

This guide is intended to assist Foster and Kinship carers (Carers) understand the function of the South Australian Ombudsman and identify how Carers use this service.

Ombudsman SA (The Ombudsman) investigates complaints and audits South Australian government authorities and local government agencies. This includes decisions made by the Department for Child Protection (DCP).

The Ombudsman is located at Level 5, Westpac House, 91 King William St Adelaide SA 5000, and can be contacted at:

Website: www.ombudsman.sa.gov.au

Phone: (08) 8226 8699

Powers of the Ombudsman

Investigation

The Ombudsman has broad powers to investigate the *administrative acts* of government departments (section 13 *Ombudsman Act*). An administrative act is any decision, proposal, recommendation or omission executed by an agency or any act undertaken in the functions of the agency (section 3 *Ombudsman Act*).

Conclusion of Investigation and Reporting

After an Ombudsman investigation is complete, the Ombudsman can form the opinion (pursuant to s25 of the *Ombudsman Act*) that the decision:

- appears to have been made contrary to law; or
- was unreasonable, unjust, oppressive or improperly discriminatory; or
- was executed in the exercise of a power of discretion, with an improper purpose or on irrelevant grounds or taking into account irrelevant considerations; or
- was done in the exercise of a power or discretion and the reasons for the act were not, but should have been, given; or
- was based wholly or in part on a mistake of law or fact; or
- was wrong.

The Ombudsman then makes a report and recommendations to the principal officer of the agency about whether:

- the subject matter of the investigation should be referred back to the appropriate agency for further consideration; or
- an action can be, and should be, taken to rectify, or mitigate or alter the effects of, the administrative act to which the investigation related; or
- the practice (in accordance with which the administrative act was executed) should be varied; or
- any relevant law to the situation should be amended or repealed; or
- the reason for any administrative act should be given; or
- any other steps should be taken.

If the matter is serious enough, the Ombudsman can direct the government agency to not perform the act for a period of time.

Further Steps

After the recommendation is confirmed, the principal officer then must report back to the Ombudsman on what steps they have taken to give effect to the recommendation. If no such steps have been taken, the principal officer must state the reason(s) why.

If no appropriate steps have been taken, the Ombudsman may make a report on the matter to the Premier. When such a report is made, copies of the report are forwarded to the South Australian Parliament to be read before Parliament.

Can I make a complaint to the Ombudsman?

You can make a complaint to the Ombudsman if DCP have made an administrative act that directly affects or affected you (*s 15 Ombudsman Act*).

PLEASE NOTE:

Carers have 12 months from becoming first aware of the matter to contact the Ombudsman about the issue (*s 16(1) Ombudsman Act*).

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 Advocate team can assist regarding how and what to communicate to the Ombudsman.

When can I approach the Ombudsman?

The Ombudsman can investigate 'prescribed child protection complaints' for most actions taken by DCP. They can investigate complaints:

- surrounding children or young people who might be or have been at risk;
- surrounding mandatory notifications of suspicions of children who might be at risk;
- surrounding a DCP investigation of a child who may be at risk; or
- complaints for the benefit of children or young people in care.

PLEASE NOTE:

The Ombudsman cannot investigate decisions that are reviewable under the *Children and Young People (Safety) Act* (CYP SA). Please consult the CF&KC-SA Reviewable Decisions Carer Guide for more information, available on the CF&KC-SA website.

What types of issues might I contact the Ombudsman with?

Carers can raise specific issues with the Ombudsman, including:

- actions of DCP in relation to notifications of abuse/neglect/care concerns;
- investigations or assessments undertaken by DCP in response to the child/Carer;
- administrative processes of DCP (e.g. to account for delays or lapses in communication);
- complaints relating to DCP;
- case management complaints; and
- accessibility of support for Carers.

Carers are specifically excluded from making complaints relating to:

- issues relating to the approval of Carers;
- issues relating to the temporary placements of children and young people;
- reviews relating to long-term guardianship; or
- voluntary custody agreements.

PLEASE NOTE:

The Ombudsman cannot help with arrangements relating to the Contact Arrangement Review Panel. Please consult the CF&KC-SA Contact Arrangement Review Panel Carer Guide for more information, available on the CF&KC-SA website.

How do I make a complaint to the Ombudsman?

You can lodge a complaint using the online form available at:

<https://www.ombudsman.sa.gov.au/complaints/lodge-a-complaint/>

The Ombudsman is open to hearing from Carers. If the Ombudsman finds they do not have the power to investigate, they will assist in determining the right course of action.

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

Email: support@cfc-sa.org.au

Freecall: 1800 732 272