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**Government
of South Australia**

**OFFICE OF THE COMMISSIONER FOR
EQUAL OPPORTUNITY
2020-21 Annual Report**

OFFICE OF THE COMMISSIONER FOR EQUAL OPPORTUNITY

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To:

The Honourable Vickie Chapman
Deputy Premier
Attorney-General
Minister for Planning and Local Government

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

1 September 2021

From the Commissioner

My appointment, effective from 10 April this year, followed the completion of two important reviews undertaken in response to well-publicised incidents and concerns about sexual and other harassment and discrimination in the Parliamentary workplace and the legal profession.

As former Acting Commissioner Steph Halliday wrote in her report: “The fact that legal and political institutions are far from immune from unacceptable, unlawful behaviours is deeply disturbing”.

The reviews serve as sobering reminders that despite the existence of equal opportunity laws since 1984, and other reforms designed to make workplaces safer and fairer, many workplaces in our State are not free from sexual and other harassment, discrimination, and bullying.

Nevertheless, the legal profession’s response to the report has been focussed and impressive. Initiatives such as the Mandatory Continuing Professional Development webinar titled *Sexual harassment – changing workplace culture* conducted by the Law Society and the Legal Professional Conduct Commissioner, ongoing work by the Women Lawyers Association, the South Australian Bar Association, and its Women at the Bar sub-committee, the publication of various resources, (including by this office), outlining assistance and pathways for complainants, decisive action by the Judicial Conduct Commissioner, and the collaborative work undertaken by the Respectful Behaviours Working Group led by the Chief Justice, demonstrate a determination to ‘turn the ship around’.

Proposals by the Attorney-General to leverage the Government’s position as a frequent briefer of private legal practitioners to encourage members of the private profession to act on the recommendations are welcomed, as is making it a condition that externally engaged legal practitioners have complied with relevant recommendations.

A review in three years will assess whether the significant changes already made, as well as those in train, deliver safer, more respectful, and inclusive workplaces. Early signs are, however, encouraging.

Progress in respect of the Parliamentary review provides less cause for optimism. The review’s report was provided to the Presiding Officers of both Houses in February this year.

A Parliamentary Committee was established in mid-March to inquire into and report on recommendations, and to draft a code of conduct. Its first meeting occurred in June. I hope the committee will deliver a response with a plan of action before the end of the year. If it fails to do so, the motion passed by the current Parliament in respect of the review should be introduced when a new Parliament convenes next year.

While the two reviews continue to contribute to the work of this office, it is important to note that sexual and other harassment and discrimination are not the most common areas of complaints received. As has been the case for the last 12 years, in 2020-21 disability remains - by far - the single-most common ground for discrimination complaints, representing a quarter of all accepted complaints, predominately in the areas of provision of goods and services and employment.

Many people living with disability are discriminated against when going about their daily lives. The types of discrimination they face, and the frequency with which they encounter it is shameful. Changing attitudes and removing barriers must be a priority for governments now and in the future. It is a priority for me.

The Attorney-General's Department commenced work on the establishment of a specialist legal assistance unit to support South Australians living with disability which will operate in the Legal Services Commission. It will offer tailored legal advice, and give people with disability the confidence that free, accessible legal advice is at hand. This is an important initiative.

People living with disability are significantly underrepresented in the workplace, and employers should be encouraged to open their minds and their workplaces. In collaboration with JFA Purple Orange and Business SA, work commenced on the first Practice Guideline to be issued by this office. The guideline, produced for South Australian employers to encourage and assist them to employ people with disability, and to better understand anti-discrimination laws, was released in August.

Businesses that are inclusive and create equal opportunities for people with disability benefit in many ways, and diverse and inclusive workforces improve productivity and brand reputation.

Administratively, I have made various changes to the office since my appointment, primarily focussed on ensuring it operates within its budget, but also streamlining functions, improving data collection, and making efficiencies with respect to receipt of, and movement of complaints prior to conciliations. Updating and improving various office processes and practices remain administrative priorities.

Other changes have been made and are referred to throughout this report. Seasoned readers of annual reports from this office will notice some differences this year, including the adoption of the government reporting template. My office receives significant support from the Attorney-General's Department in areas such as finance, human resources, and corporate governance. Accordingly, and for the first time, annual data on those matters is not reproduced here, and can be found in the department's annual report.



JODEEN CARNEY
Commissioner

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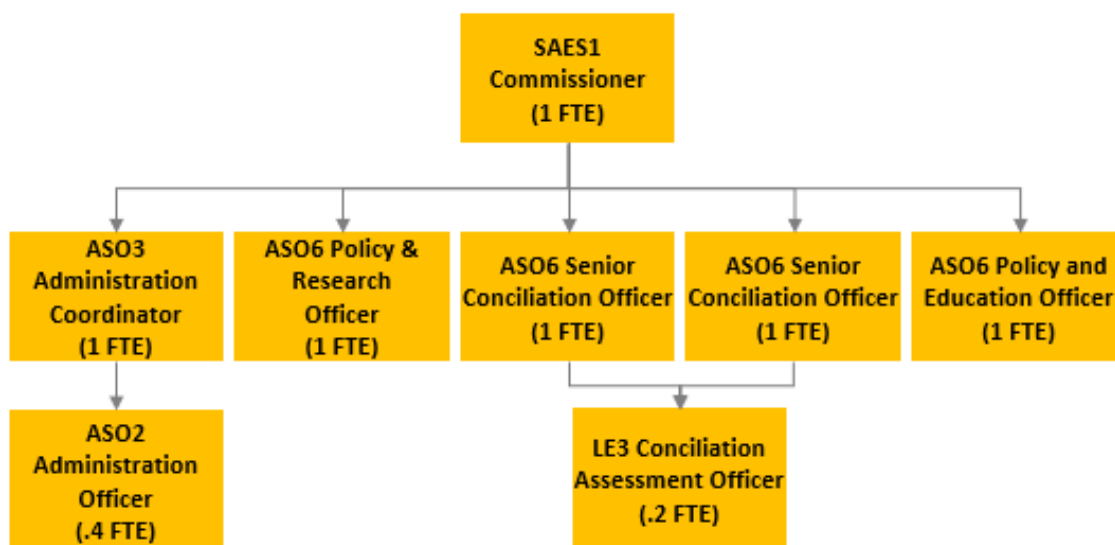
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Overview: about the office

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 2021)



Changes to the office

During 2020-21 the following changes were made to the office and some of its functions:

- The partnership with the University of Adelaide to supervise PhD students concluded
- Responsibility for the administration of the Chiefs for Gender Equity project was transferred to the Department for Human Services
- The Gender Equality and Respect (including White Ribbon Workplace reaccreditation) project concluded.

The 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.

On 29 July 2020, the Attorney-General also became responsible for the Planning and Local Government Ministerial Portfolio.

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

- Completed the Workplace Equality and Respect (WER) project including supporting White Ribbon reaccreditation across all 24 South Australian Government agencies.
- Undertook two significant reviews of harassment in South Australian workplaces - one in the Parliamentary workplace; the other in the legal profession.
- Continued to provide high quality and timely services through enquiry, complaint and conciliation work, education and community engagement.

Office response to COVID-19

The OCEO maintained its core service delivery to the community throughout the COVID-19 pandemic. It shifted to a remote working model and embraced technology to ensure its functions were delivered.

Office contribution to whole of Government objectives

Key objective	Office’s contribution
Lower costs	<ul style="list-style-type: none"> • Used resources efficiently and effectively. • Streamlined services.
Better services	<ul style="list-style-type: none"> • Undertook reviews of workplaces to raise awareness of harassment and discrimination and make recommendations to ensure safety and inclusion. • Provided timely information, advice and conciliation services to the community on equal opportunity matters. • Used partnerships to inform individuals and businesses about their legal obligations and rights.

Office specific objectives and performance

Office objectives	Indicators	Performance
Safe communities	Implementation of the Workplace Equality and Respect Program including supporting White Ribbon reaccreditation of agencies	<p>Government agencies contributed \$750,000 over three years to the Office of the Commissioner for Equal Opportunity (OCEO) to implement the Workplace Equality and Respect (WER) Project.</p> <p>Commencing in January 2018, the WER Project aimed to strengthen gender equality and promote safe and respectful workplace cultures across the SA public sector.</p> <p>Each of the 24 State Government agencies participating in the WER Project implemented an agency-specific Gender Equality and Respect Action Plan that aligned with best practice Workplace Equality and Respect Standards developed by Our Watch (national leader in the primary prevention of violence against women and children).</p> <p>All agencies participating in the WER Project sought reaccreditation as White Ribbon workplaces. Each was successfully reaccredited. The OCEO coordinated the whole-of-government process for the reaccreditation.</p>
	Completion of the Review of Harassment in the South Australian Parliament Workplace	<p>The Review of Harassment in the South Australian Parliament Workplace was established following a motion passed in both Houses of Parliament on 12 November 2020 and received partial funding from Parliament.</p> <p>The review report was provided to the Houses of Parliament on 26 February 2021 by Ms Emily Strickland, then-Acting Commissioner, and tabled on 2 March 2021.</p>

		<p>It made 16 recommendations aimed at supporting the development of a safe and inclusive workplace.</p> <p>The OCEO is providing advice and support to the parties responsible for the recommendations as required.</p>
	<p>Completion of the Review of Harassment in the South Australian Legal Profession</p>	<p>The Review of Harassment in the South Australian Legal Profession arose from a motion passed in the Legislative Council on 14 October 2020 calling for the Attorney-General, on behalf of the Parliament, to appoint the Commissioner for Equal Opportunity to conduct it.</p> <p>The review report was provided to the Attorney-General on 9 April 2021 by Ms Steph Halliday, then-Acting Commissioner, and tabled in Parliament on 20 April 2021.</p> <p>It made 16 recommendations aimed at supporting the development of safe and inclusive workplaces in the legal profession.</p> <p>The OCEO is providing advice and support to the parties responsible for the recommendations as required.</p>
	<p>Education on equal opportunity through partnership with industry</p>	<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. The OCEO undertook a small number of its own training sessions during the year.</p> <p>A total of 39 training and education sessions were delivered in the 2020-21 financial year, against a target of 60.</p>

<p>Fairly administered laws</p>	<p>Complaint assessment and conciliation</p>	<p>The OCEO received 230 complaints during the 2020-21 financial year, against a projection of 215.</p> <p>All complaints were assessed to determine what action can be taken by the OCEO. A part-time assessment officer commenced during the financial year to ensure a thorough assessment of complaints. 111 complaints were accepted, against a projection of 150.</p> <p>This new model reduced the number of complaints requiring work by conciliation officers, allowing for reductions in complaint handling time. On average, accepted complaints were completed within 2.4 months, ensuring a timely outcome for complainants and respondents.</p> <p>In addition, 67% of accepted complaints were successfully conciliated.</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 2020-21 financial year the OCEO continued its partnerships with the University of Adelaide.</p> <p>The Legal Advice Service provides legal advice and assistance on discrimination, harassment and victimisation, and support preparing for conciliation conferences and tribunal hearings. Final year law students provided advice, supervised by a legal practitioner. The service assisted 89 individuals.</p> <p>As part of the University of Adelaide’s Law and Justice Internship Program the Internship Program provided for an exceptional penultimate year law</p>

		<p>student to undertake research on a topic relating to the work of the OCEO during a 22-25-day internship. Three interns were hosted during the year, providing research on:</p> <ul style="list-style-type: none"> • the two reviews of harassment • reasonable adjustments for mental health disabilities • existing jurisprudence and best practice for the OCEO's conciliation and policy work. <p>The PhD Program placed PhD candidates at the OCEO for one day a week to undertake research into a key workplace and cultural equity issue affecting South Australians. During the year, two PhD students continued their research into:</p> <ul style="list-style-type: none"> • men's uptake of flexible working arrangements • best practice for resolving disability discrimination disputes in education where the student's behaviour is an issue. <p>The PhD program concluded at the end of 2020-21.</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. During the 2020-21 financial year, the OCEO received 659 enquiries to these services, against a projection of 600.</p>
<p>Supportive infrastructure</p>	<p>Business continuity during COVID-19 pandemic</p>	<p>In 2020-21 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 moved to a virtual environment,</p>

		ensuring minimal disruptions to dealing with and resolving complaints.
	Community engagement using the OCEO's website	The OCEO operates a website providing the public with information, resources and online forms for complaints and enquiries. It had 170 972 visitor sessions throughout the 2020-21 financial year, against a target of 150 000. * A new website (www.equalopportunity.sa.gov.au) was developed during the 2020-21 financial year with accessibility, mobile responsiveness and community engagement as a focus. It launched on 1 July 2021.

* System errors resulted in underreporting of daily visitor sessions between 29 September 2020 and 18 November 2020. The daily average was substituted for these dates.

Corporate performance summary

The OCEO is a business unit of AGD. Information on corporate performance appears in the 2020-21 Annual Report for the Attorney-General's Department.

Employment opportunity programs

Information on employment opportunity programs appears in the 2020-21 Annual Report for the Attorney-General's Department.

Office performance management and development systems

Information on performance management systems appears in the 2020-21 Annual Report for the Attorney-General's Department.

Work health, safety and return to work programs

Information on the work health, safety, and return to work programs appears in the 2020-21 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

The OCEO is a business unit of AGD. Information on financial performance appears in the 2020-21 Annual Report for the Attorney-General’s Department.

Consultants disclosure

Information on consultants appears in the 2020-21 Annual Report for the Attorney-General’s Department.

Contractors disclosure

Information on contractors appears in the 2020-21 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 in the grounds to which this Act applies*

Training and education

Table 1: Training delivered

	2016-17	2017-18	2018-19	2019-20	2020-21
Total – participants	1016	742	302	238	458
Total – sessions	36	44	31	20	39

Note: includes sessions delivered by OCEO staff and TRP providers.

Matters received

Table 2: Enquiries received

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	2016-17	2017-18	2018-19	2019-20	2020-21
No. of enquiries received	597	570	566	607	659
% difference from previous year	-33%	-5%	-1%	7%	9%

Table 3: How enquiries were received

	2016-17		2017-18		2018-19		2019-20		2020-21	
	No.	%	No.	%	No.	%	No.	%	No.	%
Telephone	455	74%	426	73%	401	71%	390	64%	427	65%
Email	109	18%	88	15%	85	15%	152	25%	220	33%
In person	15	2%	22	4%	18	3%	51	8%	4	1%
Letter	4	1%	4	1%	3	1%	3	0%	4	1%
Online form	25	4%	40	7%	59	10%	9	1%	2	0%
Hardcopy form	1	0%	0	0%	0	0%	0	0%	2	0%
Facebook	6	1%	0	0%	0	0%	2	0%	0	0%
Total	615	100%	580	100%	566	100%	607	100%	659	100%

Table 4: Grounds of enquiry (across all areas)

	2016-17		2017-18		2018-19		2019-20		2020-21	
Disability	168	25%	141	22%	163	27%	176	27%	154	21%
Race	68	10%	68	11%	54	9%	61	10%	74	10%
Age	36	5%	34	5%	38	6%	20	3%	43	6%
Sexual Harassment	32	5%	40	6%	35	6%	49	8%	41	6%
Sex	50	7%	50	8%	43	7%	31	5%	39	5%
Victimisation	21	3%	19	3%	14	2%	13	2%	21	3%
Sexual Orientation	3	0%	8	1%	6	1%	5	1%	16	2%
Pregnancy	13	2%	15	2%	15	2%	15	2%	15	2%
Caring Responsibilities	33	5%	19	3%	26	4%	16	2%	14	2%
Gender Identity	6	1%	7	1%	2	0%	2	0%	14	2%
Religious Dress	3	0%	7	1%	0	0%	9	1%	5	1%
Association with a Child	3	0%	1	0%	2	0%	2	0%	4	1%
Intersex Status	0	0%	0	0%	0	0%	3	0%	2	0%
Marital Status	3	0%	2	0%	4	1%	1	0%	2	0%
Identity of Spouse or Partner	4	1%	4	1%	1	0%	1	0%	0	0%
Enquiries with no grounds under <i>Equal Opportunity Act 1984</i>	145	21%	172	27%	180	29%	150	23%	189	26%
General OCEO enquiries	93	14%	45	7%	29	5%	87	14%	87	12%
Total	681	100%	632	100%	612	100%	641	100%	720	100%

Table 5: Areas of enquiry (across all grounds)

	2016-17		2017-18		2018-19		2019-20		2020-21	
	No.	%	No.	%	No.	%	No	%	No	%
Employment	290	58%	283	56%	278	53%	285	55%	249	47%
Goods and Services	108	21%	113	23%	136	26%	116	22%	134	25%
Education /Training	43	9%	45	9%	47	9%	53	10%	57	11%
Clubs and Associations	29	6%	31	6%	28	5%	30	6%	47	9%
Housing/Land/Accommodation	29	6%	25	5%	29	6%	38	7%	35	7%
Advertising	3	1%	3	1%	4	1%	0	0%	4	1%
Qualification	1	0%	0	0%	0	0%	0	0%	0	0%
Total	503	100%	501	100%	523	100%	522	100%	526	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

	2016-17	2017-18	2018-19	2019-20	2020-21
Complaints lodged in year	239	213	179	181	230
Complaints closed in year	176	340	195	160	258
% difference of lodged complaints from previous year	28%	-11%	-17%	1%	27%

Table 7: How complaints were received

	2016-17		2017-18		2018-19		2019-20		2020-21	
	No.	%	No.	%	No.	%	No.	%	No.	%
Online form	135	56%	123	55%	112	63%	141	78%	162	70%
Email	51	21%	45	20%	45	25%	27	15%	37	16%
Hardcopy form	33	14%	47	21%	17	9%	9	5%	22	10%
Letter	19	8%	6	3%	3	2%	4	2%	6	3%
Telephone	0	0%	1	0%	1	1%	0	0%	3	1%
In Person	1	0%	2	1%	0	0%	0	0%	0	0%
Fax	0	0%	1	0%	1	1%	0	0%	0	0%
Facebook	0	0%	0	0%	0	0%	0	0%	0	0%
Total	239	100%	225	100%	179	100%	181	100%	230	100%

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

	2016-17		2017-18		2018-19		2019-20		2020-21	
	No.	%	No.	%	No.	%	No.	%	No.	%
Disability	80	36%	52	33%	31	28%	50	21%	46	25%
Sexual Harassment	30	14%	28	18%	16	14%	46	20%	22	12%
Victimisation	29	13%	12	8%	12	11%	33	14%	22	12%
Sex	18	8%	6	4%	14	13%	26	11%	20	11%
Race	35	16%	10	6%	7	6%	24	10%	17	9%
Age	8	4%	13	8%	4	4%	16	7%	13	7%
Caring Responsibilities	5	2%	8	5%	7	6%	3	1%	7	4%
Pregnancy	2	1%	9	6%	5	5%	3	1%	4	2%
Association with a Child	0	0%	3	2%	1	1%	1	0%	3	2%
Sexual Orientation	2	1%	4	3%	0	0%	6	3%	3	2%
Identity of Spouse	1	0%	3	2%	2	2%	8	3%	2	1%
Gender Identity	1	0%	3	2%	1	1%	11	5%	1	1%
Marital Status	1	0%	0	0%	2	2%	1	0%	0	0%
Whistleblower*	9	4%	8	5%	9	8%	5	2%	0	0%
Religious Appearance or Dress	0	0%	0	0%	0	0%	0	0%	0	0%
Aiding Unlawful Act	0	0%	0	0%	0	0%	0	0%	0	0%
Other	0	0%	0	0%	0	0%	0	0%	27	14%
Total Grounds	221	100%	159	100%	111	100%	233	100%	187	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)

	2016-17		2017-18		2018-19		2019-20		2020-21	
	No.	%	No.	%	No.	%	No.	%	No.	%
Employment	80	43%	110	77%	79	71%	163	70%	66	58%
Goods and Services	59	32%	14	10%	11	10%	29	12%	27	24%
Education/Training	14	8%	7	5%	15	13%	36	15%	10	9%
Clubs and Associations	19	10%	4	3%	3	3%	3	1%	4	4%
Advertising	1	1%	0	0%	0	0%	0	0%	3	3%
Housing/Land/Accommodation	10	5%	8	6%	4	4%	2	1%	2	2%
Qualification	0	0%	0	0%	0	0%	0	0%	1	1%
Total Areas	184	100%	143	100%	112	100%	233	100%	113	100%

Table 10: 2020-21 complaint grounds by area

Ground	Area						Total
	Advertising	Clubs and Associations	Education and training	Employment	Goods and services	Housing, land and accommodation	
Disability	0	2	6	21	16	1	46
Sexual Harassment	0	0	2	20	0	0	22
Victimisation	0	2	3	14	3	0	22
Sex	0	0	1	15	3	1	20
Race	3	1	1	9	4	0	18
Age	0	0	0	10	3	0	13
Caring Responsibilities	0	0	2	4	1	0	7
Pregnancy	0	0	0	4	0	0	4
Association with a Child	0	0	0	0	2	1	3
Sexual Orientation	0	0	0	1	2	0	3
Intersex Status	0	0	0	0	2	0	2
Gender Identity	0	0	0	0	1	0	1
Aiding Unlawful Act	0	0	0	0	0	0	0
Identity of Spouse or Partner	0	0	0	0	0	0	0
Marital Status	0	0	0	0	0	0	0
Whistleblower *	0	0	0	0	0	0	0
Other	0	1	5	13	8	0	27
Totals of Areas	3	6	20	111	45	3	188

* 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).

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Table 11: Accepted complaints by area - Employment

	Employment				
	2016-17	2017-18	2018-19	2019-20	2020-21
Disability	26	29	16	26	21
Sexual Harassment	26	29	14	41	20
Sex	7	4	11	18	15
Victimisation	24	9	9	26	14
Age	5	11	3	12	10
Race	13	6	3	14	9
Caring Responsibilities	4	5	5	2	4
Pregnancy	2	5	5	3	4
Sexual Orientation	2	4	0	5	1
Aiding Unlawful Act	0	0	0	0	0
Association with a Child	0	0	1	1	0
Gender Identity	0	0	1	4	0
Identity of Spouse or Partner	1	3	1	5	0
Marital Status	1	0	2	1	0
Whistleblower *	5	5	8	5	0
Religious appearance or dress	0	0	0	0	0
Intersex Status	0	0	0	0	0
Other	0	0	0	0	13
Total	116	110	79	163	111

** 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).*

Table 12: Accepted complaints by area – Goods and services

	Goods and services				
	2016-17	2017-18	2018-19	2019-20	2020-21
Disability	37	7	2	9	16
Race	17	2	3	6	4
Sex	7	2	2	7	3
Age	3	1	0	1	3
Victimisation	3	0	1	0	3
Sexual Orientation	0	0	0	1	2
Association with a Child	0	1	0	0	2
Intersex Status	0	0	0	0	2
Gender Identity	1	1	1	2	1
Caring Responsibilities	1	0	1	0	1
Sexual Harassment	7	0	0	2	0
Identity of Spouse or Partner	0	0	0	1	0
Whistleblower *	1	0	1	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	0	8
Total	77	14	11	29	45

** 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).*

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

	Education, training and qualifications				
	2016-17	2017-18	2018-19	2019-20	2020-21
Disability	13	5	9	11	6
Victimisation	2	0	2	6	3
Sexual Harassment	1	0	0	3	2
Caring Responsibilities	0	0	1	1	2
Race	1	2	1	4	1
Sex	0	0	1	1	1
Gender Identity	0	0	0	5	0
Age	0	0	0	3	0
Identity of Spouse or Partner	0	0	1	2	0
Whistleblower *	1	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	0	5
Total	18	7	15	36	20

** 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).*

Table 14: Accepted complaints by area - Clubs and associations

	Clubs and associations				
	2016-17	2017-18	2018-19	2019-20	2020-21
Disability	4	1	2	2	2
Victimisation	6	0	0	1	2
Race	1	0	0	0	1
Sexual Harassment	2	0	1	0	0
Age	2	1	0	0	0
Caring Responsibilities	0	1	0	0	0
Gender Identity	0	1	0	0	0
Sex	5	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	0	1
Total	20	4	3	3	6

** 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).*

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

	Housing/Land/Accommodation				
	2016-17	2017-18	2018-19	2019-20	2020-21
Disability	3	4	2	2	1
Association with a Child	0	0	0	0	1
Sex	0	0	0	0	1
Age	0	0	1	0	0
Sexual Harassment	0	0	1	0	0
Victimisation	1	1	0	0	0
Caring Responsibilities	0	1	0	0	0
Gender Identity	0	1	0	0	0
Pregnancy	0	1	0	0	0
Race	7	0	0	0	0
Whistleblower *	2	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	13	8	4	2	3

** 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 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	2016-17		2017-18		2018-19		2019-20		2020-21	
	No.	%	No.	%	No.	%	No.	%	No.	%
General information provided	260	45%	233	41%	195	35%	165	27%	347	47%
Referred to EOC Website	49	8%	43	8%	40	7%	226	37%	120	16%
Referred elsewhere (out of EOC jurisdiction)	75	13%	101	18%	164	29%	98	16%	96	13%
No action required	31	5%	32	6%	16	3%	49	8%	84	11%
Complaint form and information package sent	38	7%	25	4%	16	3%	14	2%	53	7%
Referred to EOC electronic complaint form	62	11%	82	15%	97	17%	39	6%	25	3%
Referred to advocate (to assist with EO/other Issue)	48	8%	34	6%	21	4%	6	1%	3	0%
Appointment made for interview with EOC enquiry officer	1	0%	0	0%	0	0%	0	0%	2	0%
Referred to Australian Human Rights Commission	14	2%	13	2%	13	2%	6	1%	1	0%
Media response provided/Presentation requested/Other	5	1%	0	0%	0	0%	0	0%	0	0%
Total	583	100%	563	100%	562	100%	603	100%	731	100%

Note: As of 2019-20, Report/Publications/Media response provided/Presentation requested/Other reported together.

Table 17: Complaint finalisation

	2016-17	2017-18	2018-19	2019-20	2020-21
Finalised complaints	171	327	206	176	235
Average no. weeks to finalise all complaints	26.4	33.3	19.6	11	10.5
Median no. weeks to finalise all complaints	21.7	23.9	11	9.7	8.6

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

	2016-17	2017-18	2018-19	2019-20	2020-21
Complaints resolved by conciliation	71	66	54	57	48
Declined by the Commissioner following further investigation or withdrawn by complainant	15	30	26	31	47
Referred to tribunal	13	66	20	26	31
Total accepted complaints finalised in the year	99	162	100	114	126

Notes: During 2020-21 there were 69 conciliations attempted; 46 (or 67%) were successful. 18 matters were referred to a tribunal after attempting conciliation. 4 matters were declined after attempting conciliation. 3 matters were withdrawn following conciliation.

Table 19: Outcomes from conciliations

	2016-17	2017-18	2018-19	2019-20	2020-21
Apology	31	20	22	31	21
Financial compensation	36	29	17	25	20
Policy change/change in practice	9	7	6	14	11
Staff training/development program	9	14	4	18	7
Private agreement	2	8	16	13	7
Reasonable adjustment	2	2	4	5	5
Reference provided	3	2	5	2	5
Employment options improved (e.g. job offer)	1	7	5	4	4
Provision of goods/services/facilities	3	4	1	2	1
Other access achieved (e.g. mobility)	3	2	5	6	0
Undertaking to cease an action	3	3	1	3	0
Access to education/training	3	1	6	2	0
Access to/provision of accommodation	1	1	1	2	0
Access to club membership/benefits	4	1	0	0	0
Other	20	10	5	11	13

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

Table 20: Financial compensation agreements from conciliations

	2016-17	2017-18	2018-19	2019-20	2020-21
Total financial compensation payments	\$217,643	\$139,317	\$122,726	\$173,114	\$150,842
Average financial compensation payments	\$10,364	\$5,805	\$7,219	\$6,925	\$9,428

Note: Individual agreements for financial compensation ranged from \$48 to \$40,000 in 2020-21.

Table 21: Post-conciliation survey feedback

Question	'Agree' or 'Strongly agree'
The complaint process was well explained to me.	86%
I was kept well informed by Commission staff throughout the complaint process.	90%
I understood the information provided by Commission staff.	86%
The forms, brochures and documents provided were easy to understand and use.	83%
Staff were professional, helpful and courteous in their manner.	90%
I was treated fairly and impartially.	83%
The other party was treated fairly and impartially.	90%
I am satisfied with the time it took to finalise the complaint.	62%
I am satisfied with the complaint outcome reached.	66%
I am satisfied with the complaint handling process overall.	79%

Demographic data

Table 22: Gender identity of enquirers and complainants

	2020-21	
	Enquiries	Complaints
Undisclosed	349	14
Female	167	104
Male	143	112
Transgender	0	0
Intersex	0	0
Total	659	230

Table 23: Age distribution of complainants (accepted complaints)

	2016-17	2017-18	2018-19	2019-20	2020-21
0 - 9 years	0%	2%	2%	2%	3%
10 - 19 years	5%	7%	7%	6%	6%
20 - 29 years	12%	15%	6%	24%	16%
30 - 39 years	19%	9%	25%	27%	21%
40 - 49 years	15%	23%	13%	13%	15%
50 - 59 years	11%	13%	14%	13%	14%
60 - 69 years	14%	9%	5%	6%	9%
70 - 79 years	2%	3%	1%	2%	1%
80 + years	1%	0%	0%	0%	2%
Unknown age	20%	20%	23%	7%	14%
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 2020-21 the OCEO received seven exemption applications.

Table 24: Summary of exemption applications received by the Commissioner in 2020-21.

Applicant	Summary	Order
BAE Systems Australia Limited	Application for exemption allowing the applicant to fulfil commercial contracts in the defence industry in South Australia	Exemption order granted
BAE Systems Australia Defence Pty Ltd	Application for exemption allowing the applicant to fulfil commercial contracts in the defence industry in South Australia	Exemption order granted
ASC Shipbuilding Pty Ltd Limited	Application for exemption allowing the applicant to fulfil commercial contracts in the defence industry in South Australia	Exemption order granted
Raytheon Australia Pty Ltd	Application for exemption allowing the applicant to fulfil commercial contracts in the defence industry in South Australia	Exemption order granted
Leidos Australia Pty Ltd	Application for exemption allowing the applicant to fulfil commercial contracts in the defence industry in South Australia	Exemption order granted
Naval Group Australia Pty Ltd	Application for exemption allowing the applicant to fulfil commercial contracts in the defence industry in South Australia	Exemption order granted
Fernwood Women's Health Clubs (Australia) Pty Ltd	Application for exemption allowing the applicant to exclusively employ and offer goods and services to women.	Order not yet made

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.

Extensive research and data collection was undertaken in the reviews into harassment in the Parliamentary workplace and the legal profession, and throughout the WER project which was finalised in June 2021.

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.

In recent years, the office has operated a PhD program that has required staff and the Commissioner to supervise students. This is unsustainable and will not be continued.

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 2020-21 the Commissioner (including Acting Commissioners) made recommendations in the reviews undertaken by Acting Commissioners into harassment in the Parliament workforce, and the legal profession.

Table 24: Recommendations made to the Attorney-General in the report of the Review of Harassment in the South Australian Parliament (February 2021)

<i>Rec. 11</i>	<p>That the Attorney-General consider amendments to the <i>Equal Opportunity Act 1984</i> to:</p> <p>(a) provide that a complaint alleging sexual harassment by a Member of Parliament is only referred to the Presiding Officer where the Member of Parliament claims parliamentary privilege and the complainant consents to the referral at that point</p> <p>(b) remove provisions allowing the Presiding Officer to investigate and deal with complaints against Members of Parliament where the Presiding Officer is of the opinion that dealing with the complaint could impinge on parliamentary privilege.</p>
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<p>Rec. 15</p>	<p>That the Attorney-General consider a referral to the South Australian Law Reform Institute to review the benefits of amending the <i>Equal Opportunity Act 1984</i> to provide that employers have a positive obligation to prevent workplace sexual harassment and unlawful harassment and that the Equal Opportunity Commissioner is provided with powers to enforce that obligation and investigate systemic unlawful discrimination, including systemic sexual harassment.</p>
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Table 25: Recommendations made to the Attorney-General in the report of the Review of Harassment in the South Australian Legal Profession (April 2021)

<p>Rec. 3</p>	<p>That, consistent with Recommendation 15 of the Parliamentary Review, the Attorney-General consider amending <i>the Equal Opportunity Act 1984 (SA)</i> to impose a positive duty upon employers to eliminate discrimination, sexual harassment and victimisation.</p>
<p>Rec. 7</p>	<p>That the Attorney-General amend the <i>Legal Practitioners Act 1981 (SA)</i> to:</p> <ul style="list-style-type: none"> - amend section 5 to include the South Australian Bar Association Barristers' Conduct Rules under the definition of 'legal profession rules'. - grant the Legal Profession Conduct Commissioner and the Legal Practitioners Disciplinary Tribunal the power to make an order that a respondent practitioner do, or refrain from doing, a specified or unlawful act.
<p>Rec. 8</p>	<p>That the Legal Profession Conduct Commissioner be adequately funded to:</p> <ul style="list-style-type: none"> - increase the informal reporting initiative to two investigative solicitors, and that those officers be provided with adequate training to provide trauma informed management of complaints of harassment - establish an online portal for receiving and managing informal reports and formal complaints. <p>That the Attorney-General consult with the Legal Profession Conduct Commissioner regarding amendments to the <i>Legal Practitioners Act 1981 (SA)</i> to empower the Commissioner to conduct compliance audits and issue management system directions, as available to regulators under the <i>Uniform Law Application Act 2014 (Vic)</i>, and that the Legal Profession Conduct Commissioner receive adequate funding to allow the proper exercise of those functions.</p>

<i>Rec. 10</i>	That the Attorney-General amend section 13 of the <i>Evidence Act 1929</i> (SA) to ensure that it applies to witnesses appearing in an inquiry before the Legal Practitioners Disciplinary Tribunal.
<i>Rec. 12</i>	That the Attorney-General amend section 93(2) of the <i>Equal Opportunity Act 1984</i> (SA) be amended to increase the time limits in which a complaint may be made to three years, or such longer period as the Commissioner may allow, having regard to the nature of the failure to make a complaint within the timeframe and the public interest in receiving and progressing the complaint.
<i>Rec. 13</i>	That the Attorney-General facilitate the creation of an instrument pursuant to which Safe Work SA, the Legal Profession Conduct Commissioner and the Commissioner for Equal Opportunity can share information relating to reports, complaints or other information about harassment by a member of the legal profession.

During 2020-21 the Commissioner (including Acting Commissioners) provided feedback to the Attorney-General on proposed legislative amendments.

Table 26: Responses to requests from the Attorney-General on proposed amendments to the Equal Opportunity Act 1984

<i>Draft Equal Opportunity (Religious Bodies) Amendment Bill 2020</i>	Draft Bill supported; suggestion provided to amend the Bill to delete intersex status from section 34(3) of the <i>Equal Opportunity Act 1984</i> .
<i>Draft Equal Opportunity (Aboriginal Ancestral Resting Places) Amendment Bill 2020</i>	Draft Bill supported.

Risk management

Risk and audit at a glance

The OCEO is a business unit of AGD. Information on risk and audit appears in the 2020-21 Annual Report for the Attorney-General's Department.

Fraud detected in the office

Information on fraud detection appears in the 2020-21 Annual Report for the Attorney-General's Department.

Strategies implemented to control and prevent fraud

Information on strategies to control and prevent fraud appears in the 2020-21 Annual Report for the Attorney-General's Department.

Public interest disclosure

Information on public interest disclosure appears in the 2020-21 Annual Report for the Attorney-General's Department.

Reporting required under the *Carers' Recognition Act 2005*

Nil

Public complaints

Number of public complaints reported

The OCEO is a business unit of AGD. Information on public complaints appears in the 2020-21 Annual Report for the Attorney-General's Department.

Service Improvements

Information on service improvements resulting from public complaints appears in the 2020-21 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 2020-21

Please refer to the 2020-21 Annual Report for the Attorney-General's Department for Audited financial statements.