

REPORT

Investigation pursuant to referral
Section 24(2)(a) *Independent Commissioner Against Corruption Act 2012*

Public Authority	HomeStart Finance
Ombudsman reference	2016/08293
ICAC reference	2015/001202
Date of referral	19 October 2016
Issue/s to be assessed	Whether HomeStart Finance (HomeStart) committed an act of maladministration in public administration through excessive expenditure on alcohol

Jurisdiction

This matter was referred to the Ombudsman by the Commissioner pursuant to section 24(2)(a) of the *Independent Commissioner Against Corruption Act 2012* (**the ICAC Act**), as raising a potential issue of maladministration in public administration within the meaning of that Act (**the referral**).

The referral arose out of a report to the Office for Public Integrity made by an anonymous whistleblower.

The referral alleged that the practices, policies or procedures of HomeStart Finance may have resulted in irregular and unauthorised use of public money or substantial mismanagement of money through excessive expenditure on alcohol.

Action taken

Using my powers under the *Ombudsman Act 1972*, I have conducted an investigation of the issue in response to the referral by:

- assessing the information provided by the Commissioner
- seeking a written response from the agency, and a follow up response to further questions
- considering the ICAC Act and the Ombudsman Act
- preparing a provisional report and providing it to the agency for comment
- considering the agency's response to my provisional report
- preparing this final report.

Standard of proof

The standard of proof I have applied in my investigation and this report is on the balance of probabilities. However, in determining whether that standard has been met, in accordance with the High Court's decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336 (*Briginshaw*), I have considered the nature of the complaint and the allegations made and the consequences if they were to be upheld. *Briginshaw* recognises that greater care is needed in considering the evidence in some cases;¹ and it is best summed up in the decision as follows:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issue has been proved ...²

Response to my provisional report

In response to my provisional report, the agency made a number of submissions which I have addressed in my final report. In summary, the agency submitted that:

- it did not agree with the findings in my report
- there is no express prohibition regarding the purchase of alcohol, and that my findings were informed by my own interpretation of what I personally consider to be inappropriate
- my interpretation of maladministration under the ICAC was too narrow in some respects, and too broad in others
- if I were to make a finding of maladministration, the public would be likely to misinterpret my findings and believe that the agency had committed an act of impropriety, fraud or corruption, which would cause reputational harm to the agency
- my report unfairly represents a culture of uncontrolled and indiscriminate expenditure on alcohol within the agency
- I did not properly consider the agency's guidelines on alcohol expenditure
- the agency is accountable to external parties, and these external parties have not objected to the agency's expenditure on alcohol
- the amount of expenditure on alcohol was not substantial enough to amount to maladministration.

I have referred to those submissions as they relate to my findings throughout the report as necessary, and minor requests for amendments have been accepted at the agency's direction without further comment.

Background and evidence obtained in the investigation

1. It was initially reported that during an unknown period of time, the agency spent \$3,523.00 on alcohol at the following businesses:
 - BWS Findon Drive In
 - Dan Murphy's Norwood
 - Dan Murphy's Smithfield
 - Dan Murphy's Bella Vista
 - Dan Murphy's Pasadena
 - Hahndorf Hill Winery Hahndorf.

¹ This decision was applied more recently in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 110 ALR 449 at pp449-450, per Mason CJ, Brennan, Deane and Gaudron JJ.

² *Briginshaw v Briginshaw* at pp361-362, per Dixon J.

2. In response to preliminary enquiries by the Office for Public Integrity (OPI), Mr John Oliver, Chief Executive of HomeStart (the agency) provided additional information in relation to the expenditure, including a redacted copy of credit card statements, a copy of invoices and records of purchases which were summarized in the following table:

Table 1

Expenditure	Business name	Reason
\$1640	La Bonne Table	'Corporate Procurement, Entertainment, FBT, HS Xmas Party - Balance payment on Xmas function'
\$84.00	Fassina Wines	'Gifts for facilitators'
\$29.50	Office on Pirie	'Entertainment FBT'
\$323.40	First Choice Liquor	'Staff rewards and recognition'
\$18.50	Highway bar	'Drinks for external stakeholder'
\$1000.00	The Jade Monkey (live music venue)	'Executive Services All Homestart Staff EOFY's celebration'
\$79.00 and \$24.00	Seven Stars Hotel	'IT Team Cem Fareweel' (sic) and 'Hahn Super Dry Pints - IT Team Christmas (handwriting cannot be read)'
\$609.00	Charlesworth Nuts	'For thank you - Gift basket as thank you for external vendors and relocation work'
\$1200.00	Adelaide Oval Corporate Box	'Strikers v Thunder Contact John Oliver - event included meals - brokers at Adelaide Oval Corporate Box'
\$539.50	The Jade Monkey	'Beverages supplied - retail Xmas function'
\$39.50	The Griffins	'Purchased drinks for staff and business partners'

3. Mr Oliver also provided OPI with excerpts of Homestart's policy in relation to alcohol purchases (the policy):

- (i) Any other circumstances which would allow for the approval of alcohol to be purchased (other than as part of a meal).

HomeStart allows for the purchase of alcohol in the following circumstances:

- As part of reciprocal entertainment and entertainment of business partners, for example, loan brokers, loan managers.
- As part of the Reward and Recognition Program.
- As part of an organisational celebration, for example, achievement of specific organisational goals.
- In recognition of employee service milestones.

4. Further, Mr Oliver also explained that all purchases of alcoholic beverages, apart from alcohol purchased as part of a restaurant meal must be ordered through the Facilities and Procurement Coordinator and that approval must first be obtained from the CEO or a General Manager.

5. As not all purchases in Table 1 were ordered via the Facilities and Procurement coordinator, Mr Oliver told the Commissioner that:

- All expenditure had been appropriately authorised in accordance with the relevant policies;
- In certain circumstances it was impractical for the Facilities and Procurement Coordinator to make the purchase;
- Due to the nature of certain events, for example Marketing events, it was simpler and more pragmatic for the event organiser to make any required purchases;
- In a small number of instances, the CEO or a GM may have authorised other staff to purchase alcohol for specific events.

6. Mr Oliver provided the following information as context for the way HomeStart operates as an agency:

In responding to your enquiries, and noting that your investigation is into maladministration in public administration, it is important to put some context around the operations of HomeStart Finance (HomeStart).

HomeStart is a statutory authority which provides housing finance and operates effectively as a non Approved Deposit-Taking Financial Institution. It operates in a commercial environment along with numerous other financial institutions including banks and credit unions. It is not subject to appropriation from the State Budget rather contributes significant funds in the form of guarantee fees, tax equivalents and dividends to the government. HomeStart has financial performance targets which have been agreed with the Department of Finance and Treasury including such measures including but not limited to return on equity, capital adequacy and a cost to income ratio and continues to be strongly focussed on meeting or exceeding these targets on an annual basis.

HomeStart is overseen by an independent Board of Management and has two sub-committees including the Asset and Liability Committee and the Audit Committee. The Audit Committee has oversight of a detailed internal audit program (currently outsourced to Ernst Young) and HomeStart is externally audited by the Auditor General (currently outsourced to KPMG). Budgets, both administrative expenditure and capital expenditure, are approved by the Board in June each year for the forthcoming year and reviewed as at the end of December. HomeStart also complies with relevant State Government policies and Treasurer's Instructions. HomeStart is regulated by ASIC for its credit operations.

As mentioned above HomeStart conducts its business in a commercial environment. It sources loans both directly through its city and suburban offices, via longstanding arrangements with third party loan managers, and via brokers/aggregators. It has a business development team with responsibility for developing and maintaining these relationships. Entertainment of brokers, loan managers and other business partners is part of business.

HomeStart also has a strong internal culture based around achievement and has a number of programs which support individual staff development that recognises achievement through both formal and informal employee recognition. In regard to the latter People Leaders are provided with a small (per head) annual budget for their teams to use at their discretion to reward, recognise, motivate and acknowledge a team or team member's performance.

HomeStart has a Register of Financial Authorisations (RoFA) and in terms of expenditure approval processes, all expenditure is approved by an employee's line manager (People Leader). This includes expenditure by credit card or invoice. In the case of the CEO the Chairman approves any expenditure.

HomeStart has over 345 policies, guidelines and procedures which provide guidance on the way in which the business conducts its operations.³

7. In light of Mr Oliver's comment that HomeStart 'is not subject to appropriation from the State Budget rather contributes significant funds in the form of guarantee fees, tax equivalents and dividends to the government,' I questioned Mr Oliver as to whether he considered that HomeStart is subject to different standards in relation to expenditure on alcohol compared to other government agencies.⁴ In response to that question, Mr Oliver responded as follows:

³ Letter dated 21 November 2016 from Mr John Oliver in response to the Ombudsman's letter dated 1 November 2016 to Mr John Oliver.

⁴ Letter dated 24 November 2016 to Mr John Oliver.

First, I am not sure of the standards to which you refer when you question whether HomeStart considers that it “is subject to different standards in relation to expenditure on alcohol compared to other government agencies”. If you are able to provide a written, documented or published standard that is specific to the purchase of alcohol, HomeStart would be more than prepared to consider it.

Regardless, HomeStart adheres to standards of conduct and practice as prescribed by legislation (e.g. Code of Ethics for the South Australian Public Sector (Honesty and Accountability) Act 1995 (SA)), Premier and Cabinet Circulars, Treasurer’s Instructions, our internal values and community expectations. These ‘standards’ inform, and are reflected in, our practices, policies, procedures and guidelines.

HomeStart is a stand-alone entity and does not, (sic) have access to any government departmental policies, guidelines and procedures, computer systems or other services.

My response was intended to highlight the relative differences between HomeStart, as a profit-making statutory corporation, and other government agencies in terms of the type of expenditure that may be viewed as “irregular” for an agency or government department that is not a government business enterprise and does not compete with private sector organisations. HomeStart conducts its business in a commercial environment effectively competing in a market where banks, credit unions and other financiers compete for mortgage lending business. To achieve this one of its key strategies is to increase the volume of business originated via its network of brokers in order to reach its intended market and fulfil its objectives.

Similarly, HomeStart competes with other organisations in attracting and retaining talented employees. Formal and informal recognition is a means of rewarding performance and nurturing a high-performing organisation in order to be able to do this. Rewarding an individual or a team for performance is a legitimate way to do this, sometimes this includes the purchase of alcohol however, most times it does not.

This does not imply that the necessary control or accountability with respect to expenditure is lacking. HomeStart is a financial institution and is governed by an independent Board of Management that has established an Audit Committee to report to the Board on the fulfilment of HomeStart’s statutory financial reporting, risk management and fraud control, and regulatory compliance. This is supported by both internal and external audit functions.

The Board has delegated authority to the Chief Executive for expenditure of up to \$100,000 per transaction and delegations to other operational staff as stipulated by the Register of Financial Authorisations (RoFA). Expenditure within these delegations is ‘authorised’.

In addition, as an Australian credit licensee, HomeStart is regulated by the Australian and Securities Investments Commission (ASIC) and subject to general conduct obligations under the *National Consumer Credit Protection Act 2009* (Cth) which require licensees to do all things necessary to ensure that the credit activities authorised by the licence are engaged in efficiently, honestly and fairly.⁵

This entails having in place internal systems to, amongst other things:

- maintain the competence to engage in the credit activities authorised by our credit licence, that is, to have appropriately qualified and experienced employees; and
- policies and procedures to regulate the conduct of employees and agents in the distribution of HomeStart products.

In this sense it may be said that HomeStart *is* subject to different standards compared to other government agencies.

⁵ Section 47(1)(a).

Notwithstanding, the expenditure is not considered “irregular”, it has been authorised and is within HomeStart’s existing guidelines. The specific matters you have sought additional information on are outlined below, although it is noted that some of the questions have been answered in our previous reply.⁶

8. I requested that the agency provide copies of all documents relating to purchases in Table 1, including all invoices and any relevant authorisations, in addition to any information about when these purchases were made, by whom they were made, and for what purpose. I also requested that the agency address why these purchases were considered a necessary and reasonable expense and whether they were consistent with the policy.
9. The agency provided a response to each purchase with individual tables, however, I consider many of those responses to be lacking in detail. As a result, I wrote to the agency by letter dated 24 November 2016 with additional questions in regard to specific purchases that I considered required further explanation.
10. The agency responded by letter dated 16 December 2016, and the response to each item has been included as an addendum to each specific table the response relates to:

Table 2

Date	5 December 2014
Place of Purchase	La Bonne Table Adelaide (appendix 1)
Amount	\$1640.00
Purchased By	Kathryn Del Col (Facilities and Procurement Officer)
Authorised By	Andrew Mills (Acting Head of Strategy People and Operations)
Purpose	HomeStart Staff Christmas Party (partial payment of cost of function which included food and drinks)
Reasonable Expense and within Guidelines	Yes. HomeStart has since inception 27 years ago, held an annual staff (only) Christmas party which is paid for by HomeStart. There were in excess of 70 employees attending the function and the total cost on a per head basis is considerable (sic) reasonable.

Table 3

Date	24 July 2014
Place of Purchase	Fassina Wines (Appendix 2)
Amount	\$84.97
Purchased By	Kristen Frost (P & P Business Partner - Learning & Development)
Authorised By	Maree McCauley (Head of People and Performance)
Purpose	3 bottles of wines to be used as gifts for the external facilitators of internal leadership workshops
Reasonable Expense and within Guidelines	Yes. The purchase was a gift to an external 3 rd party and was authorised by the Head of People and Performance.

⁶ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive in response to the Ombudsman’s letter dated 24 November 2016 to the agency.

Table 4

Date	10 November 2014
Place of Purchase	The Office on Pirie (Appendix 3)
Amount	\$29.50
Purchased By	John Rolfe (Head of Retail)
Authorised By	John Oliver (CEO)
Purpose	Meeting with Broker/Aggregator principal - entertainment
Reasonable Expense and within Guidelines	Yes. Representing HomeStart - entertainment

In regard to the purchase made on 10 November 2014, the purchase was made by John Rolfe, Head of Retail. Mr Rolfe was exercising his discretion in terms of HomeStart's entertainment guidelines and was representing HomeStart at the time. Given the time of the meeting Mr Rolfe used his own judgement as to what was appropriate at the time, given the nature and location of the meeting.⁷

Table 5

Date	24 November 2016
Place of Purchase	First Choice Liquor Unley (Appendix 4)
Amount	\$323.40
Purchased By	Anita Hooper (EA to CEO)
Authorised By	John Oliver (CEO)
Purpose	6 bottles of Veuve Clicquot champagne as gifts associated with staff length of service recognition awards, HomeStart has a staff length of service recognition award which includes a bottle of champagne. Purchase (bulk) was authorised by the CEO.
Reasonable Expense and within Guidelines	Yes. Formal Recognition.

Table 6

Date	1 August 2014
Place of Purchase	Highway Inn Plympton (Appendix 5)
Amount	\$18.50
Purchased By	Elisabeth James (Business Development Specialist)
Authorised By	John Rolfe (Head of Retail)
Purpose	Purchase of 2 drinks at a farewell function for an employee of a business partner attended by Elisabeth and Scott Hills (Business Development Specialist)
Reasonable Expense and within Guidelines	Yes Representing HomeStart - entertainment

In regard to the purchase on 1 August 2014, this was a function attended by our two Business Development Specialists (Elisabeth James and Scott Hills) at the Plympton Hotel for a well-known, longstanding and highly regarded employee of one of our business partners. The purchase falls under our entertainment guidelines, both employees have been authorised for entertainment expenditure, and was approved/authorised by John Rolfe, Head of Retail on that basis.⁸

⁷ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

⁸ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

Table 7

Date	27 June 2014
Place of Purchase	The Jade Monkey (Appendix 6)
Amount	\$1000.00
Purchased By	Anita Hooper (EA to CEO)
Authorised By	John Oliver (CEO)
Purpose	HomeStart end of financial year function attended by 70+ employees
Reasonable Expense and within Guidelines	Yes. Function was authorised by the CEO and paid for at conclusion of the event. Facilities and Procurement Co-Ordinator did not attend, Recognition.

In regard to the end of financial year function, the decision to hold this function was at the discretion and judgement of the Chief Executive based on the fact that HomeStart had completed a successful financial year of operations achieving or exceeding all financial, lending and operational targets that had been established for the business that financial year. It was a reward for staff for their dedication and commitment to the achievement of those results relative to the goals set, and was recognition of their contribution and efforts during the financial year. It falls under the heading of Reward and Recognition and at a cost of \$10 per head is not unreasonable.⁹

Table 8

Date	10 July 2015
Place of Purchase	Seven Stars Hotel (Appendix 7)
Amount	\$79.00
Purchased By	John Bragg (IT People Leader)
Authorised By	Andrew Mills (Head of Strategic Performance)
Purpose	Purchase of a team drink (10 people) at a colleagues farewell (in conjunction with meals paid for personally)
Reasonable Expense and within Guidelines	Yes. HomeStart informal employee recognition program

In regard to the purchase on 10 July 2015, this was made by the IT Team Leader at a farewell luncheon for a member of his team, under the HomeStart informal recognition and reward program. In this instance the IT Team Leader chose to use part of that allocation as a simple thank you to his team and the employee who was leaving for their efforts, dedication and results.

HomeStart has Reward and Recognition programs, one formal and one informal. The informal program is simply an allocation of \$100 per person which can be accessed by a People Leader at their discretion. This can include use at either an individual or team level.

It is considered the purchase falls within the spirit and intent of the program i.e. recognising individual and team performance, progress, dedication and results. In our experience and in the majority of cases, the expenditure does not involve alcohol, but it is not precluded. The use of the funds is at the discretion of the People Leader and on this occasion the IT Team Leader chose to exercise his discretion in this manner. Further to this, the expenditure was signed off at the appropriate level (Head of Strategic Performance), accepted as being reasonable in the circumstances, and within the spirit and intent of the program.¹⁰

⁹ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

¹⁰ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

Table 9

Date	19 December 2014
Place of Purchase	Seven Stars Hotel (Appendix 8)
Amount	\$24.00
Purchased By	John Bragg (IT People Leader)
Authorised By	Andrew Mills (Head of Strategic Performance)
Purpose	Purchase of 3 drinks for team members
Reasonable Expense and within Guidelines	Yes. HomeStart informal employee recognition program

In regard to the purchase made on 19 December 2014, this purchase was made under the informal employee recognition and reward program. The purchase was made by the IT Team Leader (John Bragg) for 2 employees (Grant Paterson and Derek Paul). As mentioned previously the informal reward and recognition program provides an allocation of \$100 per employee to be used at the People Leader's discretion.

It is considered the purchase falls within the spirit and intent of the program i.e. recognising individual and team performance, progress, dedication and results. In our experience and in the majority of cases, the expenditure does not involve alcohol, but it is not precluded. The use of the funds is at the discretion of the People Leader and on this occasion the IT Team Leader chose to exercise his discretion in this manner. Further to this, the expenditure was signed off at the appropriate level (Head of Strategic Performance), accepted as being reasonable in the circumstances, and within the spirit and intent of the program.¹¹

Table 10

Date	14 August 2015
Place of Purchase	Charlesworth Nuts (Appendix 9)
Amount	\$609.10
Purchased By	Kathryn Del Col (Facilities and Procurement Officer)
Authorised By	Andrew Mills (Head of Strategic Performance)
Purpose	Purchase of 8 hampers (6 of which included alcohol) as gifts for the external consultants (architects/project manager/building supervisor etc) associated with the relocation of HomeStart's office to our new premises.
Reasonable Expense and within Guidelines	Yes. Purchase was a number of gifts and authorised by the Head of Strategic Performance.

In regard to the purchase on 14 August 2015 of eight (8) hampers from Charlesworth Nuts, the purchase was authorised by Andrew Mills, Head of Strategic Performance and purchased by the Facilities and Procurement Co-ordinator.

(We noted in our previous reply, on page 14, that the title of General Manager has been changed to "Head of" Division. This occurred in June 2014 and some policies have simply not been updated to reflect this change).

Given the primary acquisition of each gift basket was in fact nuts or chocolates, but in some cases included a bottle of wine or beer, it is arguable that the Purchase of Alcohol Guideline does not even apply.

The decision to provide the individual people we worked with during the course of the project (architects, project managers, building supervisors) was made by the Head of Strategic Performance. That decision was based on his belief that those non employees and contractors had gone above and beyond the terms of those arrangements/contracts,

¹¹ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

made it possible to meet critical scheduled dates and ultimately lead to HomeStart saving significant costs as a result. It was an appropriate way to say thank you to those people at a personal level. At an average cost of \$75 each the cost of the gifts is reasonable. It is also a decision well within the delegated authority of the executive who had responsibility for this project.¹²

Table 11

Date	6 December 2014
Place of Purchase	Bank SA Charitable Foundation Golf Day (via Stadium Management Authority) (Appendix 10)
Amount	\$1200.00
Purchased By	John Oliver (CEO)
Authorised By	Jim Kouts (Chairman)
Purpose	Purchase of a corporate box at 20/20 cricket match for 12 people for broker entertainment at the Bank SA Charity Golf Day. The package included meals and drinks and was attended by 4 staff and 8 broker guests. (Invoiced by SMA due to technical difficulties at the golf day). Bank SA is a major business partner of HomeStart.
Reasonable Expense and within Guidelines	Yes. Entertainment. Based on 12 people attending the cost of the entertainment was \$100 per head and is considered reasonable.

In regard to the purchase made on 6 December 2014 of a corporate box at Adelaide Oval, this was purchased by the Chief Executive at a charity auction at the annual Bank SA Golf Day to raise funds for the Bank SA Charitable Foundation. Bank SA has been a longstanding partner/loan manager of HomeStart's for 27 years.

The corporate box was to be used for the entertainment of HomeStart's brokers/aggregators/business partners. The corporate box was purchased well under market value (for a 20/20 cricket match) and at \$100 per head was considered good value in terms of comparable entertainment. The cost of entertaining the same clients at a restaurant, for lunch or dinner, would be in the vicinity of \$100 per head, so the cost is considered reasonable.

HomeStart acts in a commercial environment and entertainment of business partners/loan writers/business referrers and the like is part of day to day business. As previously mentioned appropriate budgets are set, then reviewed and approved by the HomeStart Board. The purchase was within the approved Entertainment budget and at the discretion of the Chief Executive. Further to this the expense was signed off (approved) by the Chairman and was not considered inappropriate nor unreasonable.

The people who attended the event were:

John Oliver - Chief Executive
 Ian Wheaton - Head of Finance Treasury and Risk
 Scott Hills - Business Development Specialist
 Elizabeth James - Business Development Specialist
 Elain Knubley - Keyinvest
 Steve Muggy - Bernie Lewis Home Loans
 Gerald Jones - Bernie Lewis Home Loans
 Dwight Andrews - Smartline
 Lydia Schreiner - Bernie Lewis Home Loans
 Robyn Wood - Keyinvest
 David Marsland - Loan Market

¹² Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

Due to a late cancellation only 11 people attended instead of the intended 12.¹³

Table 12

Date	17 December 2014
Place of Purchase	The Jade Monkey (Appendix 11)
Amount	\$539.50
Purchased By	Rick McKay
Authorised By	John Rolfe (Head of Retail)
Purpose	Retail staff alternative to departmental Christmas lunch (which would have been paid for themselves) however, due to inability of the team to leave premises during the day this was seen as a fair and equitable compromise. Function held after work in lieu of during the day. 40+ people attended.
Reasonable Expense and within Guidelines	Yes. Planned function, authorised by Head of Retail.

Table 13

Date	5 March 2015
Place of Purchase	The Griffins Hotel (Appendix 12)
Amount	\$39.50
Purchased By	Scott Hills (Business Development Specialist)
Authorised By	John Rolfe (Head of Retail)
Purpose	Purchase of drinks for 2 staff members and 2 brokers as client entertainment following a function
Reasonable Expense and within Guidelines	Yes Representing HomeStart - Broker entertainment

In regard to the purchase on 5 March 2015, this purchase was made by Scott Hills (Business Development Specialist) for entertainment purposes. The brokers present were Jon Bruce (All Capital) and Dwight Andrews (Smartline). The other staff member attending was Monique De Silva, a member of our Marketing team. The purchase falls within our entertainment guidelines and was approved by John Rolfe, Head of Retail. It is a reasonable expense for discussing HomeStart products or lending criteria, obtaining market intelligence and feedback and building a rapport with our brokers.

The Retail Division has an allocated budget for entertainment purposes and is able to use those funds at its discretion, within that budget, subject to the expenditure being approved by the appropriate line Manager.¹⁴

HomeStart has no record of any purchase at BWS 5809 Findon for \$918. We do however have details of two items purchased there as listed below:

¹³ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

¹⁴ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

Table 14

Dates	2 June 2014 and 6 June 2014
Place of Purchase	BWS Findon (Appendix 13)
Amounts	\$250.51 and \$208.69
Purchased By	Kathryn Del Col (Facilities and Procurement Officer)
Authorised By	Andrew Mills (Acting Head of Strategy People and Operations)
Purpose	2 cases of wines were purchased to be used as gifts throughout the year for external speakers at HomeStart home buying seminars. HomeStart runs up to 6 seminars a year attended by 80-100 prospective customers with presentations from staff and a number of industry related specialists e.g. real estate agents/conveyancers/lawyers
Reasonable Expense and within Guidelines	Yes. Purchased for gifts to external facilitators/speakers.

Table 15

Date	16 July 2015
Place of Purchase	Dan Murphy's Norwood (Appendix 14)
Amount	\$19.90 and \$95.42
Purchased By	Ruth Daugalis (Sponsorship and Events Co-ordinator)
Authorised By	Angela Carey (Marketing and Communications Manager)
Purpose	These purchases were for an internal function to "farewell" our old building prior to moving to new premises. The function was co-ordinated by the Marketing team.
Reasonable Expense and within Guidelines	The expense is considered reasonable. The purchase is within the spirit of the policy in that Marketing were co-ordinating the function, there were other related purchases associated with the function that occurred on the same day, the purchases were made after 5pm 'on the way home' and it was practical in terms of efficiency. The Facilities and Procurement Officer was otherwise heavily engaged in the detail of our premises move. The function was authorised by the Executive team.

In regard to the purchase made on 16 July 2015, the purchase was made under the Purchase of Alcohol Policy as it was for an internal function. It is within the intent of the guideline in the context that it was authorised prior to purchase by the CEO or Head of Division, but not made by the Facilities and Procurement Co-Ordinator, rather by the Marketing Events and Sponsorship Co-Ordinator who was organising the function. The second part of your question is not understood i.e. "which provision of the policy you consider this purchase relates to" as the guideline does not really contain provisions. Hopefully the above response provides clarification on this issue.¹⁵

There is no record of a purchase of alcohol from Dan Murphy's Welland for \$306. There is however a purchase for \$204 which is detailed below:

¹⁵ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

Table 16

Date	18 September 2014
Place of Purchase	Dan Murphy's Welland (Appendix 15)
Amount	\$204.83
Purchased By	Ruth Daugalis (Sponsorship and Events Co-ordinator)
Authorised By	Angela Carey (Marketing and Communications Manager)
Purpose	This purchase was made in relation to an internal fund raising event that HomeStart held to raise funds for Operations Flinders in conjunction with the Operation Flinders team. A variety of fund raising activities were undertaken during the function. HomeStart had a sponsorship agreement with Operation Flinders for their Trailblazer event for 3 years and beyond the sponsorship deal also chose to support the event via staff participation and other events.
Reasonable Expense and within Guidelines	Yes. As it was a Marketing initiated event it was reasonable for the Events Co-ordinator to make any purchases associated with the event. The function was authorised by the Executive team.

Table 17

There is no record of a purchase of alcohol from Dan Murphy's On Line Bella Vista for \$1954. There is however 2 purchases for \$1673.64 and \$280.39 which are detailed separately below;

Date	4 August 2015
Place of Purchase	Dan Murphy's On Line Bella Vista (Appendix 16)
Amount	\$1673.64
Purchased By	Vanessa Charlesworth (P & P - Business Partner)
Authorised By	John Oliver (CEO)
Purpose	This purchase covered 2 events. (1) an internal function to celebrate our move to new premises for all staff (2) purchase of a gift to the internal team who had co-ordinated our move which required them to work all day Saturday and Sunday well into the evening on both nights. It was recognition for going above and beyond the normal call of duty.
Reasonable Expense and within Guidelines	Yes. The purchases were authorised by the CEO and authorised by the CEO to be made by a member of the P and P team due to the fact the gift was meant to be a surprise for the people involved which included the Facilities and Procurement Officer. It also made practical sense to make both purchases at the same time. Formal/Informal recognition.

In regard to the purchase on 4 August 2015, the decision to have an internal function following the move into our new premises was made by the Executive Team. The purpose was to;

- acknowledge and celebrate the move;
- reward many staff who worked well beyond normal hours in the months and weeks leading up to the move;
- recognise and reward staff who specifically worked over the weekend of the move on either Saturday and/or Sunday, in some cases from 8am to 8pm just simply to get as much work as possible finished, ensure all IT systems and phones were functioning, all computers installed, all boxes correctly allocated to people and their workstations, interview rooms set up, stationery cupboards established, kitchen equipment unpacked, compactuses filled with allocated files/records just to name but a few of the tasks which needed to be completed.

- accept the fact that there was still considerable work to be completed after we moved in to finalise many outstanding issues, some major, some minor and acknowledge their dedication.

HomeStart moved out of its existing premises Friday 24 July 2015 and moved into unfinished premises on Monday 27 July - the builders were still working on a range of issues as staff were moving in and in order to achieve even that, significant work had to be completed over the weekend.

The function was deemed an appropriate reward as the timeline for the move was extremely tight, the premises were not finished when we moved in, there was a significant amount of work to be done in the final weeks (which resulted in the builders working double shifts to complete) and, there was no option to remain in the existing premises due to a dispute with the landlord. The fact HomeStart was able to commence in the new premises on the Monday saved the organisation significant cost associated with further disruption, loss of service to our business partners and major inconvenience to our customers.

In terms of the reward given to a number of staff, it was a \$50 bottle of champagne which was as much recognition of their efforts as it was of their wives/husbands/partners for them sacrificing their weekend for HomeStart.

The total cost of the gifts was \$975.42 including gift bags at a cost of \$2 each. The cost of the internal function for 100 staff was \$602.22 i.e. approximately \$6 per head, excluding delivery costs and GST.¹⁶

Table 18

Date	26 August 2015
Place of Purchase	Dan Murphy's On Line Bella Vista (Appendix 17)
Amount	\$280.39
Purchased By	Kathryn Del Col
Authorised By	Andrew Mills (Head of Strategic Performance)
Purpose	HomeStart has traditionally had an informal social function each Friday (known as Beer O'clock) whereby staff can have a social drink together from 4.30pm. Drinks are paid for by the staff and HomeStart bears no cost. HomeStart was reimbursed for this purchase.
Reasonable Expense and within Guidelines	Yes.

In regard to the purchase made on 26 August 2015, this was made to assist HomeStart employees to 'restart' their informal beer o'clock Friday event. Beer o'clock was previously co-ordinated by a staff member (with a roster allocation for provision of nibbles at personal cost) with drinks purchased and paid for by the staff i.e. run by the staff for the staff who wished to participate. In the former building which was spread over two (2) floors the funds of both groups were considered separate, and when HomeStart moved to 169 Pirie St, the existing floor by floor arrangements concluded.

It was subsequently determined that the easiest way to recommence beer o'clock given HomeStart was now located on a single floor was for HomeStart to purchase initial supplies, have a single point of contact for management of funds and ordering, and that reimbursement of the initial purchase by HomeStart employees would occur when sufficient funds were accumulated. This occurred on October 14 for an amount of \$350.30 (refer Appendix 1). The reason for the variation is that some other associated non-alcohol related costs (cheese, biscuits etc) were also reimbursed.

¹⁶ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman's letter dated 24 November 2016 to the agency.

Staff do pay for drinks “up front” but there needed to be an initial purchase and creation of a float given the previous arrangements were not continued in the previous format. With the exception of this initial purchase, the Purchase of Alcohol Policy is not considered relevant given this is by the staff, for the staff, using their own funds and is self-funding.¹⁷

Table 19

Date	4 June 2015
Place of Purchase	Dan Murphy’s Pasadena (Appendix 18)
Amount	\$159.88
Purchased By	Ruth Daugalis (Sponsorship and Events Co-ordinator)
Authorised By	Andrew Mills (Head of Strategic Performance)
Purpose	This purchase was for the opening of HomeStart’s Southern Office which was attended by approximately 40 people including staff, board members and guests and co-ordinated by the Marketing team.
Reasonable Expense and within Guidelines	Yes. The purchase was made on the day by the Marketing Events co-ordinator on the way to set up the event and was authorised.

Table 20

Date	1 October 2014
Place of Purchase	Hahndorf Hill Winery (Appendix 19)
Amount	\$70.00
Purchased By	Vanessa Charlesworth (P & P - Business Partner)
Authorised By	Maree McCauley (P & P Leader)
Purpose	This was the purchase of a gift voucher associated with the HomeStart Staff Awards program.
Reasonable Expense and within Guidelines	Yes. It was not the purchase of alcohol. Formal Recognition.

You have requested details of items not included in our original response to OPI and reasons why.

- (1) Dan Murphy’s Pasadena - this item was missed in our initial search.
- (2) Hahndorf Hill Winery - this item was not for the purchase of alcohol but a gift voucher and therefore not included.
- (3) BWS Findon - these items were debited to a different category of expense, “Marketing Seminars” as opposed to Entertainment or Employee Recognition. They were not considered within the ambit of the original request as they were purchased as gifts.

Reasonableness of alcohol purchases

11. I asked the agency whether it considered its practices, policies and procedures in relation to alcohol expenditure were reasonable and appropriate at the time the purchases detailed above were made. The agency responded to that question as follows:

HomeStart’s guidelines and procedures in respect of alcohol expenditure are considered reasonable and appropriate.

¹⁷ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman’s letter dated 24 November 2016 to the agency.

The Purchasing and Procurement Guideline states that “recognising that purchasing requirements are varied and numerous, these policies and procedures do not intend to cover every possible situation. They intend to be a guideline only and provide detailed procedures on some goods and services.”

As outlined in our previous response to OPI there are/have been circumstances where the purchase of alcohol by the Facilities and Procurement Officer was considered inefficient or impractical and hence purchased by a very limited number of other staff.

All purchases were authorised either prior to acquisition/purchase, or afterwards in the case of entertainment or employee informal recognition.

Furthermore and as outlined previously, HomeStart operates in a commercial environment and is required to develop relationships with organisations and people to facilitate business which from time to time may require the limited purchase of alcohol. It is therefore appropriate to consider the distinction between purchase of alcohol in an entertainment sense, and purchase of alcohol for other organised functions and events.

HomeStart also has an informal employee recognition program which provides for informal recognition/rewards to be available to staff. The use of funds available is at the discretion of the People Leader responsible for the team and its members. Our program and rewards are based on the preferences of the individual so the reward/recognition is relevant and tailored to the individual. The use of these funds is also available for team rewards and once again this is at the absolute discretion of the People Leaders. In this regard HomeStart has a strong culture which empowers people to make decisions and exercise their judgement.

12. In addition to questioning whether the agency considered the purchases of alcohol were consistent with their policies, I also questioned whether the agency considered those purchases to be excessive, and requested specific comment on the following purchases:

- Adelaide Oval Corporate Box - \$1200
- Dan Murphy’s Bella Vista - Beer O’Clock for all staff’ - \$280.39
- Charlesworth Nuts - \$609.00
- Executive Services All Homestart Staff EOFY’s celebration - \$1000

13. The agency responded:

HomeStart’s purchase of alcohol is not considered unreasonable nor excessive. All expenditure is appropriately authorised and in the case of the CEO, by the Chairman.

In terms of the items below the following comments are made (or repeated from responses in Question 1);

Adelaide Oval Corporate Box - \$1200

This event was purchased by the CEO at the 2014 Bank SA Charitable Foundation Golf Day. Bank SA is a strong and longstanding business partner (Loan Manager) of HomeStart and it was considered appropriate to support their Foundation and its activities. The corporate box was for a 20/20 cricket match for 12 people and the cost at \$1200 was well under the advertised normal market value. The event was attended by 4 staff, 8 broker/loan manager partners and included food and beverage packages. At \$100 per head it was considered very reasonable in terms of comparable entertainment value for a similar type of event. The purchase was approved by the Chairman and considered reasonable in terms of value and entertainment.

Dan Murphy's Bella Vista - Beer O'clock - \$280.39

HomeStart has had an informal staff social arrangement known as "Beer O'clock" for many years whereby those staff who wish to, may get together at 4.30pm on a Friday and have a social drink, at their expense, in the staff café. The cost of this purchase was reimbursed by staff. HomeStart has no formal involvement as it is organised by staff and run by staff.

Charlesworth Nuts - \$609.00

This purchase was for gift baskets to a number of people associated with the relocation to our new premises i.e. architects, project manager, building supervisor as a thank you for all the work they had done throughout the duration of the project. Several of the gift baskets also included a bottle of wine or beer and made by the Facilities and Procurement Officer in terms of the policy.

Executive Services All HomeStart Staff EOFY celebration - \$1000

This was a HomeStart staff function to celebrate the end of the financial year and the achievements of the organisation during the financial year. The event was held after work at The Jade Monkey and a budget was set for the function at approximately \$10 per head which essentially covered employees for approximately one/two drinks. The function was authorised by the CEO/Executive team and paid for at the conclusion of the event by the EA to the CEO as the Facilities and Procurement Officer did not attend.

HomeStart's policy

14. I questioned Mr Oliver directly as to what his understanding was of the limitations on alcohol expenditure within the scope of the policy, and whether there were any additional policies and guidelines to assist employees with determining whether expenditure is excessive or appropriate. In response to that question, Mr Oliver stated that:

HomeStart is a commercial run entity with an experienced executive/leadership team who all have a commercial background and exercise sound judgement in terms of expenditure control, not just simply limited to alcohol expenditure. There is a need to entertain business and commercial partners. At the same time HomeStart endeavours to create a workplace in which people may develop and grow, learn and prosper, exercise judgement and demonstrate initiative.

Many of HomeStart's policies and guidelines are not prescriptive i.e. "black and white" but rather descriptive where reasonable judgement can be exercised. In the event the judgement is considered unreasonable or excessive the matter is discussed with the individual concerned. This would extend to all forms of expenditure, not limited to alcohol.

As a result there are no limitations in the guidelines on alcohol expenditure beyond what is considered reasonable and appropriate in the circumstances, based on historical commercial experience and other comparable events, or the judgement of the person authorising such expenditure. A reasonable measure in this regard would be the cost per head at an event, function or other form of entertainment and when broken down on this basis, HomeStart conducts its business, entertainment and in house functions in a prudent manner.

HomeStart also has a well-developed budget process which essentially plans for events and allocates funds for external entertainment purposes and any in house functions. As mentioned previously there is a disciplined process associated with administrative expense budget approval which is approved by the Executive and ultimately the Board.

HomeStart has 324 policies, guidelines and procedures which document our internal processes. We operate in an environment where segregation of duties is essential, where checks and balances are in place and where appropriate sign off of expenditure is in place.

15. I also requested that Mr Oliver provide an outline of his understanding of the following categories under the policy, including examples of occasions that would meet the criteria for authorising purchases:

- reciprocal entertainment and entertainment of business partners, for example, loan brokers, loan managers
- Reward and Recognition Program
- organisational celebration, for example, achievement of specific organisational goals
- recognition of employee service milestones.

16. Mr Oliver clarified that:

There are no categories of expenditure as such within the guidelines as a number of policies/guidelines/procedures could be considered to overlap to some extent. Copies of many of these policies/guidelines/procedures have previously been supplied to OPI.

However in response to your question;

(1) Reciprocal entertainment and entertainment of business partners, for example, loan brokers, loan managers

HomeStart operates in a commercial environment and has to compete for business whilst meeting well established financial parameters across a range of measures. This will include the entertainment of brokers, loan managers, loan aggregators, industry sector leaders and other business partners at either a HomeStart organised business development event/function or at an individual or personal level. This can involve a range of activities from a coffee to a meal to a pre-arranged outside of normal working hours meeting. It is the nature of the meeting which is important, not necessarily the venue.

Relevant examples would include but not necessarily be limited to;

- General relationship building to foster further development
- Liaising with business partners staff or teams at functions/events
- Attending industry functions and on occasions hosting guests
- HomeStart hosted broker/partner events
- Meetings with real estate agents and other contractors associated with the repair and/or selling of properties
- Meetings with a range of other business partners and vendors/contractors across the breadth of HomeStart's business

(2) Reward and recognition program

HomeStart has a strong culture of investing in its people. Reward and recognition is an integral part of our culture.

HomeStart has previously had two Reward and Recognition programs, one based on a "Staff member of the Quarter/Year" which formally recognised outstanding achievement through a well-documented and transparent evaluation process, and secondly an informal program which was available to People Leaders to recognise achievement of team members or the team as a whole.

The formal program had a range of fixed rewards across several levels which included a range of awards set at pre-approved expenditure levels. These awards did not contain alcohol as an award but one potential choice was a gift voucher for an experience at Hahndorf Hill Winery based around the unique chocolate/wine experience they offer.

The informal program allocates funds on a per employee basis (up to \$100 per employee per annum) under our "I make a difference" program. This program is based on an understanding of the motivations of an employee across the breadth of reward and recognition and allows for the individual preferences of an employee to be known in these circumstances. This enables any reward or recognition to be tailored to the preferences of the individual.

The program contains a series of different types of rewards from a simple hand written note to a more formal thank you card to a small purchase tailored to the preference of the individual. Such a preference could include alcohol e.g. a bottle of wine, amongst other choices such as movie tickets/books etc. In the event the People Leader determines that accessing the \$100 allocation is appropriate, then that is for their judgement as is the type of reward purchased. In these circumstances it is appropriate for the People Leader to make any purchases as opposed to having a centralised system. Final sign off of the expenditure by the People Leader is still required by their line manager.

(3) Organisational celebration, for example, achievement of specific organisational goals

HomeStart operates and essentially competes in a commercial environment and has to compete for business whilst meeting well established financial parameters across a range of measures. It has a number of targets across lending volumes, customer service standards and the like and from time to time HomeStart celebrates at a whole of organisation level, some of these achievements. Such events are generally limited to an end of financial year celebration and a staff only Christmas party, events which have been occurring throughout HomeStart's history.

In the period under the scope of this review (June 2014 to September 2015), HomeStart also relocated premises from Levels 1 and 2, 153 Flinders St to Level 5, 169 Pirie St. This was a significant event which required considerable effort from all the staff to meet various deadlines along the way and ensure the move was successfully completed on time. A small and relatively informal in house function was held to celebrate leaving Flinders St after 10 years and a more formal event was held several weeks after the relocation had been completed.

(4) Recognition of employee service milestones

HomeStart has an employee service recognition program which recognises employees as they achieve service milestones. This occurs at 10/15/20/25 years of service. In 2014 this program was revamped and a bottle of champagne was included, which is presented to recipients at our monthly all HomeStart team meetings.

Authorisation of purchases

17. As the agency stated on numerous occasions that purchases of alcohol had not consistently been authorised by the Facilities and Procurement Coordinator, who is solely authorised with the approval of the CEO or General Manager to make purchases of alcohol that is not served as part of a restaurant meal under the policy, I questioned how purchases not made through the Facilities and Procurement coordinator were appropriately authorised under the policy. I also requested the names of all persons who made the purchases of alcohol. The agency responded as follows:

It is acknowledged that some purchases may appear to be made not strictly in accordance with the guideline. The guideline which has not been reviewed for several

years does not reflect current practice and is in itself inflexible in meeting all of the needs of the business. It is not meant to be inclusive of all possibilities. It also overlaps and at times could be construed to contradict other policies/guidelines. HomeStart has commenced a major project to rewrite and review all policies/guidelines/procedures as the current number is unwieldy. This specific component of the Purchasing and Procurement guideline is currently being rewritten.

Greater efficiency has been able to be achieved by decentralising purchase of alcohol (excluding entertainment) to a small number of people other than just the Facilities and Procurement Officer, including the Marketing Sponsorship and Events Co-Ordinator as well as EA to the CEO. Other purchases which have been detailed, have been off site and/or associated with entertainment/reward and recognition.

There is no evidence that approval for any purchases other than perhaps several nominal entertainment/reward and recognition purchases were not in accordance with the guideline i.e. approval being given prior to the purchase being made. This guideline was never really intended to cover entertainment and reward and recognition. The Facilities and Procurement Officer, Marketing Sponsorship and Event Co-Ordinator and EA to the CEO would not purchase alcohol without it being known to, or having received approval from the CEO or General Manager (note change of title to Head of). Verbal approval would suffice.

The secondary check and balance of the authenticity of the purchase is via the actual payment of any accounts/invoices/credit cards given the CEO/Head of/People Leader has to sign off the expenditure upon production of the invoice or in conjunction with monthly credit card reporting. In the event the expenditure was not authorised or considered appropriate, the employee would [be] (sic) questioned as to the reason/justification of the purchase and counselled, and if deemed inappropriate, reimbursement of the funds would be sought.

The names of all people who purchased the alcohol have been documented in the tables under Questions 1 and 2.

The agency's 'formal' and 'informal' 'Rewards and Recognition Program'

18. As the agency's responses referred to both a formal and informal 'Rewards and Recognition Program', I requested clarification as to the difference between the two programs and any related documents. The agency responded to this request as follows:

The difference between HomeStart's formal and informal Rewards and Recognition Program is explained below.

HomeStart has had a formal program based around formally recognising employee contributions in some form since 1989. Over the years the program has had a number of iterations and changes to the program which was in place in the 2014/15 financial year.

The formal program, in place at that time, was based around the Employee of the Year concept to recognise outstanding performance or alignment with our values. The program required nominations of staff members by staff members on a quarterly basis with a quarterly award/s. The nominations were reviewed and assessed by HomeStart's Culture Council and winners (there were two categories of awards) were presented at the relevant monthly All HomeStart Staff meeting. At the end of the year the Culture Council selected HomeStart's Employee of the Year based on all the nominations received and viewed on the employee's performance over the whole of the year.

The informal program is based around recognising and rewarding individual and/or team performance and does not follow a formal recognition process. It is designed to create opportunities for People Leaders to practice recognition regularly, rewarding the right

behaviours and actions when and where they happen. There is an approved budgetary allocation of up to up to \$100 per employee per annum. The informal program has been in operations since 2012 and now runs under the banner of our “I make a difference” program. This program is based on an understanding of the motivations of an employee across the breadth of reward and recognition and allows for the individual preferences of an employee to be known in these circumstances. This enables any reward or recognition to be tailored to the preferences of the individual...

The program contains a series of different types of rewards from a simple hand written note to a more formal thank you card to a small purchase tailored to the preference of the individual. Such a preference could include alcohol e.g. a bottle of wine, amongst other choices such as movie tickets/books etc. In the event the People Leader determines that accessing the \$100 allocation is appropriate for an individual or a team, then that is for their judgement, as is the type of reward purchased. This could include the purchase of alcohol in different forms (e.g. a bottle of wine or a “drink” at a hotel venue) as it is not precluded from the program. The decision as to the type and cost of any reward or recognition is at the complete discretion of the People Leader. It should be noted that final sign off of any expenditure by a People Leader under the program is still required by their line manager.

Further to the above, your attention is drawn to the draft guidelines from the Commissioner for the Public Sector on Performance Management and Development (Page 12) on Recognition, which states, inter alia;

“Agencies should:

- Consider agency mechanisms and practices that reinforce desired performance and behaviours;
- Establish formal and informal methods to appropriately recognise individual and team performance, progress, dedication and results.”

It is believed our program is representative of those guidelines.¹⁸

Relevant law/policies

19. Section 5(4) of the ICAC Act provides:

- (4) *Maladministration in public administration*—
- (a) means—
 - (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
 - (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
 - (b) includes conduct resulting from impropriety, incompetence or negligence; and
 - (c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

¹⁸ Letter dated 16 December 2016 from Mr John Oliver, Chief Executive, in response to the Ombudsman’s letter dated 24 November 2016 to the agency.

Whether HomeStart committed an act of maladministration in public administration through excessive expenditure on alcohol

20. In order to make a finding that the agency has committed an act of maladministration, I must be satisfied that a practice, policy or procedure of the agency results in:

- irregular **and** unauthorised use of public money; *or*
- substantial mismanagement of public resources.

Irregular and unauthorised use of public money

21. Although the policy states that purchases must be authorised by the CEO or a General Manager, I note that the agency clarified that the title of:

...General Manager has been changed to “Head of” Division. This occurred in June 2014 and some policies have simply not been updated to reflect this change.

22. Therefore, I have considered this matter with the understanding that heads of divisions are considered general managers under the policy.

23. As the following purchases on the following dates were authorised by either the CEO or the head of a division, I am satisfied they were made by authorised persons:

- 5 December 2014
- 24 July 2014
- 10 November 2014
- 24 November 2016
- 1 August 2014
- 27 June 2014
- 10 July 2015
- 19 December 2014
- 14 August 2015
- 6 December 2014
- 17 December 2014
- 5 March 2015
- 2 June 2014
- 6 June 2014
- 4 August 2015
- 26 August 2015
- 4 June 2015

24. Although many of these purchases were not made by Ms Del Col in accordance with the policy, I am satisfied that obtaining authorisation by the CEO or head of division prior to making a purchase is sufficiently in accordance with the policy.

25. I am not satisfied that the following purchases were made by authorised persons:

- 16 July 2015 - \$19.90 and \$95.42 at Dan Murphy’s Norwood - purchased by Ms Ruth Daugalis, Sponsorship and Events Coordinator, and authorised by Ms Angela Carey, Marketing and Communications Manager
- 18 September 2014 - \$204.83 at Dan Murphy’s Welland - purchased by Ms Ruth Daugalis, Sponsorship and Events Coordinator, and authorised by Ms Angela Carey, Marketing and Communications Manager

-
- 1 October 2014 - \$70.00 at Hahndorf Hill Winery - purchased by Ms Vanessa Charlesworth, P & P - Business Partner, authorised by Ms Maree McCauley, P & P Leader.
26. As the purchases were not made by the relevant person, Ms Del Col, nor authorised by the CEO or head of division, I am not satisfied they were made by authorised persons in accordance with the policy.
 27. The agency submitted, both in response to my initial enquiries and to my provisional report, that it is not always practical or efficient for the relevant person to make or authorise purchases, particularly as the Facilities and Procurement Coordinator and the Executive Assistant to the CEO had both been away on some of the dates where purchases had been made.
 28. However, I do not consider these purchases were so urgent or so necessary that proper consideration by an authorised person was not practical. Further, the Executive Assistant to the CEO is not an authorised person under the policy, and the purchases could have been approved by the CEO or a General Manager.
 29. In addition to the purchases of alcohol made by unauthorised persons above, I also consider that some purchases may have been unauthorised as the purpose for those purchases is not in accordance with the policy, regardless of the fact they were made by authorised persons. Those purchases have been identified individually below.
 30. The agency submitted that although these purchases:

...were not authorised in strict adherence to the Guidelines, we maintain they were authorised as intended by the Guideline as they were approved by the CEO or a divisional head and thus duly sanctioned.
 31. This submission has not affected my views, for reasons provided below.
 32. The agency also submitted that the \$70.00 purchase made on 1 October 2014 at Hahndorf Hill Winery was not relevant to my investigation as it was:

...a gift voucher purchased for the staff awards program having been selected by a staff member from a range of reward options.
 33. The agency also stated that the voucher:

...enabled the recipient to purchase lunch, chocolates or wine at the winery. Therefore, the voucher was not restricted to the purchase of alcohol.
 34. Whilst I note that the winery serves food platters and chocolate in addition to alcohol, I consider that the primary purpose of the voucher is alcohol related. Therefore, I consider that the purchase of a voucher for a winery is relevant to this investigation.
 35. Further, by way of comment, I do not consider the fact that other reward options were available is a relevant consideration. Based on the terms of the referral from the Commissioner, it is only relevant for me to consider alcohol related purchases at this time.
 36. Whilst the agency has pointed out on several occasions that the agency has discretion to authorise purchases, and that the guideline is not intended to apply to all circumstances, the fact remains that there is a guideline that sets out limitations on expenditure on alcohol, and I do not consider it has been followed.

37. The agency has not provided an adequate explanation as to which provision under the policy the purchase made on 16 July 2015 amounting to a total of \$115.32 at Dan Murphy's Norwood related to. Although the agency stated that:

These purchases were for an internal function to "farewell" our old building prior to moving to new premises. The function was co-ordinated by the Marketing team.

...The expense is considered reasonable.

The purchase is within the spirit of the policy in that Marketing were co-ordinating the function, there were other related purchases associated with the function that occurred on the same day, the purchases were made after 5pm 'on the way home' and it was practical in terms of efficiency. The Facilities and Procurement Officer was otherwise heavily engaged in the detail of our premises move. The function was authorised by the Executive team.

I do not consider that the purchase of alcohol for this reason can be construed as being a relevant purpose under the policy, even if the policy, which is of a generous nature, is interpreted quite liberally.

38. Whilst the agency has submitted that it is within the 'spirit' of the policy, I do not consider that such a loose interpretation of the policy is appropriate. If such an interpretation is accepted, it is open to misuse and could apply to almost any purchase of alcohol, for any celebratory occasion. Therefore, I do not consider this purchase was appropriately authorised in accordance with the policy.
39. The agency also did not provide reasons as to how the purchase of alcohol for the amount of \$204.83 on 18 September 2014 fell within the policy. I am also not satisfied the agency has provided sufficient reasons as to why the purchase of alcohol was necessary for the purpose of raising funds as part of their sponsorship agreement with Operation Flinders. Therefore, I am not satisfied this was an authorised purchase under the policy.
40. In regard to the purchase of alcohol for the amount of \$280.39 at Dan Murphy's On Line Bella Vista on 26 August 2015 for 'Beer O'Clock for all staff', the agency has provided evidence that the total cost of this purchase was reimbursed by staff on 14 October 2015, but I do not consider this purchase was authorised or made in accordance with the policy.
41. The fact remains that the drinks were paid for upfront for an unauthorised purpose, and the reimbursement by staff does not change that fact. Further, by relying on staff to reimburse the cost of drinks, the agency runs the risk that the amount may not be fully recuperated.
42. I also consider it is inappropriate for the agency to be seen to be paying for staff drinks, and do not recommend that the practice of staff reimbursing the agency for alcohol purchases for this purpose be continued.
43. In regard to the purchase of alcohol for the amount of \$1,673.64 at Dan Murphy's On Line Bella Vista made on 4 August 2015, I am also not satisfied this is an authorised purchase under the policy.
44. Although the agency has submitted the purchase was relevant under the Formal/Informal Rewards and Recognition Program, I do not accept the agency's reasoning that the purchase is relevant to the program.
45. The agency submitted that the purchase and gifting of bottles of champagne for individual staff and their family was done as a reward for staff for moving office and

working well beyond normal hours in the weeks up to the move [to a new premises], and going beyond the call of duty.

46. I have reviewed the agency's submission as to what constitutes both the 'formal' and the 'informal' rewards and recognition program, and I do not consider that the preparation for moving office falls within either category. My understanding is that the programs are designed to reward staff for performance, I am not satisfied that it is appropriate that staff are rewarded with alcohol for assisting with the relocation work.
47. Firstly, if staff have worked outside of their ordinary contracted hours or outside their normal duties, this raises potential industrial concerns. This also raises the question of whether they are being rewarded for performance of their ordinary duties, or being given gifts in lieu of payment for additional work outside their ordinary duties.
48. The agency insisted the additional work was voluntary, and that the relevant staff were paid overtime. If that were the case, I do not consider that purchasing alcohol as a gift was necessary or appropriate in addition to being paid overtime for work that was either already within their ordinary duties, or outside of their ordinary duties and therefore not within the terms of their employment.
49. Although the agency submitted that the additional work performed by staff allowed the agency to continue operations without disruption, I am not satisfied that it was appropriate for the agency to be seen to be rewarding staff with alcohol for performing work outside their ordinary duties or working hours.
50. Further, regardless of industrial concerns, and whether the additional work performed is or is not within the employees' ordinary duties, it is widely accepted that public officers should not expect to receive anything other than their salary. In my view, public officers are also expected to avoid any perceptions of receiving anything more than their salary.
51. In response to my provisional report, the agency queried as to what 'relevant standard or policy' I had assessed HomeStart's conduct, policies and practices. The agency was also critical in its view that I had unfairly adopted a broad interpretation of the maladministration provision under the ICAC Act.
52. Whilst there are a number of guides to assist agencies with making good decisions, such as the Code of Ethics for the South Australian Public Sector (the Code of Ethics), there are no definitive standards across all public bodies, particularly none that are specific to alcohol expenditure.
53. Therefore, I am guided primarily by the relevant provisions under the ICAC Act.
54. However, I note that whilst the agency has accepted a liberal interpretation of the 'Guidelines of the Commissioner for Public Sector Employment: Performance Management and Development'¹⁹ (**OPSE Guidelines**), it has failed to consider any guidelines that outline limitations on expenditure.
55. For example, the 'Reward and Recognition Good practice guide for South Australian Public Sector managers' (**good practice guide**) clearly outlines that a budget allocation is not necessary for reward and recognition, and sets out a number of examples for rewarding recognition where a budget is not required. The guide also sets out that agencies should:

¹⁹ Guideline of the Commissioner for Public Sector Employment: *Performance Management and Development*, Office for the Public Sector, 16 November 2016.

Always remember that funding for recognition activities will be coming from the public purse. Consider how the administration of your reward will appear to taxpayers and whether it can be easily justified. To help you gain perspective on the possible implications of your chosen activity, consider how you would feel if it was to be published in the media.²⁰

56. In addition, I note that the OPSE Guidelines, which the agency has relied upon, also indicates boundaries on expenditure for recognition. As the agency has noted, the OPSE Guidelines acknowledge that there should be:

fair and appropriate recognition of the contribution of individuals and teams to the success of their agency

57. The fact that reward and recognition plays an important role in effective management is not in dispute, I do not, however, consider that the agency has demonstrated that gifting alcohol in particular is an appropriate means of reward or recognition.

58. The agency also submitted, in response to my provisional report, that purchases were made in accordance with the OPSE guidelines as:

We stress that recognition takes many forms - sometimes it is a cup of coffee or a movie ticket, other times it may be a bottle of champagne.

59. Whilst the agency intended for this submission to support its position that purchases of alcohol were not unauthorised, I consider this further supports my view that such purchases are inappropriate, as it highlights how inconsistent the Rewards and Recognition program is. This is in direct conflict with the good practice guide, which states that agencies should:

Make sure that your reward or recognition process is transparent, so that it cannot be perceived by employees as favouritism. Make sure that you will be able to apply the same level of recognition for any colleagues who accomplish a similar achievement. Use clear performance standards to enhance perceived fairness amongst employees.²¹

60. Therefore, in light of the above, I consider that the following purchases were unauthorised as they were not made in accordance with the guidelines:

- 16 July 2015 - \$115.32 at Dan Murphy's Norwood
- 18 September 2014 - \$204.83 at Dan Murphy's Welland
- 1 October 2014 - \$70.00 at Hahndorf Hill Winery
- 4 August 2015 - \$1,673.64 at Dan Murphy's On Line Bella Vista
- 26 August 2015 - \$280.39 at Dan Murphy's On Line Bella Vista

Irregular

61. For those purchases I have identified as being unauthorised, I must now turn my mind to whether they may also be considered irregular.
62. As the ICAC Act does not provide for a specific interpretation of what is deemed to be irregular in the context of maladministration, I have considered the ordinary meaning of the word and am guided by the following definitions of the word 'irregular':

...not following a usual or prescribed procedure; *especially British*: celebrated without either proclamation of the banns or publication of intention to marry <*irregular marriage*>

...lacking continuity or regularity especially of occurrence or activity <*irregular employment*>²²

²⁰ Reward and Recognition Good practice guide for South Australian Public Sector managers, page 14.

²¹ Ibid.

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63. In light of these definitions, and my previous comments above, I consider that the following purchases were irregular:
- 16 July 2015 - \$115.32 at Dan Murphy's Norwood
 - 18 September 2014 - \$204.83 at Dan Murphy's Welland
 - 1 October 2014 - \$70.00 at Hahndorf Hill Winery
 - 4 August 2015 - \$1,673.64 at Dan Murphy's On Line Bella Vista
 - 26 August 2015 - \$280.39 at Dan Murphy's On Line Bella Vista
64. I am of the opinion that these purchases were made outside the scope of the policy, and not in accordance with any consistent principles, and I do not consider that they follow an expected pattern of expenditure.
65. As a result of this lack of consistency of principle, I do not consider there to be any clearly discernible limitations of the agency's policy in regard to expenditure on alcohol. It appears as though the culture of the agency has caused purchases of alcohol to be made without any predictable reasoning, resulting in what I consider to be irregular expenditure.
66. The agency argued that purchases were controlled by the guideline, and pointed to the fact that persons responsible for purchases were accountable to HomeStart's Board of Management, and ultimately the Minister.
67. I do not consider these arguments to be persuasive as the agency also submitted on many occasions that the guidelines were not intended to cover all purchases of alcohol, and were not always followed. Therefore, it is contradictory to state that a guideline, which does not provide clear limitations, is intended to limit expenditure on alcohol.
68. Further, my consideration of whether the agency's conduct amounts to maladministration is entirely separate to any other potential considerations that the Board or the Auditor-General may consider. Therefore, I do not consider this factor in isolation is of relevance to my findings, as my assessment is independent and specific to the issue of maladministration.
69. Also, the fact that individuals are ultimately accountable to those above them is not in itself a useful tool for controlling expenditure, as it is so discretionary that it is open to abuse.
70. As a result, I consider that it is this lack of sufficient controls that have led to irregular and unauthorised expenditure, and a failure to provide limits on purchases of alcohol.
71. Therefore, in my view the agency's practices and policy in relation to the purchases detailed in paragraphs 60 and 63 above, amount to maladministration under section 5(4)(a)(i) of the ICAC Act.
- Substantial mismanagement of public resources*
72. I query the appropriateness of certain individual purchases of alcohol. By way of example, I refer to the purchase of farewell drinks for an employee of a business partner on 1 August 2014, and the entertainment of two HomeStart employees and two brokers on 5 March 2015 following a function.
73. Whilst these purchases may not seem significant, I am not satisfied the agency has provided sufficient reasons as to the benefit they provided to the agency, nor has the agency distinguished these purchases as more than just a frivolous expense.

²² Merriam-Webster, definition of 'irregular' <<https://www.merriam-webster.com/dictionary/irregular>>.

74. I do not consider that any single purchase of alcohol made by the agency between 2014 - 2016 amounts to a substantial mismanagement of resources.
75. However, I have considered whether the cumulative total of the agency's alcohol purchases amount to a substantial mismanagement of public resources and, my view is that the agency's practices and policy constitutes maladministration on that basis.
76. Between 2014 - 2016, the agency spent a total of \$7,826.31 on alcohol alone.²³
77. The agency commented on that figure, stating that:

We do not wish to trivialize the seriousness of the matter, however, we do not believe that on any reasonable and objective assessment that authorised expenditure of \$7,826.31 over a two year period amounts to a substantial mismanagement of \$7,826.31²⁴.(sic) This amount equates to 0.054% of HomeStart's contribution to the State through dividends (\$14.3 million) and 0.021% of HomeStart's administration expenses (\$36 million) for 2014/2015 and 2015/16. This can hardly be considered substantial by any definition.

We are guided by the report of the Independent Commissioner of (sic) Corruption into the sale of State owned land at Gillman in terms of what constitutes substantial mismanagement of public resources.

The Commissioner expressed his opinion that:

a public authority will engage in conduct that involves substantial mismanagement of public resources if the public authority causes the State to dispose of an asset that has a value of many millions of dollars without knowing the true value of that asset.

We do not accept that HomeStart's practices and policies in relation to expenditure on alcohol can be classified in the same category as the Gillman transaction which involved a \$100 million land deal. Evidently, based on the Commissioner's view, 'substantial' requires something material in nature or of a considerable amount, quantity or size.

We are also guided by the decision of the Ombudsman dated 6 July 2015 that the Federation of Polish Organisations in SA Incorporated had committed maladministration in public administration as the result of the substantial mismanagement of public resources in mispending grant funds of \$225,637 received from the Department for Communities and Social Inclusion.

Even if we were to put aside the amount of expenditure involved, 'mismanagement' in the ordinary sense of the word, involves incompetence or dishonesty.²⁵

78. In response to the agency's submission, I firstly note that the ICAC Act itself provides that mismanagement in the context of maladministration in public administration:
- (b) includes conduct resulting from impropriety, incompetence or negligence; and
 - (c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.²⁶
79. This list is not exhaustive, and is not limited to conduct that has arisen as a result of incompetence or dishonesty. On that basis, I do not accept the agency's submission that 'mismanagement' necessarily involves incompetence or dishonesty.

²³ The purchase amounting to \$609.00 at Charlesworth Nuts has been excluded from this calculation

²⁴ As part of their submission, the agency included the following comment as a reference: 'This amount includes items other than alcohol purchases for which you have previously accepted our explanation.'

²⁵ As part of their submission, the agency made reference to the Macquarie Dictionary definition for mismanagement.

²⁶ *Independent Commissioner Against Corruption Act 2012*, section 5(4)(b) and (c).

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80. In regard to the agency's view that the amount of \$7,826.31 is not significant in comparison to the figures placed into question in Gillman²⁷ and the Federation of Polish Organisations in SA Incorporated,²⁸ I advise that those matters were fact-specific and do not preclude me from making findings in relation to lesser amounts of expenditure.
81. Whilst the Commissioner in Gillman made reference to the disposal of an asset worth many millions of dollars, this comment is clearly not intended to imply that maladministration only applies to million dollar transactions. That is also the case with my determination in the Federation of Polish Organisations in SA Incorporated, which was assessed independently on the facts before me at that time.
82. In making my determinations, I must always consider the facts before me, and any relevant statutory provisions, administrative instructions and directions, and case law that may apply.
83. There is no specific test in the ICAC Act as to what is considered substantial mismanagement under the ICAC Act or at common law. Therefore, I have based my determination on a number of considerations, for example:
- the benefit (real or perceived) gained by the public from the expenditure
 - the public's expectation of government agencies
 - the appropriateness of the amount of expenditure on *alcohol*, specifically
 - the Code of Ethics, and other relevant policies and guidelines
84. I have also considered the agency's submission that the total amount is only a small figure compared to their total administrative expenses. Whilst I accept the purchases form only a small percentage of the agency's total budget, I disagree that it is not a substantial amount.
85. I am of the opinion that thousands of dollars spent on alcohol would not be considered an unsubstantial amount in the public's view, particularly in the context of whether it provides any wider benefit to them.
86. Further, the term 'substantial' relates to the mismanagement itself, rather than the pecuniary loss. While a greater pecuniary loss may be indicative of substantial mismanagement, it does not in itself decide the matter.
87. For the reasons I have identified throughout my report, I do not consider those deficiencies are trivial or insignificant as they have resulted in policies and practices that are not appropriate for the agency.
88. Whilst I consider that some purchases may be necessary for the purpose of thank you gifts to guest speakers, entertaining business partners and networking with private sector stakeholders, I am not satisfied that the agency's practices or policies allow for an appropriate level of accountability or limitations.
89. Although the agency operates in a commercial environment, as some other agencies also do, it is nonetheless a government agency that is accountable to the public and is expected to provide the best possible value for its services.
90. Regarding purchases made in relation to staff rewards and recognition and organisational celebrations, I am particularly concerned about the lack of clear guidelines as to when it is appropriate to purchase alcohol for employees.

²⁷ A report by the Hon. Bruce Lander QC, Independent Commissioner Against Corruption, *Sale of State Owned Land at Gillman*, 1 October 2015.

²⁸ Ombudsman SA, final report, 6 July 2015.

91. I am not satisfied that the agency has demonstrated a clear link between the purchase of alcohol and staff performance.
92. As previously mentioned, public officers are held to a higher standard in relation to the receipt of gifts and benefits other than their salary, and should not be seen to be receiving additional benefits such as alcohol.
93. Whilst rewarding and recognising staff for their achievements, and creating a positive work environment are appropriate, I do not consider it is appropriate to do this with alcohol or gifts, particularly when suitable boundaries on when such gifts may be awarded are not in place.
94. Further, by the agency's own admission, it accepts that:

The guideline which has not been reviewed for several years does not reflect current practice and is in itself inflexible in meeting all of the needs of the business. It is not meant to be inclusive of all possibilities.
95. Whilst I agree that the policy may not reflect the agency's current practices, I do not agree that it can be considered too inflexible as the agency has justified many of the purchases as being made in accordance with the policy.
96. I find that the policy as is, is too vague and it appears that very few purchases of alcohol would not be considered by the agency to be reasonable and authorised under the policy. It is therefore apparent that the policy, which is not able to be applied consistently, is not an appropriate guideline and should be reconsidered with clear limitations put in place.
97. Therefore, in light of my reasons above, I consider that the practices of the agency and the policy in relation to alcohol expenditure have amounted to substantial mismanagement of public resources. I am satisfied the agency's practices and policy amount to maladministration under section 5 (4)(a)(i) of the ICAC Act.

Opinion

In light of the above, my view is that the agency committed an act of maladministration in public administration within the meaning of section 5(4)(a)(i) of the ICAC Act.

Summary and Recommendations

In summary, my views are as follows:

- the agency's practices and policies in relation to expenditure on alcohol have resulted in irregular and unauthorised use of public money ; and
- substantial mismanagement of public resources; and
- these practices and the agency's policy amount to maladministration in public administration within the meaning of section 5(4)(a)(i) of the ICAC Act.

To remedy this error, I recommend under 25(2) of the Ombudsman Act that the agency:

1. update its policy in relation to alcohol expenditure to provide clear guidelines and limitations on purchases of alcohol
2. reassess its Rewards and Recognition Program to align it with expectations of public service, and eliminate any potential public perception of employees receiving inappropriate benefits.

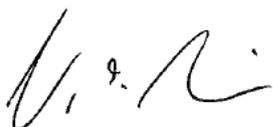
In accordance with section 25(4) of the Ombudsman Act, I also require that the agency report to me by **10 June 2017** on what steps have been taken to give effect to the recommendations above; including:

- details of the actions that have been commenced or completed
- relevant dates of the actions taken to implement the recommendation.

If no such steps have been taken by this date, the agency must provide reasons(s) for the inaction.

Final Comments

I intend to send a copy of my report to the Minister for Housing and Urban Development, the Hon Stephen Mulligan MP as required by section 25(3) of the *Ombudsman Act 1972*.



Wayne Lines
SA OMBUDSMAN

10 March 2017