



**Government
of South Australia**

**OFFICE OF THE DIRECTOR OF PUBLIC
PROSECUTIONS
2018-19 Annual Report**

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

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To: The Honourable Vickie Chapman MP
Deputy Premier
Attorney-General

This annual report will be presented to Parliament to meet the statutory reporting requirements of section 12 of the *Director of Public Prosecutions Act, 1991* 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.

Submitted on behalf of the Office of the Director of Public Prosecutions by:

Sandra McDonald SC
Acting Director of Public Prosecutions

Date 27/9/19

Signature



A handwritten signature in blue ink, appearing to read 'Sandra McDonald', is written over a horizontal line.

From the Acting Director



On the 24th of April 2019, Adam Kimber SC completed his seven year appointment as the Director of Public Prosecutions. Shortly, Martin Hinton QC will commence his appointment as Director. It therefore falls upon me as the Acting Director during this transitional period, to provide an overview of the last twelve months at the ODPP.

First of all, I take this opportunity to thank Mr Kimber for not only his contribution for the seven years as the Director of Public Prosecutions but for the 24 years of service that he has provided prosecuting on behalf of this State.

Throughout his career at the ODPP, Mr Kimber performed his role with commitment, courage and compassion. In his final seven years as the Director, Mr Kimber effectively led the office through a difficult period of change.

The greatest challenge to the ODPP in 2018/2019 has been the implementation of various changes to the structure and practices of the office necessary to meet the requirements of the *Criminal Procedure Act 1921*. Whilst this Act commenced in early 2018, the full effect of these reforms was not felt by the office until late 2018 and early 2019, with approximately 100 preliminary briefs per month being submitted by SAPOL for charge determination by the ODPP Brief Assessment Team. During this period, matters which had been commenced under the new system were, for the first time, the subject of committal proceedings in the Magistrates Court, followed by committals to the District and Supreme Courts for trial or sentence, as appropriate. As a result of the reforms, over the past twelve months an increasing amount of the work of the Solicitors' Section of the office has been devoted to the preparation of prosecution case statements pursuant to the obligations contained in s123 of the *Criminal Procedure Act 1921*. It is my understanding that the comprehensive legal work and effort which goes into these statements is well regarded by the superior courts. Trials under the new system have commenced, and it is in this setting that I am hopeful that the benefits of the Act continue to be realised with better prepared briefs and a decrease in the number of trials being vacated.

At the 12 month anniversary of the new *Criminal Procedure Act 1921* former Supreme Court Justice, the Honourable Brian Martin AO QC was appointed to undertake an independent review of the Major Indictable Reform initiative introduced by this Act. Since that time, members of the ODPP staff have met with and provided briefing papers to assist Mr Martin in undertaking an assessment of the effectiveness of the reform. I would particularly like to thank and acknowledge the work undertaken by Ms Carmen Matteo and Ms Robyn Richardson throughout this process.

In the context of a difficult twelve months with considerable change and with more to come in the following year, there have been some significant developments in relation to the wellbeing of the staff of the ODPP. There can be no doubt that regularly dealing with the tragedy often associated with criminal matters has the potential to negatively impact on the health and wellbeing of those in the office, and even more so in times

of significant organisational change. In June 2018, the ODPP Wellbeing Committee was established in response to the results of the ODPP Wellbeing Review conducted by Luke Brady in 2017. The committee is co-chaired by Emily Telfer SC and Dean Oliver and has good representation from all areas of the office. After months of work, considering recommendations and determining priorities, the committee settled on a number of wellbeing priorities to advance a wellbeing focus and culture in the ODPP. These include a formalised peer support program and staff wellbeing education sessions. Work is progressing on the various projects with results already being delivered in key areas. Staff now receive a monthly wellbeing e-news, the wellbeing information induction has been piloted and we are about to commence our first wellbeing information session.

A further positive development this year at the ODPP has been the establishment of a Canine Court Companion (CCC) Program. That program involves the use of a canine to make the interaction of vulnerable witnesses and victims with this office, and the criminal justice system generally, less traumatic. A well-trained Labrador, Zero, was sourced from Guide Dogs SA/NT who have partnered with the ODPP for the project. Zero arrived in the office on the 12th of April 2019 and participated in his first proofing on the 18th of April 2019. The first phase of the program involves using Zero to build rapport between vulnerable witnesses and legal staff while conducting in house meetings. It is believed that building a strong rapport at this early stage assists in making the entire prosecution process less intimidating and daunting. Zero has now attended in excess of 50 proofings and meetings and has received considerable positive feedback from those involved. There is also no doubt that the presence of Zero across the various floors upon which the ODPP is accommodated, has given a significant boost to staff morale. Put simply, you can't help but smile when you see Zero.

I mention one final positive aspect of the work undertaken by the ODPP in the last twelve months. Throughout 2018/19 the ODPP has continued to be involved in the Prosecutions in Remote Aboriginal Communities (PIRAC) project, seeking to improve both the engagement with, and outcomes of, Anangu victims and witnesses in the criminal justice system. As part of this project, the ODPP has collaborated closely with SAPOL, the AGD and other key stakeholders, particularly with respect to improving the prosecution of APY Lands matters with a particular focus on domestic violence. That has meant taking a very hands on approach to these prosecutions with prosecutors becoming involved very shortly after the offending has been committed, often travelling many hundreds of kilometres to meet with victims and their families. The office remains committed to collaborating with key agencies where possible in relation to this important work into the future.

The next challenge facing the ODPP is the move to the GPO Exchange. The ODPP has been at 45 Pirie Street for over 20 years. The logistics surrounding such a move are daunting to say the least. Considerable work has been undertaken by a number of the staff to prepare the office for the move to the new building. For many this will involve a considerable change in their approach to their work as we move to an open plan office design as opposed to the more traditional office spaces currently utilised at Pirie Street. I would like to particularly thank the ODPP GPO Exchange Project

Committee for their efforts in preparing the office for this move and for the positive manner in which they have undertaken this role. In addition I thank the AGD GPO Exchange Steering Committee for their leadership in this very large change project.

I conclude by making the observation that 2018/19 has been a difficult year for the ODPP. There have been significant legislative and systematic reforms all of which have impacted on the staff of the ODPP. Regardless of this, the work of the office has continued to be carried out in a professional manner by a committed group of people. I would like to give particular thanks for the support that the staff have provided me over the last six months in my role as Acting Director. In the near future, Martin Hinton QC will commence his appointment as the fourth Director of Public Prosecutions for the State of South Australia. That of itself will bring further change to which the office looks forward. I am confident that the office will continue to provide a high quality prosecutorial service to this State under his leadership moving into the future.



Sandra McDonald SC

Acting Director of Public Prosecutions

Office of the Director of Public Prosecutions

Attorney-General's Department

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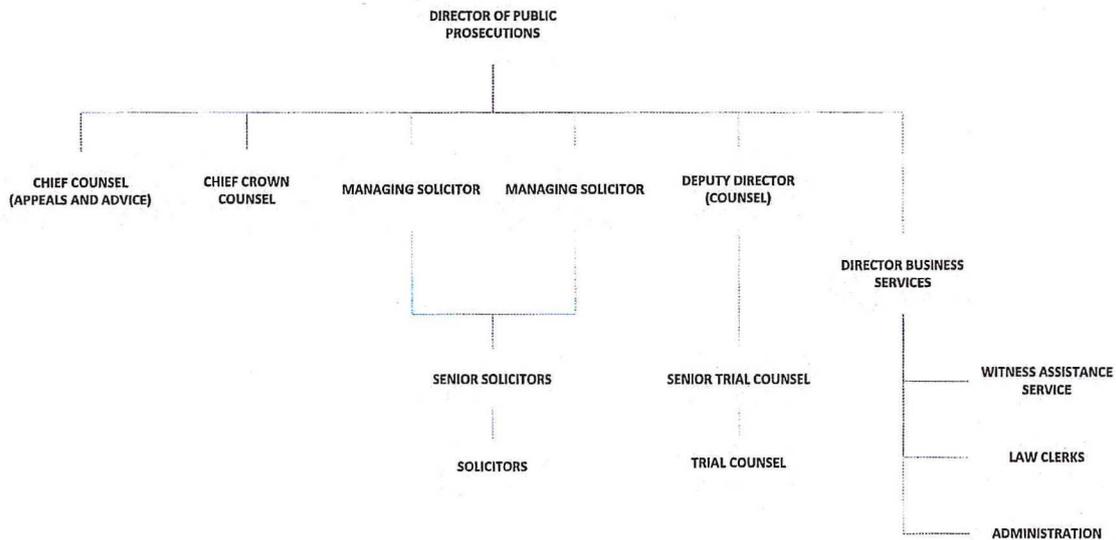
Overview: about the agency

Our strategic focus

<p>Our Purpose</p>	<p>The Director of Public Prosecutions is a statutory officer, independent of the Attorney-General's Department, who initiates and conducts criminal prosecutions in the Magistrates, District and Supreme courts of South Australia. The Director of Public Prosecutions also initiates and conducts appeals in the Full Court of South Australia and the High Court of South Australia.</p>
<p>Our functions, objectives and deliverables</p>	<p>The objective of the Office of the Director of Public Prosecutions is to provide the people of South Australia with an independent and effective criminal prosecution service that is timely, efficient and just. The office pursues this objective through the application of the Director of Public Prosecution's guidelines. The benefit to the South Australian community is the provision of an effective prosecution service which is essential to the rule of law.</p>

Our organisational structure

<https://www.dpp.sa.gov.au/about-us/our-organisation/>



Changes to the agency

During 2018-19 there no changes to the ODPP's structure and objectives as a result of internal reviews or machinery of government changes.

Our Minister



The Hon Vickie Chapman MP, Deputy Premier and Attorney-General 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



Sandi McDonald SC

Director of Public Prosecutions

Sandi McDonald SC was appointed as the Acting Director of Public Prosecutions on 26 April 2019. The Director is a statutory officer, independent of the Attorney-General's Department, who initiates and conducts criminal prosecutions in the Magistrates, District and Supreme Courts of South Australia. The Director also initiates and conducts appeals in the Full Court of South Australia and the High Court of South Australia. The Director also oversees the operations of ODPP comprising various teams including Trial Counsel, Solicitors (including Confiscations), and Business Services (including the Witness Assistance Service) to ensure the ODPP provides the people of South Australia with an independent and effective criminal prosecution service that is timely, efficient and just.

Deputy Director (Counsel)

Sandi McDonald is the Deputy Director (Counsel), responsible for the Trial Counsel Section. The Trial Counsel Section (including the Chief Crown Prosecutor) undertakes the prosecution of the most serious criminal pleas and trials within the District and Supreme Courts. In addition to the Director, two Managing Solicitors and Deputy Director (Counsel), senior members of the Trial Counsel Section may also undertake appeal work in the Court of Criminal Appeal and in the High Court of Australia.

Managing Solicitors

The Managing Solicitors are responsible for the Solicitors' Section. The Solicitors' Section is the largest section of the ODPP and comprises the Chief Counsel (Appeals and Advice), Brief Assessment Team, Vulnerable Witness Team, Circuit Team, four General Solicitor Teams, and the Confiscations Team. Solicitor work includes committals in the Magistrates Court, and conduct of major indictable matters in the superior courts including pre-trial hearings and preparation of files for trial. Prosecution files include fraud, Drug Court matters, mental health orders, ICAC prosecutions and circuit work in Mount Gambier and Port Augusta. Senior members of the Section also undertake appeal work in the Court of Criminal Appeal.

Director of Business Services

The Director of Business Services is responsible for the Business Services Section (BSS). The BSS comprises a number of administrative teams including the Witness Assistance Service (WAS), law clerks, secretaries and administrative staff. Overall, the BSS is responsible for human resource management, financial services, information management, work health and safety, administrative policy and procedures, procurement, records management, risk management, and a range of other specific legal support functions such as data entry, secretarial, reception and rounds delivery.

Legislation administered by the agency

Director of Public Prosecutions Act 1991

Criminal Assets Confiscations Act 2005

Other related agencies (within the Minister's area/s of responsibility)

Refer to the Attorney-General's Department 2018-19 Annual Report.

The agency's performance

Performance at a glance

Prosecution Briefs Received and Finalised	Briefs received	1122
	Briefs finalised ¹	1805
	Current briefs	1424

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-prosecution-briefs-received-and-finalised>

Prosecution Briefs Outcomes - Committal	Outcome	Number	%
	Committed for sentence	447	35.39
	Committed for trial	407	32.22
	Resolved in Magistrates Court by ODPP	154	12.19
	Returned to Police	46	3.64
	No Case to Answer	7	0.55
	Tender No Evidence	197	15.60
	Other	5	0.40
	Total	1263	100

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-prosecution-briefs-outcomes-committal>

	Outcome	Adelaide		Circuit	
		Number	%	Number	%
Prosecution Briefs Outcomes - District and Supreme Courts	Convicted	356	61.91	50	64.94
	Not Guilty	77	13.39	9	11.69
	Nolle Prosequi	105	18.26	13	16.88
	White Paper	35	6.09	5	6.49
	Other	2	0.35	0	0
	Total	575	100	77	100

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-prosecution-briefs-outcomes-district-and-supreme-court>

¹ The 'Briefs Finalised' do not correlate directly with the 'Briefs Received' due to the time lapse between the receipt of a prosecution brief and the finalisation of that brief in the District or Supreme Court as it can exceed 12 months. Therefore, a percentage of the 'Briefs Finalised' will have been received in a previous reporting period, and a percentage of the 'Briefs Received' will be finalised in a future reporting period.

	Outcome	Adelaide		Circuit	
		Number	%	Number	%
Outcomes of Trials Proceeded - District and Supreme Courts	Guilty	97	48.50	13	33.33
	Not Guilty	52	26.00	10	25.64
	Nolle Prosequi	17	8.50	7	17.95
	Not Guilty (Mental Incompetence)	4	2.00	0	0
	Guilty Plea At/During Trial	14	7.00	2	5.13
	Hung Jury	2	1.00	4	10.26
	Mistrial	13	6.50	2	5.13
	Other	1	0.50	1	2.56
	Total	200	100	39	100

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-trial-outcomes-district-and-supreme-court>

	Outcome	Adelaide		Circuit	
		Number	%	Number	%
Reasons for Vacated Trials - District and Supreme Courts	DPP Application	28	6.62	4	7.41
	Defence Application	57	13.48	6	11.11
	Joint Application	12	2.84	0	0
	No Court/Judge Available	27	6.38	15	27.78
	Bench Warrant (On Day/Prior)	6	1.42	2	3.70
	Negotiations Pending	0	0	0	0
	Nolle Prosequi (On Day/Prior)	82	19.39	5	9.26
	Late Guilty Plea	197	46.57	17	31.48
	Witness Unavailable	0	0	0	0
	Other	14	3.31	5	9.26
	Total	423	100	54	100

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-district-and-supreme-court-reasons-for-vacated-trials>

	Outcome	Against Sentence	Against Acquittal²	Other Grounds
Crown Appeals	Allowed	3	1	2
	Dismissed	4	0	1
	Other Outcome	0	0	1
	Withdrawn/Abandoned	2	0	0
	Total	9	1	4

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-appeals>

	Outcome	Against Sentence	Against Conviction	Other Grounds
Defence Appeals	Conviction Quashed	0	16	0
	Sentence Reduced	15	0	0
	Appeal Dismissed	20	28	2
	Other	8	3	0
	Total	43	47	2

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-appeals>

	Outcome	By ODPP Against Sentence	By Defence Against Sentence	By Defence Against Conviction
Leave to Appeal Applications	Withdrawn/Abandoned	0	2	10
	Dismissed	2	16	22
	To CCA	4	43	50
	Other	0	0	0
	Total	6	61	82

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-appeals>

² As at 2018/19 'Against Conviction' was amended to 'Against Acquittal'.

Adjudication Outcomes	Outcome	Number	%
	Charge Major Indictable	2093	74.30
	Charge Minor Indictable/Summary ³	595	21.12
	Do Not Lay Charges	60	2.13
	Other	69	2.45
	Total	2817	100

Data for previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-adjudication-outcomes>

Agency contribution to whole of Government objectives

Key objective	Agency's contribution
Better services	<ul style="list-style-type: none"> Ensuring that vulnerable victims and witnesses are supported throughout the criminal prosecution process. Contributing to a timely and accessible criminal justice system. Contributing to the delivery of Criminal Justice Sector reforms. Exploring technology to ensure criminal prosecution process are efficient and effective.

Agency specific objectives and performance

Agency objectives	Indicators	Performance
The Canine Court Companion (CCC) Project	Implementation of a pilot program for CCC, in partnership with Guide Dogs SA/NT, which aims to provide support to vulnerable victims and witnesses in major indictable matters	As at June 2019, a formal partnership between the ODPP and Guide Dogs SA/NT had been established, under which a fully trained assistance dog (Zero) was provided to the ODPP for an initial pilot of 9 months, commencing in May 2019. Already a number of vulnerable victims of crime have already been assisted by Zero who attends on

³ As of 2018-19 'Charge Minor Indictable' and 'Charge Summary' data has been combined into 'Charge Minor Indictable/Summary'.

		<p>ODPP premises at legal meetings/proofings. Many of these matters have involved child victims of sexual offences. The positive impact of Zero for vulnerable victims and witnesses is already encouraging. The ODPP will be collating feedback and statistics relating to the use of Zero in proofings throughout the project duration.</p>
<p>Ongoing Implementation of Major Indictable Reform</p>	<p>Major Indictable Reform (MIR), arising from the implementation of the <i>Criminal Procedure Act 1921</i>, commenced in March 2018 and introduced major legal and procedural changes in the criminal justice jurisdiction.</p>	<p>The ODPP continues to transition to full implementation of the MIR initiatives. This has included ongoing review of business processes, internal structures, changes to ICT systems and work practises and ongoing training of legal and support staff as required. The ODPP has continued to work closely with SAPOL, in particular their Major Indictable Brief Unit, as matters have progressed through the new reform processes.</p>
<p>Implementation of new legislation in relation to Prescribed Drug Offenders.</p>	<p>Significant amendments to the <i>Criminal Assets Confiscations Act 2005</i> commenced on 10 August 2018 in relation to Prescribed Drug Offenders ("PDO").</p>	<p>The amendments provide for the automatic forfeiture of all property (with some exceptions) of certain drug offenders, who committed their drug offence on or after 10 August 2018.</p> <p>The introduction of the PDO amendments to the CAC Act has resulted in significant changes to some of the technical work and processes undertaken by the ODPP Criminal Assets Confiscation team, including significant liaison with the Courts Administration Authority and SA Police.</p>

General Compliance

Reporting on the following aspects of the ODPP is contained within the Attorney-General's Department 2018-19 Annual Report:

- Corporate performance summary
- Employment opportunity programs
- Agency performance management and development systems
- Work health, safety and return to work programs
- Executive employment in the agency
- Financial performance of the agency
- Consultants
- Contractors
- Risk Management

Other financial information

In relation to Criminal Assets Confiscations, the following data is provided:

Criminal Assets Confiscations	2018-19
Briefs Received	176
Briefs Finalised	233
Deposited to Victims of Crime Fund	\$1,916,192.37

Data from previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-criminal-assets-confiscations>

In relation to briefing out of trials to the private bar by the ODPP, the following financial data is provided:

Briefing out of trials to private bar	2018-19
Number of Matters	92
Total Cost	\$901,223

Data from previous years is available at: <https://data.sa.gov.au/data/dataset/office-of-the-director-of-public-prosecutions-briefing-out>

Reporting required under any other act or regulation

Act or Regulation	Requirement
<p><i>Director of Public Prosecutions Act 1991</i></p>	<p><u>Section 9(2)</u> The Attorney-General may, after consultation with the Director, give directions and furnish guidelines to the Director in relation to the carrying out of his or her functions.</p> <p><u>Section 11(1)</u> The Director may give directions or furnish guidelines to the Commissioner of Police or other persons investigating, or prosecuting, offences on behalf of the Crown.</p> <p><u>Section 11(2)</u> Any such directions or guidelines must be published in the annual report.</p>

There were no directions or guidelines given by the Attorney-General to the Director of Public Prosecutions pursuant to section 9 of the *Director of Public Prosecutions Act 1991* during the 2018-19 financial year.

There were no directions issued to the Commissioner of Police by the Director of Public Prosecutions pursuant to section 11 of the *Director of Public Prosecutions Act 1991* during the 2018-19 financial year.

Act or Regulation	Requirement
<p><i>Criminal Assets Confiscations Act 2005</i></p>	<p><u>Section 229A(1)</u> The Attorney General has an obligation to report on the operation of the amendments enacted by the <i>Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Act 2016</i> during the financial year ending on the preceding 30 June.</p> <p><u>Section 229A(2)</u> A report under this section must include the following information for the financial year to which the report relates:</p> <p>(a) the number of persons who became prescribed drug offenders during that period;</p> <p>(b) the number of restraining orders made during that period in relation to persons who, if convicted of the serious offence to which the restraining order relates, will become prescribed drug offenders;</p>

Act or Regulation	Requirement
	(c) details of property forfeited under this Act during that period that was owned by or subject to the effective control of a prescribed drug offender on the conviction day for the conviction offence.

During the 2018-19 financial year, in relation to:

- section 229A(a), there were 7 persons who became prescribed drug offenders.
- section 229A(b), there were 20 restraining orders made in relation to persons who, if convicted of the serious offence to which the restraining order relates, will become prescribed drug offenders.
- section 229A(c), funds totalling \$17,899.06 were forfeited under the Act that were owned by or subject to the effective control of a prescribed drug offender on the conviction day for the conviction offence.

Reporting required under the *Carers' Recognition Act 2005*

Nil to report.

Public complaints

Number of public complaints reported (as required by the Ombudsman)

Complaint categories	Sub-categories	Example	Number of Complaints 2018-19
Professional behaviour	Staff attitude	Failure to demonstrate values such as empathy, respect, fairness, courtesy, extra mile; cultural competency	5
Professional behaviour	Staff competency	Failure to action service request; poorly informed decisions; incorrect or incomplete service provided	2
Professional behaviour	Staff knowledge	Lack of service specific knowledge; incomplete or out-of-date knowledge	0
Communication	Communication quality	Inadequate, delayed or absent communication with customer	0
Communication	Confidentiality	Customer's confidentiality or privacy not respected; information shared incorrectly	0
Service delivery	Systems/technology	System offline; inaccessible to customer; incorrect result/information provided; poor system design	0
Service delivery	Access to services	Service difficult to find; location poor; facilities/environment poor standard; not accessible to customers with disabilities	0
Service delivery	Process	Processing error; incorrect process used; delay in processing application; process not customer responsive	0
Policy	Policy application	Incorrect policy interpretation; incorrect policy applied; conflicting policy advice given	0
Policy	Policy content	Policy content difficult to understand; policy unreasonable or disadvantages customer	0

Complaint categories	Sub-categories	Example	Number of Complaints 2018-19
Service quality	Information	Incorrect, incomplete, out dated or inadequate information; not fit for purpose	0
Service quality	Access to information	Information difficult to understand, hard to find or difficult to use; not plain English	0
Service quality	Timeliness	Lack of staff punctuality; excessive waiting times (outside of service standard); timelines not met	0
Service quality	Safety	Maintenance; personal or family safety; duty of care not shown; poor security service/ premises; poor cleanliness	0
Service quality	Service responsiveness	Service design doesn't meet customer needs; poor service fit with customer expectations	0
No case to answer	No case to answer	Third party; customer misunderstanding; redirected to another agency; insufficient information to investigate	0
		Total	8

Data for previous years is available at: <https://data.sa.gov.au/data/organization/attorney-general-s-dept>