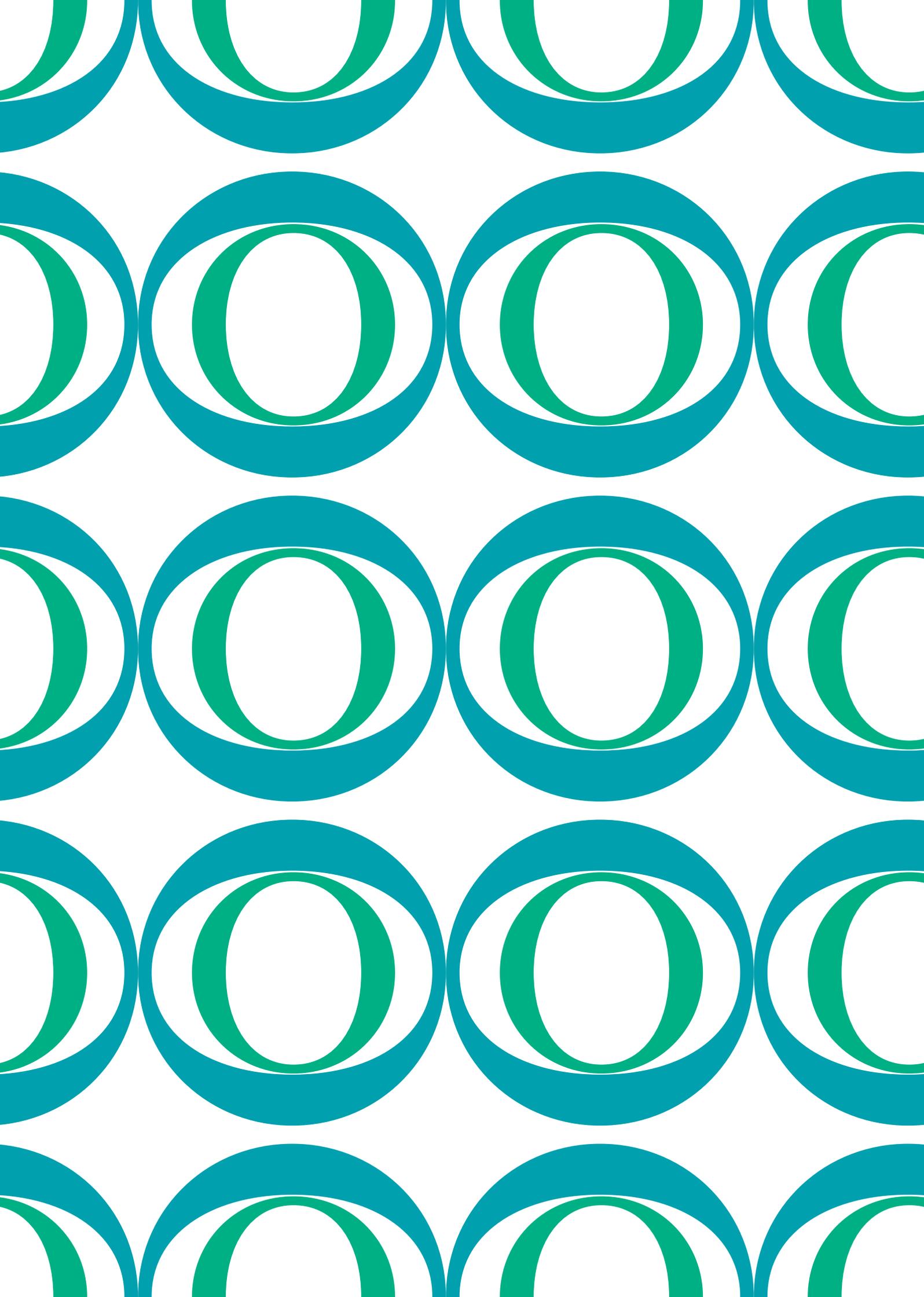




Ombudsman SA
Annual Report
2011/2012





OmbudsmanSA

The Honourable President
LEGISLATIVE COUNCIL
Parliament House
Adelaide

The Honourable Speaker
HOUSE OF ASSEMBLY
Parliament House
Adelaide

It is my duty and privilege to submit the South Australian Ombudsman's 40th Annual Report for 2011-12 to the Parliament, as required by section 29(1) of the *Ombudsman Act 1972*.

Richard Bingham
OMBUDSMAN

CONTENTS

THE YEAR IN REVIEW	5
GOVERNMENT DEPARTMENTS	9
LOCAL GOVERNMENT	23
OTHER AUTHORITIES	38
FREEDOM OF INFORMATION	47
ABOUT OMBUDSMAN SA	56

APPENDICES

1.	Financial Statement	58
2.	Description of outcomes - Ombudsman jurisdiction	59
3.	Description of outcomes - FOI jurisdiction	61
4.	Section 25 Reports	62
5.	Speeches and Staff Development	64
6.	Complaints received 2011-12 - Breakdown of issues	67

THE YEAR IN REVIEW

We have been unable to turn files around as quickly over the past year, due to the additional number and complexity of matters which we have dealt with.

THE INCREASING WORKLOAD OF THE OFFICE

In 2011-12 there was a 4.9 per cent increase in the number of people approaching Ombudsman SA, and an 8.7 per cent increase in our 'matters' workload arising from those approaches. This 8.7 per cent increase is on top of the 30 per cent increase over the last 2 years.

The table (right) summarises our workload.

	2009-10	2010-11	2011-12	Change 2010-11 to 2011-12 (%)
APPROACHES	8 834	9 238	9 690	+4.9
Ombudsman complaints	2 982	3 167	3 457	+9.1
FOI Reviews	217	233	239	+2.5
TOTAL MATTERS (i.e. Ombudsman complaints and FOI reviews)	3 199	3 400	3 696	+8.7
AVERAGE AGE OF MATTERS (as at 30 June)	90.3 days	72.0 days	87.0 days	+20.8

Of the 9 690 approaches we received this year, 5 680 (59 per cent) were dealt with by the provision of advice or referral to a more appropriate body.

I hope that the establishment of the Office of Public Integrity will reduce this 'out of jurisdiction' workload. It is frustrating for complainants to have to be re-directed, and it involves my office in considerable time and effort. Nonetheless, as well as our complaint handling, FOI review and administrative improvement roles, Ombudsman SA continues to be a significant source of advice and referral for members of the South Australian community.

The increase in the average age of the matter files open on 30 June each year, from 72.0 days in 2010-11 to 87.0 days in 2011-12, reflects the fact that we have been unable to turn files around as quickly over the past year, due to the additional number and complexity of matters which we have dealt with.

This is particularly the case in relation to own initiative investigations.

Our workload has been handled with limited resources. We currently have a total of 14 FTE staff, with an additional 1.6 FTE seconded from the Office of State/Local Government Relations.

OMBUDSMAN ACT - HIGHLIGHTS

Reports to Parliament

On 26 July 2011, my report on a complaint relating to expiation notices issued by the City of Adelaide was tabled in the Parliament.

In December 2009, I received a referral from the Legislative Council to undertake an investigation into issues arising from the St Clair land swap undertaken by the City of Charles Sturt. On 8 November 2011 my report on this referral was tabled in the Legislative Council.

In March 2011 I commenced an audit of local government complaint handling systems across 12 councils. On 22 November 2011, my report on this audit was tabled in the Parliament.

On 30 May 2012, the Legislative Council referred to me for investigation, the tender process for the Growth Investigation Areas Report and probity issues associated with the procurement. The report concerned development at Mt. Barker.

In October 2010 I commenced an audit of complaint handling practices in the Department of Correctional Services. My report on this audit was tabled in the Parliament in July 2012.

Also in July 2012, my report on the use of shackling by the Department for Correctional Services on prisoners receiving medical treatment was tabled in Parliament.

My report on a delay in the transfer of data from the Courts Administration Authority to the Department of Planning, Transport and Infrastructure, which resulted in hardship and inconvenience for individuals due to the delayed imposition of drivers licence suspensions, also was tabled in July 2012.

As at 30 June 2012, my audit of confidentiality issues in 12 local government councils was nearing completion.

Section 25 reports

In Appendix 4 I have listed the 36 reports which I have provided to Ministers during the past year under section 25 of the Ombudsman Act.

Section 25 reports involve a finding of administrative error, and often contain recommendations intended to remediate the error. Where I consider that the public interest requires it, I have sought to have some section 25 reports tabled in Parliament, and I have published others on my website. I have also included in this Annual Report case studies of some of the section 25 reports.

Local government conflicts of interest

In my report last year I referred to the increasing incidence of complaints concerning conflicts of interest at local government level. This issue has continued to be raised with my office over the past year, and I consider that local government needs to deal more comprehensively with it to maintain public trust. I made some specific recommendations about this issue in my report on my investigation into the City of Charles Sturt St Clair land swap.

FREEDOM OF INFORMATION

My office undertakes external reviews under the *Freedom of Information Act 1991*, a responsibility which in most other Australian jurisdictions sits with a separate Information Commissioner. I support the current arrangements, which permit us to deal efficiently with overlap, and enable us to apply lessons learnt in one jurisdiction in the other.

Our work this year has been characterised by:

- a reduction in the previously high rate of applications by Members of Parliament. In 2010-11 we received 167 applications from MP's, representing over 80 per cent of the 205 applications we received over that year. In 2011-12 this number reduced to 63 of a total of 155 applications received, or 41 per cent
- the average age of the external reviews which we finalised during 2011-12 was 84 days, down from 113 days in 2010-11. This is within our current target of 4 months.

The Freedom of Information Act has now been in operation in South Australia for two decades. Over this time, agencies have become more willing to release information of a personal nature to applicants, such as medical records.

However, at the external review level, my office still encounters resistance to release agencies' internal thinking documents or their documents showing dealings with consultants or contractual relationships with the private sector.

Arguments that release of these kinds of documents would be contrary to the public interest are frequently and unsuccessfully raised during the external review process.

Agencies commonly submit 'blanket claims' over documents, rather than assessing the actual information within the documents. They fail to turn their mind to the public interest in the achievement of the objects of the FOI Act, to 'promote openness in... government agencies' and 'to facilitate more effective participation by members of the public in the processes involved in the making and administration of laws and policies'....

The principles of administration of the Act show the Parliament's clear and express intent that the Act should be interpreted and applied so as to further the Act's objects; and that the discretion to refuse access to an 'exempt document', should be exercised 'as far as possible in a way that favours disclosure'.

REPORT AGAINST THE 2011-12 BUSINESS PLAN

During 2011-12 my office produced a new strategic plan for the period 2011-14. In addition, a new Business Plan for 2011-12 identified the following initiatives, amongst others:

- conduct audits of State government agencies' complaint handling
- measure section 25 recommendations for the Annual Report
- investigate (and introduce) a quarterly soft copy bulletin of our activities
- investigate a new search facility for accessing produced reports.

We have made good progress on each of these this year. Other significant achievements over the past year included:

- the continuation of our law student internship program
- publication of our operational policies on our website, so they are publicly accessible
- in cooperation with the Commonwealth Ombudsman, continuing to provide an outreach service at the Women's Information Service and the Hutt St Centre.

Other longer term initiatives for the period to 2014 include:

- focussing on capacity building for state and local government
- better identification of priority issues for proactive investigation through trends in complaints and use of corporate knowledge
- follow up on recommendations to monitor implementation status
- continuing to ensure that Ombudsman SA has a strong and recognisable brand
- reviewing and expanding our outreach and communication activities
- improving internal accountability and performance measurement.

ACKNOWLEDGEMENTS

I express my appreciation for the fantastic contribution of the long-suffering and good-humoured people who work with me.



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

Richard Bingham
OMBUDSMAN
October 2012

SUMMARY STATISTICAL INFORMATION

Ombudsman Jurisdiction	2009-10				2010-11					2011-12				
	Government Departments	Local Government	Other Authorities	Total	Government Departments	Local Government	Other Authorities	Minister	Total	Government Departments	Local Government	Minister	Other Authorities	Total
Open Approaches & Complaints														
Cases open at beginning of period	65	64	26	155	48	48		35	131	42	56		10	108
Cases opened during period	1569	685	573	2827	1781	794	2	459	3036	2007	878	6	546	3448
Total cases open	1634	749	599	2982	1829	842	2	494	3167	2049	934	6	556	3556
Less Closures														
Advice given	609	315	273	1197	244	125	2	91	462	180	109	6	66	361
Alt remedy another body	35	12	31	78	139	41		66	246	316	80		95	491
Complainant Cannot be Contacted					5	2			7	40	23		14	77
Conciliated	2			2										
Declined	90	40	34	164	99	54		25	178	178	90		52	320
Full investigation	9	20		29										
s25 Finding/Contrary to law										5	14		2	21
s25 Finding/Improper or irrelevant consideration						1			1					
s25 Finding/Mistake of Law		1		1		2			2				1	1
s25 Finding/No reason given					1				1	1				1
s25 Finding/Unlawful		2		2		7		1	8					
s25 Finding/Unreasonable	3	2	1	6	2	1			3	1	2			3
s25 Finding/Unreasonable law or practice					2	1			3		1			1
s25 Finding/Wrong			1	1		5		3	8	5	6		4	15
Not substantiated/No s25 Finding	116	52	32	200	325	167		75	567	267	112		67	446
OMB comment warranted	1	1		2	6	3		3	12	8				8
Out of time					5	9		2	16	4	3		3	10
Outside of jurisdiction	29	9	14	52	14	2		12	28	18	2			20
Preliminary investigation	376	124	77	577										
Referred back to agency	169	71	53	293	605	269		132	1006	680	353		167	1200
Resolved with agency coop	95	25	13	133	258	51		45	354	222	52		41	315
Withdrawn by Complainant	41	32	20	93	81	46		29	156	85	36		22	143
Total Approaches & Complaints Closed	1575	706	549	2830	1786	786	2	484	3058	2010	883	6	534	3445
Still Under Investigation	59	43	50	152	43	56	0	10	109	39	51	0	22	111
Audit Completed											12			12

FOI JURISDICTION	2009-10	2010-11					2011-12				
		Government Departments	Local Government	Other Authorities	Minister	Total	Government Departments	Local Government	Minister	Other Authorities	Total
Open External Reviews											
Cases open at beginning of period	37	14	2	2	10	28	81	5	31	8	125
Cases opened during period	180	142	7	37	19	205	61	14	12	24	111
Total cases open	217	156	9	39	29	233	142	19	43	32	236
Less Closures											
FOI advice given	106										
FOI investigation	4										
FOI review	29										
FOI AfR withdrawn applicant	9	10		1	2	13	17		2	3	22
FOI App settled during review	3	11	1			12	24	1	31		56
FOI Determination confirmed	6	19	1	2	5	27	8	3	4	15	30
FOI Determination reversed	5	6		3	6	15	8	1	1	1	11
FOI Det revised by Agency	2	13		1	2	16	23				23
FOI Determination varied	8	14	2	2	6	24	43	6	5	4	58
FOI Extension of time\ Discretion not exercised							1	1		1	3
Transferred to WorkCover Ombudsman	1										
Declined	2										
Total External Reviews Closed	175	73	4	9	21	107	124	12	43	24	203
Still Under Investigation	42	83	5	30	8	126	18	7	0	8	33

Note: Explanations of the FOI and Ombudsman outcomes are in Appendices 2 and 3 respectively.

GOVERNMENT DEPARTMENTS

...had this policy been in place at the time the complainant first notified the agency about the issues, the matter would have been handled much better.

DEPARTMENT FOR COMMUNITIES AND SOCIAL INCLUSION

The agency failed to act in relation to a serious complaint made against one of its former staff members

2012/01034

Complaint summary

The complainant, a disability services client, requested the department to take action against a former employee who she alleged assaulted her. The complainant requested the department to acknowledge the employee's actions were inappropriate, to take action against the employee, and to ensure that 'it does not happen to others'.

Ombudsman investigation

The agency acknowledged that the employee's actions were inappropriate at a meeting attended by the complainant's guardian, but there was no evidence that this was communicated to the complainant in any formal sense, or indeed at all.

I considered that the employee had arguably breached section 5 of the *Public Sector Act 2009* which provides that employees 'avoid conduct that will reflect adversely on the public sector', and had arguably contravened the following provision of the Public Sector Code of Ethics:

Public sector employees will not at any time act in a manner that a reasonable person would view as bringing them, the agency in which they work, the public sector or Government into disrepute; or that is otherwise improper or disgraceful.

However, the department did not take any disciplinary action against the employee, who had since resigned, and it is unlikely that a record was made on the employee's HR record.

The department undertook a review of staff induction procedures, the Code of Conduct and the Code of Ethics to ensure its staff were clear about roles and responsibilities. However, in my view the complainant's request related to the employee: the complainant wanted to ensure that the employee does not work for the department again or for any organisation which is involved in the care of people with disabilities. There was no evidence that the department took any action in relation to this matter.

Outcome and opinion

I considered that the department had acted in a manner that was wrong within the meaning of section 25(1) of the Ombudsman Act. It should have taken action against the employee, and should have told the complainant what it was doing.

During the course of my investigation the agency adopted a new Management of Care Concerns Procedure, in consultation with the Office of the Public Advocate and the HCSCC. I consider that had this policy been in place at the time the complainant first notified the agency about the issues, the matter would have been handled much better.

It is less clear what the agency could have done to alert non-government organisations to the allegation made against the employee without infringing the Information Privacy Principles. I note that the guideline entitled Information Sharing: Guidelines for Promoting the Safety and Wellbeing of Children, Young People and their Families allows information to be shared without consent when serious threats to children's safety or wellbeing are anticipated.

In the absence of such a guideline in the disability sector, the serious threat must be imminent for information to be shared without the consent of the person involved.

**DEPARTMENT FOR
CORRECTIONAL SERVICES**

***Unreasonable refusal to honour
an ex gratia payment***

2011/02040

Complaint summary

The complainant was a prisoner from Mobilong Prison. In 2005 my predecessor investigated whether the department had unreasonably withheld the complainant's property, namely a computer he had purchased in 2001. He was deprived of the use of the computer for 2½ years, and it was damaged when returned. My predecessor made a recommendation that the complainant receive \$1,500 as an ex gratia payment.

The department agreed to this recommendation pending the result of corresponding court proceedings which the complainant had lodged against it. After the court proceedings were resolved in the complainant's favour, it appeared that the department decided not to make the ex gratia payment, but never communicated this to the complainant.

Ombudsman investigation

The principal issue in the complaint was whether the department had wrongly failed to make the ex gratia payment. A second issue was whether the department's failure to communicate its decision to the complainant was wrong.

Outcome and opinion

The 2005 recommendation was made after a full investigation, and a meeting with several members of the department and the complainant. I found that if in fact the department had made the decision not to make the ex gratia payment to the complainant, this decision had not been communicated to him then or since.

I considered that this was wrong within the meaning of section 25(1) of the Ombudsman Act. To remedy the error I recommended that the department make the ex gratia payment, and inform me when this was done. The department accepted the recommendation, and responded by offsetting the payment against the complainant's criminal injuries compensation debt.

**DEPARTMENT FOR
CORRECTIONAL SERVICES**

***Failure to provide procedural
fairness in the context of ongoing
separation within the prison
system***

2011/06117

Complaint summary

The complainant had been a prisoner in G Division of Yatala Labour Prison since 1995. Prisoners in G Division are 'separated' from others in a manner best described as 'solitary confinement'. The complaint comprised three issues.

The first was that the department failed to fulfil an agreement to transfer him to Port Augusta Prison and ameliorate his regime. He alleged that in 2009 prison management agreed to transfer him out of G Division to Port Augusta on condition that he fulfilled certain criteria (for example, completion of a Violent Offender Program). The complainant completed the criteria in August 2010. He was subsequently informed that the matter of his transfer to Port Augusta would be decided by the Serious Offender's Committee (the SOC). The SOC refused the transfer in January 2011.

The second issue was that the department did not provide reasons for the decision not to transfer him to Port Augusta. The complainant alleged he requested reasons a number of times from January 2011. In October 2011 the SOC responded with a letter paraphrasing the matters it was required to consider under the relevant legislation and stating that, on balance, it deemed him a risk to staff and other inmates.

The complainant also alleged that the department did not provide an opportunity or means for him to progress from his regime of separation. The complainant submitted that, since being advised of the determination to refuse his transfer to Port Augusta, he had not been offered any intervention or rehabilitation programs; had not been visited by a psychologist; and his requests as to what programs he would be offered were met with silence. He complained that without knowing what to do to improve his situation, he was being condemned to G Division indefinitely.

Ombudsman investigation

Case notes indicated the complainant had a number of conversations with prison officers about a possible transfer to Port Augusta. Further, I accepted the complainant had a belief that if he achieved certain goals, he would be transferred. However, I considered that there was insufficient evidence to make a finding that the department made an agreement with the complainant regarding a transfer from G Division.

That said, I came to the view that the department failed to adhere to section 23 of the *Correctional Services Act, 1982* which provides for the assessment of prisoners to determine whether or not they should be transferred to some other prison. There was no evidence that the complainant was notified prior to the assessment taking place; or that he was granted an opportunity to make representations as required by section 23. The complainant did not understand the assessment process and his procedural rights were not explained to him.

Although the Correctional Services Act does not require reasons to be given for a decision regarding a transfer, and there is no common law principle to that effect, I consider that the giving of reasons for administrative decisions enhances administrative justice, and the ideal of justice being done and being seen to be done in the exercise of public power. The department submitted that the SOC responded to the complainant's request for reasons when it received a letter from the complainant in September 2011. However, the complainant made verbal requests for reasons for some nine months prior to this. Further, the reasons provided could not have given the complainant any real insight into how the decision not to approve his transfer to Port Augusta was arrived at.

The complainant's separation pursuant to section 36 of the Correctional Services Act has been the subject of several judicial review applications to the Supreme Court of South Australia (1998, 2000 and 2007). These decisions make it clear that the department must afford the complainant procedural fairness by bringing to his attention the critical issue on which a separation decision is likely to turn so that he may have an opportunity of dealing with it.

The evidence established that this standard was not met. I examined the complainant's Review of Separation Forms issued between August and October 2011, all of which referred to the original incident that led to his separation in 1995 and general statements to the effect that he continued to be compliant. The forms record the complainant requesting reasons for his continued separation, but to no avail.

Further, whilst the department referred to ongoing involvement by intervention and psychological staff, it appeared there has been very little offered; and none for a period of eight months. Despite its claim that individual plans which set clear goals are developed for G Division prisoners, the department did not provide any evidence that there was any program in place for the complainant. I concluded that it did not have a plan for the complainant.

Outcome and opinion

There was insufficient evidence for me to conclude that there was an agreement between the department and the complainant about changes to his regime. However, I considered the department, in assessing whether the complainant should be transferred to Port Augusta prison, failed to afford him his procedural rights under section 23 of the Correctional Services Act. In so doing, it acted contrary to law.

Second, the department's decision not to transfer the complainant to Port Augusta 'was done in the exercise of a power or a discretion and the reasons for the act were not but should have been given'. Accordingly, this was an administrative error within the meaning of section 25(1)(e) of the Ombudsman Act.

Third, I concluded that in failing to communicate to the complainant the issues upon which future decisions regarding his continued separation will turn, the department was failing to provide procedural fairness to the complainant. In doing so the department was acting in a manner that is contrary to law.

I recommended that:

- the department should implement a policy to ensure that the procedure provided for under section 23 is complied with, and should provide me with a copy of it
- the department should provide me with evidence (within three months of the date of my report) that it has followed the correct procedure for the assessment of the complainant under section 23
- the policy should include a statement regarding the provision of reasons
- the department should also adopt a policy or procedure to ensure that rehabilitation programs are communicated to prisoners in a clear and meaningful way and, in particular, that those prisoners separated are regularly informed in writing of the criteria against which future conduct will be tested.

I requested the department to report to me by 11 September 2012 on what steps have been taken to give effect to my recommendations.

It is concerning that this complaint arose against the background of three Supreme Court decisions which clearly state the department's obligations in dealing with such matters. Further, I note with concern that the department did not appear to adhere to section 23 in conducting a case review of the complainant in May 2012, despite being in receipt of my provisional views by that time.

DEPARTMENT FOR EDUCATION AND CHILD DEVELOPMENT

Unreasonable decision by a pre-school director to preclude a parent

2011/05858

Complaint summary

The complainant was a father whose child attended pre-school. He did not live with the child. When the mother enrolled the child in the pre-school, she showed the director a current family court order which stated that the parents had joint parental responsibility for the child. However she told the director that the child had not seen their father for some time; that the father only had supervised access; and that he should not pick up or see the child. She gave the director her lawyer's contact details should more information be needed.

When the father attended the pre-school one day when the child was being picked up by their grandmother, he was excluded from the premises and the director threatened to phone the police. The complainant complained several times to the department that the director had no right to take these steps, because he had joint parental responsibility.

Ombudsman investigation

Whilst I did not condone his action, the father had videoed himself being excluded from the pre-school by the director. When I wrote to the department asking it on what basis the father had been excluded, it admitted that it had made an administrative error. It informed the director that she was not to be influenced by one parent/lawyer's comments, and was to be guided by the actual court orders.

Outcome and opinion

My report found that there had been an administrative error, in that the department failed to interpret the court orders relating to the child correctly; and in addition failed to provide the complainant with clear reasons as to why he was excluded from the pre-school.

Upon receiving the report, the department sent a circular to all pre-school directors, principals and regional directors about working with families with separated parents, and upgraded information in its enrolment policies.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Wrong advice about a heritage agreement

2010/05974

Complaint summary

The complainant operated a small piggery on land owned by a club, which was subject to a heritage agreement. He complained that the department gave misleading advice to the club about the agreement, which caused it to require him to remove his piggery; and that the department wrongly failed to compensate him for losses caused by the wrong advice.

Ombudsman investigation

The heritage agreement had existed since 1984, and when new legislation was enacted some confusion arose about whether it was governed by the *Heritage Places Act 1993* or the *Native Vegetation Act 1991*.

The practical effect of this legal situation was that the heritage agreement was governed and enforced through the Heritage Council using sections 32 - 35 of the 1993 Act, rather than through the Native Vegetation Council using sections 23-23B of the 1993 Act. However, whilst the heritage agreement had to be dealt with pursuant to the 1993 Act, any native vegetation clearance was also subject to the Native Vegetation Act.

Perhaps as a consequence of this confusion, a departmental officer wrote to the club advising in firm terms that the heritage agreement land could not be used for agricultural purposes. Approximately 6 months later, and to his credit, the departmental officer acknowledged to the complainant that this advice was wrong. The heritage agreement stated in effect that the land could be used for primary production, provided that the owner used his or her best endeavours to protect the saplings and mature trees which were growing on the land as at 6 November 1984.

Outcome and opinion

I concluded that the department had acted in error when the wrong advice was given.

The complainant sought the full replacement cost of the equipment which he was using to agist his pigs, but I considered that this was not warranted, for the following reasons:

- I considered that the club should bear some responsibility for the complainant's loss, because it first asked him to clean the land before the department's letter was sent. Further, in asking the complainant to remove his pigs, it sought to rely not only on the department's letter, but also on its view that there may have been a zoning problem with agisting stock on the land.
- It was not clear to me why the complainant felt it necessary to dispose of the equipment, rather than to use it elsewhere.

- I had no evidence of the sale price which the complainant received for his equipment (which should offset the replacement costs), nor of any loss arising from his inability to agist pigs for the period between the department's letter and the date when the complainant was advised that the earlier advice was mistaken.

On balance I considered it reasonable to recommend that the department should recommence negotiations with the complainant regarding the quantifiable losses which he has suffered. It subsequently advised me that agreement had been reached.

DEPARTMENT OF FURTHER EDUCATION, EMPLOYMENT, SCIENCE AND TECHNOLOGY (DFEEST)

Failure to produce a document in response to a subpoena

DEPARTMENT FOR COMMUNITIES AND SOCIAL INCLUSION (DCSI)

Failure to produce a document in response to a subpoena

Failure by CEO to take appropriate action upon receiving a memorandum suggesting inappropriate conduct by a minor 2011/01271

Summary of complaint

This complaint arose from previous criminal proceedings against the complainant. During proceedings in 2007 his legal representatives issued subpoenas to the agencies requesting, among other documents, a 2005 memorandum from the Chair of the Minister's Youth Council to the Ministerial Advisor for Youth regarding an incident involving another member of the Youth Council (the YC member). The complainant was charged with, and later acquitted of, the sexual abuse of children in his care, including the YC member.

The original memorandum was never produced by either agency during the trial and the complainant was later informed by the Attorney-General that 'the State cannot locate a copy of the memorandum'.

The complaint to my office was that the agencies failed to produce the memorandum in response to the subpoenas, and that the then CEO of the Department of Families and Communities (DFC) (now the Department for Communities and Social Inclusion) failed to take appropriate action upon receiving the memorandum. I understand the complainant was in possession of a copy of the memorandum at the time of proceedings.

Ombudsman investigation

The complaint was out of time. However, in the intervening period, the complainant had attempted to resolve the issue through other avenues, and there is a public interest in ensuring the state responds to subpoenas appropriately. Accordingly I used my discretion to waive the time limit and entertained the complaint.

My office conducted separate investigations into DFEEST and DCSI.

As part of my investigations I reviewed an affidavit sworn by the Chair of the Minister's Youth Council. The affidavit stated the Chair sent the Ministerial Advisor for Youth the memorandum and understood it would be forwarded to the CEO of DFC. To determine what may have happened to the memorandum once it was provided to the Ministerial Advisor for Youth, I spoke with the Chair of the Minister's Youth Council and interviewed the Ministerial Advisor for Youth and the former CEO of DFC on oath. I also examined various agency and Crown Solicitor's Office files to determine what searches were conducted for the memorandum in 2007, and requested additional searches where appropriate.

DFEEST Outcome and opinion

My investigation revealed that extensive searches for the memorandum were conducted by DFEEST at the time of the trial. I concluded, by virtue of those searches, that it was reasonable for the department to conclude at that time that it did not hold a copy of the memorandum. I held this view notwithstanding the department's failure to contact the author and recipient of the memorandum during its searches.

My investigation – which included interviewing the Chair of the Minister's Youth Council and the Ministerial Advisor for Youth - failed to find the memorandum within agency records. Accordingly, it was reasonable to infer that even if the agency had contacted those people at the time of the trial, it would not have located the memorandum.

My investigation did not uncover any evidence to suggest that the agency deliberately withheld the document in the discovery process. In my opinion there were a number of plausible explanations as to the whereabouts of the memorandum at the time of the trial including the Minister's Office, DFC, or it was 'innocently' lost or destroyed prior to the trial. I concluded that the department did not act in a manner that was unlawful, unreasonable or wrong.

DCSI Outcome and opinion

My investigation revealed that searches for the memorandum were conducted by the various administrative units of DFC in 2007 without the memorandum being located. Of particular significance was that in response to the matter being before Parliament in 2009 and a copy of the memorandum being circulated among senior DFC officers, all stated that they had not sighted the memorandum prior to 2009.

Where I was of the opinion there was insufficient evidence to establish the extent of the units' searches in 2007, I ensured further searches were conducted in an attempt to determine whether the memorandum was indeed held by the agency. I concluded that the memorandum was not located within the agency.

Accordingly, in my view there was no evidence that there was a failure to respond to the subpoena appropriately. Further, there was no evidence that the document was deliberately destroyed or lost in 2007.

I was satisfied on the evidence that the Ministerial Advisor for Youth brought the memorandum to the attention of the CEO of DFC in 2005. Upon receiving the memorandum, the CEO was not required to report the matter to the 'department' under section 11 of the *Children's Protection Act 1993* (the Act) because she was effectively 'the department'.

Further, sections 14 and 19(1) of the Act did not impose an obligation on the CEO to take specific action in relation to suspected abuse or neglect of a child. They required the CEO to turn her mind to the questions of whether the information provided to her was sufficient to constitute reasonable grounds for a suspicion of child abuse or neglect; whether there were proper arrangements for the protection of the child; and whether the apparent abuse was being dealt with adequately. It was a matter for her as to whether any further investigation was required. Notwithstanding that the CEO's evidence to me was to the effect that her principal concern upon being advised on the content of the memorandum was about the performance of the YC member as a member of the Youth Council, I could not conclude that the CEO did not turn her mind to the welfare of the YC member.

Accordingly, it was my view that the agency, upon receiving a memorandum suggesting inappropriate conduct by a minor, did not act in a way which was unlawful, unreasonable or wrong.

The complainant also raised the issue of whether the CEO's lack of action, including a failure to record the memorandum on the YC member's record, arose from bias against the complainant. The CEO's evidence to me was to the effect that her principal concern was the YC member's performance as a member of the council; that this was a small matter in the context of her role which at the time involved merging government departments; and there was nothing unusual about the fact the memorandum, as Ministerial correspondence, was not stored or recorded on the agency's system. I accepted that this was a reasonable explanation for what occurred and it did not establish the CEO was biased against the complainant.

However the matter involved a serious allegation concerning a person who was under the guardianship of the Minister, and for whom the CEO had a responsibility under the Children's Protection Act. In my view it would therefore have been prudent to make a record of the matter, notwithstanding that the memorandum was Ministerial correspondence.

DEPARTMENT OF FURTHER EDUCATION, EMPLOYMENT, SCIENCE AND TECHNOLOGY

Conflicting information about recognition of prior learning 2012/00811

Summary of complaint:

The complainant was studying a Diploma of Accountancy at TAFE whilst working. She applied for recognition of prior learning by supplying documents to the lecturing staff. She continued to follow up this application, which took 18 months to process. The delay impacted upon her being awarded her qualification, and contributed to her missing out on all of the set university offers. She did eventually gain a late admission.

Ombudsman investigation:

My officer met with the agency, which had already investigated the issue and acknowledged the administrative error. The lecturing staff had taken too long to process the application, and this impacted on the application for the complainant's award.

Further, the application for recognition of prior learning should have been registered with the TAFE administration, and this would then have identified the delay. The agency had also just installed a new IT system, which apparently contributed to the error.

The agency recognised that although the recognition of prior learning and the application for award were two independent administrative processes, there needed to be better cross-referencing between them.

Outcome and opinion:

The agency readily accepted responsibility for the error; acknowledged this to the complainant; and offered her academic support should she require it. It has reminded its lecturers of their responsibility to manage applications for recognition of prior learning in a timely manner, and to ensure that they are correctly registered.

This matter has also been brought to the attention of other campuses so that the likelihood of a similar problem recurring is minimised.

HOUSING SA

Failure to advise of conditions of tenancy transfer

2011/05301

Summary of complaint

The complainant had been an ongoing tenant of Housing SA for almost 20 years. She was given a transfer to move in to the property of another Housing SA tenant, as the full-time carer of that tenant. She was not advised that in moving she would lose her ongoing tenancy, until after she had terminated that tenancy.

She appealed the decision (that she be placed on a probationary lease followed by a fixed term lease) to the SA Housing Trust Appeal Panel, which confirmed Housing SA's decision.

Ombudsman investigation

My officer contacted the agency, setting out the facts and advising it about the complainant's issues of concern.

In particular, I considered that the written information the complainant had received about the introduction of fixed term leases was unclear. She was concerned about losing her ongoing tenancy, and would not have chosen to do so had she known about the implications before she terminated her permanent lease.

Outcome and opinion

Housing SA accepted that the complainant was not given clear information about Same Address Transfers, and that her decision to terminate her permanent lease may have been different had she been fully aware of the implications of doing so.

It advised me that it had decided to place the complainant on an ongoing lease. I commended the agency for its speedy resolution of the issue.

HOUSING SA

Unreasonable refusal to provide an electric cook top

2011/08643

Summary of complaint

The complainant was the daughter of a Housing SA tenant. Her mother had significant health issues and was reliant on a continuing supply of oxygen. The mother was not using her gas cook top, as she feared that it was too hazardous. Two doctors' support letters were sent to the agency requesting that the cook top be replaced with an electric model. The application was refused.

Ombudsman investigation

On contacting the agency my officer was advised that these decisions are policy based, and that the current policy did not permit this work to be done. The agency acknowledged that it received a number of these requests and unless there were particular reasons, it would not alter its position on the matter.

Outcome and opinion

In the event, the agency agreed to provide this tenant with an electric cook top, because of some inconsistency in how applicants were being assessed (depending on who they applied to). The agency also agreed that in future all applicants with a similar need would be sympathetically assessed.

The outcome was successful for the complainant's mother, and she was extremely grateful.

DEPARTMENT OF PLANNING, TRANSPORT AND INFRASTRUCTURE

Unreasonable delay in response for providing an endorsement for deep draft pilotage

2011/08215

Complaint summary

The complainant was the director of a small private company offering marine services in the northern Spencer Gulf region, in particular to OneSteel. He employed two pilots, who were the first two independent pilots to be issued licences by the department to operate cape vessels from the harbor of Whyalla.

On 8 April 2011 one of the pilots sent a letter to the department requesting endorsement for deep draft pilotage operations (exceeding 16.5 metres) in the Spencer Gulf. The department had yet to respond to the application in November 2011 when the complainant made his complaint, despite asking for more particulars from the complainant and his employee applicant.

Ombudsman investigation

I researched this area of maritime law arising from the sale of the South Australian Ports Corporation in May 2000 to Flinders Ports Pty Ltd. I found that the licensing of pilots was complicated by a Commonwealth Act, a State Act and regulations, industry bodies, a manual, and the internal policies of Flinders Ports and OneSteel.

After the completion of my provisional report I met with agency officers to ensure all the historical detail that was necessary for this investigation was complete. My provisional finding was that the applicant did not need an endorsement to operate these vessels in these waters, and there was an administrative error in not informing and responding to the applicant.

Outcome and opinion

The department acknowledged my provisional findings and immediately wrote to the complainant stating that although it preferred to have a pilot operating deep draft vessels from anchorages off Whyalla, it had no jurisdiction to require it.

The department confirmed it does not provide any such endorsement and the complainant was free to operate his business. The department welcomed the findings made in the report and I was pleased with the collaborative way in which the complaint was resolved.

**DEPARTMENT OF PLANNING,
TRANSPORT AND
INFRASTRUCTURE**

Failure to properly advise the complainant regarding the disqualification of his driver's licence

2011/01911

Summary of complaint

On 1 November 2009 the complainant was charged with a category 2 offence of exceeding the prescribed concentration of alcohol. Because it was a category 2 offence, his licence was immediately suspended under section 47IAA(2) of the *Road Traffic Act 1961* for a period of 6 months commencing on 1 November 2009.

The complainant was issued with a summons and subsequently appeared in the Mount Gambier Magistrates Court on 21 December 2010. At this time he had already completed the period of suspension imposed by virtue of section 47IAA(2). The court recognised the suspension served by him, but noted that it was required by section 47IAA(9)(d) of the *Road Traffic Act* to disqualify him. This had the effect of cancelling his licence.

Because the complainant was unaware of the automatic cancellation of his licence following the hearing, he acted on the basis that the court had in effect advised him that he had completed his disqualification period. He only became aware that his licence had been cancelled when he received a subsequent disqualification notice under the demerit points scheme, and made some inquiries about that.

As the complainant was unlicensed at the time of his disqualification under the demerit points scheme, he was ineligible to apply for a good behaviour condition to be attached to his licence under section 98BE(2) of the *Motor Vehicles Act 1959*. This opportunity is only available when a person actually holds a current licence. The complainant consequently suffered loss, because he faced difficulty in pursuing his work as a builder.

Ombudsman investigation

I sought advice from the department and the Courts Administration Authority (the CAA) about what had happened in this case. I satisfied myself that there had been no breach of the law in what occurred, and no administrative error.

Outcome and opinion

Although my final view was that no administrative error had occurred, I was concerned that the current application of section 47IAA of the *Road Traffic Act* could result in a situation such as that experienced by the complainant. It can leave a person in a position whereby they do not have a driver's licence, and may be unwittingly committing an offence of driving unlicensed.

Consequently, I wrote to the department and the CAA about the issue. The Deputy Registrar of Motor Vehicles arranged for the notice to be amended to include the required information, and the State Courts Administrator advised me that:

There are a number of sections in the *Road Traffic Act 1961* and the *Motor Vehicles Act 1959* which require the court to disqualify the defendant from holding or obtaining a driver's license and where the disqualification also operates to cancel the licence. The defendant must then apply to the Registrar of Motor Vehicles for a new licence.

Following consideration of the issues you raised in your correspondence, the Chief Magistrate has decided to discuss this with all Magistrates with a view to promoting a uniform approach to orally advising such defendants in court that their licence is cancelled.

I welcomed this initiative. Whilst it did not provide any redress for the complainant in this case, it should assist in ensuring that the complainant's experience is not repeated.

**DEPARTMENT OF PLANNING,
TRANSPORT AND
INFRASTRUCTURE**

Failure to properly advise the complainant regarding the disqualification of her driver's licence

2011/08310

Summary of complaint

The complainant claimed that she was wrongly informed that her licence disqualification period would commence upon the payment of her expiation notice.

The complainant was on a good behaviour condition for loss of demerit points when she received a further expiation notice for speeding. She claimed that she telephoned the agency and was told that her driver's licence would be disqualified as soon as she paid the fine. She paid the fine and stopped driving, believing that her licence had been disqualified.

After six months of not driving, she went to renew her car registration and was told that her disqualification period had not yet commenced.

Ombudsman investigation

My investigation noted that:

- a transcript of the telephone conversation between the complainant and the agency, in which she claimed that she was informed that her disqualification period would commence when she paid her speeding fine, revealed no evidence that the operator provided any incorrect or misleading information. Whilst the operator could have provided clearer information, the complainant did not ask when her disqualification period would commence
- the complainant moved house during the relevant period and did not inform the department of her change of address, as is required by section 136 of the *Motor Vehicles Act*. Consequently, she did not receive a disqualification notice or any other correspondence about her licence disqualification.

- the complainant was not entirely unfamiliar with the process relating to expiation and disqualification notices. She had been issued 21 expiation notices between 1997 and 2011, none of which resulted in a disqualification commencing upon payment of the expiation notice. Also, she had received a disqualification notice in November 2010, and she had acknowledged receipt of this as required
- if the complainant had been unsure about when her disqualification period would commence she could have sought out the information. The relevant website includes information relating to when a period of disqualification commences.

Outcome and opinion

I considered that the agency did not act in a manner that was unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act.

DEPARTMENT OF PLANNING, TRANSPORT AND INFRASTRUCTURE

Unreasonable refusal to accept licence applications

2011/02594

Complaint summary

The complainant's son was the holder of a P1 provisional licence. In July 2010 he was eligible to sit the hazard perception test in order to progress to a P2 provisional licence. After passing the test he sought on two separate occasions to apply for a P2 licence, but his applications were declined.

Ombudsman investigation

I was informed that it was not possible to determine why the applications were refused at the time, but it was likely that there was a 'miscalculation' in the licensing system. This was caused both by the licensing system, and also operator error. The Registrar of Motor Vehicles considered that the fact that the licence holder had been disqualified and his licence cancelled on five separate occasions in all likelihood contributed to the miscalculation.

Outcome and opinion

The agency upgraded the system and tested the changes. It also reminded staff that the system's eligibility function calculation should be used as a guide only.

In acknowledging the error, the Registrar amended the licensing system to show that the driver held a P2 licence from the date of application i.e. August 2010. The Registrar also acknowledged that the holder was entitled to progress to a full licence in February 2011 and duly issued a licence backdated to 10 February 2011. Fees payable for the full licence were waived.

DEPARTMENT OF PLANNING, TRANSPORT AND INFRASTRUCTURE

Wrongful payment of student concessions

2011/06304

Complaint summary

This complaint arose from the operation of school bus services for a school at Mt Barker. The complaint alleged that the department had wrongfully paid concession reimbursements to the new operator of the service, for school bus services not provided by that operator; and that the department had wrongfully relied on falsely completed claim forms to pay concession reimbursements to the operator.

Ombudsman investigation

My investigation established that because of the operation of Part 5 of the *Passenger Transport Act 1994*, the entitlement to claim a concession reimbursement arises from the terms of the contract between the relevant area service provider and the government. In this case, the relevant contract was Service Contract 2007/05 relating to the Murray Mallee Region.

When the new operator took over the contract, it became eligible to claim concession reimbursement for services within the contract area. It appears that the complaint arose from a misunderstanding about the extent of the entitlement which was actually taken over by the new operator. Whilst contractors are permitted to enter into subcontract arrangements with other accredited operators, the remuneration for the provision of services is a private arrangement between these two parties.

In substantiating the concession claims the department relied on forms purportedly signed by the parents of children who were transported, but which were actually signed on their behalf by an employee of the operator. The department changed its administrative system so that there is now no requirement for the forms to be completed at all.

Outcome and opinion

I concluded that in accepting the entitlement of the operator to the concessional reimbursements, the department did not act in a manner which was unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act.

I acknowledged the existence of the policy issue about whether the department should make such payments to an operator who does not actually provide a service. It could be argued that there should be no requirement to pay a concession to the contracted service provider simply because another non-contracted service provider provides bus services in the contracted area.

I concluded also that in relying on falsely completed forms to pay the concessional reimbursements to the operator, the department acted in a manner which was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.

In light of the actions already taken by the department, I did not make any recommendations to remedy this error.

**DEPARTMENT OF PLANNING,
TRANSPORT AND
INFRASTRUCTURE (LAND
SERVICES GROUP)**

***Refusal to recognise community
title***

2011/05570

Complaint summary

The complainant was the owner of a strata titled unit built in 1994. When his strata plan was deposited, the boundaries of the units differed from the standard definition set out in section 5 of the *Strata Titles Act 1988*. The plan defined the units as comprising the whole of the building and the land surrounding them.

When the strata scheme adopted the *Community Titles Act 1996* in 2009 these boundaries remained. The complainant believed that unusual annotations on the plan meant that the Land Services Group should make an exception and regard the title of his property as community title, instead of community strata title.

Ombudsman investigation

The department agreed that the unusual nature of the complainant's title meant that he owned the building and surrounds, unlike a usual strata boundary. However the department was of the opinion it had no discretion in this matter, and that the complainant's strata corporation needed to apply under section 52 of the *Community Titles Act*, for a full conversion. This required a new plan prepared by a surveyor, and possible consent from the Development Assessment Commission.

The department did however offer to waive the \$883 Land Titles Office fee for the complainant's application in view of the unusual nature of the annotated plan.

Outcome and opinion

I declined to investigate this matter further under section 17(2)(d) of the Ombudsman Act because I agreed that the only way the complainant could change the title of his property would be to make an application under section 52 of the *Community Titles Act*. I considered that the department's offer to waive the fee was a reasonable partial remedy, and noted its recognition that the annotations made to the complainant's title were not a regular occurrence.

**DEPARTMENT OF TREASURY
AND FINANCE (REVENUESA)**

***Unreasonable interpretation of
requirements for rebate***

2011/03489

Complaint Summary

The complainant was a firm of accountants representing clients who applied for a payroll tax rebate for exporters. The firm was experiencing difficulties with their applications, including decisions that appeared inconsistent with documented policy and previous decisions and advice. In particular the firm put forward the example of one of their clients, a business based in SA which exported flight training services internationally (mainly marketing and recruiting). The firm believed its client was eligible for the scheme but had been rejected.

Ombudsman Investigation

I met with a representative from the complainant firm, and drafted a provisional report concluding that RevenueSA had not misapplied its policy in relation to the complainant's client.

Subsequently, the complainant was able to obtain the consent of another client to share their circumstances with my office. In that matter, the business was also a local business, but one which exported services internationally by selling tickets online. In addition, the complainant was able to obtain more facts from the clients about its service which contradicted the policy.

I therefore revised my provisional report, finding that RevenueSA had misapplied its policy in this case and sent this report to both parties. A meeting was held with all parties to discuss the revised provisional report.

Outcome and opinion

It was determined at this meeting that the reason for the misapplication of policy occurred because of the drafting of Information Circular 31 in relation to the exporters rebate. The Deputy Commissioner of State Taxation undertook to redraft the circular to make it less ambiguous.

The revision clarified when services were to be considered as supplied outside Australia and who the recipient of those services had to be; clearly identified earnings both inside and outside of Australia; and gave actual examples.

As a result of the complaint, the complainant's client was entitled to the full extent of its rebate application, and the new circular provided clarity for all users.

Government Departments**Approaches & Complaints Received 1 July 2011 to 30 June 2012**

Attorney-General's Department	7	0.4%
Department for Communities and Social Inclusion	36	1.8%
Department for Correctional Services	532	26.5%
Department for Education and Child Development	108	5.4%
Department for Environment and Natural Resources	12	0.6%
Department for Families and Communities	40	2.0%
Department of Education and Children's Services	40	2.0%
Department of Further Education, Employment, Science & Technology	33	1.6%
Department of Health	13	0.6%
Department of Health & Ageing	13	0.6%
Department of Manufacturing, Innovation, Trade and Resources	5	0.2%
Department of Planning and Local Government	4	0.2%
Department of Planning, Transport and Infrastructure	265	13.2%
Department of Primary Industries & Resources	3	0.2%
Department of Primary Industries and Regions SA	4	0.2%
Department of the Premier and Cabinet	14	0.7%
Department of Trade and Economic Development	1	0.1%
Department of Transport, Energy & Infrastructure	201	10.0%
Department of Treasury and Finance	41	2.0%
Department for Water	7	0.4%
Environment Protection Authority	16	0.8%
SA Housing Trust	315	15.7%
SA Water Corporation	297	14.8%
Total	2007	100%

Government Departments

Approaches & Complaints Received: Issues 1 July 2011 to 30 June 2012

	(Other)	Department for Correctional Services	SA Housing Trust	SA Water Corporation	Department of Planning, Transport & Infrastructure	Department of Transport, Energy & Infrastructure	Total	Percentage
Abuse or Assault/Physical/By other detainees		3					3	0.1%
Abuse or Assault/Physical/By staff		7					7	0.3%
Abuse or Assault/Sexual/By other detainees		1					1	0.1%
Abuse or Assault/Verbal/Harassment/Threats/By other detainees		1					1	0.1%
Abuse or Assault/Verbal/Harassment/Threats/By staff		10					10	0.5%
Advice	2						2	0.1%
Complaint Handling/Delay	15	18	13	11	10	4	71	3.5%
Complaint Handling/Inadequate processes	57	15	22	9	26	8	137	6.7%
Complaint Handling/Inadequate reasons	7	3	2	2	2		16	0.8%
Complaint Handling/Inadequate remedy	16	5	11	12	4	2	50	2.4%
Complaint Handling/Wrong conclusion	14		2	3	1		20	1.0%
Conduct/Assault	1	1					2	0.1%
Conduct/Discourtesy	9	4	8	1	3		25	1.2%
Conduct/Misconduct	11	10	4	1	3		29	1.4%
Correspondence/Communications/Records/Breach of privacy/confidentiality	4	2		1	1		8	0.4%
Correspondence/Communications/Records/ Delayed/No response	6	4	4	4	4	4	26	1.3%
Correspondence/Communications/Records/ Incorrect	8	3	4	3	8	4	30	1.5%
Correspondence/Communications/Records/Lost	4	2	1		5	2	14	0.7%
Correspondence/Communications/Records/ Withholding of information	3	1			3	1	8	0.4%
Correspondence/Communications/Records/ Wrongful disclosure of information	1	1	1				3	0.1%
Custodial Services/Buildings and facilities		3					3	0.1%
Custodial Services/Canteen		10					10	0.5%
Custodial Services/Cell conditions		23					23	1.1%
Custodial Services/Clothing/Footwear		9					9	0.5%
Custodial Services/Educational programs		7					7	0.3%
Custodial Services/Employment		7					7	0.3%
Custodial Services/Food		16					16	0.8%
Custodial Services/Health related services		54					54	2.6%
Custodial Services/Legal resources		4					4	0.2%
Custodial Services/Prisoner accounts		12					12	0.6%
Custodial Services/Prisoner mail		23					23	1.1%
Custodial Services/Property		59					59	2.8%
Custodial Services/Recreation programs & services		6					6	0.3%
Custodial Services/Rehabilitation programs		8					8	0.4%
Custodial Services/Telephone		20					20	0.9%
Employment	8	4	1	1			14	0.7%
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/Damaged	2		1	1	2		6	0.3%
Financial/Procurement/Facilities/Debts	4		4	13			21	1.1%
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Cost of use				1	1		2	0.1%
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Drainage	1			1			2	0.1%

Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Inadequate				1	1	1	3	0.1%
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Sale/Lease			2				2	0.1%
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Unsafe condition	1						1	0.1%
Financial/Procurement/Facilities/Procurement by Agencies/ Decisions	3						3	0.1%
Financial/Procurement/Facilities/Procurement by Agencies/Late payment	2						2	0.1%
Financial/Procurement/Facilities/Procurement by Agencies/ Tenders	4				2		6	0.3%
FOI advice	47	1	6		2		56	2.7%
General Advice/FOI matters	1						1	0.1%
Home Detention		8					8	0.4%
Housing/Allocation			24				24	1.2%
Housing/Arrears/Debt recovery			8				8	0.4%
Housing/Categorisation			7				7	0.3%
Housing/Damages			2				2	0.1%
Housing/Disruptive tenants			22				22	1.1%
Housing/Maintenance			59				59	2.8%
Housing/Rent			11				11	0.5%
Housing/Termination			13				13	0.6%
Housing/Transfer			27				27	1.3%
Prison Management/Discipline/Security/Daily regimen		22					22	1.1%
Prison Management/Discipline/Security/Discipline/ Management		23					23	1.1%
Prison Management/Discipline/Security/Drug testing		5					5	0.2%
Prison Management/Discipline/Security/Inspections/ Body searches		3					3	0.1%
Prison Management/Discipline/Security/Protection		2					2	0.1%
Prison Management/Discipline/Security/Transport		2					2	0.1%
Prison Management/Discipline/Security/Visits		28					28	1.4%
Prison Records/Official Correspondence/Delayed/No response		5					5	0.2%
Regulation and Enforcement/Complaint handling					3		3	0.1%
Regulation and Enforcement/Enforcement Action/Excessive	6	6	3	1	4	2	22	1.1%
Regulation and Enforcement/Enforcement Action/ Insufficient	2						2	0.1%
Regulation and Enforcement/Enforcement Action/Unfair	9	13	2	2	19	114	159	7.8%
Regulation and Enforcement/Fees	7			2	1		10	0.5%
Regulation and Enforcement/Infringements/Excessive penalty					1	1	2	0.1%
Regulation and Enforcement/Infringements/Incorrect details					1		1	0.1%
Regulation and Enforcement/ Infringements/Unreasonably issued					1	1	2	0.1%
Regulation and Enforcement/Inspections	2		1				3	0.1%
Regulation and Enforcement/Licensing/Conditions	3				7	2	12	0.6%
Regulation and Enforcement/Licensing/Refusal	1				5	1	7	0.3%
Regulation and Enforcement/Licensing/Renewal					8		8	0.4%
Regulation and Enforcement/Permits	1				2		3	0.1%
Revenue Collection/Land Tax	11				1		12	0.6%
Revenue Collection/Stamp duty	3					1	4	0.2%
Revenue Collection/Water & sewerage	2		10	138			150	7.3%
Roads and Traffic/Charges/Fines					14		14	0.7%
Roads and Traffic/Licensing/Conditions	1				13	2	16	0.8%
Roads and Traffic/Licensing/Demerit points					4	4	8	0.4%
Roads and Traffic/Licensing/Fail to issue renewal					5		5	0.2%
Roads and Traffic/Licensing/Fees/Charges					1	1	2	0.1%
Roads and Traffic/Licensing/Incorrect details on license						1	1	0.1%
Roads and Traffic/Licensing/Medical test					1		1	0.1%
Roads and Traffic/Licensing/Tests					1		1	0.1%

Roads and Traffic/Registration/Conditions					7	2	9	0.5%
Roads and Traffic/Registration/Failure to issue renewal					13		13	0.6%
Roads and Traffic/Registration/Fees/Charges					8	3	11	0.5%
Roads and Traffic/Registration/Incorrect details on registration					1	2	3	0.1%
Roads and Traffic/Registration/Roadworthy						2	2	0.1%
Roads and Traffic/Registration/Transfer without consent					2		2	0.1%
Roads and Traffic/Road Management				2	1	2	5	0.2%
Sentence Management/Classification		3					3	0.1%
Sentence Management/Parole		13					13	0.6%
Sentence Management/Placement/Location		23					23	1.1%
Sentence Management/Transfers		19					19	0.9%
Service Delivery/Abuse in care	2	2					4	0.2%
Service Delivery/Assessment	10			1	7		18	0.9%
Service Delivery/Conditions	12	2	5	1	5	2	27	1.3%
Service Delivery/Debts			1	3			4	0.2%
Service Delivery/Eligibility for services	12	7	6	3	8	3	39	1.9%
Service Delivery/Failure to Act/Provide	38	8	19	20	18	10	113	5.5%
Service Delivery/Fees and Charges	15		7	51	5	6	84	4.1%
Service Delivery/Financial assistance	3			3		2	8	0.4%
Service Delivery/Quality	33	7	8	7	22	15	92	4.5%
Service Delivery/Termination of services	2					1	3	0.1%
Total	406	558	321	299	267	206	2057	100%

Government Departments

Approaches & Complaints Completed 1 July 2011 to 30 June 2012

Attorney-General's Department							7	0.4%
Department for Communities and Social Inclusion							36	1.8%
Department for Correctional Services							538	26.8%
Department Education and Child Development							104	5.2%
Department for Environment and Natural Resources							14	0.7%
Department for Families and Communities							42	2.1%
Department for Health & Ageing							11	0.5%
Department of Transport, Energy & Infrastructure							205	10.2%
Department for Water							7	0.4%
Department of Education and Children's Services							43	2.1%
Department of Further Education, Employment, Science & Technology							32	1.6%
Department of Health							13	0.6%
Department of Manufacturing, Innovation, Trade and Resources							5	0.2%
Department of Planning and Local Government							4	0.2%
Department of Planning, Transport and Infrastructure							258	12.8%
Department of Primary Industries & Resources							4	0.2%
Department of Primary Industries & Regions SA							4	0.2%
Department of the Premier and Cabinet							16	0.8%
Department of Trade and Economic Development							1	0.1%
Department of Treasury and Finance							44	2.2%
Environment Protection Authority							15	0.7%
SA Housing Trust							314	15.6%
SA Water Corporation							293	14.6%
Total							2010	100%

Government Departments

Complaints Completed : Outcome 1 July 2011 to 30 June 2012

	Other	Department for Correctional Services	SA Housing Trust	SA Water Corporation	Department of Planning, Transport & Infrastructure	Department of Transport, Energy & Infrastructure	Total	Percentage
Advice given	65	39	21	24	23	8	180	8.9%
Alternate remedy available with another body	69	64	39	14	25	105	316	15.7%
Complaint cannot be contacted				2	3		5	0.2%
Declined/Investigation unnecessary or unjustifiable	25	37	43	25	29	5	164	8.1%
Declined/No sufficient personal interest or not directly affected	5	4		1	1	1	12	0.6%
Declined/Trivial, frivolous, vexatious, not made in good faith		2					2	0.1%
No further contact from complainant	10	8	1	5	5	6	35	1.7%
Not substantiated	45	84	39	57	24	18	267	13.3%
Ombudsman comment warranted						8	8	0.4%
Out of Jurisdiction/Employment	5	1	1	1			8	0.4%
Out of Jurisdiction/Judicial body	1						1	0.1%
Out of Jurisdiction/Minister	4				1		5	0.3%
Out of Jurisdiction/Police matter	1				1		2	0.1%
Out of Jurisdiction/Policy				1	1		2	0.1%
Out of time	2	1			1		4	0.2%
Referred back to agency	122	186	108	125	111	28	680	33.8%
Resolved with agency cooperation	21	98	40	22	23	18	222	11.0%
s25 Finding/Contrary to law	1	4					5	0.3%
s25 Finding/Unreasonable	1						1	0.1%
s25 Finding/No reason given					1		1	0.1%
s25 Finding/Wrong	4					1	5	0.3%
Withdrawn by complainant	21	10	22	16	9	7	85	4.2%
Total	402	538	314	293	258	205	2010	100%
	20.0%	26.8%	15.6%	14.6%	12.8%	10.2%		

LOCAL GOVERNMENT

As a result of my findings, the council agreed to implement an action list...

ADELAIDE HILLS COUNCIL

Failure to implement a council decision, and to comply with public consultation and internal review processes; and conducting an informal gathering in contravention of section 90 of the Local Government Act 1999

2011/05151

Complaint summary

The complainant was a member of Parks for Paws, a group that represented 315 members of the local community who regularly used Stirling Linear Park (SLP) to exercise their dogs. She made five allegations in relation to the council's decision based on conservation values, to implement a new regime throughout SLP, that is dogs to be 'on-leash under effective control' at all times.

The complainant was unsuccessful persuading the council to accept a rescission motion in relation to this decision. She then applied for an internal review by the council pursuant to section 270 of the Local Government Act, but remained dissatisfied.

She complained to my office that the internal review process had wrongly failed to deliver a clear determination; that the CEO provided incorrect information which affected the outcome of the rescission motion; that the council had failed to implement a previous resolution for an earlier regime where dogs were permitted off-leash in parts of SLP; that the council failed to properly consult about the changes; and that the council breached informal gathering provisions in the Act by discussing the section 270 review.

Ombudsman investigation

After reading the documents the complainant sent in, I asked the council a series of questions. I obtained responses and further information from the mayor, CEO, and various councillors in relation to public consultation, informal gatherings and the procedures taken following council resolutions.

Outcome and opinion

I determined that there was an administrative error in one respect, in that the council failed to implement effectively its decision on the earlier off-leash regime. It had delegated responsibility for the necessary signage to the SLP Advisory Group, which did not meet sufficiently regularly for the task to be completed in a timely manner. This meant dog owners were not properly advised of the rules and their entitlements during this period, and affected council risk management issues.

As a result of my finding, the council agreed to implement an action list for resolutions as a standard item for discussion at executive group meetings.

I determined that whilst the section 270 review report could have been more helpful, there was no obligation under the council policy for the external investigator to make a specific recommendation.

Further, I determined that the CEO was not unreasonable in his advice about the rescission motion, and properly fulfilled his role under section 99 of the Act to provide advice and reports to the council. I found the council had not breached its public consultation policy, nor the informal gathering provision because there was no evidence of a quorum being present at the gathering, nor that matters that would form part of a council agenda were being discussed.

ADELAIDE HILLS COUNCIL

Actions affecting a road reserve

2011/01150

Complaint summary

The complainant stated that over an unspecified period, his neighbours had extended their occupation of their property to include a road reserve adjoining their land. Since 2008, the neighbour had held a road rental agreement with the council permitting his occupation of the reserve. The complainant stated that the neighbour had constructed structures including fences, gates and a cattle 'crush' on the reserve; and had extended a dam over it. He considered that these actions inhibited his access to the reserve.

The complainant alleged that:

- in approving the structures erected on an unmade road, the council did not comply with the Local Government Act and other relevant legislation
- the council should have required the removal of obstructions from the unmade road

- the council's review of his complaint under section 270 of the Act was not properly conducted.

Ombudsman investigation

My investigation revealed that when the 2008 permit was issued, no public consultation was undertaken, notwithstanding that this was required because the structures impeded access to the reserve to a material degree.

Further, under the 2008 permit the neighbour agreed 'to allow free and unrestricted access to any member of the public wishing to travel on or through the unmade road and road reserve'; and not to undertake 'any road works or alterations to the sections of road being leased other than those for which the permit has been granted.' These conditions reflected the intention of the council's road rent policy, and should have been enforced.

Outcome and opinion

In its initial dealings with the structures on the reserve, and the dam, the council did not act in a way which was unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act. It had also conducted an appropriate section 270 review.

However, in granting the 2008 permit, the council had approved structures on the reserve which impeded the passage of traffic through the reserve to a material degree, without following its public consultation policy. Further, it should have required the removal of the structures.

I concluded that the council had acted in a way which was contrary to law and wrong, within the meaning of section 25(1)(a) and (g) of the Ombudsman Act.

DISTRICT COUNCIL OF BARUNGA WEST

Unreasonable scheme for regulating use of boat ramp 2011/05515

Summary of complaint

The complaint arose from the council's scheme for regulating the use of the Fisherman's Bay boat ramp. The complainant purchased a permit to use the boat ramp in 2011 and was asked to provide information including his licence and registration details, which concerned him. Through discussions with a friend he came to understand that the council had imposed conditions on the permit. It concerned him that council had not advised him of the conditions, and that they were unreasonable. Finally, the complainant alleged that the council was not applying the permit fees to the maintenance of the boat ramp.

Ombudsman investigation

I investigated six issues:

- whether the council's application process was unreasonable
- whether the council imposed unreasonable conditions on permits
- whether the council failed to notify permit holders of conditions imposed on permits
- whether the council failed to consult with the community in relation to the permit system
- whether the council failed to maintain the boat ramp
- whether the council's response to the complainant included incorrect or false information.

Outcome and opinion

I found problems with the conditions which the council purportedly imposed on the permits. The conditions assumed that a permit could be issued to a person 'and a boat trailer'. It was my view that a permit of the type contemplated by the by-law should be limited to a person and not to a vehicle or boat. Accordingly, I found that the council was wrong in imposing the conditions. It followed that the council had acted unreasonably in requiring an applicant to provide their boat licence number, vehicle registration number and boat trailer registration number.

I found also that the council was not required to undertake consultation with the community in relation to the permit system. I noted however that it had undertaken to consult with the community in relation to administrative changes it proposed to make in response to this investigation.

I was advised that the council had in place an unwritten practice of providing permit holders with a copy of the conditions along with their permit. I acknowledged the evidence of the complainant that he did not receive conditions in accordance with this practice, but did not consider that it would be in the public interest to investigate this aspect of the complaint further. The complaint had alerted the council to the failings of the practice, and in my report I expressed a view that where a permit is granted subject to conditions, the conditions should be displayed or referenced on the permit.

With regards to the maintenance of the ramp, and the council's allegedly incorrect response, I was satisfied by council's evidence that no administrative error had occurred.

In the course of my investigation, I found a technical problem with the way that council had fixed the expiation fee. While the expiation amount is a lesser amount than that which council is entitled to apply under the relevant legislation, I considered that the deficiency should be rectified.

The council accepted my provisional report findings, and agreed to rectify the deficiencies identified. I therefore did not find it necessary to make any formal recommendations.

CITY OF BURNSIDE

Alleged meeting irregularities 2011/07367

Complaint summary

The complainant alleged a number of procedural and other irregularities arising from a special meeting conducted by the council to consider matters related to the Chelsea Cinema. I agreed to investigate three matters, namely that:

- council members seeking the holding of the meeting failed to provide an agenda, as required by section 82(2) of the Local Government Act

- the agenda for the meeting did not describe the items with reasonable particularity and accuracy, as required by section 83(4)(a) of the Local Government Act
- a number of motions breached the requirements of the Local Government (Procedures at Meeting) Regulations 2000 relating to formal motions.

Ombudsman investigation

I considered copies of the documents provided by the complainant, and sought the council's views. I published a provisional report to the parties, in which I expressed the provisional view that in passing two adjournment motions which did not specify the reasons for the adjournment, the council had acted in a way which was contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act.

In light of the responses received to my report I sought legal advice on some matters. I then published a revised provisional report and sought further responses.

Outcome and opinion

I was satisfied that the members seeking the special meeting had provided an agenda as required, and that this and the council agenda were clearly different documents.

I noted that whilst it is always desirable that the purpose and intent of proposed motions are spelt out, I considered that to describe the two motions in effect as 'relating to the Chelsea Cinema Expressions of Interest' afforded sufficient particularity, and met the requirements of section 83(4)(a).

After considering the legal advice, I concluded that the references to a motion for adjournment in the meetings regulations must be limited to a motion for a substantial adjournment to a later time and/or place, being one which, in all of the circumstances, affects the capacity of the members of the council and the public to attend. The two relevant motions were not of that character, because they proposed an 'adjournment' only for a very brief period and in order to move to another location on the premises.

Therefore, they were not 'formal motions' for the purposes of the meeting regulations, and the suspension of proceedings which they brought about was not an 'adjournment' which required the meeting to come to an immediate end.

I concluded that the council had not acted in a way which was unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act.

CAMPBELLTOWN CITY COUNCIL

Unreasonable handling of development application 2011/07157

Summary of complaint

This complaint arose from the council's lengthy assessment of a development application. In August 2010 the complainant submitted a development application with the council's Development Assessment Panel (**the DAP**). The council employed a consultant planner to handle various aspects of the application assessment. In October 2011 the DAP released its final decision, refusing the application.

Ombudsman investigation

I investigated five issues:

- whether the council's assessment of a subdivision application took longer than the time prescribed by the *Development Act 1993*, and regulations
- whether the council properly applied section 39 of the Act
- whether the council unreasonably delayed taking action
- whether the council advised the complainant of his rights under section 41 of the Act
- whether the council complied with its customer service standards.

Outcome and opinion

I found that the assessment of the application took significantly longer than the statutory period prescribed in Regulation 41, and that the council was misusing section 39 of the Act.

I did not accept the council's explanation that an email from the consultant planner was a request for further information under section 39(2). The email indicated that the planner would be recommending to the decision maker that the application be refused, because it departed from the council's planning policies, and effectively invited the applicant to amend his proposal. Notably, the email did not reference section 39(2) in any way.

Section 39(5a) provides that an applicant can request time to amend its proposal to address issues raised by the planning authority. I was satisfied that the applicant had not made such a request, and as such the clock should not have been stopped. Accordingly, I was of the opinion that the council failed to deal within the matter in the time required by law.

During the assessment process the consultant planner took two months to provide initial feedback on the complainant's proposal plans, and the council acknowledged this was unacceptable and inexcusable.

Also, there was a subsequent three month delay in responding to an email from the complainant seeking feedback on the amended plans. The council justified this delay on the basis that the 'clock was stopped' by a section 39(2) request for more information. On the basis that I did not accept the consultant planner's email was such a request, I was satisfied that the delay in the determination of the application was unreasonable.

The council also failed to advise the complainant of his rights under section 41(2) of the Act, which provides that if a planning authority does not decide an application within the time prescribed the applicant may apply to the Environment, Resources and Development Court for an order requiring the authority to make its decision within a fixed time. The complainant had asked that the assessment be finalised on a number of occasions.

The council acknowledged that it was not its general practice to advise applicants of their rights in this regard. While there is no such legislative obligation, I consider that it is good practice to do so. My view is that in failing to make the complainant aware of his option to make a section 41 application in these circumstances, the council acted wrongly.

The council's customer service standards for dealing with written enquiries included that emails should be dealt with within 5 working days or an acknowledgement and expected response date should be sent to the customer. The council acknowledged that there was no satisfactory explanation as to why these time frames were not met. Accordingly I was of the view that the council acted in a way that was unreasonable.

My recommendations to the council included providing training for all relevant officers in respect of the operation of section 39(2) of the Development Act and implementing practices to ensure clarity when invoking sections 39(2) and 39(5a). I have been advised by the council that further training of its officers has now occurred and that its practices and procedures have changed.

Generally, I formed the impression that the council's approach to planning matters is to work to get an application that is acceptable to its professional staff before it is put to the relevant delegate for a decision. While there is much to commend in this approach, this complaint clearly shows how it can cause delay and detriment to an applicant.

TOWN OF GAWLER

Failure to correctly apply the confidentiality provisions of the Local Government Act 1999

2011/02521

Summary of complaint

The complainant alleged that the council had incorrectly applied the confidentiality provisions of the Local Government Act in relation to the keeping of minutes and the release of documents. A secondary issue was whether the council failed to comply with section 94A of the Local Government Act, which requires that an up to date schedule of meetings should be made available on the internet.

Ombudsman investigation

The complainant alleged that the council had not been meeting the legislative requirements in relation to confidentiality of meetings and documents since at least 2008 (which is as far back as the electronic records of the council go). Given that the councillors at the time of the complaint were elected to the council in November 2010, I decided to only consider the matter from this time until July 2011.

The issues that I investigated were:

- whether, when making a decision to exclude the public from a council meeting in order for the council to receive, discuss or consider information or a matter in confidence (as per section 90(2) of the Act) the council made a note in the minutes of the making of the order for confidence, and the grounds on which confidence was entered into as it is required to do under section 90(7) of the Act
- whether, where confidentiality has attached to a document under section 91(7) of the Act, the council complied with the requirements of section 91(9)(b) to make a note in the minutes recording the fact that the order was made and the grounds on which the order was made
- whether, where confidentiality has attached to a document under Part 3 of the Act, the council specified and recorded in the minutes:
 - the duration of the confidentiality order for the document
 - the circumstances in which the order will cease to apply, or
 - the period after which the order must be reviewed.

With regard to the complainant's second concern, the Act requires that councils make an up to date schedule of meetings available on the internet. Whilst acknowledging that it had not properly complied to date, the council resolved this issue prior to the commencement of my investigation. Accordingly, I determined that investigation of this matter was unnecessary.

Outcome and opinion

I found that the council acted contrary to law in:

- failing to record details of its reasons for excluding the public from seven council meetings in the relevant period
- failing to disclose the pay and conditions of the Director Asset Services after they were determined at the 22 March 2011 council meeting
- on three occasions, failing to ensure that notes were made in the public minutes to record the fact that orders to attach confidentiality to documents and minutes were made, and the grounds on which the orders were made
- on four occasions, failing to specify and record in the public minutes the duration of the confidentiality orders; the circumstances in which the orders would cease to apply, or the periods after which the orders must be reviewed.

The council accepted my findings and informed me that it is committed to improving the governance arrangements and procedures in dealing with confidential matters.

REGIONAL COUNCIL OF GOYDER

Alleged conflict of interest by councillor and DAP member

2011/03644

Complaint summary

The complaint alleged that a councillor at the Regional Council for Goyder, who was a member of the Development Assessment Panel (DAP), failed to disclose an interest in a proposal by the Roaring 40's Renewable Energy company for a temporary wind monitoring tower.

It alleged that the councillor had contracts with, and was receiving payments from, the same company for a wind monitoring tower on his property, and that he had not disclosed these interests to the council. These were possible contraventions of section 56A(7) of the Development Act and clauses 2.3-2.6 of the Minister's Code of Conduct.

Ombudsman investigation

In view of the seriousness of the allegations I asked the councillor to reply by statutory declaration. Then, in line with my obligations under section 5(5) of the *Whistleblowers Protection Act 1993* I referred the matter to the Anti-Corruption Branch of the SA Police (ACB), as the situation may have involved elements of fraud or corruption. The ACB decided that no fraud or corruption was evident, and I then continued my investigation.

I first considered what information the councillor had entered on the Register of Members' Interests, following the council election. It appears that he listed the option to place wind towers on his property, without mentioning the company. He amended the entry to include the company name after my investigation commenced.

In considering whether there had been an administrative error, I had to determine whether the councillor failed to disclose an interest at the DAP meeting and whether he brought an open mind to the panel deliberations.

Outcome and opinion

I found that because the councillor could reasonably be perceived to have an interest he breached section 56A(7) of the Development Act and clauses 2.3-2.6 of the Minister's Code of Conduct.

I also determined that the councillor did not bring an open mind to the panel's deliberations because he had spoken to the media about his views about the wind towers; there was a pre-existing relationship between the councillor and the company applying for the wind tower development; he did not initially declare his interest in the register; and he did not declare his interest at the DAP meeting.

The council agreed to provide initial and ongoing training to all council members including those appointed to the DAP. The councillor resigned as a member of the DAP.

KANGAROO ISLAND COUNCIL

Failure to follow policy in naming a private road

Making a decision at an informal gathering

2011/08805

Complaint summary

The complainant, a land-owner on Kangaroo Island, alleged that the council failed to comply with the law and its road naming policy when it allocated a name to a private road on the island. He did not agree that the name eventually selected was appropriate.

The complainant also alleged that the council made its decision at an informal gathering, in breach of section 90(8) of the Local Government Act.

Ombudsman investigation

In the course of dealing with this matter, the council had adopted a new policy relating to road naming and signage. However, the original policy required that adjoining land-owners should be given the option of choosing a name for a road, and it appeared that this had not occurred. The relevant part of the policy stated:

If a private road, provide to the road owners and abutting property owners a short list of proposed names, including background information on each name, together with a request for them to choose one of the names or suggest an alternative name in accordance with council policy.

In relation to informal gatherings, I investigated the council's documentation of a workshop held on 11 August 2011. I also considered statements made by 5 of the councillors present at the workshop, and the subsequent council deliberations on this issue.

Outcome and opinion

I concluded that the council had failed to follow the original policy in allocating the name, and thus had acted wrongly within the meaning of the Ombudsman Act. I did not express a view as to the merits of the various names considered by the council, as this was a matter of policy.

I concluded also that the relevant decisions had been properly made at council meetings, and that the discussions at the workshop did not amount to 'effectively making a decision'.

LIGHT REGIONAL COUNCIL

Failure to deal properly with a problem dog and an FOI application

2011/02973

Complaint summary

A complainant who wished to remain anonymous phoned the council to lodge a complaint about a barking dog. The complainant described the source of the barking as a dog at a property on a particular road. He also identified the owner of the dog as 'Kenny'. However, the council's general inspector used the description provided to identify the property at a nearby but different address as the location of the barking dog.

When the inspector contacted the dog owner, and put to her the alleged complaint regarding her dog barking, she denied it. She 'reported other properties that had dogs that came out of their house when she walks her dog', and she also reported other issues with neighbours. Ultimately, the council did not take any dog control action against her.

The dog owner alleged that the council:

- failed to comply with the procedural requirements of the *Freedom of Information Act 1991* in processing a subsequent FOI application which she made
- failed to appropriately investigate a complaint under the *Dog and Cat Management Act 1995*
- applied its confidentiality policy inconsistently
- failed to respond appropriately to her complaint.

Ombudsman investigation

At the same time as lodging the complaint, the complainant applied for an external review of the council's decision not to release certain information under the FOI Act. I conducted this external review in parallel with an Ombudsman Act investigation.

I varied the council's determination not to release the identity of the complainant, by substituting a new ground - the law enforcement exemption - when the council had apparently relied on the personal affairs exemption.

Outcome and opinion

I concluded that:

- the council's original determination did not comply with the requirements of the FOI Act, and this was contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act.
- the council's disclosure of the name of the dog owner, whilst maintaining the anonymity of the complainant in an analogous situation, was wrong within the meaning of section 25(1)(g) of the Ombudsman Act
- the council's failure to respond to the complainant's complaint about the investigation was wrong, within the meaning of section 25(1)(g) of the Ombudsman Act.

I recommended that the council should review its procedures to ensure full compliance with the provisions of the FOI Act, and it indicated to me that it will undertake training for all staff in relation to FOI, and in particular some further training for accredited officers.

I also recommended that the council should review its information management policies to ensure a consistent method of dealing with the release of personal information, in connection with the enforcement activities of the council.

DISTRICT COUNCIL OF MOUNT REMARKABLE

Failure to take appropriate action about a neighbour's wastewater disposal

2010/00024

Complaint summary

The complainant alleged that the council had failed:

- to properly approve the installation of a septic tank on a neighbouring property in 2000
- to properly approve the installation of a grey water diverter on the property in 2009
- to take appropriate action in response to the neighbours' pumping out of their septic waste and grey water systems
- to respond adequately to his complaints.

Although the 2000 approval was out of time, because some elements of the complaint related to matters arising directly from this approval, I exercised my discretion to entertain this part of the complaint.

Ombudsman investigation

My investigation revealed no evidence that the original application in 2000 was not properly considered by the council.

The council purported to approve the 2009 application for a grey water diverter, subject to similar general approval conditions to the original 2000 septic tank application. However, my investigation revealed that under the regulations then in force, namely the *Public and Environmental Health (Waste Control) Regulations 1995*, the Department of Health was the relevant authority for approval to install permanent greywater systems in SA.

Up to the date of lodging his complaint with my office, the complainant had, over a protracted period of time, complained to the council that the neighbours were illegally pumping their septic waste and grey water waste onto their lawn and garden areas, and that the overflow was running onto the council road/reserve.

My investigation noted that the council officers generally responded courteously and promptly to him, and kept appropriate records of their dealings with him. However, having considered the substance and detail of the council officers' actions, I formed the view that they failed to treat the complainant's concerns with sufficient seriousness.

Outcome and opinion

Because the council was not the relevant authority responsible for approving the grey water diverter application in 2009, the purported approval of the application by the council was contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act. Further, the council's failure to ascertain the legal status of the neighbours' actions in pumping out his grey water and soakage trench / well waste, and to deal adequately with the complainant's complaints was wrong, within the meaning of section 25(1)(g) of the Ombudsman Act.

Under section 25(2) of the Ombudsman Act I recommended that:

- the council advise the neighbour of my opinion, and refer the grey water diverter system to the Department of Health to be inspected
- in the future the council refer all permanent grey water diverter applications lodged with the council to the Department of Health for approval
- the council take legal advice as to any enforcement options which may still have been available to it.

The council responded appropriately to my recommendations.

CITY OF ONKAPARINGA

Failure to follow procurement procedures

Failure to comply with caretaker conventions

2011/05327

Summary of complaint

The complainant alleged that the council failed to follow appropriate procurement procedures in building a toilet block without engaging in a tendering process, resulting in unnecessary cost to ratepayers. He also alleged the council failed to maintain adequate records and failed to conduct an adequate review of the procurement process.

The complainant also alleged that the council breached the caretaker conventions by conducting a review of the procurement, and by publishing material which favoured the incumbent mayor, during the election period. It further alleged that the council's CEO had failed to provide full information to an elected member during the council's consideration of the matter.

Ombudsman investigation

I noted firstly that when concerns had first been raised with it, the council had engaged an experienced construction costs surveyor to give his opinion on the costs incurred in building the toilet block. His review supported the council's cost of the construction.

I was not able to consider the complainant's concerns about matters such as the possible over-specification of the toilet block and the consequent unnecessary cost to ratepayers. These were policy issues and were thus outside my jurisdiction.

I asked the council to provide a copy of the procurement policy applying at the relevant time, and all the records relating to the design, purchase, approval and installation of the toilet block. The policy had expired 6 years previously, but it was apparent that the schedule which listed approved tenderers had not been kept up to date. The council had produced a new policy since, which contains revised record-keeping obligations.

Whilst the council provided most records associated with the procurement when I requested it do so, it subsequently came to light that it had not produced a relevant earlier quantity surveyor's report.

Outcome and opinion

I concluded that in failing to keep the schedule to its procurement policy up to date, and in failing to keep proper records of the project, the council acted in a manner that was wrong.

I found that the conduct of the procurement review did not breach the council's caretaker obligations, but that the publication of the council's Annual Review during the election period did. Accordingly I found that the council had acted in a manner that was contrary to law.

To remedy its error, I recommended that the council review its practice, and avoid publication of similar material in future election periods.

I found no evidence of any error in relation to the allegations against the CEO, and I concluded that it was unnecessary to investigate them further.

CITY OF ONKAPARINGA

Unlawful recovery of fees

2011/03440

Complaint summary

This investigation stemmed from a complaint I received from a member of the public concerning an expiation notice issued to him by the council. Whilst he had paid the expiation, as a result of the complaint I became concerned about the council's administration of the fees associated with the issue and enforcement of expiation notices. I therefore commenced an 'own initiative' investigation.

Ombudsman investigation

A person to whom an expiation notice has been issued has a number of options available. They may lodge a statutory declaration nominating another person as the driver of the vehicle, or make a written application for review on the grounds that the alleged offence was 'trifling'.

If the issuing authority decides not to accept the statutory declaration or application as a defence to the alleged offence, it must send an expiation enforcement warning notice to the alleged offender. A warning notice fee is prescribed, and is added to the unpaid expiation fee.

A warning fee may consist of two components: a fixed amount payable in every case; and an amount attributable to costs and expenses incurred in relation to the matter. In this case, the council had charged a component for searching the motor registry.

My investigation revealed that the council had over-charged the offender for the registration search fee component. It had charged \$10 when the actual fee payable was set by the regulations at \$6, and had been reduced at the Registrar's discretion to \$2.50. From July 1 2011, the regulations were amended to set the fee at \$7, and the Registrar stopped exercising the discretion to reduce the fee.

I also investigated whether the council was prohibited from seeking personal details of an alleged offender where the expiation notice had been paid, and there was no need to send out a reminder notice or to take enforcement action.

Outcome and opinion

I concluded that the council's action in collecting the search registration fee of \$10 was contrary to law, within the meaning of section 25(1)(a) of the Ombudsman Act.

I considered whether I should make a recommendation under section 25(2) of the Ombudsman Act as to any action which the council should take to rectify the matter. I declined to do so because:

- on the basis of the decision in *David Securities Pty Ltd v Commonwealth Bank of Australia* (1992) 175 CLR 353 the common law principles of restitution and unjust enrichment do not apply once a payment has been made voluntarily
- there was no evidence of deliberate wrongdoing on the part of the council
- the council had taken action to address the issue as soon as it became aware of the overcharging
- the amount of money reimbursed to the affected individuals would not be commensurate to the expenses incurred in rectifying the problem.

In relation to whether the council was entitled to seek the information, after examining the legislation I concluded that the council was permitted to do so. Accordingly its action was not unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act.

CITY OF PLAYFORD

Application of developer open space contributions

2011/03848

Summary of complaint

The complainant alleged that the council was using funds received from developers under section 50 of the Development Act to retire debt and to pay interest on debt. He contended that this was contrary to section 50(10)(a), which requires a council to use funds for the purpose of acquiring or developing land as open space.

Ombudsman investigation

The council's accounting treatment for the open space fund was the subject of a prior Ombudsman investigation in 2004. Recommendations made by my predecessor as part of that investigation culminated in legislative amendments which took effect from 26 April 2007, and which are reflected in the current form of section 50(10)(a).

Prior to that amendment the provision included the words 'paid into a trust fund' Those words were deleted and replaced by the present words 'immediately paid into a special fund established for the purposes of this section'.

With respect to its current practice the council commented that:

- there is a financial benefit to ratepayers until such time as the open space funds are actually spent. This is in the form of interest costs deferred less the annual interest accrued against the reserves
- it has the ability to access the cash as required within 24 hours notice through a standing facility with the Local Government Finance Authority
- if all developer funds were required (spent) then its borrowings would increase back to their nominal level in order to re-obtain the cash. The council would however still remain within its financial ratios around both debt levels and interest coverage.

I obtained legal advice confirming that the requirement to hold money in a fund could be met by recording the amount in a ledger without payment into a specific account. I also considered the council's obligations under the Model Financial Statements made under the Local Government (Financial Management) Regulations 2011.

I also obtained confirmation from the council that the balance of its open space reserve was covered by cash and cash equivalent assets.

Outcome and opinion

I considered that the council's explanation of its procedures was reasonable. Accordingly, I concluded that the council had not acted in a way which was unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act.

CITY OF PORT LINCOLN

Problems in administering expiation notices

2010/00068

Complaint summary

A whistleblower disclosed to my office concerns that:

- the council did not have appropriate policies and procedures in place for the issuing and expiating of parking fines
- council officers issued expiation notices which did not comply with the law
- council officers acted wrongly in withdrawing and administering the expiation notice process
- the council used the expiation notice process as a revenue raising measure.

Ombudsman investigation

I commenced an own initiative investigation in February 2011.

At the time the whistleblower provided information to my office, the council had appropriate operating procedures and a policy on waiving expiation notices. However, it did not have a formal policy or operating instructions for staff relating to the detection and reporting of offences.

I also investigated whether the council's expiation notices complied with the requirements of the law, particularly in relation to parking offences, and whether the council officers had wrongly issued or withdrawn various parking expiation notices.

I investigated approximately 1100 expiation notices issued by the council for the period 1 July 2008 to 28 February 2010.

I considered in particular whether the council had complied with the law in the way in which it had dealt with the withdrawal of expiation notices over that period. Under section 16(1) of the *Expiation of Offences Act 1996* a council can withdraw an expiation notice if it 'is of the opinion that ... the notice should not have been given with respect to the offence, or offences'. Whilst this provision apparently confers a wide discretion, I consider that the discretion must be exercised having regard to the purposes of the Act, and to the need to ensure that the commission of any offence for which an expiation notice is issued must be capable of being proved beyond reasonable doubt.

The council had withdrawn 7 expiation notices for no apparent reason. I also sought explanations from the council where other expiation notices had been withdrawn for reasons which were not clearly explained on the face of the documents.

In each case, the council was able to provide a satisfactory explanation of the reasons why the expiation notices were withdrawn, and the action it had taken.

Outcome and opinion

I concluded that the standard expiation notice which the council provided to me failed to comply with Item 1(e) of Schedule 1, which requires that a notice must include a statement that if the alleged offender considers that an offence is trifling, he or she may apply to the issuing authority for a review. In issuing these notices, the council had acted in a way which was contrary to law, within the meaning of section 25(1)(a) of the Ombudsman Act. I recommended that the council review the form of its expiation notices, which it did.

I noted also that in accordance with its obligation under section 132A of the Local Government Act, the council had adopted a new enforcement policy on 2 May 2011, and had upgraded its training and on the job supervision of inspectors.

CITY OF PROSPECT

The council erred in the handling of a Code of Conduct complaint

2011/01419

Summary of complaint

The complainant lodged a Code of Conduct complaint against a councillor, who was also a member of the council's DAP. The complaint alleged the DAP member discussed a development application outside a DAP meeting, and stated that she was in favour of the development before hearing the matter in its entirety.

The council's CEO appointed lawyers to independently assess the complaint and provide a report to council. The council considered the matter in confidence and resolved to acknowledge the councillor was in breach of the Act, and that she should undertake formal training as to her obligations as a DAP member.

The complainant raised five issues:

- that the council's decision was actually made prior to the council meeting, as she had received a letter through the post the morning after the council meeting
- that the consequences imposed on the councillor were inadequate
- that the matter should not be kept confidential
- that the mayor should have declared a conflict of interest as he was party to the discussion during which the breach occurred,
- that the council's decision was inconsistent with its handling of other code of conduct matters, indicating bias.

Ombudsman investigation

In relation to the first issue, I contacted Australia Post who advised me that letters are generally postmarked with the same date on which they are posted. As the council's letter was postmarked the day following the meeting, I concluded there was insufficient evidence to support a finding that council's decision was made prior to the council meeting.

The council provided me with a detailed explanation as to why section 91(7) of the Local Government Act applied in relation to the meeting minutes and attachments; that is why disclosure would involve the unreasonable disclosure of information concerning the personal affairs of the councillor.

Outcome and opinion

The sanctions provided in the Code of Conduct include taking any reasonable action the DAP deems appropriate. In my view, it was therefore open for the council to impose a penalty comprising formal training. I was also of the view it was not unreasonable, given that the conversation was brief and had occurred immediately after a meeting during which the councillor had expressed support of the application.

I accepted that the council was concerned that during the debate matters of a personal nature could have been discussed and accordingly that it was appropriate to consider the matter in confidence. However, I came to the view that there was no reason for the subsequent order of confidentiality to have been passed to cover the report, minutes and attachments relating to the matter. In my view the information therein did not concern the 'personal affairs' of the councillor because the matter was entirely related to the councillor's performance of her public duties as an elected member. Accordingly, I concluded that the council's decision to make the report, attachments and minutes of the meeting confidential was wrong.

I did not consider that the mayor, if the matter had been decided in a particular manner, would have received / suffered (or had a reasonable expectation of receiving / suffering) a benefit or detriment. The complaint suggested that the mayor's interest arose from the fact that he did not act on the breach at the time. While it is true that this could result in the mayor suffering a detriment (for example, damage to his reputation or even a complaint against him), I was not of the view that this amounted to an interest under section 73. That provision requires that the person suffer or have a reasonable expectation of suffering a detriment if the matter were decided in a particular manner. The possible detriment I identified arose from the mayor's actions; it was not dependent on the outcome of the code of conduct complaint, which was directed at the councillor's actions. Further, I noted that the mayor's evidence in fact corroborated the code of conduct complaint.

CITY OF TEA TREE GULLY

Unreasonable refusal to grant exemption to the planting of a street tree

2011/06938

Complaint summary

The complainant alleged that the council failed to follow its Community Engagement (Public Consultation) policy in relation to the implementation of a street tree planting scheme; and that it had unreasonably failed to provide an exemption to respect his wish for a tree not to be planted on the council verge outside his house.

After undertaking an internal review pursuant to section 270 of the Local Government Act, the council considered that it was correctly applying its tree planting policy.

Ombudsman investigation

The council had prioritised tree planting on the complainant's street because it was replacing old trees that were removed from the street, in accordance with its tree planting policy. It acknowledged that an error had occurred, in that some residents did not receive letters that a street tree was going to be planted outside their houses until after the planting occurred.

It stated that under the policy, there was no discretion as to whether street trees would be planted; only in relation to what type of tree could be planted.

Outcome and opinion

I considered that the council's actions were unreasonable. It was an administrative error to fail to properly consult the residents in accordance with the council's public consultation policy, and to apply the tree planting policy to require a tree to be planted in this way.

No tree had existed on the verge outside the complainant's property for 22 years, and therefore the replacement program could not achieve its stated aim of 'maintaining the original street character', as required by the policy. I recommended that the tree be removed from the verge outside the complainant's house.

I met with members of the council staff, who agreed to remove the tree and to amend the tree planting policy in relation to whether trees can have a 'significant impact on residents' prior to planting.

WAKEFIELD REGIONAL COUNCIL

Failure of a councillor to disclose an interest at council meetings

Failure of a councillor to bring an open mind to council deliberations

Failure of a councillor to properly complete the Register of Interests

2011/04690

Summary of complaint

The investigation stemmed from a disclosure made under the protections of the Whistleblowers Protection Act. The complainant alleged that the councillor had failed to declare an interest in relation to the council's sale of a property, and had voted at three meetings concerning the sale.

Ombudsman investigation

The complaint alleged that the councillor's interest in relation to the sale of the property arose because his father had wished to purchase the property from the council. I investigated whether the councillor had failed to adhere to the conflict of interest provisions of the Local Government Act because he failed to declare an interest and voted in relation to matter.

The complaint identified three meetings in which the councillor voted in relation to matters which his father, a person 'closely associated with him as described in section 73(2) of the Local Government Act, could receive or have a reasonable expectation of receiving a benefit if the matter were decided in a particular way. I also investigated whether the councillor brought an open mind to the decisions at these meetings.

I identified a fourth meeting in which the councillor voted in relation to a matter concerning his father. It also came to my attention that the councillor may have failed to properly complete the Register of Interests. Whilst these two additional issues were not referred to in the original disclosure which I received, I decided to exercise my powers to conduct an own initiative investigation into them.

Outcome and opinion

I considered that the councillor acted contrary to law in failing:

- to disclose interests at the four council meetings. I further found that the councillor had been provided adequate training in relation to his conflict of interest obligations, and that he continued to breach them whilst he was aware that my investigation was taking place
- to accurately complete his 2011 primary and ordinary returns.

In accordance with section 18(5) of the Ombudsman Act, I reported the councillor's breach of duty or misconduct to the mayor. I recommended that his failure to lodge an accurate return of income sources and assets be referred for consideration by the Director of Public Prosecutions.

I also recommended that the Local Government Act be reviewed and amended to provide a greater range of penalties where an elected member continually breaches the conflict of interest provisions.

DISTRICT COUNCIL OF YORKE PENINSULA

Failure to manage CWMS scheme infrastructure

Failure to deal with complaints about damage to house

2010/00047

Complaint summary

The complainant owned a house and land which he had purchased in 2002 from the council. An underground pipe, which was part of the council's Community Wastewater Management Scheme (CWMS) constructed in 1966, ran close to the house. The complainant alleged that settling in the trench had caused damage to the house. He first complained to the council in 2003 about the matter.

This complaint also raised the broader question of whether the council had legal power to access the complainant's land to fix the trench. This had been an issue over some years, and the Local Government Association had previously commissioned reports on the matter to assist in its negotiations with the state government over the issue. No resolution had been achieved when my investigation started.

Ombudsman investigation

This was a lengthy investigation, as a result of the need to arrange expert opinions on the causes of the damage, and to research and negotiate the apparent lack of legal power for the council to access the land to meet its infrastructure maintenance obligations.

Outcome and opinion

I found that the council had been aware of the legal problem since at least 2003, and by not taking further steps to ensure that it had clear legal access to its CWMS infrastructure on private property - either through the LGA, the Minister, or by canvassing the idea of purchasing easements - the council had failed to manage its infrastructure appropriately.

I concluded also that whilst the communication between the parties had been sporadic, the council had not attached appropriate weight to the complainant's representations since 2003, including in an internal review conducted in 2009. I recommended that the council should get a further independent assessment of the damage to the complainant's house, and should negotiate a reasonable settlement with the complainant based on the report's conclusions. It agreed to do this.

On the broader issue raised by this complaint, I noted that the *Water Industry Act 2012*, which received assent on 19 April 2012 and at the time of writing is awaiting commencement, will provide rights of access to infrastructure by third parties such as councils. This will be achievable pursuant to section 44 of the Act (owner to carry out work on land), provided councils are licensed water entities, and section 26 (third party access regime).

Local Government

Approaches & Complaints Received 1 July 2011 to 30 June 2012

	Received	%	Population 30 June 2011	Complaints/10,000 popn
Adelaide, City of	79	9.1%	20 048	39.4
Adelaide Hills Council	24	2.8%	40 384	5.9
Alexandrina Council	18	2.1%	24 171	7.4
Barossa Council, The	8	0.9%	23 131	3.4
Barunga West, District Council of	7	0.8%	2 581	27.1
Berri Barmera Council	8	0.9%	11 279	7.0
Burnside, City of	24	2.8%	44 424	5.4
Campbelltown, Corporation of the City of	13	1.5%	49 847	2.6
Ceduna, District Council of	4	0.4%	3 828	10.4
Charles Sturt, City of	73	8.4%	109 364	6.7
Clare and Gilbert Valleys Council	5	0.6%	8 962	5.6
Cleve, District Council of	1	0.1%	1 889	5.2
Cooper Pedy, District Council of	4	0.4%	1 933	20.7
Coorong, District Council of	2	0.2%	5 813	3.4
Copper Coast, District Council of the	21	2.4%	13 221	15.9
Elliston, District Council of	4	0.4%	1 153	34.7
Flinders Ranges Council, The	5	0.6%	1 812	27.6
Franklin Harbour, District Council of	3	0.3%	1 364	22.0
Gawler, Corporation of the Town of	11	1.3%	21 171	5.2
Goyder, Regional Council of	8	0.9%	4 256	18.8
Grant, District Council of	8	0.9%	8 314	9.6
Holdfast Bay, City of	22	2.5%	36 045	6.1
Kangaroo Island Council	19	2.2%	4 666	40.7
Kingston District Council	1	0.1%	2 477	4.0
Light Regional Council	6	0.7%	14 182	4.2
Lower Eyre Peninsula, District Council of	2	0.2%	5 008	4.0
Loxton Waikerie, District Council of	5	0.6%	12 069	4.1
Mallala, District Council of	9	1.0%	8 575	10.5
Marion, Corporation of the City of	29	3.3%	85 904	3.4
Mid Murray Council	7	0.8%	8 606	8.1
Mitcham, City of	18	2.1%	65 899	2.7
Mount Barker, District Council of	18	2.1%	31 068	5.8
Mount Gambier, City of	5	0.6%	26 206	1.9
Mount Remarkable, District Council of	5	0.6%	2 998	16.7
Murray Bridge, Rural City of	9	1.0%	19 724	4.6
Naracoorte Lucindale Council	1	0.1%	8 575	1.2
Northern Areas Council	4	0.4%	4 827	8.3
Norwood, Payneham & St Peters, City of	15	1.7%	36 603	4.1
Onkaparinga, City of	55	6.3%	164 800	3.3
Orroroo/Carrieton, District Council of	2	0.2%	932	21.5
Peterborough, District Council of	3	0.3%	1 964	15.3
Playford, City of	43	4.9%	82 219	5.2
Port Adelaide Enfield, City of	44	5.0%	114 783	3.8
Port Augusta City Council	7	0.8%	14 725	4.7
Port Lincoln, City of	3	0.3%	14 739	2.0
Port Pirie Regional Council	14	1.6%	18 169	7.7
Prospect, City of	10	1.1%	21 064	4.7
Renmark Paringa, District Council of	4	0.4%	9 834	4.1
Robe, District Council of	4	0.4%	1 505	2.6
Roxby Council	2	0.2%	4 479	4.5
Salisbury, City of	38	4.4%	134 042	2.8
Southern Mallee District Council	3	0.3%	2 147	13.9
Streaky Bay, District Council of	7	0.8%	2 197	31.9
Tatiara District Council	5	0.6%	7 173	7.0

Tea Tree Gully, City of	35	4.0%	100 474	3.5
Unley, Corporation of the City of	17	1.9%	38 747	4.4
Victor Harbor City Council	13	1.5%	14 219	9.1
Walkerville, Corporation of the Town of	4	0.4%	7 422	5.4
Wakefield Regional Council	10	1.1%	6 908	14.5
Wattle Range Council	1	0.1%	12 512	0.8
West Torrens, City of	26	3.0%	56 346	4.6
Whyalla, Corporation of the City of	5	0.6%	23 243	2.1
Wudinna, District Council	1	0.1%	1 370	7.3
Yankalilla, District Council of	7	0.8%	4 639	15.1
Yorke Peninsula, District Council of	10	1.1%	11 795	8.5
Total	878	100%		

Local Government

Approaches & Complaints Received : Issues 1 July 2011 to 30 June 2012

	Other	Adelaide, City of	Charles Sturt, City of	Onkaparinga, City of	Port Adelaide Enfield, City of	Playford, City of	Total	Percentage
Advice			2				2	0.2%
Complaint handling/Conflict of interest	2						2	0.2%
Complaint handling/Delay	27	3	5	4	2	3	44	4.7%
Complaint handling/Inadequate processes	46	2	3	2	5	3	61	6.6%
Complaint handling/Inadequate reasons	10		2	2	1	1	16	1.7%
Complaint handling/Inadequate remedy	39		4	2	3	3	51	5.4%
Complaint handling/Wrong conclusion	12	2		1	1	3	19	2.0%
Conduct/Assault		1					1	0.1%
Conduct/Discourtesy	12	1			1		14	1.5%
Conduct/Failure to declare conflict of interest	13		1				14	1.5%
Conduct/Failure to follow proper process	27		3	2	1	1	34	3.6%
Conduct/Misconduct	21	1	3	3			28	3.0%
Correspondence/Communications/Records/Access	3			1		4	8	0.9%
Correspondence/Communications/Records/Delay/No response	11	1	2	1			15	1.6%
Correspondence/Communications/Records/Incorrect	4		1	1			6	0.6%
Financial/Procurement/Facilities/Compensation/Damage/Physical injury				1		1	2	0.2%
Financial/Procurement/Facilities/Compensation/Damage/Property lost/Damaged	11		3			1	15	1.6%
Financial/Procurement/Facilities/Debts/Incorrect calculation	1						1	0.1%
Financial/Procurement/Facilities/Debts/Level of charges	1	1					2	0.2%
Financial/Procurement/Facilities/Debts/Recovery action	3		1				4	0.4%
Financial/Procurement/Facilities/Debts/Unreasonable charge	3	2					5	0.5%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings	3	1		1			5	0.5%

Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Drainage	5					1	6	0.6%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Parks and gardens	3						3	0.3%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Recreational facilities	1				1		2	0.2%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Roads/Streets	7		1				8	0.9%
Financial/Procurement/Facilities/Other fees and charges	20	3			1	2	26	2.8%
Financial/Procurement/Facilities/Procurement by agencies/ Decisions	1			1			2	0.2%
Financial/Procurement/Facilities/Procurement by agencies/Tenders				1			1	0.1%
Financial/Procurement/Facilities/Rates/Administration	3	1	1	2		1	8	0.9%
Financial/Procurement/Facilities/Rates/Amount	11	2		2	3	1	19	2.0%
Financial/Procurement/Facilities/Rates/Recovery action	15						15	1.6%
Financial/Procurement/Facilities/Rates/Valuations	4		1		1		6	0.6%
FOI advice	14	2	9	2	2		29	3.1%
Governance/Confidentiality	19			1	1	1	22	2.3%
Governance/Electoral	1						1	0.1%
Governance/Failure to follow proper process (Governance)	29		1	1			31	3.3%
Governance/Prudential	2					1	3	0.3%
Governance/Public consultation	13			2			15	1.6%
Improper release of documents	1						1	0.1%
Regulation and enforcement/Animals/Excessive action	10		4	4	1		19	2.0%
Regulation and enforcement/Animals/Failure to act on complaints	7					1	8	0.9%
Regulation and enforcement/Building/Failure to enforce condition	3		1				4	0.4%
Regulation and enforcement/Building/Failure/Delay to issue permit	2						2	0.2%
Regulation and enforcement/Building/Inappropriate construction allowed	12		2	3		1	18	1.9%
Regulation and enforcement/Building/Unreasonable conditions imposed			1			3	4	0.4%
Regulation and enforcement/Building/Unreasonable enforcement	8						8	0.9%
Regulation and enforcement/Environmental protection/Excessive action	5		1		1		7	0.7%
Regulation and enforcement/Environmental Protection/Failure to action on complaints	2						2	0.2%
Regulation and enforcement/Local laws/Failure to enforce	3			1	1		5	0.5%
Regulation and enforcement/Local laws/Improper/Inappropriate	9				2	1	12	1.3%
Regulation and enforcement/Local laws/Unreasonable enforcement	12	2	2		1	1	18	1.9%
Regulation and enforcement/Nuisances/Failure to action on complaints	1	1				1	3	0.3%
Regulation and enforcement/ Parking/Failure to enforce restrictions	5	1		1	2		9	1.0%
Regulation and enforcement/Parking/Permits		4					4	0.4%
Regulation and enforcement/Parking/Restrictions	2						2	0.2%
Regulation and enforcement/ Parking/Unreasonable enforcement	46	48	8	5	3	7	117	12.5%
Regulation and enforcement/Planning & Development/Failure to enforce condition	9			3	2		14	1.5%
Regulation and enforcement/Planning & Development/Failure to notify	6			1	1		8	0.9%
Regulation and enforcement/Planning & Development/Failure/ Delay to issue permit	15		1	3		1	20	2.2%
Regulation and enforcement/Planning & Development/Inappropriate development allowed	29		8	7	4		48	5.1%
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed	23		2	4	3		32	3.4%
Regulation and enforcement/Planning & Development/ Unreasonable enforcement	17	1				1	19	2.0%
Regulation and enforcement/Public health/Failure to act on complaints	4						4	0.4%
Regulation and enforcement/Public health/Quality of service delivered	1						1	0.1%
Regulation and enforcement/Public health/Unreasonable conditions imposed	1						1	0.1%
Regulation and enforcement/Public health/Unreasonable enforcement	1		1				2	0.2%
Whistleblower Protection Act advice	3						3	0.3%
Total	634	80	74	65	44	44	941	100%

Local Government
Approaches & Complaints Completed 1 July 2011 to 30 June 2012

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Mallala, District Council of	8	0.9%	8 575	9.3
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Port Lincoln, City of	4	0.5%	14 739	2.7
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Robe, District Council of	4	0.5%	1 505	26.6
Roxby Council	2	0.2%	4 479	4.5
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Southern Mallee District Council	4	0.5%	2 147	18.6
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Tatiara District Council	5	0.6%	7 173	7.0

Tea Tree Gully, City of	36	4.0%	100 474	3.6
Unley, Corporation of the City of	17	1.9%	38 747	4.4
Victor Harbor City Council	12	1.4%	14 219	8.4
Walkerville, Corporation of the Town of	2	0.2%	7 422	2.7
Wakefield Regional Council	10	1.1%	6 908	14.5
Wattle Range Council	1	0.1%	12 512	0.8
West Torrens, City of	26	2.9%	56 346	4.6
Whyalla, Corporation of the City of	5	0.6%	23 243	2.1
Wudinna, District Council	1	0.1%	1 370	7.3
Yankalilla, District Council of	8	0.9%	4 639	17.2
Yorke Peninsula, District Council of	11	1.2%	11 795	9.3
Total	883	100%		

Local Government

Approaches & Complaints Completed : Outcome 1 July 2011 to 30 June 2012

	Other	Adelaide, City of	Charles Sturt, City of	Onkaparinga, City of	Playford, City of	Pt Adelaide Enfield, City of	Total	Percentage
Advice given	68	10	16	7	5	3	109	12.3%
Alternate remedy available with another body	49	10	10	3	2	6	80	9.1%
Complaint cannot be contacted	4					2	6	0.7%
Declined/Investigation unnecessary or unjustifiable	52	13	6	9	5	3	88	10.0%
Declined/No sufficient personal interest or not directly affected	1	1					2	0.2%
No further contact from complainant	9	4	1		3		17	1.9%
Not substantiated	77	8	9	4	5	9	112	12.7%
Out of Jurisdiction/Employment	1						1	0.1%
Out of Jurisdiction/Police matter	1						1	0.1%
Out of time	3						3	0.3%
Referred back to agency	245	22	26	25	20	15	353	40.0%
Resolved with agency cooperation	32	8	3	3	3	3	52	5.9%
s25 Finding/Contrary to law	10	1	1	2			14	1.6%
s25 Finding/Unreasonable	1					1	2	0.2%
s25 Finding/Unreasonable law or practice	1						1	0.1%
s25 Finding/Wrong	5		1				6	0.7%
Withdrawn by complainant	25	2	4	1	2	2	36	4.1%
Total	584	79	77	54	45	44	883	100%
	66.1%	9.0%	8.7%	6.1%	5.1%	5.0%	100%	

OTHER AUTHORITIES

I found that in failing until March 2011 to inform the complainant that she would be unable to progress to second year, the university acted in a way that was unreasonable...

ART GALLERY OF SOUTH AUSTRALIA

Decision to refuse application for physical reproduction of print

2011/07473

Complaint summary

The complainant was a historian of the Coorong region, and applied to the gallery for a physical reproduction of the watercolour sketch 'Pilgaru - two natives hung for murder, September 1840' by E.C.Frome.

The gallery encourages members of the public to purchase reproductions of its works as part of its commercial operations, but it refused the complainant's application on expert advice that the work is sensitive to the descendants of the people depicted. However, the gallery was prepared to provide the complainant with a low resolution scan of the work for research purposes.

The complainant was aggrieved because the work does not identify the people depicted in it; there was no commonly available lineage to suggest that descendants exist; the gallery had previously published the image in historical texts; and his request was made for private research purposes. The complainant also believed that other galleries routinely offer physical reproduction of sensitive images depicting indigenous people.

Ombudsman investigation

I asked the gallery to confirm the reasons for refusing the complainant's request; and sought copies of policies and guidelines, and an explanation of the difference between providing the complainant with a low-resolution digital image and a physical reproduction. The gallery explained that there was a disclaimer on its website that states 'requests that are deemed inappropriate or unacceptable to either the Gallery or the artist may be refused permission'.

This request was refused by the Associate Curator of Aboriginal and Torres Strait Island Art because of the distress associated with the image to the descendants of the people depicted. It was offered as a digital file to fulfil the gallery's charter to preserve, document, research, display, interpret and promote works of art in its collection.

Outcome and opinion

I determined that further investigation was unnecessary or unjustifiable pursuant to section 17(2)(d) of the Ombudsman Act. Because of the disclaimer printed on the gallery's website, there was no administrative error in the process by which the gallery had arrived at its decision, and its application of the policy to the request.

The distinctions made by the gallery between physical and digital reproductions were, whilst confusing, made in the ordinary course of business to manage its commercial operations within its Charter and Goals and to balance competing interests, and were not unreasonable.

COURTS ADMINISTRATION AUTHORITY

Unreasonable investigation of a complaint

2011/06777

Summary of complaint

This complaint related to the way that the Courts Administration Authority (CAA) dealt with its employee, upon discovering that she had inappropriately accessed information from its CRIMCASE data base about a court case involving the complainant.

Ombudsman investigation

I investigated three issues:

- whether the CAA's decision to reprimand the employee was fair and reasonable in the circumstances
- why the complainant was not informed that information about his case had been accessed by the employee
- whether the employee's access to the information could have had any affect on a decision not to prosecute the employee's son.

Outcome and opinion

I found that the employee could have legitimately accessed the information had she followed proper processes, because it was available to the public upon request. In these circumstances the CAA's decision to reprimand her was reasonable.

Secondly, the CAA does not as a matter of course inform the parties when a member of the public seeks access to information from the CRIMCASE data base in relation to their case. I consider this to be a reasonable practice considering that the information held on the data base is limited to charge details and court events.

Thirdly, based on the nature of the information that was accessed alone, I was satisfied that the employee's access to the information could not have had any affect on the exercise of the prosecutorial discretion.

I formed the view that the CAA had not acted in a way that is unlawful, unreasonable or wrong.

FLINDERS UNIVERSITY

Failure to communicate about university enrolment requirements, and to waive a debt 2011/03773

Summary of complaint

The investigation arose from a complaint made by a Flinders university speech pathology student. She had failed a first year topic that was a pre-requisite for continuing on to second year. She alleged that the university did not inform her of this pre-requisite.

She was permitted to enrol online in the second year topics and commence studies, and she had paid costs to Flinders Housing associated with her studies.

She alleged that the university was wrong in failing to waive the debt she had incurred due to her being permitted to enrol and commence her second year studies.

Ombudsman investigation

I assessed the university's course rules and topic information. I sought further information from the complainant and the university, including information relating to the complainant's residential contract with Flinders Housing. I set out the facts and my provisional views in a provisional report which I sent to the university.

Outcome and opinion

I accepted the university's view that it is standard practice for enrolment for following year topics to commence before all the current year's results have been finalised. As such, students are able to enrol in subjects in which they have the potential to meet the prerequisites, but in which this is yet to be confirmed. Accordingly, in allowing the complainant to enrol online in second year studies the university did not act in a way that was unlawful, unreasonable or wrong, within the meaning of section 25(1) of the Ombudsman Act.

However, I found that in failing until March 2011 to inform the complainant that she would be unable to progress to second year, the university acted in a way that was unreasonable, within the meaning of section 25(1)(b) of the Ombudsman Act.

Consequently I also found that, in failing to waive the debt she had incurred due to her commencing second year studies, the university acted in a way that was wrong, within the meaning of section 25(1)(g) of the Ombudsman Act. In my provisional report I foreshadowed making a recommendation that the complainant should be provided with an ex gratia payment to reimburse her for the expenses she incurred.

The university contacted me upon receipt of my provisional report and advised me that it accepted my recommendation and would make the payment to the complainant.

HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSIONER

Failure to deal properly with a complaint

2012/02681

Complaint summary

The complainant had lodged a complaint with the Commissioner about the conduct of a doctor and a nurse who had treated her husband prior to his death. With the assistance of her local Member of Parliament, she complained to me that the Commissioner had failed to conduct a proper investigation of her concerns, and that in particular the Commissioner should have referred certain aspects of the doctor's and the nurse's conduct to the relevant medical registration body.

Ombudsman investigation

My investigation revealed that the Commissioner had not referred the doctor's conduct to the Australian Health Professionals Registration Agency (AHPRA), and had taken approximately 14 months after receiving the complaint to refer the nurse's conduct. I considered that these actions breached the Commissioner's obligation under section 150 of the Health Practitioner Regulation National Law (South Australia).

Further, an officer of the Commissioner had purported to close the complaint investigation on the basis that the Commissioner was going to commence a systemic issues investigation under section 43(1)(c) of the *Health and Community Services Complaints Act 2004*. It appeared to me that no appropriate delegation existed within the Commissioner's office for the purported closure, and in the event, no investigation under section 43(1)(c) was ever commenced. It also appeared to me that the systemic issues could have been dealt with by continuing the complaint investigation under section 43(1)(b) of that Act.

The Commissioner was only entitled to discontinue or suspend proceedings on the complaint if reasonable cause existed. I did not consider that it was reasonable for the Commissioner to make this judgement in this case. The matters of complaint which the complainant had raised remained unaddressed, and indeed the Commissioner subsequently took action to address one of them i.e. by consulting with AHPRA about the nurse's conduct.

Outcome and opinion

I concluded that the Commissioner should have referred the conduct of the medical practitioner to AHPRA, and unnecessarily delayed referring the conduct of the nurse. I considered that these actions were contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act.

I considered also that in deciding to close the complaint investigation, the Commissioner had acted in a manner that was unreasonable within the meaning of section 25(1)(b) of the Ombudsman Act.

The Commissioner accepted these findings, and in response to my provisional report re-commenced the investigation and made the necessary notification to AHPRA.

ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS - INSPECTORATE

Unreasonable refusal to provide access to a dog

2011/08319

Complaint summary

This complaint was made on behalf of a person with a disability, who owned a dog which had been removed by the agency during an investigation of ill-treatment alleged by the owner's neighbour. The complainant was concerned that it may have been a malicious report; that the investigation was taking a long time; and that there was no evidence of any injury to the dog. The owner could not have access to the dog whilst the investigation was underway.

Ombudsman investigation

I sought details from the agency. It advised me that the dog was in the care of the RSPCA Lonsdale Shelter staff whilst it was making its decision, and that as a matter of policy owners could not have access to their seized animals during an ill-treatment investigation.

It also advised that the investigation had been delayed because of the inspector's workload, and pending receipt of relevant veterinarian and other reports.

Outcome and opinion

In the event, the inspector expedited the matter by re-arranging her workload, and seeking verbal advice from the veterinarian in anticipation of a written report.

The inspector decided to return the dog, and issued the owner with written directions about its care. She noted that several witnesses had expressed serious concerns about a dog of this size living in a small apartment, and having limited exercise. The inspector prepared a pack of literature for the owner about the specific needs of this breed of dog.

The owner picked up the dog that day.

SACE BOARD OF SA

Unreasonable decision not to consider information - denial of procedural fairness

2011/07164

Summary of complaint

The investigation arose from a complaint made by a principal of a secondary college on behalf of some students of the college. The complainant alleged that the Board refused to consider relevant documentation and evidence from the school in relation to concerns the school had about a set of results received by some students of the school in the 2010 final results. The school alleged that the results were wrongly assessed.

According to its policies, the Board will only permit grievances and appeals to be lodged against the established marking and moderation procedure, not against the results themselves. It refused to look at information submitted by the school, as it claimed that the information related to results.

The complainant alleged that in refusing to look at the school's information the Board did not afford the school procedural fairness.

Ombudsman investigation

I assessed the Board's policies and sought a response as to why it did not consider the school's information. It confirmed that its investigation of the school's grievance had determined that the correct marking procedure and moderation had occurred.

It also confirmed its view that because the school's information related to the results, it was not relevant to its investigation. Further, it was outside the scope of its grievance policy; and hence did not need to be considered.

Outcome and opinion

I determined that it was reasonable that the Board's grievance procedure only entails investigating the procedure that was followed in the assessment, and not the results themselves. I understand the reasoning behind the policy that appeals are not permitted against the results, only against the process.

However, I determined that the question to be answered was whether, by refusing to look at the results of the school's investigation, procedural fairness was denied. I considered that the Board should have looked at the school's information in order to determine if it was relevant to the review of the assessment process. In refusing to do so, the Board denied the school procedural fairness.

The Board accepted my finding that it had denied the school procedural fairness and provided me with proposed amendments to its procedures and protocols, and with a commitment to ensuring that steps are taken to remedy the error.

SA WATER

Unreasonable requirement for modification to water meter.

2011/06074

Summary of complaint:

The complainants had lived in their home for 20 years and had recently installed a stand alone rain water tank for watering the garden. The tank was not connected to the home and they were granted a rebate for this type of tank installation.

Some months later SA Water officers visited their home and requested that they have installed an outlet riser with a dual check valve. The complainants understood that this was only necessary if the tank was connected to the house supply and questioned the agency's decision.

The complainant's meter was also obstructed by concrete, and to perform the installation the agency was asking for the concrete to be cleared or an alternative connection would be made at a cost of \$1440 to the complainants so the work could be performed.

Despite communications from the complainants explaining that the outlet riser was not required the agency persisted in its position.

Ombudsman investigation

After my officer contacted the agency, it arranged for an inspection by a senior officer. It was established that the tank was not connected to the home, and that no outlet riser was required. The only work needed to be performed by the complainants was to remove the concrete from around the meter which they agreed to.

The complainants were contacted by the agency and were given an apology for the continued confusion.

Outcome and opinion

It was important to understand how this matter occurred when it was clear that the agency was incorrect in its assessment. It recognised that it had confused internal communications regarding this matter. It accepted that this should not be repeated, and all water investigation officers were provided with a refresher course on their responsibilities.

SA WATER

Unreasonable charge

2011/05523

Summary of complaint

This investigation arose from a complaint that it was unreasonable for SA Water to require the complainant to refund half the costs previously paid by his neighbour.

In 2008 the complainant and his neighbour requested a quote from SA Water for the extension of the water mains to their properties, as both wanted to subdivide their land. The extension of the mains to their properties was a condition of their land division approvals.

The costing for each neighbour was dependent upon the other development going ahead. The complainant decided not to go ahead with the work at that time. He did not accept the quote and claimed that he advised the agency that he would not be proceeding at that time.

In 2009, the complainant's neighbour decided to proceed with the subdivision of his land. The agency informed the neighbour that he would have to pay the full cost of the water mains extension to his property - not the amount that was previously spread between the two neighbours. The neighbour paid this amount and the water mains were extended to his property.

In 2011 the complainant decided that he would proceed with his land division and sought a new quote from the agency to extend the water mains to his property. The agency provided the complainant with a revised costing that included an amount to reimburse half the cost of the previous extension to the neighbour's property.

Ombudsman Investigation

I contacted the agency, setting out the facts and advising them that my office was commencing a preliminary investigation. I explained the complainant's issues of concern:

- he had never accepted the initial costing
- he had made no agreement with his neighbour to share the costs, and had merely sought a quote
- even if a cost sharing agreement had existed, there was no legislative basis for the agency to make the decision that the complainant must honour any such agreement
- why was the neighbour able to proceed with the work when it was dependent upon the complainant proceeding with his development.

Outcome and opinion

I concluded that the agency had no grounds to require the complainant to repay costs paid by his neighbour, and therefore the agency's charge was unreasonable within the meaning of section 25(1)(b) of the Ombudsman Act.

I recommended that the agency reissue the complainant with a quote without the requirement that he reimburse half of the cost of the previous extension of the water main that was paid by his neighbour two years earlier. The agency agreed to do so, and the work was completed.

Other Authorities
Approaches & Complaints Received 1 July 2011 to 30 June 2012

Aboriginal Housing Authority	1	0.2%
Adelaide Health Service Incorporated	1	0.2%
Board of Examiners (Law Society)	1	0.2%
Central Adelaide Local Health Network Inc	30	5.5%
Central Irrigation Trust	2	0.3%
Commissioner for Equal Opportunity	2	0.3%
Coroner	2	0.3%
Country Health SA Local Health Network Inc	11	2.0%
Courts Administration Authority	23	4.2%
Domiciliary Care SA	2	0.3%
Drug & Alcohol Services SA	6	1.1%
Eastern Health Authority	2	0.3%
Flinders University	21	3.8%
Guardianship Board	13	2.4%
Health & Community Services Complaints Commissioner	51	9.3%
HomeStart	8	1.5%
Land Management Corporation	2	0.3%
Legal Practitioners Conduct Board	8	1.5%
Legal Services Commission	12	2.1%
Libraries Board of South Australia	2	1.3%
Liquor & Gambling Commissioner	6	1.1%
Lotteries Commission	3	0.5%
Motor Accident Commission	22	4.0%
Northern Adelaide Local Health Network Inc	4	0.7%
Consumer & Business Services	69	12.6%
Office of the Technical Regulator	1	0.2%
Outback Communities Authority	1	0.2%
Public Advocate	10	1.8%
Public Trustee	63	11.5%
Residential Tenancies Tribunal	7	1.3%
RSPCA Inspectorate	1	0.2%
SA Ambulance Service	17	3.1%
SA Community Housing Authority	6	1.1%
SA Country Fire Service	1	0.2%
SA Forestry Corporation	1	0.2%
SACE Board of SA	2	0.3%
Sheriff	1	0.2%
South Australian Dental Service	3	0.5%
South Australian Heritage Council	1	0.2%
South Australian Tourism Commission	3	0.5%
Southern Adelaide Local Health Network Inc	16	2.9%
State Procurement Board	1	0.2%
Stormwater Management Authority	1	0.2%
Super SA Board	29	5.3%
Teachers Registration Board	1	0.2%
The Art Gallery Board	2	0.3%
University of Adelaide	20	3.7%
University of South Australia	34	6.2%
Urban Renewal Authority	1	0.2%
Women's and Children's Health Network Inc	3	0.5%
WorkCover Corporation	12	2.1%
WorkCover Ombudsman	4	0.7%
Total	546	100%

Other Authorities

Approaches & Complaints Received : Issues 1 July 2011 to 30 June 2012

	Other	Consumer & Business Services	Public Trustee	Health & Community Services Complaints Commissioner	University of South Australia	SA Super Board	Total	Percentage
Advice	2						2	0.3%
Complaint handling/Conflict of interest	1						1	0.2%
Complaint handling/Delay	11	12	7	3		2	35	6.3%
Complaint handling/Inadequate processes	24	7	11	12	5	2	61	10.9%
Complaint handling/Inadequate reasons	6	1		3	1	2	13	2.3%
Complaint handling/Inadequate remedy	5	2	1	5	1		14	2.5%
Complaint handling/Wrong conclusion	16		3	17	5		41	7.4%
Conduct/Assault	1						1	0.2%
Conduct/Discourtesy	5	1	1				7	1.2%
Conduct/Misconduct	7	1	1				9	1.6%
Correspondence/Communications/Records/Breach of privacy/ Confidentiality	2		1	1	1	1	6	1.1%
Correspondence/Communications/Records/ Delayed/No response	10	1	4			1	16	2.9%
Correspondence/Communications/Records/Incorrect	7	2			2	3	14	2.5%
Correspondence/Communications/Records/Lost	4						4	0.7%
Correspondence/Communications/Records/ Withholding of information	6		2	1			9	1.6%
Correspondence/Communications/Records/Wrongful disclosure of information	2						2	0.3%
Employment	1						1	0.2%
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury	2		1				3	0.5%
Financial/Procurement/Facilities/Compensation/Damage/ Property lost/Damaged	3						3	0.5%
Financial/Procurement/Facilities/Debts	4						4	0.7%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use	1						1	0.2%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Sale/Lease	1						1	0.2%
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition	1						1	0.2%
Financial/Procurement/Facilities/Procurement by agencies/ Decisions	2		4				6	1.1%
Financial/Procurement/Facilities/Procurement by agencies/Late payment		1	1				2	0.3%
Financial/Procurement/Facilities/Procurement by agencies/ Tenders	2						2	0.3%
FOI advice	37						37	6.6%
FOI practices and procedures	1						1	0.2%
Regulation and enforcement/Enforcement action/Excessive	4	1					5	0.9%
Regulation and enforcement/Enforcement action/Insufficient	3						3	0.5%
Regulation and enforcement/Enforcement action/Unfair	5	1		1	2		9	1.6%
Regulation and enforcement/Fees	1						1	0.2%

Regulation and enforcement/Infringements/Excessive penalty	1						1	0.2%
Regulation and enforcement/Infringements/Incorrect details	1						1	0.2%
Regulation and enforcement/Infringements /Unreasonably issued					1		1	0.2%
Regulation and enforcement/Inspections	1						1	0.2%
Regulation and enforcement/Licensing/Conditions	2	3					5	0.9%
Regulation and enforcement/Licensing/Refusal		3					3	0.5%
Regulation and enforcement/Licensing/Renewal		2					2	0.3%
Regulation and enforcement/Permits	1						1	0.2%
Revenue collection/Water & sewerage	1						1	0.2%
Roads and Traffic/Licensing/Demerit points	2						2	0.3%
Service Delivery/Abuse in care	1						1	0.2%
Service Delivery/Assessment	5	1	1		1	2	10	1.8%
Service Delivery/Conditions	9	2	1	1		1	14	2.5%
Service Delivery/Debts	1						1	0.2%
Service Delivery/Eligibility for services	14	4	1		3	3	25	4.5%
Service Delivery/Failure to act/Provide	30	13	18	3	2	4	70	12.5%
Service Delivery/Fees and charges	22	3	1		2		28	5.0%
Service Delivery/Financial assistance	2		2	1			5	0.9%
Service Delivery/Quality	32	9	3	3	1	3	51	9.1%
Service Delivery/Termination of services	3		1	1	8		13	2.3%
Superannuation						8	8	1.4%
Whistleblower Protection Act advice	1						1	0.2%
Total	306	70	65	52	35	32	560	100%

Other Authorities**Approaches & Complaints Completed 1 July 2011 to 30 June 2012**

Aboriginal Housing Authority	1	0.2%
Adelaide Health Service Incorporated	1	0.2%
Board of Examiners (Law Society)	1	0.2%
Central Adelaide Local health Network Inc	30	5.6%
Central Irrigation Trust	1	0.2%
Commissioner for Equal Opportunity	1	0.2%
Coroner	2	0.4%
Country Health SA Local Health Network Inc	11	2.1%
Courts Administration Authority	22	4.1%
Domiciliary Care SA	2	0.4%
Drug & Alcohol Services SA	6	1.1%
Eastern Health Authority	2	0.4%
Flinders University	22	4.1%
Guardianship Board	13	2.4%
Health & Community Services Complaints Commissioner	48	9.0%
HomeStart	8	1.5%
Land Management Corporation	2	0.4%
Legal Practitioners Conduct Board	7	1.3%
Legal Services Commission	12	2.2%
Libraries Board of South Australia	2	0.4%
Liquor & Gambling Commissioner	6	1.1%
Lotteries Commission	3	0.6%
Motor Accident Commission	21	3.9%
Northern Adelaide Local Health Network Inc	4	0.7%
Consumer & Business Services	66	12.4%
Office of the Technical Regulator	1	0.2%
Outback Communities Authority	1	0.2%
Public Advocate	12	2.2%
Public Trustee	63	11.7%
Residential Tenancies Tribunal	7	1.3%
RSPCA Inspectorate	1	0.2%
SA Ambulance Service	16	3.0%
SA Community Housing Authority	6	1.1%
SA Country Fire Service	1	0.2%
SA Forestry Corporation	1	0.2%
SACE Board of SA	3	0.6%
Sheriff	1	0.2%
South Australian Dental Service	3	0.6%
South Australian Tourism Commission	3	0.6%
Southern Adelaide Local Health Network Inc	16	3.0%
Stormwater Management Authority	1	0.2%
Super SA Board	28	5.2%
Teachers Registration Board	1	0.2%
The Art Gallery Board	2	0.4%
University of Adelaide	20	3.7%
University of South Australia	33	6.2%
Urban Renewal Authority	1	0.2%
Women's and Children's Health Network Inc	3	0.6%
WorkCover Corporation	12	2.2%
WorkCover Ombudsman	4	0.7%
Total	534	100%

Other Authorities

Approaches & Complaints Completed : Outcome 1 July 2011 to 30 June 2012

	Other	Consumer & Business Services	Public Trustee	Health & Community Services Complaints Commissioner	University of South Australia	Central Adelaide Local Health Network Inc	Total	Percentage
Advice given	41	2	4	4	1	14	66	12.3%
Alternate remedy available with another body	57	2	11	6	5	14	95	17.8%
Complainant cannot be contacted			1				1	0.2%
Declined/Investigation unnecessary or unjustifiable	25	7	3	8	4		47	8.8%
Declined/No sufficient personal interest or not directly affected			2				2	0.4%
Declined/Out of time	1						1	0.2%
Declined/Trivial, frivolous, vexatious, not made in good faith	1	1					2	0.4%
No further contact from complainant	4	2	3	1	2	1	13	2.4%
Not substantiated	31	10	8	11	7		67	12.5%
Out of time	2			1			3	0.6%
Referred back to agency	101	22	21	12	10	1	167	31.3%
Resolved with agency cooperation	15	15	8	1	2		41	7.7%
s25 Finding/Contrary to law	1			1			2	0.4%
s25 Finding/Mistake of law or fact				1			1	0.2%
s25 Finding/Wrong	2	1			1		4	0.7%
Withdrawn by complainant	13	4	2	2	1		22	4.1%
Total	294	66	63	48	33	30	534	100%
	55.1%	12.3%	11.8%	9.0%	6.2%	5.6%		

FREEDOM OF INFORMATION

We are committed to keeping people informed about their rights and any decisions affecting them

REGISTRAR OF THE ARCHITECTURAL PRACTICE BOARD OF SOUTH AUSTRALIA - 2011/01718

The meaning of 'agency' under the FOI Act, and secrecy provisions under other legislation

Application for access

The applicant had made a complaint to the then Architects Board of South Australia under the *Architects Act 1939* alleging professional misconduct on the part of a referee to a building dispute. The Board had determined in 2003 not to lay a charge against the referee, but the applicant sought to have his complaint re-opened in December 2010. By application under the FOI Act, the applicant requested access to communications between the Board and the referee arising from the complaint and other matters.

The Registrar of the Board determined there were 26 documents within the scope of the application, and refused access to the majority of them on the basis of the secrecy exemption (clause 12) of Schedule 1 of the FOI Act (disclosure would be an offence under another Act) and section 67 of the *Architectural Practice Act 2009*. This provision makes it an offence to 'divulge or communicate personal information' obtained in the course of official duties under the Act.

Ombudsman review

I determined that the Registrar, not the Board, was the relevant agency for the purposes of the FOI Act. By virtue of the judicial or quasi-judicial powers and functions vested in the Board by the Architectural Practice Act to determine disciplinary matters, I was satisfied that the Board is a tribunal, not an agency, as defined by sections 4(1) and 6(2)(a) of the FOI Act. The office of the Registrar is established by section 11 of the Architectural Practice Act, and the Registrar was the agency for the purposes of the FOI Act.

During my review, the Registrar additionally submitted that the documents were exempt from access under the confidentiality exemption (clause 13(1)(a) of Schedule 1) of the FOI Act.

Determination and comments

I was satisfied that the documents contained personal information 'the disclosure of which would constitute an offence' against section 67(1) of the Architectural Practice Act.

Not discounting the applicant's submission that it may be in the 'public interest' for the reasons for the Board's decisions to be made public, section 67 requires that personal information relating to a complaint received by the Board be protected from disclosure.

In the event that the documents were not exempt under the secrecy exemption, I considered that they related to the exercise of the Board's judicial or quasi-judicial powers and functions (clause 11 of Schedule 1 of the FOI Act).

I was not satisfied that that the information contained in the documents had the necessary quality of confidentiality required in the test for breach of confidence to satisfy clause 13(1)(a) of Schedule 1. The information was not confidential as it was already in the public domain by virtue of previous litigation or FOI determinations.

ATTORNEY-GENERAL'S DEPARTMENT - 2011/09154

Information about the remuneration of public officers should be publicly available -

Application for access

The applicant requested access to all documents relating to the cashing out of 'leave entitlements' since January 2011 for all staff on a Ministerial contract.

The agency provided the applicant with a schedule of documents, but refused access to the documents on the basis of the personal affairs exemption (clause 6(1) of Schedule 1 to the FOI Act). The agency argued that 'the documents relate to the personal financial affairs of an employee and it is an unreasonable disclosure of [the employee's] personal affairs to release the documents to a third party.' The agency consulted with the relevant ministerial staffer, and he had objected to release of the documents.

Ombudsman review

The agency made no further submissions in my review. I consulted with the ministerial staffer, but received no response.

Determination and comments

I considered that release of the information, with the exception of the employee's personal contact details, would not be an unreasonable disclosure of the employee's personal affairs. In reaching this conclusion I was mindful of the objects of the FOI Act set out in section 3. The remuneration details in the documents concerned payments made to a public officer from the public purse. There is a public interest in favour of disclosure, which centres on the need for accountability of expenditure of public monies.

CENTRAL ADELAIDE LOCAL HEALTH NETWORK - 2011/09017

Lack of consent to release personal information is not a legal basis for refusing access

Application for access

The applicant attended meetings at the Queen Elizabeth Hospital with medical staff about the health and future care of her father. The father's legally appointed guardians were also present. The applicant sought access under the FOI Act to 'all notes and reports taken and/or pertaining to these meetings by doctors and social workers who were present.'

The agency refused access on the basis that 'under the FOI Act we require appropriate consent for access to medical records. ... Without consent from your father's guardians, we must refuse access to the documents.' The guardians had declined to consent to the release of the documents. The determination and its rationale were upheld at internal review.

Ombudsman review

It was evident that the agency held the view that the release of the documents rested on whether the guardians consented to release. I sought clarification of this reasoning and the agency pointed to the Objects section of the FOI Act, which recognises the importance of preserving personal privacy.

Determination and comments

I upheld the agency's determination to refuse access to the documents, but not for the same reason as the agency. It was wrong for the agency to refuse access to the documents on the basis that the father's guardians

did not provide permission to do so. While the Objects of the FOI Act provide guidance and context for the interpretation of the Act, they do not provide a reason for a refusing of access to documents.

I determined that the documents were exempt because they contained information concerning a person suffering from 'mental illness, impairment or infirmity' and disclosure was unreasonable having regard to the need to protect that person's welfare. The nature of the information was highly personal; the meeting notes were taken in a confidential setting; the applicant's father would be unlikely to want the information to be potentially releasable to the public; and the information was of current relevance. I also considered that the need to protect personal privacy outweighed a public interest in enforcing access to the documents in these circumstances. I had regard to the welfare of the applicant's father and concluded that the release of the documents would not be of benefit to his welfare and that it would be detrimental to his privacy.

I also considered that the general personal affairs exemption (clause 6(1) of Schedule 1 to the FOI Act) applied to the documents as it would involve the unreasonable disclosure of information concerning the personal affairs of the applicant's father.

DEPARTMENT FOR COMMUNITIES AND SOCIAL INCLUSION - 2012/00172

A past employee's voluminous request for access to documents

Application for access

The applicant was a past employee of the agency. He requested access to a large number of documents, including his personal file, entire client files for a number of the agency's clients, all correspondence to any person mentioning his name, and policy and procedure documents.

The agency endeavoured to assist the applicant to narrow the scope of the application in accordance with section 18(2) of the FOI Act. The applicant provided a list of 'first priority documents', but did not narrow the scope of the application. The agency made a determination to refuse to deal with the application under section 18(1) on the grounds of it being a voluminous request. Despite this, the agency did release a number of documents to the applicant after the expiration of the internal review period (including the applicant's personal file and policy documents).

Ombudsman review

During my review, the agency provided submissions in support of its determination to show that the work involved in dealing with the application would, if carried out, substantially and unreasonably divert the agency's resources from their use by the agency in the exercise of its functions.

Determination and comments

I confirmed the determination of the agency.

The agency made detailed and considered submissions in support of its claim of section 18(1) which I found persuasive. In reaching my final view I took into account:

- the number of documents requested
- the amount of consultation with interested parties which may need to occur prior to the release of documents to the applicant
- the costs involved in retrieving many of the electronically stored documents
- the costs involved in copying the documents
- the hours of staff time which would need to be employed to deal with the application.

My officer viewed many of the documents identified to be within the scope of the application on site at the agency's premises, and it was my view that the agency's estimates in regard to these factors were reasonable. I was also mindful that the agency did release some documents to the applicant and did endeavour, as required under section 18(2) to assist the applicant to narrow the scope of the application before refusing to deal with the application under section 18(1).

DEPARTMENT FOR HEALTH AND AGEING - 2011/00552

Communicating with applicants and knowing your database is good FOI business

Application for access

In 2009, the Sunday Mail requested access to numbers and details of all crimes reported on hospital grounds for a 5 year period. The applicant did not seek any person's personal information.

The agency's initial decision refused access to two documents it considered fell within the scope of the application. After advising the applicant it would take some extra time to finalise an internal review, the agency finally completed an internal review of its determination after 11 months. The agency granted access to the two documents, and also found another document, which was produced in response to a separate FOI application from the same applicant. The applicant requested my review of the agency's determination because it was concerned that the agency had interpreted the scope of the application too narrowly, and had not sufficiently searched its electronic holdings to produce the documents.

Ombudsman review

Under the FOI Act, a document includes 'anything in which information is stored or from which information may be reproduced' (section 4). Applicants may be granted access to material held on electronic databases if the records are capable of being reproduced in the form of a written document (section 22). The information requested was held on two databases. These were the Advanced Incident Management System (AIMS) used to report any patient related incident; and HealthWatch, which is a run by SA Police and used for community crime prevention.

Much of the effort of my office in this review involved attempting to receive full information from the agency about the way the databases from which the documents had been reproduced were structured, and the search terms used to generate the documents. The proper identification of whether or not an agency holds documents the subject of an FOI application is 'front and centre' to adequately dealing with an FOI application.

Receiving this information from the agency took considerable time. Once I was satisfied that sufficient searches had been conducted, my office then determined what portions of the documents produced from the databases were in scope. The agency had taken a narrow view about what constituted 'crimes reported', and had not properly attempted to clarify at the outset what the applicant was seeking, before making its determinations.

The agency was concerned that many of the incidents captured on the database could not be regarded as reports of crimes for a variety of reasons, including:

- the patient's mental state may be such that even if their actions may, on their face, appear to be a criminal act (for example, an assault) their mental state may be such that they will not satisfy the mental element of committing a crime
- the database may note allegations of a crime, but the outcome of that allegation is not required to be recorded (e.g. items stolen or 'missing' and presumed stolen), and it is therefore unclear if the allegation amounted to a report of a crime
- much of the information in the database relates to medical care, not 'crimes'.

My staff met with the applicant to provide some general information about the nature of the databases and to clarify what was sought in the application. The applicant was clearly seeking allegations of crimes, not only crimes prosecuted or reported to police. The AIMS database was used primarily for noting risks to patients and, particularly regarding occupational health and safety issues. As such, much of the information reproduced from that database was beyond the scope of the application, and included a range of patient behaviours and details of medical care.

Determination and comments

After hearing the applicant's submissions and noting the agency's view about the nature of the information held on the databases, I decided that allegations and descriptions of acts which, on their face, may include the objective element of a 'criminal act' were within the scope of the application.

As a result, much of the information contained in the documents was redacted as it fell outside the scope of the application.

Where an application is ambiguous or uncertain, the agency should take such steps as are reasonably practicable to assist the applicant to modify the request. Had the agency, upon receipt of the application, attempted to clarify exactly what was meant by 'crimes reported on hospital grounds' and provided the applicant with sufficient information about the nature of its information holdings to allow the scope to be clarified, much of the work subsequently undertaken by my office may have been avoided. The spirit of the FOI Act encourages agencies to assist applicants; and certain provisions such as sections 15 and 18, make it a requirement to provide such assistance.

CITY OF NORWOOD, PAYNEHAM & ST PETERS - 2011/08796

The benefit to the parties of settling applications and reviews

Application for access

The applicant applied for all documents relating to a 'Review of NP & SP [the council] Waste Information Program'.

The agency provided the applicant with a copy of its Hard Waste Collection brochure but indicated that no further documentation existed.

Ombudsman review

The applicant considered that further documentation must exist in relation to the 'review'. However, it became evident that there was a misunderstanding about a resolution at a council meeting, which made reference to the council undertaking 'a review regarding the council's waste information program and the council's e-waste collection program.'

The council submitted that 'the review' referred to in the resolution was an internal review of waste management information brochures, and not a strategic review of the type which would require a report back to council. During the course of my external review, however, the council did identify further documents within the scope of 'the review', which consisted of drafts of brochures and emails relating to development or updating of brochures.

My office held a meeting between the parties at which the council provided the applicant with the opportunity to view and copy these further documents. However, the applicant declined the offer.

Determination and comments

I was satisfied that the documents provided by the council were the only documents in existence that would fall within the scope of the application. As the council had provided the applicant with the opportunity to access the information, it was not necessary for me to make a formal determination. I considered the matter had settled and issued a Notice of Finalisation of my external review to the parties.

DEPARTMENT OF THE PREMIER AND CABINET - 2011/01239

An agency must give reasons when refusing access to documents

Application for access

In January 2008, the then Premier announced a plan to make the nation's first carbon neutral Cabinet. A tender process was undertaken to purchase certified carbon credits to offset the greenhouse gas emissions generated by Cabinet Ministers through their work related office and travel energy consumption. The FOI application requested access to the agency's documents relating to the successful tender.

Ombudsman review

Eighty six (86) documents were identified, but the agency failed to determine the application within the statutory timeframes at first instance, and at internal review. On this basis, the external review came to my office as a 'double deemed refusal' by the agency to grant access to the documents.

In its submissions in my review, the agency provided me with a schedule showing names of the author, addressee, date, description and a 'determination' on the exemption status of each document under Schedule 1 to the FOI Act, including:

- the business affairs exemption (clause 7)
- the internal working document exemption (clause 9)
- infringement of the privileges of Parliament (clause 17(c))
- the personal affairs exemption (clause 6).

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

Determination and comments

I accepted the claim of parliamentary privilege in relation to two documents and the personal affairs exemption in respect of personal phone numbers. However, I rejected the other claims.

Under section 48 of the FOI Act the onus is on an agency to justify its determination in my external review. In my opinion, this means giving reasons for its determination and showing the findings on any material questions of fact underlying these reasons, together with a reference to the sources of information on which those findings are based. This is a requirement of an agency in the initial determination process under the FOI Act; and in my opinion, it is equally applicable in an external review.

It is a constant source of frustration for my office that most agencies regularly fail to provide detailed submissions to justify their FOI determinations, and merely assert a particular clause under Schedule 1 to the FOI Act as a basis for their claim.

SA WATER - 2011/06498

Adelaide Desalination Plant documents lack confidentiality

Application for access

In March 2009, AdelaideAqua D&C Consortium was awarded the contract by the state government to design, build and operate the infrastructure of the desalination plant, at a cost of \$1.84 billion. There was some delay in AdelaideAqua achieving the 'first water' milestone under the contract. This attracted significant publicity.

The FOI application requested access to the government's correspondence between SA Water and AdelaideAqua regarding 'progress failure of First Water Critical Milestone and completion loan repayment'.

Ombudsman review

SA Water refused access to all (12) documents on the basis of several exemptions under Schedule 1 to the FOI Act, namely that disclosure would:

- be a breach of confidence (clause 13)

- have an adverse affect on the business or financial affairs of the parties (clause 7)
- have a substantial adverse affect on the financial or property interests of SA Water or the state (clause 15) or the effective performance of SA Water's functions (clause 16), and on balance be contrary to the public interest.

Adelaide Aqua also submitted that the discussions and negotiations between SA Water and AdelaideAqua were confidential, and that disclosure would be in breach of settlement privilege such that breach of it may irrevocably compromise any legal proceedings brought in respect of the delays and monies outstanding under the contract (clause 13, clause 4(1)(b)).

Determination and comments

I rejected SA Water's and AdelaideAqua's claims on the basis of factors including the following:

- their submissions lacked particularity and substantiation
- settlement privilege was not applicable
- there was already a significant amount of information in the public domain about AdelaideAqua's progress failures under the contract in achieving the first water milestone, and I was not aware of any adverse impact on the affairs of AdelaideAqua or the agency as a result of this publicity. Disputes arising in contractual relations are accepted as part of the 'cut and thrust' of business dealings; and the contract reflected this in its provisions for resolution of disputes
- it was evident from the terms of the contract that contractual relations between the parties were generated against the background of the FOI Act, and therefore that their communications may be subject to public scrutiny under the Act. I also noted the District Court's comments in the decision of Ekaton Corporation Pty Ltd v Chapman & Department of Health, Department of Health v Chapman that:

... it is to be assumed that both government and the private sector will be aware of the Act and the kind of information it protects and that which it does not and that the parties will be able to structure their negotiations accordingly.'

- AdelaideAqua itself was on the public record (in its evidence to the Select Committee) showing that it was aware of and understood the need for scrutiny of its actions:

Naturally, with a project of this size and importance, AA D&C is being intensely scrutinised and audited for compliance across every aspect of the project. AA D&C have always welcomed and embraced close scrutiny of its operations, and continues to do so.

- the documents were dated
- the documents were not being considered in a particular dispute resolution process that the parties were participating in at the time
- there was a dominating public interest in disclosure of the documents, given:
 - the objects of the FOI Act
 - the comments of Mason J (as he then was) in the case *Commonwealth of Australia v John Fairfax & Sons Ltd & Ors* (1981) 147 CLR 39 at pp51-2:
 - ... It is unacceptable, in our democratic society, that there should be a restraint on the publication of information relating to government when the only vice of that information is that it enables the public to discuss, review and criticise government action.

- McHugh J's comments in *Attorney-General (UK) v Heinemann Publishers Australia Pty Ltd* (1987) 10 NSWLR 86 at pp 190-191:

... governments act, or at all events are constitutionally required to act, in the public interest. Information is held, received and imparted by governments, their departments and agencies to further the public interest.

- the need for accountability given the size of the project (it has been described as the largest capital project in the history of the state)
- the ability by the public to scrutinise the parties' performance under the contract (including the communications in the documents which were the subject of review).

Freedom of Information

External Reviews Received 1 July 2011 to 30 June 2012

Attorney-General	4
Attorney-General's Department	2
Central Adelaide Local Health Network Inc	8
City of Adelaide	1
City of Charles Sturt	5
City of Marion	1
City of Norwood, Payneham & St Peters	1
Department for Communities and Social Inclusion	5
Department for Education and Child Development	11
Department for Environment and Natural Resources	3
Department for Health & Ageing	3
Department for Further Education, Employment, Science & Technology	5
Department of Health	2
Department of Planning and Local Government	2
Department of Planning, Transport and Infrastructure	4
Department of Primary Industries & Resources SA	1
Department of Primary Industries & Regions SA	1
Department of the Premier and Cabinet	11
Department of Treasury and Finance	3
District Council of Coober Pedy	3
District Council of Mount Barker	1
District Council of Streaky Bay	1
Environment Protection Authority	5
Land Management Corporation	2
Libraries Board of South Australia	1
Minister for Aboriginal Affairs and Reconciliation	1
Minister for Emergency Services	1
Minister for Families and Communities	1
Minister for Health	2
Minister for Planning	1
Minister for Police	1
Minister for Transport & Infrastructure	1
Northern Adelaide Local Health Network Inc	3
Consumer and Business Services	2
Port Augusta City Council	1
Public Advocate	1
SA Citrus Industry Development Board	1
SA Forestry Corporation	1
SA Housing Trust	1
SA Police	1
SA Water Corporation	1
South Australian Tourism Commission	1
Southern Adelaide Local Health Network Inc	1
University of Adelaide	1
Urban Renewal Authority	1
WorkCover Corporation	1
Total	111

	Other	Department of the Premier and Cabinet	Central Adelaide Local Health Network Inc	Department for Education and Child Development	Department of Further Education, Employment, Science & Technology	City of Charles Sturt	Total	Percentage
Access to documents/Deemed refusal	12	7					19	12.2%
Access to documents/Sufficiency of search	12		2	1		1	16	10.3%
Agency Determination to extend time (s14A)	7						7	4.5%
Agency Determination to refuse to deal with application/Voluminous application (s18(1))	3						3	1.9%
Agency FOI processing errors	5		1				6	4.0%
Agency FOI processing errors/Other				1			1	0.6%
Amendment of records			1				1	0.6%
Exemptions/Business affairs	9	3			3	2	17	11.0%
Exemptions/Cabinet documents	4	2					6	4.0%
Exemptions/Confidentiality	2	1		1	3		7	4.5%
Exemptions/Internal working documents	3	2			1		6	4.0%
Exemptions/Judicial functions		1					1	0.6%
Exemptions/Law enforcement			2				2	1.3%
Exemptions/Legal professional privilege	2	1			1		4	2.6%
Exemptions/Operation of agencies	2						2	1.3%
Exemptions/Other	5		1	1			7	4.5%
Exemptions/Personal affairs	16	1	5	2	1	2	27	17.4%
Exemptions/Secrecy provisions in legislation	3	1	2	3			9	5.9%
Extension of time for application for review (s39(4))				1			1	0.6%
Fees and charges	3						3	1.9%
FOI advice	1						1	0.6%
Jurisdiction issues	3			2			5	3.2%
Jurisdiction issues/Premature application for external review	1						1	0.6%
Third party applicant review	1					2	3	1.9%
Total	94	19	14	12	9	7	155	100
	60.7%	12.3%	9.0%	7.7%	5.8%	4.5%		

	Other	Department of the Premier and Cabinet	Central Adelaide Local Health Network Inc	Department for Education and Child Development	Department of Further Education, Employment, Science & Technology	City of Charles Sturt	Total	Percentage
Access to documents/Deemed refusal	12	7					19	12.2%
Access to documents/Sufficiency of search	12		2	1		1	16	10.3%
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Agency FOI processing errors	5		1				6	4.0%
Agency FOI processing errors/Other				1			1	0.6%
Amendment of records			1				1	0.6%
Exemptions/Business affairs	9	3			3	2	17	11.0%
Exemptions/Cabinet documents	4	2					6	4.0%
Exemptions/Confidentiality	2	1		1	3		7	4.5%
Exemptions/Internal working documents	3	2			1		6	4.0%
Exemptions/Judicial functions		1					1	0.6%
Exemptions/Law enforcement			2				2	1.3%
Exemptions/Legal professional privilege	2	1			1		4	2.6%
Exemptions/Operation of agencies	2						2	1.3%
Exemptions/Other	5		1	1			7	4.5%
Exemptions/Personal affairs	16	1	5	2	1	2	27	17.4%
Exemptions/Secrecy provisions in legislation	3	1	2	3			9	5.9%
Extension of time for application for review (s39(4))				1			1	0.6%
Fees and charges	3						3	1.9%
FOI advice	1						1	0.6%
Jurisdiction issues	3			2			5	3.2%
Jurisdiction issues/Premature application for external review	1						1	0.6%
Third party applicant review	1					2	3	1.9%
Total	94	19	14	12	9	7	155	100
	60.7%	12.3%	9.0%	7.7%	5.8%	4.5%		

Freedom of Information

External Reviews Completed : Outcome 1 July 2011 to 30 June 2012

	Other	Department of the Premier and Cabinet	Department of Education and Children's Services	Minister for Health	Department of Health	Department for Education and Child Development	Total	Percentage
FOI/application for review withdrawn by applicant	11	3	5			3	22	10.8%
FOI/Application settled during review (s39(5))	4	4	14	31	2	1	56	27.6%
FOI/Determination confirmed (s39(11))	27	2		1			30	14.8%
FOI/Determination reversed (s39(11))	8	2			1		11	5.4%
FOI/Determination revised by agency (s19(2a))	3	17			3		23	11.3%
FOI/Determination varied (s39(11))	27	13	17		1		58	28.6%
FOI/Extension of time/Discretion not exercised	2					1	3	1.5%
Total	82	41	36	32	7	5	203	100
	40.4%	20.2%	17.7%	15.8%	3.4%	2.5%		

ABOUT OMBUDSMANSA

The Ombudsman is an independent statutory officer...

OUR VISION

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

OUR MISSION

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

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

OUR FUNCTIONS

The Ombudsman contributes to sound public administration by South Australian State and local government agencies through:

- investigating, conciliating and resolving complaints in accordance with the Ombudsman Act 1972;
- undertaking investigations referred by Parliament, and conducting administrative audits and investigations on the Ombudsman's own initiative;
- making recommendations for change in procedures and legislation;
- reviewing decisions about release of information under the Freedom of Information Act 1991; and
- providing advice and training.

The Ombudsman is an independent statutory officer within the Attorney General's Department, and reports directly to Parliament.

OUR VALUES

In performing our work we are committed to:

- maintaining independence and impartiality
We are committed to acting in a manner that maintains the independence and objectivity of the Ombudsman.
- facilitating access to our services
We are committed to ensuring people can, and know how to, access our services through a range of technologies and avenues.
- respecting the views of all parties
We are committed to ensuring that all parties' points of view are heard and considered.
- fairness and integrity
We are committed to acting in accordance with our powers, basing our actions on relevant considerations and at all times acting in good faith.
- accountability in our dealings
We are committed to keeping people informed about their rights and any decisions affecting them, and to using our resources efficiently, effectively and responsibly. We will strive to refine means to measure and report on our performance.

- responsiveness in our service delivery

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

OUR JURISDICTION

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

- the South Australian Police
- employers - which affect their employees
- private persons, businesses or companies
- Commonwealth or interstate government agencies
- government Ministers and Cabinet
- courts and judges
- legal advisers to the Crown.

The Ombudsman has a discretion whether to commence or continue an investigation. Key issues of the complaint will be assessed to determine whether:

- special circumstances exist for matters over 12 months old
- the complainant has a legal remedy or right of review or appeal and whether it is reasonable to expect the complainant to resort to that remedy
- a complaint appears to be frivolous, trivial, vexatious, or not made in good faith

- an investigation does not appear to be warranted in the circumstances, such as where the agency is still investigating the complaint or a complaint has not yet been made to the agency, or where another complaint-handling body may be more appropriate
- the complainant does not have a sufficient personal interest in the matter.

INVESTIGATIONS BY OMBUDSMAN SA

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

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

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

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

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

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

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

SERVICE PRINCIPLES

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

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

REFERRAL TO OTHER JURISDICTIONS

Ombudsman SA also has an important referral role. Even though we may be unable to be of direct assistance to people who approach the office about matters that are not within jurisdiction, it is often possible to refer them to another appropriate source of assistance. Therefore, an outcome of 'no jurisdiction' does not necessarily mean that the office has not been of assistance to the person who consulted us.

If a complaint is out of Ombudsman SA's jurisdiction we will attempt to refer the complainant to another complaint handling body which may be able to assist.

APPENDIX 1

Financial Statement

Expenditure	2010/11	2011/12
Annual Report	7 692	1 729
Computer expenses	49 357	42 993
Equipment maintenance	4 934	5 444
Equipment purchases	288	1 841
Fringe Benefits Tax	8 445	3 498
* Motor vehicles	11 765	11 811
Postage	2 795	4 320
Printing and stationery	8 980	15 109
Publications and subscriptions	753	3 901
Recruitment costs	1 704	887
Staff development	12 999	10 332
Sundries	29 508	31 134
Telephone charges	20 449	14 190
Travel/taxi charges	14 295	16 289
Website Development	3 680	3 850
Sub-total	177 644	167 328
* Accommodation and energy	123 007	129 413
Consultant/Contract staff	263 358	199 917
Sub-total	386 365	329 330
* Salaries	1 280 392	1 365 987
Sub-total	1 280 392	1 365 987
Income	(15 360)	(5 412)
Sub-total	(15 360)	(5 412)
* Figures include expenses incurred by the Ombudsman position (funded by Special Acts)		
Net expenditure	1 829 041	1 857 233

APPENDIX 2

Description of Outcomes - Ombudsman Jurisdiction

Outcome	Description
ADVICE GIVEN	<p>This outcome is used when:</p> <ul style="list-style-type: none"> giving advice that does not relate to a specific approach or complaint giving information or advice to the public about Ombudsman SA e.g. address details, a request for a copy of an annual report or pamphlets giving FOI advice. <p>For approaches or complaints, more specific outcomes are used - such as 'Referred Back to Agency', 'Alternate Remedy Available with Another Body', 'Out of Jurisdiction'.</p>
OUT OF JURISDICTION	<p>This outcome is not available when a matter reaches the stage of a complaint.</p> <p>It is used when:</p> <ul style="list-style-type: none"> the complaint body is not an 'agency' (section 3) the act was performed by a Minister of the Crown the complaint is not about an 'administrative act' because it was <ul style="list-style-type: none"> done in the discharge of a judicial authority (section 3) done in the capacity of legal adviser to the Crown (section 3) the act relates to a police matter (section 5(2)) the act was strictly a policy decision (<i>City of Salisbury v Biganovsky</i> 54 SASR 117) the act is a complaint by an employee about their current or past employer (section 17(1))
COMPLAINANT CANNOT BE CONTACTED	<p>This outcome is used after all reasonable attempts have been made to contact the complainant by telephone, email or letter. It can be used at any stage of an assessment or investigation.</p>
REFERRED BACK TO AGENCY	<p>This outcome is used usually during the assessment phase, but may be used in the investigation phase.</p> <p>It is used when:</p> <ul style="list-style-type: none"> it is proper for the complainant to complain to the agency, or go back to the agency to seek a review of their complaint (Ombudsman SA policy - the Ombudsman is an 'office of last resort'), or the complainant has a right of appeal, reference or review with the agency such as: <ul style="list-style-type: none"> with a council under section 270 of the Local Government Act review processes for students in universities review processes for prisoners in Department for Correctional Services review and appeal regarding land tax under the Taxation Administration Act unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy (section 13(3)).
ALTERNATE REMEDY AVAILABLE WITH ANOTHER BODY	<p>This outcome is only used when the agency being complained about is within jurisdiction.</p> <p>It is used where the complainant has a right of appeal, reference or review with another body such as:</p> <ul style="list-style-type: none"> the Health and Community Services Complaints Commissioner the Workcover Ombudsman the Environment Resources and Development Court <p>unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy (section 13(3)).</p>
RESOLVED WITH AGENCY COOPERATION	<p>This outcome is used usually during the assessment phase of a complaint where Ombudsman SA has made contact with the agency, and the agency has taken action to remedy the complaint to the satisfaction of the complainant.</p> <p>It is not used if Ombudsman SA has not had contact with the agency. In this case, the outcome 'Withdrawn by Complainant' will probably be applicable.</p>
WITHDRAWN BY COMPLAINANT	<p>This Outcome is used when the complainant expressly wishes to withdraw their complaint, even if Ombudsman SA has not contacted the agency. It can be used at any stage of an assessment or investigation.</p>
DECLINED/ TRIVIAL, FRIVOLOUS, VEXATIOUS, NOT MADE IN GOOD FAITH (section 17(2))	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because:</p> <ul style="list-style-type: none"> the complaint is trivial (section 17(2)(a)) the complaint was frivolous, vexatious or not made in good faith (section 17(2)(b))

<p>DECLINED/ NO SUFFICIENT PERSONAL INTEREST or NOT DIRECTLY AFFECTED (section 17(2))</p>	<p>This outcome is used for a complaint, where the Ombudsman decides:</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because:</p> <ul style="list-style-type: none"> the complainant or their representative did not have sufficient personal interest (section 17(2)(c)) the complainant was not directly affected by the administrative act (section 15(3a)).
<p>DECLINED/ OUT OF TIME</p>	<p>This outcome is used for a complaint, where the Ombudsman decides:</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because the complaint was made more than 12 months after the day on which the complainant first had notice of the events alleged in the complaint.</p>
<p>DECLINED/ INVESTIGATION UNNECESSARY OR UNJUSTIFIABLE</p>	<p>This outcome is used for a complaint, where the Ombudsman decides</p> <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation <p>because having regard to the circumstances of the case, such action is unnecessary or unjustifiable (section 17(2)(d)). For example:</p> <ul style="list-style-type: none"> after assessing or commencing an investigation of the complaint, it appears that there is no evidence of administrative error under section 25(1)(a)-(g) the complaint is minor the complainant and/or the agency has taken action to rectify the problem it would not be in the public interest for the Ombudsman to investigate or continue investigating the complaint.
<p>NOT SUBSTANTIATED/ No section 25 finding</p>	<p>This outcome is used:</p> <ul style="list-style-type: none"> after a preliminary (or more rarely a full) investigation and a report has been completed, and there is no administrative error under section 25(1)(a)-(g).
<p>OMBUDSMAN COMMENT WARRANTED</p>	<p>This outcome is used only after a preliminary investigation.</p> <p>No administrative error has been found under section 25(1)(a)-(g), but an issue worthy of the Ombudsman's comment has been identified.</p>
<p>Section 25(1)(a) FINDING: CONTRARY TO LAW</p> <p>Section 25(1)(b) FINDING: UNREASONABLE</p> <p>Section 25(1)(c) FINDING: UNREASONABLE LAW OR PRACTICE</p> <p>Section 25(1)(d) FINDING: IMPROPER PURPOSE OR IRRELEVANT GROUNDS OR CONSIDERATIONS</p> <p>Section 25(1)(e) FINDING: NO REASON GIVEN</p> <p>Section 25(1)(f) FINDING: MISTAKE OF LAW OR FACT</p> <p>Section 25(1)(g) FINDING: WRONG</p>	<p>These outcomes are used only when making a finding of administrative error after a full investigation, and reflect section 25(1)(a)-(g) of the Ombudsman Act.</p>

APPENDIX 3

Description of Outcomes - FOI Jurisdiction

OUTCOME	DESCRIPTION
FOI APPLICATION FOR REVIEW WITHDRAWN BY APPLICANT	<p>This outcome means that during or at the conclusion of the external review, the applicant decided to withdraw the application. For example, the applicant may have decided to pursue other avenues of redress; or with the passage of time, the applicant no longer wished to pursue document access.</p> <p>The outcome is relevant when the applicant seeks the external review before they have sought or finalised internal review processes, and hence the Ombudsman is unable to undertake an external review. This outcome does not include instances where the agency has revised its determination to give access to documents.</p>
FOI APPLICATION SETTLED DURING REVIEW (SECTION 39(5))	<p>This outcome means that the Ombudsman exercised settlement powers under section 39(5)(c). A 'Notice of Finalisation' is sent to parties. There is no formal determination by the Ombudsman under section 39(11).</p>
FOI DETERMINATION CONFIRMED (SECTION 39(11))	<p>This outcome means that at the conclusion of the external review, the Ombudsman agreed (in whole) with the agency's determination (section 39(11)).</p> <p>*Note - the Ombudsman's reasons may differ from the agency (for example, a different exemption clause may apply).</p>
FOI DETERMINATION REVERSED (SECTION 39(11))	<p>This outcome means that at the conclusion of the external review, the Ombudsman disagreed (in whole) with the agency's determination (section 39(11)).</p>
FOI DETERMINATION REVISED BY AGENCY (SECTION 19(2)(A))	<p>This outcome means that all documents were released by the agency under section 19(2A) after the commencement of the external review.</p> <p>The outcome may occur, for example, in an external review dealing with an agency's 'double deemed refusal', where the agency has had a chance to consider the documents and decides that the documents should be released.</p>
FOI DETERMINATION VARIED (SECTION 39(11))	<p>This outcome means that at the end of the external review, the Ombudsman agreed in part and disagreed in part with the agency's determination (section 39(11)).</p>
FOI EXTENSION OF TIME FOR APPLICATION FOR REVIEW (SECTION 39(4)) DISCRETION NOT VARIED	<p>This Outcome means that the Ombudsman did not exercise his discretion to accept an external review application out of time under section 39(4).</p>

APPENDIX 4
Section 25 Reports Completed 2011-12

Number	Complainant	Respondent Agency	Nature of matter	Summary in this report
2010/00024	Private individual	District Council of Mount Remarkable	Failure to take appropriate action about a neighbour's wastewater disposal	yes
2010/00047	Private individual	District Council of Yorke Peninsula	Failure to manage CWMS scheme infrastructure Failure to deal with complaints about damage to house	yes
2010/00068	Ombudsman own initiative	City of Port Lincoln	Problems in administering expiation notices	yes
2010/00143	Parliamentary referral	City of Charles Sturt	The St Clair land swap	no
2010/05974	Private individual	Department for Environment and Natural Resources	Wrong advice about a heritage agreement	yes
2011/00919	Private individual	University of Adelaide	Failure to communicate about closure of a bridging program	no
2011/01150	Private individual	Adelaide Hills Council	Actions affecting a road reserve	yes
2011/01419	Private individual	City of Prospect	Code of conduct complaint - DAP member	yes
2011/02040	Private individual	Department for Correctional Services	Unreasonable refusal to honour ex gratia payment	yes
2011/02521	Private individual	Town of Gawler	Failure to correctly apply the confidentiality provisions of the Local Government Act 1999	yes
2011/02795	Private individual	Kangaroo Island Council	Failure to provide documents to elected members	no
2011/02973	Private individual	Light Regional Council	Failure to deal properly with a problem dog and an FOI application	yes
2011/03440	Ombudsman own initiative	City of Onkaparinga	Unlawful recovery of fees	yes
2011/03489	Private individual	Department of Treasury and Finance	Unreasonable interpretation of requirements for rebate	yes
2011/03586	Ombudsman own initiative	City of Charles Sturt	Elected member conflict of interest	no
2011/03644	Private individual	Regional Council of Goyder	Alleged conflict of interest by councillor and DAP member	yes
2011/03773	Private individual	Flinders University	Failure to communicate about university enrolment requirements, and to waive a debt	yes
2011/04675	Private individual	Health & Community Services Complaints Commissioner	Breach of privacy	no
2011/04690	Ombudsman own initiative	Wakefield Regional Council	Failure of a councillor to disclose an interest at council meetings Failure of a councillor to bring an open mind to council deliberations Failure of a councillor to properly complete the Register of Interests	yes
2011/04872	Private individual	City of Unley	Unreasonable charge for assessment information	no
2011/05151	Private individual	Adelaide Hills Council	Failure to implement a council decision, and to comply with public consultation and internal review processes; and conducting an informal gathering in contravention of section 90 of the Local Government Act	yes

2011/05327	Private individual	City of Onkaparinga	Failure to follow procurement procedures Failure to comply with caretaker conventions	yes
2011/05515	Private individual	District Council of Barunga West	Unreasonable scheme for regulating use of boat ramp	yes
2011/05858	Private individual	Department of Education and Child Development	Unreasonable decision by pre-school director to preclude parent	yes
2011/06117	Private individual	Department for Correctional Services	Failure to provide procedural fairness in the context of ongoing separation within the prison system	yes
2011/06304	Private individual	Department of Planning, Transport and Infrastructure	Wrongful payment of student concessions	yes
2011/06938	Private individual	City of Tea Tree Gully	Unreasonable refusal to grant exemption to the planting of a street tree	yes
2011/07164	Private individual	SACE Board of SA	Unreasonable decision not to consider information - denial of procedural fairness	yes
2011/07157	Private individual	Campbelltown City Council	Unreasonable handling of development application	yes
2011/07673	Private individual	Department of Treasury and Finance	Unreasonable refusal to refund overpaid land tax	yes
2011/07946	Ombudsman own initiative	District Council of Barunga West	Elected member conflict of interest	no
2011/08104	Private individual	Department for Correctional Services	Wrongly opening prisoner mail	no
2011/08215	Private individual	Department of Planning, Transport and Infrastructure	Unreasonable delay in providing an endorsement for deep draft pilotage	yes
2011/08805	Private individual	Kangaroo Island Council	Failure to follow policy in naming a private road Making a decision at an informal gathering	yes
2012/00811	Private individual	Department for Further Education, Employment, Science and Technology	Conflicting information about recognition of prior learning	yes
2012/02681	Private individual	Health and Community Services Complaints Commissioner	Failure to deal with a complaint properly	yes

APPENDIX 5

Speeches and Staff Development

Speeches and training provided by Ombudsman SA staff for agencies and councils

(Adelaide unless noted)

2-10 September 2011

Information booth
Royal Adelaide Show
All staff

5 September 2011

The Ombudsman and FOI
Law School, University of Adelaide
Megan Philpot

6 September 2011

The Role of Ombudsman SA
Grandparents for Grandchildren
1 staff member

8 September 2011

CEO Residential Seminar
Local Government Association of
South Australia
Richard Bingham

11 September 2011

*Workshop on FOI for local
government governance officers*
Wallmans Lawyers and State Records
Office
Megan Philpot

22 September 2011

*Governance Officers Residential
Seminar*
Local Government Association of
South Australia
Richard Bingham

7 October 2011

General Meeting
South East Local Government
Association
Naracoorte
Richard Bingham/Megan Philpot

24 October 2011

*Complaints handling and internal
review of council decisions*
Local Government Association of
South Australia
Megan Philpot

26 October 2011

General Meeting
Eastern Metropolitan Region of
Councils
Norwood
Richard Bingham

7 November 2011

*Freedoms, Citizens and the Politics of
the Internet*
University of Adelaide
Richard Bingham

17-18 November 2011

*Information booth - Annual
Conference*
Federation for Ethnic Communities
Council of Australia
Selected staff

2 December 2011

General Meeting
Murray Mallee Local Government
Association
Lameroo
Richard Bingham/Megan Philpot

8 December 2011

Public hearing
Legislative Council Select Committee
on the City of Burnside
Richard Bingham

12 January 2012

Accredited FOI Training
Department of Health
3 staff

7 February 2012

Tomorrow's Senior Managers seminar
Department for Correctional Services
Richard Bingham

7 February 2012

Elected Members seminar
City of Tea Tree Gully
Richard Bingham

9 February 2012

Accredited FOI Training
Department of Health
3 staff

22 February 2012

Australian Institute of Administrative
Law
Local Government Codes of Conduct
Richard Bingham

1 March 2012

Resolve software
Introduction - 'Beehive' seminar
Richard Bingham

15 March 2012

Australian Institute of Administrative
Law
Local Government Codes of Conduct
Richard Bingham

29 March 2012

Norman Waterhouse Lawyers
*City of Charles Sturt Investigation -
Seminar*
Richard Bingham

12 May 2012

Law Week
Courts Open Day
Selected staff

24 May 2012

Local Government Authorised
Persons Association
*Lessons from Ombudsman SA
investigations*
Richard Bingham

22 June 2012

Inspectorate Division, Ministry of
Science and Technology, Vietnam
Role of Ombudsman SA
Richard Bingham

STAFF TRAINING AND CONFERENCES ATTENDED

(Adelaide unless noted)

7 July 2011
NSW Ombudsman
Ombudsman meeting
Sydney
Richard Bingham

10-13 July 2011
Victorian Ombudsman
Investigation skills training
Melbourne
3 staff

13 July 2011
Institute of Public Administration
Australia
Negotiating better outcomes
1 staff member

20-22 July 2011
Oversight of Correctional Facilities
Brisbane
1 staff

21 July 2011
Powdersafe Pty Ltd
Is it safe to open?
1 staff

22 July 2011
Migration Museum
Child Migration Symposium
Richard Bingham

1 August 2011
Anne Simpson, Uni SA Ombud
Presentation
All staff

18 August 2011
NSW Ombudsman
Unreasonable Complainant Conduct Workshop
7 staff

25-26 August 2011
Institute of Public Administration
Australia
National conference
Hobart
1 staff member

7 September 2011
Major Sumner, Lata Mayer & Kim
McCaul
Past, Present, Future: An introduction to Aboriginal cultural awareness
1 staff member

8 September 2011
Maurice Corcoran, Principal
Community Visitor
Presentation
All staff

29 September 2011
Wallmans Lawyers
Fairness and transparency in procurement
1 staff member

25 October 2011
Chartered Secretaries Australia
Annual public sector update
1 staff member

27 October 2011
Ombudsman SA
Strategic planning session
All staff

14 November 2011
Association of Information Access
Commissioners
Meeting
Canberra
Richard Bingham

14-15 November 2011
St John Ambulance
Senior First Aid Training
1 staff member

15-17 November 2011
Australian Public Sector Anti-
Corruption Agencies
Conference
Perth
Megan Philpot

17-18 November 2011
St John Ambulance
Senior First Aid Training
1 staff member

18 November 2011
WA Ombudsman
Deputy Ombudsman meeting
Perth
Megan Philpot

23 November 2011
The Law Society
Trust accounting for legal practitioners
1 staff member

9 December 2011
Victorian Ombudsman
Ombudsman meeting
Melbourne
Richard Bingham

15 December 2011
Jean Pierre du Plessis, Ferrier
Hodgson
Investigation skills - technology
All staff

19 January 2012
Kate Oliver, Norman Waterhouse
Lawyers
Rating under the Local Government Act
All staff

5-9 January 2012
Victorian Ombudsman
Investigation skills workshop
Melbourne
2 staff

9 February 2012
Grant Lester
Vexatious and unusually persistent complainants
1 staff

4, 14, 21 and 28 February 2012
Wendy Tims Consulting
Essential Business Writing Skills
1 staff

20-21 February 2012
Monash University
Conference - Implementing Human Rights in Closed Environments
Melbourne
Megan Philpot

23 February 2012
Wendy Tims Consulting
Career Planning
1 staff

7 and 15 March 2012
Wendy Tims Consulting
Application writing and interview skills
1 staff

28 March, 2 and 30 May, and 27
June 2012
Anna Lee Consulting
Springboard
2 staff

31 March - 1 April 2012
Association of Information Access
Commissioners
Meeting
Adelaide
Richard Bingham

12 April 2012
Office Manager
Duress alarm procedure instruction
All staff

18 April 2012
Chubb International
*Accredited warden and fire
extinguisher training*
1 staff

30 April -2 May 2012
Australian and New Zealand
Ombudsman Association
Biennial conference
Melbourne
Richard Bingham

7 May 2012
University of South Australia
Statutory interpretation seminar
4 staff

7-10 May 2012
NT Ombudsman
Deputy Ombudsman meeting
Darwin
Megan Philpot

18 May 2012
Law Society
*Dispute clauses in contracts -
Agreements to mediate and good
faith obligations*
Megan Philpot

7 June 2012
Local Government Association of
South Australia
*Independent Commissioner Against
Corruption Bill 2012*
1 staff

19 June 2012
Australian Institute of Administrative
Law
Hon John Rau MP - Independent
*Commissioner Against Corruption Bill
2012*
Richard Bingham/Megan Philpot

APPENDIX 6

Complaints Received 2011-12 - Breakdown Of Issues

Government Departments

Approaches & Complaints Received : Issues 1 July 2011 to 30 June 2012

	Attorney-General's Department	DCSI	DCS	DECD	DENR	DFC	DHA	DTEI
Abuse or Assault/Physical/By other detainees			3					
Abuse or Assault/Physical/By staff			7					
Abuse or Assault/Sexual/By other detainees			1					
Abuse or Assault/Verbal/Harassment/Threats/By other detainees			1					
Abuse or Assault/Verbal/Harassment/Threats/By staff			10					
Advice				1				
Complaint Handling/Delay		4	18	3	1			4
Complaint Handling/Inadequate processes			15	27	1	6		8
Complaint Handling/Inadequate reasons		1	3	4				
Complaint Handling/Inadequate remedy		2	5	3		1		2
Complaint Handling/Wrong conclusion	1	2		7		1		
Conduct/Assault			1	1				
Conduct/Discourtesy		1	4	1	1	1		
Conduct/Misconduct		1	10	1		2	1	
Correspondence/Communications/Records/Breach of privacy/confidentiality		1	2			1		
Correspondence/Communications/Records/ Delayed/No response		1	4		1			4
Correspondence/Communications/Records/ Incorrect		1	3	2		2		4
Correspondence/Communications/Records/Lost			2			1		2
Correspondence/Communications/Records/ Withholding of information		1	1	2				1
Correspondence/Communications/Records/ Wrongful disclosure of information		1	1					
Custodial Services/Buildings and facilities			3					
Custodial Services/Canteen			10					
Custodial Services/Cell conditions			23					
Custodial Services/Clothing/Footwear			9					
Custodial Services/Educational programs			7					
Custodial Services/Employment			7					
Custodial Services/Food			16					
Custodial Services/Health related services			54					
Custodial Services/Legal resources			4					
Custodial Services/Prisoner accounts			12					
Custodial Services/Prisoner mail			23					
Custodial Services/Property			59					
Custodial Services/Recreation programs & services			6					
Custodial Services/Rehabilitation programs			8					
Custodial Services/Telephone			20					
Employment	1		4	3				
Financial/Procurement/Facilities/Compensation/ Damage/Property lost/Damaged					1			
Financial/Procurement/Facilities/Debts				2				
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Cost of use								
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Drainage								
Financial/Procurement/Facilities/Facilities owned/ Controlled by uthority/Inadequate								1

	Attorney-General's Department	DCSI	DCS	DECD	DENR	DFC	DHA	DTEI
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Sale/ Lease								
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Unsafe condition				1				
Financial/Procurement/Facilities/Procurement by Agencies/Decisions	1							
Financial/Procurement/Facilities/Procurement by Agencies/Late payment					1			
Financial/Procurement/Facilities/Procurement by Agencies/Tenders				2				
FOI advice	2	5	1	7	1	2	9	
General Advice/FOI matters							1	
Home Detention			8					
Housing/Allocation								
Housing/Arrears/Debt recovery								
Housing/Categorisation								
Housing/Damages								
Housing/Disruptive tenants								
Housing/Maintenance								
Housing/Rent								
Housing/Termination								
Housing/Transfer								
Prison Management/Discipline/Security/Daily regimen			22					
Prison Management/Discipline/Security/Discipline/ Management			23					
Prison Management/Discipline/Security/Drug testing			5					
Prison Management/Discipline/Security/Inspections/ Body searches			3					
Prison Management/Discipline/Security/Protection			2					
Prison Management/Discipline/Security/Transport			2					
Prison Management/Discipline/Security/Visits			28					
Prison Records/Official Correspondence/Delayed/No response			5					
Regulation and Enforcement/Complaint handling								
Regulation and Enforcement/Enforcement Action/Excessive			6					2
Regulation and Enforcement/Enforcement Action/ Insufficient				1				
Regulation and Enforcement/Enforcement Action/Unfair	1		13	2	2			114
Regulation and Enforcement/Fees				1				
Regulation and Enforcement/Infringements/Excessive penalty								1
Regulation and Enforcement/Infringements/Incorrect details								
Regulation and Enforcement/Infringements/Unreasonably issued								1
Regulation and Enforcement/Inspections					1	1		
Regulation and Enforcement/Licensing/Conditions								2
Regulation and Enforcement/Licensing/Refusal								1
Regulation and Enforcement/Licensing/Renewal								
Regulation and Enforcement/Permits				1				
Revenue Collection/Land Tax								
Revenue Collection/Stamp duty								1
Revenue Collection/Water & sewerage								
Roads and Traffic/Charges/Fines								
Roads and Traffic/Licensing/Conditions		1						2
Roads and Traffic/Licensing/Demerit points								4

	Attorney-General's Department	DCSI	DCS	DECD	DENR	DFC	DHA	DTEI
Roads and Traffic/Licensing/Fail to issue renewal								
Roads and Traffic/Licensing/Fees/Charges								1
Roads and Traffic/Licensing/Incorrect details on license								1
Roads and Traffic/Licensing/Medical test								
Roads and Traffic/Licensing/Tests								
Roads and Traffic/Registration/Conditions								2
Roads and Traffic/Registration/Failure to issue renewal								
Roads and Traffic/Registration/Fees/Charges								3
Roads and Traffic/Registration/Incorrect details on registration								2
Roads and Traffic/Registration/Roadworthy								2
Roads and Traffic/Registration/Transfer without consent								
Roads and Traffic/Road Management								2
Sentence Management/Classification			3					
Sentence Management/Parole			13					
Sentence Management/Placement/Location			23					
Sentence Management/Transfers			19					
Service Delivery/Abuse in care			2	2				
Service Delivery/Assessment		1		1		4		
Service Delivery/Conditions			2	4	1	5		2
Service Delivery/Debts								
Service Delivery/Eligibility for services		2	7	2			1	3
Service Delivery/Failure to act/Provide	1	5	8	15	1	7	1	10
Service Delivery/Fees and charges				5				6
Service Delivery/Financial Assistance								2
Service Delivery/Quality		6	7	8		5	1	15
Service Delivery/Termination of services				1		1		1
Total	7	36	558	110	12	40	14	206

Government Departments

Approaches & Complaints Received : Issues 1 July 2011 to 30 June 2012

	Department for Water	DECS	DFEEST	Department of Health	DMITR	DPLG	DPTI	Department of Primary Industries & Resources
Abuse or Assault/Physical/By other detainees								
Abuse or Assault/Physical/By staff								
Abuse or Assault/Sexual/By other detainees								
Abuse or Assault/Verbal/Harassment/Threats/By other detainees								
Abuse or Assault/Verbal/Harassment/Threats/By staff								
Advice					1			
Complaint Handling/Delay			2		2		10	
Complaint Handling/Inadequate processes		8	5				26	
Complaint Handling/Inadequate reasons			1		1		2	
Complaint Handling/Inadequate remedy		7	1				4	
Complaint Handling/Wrong conclusion							1	
Conduct/Assault								
Conduct/Discourtesy			1	1			3	
Conduct/Misconduct		2	1	1			3	
Correspondence/Communications/Records/Breach of privacy/confidentiality				1			1	1
Correspondence/Communications/Records/ Delayed/No response							4	
Correspondence/Communications/Records/ Incorrect	1		1				8	
Correspondence/Communications/Records/Lost			1				5	
Correspondence/Communications/Records/ Withholding of information							3	
Correspondence/Communications/Records/ Wrongful disclosure of information								
Custodial Services/Buildings and facilities								
Custodial Services/Canteen								
Custodial Services/Cell conditions								
Custodial Services/Clothing/Footwear								
Custodial Services/Educational programs								
Custodial Services/Employment								
Custodial Services/Food								
Custodial Services/Health related services								
Custodial Services/Legal resources								
Custodial Services/Prisoner accounts								
Custodial Services/Prisoner mail								
Custodial Services/Property								
Custodial Services/Recreation programs & services								
Custodial Services/Rehabilitation programs								
Custodial Services/Telephone								
Employment		2		1				
Financial/Procurement/Facilities/Compensation/ Damage/Property lost/Damaged							2	
Financial/Procurement/Facilities/Debts		1						
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/ Cost of use							1	
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/ Drainage	1							
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/ Inadequate							1	
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/ Sale/Lease								

	Department for Water	DECS	DFEEST	Department of Health	DMITR	DPLG	DPTI	Department of Primary Industries & Resources
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/ Unsafe condition								
Financial/Procurement/Facilities/Procurement by Agencies/Decisions		2						
Financial/Procurement/Facilities/Procurement by Agencies/Late payment	1							
Financial/Procurement/Facilities/Procurement by Agencies/Tenders		2					2	
FOI advice		2	3	4	1	2	2	
General advice/FOI matters								
Home Detention								
Housing/Allocation								
Housing/Arrears/Debt recovery								
Housing/Categorisation								
Housing/Damages								
Housing/Disruptive tenants								
Housing/Maintenance								
Housing/Rent								
Housing/Termination								
Housing/Transfer								
Prison Management/Discipline/Security/Daily regimen								
Prison Management/Discipline/Security/Discipline/ Management								
Prison Management/Discipline/Security/Drug testing								
Prison Management/Discipline/Security/Inspections/ Body searches								
Prison Management/Discipline/Security/Protection								
Prison Management/Discipline/Security/Transport								
Prison Management/Discipline/Security/Visits								
Prison Records/Official Correspondence/Delayed/No response								
Regulation and Enforcement/Complaint handling							3	
Regulation and Enforcement/Enforcement Action/Excessive		3					4	
Regulation and Enforcement/Enforcement Action/ Insufficient								
Regulation and Enforcement/Enforcement Action/Unfair		1				1	19	1
Regulation and Enforcement/Fees			2				1	
Regulation and Enforcement/Infringements/Excessive penalty							1	
Regulation and Enforcement/Infringements/Incorrect details							1	
Regulation and Enforcement/Infringements/Unreasonably issued							1	
Regulation and Enforcement/Inspections								
Regulation and Enforcement/Licensing/Conditions	1						7	1
Regulation and Enforcement/Licensing/Refusal	1						5	
Regulation and Enforcement/Licensing/Renewal							8	
Regulation and Enforcement/Permits							2	
Revenue Collection/Land Tax							1	
Revenue Collection/Stamp duty								
Revenue Collection/Water & sewerage	2							
Roads and Traffic/Charges/Fines							14	
Roads and Traffic/Licensing/Conditions							13	
Roads and Traffic/Licensing/Demerit points							4	
Roads and Traffic/Licensing/Fail to issue renewal							5	
Roads and Traffic/Licensing/Fees/Charges							1	
Roads and Traffic/Licensing/Incorrect details on license								
Roads and Traffic/Licensing/Medical test							1	

	Department for Water	DECS	DFEEST	Department of Health	DMITR	DPLG	DPTI	Department of Primary Industries & Resources
Roads and Traffic/Licensing/Tests							1	
Roads and Traffic/Registration/Conditions							7	
Roads and Traffic/Registration/Failure to issue renewal							13	
Roads and Traffic/Registration/Fees/Charges							8	
Roads and Traffic/Registration/Incorrect details on registration							1	
Roads and Traffic/Registration/Roadworthy								
Roads and Traffic/Registration/Transfer without consent							2	
Roads and Traffic/Road Management							1	
Sentence Management/Classification								
Sentence Management/Parole								
Sentence Management/Placement/Location								
Sentence Management/Transfers								
Service Delivery/Abuse in care								
Service Delivery/Assessment				2			7	
Service Delivery/Conditions			1	1			5	
Service Delivery/Debts								
Service Delivery/Eligibility for services		3	3				8	
Service Delivery/Failure to act/Provide		3	2	1		1	18	
Service Delivery/Fees and charges	1	2	4				5	
Service Delivery/Financial assistance			2					
Service Delivery/Quality		3	3	2			22	
Service Delivery/Termination of services								
Total	8	41	33	14	5	4	267	3

Government Departments

Approaches & Complaints Received : Issues 1 July 2011 to 30 June 2012

	Department of Primary Industries & Regions SA	DPC	DTED	DTF	EPA	SA Housing Trust	SA Water Corporation	Grand Total
Abuse or Assault/Physical/By other detainees								3
Abuse or Assault/Physical/By staff								7
Abuse or Assault/Sexual/By other detainees								1
Abuse or Assault/Verbal/Harassment/Threats/By other detainees								1
Abuse or Assault/Verbal/Harassment/Threats/By staff								10
Advice								2
Complaint Handling/Delay				1	2	13	11	71
Complaint Handling/Inadequate processes	1	1		1	7	22	9	137
Complaint Handling/Inadequate reasons						2	2	16
Complaint Handling/Inadequate remedy				2		11	12	50
Complaint Handling/Wrong conclusion		1		2		2	3	20
Conduct/Assault								2
Conduct/Discourtesy		1		2		8	1	25
Conduct/Misconduct	1	1				4	1	29
Correspondence/Communications/Records/Breach of privacy/confidentiality							1	8
Correspondence/Communications/Records/ Delayed/No response		1		3		4	4	26
Correspondence/Communications/Records/ Incorrect		1				4	3	30
Correspondence/Communications/Records/Lost		1		1		1		14
Correspondence/Communications/Records/ Withholding of information								8
Correspondence/Communications/Records/ Wrongful disclosure of information						1		3
Custodial Services/Buildings and facilities								3
Custodial Services/Canteen								10
Custodial Services/Cell conditions								23
Custodial Services/Clothing/Footwear								9
Custodial Services/Educational programs								7
Custodial Services/Employment								7
Custodial Services/Food								16
Custodial Services/Health related services								54
Custodial Services/Legal resources								4
Custodial Services/Prisoner accounts								12
Custodial Services/Prisoner mail								23
Custodial Services/Property								59
Custodial Services/Recreation programs & services								6
Custodial Services/Rehabilitation programs								8
Custodial Services/Telephone								20
Employment				1		1	1	14
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/Damaged	1					1	1	6
Financial/Procurement/Facilities/Debts				1		4	13	21
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Cost of use							1	2
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Drainage							1	2

	Department of Primary Industries & Regions SA	DPC	DTED	DTF	EPA	SA Housing Trust	SA Water Corporation	Grand Total
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Inadequate							1	3
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Sale/Lease						2		2
Financial/Procurement/Facilities/Facilities owned/ Controlled by Authority/Unsafe condition								1
Financial/Procurement/Facilities/Procurement by Agencies/ Decisions								3
Financial/Procurement/Facilities/Procurement by Agencies/Late payment								2
Financial/Procurement/Facilities/Procurement by Agencies/ Tenders								6
FOI advice	1	4	1	2	1	6		56
General Advice/FOI matters								1
Home Detention								8
Housing/Allocation						24		24
Housing/Arrears/Debt recovery						8		8
Housing/Categorisation						7		7
Housing/Damages						2		2
Housing/Disruptive tenants						22		22
Housing/Maintenance						59		59
Housing/Rent						11		11
Housing/Termination						13		13
Housing/Transfer						27		27
Prison Management/Discipline/Security/Daily regimen								22
Prison Management/Discipline/Security/Discipline/ Management								23
Prison Management/Discipline/Security/Drug testing								5
Prison Management/Discipline/Security/Inspections/ Body searches								3
Prison Management/Discipline/Security/Protection								2
Prison Management/Discipline/Security/Transport								2
Prison Management/Discipline/Security/Visits								28
Prison Records/Official Correspondence/Delayed/No response								5
Regulation and Enforcement/Complaint handling								3
Regulation and Enforcement/Enforcement Action/Excessive				3		3	1	22
Regulation and Enforcement/Enforcement Action/ Insufficient					1			2
Regulation and Enforcement/Enforcement Action/Unfair		1				2	2	159
Regulation and Enforcement/Fees				2	2		2	10
Regulation and Enforcement/Infringements/Excessive penalty								2
Regulation and Enforcement/Infringements/Incorrect details								1
Regulation and Enforcement/Infringements/ Unreasonably issued								2
Regulation and Enforcement/Inspections						1		3
Regulation and Enforcement/Licensing/Conditions					1			12
Regulation and Enforcement/Licensing/Refusal								7
Regulation and Enforcement/Licensing/Renewal								8
Regulation and Enforcement/Permits								3
Revenue Collection/Land Tax				11				12
Revenue Collection/Stamp duty				3				4

	Department of Primary Industries & Regions SA	DPC	DTED	DTF	EPA	SA Housing Trust	SA Water Corporation	Grand Total
Revenue Collection/Water & sewerage						10	138	150
Roads and Traffic/Charges/Fines								14
Roads and Traffic/Licensing/Conditions								16
Roads and Traffic/Licensing/Demerit points								8
Roads and Traffic/Licensing/Fail to issue renewal								5
Roads and Traffic/Licensing/Fees/Charges								2
Roads and Traffic/Licensing/Incorrect details on license								1
Roads and Traffic/Licensing/Medical test								1
Roads and Traffic/Licensing/Tests								1
Roads and Traffic/Registration/Conditions								9
Roads and Traffic/Registration/Failure to issue renewal								13
Roads and Traffic/Registration/Fees/Charges								11
Roads and Traffic/Registration/Incorrect details on registration								3
Roads and Traffic/Registration/Roadworthy								2
Roads and Traffic/Registration/Transfer without consent								2
Roads and Traffic/Road Management							2	5
Sentence Management/Classification								3
Sentence Management/Parole								13
Sentence Management/Placement/Location								23
Sentence Management/Transfers								19
Service Delivery/Abuse in care								4
Service Delivery/Assessment				2			1	18
Service Delivery/Conditions						5	1	27
Service Delivery/Debts						1	3	4
Service Delivery/Eligibility for services				1		6	3	39
Service Delivery/Failure to act/Provide		1				19	20	113
Service Delivery/Fees and charges				3		7	51	84
Service Delivery/Financial assistance				1			3	8
Service Delivery/Quality		2		1	2	8	7	92
Service Delivery/Termination of services								3
Total	4	15	1	43	16	321	299	2057

	Adelaide Hills Council	Alexandrina Council	Berri Barmera Council	Corporation of the City of Campbelltown	City of Adelaide	City of Burnside	City of Charles Sturt	City of Holdfast Bay	City of Marion	City of Mitcham	City of Mt Gambier
Advice							2				
Complaint handling/Conflict of interest						1					
Complaint handling/Delay	2				3	2	5		1	3	
Complaint handling/Inadequate processes		1		1	2	4	3	1	1	1	
Complaint handling/Inadequate reasons	2			1			2			1	
Complaint handling/Inadequate remedy		2				1	4		3	1	
Complaint handling/Wrong conclusion	2				2	1					
Conduct/Assault					1						
Conduct/Discourtesy		1			1			1			
Conduct/Failure to declare conflict of interest		1				1	1	1	1		
Conduct/Failure to follow proper process	1			2		3	3		1	1	
Conduct/Misconduct				1	1	1	3	1		1	1
Correspondence/Communications/Records/ Access											
Correspondence/Communications/Records/Delay/No response	1	1			1	2	2				
Correspondence/Communications/Records/ Incorrect							1				
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury											
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/ Damaged				1			3		1		
Financial/Procurement/Facilities/Debts/Incorrect calculation											
Financial/Procurement/Facilities/Debts/Level of charges					1						
Financial/Procurement/Facilities/Debts/Recovery action							1				
Financial/Procurement/Facilities/Debts/Unreasonable charge					2						
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings					1	2					
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											
Financial/Procurement/Facilities/Facilities owned /Controlled by Authority/Recreational facilities											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets							1			1	
Financial/Procurement/Facilities/Other fees and charges		2			3			1			
Financial/Procurement/Facilities/Procurement by agencies/ Decisions											
Financial/Procurement/Facilities/Procurement by agencies/ Tenders											
Financial/Procurement/Facilities/Rates/ Administration					1		1				
Financial/Procurement/Facilities/Rates/Amount		2			2						
Financial/Procurement/Facilities/Rates/Recovery action	1							1	1		
Financial/Procurement/Facilities/Rates/Valuations							1				
FOI advice	1		1		2		9		4		
Governance/Confidentiality	1			1		1		1		1	
Governance/Electoral											
Governance/Failure to follow proper process (Governance)		1				4	1	1			1
Governance/Prudential											
Governance/Public consultation	1			1		2		1			
Improper release of documents											

	Adelaide Hills Council	Alexandrina Council	Berri Barmera Council	Corporation of the City of Campbelltown	City of Adelaide	City of Burnside	City of Charles Sturt	City of Holdfast Bay	City of Marion	City of Mitcham	City of Mt Gambier
Regulation and enforcement/Animals/Excessive action							4			1	
Regulation and enforcement/Animals/Failure to act on complaints											
Regulation and enforcement/Building/Failure to enforce condition			1	1			1				
Regulation and enforcement/Building/Failure/Delay to issue permit									1		
Regulation and enforcement/Building/Inappropriate construction allowed		1		1		1	2				
Regulation and enforcement/ Building/Unreasonable conditions imposed							1				
Regulation and enforcement/ Building/Unreasonable enforcement				1				1	2	1	
Regulation and enforcement/Environmental protection/ Excessive action			1				1				
Regulation and enforcement/Environmental Protection/Failure to action on complaints									1		
Regulation and enforcement/Local laws/Failure to enforce	1		1								
Regulation and enforcement/Local laws/ Improper/Inappropriate	1										1
Regulation and enforcement/Local laws/ Unreasonable enforcement			1	1	2		2	1	1		
Regulation and enforcement/Nuisances/Failure to action on complaints					1						
Regulation and enforcement/Parking/Failure to enforce restrictions		1			1			1			
Regulation and enforcement/Parking/Permits					4						
Regulation and enforcement/Parking/Restrictions										1	
Regulation and enforcement/ Parking/Unreasonable enforcement	3			1	48	5	8	4	2	3	
Regulation and enforcement/Planning & Development/Failure to enforce condition		1						2			
Regulation and enforcement/Planning & Development/Failure to notify						1					
Regulation and enforcement/Planning & Development/Failure/ Delay to issue permit			1			2	1		2		
Regulation and enforcement/Planning & Development/Inappropriate development allowed	3	2				2	8	3	2		1
Regulation and enforcement/Planning & Development/Unreasonable conditions imposed	4	1	2				2	2	3		
Regulation and enforcement/Planning & Development/Unreasonable enforcement	1			1	1				2	2	1
Regulation and enforcement/Public health/Failure to act on complaints		1									
Regulation and enforcement/Public health/Quality of service delivered											
Regulation and enforcement/Public health/ Unreasonable conditions imposed											
Regulation and enforcement/Public health/ Unreasonable enforcement							1				
Whistleblower Protection Act advice											
Total	25	19	8	14	80	36	74	23	29	18	5

	City of Norwood, Payneham & St Peters	City of Onkaparinga	City of Playford	City of Pt Adelaide Enfield	City of Pt Lincoln	City of Prospect	City of Salisbury	City of Tea Tree Gully	City of Unley	City of Victor Harbor	City of West Torrens
Advice											
Complaint handling/Conflict of interest											
Complaint handling/Delay	1	4	3	2			2	2	1		2
Complaint handling/Inadequate processes		2	3	5		1	5	3	3	1	2
Complaint handling/Inadequate reasons		2	1	1			1		1		
Complaint handling/Inadequate remedy	1	2	3	3	1	2	2	4			1
Complaint handling/Wrong conclusion		1	3	1		1		1			1
Conduct/Assault											
Conduct/Discourtesy				1		1		3	2		
Conduct/Failure to declare conflict of interest											
Conduct/Failure to follow proper process		2	1	1				1		2	2
Conduct/Misconduct		3					2			2	
Correspondence/Communications/Records/ Access		1	4								
Correspondence/Communications/Records/Delay/No response		1									
Correspondence/Communications/Records/ Incorrect	1	1						1		1	
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury		1	1								
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/ Damaged	1		1				1		1		1
Financial/Procurement/Facilities/Debts/Incorrect calculation											1
Financial/Procurement/Facilities/Debts/Level of charges	1										
Financial/Procurement/Facilities/Debts/Recovery action									1		1
Financial/Procurement/Facilities/Debts/Unreasonable charge											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Buildings		1									
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Drainage			1				2	1			
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Parks and gardens								1			
Financial/Procurement/Facilities/Facilities owned /Controlled by Authority/ Recreational facilities				1							
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Roads/Streets								1			
Financial/Procurement/Facilities/Other fees and charges			2	1			2				
Financial/Procurement/Facilities/Procurement by agencies/ Decisions		1									
Financial/Procurement/Facilities/Procurement by agencies/Tenders		1									
Financial/Procurement/Facilities/Rates/ Administration	1	2	1						1		
Financial/Procurement/Facilities/Rates/Amount		2	1	3		1	1				1
Financial/Procurement/Facilities/Rates/Recovery action					1		2	1	1		1
Financial/Procurement/Facilities/Rates/Valuations				1			1				
FOI advice	1	2		2							
Governance/Confidentiality		1	1	1							1
Governance/Electoral											
Governance/Failure to follow proper process (Governance)		1				2		2	1		
Governance/Prudential			1								
Governance/Public consultation	1	2					1	1	1		
Improper release of documents											
Regulation and enforcement/Animals/Excessive action	1	4		1			4				
Regulation and enforcement/Animals/Failure to act on complaints			1								2
Regulation and enforcement/Building/Failure to enforce condition											

	City of Norwood, Payneham & St Peters	City of Onkaparinga	City of Playford	City of Pt Adelaide Enfield	City of Pt Lincoln	City of Prospect	City of Salisbury	City of Tea Tree Gully	City of Unley	City of Victor Harbor	City of West Torrens
Regulation and enforcement/Building/Failure/Delay to issue permit										1	
Regulation and enforcement/Building/Inappropriate construction allowed	2	3	1				1			1	
Regulation and enforcement/ Building/Unreasonable conditions imposed			3								
Regulation and enforcement/ Building/Unreasonable enforcement								1			
Regulation and enforcement/Environmental protection/Excessive action				1		1	1			1	
Regulation and enforcement/Environmental Protection/Failure to action on complaints									1		
Regulation and enforcement/Local laws/Failure to enforce		1		1							
Regulation and enforcement/Local laws/ Improper/Inappropriate			1	2		1		2			
Regulation and enforcement/Local laws/ Unreasonable enforcement			1	1			1				
Regulation and enforcement/Nuisances/Failure to action on complaints			1								
Regulation and enforcement/Parking/Failure to enforce restrictions		1		2				1	1		1
Regulation and enforcement/Parking/Permits											
Regulation and enforcement/Parking/Restrictions									1		
Regulation and enforcement/ Parking/Unreasonable enforcement	2	5	7	3			5	9	2	1	6
Regulation and enforcement/Planning & Development/ Failure to enforce condition		3		2			2				1
Regulation and enforcement/Planning & Development/ Failure to notify		1		1					1	1	
Regulation and enforcement/Planning & Development/Failure/Delay to issue permit	1	3	1		1			1			2
Regulation and enforcement/Planning & Development/Inappropriate development allowed	1	7		4			4				1
Regulation and enforcement/Planning & Development/Unreasonable conditions imposed		4		3			2				
Regulation and enforcement/Planning & Development/Unreasonable enforcement			1			1				2	1
Regulation and enforcement/Public health/Failure to act on complaints											
Regulation and enforcement/Public health/Quality of service delivered											
Regulation and enforcement/Public health/Unreasonable conditions imposed											
Regulation and enforcement/Public health/ Unreasonable enforcement											
Whistleblower Protection Act advice											
Total	15	65	44	44	3	11	42	36	19	13	28

	Clare & Gilbert Valleys Council	Coorong District Council	Corp City of Whyalla	Corp Town of Walkerville	DC of Barunga West	DC of Ceduna	DC of Cleve	DC of Coober Pedy	DC of Elliston	DC of Franklin Harbour	DC of Grant
Advice											
Complaint handling/Conflict of interest											
Complaint handling/Delay	1		1								
Complaint handling/Inadequate processes	1			1				1			
Complaint handling/Inadequate reasons											
Complaint handling/Inadequate remedy					1						1
Complaint handling/Wrong conclusion	1							1			
Conduct/Assault											
Conduct/Discourtesy											
Conduct/Failure to declare conflict of interest				2	3						
Conduct/Failure to follow proper process				2					2	1	1
Conduct/Misconduct								1	1		
Correspondence/Communications/Records/ Access											
Correspondence/Communications/Records/Delay/No response											1
Correspondence/Communications/Records/ Incorrect											
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury											
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/ Damaged											
Financial/Procurement/Facilities/Debts/Incorrect calculation											
Financial/Procurement/Facilities/Debts/Level of charges											
Financial/Procurement/Facilities/Debts/Recovery action											
Financial/Procurement/Facilities/Debts/Unreasonable charge											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											
Financial/Procurement/Facilities/Facilities owned /Controlled by Authority/Recreational facilities											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets											1
Financial/Procurement/Facilities/Other fees and charges		1				1					
Financial/Procurement/Facilities/Procurement by agencies/ Decisions											
Financial/Procurement/Facilities/Procurement by agencies/ Tenders											
Financial/Procurement/Facilities/Rates/ Administration											
Financial/Procurement/Facilities/Rates/Amount	1					1					
Financial/Procurement/Facilities/Rates/Recovery action		1							1		
Financial/Procurement/Facilities/Rates/Valuations							1				
FOI advice	1							1			1
Governance/Confidentiality					1	1		1			1
Governance/Electoral											
Governance/Failure to follow proper process (Governance)						1					
Governance/Prudential											
Governance/Public consultation										1	
Improper release of documents											

	Clare & Gilbert Valleys Council	Coorong District Council	Corp City of Whyalla	Corp Town of Walkerville	DC of Barunga West	DC of Ceduna	DC of Cleve	DC of Coober Pedy	DC of Elliston	DC of Franklin Harbour	DC of Grant
Regulation and enforcement/Animals/Excessive action											
Regulation and enforcement/Animals/Failure to act on complaints			1								2
Regulation and enforcement/Building/Failure to enforce condition			1								
Regulation and enforcement/Building/Failure/Delay to issue permit											
Regulation and enforcement/Building/Inappropriate construction allowed					1						
Regulation and enforcement/ Building/Unreasonable conditions imposed											
Regulation and enforcement/ Building/Unreasonable enforcement											
Regulation and enforcement/Environmental protection/ Excessive action											
Regulation and enforcement/Environmental Protection/Failure to action on complaints											
Regulation and enforcement/Local laws/Failure to enforce										1	
Regulation and enforcement/Local laws/ Improper/Inappropriate					1						
Regulation and enforcement/Local laws/ Unreasonable enforcement			1								
Regulation and enforcement/Nuisances/Failure to action on complaints											
Regulation and enforcement/Parking/Failure to enforce restrictions											
Regulation and enforcement/Parking/Permits											
Regulation and enforcement/Parking/Restrictions											
Regulation and enforcement/ Parking/Unreasonable enforcement											
Regulation and enforcement/Planning & Development/Failure to enforce condition											
Regulation and enforcement/Planning & Development/Failure to notify											
Regulation and enforcement/Planning & Development/Failure/Delay to issue permit						1					
Regulation and enforcement/Planning & Development/ Inappropriate development allowed			1	1							1
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed					1						
Regulation and enforcement/Planning & Development/ Unreasonable enforcement					1						
Regulation and enforcement/Public health/Failure to act on complaints											
Regulation and enforcement/Public health/Quality of service delivered											
Regulation and enforcement/Public health/Unreasonable conditions imposed											
Regulation and enforcement/Public health/ Unreasonable enforcement											
Whistleblower Protection Act advice											
Total	5	2	5	6	9	5	1	5	4	3	9

	DC Lower Eyre Peninsula	DC of Loxton Waikerie	DC of Mallala	DC of Mt Barker	DC of Mt Remarkable	DC Orororo/Carrieton	DC Peterborough	DC Renmark Paringa	DC of Robe	DC of Streaky Bay	DC of Copper Coast
Advice											
Complaint handling/Conflict of interest											
Complaint handling/Delay				1	1					2	1
Complaint handling/Inadequate processes	1			1							1
Complaint handling/Inadequate reasons			1	1							
Complaint handling/Inadequate remedy			3	1		1	1			2	
Complaint handling/Wrong conclusion											
Conduct/Assault											
Conduct/Discourtesy							1				
Conduct/Failure to declare conflict of interest											
Conduct/Failure to follow proper process		1	1						1		
Conduct/Misconduct		1	2								
Correspondence/Communications/Records/ Access	1										
Correspondence/Communications/Records/Delay/No response				1	1						1
Correspondence/Communications/Records/ Incorrect											1
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury											
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/ Damaged				1							1
Financial/Procurement/Facilities/Debts/Incorrect calculation											
Financial/Procurement/Facilities/Debts/Level of charges											
Financial/Procurement/Facilities/Debts/Recovery action											
Financial/Procurement/Facilities/Debts/Unreasonable charge											2
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											2
Financial/Procurement/Facilities/Facilities owned /Controlled by Authority/Recreational facilities											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets											
Financial/Procurement/Facilities/Other fees and charges				4	1						2
Financial/Procurement/Facilities/Procurement by agencies/ Decisions											
Financial/Procurement/Facilities/Procurement by agencies/Tenders											
Financial/Procurement/Facilities/Rates/ Administration											
Financial/Procurement/Facilities/Rates/Amount				1	1						
Financial/Procurement/Facilities/Rates/Recovery action		1					1				1
Financial/Procurement/Facilities/Rates/Valuations											
FOI advice											1
Governance/Confidentiality				1				1		1	
Governance/Electoral											
Governance/Failure to follow proper process (Governance)			1							2	2
Governance/Prudential											2
Governance/Public consultation				1							
Improper release of documents											

	DC Lower Eyre Peninsula	DC of Loxton Waikerie	DC of Mallala	DC of Mt Barker	DC of Mt Remarkable	DC Orroroo/Carrieton	DC Peterborough	DC Renmark Paringa	DC of Robe	DC of Streaky Bay	DC of Copper Coast
Regulation and enforcement/Animals/Excessive action											2
Regulation and enforcement/Animals/Failure to act on complaints											
Regulation and enforcement/Building/Failure to enforce condition											
Regulation and enforcement/Building/Failure/Delay to issue permit											
Regulation and enforcement/Building/Inappropriate construction allowed				1							
Regulation and enforcement/ Building/Unreasonable conditions imposed											
Regulation and enforcement/ Building/Unreasonable enforcement											
Regulation and enforcement/Environmental protection/ Excessive action		1									
Regulation and enforcement/Environmental Protection/Failure to action on complaints											
Regulation and enforcement/Local laws/Failure to enforce											
Regulation and enforcement/Local laws/ Improper/Inappropriate											
Regulation and enforcement/Local laws/ Unreasonable enforcement		1				1			1		1
Regulation and enforcement/Nuisances/Failure to action on complaints											
Regulation and enforcement/Parking/Failure to enforce restrictions											
Regulation and enforcement/Parking/Permits											
Regulation and enforcement/Parking/Restrictions											
Regulation and enforcement/Parking/Unreasonable enforcement				1							
Regulation and enforcement/Planning & Development/Failure to enforce condition								1	1		
Regulation and enforcement/Planning & Development/Failure to notify				2							
Regulation and enforcement/Planning & Development/Failure/ Delay to issue permit					1						
Regulation and enforcement/Planning & Development/ Inappropriate development allowed								1			1
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed			1	1							
Regulation and enforcement/Planning & Development/ Unreasonable enforcement				1				1	1		
Regulation and enforcement/Public health/Failure to act on complaints											
Regulation and enforcement/Public health/Quality of service delivered											
Regulation and enforcement/Public health/Unreasonable conditions imposed											1
Regulation and enforcement/Public health/ Unreasonable enforcement											
Whistleblower Protection Act advice											
Total	2	5	9	19	5	2	3	4	4	7	22

Local Government

Approaches & Complaints Received : Issues 1 July 2011 to 30 June 2012

	DC of Yankalilla	DC of Yorke Peninsula	Kangaroo Island Council	Kingston District Council	Light Regional Council	Mid Murray Council	Naracoorte Lucindale Council	Northern Areas Council	Pt Augusta City Council	Pt Pirie Regional Council	Regional Council of Goyder
Advice											
Complaint handling/Conflict of interest							1				
Complaint handling/Delay					1			1			1
Complaint handling/Inadequate processes	2	2	1	1				1	1	3	
Complaint handling/Inadequate reasons										1	
Complaint handling/Inadequate remedy			2			1				6	
Complaint handling/Wrong conclusion			1		1				1		
Conduct/Assault											
Conduct/Discourtesy			3								
Conduct/Failure to declare conflict of interest						2					
Conduct/Failure to follow proper process			3								
Conduct/Misconduct			4					1	1		
Correspondence/Communications/Records/ Access	1										
Correspondence/Communications/Records/Delay/No response										1	1
Correspondence/Communications/Records/ Incorrect											
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury											
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/ Damaged										1	
Financial/Procurement/Facilities/Debts/Incorrect calculation											
Financial/Procurement/Facilities/Debts/Level of charges											
Financial/Procurement/Facilities/Debts/Recovery action											
Financial/Procurement/Facilities/Debts/Unreasonable charge											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage						1				1	
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											
Financial/Procurement/Facilities/Facilities owned /Controlled by Authority/Recreational facilities											
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets									1		2
Financial/Procurement/Facilities/Other fees and charges		1			1	1					
Financial/Procurement/Facilities/Procurement by agencies/ Decisions											
Financial/Procurement/Facilities/Procurement by agencies/Tenders											
Financial/Procurement/Facilities/Rates/ Administration											
Financial/Procurement/Facilities/Rates/Amount											
Financial/Procurement/Facilities/Rates/Recovery action	1										
Financial/Procurement/Facilities/Rates/Valuations											
FOI advice		1									
Governance/Confidentiality			1		1						
Governance/Electoral											
Governance/Failure to follow proper process (Governance)			6		2						
Governance/Prudential											
Governance/Public consultation			1								
Improper release of documents											

	DC of Yankalilla	DC of Yorke Peninsula	Kangaroo Island Council	Kingston District Council	Light Regional Council	Mid Murray Council	Naracoorte Lucindale Council	Northern Areas Council	Pt Augusta City Council	Pt Pirie Regional Council	Regional Council of Goyder
Regulation and enforcement/Animals/Excessive action											
Regulation and enforcement/Animals/Failure to act on complaints										1	
Regulation and enforcement/Building/Failure to enforce condition											
Regulation and enforcement/Building/Failure/Delay to issue permit											
Regulation and enforcement/Building/Inappropriate construction allowed		1	2								
Regulation and enforcement/ Building/Unreasonable conditions imposed											
Regulation and enforcement/ Building/Unreasonable enforcement											
Regulation and enforcement/Environmental protection/ Excessive action											
Regulation and enforcement/Environmental Protection/ Failure to action on complaints											
Regulation and enforcement/Local laws/Failure to enforce											
Regulation and enforcement/Local laws/ Improper/Inappropriate		2									
Regulation and enforcement/Local laws/ Unreasonable enforcement					1						
Regulation and enforcement/Nuisances/Failure to action on complaints								1			
Regulation and enforcement/Parking/Failure to enforce restrictions											
Regulation and enforcement/Parking/Permits											
Regulation and enforcement/Parking/Restrictions											
Regulation and enforcement/ Parking/Unreasonable enforcement									1		
Regulation and enforcement/Planning & Development/ Failure to enforce condition									1		
Regulation and enforcement/Planning & Development/ Failure to notify	1										
Regulation and enforcement/Planning & Development/ Failure/ Delay to issue permit		2									
Regulation and enforcement/Planning & Development/ Inappropriate development allowed	1		1								
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed											3
Regulation and enforcement/Planning & Development/ Unreasonable enforcement									1	1	
Regulation and enforcement/Public health/Failure to act on complaints		1								1	1
Regulation and enforcement/Public health/Quality of service delivered	1										
Regulation and enforcement/Public health/Unreasonable conditions imposed											
Regulation and enforcement/Public health/ Unreasonable enforcement						1					
Whistleblower Protection Act advice						1					
Total	7	10	25	1	7	7	1	4	7	16	8

	Roxby Council	Rural City of Murray Bridge	Southern Mallee District Council	Tatiara District Council	The Barossa Council	Flinders Ranges Council	Town of Gawler	Wakefield Regional Council	Wattle Range Council	Wudinna District Council	Grand Total
Advice											2
Complaint handling/Conflict of interest											2
Complaint handling/Delay								1			44
Complaint handling/Inadequate processes		1				1	1	2			61
Complaint handling/Inadequate reasons		1									16
Complaint handling/Inadequate remedy							1	1			51
Complaint handling/Wrong conclusion							1				19
Conduct/Assault											1
Conduct/Discourtesy											14
Conduct/Failure to declare conflict of interest								2			14
Conduct/Failure to follow proper process				1		1					34
Conduct/Misconduct			1								28
Correspondence/Communications/Records/ Access							1				8
Correspondence/Communications/Records/Delay/No response						1					15
Correspondence/Communications/Records/ Incorrect											6
Financial/Procurement/Facilities/Compensation/ Damage/ Physical injury											2
Financial/Procurement/Facilities/Compensation/ Damage/ Property lost/ Damaged		2									15
Financial/Procurement/Facilities/Debts/Incorrect calculation											1
Financial/Procurement/Facilities/Debts/Level of charges											2
Financial/Procurement/Facilities/Debts/Recovery action	1										4
Financial/Procurement/Facilities/Debts/Unreasonable charge					1						5
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Buildings		1									5
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Drainage											6
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Parks and gardens											3
Financial/Procurement/Facilities/Facilities owned /Controlled by Authority/Recreational facilities			1								2
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Roads/Streets								1			8
Financial/Procurement/Facilities/Other fees and charges	1	2									26
Financial/Procurement/Facilities/Procurement by agencies/ Decisions								1			2
Financial/Procurement/Facilities/Procurement by agencies/ Tenders											1
Financial/Procurement/Facilities/Rates/ Administration								1			8
Financial/Procurement/Facilities/Rates/Amount							2				19
Financial/Procurement/Facilities/Rates/Recovery action											15
Financial/Procurement/Facilities/Rates/ Valuations				1		1					6
FOI advice					2						29
Governance/Confidentiality		1					1	1			22
Governance/Electoral				1							1
Governance/Failure to follow proper process (Governance)		1	1					1			31
Governance/Prudential											3
Governance/Public consultation								1			15
Improper release of documents						1					1

	Roxby Council	Rural City of Murray Bridge	Southern Mallee District Council	Tatiara District Council	The Barossa Council	Flinders Ranges Council	Town of Gawler	Wakefield Regional Council	Wattle Range Council	Wudinna District Council	Grand Total
Regulation and enforcement/Animals/Excessive action		1					1				19
Regulation and enforcement/Animals/Failure to act on complaints					1						8
Regulation and enforcement/Building/Failure to enforce condition											4
Regulation and enforcement/Building/Failure/Delay to issue permit											2
Regulation and enforcement/Building/Inappropriate construction allowed											18
Regulation and enforcement/ Building/Unreasonable conditions imposed											4
Regulation and enforcement/ Building/Unreasonable enforcement							1	1			8
Regulation and enforcement/Environmental protection/ Excessive action											7
Regulation and enforcement/Environmental Protection/Failure to action on complaints											2
Regulation and enforcement/Local laws/Failure to enforce											5
Regulation and enforcement/Local laws/ Improper/Inappropriate				1							12
Regulation and enforcement/Local laws/ Unreasonable enforcement							1				18
Regulation and enforcement/Nuisances/Failure to action on complaints											3
Regulation and enforcement/Parking/Failure to enforce restrictions											9
Regulation and enforcement/Parking/Permits											4
Regulation and enforcement/Parking/Restrictions											2
Regulation and enforcement/ Parking/Unreasonable enforcement							1				117
Regulation and enforcement/Planning & Development/Failure to enforce condition											14
Regulation and enforcement/Planning & Development/Failure to notify											8
Regulation and enforcement/Planning & Development/Failure/ Delay to issue permit							1				20
Regulation and enforcement/Planning & Development/ Inappropriate development allowed							1		1	1	48
Regulation and enforcement/Planning & Development/ Unreasonable conditions imposed					3						32
Regulation and enforcement/Planning & Development/ Unreasonable enforcement											19
Regulation and enforcement/Public health/Failure to act on complaints											4
Regulation and enforcement/Public health/Quality of service delivered											1
Regulation and enforcement/Public health/Unreasonable conditions imposed											1
Regulation and enforcement/Public health/ Unreasonable enforcement											2
Whistleblower Protection Act advice				1	1						3
Total	2	10	3	5	8	5	13	13	1	1	941

Other Authorities

Complaints Received : Issues 1 July 2011 to 30 June 2012

	Aboriginal Housing Authority	Adelaide Health Service	Board of Examiners (Law Society)	Central Adelaide Local Health Network	Central Irrigation Trust	Commissioner for Equal Opportunity	Coroner	Country Health SA Local Health Network Inc
Advice								1
Complaint handling/Conflict of interest								
Complaint handling/Delay								
Complaint handling/Inadequate processes						1		1
Complaint handling/Inadequate reasons								
Complaint handling/Inadequate remedy					1			
Complaint handling/Wrong conclusion								
Conduct/Assault								
Conduct/Discourtesy								
Conduct/Misconduct				1				
Correspondence/Communications/Records/Breach of privacy/Confidentiality				1				
Correspondence/Communications/Records/ Delayed/No response							1	
Correspondence/Communications/Records /Incorrect								1
Correspondence/Communications/Records/Lost								
Correspondence/Communications/Records/ Withholding of information								
Correspondence/Communications/Records/ Wrongful disclosure of information								
Employment								
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury								
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged				1				
Financial/Procurement/Facilities/Debts								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Sale/Lease								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition								
Financial/Procurement/Facilities/Procurement by agencies/Decisions								
Financial/Procurement/Facilities/Procurement by agencies/Late payment								
Financial/Procurement/Facilities/Procurement by agencies/Tenders								
FOI advice				13				4
FOI practices and procedures				1				
Regulation and enforcement/Enforcement action/Excessive								
Regulation and enforcement/Enforcement action/Insufficient								
Regulation and enforcement/Enforcement action/Unfair						1		
Regulation and enforcement/Fees								
Regulation and enforcement/Infringements/Excessive penalty								
Regulation and enforcement/Infringements/Incorrect details								
Regulation and enforcement/ Infringements/ Unreasonably issued								
Regulation and enforcement/Inspections								
Regulation and enforcement/Licensing/Conditions								
Regulation and enforcement/Licensing/Refusal								
Regulation and enforcement/Licensing/Renewal								
Regulation and enforcement/Permits								
Revenue collection/Water & sewerage					1			
Roads and Traffic/Licensing/Demerit points								
Service Delivery/Abuse in care				1				
Service Delivery/Assessment								
Service Delivery/Conditions								

	Aboriginal Housing Authority	Adelaide Health Service	Board of Examiners (Law Society)	Central Adelaide Local Health Network	Central Irrigation Trust	Commissioner for Equal Opportunity	Coroner	Country Health SA Local Health Network Inc
Service Delivery/Debts								
Service Delivery/Eligibility for services								
Service Delivery/Failure to act/Provide	1			4			1	2
Service Delivery/Fees and charges				1				2
Service Delivery/Financial assistance								
Service Delivery/Quality		1	1	7		1		
Service Delivery/Termination of services								
Superannuation								
Whistleblower Protection Act Advice								
Total	1	1	1	30	2	3	2	11

Other Authorities

Complaints Received : Issues 1 July 2011 to 30 June 2012

	Courts Administration Authority	Domiciliary Care SA	Drug & Alcohol Service SA	Eastern Health Authority	Flinders University	Guardianship Board	Health & Community Services Complaints Commissioner	Home Start
Advice								
Complaint handling/Conflict of interest						1		
Complaint handling/Delay					1		3	
Complaint handling/Inadequate processes	1			1	3	1	12	
Complaint handling/Inadequate reasons					2		3	
Complaint handling/Inadequate remedy					1		5	
Complaint handling/Wrong conclusion			1		5		17	
Conduct/Assault								
Conduct/Discourtesy					1	1		
Conduct/Misconduct	1			1		2		
Correspondence/Communications/Records/Breach of privacy/Confidentiality							1	
Correspondence/Communications/Records/ Delayed/No response	3				1	1		
Correspondence/Communications/Records /Incorrect						1		
Correspondence/Communications/Records/Lost	2				1			1
Correspondence/Communications/Records/ Withholding of information	2						1	
Correspondence/Communications/Records/ Wrongful disclosure of information								
Employment								
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury								
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged								
Financial/Procurement/Facilities/Debts	1							
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Cost of use								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Sale/Lease								
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/ Unsafe condition					1			
Financial/Procurement/Facilities/Procurement by agencies/Decisions	1							
Financial/Procurement/Facilities/Procurement by agencies/Late payment								
Financial/Procurement/Facilities/Procurement by agencies/Tenders								
FOI advice	1					1		
FOI practices and procedures								
Regulation and enforcement/Enforcement action/Excessive	1					1		
Regulation and enforcement/Enforcement action/Insufficient	1							
Regulation and enforcement/Enforcement action/Unfair	1					1	1	
Regulation and enforcement/Fees								
Regulation and enforcement/Infringements/Excessive penalty	1							
Regulation and enforcement/Infringements/Incorrect details	1							
Regulation and enforcement/Infringements/Unreasonably issued								
Regulation and enforcement/Inspections								
Regulation and enforcement/Licensing/Conditions								
Regulation and enforcement/Licensing/Refusal								
Regulation and enforcement/Licensing/Renewal								
Regulation and enforcement/Permits					1			
Revenue collection/Water & sewerage								
Roads and Traffic/Licensing/Demerit points	2							

	Courts Administration Authority	Domiciliary Care SA	Drug & Alcohol Service SA	Eastern Health Authority	Flinders University	Guardianship Board	Health & Community Services Complaints Commissioner	Home Start
Service Delivery/Abuse in care								
Service Delivery/Assessment			1			1		
Service Delivery/Conditions		1	2				1	1
Service Delivery/Debts								1
Service Delivery/Eligibility for services			1					2
Service Delivery/Failure to act/Provide	1				3	2	3	
Service Delivery/Fees and charges	1				1			2
Service Delivery/Financial assistance							1	1
Service Delivery/Quality	3	1	1				3	
Service Delivery/Termination of services							1	
Superannuation								
Whistleblower Protection Act Advice								
Total	24	2	6	2	21	13	52	8

Other Authorities

Complaints Received : Issues 1 July 2011 to 30 June 2012

	Land Management Corporation	Legal Practitioner Conduct Board	Legal Services Commission	Libraries Board of South Australia	Liquor & Gambling Commissioner	Lotteries Commission	Motor Accident Commission	Northern Adelaide Local Health Network Inc	Consumer & Business Services	Office of the Technical Regulator
Advice										
Complaint handling/Conflict of interest										
Complaint handling/Delay		1					3	1	12	
Complaint handling/Inadequate processes		3	1		1		1		7	
Complaint handling/Inadequate reasons		1				1			1	
Complaint handling/Inadequate remedy						1			2	
Complaint handling/Wrong conclusion		3			1					
Conduct/Assault										
Conduct/Discourtesy							2		1	
Conduct/Misconduct									1	
Correspondence/Communications/Records/Breach of privacy/Confidentiality										
Correspondence/Communications/Records/ Delayed/No response							3		1	
Correspondence/Communications/Records /Incorrect									2	
Correspondence/Communications/Records/Lost										
Correspondence/Communications/Records/ Withholding of information							3			
Correspondence/Communications/Records/ Wrongful disclosure of information										
Employment										
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury							2			
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged			1							
Financial/Procurement/Facilities/Debts										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Sale/Lease	1									
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition										
Financial/Procurement/Facilities/Procurement by agencies/Decisions										
Financial/Procurement/Facilities/Procurement by agencies/Late payment									1	
Financial/Procurement/Facilities/Procurement by agencies/Tenders				1						
FOI advice			1							
FOI practices and procedures										
Regulation and enforcement/Enforcement action/Excessive									1	
Regulation and enforcement/Enforcement action/Insufficient	1									
Regulation and enforcement/Enforcement action/Unfair							1		1	
Regulation and enforcement/Fees										
Regulation and enforcement/Infringements/Excessive penalty										
Regulation and enforcement/Infringements/Incorrect details										
Regulation and enforcement/Infringements/Unreasonably issued										
Regulation and enforcement/Inspections										
Regulation and enforcement/Licensing/Conditions					2				3	
Regulation and enforcement/Licensing/Refusal									3	
Regulation and enforcement/Licensing/Renewal									2	
Regulation and enforcement/Permits										

Other Authorities Complaints Received : Issues 1 July 2011 to 30 June 2012

	Land Management Corporation	Legal Practitioner Conduct Board	Legal Services Commission	Libraries Board of South Australia	Liquor & Gambling Commissioner	Lotteries Commission	Motor Accident Commission	Northern Adelaide Local Health Network Inc	Consumer & Business Services	Office of the Technical Regulator
Revenue collection/Water & sewerage										
Roads and Traffic/Licensing/Demerit points										
Service Delivery/Abuse in care										
Service Delivery/Assessment							2		1	
Service Delivery/Conditions									2	
Service Delivery/Debts										
Service Delivery/Eligibility for services			5				2	1	4	
Service Delivery/Failure to act/Provide			3		1	1	2		13	
Service Delivery/Fees and charges			1	1			2		3	
Service Delivery/Financial assistance										
Service Delivery/Quality					1			2	9	1
Service Delivery/Termination of services										1
Superannuation										
Whistleblower Protection Act Advice										
Total	2	8	12	2	6	3	23	4	70	2

Other Authorities

Complaints Received : Issues 1 July 2011 to 30 June 2012

	Outback Communities Authority	Public Advocate	Public Trustee	Residential Tenancies Tribunal	RSPCA Inspectorate	SA Ambulance Service	SA Community Housing Authority	SA Country Fire Service	SA Forestry Corporation
Advice									
Complaint handling/Conflict of interest									
Complaint handling/Delay		1	7	1			1		
Complaint handling/Inadequate processes		2	11			1			
Complaint handling/Inadequate reasons							1		
Complaint handling/Inadequate remedy			1					1	
Complaint handling/Wrong conclusion			3						
Conduct/Assault						1			
Conduct/Discourtesy			1						1
Conduct/Misconduct			1						
Correspondence/Communications/Records/Breach of privacy/Confidentiality			1			1			
Correspondence/Communications/Records/ Delayed/No response		1	4						
Correspondence/Communications/Records /Incorrect				1		1			
Correspondence/Communications/Records/Lost									
Correspondence/Communications/Records/ Withholding of information			2						
Correspondence/Communications/Records/ Wrongful disclosure of information				1					
Employment									
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury			1						
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged									
Financial/Procurement/Facilities/Debts						2			
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use						1			
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Sale/Lease									
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition									
Financial/Procurement/Facilities/Procurement by agencies/Decisions			4			1			
Financial/Procurement/Facilities/Procurement by agencies/Late payment			1						
Financial/Procurement/Facilities/Procurement by agencies/Tenders									
FOI advice		1					1		
FOI practices and procedures									
Regulation and enforcement/Enforcement action/Excessive					1				
Regulation and enforcement/Enforcement action/Insufficient									
Regulation and enforcement/Enforcement action/Unfair									
Regulation and enforcement/Fees									
Regulation and enforcement/Infringements/Excessive penalty									
Regulation and enforcement/Infringements/Incorrect details									
Regulation and enforcement/Infringements /Unreasonably issued									
Regulation and enforcement/Inspections				1					
Regulation and enforcement/Licensing/Conditions									
Regulation and enforcement/Licensing/Refusal									
Regulation and enforcement/Licensing/Renewal									
Regulation and enforcement/Permits									

Other Authorities Complaints Received : Issues 1 July 2011 to 30 June 2012

	Outback Communities Authority	Public Advocate	Public Trustee	Residential Tenancies Tribunal	RSPCA Inspectorate	SA Ambulance Service	SA Community Housing Authority	SA Country Fire Service	SA Forestry Corporation
Revenue collection/Water & sewerage									
Roads and Traffic/Licensing/Demerit points									
Service Delivery/Abuse in care									
Service Delivery/Assessment			1			1			
Service Delivery/Conditions			1			2			
Service Delivery/Debts									
Service Delivery/Eligibility for services			1	1					
Service Delivery/Failure to act/Provide		5	18	1			2		
Service Delivery/Fees and charges	1		1			5	1		
Service Delivery/Financial assistance			2						
Service Delivery/Quality			3	1		2			
Service Delivery/Termination of services			1						
Superannuation									
Whistleblower Protection Act Advice									
Total	1	10	65	7	1	18	6	1	1

Other Authorities

Complaints Received : Issues 1 July 2011 to 30 June 2012

	SACE Board of SA	Sheriff	SA Dental Service	SA Heritage Council	SA Tourism Commission	Southern Adelaide Local Health Network Inc	State Procurement Board	Stormwater Management Authority	Super SA Board	Teachers Registration Board
Advice										
Complaint handling/Conflict of interest										
Complaint handling/Delay					1				2	
Complaint handling/Inadequate processes	2								2	
Complaint handling/Inadequate reasons									2	
Complaint handling/Inadequate remedy						1				
Complaint handling/Wrong conclusion										
Conduct/Assault										
Conduct/Discourtesy										
Conduct/Misconduct				1						
Correspondence/Communications/Records/Breach of privacy/Confidentiality									1	
Correspondence/Communications/Records/ Delayed/No response									1	
Correspondence/Communications/Records /Incorrect								1	3	
Correspondence/Communications/Records/Lost										
Correspondence/Communications/Records/ Withholding of information						1				
Correspondence/Communications/Records/ Wrongful disclosure of information										
Employment										
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury										
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged										
Financial/Procurement/Facilities/Debts										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Sale/Lease										
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition										
Financial/Procurement/Facilities/Procurement by agencies/Decisions										
Financial/Procurement/Facilities/Procurement by agencies/Late payment										
Financial/Procurement/Facilities/Procurement by agencies/Tenders							1			
FOI advice			2		1	7				
FOI practices and procedures										
Regulation and enforcement/Enforcement action/Excessive										
Regulation and enforcement/Enforcement action/Insufficient				1						
Regulation and enforcement/Enforcement action/Unfair										
Regulation and enforcement/Fees						1				
Regulation and enforcement/Infringements/Excessive penalty										
Regulation and enforcement/Infringements/Incorrect details										
Regulation and enforcement/Infringements/Unreasonably issued										
Regulation and enforcement/Inspections										
Regulation and enforcement/Licensing/Conditions										
Regulation and enforcement/Licensing/Refusal										
Regulation and enforcement/Licensing/Renewal										
Regulation and enforcement/Permits										

	SACE Board of SA	Sheriff	SA Dental Service	SA Heritage Council	SA Tourism Commission	Southern Adelaide Local Health Network Inc	State Procurement Board	Stormwater Management Authority	Super SA Board	Teachers Registration Board
Revenue collection/Water & sewerage										
Roads and Traffic/Licensing/Demerit points										
Service Delivery/Abuse in care										
Service Delivery/Assessment									2	
Service Delivery/Conditions									1	1
Service Delivery/Debts										
Service Delivery/Eligibility for services					1				3	
Service Delivery/Failure to act/Provide			1						4	
Service Delivery/Fees and charges						1				
Service Delivery/Financial assistance										
Service Delivery/Quality		1				5			3	
Service Delivery/Termination of services										
Superannuation									8	
Whistleblower Protection Act Advice										
Total	2	1	3	2	3	16	1	1	32	1

Other Authorities

Complaints Received : Issues 1 July 2011 to 30 June 2012

	The Art Gallery Board	University of Adelaide	University of South Australia	Urban Renewal Authority	Women's & Children's Health Network Inc	WorkCover Corporation	WorkCover Ombudsman	Total
Advice		1						2
Complaint handling/Conflict of interest								1
Complaint handling/Delay						1		35
Complaint handling/Inadequate processes		5	5					61
Complaint handling/Inadequate reasons	1		1					13
Complaint handling/Inadequate remedy			1					14
Complaint handling/Wrong conclusion		2	5			1	3	41
Conduct/Assault								1
Conduct/Discourtesy								7
Conduct/Misconduct				1				9
Correspondence/Communications/Records/Breach of privacy/Confidentiality			1					6
Correspondence/Communications/Records/ Delayed/No response								16
Correspondence/Communications/Records /Incorrect		2	2					14
Correspondence/Communications/Records/Lost								4
Correspondence/Communications/Records/ Withholding of information								9
Correspondence/Communications/Records/ Wrongful disclosure of information					1			2
Employment						1		1
Financial/Procurement/Facilities/Compensation/ Damage/Physical injury								3
Financial/Procurement/Facilities/Compensation/Damage /Property lost/Damaged		1						3
Financial/Procurement/Facilities/Debts						1		4
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Cost of use								1
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Sale/Lease								1
Financial/Procurement/Facilities/Facilities owned/Controlled by Authority/Unsafe condition								1
Financial/Procurement/Facilities/Procurement by agencies/Decisions								6
Financial/Procurement/Facilities/Procurement by agencies/Late payment								2
Financial/Procurement/Facilities/Procurement by agencies/Tenders								2
FOI advice	1	3				1		37
FOI practices and procedures								1
Regulation and enforcement/Enforcement action/Excessive		1						5
Regulation and enforcement/Enforcement action/Insufficient								3
Regulation and enforcement/Enforcement action/Unfair			2		1			9
Regulation and enforcement/Fees								1
Regulation and enforcement/Infringements/Excessive penalty								1
Regulation and enforcement/Infringements/Incorrect details								1
Regulation and enforcement/Infringements/Unreasonably issued			1					1
Regulation and enforcement/Inspections								1
Regulation and enforcement/Licensing/Conditions								5
Regulation and enforcement/Licensing/Refusal								3
Regulation and enforcement/Licensing/Renewal								2
Regulation and enforcement/Permits								1
Revenue collection/Water & sewerage								1
Roads and Traffic/Licensing/Demerit points								2

	The Art Gallery Board	University of Adelaide	University of South Australia	Urban Renewal Authority	Women's & Children's Health Network Inc	WorkCover Corporation	WorkCover Ombudsman	Total
Service Delivery/Abuse in care								1
Service Delivery/Assessment			1					10
Service Delivery/Conditions		1				1		14
Service Delivery/Debts								1
Service Delivery/Eligibility for services			3			1		25
Service Delivery/Failure to act/Provide			2					70
Service Delivery/Fees and charges		2	2			1		28
Service Delivery/Financial assistance						1		5
Service Delivery/Quality		1	1		1	1	1	51
Service Delivery/Termination of services		1	8			1		13
Superannuation								8
Whistleblower Protection Act Advice						1		1
Total	2	20	35	1	3	12	4	560



OmbudsmanSA

CONTACT US

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

Visit our website for further information about our services or register your complaint directly online.

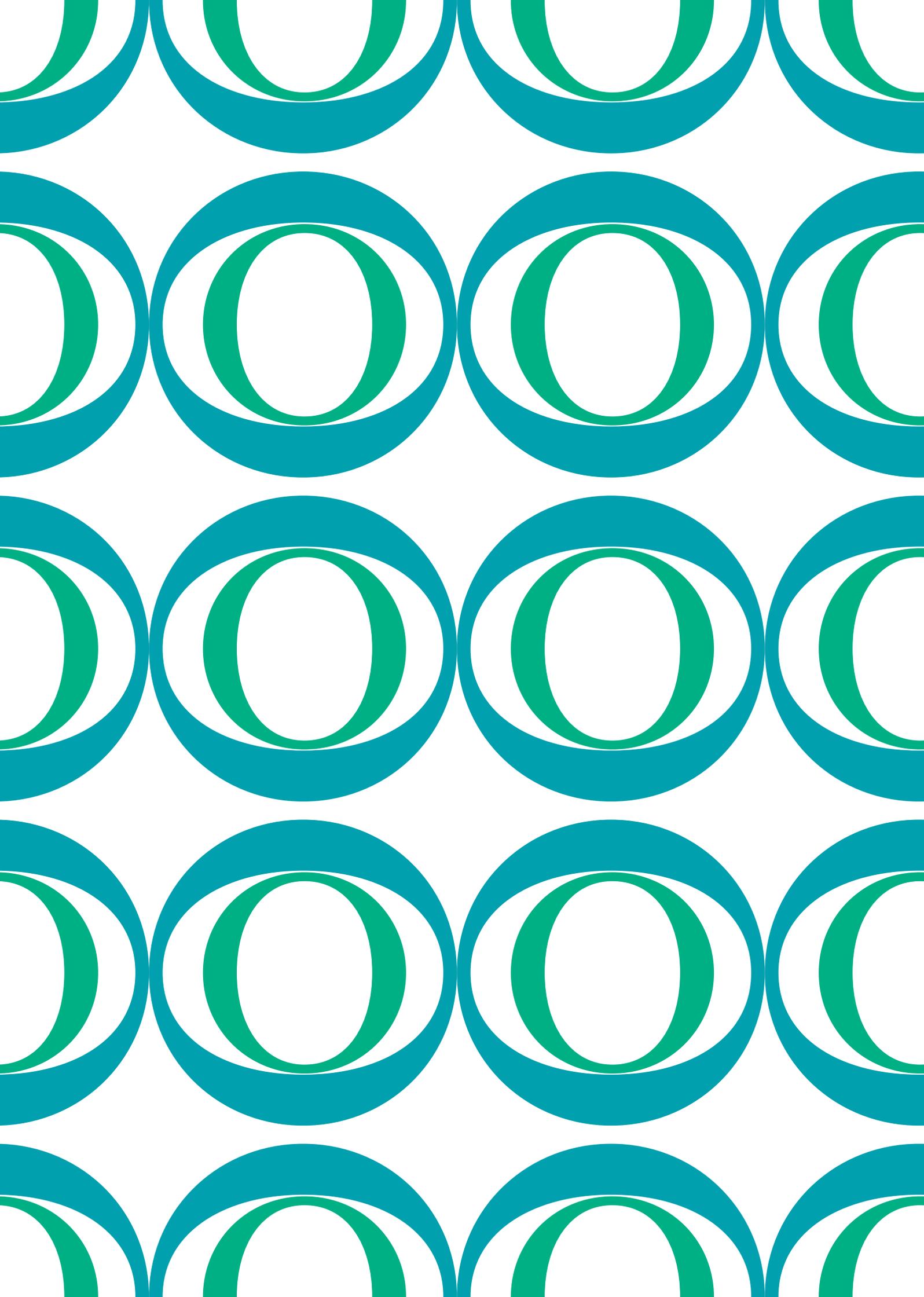
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Ombudsman SA investigates complaints about South Australian government and local government agencies, and conducts freedom of information reviews.

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



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