the time he was assessed (which was approximately 2 weeks after the Will had been drawn up.)

On receiving this information the Public Trustee asked its lawyers to look at available options because it was aware of the importance of ensuring evidence was put before the Registrar of Probates in the event of the man's death. When he passed away several days later a caveat was immediately lodged by the Public Trustee to give it time to further consider the situation.

The lawyer representing the sole beneficiary contacted the Public Trustee's lawyers requesting a copy of the medical report and stating he believed he had a duty to provide a copy of the report to the Registrar as an Officer of the Court. The report was provided to the lawyer and the caveat was lifted.

The Public Trustee advised the complainant's lawyer that he could seek a copy of the report from the beneficiary's lawyer. However, when this was attempted the complainant was told he could not have the information because he was neither a relative nor a beneficiary.

The Ombudsman was informed that the beneficiary named in the man's Will inherited the estate and the complainant moved out of the home.



■ Ombudsman's Opinion

A number of agencies were sufficiently concerned about the man's vulnerability to exploitation that the Guardianship Board granted an Administration Order to the Public Trustee to manage his financial affairs and to investigate matters relating to his mental capacity when he made his Will.

The Public Trustee conducted an investigation and when medical information was put forward suggesting the man did not have testamentary capacity the Trustee appropriately sought advice from its lawyers about the most appropriate way to proceed. A caveat was lodged with the Probate Registry immediately upon the man's death to give the Public Trustee time to consider the situation and it was withdrawn when the lawyer for the beneficiary sought, and received, the report which it was his duty to provide to the Registrar. The Public Trustee also advised the complainant that the report had been given to the beneficiary's lawyer to give him an opportunity to seek the documents through that avenue if he so wished.

It was the Ombudsman's opinion that a proper investigation was conducted by the Public Trustee and reasonable steps were taken to make relevant information available to the Probate Registry when the man died.

This case illustrates yet another avenue of communication for the general public who believe they may have a sufficient and relevant interest in a matter, with an approach to the Office of last resort, the State Ombudsman. In fact, the complainant had no relevant interest in law but there was some scope for this Office to consider his concerns.

Not infrequently, cases are brought to the Ombudsman as complaints of "last resort" by "complainants" whose interest in the matter may be only tenuous. However, the question of "standing" of the complaint should not, in my view, be so rigorously applied as to exclude all consideration of relevant concerns, as the Ombudsman also has "own initiative" powers (section 13), and those of an audit review body (section 14a).

The question should be treated as an opportunity for critical evaluation of any practice or process, from which the agency derives the benefit of assuring itself of the reasonableness of its actions, practices or procedures.

WORKCOVER CORPORATION		
Complaints Received : Issues 01 July 2004 to 30 June 2005		
Administration - Delay	6	7.8%
Administration - Payments	2	2.6%
Administration - Unreasonable administrative decision/policy	7	9.1%
Administrative practices/policies - Delay	1	1.3%
Administrative practices/policies - Failure to give reasons for decisions	1	1.3%
Administrative practices/policies - Failure to investigate or act	3	3.9%
Administrative practices/policies - Inadequate/inaccurate records maintained	1	1.3%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	2	2.6%
Administrative practices/policies - Unfair/discriminatory practices/policies	3	3.9%
Administrative practices/policies - Unreasonable use of authority/power	1	1.3%
Approvals (permits, licenses, registrations, applications) -	1	1.3%
Citizen Rights - Breach of privacy/confidentiality	3	3.9%
Communication - Lack of care or consideration shown	1	1.3%
Duty of care - Breach of policy/guidelines	1	1.3%
Fees/charges/levies - Imposition	2	2.6%
Financial issues - Delays/refusal to pay	5	6.5%
Financial issues - Miscalculation	1	1.3%
Financial issues - Penalty/refund	2	2.6%
Housing - Termination	1	1.3%
Services - Access	2	2.6%
Workers Compensation - Failure to comply with legislation	1	1.3%
Workers Compensation - Inequitable settlement offered	1	1.3%
Workers Compensation - Miscalculations	1	1.3%
Workers Compensation - Refusal to pay	5	6.5%
Workers Compensation - Unreasonable delay	10	13.0%
Workers Compensation - Unreasonable management of claim	13	16.9%
TOTAL	77	

WORKCOVER CORPORATION
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	38	51.4%
Advice Given - Referred to Agency	20	27.0%
Declined - Refused to Investigate	2	2.7%
Full Investigation - Not Sustained - Explanation Given	2	2.7%
Full Investigation - Partly Resolved in Favour of Complainant	1	1.4%
Full Investigation - Reasonable Resolution	1	1.4%
Preliminary Investigation - Not Sustained - Explanation Given	6	8.1%
Preliminary Investigation - Partly Resolved in Favour of Complainant	2	2.7%
Preliminary Investigation - Reasonable Resolution	2	2.7%
TOTAL	74	

COURTS ADMINISTRATION AUTHORITY
Complaints Received : Issues 01 July 2004 to 30 June 2005

Administration - Delay	2	6.5%
Administration - Inadequate investigation of complaint	1	3.2%
Administration - Unreasonable administrative decision/policy	3	9.7%
Administrative practices/policies - Conduct contrary to policies	1	3.2%
Administrative practices/policies - Delay	3	9.7%
Administrative practices/policies - Erroneous decisions	2	6.5%
Administrative practices/policies - Failure to give reasons for decisions	2	6.5%
Administrative practices/policies - Failure to investigate or act	2	6.5%
Administrative practices/policies - Failure to respond	1	3.2%
Administrative practices/policies - Misleading/wrong information or advice	2	6.5%
Administrative practices/policies - Unfair/discriminatory practices/policies	2	6.5%
Citizen Rights - Breach of privacy/confidentiality	1	3.2%
Fees/charges/levies - Imposition	1	3.2%
Financial issues - Cost recovery	1	3.2%
Financial issues - Delays/refusal to pay	1	3.2%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	2	6.5%
Financial issues - Level of charges	1	3.2%
Financial issues - Penalty/refund	1	3.2%
Ordinances, Regulations, By-laws - Unreasonable Determination	1	3.2%
Parking fines	1	3.2%
TOTAL	31	

COURTS ADMINISTRATION AUTHORITY
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	8	26.7%
Advice Given - Referred to Agency	2	6.7%
Preliminary Investigation - Not Sustained	1	3.3%
Preliminary Investigation - Not Sustained - Explanation Given	11	36.7%
Preliminary Investigation - Partly Resolved in Favour of Complainant	4	13.3%
Preliminary Investigation - Reasonable Resolution	4	13.3%
TOTAL	30	

**SOUTH AUSTRALIAN AMBULANCE SERVICE
Complaints Received : Outcomes 01 July 2004 to 30 June 2005**

Administration	1	4.5%
Administration - Payments	2	9.1%
Administration - Unreasonable administrative decision/policy	2	9.1%
Administration/general management of Councils - Communication/attitude	1	4.5%
Administrative practices/policies - Failure to give reasons for decisions	2	9.1%
Administrative practices/policies - Failure to respond	1	4.5%
Administrative practices/policies - Misleading/wrong information or advice	1	4.5%
Communication - Lack of care or consideration shown	1	4.5%
Communication - Unprofessional conduct/attitude of staff	1	4.5%
Financial issues - Cost recovery	1	4.5%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	1	4.5%
Financial issues - Miscalculation	1	4.5%
Financial issues - Overcharge/payment	1	4.5%
Financial issues - Penalty/refund	1	4.5%
Patient Rights - Other	1	4.5%
Quality of treatment - Inadequate treatment/care	1	4.5%
Rates and charges - Objections/appeals	1	4.5%
Rates and charges - Remissions/discounts	1	4.5%
Workers Compensation - Inequitable settlement offered	1	4.5%
TOTAL	22	

**SOUTH AUSTRALIAN AMBULANCE SERVICE
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005**

Advice Given	4	19.0%
Advice Given - Referred to Agency	2	9.5%
Full Investigation - Not Sustained - Explanation Given	1	4.8%
Prelim Investigation - Not Sustained - Explanation Given	10	47.6%
Prelim Investigation - Reasonable Resolution	4	19.0%
TOTAL	21	

Case study

SA AMBULANCE AND STATE EMERGENCY SERVICE

Lack of support offered to wife of an overseas tourist who drowned during a tour to Kangaroo Island.

■ The Complaint

The complainant and her husband were holidaying in Australia from overseas and were on a tour to Remarkable Rocks. One member of the group was washed into the sea off the rocks. The tour leader and the complainant's husband took a lifebelt and sought to offer assistance to the person. Unfortunately both were also washed off the rocks and drowned. The original person washed off the rocks survived. The various emergency services, including the SA Ambulance Service, the State Emergency Service and the SA Police attended the scene as part of the rescue attempt. It soon became clear that my complainant's husband had drowned and was not going to be able to be resuscitated. The complainant was concerned that she only heard about this by overhearing a conversation with a park ranger, that there was inadequate support offered for her at the site, and that she was effectively required to find her own way back to Kingscote to the Hospital and then to the mainland and to Adelaide.

I was concerned about the possibility that the various emergency services may not have given sufficient attention to a person in a traumatic situation, by not providing adequate information, not providing personal support and by leaving the complainant to find her own way back to Adelaide.



■ **Ombudsman's Investigation**

Both the SA Ambulance and the SES noted that in such situations, it is the SA Police who have primary control of the rescue and support efforts and indicated that it should have been the SA Police who ensured that adequate services were provided to the complainant and she was transported appropriately. Nevertheless reports from the Ambulance Service personnel at the scene indicated that they had provided particular attention to the tour group, including the complainant. In fact one of the volunteers was specifically tasked to support the complainant and provided protection from the weather, fluids and food. The volunteer was able to report that she had gone repeatedly to those in the group to ask if they were alright. It is possible that in her distressed state, the complainant was not fully aware of these efforts by Ambulance Service staff. SES crew reported that by the time they had reached the scene, because of travel distances, it had become apparent that they would not be required as it was necessary to recover the bodies by boat and this was in hand through local fishermen. The SES further reported that it was not an expectation of SES crew that they provide the type of support required to the wife of a deceased person.

It was apparent that there was no remedy appropriate as both agencies reported, and I accepted, that the issues of concern principally related to the responsibilities of the SA Police.

■ **Ombudsman's Opinion**

In light of this information, I advised the complainant that it would be appropriate to raise her concerns with the Police and the Police Complaints Authority as the actions of Police are not within my jurisdiction. I also noted that I had ascertained that the Coroner intended to enquire into the circumstances surrounding the death, although such enquiry would not touch upon the actions subsequent to the death and attempted rescue.

ABORIGINAL HOUSING AUTHORITY Complaints Received : Issues 01 July 2004 to 30 June 2005		
Administrative practices/policies - Failure to investigate or act	1	4.8%
Communication - Lack of care or consideration shown	1	4.8%
Communication - Unprofessional conduct/attitude of staff	1	4.8%
Financial issues - Cost recovery	1	4.8%
Housing - Allocation	5	23.8%
Housing - Maintenance	4	19.0%
Housing - Termination	1	4.8%
Housing - Transfer	6	28.6%
Other	1	4.8%
TOTAL	21	

ABORIGINAL HOUSING AUTHORITY Complaints Completed : Outcomes 01 July 2004 to 30 June 2005		
Advice Given	7	30.4%
Advice Given - Referred to Agency	1	4.3%
Preliminary Investigation - Not Sustained - Explanation Given	9	39.1%
Preliminary Investigation - Partly Resolved in Favour of Complainant	2	8.7%
Preliminary Investigation - Reasonable Resolution	3	13.0%
Withdrawn by Complainant	1	4.3%
TOTAL	23	

OTHER AUTHORITIES - OTHER
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to educational services - Provision of special education services	1	0.6%
Administration - Delay	5	3.2%
Administration - Inadequate investigation of complaint	9	5.8%
Administration - Payments	1	0.6%
Administration - Unreasonable administrative decision/policy	15	9.6%
Administration/general management of Councils - Communication/attitude	1	0.6%
Administrative practices/policies - Conduct contrary to policies	1	0.6%
Administrative practices/policies - Delay	5	3.2%
Administrative practices/policies - Erroneous decisions	7	4.5%
Administrative practices/policies - Failure to give reasons for decisions	5	3.2%
Administrative practices/policies - Failure to investigate or act	23	14.7%
Administrative practices/policies - Inadequate/inaccurate records maintained	3	1.9%
Administrative practices/policies - Misleading/wrong information or advice	6	3.8%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	1	0.6%
Administrative practices/policies - Unfair/discriminatory practices/policies	6	3.8%
Administrative practices/policies - Unreasonable use of authority/power	2	1.3%
Approvals (permits, licenses, registrations, applications) - Failure to	1	0.6%
Approvals (permits, licenses, registrations, applications) -	2	1.3%
Communication - Lack of care or consideration shown	2	1.3%
Communication - Other	1	0.6%
Communication - Unprofessional conduct/attitude of staff	6	3.8%
Conduct - Teachers/staff	1	0.6%
Curriculum issues - Teaching quality	1	0.6%
Daily routine - General treatment	1	0.6%
Duty of care - Failure to provide	1	0.6%
Fees/charges/levies	1	0.6%
Fees/charges/levies - Imposition	4	2.6%
Fees/charges/levies - Method of calculation	1	0.6%
Financial assistance - Eligibility criteria	3	1.9%
Financial issues - Cost recovery	2	1.3%
Financial issues - Delays/refusal to pay	3	1.9%
Financial issues - Eligibility criteria unreasonable/unfair/misapplied	2	1.3%
Financial issues - Level of charges	1	0.6%
Financial issues - Miscalculation	2	1.3%
Financial issues - Penalty/refund	2	1.3%
Funding - Inequitable distribution of funding	1	0.6%
Housing - Rent	1	0.6%
Housing - Substandard Housing Order	1	0.6%
Housing - Termination	1	0.6%
Land Use - Purchase, acquisition, sale or lease	1	0.6%
Officer misconduct - Unreasonable use of power	1	0.6%
Other	1	0.6%
Planning and development - General processing	2	1.3%
Planning and development - Permits and approvals	1	0.6%
Record keeping - Failure to reply/supply information	1	0.6%
Services - Access	7	4.4%
Superannuation/Retirement Benefits	2	1.3%
Superannuation/Retirement Benefits - Access to benefits	2	1.3%
Superannuation/Retirement Benefits - Failure to advise of entitlements	1	0.6%
Superannuation/Retirement Benefits - Interpretation of legislation	1	0.6%
Superannuation/Retirement Benefits - Misleading advice	1	0.6%
Tenders - Discrimination/bias	2	1.3%
Trees - Removal	1	0.6%
TOTAL	156	

OTHER AUTHORITIES - OTHER
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	52	32.1%
Advice Given - Advice Given to Agency	1	0.6%
Advice Given - Referred to Agency	11	6.8%
Conciliated - Reasonable Resolution	1	0.6%
Declined - Alternate Remedy	3	1.9%
Declined - Refused to Investigate	2	1.2%
Full Investigation - Not Sustained	2	1.2%
Full Investigation - Not Sustained - Explanation Given	7	4.3%
Full Investigation - Partly Resolved in Favour of Complainant	3	1.9%
Full Investigation - Reasonable Resolution	3	1.9%
Preliminary Investigation - Not Sustained	2	1.2%
Preliminary Investigation - Not Sustained - Explanation Given	39	24.1%
Preliminary Investigation - Partly Resolved in Favour of Complainant	11	6.8%
Preliminary Investigation - Reasonable Resolution	19	11.7%
Withdrawn by Complainant	6	3.7%
TOTAL	162	

Case study

ENVIRONMENT PROTECTION AUTHORITY

Failure to take appropriate action following a complaint about incessant noise emanating from premises at all hours of the day and night.

■ The Complaint

The transport company had operated from the site for some years and even acknowledged that the noise it generates might be an intrusion on the nearby residents' peace and quiet.

The firm's management had intimated to the complainant and to the Environment Protection Authority that the business would be relocated to a different site altogether; however, there was no indication that work had begun on the site to become the new operational base.

■ Ombudsman's Investigation

Measurements of noise emanating from the transport business showed that it was indeed excessive and was present during the night when residents had a right to expect a period of tranquillity (in the early hours of the morning, for instance).

Company management insisted that once Council development approval was secured for the new site, building work would commence without delay and the firm would be relocated. Nevertheless, the Ombudsman investigation established that such assurances had previously been given on several occasions, without any actual relocation occurring.

The Authority was sympathetic to the concerns of the complainant. The Authority attempted to accomplish an amicable resolution (expecting the relocation of the company) that did not include taking any statutory action against the business.

■ Ombudsman's Opinion

Following Ombudsman's intervention, suitable noise level measurements were recorded at different times of the day and night and an *Environment Protection Order* was subsequently issued compelling the company to suppress industrial transport noise late at night.

That order, in turn, prompted the company to pursue the relocation with some vigour; it obtained Council development approval and undertook to move operations within a specified period.

As this case demonstrates, sometimes even when an agency is not in conflict with the complainant and the matter involves a third party (in this case a commercial operator), intervention through the Ombudsman can prove effective and result in a reasonable resolution for the complainant.

■ The Complaint

The complainant told my Office he had been dismissed from his employment because of an allegation that he had a mental illness and, without reason, he had been placed on a disability pension. He approached South Australia Police alleging Centrelink and those agencies which supported the payment of a disability pension to him, were guilty of welfare fraud. When the Police told him it was not a police matter and refused to investigate his concerns he made a complaint to the Police Complaints Authority about South Australia Police.

The complainant was advised that South Australia Police was not of jurisdictional interest to me and that the matter relevant to my function as Ombudsman concerned his allegation that the Police Complaints Authority had failed to properly investigate his complaint about South Australia Police.

■ Ombudsman's Investigation

The complainant provided extensive written submissions and I met with him personally to take his statement and hear his allegations. My Office reviewed all the documents provided to the Police Complaints Authority by the complainant and the Police Department. Relevant Police Complaints Authority staff were interviewed and I reviewed the Police Complaints Authority Complaints Handling Policy.

The Police Complaints Authority told my Office it had initially offered the man the opportunity of conciliation and it had engaged a senior Chief Inspector (from a different Office from the one where the man had initially made his concerns known) to review all the matters relevant to his allegation to police of welfare fraud.

The Chief Inspector advised the Police Complaints Authority that all the complainant's documents had been read and considered and that the decision by police not to pursue his allegation of fraud was reasonable. The Police Complaints Authority was advised that the police had written to the man within two weeks of his initial report advising him of its decision.

It was the view of the Police Complaints Authority that conciliation would not provide a reasonable remedy in this instance and it was not progressed as an option. On the basis of its own investigation the Police Complaints Authority made the decision not to investigate the man's complaint against the police further.

■ Ombudsman's Opinion

It was the Ombudsman's opinion that the Police Complaints Authority had complied with the Police Complaints and Disciplinary Proceedings Act with respect to the complaint. It had reviewed all relevant materials, engaged a senior person who provided additional information and, based on the outcome of its investigation, advised the complainant that it would not be pursuing the matter further.

I advised the complainant it was my opinion that the Police Complaints Authority had had regard to all relevant matters in the exercise of its statutory discretion and that there had been no error of procedure on its part.

I also stated that I had not overlooked the fact that he believed his concerns involved issues of public importance. However, the investigation by my Office must be jurisdictionally focussed and in providing my findings I reminded him that the Ombudsman may not conduct a merit review or substitute his views for those of the Police Complaints Authority. Nor do I have any jurisdiction in matters of "*police conduct*" and it remains the plain intent of the Ombudsman Act and the Police Complaints and Disciplinary Proceedings Act that the Ombudsman should not review the conduct of the police.

As a final note, I advised the complainant that any matter concerning the conduct of Centrelink was outside the jurisdiction of the State Ombudsman and he should take up such issues with the Commonwealth Ombudsman.

LEGAL PRACTITIONERS' CONDUCT BOARD

Alleged failure of the Board to have objective and proper regard to all relevant matters in its consideration of a complaint about a legal practitioner.

■ The Complaint

From time to time complainants seek to bypass other avenues of review and seek the Ombudsman's earlier intervention. The *Legal Practitioners Act 1981* provides for complainants in proceedings before the Board or Tribunal, who are dissatisfied with the proceedings or the decision to make representations directly to the lay observer.

Section 13(3) of the Ombudsman Act provides that the Ombudsman must not investigate any administrative act where the complainant is provided in relation to that administrative act with a right of appeal, reference or review. It is not the complainant's choice of remedy which prevails in such circumstances, but the Ombudsman must be 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".

In the instant case I proceeded with a preliminary investigation which involved a meeting with the Presiding Member and the Director, Legal Practitioners Conduct Board. I further met with the complainant and upon hearing the complaint further decided that there was sufficient basis for the Ombudsman to proceed further with the investigation and issued my notice of full investigation. It was the complainant's principal concern that the procedures and processes fell short of what he considered to be necessary to deal with his complaint. Moreover he considered that there was a reasonable perception by him of bias on the part of the professional body.

■ Ombudsman's Investigation

There had been considerable exchange of letters between the Legal Practitioners Conduct Board and the complainant. During my investigation I noted that the Board properly acknowledged that the complaint had raised a matter of importance, namely the scope of "duty of loyalty" to the client in respect of conduct unrelated to the retainer. The Board also acknowledged that the complaint raised the issue whether the conduct complained of in the case arose in the course of or in connection with legal practice. As the matter was one of general importance the Board sought advice from an eminent interstate senior counsel. The Board had concluded that there was no evidence of unprofessional or unsatisfactory conduct as defined in the *Legal Practitioners Act 1981*.

I proceeded to investigation so as to satisfy myself as to the reasonableness of the processes and procedures adopted in this difficult matter before the Board. I was also interested in hearing whether there was an opinion that the rules should be changed to deal with occurrences complained about.

■ Ombudsman's Opinion

I note here that while section 20 of the Ombudsman Act would normally provide the Ombudsman with an opportunity to seek documents and information which would otherwise not be subject to disclosure by reason of law, there is some considerable doubt whether this section provides the Ombudsman with sufficient power to require the production of an independent legal opinion obtained by an agency such as the Board. I did have however the opportunity to peruse the advice and was satisfied that all relevant information had been provided by the Board. With or without the operation of section 20 of the *Ombudsman Act* it is also patently clear that the advice is privileged and I consider it to be improper for the Ombudsman to offend legal professional privilege. I have had regard to the test of waiver as stated by the High Court in *Mann v. Carnell (1999) 201 CLR 1,29* and took note of *Bennett v. Chief Executive Officer of Australian Customs Service (2004)* in which Tamberlin J found that it would be "inconsistent and unfair having disclosed and used the substance of the advice" to maintain legal professional privilege. The Ombudsman is clearly not a vehicle leading to disclosure of confidential advice for overturning legal principles which render certain information to have confidential status.



The matter of legal professional privilege and proper reliance on legal advice by agencies often arises in the course of Ombudsman's investigation. I further consider it to be a principle of good administration for a responsible agency to obtain independent legal advice as to the proper application of law on matters relevant to the case; and where the competence of the legal adviser is not itself in doubt then one may well ask "what more could the (agency) be reasonably expected to do than to " obtain and follow such advice (see *Dunlop v. Woollahra (1981) 1 All ER 1209*) It is important however that the advice is based on all relevant facts ; and in this regard the Ombudsman's opinion is pertinent.

There however instances when an agency may be confronted with conflicting opinions. This was not the case here. I was satisfied that the Legal Practitioners Conduct Board had objective and proper regard to all relevant matters in its consideration of the original complaint about the legal practitioner. I was further advised by the Board that the question of rule changes was a matter properly for the Standing Committee of Attorneys-General and the subject of national debate involving the Law Council of Australia and all of its constituent bodies being the professional associations of every State of Australia. I noted that there has been much national debate on conduct issues following the High Court decision in *A Solicitor v. The Council of the Law Society of New South Wales*; and therefore not simply a matter for the Board to express its opinion to the Ombudsman on the adequacy of the professional conduct rules as they are. In any event my opinions are predicated on a finding of defective administration or maladministration. In my opinion, such was not the case. My opinion was not the final avenue for the complainant. The *Legal Practitioners' Act* provided the aggrieved person with the right (independent of the Board) to directly lay charges in the Legal Practitioners Disciplinary Tribunal or bring the matter to the attention of the Lay Observer.

Public hospitals and health services

At the closing of this reporting year the *Health and Community Services Complaints Act 2004* is yet to be proclaimed. It is my understanding that the Act will be proclaimed some time in Spring 2005. The first South Australian Health and Community Services Complaints Commissioner has been appointed and the recently formed office will provide the public of South Australia with the opportunity to take their concerns about health and community services to the Commissioner once the Act is proclaimed.

The Health and Community Services Complaints Commission will assist with complaints about a health agency or an individual service in the public, private health and community health sectors.

The jurisdiction of the South Australian Ombudsman is now one of review of the administrative actions of the Health and Community Services Commission. The Ombudsman will continue to audit the administrative practices and procedures of public health bodies as with other public agencies; and may deal with such other issues of public safety; interest or importance referred to the Ombudsman under section 86 of the *Health and Community Services Complaints Act*.

The Ombudsman has reached an understanding with the Health and Community Services Commissioner to provide an effective procedure for the transfer of any unresolved health complaints remaining with the Ombudsman to the Commissioner as soon as practicable upon proclamation of the Act during 2005. In cases where the investigation has been concluded and it is more practicable and convenient to proceed to immediate remedial conclusion, these complaints will remain in the Ombudsman Office for that purpose.

During the reporting year, several investigations by the Ombudsman focussed on significant mental health issues. The matters were referred to the Ombudsman by the Minister for Health and another Member of Parliament; and involved extensive investigation by the Ombudsman.

There was strong media interest in the outcome of two of the matters investigated. The Ombudsman must have regard for the obvious requirement for confidentiality in any Ombudsman investigation as well as the expectations of the witnesses and persons who have been interviewed during the investigation. In these matters, the Ombudsman gave full consideration to all matters of confidential nature during the investigation and resolved that there was no proper basis for publication of his reports pursuant to section 26 of the *Ombudsman Act*.

It was noted with some frustration, that a number of complainants this year have alleged that they received inappropriate treatment and care by doctors in public hospitals and in the post-discharge follow-up provided to them by the same doctors in their private consulting rooms. The Ombudsman jurisdiction is limited to the administrative actions of government health units and in such cases the Ombudsman could not *require* information beyond that held by the public hospital, even though the same doctor had continued treatment after the patient had been discharged. The newly established Health and Community Services Commission jurisdiction extends to non-government health services and includes private medical practices. The Commission will not experience the same frustration and will have jurisdiction to investigate administrative actions relating to the full extent of patient care, whether it be provided in a public or private health setting, or both.

PUBLIC HOSPITALS AND HEALTH SERVICES
Complaints Received 01 July 2004 to 30 June 2005

Central Northern Adelaide Health Service	305	56.2
Southern Adelaide Health Service	56	10.3
Department of Health	30	5.5%
Children, Youth and Women's Health Service	30	5.5%
South Australian Dental Service	16	2.9%
Adelaide Central Community Health Service	12	2.2%
Repatriation General Hospital	9	1.7%
Mt Gambier & Districts Health Service Inc	6	1.1%
Medical Board of SA	6	1.1%
Intellectual Disability Services Council Inc	6	1.1%
Drug & Alcohol Services Council	6	1.1%
Whyalla Hospital and Health Services Inc.	4	0.7%
Department for Correctional Services - Health	4	0.7%
Riverland Community Health Services	3	0.6%
Port Pirie Regional Health Service Inc	3	0.6%
Nurses Board of SA	3	0.6%
Northern & Far West Regional Health Service	3	0.6%
Murray Bridge Soldiers Memorial Hospital Inc.	3	0.6%
Julia Farr Services	3	0.6%
Burra Clare Snowtown Health Service Inc	3	0.6%
Port Augusta Hospital & Regional Health Services	2	0.4%
Northern Metropolitan Domiciliary Care	2	0.4%
Northern Metropolitan Community Health Service	2	0.4%
Mt Barker District Soldiers' Memorial Hospital Inc	2	0.4%
Metropolitan Domicillary Care	2	0.4%
Jamestown Hospital	2	0.4%
Dental Board of South Australia	2	0.4%
Wakefield Health Service	1	0.2%
Waikerie Hospital & Health Services Inc	1	0.2%
The Whyalla Hospital & Health Services Inc	1	0.2%
Strathalbyn & District Health Service	1	0.2%
Southern Yorke Peninsula Health Service Inc	1	0.2%
Southern Fleurieu Health Service	1	0.2%
South Coast District Hospital Inc	1	0.2%
Renmark Paringa District Hospital Inc	1	0.2%
Pinnaroo Soldiers' Memorial Hospital Inc	1	0.2%
Peterborough Soldiers' Memorial Hospital & Health Services Inc	1	0.2%
Naracoorte Health Service Incorporated	1	0.2%
Millicent & District Hospital and Health Service Inc	1	0.2%
Mid-West Health Services	1	0.2%
Lower Eyre Health Services Inc	1	0.2%
Gawler Health Service Inc	1	0.2%
Eudunda & Kapunda Health Service	1	0.2%
Bordertown Memorial Hospital	1	0.2%
Adelaide Hills Health Service	1	0.2%
TOTAL	543	

PUBLIC HOSPITALS AND HEALTH SERVICES
Complaints Completed 01 July 2004 to 30 June 2005

Central Northern Adelaide Health Service	290	50.7%
Southern Adelaide Health Service	53	9.3%
Children, Youth and Women's Health Service	31	5.4%
Department of Health	28	4.9%
South Australian Dental Service	16	2.8%
North Western Adelaide Health Service	13	2.3%
Royal Adelaide Hospital	12	2.1%
Adelaide Central Community Health Service	11	1.9%
Repatriation General Hospital	9	1.6%
Intellectual Disability Services Council Inc	8	1.4%
Department for Correctional Services - Health	6	1.0%
Department of Human Services - Health	6	1.0%
Drug & Alcohol Services Council	6	1.0%
Mt Gambier & Districts Health Service Inc	6	1.0%
Medical Board of SA	5	0.9%
Modbury Hospital	5	0.9%
Flinders Medical Centre	4	0.7%
Julia Farr Services	4	0.7%
Whyalla Hospital and Health Services Inc.	4	0.7%
Burra Clare Snowtown Health Service Inc	3	0.5%
Murray Bridge Soldiers Memorial Hospital Inc.	3	0.5%
Northern & Far West Regional Health Service	3	0.5%
Nurses Board of SA	3	0.5%
Port Pirie Regional Health Service Inc	3	0.5%
Riverland Community Health Services	3	0.5%
Dental Board of South Australia	2	0.3%
Jamestown Hospital	2	0.3%
Metropolitan Domicillary Care	2	0.3%
Mt Barker District Soldiers' Memorial Hospital Inc	2	0.3%
Noarlunga Health Services	2	0.3%
Northern Metropolitan Community Health Service	2	0.3%
Port Augusta Hospital & Regional Health Services	2	0.3%
Women's & Children's Hospital	2	0.3%
Adelaide Hills Health Service	1	0.2%
Ceduna District Health Services Inc	1	0.2%
Eudunda & Kapunda Health Service	1	0.2%
Gawler Health Service Inc	1	0.2%
Lower Eyre Health Services Inc	1	0.2%
Meningie & District Memorial Hospital and Health Services Inc	1	0.2%
Mid-West Health Services	1	0.2%
Millicent & District Hospital and Health Service Inc	1	0.2%
Naracoorte Health Service Incorporated	1	0.2%
Northern Metropolitan Domiciliary Care	1	0.2%
Peterborough Soldiers' Memorial Hospital & Health Services Inc	1	0.2%
Pinnaroo Soldiers' Memorial Hospital Inc	1	0.2%
Port Lincoln Health Services Inc	1	0.2%
Renmark Paringa District Hospital Inc	1	0.2%
South Coast District Hospital Inc	1	0.2%
Southern Fleurieu Health Service	1	0.2%
Southern Yorke Peninsula Health Service Inc	1	0.2%
Strathalbyn & District Health Service	1	0.2%
The Whyalla Hospital & Health Services Inc	1	0.2%
Waikerie Hospital & Health Services Inc	1	0.2%
Wakefield Health Service	1	0.2%
TOTAL	572	

**PUBLIC HOSPITALS
& HEALTH SERVICES**
Complaints Received : Issues
01 July 2004 to 30 June 2005

	Other	Central Northern Adelaide Health Service	Children, Youth & Women's Health Service	Department of Health	South Australian Dental Service	Southern Adelaide Health Service	TOTAL	PERCENTAGE
Access to treatment	15	69	5	3	4	10	106	19.5%
Administration	13	24	6	4	1	6	54	9.9%
Administrative practices/policies	10	4	5	7	0	0	26	4.8%
Animals	1	0	0	0	0	0	1	0.2%
Citizen Rights	1	2	0	0	0	0	3	0.6%
Communication	9	16	2	2	0	4	33	6.1%
Daily routine	2	24	0	0	0	0	26	4.8%
Double up cells	0	1	0	0	0	0	1	0.2%
Duty of care	4	6	0	0	0	1	11	2.0%
Fees/charges/levies	2	3	1	0	0	0	6	1.1%
Financial assistance	0	0	0	2	0	0	2	0.4%
Financial issues	1	3	0	0	2	1	7	1.3%
Health	0	0	0	0	0	1	1	0.2%
Medical	7	19	0	2	2	0	30	5.5%
None	2	8	0	1	1	1	13	2.4%
Officer misconduct	0	0	2	0	0	0	2	0.4%
Other	0	7	0	0	0	0	7	1.3%
Parking	0	1	0	0	0	0	1	0.2%
Patient Rights	5	28	2	0	1	7	43	7.9%
Planning and development	0	0	1	0	0	0	1	0.2%
Quality of treatment	26	80	6	5	3	22	142	26.2%
Record keeping	1	2	0	0	0	0	3	0.6%
Services	6	6	0	2	2	2	18	3.3%
Tenders	0	0	0	2	0	0	2	0.4%
Transfers	1	2	0	0	0	0	3	0.6%
Visits	0	0	0	0	0	1	1	0.2%
TOTAL	106	305	30	30	16	56	543	
	19.5%	56.2%	5.5%	5.5%	2.9%	10.3%		

**PUBLIC HOSPITALS
& HEALTH SERVICES**
Complaints Completed - Outcomes
01 July 2004 to 30 June 2005

	Other	Central Northern Adelaide Health Service	Children, Youth & Women's Health Service	Department of Health	South Australian Dental Service	Southern Adelaide Health Service	TOTAL	PERCENTAGE
Advice Given	43	103	18	8	2	32	206	36.0%
Declined	9	4	1	2	1	1	18	3.1%
Full Investigation	28	7	1	3	1	1	41	7.2%
Prelim Investigation	69	171	10	15	12	19	296	51.7%
Withdrawn	5	5	1				11	1.9%
TOTAL	154	290	31	28	16	53	572	
	26.9%	50.7%	5.4%	4.9%	2.8%	9.3%		

CENTRAL NORTHERN ADELAIDE HEALTH SERVICE
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to treatment	1	0.3%
Access to treatment - Allied health services not available	2	0.7%
Access to treatment - Delay in receiving assessment/admission/treatment	34	11.1%
Access to treatment - Length of waiting list for treatment	10	3.3%
Access to treatment - Other	2	0.7%
Access to treatment - Refusal to admit and/or treat	10	3.3%
Access to treatment - Unsatisfactory discharge arrangements	10	3.3%
Administration - Inadequate access to medical records	3	1.0%
Administration - Inadequate investigation of complaint	7	2.3%
Administration - Other	3	1.0%
Administration - Unreasonable administrative decision/policy	11	3.6%
Administrative practices/policies - Failure to investigate or act	1	0.3%
Administrative practices/policies - Failure to respond	2	0.7%
Administrative practices/policies - Rude/biased/discriminatory/intimidatory	1	0.3%
Citizen Rights	1	0.3%
Citizen Rights - Breach of privacy/confidentiality	1	0.3%
Communication - Failure to provide adequate/correct information	7	2.3%
Communication - Lack of care or consideration shown	3	1.0%
Communication - Other	2	0.7%
Communication - Unprofessional conduct/attitude of staff	4	1.3%
Daily routine - Duty of care	17	5.6%
Daily routine - Other	7	2.3%
Double up cells	1	0.3%
Duty of care - Breach of policy/guidelines	1	0.3%
Duty of care - Failure to provide	5	1.6%
Fees/charges/levies - Imposition	3	1.0%
Financial issues - Level of charges	1	0.3%
Financial issues - Overcharge/payment	1	0.3%
Financial issues - Undercharge/payment	1	0.3%
Medical	3	1.0%
Medical - Access to dental, optical and medical services	16	5.2%
Other	15	4.9%
Parking - Parking fines	1	0.3%
Patient Rights	2	0.7%
Patient Rights - Breach of patient confidentiality	4	1.3%
Patient Rights - Consent not obtained or informed	7	2.3%
Patient Rights - Other	15	4.9%
Quality of treatment	2	0.7%
Quality of treatment - Inadequate treatment/care	51	16.7%
Quality of treatment - Incorrect diagnosis/treatment/care	23	7.5%
Quality of treatment - Other	3	1.0%
Quality of treatment - Unsatisfactory hygiene/equipment/care	1	0.3%
Record keeping - Failure to reply/supply information	1	0.3%
Record keeping - Inaccurate records	1	0.3%
Services	1	0.3%
Services - Access	5	1.6%
Transfers - Disputes Decision	1	0.3%
Transfers - Form of transport	1	0.3%
TOTAL	305	

CENTRAL NORTHERN ADELAIDE HEALTH SERVICE
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	40	13.8%
Advice Given - Advice Given to Agency	1	0.3%
Advice Given - Other/General	1	0.3%
Advice Given - Referred to Agency	61	21.0%
Declined - Alternate Remedy	3	1.0%
Declined - Out of Time	1	0.3%
Full Investigation - Not Sustained	1	0.3%
Full Investigation - Not Sustained - Explanation Given	3	1.0%
Full Investigation - Partly Resolved in Favour of Complainant	2	0.7%
Full Investigation - Reasonable Resolution	1	0.3%
Preliminary Investigation - Not Sustained	2	0.7%
Preliminary Investigation - Not Sustained - Explanation Given	81	27.9%
Preliminary Investigation - Partly Resolved in Favour of Complainant	44	15.2%
Preliminary Investigation - Reasonable Resolution	44	15.2%
Withdrawn	1	0.3%
Withdrawn by Complainant	4	1.4%
TOTAL	290	

Case study

CENTRAL NORTHERN ADELAIDE HEALTH SERVICE

Alleged unsatisfactory assessment of mental health patient.

■ The complaint

The Minister contacted this Office following a serious assault, involving a client receiving mental health treatment in the community. The client became a suspect following his apprehension by the relevant authorities and I conducted an investigation into aspects of his health care.

The investigation involved interviewing a close relative and hearing many relevant witnesses including professional medical opinion and other persons.

It seems that after the client's admission as a mental health in-patient he was discharged into community and an appointment made for approximately seven days later which he attended. His mental health at that stage was deemed satisfactory, however a few weeks after that time there were questions raised about the state of his mental health, which subsequently were brought to my attention.

■ Ombudsman's Investigation

I conducted a full investigation into the administrative actions of staff and having considered all the information, it appeared that there was no evidence before me to support the view that at an individual level, there was any failure on the part of any professional persons involved in his assessment.

However there did appear to be matters of a systemic nature which impacted on his care, in regard to medical information held within individual agencies, but not necessarily available to the treating medical officer.

■ Ombudsman's Opinion

I relate the above case to indicate the type of significant matter which may arise, even though I am unable to provide further detail, due to a matter appertaining to my inquiry waiting to go before the Court.

In such instances it may be difficult for families or friends, because I am unable to release information to them and sometimes they are confused as to the separation of my Office from the Court process.

■ The Complaint

Following a serious criminal incident my Office was contacted by a Member of Parliament to enquire about mental health services that were provided to the alleged perpetrator in the weeks before the event. It was understood the man had a longstanding history of mental illness and the incident had occurred within days of his discharge from a psychiatric facility.

On that basis I conducted an Ombudsman Own Initiative investigation relating to inpatient and community mental health services provided to the man leading up to the incident. My investigation focussed on areas of relevant public administration and I had the benefit of a report written by an eminent psychiatrist which authoritatively dealt with issues from a clinical perspective.

■ Ombudsman's Investigation

The man of interest had a well-documented history of violence and aggression and was known to be non-compliant with medication which had resulted in the Guardianship Board granting a Community Treatment Order.

Approximately 4 weeks prior to the incident the man was detained to a closed ward of a public hospital psychiatric facility because he was refusing his medication and he had become verbally and physically aggressive.

The day after admission the man assaulted a ward nurse and he was transferred to another psychiatric hospital where he remained for approximately 3 weeks until he was stabilized enough to be returned to the admitting hospital.

In the first few days after his re-admission the man had periods of irritable and verbally threatening behaviour. He had two trials of a few hours on an open ward and during these times he presented no management problems, although it was noted he had a little trouble settling when he returned to the closed ward.

On days 4 and 5 the man was reviewed by two psychiatrists and it was agreed he was no longer detainable and he should be discharged as his detention order was due to expire the following day. He was released from the closed ward of the psychiatric hospital 6 days after his return to the facility and community mental health follow-up was arranged for a week's time.

That weekend the man contacted an emergency after hours mental health service saying he had been released from hospital 2 days earlier and asking for sleeping tablets. The duty mental health worker was told the man had become aggressive and frightened staff in a shop earlier that day.

The hospital had not forwarded any information to the emergency service about the recent admission but the worker was satisfied the man would have been given sufficient medication in hospital to render it unlikely that his aggressive behaviour was due to mental illness. As the man had also promised he would go home and take his prescribed medication the worker prioritised the matter as "*non urgent*" and a referral was faxed to the community mental health team for follow-up within 72 hours.

When the community mental health team examined the referral they agreed an urgent mental health assessment was warranted. They knew the man's history and they were concerned about his aggressive outburst over the weekend. He was visited within 36 hours of his initial telephone call to the emergency after hours mental health service.

At the mental health assessment the man explained the weekend's events in a plausible and coherent manner and the team could find no evidence to suggest that detention was warranted. He was offered a voluntary admission, which he declined, and he was given some medication and reminded to attend for his injection in 2 days time, as per his Community treatment Order.

The man did not keep his appointment and the incident occurred on the day he was due to have his injection.

■ Ombudsman's Opinion

Administratively it was of interest to me whether it was usual to discharge individuals directly to the community from closed psychiatric wards or whether they generally spent a few days in an open ward before release.

The hospital admitted it was not common practice to discharge a person from a locked ward but reiterated that the man had been assessed for several hours at a time in an open ward. Moreover, the detention order was due to expire, there was consensus that he was no longer detainable, and the man was keen to go home. It was also put to me that the nurse who had been assaulted was working on the open ward and this may have been an additional reason why the man spent most of his time in the closed ward and was discharged from that unit.

The psychiatrist who conducted the clinical review of the case had a view on whether or not the man should have been released when he was and I did not enter into the debate on those matters. From an administrative perspective it was my opinion that, if the man's discharge from a closed ward was not usual, and if it were influenced by the location of the nurse who was assaulted, it might have been more appropriate to have moved the nurse for the duration of the admission rather than discharge the man from a closed ward.

A second issue concerned the fact that the hospital provided a referral to the community mental health team but did not forward information about the admission to the emergency after hours mental health service. Hence, when the duty mental health worker received the man's telephone call on the weekend he assumed there was nothing remarkable about the recent admission as there was nothing on record about the man's history of violence or his aggressive behaviour during the hospital stay.

One can only speculate about the value this information may have added to the emergency mental health service's assessment of the man. Certainly the community mental health workers, who knew his history well, were concerned enough by recent events to conduct an immediate assessment. Of course, having said this, the man was not detainable when he was seen by the community team and it is possible that even if he had been seen by the after hours service he may not have been detainable then.

I was, nonetheless, concerned that important information was not provided to the after hours emergency mental health service and I formed the view that, where a person has exhibited violent or aggressive behaviour during an admission, and where there is a significant history of violence and aggression associated with the person's mental illness, emergency after hours mental health services and community mental health services must be provided with all relevant information immediately upon the person's discharge from hospital.

The hospital agreed to review its discharge procedures and I was advised that this process would be assisted by the implementation of the new Community Based Information System which enables alerts to be communicated to emergency and community mental health services immediately upon a person's discharge.

■ **Ombudsman's further comment**

At first glance it is easy to wonder how a serious crime could have been committed by a person who undoubtedly had a mental illness and when he was on a treatment order and had just been discharged after a 4 week admission to a psychiatric hospital. From a public administration viewpoint, however, there was little to be critical about when the facts of the case were examined.

When the man was demonstrably a risk to himself and others he was assessed and detained to a mental health facility. He received psychiatric treatment and was discharged when two psychiatrists agreed he no longer required involuntary admission. A Community Treatment Order was in place and the man was discharged with a follow-up appointment for treatment and review of his mental state.

When concerns were raised about the man's behaviour in the community he was again assessed by a competent, experienced mental health team and he was not considered to be detainable. He was offered an voluntary admission but it was his prerogative to decline.

The main area for change, in my opinion, concerned the sharing of information between inpatient mental health facilities and all relevant community agencies where a person has demonstrated violent or aggressive behaviour during an admission, and where there is a significant history of such behaviour.

■ The Complaint

A patient on a Detention Order and receiving treatment at Glenside Hospital telephoned my Office in an agitated state. He claimed that when he had formally appealed to the Guardianship Board for his Detention Order to be dismissed, this had occurred. However it seems that when his lawyer asked for him to be released out into the community, his release was denied and he stated he was being detained 'illegally' on a closed ward at Glenside.

The main issues of the complaint were as follows:

- whether the patient had been detained
- whether there had been an appeal to the Guardianship Board and if so
- whether a decision was reached by the Guardianship Board and why

■ Ombudsman's investigation

The agency confirmed that the patient had been on a Detention Order and had appeared before the Guardianship Board that morning. However at the Hearing it was noticed that on the form which health workers are required to submit at the time, the patient's name had been written in the space allotted for the name of the agency. Therefore the application to detain the patient was deemed invalid and denied, even though it was the Board's view that the patient was quite unwell.

I was advised that Hospital staff were in the process of detaining the patient again and he would still be able to appeal the Detention Order, but would have to repeat the whole procedure.

There was no remedy for the patient, at that time. He had rightly ascertained that his detention was invalid and not only was he unwell, he was confused and upset by the process.

■ Ombudsman's Opinion

The whole incident was unfortunate, more particularly when one of the health workers stated that such incidents happened from time to time, causing unnecessary distress to patients already unwell.

I understood that in the future the agency would have a mandatory policy to have the relevant forms checked by a second person, prior to patients appearing before the Guardianship Board. However it appears that this did not occur for the following reasons:

senior staff are not convinced that a second person checking the form would solve the problem (in the absence of data substantiating this view).

there is a backlog of forms with a particular logo and it would incur unnecessary expense to change them, particularly when it is not known whether it would be effective and at present there are more pressing priorities.

One might express the view that perhaps common sense should prevail and whoever notices that the form is incorrect (in terms of name or organization entered in the wrong space), should be vested with the authority to change it.

■ The complaint

Relatives of an elderly patient complained to me in the latter part of 2003 in regard to the treatment and care their father had received at The Queen Elizabeth Hospital in the ten days prior to his death.

They advised that until his episode of back pain (when his General Practitioner had referred him to the Hospital) he had been relatively active and required minimal assistance with day to day activities. However, once in Hospital his general condition had deteriorated rapidly.

They stated that they had attempted to alert the staff at various stages, to difficulties they had encountered. Firstly in the Emergency Department where their father had required assistance, because of a frequent need to urinate (which they advised staff was unusual) and then on the Ward where the same problem continued, again with advice given to staff that this was not his usual behaviour. They provided contact telephone numbers and offered to assist with any language difficulties between their father and staff, and any other basic care needs, but the offer was never taken up.

Staff advised that he needed rest and he was given pain relief, but this made him very sleepy and he did not eat or drink adequately. Also it was not food he would normally eat and often not placed within reach. The family continued to attempt to alert staff and asked to speak to a medical officer, but were told he was doing fine and that he would be placed at St Margaret's to fully recover, once a place became available.

Eventually the junior medical officer telephoned them at home to discuss their concerns regarding their father's condition and apparent lack of investigations and he said he would check the situation in the morning.

However in the morning they had a telephone call from a senior medical officer in the Intensive Care Unit (ICU), saying their father had been admitted there earlier in the morning and was a very sick man, suffering from pneumonia and renal failure and was extremely dehydrated. Also ICU staff had been advised that their father was Greek (which was not his nationality).

There were many issues of concern for the family, not least the standard of medical and nursing care their father had received and their lack of inclusion in that care (even though they had expressed a willingness to be of assistance and had the time). Also the lack of communication between the various health professionals and junior and senior staff.

They felt assumptions had been made by staff that because their father was in his late eighties it was to be expected that he would be incontinent, whereas in fact it was not normally the case. In addition that dementia was a factor, when the reality was that English was not his first language and he was drowsy from medication and becoming increasingly dehydrated and unwell.

The family felt that the staff's main concern was their father's back condition with little attention given to other aspects of his health needs.

The family were unhappy with the hospital's letter of response as they did not believe it reflected any genuine reference to their concerns, or indicate any analysis of the patient's care and treatment as presented in the medical record.

■ Ombudsman's investigation

The remedy in this matter was firstly to initiate a full investigation into what had occurred, including obtaining an independent medical opinion and providing the family with some more detailed feedback.



A written apology was provided to the family by the senior medical officer in charge of the patient's care. A significant point made in the letter was that the Orthopaedic Department now has the advantage of having a Consultant Physician attached to the Unit to aid with the medical management of orthopaedic inpatients. In addition it was stated that hospital staff have been instructed to more thoroughly investigate problems of voiding following spinal injuries.

There was acknowledgement from a senior nurse that there had been omissions in communication between staff, observations, documentation and the language issue had not been addressed. It was stated that junior nurses are now matched with senior nurses in an attempt to ensure that whenever possible senior staff will be available to support and monitor the work of those less experienced to tackle these issues.

A family interview room has been established where family members have a place to express their concerns in private, which it was hoped will provide the opportunity for more effective communication with families.

■ Ombudsman's Opinion

This case encapsulated difficulties which may arise in hospitals in regard to the elderly, particularly when the patient's first language is not English. There are undoubtedly times when junior staff are very busy and stretched to their limit in terms in time and/or experience and this impacts on the standard of patient care.

Some elderly people have complex medical conditions which initially appear simple and manageable, but in fact require a depth of knowledge to identify the problem.

The senior medical officer in his letter to the relatives, stated that the patient's type of injury may be the first sign which brings people to hospital, when there is a generalised multi-system failure of advancing years.

This may indeed have been the case, but unfortunately the patient was not given the benefit of that knowledge, even though his relatives were visiting him daily and consistently attempting to alert staff that all was not well.

At the end of the investigation I was satisfied that the matter had been brought to the attention of the relevant senior clinical and administrative staff and that there were systems in place to assist such patients in the future.

**SOUTHERN ADELAIDE HEALTH SERVICE
Complaints Received : Issues 01 July 2004 to 30 June 2005**

Access to treatment - Allied health services not available	1	1.8%
Access to treatment - Delay in receiving assessment/admission/treatment	2	3.6%
Access to treatment - Length of waiting list for treatment	1	1.8%
Access to treatment - Refusal to admit and/or treat	1	1.8%
Access to treatment - Unsatisfactory discharge arrangements	5	8.9%
Administration - Inadequate investigation of complaint	2	3.6%
Administration - Unreasonable administrative decision/policy	4	7.1%
Communication - Failure to provide adequate/correct information	2	3.6%
Communication - Lack of care or consideration shown	1	1.8%
Communication - Unprofessional conduct/attitude of staff	1	1.8%
Duty of care - Failure to provide	1	1.8%
Financial issues - Level of charges	1	1.8%
Health	1	1.8%
Patient Rights - Consent not obtained or informed	2	2.6%
Patient Rights - Other	6	10.7%
Quality of treatment - Inadequate treatment/care	12	21.4%
Quality of treatment - Incorrect diagnosis/treatment/care	8	14.3%
Quality of treatment - Other	1	1.8%
Quality of treatment - Unsatisfactory hygiene/equipment/care	1	1.8%
Services - Access	2	3.6%
Visits	1	1.8%
TOTAL	56	

**SOUTHERN ADELAIDE HEALTH SERVICE
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005**

Advice Given	12	22.6%
Advice Given - Referred to Agency	20	37.7%
Declined - Out of Time	1	1.9%
Full Investigation - Reasonable Resolution	1	1.9%
Prelim Investigation - Not Sustained	1	1.9%
Preliminary Investigation - Not Sustained - Explanation Given	11	20.8%
Preliminary Investigation - Partly Resolved in Favour of Complainant	6	11.3%
Preliminary Investigation - Reasonable Resolution	1	1.9%
TOTAL	53	

■ The complaint

The father of a boy contacted my Office stating that his son had been seen at two Hospitals in the Southern Adelaide Health Service mid 2004. Ultimately, after some delay his son was found to be suffering from torsion of the testis, which resulted in its excision, allegedly as a result of the condition being unidentified until it was too late to save the gland. The father was of the view that that the loss of the testis could have been avoided, had a different medical approach been taken.

The father was also hoping that some remedy might be achieved between the Ombudsman and the agency on his behalf, as he did not want to become involved in a legal process.

One of the main issues in the matter was to discover whether or not the father's views were correct, as the remedy would vary accordingly.

■ Ombudsman's investigation

Noarlunga Health Services' response included the fact that the boy was in their Emergency Department for a very brief length of time (roughly an hour) and because the hospital has limited paediatric facilities and the medical officer recognised that the boy needed to be transferred for further assessment, he was sent by ambulance ostensibly to the Women's and Children's Hospital. (W&Ch)

However on the way to the W&Ch Hosp. the ambulance staff became concerned about the boy's condition and the ambulance was diverted to Flinders Medical Centre. (FMC)

The substance of the response from FMC indicated that the information conveyed to the Paediatric Consultant by the attending medical officer, was such that at the time it was considered admission and observation would be the most appropriate course of action. However with the benefit of hindsight an alternative course of action would have been considered and an apology was provided to the parents concerning the outcome for their son.

Part of the remedy was to establish by an independent medical opinion whether the treatment the boy had received fell within the bounds of 'reasonableness'.

The opinion provided was comprehensive and in essence conveyed the view that the delay in the provision of diagnosis and surgery had resulted in the boy requiring excision of the testis.

■ Ombudsman's Opinion

In this instance the remedy of avoiding the legal process (requested by the parents) I was unable to provide, as under Section (13)(3)(b) of the Ombudsman Act *'the complainant had a remedy by way of legal proceedings'* and it was explained to the father that also it would be in his son's best interest to have the benefit of specialised legal counsel.

There were no apparent systemic issues, however I suggested to the Executive Officer that the doctors involved had the opportunity to read the independent medical opinion, which I provided to the hospital.

CHILDREN, YOUTH AND WOMEN'S HEALTH SERVICE
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to treatment - Delay in receiving assessment/admission/treatment	4	13.3%
Access to treatment - Refusal to admit and/or treat	1	3.3%
Administration - Delay	1	3.3%
Administration - Inadequate access to medical records	1	3.3%
Administration - Inadequate investigation of complaint	2	6.7%
Administration - Unreasonable administrative decision/policy	2	6.7%
Administrative practices/policies - Child Placement	1	3.3%
Administrative practices/policies - Delay	1	3.3%
Administrative practices/policies - Failure to investigate or act	1	3.3%
Administrative practices/policies - Unfair/discriminatory practices/policies	2	6.7%
Communication - Failure to provide adequate/correct info re	1	3.3%
Communication - Lack of care or consideration shown	1	3.3%
Fees/charges/levies - Imposition	1	3.3%
Officer misconduct - Threats/harassment/racism/intimidation	1	3.3%
Officer misconduct - Unreasonable use of power	1	3.3%
Patient Rights - Breach of patient confidentiality	2	6.7%
Planning and development - General processing	1	3.3%
Quality of treatment - Inadequate treatment/care	2	6.7%
Quality of treatment - Incorrect diagnosis/treatment/care	3	10.0%
Quality of treatment - Other	1	3.3%
TOTAL	30	

CHILDREN, YOUTH AND WOMEN'S HEALTH SERVICE
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	12	38.7%
Advice Given - Referred to Agency	6	19.4%
Declined - Alternate Remedy	1	3.2%
Full Investigation - Not Sustained - Explanation Given	1	3.2%
Preliminary Investigation - Not Sustained - Explanation Given	3	9.7%
Preliminary Investigation - Partly Resolved in Favour of Complainant	3	9.7%
Preliminary Investigation - Reasonable Resolution	4	12.9%
Withdrawn by Complainant	1	3.2%
TOTAL	31	

DEPARTMENT OF HEALTH
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to treatment - Other	2	6.7%
Access to treatment - Refusal to admit and/or treat	1	3.3%
Administration - Inadequate investigation of complaint	1	3.3%
Administration - Unreasonable administrative decision/policy	3	10.0%
Administrative practices/policies - Conduct contrary to policies	1	3.3%
Administrative practices/policies - Failure to investigate or act	4	13.3%
Administrative practices/policies - Unfair/discriminatory practices/policies	2	6.7%
Communication - Lack of care or consideration shown	1	3.3%
Communication - Unprofessional conduct/attitude of staff	1	3.3%
Financial assistance - Eligibility criteria	2	6.7%
Medical - Access to dental, optical and medical services	2	6.7%
Quality of treatment	2	6.6%
Quality of treatment - Inadequate treatment/care	4	13.3%
Services - Access	2	6.7%
Tenders - Discrimination/bias	1	3.3%
Tenders - Unfair/improper/illegal practices	1	3.3%
TOTAL	30	

DEPARTMENT OF HEALTH
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	7	25.0%
Advice Given - Referred to Agency	1	3.6%
Declined - Alternate Remedy	2	7.1%
Full Investigation - Not Sustained - Explanation Given	2	7.1%
Full Investigation - Reasonable Resolution	1	3.6%
Preliminary Investigation - Not Sustained	1	3.6%
Preliminary Investigation - Not Sustained - Explanation Given	9	32.1%
Preliminary Investigation - Partly Resolved in Favour of Complainant	4	14.3%
Preliminary Investigation - Reasonable Resolution	1	3.6%
TOTAL	28	

SOUTH AUSTRALIAN DENTAL SERVICE
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to treatment - Delay in receiving assessment/admission/treatment	2	12.5
Access to treatment - Length of waiting list for treatment	2	12.5
Administration - Payments	1	6.3%
Financial issues - Cost recovery	1	6.3%
Financial issues - Level of charges	1	6.3%
Medical - Access to dental, optical and medical services	2	12.5
Patient Rights - Breach of patient confidentiality	1	6.3%
Quality of treatment - Incorrect diagnosis/treatment/care	2	12.5
Quality of treatment - Other	1	6.3%
Services - Access	3	18.8
TOTAL	16	

SOUTH AUSTRALIAN DENTAL SERVICE
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	1	6.3%
Advice Given - Referred to Agency	1	6.3%
Declined - Out of Time	1	6.3%
Full Investigation - Reasonable Resolution	1	6.3%
Prelim Investigation - Not Sustained	2	12.5%
Prelim Investigation - Not Sustained - Explanation Given	1	6.3%
Prelim Investigation - Partly Resolved in Favour of Complainant	4	25.0%
Prelim Investigation - Reasonable Resolution	5	31.3%
TOTAL	16	

PUBLIC HOSPITALS AND HEALTH SERVICES - OTHER
Complaints Received : Issues 01 July 2004 to 30 June 2005

Access to treatment - Delay in receiving assessment/admission/treatment	4	3.8%
Access to treatment - Refusal to admit and/or treat	6	5.7%
Access to treatment - Unsatisfactory discharge arrangements	5	4.7%
Administration - Inadequate investigation of complaint	4	3.8%
Administration - Other	2	1.9%
Administration - Payments	1	0.9%
Administration - Unreasonable administrative decision/policy	7	6.6%
Administrative practices/policies - Erroneous decisions	1	0.9%
Administrative practices/policies - Failure to give reasons for decisions	1	0.9%
Administrative practices/policies - Failure to investigate or act	3	2.8%
Administrative practices/policies - Misleading/wrong information or advice	1	0.9%
Administrative practices/policies - Unfair/discriminatory practices/policies	1	0.9%
Administrative practices/policies - Unreasonable use of authority/power	3	2.8%
Citizen Rights - Breach of privacy/confidentiality	1	0.9%
Communication - Failure to provide adequate/correct information	1	0.9%
Communication - Other	1	0.9%
Communication - Unprofessional conduct/attitude of staff	7	6.6%
Daily routine - Access to amenities/activities/	1	0.9%
Daily routine - Duty of care	1	0.9%
Duty of care - Failure to provide	4	3.8%
Fees/charges/levies - Imposition	2	1.9%
Financial issues - Failure to advise of eligibility	1	0.9%
Medical	2	1.9%
Medical - Access to dental, optical and medical services	5	4.7%
Patient Rights - Breach of patient confidentiality	2	1.9%
Patient Rights - Consent not obtained or informed	2	1.9%
Patient Rights - Other	1	0.9%
Quality of treatment	1	0.9%
Quality of treatment - Inadequate treatment/care	17	16.0%
Quality of treatment - Incorrect diagnosis/treatment/care	6	5.7%
Quality of treatment - Other	1	0.9%
Quality of treatment - Unsatisfactory hygiene/equipment/care	1	0.9%
Record keeping - Failure to reply/supply information	1	0.9%
Services - Access	7	6.6%
Services - Termination	1	0.9%
Transfers - Form of transport	1	0.9%
TOTAL	106	

PUBLIC HOSPITALS AND HEALTH SERVICES - OTHER
Complaints Completed : Outcomes 01 July 2004 to 30 June 2005

Advice Given	19	12.3%
Advice Given - Advice Given to Agency	1	0.6%
Advice Given - Referred to Agency	23	14.9%
Declined - Alternate Remedy	2	1.3%
Declined - Out of Time	3	1.9%
Declined - Refused to Investigate	4	2.6%
Full Investigation - Not Sustained	1	0.6%
Full Investigation - Not Sustained - Explanation Given	11	7.1%
Full Investigation - Partly Resolved in Favour of Complainant	8	5.2%
Full Investigation - Reasonable Resolution	8	5.2%
Preliminary Investigation - Not Sustained	6	3.9%
Preliminary Investigation - Not Sustained - Explanation Given	24	15.6%
Preliminary Investigation - Partly Resolved in Favour of Complainant	26	16.9%
Preliminary Investigation - Reasonable Resolution	13	8.4%
Withdrawn by Complainant	5	3.2%
TOTAL	154	

■ The complaint

Contact was made with my Office concerning a patient diagnosed with a brain tumour after suffering an episode of hemiplegia in the latter part 2003. He was taken to the Flinders Medical Centre (FMC) and underwent surgery in a short space of time. It seemed that his recovery from the surgery was rapid and neuropathology reported that the tumour was a benign meningioma.

However within two weeks of the initial neuropathology report being issued, there was a random audit at 'Southpath' (the pathology laboratory concerned) and the diagnosis of benign meningioma was changed to a diagnosis of atypical meningioma.

The contents of the supplementary neuropathology report was issued within the two week timeframe mentioned above, but was not conveyed to the patient's neurologist or neurosurgeon and so his treatment continued to be based on the assumption that he was suffering from a benign meningioma when he saw his doctors at the end of 2003.

Early in 2004 the patient suffered significant symptoms and was admitted to hospital, for further tests. In the intervening time he also consulted with his neurologist but the neuropathology report of atypical meningioma was not noted until March 2004, some five months after the initial diagnosis.

The issue for the patient and family was that the recommended treatment for atypical meningioma differed from that of benign meningioma and the patient was concerned that his quality of life had been affected in the intervening time. Also he was concerned that his overall prognosis had been impaired by the administrative error.

The systemic issue of how the error occurred and future prevention was very relevant.

■ Ombudsman's investigation

The response from FMC indicated that there had been attempts to resolve the issues between the patient and his family and the Consumer Advisory Service (CAS) at the Hospital and indeed this had been acknowledged by the patient, by producing the letters already received from CAS.

The response also confirmed that there was a delay in the relevant supplementary report reaching the attention of the patient's neurosurgeon. The reason apparently being that the neurosurgeon performed the surgery in FMC public hospital and the original report was forwarded to the ward on which he had been treated. However the supplementary report was issued later, by which time the patient had been discharged, nevertheless the supplementary report was sent to the ward, from where it is thought that it was eventually sent to medical records without the neurosurgeon ever being notified.

After a meeting facilitated by this Office, a negotiated settlement was reached between the hospital's insurers and the patient.

In regard to the systemic basis for this complaint I am advised that any neurosurgical biopsy at Southpath is now subject to audit and this is a direct result of this incident. I am further advised that it was decided by Southpath that every amended report would be followed up, then a copy of the report would be sent to the Southpath reception area and someone would take responsibility for telephoning this to the clinician and the consultant and this would be followed up by a hard copy. At the time of writing this report I am unable to confirm whether or not this practice occurs.

It is understood that FMC in acknowledging the system failure initiated a Health Care Failure Mode Effect Analysis in October 2004. This analysis sought to understand what had occurred and to work towards preventing a reoccurrence.



However I am told that at the beginning of 2005 the preliminary work undertaken, revealed the complexity of the systems under examination and it was recommended that a more comprehensive review needed to be undertaken that directly incorporates expertise gained through the 'Redesigning Care' Project at FMC. I understand this is continuing at this time.

■ Ombudsman's Opinion

I am satisfied that this Office was able to be of assistance in effecting some outcome for the patient and his family in this matter and that FMC was willing to participate in the process.

The comment was made while I was in the process of writing this report, that there was an opportunity for error where the communication system relied upon part paper, part person and part electronics to provide information and it sounds a wise statement. I suspect it will never be easy to provide a perfect system whatever the mode, but I am satisfied that whereas in the past errors were hardly ever acknowledged, or acted upon in a systemic way, by health agencies there is now a definite shift in approach and what appears to be a genuine attempt to provide safer outcomes for patients in the future.

Case study

PALM LODGE - SUPPORTED RESIDENTIAL FACILITY Inadequate documentation and staff communication regarding mental health patient

■ The complaint

In the latter part of 2004 I received a letter from the father of a young man who had died some 15 months earlier in a Supported Residential Facility (SRF). He was concerned about the circumstances of his son's death, particularly the fact that it seems his son had been dead in his room for almost three days before he was found.

The issues expressed by the parents were that they wished to give closure to the circumstances surrounding their son's death and to ensure that if there had been any maladministration on the part of the SRF, it would be rectified in the interests of current and future residents of the facility.

As Ombudsman, the issues I was able to investigate were limited for the following reasons:-

- Any decision to investigate and hold an inquest into a person's death is the province of the Coroner and therefore outside of my jurisdiction.
- Likewise any concerns regarding the police investigation is outside my jurisdiction and belongs to the Police Complaints Authority.
- Even though the young man died in a SRF, I was advised that his psychiatric care and key - worker service plan, had been managed by the private sector and therefore it too was outside my jurisdiction.
- The death occurred more than a year prior to a complaint being made to my Office and although I was able to exercise my discretion to proceed, after the passage of time and given the circumstances, my approach was unavoidably remedial.

■ Ombudsman's investigation

The letter of response to me from the Mental Health Services and Programs Unit, indicated that SRFs operate subject to legislation contained in the SRF Act and that residents are voluntarily resident at the facility. It was stated that residents are free to come and go as they please, as it is their 'home' and they live as independently as their skills allow.

It seems that the young man was transferred to the SRF in April 2003, from a private hospital and in July there had been a request from his private psychiatrist that he manage his own medication.



Staff had seen the young man leaving the SRF with a carry bag and had been informed by another resident that he had gone away for the week-end. Staff were aware that the resident not infrequently stayed out overnight (and sometimes longer) and did not always notify staff of his intentions.

Following another resident saying that they thought they had seen him, staff checked his room and found him deceased on 11 August 2003. He had not been seen by staff for three days prior to this.

The remedy in this matter was to establish whether the administrative practices of the agency had been appropriate at the time of the incident and whether changes needed to be implemented in the interest of future residents.

It was established that the young man's absence had not been recorded in the casenotes kept by the agency, which was the standard practice and I was advised that staff had since had the documentation expectations reinforced to them by their Team Leader.

It was stated that now, if a resident has advised staff that they will be away, and of their intended whereabouts, but do not return as planned, then staff will attempt to contact the person, family or significant others to check on the person's whereabouts, safety and plans.

In relation to checking a person's room if their absence has been unexplained, the practice at the time of the incident had been for staff to check a person's room only if they had a reason to be concerned, in keeping with respecting a person's privacy. After the incident, a new procedure was introduced which requires staff to check the person's room every 12 hours, if the person's absence is unexplained.

Also I was advised that the Community Mental Health Service is currently reviewing its debriefing practices across the Service. It was stated that it is intended to develop a clear policy that recognises the responsibility of the Service to contact family/carers and provide information, debriefing and support and to answer questions that family or carers may have. Meanwhile I was provided with some brief procedural guidelines as an interim proposal in lieu of a full policy statement.

I was advised that no State/Territory throughout Australia has yet developed a policy framework addressing this issue and that it would be a time intensive process requiring extensive consultation with "key stakeholders such as consumers, carers and health professionals".

■ Ombudsman's Opinion

The feelings of the parents in such tragic circumstances can only be imagined. In terms of the lack of information conveyed to them, it is perhaps an unfortunate reflection on our society when a policy is required to ensure that the circumstances of a death are conveyed to parents, or those close to the deceased.

However, as with many cases which reach my Office, I was left with the impression that there had been a combination of factors which had contributed to the apparent confusion regarding the young man's whereabouts.

There is always a fine line between patient/client privacy and agency responsibility. In this case the client had apparently been making a reasonable transition back into the community. I understand there had been no particular cause for concern regarding his behaviour, which might have alerted staff. I was advised that the usual length of time for a client to stay at the facility was three to six months and so he would have been in the final weeks of his stay there. In essence, it was explained to me that he was a 'free agent' on a plan to increase his living skills and his supposed absence was unremarkable in that it took place over the week-end and hence even the usual daily room visit by the cleaner did not occur.

Conversely, one would have to presume that any client in such a facility might be 'at risk' and although he was there voluntarily and the same outcome might have occurred wherever he was staying, the fact remains that his absence was not recorded in the facility's casenotes, nor was there any checking procedure in place to identify his location until the third day of his absence. I am satisfied that steps have been taken to rectify this and trust that the same measures have been taken in all similar facilities.

Case study

NORTH WESTERN ADELAIDE HEALTH SERVICE

Alleged failure to take into consideration patient's allergy to pain relieving medication.

■ The Complaint

The complainant, the wife of the patient, alleged her husband became seriously ill after knee surgery because he was given Morphine, a drug to which the hospital was aware he was allergic. The complainant said her husband had had surgery 3 years earlier and the allergic reaction had been noted then, and it had also been mentioned again just prior to the recent procedure.

■ Ombudsman's Investigation

The complainant said the hospital had been told about the morphine problem in August 2001 and during that admission her husband was given Fentanyl as an alternative treatment. She said that when he presented at the pre-admission clinic in 2004 they, again, told the hospital about the allergy to Morphine.

The anaesthetist, according to the complainant, filled in the forms for her husband and it was not until Morphine was administered after the procedure that they realized the hospital did not have it listed as a medication that should not be given. The complainant advised the hospital that her husband was allergic to Morphine and the drug was replaced with Fentanyl.

My investigation was not able to confirm if the anaesthetist who spoke with the complainant and her husband in January 2004 was advised there was a concern about Morphine. The Peri-Operative Nursing Assessment and Care Plan for the patient's 2001 admission did, however, document "*penicillin, panadeine forte, peppermint, ?morphine*" in the section on drug allergies. The Pre-Operative Assessment Form also noted "*penicillin*" and "*morphine*" as drugs which could cause an adverse reaction (although it was noted the word Morphine may have been added later as it was written in different handwriting and with a different pen). The Medication Sheet showed that Fentanyl was administered post-operatively and Morphine was not used in the 2001 admission.

Although there were a number of drugs-of-concern written in the body of the man's case notes, volume 1 of the case notes commencing August 2001 only documented "*oxycodone*" on the Alert Sheet at the front of the file. Volume 2 contained the same Alert Sheet noting "*oxycodone*". Morphine and Penicillin were not added until September 2004. The most recent Alert Sheet dated November 2004 recorded Morphine and Penicillin and Oxycodone had been removed.

■ Ombudsman's Opinion

It was my view that, regardless of whether or not the patient or his wife alerted the hospital at the most recent admission that Morphine should not be administered, there was an error in the hospital's Alert Sheet recording. The hospital was aware there was a concern about Morphine in 2001 and it was not given during that admission. If the Alert Sheet had reflected the information documented in the body of the case notes the hospital would presumably have questioned giving the drug again, even if the patient had inadvertently forgotten to mention it during his pre-admission assessment in 2004.

While this investigation was underway the hospital introduced a new system for recording information on the alert sheet. Now, as well as placing an alert sheet on the front of the file, patient case note labels which are affixed to each page of the file also carry an alert warning, providing an additional reference to the fact that there is critical information at the front of the file. The Hospital Medical Records Department advised my Office that staff received training in the new system, particularly in recording critical information on the alert sheet and in entering it electronically to update the patient label.

The complainant and hospital were advised it was my opinion that the hospital failed to record information about the patients drug allergies and sensitivities on the Alert Sheet in 2001. This information remained undocumented when the man presented in January 2004 and it was possible this error contributed to him being given a drug that was not recommended.

I was satisfied that the hospital had more recently taken appropriate steps to update the Alert Sheet recording system as well as the particular patient's Alert Sheet and that staff were being appropriately trained and reminded about the procedure. The hospital agreed with these views and extended a written apology to the man and his wife.

Activities in regional areas

SOUTH EAST 27, 28 July 2004

Mount Gambier

Mount Gambier Hospital, CEO and Manager
Mount Gambier Prison, Manager and staff

EYRE PENINSULA 12 to 15 October 2004

Port Lincoln

JARP delegate, Joyce Sampson
City of Port Lincoln, CEO and Planning Officer
Complainant
District Council of Lower Eyre Peninsula, CEO and Planning Officer

Ceduna

Meeting of Justices of the Peace and JARP delegate, Des Whitmarsh
District Council of Ceduna, Mayor, CEO, elected members and staff
Conciliation Conference



On site inspection prior to Conciliation Conference in Ceduna

KANGAROO ISLAND 27, 28 April 2005

Kingscote, Penneshaw, American River

Kangaroo Island Council, Mayor, CEO, Planning Officer
JARP delegates, Judith Morris and John Grimes
Complainants

Justice Access Referral Program

What is the Justice Access Referral Program?

The Justice Access Referral Program (JARP) was initiated by the State Ombudsman in 1996 to provide a simple and effective information and referral service for those seeking access to justice in administrative matters.

The scheme is community-based and benefits from voluntary efforts of community leaders and other respected community members who become Ombudsman's Delegates for the purposes of the Justice Access initiative. Delegates (who are primarily Justices of the Peace) are appointed by the Ombudsman to provide referral advice to members of their local or particular community group. The aim of the program is to help members of the public contact the correct complaint handling body for their particular complaint - irrespective of whether the complaint relates to the administrative processes of federal, state or local government.

JARP retains a strong focus upon regional centres and rural communities.

The scope and method of operation of JARP responds to some of the factors which are seen as inhibiting people from making complaints about government services:

- geographic distance from the head office of service providers;
- public confusion about jurisdiction due to changes in departmental structures and activities;
- minimisation of local agency presence leading to reduced opportunities to take up and deal directly with agencies about complaints.

The subsequent inclusion of metropolitan appointees with links to specific ethnic communities recognised additional barriers of language and cultural difference. Efforts have also been made to establish an Aboriginal Access Program to meet the specific needs of indigenous communities.

The ambit of JARP is deliberately wider than the jurisdiction of the South Australian Ombudsman whilst the role of the Delegates is deliberately constrained to one of referral rather than investigation or intervention. JARP aims to improve the contact process for complaints so that the second approach (after contact with a Delegate) is the final and correct avenue.

JARP is a responsive community service. Delegates respond to members of the general public who contact them by phone, or personally.

Appointees are commonly known as 'Justice Referral Delegates'. Each receives an instrument of delegation which is issued by the Ombudsman in accordance with section 9 of the *Ombudsman Act 1973*. This document:

- defines the scope of responsibility of Delegates; and
- provide a limited immunity from prosecution, provided the Delegate is operating in accordance with the delegation.

The role of a JARP delegate

Delegates provide a local contact point to help people sort their way through the complexities of the complaint handling process. They are able to advise whether or not there is an independent authority (such as the Ombudsman) who has jurisdiction for the matter - and provide contact details.

On an informal basis, Delegates can initiate the preliminary steps of complaint handling procedure. This is as simple as checking whether or not there has been an effort to resolve the matter locally, or directly, with the service provider before resorting to formal complaint procedures. Delegates may also give advice about the existence of an internal complaint handling process for the relevant agency.

Delegates are volunteers. They are people who have a past and present interest in community service. Most commonly, Delegates are people who have developed a reputation in their communities as people whose:

- advice can be relied upon; and
- integrity trusted.

Delegates also tend to be people who are readily accessible whether through their work, place of residence or level of involvement in community activities. The majority of appointees are also Justices of the Peace (JP's).



George Parker
PORT AUGUSTA



Chris Woodman
PETERBOROUGH



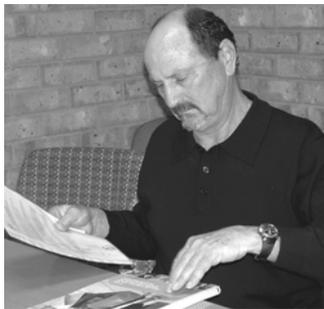
Nacia Ebert
KADINA

Delegates

Aldinga	Rupert Delahoy
Berri	Francis Day, Baldev Dahiwal
Bordertown	Patrick Maloney
Burra	Celine Stockman
Ceduna	Des Whitmarsh, Neil Chandler
Clare	Bruce Thomas
Coober Pedy	Deane Clee, Fr Radomir Aleksic, Zaharulla Kyrtzaliotis
Glossop	John Sweet
Hawker	Keith Rasheed, John Teague, Mary Van Keulen
Kingscote	John Grimes, Judith Morris (retired April 2005)
Kingston SE	Jeffrey Grove
Lameroo	Glen Kelly
Loxton	Douglas Vaughan
Paringa	Max Thompson
Port Augusta	Michael Mussara, George Parker
Port Lincoln	Josel Bautista, Judith Francis, Dudley James, Ros Hood
Maitland	John Patten (retired)
Metropolitan	Inta Rumpe, Martha Krassovich, Domenica Beverdam, Giang Le Huy, Inaam A'Khizam, Kath Johnston, Anne Bachmann, George Genimahaliotis, Mario Feleppa, Michelle Dieu, Tarik Skaka, Karleeda Rasheed, Zita Ngor
Millicent	Dennis Clifford
Mount Gambier	James Galpin, Pat Willoughby
Naracoorte	Ann Bell, Bill Leitch
Nuriootpa	Judith Zanetic (retired)
Peebinga	Dean Kerly
Peterborough	Chris Woodman
Port Pirie	John Banfield, Dino Gadaleta, Sr Anne Higgins
Port Lincoln	Ros Hood, Dudley James, Joyce Sampson
Quorn	Peter Maloney
Renmark	Robert Twyford, John Tzanavaras
Roxby Downs	Margaret Anchor
Victor Harbor	Ed Glasson, Brian Heyes
Whyalla	Rex Jordan, Teresa Nowak, Puring Olsen



Sister Anne Higgins



Dino Gadaleta



John Banfield

PORT PIRIE DELEGATES

Office Professionalism

The assurance that my staff are professional in all their dealings is an assurance that they have the requisite knowledge and experience, are reliable, trustworthy, fair and sympathetic to the public or the agency.

Although the Ombudsman is also a generalist, the Office as a whole has developed a high level of competence and expertise in the treatment of matters within its increasingly changing body of information linked with law, administration and public policy. By reason of these links, there must be ongoing education and training in order to ensure that the South Australian Ombudsman Office is completely attuned not only to the workings and changes affecting the agencies within his jurisdiction, but the workings and changes affecting Ombudsman Offices throughout the world.

The authority of the Ombudsman and the persuasiveness of his advice or recommendation relates as much to these qualities as to the thoroughness, competency and soundness of the Ombudsman investigation.

International and regional gatherings of parliamentary ombudsmen, (most being members of the International Ombudsman Institute, an association of parliamentary or legislative ombudsmen) have been developing and evolving principles of good ombudsmanship and standards of acceptable practice in promoting the best use of an Ombudsman for communities throughout the world. Most legislation is modelled on several archetypes common throughout the world.

As Ombudsman I am committed to promoting fair and good administration; and my remedial recommendations are a tangible realisation of that goal for any member of the public who has been affected by defective administrative action. It is not the Ombudsman's role to embark on a "fishing expedition" or proceed further with an investigation only because the complainant is not satisfied with an outcome. The added conciliation role of the Ombudsman is not treated merely as another means of achieving an outcome which is not warranted. I do not think it is the Ombudsman's role to seek a settlement where a complaint has no merit.

OMBUDSMAN

■ 9-11 February 2004 **22nd AUSTRALASIAN and PACIFIC
OMBUDSMAN CONFERENCE
Wellington, New Zealand**

The 22nd Australasian and Pacific Ombudsman Regional Conference was hosted by the New Zealand Office of the Ombudsmen on 9-11 February 2005. Conference papers were delivered by:

- Prime Minister, the Rt Hon Helen Clark
- Rt Hon Justice Sir Kenneth Keith
- Hon Justice Eddie Durie
- Mr Andrew Turua (Cook Islands)
- Mr Peter Masi (PNG)
- Mrs Jan O'Grady (Tasmania)
- Mr Ila Geno (PNG)
- Mr Mose Saitala (Fiji)
- Mr David Bevan (Queensland)
- Mr Walter Rigamoto (Fiji)
- Mr Maiava Toma (Western Samoa)
- Mr Mel Smith (New Zealand)
- Judge Anand Satyanand (New Zealand)

The South Australian Ombudsman will be the keynote speaker at the 9th Asian Ombudsman Association Conference.



Ombudsman Eugene Biganovsky (*front left*) with APOR members who attended the Australasian and Pacific Ombudsman Conference in New Zealand

■ 7-10 September 2004 **8TH INTERNATIONAL OMBUDSMAN CONFERENCE,
Quebec City, Canada**

The Ombudsman attended the International Ombudsman Institute's 8th International Ombudsman Conference was held in Quebec City from September 7 to 10, 2004 at the Quebec City Conference Centre. The theme of the Conference was "Balancing the Obligations of Citizenship With the Recognition of Individual Rights and Responsibilities - The Role of the Ombudsman". International Ombudsman conferences of the International Ombudsman Institute occur once every four years.

Over the four days Conference sessions and workshops covered the following topics.

"Respecting Human Diversity and Generally Understood Democratic Values", with a workshop covering

- Cultural Diversity", Social Condition" and Marginalised Groups

"The Responsibility of the Ombudsman in Developing a Public Service Ethic in the Face of Socio-Political and Economic Change", with workshops on:

- Public Services and Globalization
- Cultural Diversity", Social Condition" and Marginalised Groups
- The Role of the Ombudsman in the Face of Government Recommitment Protecting Vulnerable People from the Scientific and Economic Powers-That-Be"
- The Ombudsman and Today's Demographic Realities
- The Ombudsman: Meeting Today's Changing Needs
- The Ombudsman: A Difficult Role to Fill, Sharing Strategies
- The Role of the International Ombudsman Institute: Situation and Outlook

"Can the Recognition of Individual Rights and Freedoms Survive the Pressure to Enhance Security?" with workshops on:

- Protecting Rights and Freedoms
- Group Stigmatisation

The keynote speakers at the Conference were the EU's European Ombudsman, Prof. Nikiforos Diamandouros; Hon. Louis LeBel, Justice of the Supreme Court of Canada; and His Excellency M. Abdoulaye Wade, President of Senegal. Other speakers include Mr. Jenö Kaltenbach, Hungary's Parliamentary Commissioner for National and Ethnic Minority Rights; Mr. Jean-Louis Roy, President of the International Centre for Human Rights and Democratic Development; Hon. Warren Allmand, past President of the International Centre for Human Rights and Democratic Development; and ombudsmen from around the world.

■ 28, 29 June 2005 **MEETING OF AUSTRALIAN OMBUDSMEN
Canberra, ACT**

■ 30 June - 1 July 2005 **2005 NATIONAL ADMINISTRATIVE LAW FORUM
Canberra, ACT**

■ **Other activities of the Ombudsman included:**

1. State Records Seminar - 9, 10 August 2004
2. Local Government Association Governance Advisory Committee
Committee member and expert consultant
3. Office of Local Government Steering Committee
Committee Member
4. IEC Open Forum - attended on 18 August 2004
5. Presentation to visiting Indonesian Students at Flinders University - August 2004
6. Presentation at meeting of Port Adelaide and Districts Justices Group in November 2004
7. Presentation at The Law Society Administrative Law Committee Seminar - February 2005



LEGAL UNIT STAFF

- 1, 2 July 2004 2004 National Administrative Law Forum
Shaping Administrative Law for the Next Generation
Canberra
Legal Officers

 - 1 November 2004 Micro Skills Refresher
Legal Officer

 - 5, 6 November 2004 Administrative Law Conference
Legal Officer

 - 24 February 2005 Administrative Law - Overview & Update
Legal Officers

 - 2-5 March 2005 Mediation Workshop
Adelaide
Legal Officers, Assessment Officer

 - 8 April 2005 The Crown as Model Litigant - Where does it all begin?
Legal Officer

 - 9 May 2005 Freedom of Information Management System - Training Seminar
Legal Officer

 - 18 May 2005 Managing Your Time
Legal Officer

 - 4, 5 June 2005 Leading Teams in Government
Legal Officer

 - 30 June-1 July 2005 2005 National Administrative Law Forum
Legal Officer

 - 9, 10 June 2005 AJJA Tribunals Conference
Related to the quasi-judicial nature of the Ombudsman's role in the FOI process
Sydney
Legal Officer
- **Other activities of the legal unit included:**

1. Legal Officer delivered a speech at the FOI Forum in March 2005 on the amendments to the Act and the external review process which was run by State Records.
2. Legal Officer participation as a judge in a mock trial competition run by the Law Society in the first half of this year.

The Law Society of South Australia Mock Trial Competition comprises a series of simulated court cases contested by students from years 10, 11 or 12 and is designed to bring young South Australians closer to the workings of our State's legal system while teaching them to present a persuasive argument.

The Law Society appoints a lawyer to coach students, unless schools choose to arrange their own coaches. Lawyers will also be appointed to judge each "trial".

The competition is limited to 32 teams. Each team comprises seven students and schools may enter two teams if less than 32 schools register. In the past schools have asked teachers and students involved in English, Drama, Debating or Legal Studies to take part in the Trials. The Mock Trial Competition is sponsored by the Law Foundation of South Australia Inc.

3. Legal Officer delivered a presentation to the Regional Development Board of SA on the application of the Act. That followed a decision that the Ombudsman had made that the Mid North Regional Development Board was subject to the Act. That had caused a great deal of concern to the remaining boards etc and they wrote requesting some guidance.
4. Legal Officer published an article in the Bulletin on parliamentary privilege arising from a decision of the Ombudsman on that topic: see *Parliamentary Privileges*, Law Society of South Australia Bulletin, 5 June 2005.
6. Legal Officer became a member of the Law Society Bulletin editorial committee in April 2005 - to *inter alia* raise awareness of administrative law and the role of the Ombudsman's Office.



OMBUDSMAN OFFICE STAFF

- Semester 2 2004 Administrative Law - Auditing
University of Adelaide
Investigating Officers

- September 2004 West Adelaide Probus Club
Presentation on role of the State Ombudsman
Deputy Ombudsman

- September 2004 ATEM Seminar - University Managers
Presentation on role of the State Ombudsman
Deputy Ombudsman

- October 2004 Adelaide University Dental School
Lecture to students on role of the State Ombudsman
Investigating Officer

- 3 November 2004 Senior First Aid Re-certification
Modbury Hospital
Executive assistant

- 3-6 November 2004 Mediation Workshop
Investigating Officer

- 4, 5 November 2004 5th National Investigations Symposium
Sydney, NSW
General Investigating Officers

- 11, 12 November 2004 5th National Complaints Conference
Sydney, NSW
Health Investigating Officer

- 26 November 2004 Administration Professionals Learning Workshop
Dealing with People Issues
Adelaide
Investigating Officer, Administrative Assistant

- February 2005 Rate Administrators Conference - Clare, SA
Presentation on role of the State Ombudsman
Deputy Ombudsman

- 10, 11 March 2005 Leading and Managing People
Investigating Officers

- March, April, May 2005 Springboard for Women
Adelaide
Investigating Officers

- 29 April 2005 Key Issues facing the Executive Assistant
Adelaide
Executive Assistant

- May 2005 South East agencies and complaint handling bodies
Law Week presentation in Mount Gambier
Investigating Officer

- 2004/2005 Department for Correctional Services
Information session to new Correctional Services officers on
the role of the State Ombudsman
Investigating Officer

Appendix

Appendix A

Office Expenditure	2003/04	2004/05
Advertising	4 073	782
Annual Report	2 883	2 564
Promotional expenses	2 939	5 065
Equipment maintenance	1 689	1 149
Equipment purchases	449	6 912
Motor vehicles	11 376	11 537
Postage	2 664	2 252
Printing and stationery	6 113	9 057
Staff development	3 835	11 784
Publications and subscriptions	8 592	8 115
Sundries	22 622	21 504
Telephone charges	35 665	36 009
Travel/taxi charges	17 539	31 175
Computer expenses	31 220	34 301
Records sentencing project		18 141
Database reporting project	11 880	
Sub-total	163 539	200 347
Accommodation and energy	102 094	102 588
Consultant/Contract staff	359	2 803
Sub-total	102 453	105 391
Salaries	1 237 043	1 250 386
Sub-total	1 237 043	1 250 386
Income	(14 294)	(2 833)
Sub-total	(14 294)	(2 833)
Total expenditure	1 488 741	1 556 124



Appendix B

— Ombudsman Office staffing 2004-05

This year featured a number of staff changes, including the departure, either temporarily or permanently of several long serving staff. The Senior Legal Officer for the past 12 years was seconded to the Commission of Enquiry into Children in State Care. She was replaced on a temporary basis by an experienced Legal Officer from the private sector.

Two Investigating Officers with a total of 14 years experience won other positions and left, one on an extended temporary appointment and one permanently. Of the two replacements, one came from within the Health Complaints Unit in this Office (the function of which was due to transfer to the new Health and Community Services Complaints Commissioner during the year) and the other was a new appointee from the SA Housing Trust.

The transfer of one of the Investigating Officers in the Health Complaints Unit to the general group required the acting appointment of a staff member to temporarily cover this position until the function transferred, and the extension of another temporary staff member.

The longest serving staff member took maternity leave and was replaced by an officer from the Police Complaints Authority.

— Explanation of Outcomes -General and Health complaints

The following outcome descriptions are used in the reports on complaint files closed.

■ Advice given

Information or advice was provided to the public without contacting the agency complained against.

■ Declined/Terminated/Withdrawn

Matter was either withdrawn by the complainant, was declined on jurisdictional grounds, or was terminated at an early stage (eg because some action made further investigation unnecessary).

■ Preliminary Investigation

A *Preliminary Investigation* pursuant to section 18(1) of the Ombudsman Act is conducted to obtain preliminary information to determine whether the matter should proceed to a full investigation. Often such an investigation can involve a considerable amount of effort on the part of the investigator, without reaching the point where formal advice of a full investigation is necessary. Many complaints are resolved during this phase.

■ Full Investigation

A *Full Investigation* is commenced where sufficient background material has been gathered to indicate a basis for complaint. Section 18(1a) requires that the Principal Officer of the agency be advised of such an investigation. Such advice is usually (although not necessarily) provided in writing.

■ Sustained

A matter is classed as *Sustained* if an opinion has been formed pursuant to section 25(1) of the Ombudsman Act.

■ Not Sustained

A matter is classed as *Not Sustained* if the complaint has been investigated and sufficient information has been discovered to conclude that there is no basis to form an opinion pursuant to section 25(1).

■ Not Sustained - Explanation Given

A matter is classed as *Not Sustained - Explanation Given* if the complaint has been investigated and sufficient information has been discovered to conclude that there is no basis to form an opinion pursuant to section 25(1), but as a consequence of the information obtained the complainant is able to receive an explanation of the reasons for the agency's actions, and that explanation is in advance of the explanation or information which the complainant previously had from the agency

■ Partly Resolved in Favour of Complainant

A matter is *Partly Resolved in Favour of Complainant* if there is some benefit to the complainant or some action by the agency such that the substance of the complaint is partly addressed and resolved. This description would often apply where there would not have been sufficient information to sustain the complaint, but notwithstanding this the agency acts to partly remove the difficulty which was the basis of the complaint.

■ Reasonable Resolution

A matter is classed as having a *Reasonable Resolution* if, before an opinion is formed pursuant to section 25(1) of the Ombudsman Act, some action is taken by the agency to remedy (in the opinion of the Ombudsman) the cause of the complaint, or provision is made whereby the complaint can be properly addressed by the agency.

— Explanation of Outcomes - Freedom of Information

Apart from the Ombudsman's function to review agencies' determinations as an external review body under the *Freedom of Information Act 1991* the Ombudsman provides advice and conducts investigations into freedom of information related administrative actions of agencies under the Ombudsman's general jurisdiction pursuant to the *Ombudsman Act 1972*.

■ FOI Advice given

Formal or informal freedom of information advice was provided to the public and/or agency.

■ FOI Review - Revised determination directed

At the conclusion of external review, the Ombudsman was satisfied that a different determination should be made by the agency in the circumstances of the case and directed the agency to make a revised determination in specified terms.

■ FOI Review - Agency revised determination

During external review and after receiving comment from the Ombudsman, the agency recognised that a revised determination was appropriate in part or in whole. There was no need for a formal direction by the Ombudsman to revise the determination.

■ FOI Review - Determination confirmed

At the conclusion of external review, the Ombudsman was satisfied that a different determination did not need to be made by the agency.

■ FOI Review - Withdrawn

During or at the conclusion of external review, the applicant decided to withdraw the application. The applicant may have decided to pursue other avenues of redress or document access; or with the assistance of the Ombudsman, the applicant's grievance with the agency may have been resolved in part or in whole; or with the passage of time, the applicant no longer wished to pursue document access.

■ FOI Investigation - Reasonable resolution

A formal or informal investigation was conducted into the FOI complaint and a reasonable resolution was achieved.

■ FOI Investigation - Not sustained

The investigation of the FOI complaint revealed no administrative error on the part of the agency.

■ Outside jurisdiction

It was concluded that either the body the subject of complaint was not "an agency" for the purposes of the *Freedom of Information Act 1991*, or the application for review to the Ombudsman was premature and the Ombudsman therefore lacked the jurisdiction to conduct the review.



Appendix D

— Freedom of Information education package

Freedom of Information Education Package

DEALING WITH AN FOI APPLICATION INCLUDING WRITING A DETERMINATION

INTRODUCTION

The significance of the *Freedom of Information Act 1991*

Thank you for coming. The format is that I will be covering a number of important aspects associated with dealing with an FOI application, including writing a determination.

I hope to cover

- The underlying objects and purpose of the Act
- The format of applications
- Initial response to applications
- The value of communication with applicants
- The role of the Ombudsman's office
- Time limits and extensions
- Deemed refusals
- Internal reviews
- Refusing to deal with applications using section 18
- What actually are documents
- Consultations
- Amendments
- Sufficiency of search
- Writing a determination
- Clause 6
- Clause 13
- and clause 10

The format will be an interactive one, in which I use a number of case studies and ask you some questions. Please feel free to ask questions at any stage.

■ Significance..

The *Freedom of Information Act 1991* ('the Act') is of great significance, because it serves to promote and regulate the access by ordinary, usually unrepresented, members of the public to documents held by agencies.

As you know, the type and scope of applications under the Act can be extremely broad and varied. If there are many potential applicants, then there are even more documents. The term 'document' is defined to include "*anything in which information is stored or from which information can be produced*" (section 4) - ie in electronic as well as written form, and including emails, which will be discussed later. In addition, section 22 of the Act clearly contemplates audio and/or visual recordings and even encoded documents.

■ The role of 'dealers and determiners'

You, as freedom of information ('FOI') officers, have the sometimes difficult, often thankless, and no doubt always under-resourced task of interpreting the initial application, obtaining the documents (perhaps from the far-flung reaches of your organisation) and then considering the possible application of a wide variety of exemption clauses, which frequently involve complex and ever-changing legal concepts or difficult processes such as weighing up the various public interest factors.

■ Damage control?

You must deal 'upwards' with managers, and perhaps even politicians, whose overriding concern might be the ramifications of release, as well as 'outwards' with suspicious and potentially hostile applicants - all within a relatively short timeframe, in the knowledge that whatever your decision, at least one party may be unhappy and, further, that such a decision may be criticised by the Ombudsman or the Court.

Because of this, your role as 'dealers and determiners' is extremely important.

■ **Let's start at the very beginning ...**

It is useful to put the whole issue of 'dealing with' FOI applications into its proper legal perspective by considering the primary objects of the Act, as provided in section 3. This is because they underpin the work that you do in dealing with the application, including making a determination. Note that this section was amended to its current form on 1 January 2005.

- 3 (1) The objects of this Act are, consistently with the principle of the Executive Government's responsibility to Parliament—
- (a) to promote **openness in government** and **accountability** of Ministers of the Crown and other government agencies and thereby to enhance respect for the law and **further the good government** of the State; and
 - (b) to facilitate more **effective participation** by members of the public in the processes involved in the making and administration of laws and policies.
- (2) The means by which it is intended to achieve these objects are as follows:
- (a) ensuring that information concerning the operations of government (including, in particular, information concerning the rules and practices followed by government in its dealings with members of the public) is **readily available** to members of the public and to Members of Parliament; and
 - (b) conferring on each member of the public and on Members of Parliament a **legally enforceable right** to be given access to documents held by government, **subject only** to such restrictions as are consistent with the public interest (including maintenance of the effective conduct of public affairs through the **free and frank expression of opinions**) and the preservation of **personal privacy**; and
 - (c) enabling each member of the public to apply for the amendment of such government records concerning his or her personal affairs as are incomplete, incorrect, out-of-date or misleading.
- (3) Nothing in this Act is intended to prevent or discourage the publication of information, the giving of access to documents or the amendment of records otherwise than under this Act if it is proper and reasonable to do so or if it is permitted or required by or under any other Act or law. (Emphasis added).

In addition, the new section 3A provides:

3A—Principles of administration

- (1) It is the intention of the Parliament—
- (a) that this Act should be interpreted and applied so as to **further the objects** of this Act; and
 - (b) that a person or body exercising an **administrative discretion** conferred by this Act exercise the discretion, as far as possible, in a way that **favours the disclosure** of information of a kind that can be disclosed without infringing the **right to privacy** of individuals.
- (2) Agencies are to give effect to this Act in a way that—
- (a) assists members of the public and Members of Parliament to exercise rights given by this Act; and
 - (b) ensures that applications under this Act are dealt with **promptly and efficiently**. (Emphasis added.)

It is also worth mentioning that the amendments which came into force on 1 January 2005 include vesting the Ombudsman with the power, under section 39(5), to require the agency to sort or compile documents or undertake consultations where it appears that the agency has failed to properly sort or compile documents or undertake consultations relevant to the review. Further, he can require officers of the agency to attend at a time and place specified to achieve this. The Ombudsman has not utilised this power to date.

■ A Balancing 'Act'

In this way, the Act attempts to balance the often conflicting interests of an individual applicant and society at large. The Act seeks to achieve this balance by providing, in effect, a general presumption in favour of obtaining documents, subject to a number of specific exemption clauses, expressly including personal privacy. In essence, these exemption provisions enable legitimate concerns surrounding disclosure to be considered. It is this inherent tension which makes the FOI process so challenging, important and emotive. It also mirrors the broader societal tension between the public's demand of accountable government and its expectation of individual privacy.

■ Applications

Applications for access to an agency's documents are made under section 13 of the Act, and, less commonly, applications to amend documents are made under section 31.

■ Format

Although many agencies have freedom of information application 'forms', there is no magical formula under the Act. The Act merely provides, amongst other criteria, that applications:

- must be in writing;
- must state that they are freedom of information applications;
- must be accompanied by the prescribed fee; and
- must contain such information as is reasonably necessary to enable the document to be identified.

■ Who can 'deal with' the application ?

Section 14 provides that an application must be dealt with by an accredited FOI officer. I interpret this to mean that that officer can delegate certain aspects, such as locating, sorting, compiling and copying documents, but he or she should retain overall responsibility for dealing with the application, and make the decision about release or exemption him or herself. In theory, this decision should not be made by the CEO or your manager. If the Principal Officer is telling you what should be withheld from disclosure (as opposed to advising you of his or her concerns and leaving it up to you), then ideally he or she should make the determination. The rationale being that if the Principal Officer really made the determination then there is no sense in having an internal review, which will delay the process, as well as not being fully transparent.

■ Acknowledgement

It is a good idea to immediately send the applicant a letter acknowledging receipt of their application. This is an opportunity to set the tone for your organisation's dealings with the applicant. For example, you might explain the general process undertaken by your agency in order to process the application and explain that your role as an FOI officer is to independently deal with the matter.

■ Clarification

You may need clarification due to the vague wording, length or lack of particularity of the initial application, which, if resolved in a timely fashion, will expedite the application. If so, then contact the applicant, explaining that the application is not validly made unless the document is able to be identified, due to section 13(d) of the Act, which provides:

An application for access to an agency's document-

(d) must contain such information as is reasonably necessary to enable the document to be identified.

In addition, section 15 provides that:

An agency must not refuse to accept an application merely because it does not contain sufficient information to enable the document to which it relates to be identified without first taking such steps as are reasonably practicable to assist the applicant to provide such information.

The Act does not expect you to be sleuths, or psychic! If the application is vague or unclear, put the onus on the applicant to clarify the scope of the request, or else refuse to accept the application. In my view it is arguable that the 30 day period does not actually commence until the valid application has been accepted, but this question has not been settled by a South Australian court. Of course this does not mean that the precise document has to be named by date and title. For example, a valid application might read "All documents concerning 'X' for the period 'Y' - so long as 'X' is readily identifiable and the documents are capable of being isolated.

■ Dialogue?

Even if the application is comprehensible, you may choose to open the door to dialogue by inviting the applicant to contact you if he or she wishes to discuss any aspect of the matter.

This is not always realistic, given that applications often arise out of a protracted and bitter dispute between, for example, an employee and his/her employer, and the applicant, possessed with a basic mistrust of the agency or certain of its officers, may assume that you, as an officer of the agency, are acting in the agency's interests.

However sometimes such an assumption can be addressed and a spirit of cooperation fostered by open channels of communication. Even the offer of discussing the application with a responsible officer, whom the applicant does not directly associate with the underlying issue(s), may improve the relationship.

Further, dialogue between the parties can lead to a mutual understanding and appreciation of the respective positions, which is not easily or quickly achieved in writing. This is because the applicant is confronted with a reasonable person, not just 'the Department', and the agency can better appreciate where the applicant is coming from, perhaps what he or she is primarily after, and why. This in turn can lead to more cogent submissions and a resolution or narrowing of the areas of contention, speeding up the overall process.

So, while it may be naïve to think that it will somehow solve an underlying, perhaps long-standing dispute, in my experience, a meeting between the parties is usually beneficial to both sides.

■ Preliminary Role of the Ombudsman's Office

In addition, consider contacting the Ombudsman's office for assistance. Our office is available to discuss issues which arise in the course of dealing with applications and to provide general advice to applicants, agencies and their legal representatives at any stage, even before our formal jurisdiction is enlivened by the commencement of an application for an external review. That said obviously we cannot fetter the Ombudsman's discretion by formally pre-judging a matter that might eventually become an external review.

Sometimes you will want to run your factual scenario and proposed course of action by someone who is at arms length, legally trained and with practical FOI experience, without the delay and expense of obtaining a formal legal opinion. There are currently three freedom of information lawyers including myself and Tonia specialising within this jurisdiction in the Ombudsman's office. In addition, Mr Biganovsky, the Ombudsman, takes a direct interest in FOI matters.

■ Time limits

In my experience, no doubt given the prevalence and accessibility of legal sites on the Internet, more and more applicants are aware of their rights under the Act and ring our office complaining bitterly that their applications have not been dealt with within the statutory 30 day time limit, with no apology, explanation or extension in accordance with the Act. Often they demand action by our office. This gets the whole application off to a bad start and puts the agency on the back foot, when by following the statutory procedure, or at least keeping applicants in the loop, much of this could be avoided.

In this regard it is important to bear in mind that Section 14 provides that an application must be dealt with as soon as practicable (and, in *any* case, within 30 days) after it is received. You don't need me to tell you that this is not much time!

E-X-T-E-N-S-I-O-N-S OF T-I-M-E!!!!!!

■ When can the agency extend?

This is probably why the Act provides that the Principal Officer of the agency can extend the time period if he or she is satisfied that:

- the application is for access to a large number of documents or necessitates a search through a large quantity of information (to find the documents) and, consequently, dealing with the application within the 30 day period would unreasonably divert the agency's resources; or
- where the agency is required to make third party consultations such that it will not be reasonably practicable to do so within the 30 day period.

■ How long can this go on?

The extension must be for a "reasonable period of time having regard to the circumstances" (section 14A(2)).

■ Tell me about it

Note that the extension must be effected by giving written notice to the applicant within 20 days of the receipt of the initial application. This written notice must specify *the length of the extension, the reasons for the extension, and the applicant's rights of review and appeal.*

That is, sub-section 5 provides that an extension is a 'determination' for the purposes of the Act, and, accordingly, the applicant can seek an external review by the Ombudsman of the decision to grant an extension, or could appeal straight to the District Court. This means that you need to decide relatively quickly whether to recommend an extension, and ensure that mechanisms exist for your Principal Officer to decide the matter quickly. I accept that this may be an issue in large agencies.

It is far better to include applicants in the process, by explaining the reasons behind the extension and enabling them to exercise their review and appeal rights, than simply missing the statutory deadline without offering an explanation.

■ Once is enough

In my opinion, an agency can only grant itself one extension under this section. Technically, however, it may be possible for an agency to grant itself more than one extension (effectively an amendment to a previous extension) provided that the notice was effected within 20 days of the original application, for example where it realises that the original extension was insufficient.

■ 'Deemed' refusals

If the agency does not deal with the application within the 30 day period, or within the extension, if granted, then, by virtue of section 19(2) of the Act, the agency is taken to have determined the application by refusing access to the document (sometimes called a 'deemed' refusal), leaving an applicant free to seek an internal review by the Principal Officer.

Please note, however, that just because the Act provides for deemed refusals, an agency should not rely on this. It should always endeavour to deal with an application within the 30 day limit, or within a section 14A extension.

Applicants are often unaware of the 'deemed refusal' provisions in the Act, which are designed to allow the application to proceed even where the agency does not comply with the time limit. Consequently they are effectively left in limbo, waiting for the agency's determination, becoming more and more irate with each passing day. This can make the agency look inefficient, disorganised or unaware of its obligations, which is usually not the case. This is another matter that may appropriately be referred to in a letter of acknowledgement to the applicant.

■ **Don't panic!**

But, don't panic - it could always be worse! If it makes you feel better, in the United States a recent National Security Archive FOIA Audit demonstrated that despite 1996 Congressional amendments to improve agency administration of FOIA obligations by imposing new detailed reporting requirements on the agencies to enable effective oversight over FOIA compliance, a number of unfinalised applications, some of over 15 years, remain.

The oldest Freedom of Information Act requests that are still pending in the federal government date back to the late 1980s, before the collapse of the Soviet Union. A then-graduate student at the University of Southern California filed one of the oldest still-pending requests in 1989, asking the Defence Department for records on the U.S. "freedom of Navigation" program. This request was filed by then-graduate student William Aceves, who is periodically contacted by the Department of Defence to determine if he continues to be interested in the records that he requested. Now a full professor at California Western School of Law, Professor Aceves says he remains interested.

The slowest government Departments are then 'outed' on the National Security Archives website.

■ **Internal reviews**

Internal reviews are only available where the initial determination was not made by the Principal Officer of the agency. In my experience, determinations are rarely changed on internal review, unless new documents turn up after the initial determination. However these should not simply be rubber stamps.

By virtue of section 29(5) of the Act, if the agency fails to determine the internal review within 14 days of receipt, it is deemed to have confirmed the original determination.

■ **External Reviews by the Ombudsman**

A 'person aggrieved' by an agency's determination on internal review can then apply to the Ombudsman for an external review. Such a person could include a third party, for example where an agency consults with a third party who objects to release of the documents, but the agency determines to release the documents anyway.

The Ombudsman's role is also critical because, after all, both the applicant and the agency want to know that a fair-minded and independent person has examined the documents in question, listened to their respective arguments and applied the rules governing their dissemination. In my view this approach assists agencies to order their affairs by implementing a workable, consistent and transparent decision making process.

■ **Appeals to the District Court**

After the Ombudsman's determination, a person aggrieved can appeal to the District Court. Section 42E of the *District Court Act 1991* provides that:

(3) The [Court](#) must, on an appeal, give due weight to the [decision](#) being appealed against and the reasons for it and not depart from the [decision](#) except for cogent reasons.

Alternatively, he or she can bypass the Ombudsman and proceed straight to the District Court following either the internal review or the agency's determination where it is not subject to internal review.

The agency itself can appeal to the Court against the Ombudsman's determination, but only on a question of law.

■ **Refusing to deal with an application - section 18**

Section 18 provides various grounds for refusing to deal with an application. I will deal first with section 18(1) and then with 18(2a), although in practice many of the issues arising in each sub-section are similar.

SECTION 18(1)

■ *Substantial and unreasonable diversion of the agency's resources*

Don't forget that this section is available! It provides that:

(1) An [agency](#) may refuse to deal with an application if it appears to the [agency](#) that the nature of the application is such that the work involved in dealing with it within the period allowed under section 14 (or within any reasonable extension of that period under section 14A) would, if carried out, substantially and unreasonably divert the [agency's](#) resources from their use by the [agency](#) in the exercise of its functions.

■ **When it can't be used**

Section 18(1) has a high threshold, and cannot be used simply to fend off annoying applications for lots of documents with little apparent relevance to anything much, but which are proving inconvenient. Further, in my view, it could not be used where an agency is inadequately resourced to process freedom of information applications, and their only argument is that a particular application would stretch these resources to breaking point. This is because the agency must show that dealing with the application would result in an *unreasonable* diversion of resources.

In addition, the larger the agency, the more difficult it will be for it to successfully argue that dealing with a given application would *substantially* and *unreasonably* divert its resources. And of course 'unreasonable' has an objective component, meaning that an agency has to justify why the diversion is unreasonable - just because the applicant is, in the agency's view, a serial freedom of information pest and it difficult to have to allocate resources to deal with yet another unmeritorious, time wasting application is not enough!

■ *Use the force Luke*

Having said this, however, in my experience agencies sometimes overlook this section.

There are no reported South Australian cases as to what actually constitutes a substantial and unreasonable diversion of the agency's resources from their use by the agency in the exercise of its functions.

■ **Case Study 1 - Mr and Mrs White**

The operation of section 18(1) was raised (together with section 18(2a)), by a large agency in a recently concluded external review by the Ombudsman. The agency estimated that it would take over 4 months full time work to deal with a series of 12 applications. The Ombudsman decided that the agency could refuse to deal with the applications under section 18(2a), so he did not need to decide the section 18(1) claim, which was problematical for a number of reasons.

First, because the agency had been effectively swamped by the influx of applications over the Christmas period, it failed to process them within 30 days, so the applicants (who were both familiar with their rights under the Act) immediately applied for internal reviews on the basis of their being deemed determinations. The agency also failed to determine the internal reviews within 14 days. Accordingly, the applicants applied for external reviews by the Ombudsman, on the basis of deemed confirmations of the initial determinations.

SECTION 18(2)

It was quite late in the piece by the time that the agency raised the possible application of section 18(1). This meant that the mandatory provisions of section 18(2) had not been complied with. Furthermore, arguably section 18(1) is only available within the 30 day period, where there has not been any extension of time granted. Section 18(2) provides:

(2) An agency must not refuse to deal with such an application without first endeavouring to assist the applicant to amend the application so that the work involved in dealing with it would, if carried out, no longer substantially and unreasonably divert the agency's resources from their use by the agency in the exercise of its functions.

When its non-compliance was pointed out, the agency attempted to justify its failure by arguing that since attempts to assist the applicants in earlier freedom of information applications had proven fruitless, it was not required to comply with section 18(2) in the present matter. The Ombudsman held that although there may be a sound basis for such cynicism, what had occurred previously was not strictly relevant to sub-section 2 in the present matter and therefore was not a legitimate reason for non-compliance. The Ombudsman stated that if the agency wished to maintain its reliance on section 18(1), it had to comply with sub-section 2, even though it was out of time. Ultimately, these attempts did prove fruitless!

I interpret section 18(2) to mean that in practical terms the agency should endeavour to come up with a specific scope of the application which it *could* cope with, rather than sending a generalised letter 'inviting' the applicant to amend. My experience is that because this is a process, rather than a series of ultimatums by both parties, it will be best achieved through a meeting, as opposed to written communication.

Another difficulty posed in this case was that, as pointed out above, because each application was part of a series of 12, it was more difficult to determine whether any given individual application would substantially and unreasonably divert the agency's resources, and the agency in question had, in its arguments about the section, lumped the 12 applications together. The language of section 18(2a), involving a 'pattern of conduct', meant that the Ombudsman could view each of the 12 applications as part of an overall 'pattern'.

■ Refusing to deal with an application - Section 18(2a)

- ***An abuse of the right of access or made for a purpose other than for access***

This section provides:

(2a) An agency may refuse to deal with an application if, in the opinion of the agency, the application is part of a pattern of conduct that amounts to an abuse of the right of access or is made for a purpose other than to obtain access to information.

This is an interesting section because the starting point is that applicants do not have to provide any reason whatsoever for making an application under the Act. They do not have to justify their request in any way, because they are exercising a legally enforceable, statutory right to be given access (provided for under section 12), which is unrelated to the merits of the application.

However, by introducing the concepts of 'unreasonableness' and abuse of this right, together with 'ulterior purpose' (sometimes referred to by agencies as 'vexatiousness', although it is important to appreciate that this is not the word used) where an agency provides *some* evidence in support of section 18(1) or 18(2a), applicants would do well to justify their application(s). In legal terms, this is sometimes referred to as an applicant bearing the 'persuasive burden'. This proved a major difficulty for the applicants in the 12 matters.

Because the Act provides such a clear right to access, it is not something to be lightly taken away. Consequently it may not be easy to sustain an argument that an application is part of a pattern of conduct that amounts to an abuse of the right of access, and it is likely to be even more difficult to show an ulterior purpose (because this will probably be mere speculation on the agency's part). That is, you may argue that because the applicant has not disclosed his or her purpose, that this purpose is 'ulterior'. For example an applicant is unlikely to admit that he or she is trying to tie up the agency's resources, even though it may feel like this from your end! Alternatively, while you may assert that the expressed purpose is not the real one, this may be difficult to prove.

■ Patterns of conduct

In the example referred to above 8 of the 12 applications were by the husband and 4 were by his wife. Interestingly, in the particular circumstances of that matter the Ombudsman not only held that the group of 8 and the group of 4 could each form a separate pattern of conduct, but also that the entire 12 could form one pattern. In arriving at this conclusion the Ombudsman looked at each application to see if there was a connection between all 12, other than the fact that they were made by the same two persons, which in this case was both their subject matter and timing (they all occurred within a six week period and effectively deluged the agency).

At about the same time, one of the applicants put in an application for documents relating to an alleged recently occurring assault. The agency quite properly dealt with this application and did not attempt to argue that this was part of the pattern of conduct, partly because it could see that there was a legitimate basis for the application. Significantly, the Ombudsman also held that he could take into account section 18(1) factors such as the impact on the agency's resources, in deciding whether section 18(2a) had been satisfied.

■ Play it again

In this matter, the agency established that, not only was it going to take over 4 months full time work to deal with the applications, but that the applicants had been provided with most of the material now sought in a series of freedom of information applications some 10 years previously. The Ombudsman held that this was the determinative factor in establishing the elements of section 18(2a) and consequently where (and only where) the agency had shown that the applicants had been granted previous access, the Ombudsman held that it would amount to an abuse of the right of access to make the agency deal with the applications.

■ Keep a copy - just in case!

This does not mean that an agency could adopt a blanket policy that it would never entertain a repeat application, because principles of administrative law (which are based on concepts of fairness) dictate that the decision maker must consider each application on its merits. Incidentally, the applicants denied receiving all of the earlier material and it was quite difficult to determine to what extent they had already been provided with the material now sought. It is relevant to note that the wording of the 12 present applications was subtly different from the previous ones. In addition, whilst the agency had kept a copy of the previous applications, it had not retained a copy of the documents provided, which posed some problems. Therefore it may be wise to keep an agency copy of your freedom of information files, if you do not do so already.

■ Non-compliance!

Again the agency had difficulties in that it had not even raised the operation of section 18 until well into the external review stage. Then, when it did, it failed to 'forthwith' give written notice to the applicants under section 18(5) in the format required under section 18(6). However the Ombudsman generally upheld the agency's refusal to deal with the applications even though the agency failed to raise section 18(2a) until well after he had commenced his external review.

■ Tips

If you think that your agency may rely on section 18(1) or (2a), then I strongly suggest that you give prompt notice under section 18(5) and (6). If you need legal advice, then get it quickly, and, if you qualify for an extension under section 14A, then obtain one.

■ The Redford decision

Part of the Ombudsman's rationale in the case of Mr and Mrs White was based on the recent District Court matter of *Redford and the Department of the Premier and Cabinet*, [2005] SADC 58 (1 June 2005), in which the Court held that the Ombudsman possesses a discretion in an external review to consider exemption clauses not even raised by the agency in its initial determination or on internal review. This does not mean that you can leave them out on purpose, and simply rely on the Ombudsman doing the work! For one, the agency will still need to lay the foundations for the application of the section. Secondly, based on the decision in *Redford*, an appellate Court is likely to find that the Ombudsman can also exercise his discretion to not consider other exemptions. What he cannot do is assert that he has no discretion to even consider exemptions not raised.

This case is interesting because the Court examined the Ombudsman's role in conducting an external review and stated that:

It seems to me that the function of the Ombudsman on an external review lies somewhere between the adversarial function of a court and the inquisitorial function of an administrative body.

I turn now to other considerations in dealing with an application.

WHAT ARE AN AGENCY'S 'DOCUMENTS' ANYWAY?

■ Immediate right of access

In order to obtain your agency's documents, you must (a) understand exactly what the application encompasses and (b) satisfy yourself that you have undertaken adequate searches for all documents held by the agency, bearing in mind that this includes any documents in electronic form (including emails) and (pursuant section 4(4) of the Act) that an agency is taken to hold any document that it has an *immediate right of access* to.

■ Case Study 2 - Ms 'Red'

An interesting situation developed in a recently concluded external review which involved an application to a local Council for an environmental report into the feasibility of a property development within the Council's area. Unfortunately, the Council had lost its copy of the report, but the developer had retained a copy. Since the Council had contributed to the payment for the report, the Ombudsman was of the opinion that it had an immediate right of access to it, and directed the Council to exercise this right by obtaining a copy from the developer. However the Council and the developer were involved in an unrelated dispute and the developer refused to 'play ball'.

This was a difficult situation in which the object of the Act was being thwarted, leaving the agency to justify why it could not obtain the document which was (according to the Ombudsman) in its 'possession' for the purposes of the Act.

It is doubtful that the Ombudsman would have expected or could have forced the Council to commence legal proceedings to obtain the report. In addition, while the Ombudsman could have used his Royal Commission powers to obtain the report himself directly from the developer, he was reluctant to invoke such compulsive powers in the circumstances, and in any event could not then have further disseminated the report. Ultimately, after much expense and effort, the Council obtained a copy of the report and provided it to the applicant, who was a ratepayer.

■ Documents - not recollections

The Act deals only with "documents", as defined in the Act. Sometimes people apply for information concerning a discussion or meeting. But the Act could only be used to obtain existing notes, PowerPoint presentations (or audio tapes) of such a meeting - it could not be used to compel an attendee of such a meeting to create a record from memory. Nor could it be used to pose a series of questions (akin to interrogatories in civil law suits) to be answered by persons within the agency, even if they might know the answer from their own departmental experiences.

■ There's always an exception.....

There is, however, an exception to the general rule that an agency does not have to create a new document in response to an application under the Act. Section 4(5) provides that:

Where

- (a) an agency holds information in computer storage; and
 - (b) a particular document is capable of being produced by the computer on the basis so stored,
- the agency is to be taken to hold that document.

I interpret this to mean that an agency would have to, for example, do a 'screen dump' to provide a document for an applicant. What is less clear is to what extent an agency must go to 'produce' or *create* a document for the first time. By way of example, if the Education Department were asked to provide a list of all teachers on contracts in 2004, and that information was held electronically, but a list had to be created by interrogating the data base, then, subject to any section 18(1) arguments and relevant exemption clauses, the agency would, in my opinion, have to produce such a document. Indeed it may be more efficient to create a new document, as opposed to providing the applicant with the raw data that would be a strict answer to their application.

However "an agency would not have to create such a document if it would be necessary to obtain new equipment, or create a new program, to allow it to do so" (see the Office of the Information Commissioner (QLD) - information sheet - meaning of 'document of an agency').

CASE STUDY 3 - MRS 'PURPLE' - 'PERSONAL' EMAILS

■ Don't press that button !

This matter involved an email by an employee of an agency to her niece, in which the employee made some disparaging remarks about her sister (who was her niece's mother). Later, the employee and her niece had a falling out, and the niece showed the email to her mother, who promptly made an FOI application to the agency for any emails by or to the employee which referred to her in any way.

At first the agency simply refused to even locate the emails, arguing that as they were personal emails, they were not the agency's documents. The applicant then approached our office and I spoke to the agency.

The Ombudsman, having considered the agency's own Internet policy, formed the preliminary opinion that the agency had an immediate right of access to the emails, and, consequently, the agency had to obtain and consider them.

This proved acutely embarrassing, as there were a series of gossipy, derogatory emails. After a conference between the parties, the matter was resolved by an apology and a change of the agency's Internet policy. Nevertheless it illustrates the broad scope of documents potentially falling within applications under the Act. The moral of the story is not to assume that personal emails will never be the subject of an application!

BIAS

Note that even though the Ombudsman is an exempt agency under the Act (see Schedule 2) and therefore is not amenable to FOI applications (and some have tried), once we send a letter, email or report out into the world, such a document can fall within the ambit of an application and we would need to be consulted. For this reason I make it a practice to always use formal titles (Mr, Ms and so on) and not be too familiar, even if I know the recipient quite well, as I imagine what it would look like to the applicant. On the question of 'apprehended bias' see the District Court matter of *Tavitian v Public and Environmental Health Council and City of Playford* No. DCAAT-02-278 [2003] SADC 178 (24 December 2003).

■ Consultations

Consultations are provided for under sections 25 to 28 of the Act. Basically, an agency must not give access to a document that contains information concerning the following dot points unless it has reasonably attempted to consult with the effected third parties:

- Inter-governmental or local government relations;
- Personal affairs;
- Business affairs (which is broken down to include information concerning trade secrets, or of other commercial value and information concerning the business, professional, commercial or financial affairs of any person, which would include a corporate entity); and
- The conduct of research.

Of these, personal and business affairs occur the most frequently.

You are only required to take such steps as are reasonably practicable to obtain the views of the person(s) concerned. You are not expected to expend inordinate resources, but more than a token effort would be required. What is 'reasonably practicable' will depend on the particular circumstances of each case, but you should certainly document the efforts that you make. In practice, it should usually be relatively easy to contact a business - but it may be more difficult to locate an individual in his or her private capacity.

Again, the sooner you contact the affected third party the better, and it is often wise to send them a copy of the document(s) in question, in case they no longer have them and also to retain a copy of or a specific reference to what you have sent them. I further suggest that you provide the third party with the opportunity to not just list any relevant exemption clauses, but to provide you with written submissions supporting their claim for exemption, so that you can meaningfully assess their arguments.

Remember that your Principal Officer can grant an extension of time in which to deal with the application on the grounds that it will not be reasonably practicable to complete the consultations within the 30 day period, and, if there is to be an extension, written notice must be given to the applicant within 20 days.

■ Reverse FOI?

Just because a third party objects to disclosure does not mean that it should not be released. You need to weigh up any arguments in making your determination. When an affected third party objects to an agency's decision to release documents, it is sometimes referred to as a 'reverse freedom of information' application. In such situations, the agency is effectively on the original applicant's 'side' and the Ombudsman would seek the main report from the third party.

Where third parties are involved the documents should not be released to the applicant until the time limit for the third parties to exercise their review/ appeal rights has expired. In saying this, allowance should be made for the postal system (note section 47 of the Act in this regard).

■ Amendments

Less frequently you may find yourself dealing with an application to amend records, which is dealt with in sections 30 - 37 of the Act.

Effectively, an agency *must* agree to amend its records unless:

- its records are not incomplete, incorrect, out-of-date or misleading in a material respect; or
- the application to amend contains matter that is incorrect or misleading in a material respect; or
- procedures for amending its records are provided for under another Act or regulations.

■ Case Study 4 - Mr 'Green'

This was a matter in which the applicant had previously obtained access through the Act to a large number of documents (over 1400 pages) held by the agency relating to him, much of which involved his own correspondence and the agency's replies. In this matter, the applicant objected to the agency, who was also his employer, having these records on his personal file, as he claimed that the correspondence had been sent to the agency in his capacity as a private individual, and not an employee. Consequently he sought to have a wide range of the documents removed, or, failing that, 'amended', usually by deleting most or all of their contents.

This raised interesting questions such as whether:

- Documents could be 'removed' from agency's files by using the Act?
- Alternatively, could documents be amended under the Act to such an extent that they are in effect deleted?
- Was it 'misleading' for the purposes of the amendment of records section of the Act, for the agency to hold correspondence written by the applicant in his capacity as a private individual and not as an employee of the agency?

The Ombudsman noted that the amendment sections of the Act are more readily applied in a situation where the applicant can point to a clear-cut error or misinformation, for example an incorrect date or name. Once more complex, subjective issues are introduced, it becomes more difficult to apply.

For example, one of the documents that the applicant objected to was a letter of complaint against him by a number of people. The agency had not proceeded to make a finding in respect of the assertions, but the applicant strongly denied any allegation of wrong doing. On this point, the Ombudsman held that the letter was one of complaint only, and did not of itself prove anything. Its existence in the agency's holdings did not mean that the substance of the complaint was correct, rather, it merely recorded the nature of the complaint. The applicant was invited to place his response to the complaint on the agency's records.

The Ombudsman then found that:

- The Act provided for the amendment and not the destruction or removal of documents.
- Whilst it is possible to order that a thick black line be put through offending words, since the applicant is maintaining that entire documents are incorrect, the practical result of the placement of a heavy black line over the material would be to effectively provide for the de facto destruction of the records in question, which would not be appropriate.
- Although, by virtue of section 48 of the Act, the burden of justifying the agency's determination rests with the agency, where a person is applying for the amendment of records, he or she bears an evidentiary onus to provide some measure of evidence in support of the amendment.

■ Misleading

Interestingly as pointed out above the applicant argued that it was misleading for the agency to hold letters on his 'file' that he had written to the agency (he said) in his capacity as a private citizen, because they could be used against him in the agency's dealings with him as an employee. This was unusual, because the applicant was really arguing that although the letters sent by and to him (for example relating to the people's complaints) did not contain inaccuracies, their mere presence on his file was misleading and prejudicial.

The Ombudsman held that the applicant failed to appreciate that simply because the agency *as a whole* held documents relating to him (such as correspondence from him or investigations into complaints about him), such documents are not necessarily held on his 'personnel' file or capable of being accessed to his detriment by officers of the department dealing with the question of his employment. That is, the Ombudsman examined the agency's file management system and considered who had access to different documents relating to the applicant, to see if there could be any way that the applicant's allegation about mistreatment by the agency (which was his underlying complaint) on the basis of its holdings, could be sustained.

The Ombudsman concluded that the applicant had produced evidence that one specific document was incorrect and/or inaccurate and the Ombudsman directed that part of that document be amended.

■ Notations

A really good option is to invite the applicant to provide a notation, as provided for in section 37. This can be a compromise, because it is all based on the applicant's subjective opinion. Note, however, that unfortunately, this section only applies once an agency has refused to amend its records.

Rather than fight it out - when the reality is that only the applicant will probably ever look at these holdings, consider whether you can agree that the records are 'incomplete' to the extent that they do not contain the applicant's version, and simply 'amend' them by adding his or her account.

SUFFICIENCY OF SEARCH

Our office has had a number of reviews relating to assertions by an applicant that the agency has documents in its possession which it could, or would not find.

■ Case study 5 - Ms 'Blue'

In another matter, an employee of an agency (a clerical officer) insisted to the Ombudsman that the agency held a voluminous personnel file on her, but that it only admitted to having a relatively small one, all of which it had handed over. Freedom of information requests such as these relate to the question of the 'sufficiency of search' by the agency.

■ How far do I search ?

You need to decide how far to go in being satisfied that the agency has searched sufficiently for the document(s), bearing in mind that you, or other officers from your agency, may have to swear affidavits and even face cross examination on oath, if the matter is appealed or reviewed.

Such an assertion by an applicant can involve serious allegations of impropriety or conspiracy theories, including against you, as the freedom of information officer making the determination.

In the case study, due to the applicant's firmly held beliefs, I personally questioned all officers who had conducted searches, attended the agency to look over their systems and randomly accessed its computer to see what type of records were routinely held on other employee's personnel files. I then held a settlement conference, at which the applicant could hear the agency's explanation first hand.

As the Ombudsman stated in this matter:

The applicant asserts that the agency has documents in its possession which it (through the conduct of its officers) is knowingly withholding from her, and, in doing so, is blatantly disregarding its obligations under the FOI Act. This distinguishes the present matter from common external reviews, where the dispute relates to the release of documents rather than whether they exist and are held by an agency.

The basic issue for determination is whether the respondent agency has discharged its obligation, which is implicit in the FOI Act, to locate and deal with ... all documents of the agency ... to which access has been requested.

The Ombudsman stated that the two relevant questions in such cases are:

(a) whether there are reasonable grounds to believe that the requested documents exist and are documents of the agency ...

and if so,

(b) whether the search efforts made by the agency to locate such documents have been reasonable in all the circumstances of a particular case.

In this matter the Ombudsman upheld the agency's determination, on the basis that although the applicant sincerely believed that the documents existed, such a belief was unreasonable and she had failed to produce any reason as to why the agency would have such documents, and then withhold them.

■ Case study 6 - Mrs 'Orange'

In another matter, the applicant sought a hospital's case notes relating to her late husband's medical treatment. Unfortunately the hospital had lost these notes and the applicant suspected that the treating Doctor was withholding them to cover up his or her negligent treatment of her husband.

In this matter, I questioned the hospital's freedom of information officer as well as obtaining a report and its entire FOI file, but I did not personally examine the hospital's system.

The Ombudsman concluded that in order for a member of the hospital's medical staff to deliberately hide or remove the records (which had been moved off site for storage with Brambles) he or she would have had to involve members of the hospital's own records section, who would have had little motive to assist and who would have run the risk of detection and instant dismissal.

Whilst the applicant held a genuine belief of a conspiracy by the hospital and one or more of its employees, there was no credible basis to find other than that the agency had fulfilled its obligation to conduct all reasonable searches and inquiries to locate the requested documents.

These can be difficult matters to deal with and again, it is best to spell out to the applicant in some detail the steps that you have gone to in attempting to locate the documents, and perhaps even the systems in place for storage and retrieval. This may prevent a review or appeal. This is particularly so where the agency has lost the documents in question.

WRITING A DETERMINATION

When you make a determination, you are exercising a statutory power. This places determinations within the province of administrative law, with certain consequences. The underlying principle of administrative law is that of 'procedural fairness', achieved through applying various 'rules', natural justice (hearing both sides), taking into account relevant considerations, not taking into account irrelevant considerations, not being biased, and so on.

■ Explain yourself!

This is why it is so important that you provide adequate reasons for your decision. The primary aim of your written determination is to explain to the applicant your reasons for making the actual determination. When a person has read your determination, he or she should be completely clear about why it was made.

■ The cone of silence

The only exception to this is if the determination is to refuse access to a document and to put the full explanation into the written determination would make the written determination itself exempt, because it would disclose exempt matter. See section 23(4) of the Act, which reads:

an agency is not required to include in a notice [i.e. the written determination] any matter if its inclusion would result in the notice being an exempt document.

The second aim of your written determination is to justify your determination to the Ombudsman or the District Court.

An agency may alter the grounds on which it claimed exemption, even at the internal or external review stage. However, this should be the exception rather than the rule. It is always preferable to get it right the first time!

If the applicant applies to the Ombudsman for an external review of your determination, the Ombudsman almost always asks for a 'detailed report'. This report usually has to include everything that a good determination would. You may think, why go to all this trouble if the applicant might not seek a review or appeal? The answer is not only does the Act require it (it is implicit in section 23(f)), but the better the explanation in your determination, the more likely the applicant will understand and accept it (even though they would have preferred to obtain the document(s)).

■ Be ready to swear

If the applicant applies straight to the District Court for external review of your determination, you will basically have to explain it to the Court. Freedom of Information appeals in the District Court are conducted by way of affidavit. This means that someone in your agency will be asked to swear or affirm an affidavit that sets out all of the relevant details about the application, i.e. what the applicant sought, whether any documents were found and what the determination was. The written determination will be annexed to the affidavit and the Judge will read it.

Set out below is a list of things that you can achieve with a good set of reasons and the trouble that inadequate reasons can cause.

The Act places decision-makers under a duty to give reasons. One can assume that Parliament intended to promote all the good things set out below and to minimise the negatives!

■ A proper statement of reasons:

- Explains the grounds for the determination.
- Promotes transparency of decision-making.
- Ensures better quality decisions - stating all relevant considerations shows that the decision-maker did not take into account irrelevant considerations.
- Promotes the existence of a proper decision-making process in an agency.
- Shows that the decision-maker was neither biased nor acted arbitrarily.
- Enables the person affected to understand why a decision was made and the process applied in reaching the decision, and, on that basis, to determine whether he or she should challenge the decision and how to do so.
- Assists a decision-maker reviewing the decision to identify quickly what was decided and why.
- Serves as a firm basis for defending an appeal or providing a report to the Ombudsman.

Qu : *What do you think re the consequences of a bad statement of reasons?*

An inadequate statement of reasons can have the following consequences:

- Encourages poor decision making.
- The person affected fails to understand the real basis of the decision and may unnecessarily seek review of the decision.
- The person affected feels that their request was not taken seriously, and becomes disillusioned.

THE ELEMENTS OF A SECTION OR CLAUSE

The word *element* is used by lawyers to describe all of the different parts of a cause of action, a section of an Act or a clause of a Schedule to an Act.

For example, to prove the crime of murder, the prosecution has to prove both of the *elements* of the offence of murder. They are that:-

- the accused person performed the act that resulted in the victim's death
and
- that when the accused person performed that act, he or she intended to kill the victim.

If the prosecution leaves out one of the *elements* of the crime, the jury would have to acquit.

The Act is comprised of sections and clauses. Many of the sections and clauses have more than one *element*. To comply with such a section or clause you must address each *element*. If you do not, your determination will be, for want of a better phrase, overturned.

We will look closely at the elements of section 23 later in the workshop, for now, I will just take you through the elements of clause 6(1) of Schedule 1 of the Act (Schedule 1).

■ The elements of clause 6(1) of Schedule 1 of the Act

Clause 6(1) reads:-

A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

The *elements* of clause 6(1) are:

1. that the document contains "information concerning personal affairs" of a person;
and
2. it would be "unreasonable" to disclose that information.

To make a determination that a document is exempt under clause 6(1), you must decide whether there is evidence to support a claim for exemption under the clause.

In this clause, as with many, the elements are a combination of fact and opinion. The nature of the information in a document is a fact, i.e. it's about personal affairs or it isn't. The question of whether it's 'unreasonable' to disclose it cannot be determined by facts; it's a matter opinion. In this situation, you have to find out what the facts are and base your opinion on them.

Say for example you have a document that contains information about Mr X's financial affairs.

In deciding whether it was exempt or not, you would read the document and see that it contains information about financial affairs. You remember that section 4(1) of the Act says that the phrase 'personal affairs' includes information about a person's financial affairs. You would then say that element 1 can be proved or justified.

Next you would ask yourself whether it is reasonable or 'unreasonable' to disclose the financial affairs. As mentioned, that is a matter of judgment, but there may still be facts that can help you form a judgment. You should find out how your agency came into possession of the information. Whether Mr X had any expectations that it would be kept confidential and so on.

There is a case that can help you form a judgment on the question of unreasonableness. It is *Re Chandra and Department of Immigration and Ethnic Affairs*, (1984) 6 ALN N257. In *Re Chandra*, the Commonwealth Administrative Appeals Tribunal said that decision-makers should consider all the circumstances regarding the document, including:

- the nature of the information to be disclosed;
- the circumstances in which the information was obtained;
- the likelihood of the information being information that the person concerned would not wish to have disclosed without consent; and
- whether the information has any current relevance.

You know that disclosure of a document under the Act to a particular person is in effect the same as disclosure of that document to the entire world (see *Re Williams and Registrar, Federal Court of Australia*, (1985) 8 ALD 819).

When you put that knowledge alongside the factors set out in *Re Chandra* you may decide that it is unreasonable to disclose the information.

A determination based on the above might look like this:

I have determined that the document which you seek access to is exempt under clause 6(1) of Schedule 1 of the FOI Act. Clause 6(1) reads:

A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

The document contains information about a person's financial affairs. By virtue of section 4(1) of the FOI Act, information about a person's financial affairs is part of their 'personal affairs'.

In my opinion, it is unreasonable to disclose the document to you. In forming my opinion, I considered the principles contained in two legal decisions and the facts relevant to this document.

The legal decisions are *Re Williams and Registrar, Federal Court of Australia*, (1985) 8 ALD 819 and *Re Chandra and Department of Immigration and Ethnic Affairs*, (1984) 6 ALN N257. Copies of these decisions are enclosed for your information.

The principle in *Re Williams* is that disclosure of a document under the FOI Act is in effect disclosure of that document to the entire world.

The principle in *Re Chandra* is that in deciding whether disclosure is unreasonable, I should consider all the circumstances regarding the document, including:

- the nature of the information to be disclosed;
 - the circumstances in which the information was obtained;
 - the likelihood of the information being information that the person concerned would not wish to have disclosed without consent; and
 - whether the information has any current relevance.
1. In forming my opinion I considered the factors set out in *Re Chandra and Department of Immigration and Ethnic Affairs*, (1984) 6 ALN N257. *Re Chandra* has been approved by the South Australian District Court in several matters and so I am entitled to rely upon it in making my determination.
 2. The nature of the information, i.e. financial affairs, is such that it is inherently confidential. People rarely make their financial affairs public and government agencies dealing with information about people's financial affairs are almost always required to treat it confidentially. Support for this assertion exists in the confidentiality provisions in the legislation under which government agencies obtain financial information.
 3. The agency obtained the information in circumstances that suggest that it would be unreasonable to disclose the information. Those circumstances are
 4. I consider that it is highly likely that the person concerned would not wish to have the information disclosed without his or her consent because it is about his or her financial affairs and is very detailed. In my opinion, it is unreasonable for this information to be disclosed to all the world.

If your determination on clause 6(1) sets out all of the above it would be pretty close to perfect. What you are doing is applying the elements of the claimed exemption clause(s) to the document or particular parts of the document. The applicant, the Ombudsman or the District Court might ultimately disagree that all of the factors add up to a determination that it is unreasonable to disclose the information, but they could not complain about the determination itself, bearing in mind that the District Court can only vary your decision to exempt documents if there are cogent (or good) reasons to do so. Your determination would therefore have fulfilled all of the purposes of giving reasons.

■ Other Determinations

Other determinations under the Act include:

A refusal to continue to deal with an application because the requested payment of the advance deposit was not made within the specified period (section 18(8), based on section 18(3)) and a determination concerning fees and charges.

■ Case study 6 - Ms 'Pink'

This matter involved an application to a local Council for access to all neighbourhood complaints made against the applicant, including the names of any complainants.

The Council argued that the identity of the complainant(s) was exempt under clause 13(1)(a) which provides that:

A document is an exempt document if it contains matter the disclosure of which would found an action for breach of confidence.

The elements for this clause are those factors upon which one could found an action for breach of confidence. Note that 'found' does not mean that you must be satisfied that a party would win an action. Rather, the test is whether one could commence one.

The Ombudsman held that the following four requirements must be met by the agency in order to claim clause 13(1)(a) as a basis for refusing access to the documents. Should any of these requirements not be satisfied, an action for breach of confidence will not lie and reliance upon the clause as a basis for withholding access to the documents under clause 13(a) will not be justifiable.¹

- 1 The information in issue in the document must be specifically identifiable and ascertainable;
- 2 The information in issue must possess a "necessary quality of confidence". It must possess a degree of secrecy or inaccessibility sufficient for it to be the subject of an obligation of confidence, arising from the circumstances in or through which the information was communicated or obtained;
- 3 The information in issue must have been communicated by the confider in such circumstances as to fix the confidant with an equitable obligation of conscience not to use the confidential information in a way that is not authorised by the confider.
- 4 It must be established that disclosure would constitute a misuse, or unauthorised use of the confidential information in issue, and be to the detriment of the confider.²

In respect of the document in issue, the agency had merely stated that disclosure of the document would "probably" be a breach of confidence because of the circumstances in which the information was provided to the agency. It did not provide any further details and the Ombudsman held that such a bald, unsupported assertion is not enough to satisfy the agency's burden under section 48.

• Clause 13(1)(b)

The agency also claimed clause 13(1)(b), which provides that:

A document is an exempt document if it contains matter obtained in confidence the disclosure of which might reasonably be expected to prejudice the future supply of such information to the Government or to an agency and would, on balance, be contrary to the public interest.

¹ *B v Brisbane North Regional Health Authority* (1994) 1 QAR 279

² It is not clear whether it is essential to establish that detriment is likely to be occasioned to the confider as a result of the unauthorised use. The cases show, however, that detriment is easily established.

The Ombudsman held that each element of clause 13(1)(b) must be satisfied in order for a document to be exempt from disclosure under the Act, and consequently the agency must satisfy him that the claimed exempt documents;

- *contain matter obtained in confidence;*
- *the disclosure of such matter might reasonably be expected to prejudice the future supply of such information to the Government or to an agency; and*
- *the disclosure of such matter would, on balance, be contrary to the public interest.*

In respect of the documents in question, the agency had merely stated that “*It was determined to refuse to allow access to the document as disclosure would disclose the identity of ‘x’ which it was determined would, on balance, be contrary to the public interest and probably a breach of confidence as to the circumstances in which ‘x’ provided the information to council.*” The Ombudsman held that in his opinion such an assertion, made as it was without evidentiary support, was not enough to overcome the agency’s onus under section 48.

In particular, no evidence was provided, nor argument presented, that disclosure of the document might reasonably be expected to prejudice the future supply of such information to the Government or to an agency. In addition, nothing was put forward to illustrate that a balancing process was undertaken in relation to the public interest component of clause 13(1)(b), and even the claim that disclosure would result in a breach of confidence was qualified by the word “probably”.

■ Dob ins

In complaint or ‘dob in’ matters, there is an inherent tension in weighing up the public interest factors - on the one hand, wanting to encourage the making of complaints by protecting anonymity, and on the other, by providing natural justice by the person complained of knowing the case against him or her.

The necessary balance will often be achieved by providing the substance of the complaint, but not the name of the complainant. The problem is where providing the substance of the complaint will necessarily identify the complainant. Clause 6 is often used in such instances.

CLAUSE 9

■ Case Study - Mr ‘Brown’

This interesting and topical matter involved an application by a journalist for access to ‘The written response of DPP Paul Rofe, QC, to the draft findings of Solicitor-General Chris Kourakis, QC, on the matter of Paul Nemer and associated issues.’

The relevant agency, the Attorney General’s Department, claimed exemption under clause 9, the ‘internal working documents’ exemption, sometimes called the ‘deliberative process’ exemption.

Clause 9(1) provides:

Internal working documents

9. (1) A document is an exempt document if it contains matter—

- (a) that relates to—
 - (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (ii) any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and
- (b) the disclosure of which would, on balance, be contrary to the public interest.

This clause is sometimes said to relate to the ‘pre-decisional’ thinking processes of an agency. It is designed to encapsulate the processes of evaluating relevant evidence, arguments and options and includes contributions to the formulation of policy, or the making of decisions under statutory powers.³

³ Office of the Information Commissioner (QLD) - information Sheet - the ‘deliberative process’ exemption.

Consequently “The purely procedural or administrative processes of an agency are not part of the deliberative processes (eg processing forms, paying accounts, publishing information, carrying out inspections).”⁴

In practice, however, the scope of clause 9(1)(a) is extremely wide, as the matter need only ‘relate to’ any ‘opinion, advice or recommendation’ or ‘any consultation or deliberation’ that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency.

In this sense, it is relatively easy to satisfy the elements of clause 9, and consequently this is quite a popular clause, although it must be noted that a document is not exempt under this clause if it merely consists of matter that appears in an agency’s policy document or of factual or statistical material.

The expansive scope of this clause is, however, diminished by subclause 9(1)(b), that is, that disclosure would, on balance, be contrary to the public interest. We will now consider this important test.

THE PUBLIC INTEREST BALANCING TEST

Another area in which agencies could at times improve their determinations is where the exemptions include an element that disclosure of the exempt matter ‘would, on balance, be contrary to the public interest’, for example clauses 4(2) (law enforcement); 5 (inter-governmental relations); 7(1)(b) and (c) (business affairs); 9 (internal working documents) and 14 (economy of the State).

What constitutes ‘the public interest’ is not defined in the Act. In the District Court case of *Ipex Information Technology Group Pty Ltd v Department of Information Technology Services SA* (*Ipex*) his Honour Judge Lunn outlined the responsibility of an agency arguing clause 9(1)(b):

- This does not mean merely showing that there is something adverse to the public interest likely to flow from disclosure of the document, but that **on balance** the factors in the public interest against disclosure outweigh the factors in favour of disclosure. [my emphasis]

The practical effect of this balancing process is that an agency must weigh up and consider the relative merits of the competing public interest factors for and against disclosure. This process reflects the underlying tension in determining the ‘public interest’, the fact that there not only exists a public interest in the effective and efficient workings of representative government, but also a countervailing interest in ensuring just administration and accountability within such government, including the public’s ability to scrutinise public administration.

Where an agency fails to meaningfully weigh up such factors, it will not have discharged its burden under section 48 of the Act. What sometimes occurs, however, is that the agency stresses the reasons why disclosure would be adverse to the public interest, but pays little regard to the factors in favour of disclosure. Sometimes it fails to mention them. At other times the decision maker states that he or she has considered ‘the arguments’ in favour of disclosure, but fails to list them. This will not be enough.

Arguments to consider in favour of disclosure will be:

- Open, accountable and transparent government.
- Open, accountable and transparent decision making.
- Promoting informed public debate.
- Promoting critique and analysis of the performance of Government.

arguments against disclosure may be:

- Loss of frankness and candour

⁴ *ibid.*

■ Returning to the case study - Mr 'Brown'

The real question in issue was whether disclosure of the minute would, on balance, be contrary to the public interest. The applicant argued that the controversy surrounding the Nemer case, the operation of the Office of the DPP and the performance and resignation of Mr Rofe QC meant that disclosure of the document was very much in the public interest, particularly as Mr Rofe QC now agreed to the release of the document, which, it was argued, would allow the public to hear his side of the 'story'.

The Ombudsman was not satisfied that a different determination should have been made in the circumstances of the case and upheld the agency's refusal to disclose, and specifically took into account three factors. Firstly, the Ombudsman noted that the document in question was a minute commenting on a draft final report by the Solicitor-General and that it would defeat the purpose of making submissions on a draft report that resulted in changes to the final published document if those submissions were themselves made public at a later date. Secondly, the Ombudsman noted that both Mr Rofe QC and the Office of the DPP had had the opportunity to comment on the final report of the Solicitor-General. Thirdly, Mr Rofe was able to 'put his side of the story' in other for a irrespective of whether the minute was released into the public domain. Mr Rofe's attitude to the release of the minute was but one factor amongst others to be considered by the Ombudsman.

COMPLYING WITH THE ELEMENTS OF SECTION 23 OF THE FOI ACT

- In my experience, easily the most common mistake in making a determination is the failure to sufficiently comply with section 23(2)(f) of the Act, which provides, amongst other things, that a notice of determination must specify the reasons for the refusal, including the grounds for the refusal under section 20(1), the particular provision of Schedule 1 by virtue of which the document is an exempt document; and
- if, under the provision disclosure of the document must, on balance, be contrary to the public interest in order for the document to be exempt, the reasons why disclosure of the document would be contrary to the public interest; and
- the findings on any material questions of fact underlying the reasons for the refusal, together with a reference to the sources of the information on which those findings are based.

Often an agency will simply recite an exemption, or a number of them, claiming that they 'apply' to an entire document (or a number of documents) and provide few if any reasons for their application to the matter at hand. This not only fails to comply with the requirements of the section, but it also does little to enable the applicant to assess the merits, or otherwise, of seeking an internal or external review.

The elements of section 23.

Element 1

Section 23(1) says, *an agency must notify an applicant in writing-*

- (a) *of its determination of his or her application; or*
- (b) *if the application relates to a document that is not held by the agency-of the fact that the agency does not hold such a document.*

This subsection means that you must write to the applicant and explain your determination, whatever it is, i.e. whether it is:-

- granting access in full
- refusing access in full or in part
- that your agency does not hold the documents

If your determination is that you are granting access in full, you cannot just ring the applicant and say, "The documents are all ready for you. Come in and collect them".

Subsection 23(2) says that the notice, i.e. your written determination, *must specify-*

Element 2

- (a) *the day on which the determination was made; and*

Element 3

- (b)-
 - (i) *the name and designation of the officer by whom the determination was made; and*

Element 4

(ii) *the rights of review and appeal conferred by this Act; and*

Element 5

(iii) *the procedures to be followed for the purpose of exercising those rights; and*

In my view elements 2, 3 and 4 do not have to be contained in one formal paragraph, as long as they are all in the written determination. For example, the day on which the determination was made can be taken to be the date of the written determination. Also, the review rights could simply be placed at an appropriate place in the written determination or at the end.

A “material question of fact” is a fact that is relevant to the clause of exemption claimed.

A “finding on a material question of fact” is a conclusion reached by the decision-maker on factual issues that are relevant to the final decision. They are the issues required to establish the factual basis for a decision to refuse access to a document or to refuse to amend records etc” (*NSW FOI Procedure Manual*, Second Edition at 4.10.6).

■ Case study 7 - Mr Black

The final example is a recent matter, in which a local government council argued that because it had held a special council meeting ‘in camera’ (pursuant to section 90 of *the Local Government Act 1999*) and had passed a resolution rendering the minutes of this meeting ‘confidential’, (pursuant to section 91 of that Act) such minutes were exempt under the ‘internal working documents’ exemption in clause 9(1) of Schedule 1 to the Act.

However the Ombudsman found that whilst such orders under the *Local Government Act* were factors to be taken into account in an external review when deciding whether release of the minutes was, on balance, contrary to the public interest, they were not in this instance determinative. That is, confidentiality orders will not make the minutes or attached documents exempt matter under the Act.

CLAUSE 10 - DOCUMENTS SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

This clause provides that:

(1) A [document](#) is an [exempt document](#) if it contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.

(2) A [document](#) is not an [exempt document](#) by virtue of this clause merely because it contains matter that appears in an [agency's policy document](#).

The High Court in the decision of *Esso Australia Resources Limited v The Commissioner of Taxation ('Esso')* [1999] HCA 67, broadened the operation of legal professional privilege to encompass the ‘dominant purpose test’. This test provides that legal professional privilege attaches to confidential communications between a client and his or her solicitor, which have been brought into existence for the dominant purpose of seeking or giving legal advice; or a confidential communication made for the dominant purpose of use, or obtaining material for use in pending or anticipated legal proceedings.

Be wary about quoting or even referring to legal opinions as a basis for claiming other exemption clauses, as it may be that, arguably, the privilege has been waived and procedural fairness dictates that the opinion be disclosed to the applicant. (See *Bennett v Chief Executive Officer of the Australian Customs Service* - Full Federal Court 25 August 2004 - BC200405409.)

CONSIDER PARTIAL RELEASE

Finally, Consider whether you can provide some of the material sought. In my opinion, despite the wording of section 20(4) of the Act, it is a requirement that the agency consider partial release in every case. Such a duty is often overlooked. It is often easy to isolate exempt matter and provision of the balance will often satisfy the applicant without the need for review or appeal.

CONCLUSION

We now live in a 'post modern', Internet savvy world, the so-called 'global village', in which information in all its aspects, including that held by government, is becoming more freely available. This flow will only increase, as the more access to information people have, the more articulate they become and the more they expect, even demand..

So, as FOI officers, whether you are dealing with an application, making a determination, drafting an internal review, writing a report for the Ombudsman or swearing an affidavit for the District Court, you are playing an important role in this significant field of law, which will continue to grow in relevance to our society.



— Statistical reports

- Freedom of Information
- Government Department
- Other Authorities
- Local Government Councils
- Public Hospitals and Health Services

FREEDOM OF INFORMATION
Summary of outcomes of enquiries and reviews finalized from 1 July 2004 to 30 June 2005

	Agency Process Corrected	Complaint Not Sustained	Determination Confirmed	Determination Revised by Agency	FOI Advice Given	No jurisdiction to proceed	Revised Determination Directed	Withdrawn	Total
Adelaide Hills Health Service					1				1
Alexandrina Council					2	1	1		4
Architects Board of South Australia			1				1		2
Attorney-General's Department			2		4	2			8
Board of Examiners (Law Society)						1			1
Central Northern Adelaide Health Service					24	1	1		26
Children, Youth and Women's Health Service					2	1			3
City of Adelaide					1				1
City of Charles Sturt					4				4
City of Holdfast Bay					1				1
City of Norwood, Payneham & St Peters					1				1
City of Onkaparinga					2				2
City of Port Adelaide Enfield					2			1	3
City of Tea Tree Gully							1		1
Commissioner for Equal Opportunity			1						1
Corporation of the City of Adelaide			1		2	1	2		6
Corporation of the City of Unley					2				2
Corporation of the Town of Walkerville					2				2
Country Fire Services Board			1		6				7
Courts Administration Authority					3				3
Dental Board of South Australia			1		2				3
Department for Correctional Services				3	9	1	1	1	15
Department for Environment and Heritage				1	2				3
Department for Families and Communities	1	1			14	1			17
Department of Admin and Information Services			1	1	4	1	2	1	10
Department of Education & Children's Services			6		11	1	1		19
Department of Health			1	1	5				7
Department of Human Services			1	1			2		4
Department of Primary Industries & Resources				1					1
Department of the Premier and Cabinet				1	1		1		3
Department of Transport & Urban Planning				1	3			1	5
Department of Treasury and Finance			4		1				5
Dept of Further Education, Employment, Science & Technology					1				1
District Council of Yankalilla					1				1
Environment Protection Authority				1	8			1	10
Flinders University Council					5				5
Gawler Health Service Inc					1				1
Guardianship Board					1				1
Institute of Medical & Veterinary Science					2				2
Legal Services Commission					1				1
Medical Board of SA					5				5
Metropolitan Domicillary Care			1						1
Mid Murray Council			1		2			1	4
Mid-West Health Services				1					1
Minister for Emergency Services				1					1
Minister for Industrial Relations			3						3
Minister of Health					1		1		2
Mt Gambier & Districts Health Service Inc					1				1
North Western Adelaide Health Service			1						1
Northern Metropolitan Community Health Service					1				1
Nurses Board of SA				1	4	1		1	7
Police Complaints Authority					1				1
Public Advocate					2				2
Public Trustee					1				1
Regional Council of Goyder			4		4	1	3		12
Registrar of Nurses Board				9				1	10
Renmark Paringa Council					1		3		4
Renmark Paringa District Hospital Inc					1				1
Royal Adelaide Hospital					1				1
RSPCA Inspector					1				1
Rural City of Murray Bridge							1		1
SA Ambulance Service					2				2
SA Housing Trust					3				3
SA Superannuation Board					1			1	2
SA Water Corporation				1	3			1	5
Southern Adelaide Health Service					7				7
The Berri Baramba Council					1				1
The Corporation of the City of Whyalla					3				3
The District Council of Mallala					1				1
The Treasurer								1	1
University of Adelaide Council	1								1
Whyalla Hospital and Health Services Inc.					1				1
WorkCover Corporation				4	6		3		13
Total	2	1	31	27	185	13	24	11	294

FREEDOM OF INFORMATION
Summary of outcomes of enquiries and reviews finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
Adelaide Hills Health Service		
063457	Advice requested	FOI Advice Given
Alexandrina Council		
060978	Application for review of determination	FOI Review - Revised Determination Directed
064176	Advice requested regarding agency	FOI Advice Given
064177	Advice requested regarding agency	FOI Advice Given
064675	Application for review of determination	FOI Review - No jurisdiction to proceed
Architects Board of South Australia		
062055	Application for review of determination	FOI Review - Revised Determination Directed
062159	Application for review of determination	FOI Review - Determination Confirmed
Attorney-General's Department		
062693	Application for review of determination	FOI Review - Determination Confirmed
062798	Application for review of determination	FOI Review - No jurisdiction to proceed
062942	Application for review of determination	FOI Review - Determination Confirmed
063541	Advice requested	FOI Advice Given
063542	Advice requested	FOI Advice Given
065282	Advice requested	FOI Advice Given
065403	Failure to obtain documents under Freedom of Information	FOI Review - No jurisdiction to proceed
066442	Advice requested regarding protocols/procedures	FOI Advice Given
Board of Examiners (Law Society)		
063704	Application for review of determination	FOI Review - No jurisdiction to proceed
Central Northern Adelaide Health Service		
063209	Advice regarding negligence by hospital	FOI Advice Given
063356	Application for review of determination	FOI Review - No jurisdiction to proceed
063478	Advice requested	FOI Advice Given
063585	Advice requested	FOI Advice Given
063613	Advice requested	FOI Advice Given
063778	Advice regarding release of documents	FOI Advice Given
063891	Application for review of determination	FOI Review - Revised Determination Directed
064084	Advice requested regarding access to documents	FOI Advice Given
064143	Advice requested	FOI Advice Given
064300	Advice requested	FOI Advice Given
064303	Advice requested regarding files	FOI Advice Given
064355	Advice regarding internal review	FOI Advice Given
064701	Advice regarding obtaining personal records from agency	FOI Advice Given
064917	Advice requested regarding obtaining documents through FOI	FOI Advice Given
064998	Advice requested regarding exact wording	FOI Advice Given
065001	Advice requested regarding obtaining documents	FOI Advice Given
065098	Amendment to records	FOI Advice Given
065159	Advice requested regarding information withheld	FOI Advice Given
065737	Advice requested regarding audit of agency under FOI Act	FOI Advice Given
065848	Advice requested on how to lodge Freedom of Information forms	FOI Advice Given
065940	Advice requested regarding claimed protection under the Whistleblowers Act	FOI Advice Given
065952	Advice requested regarding her medical notes for a hospital	FOI Advice Given
066440	Advice requested regarding Freedom of Information procedures	FOI Advice Given
066523	Advice requested regarding breach of privacy	FOI Advice Given
066587	Advice requested regarding no reply to FOI request	FOI Advice Given
066626	Advice regarding obtaining complete medical records	FOI Advice Given
Children, Youth and Women's Health Service		
063272	Application for review of determination	FOI Review - No jurisdiction to proceed
065963	Advice requested on how to lodge a FOI application	FOI Advice Given
066251	Advice requested	FOI Advice Given
City of Adelaide		
063496	Advice requested	FOI Advice Given
City of Charles Sturt		
063721	Advice requested	FOI Advice Given
065643	Advice requested regarding reports commissioned by the Council	FOI Advice Given
065712	Advice requested regarding minutes of a Council meeting	FOI Advice Given
066441	Advice requested regarding obtaining documents from agency	FOI Advice Given
City of Holdfast Bay		
066391	Advice requested regarding Council minutes	FOI Advice Given
City of Norwood, Payneham & St Peters		
063603	Advice requested	FOI Advice Given
City of Onkaparinga		
064925	Advice requested regarding obtaining details from agency	FOI Advice Given
066799	Request for information	FOI Advice Given

FREEDOM OF INFORMATION
Summary of outcomes of enquiries and reviews finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
City of Port Adelaide Enfield		
061559	Application for review of determination	FOI Review - Withdrawn
063719	Advice requested regarding a property issue	FOI Advice Given
065591	Advice requested regarding FOI determination	FOI Advice Given
City of Tea Tree Gully		
061706	Application for review of determination	FOI Review - Revised Determination Directed
Commissioner for Equal Opportunity		
062692	Application for review of determination	FOI Review - Determination Confirmed
Corporation of the City of Adelaide		
062995	Application for review of determination	FOI Review - Revised Determination Directed
062996	Application for review of determination	FOI Review - No jurisdiction to proceed
063480	Application for review of determination	FOI Review - Revised Determination Directed
063748	Application for review of determination	FOI Review - Determination Confirmed
065151	Advice regarding clause 13 and government contracts	FOI Advice Given
065639	Advice requested regarding obtaining exempt documents	FOI Advice Given
Corporation of the City of Unley		
064416	Advice requested regarding dog attack/infringement notice	FOI Advice Given
064554	Advice requested	FOI Advice Given
Corporation of the Town of Walkerville		
065222	Advice requested regarding access to information from Council	FOI Advice Given
065777	Advice regarding 2 requests under FOI refused by agency	FOI Advice Given
Country Fire Services Board		
063601	Advice requested regarding Freedom of Information process	FOI Advice Given
064369	Advice requested	FOI Advice Given
064435	Application for review of determination	FOI Review - Determination Confirmed
064698	Advice requested	FOI Advice Given
064861	Advice regarding withholding of documents from agency	FOI Advice Given
065023	Advice requested regarding internal review	FOI Advice Given
066078	Advice requested	FOI Advice Given
Courts Administration Authority		
064235	Advice regarding obtaining document from the Supreme Court	FOI Advice Given
064400	Unreasonable decision not to provide information	FOI Advice Given
064417	Advice requested regarding internal review/determination	FOI Advice Given
Dental Board of South Australia		
063973	Advice requested	FOI Advice Given
064018	Application for review of determination	FOI Review - Determination Confirmed
064448	Advice requested	FOI Advice Given
Department for Correctional Services		
060570	Application for review of determination	FOI Review - Revised Determination Directed
061369	Application for review of determination	FOI Review - Determination Revised by Agency
061452	Application for review of determination	FOI Review - Withdrawn
062687	Unreasonable refusal of information	FOI Advice Given
063355	Application for review of determination	FOI Review - Determination Revised by Agency
063402	Advice regarding obtaining copy of report	FOI Advice Given
063497	Advice requested	FOI Advice Given
063741	Application for review of determination	FOI Review - Determination Revised by Agency
063750	Advice regarding access to records	FOI Advice Given
064415	Advice requested	FOI Advice Given
064547	Advice requested	FOI Advice Given
064950	Advice requested regarding obtaining personnel file from agency	FOI Advice Given
065061	Application for review of determination	FOI Review - No jurisdiction to proceed
065847	Advice requested	FOI Advice Given
066525	Advice requested regarding Freedom of Information process	FOI Advice Given
Department for Environment and Heritage		
063147	Inquiry regarding Freedom of Information	FOI Advice Given
065849	Advice regarding document not released under FOI	FOI Advice Given
065922	Application for review of determination	FOI Review - Determination Revised by Agency
Department for Families and Communities		
062636	Request for advice regarding amendment	FOI Advice Given
062925	Advice requested	FOI Advice Given
063439	Advice requested	FOI Advice Given
063461	Advice requested	FOI Investigation - Complaint Not Sustained
063523	Advice requested regarding internal review	FOI Advice Given
063543	Advice requested	FOI Advice Given
063554	Advice requested regarding operation of clause	FOI Advice Given
063779	Advice requested	FOI Advice Given
064188	Advice requested	FOI Advice Given

FREEDOM OF INFORMATION
Summary of outcomes of enquiries and reviews finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
064572	Advice requested	FOI Advice Given
064582	Application for review of determination	FOI Investigation - Agency Process Corrected
064863	Advice requested regarding obtaining documents from agency	FOI Advice Given
065042	Advice requested regarding inadequate/incorrect records	FOI Advice Given
065418	Application for review of determination	FOI Review - No jurisdiction to proceed
065475	Advice requested	FOI Advice Given
065518	Advice regarding obtaining documents from the agency	FOI Advice Given
066249	Advice requested regarding process for third party review	FOI Advice Given
Department of Administrative and Information Services		
058629	Application for review of determination	FOI Review - Determination Revised by Agency
060199	Application for review of determination	FOI Review - Withdrawn
062158	Application for review of determination	FOI Review - Revised Determination Directed
062638	Query regarding provisions of amendment to Act	FOI Advice Given
062994	Application for review of determination	FOI Review - No jurisdiction to proceed
062999	Advice requested	FOI Advice Given
063440	Advice requested	FOI Advice Given
063997	Application for review of determination	FOI Review - Revised Determination Directed
065148	Application for review of determination	FOI Review - Determination Confirmed
066522	Advice requested whether s14A is subject to an internal review	FOI Advice Given
Department of Education & Children's Services		
060870	Application for review of determination	FOI Review - Revised Determination Directed
060871	Application for review of determination	FOI Review - Determination Confirmed
060872	Application for review of determination	FOI Review - Determination Confirmed
062762	Application for review of determination	FOI Review - Determination Confirmed
063366	Advice sought regarding process	FOI Advice Given
063553	Advice requested regarding scope of an FOI application	FOI Advice Given
063749	Advice requested	FOI Advice Given
063840	Advice requested	FOI Advice Given
063974	Advice requested	FOI Advice Given
064090	Advice requested regarding fees	FOI Advice Given
064347	Advice requested	FOI Advice Given
064517	Application for review of determination	FOI Review - Determination Confirmed
064684	Application for review of determination	FOI Review - Determination Confirmed
065129	Advice requested regarding obtaining certificates	FOI Advice Given
065484	Advice requested regarding process	FOI Advice Given
065803	Advice regarding obtaining personnel documents from agency	FOI Advice Given
065925	Application for review of determination	FOI Review - Determination Confirmed
066033	Advice regarding documents relating to audit on school budget	FOI Advice Given
066088	Application for review of determination	FOI Review - No jurisdiction to proceed
Department of Health		
060722	Application for review of determination	FOI Review - Determination Revised by Agency
062268	Seeking information regarding exemption	FOI Advice Given
062684	Unreasonable action by agency	FOI Advice Given
064571	Advice requested	FOI Advice Given
066079	Advice requested regarding process for seeking external review	FOI Advice Given
066200	Advice regarding difference between external review and a direct approach to the agency	FOI Advice Given
066301	Application for review of determination	FOI Review - Determination Confirmed
Department of Human Services		
058199	Application for review of determination	FOI Review - Revised Determination Directed
060958	Application for review of determination	FOI Review - Revised Determination Directed
061153	Application for review of determination	FOI Review - Determination Confirmed
061944	Application for review of determination	FOI Review - Determination Revised by Agency
Department of Primary Industries & Resources		
064226	Application for review of determination	FOI Review - Determination Revised by Agency
Department of the Premier and Cabinet		
057973	Application for review of determination	FOI Review - Determination Revised by Agency
059744	Application for review of determination	FOI Review - Revised Determination Directed
063881	Advice requested	FOI Advice Given
Department of Transport & Urban Planning		
063661	Advice requested	FOI Advice Given
064275	Advice requested regarding disclaimer	FOI Advice Given
064519	Application for review of determination	FOI Review - Determination Confirmed
064567	Advice requested	FOI Advice Given
064890	Review of fees and charges	FOI Review - Withdrawn
Department of Treasury and Finance		
057834	Application for review of determination	FOI Review - Determination Confirmed
057835	Application for review of determination	FOI Review - Determination Confirmed
057836	Application for review of determination	FOI Review - Determination Confirmed
058759	Application for review of determination	FOI Review - Determination Confirmed
066366	Advice regarding assessment of land tax on property	FOI Advice Given

**FREEDOM OF INFORMATION
Summary of outcomes of enquiries and reviews finalized from 1 July 2004 to 30 June 2005**

File no	Details	Outcome
Department of Further Education, Employment, Science & Technology		
063330	Advice regarding Freedom of Information	FOI Advice Given
District Council of Yankalilla		
065939	Advice regarding Council's refusal to provide document	FOI Advice Given
Environment Protection Authority		
060090	Application for review of determination	FOI Review - Determination Revised by Agency
062022	Application for review of determination	FOI Review - Withdrawn
062269	Requested details regarding internal review	FOI Advice Given
062637	Query regarding internal review	FOI Advice Given
063612	Advice requested regarding access to documents	FOI Advice Given
063718	Advice requested regarding health issues	FOI Advice Given
064063	Advice requested	FOI Advice Given
064699	Advice requested	FOI Advice Given
066202	Advice requested regarding review of agency's determination	FOI Advice Given
066931	Advice requested	FOI Advice Given
Flinders University Council		
062270	Alleged misinterpretation	FOI Advice Given
062635	Enquiries regarding Ombudsman and FOI Acts	FOI Advice Given
063975	Advice requested	FOI Advice Given
064069	Advice requested	FOI Advice Given
064997	Advice requested regarding access to information	FOI Advice Given
Gawler Health Service Inc		
063717	Advice requested regarding dissemination of patient information	FOI Advice Given
Guardianship Board		
066608	Advice requested	FOI Advice Given
Institute of Medical & Veterinary Science		
064489	Advice requested	FOI Advice Given
064573	Advice requested	FOI Advice Given
Legal Services Commission		
065884	Advice requested	FOI Advice Given
Medical Board of SA		
064112	Advice requested	FOI Advice Given
064700	Advice requested	FOI Advice Given
065337	Advice requested regarding complaint made against a doctor	FOI Advice Given
065613	Advice requested regarding FOI application	FOI Advice Given
066080	Advice requested regarding integration of FOI and Witness Protection Acts	FOI Advice Given
Metropolitan Domiciliary Care		
063009	Application for review of determination	FOI Review - Determination Confirmed
Mid Murray Council		
061814	Application for review of determination	FOI Review - Determination Confirmed
063208	Advice regarding FOI pertaining to a Council matter	FOI Advice Given
063630	Advice requested	FOI Advice Given
063876	Application for review of determination	FOI Review - Withdrawn
Mid-West Health Services		
065263	Application for review of determination	FOI Review - Determination Revised by Agency
Minister for Emergency Services		
057615	Application for review of determination	FOI Review - Determination Revised by Agency
Minister for Industrial Relations		
060106	Application for review of determination	FOI Review - Determination Confirmed
060107	Application for review of determination	FOI Review - Determination Confirmed
060108	Application for review of determination	FOI Review - Determination Confirmed
Minister of Health		
059041	Application for review of determination	FOI Review - Revised Determination Directed
064916	Advice requested regarding inordinate delay with FOI request	FOI Advice Given
Mount Gambier & Districts Health Service Inc		
064167	Advice requested	FOI Advice Given

FREEDOM OF INFORMATION
Summary of outcomes of enquiries and reviews finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
North Western Adelaide Health Service		
061065	Application for review of determination	FOI Review - Determination Confirmed
Northern Metropolitan Community Health Service		
064322	Advice requested regarding application	FOI Advice Given
Nurses Board of SA		
062419	Application for review of determination	FOI Review - Determination Revised by Agency
062421	Application for external review	FOI Review - No jurisdiction to proceed
064981	Advice requested regarding nature of complaint	FOI Advice Given
065223	Advice requested regarding application	FOI Advice Given
065477	Application for review of determination	FOI Review - Withdrawn
065485	Advice regarding extension of time to process application	FOI Advice Given
065685	Access to information	FOI Advice Given
Police Complaints Authority		
063976	Advice requested	FOI Advice Given
Public Advocate		
064739	Advice regarding obtaining exempt documents from agency	FOI Advice Given
065167	Advice requested	FOI Advice Given
Public Trustee		
063583	Advice requested	FOI Advice Given
Regional Council of Goyder		
060200	Application for review of determination	FOI Review - Revised Determination Directed
060201	Application for review of determination	FOI Review - Revised Determination Directed
060486	Application for review of determination	FOI Review - Revised Determination Directed
063720	Advice regarding obtaining report mentioned in Council minutes	FOI Advice Given
064101	Advice requested	FOI Advice Given
064154	Application for review of determination	FOI Review - No jurisdiction to proceed
064414	Application for review of determination	FOI Review - Determination Confirmed
065236	Application for review of determination	FOI Review - Determination Confirmed
065237	Application for review of determination	FOI Review - Determination Confirmed
065238	Application for review of determination	FOI Review - Determination Confirmed
065731	Advice requested regarding appeal against determination of fees	FOI Advice Given
065735	Advice regarding appeal	FOI Advice Given
Registrar of Nurses Board		
062721	Application for review of determination	FOI Review - Determination Revised by Agency
062722	Application for review of determination	FOI Review - Determination Revised by Agency
062723	Application for review of determination	FOI Review - Determination Revised by Agency
062724	Application for review of determination	FOI Review - Determination Revised by Agency
062725	Application for review of determination	FOI Review - Determination Revised by Agency
062726	Application for review of determination	FOI Review - Determination Revised by Agency
062727	Application for review of determination	FOI Review - Determination Revised by Agency
062728	Application for review of determination	FOI Review - Determination Revised by Agency
062729	Application for review of determination	FOI Review - Determination Revised by Agency
062967	Application for review of determination	FOI Review - Withdrawn
Renmark Paringa Council		
060092	Application for review of determination	FOI Review - Revised Determination Directed
060093	Application for review of determination	FOI Review - Revised Determination Directed
061226	Application for review of determination	FOI Review - Revised Determination Directed
063789	Advice requested	FOI Advice Given
Renmark Paringa District Hospital Inc		
065802	Advice requested	FOI Advice Given
Royal Adelaide Hospital		
062180	Failure to provide access to documents	FOI Advice Given
RSPCA Inspector		
064996	Advice requested	FOI Advice Given
Rural City of Murray Bridge		
060058	Application for review of determination	FOI Review - Revised Determination Directed
SA Ambulance Service		
063791	Seeking documents from agency	FOI Advice Given
064166	Advice requested	FOI Advice Given
SA Housing Trust		
062267	Advice regarding operation of the Freedom of Information Act	FOI Advice Given
063237	Advice sought regarding Freedom of Information process	FOI Advice Given
065905	Advice requested regarding application	FOI Advice Given

FREEDOM OF INFORMATION
Summary of outcomes of enquiries and reviews finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
SA Superannuation Board		
062941	Application for review of determination	FOI Review - Withdrawn
063401	Advice regarding process for obtaining documents	FOI Advice Given
SA Water Corporation		
062157	Application for review of determination	FOI Review - Withdrawn
062634	Advice regarding internal review	FOI Advice Given
062643	Application for review of determination	FOI Review - Determination Revised by Agency
064175	Complaint regarding Whistleblowers Act	FOI Advice Given
064270	Advice requested regarding access to costing	FOI Advice Given
Southern Adelaide Health Service		
063479	Advice requested	FOI Advice Given
063584	Advice requested	FOI Advice Given
064127	Advice requested	FOI Advice Given
064330	Advice requested regarding access to medical records	FOI Advice Given
064503	Advice requested	FOI Advice Given
065258	Advice regarding inordinate delay in responding to application	FOI Advice Given
065489	Advice requested regarding obtaining specialist's report	FOI Advice Given
The Berri Barmera Council		
064168	Advice requested	FOI Advice Given
The Corporation of the City of Whyalla		
065592	Advice requested regarding seeking internal review	FOI Advice Given
065593	Advice requested regarding extension of time	FOI Advice Given
065696	Advice requested regarding information received from Council	FOI Advice Given
The District Council of Mallala		
063780	Advice requested regarding release of copyright documents	FOI Advice Given
The Treasurer		
062697	Application for review of determination	FOI Review - Withdrawn
University of Adelaide Council		
063111	Application for review of determination	FOI Investigation - Agency Process Corrected
Whyalla Hospital and Health Services Inc.		
065261	Advice requested regarding agency	FOI Advice Given
WorkCover Corporation		
059568	Application for review of determination	FOI Review - Determination Revised by Agency
060116	Application for review of determination	FOI Review - Revised Determination Directed
061064	Application for review of determination	FOI Review - Revised Determination Directed
061634	Application for review of determination	FOI Review - Revised Determination Directed
063602	Advice requested	FOI Advice Given
063671	Application for review of determination	FOI Review - Determination Revised by Agency
063790	Advice requested	FOI Advice Given
063841	Advice requested	FOI Advice Given
064328	Application for review of determination	FOI Review - Determination Revised by Agency
064329	Application for review of determination	FOI Review - Determination Revised by Agency
065417	Advice regarding whether "costs" letters are privileged	FOI Advice Given
065458	Advice requested	FOI Advice Given
065941	Advice requested regarding process	FOI Advice Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

Agency	Advice Given	Advice Given to Agency	Alternate Remedy	Declined	Not Sustained	Not Sustained - Explanation Given	Other/General	Out of Time	Partly Resolved in Favour of Complainant	Prelim Investigation	Reasonable Resolution	Referred to Agency	Refused to Investigate	Section 132 Water Resources Act	Sustained - sec 25(1)(b) - unreasonable, unjust, etc.	Withdrawn by Complainant	Total
Attorney-General's Department	30				1	17		1	9		17	7				2	84
Central Hills District Soil Conservation Board									1								1
Department for Correctional Services	134	1	5		38	328	1	1	98	1	175	73	4			10	869
Department for Environment and Heritage	2		1			12					1	2	1				19
Department for Families and Communities	62		1		5	46			9		11	23	5			5	167
Department of Administrative & Information Services	16		1		5	11			5		8	2					48
Department of Education and Children's Services	51		2		3	26			6		4	17	1			1	111
Department of Human Services						5			1		2				1		9
Department of Primary Industries & Resources	7					2			2		2	3					16
Department of the Premier and Cabinet	2					3					1	1	1				8
Department of Trade and Economic Development	1																1
Department of Transport and Urban Planning	45		2		4	48			8	1	20	14	2			3	147
Department of Transport, Energy and Infrastructure						1											1
Department of Treasury and Finance	23		1			16			5		20	4					69
Department of Further Education, Employment, Science and Technology	7					2			2		3	5					19
Department of Water, Land and Biodiversity Conservation	8					1					4			5			18
Environment Protection Authority	4				1	7			4		2	3					21
SA Housing Trust	68		2		4	70			29		46	11	2			3	235
SA Water Corporation	50		3	1	4	20	1		6		20	9				3	117
State Electoral Office						1											1
Total	510	1	18	1	65	616	2	2	185	2	336	174	16	5	1	27	1961

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
Attorney-General's Department		
060095	Inadequate advice given	Declined - Out of Time
060530	Alleged denial of procedural fairness	Preliminary Investigation - Not Sustained - Explanation Given
060686	Unreasonable action regarding possible enforcement of legislative requirement	Preliminary Investigation - Reasonable Resolution
061683	Alleged inaccurate advice provided to course participant	Preliminary Investigation - Not Sustained - Explanation Given
061699	Unreasonable disclosure of information	Preliminary Investigation - Not Sustained - Explanation Given
061727	Unreasonable decision regarding registration of business name	Preliminary Investigation - Not Sustained - Explanation Given
062239	Unreasonable charge	Advice Given
062261	Allegedly unreasonable registration of a business	Withdrawn by Complainant
062339	Inaccurate information reported	Advice Given
062361	Failure to respond to letter in reasonable time	Preliminary Investigation - Partly Resolved in Favour of Complainant
062398	Alleged delay in business name registration	Full Investigation - Reasonable Resolution
062470	Unreasonably high fee	Advice Given
062529	Failure to provide adequate information	Advice Given
062582	Unreasonable investigation of complaint	Preliminary Investigation - Not Sustained - Explanation Given
062598	Refusal to take complaint further	Advice Given
062617	Allegedly unreasonable process	Full Investigation - Not Sustained - Explanation
062713	Failure to act regarding barring from licensed premises	Preliminary Investigation - Not Sustained - Explanation Given
062793	Unreasonable attitude by staff	Advice Given
062825	Unreasonable investigation of complaint	Preliminary Investigation - Not Sustained - Explanation Given
062831	Unreasonable delay in settling claim	Preliminary Investigation - Reasonable Resolution
062846	Failure to act regarding problems caused by landlord	Preliminary Investigation - Partly Resolved in Favour of Complainant
062889	Unreasonable impost of fines	Advice Given
062903	Alleged rude treatment from officer	Advice Given
062915	Unreasonable delay in responding to complaint	Preliminary Investigation - Reasonable Resolution
062954	Alleged unfair decision	Preliminary Investigation - Partly Resolved in Favour of Complainant
062964	Failure to provide accurate records	Preliminary Investigation - Reasonable Resolution
062969	Alleged harassment by Tribunal Member	Advice Given
063001	Unreasonable imposition of late fee for non-payment	Advice Given
063047	Failure to investigate complaint	Advice Given
063061	Failure to provide reasons for decisions	Advice Given
063148	Inadequate investigation of complaint	Advice Given
063309	Failure to investigate complaint	Advice Given
063451	Unreasonable decision to refuse to amend birth certificate	Preliminary Investigation - Partly Resolved in Favour of Complainant
063477	Unreasonable decision to impost fee for late payment	Preliminary Investigation - Not Sustained - Explanation Given
063598	Failure to respond adequately to complaint	Advice Given
063645	Unreasonable decision to cancel license	Preliminary Investigation - Not Sustained - Explanation Given
063735	Failure to act regarding breaches by builder	Withdrawn - Withdrawn by Complainant
063759	Failure to properly investigate complaint	Advice Given
063888	Unreasonable delays in processing payment of account	Preliminary Investigation - Reasonable Resolution
063978	Unreasonable delays in forwarding payments	Preliminary Investigation - Not Sustained
063998	Alleged unprofessional manner by staff	Advice Given - Referred to Agency
064005	Seeking to reverse order	Advice Given
064034	Alleged unreasonable decision	Preliminary Investigation - Reasonable Resolution
064105	Failure to provide duty of care	Preliminary Investigation - Not Sustained - Explanation Given
064120	Inadequate investigation of complaint	Advice Given
064182	Failure to respond in a timely manner to request for medical attention	Preliminary Investigation - Partly Resolved in Favour of Complainant
064258	Failure to provide adequate customer service	Preliminary Investigation - Reasonable Resolution
064278	Unreasonable criteria for granting security license	Advice Given
064325	Unreasonable decision to impose fee for late payment of license	Advice Given
064342	Unreasonable decision regarding birth certificate	Preliminary Investigation - Not Sustained - Explanation Given
064405	Failure to respond to letters	Preliminary Investigation - Reasonable Resolution
064581	Unreasonable process of advice	Preliminary Investigation - Reasonable Resolution
064636	Unreasonable process to obtain copy of birth certificate	Advice Given
064637	Failure to indemnify against cost of changing business name	Advice Given
064670	Maladministration resulting in incorrect registration of business name	Advice Given
064678	Unreasonable imposition of fee for unsolicited service	Preliminary Investigation - Not Sustained - Explanation Given
064724	Failure to adequately respond to complaint	Advice Given - Referred to Agency
064736	Failure to follow up on payment of bond money	Preliminary Investigation - Partly Resolved in Favour
064753	Unreasonable decision to cancel license	Advice Given - Referred to Agency
064826	Failure to act upon information received	Advice Given - Referred to Agency
065092	Failure to advise of appeal methods	Preliminary Investigation - Not Sustained - Explanation Given
065162	Failure to investigate complaint	Preliminary Investigation - Not Sustained - Explanation Given
065179	Unreasonable decision to not issue builder's license	Advice Given
065344	Failure to maintain confidentiality	Advice Given
065367	Unreasonable delay	Advice Given - Referred to Agency
065512	Incorrect management of records	Preliminary Investigation - Reasonable Resolution
065534	Unreasonable decision regarding late payment	Preliminary Investigation - Not Sustained - Explanation Given
065570	Unreasonable delay in paying invoice	Preliminary Investigation - Reasonable Resolution
065599	Unreasonable requirement to provide documentation	Advice Given
065700	Failure to forward inheritance	Advice Given
065741	Unreasonable decision to withhold information	Preliminary Investigation - Reasonable Resolution
065934	Failure to allow move from hostel to private accommodation	Preliminary Investigation - Not Sustained - Explanation Given
066014	Unreasonable decision to recoup additional funds from bank account	Advice Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
066148	Failure to investigate complaint in timely manner	Preliminary Investigation - Partly Resolved in Favour of Complainant
066164	Failure to send invoice resulting in penalty charge	Preliminary Investigation - Reasonable Resolution
066229	Unprofessional conduct by staff	Advice Given - Referred to Agency
066243	Failure to accept application	Preliminary Investigation - Partly Resolved in Favour of Complainant
066267	Failure to provide funds and appropriate information	Preliminary Investigation - Partly Resolved in Favour of Complainant
066287	Unreasonable investigation of complaint	Advice Given
066390	Unreasonable delay of provision of death certificate	Preliminary Investigation - Reasonable Resolution
066439	Unreasonable fee for security license	Advice Given - Referred to Agency
066491	Unreasonable delay in obtaining death certificate	Preliminary Investigation - Reasonable Resolution
066497	Failure to provide reason for decision	Preliminary Investigation - Reasonable Resolution
066501	Unreasonable management of records	Advice Given
Central Hills District Soil Conservation Board		
043525	Misuse of powers when issuing soil conservation order	Full Investigation - Partly Resolved in Favour of Complainant
Department for Correctional Services		
056855	Excessive rates for prisoner phone calls	Preliminary Investigation - Not Sustained - Explanation Given
058316	Inconsistencies in policy re banning of use of steel guitar strings	Full Investigation - Not Sustained - Explanation
059555	Failure to follow Court ordered supervision of offender	Conciliated - Reasonable Resolution
060020	Refusal to compensate for damaged television	Preliminary Investigation - Not Sustained
060273	Punishment without due process	Preliminary Investigation - Not Sustained - Explanation Given
060405	Smoking in prisons	Full Investigation - Not Sustained
060604	Unreasonable delay in transferring prisoner	Preliminary Investigation - Reasonable Resolution
060784	Unreasonable departure from sentence plan	Full Investigation - Not Sustained
060992	Unreasonable allegations caused prison transfer	Declined - Alternate Remedy
061582	Unreasonable requirement to require agreement regarding use of telephone	Full Investigation - Reasonable Resolution
061682	Alleged unreasonable failure to provide courses to inmates	Preliminary Investigation - Not Sustained - Explanation Given
061856	Alleged inaccurate records and unreasonable treatment	Full Investigation - Partly Resolved in Favour of Complainant
062024	Unreasonable use of section 24 of Correctional Services Act	Full Investigation - Reasonable Resolution
062052	Unreasonable extension of non-contact visit	Full Investigation - Partly Resolved in Favour of Complainant
062098	Unreasonable delay in issuing special buy	Preliminary Investigation - Not Sustained
062099	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
062156	Unreasonable process used to punish	Preliminary Investigation - Not Sustained - Explanation Given
062160	Unreasonable delay to transfer	Preliminary Investigation - Not Sustained - Explanation Given
062162	Unreasonable delays in transferring to attend a funeral	Preliminary Investigation - Not Sustained - Explanation Given
062164	Unreasonable refusal to supply call	Preliminary Investigation - Not Sustained - Explanation Given
062216	Unreasonable decision to ban visits	Preliminary Investigation - Reasonable Resolution
062217	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained
062222	Unreasonable delay in arranging medical appointment	Preliminary Investigation - Partly Resolved in Favour of Complainant
062230	Refusal to allow complainant to receive books	Preliminary Investigation - Reasonable Resolution
062242	Unreasonable delay in Parole Board hearing	Preliminary Investigation - Not Sustained - Explanation Given
062245	Failure to provide modified diet	Preliminary Investigation - Reasonable Resolution
062246	Refusal to transfer funds for use of telephone	Preliminary Investigation - Reasonable Resolution
062250	Unreasonably harsh punishment	Preliminary Investigation - Reasonable Resolution
062254	Delays in processing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
062256	Failure to provide goods through canteen	Preliminary Investigation - Not Sustained - Explanation Given
062259	Insufficient time for meals	Preliminary Investigation - Reasonable Resolution
062274	Unreasonable placement	Preliminary Investigation - Not Sustained - Explanation Given
062277	Failure to release property	Preliminary Investigation - Reasonable Resolution
062278	Unreasonable decision to change security rating	Advice Given
062289	Unreasonable decision to deny privileges	Full Investigation - Reasonable Resolution
062291	Unreasonable decision to impose early lockdown twice weekly	Preliminary Investigation - Partly Resolved in Favour of Complainant
062293	Inadequate heating in cells	Preliminary Investigation - Not Sustained - Explanation Given
062297	Mail allegedly intercepted	Preliminary Investigation - Not Sustained - Explanation Given
062301	Unreasonable decision to require prisoner to share cell	Preliminary Investigation - Partly Resolved in Favour of Complainant
062305	Failure to correctly implement urine testing procedures	Full Investigation - Reasonable Resolution
062307	Delay in processing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
062320	Unreasonable punishment	Full Investigation - Partly Resolved in Favour of Complainant
062321	Unreasonable decision to send prisoner to management cell	Preliminary Investigation - Partly Resolved in Favour of Complainant
062325	Alleged sub-standard meals	Preliminary Investigation - Not Sustained - Explanation Given
062326	Unreasonable denial to send out mail	Preliminary Investigation - Reasonable Resolution
062346	Procedural error in conducting urinalysis	Preliminary Investigation - Not Sustained - Explanation Given
062353	Unfair decision to move from cell	Preliminary Investigation - Not Sustained - Explanation Given
062358	Unreasonable decision to lock prisoners down	Preliminary Investigation - Not Sustained - Explanation Given
062360	Failure to make recommendation to transfer	Preliminary Investigation - Partly Resolved in Favour of Complainant
062362	Unreasonable decision to refuse to provide goods	Preliminary Investigation - Partly Resolved in Favour of Complainant
062376	Inadequate food provided	Preliminary Investigation - Not Sustained - Explanation Given
062380	Unreasonable refusal of home detention	Preliminary Investigation - Not Sustained - Explanation Given
062384	Unreasonable decision to refuse refund on unwanted goods	Preliminary Investigation - Not Sustained - Explanation Given
062385	Failure to lower security rating	Preliminary Investigation - Not Sustained - Explanation Given
062390	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
062394	Refusal to recharge phone card	Preliminary Investigation - Not Sustained - Explanation Given
062406	Failure to release property	Preliminary Investigation - Reasonable Resolution
062407	Unreasonable refusal to allow television set	Preliminary Investigation - Partly Resolved in Favour of Complainant
062411	Alleged denial of rights	Preliminary Investigation - Not Sustained - Explanation Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
062420	Unfair removal of access to work	Preliminary Investigation - Partly Resolved in Favour of Complainant
062423	Unreasonable decision to deny transfer	Preliminary Investigation - Not Sustained - Explanation Given
062424	Failure to provide hot water for showers	Preliminary Investigation - Reasonable Resolution
062428	Unreasonable delay in fixing phone	Advice Given
062432	Refusal to transfer from dormitory to cell	Preliminary Investigation - Partly Resolved in Favour of Complainant
062434	Unreasonable restriction on visits	Preliminary Investigation - Not Sustained - Explanation Given
062435	Unreasonable restriction on remand prisoner	Preliminary Investigation - Not Sustained - Explanation Given
062436	Unreasonable restriction on remand prisoner	Preliminary Investigation - Not Sustained - Explanation Given
062438	Unreasonable refusal	Preliminary Investigation - Not Sustained - Explanation Given
062440	Irregularity of case reviews being undertaken	Preliminary Investigation - Partly Resolved in Favour of Complainant
062441	Failure to move to another cell	Preliminary Investigation - Reasonable Resolution
062443	Failure to provide adequate amenities to workers	Preliminary Investigation - Reasonable Resolution
062444	Unreasonable administration fee on purchases	Preliminary Investigation - Not Sustained - Explanation Given
062448	Denied access to service	Preliminary Investigation - Reasonable Resolution
062456	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
062462	Failure to advise on outcome of appeal	Preliminary Investigation - Reasonable Resolution
062468	Unreasonable regime at prison	Advice Given
062473	Unreasonable process with regard to punishing prisoner	Preliminary Investigation - Reasonable Resolution
062485	Unreasonable decision to impose ban on visitor	Advice Given
062487	Failure to provide sufficient variety in food	Advice Given
062496	Unreasonable decision to transfer	Advice Given
062499	Incorrect procedure whilst conducting urine test	Preliminary Investigation - Not Sustained - Explanation Given
062501	Unreasonable decision not to allow telephone call	Preliminary Investigation - Partly Resolved in Favour of Complainant
062508	Unreasonable holding cell facility	Preliminary Investigation - Partly Resolved in Favour of Complainant
062510	Unreasonable decision to deny appointment	Preliminary Investigation - Not Sustained - Explanation Given
062511	Failure to provide financial allowance and access to telephone	Preliminary Investigation - Partly Resolved in Favour of Complainant
062515	Unreasonable delay in processing request for property	Preliminary Investigation - Reasonable Resolution
062516	Breach of confidentiality	Preliminary Investigation - Not Sustained - Explanation Given
062522	Prisoner removed to management cell without justification	Preliminary Investigation - Not Sustained - Explanation Given
062523	Unreasonable decision to place in double-up cell with smoker	Preliminary Investigation - Reasonable Resolution
062524	Failure to provide adequate support services	Declined - Refused to Investigate
062526	Unreasonable decision to ban	Advice Given
062530	Failure to replace property	Advice Given
062531	Failure to compensate for property	Advice Given
062535	Failure to grant adequate access to medical treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
062546	Unreasonable decision to refer case to the Parole Board	Preliminary Investigation - Not Sustained - Explanation Given
062548	Unreasonable charges and unfair decision to shift	Preliminary Investigation - Not Sustained - Explanation Given
062550	Unreasonably placed in management cell	Preliminary Investigation - Not Sustained
062556	Unreasonable transfer	Preliminary Investigation - Not Sustained - Explanation Given
062564	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
062566	Refusal to accept property	Preliminary Investigation - Not Sustained - Explanation Given
062569	Failure to provide adequate support services	Advice Given
062579	Unreasonable decision to punish	Advice Given
062580	Unreasonable delays in approving request	Preliminary Investigation - Not Sustained - Explanation Given
062588	Unreasonable delay in processing home detention application	Preliminary Investigation - Not Sustained - Explanation Given
062590	Unreasonable punishment	Full Investigation - Not Sustained - Explanation
062593	Unreasonable conditions in prisoner transport	Preliminary Investigation - Not Sustained - Explanation Given
062608	Refusal to process parole application	Preliminary Investigation - Reasonable Resolution
062611	Unreasonable denial of sporting equipment accessories	Preliminary Investigation - Partly Resolved in Favour of Complainant
062613	Unreasonable decision to refuse purchase of vitamins	Preliminary Investigation - Not Sustained - Explanation Given
062614	Refusal to replace amenities in showers	Preliminary Investigation - Not Sustained - Explanation Given
062620	Refusal to release television	Preliminary Investigation - Not Sustained
062621	Failure to assist remand prisoner with dental treatment	Preliminary Investigation - Reasonable Resolution
062625	Refusal to cater for special dietary needs	Preliminary Investigation - Not Sustained - Explanation Given
062653	Unreasonable refusal to supply linen	Advice Given
062654	Unreasonable punishment	Preliminary Investigation - Not Sustained - Explanation Given
062655	Unreasonable management of linen provisions	Advice Given
062661	Failure to provide remand prisoner with drug and alcohol services	Advice Given
062663	Unreasonable removal of game controls from prisoner	Advice Given - Referred to Agency
062691	Allegation that unable to access service	Advice Given - Referred to Agency
062715	Unreasonable delay in processing home detention application	Preliminary Investigation - Not Sustained - Explanation Given
062736	Failure to transfer funds to telephone account	Preliminary Investigation - Not Sustained - Explanation Given
062738	Failure to process home detention application in a timely manner	Preliminary Investigation - Not Sustained - Explanation Given
062740	Failure to have prisoner present during cell	Preliminary Investigation - Partly Resolved in Favour of Complainant
062743	Alleged breach of confidentiality	Advice Given
062747	Unreasonable increase in cigarettes	Preliminary Investigation - Not Sustained - Explanation Given
062748	Unreasonable decision to impose ban on visits	Preliminary Investigation - Not Sustained - Explanation Given
062750	Failure to provide access to pastoral care	Preliminary Investigation - Reasonable Resolution
062751	Unreasonable delay in transferring property	Preliminary Investigation - Reasonable Resolution
062753	Failure to provide adequate ventilation in van when transporting prisoners	Preliminary Investigation - Not Sustained - Explanation Given
062754	Failure to transport prisoner to court	Preliminary Investigation - Not Sustained
062757	Unreasonable location for course	Preliminary Investigation - Not Sustained - Explanation Given
062759	Failure to provide duty of care	Preliminary Investigation - Partly Resolved in Favour of Complainant
062760	Unreasonable use of disciplinary process	Preliminary Investigation - Partly Resolved in Favour of Complainant
062769	Unfair decision to move	Advice Given - Referred to Agency

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
062773	Unreasonable restriction on routine activities	Preliminary Investigation - Not Sustained - Explanation Given
062780	Unreasonable decision to not permit property to be brought into prison	Preliminary Investigation - Partly Resolved in Favour of Complainant
062781	Unreasonable decision to ban visits of prisoner's girlfriend	Advice Given
062782	Failure to give reasons for banning visits to prison	Preliminary Investigation - Not Sustained - Explanation Given
062804	Unreasonable length of time left in holding cell	Preliminary Investigation - Not Sustained - Explanation Given
062807	Unreasonable decision to ban girlfriend from visiting prison	Preliminary Investigation - Not Sustained - Explanation Given
062809	Failure to return documents to prisoner	Advice Given
062823	Unreasonable refusal to provide officer assisted calls	Preliminary Investigation - Not Sustained
062836	Unreasonable refusal to re-assess security rating	Preliminary Investigation - Not Sustained - Explanation
062838	Refusal of home detention application	Preliminary Investigation - Not Sustained - Explanation Given
062843	Failure to acknowledge requests to speak to prison fellowship representative	Preliminary Investigation - Partly Resolved in Favour of Complainant
062844	Unreasonable decision to deny continued access to education	Preliminary Investigation - Partly Resolved in Favour of Complainant
062853	Refusal to provide single cell	Preliminary Investigation - Reasonable Resolution
062859	Unreasonable disclosure of information	Full Investigation - Reasonable Resolution
062860	Access to amenities/activities/	Preliminary Investigation - Not Sustained - Explanation Given
062861	Access to amenities/activities	Preliminary Investigation - Not Sustained - Explanation Given
062864	Unreasonable decision regarding lost and damaged property	Preliminary Investigation - Reasonable Resolution
062872	Refusal to take action regarding intimidation by inmates	Preliminary Investigation - Not Sustained - Explanation Given
062873	Lack of assistance in regards to intimidation by other inmates	Preliminary Investigation - Not Sustained
062874	Lack of assistance regarding intimidation by other inmates	Preliminary Investigation - Not Sustained
062875	Lack of assistance regarding intimidation by other inmates	Preliminary Investigation - Not Sustained
062876	Lack of assistance regarding intimidation by other inmates	Preliminary Investigation - Not Sustained
062887	Unreasonable decision to ban complainant	Advice Given
062892	Failure to provide shoes as requested	Preliminary Investigation - Reasonable Resolution
062899	Refusal to supply sundry items	Preliminary Investigation - Not Sustained - Explanation Given
062907	Failure to properly investigate offensive comments by officer	Advice Given
062909	Unfair process in decision-making	Preliminary Investigation - Not Sustained - Explanation Given
062910	Failure to forward mail	Preliminary Investigation - Not Sustained - Explanation Given
062919	Unreasonable decision	Full Investigation - Reasonable Resolution
062924	Alleged inappropriate comments by officer	Advice Given
062927	Failure to locate lost property	Preliminary Investigation - Reasonable Resolution
062928	Unnecessary delays in releasing prisoner	Preliminary Investigation - Partly Resolved in Favour of Complainant
062932	Unreasonable decision not to refund money	Preliminary Investigation - Not Sustained - Explanation Given
062936	Lack of rehabilitation services for sex offenders	Advice Given - Referred to Agency
062937	Unreasonable decision to terminate employment	Preliminary Investigation - Partly Resolved in Favour of Complainant
062938	Unreasonable refusal to allow prisoner to attend funeral	Advice Given - Referred to Agency
062950	Unreasonable decision in relation to property	Preliminary Investigation - Not Sustained - Explanation Given
062953	Failure to facilitate visit between prisoner and relative	Preliminary Investigation - Reasonable Resolution
062976	Unfair punishment	Preliminary Investigation - Reasonable Resolution
062977	Unreasonable prisoner punishment prior to appeal	Preliminary Investigation - Reasonable Resolution
062985	Failure to provide reasons for transfer or transfer property	Preliminary Investigation - Partly Resolved in Favour of Complainant
062987	Unreasonable or wrong decision to charge	Preliminary Investigation - Partly Resolved in Favour of Complainant
062989	Unreasonable delay	Preliminary Investigation - Not Sustained - Explanation Given
062990	Delay in processing application for parole	Preliminary Investigation - Not Sustained
063003	Alleged failure to notify of court appearance	Advice Given
063012	Failure to transfer to cottages	Preliminary Investigation - Not Sustained - Explanation Given
063014	Unreasonable decision to require psychological assessment	Preliminary Investigation - Reasonable Resolution
063016	Unreasonable decision to transfer to another prison	Preliminary Investigation - Not Sustained - Explanation Given
063017	Unreasonable decision to transfer to another prison	Preliminary Investigation - Not Sustained - Explanation Given
063018	Unreasonable decision to transfer to another part of prison	Preliminary Investigation - Not Sustained - Explanation Given
063020	Unreasonable delay to release	Preliminary Investigation - Not Sustained - Explanation Given
063027	Failure to approve transfer to another unit	Preliminary Investigation - Not Sustained - Explanation Given
063030	Unfair punishment	Preliminary Investigation - Not Sustained - Explanation Given
063034	Failure to approve transfer	Preliminary Investigation - Not Sustained - Explanation Given
063037	Unreasonable decision to refuse leave	Preliminary Investigation - Not Sustained - Explanation Given
063048	Unreasonable decision/policy	Preliminary Investigation - Not Sustained - Explanation Given
063050	Unreasonable time limit to receive property	Preliminary Investigation - Not Sustained - Explanation Given
063058	Alleged lost property	Preliminary Investigation - Not Sustained - Explanation Given
063060	Alleged failure to exercise duty of care	Advice Given
063062	Unreasonably treated by officers	Preliminary Investigation - Not Sustained - Explanation Given
063064	Delay in providing outcome of Home detention	Advice Given
063082	Unreasonable treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063091	Unfair decision regarding prisoner visits	Preliminary Investigation - Not Sustained - Explanation Given
063097	Unreasonable punishment	Preliminary Investigation - Not Sustained - Explanation Given
063098	Unfair punishment	Preliminary Investigation - Not Sustained - Explanation Given
063100	Unfair punishment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063103	Inadequate support services to prepare for release from prison	Preliminary Investigation - Partly Resolved in Favour of Complainant
063105	Unreasonable explanation with regard to investigation	Preliminary Investigation - Not Sustained - Explanation Given
063109	Unreasonable decision to ban	Advice Given
063112	Unreasonable decision to decrease medication	Preliminary Investigation - Not Sustained - Explanation Given
063118	Unreasonable refusal of request to purchase vitamins	Preliminary Investigation - Not Sustained - Explanation Given
063120	Unreasonable delay	Preliminary Investigation - Partly Resolved in Favour of Complainant
063123	Unreasonable process used in punishment of prisoner	Preliminary Investigation - Not Sustained - Explanation Given
063124	Failure to lower security rating	Preliminary Investigation - Reasonable Resolution

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Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
063125	Unreasonable decision to ban husband's visits	Preliminary Investigation - Not Sustained - Explanation Given
063128	Unreasonable decision to ban visitor	Advice Given - Referred to Agency
063134	Failure to release	Preliminary Investigation - Not Sustained - Explanation Given
063135	Alleged administration of incorrect medication	Preliminary Investigation - Not Sustained - Explanation Given
063139	Unreasonable decision to refuse to assist in recording evidence of child abuse	Advice Given
063143	Refusal to compensate for damaged property	Advice Given
063144	Disputes decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063149	Unreasonable decision to move	Preliminary Investigation - Not Sustained - Explanation Given
063151	Denied access to phone call	Preliminary Investigation - Reasonable Resolution
063157	Loss of institutional phone calls	Preliminary Investigation - Not Sustained - Explanation Given
063158	Refusal to release property	Advice Given
063159	Unreasonable refusal to participate in course	Advice Given
063161	Unfair treatment regarding employment	Preliminary Investigation - Not Sustained - Explanation Given
063162	Unreasonable decision to impose ban on visits to prison	Preliminary Investigation - Not Sustained - Explanation Given
063163	Unreasonable decision to transfer to another cell block	Preliminary Investigation - Reasonable Resolution
063164	Unreasonable decision to refuse buy	Preliminary Investigation - Reasonable Resolution
063171	Unreasonable alteration of medication	Withdrawn - Withdrawn by Complainant
063173	Unreasonable punishment of prisoner without being charged	Preliminary Investigation - Partly Resolved in Favour of Complainant
063179	Allegedly excessive punishment	Preliminary Investigation - Reasonable Resolution
063188	Miscellaneous queries about prisoners rights	Advice Given - Referred to Agency
063190	Unreasonable delay in receiving medical treatment	Preliminary Investigation - Reasonable Resolution
063191	Unreasonable refusal of legal visit	Preliminary Investigation - Not Sustained - Explanation Given
063198	Unreasonable denial of access to exercise yard	Preliminary Investigation - Not Sustained
063203	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063224	Alleged misuse of authority	Advice Given
063226	Allegedly unreasonable denial of visits to prisoner	Preliminary Investigation - Not Sustained
063227	Unreasonable decision to ban partner from visiting	Preliminary Investigation - Not Sustained - Explanation Given
063228	Unreasonable decision to ban partner	Advice Given
063229	Inappropriate action taken during incident	Advice Given
063231	Inaccurate records	Preliminary Investigation - Partly Resolved in Favour of Complainant
063235	Failure to transport to court appearance	Preliminary Investigation - Not Sustained - Explanation Given
063240	Refusal to accommodate non smoker	Preliminary Investigation - Partly Resolved in Favour of Complainant
063243	Alleged unauthorised opening of mail	Preliminary Investigation - Not Sustained - Explanation Given
063251	Unreasonable interpretation of urinalysis result	Preliminary Investigation - Not Sustained
063252	Unreasonable decision to transfer to another unit	Preliminary Investigation - Not Sustained - Explanation Given
063254	Unreasonable refusal to lower security rating	Preliminary Investigation - Not Sustained - Explanation Given
063255	Unreasonable delay in receiving property	Preliminary Investigation - Reasonable Resolution
063257	Unreasonable decision to suspend from work	Preliminary Investigation - Partly Resolved in Favour of Complainant
063269	Unreasonable explanation	Preliminary Investigation - Not Sustained - Explanation Given
063277	Refusal of compassionate leave	Preliminary Investigation - Not Sustained - Explanation Given
063282	Unreasonable removal of access to work	Preliminary Investigation - Not Sustained - Explanation Given
063289	Unreasonably harsh punishment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063296	Unreasonable decision to impose ban on visits	Preliminary Investigation - Not Sustained - Explanation Given
063297	Unreasonable decision to transfer to another institution	Withdrawn - Withdrawn by Complainant
063300	Unreasonable decision to ban from visiting	Advice Given
063319	Alleged manufacturing of evidence of misconduct	Preliminary Investigation - Reasonable Resolution
063322	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063327	Unreasonable decision to confiscate Playstation controls	Preliminary Investigation - Not Sustained - Explanation Given
063331	Unreasonable decision to confiscate Playstation control	Preliminary Investigation - Reasonable Resolution
063332	Unreasonable decision to double up with smoker	Preliminary Investigation - Not Sustained - Explanation Given
063334	Unreasonable delay in transferring to another institution	Advice Given
063336	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063338	Unreasonable treatment over condition of cell	Preliminary Investigation - Partly Resolved in Favour of Complainant
063343	Unreasonable delays in receiving mail	Preliminary Investigation - Reasonable Resolution
063344	Unfair decision to impose ban on visits	Preliminary Investigation - Not Sustained - Explanation Given
063345	Failure to take safety issues into account regarding transfer	Preliminary Investigation - Not Sustained - Explanation Given
063350	Delay in assessing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
063353	Failure to exercise duty of care	Advice Given
063394	Refusal of leave to attend birth of child	Preliminary Investigation - Partly Resolved in Favour of Complainant
063396	Unfair security rating	Preliminary Investigation - Not Sustained - Explanation Given
063397	Alleged damage caused to mail	Preliminary Investigation - Reasonable Resolution
063400	Alleged lost property	Preliminary Investigation - Reasonable Resolution
063403	Unreasonable decision to limit access to education facilities	Preliminary Investigation - Not Sustained - Explanation Given
063404	Unreasonable decision to confine prisoner	Preliminary Investigation - Not Sustained - Explanation Given
063406	Unreasonable delay in supplying medication	Preliminary Investigation - Partly Resolved in Favour of Complainant
063407	Unreasonable repayment conditions	Preliminary Investigation - Reasonable Resolution
063417	Failure to provide medication	Withdrawn - Withdrawn by Complainant
063419	Unreasonable management of complainant's work injury	Preliminary Investigation - Reasonable Resolution
063420	Failure to compensate for loss of items	Preliminary Investigation - Partly Resolved in Favour of Complainant
063425	Unreasonable delay in photographing complainant	Preliminary Investigation - Reasonable Resolution
063429	Allegedly incorrect release date on prisoner	Preliminary Investigation - Reasonable Resolution
063438	Unfair decision to ban prisoner's visitor	Preliminary Investigation - Not Sustained - Explanation Given
063441	Unreasonable decision to decline home detention application	Preliminary Investigation - Not Sustained - Explanation Given
063442	Restricted access to yard	Preliminary Investigation - Not Sustained - Explanation Given
063452	Failure to transfer property within a reasonable	Preliminary Investigation - Reasonable Resolution

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
063464	Removal of access to work	Preliminary Investigation - Partly Resolved in Favour of Complainant
063472	Unreasonable decision not to arrange release	Preliminary Investigation
063474	Unreasonable delay in processing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
063482	Failure to act within reasonable time to facilitate release	Advice Given
063485	Unfair decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063487	Unfair decision to separate prisoner	Preliminary Investigation - Not Sustained - Explanation Given
063488	Unreasonable decision to deny inter-institutional visits	Preliminary Investigation - Partly Resolved in Favour of Complainant
063494	Unreasonable delay in organising a buy	Preliminary Investigation - Reasonable Resolution
063518	Unreasonable refusal of home detention	Preliminary Investigation - Not Sustained - Explanation Given
063519	Unreasonable delay in organising transfer	Preliminary Investigation - Not Sustained - Explanation Given
063522	Unreasonable delay in transferring property	Preliminary Investigation - Partly Resolved in Favour of Complainant
063529	Unreasonable decision to require payment	Preliminary Investigation - Not Sustained - Explanation Given
063546	Allegedly unreasonable revocation of visits	Advice Given
063565	Refusal to return documents	Preliminary Investigation - Not Sustained - Explanation Given
063575	Difficulty in contacting solicitor	Preliminary Investigation - Reasonable Resolution
063576	Unreasonable ban on visits	Preliminary Investigation - Not Sustained - Explanation Given
063577	Refusal to release from prison	Preliminary Investigation - Not Sustained - Explanation Given
063580	Interception of prisoner mail	Preliminary Investigation - Not Sustained - Explanation Given
063590	Unreasonable refusal to supply single cell	Preliminary Investigation - Not Sustained - Explanation Given
063591	Failure to maintain gym equipment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063592	Failure to allow use of telephone to report crime	Preliminary Investigation - Not Sustained - Explanation Given
063594	Unreasonable decision to refuse to take property on transfer	Preliminary Investigation - Not Sustained - Explanation Given
063596	Unreasonable refusal to supply stereo	Preliminary Investigation - Not Sustained - Explanation Given
063610	Unable to transfer money to phone card	Preliminary Investigation - Not Sustained - Explanation Given
063617	Unfair decision regarding prisoner visits	Preliminary Investigation - Not Sustained - Explanation Given
063623	Unreasonable delay in provision of over the counter medication	Preliminary Investigation - Reasonable Resolution
063624	Unreasonable decision to lay charges	Advice Given
063628	Unreasonable decision to ban visits	Advice Given
063639	Unreasonable change of security rating	Preliminary Investigation - Not Sustained
063640	Refusal to release as per Parole Board request	Preliminary Investigation - Partly Resolved in Favour of Complainant
063646	Inability to contact relatives by telephone	Advice Given - Referred to Agency
063647	Refusal to pay for sick leave	Advice Given
063650	Refusal to supply appropriate clothing	Preliminary Investigation - Reasonable Resolution
063659	Unreasonable delays in responding to correspondence	Preliminary Investigation - Partly Resolved in Favour of Complainant
063660	Unreasonable refusal to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063672	Failure to provide duty of care	Preliminary Investigation - Not Sustained - Explanation Given
063673	Delays in releasing property	Preliminary Investigation - Reasonable Resolution
063676	Failure to release property	Preliminary Investigation - Partly Resolved in Favour of Complainant
063677	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063685	Unfair refusal of home detention	Preliminary Investigation - Reasonable Resolution
063689	Unreasonable management of placement	Preliminary Investigation - Reasonable Resolution
063697	Unreasonable security rating	Preliminary Investigation - Not Sustained - Explanation Given
063708	Delay in releasing from prison	Preliminary Investigation - Partly Resolved in Favour of Complainant
063716	Unreasonable ban on partner visiting	Preliminary Investigation - Reasonable Resolution
063728	Unreasonably harsh punishment	Advice Given
063744	Alleged unjust imprisonment conditions	Preliminary Investigation - Not Sustained - Explanation Given
063746	Alleged provocation by officer	Preliminary Investigation - Partly Resolved in Favour of Complainant
063771	Unreasonable explanation as to cancellation of visit	Preliminary Investigation - Not Sustained - Explanation Given
063773	Unreasonable punishment	Preliminary Investigation - Reasonable Resolution
063777	Unfair removal of access to work	Preliminary Investigation - Not Sustained - Explanation Given
063785	Prisoner missed out on receiving daily medication	Preliminary Investigation - Not Sustained - Explanation Given
063811	Failure to review case and consider for interstate transfer	Preliminary Investigation - Partly Resolved in Favour of Complainant
063812	Unreasonable decision to isolate prisoner	Preliminary Investigation - Not Sustained - Explanation Given
063819	Failure to secure mail box	Preliminary Investigation - Not Sustained - Explanation Given
063821	Failure to escort to court for hearing	Preliminary Investigation - Not Sustained - Explanation Given
063822	Failure to provide adequate response in relation to complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
063824	Erroneous decisions	Preliminary Investigation - Not Sustained - Explanation Given
063836	Delay in access to medical treatment	Preliminary Investigation - Not Sustained - Explanation Given
063842	Unreasonable explanation as to why complainant cannot transfer	Preliminary Investigation - Not Sustained - Explanation Given
063847	Unreasonable behaviour by officer	Advice Given
063851	Unreasonable decision not to transfer	Advice Given
063854	Unreasonable destruction of property	Preliminary Investigation - Not Sustained - Explanation Given
063863	Unreasonable management of finances	Advice Given
063864	Unreasonable punishment	Preliminary Investigation - Reasonable Resolution
063867	Prisoner unable to access funds to retrieve computer from stores	Preliminary Investigation - Reasonable Resolution
063868	Unreasonable decision regarding security rating	Preliminary Investigation - Not Sustained - Explanation Given
063869	Failure to administer adequate pain control	Preliminary Investigation - Not Sustained - Explanation Given
063870	Unreasonable requirement	Preliminary Investigation - Not Sustained - Explanation Given
063875	Unreasonable refusal to move to another cell	Preliminary Investigation - Reasonable Resolution
063878	Failure to provide adequate food at lunch time	Preliminary Investigation - Not Sustained - Explanation Given
063887	Unreasonable decision to ban visitor	Preliminary Investigation - Not Sustained - Explanation Given
063896	Delay in processing home detention application	Preliminary Investigation - Not Sustained - Explanation Given
063897	Failure to compensate for damage to property	Advice Given - Referred to Agency
063898	Prisoner denied access to funds in prison	Preliminary Investigation - Not Sustained - Explanation Given
063900	Unable to access discussion forum	Preliminary Investigation - Reasonable Resolution
063902	Excessive/unfair punishment	Advice Given - Referred to Agency

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
063905	Failure to process home detention application in a timely manner	Preliminary Investigation - Not Sustained - Explanation Given
063909	Unreasonable decision not to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063910	Unreasonable denial of home detention	Advice Given
063911	Disputes transfer	Preliminary Investigation - Reasonable Resolution
063923	Unreasonable delay in case review process	Preliminary Investigation - Partly Resolved in Favour of Complainant
063924	Unfair imposition of ban on visitor	Preliminary Investigation - Not Sustained - Explanation Given
063925	Unreasonable delays in processing home detention application	Preliminary Investigation - Not Sustained - Explanation Given
063930	Unreasonable decision to ban partner from visiting	Preliminary Investigation - Not Sustained - Explanation Given
063934	Unreasonable quality of meal	Advice Given - Referred to Agency
063935	Unreasonable delay in finalising paperwork	Preliminary Investigation - Reasonable Resolution
063939	Unreasonable delay in approving transfer	Preliminary Investigation - Partly Resolved in Favour of Complainant
063947	Failure to conduct case review	Preliminary Investigation - Partly Resolved in Favour of Complainant
063951	Treated unfairly regarding daily routine	Preliminary Investigation - Not Sustained
063953	Unfair refusal of access to yard and removal of television	Preliminary Investigation - Not Sustained - Explanation Given
063955	Unreasonable charge for call	Preliminary Investigation - Reasonable Resolution
063956	Failure to administer medication	Preliminary Investigation - Not Sustained - Explanation Given
063960	Failure to provide access to services	Preliminary Investigation - Not Sustained - Explanation Given
063962	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
063965	Failure to provide adequate explanation for transfer	Preliminary Investigation - Not Sustained - Explanation Given
063967	Improper use of punishment	Preliminary Investigation - Not Sustained - Explanation Given
063970	Refusal to access amenities	Advice Given - Referred to Agency
063972	Failure to communicate	Advice Given - Referred to Agency
063977	Unreasonable delay in accessing dental service	Preliminary Investigation - Reasonable Resolution
063987	Unreasonable decision to decline home detention application	Preliminary Investigation - Not Sustained - Explanation Given
063988	Unfair decision to ban partner from visiting	Preliminary Investigation - Not Sustained - Explanation Given
064004	Delay in transferring property	Preliminary Investigation - Not Sustained - Explanation Given
064006	Failure to transfer to prison	Preliminary Investigation - Not Sustained - Explanation Given
064012	Failure to exercise duty of care	Preliminary Investigation - Not Sustained - Explanation Given
064013	Unreasonable decision	Preliminary Investigation - Not Sustained
064025	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
064037	Unreasonable treatment provided	Preliminary Investigation - Not Sustained - Explanation Given
064039	Unreasonable decision	Preliminary Investigation - Not Sustained
064042	Unreasonable delay	Preliminary Investigation - Not Sustained - Explanation Given
064045	Unfair decision to place in hard cell	Preliminary Investigation - Not Sustained - Explanation Given
064047	Unreasonable response	Preliminary Investigation - Partly Resolved in Favour of Complainant
064066	Unreasonable refusal of home detention	Preliminary Investigation - Not Sustained - Explanation Given
064075	Unacceptable treatment by prison officer	Preliminary Investigation - Not Sustained - Explanation Given
064080	Inadequate investigation of complaint	Advice Given
064082	Unfair decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
064098	Unreasonable decision to disallow visits	Advice Given
064102	Unreasonable ban from visiting prison	Preliminary Investigation - Partly Resolved in Favour of Complainant
064113	Unreasonable method of dispensing medication	Preliminary Investigation - Not Sustained - Explanation Given
064117	Delays in processing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
064118	Unreasonable punishment	Preliminary Investigation - Not Sustained
064121	Unreasonable decision	Advice Given - Referred to Agency
064123	Failure to approve early release on home detention	Preliminary Investigation - Partly Resolved in Favour of Complainant
064126	Unfair punishment	Preliminary Investigation - Not Sustained
064138	Property damage during search	Advice Given - Referred to Agency
064139	Unreasonable decision to refuse to provide gloves	Preliminary Investigation - Reasonable Resolution
064140	Failure to process paperwork	Advice Given
064145	Failure to provide reasonable response to prisoner request	Advice Given - Referred to Agency
064147	Failure to transfer property	Preliminary Investigation - Not Sustained - Explanation Given
064151	Unreasonable delay in getting on methadone program	Preliminary Investigation - Not Sustained - Explanation Given
064163	Unreasonable decision regarding work transfer	Preliminary Investigation - Not Sustained - Explanation Given
064187	Refusal to release property	Preliminary Investigation - Partly Resolved in Favour of Complainant
064190	Failure to release property	Preliminary Investigation - Not Sustained - Explanation Given
064206	Unreasonable decision to deduct money from personal funds	Advice Given
064209	Failure to process home detention application in a timely manner	Preliminary Investigation - Reasonable Resolution
064210	Alleged loss of property	Preliminary Investigation - Reasonable Resolution
064217	Delay in transferring prisoner's property	Preliminary Investigation - Partly Resolved in Favour of Complainant
064218	Delay in processing home detention application	Preliminary Investigation - Reasonable Resolution
064219	Refusal to release property	Preliminary Investigation - Not Sustained - Explanation Given
064220	Failure to provide with adequate replacement for missing property	Preliminary Investigation - Not Sustained - Explanation Given
064232	Unreasonable decision to charge for alleged minor breach	Preliminary Investigation - Reasonable Resolution
064239	Damage to property	Preliminary Investigation - Not Sustained - Explanation Given
064242	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
064244	Alleged deprivation of canteen buying routine	Advice Given
064260	Unreasonable confiscation of money	Preliminary Investigation - Reasonable Resolution
064262	Appeal process against punishment allegedly inadequate	Declined - Refused to Investigate
064276	Unreasonable decision to cancel visits for breach of rules	Advice Given
064277	Unreasonable requirement to repay overpayment of wages	Advice Given
064279	Delay in transferring property	Preliminary Investigation - Partly Resolved in Favour of Complainant
064280	Unreasonable delay in releasing property	Preliminary Investigation - Not Sustained - Explanation Given
064281	Unreasonable delay in releasing property	Preliminary Investigation - Reasonable Resolution
064282	Delay in releasing property	Preliminary Investigation - Reasonable Resolution
064290	Disputes decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
064291	Unreasonable conduct of officers	Preliminary Investigation - Partly Resolved in Favour of Complainant
064294	Unreasonable decision regarding debt	Preliminary Investigation - Reasonable Resolution
064295	Unreasonable decision to confiscate fruit	Preliminary Investigation - Not Sustained
064297	Unreasonable change in prison plan	Preliminary Investigation - Partly Resolved in Favour of Complainant
064301	Unreasonable decision to confiscate computer	Preliminary Investigation - Reasonable Resolution
064310	Unreasonable punishment	Preliminary Investigation - Not Sustained - Explanation Given
064317	Unreasonable delay in transferring property	Preliminary Investigation - Reasonable Resolution
064321	Unreasonable decision to release pendant	Preliminary Investigation - Not Sustained - Explanation Given
064327	Query regarding early release	Advice Given
064333	Unreasonable rationing of coffee provisions	Preliminary Investigation - Partly Resolved in Favour of Complainant
064348	Unreasonable delay in transferring property	Advice Given - Referred to Agency
064350	Alleged loss of property	Advice Given
064351	Unreasonable refusal to swap damaged	Advice Given
064354	Unreasonable decision not to provide specific milk	Preliminary Investigation - Reasonable Resolution
064356	Unreasonable decision to punish for offence not committed	Preliminary Investigation - Not Sustained - Explanation Given
064358	Failure to provide sport shoes	Preliminary Investigation - Not Sustained - Explanation Given
064360	Unfair decision regarding alleged cell swap	Advice Given
064361	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
064362	Unreasonable delay in transfer of property	Preliminary Investigation - Reasonable Resolution
064363	Failure to provide opportunity to shower	Preliminary Investigation - Not Sustained - Explanation Given
064367	Failure to transfer property in a timely manner	Preliminary Investigation - Not Sustained - Explanation Given
064368	Failure to maintain air conditioning	Preliminary Investigation - Not Sustained - Explanation Given
064371	Unreasonable ventilation system in cell	Advice Given - Referred to Agency
064372	Failure to take required action	Preliminary Investigation - Reasonable Resolution
064375	Unreasonable refusal for officer assisted call	Preliminary Investigation - Not Sustained
064378	Failure to follow proper procedure	Preliminary Investigation - Reasonable Resolution
064379	Unreasonable administrative decision/policy	Preliminary Investigation - Not Sustained - Explanation Given
064380	Access to amenities/activities	Preliminary Investigation - Not Sustained
064385	Unreasonable decision to ban use of telephone	Preliminary Investigation - Not Sustained - Explanation Given
064387	Program not available	Preliminary Investigation - Reasonable Resolution
064388	Failure to provide prisoner mail	Preliminary Investigation - Not Sustained - Explanation Given
064389	Failure to follow the specified regime	Preliminary Investigation - Not Sustained - Explanation Given
064390	Unreasonable/illegal segregation	Preliminary Investigation - Not Sustained - Explanation Given
064392	Unreasonable refusal to release property	Preliminary Investigation - Reasonable Resolution
064395	Delays in processing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
064398	Alleged incorrect information provided	Preliminary Investigation - Partly Resolved in Favour of Complainant
064399	Failure to release computer from property	Preliminary Investigation - Not Sustained - Explanation Given
064401	Unreasonable rationing of sugar	Preliminary Investigation - Reasonable Resolution
064404	Unreasonable separation	Preliminary Investigation - Not Sustained - Explanation Given
064407	Failure to return property	Preliminary Investigation - Not Sustained - Explanation Given
064410	Unreasonable decision refusing kitchen work	Preliminary Investigation - Not Sustained - Explanation Given
064412	Unreasonable banning of visitor	Preliminary Investigation - Partly Resolved in Favour of Complainant
064413	Unreasonable failure to grant sentence remissions	Declined - Out of Time
064423	Failure to provide access to courses as required for parole	Preliminary Investigation - Reasonable Resolution
064424	Failure to provide assistance	Declined - Alternate Remedy
064427	Failure to advise of change of community service order	Preliminary Investigation - Not Sustained - Explanation Given
064432	Failure to communicate	Preliminary Investigation - Reasonable Resolution
064434	Loss of property	Preliminary Investigation - Partly Resolved in Favour of Complainant
064439	Failure to approve compassionate leave	Advice Given - Referred to Agency
064441	Failure to follow proper procedure when imposing punishment	Preliminary Investigation - Partly Resolved in Favour of Complainant
064444	Unreasonable punishment	Advice Given
064451	Unreasonable decision to refuse compassionate leave	Preliminary Investigation - Not Sustained - Explanation Given
064452	Failure to provide sufficient medical treatment	Withdrawn - Withdrawn by Complainant
064455	Alleged lack of communication	Preliminary Investigation - Reasonable Resolution
064463	Failure to provide medical assistance	Preliminary Investigation - Reasonable Resolution
064465	Failure to respond	Preliminary Investigation - Not Sustained - Explanation Given
064472	Unreasonable decision to ban visitor	Preliminary Investigation - Not Sustained - Explanation Given
064474	Failure to follow reasonable medical suggestion	Advice Given
064475	Unreasonable decision to refuse visitor	Preliminary Investigation - Not Sustained - Explanation Given
064481	Failure to transfer property	Preliminary Investigation - Not Sustained - Explanation Given
064492	Alleged tampering of urine sample	Preliminary Investigation - Reasonable Resolution
064493	Unreasonable decision to charge prisoner	Advice Given - Other/General
064495	Inadequate/inaccurate records maintained	Preliminary Investigation - Reasonable Resolution
064499	Unreasonable follow up in organising police visit	Preliminary Investigation - Not Sustained - Explanation Given
064502	Unreasonable search of visitor	Preliminary Investigation - Not Sustained
064515	Unreasonable decision regarding transfer	Withdrawn - Withdrawn by Complainant
064516	Failure to follow procedure	Advice Given - Referred to Agency
064523	Unreasonable delays of release	Withdrawn - Withdrawn by Complainant
064526	Conduct contrary to policies	Preliminary Investigation - Partly Resolved in Favour of Complainant
064528	Unreasonable refusal of visit by partner	Preliminary Investigation - Not Sustained - Explanation Given
064530	Unreasonable decision to ban certain visitors	Preliminary Investigation - Not Sustained - Explanation Given
064531	Unreasonable punishment	Preliminary Investigation - Not Sustained - Explanation Given
064533	Failure to communicate	Preliminary Investigation - Reasonable Resolution
064542	Unreasonable transfer within prison	Advice Given - Referred to Agency
064543	Failure to provide property	Preliminary Investigation - Reasonable Resolution
064545	Unreasonable decision to transfer to another unit	Preliminary Investigation - Not Sustained - Explanation Given
064550	Failure to obtain medical records	Advice Given

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File no	Details	Outcome
064552	Unreasonable change to food routine in prison	Preliminary Investigation - Not Sustained
064556	Unreasonable punishment	Preliminary Investigation - Reasonable Resolution
064560	Unreasonable charges for asset checks	Advice Given - Referred to Agency
064561	Unfair decision to move to another unit	Preliminary Investigation - Not Sustained - Explanation Given
064562	Failure to transfer to lower security prison	Preliminary Investigation - Not Sustained - Explanation Given
064569	Unreasonable decision to ban a visitor	Preliminary Investigation - Not Sustained - Explanation Given
064576	Unreasonable decision to ban visit to prison	Preliminary Investigation - Reasonable Resolution
064584	Unreasonable delay in providing television	Preliminary Investigation - Reasonable Resolution
064590	Unreasonable processing of home detention	Advice Given
064591	Unreasonable transfer	Advice Given
064599	Alleged failure to provide access to physiotherapist	Preliminary Investigation - Reasonable Resolution
064600	Unable to access cells	Preliminary Investigation - Reasonable Resolution
064601	Excessive punishment and lack of due process	Preliminary Investigation - Reasonable Resolution
064602	Delay in completing case review	Preliminary Investigation - Reasonable Resolution
064603	Unreasonable assistance provided	Advice Given
064609	Unreasonable delay in providing dental care	Preliminary Investigation - Reasonable Resolution
064610	Unreasonable delay in finalising investigation	Advice Given
064615	Unreasonable censorship	Advice Given
064618	Failure to provide accurate information	Preliminary Investigation - Partly Resolved in Favour of Complainant
064630	Unreasonable decision to deny one day's payment	Preliminary Investigation - Reasonable Resolution
064641	Unreasonable decision to ban visitor	Advice Given
064645	Unreasonable decision to transfer	Preliminary Investigation - Reasonable Resolution
064654	Failure to provide adequate amenities	Preliminary Investigation - Reasonable Resolution
064659	Unreasonable decision to place in double cell	Preliminary Investigation - Not Sustained - Explanation Given
064660	Failure to act on report of child abuse	Preliminary Investigation - Reasonable Resolution
064672	Unreasonable denial of meal	Preliminary Investigation - Reasonable Resolution
064694	Unreasonable decision to impose ban	Advice Given
064696	Alleged failure to organise police visit	Advice Given
064705	Prisoner not receiving mail	Preliminary Investigation - Not Sustained - Explanation Given
064707	Unreasonable reduction of rations	Withdrawn - Withdrawn by Complainant
064708	Unreasonable imposition of punishment	Preliminary Investigation - Not Sustained - Explanation Given
064716	Unreasonable delay of buy	Preliminary Investigation - Not Sustained
064717	Refused access to phone	Preliminary Investigation - Not Sustained - Explanation Given
064719	Refusal to facilitate phone link up with family	Preliminary Investigation - Reasonable Resolution
064720	Unreasonable delay in providing "buys" from the canteen	Preliminary Investigation - Not Sustained - Explanation Given
064721	Delay in releasing property obtained on "buys"	Preliminary Investigation - Not Sustained - Explanation Given
064722	Failure to provide access to Aboriginal Liaison Officer	Preliminary Investigation - Partly Resolved in Favour of Complainant
064723	Unreasonable decision not to provide property	Preliminary Investigation - Reasonable Resolution
064728	Unfair decision to transfer	Advice Given
064730	Unreasonable imposition of strict regime	Preliminary Investigation - Not Sustained - Explanation Given
064738	Unreasonable transfer	Advice Given
064749	Unreasonable mail delay	Preliminary Investigation - Not Sustained - Explanation Given
064759	Refusal to release private property	Advice Given - Referred to Agency
064760	Failure to advise transfer area	Advice Given
064783	Access to Information	Advice Given
064784	Unreasonable decision to ban prison visit	Preliminary Investigation - Not Sustained - Explanation Given
064789	Unreasonable punishment	Preliminary Investigation - Reasonable Resolution
064794	Unreasonable decision to transfer	Preliminary Investigation - Reasonable Resolution
064795	Refusal to release property	Preliminary Investigation - Partly Resolved in Favour of Complainant
064796	Unreasonable delay in transferring property	Preliminary Investigation - Not Sustained
064809	Unreasonable refusal of access to clothes dryers	Preliminary Investigation - Reasonable Resolution
064810	Unfair decision to enforce non-contact visits	Preliminary Investigation - Not Sustained - Explanation Given
064816	Failure to provide prison clothing	Advice Given - Referred to Agency
064825	Failure to provide paint boards	Preliminary Investigation - Not Sustained - Explanation Given
064827	Unreasonable processing of interstate transfer application	Withdrawn by Complainant
064836	Failure to transfer property in timely manner	Preliminary Investigation - Not Sustained - Explanation Given
064838	Failure to facilitate an inter-institutional telephone call	Preliminary Investigation - Reasonable Resolution
064840	Failure to respond to claim for missing property	Preliminary Investigation - Not Sustained - Explanation Given
064841	Unreasonable delay in processing home detention application	Preliminary Investigation - Reasonable Resolution
064843	Lack of support regarding ailing parent	Preliminary Investigation - Reasonable Resolution
064844	Failure to provide case review	Advice Given
064845	Refusal to allow release of money	Preliminary Investigation - Not Sustained - Explanation Given
064846	Unreasonable decision to punish	Preliminary Investigation - Not Sustained
064847	Unreasonable regime regarding overflow protected prisoners	Advice Given
064855	Complaint about general treatment	Advice Given
064865	Unreasonable refusal to accept claim	Advice Given
064879	Unreasonable punishment	Advice Given - Referred to Agency
064881	Failure to approve transfer	Advice Given
064882	Delay in transferring to cottages	Preliminary Investigation - Not Sustained - Explanation Given
064883	Unsatisfactory meals	Advice Given - Referred to Agency
064893	Failure to assist with drivers license	Advice Given - Referred to Agency
064896	Failure to release item of prisoner's property	Preliminary Investigation - Reasonable Resolution
064898	Unreasonable decision regarding transfer	Preliminary Investigation - Not Sustained - Explanation Given
064909	Failure to transfer to a smoke-free cell	Preliminary Investigation - Reasonable Resolution
064910	Failure to observe privacy considerations	Advice Given
064911	Failure to cater for special dietary needs	Preliminary Investigation - Reasonable Resolution
064914	Failure to approve transfer	Preliminary Investigation - Partly Resolved in Favour of Complainant
064915	Delay in transferring property	Preliminary Investigation - Reasonable Resolution
064921	Unreasonable delay in transferring to non-smoker's cell	Advice Given

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File no	Details	Outcome
064923	Failure to permit full time education	Advice Given
064928	Refusal to allow telephone call	Advice Given
064929	Unreasonable punishment	Preliminary Investigation - Reasonable Resolution
064938	Failure to assist with finances	Advice Given - Referred to Agency
064939	Failure to communicate information	Preliminary Investigation - Not Sustained
064940	Failure to provide property	Preliminary Investigation - Not Sustained - Explanation Given
064944	Unreasonable decision to refuse kitchen work	Preliminary Investigation - Not Sustained - Explanation Given
064945	Alleged refusal of access to Aboriginal Legal Officer	Preliminary Investigation - Reasonable Resolution
064947	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
064957	Loss of property during transfer	Advice Given - Referred to Agency
064965	Financial problem with telephone account	Advice Given - Referred to Agency
064966	Failure to accept property	Advice Given - Referred to Agency
064977	Allegedly unjust imposition of impending transfer	Preliminary Investigation - Not Sustained
064980	Unreasonable quality of food	Preliminary Investigation - Not Sustained - Explanation Given
064991	Unreasonable delay in transfer of property	Preliminary Investigation - Reasonable Resolution
064999	Refusal to allow access kitchen amenities	Advice Given - Referred to Agency
065000	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
065002	Unreasonable decision to impose ban on visits to prison	Preliminary Investigation - Not Sustained - Explanation Given
065008	Failure to record completion of course	Preliminary Investigation - Not Sustained - Explanation Given
065011	Unfair decision to transfer from cottages	Preliminary Investigation - Not Sustained - Explanation Given
065013	Failure to follow proper urine analysis procedures	Preliminary Investigation - Not Sustained - Explanation Given
065024	Unreasonable delays in processing home detention application	Preliminary Investigation - Reasonable Resolution
065044	Unreasonable decision regarding drug treatment	Advice Given - Referred to Agency
065048	Unreasonable refusal to provide specially fitted shoes	Preliminary Investigation - Partly Resolved in Favour of Complainant
065056	Unreasonable refusal of leave application	Advice Given
065068	Unreasonable refusal to use telephone	Preliminary Investigation - Partly Resolved in Favour of Complainant
065069	Query regarding banned visit	Advice Given
065072	Unreasonable decision not to temporarily transfer some property	Preliminary Investigation - Not Sustained - Explanation Given
065075	Overcharge regarding loan re-payment	Preliminary Investigation - Not Sustained - Explanation Given
065079	Unreasonable decision to defer family leave program	Preliminary Investigation - Reasonable Resolution
065085	Unreasonable eating conditions	Advice Given - Referred to Agency
065086	Failure to provide medication	Preliminary Investigation - Reasonable Resolution
065087	Unreasonable decision to punish without charge	Preliminary Investigation - Not Sustained - Explanation Given
065089	Unreasonable change in supply of toothpaste	Advice Given
065090	Unreasonable treatment upon admission	Advice Given
065091	Unreasonable refusal to resolve damaged property matter	Advice Given
065094	Failure to provide psychological treatment	Preliminary Investigation - Reasonable Resolution
065095	Unreasonable decision to reduce pay for kitchen work	Advice Given - Referred to Agency
065096	Unreasonable pursuit of debt	Advice Given
065104	Unreasonable decision to ban from visiting prison	Preliminary Investigation - Not Sustained - Explanation Given
065105	Failure to give reason for transfer	Preliminary Investigation - Not Sustained - Explanation Given
065110	Unreasonable decision to delay release on home detention	Preliminary Investigation - Not Sustained - Explanation Given
065114	Failure to provide medical treatment	Preliminary Investigation - Reasonable Resolution
065118	Failure to assist in obtaining accommodation	Advice Given
065120	Unprofessional manner/communication skills	Advice Given
065124	Loss of personal property	Preliminary Investigation - Reasonable Resolution
065128	Delays in processing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
065130	Unreasonable confiscation of property	Preliminary Investigation - Reasonable Resolution
065131	Unreasonable decision to refuse home detention	Preliminary Investigation - Reasonable Resolution
065140	Unreasonable decision to ban	Preliminary Investigation - Not Sustained - Explanation Given
065155	Unreasonable conduct by staff member	Declined - Alternate Remedy
065169	Non specific issues about poor treatment whilst detained	Advice Given
065181	Unreasonable cessation of visiting rights	Advice Given
065185	Unreasonable decision to forcibly administer medication	Preliminary Investigation - Reasonable Resolution
065189	Unreasonable refusal to allow visit	Advice Given
065196	Failure to acknowledge phone account is in credit	Preliminary Investigation - Not Sustained - Explanation Given
065203	Lost property	Advice Given
065207	Unreasonable ban on visits by wife	Advice Given
065208	Delays in processing home detention	Advice Given
065209	Unreasonable decision to confiscate property	Preliminary Investigation - Not Sustained - Explanation Given
065210	Unfair interpretation of rule about Play Stations	Preliminary Investigation - Not Sustained - Explanation Given
065216	Unreasonable refusal of single cell	Advice Given
065221	General concern about removal of property lawfully obtained	Advice Given
065224	Refusal to accept property	Preliminary Investigation - Partly Resolved in Favour of Complainant
065228	Unreasonable requirement re purchase of particular stereos	Advice Given - Referred to Agency
065235	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
065248	Late delivery of mail	Advice Given
065264	Unreasonable procedures	Preliminary Investigation - Not Sustained - Explanation Given
065268	Unreasonable delay with transfer	Preliminary Investigation - Not Sustained - Explanation Given
065271	Unreasonable delay in transfer	Advice Given - Referred to Agency
065274	Unreasonable decision to transfer	Advice Given - Referred to Agency
065285	Unreasonable refusal to pay for work	Advice Given
065289	Unreasonable decision to transfer to mainstream	Preliminary Investigation - Not Sustained - Explanation Given
065310	Unreasonable clothing requirements	Declined - Alternate Remedy
065314	Failure to send out mail	Preliminary Investigation - Not Sustained - Explanation Given
065320	Failure to transfer money into phone account	Preliminary Investigation - Reasonable Resolution
065321	Failure to allow access to yard time	Advice Given - Referred to Agency
065338	Bail not facilitated	Preliminary Investigation - Reasonable Resolution

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
065340	Unexplained loss of phone access	Advice Given - Referred to Agency
065348	Unreasonable decision to transfer to another institution	Preliminary Investigation - Not Sustained - Explanation Given
065350	Unreasonable request to provide urine sample	Advice Given
065358	Unreasonable decision to impose non contact visits	Preliminary Investigation - Not Sustained - Explanation Given
065360	Failure to re-do urine test	Preliminary Investigation - Reasonable Resolution
065362	Failure to allow visit with son	Advice Given - Referred to Agency
065365	Unreasonable decision to ban visit	Preliminary Investigation - Not Sustained - Explanation Given
065368	Failure to correct phone account	Preliminary Investigation - Reasonable Resolution
065369	Unreasonable decision regarding cell mate	Preliminary Investigation - Not Sustained
065372	Unreasonable transfer decision	Preliminary Investigation - Not Sustained - Explanation Given
065380	Miscalculation of phone account	Preliminary Investigation - Reasonable Resolution
065383	Failure to provide education	Advice Given - Referred to Agency
065386	Revocation of work privileges	Advice Given - Referred to Agency
065392	Unreasonable delay in finalising lost property claim	Advice Given
065401	Allegedly unreasonable action following report of fear of another prisoner	Advice Given
065404	Concern regarding possible changes to property policies	Preliminary Investigation - Partly Resolved in Favour of Complainant
065405	Unfair decision to move	Preliminary Investigation - Not Sustained - Explanation Given
065419	Unreasonable refusal to provide additional telephone funds	Advice Given
065420	Unreasonable refusal to allow access to personal clothing	Advice Given - Advice Given to Agency
065424	Failure to fix video	Advice Given - Referred to Agency
065430	Property damage	Advice Given - Referred to Agency
065438	Unreasonable decision to ban visitor	Preliminary Investigation - Not Sustained
065444	Inadequate investigation of lost shoes	Preliminary Investigation - Not Sustained - Explanation Given
065455	Unreasonable decision to ban visit	Preliminary Investigation - Not Sustained - Explanation Given
065463	Coercion to appear before Parole Board	Preliminary Investigation - Reasonable Resolution
065469	Delay in being placed on detoxification program	Preliminary Investigation - Not Sustained - Explanation Given
065473	Incorrect entry on prison records	Preliminary Investigation - Partly Resolved in Favour of Complainant
065486	Unreasonable decision to disallow attendance at relative's funeral	Preliminary Investigation - Not Sustained - Explanation Given
065487	Unreasonable delay in locating property	Preliminary Investigation - Reasonable Resolution
065490	Unreasonable decision to ban visits by wife	Advice Given
065493	Unreasonable decision regarding Play Station	Preliminary Investigation - Reasonable Resolution
065498	Unreasonable medical care provided to partner	Advice Given
065499	Inadequate investigation of complaint	Preliminary Investigation - Reasonable Resolution
065503	Failure to provide access to work	Preliminary Investigation - Not Sustained - Explanation Given
065524	Unreasonable action regarding separation order	Preliminary Investigation - Not Sustained - Explanation Given
065530	Unreasonable decision to remand in custody after warrant expired	Preliminary Investigation - Reasonable Resolution
065531	Unreasonable decision to place in shared cell with smoker	Preliminary Investigation - Partly Resolved in Favour of Complainant
065532	Unreasonable delay in issuing personal property	Advice Given
065544	Refusal to release property	Preliminary Investigation - Not Sustained - Explanation Given
065568	Unreasonable reason for not releasing property	Advice Given - Referred to Agency
065574	Failure to conduct case review/approve transfer	Preliminary Investigation - Reasonable Resolution
065578	Unreasonable decision to place prisoner in double cell	Preliminary Investigation - Reasonable Resolution
065579	Unreasonable placement at a country prison	Preliminary Investigation - Not Sustained
065595	Unreasonable ban	Advice Given
065601	Unreasonable delays in processing home detention application	Preliminary Investigation - Partly Resolved in Favour of Complainant
065612	Unfair decision to not allow additional pair of shoes	Preliminary Investigation - Not Sustained - Explanation Given
065628	Referred to agency's complaints service	Advice Given
065635	Failure to grant access to property	Preliminary Investigation - Not Sustained - Explanation Given
065648	Alleged unprofessional conduct by officer	Preliminary Investigation - Not Sustained - Explanation Given
065650	Unreasonable decision to transfer to management cells	Advice Given
065651	Unreasonable use of power	Preliminary Investigation - Not Sustained - Explanation Given
065658	Inadequate policy on milk allowance	Preliminary Investigation - Reasonable Resolution
065662	Unreasonable bans on visits and ongoing harassment by officers	Preliminary Investigation - Not Sustained - Explanation Given
065663	Unreasonable delay in provision of medication	Advice Given
065669	Property loss and failure to compensate	Advice Given - Referred to Agency
065671	Unreasonable ban	Preliminary Investigation - Not Sustained - Explanation Given
065673	General procedure regarding case review/transfer	Advice Given
065674	Unreasonable decision to punish	Preliminary Investigation - Partly Resolved in Favour of Complainant
065676	Unreasonable decision to move/double up cell	Preliminary Investigation - Reasonable Resolution
065683	Unreasonable decision to confiscate paperwork	Preliminary Investigation - Partly Resolved in Favour of Complainant
065691	Unreasonable delay in replying to correspondence	Preliminary Investigation - Reasonable Resolution
065706	Failure to transfer property to prisoner	Preliminary Investigation - Not Sustained - Explanation Given
065730	Unreasonable refusal of buy request	Advice Given - Referred to Agency
065743	Unreasonable decision to shorten visit	Advice Given - Referred to Agency
065752	Excessive punishment	Preliminary Investigation - Not Sustained - Explanation Given
065753	Unfair decision not to separate from another prisoner	Preliminary Investigation - Not Sustained - Explanation Given
065754	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
065763	Unreasonable decision to ban visit	Preliminary Investigation - Not Sustained - Explanation Given
065768	Alleged harassment during visits	Advice Given - Referred to Agency
065776	Unreasonable delay in processing FOI determination	Preliminary Investigation - Reasonable Resolution
065783	Unreasonable refusal to organise visit	Advice Given
065785	Refusal to provide special diet	Preliminary Investigation - Not Sustained - Explanation Given
065791	Unreasonable decision to confiscate book	Preliminary Investigation - Not Sustained - Explanation Given
065797	Unreasonable decision to transfer to another institution	Preliminary Investigation - Not Sustained - Explanation Given
065801	Unreasonable decision regarding release of stereo	Preliminary Investigation - Reasonable Resolution
065804	Delay in addressing home detention issues	Advice Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
065810	Failure to forward mail	Advice Given - Referred to Agency
065824	Unreasonable decision regarding Game Boy hand controls	Preliminary Investigation - Not Sustained - Explanation Given
065826	Unreasonable refusal to supply medication	Preliminary Investigation - Reasonable Resolution
065827	Unreasonable refusal to supply shoes held in property	Preliminary Investigation - Not Sustained - Explanation Given
065828	Failure to wash eating implements	Advice Given - Referred to Agency
065832	Refusal to access funds in resettlement account	Advice Given - Referred to Agency
065838	Refusal to accept property	Preliminary Investigation - Reasonable Resolution
065852	Unreasonable decision to refuse access to property	Advice Given
065854	Refusal to transfer from cell	Advice Given - Referred to Agency
065857	Alleged denial of access to telephone calls	Preliminary Investigation - Reasonable Resolution
065860	Denied access to yard	Advice Given - Referred to Agency
065863	Delay in releasing property	Preliminary Investigation - Partly Resolved in Favour of Complainant
065868	Unreasonable non delivery of lunch	Preliminary Investigation - Not Sustained - Explanation Given
065871	Unreasonable decision to ban visitor	Advice Given
065874	Failure to provide medical treatment	Advice Given - Referred to Agency
065876	Delay in transfer of property	Preliminary Investigation - Not Sustained - Explanation Given
065887	Confusion over amount of funds transferred to telephone account	Preliminary Investigation - Not Sustained - Explanation Given
065888	Failure to provide all items listed on "buy" sheet	Preliminary Investigation - Not Sustained - Explanation Given
065894	Unreasonable decision in allowing smoking in work areas	Preliminary Investigation - Reasonable Resolution
065901	Unreasonable decision to ban visits	Preliminary Investigation - Not Sustained - Explanation Given
065902	Unreasonable decision to ban visits	Preliminary Investigation - Not Sustained - Explanation Given
065906	Unreasonable decision to lay charges for breach of rules	Advice Given
065912	Unreasonable treatment provided	Preliminary Investigation - Not Sustained - Explanation Given
065914	Unreasonable decision to terminate program	Preliminary Investigation - Not Sustained - Explanation Given
065917	Unreasonable decision to change medication procedures	Advice Given
065918	Failure to fix telephone in reasonable timeframe	Advice Given - Referred to Agency
065935	Refusal to allow call to agency	Preliminary Investigation - Not Sustained - Explanation Given
065971	Failure to provide access to property	Preliminary Investigation - Not Sustained - Explanation Given
065972	Failure to allow property to be brought into prison	Preliminary Investigation - Not Sustained - Explanation Given
065973	Unreasonable action during strip search	Advice Given
065987	Unreasonable delay in finalising home detention application	Withdrawn - Withdrawn by Complainant
065988	Unreasonable delay in dental treatment	Advice Given - Referred to Agency
065999	Failure to allow canteen "buy"	Preliminary Investigation - Not Sustained - Explanation Given
066000	Refusal to provide certain food	Advice Given - Referred to Agency
066002	Failure to charge in appropriate timeframe	Advice Given
066003	Failure to provide appropriate medical treatment	Advice Given
066005	Unreasonable decision to ban visit	Preliminary Investigation - Not Sustained - Explanation Given
066008	Unreasonable decision to withhold funds	Declined - Refused to Investigate
066009	Unreasonable delay in organising parole	Advice Given
066029	Failure to ensure case notes are accurate	Preliminary Investigation - Partly Resolved in Favour of Complainant
066034	Unreasonable process for purchasing magazines	Preliminary Investigation - Reasonable Resolution
066035	Failure to allow triangle pillow for neck problem	Advice Given - Referred to Agency
066038	Failure to transfer money	Preliminary Investigation - Reasonable Resolution
066046	Failure to provide access to property	Preliminary Investigation - Not Sustained - Explanation Given
066049	Failure to provide adequate diet food	Preliminary Investigation - Reasonable Resolution
066060	Delay in transferring property	Preliminary Investigation - Not Sustained - Explanation Given
066063	Unprofessional conduct by prison officer	Advice Given - Referred to Agency
066067	Unreasonable use of power	Advice Given - Referred to Agency
066074	Unreasonably harsh punishment	Preliminary Investigation - Not Sustained - Explanation Given
066077	Unreasonable decision regarding special "buy"	Preliminary Investigation - Reasonable Resolution
066095	Unreasonable treatment by officer	Advice Given - Referred to Agency
066096	Query regarding details to employer	Advice Given - Referred to Agency
066099	Alleged exorbitant pricing in the canteen	Preliminary Investigation - Not Sustained - Explanation Given
066120	Unreasonable delay in providing property	Preliminary Investigation - Reasonable Resolution
066121	Unreasonable requirement in conduct of search	Preliminary Investigation - Not Sustained - Explanation Given
066132	Concerns regarding cancellation of transfer	Preliminary Investigation - Reasonable Resolution
066133	Query regarding parole date and parole	Advice Given
066147	Delay in processing home detention	Preliminary Investigation - Reasonable Resolution
066152	Failure to advise hospital appointments	Advice Given - Referred to Agency
066156	Unreasonable denial of written direction in relation to separation	Preliminary Investigation - Not Sustained - Explanation Given
066173	Unreasonable delay in finalising release	Preliminary Investigation - Not Sustained - Explanation Given
066174	Failure to transport to court for appearance	Preliminary Investigation - Reasonable Resolution
066176	Unreasonable management of fine payments	Preliminary Investigation - Reasonable Resolution
066178	Failure to facilitate dietary needs	Advice Given
066185	Failure to release from jail after charges dismissed in court	Advice Given - Referred to Agency
066206	Unreasonable decision to refuse property	Preliminary Investigation - Reasonable Resolution
066207	Alleged property items missing	Advice Given
066212	Unreasonable punishment	Advice Given
066217	Unfair decision to transfer to another facility	Withdrawn by Complainant
066218	Alleged harassment by prison officer	Preliminary Investigation - Not Sustained - Explanation Given
066219	Unreasonably harsh punishment	Preliminary Investigation - Partly Resolved in Favour of Complainant
066227	Query regarding urine testing	Advice Given
066235	Failure to provide additional clothing	Preliminary Investigation - Reasonable Resolution
066237	Unreasonable questioning of visitor on suspicion of carrying contraband	Advice Given
066239	Unreasonable confiscation of television	Preliminary Investigation - Not Sustained - Explanation Given
066240	Allegation of assault by prison officer	Advice Given - Referred to Agency
066241	General complaint regarding well being	Advice Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
066271	Unreasonable punishment of prisoner	Preliminary Investigation - Not Sustained - Explanation Given
066273	Alleged non-supply of cash funds upon transfer	Declined - Alternate Remedy
066274	Unreasonable delay in lowering security rating to low	Preliminary Investigation - Not Sustained - Explanation Given
066282	Enquiry regarding duty of care	Advice Given
066286	Unreasonable decision to swap microwave	Advice Given - Referred to Agency
066289	Refusal to allow baby to have bottle during visit	Advice Given - Referred to Agency
066299	Unfair decision regarding transfer	Preliminary Investigation - Reasonable Resolution
066300	Alleged misuse	Advice Given
066305	Incorrect withdrawal of funds from prisoner account for buys	Preliminary Investigation - Not Sustained - Explanation Given
066307	Unreasonable threat of punishment	Preliminary Investigation - Reasonable Resolution
066308	Allegedly unreasonable refusal to allow prisoner's to return	Preliminary Investigation - Not Sustained - Explanation Given
066313	Failure to locate personal property	Preliminary Investigation - Partly Resolved in Favour of Complainant
066319	Failure to exercise duty of care in relation to high risk prisoner	Advice Given
066323	Delay in releasing property	Preliminary Investigation - Partly Resolved in Favour of Complainant
066341	Unreasonable delay in release	Preliminary Investigation - Not Sustained - Explanation Given
066345	Unreasonable decision to transfer	Preliminary Investigation - Not Sustained - Explanation Given
066361	Unreasonable placement in punishment cell	Preliminary Investigation - Reasonable Resolution
066362	Allegedly unfounded and harsh punishment	Preliminary Investigation - Not Sustained - Explanation Given
066363	Unreasonable delay in prison transfer	Preliminary Investigation - Partly Resolved in Favour of Complainant
066365	Allegedly unfair ban on visits from spouse	Preliminary Investigation - Not Sustained
066384	Failure to provide information	Preliminary Investigation - Not Sustained - Explanation Given
066386	Unreasonable restricted visits	Preliminary Investigation - Reasonable Resolution
066388	Unreasonable decision to transfer to higher security facility	Preliminary Investigation - Not Sustained - Explanation Given
066392	Unreasonable decision to impose punishment	Advice Given
066397	Unreasonable decision to not place money on phone card	Advice Given - Referred to Agency
066399	Unreasonable withdrawal of property	Preliminary Investigation - Reasonable Resolution
066400	Failure to provide information about release on parole	Preliminary Investigation - Not Sustained - Explanation Given
066402	Failure to compensate for lost property	Preliminary Investigation - Partly Resolved in Favour of Complainant
066411	Unreasonable management of case	Preliminary Investigation - Partly Resolved in Favour of Complainant
066417	Failure to keep on methadone treatment	Preliminary Investigation - Not Sustained
066420	Unreasonable ban on contact visits	Preliminary Investigation - Not Sustained - Explanation Given
066433	Unreasonable decision to not provide special diet	Advice Given - Referred to Agency
066434	Unreasonable delay in processing home detention	Preliminary Investigation - Not Sustained - Explanation Given
066466	Allegedly unreasonable refusal to allow the prisoner's transfer	Declined - Refused to Investigate
066477	Unreasonable refusal to compensate for damage to spectacles	Preliminary Investigation - Not Sustained - Explanation Given
066479	Failure to provide feedback reinvestigation of alleged assault	Advice Given - Referred to Agency
066480	Failure to provide information in relation to pending release	Preliminary Investigation - Reasonable Resolution
066484	Unreasonable refusal to credit account	Preliminary Investigation - Reasonable Resolution
066492	Inadequate arrangements for completion of community service	Preliminary Investigation - Partly Resolved in Favour of Complainant
066498	Failure to return shoes purchased	Preliminary Investigation - Reasonable Resolution
066540	Delay in transfer of property	Preliminary Investigation - Reasonable Resolution
066541	Failure to release	Advice Given - Referred to Agency
066566	Failure to allow to attend surgery	Advice Given
066593	Unfair consideration for job	Advice Given
066595	Unreasonable refusal of special visit	Advice Given
066610	Unreasonable management of complainant's situation	Advice Given
066619	Unreasonable refusal of compassionate leave	Preliminary Investigation - Not Sustained - Explanation Given

Department for Environment and Heritage

055694	Unreasonable valuations	Full Investigation - Not Sustained - Explanation
061173	Unreasonable refusal to allow freehold of shack site and unreasonable figure offered for buyback of site	Preliminary Investigation - Not Sustained - Explanation Given
061351	Unreasonable refusal to allow freehold of shack site and unreasonable figure offered for buyback of site	Preliminary Investigation - Not Sustained - Explanation Given
061466	Unreasonable decision to decline to process form of acceptance for freeholding and honour conditions of offer	Full Investigation - Not Sustained - Explanation
061472	Failure to give notice to access property and refusal to provide copies of photographs taken	Preliminary Investigation - Not Sustained - Explanation Given
062033	Unreasonable restriction of access to beach	Advice Given - Referred to Agency
062208	Failure to provide information	Preliminary Investigation - Not Sustained - Explanation Given
062219	Refusal to take action regarding removal of native vegetation	Advice Given
062243	Inadequate response to emergency situation	Declined - Alternate Remedy
062367	Failure to allow shack site freeholding to proceed	Preliminary Investigation - Reasonable Resolution
062451	Allegedly unreasonable decision to de-list building from State Heritage List	Full Investigation - Not Sustained - Explanation
062560	Unreasonable delay in assessing application for jetty construction	Preliminary Investigation - Not Sustained - Explanation Given
062585	Allegedly incorrect recording of details	Full Investigation - Not Sustained - Explanation
062845	Unfair process in not providing an appeal mechanism	Preliminary Investigation - Not Sustained - Explanation Given
062945	Unreasonable administrative decision/policy	Preliminary Investigation - Not Sustained - Explanation Given
064905	Concerns regarding water courses	Advice Given - Referred to Agency
065584	Failure to act regarding lease problems	Declined - Refused to Investigate
065726	Unreasonable decision regarding sale of land abutting freehold shacks	Advice Given
066245	Failure to act on report of harmful emissions from smoke stack	Preliminary Investigation - Not Sustained - Explanation Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
Department for Families and Communities		
061960	Unfair/discriminatory practices/policies	Full Investigation - Not Sustained - Explanation
062218	Intimidating behavior by agency's officers	Advice Given - Referred to Agency
062249	Lack of assistance	Advice Given
062263	Unreasonable delay in finalising payments	Advice Given
062300	Failure to deal with concerns raised by foster parent	Advice Given - Referred to Agency
062314	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
062331	Failure to provide information about reported child abuse	Advice Given
062354	Unreasonable termination of access visits without notice	Preliminary Investigation - Partly Resolved in Favour of Complainant
062359	Failure to act on report of child neglect	Preliminary Investigation - Not Sustained - Explanation Given
062405	Alleged inappropriate behavior by officer	Declined - Refused to Investigate
062445	Failure to keep appointments	Preliminary Investigation - Partly Resolved in Favour of Complainant
062498	Failure to act on reported child abuse	Advice Given
062513	Failure to approve special needs for foster child	Preliminary Investigation - Not Sustained - Explanation Given
062519	Unreasonable administrative decision/policy	Withdrawn - Withdrawn by Complainant
062533	Unreasonable management	Advice Given
062534	Inaccurate report	Advice Given
062557	Failure to address child placement issue	Preliminary Investigation - Not Sustained
062627	Refusal to assist financially for travel	Preliminary Investigation - Not Sustained - Explanation Given
062694	Unfair decision to remove child from foster care	Advice Given
062774	Unreasonable refusal to facilitate access with granddaughter	Preliminary Investigation - Reasonable Resolution
062824	Failure to provide reasons for decision	Preliminary Investigation - Partly Resolved in Favour of Complainant
062870	Lack of duty of care	Advice Given
062904	Failure to protect welfare of grandchild	Advice Given
062912	Unreasonable refusal to grant concession	Preliminary Investigation - Not Sustained - Explanation Given
062923	Failure to act on reported child abuse	Advice Given
062949	Unreasonable requirement to interview children without parents	Advice Given
062959	Unreasonable removal of child from care	Preliminary Investigation - Partly Resolved in Favour of Complainant
062965	Request to remove guardianship order	Advice Given
063002	Alleged rude and intimidating behaviour	Advice Given
063066	Information required to foster child unreasonable	Advice Given
063070	Refusal to amend information on report	Advice Given
063101	Unreasonable decision regarding placement of child	Advice Given
063133	Failure to provide information and access to children	Advice Given - Referred to Agency
063141	Unreasonable decision to deny concession	Advice Given
063145	Failure to provide information regarding removal and placement of children	Advice Given
063156	Refusal to provide rebate for water concession	Advice Given
063200	Alleged problem with agency employee	Advice Given
063279	Unreasonable delay in replying to enquiry	Preliminary Investigation - Reasonable Resolution
063284	Unreasonable tender practices	Withdrawn - Withdrawn by Complainant
063302	Unreasonable delay in finalising investigation	Advice Given
063324	Unreasonable refusal of financial assistance	Preliminary Investigation - Not Sustained - Explanation Given
063352	Failure to act regarding reported neglect of child	Advice Given
063371	Unreasonable decision not to allow complainant to live with parent	Preliminary Investigation - Not Sustained - Explanation Given
063386	Failure to respond to requests for assistance	Advice Given - Referred to Agency
063399	Refusal to investigate child abuse allegations	Preliminary Investigation - Not Sustained - Explanation Given
063414	Alleged rude behaviour from staff	Advice Given
063437	Unreasonable explanation of investigation	Preliminary Investigation - Not Sustained - Explanation Given
063470	Unreasonable decision to refuse access to child	Advice Given
063504	Failure to provide access to grandchild	Preliminary Investigation - Reasonable Resolution
063532	Unreasonable decision regarding access to child	Advice Given
063555	Unreasonable removal of children by crisis care	Preliminary Investigation - Partly Resolved in Favour of Complainant
063581	Unreasonable decision to investigate allegations	Preliminary Investigation - Not Sustained - Explanation Given
063614	Failure to investigate or provide assistance	Withdrawn - Withdrawn by Complainant
063629	Intimidating behaviour of staff investigating	Advice Given
063680	Failure to act to facilitate access to child	Preliminary Investigation - Not Sustained - Explanation Given
063682	Alleged inappropriate action in removing documents from file	Preliminary Investigation - Not Sustained - Explanation Given
063683	Inadequate investigation of child abuse complaint	Advice Given - Referred to Agency
063695	Improper interview process	Withdrawn by Complainant
063764	Alleged failure to investigate complaint	Advice Given
063834	Failure to provide appropriate support	Advice Given - Referred to Agency
063843	Alleged unreasonable denial of mediation options	Preliminary Investigation - Not Sustained - Explanation Given
063880	Unreasonable delay in releasing information regarding application	Preliminary Investigation - Reasonable Resolution
063915	Failure to investigate reports of child neglect	Advice Given
063926	Failure to provide financial assistance	Preliminary Investigation - Not Sustained - Explanation Given
063966	Unfair practices in relation to disclosure of information	Advice Given
063979	Unreasonable decision to remove child from parent	Preliminary Investigation - Not Sustained - Explanation Given
064007	Unreasonable decision to evict from premises	Preliminary Investigation - Not Sustained - Explanation Given
064028	Failure to provide information as requested	Declined - Alternate Remedy
064087	Failure to investigate child abuse adequately	Advice Given
064116	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
064136	Failure to respond to complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
064189	Failure to find suitable placement	Preliminary Investigation - Not Sustained - Explanation Given
064243	Unreasonable decision regarding financial assistance	Advice Given
064256	Inadequate investigation of complaint of child abuse	Advice Given - Referred to Agency
064265	Unreasonable decision regarding child placement	Preliminary Investigation - Partly Resolved in Favour of Complainant
064274	Unreasonable decision to prevent contact with children	Preliminary Investigation - Reasonable Resolution

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
064364	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
064384	Unreasonable decision to suspend access visits	Preliminary Investigation - Not Sustained - Explanation Given
064397	Alleged failure by staff to return calls	Advice Given - Referred to Agency
064402	Incorrect information provided	Advice Given - Referred to Agency
064428	Failure to provide appropriate assistance	Preliminary Investigation - Not Sustained - Explanation Given
064438	Unreasonable procedure for removing children from care	Preliminary Investigation - Not Sustained - Explanation Given
064478	Inadequate investigation of complaint	Advice Given - Referred to Agency
064483	Unreasonable information provided	Advice Given
064507	Inadequate investigation	Advice Given
064510	Unreasonable conditions for concession	Advice Given
064511	Failure to follow up on information provided	Advice Given
064538	Unreasonable decision to remove child	Advice Given
064539	Inappropriate advice	Advice Given - Referred to Agency
064546	Inadequate investigation of complaint and failure to provide service	Advice Given - Referred to Agency
064559	Unreasonable removal of children from care	Preliminary Investigation - Not Sustained - Explanation Given
064563	Failure to investigate or act	Preliminary Investigation - Not Sustained - Explanation Given
064583	Unreasonable administrative decision/policy	Preliminary Investigation - Not Sustained
064587	Failure to take appropriate action	Preliminary Investigation - Not Sustained - Explanation Given
064592	Unreasonable assistance provided	Advice Given
064593	Unreasonable requirement to provide information	Advice Given
064604	Unreasonable access arrangements	Advice Given
064690	Unreasonable management of access	Advice Given
064703	Unreasonable assistance provided	Preliminary Investigation - Not Sustained - Explanation Given
064726	Unreasonable decision to change access arrangements with children	Preliminary Investigation - Not Sustained - Explanation Given
064727	Failure to provide adequate financial assistance	Preliminary Investigation - Not Sustained - Explanation Given
064734	Unreasonable decision to stop concession	Preliminary Investigation - Reasonable Resolution
064754	Alleged failure to meet the needs of a child	Declined - Refused to Investigate
064770	Unreasonable request	Preliminary Investigation - Not Sustained - Explanation Given
064779	Unreasonable management of child's welfare	Advice Given
064785	Unreasonable decision to remove children	Advice Given
064823	Unreasonable delay deriving method of payment	Preliminary Investigation - Reasonable Resolution
064878	Unreasonable alteration to inter-country adoption process	Full Investigation - Not Sustained - Explanation
064912	Failure to investigate complaint	Preliminary Investigation - Not Sustained
064932	Unreasonable action regarding children in care	Declined - Refused to Investigate
064949	Unreasonable removal of child from family home	Advice Given - Referred to Agency
064972	Inadequate action to protect child	Preliminary Investigation - Not Sustained - Explanation Given
064984	Unreasonable process of review of contracted agency	Advice Given
065016	Unreasonable decision to remove child from parent	Preliminary Investigation - Reasonable Resolution
065051	Unreasonable decision regarding access to child	Preliminary Investigation - Reasonable Resolution
065109	Unreasonable decision regarding child placement	Preliminary Investigation - Not Sustained - Explanation Given
065119	Lack of car parks for clients	Advice Given - Referred to Agency
065142	Failure to give reasons for removal of children	Advice Given - Referred to Agency
065217	Unreasonable behaviour of officer	Advice Given
065257	Failure to provide child placement respite	Preliminary Investigation - Partly Resolved in Favour of Complainant
065304	Alleged failure to follow up child abuse report	Advice Given
065315	Failure to investigate runaway child	Preliminary Investigation - Not Sustained - Explanation Given
065345	Failure to treat with respect	Advice Given
065346	Failure to act on complaint	Advice Given
065351	Inadequate investigation of complaint	Advice Given
065379	Failure to provide reasons for investigating	Advice Given - Referred to Agency
065414	Failure to provide information about investigation	Advice Given
065511	Unreasonable administrative decision/policy	Preliminary Investigation - Not Sustained - Explanation Given
065540	Failure to provide adequate care	Preliminary Investigation - Not Sustained
065545	Unreasonable delay regarding access to children	Preliminary Investigation - Reasonable Resolution
065560	Unreasonable management of children	Advice Given
065567	Inadequate investigation of complaint	Preliminary Investigation - Not Sustained - Explanation Given
065573	Unreasonable decisions/process regarding grandchildren	Advice Given
065615	Unreasonable refusal to transfer	Preliminary Investigation - Not Sustained - Explanation Given
065624	Unreasonable decision regarding child placement	Advice Given
065627	Failure to provide accurate information	Preliminary Investigation - Not Sustained
065638	Unreasonable treatment	Preliminary Investigation - Not Sustained - Explanation Given
065689	Failure to provide support and guidance to foster carers	Declined - Refused to Investigate
065720	Unreasonable decision concerning child	Advice Given
065765	Unreasonable use of authority/power	Preliminary Investigation - Not Sustained - Explanation Given
065778	Failure to place child in foster care	Advice Given - Referred to Agency
065809	Failure to take action regarding runaway child	Advice Given - Referred to Agency
065831	Inadequate investigation of child abuse complaint	Advice Given - Referred to Agency
065836	Unreasonable decision to cease foster caring and lack of support	Advice Given
065850	Alleged unprofessional conduct by staff	Preliminary Investigation - Not Sustained - Explanation Given
065866	Failure to advise of child placement	Preliminary Investigation - Not Sustained - Explanation Given
065881	Failure to provide support and assistance	Preliminary Investigation - Partly Resolved in Favour of Complainant
065907	Failure to keep adequate medical records	Advice Given
065916	Unreasonable removal of children from parent's care	Advice Given
065932	Unreasonable delay in serving court papers	Advice Given - Referred to Agency
066040	Failure to apply drug testing	Preliminary Investigation - Not Sustained - Explanation Given
066083	Alleged unjust handling of personal letters	Preliminary Investigation - Not Sustained - Explanation Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
066092	Unreasonable refusal to supply information regarding appointment	Preliminary Investigation - Reasonable Resolution
066128	Alleged inaction by agency	Preliminary Investigation - Not Sustained - Explanation Given
066186	Failure to investigate reports of child abuse	Advice Given - Referred to Agency
066247	Unreasonable decision regarding supervised access only	Advice Given
066335	Unreasonable report	Advice Given
066340	Inadequate investigation of complaint	Advice Given - Referred to Agency
066348	Unreasonable investigation into baby's death	Advice Given
066396	Unreasonable denial of unsupervised access	Advice Given - Referred to Agency
066452	Failure to include in telephone conference call linkup	Advice Given
066455	Failure to offer financial assistance	Preliminary Investigation - Not Sustained - Explanation Given
066494	Unreasonable placement of child	Advice Given
066514	Failure to provide appropriate advice and support	Declined - Refused to Investigate
066536	Refusal by authorities to consider complainant as a carer	Preliminary Investigation - Not Sustained - Explanation Given
066549	Failure to explain reasons for debt	Withdrawn - Withdrawn by Complainant
066550	Failure to adequately investigate complaint and to inform client	Advice Given

Department of Admin and Information Services

059556	Unreasonable conduct by inspector	Preliminary Investigation - Not Sustained
060991	Unreasonable action during inspection	Full Investigation - Not Sustained - Explanation
061127	Failure to enforce salary payments against former employer	Preliminary Investigation - Not Sustained
061736	Alleged breach of management guidelines	Preliminary Investigation - Not Sustained - Explanation Given
061812	Unreasonable assessment	Full Investigation - Not Sustained - Explanation Given
062181	Unreasonable valuation of property	Full Investigation - Reasonable Resolution
062240	Refusal to amend stamp duty payment	Advice Given
062248	Misleading information provided by staff	Advice Given
062292	Unreasonable delay in processing documentation	Preliminary Investigation - Reasonable Resolution
062334	Failure to respond to complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
062349	Failure to adequately verify information	Preliminary Investigation - Not Sustained - Explanation Given
062365	Unreasonable process for objection	Full Investigation - Reasonable Resolution
062481	Unreasonably high valuation assigned to property	Advice Given
062494	Unreasonable decision	Advice Given
062622	Failure to investigate loss of photographs	Advice Given
062712	Improper conduct by officer	Preliminary Investigation - Not Sustained - Explanation Given
062746	Unreasonable decision to classify land use as "commercial"	Preliminary Investigation - Partly Resolved in Favour of Complainant
062847	Excessive valuation	Preliminary Investigation - Not Sustained
063073	Unreasonable delay in investigation	Full Investigation - Not Sustained
063076	Unreasonable delay in investigation	Full Investigation - Not Sustained
063092	Unprofessional conduct by departmental officers	Advice Given
063117	Unreasonable increase in valuation	Advice Given - Referred to Agency
063127	Unreasonable decision to propose cancellation of license	Preliminary Investigation - Not Sustained - Explanation Given
063315	Failure to respond to valuation objection	Preliminary Investigation - Reasonable Resolution
063393	Failure to investigate or act	Preliminary Investigation - Partly Resolved in Favour of Complainant
063491	Unreasonable administration fee	Advice Given
063530	Unreasonable delay in processing application	Advice Given
063635	Unreasonable increase in land tax	Preliminary Investigation - Not Sustained - Explanation Given
063792	Failure to provide information when requested	Preliminary Investigation - Not Sustained - Explanation Given
063982	Unreasonable management of matter	Advice Given
063985	Unreasonable determination of value	Advice Given
064072	Unreasonable request for information	Advice Given
064091	Failure to provide sufficient and/or correct information	Preliminary Investigation - Partly Resolved in Favour of Complainant
064383	Failure to allow challenge property valuation	Preliminary Investigation - Partly Resolved in Favour of Complainant
064995	Unreasonable delay in issuing title	Preliminary Investigation - Reasonable Resolution
065027	Unreasonable decision not to issue asbestos	Preliminary Investigation - Not Sustained - Explanation Given
065101	Unreasonable increase in valuation	Advice Given - Referred to Agency
065186	Failure to follow proper investigation process	Advice Given
065214	Inadequate action re outstanding long service leave entitlements	Preliminary Investigation - Reasonable Resolution
065242	Unreasonable valuation	Preliminary Investigation - Reasonable Resolution
065323	Failure to approve licence	Preliminary Investigation - Not Sustained - Explanation Given
065585	Asbestos licence suspended pending investigation	Declined - Alternate Remedy
065718	Unreasonable delay in finalising claim	Advice Given
065851	Unrealistic value on properties	Advice Given
066015	Unreasonable conditions imposed in traineeship program	Advice Given
066150	Unreasonable decision to cancel claim	Preliminary Investigation - Reasonable Resolution
066167	Alleged harassment by departmental staff	Advice Given
066412	Unreasonable delay in making payment	Preliminary Investigation - Not Sustained - Explanation Given

Department of Education & Children's Services

060161	Failure to adequately review investigation re harassment	Full Investigation - Not Sustained - Explanation Given
060195	Unreasonable response to bullying concerns	Preliminary Investigation - Not Sustained - Explanation Given
061109	Unreasonable suspension of student	Preliminary Investigation - Not Sustained
061159	Unreasonable proposal to revoke approval	Preliminary Investigation - Not Sustained
061410	Unreasonable restriction on access to school	Preliminary Investigation - Partly Resolved in Favour of Complainant
061936	Unreasonable decision to ban from school grounds	Preliminary Investigation - Not Sustained - Explanation Given
062069	Unreasonable revocation of Family Day Care approval	Preliminary Investigation - Not Sustained
062227	Unreasonable requirement of children to clean toilets	Advice Given
062264	Unreasonable investigation into complaint	Advice Given
062285	Unreasonable decision to ban	Preliminary Investigation - Not Sustained - Explanation Given
062357	Unreasonable decision not to provide concession on school fees	Preliminary Investigation - Not Sustained - Explanation Given

GOVERNMENT DEPARTMENTS
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File no	Details	Outcome
062429	Unreasonable explanation of zoning system	Advice Given
062437	Delay in providing school card	Preliminary Investigation - Reasonable Resolution
062474	Unreasonable beach of confidentiality	Advice Given
062492	Unfair decision regarding authority to teach	Advice Given
062541	Refusal to assist with child returning to school	Preliminary Investigation - Not Sustained - Explanation Given
062572	Ambiguous information provided regarding employment issues	Advice Given
062708	Unreasonable refusal to issue authority to teach	Full Investigation - Not Sustained - Explanation
062716	Lack of assistance in regards to protecting children at school	Advice Given
062771	Unreasonable refusal to approve school card	Preliminary Investigation - Not Sustained - Explanation Given
062797	Unreasonable treatment	Advice Given
062813	Failure to provide school card	Preliminary Investigation - Not Sustained - Explanation Given
062851	Inadequate information provided regarding contract work	Advice Given
062866	Failure to adequately investigate complaint about child abuse	Preliminary Investigation - Partly Resolved in Favour of Complainant
062883	Failure to take appropriate action against bullying	Advice Given
062898	Unreasonable refusal to grant school card	Preliminary Investigation - Reasonable Resolution
062906	Failure to provide special education services	Advice Given
062993	Unreasonable decision to suspend child from school	Preliminary Investigation - Not Sustained - Explanation Given
062997	Failure to consider applications for employment	Full Investigation - Not Sustained - Explanation Given
063015	Failure to comply	Advice Given
063031	Inadequate investigation of complaint	Advice Given - Referred to Agency
063041	Unreasonable decision to ban child	Preliminary Investigation - Not Sustained - Explanation Given
063074	Failure to provide special services	Preliminary Investigation - Partly Resolved in Favour of Complainant
063181	Inadequate investigation of complaint	Advice Given - Referred to Agency
063184	Unreasonable use of power and authority	Advice Given - Referred to Agency
063212	Unreasonable management of son	Advice Given
063217	Unreasonable explanation of account	Advice Given
063326	Unreasonably treated by staff	Advice Given
063365	Failure to assist with attending school of choice	Preliminary Investigation - Not Sustained - Explanation Given
063418	Unreasonable request for information	Preliminary Investigation - Not Sustained - Explanation Given
063538	Unreasonable requirement to pay back monies	Advice Given
063634	Failure to act within a reasonable time	Preliminary Investigation - Not Sustained - Explanation Given
063636	Concerns regarding curriculum decisions by principal	Advice Given - Referred to Agency
063641	Failure to act to correct bullying	Preliminary Investigation - Not Sustained - Explanation Given
063729	Unreasonable management of change to education methodology	Advice Given
063734	Unreasonable decision to investigate complaint	Advice Given
063762	Unreasonable delay	Advice Given
063770	Failure to provide duty of care	Advice Given - Referred to Agency
063774	Unreasonable involvement of staff member in custody issue	Advice Given - Referred to Agency
063850	Failure to act regarding unfair treatment of child	Declined - Alternate Remedy
063906	Unreasonable decision to ban child from school bus	Preliminary Investigation - Not Sustained - Explanation Given
063913	Unreasonable delay in addressing complaint	Advice Given
063993	Unreasonable decision to ban	Advice Given
063994	Unreasonable lack of follow up of complaints	Advice Given
064099	Unreasonable decision to ban from school bus	Advice Given
064142	Unreasonable decision regarding disabled children	Preliminary Investigation - Reasonable Resolution
064230	Failure to report on son's progress as agreed	Advice Given
064320	Failure to inform parent of child's learning	Advice Given - Referred to Agency
064393	Inadequate investigation of alleged school bullying	Withdrawn by Complainant
064425	Failure to deal appropriately with misconduct issue	Declined - Alternate Remedy
064440	Unreasonable delay in granting authority to teach	Full Investigation - Partly Resolved in Favour of Complainant
064551	Unreasonable decision regarding recognition of training course	Advice Given
064634	Unreasonable refusal to provide copy records	Advice Given - Referred to Agency
064669	Unreasonable criteria for school card	Advice Given
064768	Unreasonable conditions to enroll children	Preliminary Investigation - Not Sustained - Explanation Given
064781	Failure to advise of eligibility for concession	Preliminary Investigation - Not Sustained - Explanation Given
064791	Unreasonable administrative decision	Advice Given
064859	Alleged inadequate treatment by school dental service	Advice Given
064904	Unreasonable practices concerning tertiary transfer	Advice Given
064962	Unfair treatment of child	Advice Given
064975	Inadequate teaching staff for disabled children	Advice Given - Referred to Agency
064990	Failure to provide support	Advice Given
065028	Failure to advise outcome of investigation in a timely manner	Preliminary Investigation - Not Sustained - Explanation Given
065081	Unreasonable educational assistance from agency	Preliminary Investigation - Not Sustained - Explanation Given
065088	Unreasonable management of children	Advice Given
065116	Unreasonable management of complaint	Advice Given
065156	Unsatisfactory outcome regarding assault by teacher	Advice Given
065230	Failure to provide adequate standard of education	Advice Given - Referred to Agency
065286	Unreasonable management of child	Advice Given
065295	Unreasonable investigation of complaint	Advice Given
065347	Unreasonable administrative decision	Advice Given
065355	Unreasonable decision regarding access to school library	Advice Given
065471	Failure to assist with alleged assault and provide financial assistance	Preliminary Investigation - Not Sustained - Explanation Given
065508	Alleged discriminatory behaviour	Advice Given - Referred to Agency
065538	Unreasonable conduct by students and teachers	Advice Given - Referred to Agency
065626	Unprofessional conduct of teachers/school	Advice Given - Referred to Agency
065631	Unreasonable delay in conducting investigation	Preliminary Investigation - Not Sustained - Explanation Given
065757	Failure to provide school reports	Advice Given
065758	Failure to notify payment required for school camp	Advice Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
065782	Failure to keep accurate records	Advice Given
065820	Unreasonable outcome of complaint	Advice Given - Referred to Agency
065951	Failure to provide education for child	Preliminary Investigation - Reasonable Resolution
065969	Unreasonable decision to ban child from the school bus	Preliminary Investigation - Not Sustained - Explanation Given
066044	Failure to adequately respond to complaints	Declined - Refused to Investigate
066131	Refusal to provide school bus service	Preliminary Investigation - Partly Resolved in Favour of Complainant
066208	Failure to provide special education facilities	Advice Given
066211	Unreasonable management of application	Advice Given
066214	Unreasonable investigation into school's management of child	Advice Given
066253	Unreasonable management of children	Advice Given
066254	Failure to grant school card allowance	Advice Given
066296	Unreasonable use of power by school staff member	Advice Given - Referred to Agency
066302	Failure to provide appropriate level of education consistent with curriculum guidelines	Advice Given - Referred to Agency
066316	Unreasonable refusal to grant approval	Preliminary Investigation - Not Sustained - Explanation Given
066350	Unreasonable refusal of claim	Advice Given
066358	Failure to approve application for school card	Advice Given
066367	Unreasonable imposition of charge for out of school hours care	Preliminary Investigation - Not Sustained - Explanation Given
066444	Failure to act in a reasonable manner regarding exclusion of child	Preliminary Investigation - Partly Resolved in Favour of Complainant
066502	Unreasonable suspension/exclusion procedures	Advice Given
066528	Unreasonable action taken by principal	Advice Given
066552	Alleged unreasonable communication/discipline	Advice Given - Referred to Agency
066611	Unreasonable management of child's education	Advice Given
Department of Human Services		
057045	Unreasonable delay in arranging assessments and planning reunification	Preliminary Investigation - Reasonable Resolution
058517	Unreasonable consideration of change to children's placement	Full Investigation - Sustained-sec 25(1)(b)-unreasonable, unjust, etc
061384	Failure to act regarding allegations of child abuse	Preliminary Investigation - Not Sustained - Explanation Given
061414	Lack of assistance leading up to the removal of child	Full Investigation - Not Sustained - Explanation Given
061629	Improper investigation of allegations	Preliminary Investigation - Reasonable Resolution
062009	Unreasonable treatment of child	Preliminary Investigation - Not Sustained - Explanation Given
062105	Failure to respond to correspondence	Preliminary Investigation - Partly Resolved in Favour of Complainant
062205	Inadequate investigation of complaint	Preliminary Investigation - Not Sustained - Explanation Given
062209	Failure to follow proper process	Preliminary Investigation - Not Sustained - Explanation Given
Department of Primary Industries & Resources		
049092	Unreasonable process in dealing with license application	Full Investigation - Not Sustained - Explanation Given
050713	Unreasonable charges applied to fishing licences	
058915	Unreasonable action regarding fishing licence	Preliminary Investigation - Partly Resolved in Favour of Complainant
061408	Failure to provide information	Preliminary Investigation - Partly Resolved in Favour of Complainant
062651	Unreasonable delay in determining licence status	Advice Given
062810	Unfair criteria for electing representatives to Advisory Council	Advice Given
062817	Unreasonable decision to change guidelines affecting consultants	Preliminary Investigation - Not Sustained - Explanation Given
062879	Unreasonable decision to apply new guidelines earlier than indicated	Advice Given
063088	Unreasonable delay in responding to correspondence	Preliminary Investigation - Reasonable Resolution
064323	Failure to act on complaint	Advice Given
064343	Unfair response	Advice Given - Referred to Agency
064895	Failure to respond to complaint	Advice Given - Referred to Agency
065410	Unreasonable refusal of permit	Advice Given
065714	Unreasonable decision to grant license	Advice Given
065915	Failure to provide relevant information	Advice Given - Referred to Agency
066195	Content of tender	Advice Given
Department of the Premier and Cabinet		
056746	Unreasonable termination of contract	Full Investigation - Not Sustained - Explanation
062669	Unreasonable information contained in advertisement	Advice Given
062957	Alleged loss of donated material	Preliminary Investigation - Not Sustained - Explanation Given
063800	Unreasonable conditions for migration sponsorship	Conciliated - Reasonable Resolution
064899	Inadequate security	Advice Given - Referred to Agency
065225	Unreasonable delay in responding and failure to provide reasons for rejection of application	Advice Given
065384	Unreasonable release of information	Declined - Refused to Investigate
065980	Unreasonable delay in responding to complaint	Preliminary Investigation - Not Sustained - Explanation Given
Department of Trade and Economic Development		
062341	Unreasonable management of land tender	Advice Given
Department of Transport & Urban Planning		
056609	Unreasonable location of bus shelter	Preliminary Investigation - Not Sustained - Explanation Given
057463	Failure to respond to correspondence in a timely manner and investigate concerns arising from death at sea	Conciliated - Reasonable Resolution
057518	Failure to act to restrict noise on road	Preliminary Investigation - Not Sustained - Explanation Given
059614	Failure to assist with noise reduction	Preliminary Investigation - Partly Resolved in Favour of Complainant
059678	Failure to investigate complaint	Preliminary Investigation - Reasonable Resolution
059726	Unreasonable delay and lack of adherence to	Full Investigation - Reasonable Resolution

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
	agreed school zone speed limit	
059973	Unreasonable decision regarding acquisition of land	Full Investigation - Reasonable Resolution
060300	Inadequate/inaccurate records maintained	Full Investigation - Not Sustained - Explanation
060838	Failure to compensate for damage to vehicle	Preliminary Investigation - Not Sustained - Explanation Given
061056	Failure to provide adequate protection for property	Preliminary Investigation - Not Sustained
061548	Unreasonable assessment made regarding driving test	Preliminary Investigation - Not Sustained - Explanation Given
061846	Failure to provide noise attenuation after intersection upgrade	Preliminary Investigation - Not Sustained
062229	Failure to prevent inaccurate registration	Withdrawn - Withdrawn by Complainant
062252	Unreasonable suspension of license	Declined - Alternate Remedy
062276	Failure to acknowledge that provisional license was granted	Preliminary Investigation - Not Sustained - Explanation Given
062337	Unreasonably high charges for registration of vehicle	Preliminary Investigation - Not Sustained - Explanation Given
062347	Unfair criteria set for regaining driver's license	Preliminary Investigation - Partly Resolved in Favour of Complainant
062352	Failure to enforce compliance with development plans	Preliminary Investigation - Not Sustained - Explanation Given
062355	Unreasonable requirement to pay additional fee to amend record	Preliminary Investigation - Not Sustained - Explanation Given
062374	Unreasonable refusal of access to property	Advice Given
062375	Incorrect information provided regarding traffic offence	Preliminary Investigation - Not Sustained - Explanation Given
062459	Failure to agree to allow payment of fines by installment	Preliminary Investigation - Not Sustained - Explanation Given
062478	Unreasonable decision to refuse on the spot refund	Advice Given
062484	Unreasonable decision to suspend license	Advice Given
062489	Unreasonable decision to extend time for holding provisional license	Advice Given
062563	Unreasonable charge in relation to license renewal	Preliminary Investigation - Not Sustained - Explanation Given
062587	Alleged over involvement by agency in decision making process	Advice Given
062601	Lack of assistance in regards to loss of license	Preliminary Investigation - Not Sustained - Explanation Given
062626	Unreasonable increase in fees	Advice Given
062632	Alleged failure to notify of driving disqualification	Preliminary Investigation - Not Sustained - Explanation Given
062674	Alleged refusal to pay compensation	Declined - Refused to Investigate
062714	Unreasonable requirement to undergo medical	Preliminary Investigation - Reasonable Resolution
062776	Failure to provide sufficient duty of care	Preliminary Investigation - Not Sustained - Explanation Given
062778	Failure to provide the correct information	Preliminary Investigation - Not Sustained - Explanation Given
062896	Refusal to renew license	Preliminary Investigation - Not Sustained - Explanation Given
062940	Unreasonable decision to suspend license	Advice Given
062991	Refusal to approve changes to road	Advice Given
063005	Unreasonable noise made by train	Advice Given
063011	Failure to approve disabled parking permit	Preliminary Investigation - Reasonable Resolution
063019	Incorrect allocation of demerit points	Preliminary Investigation - Not Sustained - Explanation Given
063085	Refusal to investigate complaint	Advice Given
063107	Unreasonable decision by driver to evict complainant from bus	Preliminary Investigation - Not Sustained - Explanation Given
063155	Refusal to introduce policy to allow riding motorbike minus helmet	Advice Given
063189	Unreasonable action	Preliminary Investigation - Not Sustained - Explanation Given
063205	Unreasonable requirement to undergo further health checks	Advice Given
063214	Unreasonable decision to send junk mail with registration papers	Advice Given
063215	Unreasonable explanation of correspondence	Advice Given
063245	Unreasonable fees charged for license	Advice Given
063249	Refusal to renew interstate license	Advice Given
063259	Misleading advice regarding class of license	Preliminary Investigation - Not Sustained - Explanation Given
063262	Unreasonable requirement to have annual medical certificate	Declined - Alternate Remedy
063318	Failure to provide adequate information regarding development application	Preliminary Investigation - Not Sustained - Explanation Given
063384	Unreasonable condition placed on obtaining	Advice Given
063566	Unreasonable decision to defect vehicle	Preliminary Investigation - Not Sustained - Explanation Given
063606	Unreasonable eligibility criteria for concession	Preliminary Investigation - Partly Resolved in Favour of Complainant
063620	Unreasonable decision to suspend license	Advice Given
063625	Unreasonable decision to transfer registration	Advice Given
063688	Failure to approve permit for motor scooter	Preliminary Investigation - Not Sustained - Explanation Given
063766	Unreasonable explanation of signage	Preliminary Investigation - Not Sustained - Explanation Given
063783	Unreasonable delay in carrying out vehicle	Preliminary Investigation - Reasonable Resolution
063788	Failure to acknowledge information was provided	Preliminary Investigation
063796	Unreasonable requirement for practical driving test	Preliminary Investigation - Not Sustained
063814	Unfair treatment at driving test	Advice Given
063871	Failure to provide correct information	Preliminary Investigation - Not Sustained - Explanation Given
063893	Unreasonable decision to require modifications to mobile crane	Preliminary Investigation - Not Sustained - Explanation Given
063901	Failure to issue licence upon application	Preliminary Investigation - Reasonable Resolution
063937	Unprofessional attitude by marine inspector	Advice Given - Referred to Agency
063941	Unsound administrative practices resulting in financial penalty	Preliminary Investigation - Not Sustained - Explanation Given
063971	Failure to observe proper process	Preliminary Investigation - Not Sustained - Explanation Given
064027	Unreasonable audit assessment	Withdrawn - Withdrawn by Complainant
064046	Unreasonable transfer	Advice Given - Referred to Agency
064092	Failure to provide adequate payment service	Preliminary Investigation - Reasonable Resolution
064184	Delay in compensating for acquisition of land	Advice Given
064224	Unreasonable decision to enforce payment of stamp duty	Advice Given
064247	Unreasonable delay regarding vehicle inspection	Preliminary Investigation - Reasonable Resolution
064251	Insufficient information provided	Advice Given
064261	Unreasonable decision regarding granting of temporary license	Preliminary Investigation - Not Sustained - Explanation Given
064286	Failure to give adequate notice of license renewal	Advice Given
064302	Unfair suspension of license	Advice Given
064313	Unfair decision not to reinstate license	Advice Given
064334	Failure to advise of demerit point penalty	Preliminary Investigation - Not Sustained - Explanation Given

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Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
064337	Unfair decision to extend period of time of provisional plates	Advice Given
064473	Failure to process application in a proper manner	Advice Given
064585	Unreasonable decision not to allow purchase of motor vehicle registration plates	Advice Given - Referred to Agency
064646	Unreasonable decision to suspend license	Preliminary Investigation - Not Sustained - Explanation Given
064651	Unprofessional attitude by staff	Advice Given - Referred to Agency
064667	Failure to maintain accurate records	Preliminary Investigation - Reasonable Resolution
064860	Unreasonable refusal to alter name on driver's license	Preliminary Investigation - Not Sustained - Explanation Given
064867	Failure to investigate complaint in timely manner	Preliminary Investigation - Not Sustained - Explanation Given
064880	Unreasonable decision to refuse to register vehicle	Advice Given - Referred to Agency
064887	Unreasonable process regarding vehicle license transfer	Preliminary Investigation - Not Sustained - Explanation Given
064901	Failure to advertise correct price	Preliminary Investigation - Not Sustained - Explanation Given
064936	Unreasonable charge to retain historic plates	Preliminary Investigation - Not Sustained - Explanation Given
064970	Failure to respond to correspondence	Preliminary Investigation - Reasonable Resolution
065018	Unprofessional conduct by staff	Advice Given - Referred to Agency
065037	Unreasonable decision to remove compliance plates from vehicle	Advice Given
065161	Unfair practices and legislation regarding driving license/fines	Advice Given
065163	Unreasonable decision regarding learner driving permit	Preliminary Investigation - Reasonable Resolution
065171	Unreasonable processes caused charge for cancelled cheque	Declined - Refused to Investigate
065178	Alleged unprofessional conduct by staff	Advice Given - Referred to Agency
065193	Unreasonable refusal to replace registration	Advice Given
065200	Unreasonable behaviour of officer	Advice Given
065205	Failure to provide correct information regarding license to drive	Preliminary Investigation - Not Sustained - Explanation Given
065256	Unreasonable decision not to refund money	Preliminary Investigation - Partly Resolved in Favour of Complainant
065298	Unreasonable decision regarding street light	Preliminary Investigation - Reasonable Resolution
065301	Unreasonable criteria for renewal of driver's license	Advice Given
065313	Unreasonable policy regarding renewal of learner's permit	Advice Given
065330	Incorrect registration fees	Preliminary Investigation - Partly Resolved in Favour of Complainant
065334	Unreasonable imposition of expiation notice	Preliminary Investigation - Not Sustained - Explanation Given
065356	Unable to access service	Advice Given - Referred to Agency
065371	Unreasonable decision regarding number plate	Preliminary Investigation - Reasonable Resolution
065409	Unreasonable policy regarding criteria for obtaining license	Advice Given - Referred to Agency
065445	Unreasonable classification of vessel	Preliminary Investigation - Not Sustained
065453	Unreasonable decision regarding payment of ticket	Advice Given - Referred to Agency
065488	Unreasonable requirement to undergo yearly medical to retain license	Advice Given - Referred to Agency
065494	Validity of a public transport fine challenged	Advice Given - Referred to Agency
065515	Unreasonable decision regarding payment of vehicle registration	Preliminary Investigation - Reasonable Resolution
065547	Unreasonable process regarding boat registration	Withdrawn - Withdrawn by Complainant
065610	Unreasonable inspection conditions	Advice Given
065618	Failure to refund amount unused on driver's license	Preliminary Investigation - Not Sustained - Explanation Given
065649	Unreasonable requirement to provide medical details	Advice Given
065734	Unreasonable requirement to comply with new regulations	Advice Given
065814	Unreasonable delay in inspecting vehicle	Advice Given
065861	Unreasonable decision regarding demerit points	Preliminary Investigation - Not Sustained - Explanation Given
065878	Unreasonable decision regarding log book refund	Preliminary Investigation - Not Sustained - Explanation Given
065879	Failure to grant adequate refund	Preliminary Investigation - Reasonable Resolution
065908	Unreasonable delay in carrying out vehicle inspection	Advice Given
065954	Unreasonable decision regarding vehicle registration	Preliminary Investigation - Partly Resolved in Favour of Complainant
065998	Failure to provide reason for loss of demerit points	Advice Given - Referred to Agency
066004	Unreasonable decision regarding vehicle	Preliminary Investigation - Not Sustained - Explanation Given
066007	Alleged disregard of judge's ruling	Preliminary Investigation - Reasonable Resolution
066010	Unreasonable requirement to supply information	Advice Given
066036	Unable to access service	Advice Given - Referred to Agency
066073	Failure to offer an adequate service	Preliminary Investigation - Not Sustained - Explanation Given
066086	Unreasonable decision to fail at driving test	Preliminary Investigation - Not Sustained - Explanation Given
066117	Unreasonable administrative decision/policy	Preliminary Investigation - Partly Resolved in Favour of Complainant
066222	Overcharge in relation to registration of vehicle	Preliminary Investigation - Reasonable Resolution
066224	Unreasonable decision to close road	Advice Given
066349	Incorrect decision regarding transaction	Advice Given
066357	Incorrect information regarding permit	Advice Given
066405	Unreasonable requirement for regaining driver's licence	Preliminary Investigation - Partly Resolved in Favour of Complainant
066414	Failure to renew licence	Preliminary Investigation - Not Sustained - Explanation Given
066483	Unreasonable requirement for annual medical examination	Preliminary Investigation - Not Sustained - Explanation Given
066495	Unreasonable delay and criteria applied	Preliminary Investigation - Reasonable Resolution
066529	Unreasonable delay before registration check could be made	Advice Given
066555	Unreasonable suspension of licence	Preliminary Investigation - Not Sustained - Explanation Given
066596	Unreasonable phone service	Advice Given

Department of Transport, Energy and Infrastructure

066517 Unreasonable action regarding taxi license Preliminary Investigation - Not Sustained - Explanation Given

Department of Treasury and Finance

052723 Incorrect advice Full Investigation - Not Sustained - Explanation
062148 Unreasonable decision to impose retrospective charge for stamp duty Preliminary Investigation - Not Sustained - Explanation Given
062391 Unreasonable enforcement of land tax compliance Full Investigation - Reasonable Resolution

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File no	Details	Outcome
062799	Unreasonable increase in land tax charges	Preliminary Investigation - Reasonable Resolution
062800	Unreasonable increase in land tax charges	Preliminary Investigation - Reasonable Resolution
062801	Unreasonable increase in land tax charges	Preliminary Investigation - Reasonable Resolution
062802	Unreasonable increase in land tax charges	Preliminary Investigation - Reasonable Resolution
062885	Unreasonably high land tax	Advice Given
062894	Excessive land tax	Preliminary Investigation - Reasonable Resolution
062946	Inaccurate records in relation to First Home Owners Grant	Preliminary Investigation - Reasonable Resolution
063079	Allegedly unreasonable land tax	Preliminary Investigation - Not Sustained - Explanation Given
063299	Unreasonable increase in land tax	Advice Given
063432	Unreasonable refusal to refund duty	Advice Given
063469	Failure to quote correct date for purchase of vehicle	Advice Given
063558	Unreasonable decision to require repayment of grant	Preliminary Investigation - Not Sustained - Explanation Given
063599	Incorrect calculation of land tax	Preliminary Investigation - Not Sustained - Explanation Given
063742	Disputes imposition of land tax and emergency services levy	Preliminary Investigation - Not Sustained - Explanation Given
063769	Unreasonable notice provided	Advice Given
063809	Miscalculation of land tax	Advice Given
063829	Excessively high land tax	Advice Given
064015	Unreasonable administrative decision	Advice Given
064052	Unreasonable procedure re Emergency Services Levy	Preliminary Investigation - Partly Resolved in Favour of Complainant
064108	Unreasonable land tax	Preliminary Investigation - Reasonable Resolution
064199	Unreasonable retrospective land tax account	Preliminary Investigation - Partly Resolved in Favour of Complainant
064205	Land tax account sent in error	Advice Given
064252	Unreasonable imposition of land tax	Preliminary Investigation - Not Sustained - Explanation Given
064304	Miscalculation of land tax	Advice Given
064386	Failure to keep accurate records	Preliminary Investigation - Reasonable Resolution
064460	Unreasonable imposition of penalty for under payment of tax	Preliminary Investigation - Reasonable Resolution
064480	Unreasonable charges and late interest fee	Advice Given
064541	Unreasonable charges relating to stamp duty	Advice Given
064574	Unreasonable land valuations	Advice Given
064614	Unreasonable information provided	Advice Given
064638	Excessive increase in land tax	Advice Given
064647	Failure to keep accurate records	Preliminary Investigation - Reasonable Resolution
064650	Unreasonable calculation of land tax	Advice Given - Referred to Agency
064661	Unreasonable decision to impose additional levy	Preliminary Investigation - Not Sustained - Explanation Given
064680	Miscalculation of Emergency Services Levy	Preliminary Investigation - Partly Resolved in Favour of Complainant
064750	Failure to amend records resulting in miscalculation of rates	Preliminary Investigation - Reasonable Resolution
064850	Unreasonable requirement to pay land tax	Advice Given
064951	Unreasonable requirement to pay stamp duty on transfer of motor vehicle	Advice Given
064988	Unreasonable decision regarding refund	Preliminary Investigation - Not Sustained - Explanation Given
065188	Unreasonable penalty imposed	Advice Given
065244	Unreasonable decision to impose penalty for late payment	Declined - Alternate Remedy
065247	Failure to send account to correct address	Advice Given
065297	Failure to keep accurate records	Preliminary Investigation - Reasonable Resolution
065307	Incorrect address caused additional cost	Preliminary Investigation - Reasonable Resolution
065329	Unreasonable penalty for late payment	Preliminary Investigation - Not Sustained - Explanation Given
065423	Incorrect level of charges applied	Advice Given
065451	Unreasonable requirement to pay stamp duty	Preliminary Investigation - Not Sustained - Explanation Given
065519	Unfair decision to impose land tax	Preliminary Investigation - Not Sustained - Explanation Given
065587	Unreasonable costs incurred through incorrect address on mail	Preliminary Investigation - Reasonable Resolution
065608	Unreasonable refusal to waive charge	Advice Given
065640	Unreasonable charge for land tax	Preliminary Investigation - Not Sustained - Explanation Given
065695	Unreasonable decision regarding method of calculation	Preliminary Investigation - Not Sustained - Explanation Given
065722	Unreasonable fine for late payment of land tax	Advice Given
065742	Unreasonable imposition of penalty	Preliminary Investigation - Not Sustained - Explanation Given
065769	Unreasonable imposition of penalty	Preliminary Investigation - Partly Resolved in Favour of Complainant
065772	Unreasonable imposition of penalty	Advice Given - Referred to Agency
065799	Unreasonable pursuit of debt	Preliminary Investigation - Not Sustained - Explanation Given
065927	Unreasonable delay in refunding overpayment	Preliminary Investigation - Reasonable Resolution
065936	Failure to provide formula for calculation of stamp duty	Advice Given - Referred to Agency
065994	Unreasonable calculation of land tax	Preliminary Investigation - Reasonable Resolution
066042	Failure to check address prior to issue of summons for non-payment	Preliminary Investigation - Reasonable Resolution
066075	Unreasonable charges	Preliminary Investigation - Reasonable Resolution
066311	Failure to refund overpayment in a timely manner	Preliminary Investigation - Reasonable Resolution
066328	Failure to maintain accurate records resulting in court summons for unpaid rates	Preliminary Investigation - Partly Resolved in Favour of Complainant
066422	Unreasonable imposition of fee for late payment	Advice Given
066624	Incorrect calculation of stamp duty	Advice Given - Referred to Agency

Department of Further Education, Employment, Science & Technology

060761	Unreasonable proposal to deregister organisation	Preliminary Investigation - Partly Resolved in Favour of Complainant
062544	Refusal to waive debt collectors fee	Preliminary Investigation - Reasonable Resolution
062607	Refusal to provide full refund	Advice Given
062970	Refusal to approve refund for course	Advice Given
062983	Enrolled in wrong course	Advice Given
063096	Unreasonable decision to require subject to be repeated	Advice Given

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File no	Details	Outcome
063726	Unreasonable decision to require repayment of overpayment	Advice Given
063952	Refusal to provide reference for potential	Advice Given
063990	Unreasonable administration service provided	Advice Given
064062	Alleged non adherence to curriculum	Advice Given - Referred to Agency
064181	Unreasonable decision	Preliminary Investigation - Reasonable Resolution
064725	Failure to provide record of academic achievement	Preliminary Investigation - Partly Resolved in Favour of Complainant
065431	Lack of communication/failure to provide correct information	Advice Given - Referred to Agency
065506	Failure to reimburse money	Advice Given - Referred to Agency
065572	Excessive fees charged	Advice Given - Referred to Agency
065703	Unreasonable refusal to refund fees	Preliminary Investigation - Not Sustained - Explanation Given
065729	Unreasonable refusal to grant access to study program	Preliminary Investigation - Not Sustained - Explanation Given
066061	Unreasonable decision regarding teaching	Preliminary Investigation - Reasonable Resolution
066168	Unreasonable decision not to refund fees	Advice Given - Referred to Agency
Department of Water, Land & Biodiversity Conservation		
055345	Section 132 of the Water Resources Act	Determination - Section 132 Water Resources
056123	Unreasonable action to retrospectively apply a penalty charge and/or reduce amount of water transferred when an application for transfer of water lodged in good faith	Preliminary Investigation - Reasonable Resolution
057032	Unreasonable back charge for water used	Determination - Section 132 Water Resources
059746	Section 132 Water Resources Act	Determination - Section 132 Water Resources
060850	Disputed account	Preliminary Investigation - Reasonable Resolution
061079	Unreasonable decision regarding initial water allocation and unreasonable action to apply penalty charge for overuse of water above amount allocated	Determination - Section 132 Water Resources
062397	Unreasonable administrative decision	Advice Given
062698	Penalty charges	Determination - Section 132 Water Resources
062784	Unreasonable refusal to allow access to underground water	Preliminary Investigation - Reasonable Resolution
063138	Unreasonable requirement to provide information	Advice Given
063675	Unreasonable delay in finalising application	Preliminary Investigation - Reasonable Resolution
064635	Unreasonable delay in determining licence issue	Advice Given
064671	Unreasonable order	Advice Given
064682	Alleged unreasonable decision to grant water license	Advice Given
065249	Unreasonable delay in supplying information	Advice Given
065841	Failure to remedy faulty water meter	Advice Given
065974	Unreasonable decision regarding water well	Preliminary Investigation - Not Sustained - Explanation Given
066503	Unreasonable penalties imposed for non payment	Advice Given
Environment Protection Authority		
055960	Failure to act regarding pollution	Full Investigation - Not Sustained
058033	Failure to enforce compliance with environmental controls	Preliminary Investigation - Not Sustained - Explanation Given
059968	Failure to resolve outstanding dispute	Preliminary Investigation - Not Sustained - Explanation Given
060882	Unreasonable use of power	Preliminary Investigation - Partly Resolved in Favour of Complainant
061750	Failure to investigate complaint	Preliminary Investigation - Reasonable Resolution
062136	Investigation concerning release of documents	Preliminary Investigation - Not Sustained - Explanation Given
062351	Failure to monitor breach of Noise Control Act	Preliminary Investigation - Not Sustained - Explanation Given
063186	Lack of transparency in selection process	Advice Given - Referred to Agency
063325	Lack of assistance regarding noise complaint	Advice Given
063390	Failure to address noise issues	Preliminary Investigation - Reasonable Resolution
063600	Unreasonable delay in supplying information	Preliminary Investigation - Not Sustained - Explanation Given
063666	Unreasonable restriction on property	Preliminary Investigation - Not Sustained - Explanation Given
063698	Failure to act regarding noise issue	Full Investigation - Partly Resolved in Favour of Complainant
064050	Alleged noise infringement	Advice Given
064319	Inadequate investigation of complaint	Advice Given - Referred to Agency
064520	Alleged delay in responding to complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
064631	Failure to investigate excessive noise	Preliminary Investigation - Not Sustained - Explanation Given
064803	Unreasonable decision to deny permit	Advice Given
064852	Failure to respond to complaint	Advice Given
065394	Failure to investigate noise levels	Preliminary Investigation - Partly Resolved in Favour of Complainant
065507	Failure to investigate or act	Advice Given - Referred to Agency
SA Housing Trust		
059941	Failure to provide adequate maintenance service	Preliminary Investigation - Reasonable Resolution
060124	Failure to adequately address complaint	Preliminary Investigation - Not Sustained - Explanation Given
060936	Unreasonable destruction of community garden	Preliminary Investigation - Reasonable Resolution
061688	Failure to carry out repairs in accordance with recommended plan	Preliminary Investigation - Not Sustained - Explanation Given
061690	Failure to carry out repairs in accordance with recommended plan	Preliminary Investigation - Not Sustained - Explanation Given
061908	Refusal to approve transfer	Preliminary Investigation - Not Sustained - Explanation Given
061965	Unreasonable delay in attending to maintenance matter	Preliminary Investigation - Reasonable Resolution
062070	Unreasonable replacement of fence	Preliminary Investigation - Reasonable Resolution
062102	Unreasonable delay in providing housing	Preliminary Investigation - Reasonable Resolution
062138	Delay in providing priority housing	Preliminary Investigation - Not Sustained - Explanation Given
062195	Unreasonable delay in allocating housing	Preliminary Investigation - Partly Resolved in Favour of Complainant
062225	Unreasonable delay in forwarding payment	Preliminary Investigation - Reasonable Resolution
062286	Unreasonable home visit	Preliminary Investigation - Reasonable Resolution

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File no	Details	Outcome
062333	Unreasonable delay in resolving disruptive tenant problem	Preliminary Investigation - Reasonable Resolution
062340	Unreasonable refusal of transfer application	Advice Given
062371	Unreasonable delay in providing gates for property	Preliminary Investigation - Not Sustained - Explanation Given
062378	Unreasonable action taken regarding leaking hot water system	Advice Given
062382	Delay in attending to maintenance	Preliminary Investigation - Partly Resolved in Favour of Complainant
062383	Failure to address issues concerning disruptive neighbours	Preliminary Investigation - Not Sustained - Explanation Given
062395	Failure to rectify problem with slippery surface	Preliminary Investigation - Not Sustained - Explanation Given
062417	Failure to process application for transfer in a timely manner	Preliminary Investigation - Not Sustained - Explanation Given
062422	Unreasonable failure to place on waiting list for house	Preliminary Investigation - Reasonable Resolution
062446	Failure to provide adequate maintenance service	Preliminary Investigation - Reasonable Resolution
062452	Allegedly unreasonable assessment of property	Preliminary Investigation - Not Sustained - Explanation Given
062463	Unreasonable refusal to reimburse for maintenance	Preliminary Investigation - Reasonable Resolution
062479	Failure to act in a timely manner to evict neighbour	Advice Given
062493	Unreasonable decision	Advice Given
062495	Unreasonable management of problem	Preliminary Investigation - Not Sustained - Explanation Given
062521	Unreasonable decision to pursue debt	Advice Given
062525	Allegedly unreasonable water account	Preliminary Investigation - Not Sustained - Explanation Given
062532	Unreasonable delay in providing housing	Advice Given
062555	Unreasonable delay in providing engineer's assessment	Preliminary Investigation - Reasonable Resolution
062602	Refusal to accept repayment of debt in installments	Preliminary Investigation - Not Sustained - Explanation Given
062605	Unreasonable conditions regarding sale of property	Advice Given
062612	Unreasonable refusal in allocating housing	Preliminary Investigation - Not Sustained - Explanation Given
062642	Unreasonable delay in allocating housing	Preliminary Investigation - Not Sustained - Explanation Given
062650	Unreasonable explanation of charge	Advice Given
062662	Unreasonable maintenance delay	Preliminary Investigation - Partly Resolved in Favour of Complainant
062703	Unreasonable refusal of request to use ezy pay facility to pay rent	Preliminary Investigation - Reasonable Resolution
062704	Unreasonable delay in finding appropriate accommodation	Advice Given
062711	Failure to consult regarding redevelopment and relocation	Preliminary Investigation - Not Sustained
062718	Failure to attend to maintenance matters	Preliminary Investigation - Reasonable Resolution
062772	Unreasonable refusal to provide housing	Preliminary Investigation - Partly Resolved in Favour of Complainant
062787	Unreasonable refusal to sell home to complainant	Advice Given
062805	Unreasonable delay in finding appropriate accommodation	Preliminary Investigation - Not Sustained - Explanation Given
062812	Inadequate investigation of complaint	Preliminary Investigation - Reasonable Resolution
062850	Failure to explain details of rent increase	Preliminary Investigation - Not Sustained - Explanation Given
062891	Inadequate maintenance service	Advice Given
062897	Lack of assistance regarding maintenance	Preliminary Investigation - Partly Resolved in Favour of Complainant
062901	Unreasonable charges	Advice Given
062921	Failure to investigate damage to personal property	Preliminary Investigation - Reasonable Resolution
062939	Unreasonable refusal to act in respect of disruptive tenant	Preliminary Investigation - Reasonable Resolution
062952	Failure to deal with disruptive tenants	Advice Given - Referred to Agency
062962	Unreasonable debt applied	Preliminary Investigation - Reasonable Resolution
062971	Refusal to adequately assist with maintenance	Preliminary Investigation - Not Sustained - Explanation Given
062979	Failure to act regarding disruptive tenants	Withdrawn - Withdrawn by Complainant
063006	Alleged loss because of relocation program	Advice Given
063032	Failure to transfer away from disruptive tenant	Preliminary Investigation - Not Sustained - Explanation Given
063035	Failure to address disruption in neighbourhood	Preliminary Investigation - Reasonable Resolution
063036	Unreasonable delays in providing housing	Preliminary Investigation - Reasonable Resolution
063039	Failure to adequately address maintenance issues	Preliminary Investigation - Partly Resolved in Favour of Complainant
063040	Failure to provide timely maintenance service	Preliminary Investigation - Reasonable Resolution
063044	Failure to provide suitable housing	Preliminary Investigation - Partly Resolved in Favour of Complainant
063065	Lack of assistance in regards to complaints lodged	Preliminary Investigation - Reasonable Resolution
063104	Refusal to provide adequate housing	Preliminary Investigation - Not Sustained - Explanation Given
063218	Unreasonable transfer conditions	Advice Given
063291	Failure to carry out repairs	Preliminary Investigation - Reasonable Resolution
063292	Unreasonable refusal to admit liability	Advice Given
063293	Unreasonable refusal to attend to vermin problem	Advice Given
063374	Substandard fencing erected on boundary	Advice Given - Referred to Agency
063376	Failure to support housing application	Preliminary Investigation - Reasonable Resolution
063385	Unreasonable decision to terminate tenancy	Advice Given
063409	Failure to provide suitable accommodation	Preliminary Investigation - Partly Resolved in Favour of Complainant
063411	Unreasonable refusal to transfer	Preliminary Investigation - Not Sustained - Explanation Given
063412	Failure to investigate disruptive tenant complaint	Preliminary Investigation - Reasonable Resolution
063435	Unreasonable delay in attending to maintenance	Preliminary Investigation - Partly Resolved in Favour of Complainant
063499	Failure to act on complaints	Advice Given
063501	Unreasonable delays in allocating housing	Preliminary Investigation - Not Sustained - Explanation Given
063502	Unreasonable decision to extend waiting period for public housing	Preliminary Investigation - Not Sustained - Explanation Given
063510	Failure to acknowledge OHS breach regarding asbestos	Advice Given
063537	Unreasonable back rent charge	Advice Given
063548	Request for transfer unreasonably denied	Preliminary Investigation - Not Sustained - Explanation Given
063578	Unreasonable delay in processing application for maintenance	Preliminary Investigation - Reasonable Resolution
063608	Unfair decision to deny bond assistance	Advice Given
063649	Refusal to compensate for loss	Advice Given
063663	Unreasonable conduct	Declined - Alternate Remedy
063700	Unreasonable refusal to relocate	Preliminary Investigation - Not Sustained - Explanation Given
063739	Delay in providing priority housing	Preliminary Investigation - Not Sustained - Explanation Given
063743	Unfair requirement to pay for phone installation	Preliminary Investigation - Not Sustained - Explanation Given
063752	Impolite manner by officer	Advice Given
063776	Unreasonable decision to deny access to meter box	Preliminary Investigation - Reasonable Resolution

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File no	Details	Outcome
063784	Unreasonable requirement to pay for repairs	Preliminary Investigation - Partly Resolved in Favour of Complainant
063793	Failure to accept explanation as to date of application	Preliminary Investigation - Partly Resolved in Favour of Complainant
063806	Failure to provide suitable housing in a timely manner	Preliminary Investigation - Not Sustained - Explanation Given
063862	Unreasonable refusal to adjust rent	Advice Given
063892	Failure to provide transfer away from disruptive neighbour	Preliminary Investigation - Not Sustained - Explanation Given
063912	Failure to provide adequate maintenance	Preliminary Investigation - Not Sustained - Explanation Given
063920	Failure to allocate home	Preliminary Investigation - Not Sustained - Explanation Given
063943	Problems with home sale	Preliminary Investigation - Reasonable Resolution
063944	Housing relocation problem Given	Preliminary Investigation - Not Sustained - Explanation
063946	Failure to act regarding unreasonable tenants Given	Preliminary Investigation - Not Sustained - Explanation
063959	Unreasonable delays in fixing fence	Preliminary Investigation - Reasonable Resolution
063963	Unreasonable delays in finding alternative accommodation	Preliminary Investigation - Not Sustained - Explanation Given
063980	Unreasonable decision to refuse transfer	Advice Given
063983	Unreasonable delay in administration	Advice Given
064022	Failure to act regarding disruptive neighbour	Withdrawn - Withdrawn by Complainant
064030	Unreasonable sale price for house	Preliminary Investigation - Not Sustained - Explanation Given
064036	Unreasonable refusal to lift order	Preliminary Investigation - Not Sustained - Explanation Given
064068	Delay in allocating housing	Preliminary Investigation - Not Sustained - Explanation Given
064071	Unreasonable offers of housing	Advice Given
064077	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
064114	Failure to act on information	Preliminary Investigation - Not Sustained - Explanation Given
064115	Unreasonable decision	Preliminary Investigation - Partly Resolved in Favour of Complainant
064129	Unreasonable decision to refuse permission to erect fence	Advice Given
064148	Unreasonable decision to vacate house	Preliminary Investigation - Not Sustained - Explanation Given
064170	Unreasonable explanation of debt	Advice Given
064171	Unreasonable delay in providing housing	Advice Given
064172	Unreasonable management of car park	Advice Given
064173	Unreasonable refusal to grant transfer	Advice Given
064178	Unreasonable management of application	Advice Given
064179	Unreasonable failure to investigate complaints by agency	Advice Given
064180	Unfair treatment over outstanding rent	Advice Given
064196	Unreasonable refusal to allow construction of fence	Full Investigation - Partly Resolved in Favour of Complainant
064216	Failure to adequately deal with disruptive tenant complaint	Preliminary Investigation - Not Sustained - Explanation Given
064221	Failure to provide adequate maintenance service	Preliminary Investigation - Partly Resolved in Favour of Complainant
064222	Failure to evict disruptive tenants	Preliminary Investigation - Not Sustained - Explanation Given
064225	Unreasonable request to vacate premises	Advice Given
064268	Alleged delays in providing priority housing	Preliminary Investigation - Not Sustained - Explanation Given
064283	Inadequate maintenance	Preliminary Investigation - Partly Resolved in Favour of Complainant
064284	Failure to provide adequate housing	Preliminary Investigation - Reasonable Resolution
064352	Unreasonable management of disruptive tenancy issue	Advice Given
064370	Unreasonable decision not to eradicate silverfish	Preliminary Investigation - Partly Resolved in Favour of Complainant
064382	Unreasonable rent increase and steps taken for debt recovery	Declined - Refused to Investigate
064403	Lack of assistance regarding disruptive tenant	Advice Given
064456	Failure to rectify fault in hot water service	Preliminary Investigation - Partly Resolved in Favour of Complainant
064484	Unreasonable refusal of application	Advice Given
064504	Unreasonable delay in attending to maintenance problems	Preliminary Investigation - Not Sustained - Explanation Given
064513	Unreasonable delay in attending to maintenance problems	Advice Given
064521	Failure to provide maintenance in appropriate timeframe	Preliminary Investigation - Partly Resolved in Favour of Complainant
064527	Unreasonable decision regarding housing transfer	Preliminary Investigation - Reasonable Resolution
064529	Delays in forwarding correspondence	Preliminary Investigation - Partly Resolved in Favour of Complainant
064579	Unreasonable charge	Advice Given
064597	Failure to investigate complaint regarding disruptive tenant	Preliminary Investigation - Partly Resolved in Favour of Complainant
064616	Failure to respect contractual agreement	Advice Given
064623	Unreasonable delay in considering application for transfer	Preliminary Investigation - Partly Resolved in Favour of Complainant
064642	Failure to address maintenance problem	Preliminary Investigation - Reasonable Resolution
064677	Unreasonable delay in organising transfer	Preliminary Investigation - Reasonable Resolution
064733	Unreasonable requirement to continue to pay rent	Preliminary Investigation - Reasonable Resolution
064735	Inadequate investigation of complaint	Preliminary Investigation - Reasonable Resolution
064737	Unreasonable relocation of housing	Advice Given
064758	Unreasonable delay in approving transfer	Advice Given
064769	Unreasonable requirement to vacate property	Preliminary Investigation - Reasonable Resolution
064772	Unreasonable delay in allocating priority housing	Preliminary Investigation - Not Sustained - Explanation Given
064780	Failure to act regarding disruptive tenants	Preliminary Investigation - Not Sustained
064834	Failure to deal with disruptive tenant	Preliminary Investigation - Partly Resolved in Favour of Complainant
064837	Failure to provide adequate maintenance service	Preliminary Investigation - Reasonable Resolution
064842	Unreasonable allocation offers	Advice Given
064873	Failure to provide adequate housing	Advice Given - Referred to Agency
064888	Failure to provide adequate information about processes	Advice Given
064954	Unreasonable decision to transfer	Advice Given - Referred to Agency
064959	Unreasonable decision regarding transfer	Preliminary Investigation - Reasonable Resolution
064963	Unreasonable delay in assessing home	Advice Given
065017	Unfair decision to recover outstanding rent	Preliminary Investigation - Reasonable Resolution
065036	Unreasonable requirement to pay debt	Advice Given
065064	Inadequate investigation of complaint	Advice Given - Referred to Agency
065106	Unfair treatment regarding disruptive neighbours	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
065141	Unreasonable practice in regards to accepting transfer	Advice Given
065152	Failure to approve transfer following complaint about disruptive tenant	Preliminary Investigation - Not Sustained - Explanation Given
065164	Unreasonable delay in providing housing	Preliminary Investigation - Not Sustained - Explanation Given
065175	Failure to take appropriate action in relation to disruptive tenant	Preliminary Investigation - Not Sustained - Explanation Given
065182	Failure to provide emergency housing	Advice Given
065191	Unreasonable grounds to refuse application to buy home	Advice Given
065211	Unreasonable delay in re-housing	Preliminary Investigation - Reasonable Resolution
065227	Failure to carry out maintenance	Preliminary Investigation - Not Sustained - Explanation Given
065255	Failure to sufficiently investigate complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
065277	Unreasonable rise in rent/refusal to refund rent	Preliminary Investigation - Partly Resolved in Favour of Complainant
065287	Lack of communication regarding transfer	Preliminary Investigation - Not Sustained - Explanation Given
065316	Unreasonable decision to evict	Preliminary Investigation - Not Sustained - Explanation Given
065374	Unreasonable administrative decision	Preliminary Investigation - Not Sustained - Explanation Given
065400	Delay in providing housing to daughter	Declined - Refused to Investigate
065448	Failure to allocate housing	Preliminary Investigation - Not Sustained - Explanation Given
065476	Unreasonable decision to recover debt	Advice Given
065500	Unreasonable decision regarding rent refund	Preliminary Investigation - Partly Resolved in Favour of Complainant
065501	Failure to fix/provide separate sewer Given	Preliminary Investigation - Not Sustained - Explanation
065526	Intimidating behaviour by departmental staff	Preliminary Investigation - Not Sustained - Explanation Given
065554	Failure to repair plumbing problem	Preliminary Investigation - Reasonable Resolution
065562	Unreasonable decision to evict	Advice Given
065563	Unreasonable delay in providing housing	Advice Given
065566	Failure to provide housing	Advice Given
065606	Unreasonable service provided	Advice Given
065616	Unreasonable refusal of application for property exchange	Preliminary Investigation - Not Sustained - Explanation Given
065625	Failure to notify of maintenance to be carried out	Advice Given - Referred to Agency
065641	Failure to safely secure belongings	Preliminary Investigation - Partly Resolved in Favour of Complainant
065678	Unfair decision regarding provision for bond	Preliminary Investigation - Reasonable Resolution
065679	Unreasonable refusal to revise rent	Preliminary Investigation - Not Sustained - Explanation Given
065687	Unfair decision to terminate tenancy	Preliminary Investigation - Not Sustained - Explanation Given
065715	Unfair decision to evict	Advice Given
065736	Failure to replace basin with previous style/size	Advice Given - Referred to Agency
065745	Unreasonable time frame regarding housing allocation	Preliminary Investigation - Not Sustained - Explanation Given
065764	Failure to honour agreement regarding transfer	Preliminary Investigation - Reasonable Resolution
065771	Unreasonable harassment by officer	Advice Given
065784	Unreasonable refusal of transfer	Advice Given
065807	Unreasonable decision to enforce eviction order	Preliminary Investigation - Not Sustained - Explanation Given
065813	Unreasonable delay in allocating housing	Preliminary Investigation - Not Sustained - Explanation Given
065825	Alleged breach of confidentiality by housing trust	Advice Given - Referred to Agency
065859	Unreasonable disruption during course of renovations to neighbouring property	Declined - Alternate Remedy
065865	Failure to provide housing transfer in reasonable timeframe	Preliminary Investigation - Not Sustained - Explanation Given
065875	Unreasonable decision to terminate tenancy	Preliminary Investigation - Partly Resolved in Favour of Complainant
065883	Unreasonable charge for damage/cleaning	Preliminary Investigation - Not Sustained - Explanation Given
065904	Unreasonable decision regarding payment of rent	Preliminary Investigation - Not Sustained
065957	Unreasonable decision not to install bath	Advice Given
065966	Failure to compensate for goods/improvements to home	Advice Given
065968	Unfair treatment over house allocation	Preliminary Investigation - Partly Resolved in Favour of Complainant
066013	Failure to disclose relevant information prior to sale of land	Advice Given
066024	Unreasonable refusal to supply blind	Advice Given
066047	Failure to provide window blind as agreed	Preliminary Investigation - Reasonable Resolution
066052	Delay in offering accommodation	Advice Given
066089	Failure to investigate complaint and delay in finding alternative housing	Preliminary Investigation - Not Sustained
066094	Failure to allocate housing trust	Advice Given - Referred to Agency
066103	Failure to investigate complaint regarding disruptive tenant	Preliminary Investigation - Not Sustained - Explanation Given
066213	Unreasonable management of problem tenant	Advice Given
066230	Failure to carry out maintenance	Preliminary Investigation - Partly Resolved in Favour of Complainant
066258	Unreasonable decision to evict	Advice Given - Referred to Agency
066261	Unreasonable delay in providing rails	Advice Given
066281	Delay in carrying out maintenance work	Preliminary Investigation - Reasonable Resolution
066376	Unreasonable action not to provide floor coverings	Preliminary Investigation - Not Sustained - Explanation Given
066393	Unreasonably long waiting list for housing allocation	Advice Given
066408	Delay in processing application for priority housing	Preliminary Investigation - Not Sustained - Explanation Given
066430	Alleged failure to provide adequate maintenance	Preliminary Investigation - Not Sustained - Explanation Given
066449	Failure to allocate housing	Preliminary Investigation - Not Sustained - Explanation Given
066474	Unreasonable disclosure of private information	Preliminary Investigation - Reasonable Resolution
066526	Agency has not returned calls regarding debt collection	Advice Given - Referred to Agency
066538	Failure to respond/amend regarding electricity account	Preliminary Investigation - Not Sustained - Explanation Given
066553	Unreasonable attitude and means of communication	Withdrawn by Complainant
066588	Unreasonable easy-pay plan for outstanding debt by partner	Advice Given
SA Water Corporation		
056066	Unreasonable refusal to remove illegal land fill	Full Investigation - Not Sustained
058042	Unreasonable action in relation to outstanding debt	Full Investigation - Partly Resolved in Favour of Complainant

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
060237	Unreasonable refusal to compensate for damage caused by burst water main	Preliminary Investigation - Not Sustained - Explanation Given
060646	Unfair requirement for Pura Tap systems to have to install back flow valve	Preliminary Investigation - Reasonable Resolution
060760	Unreasonable refusal to compensate for installation	Preliminary Investigation - Not Sustained
061262	Unreasonable action regarding access to water supply	Preliminary Investigation - Reasonable Resolution
061404	Incorrect records caused delayed account	Preliminary Investigation - Not Sustained - Explanation Given
062101	Unreasonable refusal to extinguish easements	Advice Given - Referred to Agency
062207	Failure to advise of requirement to pay for mains installation	Declined - Alternate Remedy
062223	Disputed account	Preliminary Investigation - Reasonable Resolution
062235	Unreasonable charge for water meter	Preliminary Investigation - Not Sustained - Explanation Given
062284	Unreasonable requirement to pay sewer contribution	Withdrawn by Complainant
062373	Unreasonable decision to send final notice after account paid	Advice Given
062389	Increased recorded water usage following replacement of meter	Advice Given - Referred to Agency
062466	Unreasonable decision to refuse compensation	Advice Given
062480	Unreasonable refusal to compensate for damages	Advice Given
062486	Failure to rectify problem with blocked drain	Advice Given
062491	Failure to provide uncontaminated water	Advice Given
062517	Unreasonably high account for water usage	Preliminary Investigation - Not Sustained - Explanation Given
062545	Incorrect calculation of water charges	Advice Given
062565	Insufficient information provided regarding service	Preliminary Investigation - Reasonable Resolution
062577	Unreasonable charge	Advice Given
062647	Unreasonable administrative decision	Preliminary Investigation - Reasonable Resolution
062672	Excessive water account	Advice Given
062702	Unreasonable decision to pay levy	Advice Given
062706	Allegedly unreasonable delay in connecting water and sewer	Preliminary Investigation - Not Sustained - Explanation Given
062786	Excessive water account	Preliminary Investigation - Not Sustained
062814	Unreasonable decision to impose additional fees onto account	Preliminary Investigation - Partly Resolved in Favour of Complainant
062833	Unreasonable imposition of charge	Preliminary Investigation - Not Sustained - Explanation Given
062888	Unreasonable decision to disconnect supply	Advice Given
062900	Unreasonably high account	Advice Given
062934	Unreasonable water charges	Advice Given
062980	Unreasonable requirement to repay sewerage rates	Advice Given
062982	Disputed account	Advice Given
063028	Unreasonable administrative decision/policy	Preliminary Investigation - Reasonable Resolution
063043	Failure to investigate complaint about high water pressure	Preliminary Investigation - Reasonable Resolution
063083	Allegedly unreasonable provision of access to water from protection area	Full Investigation - Not Sustained - Explanation Given
063202	Unfair treatment over unpaid account	Advice Given
063216	Unreasonable levy charge	Advice Given
063261	Unreasonable refusal of leakage allowance	Preliminary Investigation - Not Sustained - Explanation Given
063265	Unreasonable requirement to pay for damaged water meter	Preliminary Investigation - Reasonable Resolution
063274	Unreasonably high charge to shift water meter	Advice Given - Referred to Agency
063278	Unreasonable imposition of additional charge for installation of infrastructure	Preliminary Investigation - Not Sustained - Explanation Given
063305	Unreasonable decision to cut water supply	Preliminary Investigation - Not Sustained - Explanation Given
063317	Unreasonable action regarding connection to supply	Declined - Alternate Remedy
063563	Alleged no notification of reduced water supply	Advice Given
063586	Failure to read meter correctly	Advice Given
063618	Unreasonable refusal to reduce account	Advice Given
063674	Failure to provide adequate information	Preliminary Investigation - Not Sustained - Explanation Given
063706	Unreasonably high water account	Advice Given
063723	Alleged incorrect reading on account	Advice Given
063757	Inadequate investigation of complaint	Advice Given
063767	Unreasonable explanation of accounts	Advice Given
063797	Unreasonable arrangements for plumbing service	Preliminary Investigation - Reasonable Resolution
063815	Unfair marketing system	Advice Given
063828	Unreasonable demand to pay contribution	Advice Given
063890	Failure to provide connection to water main	Advice Given - Referred to Agency
063961	Unreasonable delay in locating meter	Preliminary Investigation - Reasonable Resolution
064044	Alleged unreasonable endorsement and promotion	Full Investigation - Partly Resolved in Favour of Complainant
064078	Unreasonable assistance provided in explaining high account	Advice Given
064096	Unreasonable decision	Preliminary Investigation - Reasonable Resolution
064157	Unreasonable charge for repair of water meter	Preliminary Investigation - Not Sustained - Explanation Given
064207	Unreasonable decision to restrict water supply	Advice Given
064269	Unfair rating system for calculating water/sewerage rates	Withdrawn by Complainant
064408	Unreasonable restriction on water supply	Preliminary Investigation - Reasonable Resolution
064445	Failure to grant concession	Advice Given
064611	Unreasonable refusal to defer payment of account	Preliminary Investigation - Reasonable Resolution
064692	Unreasonable explanation of high account	Advice Given
064729	Miscalculation of rates	Preliminary Investigation - Reasonable Resolution
064777	Unreasonable charge	Advice Given
064894	Failure to exempt from levy	Advice Given - Referred to Agency
064920	Unreasonable management of damages claim	Advice Given
064927	Unreasonable decision to restrict water flow	Advice Given
064948	Unreasonable refusal to waive levy	Advice Given
064953	Excessively high account	Advice Given
064955	Unreasonable levy for water consumption	Preliminary Investigation - Not Sustained
065070	Unreasonable decision regarding relocation of water meter	Preliminary Investigation - Not Sustained - Explanation Given

GOVERNMENT DEPARTMENTS
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
065306	Enquiry regarding whether identification is required by agency	Advice Given
065389	Unreasonable water account	Preliminary Investigation - Not Sustained - Explanation Given
065391	Unreasonable provision of information	Advice Given
065393	Unreasonable decision regarding replacement of water meter	Preliminary Investigation - Reasonable Resolution
065396	Unreasonable charges	Advice Given
065436	Miscalculation of water usage	Advice Given - Referred to Agency
065452	Unreasonable decision regarding sewerage connection/easement	Preliminary Investigation - Reasonable Resolution
065492	Unreasonable charge for water pipes	Preliminary Investigation - Not Sustained - Explanation Given
065513	Unreasonable charge for water usage	Preliminary Investigation - Not Sustained - Explanation Given
065528	Unreasonable excess water account	Preliminary Investigation - Reasonable Resolution
065542	Unreasonable charge for sewerage	Preliminary Investigation - Not Sustained - Explanation Given
065620	Unreasonable decision regarding meter readings	Advice Given
065629	Unreasonable explanation of billing process	Advice Given
065630	Excessively high account	Advice Given
065656	Unfair charge for checking water meter	Advice Given
065746	Excessive water bill	Preliminary Investigation - Not Sustained - Explanation Given
065756	Overcharge on account	Advice Given
065830	Unreasonable decision regarding water	Advice Given - Other/General
065986	Unreasonable decision regarding blocked drain	Preliminary Investigation - Not Sustained - Explanation Given
066001	Unreasonable charge for water bill	Advice Given
066012	Unreasonable refusal to provide a written response	Preliminary Investigation - Reasonable Resolution
066135	Requirement to pay charge	Advice Given
066138	Failure to adequately manage waste water	Declined
066139	Miscalculation of water charges	Advice Given
066145	Unreasonable process and charges	Preliminary Investigation - Reasonable Resolution
066204	Unreasonable refusal to allow payment of rates in installments	Advice Given - Referred to Agency
066272	Unreasonable charge and timeframe to pay	Preliminary Investigation - Partly Resolved in Favour of Complainant
066303	Unreasonable charges on water bill	Preliminary Investigation - Not Sustained - Explanation Given
066314	Failure to advise of increasing debt	Preliminary Investigation - Reasonable Resolution
066320	Unreasonable alteration to account address	Declined - Alternate Remedy
066401	Unreasonably response re request to pay account in installments	Advice Given
066403	Failure to maintain water mains properly	Preliminary Investigation - Partly Resolved in Favour of Complainant
066423	Unreasonably high charge for extending water	Advice Given
066461	Query account to recover money due to undercharging by agency	Advice Given - Referred to Agency
066506	Unreasonable requirement to pay	Advice Given
066507	Unreasonable debt recovery practices	Advice Given
066542	Unreasonable decision to forward account to Council	Advice Given - Referred to Agency
066544	Query regarding account	Advice Given
066559	Unreasonable charge/notification of late bill	Preliminary Investigation - Partly Resolved in Favour of Complainant
066589	Unreasonable damage to car through hole in the road	Withdrawn by Complainant
State Electoral Office		
065837	Unreasonable removal of name from electoral roll	Preliminary Investigation - Not Sustained - Explanation Given

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Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

Agency	Advice Given	Advice Given to Agency	Alternate Remedy	Not Sustained	Not Sustained - Explanation Given	Other/General	Partly Resolved in Favour of Complainant	Reasonable Resolution	Referred to Agency	Refused to Investigate	Withdrawn	Withdrawn by Complainant	Total
Adelaide Hills Council	10		1		8			1	1	1			22
Alexandrina Council	6				2	1	2	1	1			1	14
City of Burnside	16				7		2	1	3			1	30
City of Charles Sturt	21			3	20		6	16	9			1	76
City of Holdfast Bay	9		1	1	8			3	1	1			24
City of Mitcham	18				6		4	4	3				35
City of Mount Gambier	2				3			2					7
City of Norwood, Payneham & St Peters	7				3			3	4				17
City of Onkaparinga	26				13		8	10	4				61
City of Playford	10		1	1	13		1	5	2				33
City of Port Adelaide Enfield	13		2	1	16		3	7	3			1	46
City of Port Lincoln	4				4		1	1					10
City of Salisbury	14				5		1	2	4			2	28
City of Tea Tree Gully	12			1	4		1	3					21
City of Victor Harbor	7	1			7		3	5					23
City of West Torrens	12		1		8		3	2	1			1	28
Clare and Gilbert Valleys Council	11			1	5		3	2	1	1			24
Corporation of the City of Adelaide	20		1		8		3	3	4			1	40
Corporation of the City of Prospect					3				1				4
Corporation of the City of Unley	11				4		3		3				21
Corporation of the Town of Walkerville					1			2					3
Corporation of the Town of Gawler	2							2					4
District Council of Barunga West	1				1								2
District Council of Cleve					1								1
District Council of Coober Pedy							1	1		1			3
District Council of Franklin Harbour				2									2
District Council of Grant	2				1			2		1			6
District Council of Lower Eyre Peninsula	3				5		2					2	12
District Council of Loxton Waikerie	4						1		1				6
District Council of Peterborough	1				2								3
District Council of the Copper Coast	3				3		1		1				8
District Council of Yankalilla	3				5		1						9
District Council of Yorke Peninsula	4				4		1	3					12
Kangaroo Island Council	6				2		2	1	1				12
Kingston District Council									1				1
Light Regional Council	3			2	6		1	1	1	1			15
Mid Murray Council	4				3			4	1				12
Naracoorte Lucindale Council	4			1	1		1	1	1				9
Northern Areas Council	5			1	1			1					8
Port Pirie Regional Council	4			1	3		3						11
Regional Council of Goyder	2				1			1		1			5
Renmark Paringa Council	1							1				1	3
Roxby Downs Council	1			1			1						3
Rural City of Murray Bridge	4				2		1	2	1				10
Southern Mallee District Council	1				1			2					4
The Barossa Council	4				4		1	1	1				11
The Berri Barmora Council	6				4			1	1				12
The Coorong District Council	2						2						4
The Corporation of the City of Whyalla	2				3								5
The Corporation of the City of Campbelltown	3			2	6		1	1					13
The Corporation of the City of Marion	8		1		8		3	2	7				29
The Corporation of the City of Port Augusta	1			1	2			2	1				7
The District Council of Ceduna	1			1	1	1	1	1					6
The District Council of Elliston					1				2		1		4
The District Council of Mallala	7				2			3					12
The District Council of Mount Barker	6		1	2	5			1	3				18
The District Council of Mount Remarkable	8				2			1					11
The District Council of Robe	2				5				1	1			9
The District Council of Streaky Bay				1	1								2
The District Council of Tatiara	1				1								2
The District Council of Tumby Bay	2				3			2					7
The Flinders Ranges Council	1												1
Wakefield Regional Council	1				1			1	1				4
Wattle Range Council	3				2				1				6
Total	345	1	9	23	241	2	68	111	71	8	1	11	891

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Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
Adelaide Hills Council		
062467	Unreasonable management of road surface problem	Advice Given
062756	Unreasonable delay in processing development application	Preliminary Investigation - Not Sustained - Explanation Given
062992	Unreasonable requirements placed regarding septic system	Preliminary Investigation - Reasonable Resolution
063132	Unreasonable investigation of complaint	Advice Given
063460	Failure to notify development application was cancelled	Advice Given
063481	Failure to notify owner of dog wandering at large	Advice Given
063500	Unreasonable decision regarding tree on road reserve	Advice Given
063507	Unreasonable decision regarding dog complaint	Preliminary Investigation - Not Sustained - Explanation Given
063879	Failure to keep informed about development application	Preliminary Investigation - Not Sustained - Explanation Given
063984	Failure to comply	Preliminary Investigation - Not Sustained - Explanation Given
064110	Alleged Council collusion	Declined - Refused to Investigate
064381	Inadequate complaint handling	Advice Given - Referred to Agency
064437	Failure to act regarding illegal development	Declined - Alternate Remedy
064608	Unreasonable investigation of storm water run-off problem	Advice Given
064644	Failure to clear roadside verge	Preliminary Investigation - Not Sustained - Explanation Given
064685	Failure to act regarding overlooking issue	Preliminary Investigation - Not Sustained - Explanation Given
064745	Failure to follow up problem with storm water	Advice Given
064986	Unreasonable decision by Council regarding menace dog	Advice Given
065005	Unreasonable action regarding dog attack	Preliminary Investigation - Not Sustained - Explanation Given
065642	Unreasonable decision to seize dog	Preliminary Investigation - Not Sustained - Explanation Given
065684	Unreasonable charge for second bin	Advice Given
066334	Unreasonable decision regarding cost recovery	Advice Given
Alexandrina Council		
059558	Failure to enforce compliance with approved condition	Full Investigation - Partly Resolved in Favour of Complainant
061160	Failure to take adequate action regarding noisy dogs	Preliminary Investigation - Partly Resolved in Favour of Complainant
062731	Failure to advise of meetings regarding development proposal	Advice Given
062947	Unreasonable handling of development application	Withdrawn by Complainant
063375	Failure to provide correct advice re development application	Advice Given
064212	Unreasonable decision regarding garage approval	Preliminary Investigation - Not Sustained - Explanation Given
064315	Failure to enforce compliance regarding fence on road reserve	Advice Given
064477	Alleged harassment by Council	Advice Given
064673	Failure to notify of complaint	Advice Given
064687	Concerns of overlooking from neighbouring dwelling	Advice Given
064974	Unreasonable process for assessing development application	Preliminary Investigation - Reasonable Resolution
065822	Failure to properly notify rate payers regarding sale of reserve	Advice Given - Other/General
065903	Failure to respond to correspondence	Advice Given - Referred to Agency
065919	Unreasonable approval to create a road through a public reserve	Preliminary Investigation - Not Sustained - Explanation Given
City of Burnside		
062364	Refusal to compensate for vehicle damage	Advice Given
062401	Failure by the Council to pay for motor vehicle damage	Preliminary Investigation - Not Sustained - Explanation Given
062518	Unreasonable refusal to provide access	Preliminary Investigation - Not Sustained - Explanation Given
062552	Unreasonable refusal of development plan	Advice Given
062573	Failure to act in a reasonable manner	Advice Given
062707	Allegedly unreasonable advice regarding fence height	Preliminary Investigation - Not Sustained - Explanation Given
062811	Unfair process for development application	Advice Given
062914	Unreasonable classification of land use for business purposes	Advice Given
063007	Unreasonable decision to approve development application	Preliminary Investigation - Not Sustained - Explanation Given
063057	Unreasonable treatment	Advice Given
063094	Failure to adequately supervise development	Advice Given
063166	Failure to regulate street parking adequately	Preliminary Investigation - Not Sustained - Explanation Given
063223	Failure to enforce compliance	Advice Given - Referred to Agency
063230	Lack of assistance in regards to neighbour dispute	Preliminary Investigation - Not Sustained - Explanation Given
063263	Unreasonable handling of development proposal	Preliminary Investigation - Partly Resolved in Favour of Complainant
063313	Unreasonable conditions imposed on complying development	Advice Given
063992	Unreasonable delay	Advice Given
064038	Unreasonable response	Advice Given - Referred to Agency
064054	Unreasonable withdrawal of services	Withdrawn - Withdrawn by Complainant
064586	Failure to adequately respond to complaint	Preliminary Investigation - Not Sustained - Explanation Given
064688	Unreasonable requirement	Advice Given
065206	Unreasonable request for planning application	Advice Given
065284	Unreasonable refusal of planning application	Advice Given
065305	Inadequate investigation of complaint	Advice Given
065429	Unreasonable decision regarding tree removal	Preliminary Investigation - Partly Resolved in Favour of Complainant
065442	Failure to resolve disruption from park	Preliminary Investigation - Reasonable Resolution
065780	Unreasonable delays in obtaining development approval	Advice Given
065910	Failure to approve development application	Advice Given
066076	Query regarding process	Advice Given
066460	Failure to erect fence according to development plan	Advice Given - Referred to Agency

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Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
City of Charles Sturt		
056435	Incorrect classification of development and other error	Full Investigation - Partly Resolved in Favour of Complainant
056621	Unreasonable development approval	Full Investigation - Not Sustained
057582	Unreasonable development approval	Preliminary Investigation - Not Sustained - Explanation Given
059806	Failure to manage behaviour of attendees at function centre	Preliminary Investigation - Reasonable Resolution
059942	Failure to take adequate action regarding disturbance at Council-owned community centre	Preliminary Investigation - Reasonable Resolution
061135	Unreasonable bylaw introduced regarding dog registration	Full Investigation - Not Sustained - Explanation Given
061890	Alleged unreasonable action in closing community centre	Preliminary Investigation - Not Sustained
062114	Inadequate investigation of complaint	Preliminary Investigation - Reasonable Resolution
062187	Unreasonable refusal to waive fine	Withdrawn by Complainant
062255	Unreasonable approval of building development	Preliminary Investigation - Not Sustained - Explanation Given
062338	Unreasonable refusal to waive fine	Preliminary Investigation - Reasonable Resolution
062350	Unfair imposition of parking fine	Preliminary Investigation - Reasonable Resolution
062415	Unreasonable decision to impose parking fine	Preliminary Investigation - Reasonable Resolution
062454	Unreasonable processing of development application	Preliminary Investigation - Not Sustained - Explanation Given
062472	Unreasonable explanation of rates increase	Advice Given
062538	Unfair criteria applied in determining parking fine matter	Preliminary Investigation - Not Sustained
062574	Unreasonable determination of rates	Advice Given
062595	Disputed Council rates	Preliminary Investigation - Not Sustained - Explanation Given
062609	Failure to enforce compliance with development plan	Advice Given
062630	Disputed Council rates	Advice Given
062639	Inadequate response to complaint about nuisance tree	Advice Given
062644	Unreasonable increase in Council rates	Advice Given - Referred to Agency
062744	Refusal to accept payment of infringement notice	Advice Given
062765	Unreasonable refusal to waive late fee	Preliminary Investigation - Reasonable Resolution
062790	Unreasonable decision to increase dog license fee	Advice Given
062913	Unreasonably high rates	Advice Given
063063	Unreasonable parking fine	Preliminary Investigation - Reasonable Resolution
063071	Unreasonable parking fine	Preliminary Investigation - Not Sustained - Explanation Given
063136	Failure to enforce traffic restrictions as agreed	Preliminary Investigation - Reasonable Resolution
063178	Unreasonable delay in action regarding semi-built house	Preliminary Investigation - Reasonable Resolution
063238	Exercise of powers and functions	Advice Given - Referred to Agency
063287	Unreasonable refusal to provide access to planning information	Preliminary Investigation - Not Sustained - Explanation Given
063321	Unreasonable refusal of offer to buy Council land	Advice Given
063361	Unreasonable parking fine	Preliminary Investigation - Not Sustained - Explanation Given
063382	Unreasonable conditions placed on development	Advice Given
063556	Unreasonable requirement to change street number	Preliminary Investigation - Not Sustained - Explanation Given
063559	Unreasonable decision regarding requirement to clear vacant land	Preliminary Investigation - Not Sustained - Explanation Given
063564	Unreasonable decision regarding requirements for clearing vacant land	Preliminary Investigation - Not Sustained - Explanation Given
063631	Unreasonable request to obtain neighbour's approval to construct shed	Advice Given - Referred to Agency
063805	Unreasonable decision regarding removal of tree	Advice Given
063826	Unreasonable decision to impose parking fine	Preliminary Investigation - Not Sustained - Explanation Given
064032	Unfair imposition of parking fine	Preliminary Investigation - Not Sustained - Explanation Given
064060	Failure to adequately respond to problem tree complaint	Preliminary Investigation - Reasonable Resolution
064119	Failure to process development application in a timely manner	Preliminary Investigation - Partly Resolved in Favour of Complainant
064357	Unreasonable response regarding grievance	Preliminary Investigation - Reasonable Resolution
064702	Excessive fees for third dog permit	Preliminary Investigation - Not Sustained - Explanation Given
064713	Miscalculation of Council rates	Advice Given - Referred to Agency
064732	Failure to respond to complaint	Advice Given - Referred to Agency
064782	Unreasonable refusal to collect cat	Preliminary Investigation - Reasonable Resolution
064900	Failure to provide information regarding development on adjoining property	Preliminary Investigation - Partly Resolved in Favour of Complainant
064906	Inappropriate action by dog control officer	Advice Given - Referred to Agency
064956	Unreasonable decision by Council officer	Advice Given - Referred to Agency
064985	Unreasonable delay in resolving bin problem	Preliminary Investigation - Partly Resolved in Favour of Complainant
065022	Unreasonable decision regarding parking fine	Advice Given
065065	Unreasonable decision to provide parking ticket	Advice Given - Referred to Agency
065195	Inadequate response to complaint regarding waste collection	Preliminary Investigation - Reasonable Resolution
065259	Unreasonable decision regarding use of property for business	Advice Given - Referred to Agency
065336	Unreasonable fine for dog off leash	Preliminary Investigation - Partly Resolved in Favour of Complainant
065353	Failure to comply with development plan	Advice Given
065421	Decision regarding parking fine incorrect	Preliminary Investigation - Partly Resolved in Favour of Complainant
065426	Unreasonable charges without prior knowledge	Preliminary Investigation - Not Sustained - Explanation Given
065482	Alleged harassment by Council officer	Advice Given
065533	Unreasonable process regarding fence	Preliminary Investigation - Not Sustained - Explanation Given
065543	Unreasonable process regarding parking fine	Preliminary Investigation - Not Sustained - Explanation Given
065580	Unreasonable delays in processing building application	Advice Given
065636	Unreasonable requirement in support of development application	Preliminary Investigation - Reasonable Resolution
065659	Unfair process followed in pursuing a parking infringement	Preliminary Investigation - Not Sustained - Explanation Given
065699	Development approvals	Advice Given
065704	Alleged failure to follow the requirements of the development plan	Preliminary Investigation - Partly Resolved in Favour of Complainant
065717	Failure to give reasons why Council motion was not lawful	Preliminary Investigation - Not Sustained - Explanation Given
065719	Unreasonable decision to conduct "in camera" meeting	Advice Given

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Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
065816	Unreasonable decision to require payment for cafe's use of footpath	Advice Given
065846	Development approval inconsistent with development plan	Advice Given
065948	Inaction by Council regarding disposal of tree debris	Preliminary Investigation - Not Sustained - Explanation Given
066228	Unreasonable requirement to clean up property	Preliminary Investigation - Reasonable Resolution
066355	Unreasonable construction of footpath	Advice Given
066375	Unreasonable decision to require removal of dog	Advice Given
City of Holdfast Bay		
060538	Unreasonable decision made regarding parking arrangements.	Preliminary Investigation - Not Sustained - Explanation Given
060934	Inadequate process to heritage listed property	Full Investigation - Not Sustained - Explanation
062377	Unreasonable increase in value of property	Advice Given
062464	Failure to grant concession on property rates	Advice Given
062497	Failure to follow proper process regarding development application	Advice Given
062512	Unreasonable decision to approve development application	Preliminary Investigation - Not Sustained - Explanation Given
063569	Unreasonable imposition of fine	Preliminary Investigation - Reasonable Resolution
063839	Failure to provide information relevant to development application	Advice Given
064010	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
064076	Unreasonable decision to impose fine	Advice Given
064264	Unreasonable parking signage	Preliminary Investigation - Not Sustained - Explanation Given
064353	Unreasonable delays in processing development application	Advice Given
064819	Failure to compensate for damage caused during footpath works	Preliminary Investigation - Not Sustained - Explanation Given
064933	Failure to provide information	Preliminary Investigation - Reasonable Resolution
065382	Failure to maintain sufficient water drainage	Preliminary Investigation - Not Sustained - Explanation Given
065416	Unreasonable process regarding tree removal	Advice Given
065435	Unreasonable provision of parking ticket for a taxi in a bus lane	Declined - Refused to Investigate
065708	Failure to address issues regarding complaint against neighbour's dog	Preliminary Investigation - Reasonable Resolution
065978	Failure by Council to implement decision of a Court	Preliminary Investigation - Not Sustained - Explanation Given
066053	Unreasonable decision to impound vehicle	Advice Given
066064	Failure to enforce requirement that vacant land must be clear	Declined - Alternate Remedy
066199	Unreasonable approval for air conditioner	Advice Given - Referred to Agency
066530	Failure to act fairly in imposing fine	Advice Given
066620	Unreasonable decision to impose expiation notice	Preliminary Investigation - Not Sustained
City of Mitcham		
056451	Failure to act regarding trees affecting property	Preliminary Investigation - Partly Resolved in Favour of Complainant
057654	Unreasonable action regarding development	Full Investigation - Not Sustained - Explanation
061847	Alleged failure to rectify road hazard at driveway	Preliminary Investigation - Not Sustained - Explanation Given
062619	Disputed Council rates	Advice Given
062646	Unreasonable pursuit of rate charges	Advice Given
062734	Unreasonable conditions placed on application	Preliminary Investigation - Not Sustained - Explanation Given
062767	Unreasonable management of derelict property	Preliminary Investigation - Reasonable Resolution
062815	Failure to exercise adequate control over unlawful parking	Preliminary Investigation - Partly Resolved in Favour of Complainant
062878	Failure to monitor street parking	Advice Given
062884	Failure to regulate street parking adequately	Advice Given
062943	Unreasonable refusal of insurance claim	Advice Given - Referred to Agency
063054	Exercise of powers and functions	Advice Given - Referred to Agency
063333	Unreasonable decision to approve neighbour's development	Advice Given
063415	Unreasonable action regarding barking dogs	Advice Given
063571	Failure to follow proper process in an administration matter	Advice Given
063588	Failure to offer adequate compensation	Advice Given
063681	Failure to enforce dog control measures	Preliminary Investigation - Reasonable Resolution
063895	Unfair refusal of rate rebate	Advice Given
064021	Failure to provide correct information	Advice Given
064053	Failure to respond to letters	Preliminary Investigation - Reasonable Resolution
064057	Unreasonable pruning of trees	Advice Given
064111	Delay in responding to complaint	Advice Given
064128	Unreasonable decision to close laneway	Advice Given - Referred to Agency
064134	Failure to enforce condition of approval	Advice Given
064447	Unreasonable requirement for weed control	Preliminary Investigation - Reasonable Resolution
064757	Unreasonable management of planning application	Advice Given
064778	Unreasonable decision to heritage list home	Advice Given
064926	Unreasonable decision to refuse approval for development application	Advice Given
065014	Failure to enforce compliance regarding barking dog	Preliminary Investigation - Partly Resolved in Favour of Complainant
065260	Inadequate investigation of complaint regarding traffic congestion	Advice Given
065432	Refusal to accept loose change as legal tender	Preliminary Investigation - Not Sustained - Explanation Given
065514	Unreasonable decision regarding removal of undergrowth	Preliminary Investigation - Not Sustained - Explanation Given
065739	Unreasonable imposition of parking fine	Advice Given
065766	Unreasonable refusal to waive fine	Preliminary Investigation - Not Sustained - Explanation Given
065779	Proposals regarding traffic control	Preliminary Investigation - Partly Resolved in Favour of Complainant
City of Mount Gambier		
060873	Alleged failure to remove debris from gutters	Preliminary Investigation - Reasonable Resolution
062368	Failure to repair damaged road and curb	Preliminary Investigation - Reasonable Resolution

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File no	Details	Outcome
062677	Unreasonable decision to approve development	Preliminary Investigation - Not Sustained - Explanation Given
062788	Unreasonable management of development application	Advice Given
063388	Unreasonable refusal of development application	Preliminary Investigation - Not Sustained - Explanation Given
063856	Failure to maintain footpath area	Preliminary Investigation - Not Sustained - Explanation Given
066050	Unreasonable decision to approve development application	Advice Given
City of Norwood, Payneham & St Peters		
061257	Failure to act regarding noise from rubbish trucks and street sweeper	Preliminary Investigation - Reasonable Resolution
063434	Unreasonable management of trees	Advice Given
063475	Unreasonable administrative decision	Preliminary Investigation - Not Sustained - Explanation Given
063768	Unreasonable management of planning	Advice Given
063816	Unreasonable decision to impose parking fine	Advice Given
064144	Alleged inadequate dealing with barking dog complaint	Preliminary Investigation - Not Sustained - Explanation Given
064575	Unfair decision regarding parking ticket	Advice Given
064598	Failure to give decision in relation to removal of trees from street	Preliminary Investigation - Reasonable Resolution
064665	Unreasonable imposition of parking fine	Advice Given
065283	Unreasonable decision regarding parking fine	Advice Given - Referred to Agency
065564	Unreasonable imposition of penalty on overdue notice	Advice Given
065774	Failure to adequately respond to complaint	Advice Given
066056	Failure to carry out inspection	Advice Given - Referred to Agency
066170	unreasonable refusal to waive fine	Preliminary Investigation - Not Sustained - Explanation Given
066179	Unreasonable decision to reduce public car park	Advice Given - Referred to Agency
066380	Unreasonable denial of provisional parking permit	Preliminary Investigation - Reasonable Resolution
066448	Delay in processing development application	Advice Given - Referred to Agency
City of Onkaparinga		
058668	Unreasonable sale of community land	Full Investigation - Reasonable Resolution
060663	Unreasonable delay in resolving parking issue	Preliminary Investigation - Partly Resolved in Favour of Complainant
060884	Unreasonable approval of major subdivision	Preliminary Investigation - Not Sustained - Explanation Given
061055	Unreasonable allegations regarding residents' association	Full Investigation - Partly Resolved in Favour of Complainant
061739	Unreasonable development of 2-storey housing	Preliminary Investigation - Not Sustained - Explanation Given
062210	Failure to enforce compliance with planning	Preliminary Investigation - Not Sustained - Explanation Given
062220	Failure to enforce requirements about storm water drainage	Preliminary Investigation - Partly Resolved in Favour of Complainant
062528	Unreasonable decision to consider development application	Advice Given
062542	Refusal to table report	Advice Given
062570	Unreasonably high rates	Advice Given
062657	Unreasonable management of development	Advice Given
062671	Unreasonable explanation of charge	Advice Given
062758	Failure to adequately investigate complaint	Preliminary Investigation - Not Sustained - Explanation Given
062796	Unreasonable maintenance of road	Advice Given
062955	Unreasonable levy attached to Council rates	Advice Given
063256	Inadequate investigation of complaint	Preliminary Investigation - Reasonable Resolution
063271	Unreasonable approval of development	Preliminary Investigation - Not Sustained - Explanation Given
063320	Allegedly unreasonable decision to install a footpath	Full Investigation - Partly Resolved in Favour of Complainant
063489	Failure to investigate complaints adequately	Preliminary Investigation - Reasonable Resolution
063490	Alleged improper approval of development application	Preliminary Investigation - Not Sustained - Explanation Given
063535	Unreasonable assistance provided	Advice Given
063572	Failure to adequately display sign post parking area	Advice Given
063696	Unreasonable delay in providing building approval	Preliminary Investigation - Reasonable Resolution
063703	Unreasonable action regarding alleged dog attack	Full Investigation - Not Sustained - Explanation
063823	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
063833	Unreasonable delay in responding to complaint	Preliminary Investigation - Reasonable Resolution
063865	Unreasonable decision regarding house numbering	Advice Given - Referred to Agency
063916	Unreasonable management of dog complaint	Advice Given
063918	Excessively high rates	Advice Given
063940	Unreasonable refusal to waive fine	Preliminary Investigation - Not Sustained - Explanation Given
064059	Unreasonable management of development application	Advice Given
064109	Failure to consider impact of road construction	Preliminary Investigation - Reasonable Resolution
064162	Unreasonable decision regarding heritage listing	Advice Given
064215	Refusal of application to remove tree	Advice Given - Referred to Agency
064308	Unreasonable decision regarding boundary wall	Advice Given
064498	Unreasonable refusal to introduce house numbering	Advice Given
064564	Unreasonable decision to stop prior arrangement	Preliminary Investigation - Reasonable Resolution
064676	Failure to provide adequate information	Advice Given
064756	Unreasonable management of barking dog problem	Advice Given
064814	Failure to maintain road/walkway	Advice Given - Referred to Agency
064871	Failure to communicate	Advice Given
065123	Unfair decision regarding pruning of significant tree	Preliminary Investigation - Reasonable Resolution
065127	Unfair imposition of fine	Advice Given
065137	Failure to make adequate provision	Preliminary Investigation - Reasonable Resolution
065243	Failure to act regarding barking dogs	Preliminary Investigation - Not Sustained - Explanation Given
065318	Conflict of interest relating to purchase of vehicles	Advice Given - Referred to Agency
065413	Alleged problem with storm water resulting from road works	Advice Given

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File no	Details	Outcome
065427	Failure to attend regarding problem with neighbour	Advice Given
065516	Failure to enforce compliance	Preliminary Investigation - Partly Resolved in Favour of Complainant
065565	Unfair imposition of parking fine	Preliminary Investigation - Not Sustained - Explanation Given
065644	Unreasonable imposition of late payment fee	Preliminary Investigation - Reasonable Resolution
066032	Failure to enforce compliance	Preliminary Investigation - Partly Resolved in Favour of Complainant
066066	Failure to enforce requirement prohibiting vehicles parking on the footpath	Preliminary Investigation - Partly Resolved in Favour of Complainant
066085	Failure to inform ratepayers of changes in refuse collection	Preliminary Investigation - Not Sustained - Explanation Given
066127	Unreasonable requirements for building in heritage area	Advice Given
066205	Failure to approve development application	Preliminary Investigation - Not Sustained - Explanation Given
066225	Failure to act regarding dog behaviour	Advice Given
066255	Failure to amend records resulting in rates notice being misdirected	Advice Given
066446	Failure to provide waste disposal service	Advice Given
066473	Decision to accept planning application	Advice Given
066535	Unreasonable rates applied	Preliminary Investigation - Partly Resolved in Favour of Complainant

City of Playford

059733	Unreasonable approval of overlooking development	Full Investigation - Reasonable Resolution
060759	Failure to establish open space trust fund	Declined - Alternate Remedy
060787	Unreasonable decision regarding spraying of pesticide	Full Investigation - Not Sustained - Explanation Given
060837	Failure to act regarding nuisance dogs	Preliminary Investigation - Not Sustained
060840	Unreasonable decision regarding spraying of pesticide	Full Investigation - Not Sustained - Explanation Given
060841	Unreasonable decision regarding spraying of pesticide	Full Investigation - Not Sustained - Explanation Given
060844	Unreasonable decision regarding spraying of pesticide	Full Investigation - Not Sustained - Explanation Given
060845	Unreasonable decision regarding spraying of pesticide	Full Investigation - Not Sustained - Explanation Given
060846	Unreasonable decision regarding spraying of pesticide	Full Investigation - Not Sustained - Explanation Given
062372	Refusal to inspect building works	Advice Given
062450	Failure to minimise rubbish disposal costs	Full Investigation - Not Sustained - Explanation
062584	Unreasonable delay in fixing driveway	Preliminary Investigation - Reasonable Resolution
062606	Unreasonable increase in Council rates	Advice Given
062659	Unreasonable conduct of Council	Advice Given
062930	Failure to investigate allegations of incorrect building construction	Preliminary Investigation - Not Sustained - Explanation Given
063004	Unreasonable imposition of fee for late payment	Advice Given
063140	Unreasonable requirement to move truck from property	Advice Given
063727	Unreasonable imposition of parking fine	Advice Given
063894	Unreasonably high rates	Preliminary Investigation - Not Sustained - Explanation Given
063969	Failure to approve development application	Preliminary Investigation - Reasonable Resolution
064272	Inadequate repairs to pipe	Full Investigation - Reasonable Resolution
065052	Unfair imposition of fine	Preliminary Investigation - Not Sustained - Explanation Given
065661	Failure to enforce provision of development	Advice Given - Referred to Agency
065811	Failure to approve verandah following verbal agreement	Advice Given - Referred to Agency
065882	Unreasonable decision to impose parking fine	Preliminary Investigation - Not Sustained - Explanation Given
065911	Unreasonable refusal to pay for fencing	Advice Given
066105	Failure to approve carport/planning process	Preliminary Investigation - Not Sustained - Explanation Given
066106	Failure to approve carport/application process	Preliminary Investigation - Not Sustained - Explanation Given
066125	Failure to enforce compliance	Advice Given
066196	Failure to compensate for fall/provide duty of care	Advice Given
066216	Failure to restore road to safe driving conditions	Preliminary Investigation - Partly Resolved in Favour of Complainant
066354	Unfair imposition of traffic infringement notice	Preliminary Investigation - Reasonable Resolution
066609	Unreasonable management of reserve sale	Advice Given

City of Port Adelaide Enfield

055427	Failure to act regarding development and traffic issues	Full Investigation - Partly Resolved in Favour of Complainant
058768	Failure to enforce planning approval and conditions	Full Investigation - Reasonable Resolution
059394	Failure to compensate for damage	Preliminary Investigation - Not Sustained - Explanation Given
060742	Failure to adequately investigate complaint	Full Investigation - Not Sustained - Explanation
061859	Allegedly unreasonable proposal to install speed humps	Preliminary Investigation - Not Sustained - Explanation Given
061931	Unreasonable decision by Council to attempt to repossess formerly declassified land as reserve	Preliminary Investigation - Partly Resolved in Favour of Complainant
062027	Failure to prevent flooding of property from road	Preliminary Investigation - Not Sustained - Explanation Given
062490	Unreasonably high fine	Advice Given
062543	Refusal to take action regarding neighbour's dogs	Preliminary Investigation - Reasonable Resolution
062616	Unfair method of rate recovery	Preliminary Investigation - Reasonable Resolution
062618	Allegedly unreasonable requirement to pay the cost of a cross-over	Preliminary Investigation - Not Sustained - Explanation Given
062739	Unfair decision to impose parking fine	Advice Given - Referred to Agency
062755	Failure to investigate complaint	Preliminary Investigation - Not Sustained - Explanation Given
062821	Failure to act on complaint about barking dogs	Preliminary Investigation - Not Sustained - Explanation Given
062827	Unreasonable decision to approve development application	Preliminary Investigation - Not Sustained - Explanation Given
062871	Refusal to approve application for fence	Advice Given
063110	Unreasonable management of planning application	Advice Given
063311	Failure to provide access to public facilities	Preliminary Investigation - Reasonable Resolution
063446	Failure to compensate	Full Investigation - Not Sustained
063453	Failure to investigate complaint	Withdrawn by Complainant
063525	Failure to provide information about development application	Preliminary Investigation - Reasonable Resolution

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File no	Details	Outcome
063611	Querying development approval of two storey house	Advice Given
063991	Unreasonable loss of records	Advice Given
064089	Failure to observe encroachment on land by neighbour	Advice Given
064231	Unreasonable management of contract	Advice Given
064306	Unreasonable decision to close business	Preliminary Investigation - Reasonable Resolution
064766	Unreasonable development approval	Full Investigation - Not Sustained - Explanation
064801	Failure by Council to enforce compliance by neighboring industry	Preliminary Investigation - Not Sustained - Explanation Given
064831	Failure to compensate for damage to motor vehicle	Preliminary Investigation - Not Sustained - Explanation Given
064952	Unfair tender process	Advice Given
065066	Unfair decision regarding tree removal	Preliminary Investigation - Reasonable Resolution
065084	Alleged inaction by Council to enforce power	Advice Given - Referred to Agency
065121	Unreasonable changes to development plan	Advice Given
065166	Inadequate information provided	Preliminary Investigation - Not Sustained - Explanation Given
065276	Failure to comply with regulations	Preliminary Investigation - Partly Resolved in Favour of Complainant
065300	Unfair method of calculating charges	Advice Given
065333	Failure to provide information	Preliminary Investigation - Not Sustained - Explanation Given
065342	Failure to comply with planning law	Advice Given
065491	Failure to modify road for pedestrian crossing	Advice Given - Referred to Agency
065686	Unreasonable issue of expiation notice for unregistered dog	Declined - Alternate Remedy
065762	Unreasonable cost to pave footpath/driveway	Preliminary Investigation - Not Sustained - Explanation Given
065767	Incorrect decision to determine a development application	Preliminary Investigation - Not Sustained - Explanation Given
065895	Unreasonable management of dog complaint	Preliminary Investigation - Not Sustained - Explanation Given
066142	Alleged inappropriate way of gaining information	Declined - Alternate Remedy
066493	Unreasonable categorisation of development application	Advice Given
066607	Unreasonable conditions relating to development application	Advice Given
City of Port Lincoln		
060539	Unreasonable approval for subdivision of land	Full Investigation - Not Sustained - Explanation
060981	Alleged flaws in development approval process	Preliminary Investigation - Not Sustained - Explanation Given
061467	Unreasonable planning decision resulting in unnecessary additional costs	Preliminary Investigation - Not Sustained - Explanation Given
061549	Unreasonable treatment of community title land division	Full Investigation - Reasonable Resolution
062576	Unreasonable decision to dig hole	Advice Given
062668	Unreasonable removal of clay	Preliminary Investigation - Not Sustained - Explanation Given
063657	Unreasonable increase in rates	Preliminary Investigation - Partly Resolved in Favour of Complainant
063709	Excessive use of powers by Council to enter properties	Advice Given
063753	Failure to grant approval for development application in a timely manner	Advice Given
066623	Inadequate response from Council	Advice Given
City of Salisbury		
058607	Maladministration resulting of sale of dogs	Preliminary Investigation - Reasonable Resolution
060394	Unreasonable dumping of soil on private land	Withdrawn by Complainant
061401	Exercise of powers and functions	Full Investigation - Not Sustained - Explanation
062439	Miscalculation of amount payable in rates	Advice Given
062471	Unreasonable management of planning application	Advice Given
062649	Unreasonable calculation of rates	Advice Given
062670	Claim for injuries	Advice Given
062806	Unreasonable requirement to pay costs for building application	Advice Given
062929	Unreasonable assessment of development application	Preliminary Investigation - Not Sustained - Explanation Given
063122	Failure to act regarding illegal parking of trucks	Preliminary Investigation - Reasonable Resolution
063730	Unreasonable parking fine	Advice Given
064213	Unreasonable decision regarding tree removal	Preliminary Investigation - Partly Resolved in Favour of Complainant
064241	Failure to remove tree	Advice Given - Referred to Agency
064518	Unreasonable decision	Advice Given
064580	Failure to ensure proper process during tendering for contracts	Advice Given
064877	Unreasonable decision regarding tree removal	Advice Given
064946	Unreasonable decision regarding tree removal	Advice Given - Referred to Agency
065007	Unreasonable processing of development application	Withdrawn by Complainant
065067	Unreasonable decision to allow business	Advice Given
065245	Failure to permit tree lopping	Advice Given
065829	Failure to reimburse for damaged vehicle	Advice Given - Referred to Agency
066123	Concerns regarding erection of footpath	Advice Given - Referred to Agency
066171	Alleged incorrect advice from Council during development process	Advice Given
066236	Unreasonable decision to ban from premises	Advice Given
066256	Unreasonable parking fine	Preliminary Investigation - Not Sustained - Explanation Given
066462	Unreasonable decision to grub out street trees growing under power lines	Preliminary Investigation - Not Sustained - Explanation Given
066560	Unreasonable decision by Council to build a shed	Advice Given
066581	Unreasonable street number allocated	Preliminary Investigation - Not Sustained - Explanation Given
City of Tea Tree Gully		
060875	unreasonable delay in resolving noise issue	Preliminary Investigation - Not Sustained - Explanation Given
061935	Failure to act regarding damage caused by tree in road reserve	Preliminary Investigation - Partly Resolved in Favour of Complainant
062233	Failure to consult community before planting street trees	Advice Given
062318	Refusal to provide access to information	Preliminary Investigation - Reasonable Resolution

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File no	Details	Outcome
062465	Unreasonable decision to refuse permission	Advice Given
062658	Unreasonable management of drainage problem	Advice Given
063513	Unreasonable waste disposal service	Preliminary Investigation - Not Sustained - Explanation Given
063616	Unreasonable planning approval	Advice Given
063705	Failure to prevent overlooking from new development	Preliminary Investigation - Not Sustained - Explanation Given
063725	Alleged flawed processes	Advice Given
063765	Failure to respond to complaint	Advice Given
063820	Failure to approve development application	Advice Given
063831	Alleged failure to provide correct information	Advice Given
063855	Failure to implement traffic management plan	Preliminary Investigation - Not Sustained - Explanation Given
064055	Failure to ensure compliance with development approval	Preliminary Investigation - Not Sustained
064324	Unreasonable decision regarding neighbour's tree	Advice Given
064632	Alleged harassment and victimisation	Advice Given
065376	Unreasonable delay in processing planning application	Preliminary Investigation - Reasonable Resolution
065955	Unreasonable imposition of late payment penalty	Preliminary Investigation - Reasonable Resolution
066499	Unreasonable conditions placed on dog	Advice Given
066513	Unreasonably harsh penalty for late registration of dog	Advice Given
City of Victor Harbor		
052884	Failure to act regarding alleged illegal dams blocking waterway	Full Investigation - Not Sustained - Explanation Given
054573	Failure to respond regarding business activity in a residential zone	Full Investigation - Partly Resolved in Favour of Complainant
061261	Unreasonable action regarding access to water supply	Preliminary Investigation - Reasonable Resolution
061364	Failure to restrict Sunday market activities	Preliminary Investigation - Not Sustained - Explanation Given
061836	Unreasonable delay in providing certificate showing land-fill process complied with Australian standards	Preliminary Investigation - Reasonable Resolution
062381	Refusal to provide access to laneway	Advice Given
062890	Excessively high rates	Advice Given
063398	Unreasonable approval of neighbour's development application	Preliminary Investigation - Not Sustained - Explanation Given
063873	Alleged neglect of duty	Advice Given
064064	Unreasonable response and decision	Preliminary Investigation - Reasonable Resolution
064081	Failure to respond to complaint about water pollution in local lake	Advice Given
064152	Inadequate investigation of complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
064195	Unreasonable use of money from differential rate	Preliminary Investigation - Not Sustained - Explanation Given
064250	Failure to require developer to remedy health danger	Preliminary Investigation - Not Sustained - Explanation Given
064349	Failure to require compliance on development	Preliminary Investigation - Partly Resolved in Favour of Complainant
064655	Failure to adequately investigate complaint	Advice Given
064686	Failure to take adequate action	Preliminary Investigation - Not Sustained - Explanation Given
064978	Unreasonable process regarding unregistered dogs	Advice Given
065047	Unreasonable decision regarding land/road division	Advice Given
065946	Inappropriate response from agency to petition	Preliminary Investigation - Reasonable Resolution
065981	Failure to keep details of complainant confidential	Preliminary Investigation - Not Sustained - Explanation Given
066093	Unfair process regarding planning application/approval	Advice Given - Advice Given to Agency
066425	Failure to act on complaint	Preliminary Investigation - Reasonable Resolution
City of West Torrens		
060948	Unreasonable decision to issue notice following inspection	Preliminary Investigation - Partly Resolved in Favour of Complainant
062077	Unreasonable approval of development	Preliminary Investigation - Not Sustained - Explanation Given
062610	Failure to provide waste collection service	Preliminary Investigation - Not Sustained - Explanation Given
062633	Alleged harassment by Council employees	Withdrawn - Withdrawn by Complainant
062775	Failure to provide adequate waste disposal services	Preliminary Investigation - Partly Resolved in Favour of Complainant
062792	Unreasonable management of planning application	Advice Given
062920	Unreasonable use of power by Council	Advice Given
062944	Failure to adequately consider impact of development	Preliminary Investigation - Reasonable Resolution
062966	Disputed parking infringement	Advice Given
062981	Unreasonable decision to approve neighbour's development application	Advice Given
063130	Unreasonable refusal of payment	Advice Given
063183	Unreasonable handling of development issues	Declined - Alternate Remedy
063653	Refusal to waive parking infringement	Advice Given
063810	Failure to consult over changes to parking regulations	Preliminary Investigation - Not Sustained - Explanation Given
063954	Failure to provide recycle bins to strata units	Preliminary Investigation - Reasonable Resolution
064132	Dilapidated state of house	Advice Given
064249	Unreasonable requirement to pay for paving of laneway	Preliminary Investigation - Not Sustained - Explanation Given
064259	Unreasonable refusal to address subsidence problem	Preliminary Investigation - Partly Resolved in Favour of Complainant
064307	Failure to enforce regulations regarding storm water	Preliminary Investigation - Not Sustained - Explanation Given
064607	Unreasonable planning approval	Advice Given
064629	Unreasonable approval of boarding kennels	Advice Given
064875	Failure to take adequate action regarding noise from boarding kennel	Preliminary Investigation - Not Sustained - Explanation Given
064943	Unreasonable decision to approve development application	Preliminary Investigation - Not Sustained - Explanation Given
065478	Failure to provide correct information	Advice Given
065727	Inadequate consultation regarding installation of speed humps	Advice Given - Referred to Agency
065738	Unreasonable decision/process by Council regarding tree removal	Advice Given
066194	Alleged refusal to release information	Advice Given
066244	Unreasonable imposition of fine	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
Clare and Gilbert Valleys Council		
061824	Unreasonable proposal to construct swimming pool	Preliminary Investigation - Not Sustained
062826	Unfair method of calculating rates on vacant land	Preliminary Investigation - Not Sustained - Explanation Given
062837	Excessively high rates on vacant land	Preliminary Investigation - Reasonable Resolution
062862	Allegedly unreasonable decision to construct a road	Preliminary Investigation - Partly Resolved in Favour of Complainant
062905	Unreasonably high rates	Advice Given
062922	Unusually high account	Advice Given
062933	Unreasonably high rates	Preliminary Investigation - Not Sustained - Explanation Given
063023	Excessively high rates	Advice Given
063025	Excessively high rates	Advice Given
063033	Unreasonable imposition of charge	Preliminary Investigation - Partly Resolved in Favour of Complainant
063206	Unreasonably high rates	Advice Given
063210	Unreasonable increase in rates	Advice Given
063552	Unreasonable decision to close road	Declined - Refused to Investigate
063648	Unreasonable requirement to pay waste collection	Preliminary Investigation - Not Sustained - Explanation Given
063775	Unfair decision to not offer rebate on rates	Preliminary Investigation - Partly Resolved in Favour of Complainant
064085	Excessively high rates	Advice Given
064088	Failure to grant rebate on rates	Advice Given
064411	Failure to enforce compliance with development laws	Advice Given
064532	Incorrect approval of large shed	Full Investigation - Not Sustained - Explanation
065147	Unreasonable decision regarding refund of money	Preliminary Investigation - Not Sustained - Explanation Given
065343	Failure to address barking dog problem	Advice Given
065959	Failure to remove fence construction impairing visibility	Preliminary Investigation - Reasonable Resolution
066209	Unreasonable management of sub-division	Advice Given
066616	Complaint handling	Advice Given - Referred to Agency
Corporation of the City of Adelaide		
055664	Unreasonable assistance provided to competitor	Preliminary Investigation - Not Sustained - Explanation Given
060218	Unreasonable decision to issue parking permits	Preliminary Investigation - Reasonable Resolution
061038	Lack of Council authority to require removal of neighbour's tree following falling limbs	Preliminary Investigation - Partly Resolved in Favour of Complainant
062303	Failure to accept late payment on fines	Advice Given
062453	Inadequate handling of complaint	Advice Given
062475	Unreasonably high parking fees	Advice Given
062482	Inadequate signage resulted in fine	Advice Given
062794	Unreasonable decision to tow vehicle	Advice Given
063021	Failure to supervise building	Advice Given
063024	Unreasonable decision to impose fine	Advice Given
063068	Unreasonable discrimination against business	Preliminary Investigation - Partly Resolved in Favour of Complainant
063095	Unfair decision to impose parking fine	Advice Given
063514	Unreasonable requirement to pay for damaged book	Preliminary Investigation - Not Sustained - Explanation Given
063654	Unreasonable decision to operate "free" competitive service	Advice Given
063786	Unreasonable decision to impose parking fine	Preliminary Investigation - Reasonable Resolution
063860	Failure to provide safe walking surface in relation to city footpaths	Advice Given - Referred to Agency
063861	Unreasonable management of parking fine	Advice Given
063889	Failure to provide adequate handyman service	Preliminary Investigation - Not Sustained - Explanation Given
063942	Unreasonable decision to tow car	Advice Given - Referred to Agency
064008	Failure to respond to correspondence	Advice Given - Referred to Agency
064106	Unreasonable parking fine	Preliminary Investigation - Reasonable Resolution
064161	Failure to provide information	Advice Given
064309	Failure to provide handyman service	Preliminary Investigation - Not Sustained - Explanation Given
064501	Failure to respond to correspondence and requests for assistance	Advice Given
064568	Unreasonable restriction on use of pool	Declined - Alternate Remedy
064922	Unreasonable imposition of parking fine	Advice Given
065202	Failure to make appropriate offer to purchase business	Advice Given
065537	Unreasonable imposition of parking fine	Preliminary Investigation - Not Sustained - Explanation Given
065594	Unreasonable expiation notices	Advice Given
065732	Unreasonable imposition of fine	Advice Given
065909	Unreasonable imposition of fee for late payment of fine	Advice Given
065913	Unreasonable delays in processing development application	Advice Given
065937	Failure to process development application in a timely manner	Preliminary Investigation - Partly Resolved in Favour of Complainant
065995	Unreasonable issue of expiation notice	Preliminary Investigation - Not Sustained - Explanation Given
066025	Unreasonable refusal of claim	Preliminary Investigation - Not Sustained - Explanation Given
066055	Unreasonable condition on lease agreement	Advice Given
066084	Unreasonable refusal to paint shed	Withdrawn - Withdrawn by Complainant
066124	Unreasonable refusal of development application	Advice Given
066331	Unreasonable parking fine	Preliminary Investigation - Not Sustained - Explanation Given
066465	Unfair parking fine	Advice Given - Referred to Agency
Corporation of the City of Prospect		
063579	Failure to enforce development approval conditions	Preliminary Investigation - Not Sustained - Explanation Given
064153	Failure to act regarding disputed development	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
065134	Unreasonable decision regarding planning application	Preliminary Investigation - Not Sustained - Explanation Given
065280	Unreasonable decision to install road humps	Advice Given - Referred to Agency
Corporation of the City of Unley		
058954	Failure to adequately consider impact of development on significant tree	Preliminary Investigation - Partly Resolved in Favour of Complainant
061258	Failure to enforce development approval	Full Investigation - Not Sustained - Explanation
062032	Unreasonable process in assessing development application	Preliminary Investigation - Not Sustained - Explanation Given
062104	Unreasonable refusal to provide assistance	Preliminary Investigation - Not Sustained - Explanation Given
062323	Unreasonable and persistent intervention by Council staff	Preliminary Investigation - Partly Resolved in Favour of Complainant
062469	Unreasonable decision regarding tree on boundary line	Advice Given
063458	Failure to enforce court order	Advice Given
063732	Unreasonable planning condition	Advice Given
064131	Unreasonable decision to refuse removal of a street tree	Advice Given
064164	Unreasonable decision based on conflict of interest	Advice Given
064214	Unreasonable decision regarding carport development	Advice Given
064365	Unreasonable response regarding planning approval	Advice Given - Referred to Agency
064391	Alleged incorrect advice	Advice Given
064715	Failure to enforce regulations regarding truck movements	Advice Given
065063	Unreasonable refusal of development application	Advice Given - Referred to Agency
065177	Unreasonable refusal of development application	Advice Given
065428	Unreasonable decision regarding parking fine	Advice Given
065437	Advice regarding fence and failure to comply	Advice Given - Referred to Agency
065446	Inadequate maintenance contributed to fall	Preliminary Investigation - Not Sustained - Explanation Given
065614	Alleged oppressive conduct by Council	Preliminary Investigation - Partly Resolved in Favour of Complainant
066011	Unreasonable failure to attend to traffic hazard	Advice Given
Corporation of the Town of Walkerville		
060477	Alleged failure to enforce development conditions	Preliminary Investigation - Reasonable Resolution
062631	Unreasonable decision to sell/demolish properties	Preliminary Investigation - Not Sustained - Explanation Given
066070	Failure to respond to correspondence in a timely manner	Preliminary Investigation - Reasonable Resolution
Corporation of the Town of Gawler		
062226	Lack of information provided to ratepayers	Advice Given
063086	Misrepresentation of outcome of review of visitor information centre	Preliminary Investigation - Reasonable Resolution
065250	Unreasonable delay in processing	Advice Given
065378	Unreasonable delay in processing planning application	Preliminary Investigation - Reasonable Resolution
District Council of Barunga West		
061505	Failure to enforce compliance with development conditions	Preliminary Investigation - Not Sustained - Explanation Given
063413	Failure to properly record details of development proposal	Advice Given
District Council of Cleve		
062615	Alleged failure to enforce court planning decision	Preliminary Investigation - Not Sustained - Explanation Given
District Council of Coober Pedy		
062163	Lack of specificity in emergency order served pursuant to s69 of the Development Act	Preliminary Investigation - Reasonable Resolution
062317	Unreasonably high service fees	Preliminary Investigation - Partly Resolved in Favour of Complainant
066381	Alleged delay in providing service	Declined - Refused to Investigate
District Council of Franklin Harbour		
060876	Lack of consultation regarding development plan	Preliminary Investigation - Not Sustained
060877	Lack of consultation regarding development plan	Preliminary Investigation - Not Sustained
District Council of Grant		
050866	Unreasonable restriction on access to minutes of Council meeting	Full Investigation - Reasonable Resolution
061188	Refusal to approve subdivision	Declined - Refused to Investigate
061641	Unreasonable decision by Council not to assess land as a suitable site for country living	Full Investigation - Not Sustained - Explanation Given
061848	Unreasonable decision not to assess land as a suitable site for country living	Full Investigation - Reasonable Resolution
062363	Unreasonable management of application	Advice Given
065724	Failure to adequately inform rate payers about proposed development	Advice Given
District Council of Lower Eyre Peninsula		
056903	Unreasonable requirement re size of tank to connect to STED scheme	Full Investigation - Not Sustained - Explanation Given
057963	Alleged omission to deal with unlawful development	Preliminary Investigation - Not Sustained - Explanation Given
059930	Unreasonable decision regarding installation of septic tank	Withdrawn by Complainant
061470	Failure to give adequate notice that development application was to be considered next day	Preliminary Investigation - Not Sustained - Explanation Given
061476	Unreasonable delays by Council in making a	Preliminary Investigation - Partly Resolved in Favour of Complainant
061520	Failure to advise of changes to development plan	Preliminary Investigation - Partly Resolved in Favour of Complainant

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File no	Details	Outcome
061527	Unreasonable decision to implement new refuse management plan that will increase rates disproportionately	Preliminary Investigation - Not Sustained - Explanation Given
062013	Unreasonable action by Council alleging a conflict of interest	Preliminary Investigation - Not Sustained - Explanation Given
063383	Improper process regarding complaint	Advice Given
063509	Unreasonable conduct	Withdrawn by Complainant
064305	Failure to communicate regarding olive orchard approval	Advice Given
064345	Unreasonable response regarding road	Advice Given
District Council of Loxton Waikerie		
062228	Excessively harsh decision regarding outstanding Council rates	Advice Given
062917	Unreasonably high rates	Preliminary Investigation - Partly Resolved in Favour of Complainant
065176	Allegations of conflict of interest involving Council	Advice Given
066091	Unreasonable delays in processing development application	Advice Given
066344	Alleged breach of confidentiality by Council officer	Advice Given
066371	Unreasonable possibility of liability for flooding	Advice Given - Referred to Agency
District Council of Peterborough		
063201	Failure to notify of zone change	Advice Given
065170	Inadequate action to remedy unsightly property	Preliminary Investigation - Not Sustained - Explanation Given
065465	Allegedly intimidation by Council officers	Preliminary Investigation - Not Sustained - Explanation Given
District Council of the Copper Coast		
059743	Lack of fair or due process in dealing with development application	Preliminary Investigation - Not Sustained - Explanation Given
062562	Unreasonable maintenance of road	Preliminary Investigation - Not Sustained - Explanation Given
064296	Unreasonable notification to slash foliage	Advice Given - Referred to Agency
064804	Failure to inform of charge for lodging objection	Advice Given
065646	Unreasonable decision to approve development application	Advice Given
066072	Failure to follow proper procedure when approving subdivision of land	Preliminary Investigation - Partly Resolved in Favour of Complainant
066122	Unreasonable decision to remove trees	Advice Given
066547	General processing	Preliminary Investigation - Not Sustained - Explanation Given
District Council of Yankalilla		
062290	Improper action to temporarily close a public road	Preliminary Investigation - Not Sustained - Explanation Given
062717	Unreasonably high rates	Preliminary Investigation - Not Sustained - Explanation Given
063045	Unreasonable use of power	Advice Given
063080	Unreasonable charge for STED scheme	Preliminary Investigation - Not Sustained - Explanation Given
063498	Unreasonable planning decision	Advice Given
064093	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
065180	Failure to advise of proposed development	Preliminary Investigation - Not Sustained - Explanation Given
066051	Inadequate notification of regional development	Advice Given
066269	Failure to enforce compliance	Preliminary Investigation - Partly Resolved in Favour of Complainant
District Council of Yorke Peninsula		
060524	Inadequate arrangements to control storm water	Conciliated - Reasonable Resolution
060883	Unreasonable delay in addressing illegal development	Preliminary Investigation - Partly Resolved in Favour of Complainant
061792	Failure to seal roads contrary to commitment	Full Investigation - Not Sustained - Explanation
062956	Insufficient information provided prior to development application	Preliminary Investigation - Reasonable Resolution
063242	Unreasonable delay of development application	Preliminary Investigation - Not Sustained - Explanation Given
063492	Unreasonable restrictions on planning application	Advice Given
063667	Unreasonable refusal to cut down tree	Preliminary Investigation - Not Sustained - Explanation Given
064094	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
064374	Council's failure to respond to complaint	Preliminary Investigation - Reasonable Resolution
065853	Unreasonable planning conditions	Advice Given
065897	Unreasonable delays in processing development application	Advice Given
066021	Unreasonable management of planning	Advice Given
Kangaroo Island Council		
063116	Alleged failure to act regarding barking dog	Preliminary Investigation - Partly Resolved in Favour of Complainant
063363	Incorrect land use designation	Preliminary Investigation - Not Sustained - Explanation Given
064359	Failure to allow rebate on rates	Advice Given
064512	Failure to enforce regulations regarding dogs	Advice Given - Referred to Agency
064718	Unreasonable decision to require lodgment of a new development application	Preliminary Investigation - Not Sustained - Explanation Given
064743	Inability to exercise powers	Advice Given
064866	Unreasonable explanation of charge	Advice Given
065842	Date of application of rebate on rates for health service	Advice Given
066030	Alleged failure to grant concession	Preliminary Investigation - Reasonable Resolution
066090	Unreasonable delays in processing development application	Advice Given
066257	Failure to investigate complaint of nuisance dog	Advice Given
066382	Failure to act regarding wandering dog	Preliminary Investigation - Partly Resolved in Favour of Complainant

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File no	Details	Outcome
Kingston District Council		
066304	Unreasonable decision to erect public facility adjacent to property	Advice Given - Referred to Agency
Light Regional Council		
054552	Agency inaction to adhere to regulation	Full Investigation - Not Sustained - Explanation
062065	Unreasonable delay in sealing road.	Preliminary Investigation - Not Sustained - Explanation Given
062127	Alleged failure to adhere to development plan	Full Investigation - Not Sustained
062329	Unreasonable decision to approve vineyard	Advice Given
063560	Lack of assistance regarding neighbour's business	Preliminary Investigation - Reasonable Resolution
064061	Unreasonable planning requirement	Preliminary Investigation - Partly Resolved in Favour of Complainant
064185	Failure to enforce compliance regarding zoning	Preliminary Investigation - Not Sustained - Explanation Given
064197	Failure to pursue enforcement action against unapproved development	Preliminary Investigation - Not Sustained
064266	Lack of investigation regard dog control	Preliminary Investigation - Not Sustained - Explanation Given
064741	Failure to provide road in good condition	Advice Given
064802	Unreasonable refusal to pay account	Advice Given
064902	Failure to advise of additional fee	Preliminary Investigation - Not Sustained - Explanation Given
065583	Unreasonable failure to approve development	Declined - Refused to Investigate
065632	Unreasonable conditions applied to land management agreement	Preliminary Investigation - Not Sustained - Explanation Given
066413	Query regarding neighbour's refusal to build retaining wall	Advice Given - Referred to Agency
Mid Murray Council		
052774	Unreasonable delay in the processing of development applications	Full Investigation - Not Sustained - Explanation Given
059727	Failure to maintain clear pathway for students to exit school in safety	Preliminary Investigation - Reasonable Resolution
062273	Unreasonable information provided	Advice Given
062426	Failure to remove vegetation	Preliminary Investigation - Reasonable Resolution
063285	Unreasonable decision to remove structure	Advice Given
063290	Unreasonable decision to request complainant remove structure	Advice Given
063751	Inadequate investigation of complaint	Advice Given
063794	Failure to provide information to allow claim to be assessed	Preliminary Investigation - Reasonable Resolution
064522	Council workers allegedly blocking entrances	Preliminary Investigation - Reasonable Resolution
064525	Concerns about terms and conditions of land management agreement	Advice Given - Referred to Agency
064790	Failure to inspect building during construction	Full Investigation - Not Sustained - Explanation
065965	Failure to maintain roads in good condition	Preliminary Investigation - Not Sustained - Explanation Given
Naracoorte Lucindale Council		
059720	Alleged misuse of Council property	Preliminary Investigation - Reasonable Resolution
062629	Unreasonable requirement to move war memorial	Advice Given
062911	Unreasonable decision relating to traffic control	Preliminary Investigation - Not Sustained - Explanation Given
063022	Unreasonable issuing of order to demolish house	Advice Given - Referred to Agency
063447	Alleged failure to enforce restrictions on caravan park	Preliminary Investigation - Partly Resolved in Favour of Complainant
064605	Unreasonable decision to release private information	Advice Given
064709	Unreasonable action being taken by Council	Preliminary Investigation - Not Sustained
066418	Unreasonable process regarding roundabout development	Advice Given
066527	Failure to inform and consult with ratepayers re proposed road works	Advice Given
Northern Areas Council		
061255	Unreasonable action on termination of lease	Preliminary Investigation - Not Sustained
063213	Unreasonable refusal to remove tree	Advice Given
064024	Ongoing harassment and intimidation	Advice Given
064457	Failure to assist regarding barking dog	Preliminary Investigation - Not Sustained - Explanation Given
064964	Unreasonable management of STED scheme	Advice Given
065097	Unreasonable management of STED scheme	Advice Given
066054	Unsatisfactory performance by Council	Advice Given
066416	Failure to maintain garden patch	Preliminary Investigation - Reasonable Resolution
Port Pirie Regional Council		
055175	Unreasonable decision to rezone land without providing notification	Full Investigation - Partly Resolved in Favour of Complainant
060006	Unreasonable rate category	Full Investigation - Partly Resolved in Favour of Complainant
061054	Unreasonable restriction of access to airport	Full Investigation - Partly Resolved in Favour of Complainant
061508	Failure to lop nuisance trees	Preliminary Investigation - Not Sustained
062509	Unreasonable request to remove property	Advice Given
062829	Unreasonable refusal to register dog	Preliminary Investigation - Not Sustained - Explanation Given
063312	Failure to consult public regarding sale of caravan park	Advice Given
063758	Failure to collect waste	Preliminary Investigation - Not Sustained - Explanation Given
064332	Unreasonable restriction on internet access	Preliminary Investigation - Not Sustained - Explanation Given
066022	Unreasonable refusal not to allow complainant to erect flagpole	Advice Given
066187	Unreasonable decision to refuse permission to place national emblem on gravesite	Advice Given
Regional Council of Goyder		
056085	Alleged unreasonable failure to alter drainage to avoid flooding of property	Declined - Refused to Investigate
059619	Unreasonable decision to erect inadequate lighting tower	Full Investigation - Reasonable Resolution

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File no	Details	Outcome
062431	Unfair process in selling land for non-payment of rates	Advice Given
062537	Refusal to approve application for shed	Advice Given
064829	Failure to pay for damage to fence	Preliminary Investigation - Not Sustained - Explanation Given
Renmark Paringa Council		
062567	Unreasonable management of dog complaint	Preliminary Investigation - Reasonable Resolution
063664	Excessive fee to place hangar at airport	Withdrawn - Withdrawn by Complainant
066027	Unreasonable refusal of planning application	Advice Given
Roxby Downs Council		
063126	Unreasonable requirement to pay off debt	Preliminary Investigation - Partly Resolved in Favour of Complainant
065598	Unreasonable refusal of permit	Advice Given
065634	Unreasonable refusal for a street trader's permit	Full Investigation - Not Sustained
Rural City of Murray Bridge		
062134	Failure to follow proper process in approving development	Preliminary Investigation - Reasonable Resolution
063521	Unreasonable decision to require lease on property	Preliminary Investigation - Partly Resolved in Favour of Complainant
063917	Failure to record resolution in Council minutes	Advice Given
064056	Incorrect record in Council minutes	Preliminary Investigation - Reasonable Resolution
064086	Failure to record resolution in Council minutes	Advice Given
064340	Unreasonable refusal of development application	Preliminary Investigation - Not Sustained - Explanation Given
064622	Inadequate investigation of complaint	Advice Given
065111	Unreasonable decision to refuse compensation for storm water damage	Preliminary Investigation - Not Sustained - Explanation Given
066406	Failure to provide timely response to ratepayers affected by floodwaters	Advice Given
066450	Delay in processing development approval	Advice Given - Referred to Agency
Southern Mallee District Council		
062299	Failure to provide road access to vacant land	Preliminary Investigation - Not Sustained - Explanation Given
062732	Disputed Council rates	Advice Given
065464	Unreasonable permission granted for home industry	Preliminary Investigation - Reasonable Resolution
066181	Failure to maintain road	Preliminary Investigation - Reasonable Resolution
The Barossa Council		
061662	Alleged delay in responding to complaint	Full Investigation - Not Sustained - Explanation
062280	Failure to make reasonable offer of compensation	Advice Given
062343	Unreasonable decision to create easement on property	Preliminary Investigation - Partly Resolved in Favour of Complainant
062387	Unreasonable delay in processing development application	Preliminary Investigation - Reasonable Resolution
062696	Unreasonable decision to alter road status	Advice Given
062720	Unreasonable decision to approve location of by-pass	Preliminary Investigation - Not Sustained - Explanation Given
063131	Unreasonable management of storm water runoff problem	Advice Given
063177	Failure to act regarding water runoff	Preliminary Investigation - Not Sustained - Explanation Given
063199	Unreasonable decision regarding placement of driveway	Advice Given
063260	Failure to adequately compensate for transfer of land	Preliminary Investigation - Not Sustained - Explanation Given
066097	Failure to maintain road/footpath	Advice Given - Referred to Agency
The Berri Barmera Council		
062302	Failure to rectify storm water run-off	Advice Given
062592	Inadequate investigation of complaint	Advice Given
062882	Unreasonable decision to approve non-complying development application	Advice Given
062931	Failure to act regarding water runoff from street	Conciliated - Reasonable Resolution
063241	Exercise of powers and functions	Advice Given - Referred to Agency
063270	Failure to enforce dog control	Preliminary Investigation - Not Sustained - Explanation Given
064918	Unreasonable requirement to establish road	Advice Given
065026	Unreasonable charge for cost of survey	Preliminary Investigation - Not Sustained - Explanation Given
065571	Concerns about overlooking from neighbouring development	Advice Given
065693	Unfair process regarding development appeal	Preliminary Investigation - Not Sustained - Explanation Given
065694	Unfair process regarding development appeal	Preliminary Investigation - Not Sustained - Explanation Given
066062	Failure to follow correct process	Advice Given
The Coorong District Council		
063763	Unreasonable management of walkway	Advice Given
064639	Failure to provide new water meter	Preliminary Investigation - Partly Resolved in Favour of Complainant
065246	Unreasonable delay in trimming street trees	Advice Given
066295	Unreasonable delay in complying with undertaking to remove street tree	Preliminary Investigation - Partly Resolved in Favour of Complainant
The Corporation of the City of Whyalla		
062071	Inadequate maintenance of roads	Preliminary Investigation - Not Sustained - Explanation Given
064051	Unreasonable refusal	Preliminary Investigation - Not Sustained - Explanation Given
065341	Failure to waive fine	Advice Given
065466	Unreasonable refusal to allow complainant to sell wares	Preliminary Investigation - Not Sustained - Explanation Given
066306	Inadequate investigation of complaint	Advice Given

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File no	Details	Outcome
The Corporation of the City of Campbelltown		
057426	Inaccurate information on voting papers	Preliminary Investigation - Reasonable Resolution
058528	Disposal of asset contrary to Council policy	Preliminary Investigation - Not Sustained - Explanation Given
060467	Unreasonable requirement in relation to development application	Full Investigation - Not Sustained
062332	Unreasonable decision to ban sale of flowers from home	Preliminary Investigation - Partly Resolved in Favour of Complainant
063410	Unreasonable assistance regarding vacant block	Preliminary Investigation - Not Sustained - Explanation Given
063468	Alleged breach of privacy	Advice Given
064029	Failure to consult regarding land sale	Preliminary Investigation - Not Sustained
064191	Inadequate investigation of complaint	Advice Given
064524	Failure to adequately respond to complaint	Preliminary Investigation - Not Sustained - Explanation Given
065647	Failure to make available records relating to financial decisions	Advice Given
065716	Alleged irregularities by Council in dealing with loan to sports club	Preliminary Investigation - Not Sustained - Explanation Given
066262	Unreasonable decision not to refund fee	Preliminary Investigation - Not Sustained - Explanation Given
066436	Unfair imposition of fine	Preliminary Investigation - Not Sustained - Explanation Given
The Corporation of the City of Marion		
059612	Unreasonable public consultation process	Preliminary Investigation - Not Sustained - Explanation Given
059663	Unreasonable approval of development	Full Investigation - Partly Resolved in Favour of Complainant
060077	Failure to enforce compliance	Preliminary Investigation - Reasonable Resolution
062237	Failure to advise of proper process	Advice Given
062281	Unreasonable requirements to provide information	Advice Given - Referred to Agency
062402	Incorrect assessment of development plan	Preliminary Investigation - Not Sustained - Explanation Given
062430	Unreasonable imposition of fine	Advice Given - Referred to Agency
062568	Unfair method of calculations of land value	Advice Given
062705	Alleged failure to act regarding unauthorised development	Preliminary Investigation - Not Sustained - Explanation Given
062820	Inadequate investigation of complaint	Preliminary Investigation - Not Sustained - Explanation Given
062839	Inadequate investigation of complaint	Preliminary Investigation - Reasonable Resolution
063651	Unreasonable refusal of damages claim	Advice Given - Referred to Agency
063665	Unreasonable investigation of complaint regarding barking dog	Preliminary Investigation - Partly Resolved in Favour of Complainant
063877	Refusal to assist in fence related dispute with neighbour	Advice Given
064326	Unreasonable action taken in relation to wandering dogs	Advice Given - Referred to Agency
064534	Unreasonable increase in dog registration fee	Preliminary Investigation - Not Sustained - Explanation Given
064693	Incorrect information causing financial hardship	Advice Given
065015	Concerns regarding building approval and indemnity insurance	Advice Given - Referred to Agency
065132	Non-enforcement of conditions of development approval	Preliminary Investigation - Not Sustained - Explanation Given
065154	Proposed development to block scenic view of existing residents	Advice Given
065232	Failure to enforce compliance in relation to neighbouring development	Advice Given
065381	Unfair imposition of speeding fine	Advice Given
065395	Unreasonable fines for dog	Preliminary Investigation - Not Sustained - Explanation Given
065502	Unreasonable approval regarding windows	Advice Given - Referred to Agency
065660	Erroneous release of complainant's vehicle from Council holding area	Advice Given - Referred to Agency
065733	Failure to take overlooking into account	Advice Given
065930	Alleged misconduct by Council	Declined - Alternate Remedy
066134	Failure to provide details of rates	Preliminary Investigation - Not Sustained - Explanation Given
066476	Failure to enforce compliance	Preliminary Investigation - Partly Resolved in Favour of Complainant
The Corporation of the City of Port Augusta		
058626	Unreasonable Council rate increase	Preliminary Investigation - Not Sustained
062624	Decision to place parking restrictions unreasonable	Advice Given
063185	Failure to advise of complaint	Preliminary Investigation - Not Sustained - Explanation Given
064433	Unreasonable decision regarding zoning	Preliminary Investigation - Not Sustained - Explanation Given
065677	Unreasonable requirement regarding sale of land	Advice Given - Referred to Agency
066280	Failure to pay for costs incurred as a result of fall	Preliminary Investigation - Reasonable Resolution
066360	Failure to regulate parking adequately	Preliminary Investigation - Reasonable Resolution
The District Council of Ceduna		
061507	Unreasonable action regarding access to land and rubble pit	Conciliated - Reasonable Resolution
062328	Unreasonable decision to impose special rate	Advice Given
063077	Failure to act on alleged conflict of interest	Preliminary Investigation - Not Sustained
063921	Inconsistency in the assessment of development applications	Advice Given - Other/General
065073	Unreasonable development application decision	Preliminary Investigation - Not Sustained - Explanation Given
065328	Unreasonable arrangements to collect raffle prize	Preliminary Investigation - Partly Resolved in Favour of Complainant
The District Council of Elliston		
058641	Unreasonable arrangement for leasing of area adjacent to jetty	Preliminary Investigation - Not Sustained - Explanation Given
063168	Unreasonable delay in processing application	Withdrawn
063234	Unreasonable refusal to distribute warning information about alleged scam	Advice Given - Referred to Agency
065160	Failure to advise of license renewal/sale of land	Advice Given - Referred to Agency
The District Council of Mallala		
060393	Failure to enforce conditions on development	Preliminary Investigation - Reasonable Resolution
062575	Approval of non-complying development	Advice Given

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File no	Details	Outcome
062700	Failure to respond to correspondence	Advice Given
063323	Unspecified complaint against agency	Advice Given
063722	Failure to allocate funds for road works	Advice Given
063738	Failure to provide serviceable roads	Advice Given
063798	Failure to consult regarding STED Scheme	Preliminary Investigation - Reasonable Resolution
063999	Unreasonable increase in Council rates	Advice Given
064000	Failure to consult regarding STED scheme	Preliminary Investigation - Reasonable Resolution
065675	Failure to take appropriate action in relation to state of roads	Preliminary Investigation - Not Sustained - Explanation Given
065749	Failure to adequately maintain unsealed roads	Preliminary Investigation - Not Sustained - Explanation Given
066571	Unreasonable decision by Council regarding subdivision of land	Advice Given
The District Council of Mount Barker		
056244	Allegedly unreasonable rate level for primary producers	Full Investigation - Not Sustained
056454	Allegedly unreasonable application of rating	Full Investigation - Not Sustained
061593	Failure to enforce development approval	Preliminary Investigation - Not Sustained - Explanation Given
062660	Unreasonable management of planning application	Advice Given
062789	Unreasonable decision to grant approval to non-complying development application	Advice Given
062869	Unreasonable delays in development approval	Preliminary Investigation - Not Sustained - Explanation Given
063113	Unreasonable decision regarding health regulations	Preliminary Investigation - Not Sustained - Explanation Given
063276	Unreasonable increase in Council rates	Advice Given
063316	Unreasonable effluent rate	Preliminary Investigation - Not Sustained - Explanation Given
063562	No action taken in regards to non compliance of development application	Advice Given
063637	Failure to advise of soil toxicity	Advice Given
063927	Failure to provide information	Advice Given - Referred to Agency
065505	Unreasonable delays in processing development application	Advice Given - Referred to Agency
065600	Unreasonable delay in processing application	Advice Given
065657	Failure to provide serviceable road	Preliminary Investigation - Not Sustained - Explanation Given
065786	Unreasonable delay in processing development application	Preliminary Investigation - Reasonable Resolution
066071	Failure to waive parking fine	Advice Given - Referred to Agency
066129	Alleged poor state of local roads infrastructure	Declined - Alternate Remedy
The District Council of Mount Remarkable		
062578	Unreasonable treatment by Council	Advice Given
062877	Failure to allocate appropriate funds for capital works in locality	Advice Given
063046	Failure to upgrade roads	Advice Given
063153	Unreasonable increase in Council rates	Advice Given
063193	Unreasonable fixed charge included in rates	Advice Given
063248	Disputed Council rates	Advice Given
063308	Unreasonable decision regarding STED scheme	Advice Given
063310	Unreasonable decision to impose a separate rate on residents	Advice Given
063362	Unreasonable increase in rates	Preliminary Investigation - Not Sustained - Explanation Given
063503	Unreasonable delay in replying to correspondence	Preliminary Investigation - Reasonable Resolution
063679	Failure to allocate funds fairly	Preliminary Investigation - Not Sustained - Explanation Given
The District Council of Robe		
063197	Failure to enforce compliance	Preliminary Investigation - Not Sustained - Explanation Given
063232	Unreasonable conditions placed on application to increase vegetation	Advice Given
064016	Failure to act on submission	Advice Given
064973	Unreasonable charitable donation by Council	Declined - Refused to Investigate
065415	Concerns regarding area for bus terminal	Advice Given - Referred to Agency
065680	Alleged unfair treatment by Council	Preliminary Investigation - Not Sustained - Explanation Given
065793	Alleged unfair treatment by Council	Preliminary Investigation - Not Sustained - Explanation Given
065794	Alleged unfair treatment by Council	Preliminary Investigation - Not Sustained - Explanation Given
066312	Unreasonable request to acquire land	Preliminary Investigation - Not Sustained - Explanation Given
The District Council of Streaky Bay		
061019	Alleged unreasonable treatment in relation to proposed rezoning	Preliminary Investigation - Not Sustained
063000	Failure to adequately assess development	Preliminary Investigation - Not Sustained - Explanation Given
The District Council of Tatiara		
065407	Failure to approve development application in a timely manner	Preliminary Investigation - Not Sustained - Explanation Given
066234	Unreasonable decision to dismiss	Advice Given
The District Council of Tumby Bay		
061477	Unfair bias in tendering for work process	Full Investigation - Reasonable Resolution
063379	Unreasonable decision to refuse committee's report	Advice Given
063799	Unreasonable refusal to correct rates inequity	Preliminary Investigation - Not Sustained - Explanation Given
065058	Unfair implementation of plans prior to appropriate sanction	Preliminary Investigation - Not Sustained - Explanation Given
065510	Unreasonable decision regarding buffer zone around silo	Advice Given
065933	Unreasonable decision to create a development-free zone around silos	Preliminary Investigation - Not Sustained - Explanation Given
065977	Unreasonable refusal to create road to subdivision	Preliminary Investigation - Reasonable Resolution

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File no	Details	Outcome
The Flinders Ranges Council		
063099	Erroneous decision regarding street lighting	Advice Given
Wakefield Regional Council		
062935	Unreasonable reduction of concession on Council rates	Advice Given - Referred to Agency
063450	Unreasonable delay in responding to complaint about public safety issues	Preliminary Investigation - Not Sustained - Explanation Given
064500	Unreasonable delay in following up on matter	Preliminary Investigation - Reasonable Resolution
066263	Unreasonable information provided regarding right of way	Advice Given
Wattle Range Council		
062961	Unreasonable location of skate park	Preliminary Investigation - Not Sustained - Explanation Given
064666	Unreasonable decision	Advice Given
065597	Unreasonable management of planning application	Advice Given
065747	Failure to enforce development conditions	Preliminary Investigation - Not Sustained - Explanation Given
066268	Failure to provide sufficient information	Advice Given - Referred to Agency
066564	Failure to inform of category of development	Advice Given

OTHER AUTHORITIES
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

Agency	Advice Given	Advice Given to Agency	Alternate Remedy	Not Sustained	Not Sustained - Explanation Given	Other/General	Partly Resolved in Favour of Complainant	Reasonable Resolution	Referred to Agency	Refused to Investigate	Withdrawn by Complainant	Total
Aboriginal Housing Authority	7				9		2	3	1		1	23
Adelaide Cemeteries Authority								1				1
Adelaide Festival Corporation								1				1
Animal and Plant Control Commission	1				1							2
Architects' Board of South Australia				1								1
Commissioner for Equal Opportunity	2				1			1		1		5
Commissioner of State Taxation								1				1
Country Fire Services Board	1				3			3				7
Courts Administration Authority	8			1	11		4	4	2			30
Development Assessment Commission	2				1							3
Flinders University Council	3				3			1	1			8
Guardianship Board	5				1		3	1	1			11
Home Start	3				1			1				5
Land Management Corporation								1				1
Legal Practitioners Conduct Board	2				2		2		1		1	8
Legal Services Commission	8				4		4	2	2	3		23
Local Government Superannuation Board									1			1
Lotteries Commission	1				1							2
Motor Accident Commission	7		2		2		2	2	1			16
Native Vegetation Council					1		1					2
Passenger Transport Board	1				1			1			1	4
Police Complaints Authority	2			1	2		2				1	8
Public Advocate	3				1	1					1	6
Public Trustee	23		1	3	23	1	13	21	4			89
RSPCA Inspector	2											2
SA Ambulance Service	4				11			4	2			21
SA Community Housing Authority	1				2							3
SA Superannuation Board	4		1		4			2				11
SA Tourism Commission					1							1
Sheriff Office									1			1
State Emergency Service					1							1
State Supply Board					1							1
Teachers Registration Board	1											1
Torrens Catchment Water Management Board	1	1										2
Trans Adelaide								1	2			3
University of Adelaide Council	4				3		1	1	1		1	11
University of South Australia Council	2			1	2		3	1		1		10
West Beach Trust											1	1
WorkCover Corporation	38				8		3	3	20	2		74
Total	136	1	4	8	101	1	40	56	40	7	7	401

OTHER AUTHORITIES
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
Aboriginal Housing Authority		
060924	Unreasonable response to formal complaint	Preliminary Investigation - Reasonable Resolution
061948	Unreasonable delay in providing maintenance and in attending to disruptive neighbours	Preliminary Investigation - Partly Resolved in Favour of Complainant
062260	Unreasonable management of complainant's tenancy	Advice Given
062777	Unreasonable delay in organising transfer	Preliminary Investigation - Not Sustained - Explanation Given
062822	Unreasonable delay in organising transfer	Preliminary Investigation - Not Sustained - Explanation Given
062830	Failure to provide housing in dire need	Preliminary Investigation - Not Sustained - Explanation Given
063307	Erroneous decision to require payment of debt	Advice Given
063431	Unreasonable management of disruptive neighbour	Advice Given
063473	Failure to adequately maintain property	Preliminary Investigation - Reasonable Resolution
063872	Unreasonable consideration shown by housing manager	Preliminary Investigation - Not Sustained - Explanation Given
064491	Unreasonable refusal to grant transfer	Preliminary Investigation - Not Sustained - Explanation Given
064508	Unreasonable delay in finalising transfer	Preliminary Investigation - Not Sustained - Explanation Given
064742	Failure to allow transfer	Advice Given
064832	Failure to provide housing within a reasonable time	Preliminary Investigation - Not Sustained - Explanation Given
065035	Failure to provide adequate maintenance service	Advice Given
065361	Unreasonably long wait for allocation of housing	Withdrawn by Complainant
065390	Unreasonable reduction of application rating	Advice Given - Referred to Agency
065815	Failure to offer alternative accommodation	Advice Given
065956	Failure to remove asbestos/rubbish from yard	Preliminary Investigation - Partly Resolved in Favour of Complainant
066154	Failure to investigate complaint regarding disruptive tenant	Preliminary Investigation - Not Sustained - Explanation Given
066157	Failure to provide housing	Preliminary Investigation - Not Sustained - Explanation Given
066184	Failure to provide sufficient time to relocate following termination	Preliminary Investigation - Reasonable Resolution
066500	Unreasonable eviction	Advice Given
Adelaide Cemeteries Authority		
066155	Unreasonable decision regarding burial	Preliminary Investigation - Reasonable Resolution
Adelaide Festival Corporation		
065275	Inadequate records of supporters	Preliminary Investigation - Reasonable Resolution
Animal and Plant Control Commission		
063626	Unreasonable decision to impose fine	Advice Given
066369	Unreasonable requirement to pay charge for clean up of road reserve	Preliminary Investigation - Not Sustained - Explanation Given
Architects Board of South Australia		
060550	Unreasonable decision of Board not to investigate complaint	Full Investigation - Not Sustained
Commissioner for Equal Opportunity		
055884	Failure to provide adequate explanation and response	Full Investigation - Not Sustained - Explanation Given
060027	Inadequate investigation of complaint	Full Investigation - Reasonable Resolution
065299	Questions advice given prior to lodging complaint	Advice Given
066226	Alleged failure to address complaint	Declined - Refused to Investigate
066615	Failure to investigate complaint	Advice Given
Commissioner of State Taxation		
063656	Unreasonable charge for land tax	Preliminary Investigation - Reasonable Resolution
Country Fire Services Board		
055249	Unreasonable process in assessing development application	Full Investigation - Not Sustained - Explanation Given
060881	Unreasonable tendering process	Preliminary Investigation - Not Sustained - Explanation Given
061590	Inappropriate action following complaint	Preliminary Investigation - Reasonable Resolution
062656	Unreasonable delay in making assessment	Preliminary Investigation - Reasonable Resolution
063802	Failure to approve application	Preliminary Investigation - Reasonable Resolution
064553	Alleged damage to pump on complainant's property	Advice Given
064746	Failure to pay for damage	Preliminary Investigation - Not Sustained - Explanation Given
Courts Administration Authority		
057516	Unreasonable decision not to waive court filing fees	Preliminary Investigation - Not Sustained - Explanation Given
058457	Unreasonable decision to decline waiver of transcript fees	Preliminary Investigation - Partly Resolved in Favour of Complainant
062458	Unreasonable delay in providing report	Preliminary Investigation - Reasonable Resolution
062536	Failure to give reasons for decisions	Advice Given - Referred to Agency
063072	Unreasonable issue of warrant	Preliminary Investigation - Partly Resolved in Favour of Complainant
063247	Unreasonable delay in forwarding payment	Preliminary Investigation - Reasonable Resolution
063423	Failure to send reminder notice for over-due fine	Preliminary Investigation - Partly Resolved in Favour of Complainant
063512	Failure to record plea	Preliminary Investigation - Not Sustained - Explanation Given
063528	Failure to provide adequate support services	Preliminary Investigation - Not Sustained - Explanation Given
063534	Unfair decision not to reimburse daughter	Advice Given
063570	Failure to observe confidentiality as requested	Advice Given
063589	Failure to update report	Advice Given
063818	Failure to reduce fine	Advice Given
064104	Failure to notify of appeal	Preliminary Investigation - Reasonable Resolution
064336	Unreasonable investigation into complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
064431	Failure to notify of variation in community service order	Preliminary Investigation - Not Sustained - Explanation Given

OTHER AUTHORITIES
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
064446	Alleged confusion over remission system	Advice Given
064594	Failure to properly serve papers	Preliminary Investigation - Not Sustained
064821	Inadequate handling of complaint	Preliminary Investigation - Not Sustained - Explanation Given
064853	Unreasonable decision to require payment of fine	Advice Given
065449	Failure to reply to correspondence	Preliminary Investigation - Not Sustained - Explanation Given
065798	Failure to advise appropriate action to correct error	Advice Given
065893	Unreasonable administrative practice re payment of multiple fines	Preliminary Investigation - Not Sustained - Explanation Given
065953	Failure to investigate/provide funds owing	Preliminary Investigation - Not Sustained - Explanation Given
066018	Unreasonable requirement to pay additional fees on fine	Advice Given
066037	Failure to provide death certificate in timely manner	Advice Given - Referred to Agency
066119	Unreasonable response to enquiry about enforcement notice	Preliminary Investigation - Not Sustained - Explanation Given
066315	Unreasonable refusal of financial arrangements	Preliminary Investigation - Not Sustained - Explanation Given
066437	Unfair imposition of additional fines	Preliminary Investigation - Not Sustained - Explanation Given
066563	Unreasonable delay in obtaining death certificate	Preliminary Investigation - Reasonable Resolution
Development Assessment Commission		
063724	Failure to adequately investigate nature of road sealing	Advice Given
064935	Unreasonable intervention in development application	Preliminary Investigation - Not Sustained - Explanation Given
066118	Unreasonable administrative decision/policy	Advice Given
Flinders University Council		
060118	Unreasonable action re supervision of higher degree study	Full Investigation - Reasonable Resolution
062288	Improper action in publication of research paper	Full Investigation - Not Sustained - Explanation
062571	Unfair assessment process	Advice Given
063142	Failure to provide adequate services for disabled students	Advice Given
063266	Failure to provide support to student with a disability	Advice Given - Referred to Agency
065139	Unprofessional conduct by staff	Advice Given
065296	Unreasonable administrative policy	Preliminary Investigation - Not Sustained - Explanation Given
065402	Failure to provide adequate car parking facilities	Preliminary Investigation - Not Sustained - Explanation Given
Guardianship Board		
063239	Unreasonable outcome of review	Advice Given
063456	Unreasonable delay in providing response	Advice Given
063545	Failure to provide copies of documents	Preliminary Investigation - Reasonable Resolution
063702	Unreasonable delay in obtaining reports	Preliminary Investigation - Partly Resolved in Favour of Complainant
064558	Failure to notify of hearing	Preliminary Investigation - Partly Resolved in Favour of Complainant
064640	Unreasonable decision to impose treatment order	Advice Given
064706	Unreasonable detention in psychiatric ward	Advice Given - Referred to Agency
064740	Unreasonable proposal to renew order	Advice Given
065043	Unreasonable decision to extend guardianship	Preliminary Investigation - Not Sustained - Explanation Given
065839	Failure to provide appropriate reason re appointed guardian	Preliminary Investigation - Partly Resolved in Favour of Complainant
066373	Failure to provide adequate notice of hearing	Advice Given
Home Start		
063615	Unreasonable method of repayment collection	Advice Given
064459	Unreasonable decision regarding first home owners grant	Advice Given
064497	Unreasonable loan conditions	Preliminary Investigation - Not Sustained - Explanation Given
065596	Unreasonable loan conditions	Advice Given
065795	Unreasonable valuation of property offered as security for loan	Preliminary Investigation - Reasonable Resolution
Land Management Corporation		
060771	Misleading advice regarding reclaimed water	Full Investigation - Reasonable Resolution system
Legal Practitioners Conduct Board		
046881	Inadequate investigation of complaint	Full Investigation - Not Sustained - Explanation
059430	Unreasonable handling of complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
061361	Inadequate investigation of complaint	Withdrawn - Withdrawn by Complainant
061689	Alleged unreasonable delay in dealing with complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
061741	Unreasonable delay in addressing complaint	Full Investigation - Not Sustained - Explanation Given
062737	Inadequate investigation of complaint	Advice Given
062881	Failure to investigate complaint	Advice Given
064668	Failure to provide reasonable service	Advice Given - Referred to Agency
Legal Services Commission		
060007	Unreasonable charge on property	Preliminary Investigation - Partly Resolved in Favour of Complainant
062034	Unreasonable grant of aid	Preliminary Investigation - Partly Resolved in Favour of Complainant
062100	Unreasonable refusal of legal aid	Preliminary Investigation - Not Sustained - Explanation Given
062133	Failure to investigate alleged improper use of legal aid	Preliminary Investigation - Reasonable Resolution
062272	Unreasonable decision to continue aid to partner	Advice Given
062477	Failure to provide adequate funding for court appeal	Advice Given
062559	Unreasonable grant of legal aid	Declined - Refused to Investigate
062858	Unreasonable delay in processing	Declined - Refused to Investigate
062880	Unreasonable requirement to provide report for court	Advice Given
062916	Unfair decision to not allow access to legal aid	Preliminary Investigation - Partly Resolved in Favour of Complainant
063167	Unreasonable consideration of legal aid for ex-wife	Declined - Refused to Investigate
063211	Unreasonable management of meeting	Advice Given

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File no	Details	Outcome
063483	Unreasonable decision	Advice Given
063505	Unreasonable decision to refuse to accept payment to cover debt	Preliminary Investigation - Partly Resolved in Favour of Complainant
063508	Unreasonable action regarding legal aid	Preliminary Investigation - Not Sustained - Explanation Given
063670	Alleged granting of assistance when not eligible	Advice Given - Referred to Agency
063949	Unreasonable accounts	Preliminary Investigation - Not Sustained - Explanation Given
065029	Unreasonable refusal to assist	Advice Given
065504	Unreasonable administrative decision/policy	Preliminary Investigation - Not Sustained - Explanation Given
065723	Unreasonable behaviour of legal representative	Advice Given
066039	Unprofessional conduct by staff	Preliminary Investigation - Reasonable Resolution
066146	Unreasonable fee given service provided	Advice Given - Referred to Agency
066336	Unreasonable release of information	Advice Given
Local Government Superannuation Board		
065031	Miscalculation of superannuation benefits	Advice Given - Referred to Agency
Lotteries Commission		
064245	Failure to provide record keeping information	Preliminary Investigation - Not Sustained - Explanation Given
064968	Unreasonable delay in processing application	Advice Given
Motor Accident Commission		
061108	Unreasonable refusal to pay claim	Preliminary Investigation - Reasonable Resolution
061628	Unreasonable rate of payment for services	Full Investigation - Partly Resolved in Favour of Complainant
063754	Failure to act or investigate	Advice Given
064009	Failure to investigate complaint	Preliminary Investigation - Not Sustained - Explanation Given
064299	Refusal to pay claim	Preliminary Investigation - Not Sustained - Explanation Given
065218	Unreasonable request to access personal details	Advice Given
065231	Failure to adequately investigate circumstances of claim	Advice Given
065291	Unreasonable refusal to pay treatment costs	Declined - Alternate Remedy
065319	Failure to provide correct information	Preliminary Investigation - Partly Resolved in Favour of Complainant
065425	Unreasonable delay	Preliminary Investigation - Reasonable Resolution
065450	Delay in processing insurance claim	Advice Given
065559	Unreasonable explanation provided	Advice Given
065609	Unreasonable management of claim	Advice Given
065989	Unreasonable monetary claim	Declined - Alternate Remedy
066023	Unreasonable management of claim	Advice Given
066048	Failure to provide correct information	Advice Given - Referred to Agency
Native Vegetation Council		
062500	Failure to enforce conditions on approval	Preliminary Investigation - Partly Resolved in Favour of Complainant
066317	Unreasonable decision to refuse application to clear vegetation from property	Preliminary Investigation - Not Sustained - Explanation Given
Passenger Transport Board		
055662	Unreasonable assistance provided to competitor	Preliminary Investigation - Not Sustained - Explanation Given
059710	Inadequate investigation of complaint	Conciliated - Reasonable Resolution
062330	Unreasonable decision to retain original document	Withdrawn by Complainant
062581	Unreasonable decision	Advice Given
Police Complaints Authority		
063192	Failure of agency to investigate allegation	Full Investigation - Not Sustained
064031	Inadequate investigation of complaint	Withdrawn - Withdrawn by Complainant
064107	Failure to respond	Preliminary Investigation - Partly Resolved in Favour of Complainant
064234	Unreasonable investigation	Advice Given
064570	Failure to investigate or act	Advice Given
064624	Failure to investigate complaint	Preliminary Investigation - Not Sustained - Explanation Given
064824	Unreasonable investigation	Preliminary Investigation - Not Sustained - Explanation Given
066220	Inadequate investigation of complaint and failure to respond	Preliminary Investigation - Partly Resolved in Favour of Complainant
Public Advocate		
062648	Unreasonable communication	Advice Given
063557	Refusal to place order on father	Preliminary Investigation - Not Sustained - Explanation Given
063731	Unreasonably biased management	Advice Given
065117	Unreasonable decision regarding access visits	Advice Given
065796	Failure to respond to requests for contact	Preliminary Investigation - Not Sustained
066126	Unprofessional conduct of staff	Withdrawn by Complainant
Public Trustee		
060679	Inadequate management of funds	Preliminary Investigation - Partly Resolved in Favour of Complainant
060933	Inadequate management of estate	Preliminary Investigation - Not Sustained
061353	Unreasonable decision by agency regarding estate	Advice Given - Referred to Agency
061925	Unreasonable management of trust	Preliminary Investigation - Not Sustained - Explanation Given
062182	unreasonable refusal to assist with financial arrangement	Preliminary Investigation - Not Sustained - Explanation Given
062232	Failure to advance personal funds	Advice Given
062241	Refusal to pay for damages caused by client	Preliminary Investigation - Partly Resolved in Favour of Complainant
062399	Unreasonable administration of deceased estate	Preliminary Investigation - Not Sustained - Explanation Given
062413	Failure to wind up estate in a reasonable time	Preliminary Investigation - Reasonable Resolution
062461	Unreasonable delay in paying accounts	Preliminary Investigation - Reasonable Resolution

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Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
062527	Refusal to forward payment for registration of vehicle	Preliminary Investigation - Not Sustained - Explanation Given
062599	Alleged discrepancy in account	Preliminary Investigation - Reasonable Resolution
062709	Alleged discrepancies in statement	Preliminary Investigation - Reasonable Resolution
062730	Alleged delay in providing service	Advice Given
062745	Incorrect amount on statement	Advice Given
062766	Unreasonable explanation of matter	Preliminary Investigation - Not Sustained - Explanation Given
062832	Failure to follow up on concession	Preliminary Investigation - Partly Resolved in Favour of Complainant
062840	Failure to use nominated agent	Advice Given
062857	Refusal to increase funds	Preliminary Investigation - Not Sustained - Explanation Given
062960	Allegedly inadequate administration of estate	Full Investigation - Reasonable Resolution
062978	Unreasonable administration of estate	Preliminary Investigation - Not Sustained - Explanation Given
063026	Failure to release money from estate	Advice Given
063049	Failure to respond	Preliminary Investigation - Reasonable Resolution
063081	Unreasonable refusal to provide information	Preliminary Investigation - Not Sustained - Explanation Given
063129	Unreasonable conduct of case manager	Advice Given
063150	Failure to provide access to funds	Preliminary Investigation - Not Sustained - Explanation Given
063169	Unreasonable delays in taking over management of estate	Preliminary Investigation - Reasonable Resolution
063180	Failure to obtain valid will	Advice Given - Referred to Agency
063222	Erroneous decisions	Advice Given
063246	Alleged weekly allowance not transferred incorrect fund	Preliminary Investigation - Reasonable Resolution
063294	Delays in providing funds	Preliminary Investigation - Not Sustained - Explanation Given
063295	Difficulty in accessing funds	Preliminary Investigation - Partly Resolved in Favour of Complainant
063368	Underpayment of funds into account	Preliminary Investigation - Partly Resolved in Favour of Complainant
063380	Alleged administrative error	Advice Given
063421	Unreasonable decision regarding access to funds	Preliminary Investigation - Reasonable Resolution
063436	Delay in paying claim	Preliminary Investigation - Partly Resolved in Favour of Complainant
063459	Failure to grant sufficient funds for personal use	Advice Given
063511	Allegedly inadequate administration of funds	Full Investigation - Not Sustained - Explanation
063526	Failure to provide funds from trust account	Preliminary Investigation - Not Sustained - Explanation Given
063531	Unreasonable decision not to release funds	Advice Given
063568	Refusal to approve interest on money provided	Advice Given
063593	Unreasonable refusal to change bank account	Preliminary Investigation - Not Sustained - Explanation Given
063693	Failure to provide financial assistance to pay rent	Preliminary Investigation - Not Sustained - Explanation Given
063801	Breach of privacy/confidentiality	Preliminary Investigation - Not Sustained
063922	Failure to issue funds	Preliminary Investigation - Partly Resolved in Favour of Complainant
064002	Unreasonable information regarding will	Full Investigation - Not Sustained - Explanation
064079	Unreasonable refusal to permit relocation to another state	Preliminary Investigation - Not Sustained - Explanation Given
064095	Unreasonable decision and response	Preliminary Investigation - Reasonable Resolution
064097	Failure to wind up estate in a timely manner	Advice Given
064159	Unreasonable delay	Preliminary Investigation - Reasonable Resolution
064223	Failure to provide adequate information relating to mother's estate	Advice Given
064285	Unreasonable management of funds	Full Investigation - Reasonable Resolution
064377	Unreasonable administrative decision/policy	Advice Given
064430	Unreasonable decision regarding complainant's accommodation	Preliminary Investigation - Not Sustained - Explanation Given
064458	Failure to administer finances	Preliminary Investigation - Partly Resolved in Favour of Complainant
064479	Unreasonable delay in supplying report	Preliminary Investigation - Reasonable Resolution
064485	Failure to provide client with appropriate funds	Preliminary Investigation - Not Sustained - Explanation Given
064490	Failure to provide information	Advice Given - Referred to Agency
064595	Unreasonable decision to reduce weekly allowance	Preliminary Investigation - Partly Resolved in Favour of Complainant
064625	Unreasonable delay in finalising estate	Preliminary Investigation - Reasonable Resolution
064653	Failure to provide detailed financial statement	Preliminary Investigation - Reasonable Resolution
064731	Unreasonable refusal to pay interest due to delays of settlement	Preliminary Investigation - Not Sustained - Explanation Given
064765	Unreasonable management of affairs of protected person	Preliminary Investigation - Not Sustained
064788	Delays in forwarding funds	Preliminary Investigation - Not Sustained - Explanation Given
064793	Unreasonable decision refusing money	Advice Given - Referred to Agency
064798	Failure to process estate in a timely manner	Preliminary Investigation - Partly Resolved in Favour of Complainant
064891	Unprofessional conduct of staff	Advice Given - Other/General
064969	Unreasonable management of case	Advice Given
064979	Unreasonable denial of estate funds	Advice Given
064987	Unreasonable delay in maintaining properties	Preliminary Investigation - Reasonable Resolution
065136	Failure to provide adequate financial reports	Preliminary Investigation - Reasonable Resolution
065552	Unreasonable delay in finalising estate	Preliminary Investigation - Reasonable Resolution
065558	Unreasonable refusal to supply information	Advice Given
065665	Delay in responding to complaint	Declined - Alternate Remedy
065880	Unreasonable delay in finalising estate	Preliminary Investigation - Partly Resolved in Favour of Complainant
065899	Unreasonable delay in ceasing management of finances	Preliminary Investigation - Not Sustained - Explanation Given
065964	Failure to observe requirement to pay funds out of mother's estate	Preliminary Investigation - Reasonable Resolution
065967	Failure to provide sufficient funds for basic needs	Preliminary Investigation - Not Sustained - Explanation Given
066019	Failure to pay account	Advice Given
066113	Unreasonable delay in providing funds	Preliminary Investigation - Reasonable Resolution
066172	Failure to return calls and provide access to funds	Preliminary Investigation - Partly Resolved in Favour of Complainant
066203	Failure to wind up estate in a timely manner	Preliminary Investigation - Partly Resolved in Favour of Complainant
066290	Unreasonable administrative delay	Advice Given
066372	Alleged non-payment of telephone account by agency	Advice Given
066379	Failure to respond to requests for financial statements	Preliminary Investigation - Reasonable Resolution
066424	Unreasonable refusal to supply information	Advice Given
066505	Unreasonable investigation into matter	Advice Given
066518	Unreasonable refusal to pay account	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
066606	Unreasonable management of father's finances	Advice Given
RSPCA Inspector		
063761	Unreasonable management of investigation	Advice Given
064023	Failure to properly investigate complaint	Advice Given
SA Ambulance Service		
062433	Unreasonable refusal to refund payments made in error	Preliminary Investigation - Not Sustained - Explanation Given
062710	Refusal to waive fee	Preliminary Investigation - Reasonable Resolution
062828	Failure to respond to correspondence	Preliminary Investigation - Not Sustained - Explanation Given
062852	Unreasonable delay in responding	Preliminary Investigation - Not Sustained - Explanation Given
063445	Unreasonable decision to discontinue payments for work related injury	Advice Given
063524	Unreasonable charge of administration fee	Preliminary Investigation - Not Sustained - Explanation Given
063699	Unreasonable refusal to grant refund	Preliminary Investigation - Reasonable Resolution
063701	Unreasonable rejection of compensation claim	Preliminary Investigation - Not Sustained - Explanation Given
063760	Unfair refusal to refund subscription	Preliminary Investigation - Reasonable Resolution
063859	Failure to provide adequate assistance	Full Investigation - Not Sustained - Explanation
063929	Failure to clarify invoice details	Preliminary Investigation - Not Sustained - Explanation Given
064293	Unprofessional conduct by staff	Advice Given
064820	Property damage during conveyance to hospital	Advice Given - Referred to Agency
064971	Unreasonable decision regarding payment refund	Preliminary Investigation - Not Sustained - Explanation Given
064989	Unreasonable decision regarding payment	Advice Given
065267	Poor quality of service	Preliminary Investigation - Reasonable Resolution
065408	Failure to refund fee paid in error	Preliminary Investigation - Not Sustained - Explanation Given
065589	Unreasonable decision to transport complainant to hospital	Preliminary Investigation - Not Sustained - Explanation Given
065843	Unreasonable removal from home	Preliminary Investigation - Not Sustained - Explanation Given
066153	Alleged overcharging for ambulance subscription	Advice Given
066561	Unfair refusal to refund subscription money	Advice Given - Referred to Agency
SA Community Housing Authority		
063087	Unreasonable refusal to remove housing order	Preliminary Investigation - Not Sustained - Explanation Given
064764	Unreasonable decision to confirm eviction	Preliminary Investigation - Not Sustained - Explanation Given
065611	Unreasonable rent calculation	Advice Given
SA Superannuation Board		
062742	Unreasonable decision regarding superannuation payment	Preliminary Investigation - Not Sustained - Explanation Given
063010	Unreasonable decision to withhold disability payments	Advice Given
063430	Unreasonable refusal to release funds	Advice Given
063852	Unreasonable loss of records	Preliminary Investigation - Not Sustained - Explanation Given
064557	Unreasonable steps required	Preliminary Investigation - Reasonable Resolution
064856	Unreasonable information provided	Advice Given
065041	Failure to provide access to funds	Preliminary Investigation - Not Sustained - Explanation Given
065979	Failure to provide accurate information	Preliminary Investigation - Not Sustained - Explanation Given
066104	Incorrect calculation of benefits	Preliminary Investigation - Reasonable Resolution
066140	Unreasonable fee level	Declined - Alternate Remedy
066432	Unreasonable decision regarding access to superannuation fund of deceased family member	Advice Given
SA Tourism Commission		
055661	Unreasonable assistance provided to competitor	Preliminary Investigation - Not Sustained - Explanation Given
Sheriff		
065527	Unreasonable conduct by officers	Advice Given - Referred to Agency
State Emergency Service		
062244	Inadequate response to emergency situation	Full Investigation - Not Sustained - Explanation Given
State Supply Board		
058394	Unreasonably restrictive contract	Preliminary Investigation - Not Sustained - Explanation Given
Teachers' Registration Board		
063907	Unreasonable decision to reinstate teacher	Advice Given
Torrens Catchment Water Management Board		
065033	Inappropriate tender process	Advice Given
065034	Inappropriate tender/survey process	Advice Given - Advice Given to Agency
Trans Adelaide		
064797	Inappropriate conduct by staff	Preliminary Investigation - Reasonable Resolution
064828	Unreasonable action by inspector	Advice Given - Referred to Agency
066158	Failure to resolve issue despite repeated complaints	Advice Given - Referred to Agency
University of Adelaide Council		
057899	Unreasonable handling of student complaint	Full Investigation - Partly Resolved in Favour of Complainant
060642	Unreasonable handling of complaints	Withdrawn - Withdrawn by Complainant

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File no	Details	Outcome
062488	Unfair criteria for students entry	Advice Given
063515	Incorrect name to be used on graduation degree parchment	Preliminary Investigation - Not Sustained - Explanation Given
063989	Failure to adequately investigate complaint	Advice Given
064613	Unreasonable order placed on complainant	Advice Given
064805	Failure to adhere to policy regarding end of year assessment	Advice Given
065006	Unreasonable refusal to offer place in dentistry	Preliminary Investigation - Reasonable Resolution
065468	Unreasonable decision regarding office accommodation	Preliminary Investigation - Not Sustained - Explanation Given
065928	Inappropriate treatment	Preliminary Investigation - Not Sustained - Explanation Given
066266	Failure to provide sufficient feedback regarding job application	Advice Given - Referred to Agency
University of South Australia Council		
050414	Unfair treatment	Full Investigation - Partly Resolved in Favour of Complainant
062253	Delay in providing service	Preliminary Investigation - Partly Resolved in Favour of Complainant
062986	Failure to adhere to course structure	Preliminary Investigation - Reasonable Resolution
063391	Unreasonable preclusion from course	Preliminary Investigation - Not Sustained
063684	Unreasonable course requirements	Preliminary Investigation - Partly Resolved in Favour of Complainant
065479	Miscalculation of fees	Preliminary Investigation - Not Sustained - Explanation Given
065557	Unreasonable management of delays caused by renovations	Advice Given
065947	Unreasonable exclusion from course	Declined - Refused to Investigate
066457	Unreasonable penalty on parking fine	Preliminary Investigation - Not Sustained - Explanation Given
066533	Unreasonable criteria	Advice Given
West Beach Trust		
061378	Allegedly unreasonable delay in finalizing lease	Withdrawn by Complainant
WorkCover Corporation		
052227	Unreasonable delay in paying accounts	Full Investigation - Reasonable Resolution
052772	Irregularities in management of claim	Full Investigation - Not Sustained - Explanation Given
056687	Unreasonable management of claim	Full Investigation - Partly Resolved in Favour of Complainant
059611	Unreasonable management of claim	Preliminary Investigation - Partly Resolved in Favour of Complainant
060738	Unreasonable investigation of claim	Full Investigation - Not Sustained - Explanation
061069	Unreasonable use of power to obtain information from rehabilitation provider	Preliminary Investigation - Not Sustained - Explanation Given
062221	Decision of tribunal unreasonable	Advice Given
062396	Delay in processing claim	Advice Given - Referred to Agency
062483	Unreasonable delay in processing claim	Advice Given
062701	Unreasonable delay in processing claim	Advice Given
062795	Unreasonable administrative decision	Advice Given
062856	Refusal to forward income	Preliminary Investigation - Not Sustained - Explanation Given
063078	Mismanagement of claim	Advice Given
063084	Alleged invasion of privacy	Advice Given
063108	Unreasonable management of claim	Advice Given
063165	Unreasonable delay in paying settlement money	Declined - Refused to Investigate
063172	Unreasonable delays in processing claims	Advice Given - Referred to Agency
063187	Advice regarding claim	Advice Given - Referred to Agency
063351	Failure to investigate complaint	Advice Given
063561	Unreasonable management of claim	Advice Given
063582	Unreasonable delays in processing claims	Advice Given - Referred to Agency
063642	Unreasonable in forwarding payment	Advice Given
063643	Unreasonable delay in providing settlement	Advice Given - Referred to Agency
063652	Unreasonable delay in forwarding payment	Advice Given
063694	Alleged intimidating behaviour of investigator	Preliminary Investigation - Partly Resolved in Favour of Complainant
063707	Unreasonable refusal of claim	Advice Given - Referred to Agency
063733	Unreasonable management of husband's claim	Advice Given
063817	Delay in dealing with claim	Advice Given
063830	Delay in processing claim	Advice Given
063853	Unreasonable penalty for late payment of levy	Preliminary Investigation - Not Sustained - Explanation Given
063914	Failure to address issues in complaint	Advice Given
063919	Failure to pay benefit	Preliminary Investigation - Not Sustained - Explanation Given
063945	Failure to pay employer	Advice Given - Referred to Agency
064035	Unreasonable delays in payment of claim	Advice Given - Referred to Agency
064135	Failure to pay proper wages	Advice Given
064436	Refusal to reimburse for salary advanced to injured worker	Preliminary Investigation - Reasonable Resolution
064442	Failure to act in a timely manner	Advice Given
064470	Failure to investigate allegation of fraud	Declined - Refused to Investigate
064664	Failure to act on evidence of fraud	Advice Given
064695	Unreasonable management of claim	Advice Given
064697	Unrealistic management of claim	Advice Given
064815	Lack of communication	Advice Given - Referred to Agency
064851	Unreasonable decision to impose fine	Advice Given
064892	Unprofessional and intimidating conduct of staff	Advice Given
065030	Failure to observe confidentiality	Advice Given
065183	Unreasonable delay	Advice Given
065184	Inadequate settlement offer	Advice Given
065226	Failure to provide explanation regarding completing forms	Preliminary Investigation - Not Sustained - Explanation Given
065254	Unreasonable delegation of duties to outside party	Advice Given
065397	Unreasonable management of claim	Advice Given
065509	Refusal to pay wage/medical expenses	Advice Given - Referred to Agency

OTHER AUTHORITIES
Summary of outcomes of complaints finalized from 1 July 2004 to 30 June 2005

File no	Details	Outcome
065561	Unreasonable management of claim	Advice Given
065575	Unreasonable decision to conduct audit	Advice Given - Referred to Agency
065607	Unreasonable management of claim	Advice Given
065622	Incorrect records maintained by agency	Advice Given - Referred to Agency
065670	Unreasonable charge	Preliminary Investigation - Reasonable Resolution
065713	Unreasonable administrative decision	Advice Given
065856	Unreasonable management	Advice Given - Referred to Agency
065870	Unreasonable management of claim	Advice Given
065872	Unreasonable delay in proceedings	Advice Given - Referred to Agency
065923	Refusal of claim	Advice Given
066016	Delay in processing claim	Advice Given
066026	Unreasonable management of claim	Advice Given
066221	Unreasonable delay in providing documentation	Preliminary Investigation - Not Sustained - Explanation Given
066252	Unreasonable delay in providing financial payments	Advice Given
066260	Unreasonable decision in determining rate for payment of levy	Advice Given
066285	Failure to process claim	Advice Given - Referred to Agency
066415	Miscalculation of wages	Advice Given - Referred to Agency
066419	Unreasonable delay	Advice Given - Referred to Agency
066509	Query regarding release of medical information to agency	Advice Given - Referred to Agency
066539	Unreasonable decision to stop home/help	Advice Given
066551	Alleged delay in processing claims for medical expenses	Advice Given - Referred to Agency
066594	Unreasonable management of case	Advice Given
066599	Unreasonable delays in processing claims	Advice Given - Referred to Agency

PUBLIC HOSPITALS AND HEALTH SERVICES
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Agency	Advice Given	Advice Given to Agency	Alternate Remedy	Not Sustained	Not Sustained - Explanation Given	Other/General	Out of Time	Partly Resolved in Favour of Complainant	Reasonable Resolution	Referred to Agency	Refused to Investigate	Withdrawn	Withdrawn by Complainant	Total
Adelaide Central Community Health Service				1	4			2	4					11
Adelaide Hills Health Service	1													1
Burra Clare Snowtown Health Service Inc					1				2					3
Ceduna District Health Services Inc								1						1
Central Northern Adelaide Health Service	40	1	3	3	84	1	1	46	45	61		1	4	290
Children, Youth and Women's Health Service	12		1		4			3	4	6			1	31
Dental Board of South Australia					1						1			2
Department for Correctional Services - Health				1	2			1	2					6
Department of Health	7		2	1	11			4	2	1				28
Department of Human Services - Health					2			1	2		1			6
Drug & Alcohol Services Council	3				1					1			1	6
Eudunda & Kapunda Health Service	1													1
Flinders Medical Centre					3			1						4
Gawler Health Service Inc									1					1
Intellectual Disability Services Council Inc	1				1			2	1	3				8
Jamestown Hospital				1						1				2
Julia Farr Services	1			1				1		1				4
Lower Eyre Health Services Inc								1						1
Medical Board of SA	4									1				5
Meningie & District Memorial Hospital and Health													1	1
Metropolitan Domiciliary Care								2						2
Mid-West Health Services			1											1
Millicent & District Hospital and Health Service Inc										1				1
Modbury Hospital				1	1			2	1					5
Mt Barker District Soldiers' Memorial Hospital Inc								2						2
Mt Gambier & Districts Health Service Inc				1	3			1	1					6
Murray Bridge Soldiers Memorial Hospital Inc.	1				1		1							3
Naracoorte Health Service Incorporated					1									1
Noarlunga Health Services								2						2
North Western Adelaide Health Service					3			5	3	1			1	13
Northern & Far West Regional Health Service	1									1			1	3
Northern Metropolitan Community Health Service								1		1				2
Northern Metropolitan Domiciliary Care										1				1
Nurses Board of SA					1			1			1			3
Peterborough Soldiers' Memorial Hospital & Health							1							1
Pinnaroo Soldiers' Memorial Hospital Inc	1													1
Port Augusta Hospital & Regional Health Services								1		1				2
Port Lincoln Health Services Inc								1						1
Port Pirie Regional Health Service Inc	1	1			1									3
Renmark Paringa District Hospital Inc			1											1
Repatriation General Hospital	1							3		5				9
Riverland Community Health Services					1					2				3
Royal Adelaide Hospital					6		1	1	2		1		1	12
South Australian Dental Service	1			2	1		1	4	6	1				16
South Coast District Hospital Inc	1													1
Southern Adelaide Health Service	12			1	11		1	6	2	20				53
Southern Fleurieu Health Service					1									1
Southern Yorke Peninsula Health Service Inc	1													1
Strathalbyn & District Health Service										1				1
The Whyalla Hospital & Health Services Inc									1					1
Waikerie Hospital & Health Services Inc					1									1
Wakefield Health Service				1										1
Whyalla Hospital and Health Services Inc.	1								1	2				4
Women's & Children's Hospital								2						2
Total	91	2	8	14	146	1	6	97	80	112	4	1	10	572

PUBLIC HOSPITALS AND HEALTH SERVICES
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File no	Details	Outcome
Adelaide Central Community Health Service		
062336	Unfair imposition of ambulance costs	Preliminary Investigation - Reasonable Resolution
063056	Refusal to admit and/or treat	Preliminary Investigation - Not Sustained - Explanation Given
063342	Inadequate medical treatment	Preliminary Investigation - Not Sustained - Explanation Given
064124	Failure to provide adequate medical service	Preliminary Investigation - Reasonable Resolution
064620	Refusal to admit and/or treat	Preliminary Investigation - Not Sustained
064792	Delay in receiving	Preliminary Investigation - Partly Resolved in Favour of Complainant
065125	Failure to provide adequate medication	Preliminary Investigation - Partly Resolved in Favour of Complainant
065324	Failure to provide adequate medical service	Preliminary Investigation - Not Sustained - Explanation Given
065958	Failure to continue providing medication	Preliminary Investigation - Not Sustained - Explanation Given
065961	Unreasonable decision to reduce medication	Preliminary Investigation - Reasonable Resolution
065970	Failure to provide appropriate pain relief	Preliminary Investigation - Reasonable Resolution
Adelaide Hills Health Service		
064156	Unreasonable decision to ban participation in support group	Advice Given
Burra Clare Snowtown Health Service Inc		
062895	Inadequate hygiene standards in treatment room at hospital	Preliminary Investigation - Reasonable Resolution
066284	Refusal to provide access to doctor	Preliminary Investigation - Not Sustained - Explanation Given
066510	Failure to provide access to service	Preliminary Investigation - Reasonable Resolution
Ceduna District Health Services Inc		
059279	Inadequate treatment and care	Preliminary Investigation - Partly Resolved in Favour of Complainant
Central Northern Adelaide Health Service		
062247	Delay in providing dental treatment	Preliminary Investigation - Reasonable Resolution
062275	Failure to provide an adequate health service	Preliminary Investigation - Partly Resolved in Favour of Complainant
062287	Unreasonable charge for hospital	Withdrawn - Withdrawn by Complainant
062298	Medical files allegedly stolen from health service	Full Investigation - Not Sustained - Explanation Given
062304	Unreasonable refusal of medical treatment	Advice Given
062308	Concerns about treatment regime	Preliminary Investigation - Not Sustained - Explanation Given
062309	Failure to provide adequate treatment	Advice Given
062322	Alleged inadequate service	Advice Given - Referred to Agency
062344	Inadequate care and treatment	Preliminary Investigation - Not Sustained - Explanation Given
062345	Inadequate treatment	Advice Given - Referred to Agency
062348	Unprofessional conduct by staff	Full Investigation - Not Sustained
062388	Overcharge for services	Preliminary Investigation - Reasonable Resolution
062393	Disagrees with treatment order	Advice Given - Referred to Agency
062409	Unreasonable delay in receiving surgery	Preliminary Investigation - Not Sustained - Explanation Given
062410	Inadequate assessment of medical issues	Preliminary Investigation - Partly Resolved in Favour of Complainant
062416	Unreasonable conditions relating to detention of patient	Preliminary Investigation - Partly Resolved in Favour of Complainant
062442	Unreasonable delays in accessing hospital treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
062447	Failure to provide proper dose of medication	Preliminary Investigation - Reasonable Resolution
062449	Delay in returning to original placement	Preliminary Investigation - Not Sustained - Explanation Given
062455	Refusal to administer adequate pain relief	Preliminary Investigation - Partly Resolved in Favour of Complainant
062457	Length of waiting list for treatment	Preliminary Investigation - Not Sustained
062476	Unreasonable decision to keep on medication	Advice Given
062503	Refused access to medication	Preliminary Investigation - Not Sustained - Explanation Given
062520	Unreasonable delay in being assessed for Methadone Program	Preliminary Investigation - Not Sustained - Explanation Given
062547	Unfair imposition of fine	Preliminary Investigation - Not Sustained - Explanation Given
062551	Unreasonable destruction of records	Preliminary Investigation - Partly Resolved in Favour of Complainant
062558	Failure to provide appropriate medical treatment	Preliminary Investigation - Not Sustained - Explanation Given
062561	Alleged consent not obtained	Preliminary Investigation - Not Sustained - Explanation Given
062586	Inadequate investigation of complaint	Advice Given
062641	Unreasonable charge for ambulance service	Preliminary Investigation - Reasonable Resolution
062645	Alleged access to service denied	Preliminary Investigation - Not Sustained - Explanation Given
062666	Lack of care	Full Investigation - Not Sustained - Explanation
062667	Concerns about accuracy of records	Full Investigation - Not Sustained - Explanation
062690	Unreasonable wait to access dental treatment	Preliminary Investigation - Reasonable Resolution
062699	Medical records not updated	Preliminary Investigation - Not Sustained - Explanation Given
062752	Unreasonable decision to detain patient in psychiatric facility	Preliminary Investigation - Not Sustained - Explanation Given
062761	Failure to locate medical records	Declined - Out of Time
062764	Failure to communicate patient's diagnosis and treatment plan to family	Preliminary Investigation - Partly Resolved in Favour of Complainant
062768	Inadequate discharge arrangements	Advice Given - Referred to Agency
062770	Inadequate patient care in psychiatric facility	Advice Given
062779	Failure to provide access to medical information	Advice Given - Referred to Agency
062791	Failure to prescribe sufficient dosage of pain relief	Advice Given
062803	Alleged unlawful detention	Preliminary Investigation - Not Sustained - Explanation Given
062865	Unreasonable decision to ban visits	Preliminary Investigation - Not Sustained - Explanation Given
062867	Unreasonable delay in providing medication	Preliminary Investigation - Not Sustained - Explanation Given
062893	Inadequate treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
062968	Inadequate provision of care regarding known medical condition	Advice Given - Referred to Agency
062972	Unreasonable delays in receiving treatment	Advice Given - Referred to Agency
062975	Alleged inappropriate treatment	Preliminary Investigation - Not Sustained - Explanation Given
063008	Delay in admitting to mental health care facility	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
063038	Alleged breach of confidentiality	Advice Given - Referred to Agency
063042	Unprofessional attitude by staff	Advice Given - Referred to Agency
063069	Delay in administering medication	Preliminary Investigation - Reasonable Resolution
063089	Unreasonable refusal to allow patient visitors	Advice Given - Referred to Agency
063093	Failure to provide adequate information about medical diagnosis and treatment	Advice Given
063102	Failure to provide correct information regarding diagnosis	Advice Given - Referred to Agency
063114	Failure to provide requested documents	Preliminary Investigation - Reasonable Resolution
063119	Delay in receiving	Preliminary Investigation - Partly Resolved in Favour of Complainant
063152	Refused visit to medical officer	Preliminary Investigation - Partly Resolved in Favour of Complainant
063160	Failure to meet dietary needs while in hospital	Advice Given - Referred to Agency
063170	Inaccurate records maintained by hospital	Advice Given - Referred to Agency
063174	Breach of patient confidentiality	Advice Given - Referred to Agency
063233	Alleged inappropriate charges	Advice Given - Referred to Agency
063244	Denied access to service	Withdrawn - Withdrawn by Complainant
063253	Dissatisfied with dental treatment received	Preliminary Investigation - Reasonable Resolution
063268	Unreasonable delay for dental services	Preliminary Investigation - Reasonable Resolution
063303	Inadequate investigation of complaint and lack of access to information	Advice Given
063304	Inadequate treatment and care	Advice Given
063337	Unreasonable delay in accessing dental service	Preliminary Investigation - Reasonable Resolution
063339	Inadequate treatment and refusal of access to medical records	Preliminary Investigation - Reasonable Resolution
063346	Unreasonable delay in accessing treatment	Preliminary Investigation - Not Sustained - Explanation Given
063349	Unsatisfactory care by treating doctor	Advice Given - Referred to Agency
063359	Failure to provide adequate care for mental health patient	Preliminary Investigation - Not Sustained - Explanation Given
063360	Unreasonable report on driving ability	Preliminary Investigation - Reasonable Resolution
063364	Alleged unreasonable level of care	Preliminary Investigation - Partly Resolved in Favour of Complainant
063367	Lack of concern by hospital staff	Advice Given - Referred to Agency
063373	Failure to provide adequate service	Preliminary Investigation - Partly Resolved in Favour of Complainant
063377	Failure to provide adequate care	Preliminary Investigation - Not Sustained - Explanation Given
063378	Failure to provide adequate service	Preliminary Investigation - Not Sustained
063381	Inadequate treatment and care	Preliminary Investigation - Partly Resolved in Favour of Complainant
063389	Inadequate treatment and care	Full Investigation - Reasonable Resolution
063392	Failure to adequately communicate with patient's family	Advice Given
063395	Alleged failure to provide correct dosage of medication	Preliminary Investigation - Not Sustained - Explanation Given
063422	Unreasonable delay in providing surgery	Preliminary Investigation - Not Sustained - Explanation Given
063424	Intimidating behaviour of staff	Preliminary Investigation - Not Sustained - Explanation Given
063428	Dissatisfaction with treatment received from public hospital	Advice Given
063448	Inadequate treatment/care	Declined - Alternate Remedy
063454	Delay in receiving treatment in hospital emergency	Advice Given - Referred to Agency
063462	Detained unfairly	Advice Given - Referred to Agency
063463	Failure to provide adequate treatment and correct diagnosis	Advice Given
063465	Unfairly detained	Advice Given - Referred to Agency
063471	Allegation of cessation of appropriate medication	Preliminary Investigation - Not Sustained - Explanation Given
063476	Allegation of inappropriate treatment	Preliminary Investigation - Not Sustained - Explanation Given
063484	Unfairly detained in psychiatric facility	Advice Given - Referred to Agency
063486	Failure to provide duty of care	Advice Given - Referred to Agency
063493	Failure to provide adequate dental treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063516	Unreasonable requirement to take drugs	Preliminary Investigation - Not Sustained - Explanation Given
063536	Unsatisfactory dental treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063544	Overmedication of patient	Preliminary Investigation - Not Sustained - Explanation Given
063573	Failure to provide duty of care	Preliminary Investigation - Not Sustained - Explanation Given
063595	Failure to provide information regarding	Preliminary Investigation - Reasonable Resolution
063627	Failure to prescribe correct medication	Advice Given
063633	Failure to respond to complaint	Advice Given
063638	Delays in receiving dental treatment	Preliminary Investigation - Reasonable Resolution
063690	Unreasonable detention in a closed ward	Preliminary Investigation - Not Sustained - Explanation Given
063740	Failure to inform about patient transfer	Preliminary Investigation - Partly Resolved in Favour of Complainant
063747	Failure to provide correct diagnosis	Advice Given - Other/General
063787	Failure to provide adequate medical attention	Preliminary Investigation - Reasonable Resolution
063804	Inadequate care/treatment of father	Advice Given
063825	Failure to follow medical instructions regarding diet	Preliminary Investigation - Not Sustained - Explanation Given
063832	Failure to provide correct diagnosis	Advice Given
063838	Incorrect diagnosis/treatment/care	Advice Given - Referred to Agency
063886	Alleged misdiagnosis of medical condition	Advice Given
063908	Incorrect diagnosis of patient	Advice Given - Referred to Agency
063928	Failure to provide medical assistance	Preliminary Investigation - Not Sustained - Explanation Given
063933	Delay in receiving assessment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063948	Delayed access to dental treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063968	Inadequate investigation of complaint	Preliminary Investigation - Reasonable Resolution
064014	Failure to administer adequate pain relief	Preliminary Investigation - Not Sustained - Explanation Given
064040	Failure to prescribe adequate medication	Preliminary Investigation - Not Sustained - Explanation Given
064048	Failure to administer adequate pain relief	Preliminary Investigation - Partly Resolved in Favour of Complainant
064083	Failure to administer sufficient pain control	Withdrawn
064146	Failure to respond to complaint	Advice Given
064149	Failure to administer appropriate medication	Preliminary Investigation - Not Sustained - Explanation Given
064158	Failure to provide proper medical care	Advice Given - Referred to Agency
064160	Failure to maintain correct hospital records	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
064174	Failure to provide adequate medical service	Preliminary Investigation - Not Sustained - Explanation Given
064183	Alleged failure to administer proper medical care	Preliminary Investigation - Reasonable Resolution
064202	Unreasonable delay in obtaining hospital appointment	Preliminary Investigation - Not Sustained - Explanation Given
064211	Repeated cancellation of procedure	Preliminary Investigation - Partly Resolved in Favour of Complainant
064240	Failure to provide medical assistance	Advice Given - Referred to Agency
064254	Unreasonable refusal of service	Advice Given
064267	Failure to dispense appropriate medication	Preliminary Investigation - Partly Resolved in Favour of Complainant
064289	Unreasonable delay in accessing medical services	Preliminary Investigation - Reasonable Resolution
064298	Unreasonable delays in obtaining appointment	Preliminary Investigation - Not Sustained - Explanation Given
064318	Unreasonable delay in providing medical procedure	Preliminary Investigation - Reasonable Resolution
064331	Inadequate dental treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
064346	Unreasonable request to provide information	Advice Given
064376	Failure to provide adequate services	Preliminary Investigation - Partly Resolved in Favour of Complainant
064396	Refusal to admit and/or treat	Preliminary Investigation - Not Sustained - Explanation Given
064453	Alleged failure to provide medical treatment	Preliminary Investigation - Not Sustained - Explanation Given
064466	Failure to provide adequate medical service	Preliminary Investigation - Not Sustained - Explanation Given
064468	Alleged unprofessional attitude by treating specialist	Advice Given - Referred to Agency
064469	Failure to provide correct diagnosis and treatment	Advice Given
064476	Failure to access medical service	Preliminary Investigation - Not Sustained - Explanation Given
064488	Failure to return private x-rays	Preliminary Investigation - Reasonable Resolution
064496	Unreasonable delays in obtaining medical treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
064505	Inadequate treatment and care	Preliminary Investigation - Not Sustained - Explanation Given
064509	Unreasonable management of financial issue	Advice Given
064555	Failure to communicate with family	Preliminary Investigation - Not Sustained - Explanation Given
064566	Inadequate treatment/care	Withdrawn - Withdrawn by Complainant
064577	Damage caused to teeth during administration of anesthetic	Preliminary Investigation - Reasonable Resolution
064596	Failure to provide appropriate and timely treatment	Preliminary Investigation - Not Sustained - Explanation Given
064606	Unsatisfactory discharge arrangements	Preliminary Investigation - Partly Resolved in Favour of Complainant
064619	Failure to provide adequate pain relief	Preliminary Investigation - Not Sustained - Explanation Given
064621	Failure to provide adequate medical treatment	Preliminary Investigation - Not Sustained - Explanation Given
064633	Delay in accessing medical services	Advice Given
064648	Failure to provide duty of care when transporting to medical appointment	Preliminary Investigation - Not Sustained - Explanation Given
064662	Failure to provide adequate medical service	Preliminary Investigation - Not Sustained - Explanation Given
064683	Invasion of patient privacy	Advice Given - Referred to Agency
064704	Delay in admitting for surgery	Preliminary Investigation - Reasonable Resolution
064744	Unreasonable delay in providing dental service	Preliminary Investigation - Reasonable Resolution
064748	Unreasonable force used by medical staff	Advice Given
064755	Alleged failure to carry out proper medical examination	Advice Given - Referred to Agency
064771	Alleged refusal to treat	Preliminary Investigation - Not Sustained - Explanation Given
064774	Unreasonable delay in performing surgery	Advice Given - Referred to Agency
064786	Unreasonable delay in providing treatment	Preliminary Investigation - Not Sustained - Explanation Given
064787	Unreasonable delay in accessing dental	Preliminary Investigation - Partly Resolved in Favour of Complainant
064806	Failure to provide relevant information	Advice Given - Referred to Agency
064812	Failure to provide duty of care	Preliminary Investigation - Not Sustained - Explanation Given
064817	Refusal of access to methadone program	Preliminary Investigation - Not Sustained - Explanation Given
064818	Unreasonable late account	Preliminary Investigation - Reasonable Resolution
064822	Inadequate treatment and information	Withdrawn - Withdrawn by Complainant
064864	Administering medication without consent of patient	Advice Given - Referred to Agency
064868	Unreasonable treatment	Advice Given - Referred to Agency
064872	Unreasonable treatment	Preliminary Investigation - Not Sustained - Explanation Given
064886	Allegation of inappropriate detention	Preliminary Investigation - Not Sustained - Explanation Given
064903	Delay in accessing services	Advice Given - Referred to Agency
064913	Inadequate arrangements made for discharge	Preliminary Investigation - Partly Resolved in Favour of Complainant
064919	Unreasonable conduct by staff member	Advice Given - Referred to Agency
064934	Inadequate treatment/care	Declined - Alternate Remedy
064961	Unreasonable delay in accessing diagnostic procedures	Preliminary Investigation - Not Sustained - Explanation Given
064976	Failure to provide duty of care	Advice Given
064983	Unreasonable delay in gaining dental appointment	Preliminary Investigation - Not Sustained - Explanation Given
064992	Unfairly detained in psychiatric facility	Advice Given - Referred to Agency
064994	Failure to provide adequate care and/or treatment	Advice Given - Referred to Agency
065032	Incorrect treatment administered	Advice Given
065039	Unreasonable decision to ban visits	Preliminary Investigation - Not Sustained - Explanation Given
65045	Unreasonable delay to treatment	Preliminary Investigation - Not Sustained - Explanation Given
065046	Unreasonable deferrals of medical appointments	Preliminary Investigation - Partly Resolved in Favour of Complainant
065049	Lengthy delays in obtaining outpatient appointment	Advice Given
065050	Failure to keep outpatient appointment	Preliminary Investigation - Partly Resolved in Favour of Complainant
065071	Unfair decision to detain	Advice Given - Referred to Agency
065078	Incorrect diagnosis	Advice Given
065100	Inadequate discharge arrangements	Preliminary Investigation - Partly Resolved in Favour of Complainant
065103	Access to service	Preliminary Investigation - Partly Resolved in Favour of Complainant
065135	Alleged incorrect diagnosis and inadequate care	Advice Given - Referred to Agency
065138	Unable to access physio following surgery	Preliminary Investigation - Partly Resolved in Favour of Complainant
065192	Informed consent not obtained	Advice Given
065194	Incorrect diagnosis/treatment/care	Full Investigation - Partly Resolved in Favour of Complainant
065197	Alleged incorrect diagnosis and failure to provide adequate care	Advice Given
065219	Unreasonable decision to detain and lack of appropriate care	Advice Given - Referred to Agency

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File no	Details	Outcome
065220	Failure to administer medication	Preliminary Investigation - Reasonable Resolution
065241	Unreasonable charge	Preliminary Investigation - Not Sustained - Explanation Given
065251	Unreasonable delay in getting on methadone programme	Preliminary Investigation - Reasonable Resolution
065270	Failure to replace misplaced dental plate	Preliminary Investigation - Reasonable Resolution
065279	Breach of privacy	Preliminary Investigation - Reasonable Resolution
065293	Incorrect treatment resulting in breach of duty of care	Preliminary Investigation - Partly Resolved in Favour of Complainant
065309	Unreasonable delay in scheduling surgery	Preliminary Investigation - Reasonable Resolution
065327	Inadequate treatment	Preliminary Investigation - Not Sustained - Explanation Given
065332	Inadequate discharge planning	Preliminary Investigation - Partly Resolved in Favour of Complainant
065349	Inadequate treatment and care	Advice Given
065354	Failure to provide medication	Preliminary Investigation - Partly Resolved in Favour of Complainant
065363	Inadequate treatment/care	Full Investigation - Partly Resolved in Favour of Complainant
065364	Unreasonable refusal to place on drug rehabilitation program	Preliminary Investigation - Not Sustained - Explanation Given
065373	Unreasonable delay in receiving assessment and treatment	Advice Given - Referred to Agency
065406	Unreasonable delay in receiving dental treatment	Preliminary Investigation - Not Sustained - Explanation Given
065412	Refusal to admit and/or treat	Preliminary Investigation - Reasonable Resolution
065440	Inadequate care and unprofessional conduct of staff	Preliminary Investigation - Not Sustained - Explanation Given
065457	Inadequate treatment	Preliminary Investigation - Not Sustained - Explanation Given
065521	Inadequate treatment	Preliminary Investigation - Reasonable Resolution
065536	Inadequate anesthetic administered during procedure	Advice Given
065539	Unreasonable disclosure of information	Preliminary Investigation - Partly Resolved in Favour of Complainant
065541	Refusal to place on methadone program	Preliminary Investigation - Not Sustained - Explanation Given
065546	Failure to provide adequate treatment	Advice Given - Referred to Agency
065549	Refusal to admit and/or treat	Preliminary Investigation - Reasonable Resolution
065553	Alleged poor quality treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
065576	Unreasonable delay in receiving medical assessment	Preliminary Investigation - Reasonable Resolution
065581	Allegedly unable to access service	Preliminary Investigation - Reasonable Resolution
065582	Refusal to admit and/or treat	Preliminary Investigation - Not Sustained - Explanation Given
065588	Unreasonable delay in providing service	Preliminary Investigation - Partly Resolved in Favour of Complainant
065617	Inadequate assessment of medical condition	Advice Given - Referred to Agency
065637	Inadequate treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
065707	Inadequate investigation of complaint	Advice Given - Referred to Agency
065710	Failure to correctly diagnose	Advice Given
065725	Inadequate discharge arrangements	Advice Given - Referred to Agency
065744	Delay in receiving surgery	Advice Given - Referred to Agency
065770	Failure to provide duty of care	Advice Given
065781	Alleged delay in receiving medical investigation	Preliminary Investigation - Reasonable Resolution
065787	Inadequate investigation of complaint	Preliminary Investigation - Not Sustained - Explanation Given
065788	Inadequate post-operative follow up	Preliminary Investigation - Reasonable Resolution
065789	Failure to provide duty of care	Preliminary Investigation - Not Sustained - Explanation Given
065792	Failure to provide adequate care	Preliminary Investigation - Not Sustained - Explanation Given
065818	Access to service	Preliminary Investigation - Reasonable Resolution
065823	Alleged inadequate treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
065840	Failure to provide adequate care and information	Preliminary Investigation - Partly Resolved in Favour of Complainant
065855	Inadequate care/treatment	Declined - Alternate Remedy
065886	Lack of duty of care by not providing adequate medical treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
065896	Alleged misinformation by staff about detention	Preliminary Investigation - Not Sustained - Explanation Given
065898	Failure to provide duty of care	Advice Given - Referred to Agency
065931	Unreasonable decision to alter medication	Preliminary Investigation - Not Sustained - Explanation Given
065943	Failure to provide adequate medical care	Preliminary Investigation - Not Sustained - Explanation Given
066006	Alleged refusal of treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
066031	Unsatisfactory discharge arrangements	Advice Given - Referred to Agency
066059	Unreasonable administrative decision/policy	Advice Given - Referred to Agency
066068	Inadequate treatment/care	Advice Given
066082	Unreasonable decision to cease access to medication	Preliminary Investigation - Not Sustained - Explanation Given
066098	Unreasonable delays in receiving treatment	Advice Given - Referred to Agency
066110	Allied health services not available	Advice Given - Referred to Agency
066111	Unreasonable force to take medication	Preliminary Investigation - Not Sustained - Explanation Given
066116	Failure to provide adequate medical treatment	Preliminary Investigation - Reasonable Resolution
066159	Inadequate treatment resulting in death of newborn	Advice Given
066201	Incorrect diagnosis resulting in inadequate care and treatment	Advice Given - Referred to Agency
066242	Inadequate discharge arrangements	Advice Given - Referred to Agency
066279	Inadequate treatment and care	Advice Given - Referred to Agency
066298	Failure to correctly diagnosis and provide appropriate treatment	Advice Given - Referred to Agency
066318	Unreasonable decision to remove from program	Preliminary Investigation - Not Sustained - Explanation Given
066324	Breach of patient confidentiality	Advice Given
066339	Unsatisfactory care and hygiene during hospital	Advice Given - Referred to Agency
066343	Patient subjected to treatment against his wishes	Advice Given - Referred to Agency
066346	Delay in receiving assessment	Preliminary Investigation - Not Sustained - Explanation Given
066352	Inadequate treatment/care	Advice Given
066356	Inadequate discharge arrangements	Preliminary Investigation - Reasonable Resolution
066387	Incorrect diagnosis/treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
066394	Alleged rude treatment from doctor	Advice Given
066404	Unreasonable decision to detain patient	Preliminary Investigation - Not Sustained - Explanation Given
066407	Unreasonable refusal to allow access to bank account	Preliminary Investigation - Not Sustained - Explanation Given
066409	Unreasonable refusal to see doctor	Preliminary Investigation - Reasonable Resolution
066410	Refusal to admit and/or treat	Preliminary Investigation - Reasonable Resolution
066421	Alleged failure to provide adequate discharge arrangements	Preliminary Investigation - Reasonable Resolution

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File no	Details	Outcome
066435	Unreasonable decision to not transfer patient	Advice Given - Referred to Agency
066438	Inadequate investigation of complaint	Advice Given - Advice Given to Agency
066445	Delay in accessing services	Preliminary Investigation - Reasonable Resolution
066467	Incorrect diagnosis	Advice Given - Referred to Agency
066469	Failure to approve operation	Preliminary Investigation - Reasonable Resolution
066516	Refusal to provide service	Preliminary Investigation - Not Sustained - Explanation Given
066557	Inadequate treatment/care	Advice Given
066570	Failure to provide information about detention to hospital	Preliminary Investigation - Not Sustained - Explanation Given
066572	Decision to detain patient without proper psychiatric review	Advice Given - Referred to Agency
066598	Inadequate treatment when presented in emergency department	Advice Given - Referred to Agency
Children, Youth and Women's Health Service		
061781	Failure to provide adequate care	Full Investigation - Not Sustained - Explanation
062306	Breach of patient confidentiality and failure to follow proper procedure	Advice Given - Referred to Agency
062356	Poor quality of care and lack of communication	Advice Given
062514	Unreasonable decision not to make minor exception to guidelines	Preliminary Investigation - Reasonable Resolution
062549	Incorrect treatment and care	Withdrawn - Withdrawn by Complainant
062553	Unreasonable account	Preliminary Investigation - Not Sustained - Explanation Given
062673	Unreasonable refusal to act on proven abuse case	Preliminary Investigation - Not Sustained - Explanation Given
062695	Unreasonable delay in concluding investigation	Advice Given
062785	Unreasonable refusal of access to service	Preliminary Investigation - Partly Resolved in Favour of Complainant
062902	Failure to provide adequate treatment and care	Advice Given
063075	Incorrect diagnosis/treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
063146	Breach of confidentiality	Advice Given - Referred to Agency
063154	Failure to provide information	Advice Given - Referred to Agency
063619	Unreasonable decision to establish foster home	Advice Given
063622	Unreasonable information provided to complainant	Advice Given
063848	Unreasonable behaviour by officer	Advice Given
063849	Unreasonable management of child's welfare	Advice Given
064073	Unreasonable behaviour by officer	Advice Given
064711	Failure to admit to hospital	Preliminary Investigation - Partly Resolved in Favour of Complainant
064833	Inadequate treatment and care	Advice Given
064858	Allegedly unable to access service	Advice Given - Referred to Agency
065082	Unfair/discriminatory practices/policies	Preliminary Investigation - Reasonable Resolution
065213	Unreasonable requirement on employment form	Preliminary Investigation - Not Sustained - Explanation Given
065441	Failure to obtain consent for tissue removal	Advice Given
065621	Failure to provide adequate information	Advice Given - Referred to Agency
065688	Unreasonable treatment and service delivery	Declined - Alternate Remedy
066183	Delay in admission for surgical procedure	Advice Given - Referred to Agency
066210	Unreasonable management	Advice Given
066288	Unreasonable release of confidential information	Advice Given
066327	Unreasonable refusal to investigate	Preliminary Investigation - Reasonable Resolution
066470	Unreasonable delay in replying to correspondence	Preliminary Investigation - Reasonable Resolution
Dental Board of South Australia		
062623	Inadequate investigation of complaint	Declined - Refused to Investigate
063517	Incorrect information provided	Preliminary Investigation - Not Sustained - Explanation Given
Department for Correctional Services - Health		
061597	Failure to provide duty of care.	Preliminary Investigation - Reasonable Resolution
062194	Failure to provide adequate medical care	Preliminary Investigation - Partly Resolved in Favour of Complainant
062379	Refusal to provide correct medication	Preliminary Investigation - Not Sustained - Explanation Given
062749	Failure to provide safe mode of transport to medical appointment	Preliminary Investigation - Not Sustained - Explanation Given
062835	Unreasonable medication provided after surgery	Preliminary Investigation - Reasonable Resolution
062868	Inadequate treatment/care	Preliminary Investigation - Not Sustained
Department of Health		
061811	Denied access to treatment	Full Investigation - Reasonable Resolution
062279	Failure to investigate reported child abuse	Advice Given
062282	Failure to provide adequate mental health service	Full Investigation - Not Sustained - Explanation
062342	Inadequate investigation of complaint	Advice Given
062539	Refusal to allow visit to medical practitioner	Preliminary Investigation - Partly Resolved in Favour of Complainant
062652	Allegations of abuse	Advice Given
063115	Unreasonable restriction on drug treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063121	Unreasonable restriction of access to treatment	Preliminary Investigation - Not Sustained
063182	Failure to provide free emergency service for public patients	Preliminary Investigation - Not Sustained - Explanation Given
063527	Unreasonable decision	Preliminary Investigation - Not Sustained - Explanation Given
063533	Unreasonable manner by officer	Advice Given
063668	Unreasonable refusal of permission to receive medication	Preliminary Investigation - Not Sustained - Explanation Given
064049	Unreasonable change of medication regime	Declined - Alternate Remedy
064169	Unreasonable decision to refuse access to pain relief	Preliminary Investigation - Partly Resolved in Favour of Complainant
064341	Unreasonable arrangement for treatment	Declined - Alternate Remedy
064429	Policy not consistent	Preliminary Investigation - Not Sustained - Explanation Given
064617	Access to service	Advice Given - Referred to Agency
064663	Failure to provide adequate treatment	Full Investigation - Not Sustained - Explanation Given
64839	Unreasonable administrative decision	Advice Given
064869	Failure to provide transport assistance	Preliminary Investigation - Not Sustained - Explanation Given

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File no	Details	Outcome
064870	Unreasonable restriction on access to medication	Preliminary Investigation - Not Sustained - Explanation Given
064908	Unreasonable requirement in completing form	Preliminary Investigation - Not Sustained - Explanation Given
064958	Unreasonable change to treatment regime	Preliminary Investigation - Not Sustained - Explanation Given
065681	Unfair decision regarding eligibility for transport assistance	Preliminary Investigation - Reasonable Resolution
065759	Breach of tender	Advice Given
065945	Unprofessional conduct by agency staff	Preliminary Investigation - Not Sustained - Explanation Given
066333	Failure to respond to crisis situation	Preliminary Investigation - Partly Resolved in Favour of Complainant
066374	Failure to provide fair tender process	Advice Given
Department of Human Services - Health		
056893	Inadequate investigation of complaint	Full Investigation - Reasonable Resolution
059924	Inadequate investigation of complaint	Preliminary Investigation - Partly Resolved in Favour of Complainant
060044	Unreasonable refusal to pay full account	Full Investigation - Not Sustained - Explanation Given
060406	Alleged denied access to service	Full Investigation - Reasonable Resolution
061042	Unreasonable advice	Full Investigation - Not Sustained - Explanation Given
062031	Services not available	Declined - Refused to Investigate
Drug & Alcohol Services Council		
062808	Breach of patient confidentiality	Withdrawn by Complainant
063090	Unprofessional attitude of staff	Advice Given - Referred to Agency
064255	Alleged inappropriate conduct by staff	Advice Given
065605	Unreasonable policy regarding prescription of medication to long term patients	Advice Given
066189	Unreasonable decision regarding administration of medication	Advice Given
066283	Unreasonable decision to refuse medication	Preliminary Investigation - Not Sustained - Explanation Given
Eudunda & Kapunda Health Service		
065929	Inadequate treatment and care	Advice Given
Flinders Medical Centre		
057364	Incorrect treatment given by agency	Full Investigation - Not Sustained - Explanation Given
058175	Inadequate treatment care	Full Investigation - Not Sustained - Explanation Given
060911	Incorrect treatment by radiology department at hospital	Full Investigation - Partly Resolved in Favour of Complainant
061615	Inadequate treatment and care	Full Investigation - Not Sustained - Explanation Given
Gawler Health Service Inc		
065411	Allegation of denial of service	Preliminary Investigation - Reasonable Resolution
Intellectual Disability Services Council Inc		
057778	Unreasonable conduct by staff	Preliminary Investigation - Not Sustained - Explanation Given
062057	Unreasonable requirement to undergo re-assessment prior to access to services	Preliminary Investigation - Partly Resolved in Favour of Complainant
062414	Failure to take appropriate administrative action	Advice Given - Referred to Agency
063567	Unreasonable funding policy	Preliminary Investigation - Reasonable Resolution
063899	Unreasonable policy regarding provision of services	Advice Given
064070	Inadequate care provided by disability service provider	Advice Given - Referred to Agency
064314	Alleged lack of appropriate communication	Preliminary Investigation - Partly Resolved in Favour of Complainant
064767	Inappropriate conduct by staff	Advice Given - Referred to Agency
Jamestown Hospital		
065385	Unprofessional conduct by staff	Preliminary Investigation - Not Sustained
066368	Alleged incorrect treatment	Advice Given - Referred to Agency
Julia Farr Services		
059925	Inadequate investigation of complaint	Preliminary Investigation - Not Sustained
065174	Failure to provide duty of care	Advice Given
066169	Inadequate treatment and care	Advice Given - Referred to Agency
066385	Inadequate treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
Lower Eyre Health Services Inc		
066163	Incorrect diagnosis/treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
Medical Board of SA		
063632	Whistleblower regarding possible misappropriation of funds	Advice Given - Referred to Agency
063803	Failure to investigate complaint by agency	Advice Given
065077	Unprofessional conduct of staff	Advice Given
065339	Inadequate complaint processes	Advice Given
066453	Inadequate investigation of complaint	Advice Given
Meningie & District Memorial Hospital and Health Services Inc		
061919	Alleged unreasonable health service for the area	Withdrawn by Complainant
Metropolitan Domiciliary Care		
065480	Unsatisfactory care	Preliminary Investigation - Partly Resolved in Favour of Complainant
066193	Alleged refusal to return documentation	Preliminary Investigation - Partly Resolved in Favour of Complainant

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File no	Details	Outcome
Mid-West Health Services		
063013	Alleged unreasonable administrative action	Declined - Alternate Remedy
Millicent & District Hospital and Health Service Inc		
063204	Alleged denied access to service	Advice Given - Referred to Agency
Modbury Hospital		
060549	Denied access to service	Full Investigation - Reasonable Resolution
060705	Inadequate care provided	Preliminary Investigation - Partly Resolved in Favour of Complainant
060835	Unreasonable treatment	Full Investigation - Not Sustained
061793	Inadequate treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
061808	Inadequate treatment and care	Full Investigation - Not Sustained - Explanation Given
Mt Barker District Soldiers' Memorial Hospital Inc		
064537	Unreasonable banning from participation in support group	Preliminary Investigation - Partly Resolved in Favour of Complainant
066614	Uninformed of charges	Preliminary Investigation - Partly Resolved in Favour of Complainant
Mt Gambier & Districts Health Service Inc		
060649	Unprofessional conduct	Full Investigation - Not Sustained - Explanation Given
062327	Unreasonable decision to transfer	Preliminary Investigation - Reasonable Resolution
062974	Failure to provide access to hospital services	Preliminary Investigation - Not Sustained - Explanation Given
063335	Failure to provide duty of care	Preliminary Investigation - Not Sustained
063621	Unreasonable use of authority by care worker	Preliminary Investigation - Partly Resolved in Favour of Complainant
065199	Unreasonable delay in admission for surgery	Preliminary Investigation - Not Sustained - Explanation Given
Murray Bridge Soldiers Memorial Hospital Inc.		
064198	Inadequate treatment and care	Advice Given
065926	Breach of patient confidentiality	Declined - Out of Time
066463	Unfair charge for attendance at public hospital	Preliminary Investigation - Not Sustained - Explanation Given
Naracoorte Health Service Incorporated		
062963	Unreasonable destruction of records	Preliminary Investigation - Not Sustained - Explanation Given
Noarlunga Health Services		
057365	Incorrect treatment given agency	Full Investigation - Partly Resolved in Favour of Complainant
060423	Alleged inappropriate communication	Full Investigation - Partly Resolved in Favour of Complainant
North Western Adelaide Health Service		
057699	Unreasonable management of work injury	Full Investigation - Reasonable Resolution
058421	Alleged incorrect treatment	Full Investigation - Reasonable Resolution
058542	Inadequate treatment care	Full Investigation - Not Sustained - Explanation
059928	Failure to provide adequate information about diagnosis	Full Investigation - Partly Resolved in Favour of Complainant
059993	Inadequate treatment/care	Full Investigation - Partly Resolved in Favour of Complainant
060395	Failure to provide adequate care/treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
060576	Incorrect diagnosis/treatment/care	Full Investigation - Reasonable Resolution
061379	Unreasonable action forced resignation	Withdrawn - Withdrawn by Complainant
061614	inadequate treatment and care	Full Investigation - Not Sustained - Explanation
061645	Incorrect diagnosis/treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant
061656	Inadequate care/treatment	Advice Given - Referred to Agency
061830	Denied access to service	Preliminary Investigation - Not Sustained - Explanation Given
062132	Unreasonable failure to provide a service	Preliminary Investigation - Partly Resolved in Favour of Complainant
Northern & Far West Regional Health Service		
062310	Failure to provide adequate follow up care	Withdrawn by Complainant
062319	Inadequate discharge arrangements for patient	Advice Given - Referred to Agency
063950	Delay in receiving treatment in emergency department	Advice Given
Northern Metropolitan Community Health Service		
063207	Unsatisfactory discharge arrangements	Advice Given - Referred to Agency
066621	Alleged difficulty with communication	Preliminary Investigation - Partly Resolved in Favour of Complainant
Northern Metropolitan Domiciliary Care		
063551	Failure to provide duty of care and adequate service	Advice Given - Referred to Agency
Nurses Board of SA		
062155	Inappropriate administrative actions	Declined - Refused to Investigate
062958	Unlawful investigation	Preliminary Investigation - Not Sustained - Explanation Given
063051	Erroneous decisions	Preliminary Investigation - Partly Resolved in Favour of Complainant
Peterborough Soldiers' Memorial Hospital & Health Services Inc		
065122	Incorrect diagnosis	Declined - Out of Time
Pinnaroo Soldiers' Memorial Hospital Inc		
063835	Unreasonable decision	Advice Given

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File no	Details	Outcome
Port Augusta Hospital & Regional Health Services		
063692	Unreasonable delay in admission	Preliminary Investigation - Partly Resolved in Favour of Complainant
066264	Refusal to admit or treat	Advice Given - Referred to Agency
Port Lincoln Health Services Inc		
058058	Unreasonable termination of contract	Full Investigation - Partly Resolved in Favour of Complainant
Port Pirie Regional Health Service Inc		
063444	Unprofessional conduct by medical staff	Advice Given
064186	Refusal to treat	Preliminary Investigation - Not Sustained - Explanation Given
066112	Failure to provide duty of care	Advice Given - Advice Given to Agency
Renmark Paringa District Hospital Inc		
065858	Inadequate treatment/care	Declined - Alternate Remedy
Repatriation General Hospital		
055490	Inaccurate records kept by agency	Full Investigation - Partly Resolved in Favour of Complainant
062984	Unprofessional attitude by nursing staff	Advice Given - Referred to Agency
064406	Uncaring attitude of staff member	Preliminary Investigation - Partly Resolved in Favour of Complainant
064506	Incorrect diagnosis and failure to provide appropriate treatment	Advice Given
064942	Inadequate post operative follow up	Preliminary Investigation - Partly Resolved in Favour of Complainant
064993	Inadequate treatment and care	Advice Given - Referred to Agency
065040	Unprofessional manner by staff	Advice Given - Referred to Agency
066144	Unsatisfactory outcome to surgery	Advice Given - Referred to Agency
066177	Termination of access to services	Advice Given - Referred to Agency
Riverland Community Health Services		
062400	Inadequate diagnosis and treatment	Full Investigation - Not Sustained - Explanation Given
062640	Failure to provide access to service	Advice Given - Referred to Agency
064011	Unprofessional conduct by staff	Advice Given - Referred to Agency
Royal Adelaide Hospital		
056853	Inadequate treatment	Full Investigation - Partly Resolved in Favour of Complainant
057030	Denied access to medical assessment/treatment	Full Investigation - Reasonable Resolution
057760	Unreasonable treatment and staff conduct	Full Investigation - Not Sustained - Explanation
060127	Inadequate treatment provided	Preliminary Investigation - Not Sustained - Explanation Given
060128	Improper access provided to medical records	Declined - Refused to Investigate
060678	Unreasonable charge	Preliminary Investigation - Not Sustained - Explanation Given
061022	Alleged failure to investigate complaint under <i>Whistleblowers' Protection Act</i>	Full Investigation - Reasonable Resolution
061306	Alleged dissatisfactory discharge arrangements	Withdrawn - Withdrawn by Complainant
061667	Inadequate response to complaint	Preliminary Investigation - Not Sustained - Explanation Given
061954	Unreasonable delay in admitting	Preliminary Investigation - Not Sustained - Explanation Given
062056	Denied access to treatment	Declined - Out of Time
062135	Unreasonable administrative decision/policy	Preliminary Investigation - Not Sustained - Explanation Given
South Australian Dental Service		
063540	Incorrect treatment	Preliminary Investigation - Not Sustained
063574	Failure to provide adequate dental service	Preliminary Investigation - Partly Resolved in Favour of Complainant
064003	Difficulty in access dental service	Preliminary Investigation - Reasonable Resolution
064125	Failure to provide adequate care	Preliminary Investigation - Partly Resolved in Favour of Complainant
064238	Inadequate dental services for prisoners	Full Investigation - Reasonable Resolution
065060	Breach of patient confidentiality	Declined - Out of Time
065107	Delay in receiving dental treatment	Preliminary Investigation - Reasonable Resolution
065143	Unreasonable fee structure for pensioner services	Preliminary Investigation - Reasonable Resolution
065398	Failure to complete dental treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
065751	Failure to provide adequate dental services	Preliminary Investigation - Not Sustained - Explanation Given
065760	Unreasonable decision to remove all of patient's teeth	Preliminary Investigation - Partly Resolved in Favour of Complainant
066041	Unreasonable fee charged	Preliminary Investigation - Not Sustained
066166	Length of waiting list for treatment	Advice Given - Referred to Agency
066291	Failure to maintain correct records resulting in incorrect account	Preliminary Investigation - Reasonable Resolution
066359	Delay in receiving adequate dental treatment	Preliminary Investigation - Reasonable Resolution
066617	Length of waiting list for treatment	Advice Given
South Coast District Hospital Inc		
063340	Incorrect diagnosis and failure to treat properly	Advice Given
Southern Adelaide Health Service		
062324	Inadequate discharge arrangements and follow up	Preliminary Investigation - Not Sustained - Explanation Given
062392	Failure to adequately diagnose and treat	Preliminary Investigation - Not Sustained - Explanation Given
062505	Inadequate pain management and unacceptable behaviour	Advice Given - Referred to Agency
062604	Failure to provide access to medical services	Advice Given - Referred to Agency
062918	Failure to provide adequate care	Preliminary Investigation - Not Sustained - Explanation Given
063053	Unsatisfactory discharge arrangements	Preliminary Investigation - Not Sustained - Explanation Given
063176	Failure to provide adequate treatment	Preliminary Investigation - Partly Resolved in Favour of Complainant
063220	Allegedly unreasonable suspension of contact with child	Preliminary Investigation - Not Sustained

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File no	Details	Outcome
063221	Incorrect diagnosis/treatment/care	Advice Given
063225	Alleged lack of consideration of patient rights	Preliminary Investigation - Reasonable Resolution
063301	Inadequate care and treatment	Advice Given
063426	Incorrect diagnosis of mental illness	Advice Given
063455	Unreasonable refusal to fund interstate hospital transfer	Preliminary Investigation - Not Sustained - Explanation Given
063466	Incorrect diagnosis and inadequate treatment and care	Advice Given
063495	Inadequate treatment and care	Full Investigation - Reasonable Resolution
063539	Unreasonable decision to not allow patient visitors	Preliminary Investigation - Not Sustained - Explanation Given
063547	Patient unreasonably detained and overmedicated	Preliminary Investigation - Not Sustained - Explanation Given
063678	Failure to provide adequate treatment	Declined - Out of Time
063903	Failure to provide duty of care	Advice Given - Referred to Agency
063958	Failure to make adequate discharge arrangements	Advice Given - Referred to Agency
063964	Failure to provide correct diagnosis and treatment	Advice Given
064248	Inadequate hygiene measures	Advice Given
064271	Inadequate treatment/care	Preliminary Investigation - Not Sustained - Explanation Given
064461	Failure to provide adequate care	Advice Given - Referred to Agency
064486	Alleged dismissive manner by staff	Preliminary Investigation - Partly Resolved in Favour of Complainant
064494	Failure to make adequate discharge arrangements	Advice Given
064544	Alleged failure to provide correct information regarding hospital charges	Advice Given - Referred to Agency
064689	Alleged breach of duty of care by hospital staff	Advice Given - Referred to Agency
064747	Failure to properly inform agency of service of basis for patient transfer	Preliminary Investigation - Not Sustained - Explanation Given
064807	Inadequate investigation of complaint	Advice Given
065021	Failure to provide adequate information	Preliminary Investigation - Partly Resolved in Favour of Complainant
065038	Unprofessional attitude by medical staff	Preliminary Investigation - Not Sustained - Explanation Given
065076	Concerns relating to incorrect diagnosis	Advice Given
065108	Alleged failure to provide proper treatment	Advice Given - Referred to Agency
065294	Unreasonable administrative decision/policy	Preliminary Investigation - Not Sustained - Explanation Given
065317	Delay in receiving medical attention	Advice Given - Referred to Agency
065326	Inadequate diagnosis	Preliminary Investigation - Partly Resolved in Favour of Complainant
065728	Unreasonable decision to accommodate male and female patients in same ward	Advice Given - Referred to Agency
065900	Failure to provide adequate care	Advice Given - Referred to Agency
066069	Allegation that appropriate treatment not provided	Preliminary Investigation - Partly Resolved in Favour of Complainant
066109	Length of waiting list for treatment	Advice Given - Referred to Agency
066191	Alleged unreasonable discharge arrangements	Advice Given - Referred to Agency
066248	Inadequate investigation of complaint	Advice Given - Referred to Agency
066259	Alleged inadequate service	Advice Given - Referred to Agency
066275	Unreasonable refusal of transfer to another hospital	Advice Given - Referred to Agency
066294	Incorrect diagnosis and treatment	Advice Given - Referred to Agency
066378	Delay in receiving	Preliminary Investigation - Partly Resolved in Favour of Complainant
066389	Alleged incorrect dosage of medication prescribed to child	Advice Given - Referred to Agency
066395	Unreasonable disclosure of information	Advice Given
066431	Inadequate treatment and care	Advice Given
066443	Inadequate treatment and care	Advice Given
066451	Inadequate treatment and care	Advice Given - Referred to Agency
066597	Inadequate treatment and care following operation	Advice Given - Referred to Agency
Southern Fleurieu Health Service		
065059	Alleged breach of patient's rights	Preliminary Investigation - Not Sustained - Explanation Given
Southern Yorke Peninsula Health Service Inc		
063904	Unreasonable decision to limit access to treatment	Advice Given
Strathalbyn & District Health Service		
065472	Inadequate discharge arrangements	Advice Given - Referred to Agency
The Whyalla Hospital & Health Services Inc		
064228	Unreasonable treatment	Preliminary Investigation - Reasonable Resolution
Waikerie Hospital & Health Services Inc		
062335	Poor quality medical assistance	Preliminary Investigation - Not Sustained - Explanation Given
Wakefield Health Service		
062951	Inadequate provision of medical services	Preliminary Investigation - Not Sustained
Whyalla Hospital and Health Services Inc.		
063275	Inadequate treatment and care	Advice Given
063348	Inadequate care and treatment	Advice Given - Referred to Agency
063745	Refusal to cover costs of damage to property	Preliminary Investigation - Reasonable Resolution
065666	Inaccurate diagnosis and failure to provide adequate care	Advice Given - Referred to Agency
Women's & Children's Hospital		
058822	Alleged inadequate treatment of daughter	Preliminary Investigation - Partly Resolved in Favour of Complainant
061318	Incorrect diagnosis/treatment/care	Preliminary Investigation - Partly Resolved in Favour of Complainant