



OmbudsmanSA

## OMBUDSMAN ACT 1972

### What we do at Ombudsman SA

- In most cases under the *Ombudsman Act 1972*, the SA Ombudsman can investigate the administrative actions of South Australian agencies such as government departments, statutory authorities and local government councils, when those actions appear to be in error.
- There are some complaints that the Ombudsman **may not** investigate, such as:
  - complaints where the complainant has not tried to resolve the complaint with the agency. We expect that a complainant will have taken their complaint to senior management within the agency and given the agency an opportunity to formally respond to their complaint. If this has not happened, we will ask the complainant to do this before we consider investigating, unless there are special circumstances
  - complaints about the contents of the policies of an agency
  - complaints that can be reviewed by a body other than the Ombudsman
  - complaints about events which the complainant became aware of more than 12 months ago
  - complaints about SA Police officers
  - complaints about Members of Parliament, judges and Commonwealth agencies
  - complaints made by an employee about their employer (unless the complaint is about a self-insured employer's breach of service standards under the *Return to Work Act 2014*).
- If we think that a complaint discloses information which relates to fraud or corruption, we **must** pass this on to the Anti-Corruption Branch of SA Police because of our obligations under the *Whistleblowers Protection Act 1993*.
- If we think that a complaint discloses information involving corruption; serious or systemic misconduct; serious or systemic maladministration; or if it alleges misconduct or maladministration in our office, we **must** report it to the Office for Public Integrity, because of our obligations under the *Independent Commissioner Against Corruption Act 2012* and the Directions and Guidelines made under that Act. See [www.icac.sa.gov.au](http://www.icac.sa.gov.au).
- We **may** disclose or publish information you give us, including your identity, for the purposes of an investigation or a report and to the extent permitted under the Whistleblowers Protection Act and section 26 of the Ombudsman Act.

### Our process

- We are not controlled by any government body and we act independently.
- Our aim is to be fair and find out the facts.
- If a complaint falls under the Ombudsman Act, we may assess the concerns, informally contact the agency, and see if the agency offers a reasonable resolution to the matter.
- If there is no resolution, we may commence a preliminary investigation. This may mean asking the agency for a formal response, conducting interviews and inspecting documents. We aim to end a preliminary investigation within four months.
- If the administrative actions of the agency may have been unlawful, unreasonable or wrong under the Ombudsman Act, we may start a formal investigation, which can take up to six months.

- At any stage during the complaint or investigation process, we may be obliged to report to the Office for Public Integrity, in accordance with the *Independent Commissioner Against Corruption Act 2012* and the Directions and Guidelines under that Act. See [www.icac.sa.gov.au](http://www.icac.sa.gov.au). The ICAC Act prevents us from disclosing any information about this to any person, including a complainant, without the authorisation of the ICAC. Where appropriate, we will ask the ICAC's permission to release this information to the complainant or other relevant parties.

### What we do not do

- We do not have to investigate every complaint we get. In deciding whether to investigate a complaint, the Ombudsman must be satisfied that an investigation is in the public interest. A range of criteria is considered in determining this. These criteria are published on the Ombudsman SA website at [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au).
- We do not act for any of the parties in an investigation.
- We can make recommendations when we find error, but we cannot force an agency to take action in the way a court can.
- We do not give legal advice.
- We do not guarantee that the information you give us will be kept confidential.

### Our responsibilities

We are responsible for:


- handling your complaint professionally, efficiently and fairly,
- keeping you informed of our progress
- disclosing or publishing information we obtain, including your identity, only as permitted by the Whistleblowers Protection Act and section 26 of the Ombudsman Act.
- giving you reasons for our decisions.

### Your responsibilities when you make a complaint



You are responsible for:

- providing us with a clear idea of the problem, and the solution you want
- giving us all the relevant information you have (or know about) at the beginning
- telling us new facts as they arise, or letting us know you no longer want our assistance
- not using information which we obtain and disclose to you, for any purpose other than that which is authorised by the Ombudsman. If you do, a penalty of \$20,000 may apply.
- cooperating with our investigation.

### Our contact details

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