

This guide is designed to help foster and kinship carers in South Australia understand the role and functions of the South Australian Ombudsman. It outlines the types of complaints that the Ombudsman can investigate, the process for submitting a complaint, and what outcomes foster and kinship carers (carers) can expect.

Powers and functions of the Ombudsman

Ombudsman SA is an independent body that provides oversight of state and local government agencies in South Australia. Its primary purpose is to ensure that public administration is conducted fairly, transparently, and with integrity.

Under the *Ombudsman Act 1972*, the Ombudsman is responsible for receiving, assessing, and investigating complaints about:

- Administrative acts carried out by state government departments and statutory authorities.
- Misconduct by public officers.
- Maladministration in public offices or by government agencies.

The Ombudsman can also initiate investigations independently and is required to investigate matters referred to them by the South Australian Parliament.

What the Ombudsman Can Investigate

The Ombudsman can deal with complaints about administrative acts. For example, your complaint might be about:

- A decision-making process.
- A failure to act or delay in taking action.
- An unreasonable, unlawful or unfair decision or requirement.

The Ombudsman can deal also with complaints or reports about misconduct and maladministration by public officers (for example, Department for Child Protection (DCP) employees). You can read more about these terms on the [Ombudsman's website](#).

Whilst there are high thresholds for misconduct and maladministration, as they are defined in the Ombudsman Act, you may complain about:

- Serious issues of staff conduct.
- Irregular and unauthorised use of public money or substantial mismanagement of public resources.

Child protection complaints

In the context of child protection complaints, the Ombudsman may consider complaints about the DCP and other state agencies with child protection responsibilities. Your complaint may be about:

- How the Department or agency has responded to notifications of suspected abuse and neglect.

- Compliance with the Aboriginal and Torres Strait Islander Child Placement Principles and general Placement Principles.
- Contact arrangements relating to children and young people under the guardianship of the DCP's Chief Executive.
- Communication issues with DCP.
- Unreasonable lack of support or accessibility of support for carers.
- Matters raised with the Ombudsman by the Commissioner for Children and Young People, Commissioner for Aboriginal Children and Young People and the Guardian for Children and Young People.

What the Ombudsman Cannot Investigate

There are several important limitations to the Ombudsman's powers. The Ombudsman cannot investigate:

- Complaints about private health providers or non-government foster care agencies (these matters are dealt with by the Health and Community Services Complaints Commissioner).
- Decisions made by courts or judicial bodies, such as the Youth Court or the South Australian Civil and Administrative Tribunal (SACAT).
- Conduct of South Australian Police officers.
- Matters involving the Commonwealth government or other state governments.
- Actions by private individuals, businesses, or organisations (unless they are contracted by a state agency).

Additionally, the Ombudsman generally cannot act if:

- the complainant is not directly affected by the issue;
- more than 12 months have passed since the complainant became aware of the matter; or
- there is another legal or statutory review process available.

However, these limitations do not apply to reports of misconduct or maladministration.

PLEASE NOTE:

Before deciding whether to investigate a complaint relating to child protection, the Ombudsman may consider whether the complainant has or had a right of appeal or review (for example, via the Youth Court, the Contact Access Review Panel or internal review under the *Children and Young People (Safety) Act 2017* and may decide not to take action.

When can I approach the Ombudsman?

Carers should first attempt to resolve their concerns directly with DCP by submitting a formal complaint and allowing the DCP a reasonable time to respond. If the issue is not resolved satisfactorily, carers may then contact the Ombudsman.

Carers can approach the Ombudsman if they believe a DCP decision or action was incorrect, unfair, or poorly handled. They may also report misconduct or maladministration by DCP staff.

If a carer is unsure whether their issue falls within the Ombudsman's jurisdiction, they are encouraged to contact the Ombudsman's office for guidance. If the Ombudsman cannot investigate the complaint, they may suggest another agency that can assist.

If a carer is unable to lodge a complaint themselves, a representative, such as a family member, legal adviser, or Member of Parliament, may assist you.

PLEASE NOTE:

Carers have 12 months from becoming first aware of the matter to make a complaint or report to the Ombudsman.

Connecting Foster & Kinship Carers SA (CF&KC-SA) cannot make the complaint on behalf of carers, as the organisation is not directly affected by the administrative act. However, please contact CF&KC-SA and our Advocacy team can assist regarding how and what to communicate to the Ombudsman.

Making a Complaint

Carers can lodge a complaint with the Ombudsman using the online complaint form available at: www.ombudsman.sa.gov.au/make-a-complaint.

There is no cost involved with making a complaint to the Ombudsman.

To support your complaint, you should include:

- The name of the agency involved (e.g., DCP).
- A clear description of the issue.
- A timeline of events and any efforts to resolve the complaint.
- Supporting documents such as letters, emails, or photographs.
- What outcome or resolution you are seeking.

Within three days of the Ombudsman receiving your complaint you will be sent an acknowledgement.

How Complaints Are Handled

Once a complaint is received, the Ombudsman assesses whether it falls within their jurisdiction and whether an investigation is warranted.

If the complaint falls within the Ombudsman's jurisdiction, they will aim to:

- Deliver an accessible, timely, and confidential service.
- Offer impartial, clear, and relevant advice, including what can and cannot be done.
- Ensure fair, transparent, and procedurally sound assessment and investigation of complaints.
- Keep complainants informed throughout the process and provide accurate, concise explanations of decisions and recommendations.

You may be contacted to provide further details and to clarify any issues. The agency may also be contacted and given an opportunity to respond to the complaint. The Ombudsman will then review the complaint and the agency's response and decide whether or not to take further action.

If the Ombudsman does not intend to proceed with any further action on your complaint, then you will be contacted and given a reason as to why not. You will then have the opportunity to provide comment.

Alternative Resolution Pathways

The Ombudsman may seek to resolve the instead of undertaking a formal investigation. In deciding whether this is appropriate the Ombudsman may consider:

- The seriousness of the complaint.
- Whether the complaint raises systemic issues.
- Whether the agency has insight into the cause of the issue and willingness to rectify it.

This may include informal and formal processes such as:

- **Seeking early resolution with the co-operation of the agency to 'put things right':** where it is evident that an agency has acted unfairly or unreasonably, it is an isolated matter only affecting the complainant, and the agency is prepared to co-operate to rectify the issue.
- **Conciliation to facilitate agreements between parties:** where there has been a breakdown in communication, the parties have an ongoing relationship, the issue is complex or long-standing, and the resolution requires shared responsibility. Outcomes may include an apology from the agency, policy or procedural changes and agreed upon action within set timeframes.
- **Formal resolution processes:** where there is an administrative error or misconduct issue and the agency or public officer acknowledges this and agrees to take action such as making changes to policies and practices and training for public officers. These actions are monitored by the Ombudsman.
- **Referring the matter to a public authority or officer for monitoring:** where the issues are not of a serious enough nature to justify an investigation by the Ombudsman but are still of sufficient concern to justify action being taken.

Investigation and Outcomes

The Ombudsman may decide to conduct an investigation into a complaint. When investigating, the Ombudsman has extensive powers including all the powers of a Royal Commission. Investigations are conducted in private and confidentiality provisions apply. Evidence may be collected through documents and interviews under oath/affirmation.

If following an investigation, the Ombudsman believes that an administrative error has occurred, they may make recommendations to the agency as they see fit. These may include:

- Reconsidering the decision or action.
- Changing internal policies or procedures.
- Providing reasons for actions taken.
- Taking corrective or remedial steps.

The Ombudsman is required to provide a copy of any report or recommendation to the responsible Minister. While the Ombudsman cannot enforce their recommendations, agencies are expected to respond and outline any steps taken. If an agency does not act on the recommendations, the Ombudsman may report the matter to the Premier and Parliament.

How do I make a complaint to the Ombudsman?

Visit the Ombudsman's website for further information: www.ombudsman.sa.gov.au or contact the Ombudsman at:

Telephone: (08) 7322 7020 or 1800 182 150 Toll free (outside metro area only)

Post: Ombudsman SA

Kaurna Country

PO Box 3651

RUNDLE MALL SA 5000

In person: Level 8, 95 Grenfell Street, Adelaide SA 5000

Carer support

For more information, or to discuss your personal circumstances, please contact us:

Email: support@cfc-sa.org.au

Free call: 1800 732 272