



## **Small Business – Government Agency Dispute Resolution: A Case Study of the South Australian Office of the Small Business Advocate**

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### **Abstract**

While small business are able to resolve many of the conflicts that may arise with State government departments and agencies through direct negotiation, it is believed that the involvement of a ‘partner’ who understands the needs of small business and the government process may be an advantage, or even a necessity, in some cases. In recognition of this, the South Australian government established the Office of the Small Business Advocate (OSBA) in June 1997 as an independent unit within the Office of Economic development that reports directly to the Minister.

The Small Business Charter of the OSBA is to:

- Investigate complaints made by small business against State Government departments and agencies;
- Endeavor to reduce the number of complaints from small business by advising government departments and agencies on more ‘business friendly’ approaches to small business policies, practices and procedures; and
- Monitor relevant government policies and legislation, offering advice on changes based on feedback from small business (OSBA, 2000).

OSBA is the first, and until the recent creation of the Small Business Commissioner in Victoria, the only such body established in Australia providing unique services to individual small businesses. Although similar, its role differs from that of the State Ombudsman in that it is dedicated to the resolution of small business complaints. A study tour to the UK, Ireland, Canada and the US in 2001 found no other organisation with a similar role to that of OSBA. However, some of the services were found to be provided by different agencies.

The majority of complaints investigated by OSBA are either legislative based, or interpretational. The former may, for example, involve changes in relevant legislation that has been inadequately explained to the complainant small business. In the latter case, a departmental interpretation/rule which may have evolved over time may be found to be without basis or even inconsistent with the legislation. OSBA primarily resolves issues with the relevant agency through conciliation and cooperation. Where necessary, OSBA will provide a small business with the skills and knowledge necessary in order to maintain an ongoing relationship with a particular agency.



Other categories of issues investigated include fees, levies, licensing, permits, unfair competition with government business units, delays in getting information provision, concerns relating to customer service, the payment of accounts, government tendering, registration of business names, compliance with health or other business regulations, competition with government agencies, access to property, government policy. The service is free of charge and is available to small business with less than 100 employees, resulting in some 73,000 South Australian small businesses being eligible for assistance.

Between July 1997 and June 2002 approximately 550 small businesses have been assisted by OSBA. Over 60% of the complaints were lodged by micro businesses with fewer than 5 employees. Between 40 and 50% of investigations related to complaints against individual government agencies on legislative issues, government policy and agency procedures. OSBA reports “many small business owners were not fully aware of their legal obligations regarding government legislation although it is equally true that some complainants to OSBA were businesses genuinely affected by legislative change, or isolated from the intent of the legislation or regulations.”

With regard to investigation outcomes, approximately 20% of investigations have been successful (i.e. where all aspects of the complaint are resolved to the satisfaction of the complainant). A similar proportion of investigations are resolved through the provision of clarifying information. In approximately 18% of investigations no change (with an explanation given) is achieved, and approximately 14% have been partially successful.