



OmbudsmanSA

Annual Report
2018-2019

What does Ombudsman SA do?

Ombudsman SA investigates complaints about South Australian government and local government agencies under the *Ombudsman Act 1972* as well as complaints about breaches of the service standards under the *Return to Work Act 2014*. Ombudsman SA also conducts Freedom of Information reviews and receives referrals from the Independent Commissioner Against Corruption to investigate allegations of misconduct and maladministration.

From 1 July 2019 the Ombudsman can receive information about state and local government activities confidentially from informants under the *Public Interest Disclosure Act 2018*.

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

Visit our website for further information about our services or to register a complaint directly online:
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OmbudsmanSA

The Honourable President
LEGISLATIVE COUNCIL
Parliament House
Adelaide

The Honourable Speaker
HOUSE OF ASSEMBLY
Parliament House
Adelaide

It is my duty and privilege to submit the South Australian Ombudsman's Annual Report for 2018-19 to the Parliament, as required by section 29(1) of the *Ombudsman Act 1972*.

Wayne Lines
SA OMBUDSMAN

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The background is a solid teal color. It features three large, concentric circles of varying shades of teal, centered on the left side of the page. The innermost circle is the darkest shade, the middle one is a medium shade, and the outermost one is the lightest shade. The circles overlap and extend towards the right side of the page.

Introduction

Introduction

The Office of the South Australian Ombudsman exists to serve South Australians by safeguarding fairness and integrity in public administration. This purpose is fulfilled in four ways:

1. Holding state and local governments to account
2. Driving improvement in public administration
3. Delivering an independent, responsive and accessible complaint resolution service
4. Ensuring fairness for the vulnerable and disadvantaged.

This report highlights the work of the Office in these four key areas.

A primary means by which my Office holds government to account and drives improvement in public administration is to investigate those complaints that raise an undeniable public interest and a likelihood of effecting significant or systemic change through investigation.

This year I completed several major investigations that each led to important, systemic changes in public administration. The reports of these investigations have been published on the Ombudsman SA website.

As in previous years, over 4,000 complaints have been handled by my office. Many complainants are people in vulnerable or disadvantaged circumstances and my Office continues to provide assistance to them when they have nowhere else to turn. In this report I have set out several cases where the intervention of my staff has brought about a speedy resolution for vulnerable complainants.

The year has seen a dramatic increase in the number of requests for me to review agency determinations under the *Freedom of Information Act 1991*: from 127 in 2017-18 to 262 in 2018-19. This is a consequence of agencies having a marked increase in applications to access documents under the Act from shadow Ministers and not applying sufficient resources to deal with the influx. As a result many of the requests for review received by me arise from the agency not having determined the original application within the statutory time frame.

This is an unsatisfactory situation and needs to be addressed on several fronts. Firstly, agencies and my Office need to be properly resourced to be able to perform the functions under the Act in a timely and competent way. Secondly, applicants need to utilise the Act responsibly and not exploit the right to access documents for trivial or vexatious purposes. Thirdly, the Act needs to be reformed to modernise and streamline some of the processes and clarify ambiguities.

A review of the Office's business practices and structure was undertaken by a strategic adviser employed with the Victorian Ombudsman. Recommendations resulting from the review have led to the implementation of a number of changes to improve efficiencies and ensure that resources are applied where they are most needed. In regard to the FOI external review function, more emphasis is being given to early resolution and additional staff have been dedicated to this function. Unfortunately this has impacted on our other functions.

With a view to driving improvement in public administration, I have also written to the Attorney-General requesting that the Freedom of Information scheme be overhauled. That request has been given serious consideration and a draft bill has now been circulated for consultation.

The Office has an important role to play in upholding the democratic right of citizens to complain about their government and to access information held by it on their behalf.

This last year is yet another chapter in the Office fulfilling that role which has been achieved through the dedication and skill of my staff. Unsurprisingly, I am very proud of them and here record my appreciation of their efforts.

Year at a Glance



4242

complaints resolved



59

final investigation reports issued



47

ICAC

referrals completed

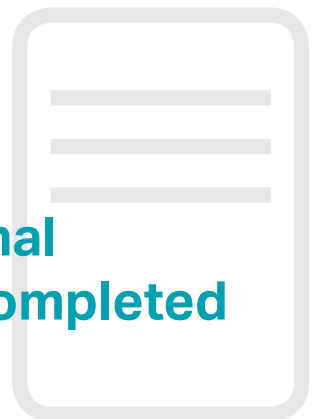
90

recommendations issued



154

FOI external reviews completed



Complaints and Investigations

Ombudsman Act Jurisdiction

Return to Work Act Jurisdiction

Independent Commissioner Against Corruption Act Jurisdiction

Recommendations

Ombudsman Act Jurisdiction

The *Ombudsman Act 1972* empowers me to investigate complaints about state government departments and authorities and local government councils (agencies). I am also able to undertake investigations referred to me by Parliament and conduct investigations on my own initiative.

I have comprehensive powers to investigate administrative acts where I consider an agency's decision-making process or decision is flawed; section 25(1) of the Act empowers me to make findings that an administrative act was unlawful, unreasonable or otherwise wrong.

Some of my jurisdictional limits are: my Office is one of last resort, I must not investigate policy, a complainant must be directly affected by the relevant administrative act, generally the complaint must be made within 12 months of the complainant becoming aware of the matter, and generally I do not investigate where the complainant has an alternative right of review. Further, I can decide not to investigate under section 17(2) of the Act a matter where in all the circumstances of the case, an investigation is unnecessary or unjustifiable.

In exercising my discretion as to whether to investigate a matter I consider the public interest and the improvement of public administration, and am guided by the following criteria:

- does the alleged administrative error amount to a serious failure to meet expected standards of public administration?
- is the complaint about matters of serious concern and benefit to the public rather than simply an individual's interest?
- is there evidence of ongoing systemic failure in public administration?
- are the circumstances of the complaint likely to arise again?
- is the complaint about an error of process?
- is the complaint about failures of ethical and transparent management?
- does the complaint relate to matters of public safety and security, the economic well-being of South Australia, the protection of public well-being, the protection of human rights or the rights and freedoms of citizens?
- has the complainant suffered significant personal loss or is the complainant in vulnerable circumstances?
- would investigation of the complaint be likely to lead to meaningful outcomes for the complainant and/or to improvement of public administration?
- has another review body considered the matter or is another body more appropriate for reviewing the matter?
- what is the likelihood of collecting sufficient evidence to support a finding of administrative error?
- would investigation of the complaint involve effort and resources that are proportionate to the seriousness of the matter?

Where I have formed the view that there has been an administrative error, I am able to make recommendations to the agency involved. For example, I may recommend that action be taken to rectify or mitigate the effects of the error, that a practice be varied or legislation amended.

The number of Ombudsman Act complaints received was similar to last year: 4270 in 2017-18 compared to 4201 this year. Complaints under the Return to Work Act and referrals from the Independent Commissioner Against Corruption (ICAC) are reported on separately.

Ombudsman Act complaints received and completed

	Received	Completed
Government Departments	2291	2306
Local Government	968	990
Other Authorities	942	946
TOTAL	4201	4242

This year I completed 59 formal investigations by way of an investigation report: 32 of these arose from ICAC referrals while 27 were pursuant to the Ombudsman Act.

Ombudsman Act Complaints - Early Resolution

My Office fielded 7289 approaches relating to matters outside of my jurisdiction and handled 941 general enquiries. These are usually finalised immediately.

Close to 95% of incoming complaints are dealt with at the assessment stage by the Intake and Assessment Team. Over 80% of these matters are completed within 14 days. The average period for completion is 10 days.

Nearly 10% of complaints are resolved with the co-operation of the agency.

The following case studies highlight the important outcomes that are able to be achieved by my Office with the co-operation of agencies for people who are often in vulnerable circumstances.

Early Resolution Case Studies

South Australian Civil and Administrative Tribunal

Early resolution - unreasonable demand for fee payment

2018/13260

Complaint

The complainant lodged an online application for an internal review through SACAT. He chose the incorrect fee and as a result the website indicated that the fee he had to pay to lodge the application was \$0. The complainant was subsequently informed by email that he had chosen the wrong option and was advised that he had to pay \$76, which he did. SACAT subsequently realised that it had charged him the wrong amount and contacted him requesting a further fee of \$66. SACAT subsequently realised that the complainant was not entitled to a concession and had paid the concession rate, and he was advised that the correct fee was \$557.

Outcome

My Office made enquiries with the agency as to the reasonableness of this process and made an agreement with the complainant about the fees and his application was processed.

SACAT agreed to make changes to its online application form in relation to assessing what fee might be payable to provide greater clarity to guide applicants.

South Australian Ambulance Service

Early resolution - unreasonable refusal to waive fee

2018/12421

Complaint

The complainant contacted my Office through her local Member of Parliament. She complained that she was being incorrectly charged for an ambulance transport. The



complainant stated that her son was injured walking home from school. She said that her son was struck by a motorbike and his brother had assisted him home so they could report the incident to the police. The complainant explained that when she came home both the police and ambulance were present and her son was transported to hospital. She said she understood that she would not be charged by the agency for this transport as the injury was sustained as the result of a vehicular accident.

Outcome

My Office made enquiries with the agency and they readily identified that the complainant should not have been charged for the transport. The agency explained that when attending vehicular accident transports they are normally from the site of the accident and, due to the children being at home, it was incorrectly categorised. The agency advised my Office that the charge would now be sent to the Compulsory Third Party Regulator and the complainant was no longer responsible for the account.

Department of Planning, Transport and Infrastructure

Early resolution - unreasonable refusal to replace lost taxi subsidy vouchers

2019/00931

Complaint

The complainant has a disability and has been the recipient of taxi subsidy vouchers for nearly 20 years. She applies every six months for another book of vouchers but did not receive her latest book. The agency said it had sent the book of vouchers to her and required her to submit a statutory declaration stating she did not get the vouchers. The agency also advised her that they would need to review her application status and would require an assessment by her doctor. The complainant had no vouchers remaining and told my Office that the loss of the vouchers was not her fault and the requirements made by the agency were going to pose difficulties, as she had no one to assist her and it would be very difficult for her to get to the doctor for the assessment.

Outcome

My Office contacted the agency and was advised that the vouchers were posted to the complainant and that the complainant was well overdue to be reviewed for her eligibility. The agency also advised that they do require a statutory declaration if the vouchers were not received, and that this is a policy decision of the agency. The agency recognised that this situation was difficult for the complainant and not of her making and agreed to post her four complimentary vouchers to assist her in getting to and from both her doctor and the post office to complete the requirements for her review. The agency advised the complainant that once it was in receipt of the requested information it would then send the complainant further vouchers if it was determined that the complainant met the criteria.

Department for Human Services

Early resolution - unreasonable refusal of rebate for personal alert system

2019/02056

Complaint

The complainant rang my Office to complain that she had applied twice for the Personal Alert Systems Rebate Scheme and had been refused, despite meeting all of the criteria for eligibility. The agency did not provide the complainant with any reasons for the refusal of her application.

Outcome

As a result of my Office contacting the agency, it reviewed the complainant's applications and determined that, whilst the complainant had not provided enough information to satisfy eligibility in her first application, there had been an error in determining the eligibility of her second application and she had been incorrectly declined for the scheme. The agency advised my Office that the Program Leader would ensure that relevant staff were clearly aware of the eligibility criteria. The agency contacted the complainant and issued an apology and organised for the rebate to be processed.

Public Trustee

Early resolution - unreasonable delay organising son's account

2018/10421

Complaint

The complainant has a son who is a protected person. Prior to March 2018 the complainant managed the day to day finances for her son and a lump sum settlement was managed by the agency. At a SACAT hearing in 2018 the agency was appointed as the full administrator. The complainant advised my Office that the agency did not commence management of her son's finances until five months after it was appointed as the full administrator. The complainant said that the agency delayed in organising payments to her son for six weeks while they set up his account and also ceased her capacity to access her son's bank account without notifying her.

Outcome

My Office contacted the agency and made enquiries. It was identified that the agency had no process in place to identify when a limited administration order is altered to a full order. As a consequence, the change in the order was overlooked for five months. The agency has now undertaken to implement a new policy and process which will address this matter in the future. The agency also organised to reimburse the complainant money she spent on her son while his finances were being organised. Finally, the agency wrote to the complainant apologising for their failure to reasonably administer her son's finances.

Department for Education

Early resolution - unreasonable refusal to arrange student placement and unreasonable exit from school

2018/11620

Complaint

The complainant, who was seeking to act on behalf of a seventeen year old student, called my Office in October 2017, stating that the school at which the student was enrolled had refused to arrange placement with an appropriate flexible learning option provider, and had exited the student due to their lack of engagement with their former provider and the school itself. The complainant had attempted to engage with the school and the department's complaints unit on the student's behalf. The department claimed that the school had acted appropriately, taken more action than was necessary and had arranged for enrolment at another school, and that it was the student's responsibility to take action with the information and resources provided to them.

Outcome

From the information available to me, it appeared that while the process had been frustrated, a resolution between the parties was available, and that the department was in a position to assist a vulnerable young person who wished to continue their education.

Communication between the parties up until that point revealed that enrolment at another school was available, may have been more appropriate for the student's ongoing education, and may have been able to accommodate a flexible learning option placement with the student's desired provider. While this information had been accepted by both parties, the student affected believed that they had been expelled, and communication between the agency and the complainant acting on their behalf had ceased.

Given that the student affected wished to continue their education, but had encountered difficulties engaging in school and was no longer living with their parents, I expressed the view that it would be appropriate for the department to engage directly with the student to support them and resolve the complaint. The department agreed to arrange this and the school principal contacted the student directly to arrange enrolment at a new school and placement in the student's desired flexible learning program.



City of Holdfast Bay

Early resolution - unreasonable notification that memorial seat is on a lease basis

2018/09876 & 2018/07466

Complaint

The complainant purchased a council memorial seat and plaque in 2004.

In June 2018 the complainant was sent a letter from the council notifying her that a '10 year lease' of the seat and plaque she believed was purchased in perpetuity had expired in June 2014 and, should the complainant wish to continue the lease on the seat for another 10 years, the cost would be \$5,000.

A second council resident contacted my Office with a similar complaint. Both residents were distressed about the apparent policy change which affected their arrangements to commemorate loved ones. The council did conduct internal reviews of its decisions but the outcome was unsatisfactory to the complainants.

Outcome

My assessment identified that the council had never implemented its previous memorial policies. Relevantly, the non-implementation of its policies occurred when the complainants (separately) entered into contracts with the council for memorial seats. The council's internal reports in relation to memorial seats acknowledged issues in the past and attempted to remedy these issues through the development and publishing of new policy positions.

It appeared, on the face of it, that the primary consideration was the council's policy position on the memorial seat issue rather than an independent review of the specific circumstances and decisions that led to the two requests for internal review.

Following a meeting between my staff, the council's Chief Executive Officer and the General Manager City Assets and Services, the council agreed to:

1. withdraw the internal review findings/decisions for the applicants, and
2. enter into good faith negotiations with the applicants with the view to a mutually agreeable outcome. Failing that, the council agreed to outsource a second internal review to be undertaken by an independent party.

The council subsequently advised my Office that both matters were settled by negotiation with the complainants.

The first complainant secured an agreement to extend the lease to 2043. The council offered the second complainant a lease extension until 2052. The offer was accepted.

SA Housing Trust

Early resolution - failure to undertake maintenance

2019/04363

Complaint

The complainant was a long term SA Housing Trust tenant. During the heavy winter months her child's bedroom had water seep through the roof, which became damp and mouldy. In addition the pergola next to her child's bedroom was not structurally sound and the water ran off into the bedroom's roof, which was not water resistant.

The complainant had called the SA Housing Trust maintenance hotline on several occasions, but had been unsuccessful in getting a response. The bedroom was becoming damp and inhabitable.

Outcome

Enquiries by my Office established that the bedroom was actually a converted garage, which may have been the reason why the complainant was experiencing ongoing issues with flooding.

In response to my enquiries the agency arranged for an engineer to attend the property. The engineer advised that the room had become inhabitable and that a replacement was needed as soon as possible in order to avoid further health issues the to the complainant's child.

The complainant was informed that building a new bedroom would take some months, however a suitable portable sleep out would be sourced and placed on the site while the construction was underway. In addition, the agency agreed to replace the pergola in order to reduce water seeping through to the bedroom.

Flinders University

Early resolution - failure to adhere to disability access plan

2018/06880

Complaint

The complainant had a disability and experienced difficulties getting her needs accommodated by the university in order to enable her to be able to complete her degree. She lodged a complaint with the university. The complainant contacted my Office about a number of procedural fairness issues in relation to her complaint. The complainant submitted that, had she been given the opportunity to seek an internal review, these issues could have been resolved. By failing to offer an internal review, the complainant was of the view that she had been denied procedural fairness.

The University's policy for discrimination complaints did not expressly state that complainants were entitled to an internal review, but did state that:

...The principles of natural justice and procedural fairness (see Glossary of Terms) apply at all stages of the complaint resolution process.

Outcome

I expressed the view that the absence of an internal review process is in direct conflict with the principles of procedural fairness, and requested that the university consider amending its procedure to expressly include an internal review process. I also requested that the university consider undertaking an internal review of the complaint. The university accepted my view, amended their policy, and worked with the complainant to address her concerns.

Department for Education

Early resolution - wrongful suspension of students from [redacted] High School

2018/12942

Complaint

The complainant's child was suspended from high school when, on a school camp, another student was caught with cannabis. There was no evidence that the complainant's child knew about the other student using, or intending to use, cannabis.

Outcome

After being contacted by my Office, the department reviewed the decision to suspend the complainant's child and six other students. It was determined that the student who was caught with the cannabis was rightfully suspended, but that the decisions in relation to the other students were not made in accordance with the Regulations and the department's procedures and, as such, the department determined that the school had no power to suspend the students. The department also found that there was no procedural fairness in the decision-making process as the students were not asked to provide their versions of events and some of the students were not interviewed prior to the decision to suspend being made.

The department agreed to treat the suspension decisions as if they were not made, to amend the students' records and to apologise to them.



Ombudsman Act Investigations - Government Departments

Department for Child Protection

With the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* commencing operation in December 2017, this Office assumed primary jurisdiction over prescribed child protection complaints.

The Act adopts the definition of prescribed child protection complaint contained in section 28A of the *Health and Community Services Complaints Act 2004* :

prescribed child protection complaint means—

- a. a complaint relating to a health or community service—
 - i. that is provided to, or for the benefit of, a child who may be, or who has been, at risk; or
 - ii. that consists of, or includes, a notification (whether mandatory or otherwise) of a suspicion that a child may be at risk; or
 - iii. that consists of, or includes or arises out of, an investigation of a case where a child may be at risk; or
 - iv. that is provided to, or for the benefit of, a child who is under the guardianship, or in the custody of, the Minister or another person under the *Children and Young People (Safety) Act 2016*,

where the provision of the service constitutes an administrative act on the part of an agency to which the Ombudsman Act 1972 applies; or
- b. any other complaint of a kind declared by the regulations to be included in the ambit of this definition,

but does not include a complaint of a kind declared by the regulations not to be included in the ambit of this definition.

This year my Office finalised 262 complaints about the Department for Child Protection. Several of these were concluded by way of formal investigation. In fact, some of the most significant investigations conducted by my Office this reporting year have concerned the child protection system. I mention a few of them:

- In July 2018 I reported on an investigation concerning the Department's alleged failure to respond to concerns raised in respect of the safety and wellbeing of the complainant's two children.
- In September 2018 I completed a lengthy own initiative investigation concerning the actions of Families SA and the Department for Child Protection (collectively, the agency) in responding to concerns about the activities of an alleged sexual perpetrator. I concluded that the agency had failed to properly assess and take action in respect of a number of notifications received that raised serious child protection concerns.
- In December 2018 I completed an own initiative investigation concerning two siblings under long-term guardianship orders (the siblings) and the response of Families SA and the Department for Child Protection (collectively, the agency) to disclosures of sexualised behaviour between young people in residential care.
- January 2019: I concluded an investigation into a complaint about a determination of the Department to suspend contact between a child and members of his biological extended family for a period of approximately seven months. I came to the view that the department's determination to suspend contact was unjust for want of procedural fairness.
- April 2019: I finalized a report of my investigation of a complaint from the grandfather of two children which alleged that Families SA (now the Department for Child Protection) had failed to communicate with him and his partner in respect of concerns it received about the care and protection of his late grandchildren. The children and their mother had been murdered by the mother's domestic partner in May 2016.

I observed that the agency had neglected or ignored several opportunities presented through numerous care concern notifications to meaningfully assess the risk to which the deceased children were exposed; that information held by the agency suggested that the children were at serious risk of harm while they remained in the care of the mother and that the family's situation was steadily deteriorating; and that the agency could reasonably have concluded that, absent a meaningful child protection response, further intervention by the complainant and his partner offered the best prospects for protecting the children. I was critical of the agency's approach to the question of information sharing, which prioritised considerations of privacy and confidentiality over the safety and wellbeing of the children.

The public interest issues raised by this investigation were of such importance that I convened a press conference on 27 June 2019 to call for changes to the law relating to information sharing within the child protection system.

'Although painful, it provided long awaited answers to some of our questions. We are forever in your debt for such a painstaking task that was accomplished with such a passion for their justice and the truth. We are completely in awe of what you have presented and totally taken aback that finally someone in a position of power has put forward a totally unbiased assessment of what happened...'

- a complainant's response to an investigation report

Department for Correctional Services

The Office received 832 complaints about the Department for Correctional Services and completed 828 of them. Complaints about the Department represent about 36% of all complaints received under the Ombudsman Act in respect of state government departments. Many of the complaints are received directly from prisoners. In this reporting year, almost 800 of the complaints about the Department came from prisoners:

Complaints received from prisoners: 2018-2019

Prison	Total
Adelaide Pre-Release Centre	4
Adelaide Remand Centre	69
Adelaide Women's Prison	101
Cadell Training Centre	13
Mobilong Prison	32
Mount Gambier Prison	258
Port Augusta Prison	90
Port Lincoln Prison	27
Yatala Labour Prison	199
TOTAL	793

I cite a few of the significant investigations relating to the Department that were completed this year:

- September 2018: I investigated, upon my own initiative, three issues arising from the Department's handling of a prisoner with type 1 diabetes who was transferred to the Port Augusta Prison. The investigation was prompted by information received from the Office of the Health and Community Services Complaints Commissioner.
- In May 2019, I released a report of an investigation into a complaint by a prisoner about the unreasonable level of restraint used on him for the duration of his hospitalization at the Royal Adelaide Hospital and the failure of correctional services officers to regularly review the complainant's level of restraint in accordance with the Department's operating procedures.
- In June 2019, I concluded an investigation of nine issues concerning the Department's response to a prisoner's complaint arising from a physical altercation with correctional services officers at a prison facility.

'I express my appreciation for your assistance with this matter - it has been extremely helpful. Thank you.'

- feedback from a prisoner

The website link to published investigation reports is: www.ombudsman.sa.gov.au/publications/investigation-reports/

Ombudsman Act Investigations - Local Government

Complaints about councils and elected members featured prominently in the work of my Office with 968 complaints received and 990 completed in the year. Over 25% of these were assessed as not warranting investigation and a further 49% were referred back to the relevant council to deal with. While 32 of the 59 formal investigation reports released this year concerned councils or elected members, the majority of these investigations were referred to me by the Independent Commissioner Against Corruption and I have commented on some of these reports in the section on the ICAC Act jurisdiction.

Ombudsman Act Investigations - Other Authorities

942 complaints were received covering 67 statutory authorities or agencies including contractors. The Health Networks and Public Trustee are among the more prominent sources of complaints. All investigations completed this year concerning 'other authorities' were referrals from ICAC.

Return to Work Act Jurisdiction

As of 1 July 2015, the *Workers Rehabilitation and Compensation Act 1986* was repealed and my jurisdiction under Schedule 5 of the *Return to Work Act 2014* (RTW Act) to investigate complaints about breaches of the Service Standards commenced. The Service Standards apply to both Return to Work SA (RTWSA) and the Crown and Private self-insured insurers, including providers of services engaged by the self-insured employers.

Only a worker or an employer may lodge a complaint with my Office if they believe that the Service Standards have been breached. Where an investigation by my Office identifies that a breach of the Service Standards has occurred, I may require the respondent to provide a written or oral apology, furnish a written explanation or other remedies as outlined in clause 7 of Schedule 5 of the RTW Act. The powers of the Ombudsman under the *Ombudsman Act 1972* apply to self-insured employers as if they are agencies to which the Ombudsman Act applies.

In addition, under section 180(8) of the RTW Act, the Ombudsman can receive a request to conduct an external review of the decision by RTWSA or self-insured employer in relation to a worker's request to access material relevant to their claim. At the conclusion of the review, the Ombudsman may confirm, vary or modify the decision under review.

Statement of Service Standards

Clause 4 of Schedule 5 of the Return to Work Act sets out the service standards that apply to RTWSA, claims agents and self-insured employers. They are required to:

- a. View a worker's recovery and return to work as the primary goal if a worker is injured while at work;
- b. Ensure that early and timely intervention occurs to improve recovery and return to work outcomes including after retraining (if required);
- c. With the active assistance and participation of the worker and the employer, consistent with their obligations under this Act, ensure that recovery and return to work processes focus on maintaining the relationship between the worker and the employer;
- d. Ensure that a worker's employer is made aware of, and fulfils, the employer's recovery and return to work obligations because early and effective workplace-based coordination of a timely and safe return to work benefits an injured worker's recovery;
- e. Treat a worker and an employer fairly and with integrity, respect and courtesy, and comply with stated timeframes;
- f. Be clear about how the Corporation can assist a worker and an employer to resolve any issues by providing accurate and complete information that is consistent and easy to understand (including options about any claim, entitlements, obligations and responsibilities);
- g. Assist a worker in making a claim and, if necessary, provide a worker with information about where the worker can access advice, advocacy services and support;
- h. Take all reasonable steps to provide services and information in a worker's or employer's preferred language and format, including through the use of interpreters if required, and to demonstrate respect and sensitivity to a person's cultural beliefs and values;
- i. Respect and maintain confidentiality and privacy in accordance with any legislative requirements;
- j. Provide avenues for feedback or for making complaints, and to be clear about what can be expected as a response;

- k. Recognise a right of a worker or an employer to be supported by another person and to be represented by a union, advocate or lawyer.

In the reporting year the Office received 121 complaints relating to the Service Standards. The majority of the complaints were about being treated fairly, respectfully and within stated timeframes (Standard 4(e)) and being given assistance to resolve issues (Standard 4(f)).

All complaints were resolved informally so that it was unnecessary to conduct an investigation under the Return to Work Act. I provide some examples of the informal resolutions achieved in response to complaints received under the Act.

Informal Resolution Case Studies (RTW)

Gallagher Bassett Services

Unreasonable refusal to pay medical costs

2019/00249

Complaint

Following an injury at work in 2017, the complainant's claim was accepted by Return to Work SA and was referred to Gallagher Bassett.

The complainant contacted my Office following the finalisation of a formal complaint made to Gallagher Bassett in 2018 in which the outcome was that the complainant was liable to pay a physiotherapy bill of \$330.50 (which she could not afford) as her medical entitlements had ceased prior to incurring this bill. The complainant said she was unaware of her medical entitlements ceasing due to an administrative error made by Gallagher Bassett.

Outcome

My Office sought information from Gallagher Bassett which resulted in my Officer's preliminary view that there may have been administrative error involved in updating the complainant's address which contributed to a lack of clarity around responsibility for payment of the \$330.50 physiotherapy bill. Having identified a possible administrative error, my Officer provided the opportunity for Gallagher Bassett to reconsider its complaint outcome. In re-investigating this matter Gallagher Bassett agreed there was possibly a breakdown in its internal processes and thus it made the decision to arrange for the payment of the physiotherapy account.

Employers Mutual

Unreasonable treatment by case manager

2018/10509

Complaint

The complainant made a complaint to Employers Mutual in August 2018 that they were having difficulties with their Claims Manager and requesting that the management of their case be assigned to a different Case Manager. In October 2018 the complainant had not received any response or communication from the agency and contacted my Office.

Outcome

My Office contacted Employers Mutual, which looked in to the matter and found that the complaint had been received but, in error, had not been considered or addressed. Employers Mutual contacted the complainant, apologised for the error and lack of communication, and assigned them a new Case Manager.

Department of the Premier and Cabinet

Unreasonable delay in responding to request to access claims file

2019/01024

Complaint

The agency is a self-insured employer. In November 2018, the complainant submitted an application to the agency requesting access to his claims file pursuant to section 180 of the *Return to Work Act 2014*. Section 180 requires that the agency must, at the request of the worker, provide the worker with copies of all documentary material in its possession within 45 days after the request. The complainant received no acknowledgement of receipt of his application and, in January 2019, emailed the agency to enquire about the progress of his application. The complainant received no response. He subsequently sent three further emails to the agency, which were not responded to, before lodging a complaint with my Office. My Office contacted the agency and made enquiries about the complainant's application and the agency's lack of response.

Outcome

After being contacted by my Office, the agency undertook a review of the administrative process in relation to the complainant's application, and found that the application had been received in November 2018 but that the officer it was assigned to left the agency shortly after, without actioning the application. Upon realising the error, the agency contacted the complainant to acknowledge its lack of action on the application and to apologise for the delay. The agency delivered the documents to the complainant. The complainant accepted and was grateful for the apology.



Independent Commissioner Against Corruption Act Jurisdiction

The Independent Commissioner Against Corruption (the ICAC) may refer matters that raise potential issues of 'misconduct' and/or 'maladministration' in public administration to the Ombudsman for investigation. The *Independent Commissioner Against Corruption Act 2012* defines misconduct and maladministration and sets out what constitutes 'public officers' and 'public authorities' for the purposes of the Act. The matters referred may derive from complaints made to the Office for Public Integrity (OPI) by members of the public ('complaints') or by reports made to the OPI by public officers ('reports').

Pursuant to section 14B of the Ombudsman Act, a matter referred to the Ombudsman by the Commissioner is dealt with under the Ombudsman Act as if a complaint had been made under the Ombudsman Act. Accordingly, the Ombudsman investigates such referrals by exercising his powers under the Ombudsman Act.

The Independent Commissioner Against Corruption (ICAC) referred 33 complaints and reports of misconduct or maladministration in public administration to my Office pursuant to section 24 of the *Independent Commissioner Against Corruption Act 2012* and I completed 47 referred matters¹.

In this reporting period I issued 32 formal reports arising from ICAC referrals and found 51 allegations of misconduct, maladministration and administrative error substantiated relating to 30 public officers or public authorities. In 16 matters I deemed it in the public interest to publish either the final report or a summary statement. These reports and summaries may be accessed via the website at: www.ombudsman.sa.gov.au/publications/investigatoin-reports/

21 of the formal reports concerned local government, i.e. councils, council employees or elected members. Some of these attracted considerable media attention reflecting high public value in these types of matters:

- In July 2018, I released the report into the investigation of maladministration by the District Council of Coober Pedy, the Department of State Development and the former Minister for Mineral Resources and Energy concerning the decision of the council to enter into a \$198 million Power Purchase Agreement with Energy Generation Pty Ltd. I concluded that the council process for entering the agreement amounted to maladministration in public administration to such a degree that consideration should be given to asking the Governor to declare the council a defaulting council and appoint an administrator. In due course, the Minister did recommend this action to the Governor.
- In October 2018, I reported on the misconduct of Mr Lance Bagster, a former council member of the City of Burnside. I found that Mr Bagster had, by the nature and volume of his communications, bullied and harassed a number of council members and staff, creating a risk to their health and safety. I recommended that the council lay a complaint against Mr Bagster in the District Court to seek his disqualification from holding office. To date, this is the only time I have recommended such action be taken against an elected member.
- Also in October 2018, I reported on the conduct of former Mayor Rhode of the Port Pirie Regional Council. The referral concerned the decision of the Mayor to organise and undertake a 'trade mission' to the Philippines in the absence of formal approvals from the council's elected body and in circumstances where the Mayor did not declare to the council that he had formed an online relationship with a resident of the Philippines.

¹ The number of referrals is less than the number reported by ICAC in his annual report as on several matters my Office has counted a number of referrals relating to the same public officer or public authority as constituting one or more issues on the one complaint.

Several investigations involving government departments are also noteworthy:

- December 2018: I concluded an investigation that concerned potential misconduct and maladministration in public administration by a Personal Estates Officer of Public Trustee (the agency) in managing the estate of a vulnerable client. The referral also concerned the practices of the agency when overseeing the management of the estate and addressing issues that were subsequently identified with the client's file.

My findings and recommendation led to the agency reimbursing the estate \$121,203.67 plus interest of \$30,301.69 for an overpayment of residential aged care fees and \$11,977.63 plus interest of \$2,873.31 for overpayments relating to pharmaceutical prescriptions.

- March 2019: I concluded an investigation into whether a public officer committed misconduct in public administration by recording telephone conversations of a colleague without their consent and whether the public officer's manager (who is also a public officer) committed misconduct in public administration by engaging the public officer to make the recordings. The investigation substantiated the allegations and concluded that both public officers breached the Code of Ethics for the South Australian Public Sector and had thereby committed misconduct in public administration for the purposes of section 5(3)(a) of the ICAC Act. Their misconduct was reported to the Chief Executive of the Department as required by section 18(5) of the Ombudsman Act.
- June 2019: I released a report about a former agency Chief Executive of the Department of Planning, Transport and Infrastructure using his business credit card to pay for expensive restaurant meals for 'meetings' with staff, contractors and other stakeholders including his Minister. In response the government committed to implement my recommendation that there be a government wide policy setting limits and controls on agency expenditure on meals and alcohol.



Recommendations

In 40 of the 59 investigation reports issued, I formed the view that public officers or agencies had committed administrative error within the meaning of section 25(1) of the Ombudsman Act. Altogether I made 90 recommendations to remedy these errors. As at time of writing 78 or 87% have been implemented. As in previous years, I expect an implementation rate of 95% or more.

It should be noted that I do not have an express power to issue recommendations upon forming a view about misconduct or maladministration under the ICAC Act. However, where the actions under investigation can be construed as administrative acts within the meaning of the Ombudsman Act, I usually express a view in accordance with section 25(1) of the Ombudsman Act which allows me to make a recommendation under section 25(2) of that Act.

I exercised my discretion under section 26 of the Ombudsman Act to publish 37 of the final reports or a summary statement of them. The website link to the published reports is: www.ombudsman.sa.gov.au/publications/investigatoin-reports/

Many of my recommendations are designed to address an administrative issue by taking a systemic approach. In the child protection jurisdiction the majority of my recommendations have a systemic focus.

I set out some examples of these types of recommendations as follows:

- That the **Department for Correctional Services** report on the progress of the review of food options available in prisons with reference to recommendations by Diabetes Australia and the completion of the Diabetes Action Management Plan being formulated by the department and SA Prison Health Services (2017/03387)
- That the **Department for Child Protection** take appropriate steps to develop or revise guidelines and associated materials applicable to the assessment and investigation of notifications under the *Children's Protection Act 1993* and the *Children and Young People (Safety) Act 2017* so as to provide that:
 - a. absent reasonable cause, and wherever practicable, intakes should not be closed for lack of substantiation unless and until:
 - the department has considered all aspects of the child and family's situation
 - the department is satisfied that all key witnesses have been interviewed by the department or by agencies working in cooperation with the department
 - the department has made reasonable endeavours to obtain and review any records of interview applicable to interviews conducted by agencies working in cooperation with the department
 - the department has made final enquiries of all agencies working in cooperation with the department such that it is satisfied that all evidence obtained by those parties has been made available to the department and has been considered by the department
 - the department has considered the allegations against all previous notifications and intakes relating to the child and family's situation and against all previous notifications and intakes relating to the alleged perpetrator.
 - b. the investigation and response to intakes must be determined upon consideration of:
 - the balance of probabilities

- the rules of evidence applicable under the *Children's Protection Act 1993* and/or the *Children and Young People (Safety) Act 2017* (as applicable)
 - the specific remedies available to the department under the *Children's Protection Act 1993* and/or the *Children and Young People (Safety) Act 2017* (as applicable) and under other applicable statutory instruments.
- c. the failure to charge or prosecute an alleged offender shall not by itself constitute sufficient basis for closing an intake. (2016/10215)
- That the **City of Burnside** implement a protocol for managing secondary employment which specifically addresses actual, potential or perceived conflicts of interest. (2017/10857)
 - That **Housing SA** review and revise its maintenance processes and procedures to:
 - clarify the priorities or requested maintenance works
 - ensure that contractors comply with priorities
 - establish clear rules and timeframes for communicating with tenants about maintenance requests, issues and complaints. (2018/02346)
 - If particular children/young people have a known history of incidents of sexualised behaviour between them, those particular children/young people are not placed together and the **Department for Child Protection**:
 - a. clearly documents the history of sexualised behaviour between the young people as a consideration in the department's placement decision
 - b. ensures that case managers, social workers, therapists, carers and all other relevant individuals have been advised of the histories of sexualised behaviour and have been reminded of/provided with training in relation to sexualised behaviour in children/young people
 - c. creates, documents and implements strategies for managing sexualised behaviours should they occur in the separate placements that are determined for the children/young people and ensures those strategies are known to all carers/ staff
 - d. ensures that wellbeing plans (formerly known as safety plans) are created/ updated for each child/young person before the placement commences and as the placement progresses
 - e. ensures case plans are updated
 - f. considers staff/carer to child/young person ratio
 - g. in the case of siblings (where it is assessed to be in their best interests to remain together), ensures that a) to f) are complied with. (2016/09489)
 - That the **Department for Child Protection** amend its Practice Guidelines and any other associated materials to better recognise the requirement to observe the principles of procedural fairness in the making of decisions relating to contact arrangements. (2018/08918, 2018/10387)
 - That the **District Council of Coober Pedy** resolve to require Change of Use applications, and issue Development Consents, to bed and breakfast facilities which accommodate six or more travellers. (2017/12277)
 - That the **Department for Child Protection** reviews all Risk Assessments that have resulted in a case being closed by use of a discretionary override since the release of the Life They Deserve: Child Protection Systems Royal Commission Report. The agency is to do so in order to determine whether a systemic issue exists with respect to the closure of Very High Risk cases. (2017/04304)
 - That the **District Council of Robe**:
 - amend its purchasing policy to clearly require that reasons must be recorded for entering into any contracts other than those resulting from a tender process
 - develop a template for recording reasons as required by section 49(2)(c) of the Local Government Act
 - amend the policy to clarify whether the relevant threshold is determined by gross or net purchase price



- remind all council officers of their obligations under the policy, including the need to have regard to procurement principles. (2018/07948)
- That the **Kangaroo Island Council**:
 - review the approval process for Chief Executive Officers' leave to include transparency and independent oversight
 - ensure its Chief Executive Officers have up to date Executive Agreements which incorporate any additional leave arrangements including appropriate monitoring of and limits on that leave
 - appoint an independent organisation to conduct performance reviews of the Chief Executive Officer position, as suggested by the Local Government Association. (2018/01787)
- That the **Department of Planning, Transport and Infrastructure** take such action as is necessary to ensure that applications received by the department under the FOI Act, including associated review processes, are dealt with in a prompt and efficient manner. (2018/04050)
- That the **State Government** develop and implement a suitable whole-of-government policy in respect of the procurement (including by way of use of government-issued purchase cards) of meals, drinks (including alcohol) and other forms of entertainment through use of public funds. (2018/04050)
 - remind all council officers of their obligations under the policy, including the need to have regard to procurement principles. (2018/07948)
- That the **Kangaroo Island Council**:
 - review the approval process for Chief Executive Officers' leave to include transparency and independent oversight
 - ensure its Chief Executive Officers have up to date Executive Agreements which incorporate any additional leave arrangements including appropriate monitoring of and limits on that leave
 - appoint an independent organisation to conduct performance reviews of the Chief Executive Officer position, as suggested by the Local Government Association. (2018/01787)
- That the **Department of Planning, Transport and Infrastructure** take such action as is necessary to ensure that applications received by the department under the FOI Act, including associated review processes, are dealt with in a prompt and efficient manner. (2018/04050)
- That the **State Government** develop and implement a suitable whole-of-government policy in respect of the procurement (including by way of use of government-issued purchase cards) of meals, drinks (including alcohol) and other forms of entertainment through use of public funds. (2018/04050)

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Audits

Audits

Under section 14A of the Ombudsman Act, the Ombudsman may conduct a review of the administrative practices and procedures of an agency to which the Act applies where the Ombudsman considers it in the public interest to do so.

In 2017-2018, I completed two reviews pursuant to this power. The first was tabled in May 2018 and concerned the implementation of the Information Sharing Guidelines for Promoting Safety and Wellbeing (ISG). The second was an Audit Survey Report tabled in June 2018 that reported on the progress made by 13 key state government departments in developing their complaint management systems (CMS). The full reports of these audits are available at: www.ombudsman.sa.gov.au/publications/audit-reports/

Both reviews resulted in me making recommendations for improvement. During the reporting year I followed up each of the relevant agencies as to their implementation of those recommendations.

Information Sharing Guidelines

The ISG is endorsed by State Cabinet and defines a process for agencies to share information where there are current or anticipated threats to safety and wellbeing of children and adults. The aim is that by agencies sharing information and working together at the first sign of risk, harm to children and some of our most vulnerable citizens can be prevented.

The audit found agencies within the scope of the audit had overall failed to implement the ISG. I made a number of recommendations for improvement pursuant to section 25(2) of the Ombudsman Act:

1. That all Agency Chief Executives issue a written directive reminding all staff of:
 - the requirement to implement the ISG
 - the availability of agency specific ISG procedures (ISG Appendix)
 - the need for ISG induction/training
 - the responsibilities of senior management to support and supervise information sharing decisions and follow-up action.
2. That all Agency Chief Executives report to me by 30 May 2018 on progress made since their 2016 submission to me to satisfy ISG Audit Tool requirements.
3. That the Chief Executive (for Department for Correctional Services) provides me a full ISG audit submission providing evidence of compliance with ISG requirements by 30 May 2018.
4. That all Agency Chief Executives ensure:
 - record keeping policies and procedures are reviewed for currency and accuracy
 - related training, supervision and monitoring arrangements be implemented
5. That all Agency Chief Executives issue a written directive to staff specifying:
 - the requirement to appropriately document information apprising key administrative and operational decisions of the agency as prescribed by the ISG.

The following agencies were the subject of the Audit and recommendations:

- Attorney-General's Department
- Department for Child Protection (DCP)

- Department for Department for Education and Child Development (now Department for Education)
- Department for Correctional Services (DCS)
- Department for Communities and Social Inclusion (now Department for Human Services)
- SA Health
- SAPOL

These are the agencies that have the most significant interaction with children and adults in vulnerable circumstances.

I am able to report that all agencies except DCP have satisfied me that they have taken reasonable steps to implement all recommendations relevant to them. Even the DCS which had failed to provide proper evidence of its compliance with the ISG requirements has made up ground and has implemented all my recommendations to my satisfaction.

DCP initially took the position, based on Crown advice, that section 164 of the *Children and Young People (Safety) Act 2017* covers the field and that it should develop its own guideline for disclosing information in accordance with section 164 rather than promoting the ISG and working within the ISG framework. I was very concerned about this approach as the ISG was developed in response to information sharing failures within the child protection system that led to tragic outcomes. If DCP departs from the ISG framework it will create a disconnect with the other agencies and a multitude of NGOs which abide by it for their information sharing decisions. The DCP 'do our own thing approach' had the potential for undermining the efforts of many people and the investment of several hundred thousand dollars over the last seven years to imbed a system of information sharing across government so as to promote the safety and wellbeing of children and vulnerable adults. This could all count for nothing if one agency falls out of line.

I have held discussions with the Chief Executive of DCP to reinforce the importance of DCP complying with the ISG as a unifying approach across agencies and the NGO sector and she promised to review DCP's position in consultation with her legal advisors. DCP subsequently changed their position and is working towards abiding by the ISG framework. I will continue to monitor her progress in this regard.

Recommendation 6 of the ISG Audit asked the Department for the Premier and Cabinet to consider developing Regulations to the *Public Sector (Data Sharing) Act 2016* that apply ISG principles to data sharing between agencies. However, as reported last year, the department responded by indicating that while it had considered the recommendation, it did not believe Regulations to that Act were the appropriate way forward. Given the experience with DCP and its initial reluctance to apply the ISG because the ISG does not have the force of law, I maintain my view that for the ISG to be truly effective it needs to be enshrined in legislation.

Following release of my report into the failure by Families SA to share crucial information with the grandparents of the two children who became victims in the 'Hillier murders', the government has announced its commitment to consider giving the ISG principles the force of law.

Complaint Management Systems

The Audit Survey Report identified some improvements as well as some deficiencies in the CMS. Three recommendations were made:

1. the renewal of the DPC Circular PC039 – Complaint Management in the South Australian Public Sector (including adherence to the Australian Standard on complaint management)
2. improved complaint management and access for disadvantaged and vulnerable people, and
3. the development of departmental Strategic Planning goals to deliver service improvements linked to complaints.

The Senior Management Council (SMC) of government accepted responsibility for supervising the implementation of these recommendations.

Recommendation 1 involving the renewal of *DPC Circular PC039 – Complaint Management in the South Australian Public Sector* was implemented on 15 November 2018.

The SMC has assessed agency compliance with the Circular and found that most agencies have substantially complied with it. Those that have further work to do are required to report back to SMC in March 2020.

The SMC has also reported on individual agencies implementing a wide range of activities in response to Recommendation 2 to make their CMS more responsive and inclusive for Aboriginal people, people with disabilities, and those who are vulnerable or disadvantaged or from culturally and linguistically diverse communities.

The SMC provided me with examples of agencies progressively embedding their CMS into the strategic plans to demonstrate that steps have been taken to implement Recommendation 3.

Very helpfully, the SMC has provided a table comparing agency self-assessment of their CMS activities in 2017 with activities in 2018 utilizing the maturity scale outlined in the Ombudsman's Complaints Management Framework².

The maturity scale rates CMS activities from *1 Not yet started; 2 Understood, but not started; 3 Understood, and planning to start/ just started; 4 Implementation well underway; 5 Fully integrated*. On a number of the competencies and features that describe a healthy, robust CMS, agencies' confirm increased scores suggesting that their CMS are developing and improving. The SMC will encourage agencies to audit their CMS against the Framework annually.

I have advised the SMC and the agencies that I am satisfied with the steps taken to implement my recommendations.

Forensic Procedures

When the Police Ombudsman was abolished in 2017, the responsibility for conducting the annual audit of compliance with the *Criminal Law (Forensic Procedures) Act 2007* was transferred to my Office. A report is required to be submitted to the Attorney-General by 30 September each year. The Deputy Ombudsman submitted the first audit by my Office to the Attorney-General on 28 September 2018.

The audit covered the period February 2017 to May 2018 and involved the examination of records relating to 487 forensic procedures carried out on suspects, offenders, volunteers and victims of criminal offences. These procedures ranged from simple mouth swabs to intimate examinations and procedures.

The report indicates that more than 90% of the forensic procedures audited complied with the provisions of the Act, but there was a relatively high level of non-compliance where senior police officers were required to authorise procedures carried out on suspects. Concern was expressed that many of these failures meant the process lacked fairness, that some of the procedures involved child suspects and that the non-compliance would likely adversely affect the admissibility of evidence.

Other instances of non-compliance raised concern because of the vulnerability of those involved; examples included occasions where intrusive procedures were conducted by persons of a different gender to the victim or suspect, instances where interpreters should have been used but were not, and 2 situations where it was questionable whether sexual assault victims were mentally capable of giving informed consent to the procedure.

Nevertheless it was noted that each of the eleven audio-visual records of intrusive forensic procedures viewed demonstrated that the procedures were carried out in a respectful and humane manner.

A number of recommendations have been made to SAPOL.

The audit report is available on the Ombudsman SA website at: www.ombudsman.sa.gov.au/publications/audit-reports

² see <http://extra.sa.gov.au/better-services/Documents/OmbudsmanSA-Complaint-Management-Framework.pdf>

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Freedom of Information Jurisdiction

Freedom of Information Jurisdiction

The Freedom of Information Act 1991 gives every member of the public a right of access to documents held by state government-related agencies, Ministers, statutory authorities, councils, public hospitals and universities, subject to certain exceptions. Examples of documents that may be exempt include:

- documents that would lead to an unreasonable disclosure of another person's personal affairs
- documents that contain trade secrets or information of commercial value
- documents affecting law enforcement and public safety
- documents of exempt agencies as declared by the Freedom of Information (Exempt Agency) Regulations, 2008.

Parties who are dissatisfied with determinations made by agencies may apply to my Office for an external review of the decision concerning access to documents. I can confirm, vary or reverse the agency's determination. In some cases, my Office may facilitate a settlement between parties.

The Freedom of Information Act also gives any person a right to have records which concern their personal affairs amended, if those records are incomplete, incorrect, out of date or misleading. I am also able to review agency decisions in relation to the amendment of records.

Parties to a Freedom of Information matter may have my determination reviewed by the South Australian Civil and Administrative Tribunal (prior to 8 December 2016 the appeal right lay to the District Court).

External Reviews

My Office completed 154 external reviews for the year. This compares to 160 last year. 59 of the external reviews were finalised by way of a formal determination. I exercised my power under section 39(14) of the FOI Act to publish 11 of the determinations on the Ombudsman SA website. These can be accessed at: www.ombudsman.sa.gov.au/publications/foi-determinations/

My Office has experienced a surge in applications for external review, driven largely by two Shadow Ministers. The number of applications increased from 127 in 2017-18 to 262 this year. Applications from MPs increased from 39 in 2017-18 to 139 in 2018-19. I have responded to this in two ways: (a) by requiring the FOI Team to give more emphasis to early resolution and settlement of cases, and (b) outsourcing 30 applications to a private law firm while recruitment of additional staff is underway.

The average time to complete an external review during the year was 86 days (approximately three months), compared to 125 days (four months) the previous year. In spite of the measures I have adopted, I foreshadow that the completion periods for the current year will be considerably longer on average due to the dramatic increase in applications.

Complaints about FOI matters

In addition to conducting external reviews, my Office receives complaints about the way agencies have managed the FOI application. Most of these complaints are about agencies not being able to locate documents that the applicant believes they hold. As advised in my previous report, a decision of the SACAT handed down in April 2017³, to the effect that a claim by an agency that it does not hold a document requested under the FOI Act is not a determination that is reviewable under the FOI Act, means that such a claim cannot be reviewed by the agency concerned on internal review or by my Office as an external review authority, or by SACAT on external review.

However, I continue to consider grievances arising out of such claims but treat them as complaints under the *Ombudsman Act 1972*, rather than as external reviews under the FOI Act. This is a very unsatisfactory state of affairs and is one of the numerous deficiencies in the Act that I have raised with the Attorney-General for consideration in a review of the Act.

During the reporting year, I received 50 FOI Act complaints and completed 39. On average, complaints were finalised within 49 days compared to 78 days the previous year.

Every year my Office provides advice on the operation of the Act to agency FOI officers and applicants. This reporting year the Office dealt with 129 requests for advice.

Table of FOI matters received and closed

Matter type	2017-2018		2018-2019	
	Received	Closed	Received	Closed
FOI external reviews	127	160	262	154
FOI advices	158	158	130	129
FOI complaints	19	23	50	39
Summary of FOI complaints				
FOI practices & procedures	2	2	16	11
Sufficiency of search	17	21	34	28

	2017-2018	2018-2019
Average days open - FOI external reviews	125 days	86 days
Average days open - FOI complaints	78 days	49 days

Table of external reviews completed within time periods for the last 2 financial years

	<30 days	<120 days	<180 days	<270 days	<365 days	>365 days	Total
2017-2018	26	61	32	30	8	3	160
2018-2019	55	54	19	21	4	1	154

³ *El Shafei v Central Adelaide Local Health Network* [2017] SACAT 5.

Training

My Office continued to provide training to agency FOI officers (approximately four times per year) and contribute to the training material used. The training was provided in conjunction with State Records. In May 2019, I advised State Records that my staff could not continue to be involved in the training program due to reduced staff and an increase in external reviews received by my Office. The Director of State Records has advised me that this has prompted his office to move forward with establishing an online training tool to replace the need for personal presenters.

Access to Information Optimal Features Framework

My Office has been represented on a joint working group established under the auspices of the Australian New Zealand Association of Information Access Commissioners. The working group developed a document that sets out the optimal features of a right to information scheme. The purpose of the document is to provide a guide to widely accepted underlying principles of right to information legislation that have the endorsement of Information Commissioners and Ombudsmen from around the country and New Zealand.

Decision of the Full Supreme Court

Questions of law were reserved by the President of SACAT for the Full Supreme Court of SA in regard to my determination to grant access to Seven Network to an advice prepared by the then Solicitor-General (currently the Chief Justice of the SA Supreme Court) in respect of the third petition for mercy brought by Mr Henry Keogh to the Governor of South Australia. The main question was whether the legal professional privilege exemption permitted me to consider waiver and, if so, whether I was entitled to consider fairness to a person other than the person who makes the request for access under the FOI Act. In April 2019, the Court handed down its decision: *Attorney-General for the State of SA v Seven Network (Operations) Ltd* [2019] SASCFC 36. All questions were answered in support of my determination. Within a few days of the Court's decision, the Attorney-General had tabled in Parliament the Solicitor-General's advice.

'I confirm that what the Ombudsman has proposed addresses all of my concerns and I thank him very much for doing so.

The Ombudsman has restored what little faith I have in those in positions of power and authority and to do right by the citizens which they are empowered to serve.'

- response from an applicant for external review of an FOI determination.



Other Activities

Other Activities

Submissions

In August 2018, I submitted a proposal for reform of the *Freedom of Information Act 1991* to the Chief Executive of the Attorney-General's Department. This has been considered by the department's Legislative Services for the purpose of a draft bill. In my view, the Freedom of Information scheme could be greatly improved so that (a) information is disclosed more proactively by agencies thereby reducing the need for external reviews, and (b) the process for external review is made clearer and more efficient.

In March 2019, I submitted to the Chief Executive of the Attorney-General's Department a proposal for reform of the *Ombudsman Act 1972*. The Act is in need of amendment to reflect current complaint handling practice, clarify the Ombudsman's jurisdiction in regard to SAPOL, require Ministers to explain to Parliament why inadequate steps have been taken to implement Ombudsman recommendations and strengthen the Ombudsman's protection against legal proceedings. I also believe the Act should be amended to give the Ombudsman the power to issue recommendations on investigating referrals of misconduct and maladministration under the ICAC Act. If implemented, my reform proposal will have a significant impact on both the efficiency and effectiveness of my Office.

The Minister for Transport, Infrastructure and Local Government has embarked upon a review of the Code of Conduct for Council Members as well as the Local Government Act and my Office is represented in a working group that has contributed to a discussion paper for consultation. I have submitted to the working group that the Code of Conduct should be amended to (a) reduce duplication of duties set out in the *Local Government Act 1999* and (b) remove references to behavioural responsibilities, which should be captured by the individual local council policies and subject to resolution at the local council level. A reduction in the type of conduct that can be dealt with by my Office will reduce some of my Office's workload in this area.

In April 2019, I provided a written submission to the parliamentary standing committee for Crime and Public Integrity Policy which was convening an Inquiry into the functions, interrelationships between and resources required to support the operations of the Auditor-General, Independent Commissioner Against Corruption, and the Ombudsman and the functions of the Crime and Public Integrity Policy Committee amongst other matters.

ANZOA Executive Committee

In November 2018, I was re-elected to the Executive Committee of the Australian New Zealand Ombudsman Association (ANZOA).

Incorporated in 2003, ANZOA is the peak body for ombudsmen in Australia and New Zealand. ANZOA members come from not-for-profit industry-based, parliamentary and other statutory external dispute resolution offices, which meet high standards of independence, impartiality and effectiveness and observe the Benchmarks for Industry-Based Customer Dispute Resolution.

The Executive Committee meets quarterly, usually by teleconference, to further ANZOA's focus on supporting the ombudsman community and promoting best practice and the role and value of ombudsmen offices. During the reporting year, I attended three of these meetings.

Australasian and Pacific Ombudsmen Region Conference

As a member of the International Ombudsman Institute (IOI), I attended a three day conference held in Auckland, New Zealand in December 2018 for the Australasian and Pacific Ombudsman Region, a division of the IOI. This was an opportunity to meet with many ombudsmen from the region and to reflect on issues important to our work. The theme of the conference was the impact of climate change on the work of ombudsmen.

Prison Visits

During the year I attended Preventing Aboriginal Deaths in Custody forums held at the Mobilong and Mount Gambier Prisons. These forums are held annually in each prison and provide an opportunity for Aboriginal prisoners and advocates to raise issues that are relevant to them and for correctional staff and service providers to furnish information about actions that may be taken to address their concerns. At each forum I observed that the prisoners were vocal in raising a multitude of issues.

Judicial Review

The General Manager of the APY Lands sought judicial review of my investigation of him in response to complaints about him from a former Chair of the APY Lands Board. The hearing held by the Supreme Court was completed in December 2018 and a decision was handed down on 26 June 2019. The Court dismissed the application for judicial review holding that I had acted within my jurisdiction and that the General Manager had failed to demonstrate that any of my conclusions arising from the investigation were legally unreasonable. The General Manager has subsequently filed an appeal to the Full Supreme Court. The appeal is likely to be heard in 2020.

Women's Information Service

Every month a member of my staff visits the Women's Information Service in Adelaide for half a day and provides advice to women about how they may have their concerns about government services addressed.

This is another example of the Office seeking to be accessible to people who may be disadvantaged or vulnerable.



About Ombudsman SA

What We Do

The Ombudsman is empowered to:

- investigate the administrative acts of state government agencies, local government councils and statutory authorities; and also misconduct and maladministration in public administration on referral from the Independent Commissioner Against Corruption
- conduct audits of the administrative practices and procedures of state government agencies, local government councils and statutory authorities
- conduct Freedom of Information reviews about release of information
- receive information about state and local government activities confidentially from whistleblowers
- investigate complaints about breaches of service standards under the *Return to Work Act 2014*.

The aim of Ombudsman SA is to contribute to sound public administration within state and local government agencies in South Australia.

Visit our website for further information about our services or to register a complaint directly online: www.ombudsman.sa.gov.au

The Investigation Process

Any party who is directly affected by an administrative act of a government department, council or statutory authority under our jurisdiction can make a complaint.

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

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

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

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

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

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

We usually publish our reports and determinations on our website at www.ombudsman.sa.gov.au/.

Our Jurisdiction

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

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

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

Referral to Other Jurisdictions

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

Service Principles

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

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



Complaints about Ombudsman SA

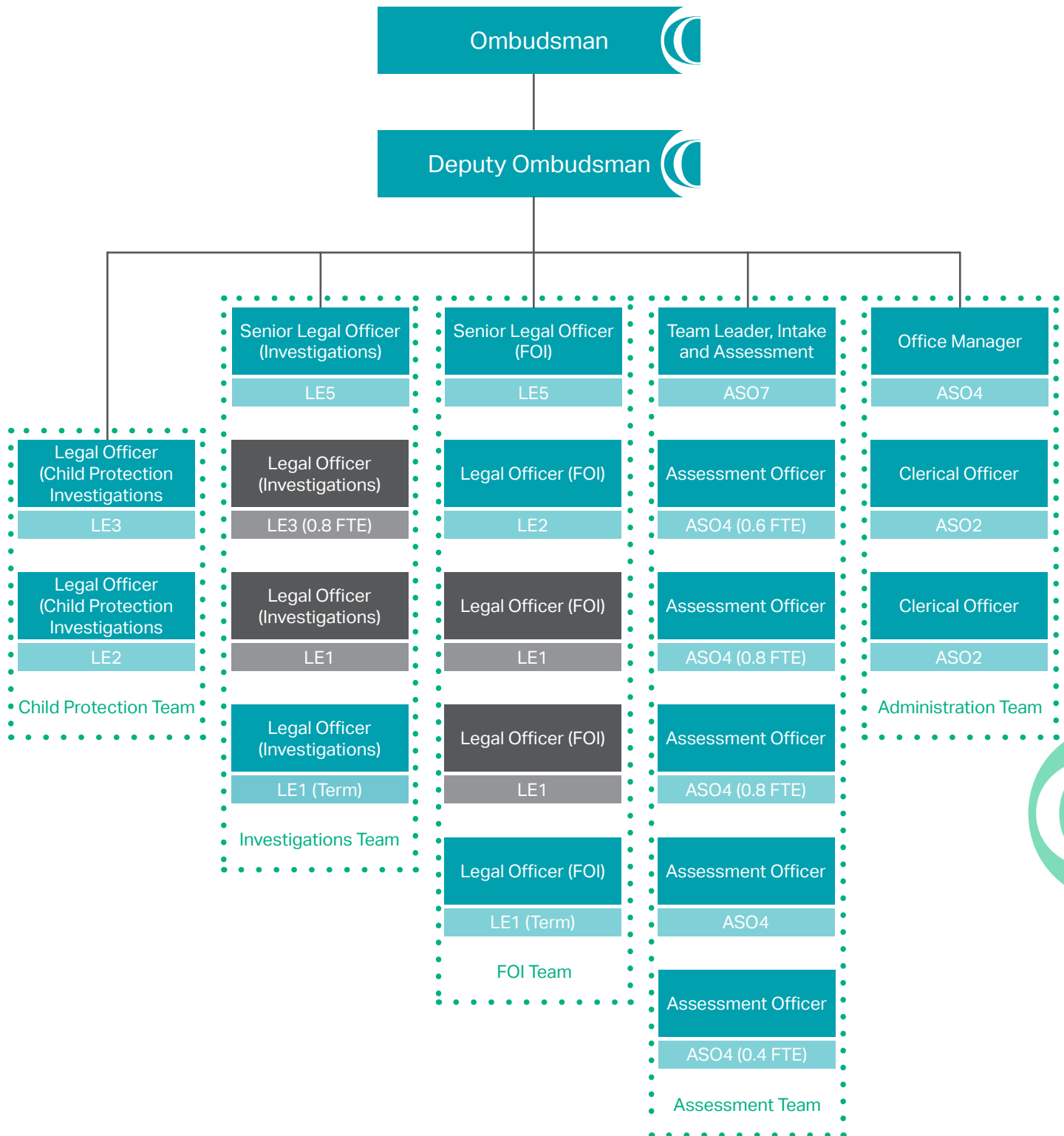
Parties who are unhappy with our service can find our complaints policy and procedures at www.ombudsman.sa.gov.au/about-us/complaints-about-us/.

In accordance with Premier and Cabinet Circular 013, which was updated as a result of a recommendation made by the former Acting Ombudsman in 2014, I report that my Office responded to 27 complaints made about my Office in the 2018-2019 year and I set out a summary of them below.

Matter number	Complaint subject matter	Outcome/actions taken
2017/10808	Unreasonable decision not to investigate	Outcome confirmed
2018/00532	Complaint about OSA decision – failure to consider relevant material in investigation	Internal Review not granted
2018/03034	Unreasonable decision not to investigate	Outcome confirmed
2018/03418	Unreasonable decision not to investigate	Outcome confirmed
2018/04609	Complaint about OSA services – numerous allegations including failure to consider all of issues raised	Not substantiated
2018/06859	Complaint about OSA services – failure to provide information	Not substantiated
2018/07447	Unreasonable decision not to investigate	Outcome confirmed
2018/07624	Unreasonable decision not to investigate	Internal Review not granted
2018/08315	Unreasonable decision not to investigate	Outcome confirmed
2018/09779	Complaint about OSA services – incorrect statement that OSA had contacted complainant by telephone Complaint about decision – failure to consider certain information	Substantiated – apology offered
		Substantiated – reassessment of decision not to investigate undertaken and outcome confirmed
2018/07376	Complaint about Ombudsman investigation by third party	Internal Review not granted
2018/09779	Unreasonable decision not to investigate	Outcome confirmed
2018/12058	Unreasonable conclusions reached in Ombudsman investigation	Outcome confirmed – original investigation was fair and reasonable
2018/12370	Complaint about OSA services	Complainant could not be contacted
2018/12690	Unreasonable decision not to investigate 2 matters	Outcomes confirmed
2018/12878	Unreasonable decision not to investigate	Internal Review not granted
2018/12885	Unreasonable decision not to investigate	Outcome confirmed
2018/13118	Unreasonable decision not to investigate	Outcome confirmed
2018/11510	Unreasonable decision not to investigate	Outcome confirmed
2018/13501	Unreasonable decision not to investigate	Outcome confirmed
2019/00204	Unreasonable decision not to investigate	Outcome varied – complaint re-assessed
2019/00799	Complaint about OSA decision not to investigate	Outcome confirmed
2019/02284	Unreasonable decision to decline complaint alleging insufficient search for documents by an agency responding to an FOI application	Outcome confirmed
2019/03441	Complaint about OSA services	Partly substantiated (unreasonable refusal to take complaint from anonymous complainant)
2019/03384	Complaint about OSA assessment and decision to decline	Not substantiated and outcome confirmed

Matter number	Complaint subject matter	Outcome/actions taken
2019/04233	Unreasonable decision not to investigate	Internal Review not granted (request for internal review was premature)
2019/05327	Request for internal review of Ombudsman decision concerning complaint about transfer to another prison	Internal Review not granted

Organisational Chart



As at 30 June 2019
Roles in grey not filled

Financial Statement

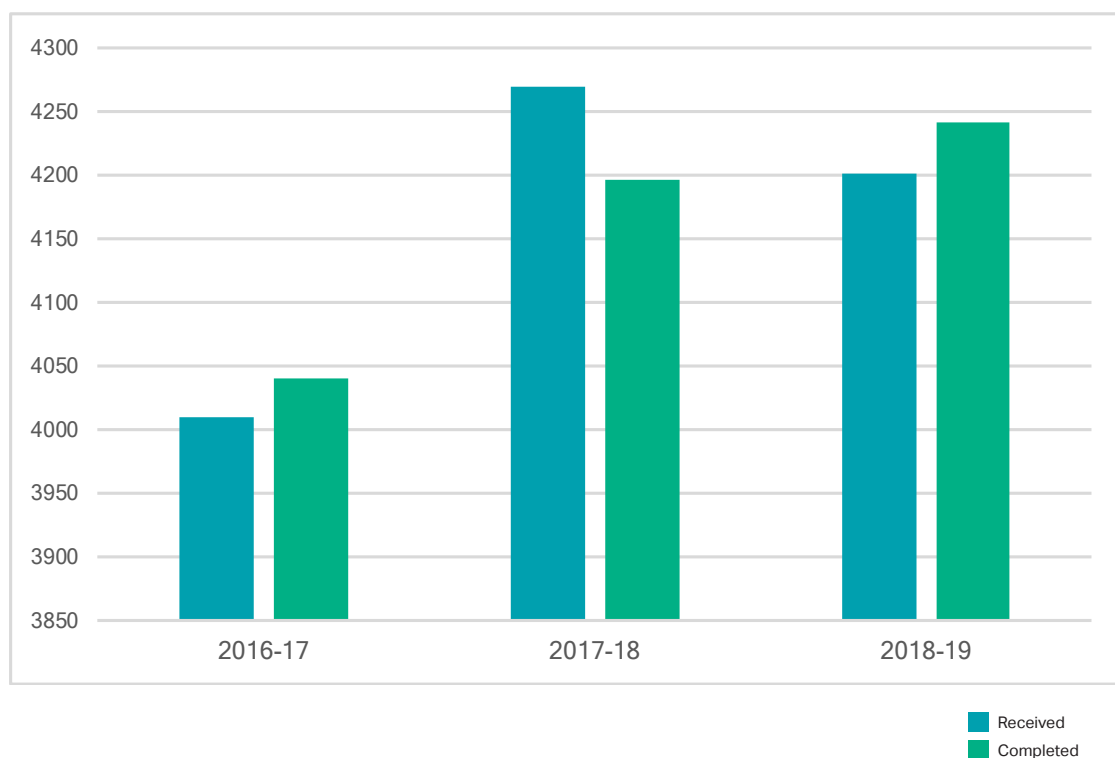
Expenditure	2017-18 ⁴	2018-19
Annual Report	4 905	3 654
Computer expenses	74 743	71 185
Contributions to projects	6 000	0
Equipment maintenance	3 330	2 376
Equipment purchases	11 728	2 578
* Fringe Benefits Tax	11 331	13 754
* Motor vehicles	16 154	16 461
Postage	5 018	5 172
Printing and stationery	10 732	11 277
Publications and subscriptions	5 271	3 427
Staff development	19 089	26 234
Sundries	28 950	29 507
Telephone charges	19 023	17 552
Travel/taxi charges	13 786	16 047
Website development	4 500	3 435
	Sub-total	234 560
* Accommodation and energy	365 351	388 047
Consultant/contract staff/prof costs	47 866	96 577
	Sub-total	413 217
* Salaries	2 724 035	2 748 988
	Sub-total	2 724 035
** Income	(533 307)	(636 598)
	Sub-total	(533 307)
* Figures include expenses incurred by the Ombudsman position (funded by Special Acts)		
** Includes recovery of expenditure from ReturnToWorkSA		
	Net expenditure	2 838 505
		2 819 673

⁴ Please note that these figures differ from those provided in the 2017-2018 Annual Report due to some expenses being inadvertently excluded.

Ombudsman Act Jurisdiction

OMBUDSMAN JURISDICTION	2016-17				2017-18				2018-19			
	Government departments	Local government	Other authorities	Total	Government departments	Local government	Other authorities	Total	Government departments	Local government	Other authorities	Total
Matters received	2247	965	798	4010	2379	974	917	4270	2291	968	942	4201
Matters closed	2252	991	797	4040	2355	939	902	4196	2306	990	946	4242
Audits completed	1	12		13	20			20	1			1

Matters received and completed by year



Government departments

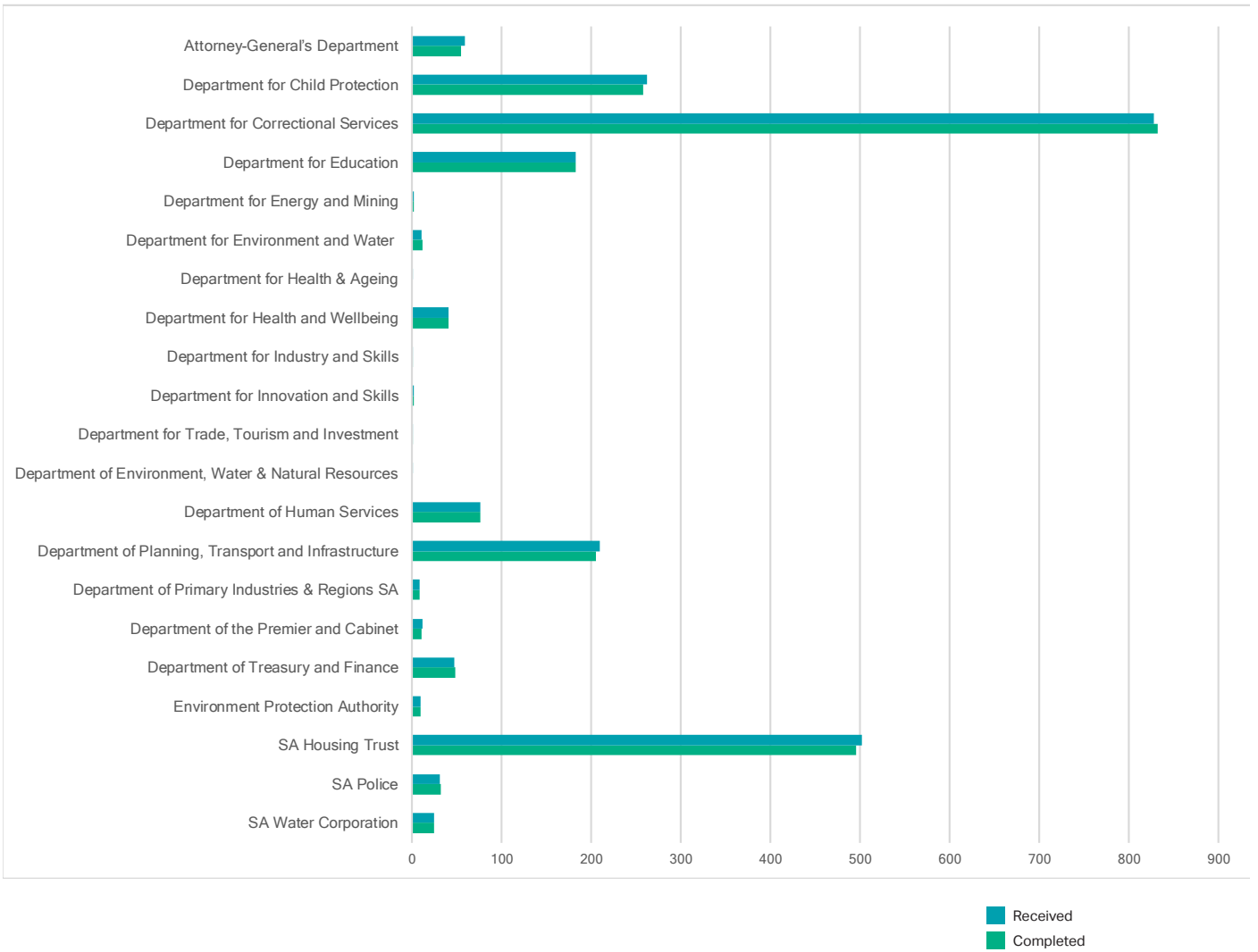
Summary tables

1 July 2018 - 30 June 2019

Complaints: received and completed

Department	Received	Percentage	Completed	Percentage
Attorney-General's Department	54	2.3	59	2.5
Department for Child Protection	258	11.3	262	11.4
Department for Correctional Services	832	36.3	828	35.9
Department for Education	182	7.9	182	7.9
Department for Energy and Mining	2	0.1	2	0.1
Department for Environment and Water	11	0.5	10	0.4
Department for Health & Ageing			1	0.05
Department for Health and Wellbeing	41	1.8	40	1.7
Department for Industry and Skills	1	0.05	1	0.05
Department for Innovation and Skills	2	0.1	2	0.1
Department for Trade, Tourism and Investment	1	0.05	1	0.05
Department of Environment, Water & Natural Resources			1	0.05
Department of Human Services	76	3.3	76	3.3
Department of Planning, Transport and Infrastructure	205	8.9	209	9.1
Department of Primary Industries & Regions SA	8	0.4	8	0.4
Department of the Premier and Cabinet	10	0.5	11	0.5
Department of Treasury and Finance	48	2.1	47	2.0
Environment Protection Authority	9	.4	9	0.4
SA Housing Trust	495	21.6	502	21.8
SA Police	32	1.4	31	1.3
SA Water Corporation	24	1.0	24	1.0
TOTAL	2291	100%	2306	100%

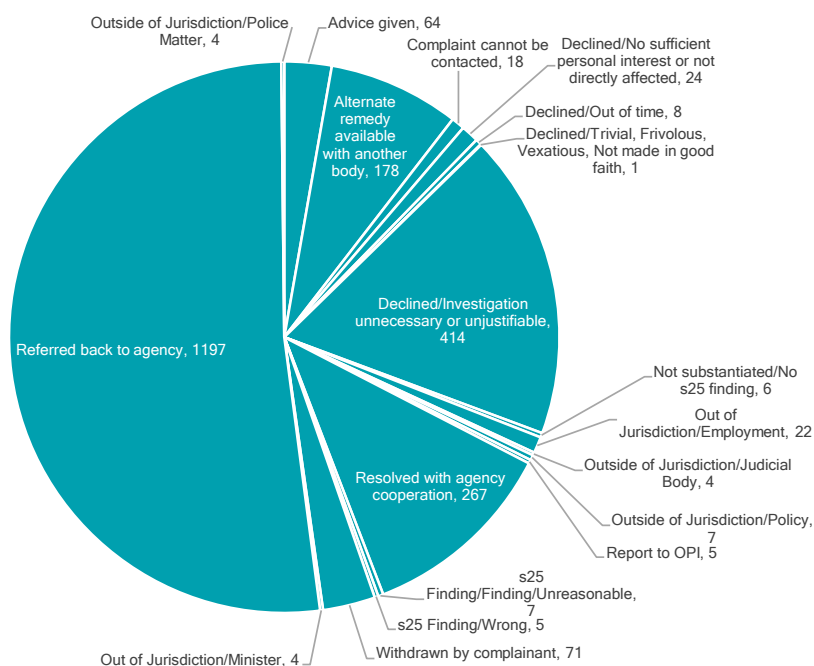
Government department complaints received and completed



Complaints: outcomes

Outcome	Total	Percentage
Advice given	64	2.8
Alternate remedy available with another body	178	7.7
Complaint cannot be contacted	18	0.8
Declined/Investigation unnecessary or unjustifiable	414	17.9
Declined/No sufficient personal interest or not directly affected	24	1.0
Declined/Out of time	8	0.3
Declined/Trivial, Frivolous, Vexatious, Not made in good faith	1	0.1
Not substantiated/No s25 finding	6	0.3
Out of Jurisdiction/Employment	22	1.0
Outside of Jurisdiction/Judicial Body	4	0.2
Out of Jurisdiction/Minister	4	0.2
Outside of Jurisdiction/Police Matter	4	0.2
Outside of Jurisdiction/Policy	7	0.3
Referred back to agency	1197	51.9
Report to OPI	5	0.2
Resolved with agency cooperation	267	11.5
s25 Finding/Finding/Unreasonable	7	0.3
s25 Finding/Wrong	5	0.2
Withdrawn by complainant	71	3.1
TOTAL	2306	100%

Outcome of complaints



Local government

Summary tables

1 July 2018 - 30 June 2019

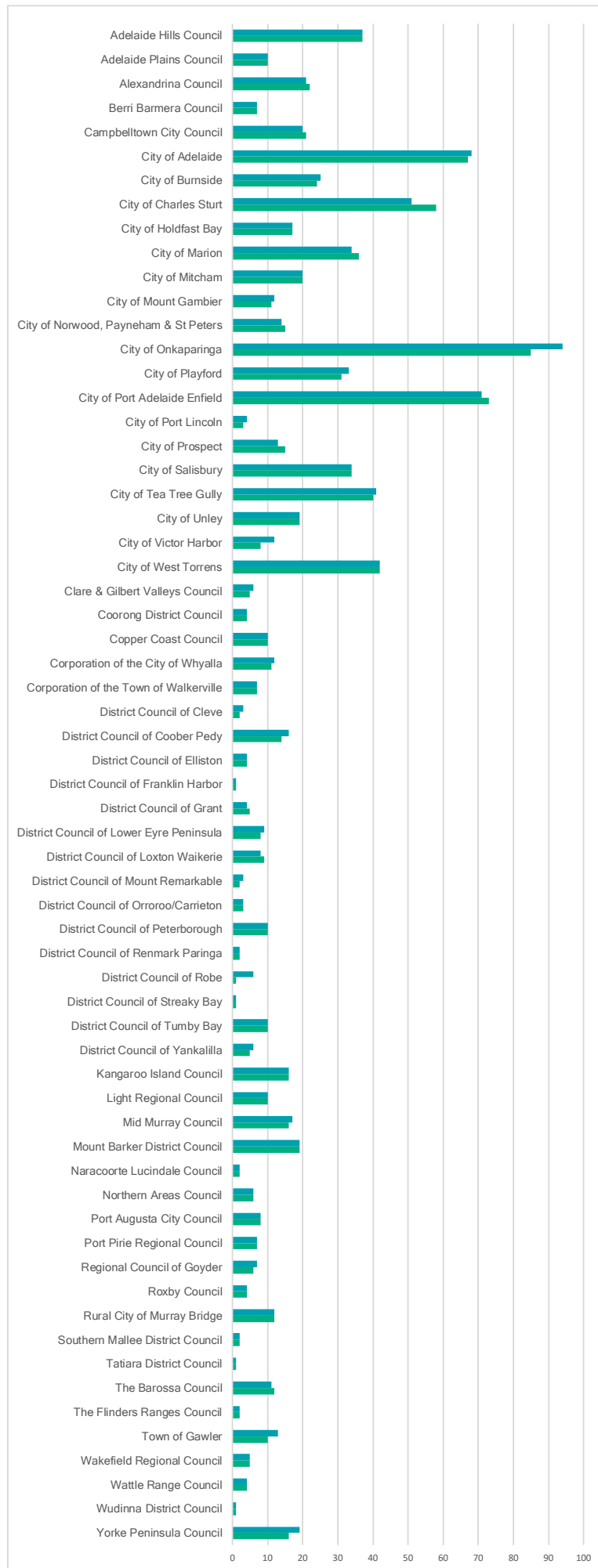
Complaints: received and completed

Local council	Received	%	Received / 10,000 popn	Completed	%	Population 30 June 2018	Completed / 10,000 popn
Adelaide Hills Council	37	4.0	9.3	37	3.5	39 794	9.3
Adelaide Plains Council	10	1.0	11.0	10	1.0	9 059	11.0
Alexandrina Council	22	2.0	8.1	21	2.0	27 037	7.7
Berri Barmera Council	7	1.0	6.4	7	0.5	10 853	6.4
Campbelltown City Council	21	2.0	4.1	20	2.0	51 469	3.9
City of Adelaide	67	7.0	27.0	68	7.0	24 794	27.4
City of Burnside	24	2.5	5.3	25	2.5	45 706	5.4
City of Charles Sturt	58	6.0	4.9	51	5.0	117 382	4.3
City of Holdfast Bay	17	2.0	4.6	17	1.5	37 032	13.8
City of Marion	36	3.5	3.9	34	3.5	92 308	3.7
City of Mitcham	20	2.0	3.0	20	2.0	67 253	3.0
City of Mount Gambier	11	1.0	4.0	12	1.0	27 176	4.4
City of Norwood, Payneham & St Peters	15	1.5	4.1	14	1.5	36 750	5.2
City of Onkaparinga	85	9.0	5.0	94	9.5	171 489	5.5
City of Playford	31	3.25	3.3	33	3.5	93 426	3.5
City of Port Adelaide Enfield	73	7.5	5.8	71	7.5	126 120	5.6
City of Port Lincoln	3	0.5	2.1	4	0.5	14 626	2.7
City of Prospect	15	1.5	7.1	13	1.5	21 259	6.1
City of Salisbury	34	3.5	2.4	34	3.5	142 555	2.4
City of Tea Tree Gully	40	4.0	4.0	41	4.0	99 694	4.1
City of Unley	19	1.5	4.9	19	2.0	39 145	4.8
City of Victor Harbor	8	1.0	5.2	12	1.0	15 248	7.9
City of West Torrens	42	4.5	7.0	42	4.0	60 105	7.0
Clare & Gilbert Valleys Council	5	0.5	5.3	6	0.5	9 379	6.4

Local council	Received	%	Received / 10,000 popn	Completed	%	Population 30 June 2018	Completed / 10,000 popn
Coorong District Council	4	0.5	7.3	4	0.5	5 463	7.3
Copper Coast Council	10	1.0	6.7	10	1.0	14 872	6.7
Corporation of the City of Whyalla	11	1.0	5.1	12	1.0	21 766	5.5
Corporation of the Town of Walkerville	7	0.5	8.8	7	0.5	7 944	8.8
District Council of Cleve	2	0.25	11.1	3	0.5	1 799	16.7
District Council of Coober Pedy	14	1.5	75.9	16	1.5	1 845	86.7
District Council of Elliston	4	0.5	39.3	4	0.5	1 019	39.3
District Council of Franklin Harbor	1	0.25	7.6	1	0.25	1 315	7.6
District Council of Grant	5	0.5	5.9	4	0.5	8 511	4.7
District Council of Lower Eyre Peninsula	8	1.0	9.4	9	1.0	5 761	15.6
District Council of Loxton Waikerie	9	1.0	7.7	8	1.0	11 726	6.8
District Council of Mount Remarkable	2	0.25	6.9	3	0.5	2 910	10.3
District Council of Orroroo/Carrieton	3	0.5	11.7	3	0.5	854	35.1
District Council of Peterborough	10	1.0	7.1	10	1.0	1 700	58.8
District Council of Renmark Paringa	2	0.25	2.0	2	0.25	9 869	2.0
District Council of Robe	1	0.25	6.9	6	0.5	1 444	9.3
District Council of Streaky Bay	1	0.25	4.5	1	0.25	2 214	4.5
District Council of Tumby Bay	10	1.0	37.2	10	1.0	2 688	37.2
District Council of Yankalilla	5	0.5	9.1	6	0.5	5 478	11.0
Kangaroo Island Council	16	1.5	32.4	16	1.5	4 933	32.4
Light Regional Council	10	1.0	6.5	10	1.0	15 339	3.5
Mid Murray Council	16	1.5	17.8	17	2.0	8 983	18.9
Mount Barker District Council	19	2.0	5.3	19	2.0	35 545	5.4
Naracoorte Lucindale Council	2	0.25	2.3	2	0.25	8 533	2.3
Northern Areas Council	6	0.5	13.0	6	0.5	4 603	13.0
Port Augusta City Council	8	1.0	5.7	8	0.5	14 102	5.7
Port Pirie Regional Council	7	0.5	4.0	7	0.5	17 630	4.0
Regional Council of Goyder	6	0.5	14.3	7	0.5	4 206	16.6
Roxby Council	4	0.5	10.0	4	0.5	4 014	10.0

Local council	Received	%	Received / 10,000 popn	Completed	%	Population 30 June 2018	Completed / 10,000 popn
Rural City of Murray Bridge	12	1.0	5.4	12	1.0	22 165	5.4
Southern Mallee District Council	2	0.25	9.6	2	0.25	2 094	9.6
Tatiara District Council	1	0.25	1.5	1	0.25	6 794	1.5
The Barossa Council	12	1.0	4.8	11	1.0	24 808	4.4
The Flinders Ranges Council	2	0.25	11.8	2	0.25	1 693	11.8
Town of Gawler	10	1.0	4.2	13	1.5	24 018	5.4
Wakefield Regional Council	5	0.5	7.3	5	0.5	6 814	7.3
Wattle Range Council	4	0.5	3.3	4	0.5	12 031	3.3
Wudinna District Council	1	0.25	7.7	1	0.25	1 294	7.7
Yorke Peninsula Council	16	1.5	14.1	19	2.0	11 328	16.8
TOTAL	968	100%		990	100%		

Complaints received and completed

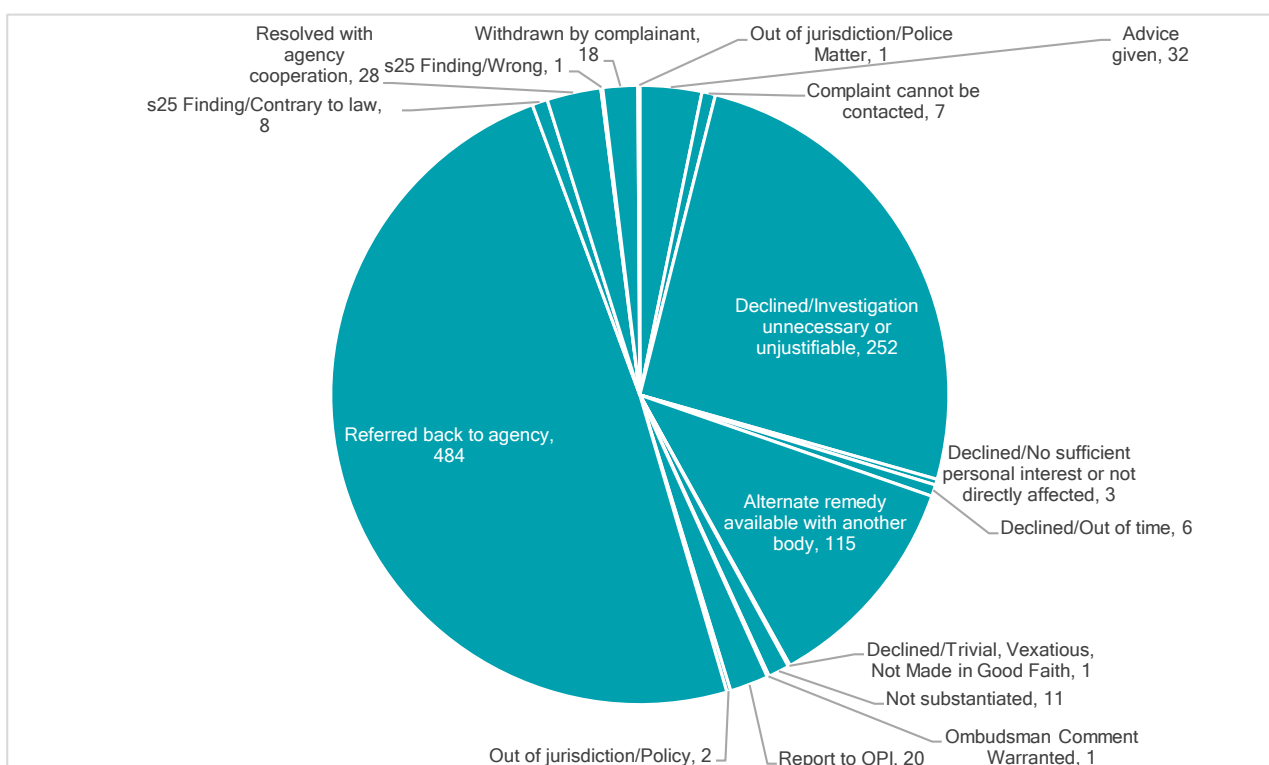


Received
Completed

Complaints: outcomes

Outcome	Total	Percentage
Advice given	32	3.0
Alternate remedy available with another body	115	11.5
Complaint cannot be contacted	7	0.5
Declined/Investigation unnecessary or unjustifiable	252	25.5
Declined/No sufficient personal interest or not directly affected	3	0.25
Declined/Out of time	6	0.5
Declined/Trivial, Vexatious, Not Made in Good Faith	1	0.25
Not substantiated	11	1.0
Ombudsman Comment Warranted	1	0.25
Out of jurisdiction/Police Matter	1	0.25
Out of jurisdiction/Policy	2	0.25
Referred back to agency	484	49.0
Report to OPI	20	2.0
Resolved with agency cooperation	28	3.0
s25 Finding/Contrary to law	8	1.0
s25 Finding/Wrong	1	0.25
Withdrawn by complainant	18	1.5
Total	990	100%

Outcome of complaints



Other authorities

Summary tables

1 July 2018 - 30 June 2019

Complaints: received and completed

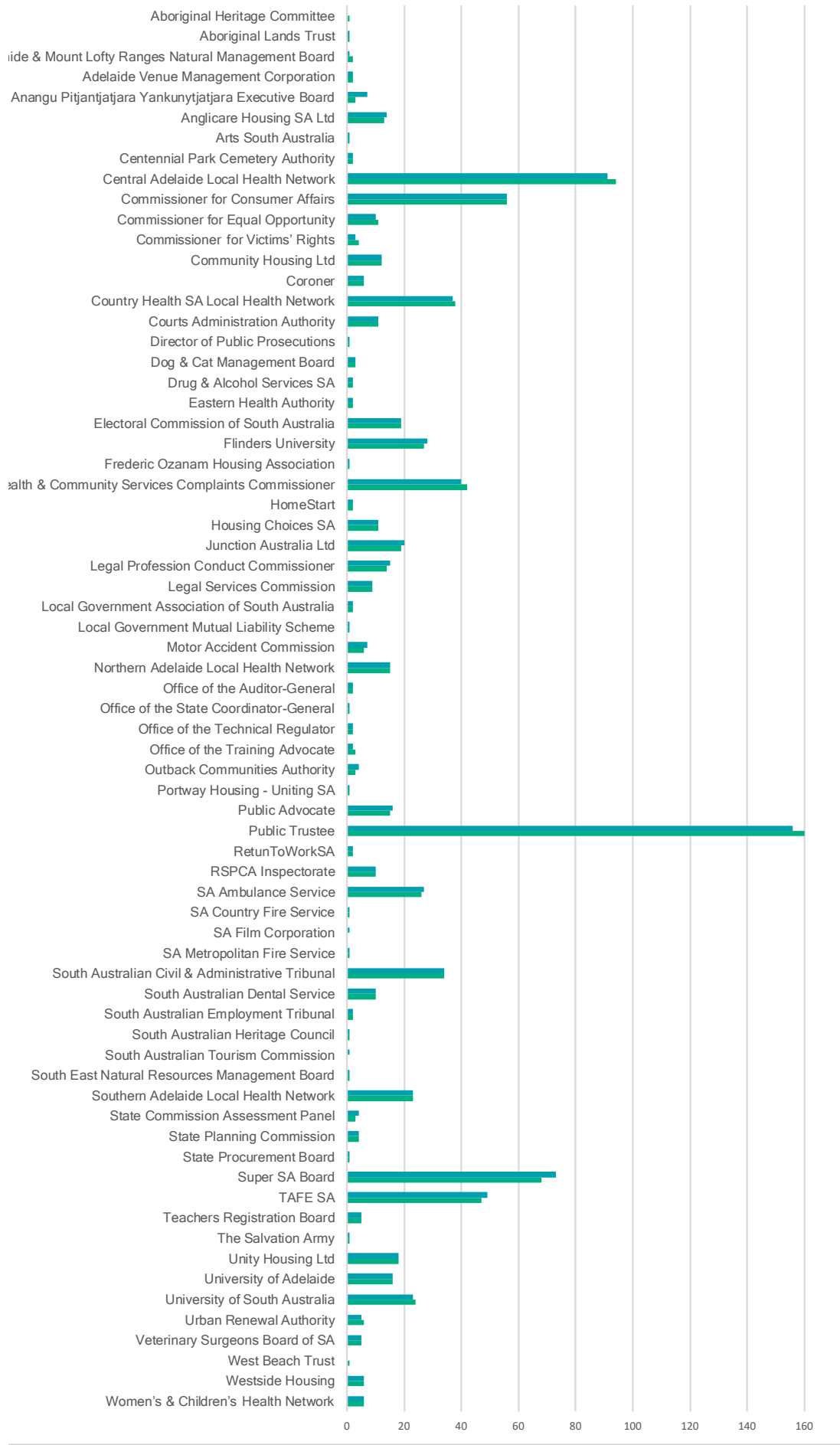
Authority	Received	Percentage	Completed	Percentage
Aboriginal Heritage Committee	1	0.25		
Aboriginal Lands Trust	1	0.25	1	0.25
Adelaide & Mount Lofty Ranges Natural Management Board	2	0.25	1	0.25
Adelaide Venue Management Corporation	2	0.25	2	0.25
Anangu Pitjantjatjara Yankunytjatjara Executive Board	3	0.25	7	0.5
Anglicare Housing SA Ltd	13	1.25	14	1.5
Arts South Australia	1	0.25	1	0.25
Centennial Park Cemetery Authority	2	0.25	2	0.25
Central Adelaide Local Health Network	94	10.0	91	9.5
Commissioner for Consumer Affairs	56	6.0	56	6.0
Commissioner for Equal Opportunity	11	1.0	10	1.0
Commissioner for Victims' Rights	4	0.5	3	0.25
Community Housing Ltd	12	1.0	12	1.0
Coroner	6	0.5	6	0.5
Country Health SA Local Health Network	38	4.0	37	4.0
Courts Administration Authority	11	1.0	11	1.0
Director of Public Prosecutions	1	0.25	1	0.25
Dog & Cat Management Board	3	0.25	3	0.25
Drug & Alcohol Services SA	2	0.25	2	0.25
Eastern Health Authority	2	0.25	2	0.25
Electoral Commission of South Australia	19	2.0	19	2.0
Flinders University	27	3.0	28	3.0
Frederic Ozanam Housing Association	1	0.25	1	0.25
Health & Community Services Complaints Commissioner	42	4.5	40	4.0
HomeStart	2	0.25	2	0.25
Housing Choices SA	11	1.0	11	1.0
Junction Australia Ltd	19	2.0	20	2.0
Legal Profession Conduct Commissioner	14	1.5	15	1.5

Authority	Received	Percentage	Completed	Percentage
Legal Services Commission	9	1.0	9	1.0
Local Government Mutual Liability Scheme	1	0.25	1	0.25
Local Government Association of South Australia	2	0.25	2	0.25
Motor Accident Commission	6	0.5	7	0.5
Northern Adelaide Local Health Network	15	1.5	15	1.5
Office of the Auditor-General	2	0.25	2	0.25
Office of the State Coordinator-General	1	0.25	1	0.25
Office of the Technical Regulator	2	0.25	2	0.25
Office of the Training Advocate	3	0.25	2	0.25
Outback Communities Authority	3	0.25	4	0.5
Portway Housing - Uniting SA	1	0.25	1	0.25
Public Advocate	15	1.5	16	1.5
Public Trustee	160	17.0	156	16.5
RetunToWorkSA	2	0.25	2	0.25
RSPCA Inspectorate	10	1.0	10	1.0
SA Ambulance Service	26	2.5	27	2.75
SA Country Fire Service	1	0.25	1	0.25
SA Film Corporation			1	0.25
SA Metropolitan Fire Service	1	0.25	1	0.25
South Australian Civil & Administrative Tribunal	34	3.5	34	3.5
South Australian Dental Service	10	1.0	10	1.0
South Australian Employment Tribunal	2	0.25	2	0.25
South Australian Heritage Council	1	0.25	1	0.25
South Australian Tourism Commission			1	0.25
South East Natural Resources Management Board	1	0.25	1	0.25
Southern Adelaide Local Health Network	23	2.5	23	2.5
State Commission Assessment Panel	3	0.25	4	0.5
State Planning Commission	4	0.5	4	0.5
State Procurement Board	1	0.25	1	0.25
Super SA Board	68	7.0	73	7.5
TAFE SA	47	5.0	49	5.0
Teachers Registration Board	5	0.5	5	0.5
The Salvation Army	1	0.25	1	0.25

Authority	Received	Percentage	Completed	Percentage
Unity Housing Ltd	18	2.0	18	2.0
University of Adelaide	16	1.5	16	1.5
University of South Australia	24	2.5	23	2.5
Urban Renewal Authority	6	0.5	5	0.5
Veterinary Surgeons Board of SA	5	0.5	5	0.5
West Beach Trust	1	0.25		
Westside Housing	6	0.5	6	0.5
Women's & Children's Health Network	6	0.5	6	0.5
Total	942	100%	946	100%



Complaints received and completed

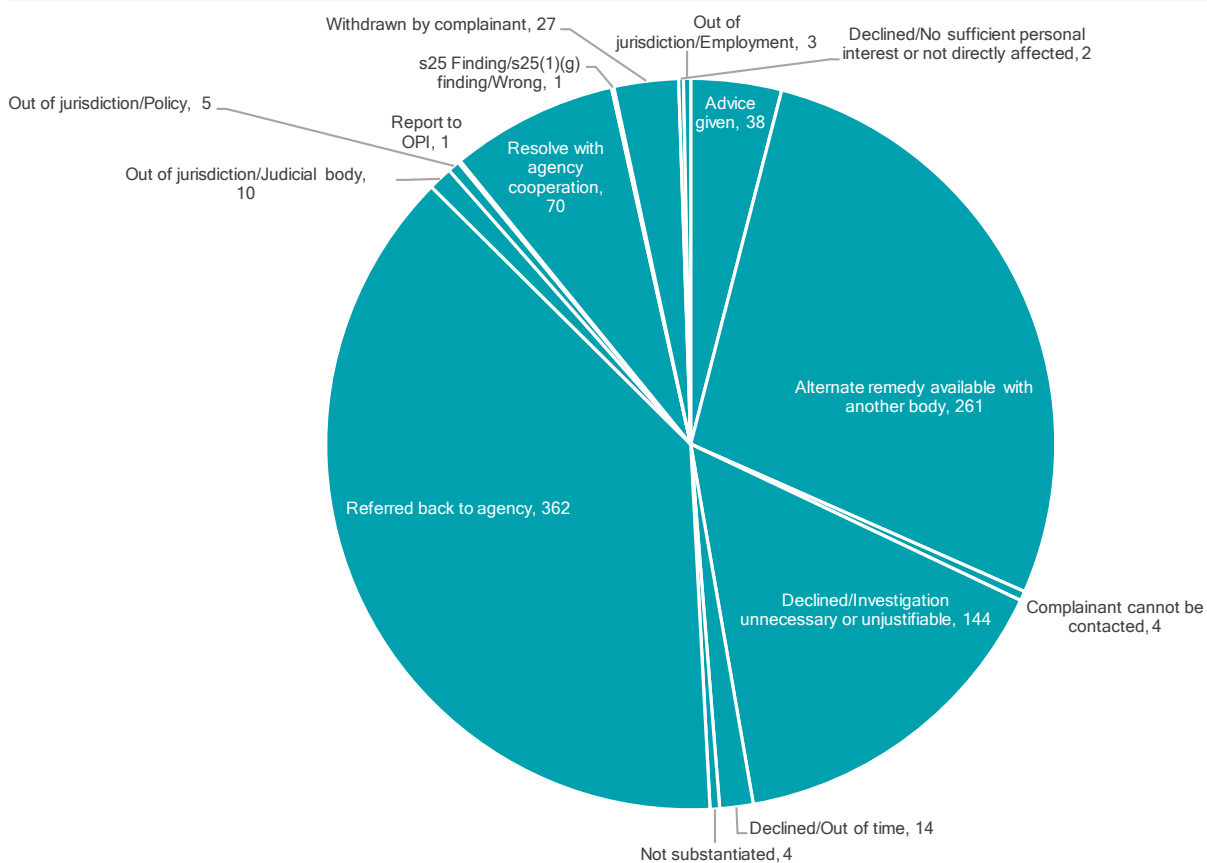


■ Received
■ Completed

Complaints: outcomes

Outcome	Total	Percentage
Advice given	38	4.0
Alternate remedy available with another body	261	27.5
Complainant cannot be contacted	4	0.5
Declined/Investigation unnecessary or unjustifiable	144	15.0
Declined/No sufficient personal interest or not directly affected	2	0.25
Declined/Out of time	14	1.5
Not substantiated	4	0.5
Out of jurisdiction/Employment	3	0.25
Out of jurisdiction/Judicial body	10	1.0
Out of jurisdiction/Policy	5	0.5
Referred back to agency	362	38.5
Report to OPI	1	0.25
Resolve with agency cooperation	70	7.5
s25 Finding/s25(1)(g) finding/Wrong	1	0.25
Withdrawn by complainant	27	2.5
Total	946	100%

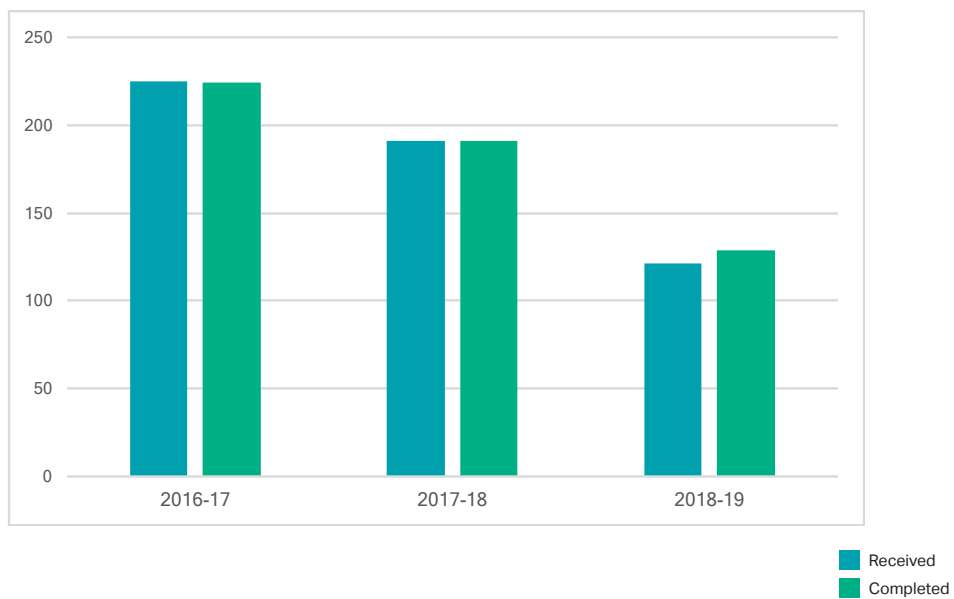
Outcome of complaints



Return to Work Act Jurisdiction

RETURN TO WORK ACT JURISDICTION	2016-17				2017-18				2018-19			
	Claims agent	Self-insured employer	Return To WorkSA	Total	Claims agent	Self-insured employer	Return To WorkSA	Total	Claims agent	Self-insured employer	Return To WorkSA	Total
Matters received	148	58	19	225	115	53	23	191	79	20	22	121
Matters closed	151	55	18	224	117	53	21	191	82	23	24	129

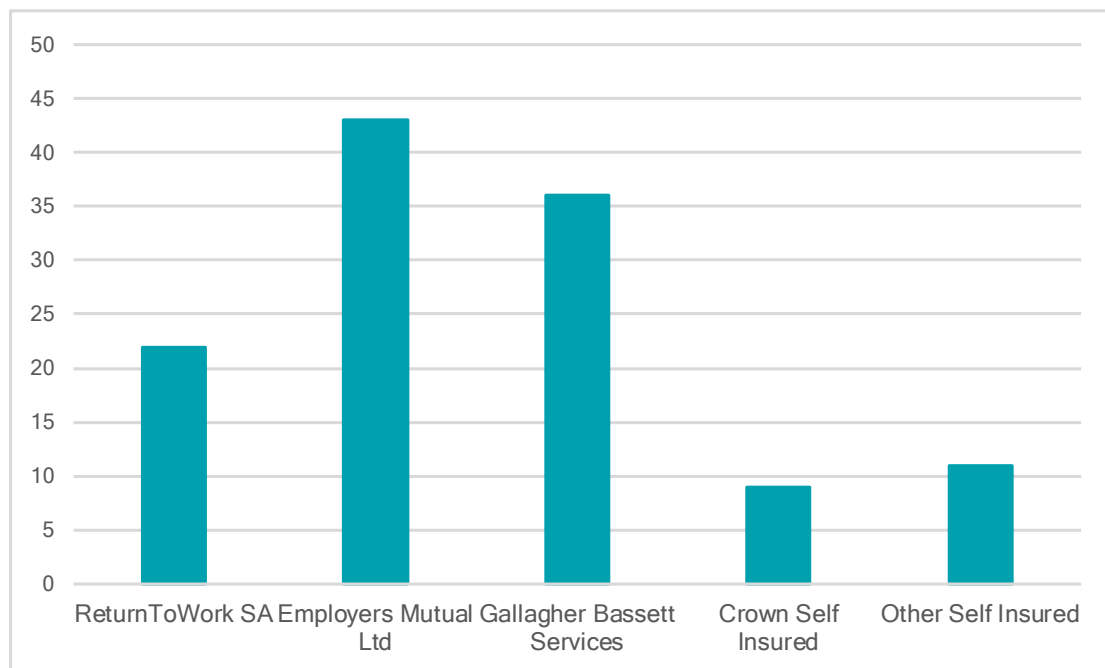
Return to Work Act jurisdiction matters received and closed by year



Complaints received per respondent per month

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
ReturnToWork SA	4	2	2	1	2	0	1	0	4	1	4	1	22
Employers Mutual Ltd	4	7	1	6	8	2	2	5	1	2	0	5	43
Gallagher Bassett Services	7	6	2	2	2	1	2	1	3	2	5	3	36
Crown Self Insured	1	0	0	2	0	0	3	1	2	0	0	0	9
Other Self Insured	3	0	1	1	1	2	2	0	0	0	1	0	11
Total	19	15	6	12	13	5	10	7	10	5	10	9	121

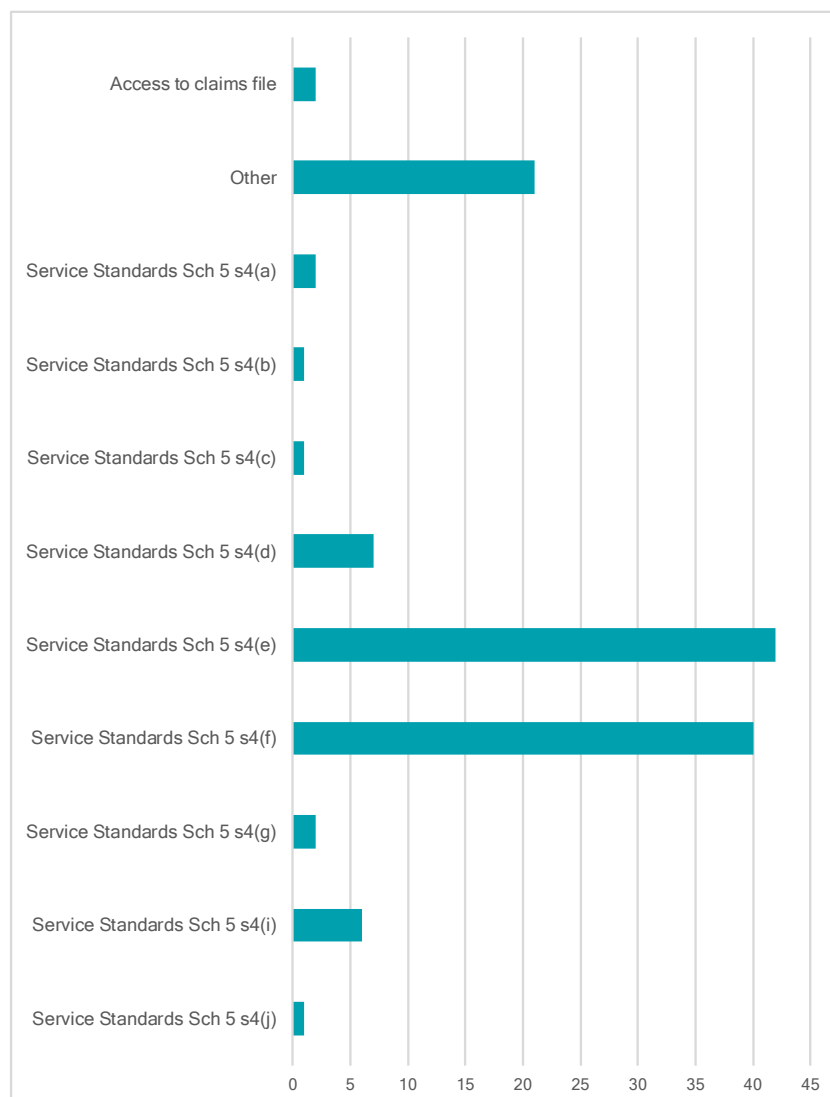
Complaints received during 2018 - 2019



Issues

Issue	Total	Percentage
Access to claims file	2	1.5
Other	21	17
Service Standards Sch 5 s4(a)	2	1.5
Service Standards Sch 5 s4(b)	1	1.0
Service Standards Sch 5 s4(c)	1	1.0
Service Standards Sch 5 s4(d)	7	5.5
Service Standards Sch 5 s4(e)	42	33.5
Service Standards Sch 5 s4(f)	40	32
Service Standards Sch 5 s4(g)	2	1.5
Service Standards Sch 5 s4(i)	6	4.5
Service Standards Sch 5 s4(j)	1	1.0
Total	125	100%

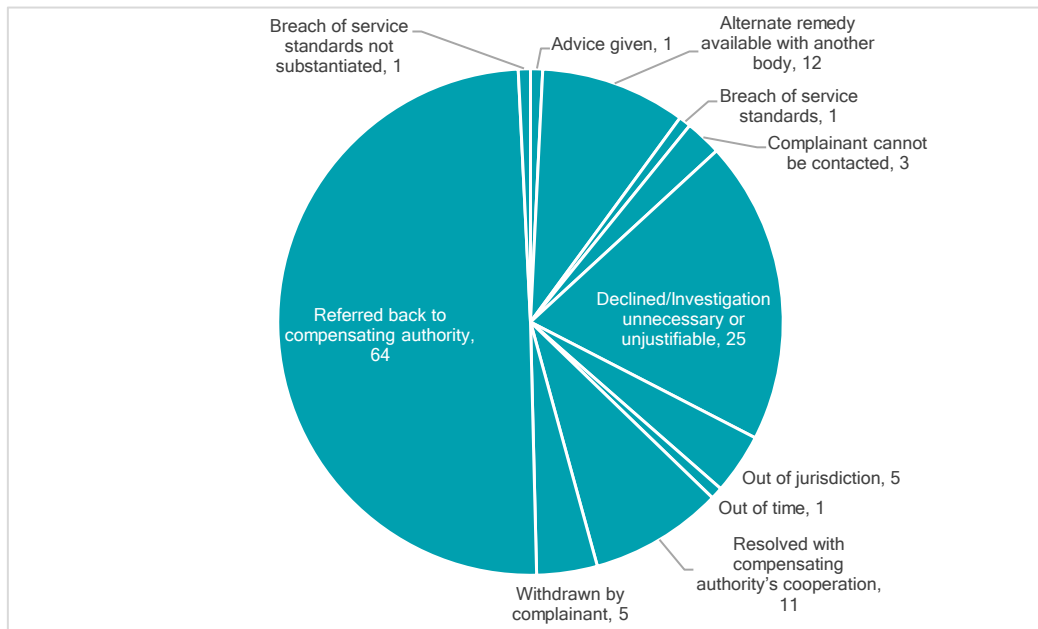
Issue of complaints



Complaints: outcomes

Outcome	Total	Percentage
Advice given	1	0.75
Alternate remedy available with another body	12	9.3
Breach of service standards	1	0.75
Breach of service standards not substantiated	1	0.75
Complainant cannot be contacted	3	2.5
Declined/Investigation unnecessary or unjustifiable	25	19.3
Out of jurisdiction	5	3.9
Out of time	1	0.75
Referred back to compensating authority	64	49.6
Resolved with compensating authority's cooperation	11	8.5
Withdrawn by complainant	5	3.9
Total	129	100%

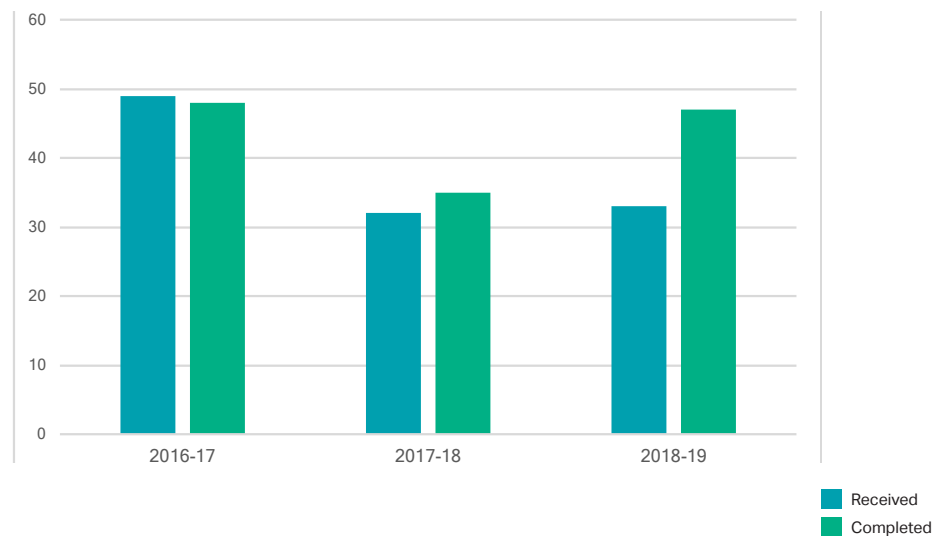
Outcome of complaints



Independent Commissioner Against Corruption Act Jurisdiction

ICAC ACT JURISDICTION	2016-17				2017-18				2018-19			
	Government departments	Local government	Other authorities	Total	Government departments	Local government	Other authorities	Total	Government departments	Local government	Other authorities	Total
Matters received under s24 referral	7	27	15	49	6	18	8	32	2	26	5	33
Matters closed	6	35	7	48	7	19	9	35	8	31	8	47

ICAC Act jurisdiction matters received under s24 referral and closed by year



Response to proposed referrals

	Government departments	Local government	Other authorities	Total
Agree to referral		20	2	22
Disagree to referral		5		5
ICAC exercise Ombudsman powers - agree	3	1		4
ICAC exercise Ombudsman powers - disagree				
Partially agree with referral		2		2
Total	3	28	2	33

Findings made on ICAC referrals

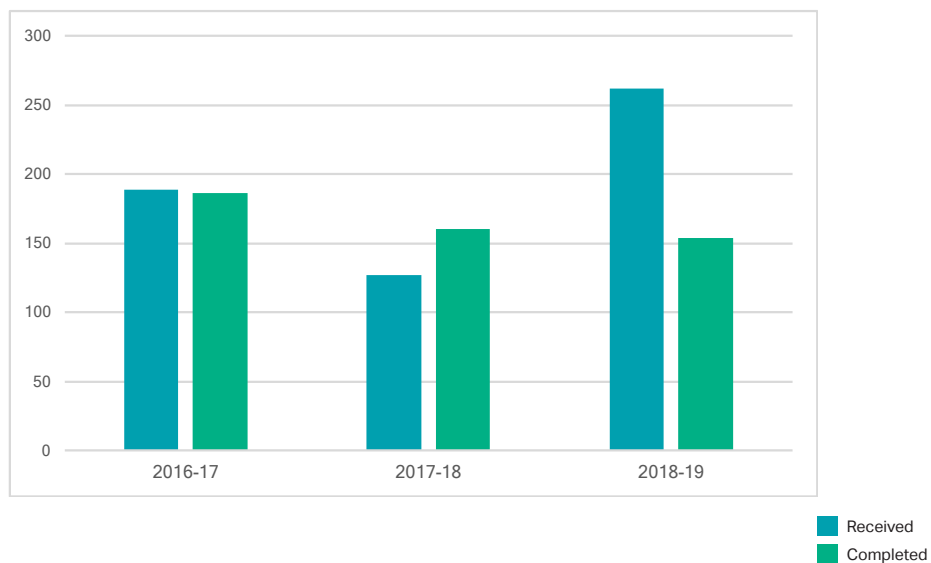
	Government departments	Local government	Other authorities	Total
Discontinued - no finding	3	13	5	21
Finding of maladministration		4	3	7
Finding of misconduct	2	6		8
No finding of misconduct or maladministration	3	6		9
Finding contrary to law (s25)		2		2
Total	8	31	8	47

Note: Explanation of the ICAC outcomes are in Appendix C.

Freedom of Information Act Jurisdiction

FOI ACT JURISDICTION	2016-17					2017-18					2018-19				
	Government departments	Local government	Other authorities	Minister	Total	Government departments	Local government	Other authorities	Minister	Total	Government departments	Local government	Other authorities	Minister	Total
External reviews received	109	19	51	10	189	55	28	33	11	127	150	26	46	40	262
External reviews closed	115	22	40	9	186	67	32	48	13	160	84	14	37	19	154

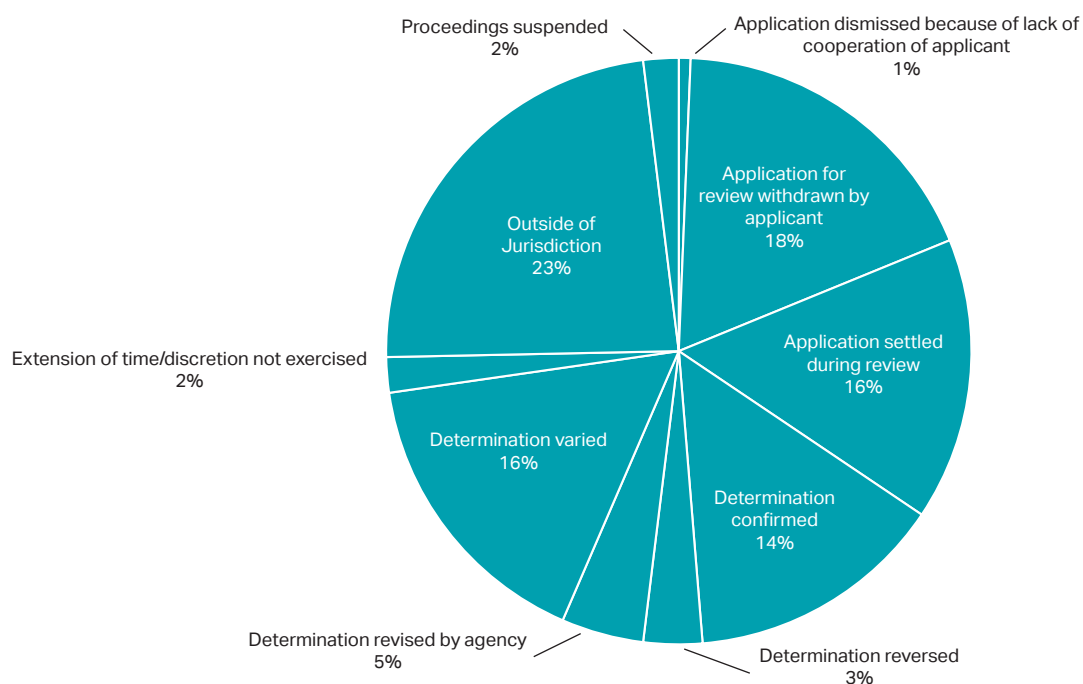
External reviews received and closed by year



Outcomes of external reviews conducted by Ombudsman 2018-19

Outcome	Total	Percentage
Application Dismissed Because of Lack of Cooperation of Applicant	1	0.5
Application for Review Withdrawn by Applicant	28	18.0
Application Settled During Review	24	15.5
Determination Confirmed	22	14.5
Determination Reversed	5	3.5
Determination Revised by Agency	7	4.5
Determination Varied	25	16.0
Extension of time/Discretion not exercised	3	2.0
Outside of Jurisdiction	36	23.5
Proceedings Suspended	3	2.0
Total	154	100%

Outcomes of external reviews conducted by the Ombudsman 2018-19

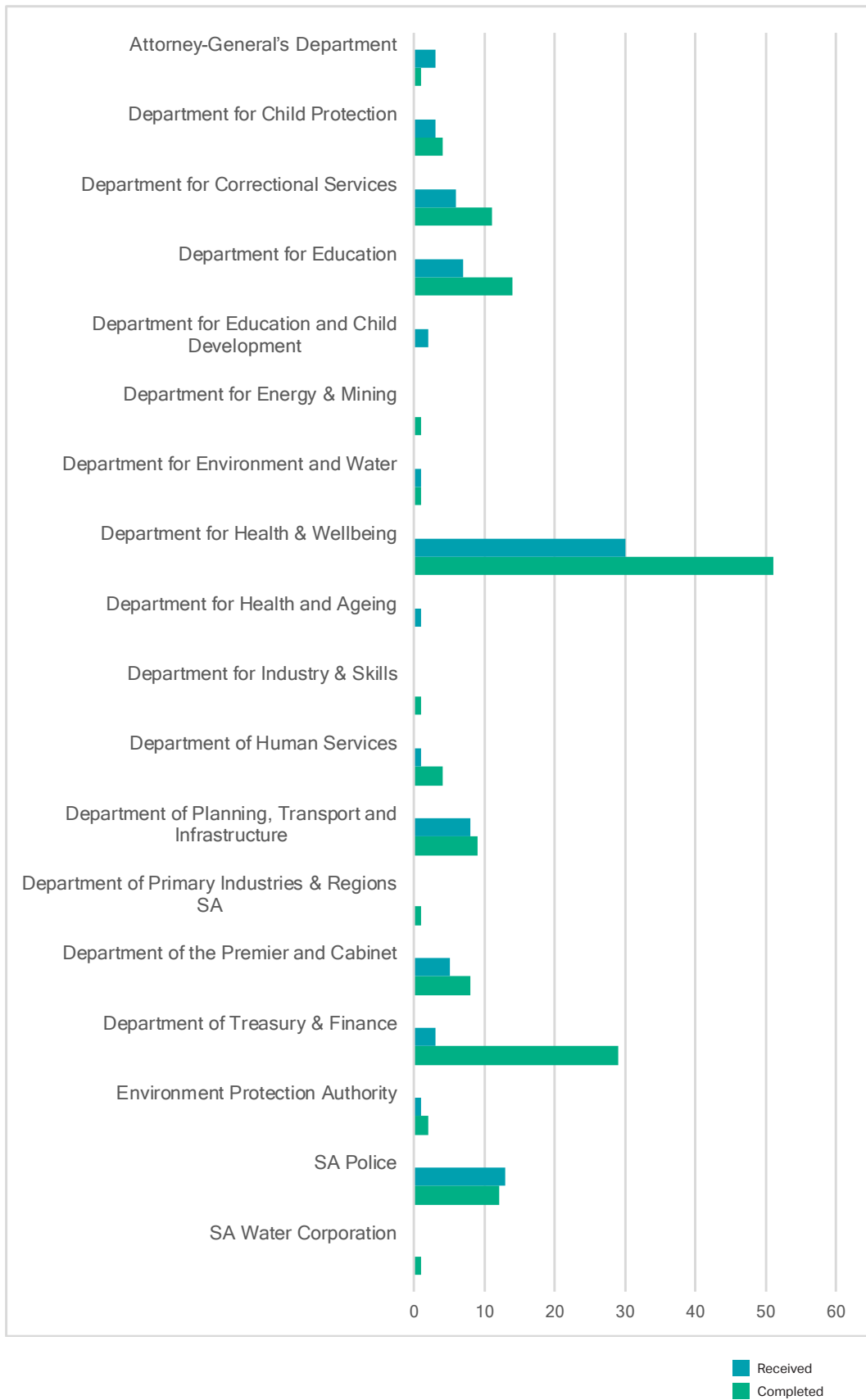


Government departments

External reviews: received and completed

Department	Received	Completed
Attorney-General's Department	1	3
Department for Child Protection	4	3
Department for Correctional Services	11	6
Department for Education	14	7
Department for Education and Child Development		2
Department for Energy & Mining	1	
Department for Environment and Water	1	1
Department for Health and Ageing		1
Department for Health & Wellbeing	51	30
Department for Industry & Skills	1	
Department of Human Services	4	1
Department of Planning, Transport and Infrastructure	9	8
Department of Primary Industries & Regions SA	1	
Department of the Premier and Cabinet	8	5
Department of Treasury & Finance	29	3
Environment Protection Authority	2	1
SA Police	12	13
SA Water Corporation	1	
Total	150	84

Government departments: external reviews received and completed

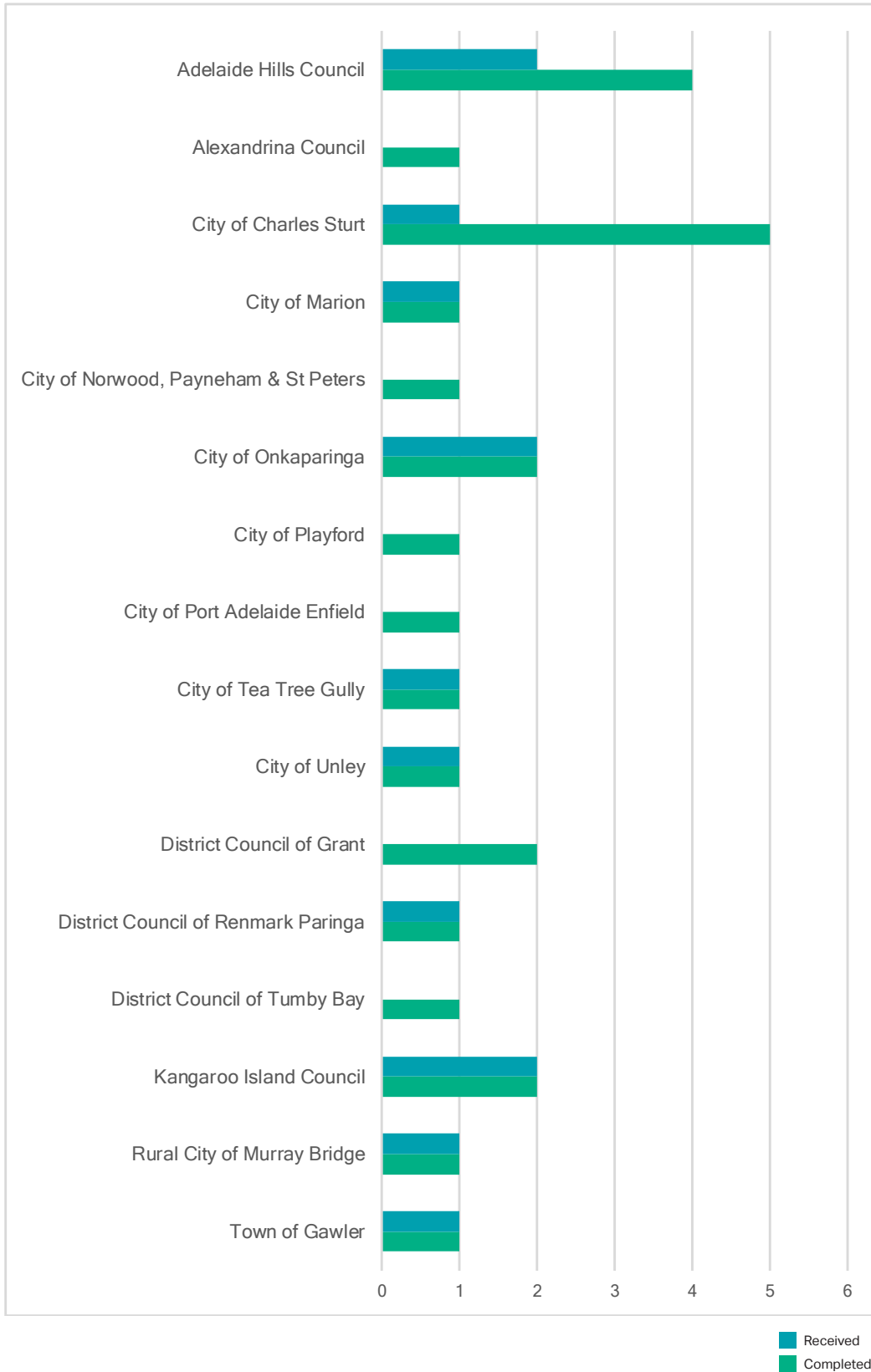


Local government

External reviews: received and completed

Council	Received	Completed
Adelaide Hills Council	4	2
Alexandrina Council	1	
City of Charles Sturt	5	1
City of Marion	1	1
City of Norwood, Payneham & St Peters	1	
City of Onkaparinga	2	2
City of Playford	1	
City of Port Adelaide Enfield	1	
City of Tea Tree Gully	1	1
City of Unley	1	1
District Council of Grant	2	
District Council of Renmark Paringa	1	1
District Council of Tumby Bay	1	
Kangaroo Island Council	2	2
Rural City of Murray Bridge	1	1
Town of Gawler	1	1
Wattle Range Council		1
Total	26	14

Local Government: external reviews received and completed

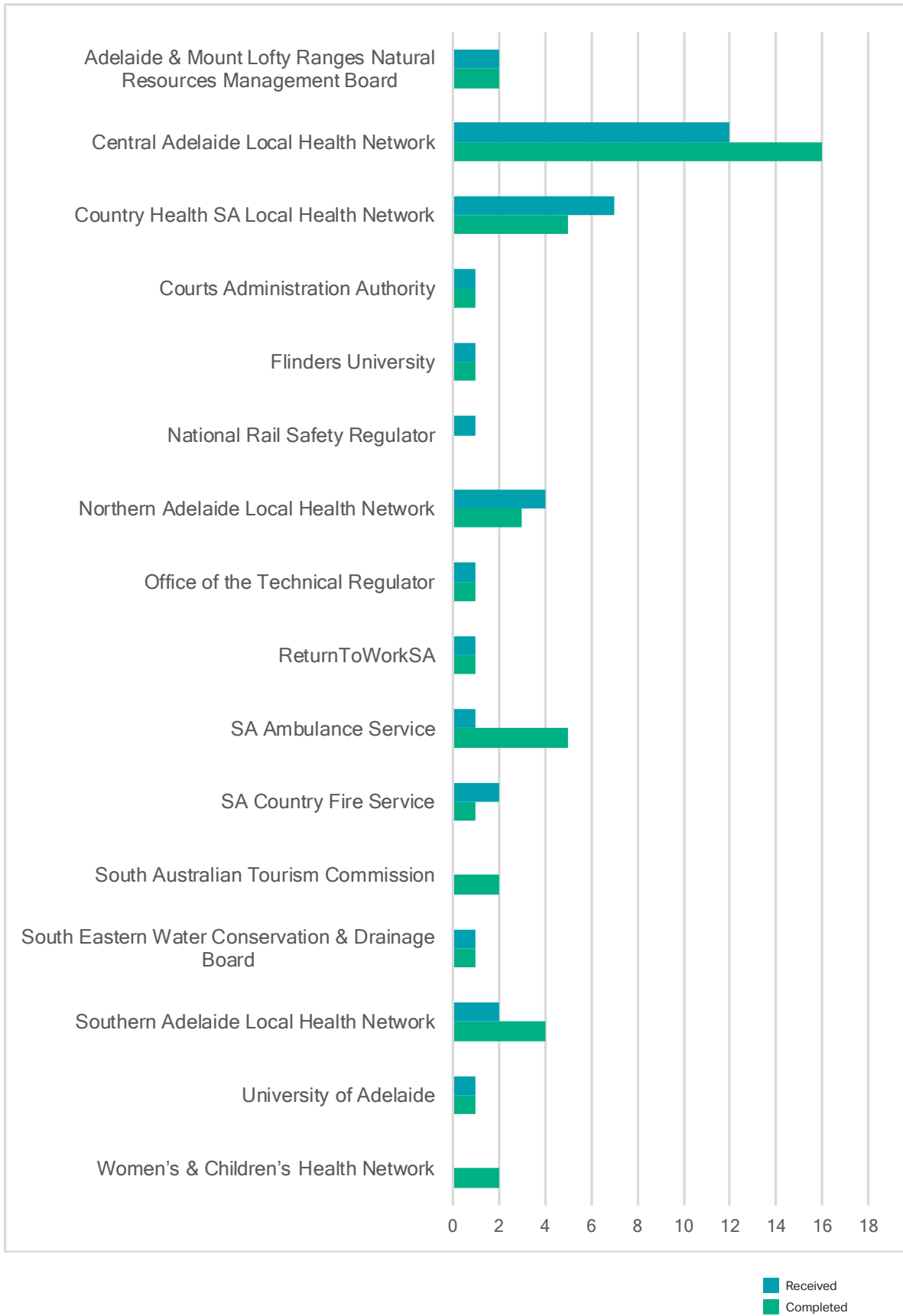


Other authorities

External reviews: received and completed

Authority	Received	Completed
Adelaide & Mount Lofty Ranges Natural Resources Management Board	2	2
Central Adelaide Local Health Network	16	12
Country Health SA Local Health Network	5	7
Courts Administration Authority	1	1
Flinders University	1	1
National Rail Safety Regulator		1
Northern Adelaide Local Health Network	3	4
Office of the Technical Regulator	1	1
ReturnToWorkSA	1	1
SA Ambulance Service	5	1
SA Country Fire Service	1	2
South Australian Tourism Commission	2	
South Eastern Water Conservation & Drainage Board	1	1
Southern Adelaide Local Health Network	4	2
University of Adelaide	1	1
Women's & Children's Health Network	2	
Total	46	37

Other authorities: external reviews received and completed

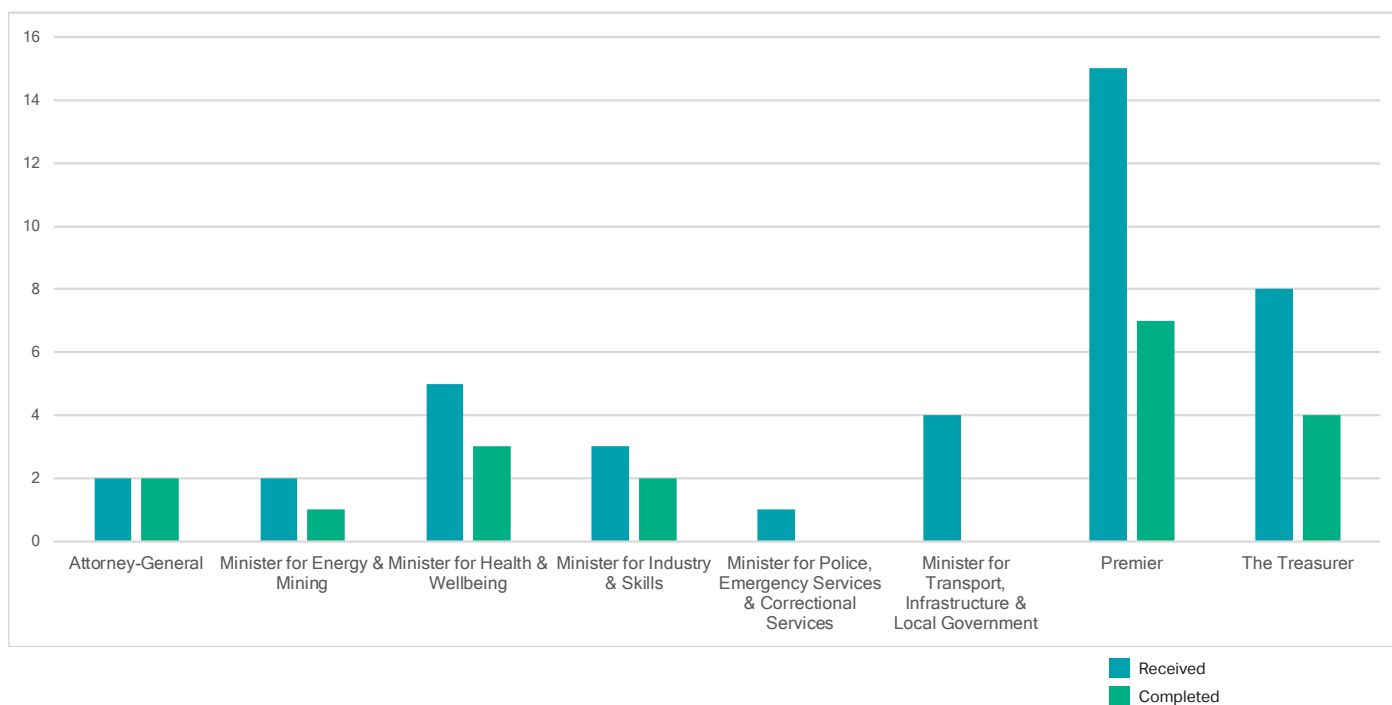


Ministers

External reviews: received and completed

Minister	Received	Completed
Attorney-General	2	2
Minister for Energy & Mining	2	1
Minister for Health & Wellbeing	5	3
Minister for Industry & Skills	3	2
Minister for Police, Emergency Services & Correctional Services	1	
Minister for Transport, Infrastructure & Local Government	4	
Premier	15	7
The Treasurer	8	4
Total	40	19

Ministers: external reviews received and completed



Appendices

Appendix A: Description of outcomes - Ombudsman Act Jurisdiction

Appendix B: Return to Work Act Jurisdiction

Appendix C: Independent Commissioner Against Corruption Act Jurisdiction

Appendix D: Freedom of Information Act Jurisdiction

Appendix E: Acronyms

Appendix A

Description of outcomes: Ombudsman Act jurisdiction

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

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



Appendix B

Description of outcomes: Return to Work Act jurisdiction

OUTCOME	DESCRIPTION
RTW - ADVICE GIVEN	<p>This outcome must only be used when:</p> <ul style="list-style-type: none"> giving advice that does not relate to a specific approach or complaint. information has been received and only needs to be noted. <p>*Note - more specific outcomes are preferable. Only use when matter is Cat 1 and no other outcome is suitable.</p>
RTW - OUT OF JURISDICTION	<p>This outcome is used where the complaint relates to a worker's compensation matter that relates to:</p> <ul style="list-style-type: none"> an agency that is not in jurisdiction; an interstate jurisdiction; where the worker is located in South Australia, however the claim has been made under the Commonwealth worker's compensation Act i.e. Comcare; or a judicial body i.e. SAET
RTW - COMPLAINANT CANNOT BE CONTACTED	<p>This outcome is used after all reasonable attempts have been made to contact the complainant by telephone, email or letter. It can be used at any stage of an assessment or investigation.</p> <p>Where a white telephone contact slip is responded to, this outcome is used when:</p> <ul style="list-style-type: none"> if there is no answer, a recorded message has been left stating the officer's name and that s/he is from Ombudsman SA. If the complainant does not respond, the file can be closed if there is no facility for a recorded message to be left, three contact attempts have been made over 2-3 days. If no contact has been made, the file can be closed where email or postal contact details have been provided, contact is attempted by this means, but no response is received within 7 days. <p>All attempts to contact the complainant must be clearly recorded.</p>
RTW - REFERRED BACK TO COMPENSATING AUTHORITY	<p>This outcome is used usually during the assessment phase, but may be used in the investigation phase.</p> <p>It is used when it is proper for the complainant to complain to, or seek a review of their complaint from the claims agent/RTW SA/self-insured employer - unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have raised the complaint with the Corporation or delegate.</p> <p>See s5(1)(a) of schedule 5, Return to Work Act.</p> <p>Reasons for the outcome must be recorded.</p>
RTW - ALTERNATE REMEDY AVAILABLE WITH ANOTHER BODY	<p>This outcome is only used where the complainant has right of appeal, reference or review with another body such as the SAET.</p>
RTW - RESOLVED WITH COMPENSATING AUTHORITY'S COOPERATION	<p>This outcome is used usually during the assessment phase of a complaint where Ombudsman SA has made contact with the agency, and the agency has taken action to remedy the complaint to the satisfaction of the complainant.</p> <p>Reasons for the outcome must be recorded.</p>
RTW - WITHDRAWN BY COMPLAINANT	<p>This outcome is used when the complainant expressly wishes to withdraw their complaint, even if Ombudsman SA has not contacted the respondent. It can be used at any stage of an assessment or investigation.</p> <p>It must be established and recorded that the complainant wishes to formally withdraw the complaint.</p> <p>It must not be used when Ombudsman SA cannot contact the complainant. See 'Cannot Contact Person' Outcome.</p> <p>Reasons for the outcome must be recorded.</p>

OUTCOME	DESCRIPTION
RTW - DECLINED/TRIVIAL, FRIVOLOUS, VEXATIOUS, NOT MADE IN GOOD FAITH	This outcome is used for a complaint, where the Ombudsman decides <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation because: <ul style="list-style-type: none"> the complaint is trivial (section 17(2)(a) Ombudsman Act) the complaint is frivolous or vexatious or is not made in good faith (section 17(2)(b) Ombudsman Act)
RTW - DECLINED/NO SUFFICIENT PERSONAL INTEREST OR NOT DIRECTLY AFFECTED	This outcome is used for a complaint, where the Ombudsman decides <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation because: <ul style="list-style-type: none"> the complainant or their representative did not have sufficient personal interest the complainant was not directly affected by the breach of service standards.
RTW - DECLINED/ INVESTIGATION UNNECESSARY OR UNJUSTIFIABLE	This outcome is used for a complaint, where the Ombudsman decides <ul style="list-style-type: none"> not to commence an assessment or investigation or not to continue with an assessment or investigation because, having regard to the circumstances of the case, such action is unnecessary or unjustifiable (section 17(2)(d) Ombudsman Act). For example: <ul style="list-style-type: none"> after assessing or commencing an investigation of the complaint, it appears that there is no evidence of a breach of service standards the complaint is minor the complainant and/or the agency has taken action to rectify the problem it would not be in the public interest for the Ombudsman to investigate or continue investigating the complaint.
RTW - BREACH OF SERVICE STANDARDS	This outcome is only used when making a finding of a breach of the service standards after an investigation.
RTW - BREACH OF SERVICE STANDARDS NOT SUBSTANTIATED	This outcome is used <ul style="list-style-type: none"> after a preliminary (or more rarely a full) investigation and a report has been completed; and when making a finding there has been no breach of the service standards.
RTW - OMBUDSMAN COMMENT WARRANTED	This is to be used only after a preliminary investigation. No breach of the service standards has been found, but an issue worthy of the Ombudsman's comment has been identified.
RTW - S180 REVIEW APPLICATION WITHDRAWN BY APPLICANT	This outcome means that during or at the conclusion of the external review, the applicant decided to withdraw the application. For example, the applicant may have decided to pursue other avenues of redress; or with the passage of time, the applicant no longer wished to pursue document access. This outcome does not include instances where the agency has revised its determination to give access to documents.
RTW - S180 REVIEW DECISION CONFIRMED	This outcome means that at the conclusion of the external review, the Ombudsman agreed (in whole) with the Corporation's decision (section 180(10)(b)).
RTW - 180 REVIEW DECISION VARIED	This outcome means that at the end of the external review, the Ombudsman agreed in part and disagreed in part with the Corporation's decision (section 180(10)(b)).
RTW - S180 REVIEW DECISION REVERSED	This outcome means that at the conclusion of the external review, the Ombudsman disagreed (in whole) with the Corporation's decision (section 180(10)(b)).
RTW - S180 REVIEW NO JURISDICTION	The outcome is relevant when the applicant seeks the s180 review before they have sought or finalised internal review processes, and hence the Ombudsman is unable to undertake a review.
RTW - S180 REVIEW REVISED DURING REVIEW	This outcome is used when the agency releases the documents after the commencement of the review.



Appendix C

Description of outcomes: Independent Commissioner Against Corruption Act jurisdiction

OUTCOME	DESCRIPTION
RESPONSE TO PROPOSED REFERRAL	The Commissioner must seek the views of the Ombudsman in relation to a matter raising a potential issue of misconduct or maladministration before deciding to exercise the Ombudsman's powers in respect of the matter or referring the matter to the Ombudsman for investigation (see sections 36A and 37 of the ICAC Act).
AGREE TO REFERRAL	This outcome means the Ombudsman agreed with OPI/ICAC that a matter raising a potential issue of misconduct or maladministration in public administration should be referred to this Office.
DISAGREE TO REFERRAL	This outcome means the Ombudsman, in response to a proposal by OPI/ICAC that a matter raising a potential issue of misconduct or maladministration in public administration should be referred to this Office for investigation, expressed a view that the matter should not be referred to him.
ICAC EXERCISE OMBUDSMAN POWERS	This outcome means the Ombudsman considers that a matter raising a potential issue of misconduct or maladministration in public administration should be investigated by the Commissioner by exercising the powers of the Ombudsman.
PARTIALLY AGREE WITH REFERRAL	This outcome means the Ombudsman, in response to a proposal by OPI/ICAC that matters raising potential issues of misconduct or maladministration in public administration should be referred to this Office for investigation, expressed a view that some but not all of the matters should be referred to this Office.
ICAC INVESTIGATION	The Commissioner may refer matters raising potential issues of misconduct or maladministration to the Ombudsman for investigation (see section 24(2)(a) of the ICAC Act).
DISCONTINUED	This means that the Ombudsman has determined that an investigation into misconduct or maladministration on referral from the Commissioner is unnecessary or unjustifiable (for example, because of a lack of evidence).
FINDING OF MALADMINISTRATION	This means a matter that has been referred from the Commissioner has resulted in the Ombudsman making a finding of 'maladministration' as defined in the ICAC Act 2012.
FINDING OF MISCONDUCT	This means a matter that has been referred from the ICAC has resulted in the Ombudsman making a finding of 'misconduct' as defined in the ICAC Act 2012.
NO FINDING OF MISCONDUCT OR MALADMINISTRATION	This means a matter that has been referred from the ICAC has resulted in the Ombudsman making a finding there has not been 'misconduct' or 'maladministration' as defined in the ICAC Act 2012.

Description of outcomes: Freedom of Information Act jurisdiction

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

Appendix E

Acronyms

AGD	Attorney-General's Department
ARC	Adelaide Remand Centre
CAA	Courts Administration Authority
CEO	Chief Executive Officer
DCP	Department for Child Protection
DCS	Department for Correctional Services
DCSI	Department for Communities and Social Inclusion
DECD	Department for Education and Child Development
DEWNR	Department of Environment, Water and Natural Resources
DHA	Department for Health and Ageing
DPA	Development Plan Amendment
DPC	Department of the Premier and Cabinet
DPTI	Department of Planning, Transport and Infrastructure
DSD	Department of State Development
DTF	Department of Treasury and Finance
FERU	Fines Enforcement and Recovery Unit
FOI	Freedom of Information
ICAC	Independent Commissioner Against Corruption
ICT	Information and Communication Technology
ISG	Information Sharing Guidelines
LSC	Legal Services Commission
OPI	Office for Public Integrity
PIRSA	Department of Primary Industries and Regions SA
RTWSA	Return to Work SA
SACAT	South Australian Civil and Administrative Tribunal
SAPOL	South Australian Police
SOP	Standard Operating Procedures
VOC	Victims of Crime



OmbudsmanSA

Values

Honesty

Truthful, faithful, keeping promises, taking responsibility for our behaviour, admitting mistakes, sincere

Helpfulness

Empathetic, accessible, approachable, open to reason, encouraging, constructive, solution focussed, pleasant, embracing diversity, considerate, thinking the best of others

Professionalism

Striving for excellence, continuously improving, curious, courteous, respectful, ethical, undeterred by criticism, resilient, diligent, respectful of authority, efficient, self-reflective

Fairness

Impartial, objective, factual, evidence based, open-minded, consistent



OmbudsmanSA

Contacting Ombudsman SA

Our business hours are
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