

OFFICIAL



**Government
of South Australia**

**OFFICE OF THE COMMISSIONER FOR
EQUAL OPPORTUNITY
2021-22 Annual Report**

OFFICE OF THE COMMISSIONER FOR EQUAL OPPORTUNITY

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To:

The Honourable Kyam Maher MLC
Minister for Aboriginal Affairs
Attorney-General
Minister for Industrial Relations and Public Sector

This annual report will be presented to Parliament to meet the statutory reporting requirements of the *Equal Opportunity Act 1984* and the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.



JODEEN CARNEY
Commissioner

11 August 2022

From the Commissioner

Complaints and enquiries continue to be received by my office mainly in relation to the grounds of sexual harassment, race, age, and disability. Yet again, disability is the single-most common ground for discrimination complaints. In the past 12 months, they have increased proportionately as a result of COVID-19 and various public health policies and mandates.

A Guideline on Disability Employment Practices was launched to assist and encourage businesses to employ persons living with disability, and we continue to work collaboratively with organisations such as JFA Purple Orange and the Disability Information and Legal Assistance Unit within the Legal Services Commission to assist the community.

However, my office has limited ability to lead the type of change required to achieve significant reductions in the number of disability complaints. I particularly look forward to working with the Hon Nat Cook, Minister for Human Services and her department in the year ahead. I hope that our collective efforts will see a reduction in discrimination against people living with disability.

In last year's Annual Report, I noted in respect of the *Review into Harassment in the South Australian Legal Profession* completed in April 2021 that the legal profession's response to the review demonstrated a determination to 'turn the ship around'. I remain of that view. Positive changes have been made by all parts of the profession.

The benefits of extensive, evidence-based reviews of harassment and discrimination in particular industries and workplaces are plain to see, especially when there is a determination to act on recommendations and implement change.

In contrast, I repeat the concern expressed a year ago that progress in respect of the *Review into Harassment in the Parliament Workplace* provides less cause for optimism. Published in February 2021, the Review contained 16 recommendations, one of which was that the implementation of the recommendations and their effect on culture and practice in relation to sexual harassment and discriminatory harassment be reviewed within 3 years.

While the Parliament resolved to establish a centralised People and Culture Unit following the recommendation to do so, recently I wrote to the Presiding Officers advising that I was unaware of the status of most of the 16 recommendations, and requested a progress report on each one. This included advice as to which ones have been completed, which are incomplete, which are underway, and an estimate of timeframes as to completion.

I was particularly keen to receive a comprehensive report given the number of new Members of Parliament and staff in place following the March election.

The letter of response did not include an update, but advised that the Presiding Officers will "inform the Parliament of certain matters relating to the report including recommendations..." during the Parliamentary sittings in September.

By then, it will be halfway through the 3 years from publication of the report to commencing another review. I remain concerned that progress has been inexplicably slow.

In the last 6 months, a number of approaches have been made to my office about bullying, intimidation, harassment and discriminatory conduct in several industries, most notably the hospitality sector. Some industry representatives have advised that such conduct is commonplace and that underreporting, a well-known hallmark of sexual assault and harassment, is widespread.

I met with industry body leaders in June, and will carefully assess the types of complaint mechanisms and supports that currently exist for workers in the industry. I will continue discussions with United Workers' Union which is also concerned about the prevalence of harassment and sexual assault in the industry.

The hospitality industry, diverse in its nature, has endured significant challenges as a result of the COVID-19 pandemic and, understandably needs time to continue its recovery.

Nevertheless, the reviews undertaken by this office into harassment in the legal profession and the Parliamentary workplace highlighted systemic problems, identified entrenched deficiencies, and made sensible recommendations to address them. A similarly resourced review of South Australia's hospitality sector is, in my view, desirable in the next 1-3 years.

Administratively, improvements to the operations of the office and the way it does business continue. A focus on complaint handling, from improved customer forms to the development of procedures for timely and consistent decision-making, has increased efficiency and provided a stronger dispute resolution service to the community.

I am thankful for the efforts of the staff in my office, as well as those in the Attorney-General's Department who provide significant support in the areas of ICT, governance, finance and human resources.



JODEEN CARNEY

Commissioner

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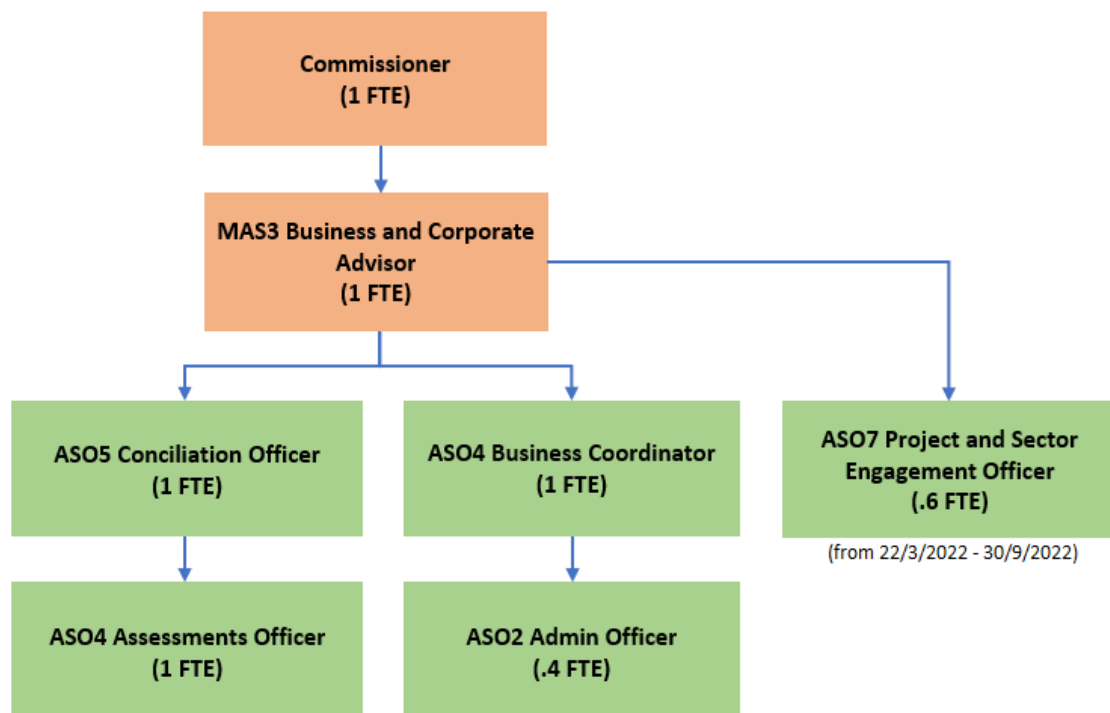
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Overview: about the office

Our strategic focus

Our Purpose	The Office of the Commissioner for Equal Opportunity (OCEO) is responsible for the administration of the <i>Equal Opportunity Act 1984</i> (the Act).
Our Vision	A State whose citizens embrace and support inclusion, diversity, fairness, and equal opportunity.
Our Values	Excellence, Accountability, Respect.
Our Functions, Objectives and Deliverables	<p>Pursuant to section 11 of the Act:</p> <p>(1) The Commissioner must foster and encourage amongst members of the public informed and unprejudiced attitudes with a view to eliminating discrimination on the grounds to which this Act applies.</p> <p>(2) The Commissioner may institute, promote or assist in research, the collection of data and the dissemination of information relating to discrimination on the grounds to which this Act applies.</p> <p>(3) The Commissioner may make recommendations to the Minister as to reforms, whether of a legislative nature or otherwise, that the Commissioner believes will further the objects of this Act.</p>

Our organisational structure (as at 30 June 2022)



Changes to the office

During 2021-22 the following changes were made to the office's structure, activities and objectives as a result of internal reviews or machinery of government changes.

- A Project and Sector Engagement Officer was recruited to undertake a short-term project to foster and encourage informed and unprejudiced attitudes and promote the objectives of the *Equal Opportunity Act 1984*.
- A new operational structure was implemented following an internal review and consultation process.
- Responsibility for the Roma Mitchell Oration was transferred to the History Trust of South Australia.

Our Minister

The Hon Kyam Maher MLC, Minister for Aboriginal Affairs, Attorney-General, and Minister for Industrial Relations and Public Sector, is the State's principal legal advisor to the government and responsible for the administration of justice.

The Attorney-General is a member of Cabinet and responsible for:

- specific legislation and the state's legal system
- developing and implementing policy
- legal action relevant to the state government.

Our Executive team

Nil – the Commissioner is a statutory appointment.

Legislation administered by the office

Equal Opportunity Act 1984 (SA).

The office’s performance

Performance at a glance

- Developed tools and resources to support the rights of persons living with disability.
- Launched a new website with accessibility, mobile responsiveness and community engagement as a focus.
- Continued to provide high quality and timely services through enquiry, complaint and conciliation work, education and community engagement.
- Commenced the We’re Equal pilot project to promote businesses that wish to make a statement of support for South Australia being an open, inclusive society that embraces and supports diversity.

Office response to COVID-19

The OCEO maintained its core service delivery to the community throughout the COVID-19 pandemic. Technology and remote working models have been embraced to ensure its functions are delivered.

Office contribution to whole of Government objectives

Office’s contribution
<ul style="list-style-type: none"> • Released the Disability Employment Practices Guideline to encourage and assist employers to employ people living with disability, and to understand anti-discrimination laws. • Member of the SA Multicultural Working Group to guide the development of the SA Charter in line with the requirements of the <i>Multicultural Act 2021 (SA)</i>. • New online forms in place to improve efficiency and accessibility in services provided by the office.

Office specific objectives and performance

Office objectives	Indicators	Performance
Safe communities	Education on equal opportunity through partnership with industry	<p>The Commissioner presented to the public in a number of forums including:</p> <ul style="list-style-type: none"> • JFA Purple Orange: <i>Employing People with Disability, recruitment education</i> • Presentation to the Multicultural Council SA

		<p>Ageing Well in CALD Communities Project</p> <ul style="list-style-type: none"> • Chair panel discussion: <i>a Toxic Culture in the Hospitality Sector</i> • Panel Member, Finlaysons Women in Business: <i>A safe workplace – the rule not the exception</i> • Panel Member, COTA: <i>Owning our age</i> • Presentation, Australian Government Comcare: <i>Workplace Sexual Harassment National Forum: Influencing positive change</i> • Presentation, SAET Development Session
		<p>The OCEO operated a Training Referral Program (TRP) to ensure that individuals and organisations can receive education on equal opportunity matters. The TRP includes a panel of training providers approved by the OCEO to deliver high-quality training to the community.</p> <p>During the 2021-22 financial year, it referred 41 businesses to its training providers.</p> <p>A total of 20 training and education sessions were delivered in the 2021-22 financial year, against a target of 60. The ongoing impacts of the COVID-19 pandemic and work from home directives contributed to the lower-than-expected number of sessions being delivered.</p>

	<p>Develop practice guidelines to foster and encourage informed and unprejudiced attitudes amongst members of the public</p>	<p>In August 2021, the OCEO launched its Disability Employment Practices Guideline to encourage and assist employers to employ people living with disability.</p>
	<p>Promote the role and functions of the Commissioner</p>	<p>Release of videos via the OCEO website outlining the role of the office, how it helps promote equal opportunity and prevent discrimination, and what to do if you experience discrimination.</p>
<p>Fairly administered laws</p>	<p>Complaint assessment and conciliation</p>	<p>The OCEO received 224 complaints during the 2021-22 financial year, against a projection of 215. It finalised 218 complaints during the same period.</p> <p>All complaints were assessed to determine what action can be taken by the OCEO. Of the complaints finalised during 2021-22, 80 complaints were accepted, against a projection of 135.</p> <p>A high volume of complaints relating to COVID-19 was the most significant factor in the low number being accepted. Mask and vaccination mandates resulted in a significant shift towards disability discrimination complaints, many falling outside of the jurisdiction of the office or not amounting to unlawful discrimination within the meaning of the Act.</p> <p>While the office received more than 70 complaints regarding COVID-19, there was a reduction in complaint volumes in other areas, such as sexual harassment. This may be the result of work from home measures.</p> <p>On average, complaints were finalised within 2.3 months, ensuring a timely outcome for</p>

		<p>complainants and respondents. The average time to finalise accepted complaints was 3.9 months. In addition, conciliation was attempted in respect of 47 accepted complaints, 24 of which (51%) were successfully conciliated.</p>
	<p>Monitoring of legislative exemptions</p>	<p>Developed and implemented a new system for monitoring compliance in legislative exemptions granted under the Act.</p>
<p>An efficient and effective justice system</p>	<p>Partnering with the University of Adelaide to provide legal advice and research</p>	<p>During the 2021-22 financial year the OCEO continued its partnerships with the University of Adelaide.</p> <p>The Equal Opportunity Legal Advice Service provides legal advice and assistance on discrimination, harassment and victimisation, and supports preparation for conciliation conferences and tribunal hearings. Final year law students provided advice under the supervision of a legal practitioner. The service assisted 57 individuals.</p> <p>As part of the University of Adelaide’s Law and Justice Internship Program the OCEO’s Internship Program provided for an exceptional law student to undertake research on topics relating to the work of the office during a 22 to 25-day internship. Three interns were hosted during the year.</p>
	<p>Develop new tools to assist with decision-making</p>	<p>The OCEO developed new procedures and process maps to streamline the assessment of complaints and ensure timely and consistent decisions.</p>

<p>Our people meet customer needs</p>	<p>Providing information and advice to individuals and organisations</p>	<p>The OCEO provided advice and information to the community through telephone and email services.</p> <p>During the 2021-22 financial year, the OCEO received 647 enquiries to these services, against a projection of 600.</p> <p>Approximately 30% of enquiries related to COVID-19. Concerns about mask and vaccination mandates were most common.</p> <p>Whilst there was an increase in the total number of enquiries received, COVID-19 resulted in a greater volume of disability discrimination enquiries proportionate to that increase, and there were fewer regarding other grounds for discrimination.</p>
<p>Supportive infrastructure</p>	<p>Business continuity during COVID-19 pandemic</p>	<p>In 2021-22 the OCEO continued to provide services to the community. Throughout the COVID-19 pandemic it maintained its service delivery, utilising technology to assist the public remotely. Conciliation conferences were held in a virtual environment, ensuring minimal disruptions to dealing with and resolving complaints.</p>
	<p>Community engagement using the OCEO's website</p>	<p>The OCEO operates a website providing the public with information, resources and online forms for complaints and enquiries.</p> <p>It had approximately 67,000 visitor sessions throughout the 2021-22 financial year, against a target of 150,000.</p> <p>A new website (www.equalopportunity.sa.gov.au) launched on 1 July 2021. It uses different analytics to capture visitor information than the office's former website, resulting in a</p>

		<p>reduction to the forecast number of sessions.</p> <p>The OCEO will use its 2021-22 result as a baseline for future targets.</p>
	<p>Develop new online forms to improve accessibility and streamline processes</p>	<p>During 2021-22 the OCEO provided streamlined services to the community through new and improved online self-service forms.</p> <ul style="list-style-type: none"> • Its Disability Access Reporting Tool (DART) enables persons living with disability to report accessibility issues directly to the owners and operators of public venues and buildings. • Its online Training Referral request form allows individuals and businesses to identify their training needs and connect with the OCEO’s panel of approved training providers. • The OCEO also updated its online complaint form to streamline data entry requirements and provide stronger guidance on its ability to assist in a broad range of issues associated with the COVID-19 pandemic.

Corporate performance summary

The OCEO is a business unit of the Attorney-General’s Department (AGD). Information on corporate performance appears in the 2021-22 Annual Report for the Attorney-General’s Department.

Employment opportunity programs

Information on employment opportunity programs appears in the 2021-22 Annual Report for the Attorney-General's Department.

Office performance management and development systems

Information on performance management and development systems appears in the 2021-22 Annual Report for the Attorney-General's Department.

Work health, safety and return to work programs

Information on work health, safety and return to work programs appears in the 2021-22 Annual Report for the Attorney-General's Department.

Executive employment in the office

Nil - the Commissioner is a statutory appointment.

Financial performance

Financial performance at a glance

Information on financial performance appears in the 2021-22 Annual Report for the Attorney-General’s Department.

Consultants disclosure

Information on consultants disclosure appears in the 2021-22 Annual Report for the Attorney-General’s Department.

Contractors disclosure

Information on contractors disclosure appears in the 2021-22 Annual Report for the Attorney-General’s Department.

Other financial information

Nil.

Other information

Section 11 of the *Equal Opportunity Act 1984* provides three functions of the Commissioner. Section 14 of the Act requires the Commissioner to report on the operation and administration of the Act, and the work undertaken by the Commissioner under section 11 during the previous financial year.

The information below is provided to meet these additional reporting requirements.

Function 1: *The Commissioner must foster and encourage amongst members of the public informed and unprejudiced attitudes with a view to eliminating discrimination on the grounds to which this Act applies*

Training and education

Table 1: Training delivered

	2017-18	2018-19	2019-20	2020-21	2021-22
Total – participants	742	302	238	458	304
Total – sessions	44	31	20	39	20

Note: From 1 July 2021 the OCEO no longer delivered training directly to the public.

In 2021-22 the number of training sessions delivered only includes sessions delivered by partner training providers.

Matters received

Table 2: Enquiries received

	2017-18	2018-19	2019-20	2020-21	2021-22
No. of enquiries received	570	566	607	659	647
% difference from previous year	-5%	-1%	7%	9%	-2%

Table 3: How enquiries were received

	2017-18		2018-19		2019-20		2020-21		2021-22	
	No.	%	No.	%	No.	%	No.	%	No.	%
Telephone	426	73%	401	71%	390	64%	427	65%	460	71%
Email	88	15%	85	15%	152	25%	220	33%	170	26%
Online form	40	7%	59	10%	9	1%	2	0%	9	1%
Letter	4	1%	3	1%	3	0%	4	1%	8	1%
In person	22	4%	18	3%	51	8%	4	1%	0	0%
Hardcopy form	0	0%	0	0%	0	0%	2	0%	0	0%
Facebook	0	0%	0	0%	2	0%	0	0%	0	0%
Total	580	100%	566	100%	607	100%	659	100%	647	100%

Table 4: Grounds of enquiry (across all areas)

	2017-18		2018-19		2019-20		2020-21		2021-22	
Disability	141	22%	163	27%	176	27%	154	21%	230	34%
Race	68	11%	54	9%	61	10%	74	10%	42	6%
Age	34	5%	38	6%	20	3%	43	6%	32	5%
Sexual harassment	40	6%	35	6%	49	8%	41	6%	22	3%
Sex	50	8%	43	7%	31	5%	39	5%	15	2%
Caring responsibilities	19	3%	26	4%	16	2%	14	2%	14	2%
Pregnancy	15	2%	15	2%	15	2%	15	2%	12	2%
Gender identity	7	1%	2	0%	2	0%	14	2%	6	1%
Victimisation	19	3%	14	2%	13	2%	21	3%	5	1%
Sexual orientation	8	1%	6	1%	5	1%	16	2%	4	1%
Religious appearance or dress	7	1%	0	0%	9	1%	5	1%	2	0%
Marital status	2	0%	4	1%	1	0%	2	0%	2	0%
Association with a child	1	0%	2	0%	2	0%	4	1%	1	0%
Intersex status	0	0%	0	0%	3	0%	2	0%	0	0%
Identity of spouse or partner	4	1%	1	0%	1	0%	0	0%	0	0%
Enquiries with no grounds under <i>Equal Opportunity Act 1984</i>	172	27%	180	29%	150	23%	189	26%	219	33%
General OCEO enquiries	45	7%	29	5%	87	14%	87	12%	64	10%
Total	632	100%	612	100%	641	100%	720	100%	670	100%

Table 5: Areas of enquiry (across all grounds)

	2017-18		2018-19		2019-20		2020-21		2021-22	
	No.	%	No.	%	No.	%	No.	%	No.	%
Employment	283	56%	278	53%	285	55%	249	47%	240	47%
Goods and services	113	23%	136	26%	116	22%	134	25%	165	32%
Housing/land/accommodation	25	5%	29	6%	38	7%	35	7%	45	9%
Education/training	45	9%	47	9%	53	10%	57	11%	26	5%
Clubs and associations	31	6%	28	5%	30	6%	47	9%	20	4%
Qualification	0	0%	0	0%	0	0%	0	0%	9	2%
Advertising	3	1%	4	1%	0	0%	4	1%	6	1%
Total	501	100%	523	100%	522	100%	526	100%	511	100%

Note: enquiries that do not relate to an area of the Equal Opportunity Act 1984 are not included in this table.

Table 6: Complaints received

	2017-18	2018-19	2019-20	2020-21	2021-22
Complaints lodged in year	213	179	181	230	224
Complaints closed in year	340	195	160	258	218
% difference of lodged complaints from previous year	-11%	-17%	1%	27%	-3%

Table 7: How complaints were received

	2017-18		2018-19		2019-20		2020-21		2021-22	
	No.	%	No.	%	No.	%	No.	%	No.	%
Online form	123	55%	112	63%	141	78%	162	70%	178	79%
Email	45	20%	45	25%	27	15%	37	16%	36	16%
Letter	6	3%	3	2%	4	2%	6	3%	4	2%
Hardcopy form	47	21%	17	9%	9	5%	22	10%	3	1%
Telephone	1	0%	1	1%	0	0%	3	1%	3	1%
In person	2	1%	0	0%	0	0%	0	0%	0	0%
Fax	1	0%	1	1%	0	0%	0	0%	0	0%
Facebook	0	0%	0	0%	0	0%	0	0%	0	0%
Total	225	100%	179	100%	181	100%	230	100%	224	100%

Table 8: Grounds of accepted complaints (across all areas)

	2017-18		2018-19		2019-20		2020-21		2021-22	
	No.	%	No.	%	No.	%	No.	%	No.	%
Disability	52	33%	31	28%	50	21%	46	25%	41	35%
Victimisation	12	8%	12	11%	33	14%	22	12%	19	16%
Sexual harassment	28	18%	16	14%	46	20%	22	12%	14	12%
Race	10	6%	7	6%	24	10%	17	9%	12	10%
Sex	6	4%	14	13%	26	11%	20	11%	8	7%
Age	13	8%	4	4%	16	7%	13	7%	7	6%
Caring responsibilities	8	5%	7	6%	3	1%	7	4%	3	3%
Sexual orientation	4	3%	0	0%	6	3%	3	2%	3	3%
Gender identity	3	2%	1	1%	11	5%	1	1%	3	3%
Whistleblower*	8	5%	9	8%	5	2%	0	0%	3	3%
Identity of spouse	3	2%	2	2%	8	3%	2	1%	2	2%
Association with a child	3	2%	1	1%	1	0%	3	2%	1	1%
Religious appearance or dress	0	0%	0	0%	0	0%	0	0%	1	1%
Aiding unlawful act	0	0%	0	0%	0	0%	0	0%	1	1%
Pregnancy	9	6%	5	5%	3	1%	4	2%	0	0%
Marital status	0	0%	2	2%	1	0%	0	0%	0	0%
Other	0	0%	0	0%	0	0%	27	14%	0	0%
Total Grounds	159	100%	111	100%	233	100%	187	100%	118	100%

* Refers to complaints of victimisation under the Whistleblowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA). Notes: there may be more than one ground per complaint. Data in the table will vary slightly from year to year due to database corrections and changes during the period a complaint is open. 'Other' added from 2020-21.

Table 9: Areas of accepted complaints (across all grounds)

	2017-18		2018-19		2019-20		2020-21		2021-22	
	No.	%	No.	%	No.	%	No.	%	No.	%
Employment	110	77%	79	71%	163	70%	66	58%	46	56%
Goods and services	14	10%	11	10%	29	12%	27	24%	21	26%
Education/training	7	5%	15	13%	36	15%	10	9%	10	12%
Clubs and associations	4	3%	3	3%	3	1%	4	4%	4	5%
Advertising	0	0%	0	0%	0	0%	3	3%	0	0%
Housing/land/accommodation	8	6%	4	4%	2	1%	2	2%	0	0%
Qualification	0	0%	0	0%	0	0%	1	1%	1	1%
Total Areas	143	100%	112	100%	233	100%	113	100%	82	100%

Table 10: 2021-22 complaint grounds by area

Ground	Area						Total
	Advertising	Clubs and associations	Education and training	Employment	Goods and services	Housing, land and accommodation	
Disability	0	4	8	12	18	0	42
Sexual harassment	0	0	0	20	2	0	22
Victimisation	0	0	4	14	2	0	20
Race	0	0	2	8	4	0	14
Sex	0	0	1	6	1	0	8
Age	0	0	0	6	1	0	7
Caring responsibilities	0	0	3	2	1	0	6
Gender identity	0	0	1	1	1	0	3
Sexual orientation	0	0	0	3	0	0	3
Whistleblower*	0	0	0	3	0	0	3
Identity of spouse or partner	0	0	0	2	0	0	2
Aiding unlawful act	0	0	0	1	0	0	1
Association with a child	0	0	0	0	1	0	1
Religious appearance or dress	0	0	0	1	0	0	1
Intersex status	0	0	0	0	0	0	0
Marital status	0	0	0	0	0	0	0
Pregnancy	0	0	0	0	0	0	0
Total of Areas	0	4	19	79	31	0	133

* Refers to complaints of victimisation under the Whistleblowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA). Note: there may be more than one ground and area per complaint.

Table 11: Accepted complaints by area - Employment

	Employment				
	2017-18	2018-19	2019-20	2020-21	2021-22
Sexual harassment	29	14	41	20	20
Victimisation	9	9	26	14	14
Disability	29	16	26	21	12
Race	6	3	14	9	8
Sex	4	11	18	15	6
Age	11	3	12	10	6
Sexual orientation	4	0	5	1	3
Whistleblower *	5	8	5	0	3
Caring responsibilities	5	5	2	4	2
Identity of spouse or partner	3	1	5	0	2
Aiding unlawful act	0	0	0	0	1
Gender identity	0	1	4	0	1
Religious appearance or dress	0	0	0	0	1
Pregnancy	5	5	3	4	0
Association with a child	0	1	1	0	0
Marital status	0	2	1	0	0
Intersex status	0	0	0	0	0
Other	0	0	0	13	0
Total	110	79	163	111	79

** Refers to complaints of victimisation under the Whistleblowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA).
Note: there may be more than one ground and area per complaint.*

Table 12: Accepted complaints by area – Goods and services

	Goods and services				
	2017-18	2018-19	2019-20	2020-21	2021-22
Disability	7	2	9	16	18
Race	2	3	6	4	4
Victimisation	0	1	0	3	2
Sexual harassment	0	0	2	0	2
Sex	2	2	7	3	1
Age	1	0	1	3	1
Association with a child	1	0	0	2	1
Gender identity	1	1	2	1	1
Caring responsibilities	0	1	0	1	1
Sexual orientation	0	0	1	2	0
Intersex status	0	0	0	2	0
Identity of spouse or partner	0	0	1	0	0
Whistleblower *	0	1	0	0	0
Marital status	0	0	0	0	0
Pregnancy	0	0	0	0	0
Religious appearance or dress	0	0	0	0	0
Aiding unlawful act	0	0	0	0	0
Other	0	0	0	8	0
Total	14	11	29	45	31

** Refers to complaints of victimisation under the Whistleblowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA).*

Note: there may be more than one ground and area per complaint.

Table 13: Accepted complaints by area – Education, training, and qualifications

	Education, training and qualifications				
	2017-18	2018-19	2019-20	2020-21	2021-22
Disability	5	9	11	6	8
Victimisation	0	2	6	3	4
Caring responsibilities	0	1	1	2	3
Race	2	1	4	1	2
Sex	0	1	1	1	1
Gender identity	0	0	5	0	1
Sexual harassment	0	0	3	2	0
Age	0	0	3	0	0
Identity of spouse or partner	0	1	2	0	0
Whistleblower *	0	0	0	0	0
Marital status	0	0	0	0	0
Aiding unlawful act	0	0	0	0	0
Association with a child	0	0	0	0	0
Intersex status	0	0	0	0	0
Pregnancy	0	0	0	0	0
Religious appearance or dress	0	0	0	0	0
Sexual orientation	0	0	0	0	0
Other	0	0	0	5	0
Total	7	15	36	20	19

* Refers to complaints of victimisation under the Whistleblowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA).

Note: there may be more than one ground and area per complaint.

Table 14: Accepted complaints by area - Clubs and associations

	Clubs and associations				
	2017-18	2018-19	2019-20	2020-21	2021-22
Disability	1	2	2	2	4
Victimisation	0	0	1	2	0
Race	0	0	0	1	0
Sexual harassment	0	1	0	0	0
Age	1	0	0	0	0
Caring responsibilities	1	0	0	0	0
Gender identity	1	0	0	0	0
Sex	0	0	0	0	0
Whistleblower *	0	0	0	0	0
Aiding unlawful act	0	0	0	0	0
Association with a child	0	0	0	0	0
Identity of spouse or partner	0	0	0	0	0
Intersex status	0	0	0	0	0
Marital status	0	0	0	0	0
Pregnancy	0	0	0	0	0
Religious appearance or dress	0	0	0	0	0
Sexual orientation	0	0	0	0	0
Other	0	0	0	1	0
Total	4	3	3	6	4

* Refers to complaints of victimisation under the Whistleblowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA).

Note: there may be more than one ground and area per complaint.

Table 15: Accepted complaints by area – Housing, land, and accommodation

	Housing/land/accommodation				
	2017-18	2018-19	2019-20	2020-21	2021-22
Disability	4	2	2	1	0
Association with a child	0	0	0	1	0
Sex	0	0	0	1	0
Age	0	1	0	0	0
Sexual harassment	0	1	0	0	0
Victimisation	1	0	0	0	0
Caring responsibilities	1	0	0	0	0
Gender identity	1	0	0	0	0
Pregnancy	1	0	0	0	0
Race	0	0	0	0	0
Whistleblower *	0	0	0	0	0
Aiding unlawful act	0	0	0	0	0
Identity of spouse or partner	0	0	0	0	0
Intersex status	0	0	0	0	0
Marital status	0	0	0	0	0
Religious appearance or dress	0	0	0	0	0
Sexual orientation	0	0	0	0	0
Other	0	0	0	0	0
Total	8	4	2	3	0

* Refers to complaints of victimisation under the Whistleblowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA).

Note: there may be more than one ground and area per complaint.

Note: due to low or zero numbers annually, a separate table of data is not supplied for advertising complaints.

Matter outcomes

Table 16: Outcomes of enquiries

Enquiries – outcomes	2017-18		2018-19		2019-20		2020-21		2021-22	
	No.	%	No.	%	No.	%	No.	%	No.	%
General information provided	233	41%	195	35%	165	27%	347	47%	337	53%
Referred elsewhere (out of OCEO jurisdiction)	101	18%	164	29%	98	16%	96	13%	95	15%
No action required	32	6%	16	3%	49	8%	84	11%	79	12%
Complaint form and information package sent	25	4%	16	3%	14	2%	53	7%	38	6%
Referred to OCEO electronic complaint form	82	15%	97	17%	39	6%	25	3%	31	5%
Referred to advocate (to assist with equal opportunity/other Issue)	34	6%	21	4%	6	1%	3	0%	26	4%
Referred to Australian Human Rights Commission	13	2%	13	2%	6	1%	1	0%	16	3%
Referred to OCEO Website	43	8%	40	7%	226	37%	120	16%	9	1%
Media response provided/presentation requested/other	0	0%	0	0%	0	0%	0	0%	6	1%
Appointment made for interview with OCEO enquiry officer	0	0%	0	0%	0	0%	2	0%	1	0%
Total	563	100%	562	100%	603	100%	731	100%	638	100%

Note: As of 2019-20, Report/publications/media response provided/presentation requested/other are reported together.

Table 17: Complaint finalisation

	2017-18	2018-19	2019-20	2020-21	2021-22
Finalised complaints	327	206	176	235	218
Average no. weeks to finalise all complaints	33.3	19.6	11	10.5	9.94
Median no. weeks to finalise all complaints	23.9	11	9.7	8.6	7.3

Table 18: Outcomes of accepted complaints finalised during 2020-21

	2017-18	2018-19	2019-20	2020-21	2021-22
Complaints resolved by conciliation	66	54	57	48	24
Declined by the Commissioner following further investigation or withdrawn by complainant	30	26	31	47	40
Referred to tribunal	66	20	26	31	16
Total accepted complaints finalised in the year	162	100	114	126	80

Notes: During 2021-22 there were 47 conciliations attempted; 24 (or 51%) were successful. 4 matters were declined after attempting conciliation. 2 matters were withdrawn following conciliation. 18 total matters were referred to a tribunal after attempting conciliation, including 2 of those declined after conciliation.

Table 19: Outcomes from conciliations

	2017-18	2018-19	2019-20	2020-21	2021-22
Apology	20	22	31	21	14
Policy change/change in practice	7	6	14	11	9
Financial compensation	29	17	25	20	7
Other	10	5	11	13	3
Staff training/development program	14	4	18	7	2
Complainant satisfied with response	0	0	0	0	2
Reasonable adjustment	2	4	5	5	1
Undertaking to cease an action	3	1	3	0	1
Access to education/training	1	6	2	0	1
Private agreement	8	16	13	7	0
Reference provided	2	5	2	5	0
Employment options improved (e.g. job offer)	7	5	4	4	0
Provision of goods/services/facilities	4	1	2	1	0
Other access achieved (e.g. mobility)	2	5	6	0	0
Access to/provision of accommodation	1	1	2	0	0
Access to club membership/benefits	1	0	0	0	0

Note: there may be more than one outcome per conciliation agreement.

Table 20: Financial compensation agreements from conciliations

	2017-18	2018-19	2019-20	2020-21	2021-22
Total financial compensation payments	\$139,317	\$122,726	\$173,114	\$150,842	\$44,000
Average financial compensation payments	\$5,805	\$7,219	\$6,925	\$9,428	\$6,285

Note: Individual agreements for financial compensation ranged from \$2,000 to \$20,000 in 2021-22.

Demographic data

Table 21: Gender identity of enquirers and complainants

	2021-22	
	Enquiries	Complaints
Undisclosed	377	48
Female	147	78
Male	122	97
Non-binary	1	1
Transgender	0	0
Intersex	0	0
Total	647	224

Table 22: Age distribution of complainants (accepted complaints)

	2017-18	2018-19	2019-20	2020-21	2021-22
0 - 9 years	2%	2%	2%	3%	2%
10 - 19 years	7%	7%	6%	6%	4%
20 - 29 years	15%	6%	24%	16%	9%
30 - 39 years	9%	25%	27%	21%	15%
40 - 49 years	23%	13%	13%	15%	17%
50 - 59 years	13%	14%	13%	14%	14%
60 - 69 years	9%	5%	6%	9%	4%
70 - 79 years	3%	1%	2%	1%	5%
80 + years	0%	0%	0%	2%	0%
Unknown age	20%	23%	7%	14%	31%
Total	100%	100%	100%	100%	100%

Exemptions under the Equal Opportunity Act 1984

Section 92 of the *Equal Opportunity Act 1984* provides for applicants to apply to the SA Civil and Administrative Tribunal (SACAT) for an exemption from the Act for a specific purpose. SACAT provides the Commissioner with a copy of all applications received, to enable her to review the application and make any submissions she considers necessary before an application is considered by SACAT.

In 2021-22 the OCEO received six exemption applications.

Table 23: Summary of exemption applications received by the Commissioner in 2021-22.

Applicant	Summary	Order
Fernwood Women's Health Clubs (Australia) Pty Ltd	Application for exemption allowing the applicant to exclusively employ and offer goods and services to women.	Granted
Aboriginal Legal Rights Movement	Application for exemption allowing the applicant to offer employment to suitably qualified Aboriginal and Torres Strait Islander persons in select positions.	Granted
Attorney-General's Department SA	Application for exemption allowing the applicant to recruit a person of Aboriginal and Torres Strait Islander descent for the position of Aboriginal and Torres Strait Islander Witness Assistance Officer.	Granted
An individual	Application for exemption from the requirement to be vaccinated against the COVID-19 virus.	Dismissed
Courts Administration Authority of South Australia	Application for exemption allowing the applicant to advertise and recruit female legal practitioners for an employment program.	Order not yet made
Dieri Aboriginal Corporation RNTBC	Application for exemption allowing the applicant to request from existing and potential employees and contractors ancestral and such other information necessary to identify Aboriginality, taking such matters into account in determining who should be offered employment,	Granted

	contract work and other contracts for goods and services, and maintaining such records.	
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Function 2: *The Commissioner may institute, promote or assist in research, the collection of data and the dissemination of information relating to discrimination on the grounds to which this Act applies.*

Enquiries and complaints data is routinely collected and maintained.

The OCEO, along with Commonwealth and State and Territory authorities in equal opportunity, workers compensation and work health and safety, is assisting the Australian Human Rights Commission with research into workplace sexual harassment.

It also collaborates with universities and other research bodies to assist them with research questions.

Additional research projects will occur on an as needs basis in the medium-term to ensure that reprioritised functions and services are available to South Australians, and that the office operates within its budget.

Function 3: *The Commissioner may make recommendations to the Minister as to reforms, whether of a legislative nature or otherwise, that the Commissioner believes will further the objects of this Act.*

During 2021-22 the Commissioner made recommendations to the Attorney-General regarding reforms to further the objects of the Act.

Table 24: Recommendations to the Attorney-General relating to the Equal Opportunity Act 1984

<i>Status of Members of Parliament as “employees” for the purposes of the Equal Opportunity Act 1984</i>	Recommendation to consider legislative change to clarify the status of a Member of Parliament’s employment for the purposes of the Act.
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During 2021-22 the Commissioner (including Acting Commissioners) provided feedback to the Attorney-General on proposed legislative amendments.

Table 25: Responses to requests from the Attorney-General on proposed amendments to the Equal Opportunity Act 1984

<i>Draft Equal Opportunity (Miscellaneous) Amendment Bill 2021</i>	Feedback provided regarding the proposed inclusion of protections for victims of domestic violence, and mechanisms for dealing with complaints in respect of Members of Parliament.
<i>Draft Equal Opportunity (Unlawful Acts at Workplace) Amendment Bill 2021</i>	Feedback provided regarding the proposal to include a positive duty on employers to prevent, as far as practicable, prescribed unlawful acts at the workplace, particularly with respect to sexual harassment.
<i>Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 (Cth)</i>	Feedback on the practical implications of the Act for South Australia.

In addition to responses to the Attorney-General, during the 2021-22 financial year the OCEO was also consulted on legislative reform through other parties, including in relation to the *Local Government Act 1999 (SA)* and the draft *Aboriginal Representative Body Bill 2021 (SA)*.

Risk management

Risk and audit at a glance

The OCEO is a business unit of the AGD. Information on risk and audit appears in the 2021-22 Annual Report for the Attorney-General's Department.

Fraud detected in the office

Information on fraud detection appears in the 2021-22 Annual Report for the Attorney-General's Department.

Strategies implemented to control and prevent fraud

Information on strategies implemented to control and prevent fraud appears in the 2021-22 Annual Report for the Attorney-General's Department.

Public interest disclosure

Information on public interest disclosure appears in the 2021-22 Annual Report for the Attorney-General's Department.

Reporting required under the *Carers' Recognition Act 2005*

Nil

Public complaints

Number of public complaints reported

Information on public complaints appears in the 2021-22 Annual Report for the Attorney-General's Department.

Service Improvements

Information on service improvements resulting from public complaints appears in the 2021-22 Annual Report for the Attorney-General's Department.

Compliance Statement

The Office of the Commissioner for Equal Opportunity is compliant with Premier and Cabinet Circular 039 – complaint management in the South Australian public sector.	Y
The Office of the Commissioner for Equal Opportunity has communicated the content of PC 039 and the office's related complaints policies and procedures to employees.	Y

Appendix: Audited financial statements 2021-22

Please refer to the 2021-22 Annual Report for the Attorney-General's Department for Audited financial statements.