



AGED CARE COMMISSIONER

ANNUAL REPORT
1 JULY 2010 – 30 JUNE 2011



Australian Government

Office of the Aged Care Commissioner
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The Hon Mark Butler MP
Minister for Mental Health and Ageing
Parliament House
CANBERRA ACT 2600

Dear Minister

I hereby submit my Annual Report pursuant to my obligations under section 95A-12 of the Aged Care Act 1997. The report includes information related to the functions of the Aged Care Commissioner during the period 1 July 2010 to 30 June 2011.

Yours sincerely

A handwritten signature in black ink, appearing to read 'RAE LAMB'.

RAE LAMB
Aged Care Commissioner

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CHAPTER 1. FOREWORD

1.1 Commissioner's Foreword

The importance of older people not just to their families and the community, but also to future generations, is vividly captured in the cover photograph on this annual report. The interaction between the child and her great grandmother speaks volumes about the value of nurturing and sustaining relationships between younger and older citizens. It also illustrates the respect and care owed to those who become too frail to care for themselves in their later years, or who need some support to do so.

Families' desire to ensure the best possible care for their elders is a theme that runs through many complaints about aged care, as well as subsequent complaints to this Office. It is common for complaints to be about aspects of care that have fallen short of expectations.

It is not easy to make a complaint, particularly when there is an ongoing care relationship. Care recipients and their families may feel vulnerable. There is good evidence in the health arena that few people, who have cause to complain following an adverse event, actually do so. Aged care is unlikely to be different. When you consider the vast amount of aged care being provided to so many people every day, the number of complaints is small.

Nonetheless, complaints can expose risks to resident and client health and safety. More commonly they offer a window on opportunities to improve the quality of care.

For all of these reasons, they should be valued.

In any complaints work there must be three key objectives - resolution, protection and learning. Resolution is about appropriately addressing the concerns of the individuals involved in the complaint. Protection means quickly identifying and appropriately addressing any safety risks to the care recipient or others. Learning from complaints involves finding and acting on opportunities to improve services. These objectives are in line with what the evidence, and commonsense, tell us most people want from complaints: a prompt and open response including information and a genuine apology where appropriate; plus steps taken to ensure the same thing does not happen to someone else. Experience also tells us that the earlier and more directly a complaint is addressed, the better the chance of successful resolution.

All three objectives are compelling and important. A complaints system must be seen to make a difference. Not just to individuals but to the quality of care. This engenders confidence that making a complaint, and dealing with it, is worthwhile.

Highlights

Change has once again been a feature in aged care this year, although the focus is primarily on the agenda for the future.

For the sector, much attention has been on the changes recommended in the Productivity Commission's draft report 'Caring for Older Australians', released in January. As well as foreshadowing wide ranging recommendations for changes to the way in which aged care is delivered, funded and regulated, it also proposed taking the complaints scheme out of the Department of Health and Ageing. The final report went to the Government in late June.

Decisions are yet to be made regarding the Commission's recommendations. In the meantime, reforms underway at the Aged Care Complaints Investigation Scheme provide an important platform, no matter what is decided about the final structure of the aged care complaints service.

The decision to remove the word "Investigation" from the Scheme's title signifies a fresh focus in handling complaints in future. New options for complaint resolution are to be added to the toolkit, providing greater opportunity for earlier, more direct resolution where appropriate. While investigations remain important, greater use of tools for direct resolution such as conciliation and supported resolution provides greater opportunity for both aged care service providers and complainants to be actively involved in resolving concerns and to influence the outcome.

As Commissioner, I see it as part of my role to do what I can to ensure Australia has the best possible aged care complaints scheme. While we are essentially an independent office of review, our wider objective is to ensure that complaints make a positive difference to the quality of aged care in Australia. As I write this, the final shape of the new 'Complaints Scheme' is still being determined. However providing comment, raising questions and making submissions on the changes at the Scheme, has been a priority this past year. The consultative approach taken by the staff from the Department of Health and Ageing and the Scheme has been greatly appreciated.

Change has also been a feature for this Office, with my appointment as Commissioner coming half way through the year. On 5 January 2011 I took over from Adjunct Professor John Kelly. Thanks and much credit for the year's work must go to Professor Kelly, the Acting Commissioner from 1 May 2010.

Thanks are also due to the Director and staff of this office. They have continued to provide a consistently high level of service; actively supporting Professor Kelly and then me, in taking on the new role. The reputation of this Office, and the ability of the Commissioner to make a difference, depends on that continuing professionalism, dedication and competence by the staff in their work.

I am grateful too for the high quality advice and professional support provided by the out-posted staff from the Australian Government Solicitor. The inaugural Aged Care Commissioner, Rhonda Parker, must also be acknowledged as I have inherited many of the good systems and processes she established.

There has been change too in the types of matters we are seeing. As noted later in this report, the number of appeals against decisions made by Secretary in relation to complaints investigations has dropped this year but there have been an ongoing, comparatively high number of complaints about the Secretary's processes for handling complaints and investigations. We started the year with a backlog of "held over" complaints and the drop in appeals has assisted us to complete significantly more 'process' complaints than ever before. However, reducing the time it takes us to finalise complaints remains a top priority.

For the first time, there have been no complaints in relation to the accreditation body or its staff.

Other notable features of this year have been:

- An office wide review of the way in which we handle complaints about the Secretary's processes, and subsequent changes to improve our timeliness.
- The introduction of the 'nothing about me, without me' principle, which means when we receive complaints, we start from the principle that care recipients (or their legal representatives if they are not cognitively competent) have the right to know about complaints regarding their care and to be involved in the complaint process with this Office, unless there is good reason for this not to be so. Complainants are asked about this at the outset.
- The temporary part-time placement of a 'trainee' geriatrician from February to June 2011, which provided access to invaluable clinical perspectives and training sessions for staff.
- Attending and speaking at numerous meetings and conferences. These opportunities to engage with consumers, advocates, carers, approved providers and others in the aged care arena are much appreciated and very important, particularly for a new Commissioner.
- The cooperative and constructive relationships this Office has with the Department of Health and Ageing, the Aged Care Standards and Accreditation Agency Ltd and the office of the Commonwealth Ombudsman. These relationships assist all of us to fulfil our separate, and very different, roles.

The year has not been without its challenges, and some of these will undoubtedly continue. One priority in the coming year will be to continue to review and improve our internal processes. The reforms to the complaints scheme will also bring fresh challenges. We will have to adapt to the new environment, train staff and update our own policies, procedures and written and online information to reflect the changes.

There are exciting times ahead.

RAE LAMB
Aged Care Commissioner

CHAPTER 2. ABOUT THE OFFICE

2.1 Overview

The Office of the Aged Care Commissioner is part of a wider network for managing complaints and quality of care issues in Commonwealth funded aged care services. To understand the role of the Commissioner, it is useful to know more about this network.

Aged care services are required to have an internal system for dealing with comments or complaints from residents and/or their families and friends. This is part of the accreditation requirements they must satisfy in order to receive Government funding. The right to complain about any aspect of care or services is also prescribed within the *Charter of residents' rights and responsibilities*.

Anyone experiencing difficulties with aged care and accommodation issues is encouraged to approach the service provider in the first instance. This applies whether it is community or residential care being provided. Many complaints are resolved directly with service providers, sometimes with the assistance of an aged care advocate. However, for a variety of reasons, some people need to access an external complaints system.

Aged Care Complaints Investigation Scheme

The Aged Care Complaints Investigation Scheme (the Scheme) is a national scheme, based in the Department of Health and Ageing (the Department).

The governing legislation allows a person to give information to the Scheme by way of complaint or otherwise, about any matter involving an approved provider's responsibilities under the *Aged Care Act 1997* (the Act) and *Aged Care Principles 1997* (the Principles). Information may be given orally or in writing and can be dealt with openly or on a confidential or anonymous basis.

The Scheme is required to determine whether the relevant approved provider has breached its responsibilities under the Act or Principles and can decide to issue a Notice of Required Action (NRA). The NRA outlines the steps an approved provider must take to conform to the legislation and the timeframe necessary for the remedial steps to be taken to address any identified deficiencies in meeting its responsibilities.

Aged Care Standards and Accreditation Agency Ltd

The responsibility for assessing aged care services against the Accreditation Standards (the Standards) lies with the Aged Care Standards and Accreditation Agency Ltd (the Agency).

2.2 Aged Care Commissioner's Role and Functions

In 2007 the Australian Government introduced legislation to establish the statutory role and functions of the Aged Care Commissioner. The Aged Care Act 1997 was amended and is the primary law under which the Commissioner exists and operates. The Aged Care Principles further outline the Commissioner's role and functions.

The Commissioner is appointed by, and is responsible to, the Minister for Health and Ageing. Adjunct Professor John Kelly AM was appointed acting Aged Care Commissioner between 1 May 2010 and 4 January 2011. The current Commissioner is Ms Rae Lamb. Her term of appointment is 5 January 2011 to 4 January 2014.

The Commissioner's functions are set out in Part 6 of the Act, section 95A (2) as follows:

- (a) *to examine decisions that are made by the Secretary under the Investigation Principles and are identified by those Principles as being examinable by the Aged Care Commissioner, and make recommendations to the Secretary arising from the examination;*
- (b) *to examine complaints made to the Aged Care Commissioner about the Secretary's processes for handling matters under the Investigation Principles, and make recommendations to the Secretary arising from the examination;*
- (c) *to examine on the Commissioner's own initiative, the Secretary's processes for handling matters under the Investigation Principles and make recommendations to the Secretary arising from the examination;*
- (d) *to examine complaints made to the Aged Care Commissioner about:*
 - (i) *the conduct of an accreditation body relating to its responsibilities under the Accreditation Grant Principles¹; or*
 - (ii) *the conduct of a person carrying out an audit, or making a support contact², under those Principles;**(but not a complaint about the merits of a decision under those Principles) and make recommendations to the accreditation body concerned arising from the examination.*
- (e) *to examine, on the Aged Care Commissioner's own initiative:*
 - (i) *the conduct of an accreditation body relating to its responsibilities under the Accreditation Grant Principles; and*
 - (ii) *the conduct of persons carrying out audits, or making support contacts, under those Principles;**and make recommendations to the accreditation body concerned arising from the examination.*
- (f) *to advise the Minister, at the Minister's request, about matters relating to any of paragraphs (a),(b),(c), (d) and (e);*
- (g) *the functions (if any) specified in the Investigation Principles.*

Scheme officers, as delegates of the Secretary, make decisions under the Investigation Principles 2007 (Cth) (the Investigation Principles).

An aggrieved person or relevant approved provider who is dissatisfied about a 'relevant decision' may, within 14 days after being told by the Secretary about the decision, lodge an appeal with the Commissioner for examination of the decision. The Commissioner does not have discretion to extend this timeframe.

¹ The Accreditation Grant Principles were amended in May 2011.

² The May 2011 amendment changed this to "assessment" contact(s).

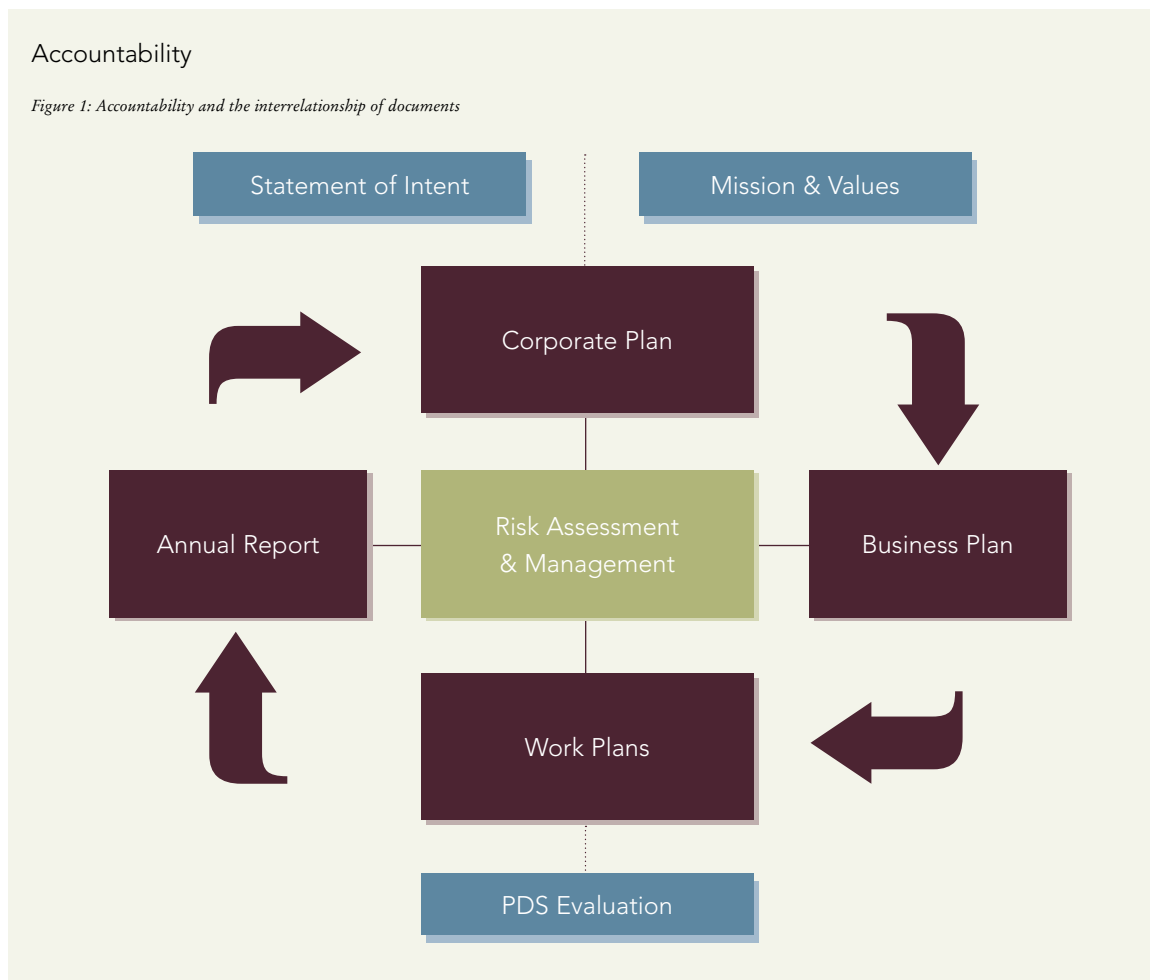
An aggrieved person means a care recipient of the relevant approved provider, or his or her representative, to whom a matter under investigation relates (Type A informant). For the investigation process the relevant provider means the approved provider to which the investigation relates. (For further information see section 4.2 page 15.)

2.3 Guiding Principles of the Office

The business processes and practices of the Office are guided by international complaints handling standards and are directed by best practice processes outlined by the Commonwealth and other Ombudsmen and Health Service Complaints Commissioners. The primary goal is to examine appeals and complaints in a thorough, objective, unbiased, transparent and timely manner and to support all recommendations and/or decisions with an explanation and sound reasons. Another priority is to continue to contribute to improving the quality of administrative practice and decision making. It is hoped that in doing these things the Office will continue to have a positive influence on the delivery of quality aged care services across Australia.

The work of the Office and its goals is supported by a number of key policies and documents.

As the following figure shows, these are interrelated.



The vision for the Office is:

To be recognised as a leader in complaints management and in fostering excellence in public administration.

The mission statement is:

In collaboration with others, promote continuous improvement in the quality of aged care services for older Australians through leadership in complaint handling, by fostering excellence in public administration and delivering a service that is characterised by fairness, impartiality and balance.

The Mission and Values and the Statement of Intent, demonstrate the Office's commitment to achieve best practice in aged care complaints management and decision making. The Statement of Intent also outlines the action that will be taken by this Office to meet the expectations of the Government as outlined in the Letter of Expectations from the Minister of Health and Ageing.

The Corporate Plan provides broad strategic direction for our work and is supported by additional policies and plans. The business plan outlines the detailed strategies and activities to support the corporate plan. Performance indicators form part of a broader quality improvement strategy and track performance on two levels; individual files and systems, and policies and structures. The Office also has a general work plan which provides a further basis for the performance development arrangements for individual staff.

The Service Charter also guides service delivery. It includes key information about the approach of the Office and provides a clear statement about the standard of service the community can expect.

The charter is a 'living document' that is reviewed annually. While some individual commitments in the charter have legislative links, the document is not intended to present legally enforceable rights or responsibilities.

2.4 Budget

The Office is dependent on the Ageing and Aged Care Division of the Department for funding. A budget of \$1.5M was allocated for the 2010-2011 financial year to support the operation of the Office. The salary for the Commissioner is set by the Remuneration Tribunal and is included in the allocation to meet salaries and on-costs.

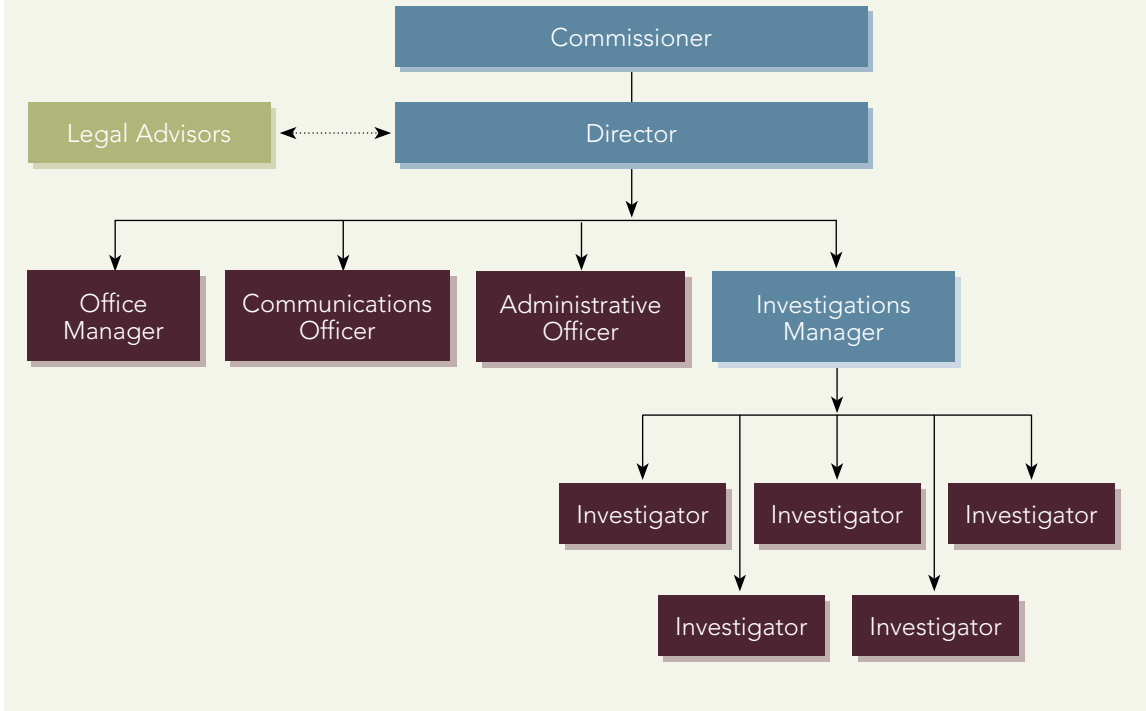
2.5 Staffing

The Office comprises a committed team of eleven people (including the Commissioner) from a range of backgrounds with a diverse mix of skills and experience. Their collective experience provides the capacity to examine matters with the necessary investigative, administrative, legal and clinical considerations and supports the Office in its role as an independent office of review.

The Commissioner and staff are supported by legal advisors from the Australian Government Solicitor (AGS) who attend the Office two days a week to provide independent legal counsel.

Structure

Figure 2. Staffing Structure



2.6 Access

Information about the Office can be found on its website: www.agedcarecommissioner.net.au

As far as possible, the website adopts the World Wide Web consortium's standards, including following the WCAG 2.0 web accessibility guidelines. The website also aims to meet the Australian Government's Information Management Office's guidelines with documents available in HTML, RTF and PDF formats or at least two of those forms.

The web site includes the Information Publication Plan for the Office. In meeting the IPS requirements the objectives are to:

- identify and publish all information required to be published (s 8(2))
- identify and publish any optional information to be published (s 8(4))
- regularly review the information published under the IPS to ensure it is accurate, up to date and complete (s 8B)

- ensure that information published is easily found, understandable, machine-readable, as well as able to be transformed and reused
- ensure satisfactory conformance with the Web Content Accessibility Guidelines (Version 2) (WCAG 2.0).

Visitors to the website can also make an online complaint about the processes used by the Scheme when handling matters under the *Investigation Principles 2007 (Cth)*, (Investigation Principles); or the conduct of the Agency, or the conduct of persons carrying out audits or making a support contact under the *Accreditation Grant Principles 1999 (Cth)* or assessment contacts under the *Accreditation Grant Principles 2011 (Cth)*.

To ensure maximum accessibility, the Office maintains a free-call telephone number 1800 500 294. The Office is located at Level 4, 12-20 Flinders Lane Melbourne and is open between 9am – 5pm each weekday, except public holidays. The postal address is Locked Bag 3, Collins Street East, Vic 8003.

2.7 Activities and Achievements

Accountability to the Parliament and the wider public is not one dimensional and the Office operates a comprehensive quality assurance system as part of its ongoing improvement and accountability processes. The system includes: financial management processes, data analysis and reporting, post case conferencing, key performance indicators and satisfaction surveys; as detailed later in this report.

In addition to a comprehensive orientation program, the Office has a staff development and training program which covers a range of relevant topics at least once a month. Staff also have access to an array of educational and industry journals and the informative series produced by the Aged Care Channel. In addition to a comprehensive guide for users of the Case Management System (CMS), a range of fact sheets and procedures manuals are also available for use of both administrative and investigative staff.

In addition to the regular training sessions, all staff participated in a planning day in March 2011. This focused on setting shared priorities for the calendar year ahead, teamwork and reviewing complaint handling processes. Three working groups were established to review and report back on the existing process, the structure of the Commissioner's report and managing the backlog of complaints. A number of recommendations were subsequently made and the work on implementing these is ongoing. This is a shared priority and it involves all staff.

During the year, the Office also decided that care recipients (or their legal representative) would be advised when the Commissioner received an appeal about a decision that involved their care or accommodation. When appropriate, correspondence is now sent to care recipients inviting their participation in the appeal process if they wish to be involved.

In addition to managing the Commissioner's statutory functions, the Office receives a significant number of contacts from people requiring advice or assistance to manage lifestyle and other issues. In many cases the Office does not have any formal powers to consider the concerns raised by these callers as they fall outside the Commissioner's jurisdiction. Nonetheless, where possible, staff redirect callers to the appropriate service or give them information that may enable them to find a solution themselves.

During the reporting period both Commissioners attended regular meetings with the Minister and the Department and also met with a range of individuals and industry groups including:

- Ageing Consultative Committee
- Portfolio Executive Officers
- DoHA offices in Victoria, New South Wales
- Health Service Complaints Commissioners
- Commonwealth Ombudsman
- Productivity Commission
- Aged and Community Services Australia (ACSA)
- Aged Care Association Australia (ACAA)
- National Aged Care Alliance (NACA)
- Council on the Ageing (COTA)
- Australian Health Practitioner Regulation Agency (AHPRA).

The new Commissioner was an invited guest speaker at meetings and conferences arranged by NACA, ACSA, ACAA, Elder Rights Advocacy (ERA) and the Health Consumers Alliance of South Australia. The Commissioner also conducted a two day workshop for the Health and Community Services Complaints Commissioner, South Australia and her staff.

CHAPTER 3. RELATIONSHIPS

3.1 Protocols

As a statutory office holder, the Commissioner is independent of the Department and the Agency and must maintain sound working relationships with these and other stakeholders.

To support this, the Office has formal protocols with the:

- Commonwealth Ombudsman
- Aged Care Standards and Accreditation Agency Ltd
- Department of Health and Ageing.

These guide the day-to-day interaction between the agencies and are updated as necessary to reflect legislative amendments and changes in practice.

The success of these inter-agency protocols largely depends on sound relationships across organisational boundaries, open and honest communication and a healthy climate of commitment and cooperation between the participating organisations.

There are many challenges in establishing inter-agency relationships as each organisation has developed their own culture, service orientation and policy and program approaches. However, it is important for the organisations to have open lines of communication and to discuss issues of mutual interest and concern. In that respect, this Office has found that regular contact at senior level is mutually beneficial.

3.2 Office of Aged Care Quality and Compliance

The Office of Aged Care Quality and Compliance (OACQC) in Canberra is responsible for the overall management of the Scheme. Until recently, Scheme staff were located within each state/territory office and were responsible to state/territory managers on a day-to-day basis. In May 2011 the Australian Capital Territory office was closed and Scheme staff located in New South Wales also became responsible for managing complaints originating in the Territory.

Quarterly statistics are exchanged during the financial year as per established protocols. Based on the number of in scope cases, the Commissioner received applications to examine 1.3 per cent of all in scope cases finalised and received complaints about the Scheme's processes in relation to 0.30 per cent of complaints finalised nationally. However, the majority of appeals and complaints relate to cases finalised after investigation. Based on the data the Commissioner received an application to examine a decision in relation to 2.33 per cent of cases finalised post intake and received a complaint in 0.59 per cent of cases finalised post intake.

Liaison with the Department is through OACQC, in particular the Director and staff of the Scheme's Complaints Review Section. The constructive working relationship that exists between these staff assists the Office in dealing with matters in a timely and responsive manner.

The Commissioner and the Director of the Office meet with OACQC senior staff on a regular basis. These meetings present an opportunity for discussion in relation to changing contexts and requirements as well as the resolution of any potential problems. These meetings have ensured a shared understanding of the various roles and responsibilities and a co-operative and professional working relationship.

In 2009, the then Minister for Ageing requested an independent review be conducted to identify areas of improvement to ensure the Scheme achieve best practice aged care complaints management arrangements. The review, conducted by Professor Merrilyn Walton, considered nine terms of reference and made a number of recommendations in the report released in October 2009.

The Government provided additional resources to reduce case loads, to improve the timeliness and thoroughness of investigations and to provide access to mediation and conciliation services. The Department, through OACQC, is currently in the process of amending the Scheme's practices in line with Professor Walton's recommendations.

3.2.1 The Complaints Investigation Scheme

The Scheme is a free service that accepts oral and written information and complaints regarding Commonwealth-subsidised aged care services. The Scheme is available to anyone who wishes to provide information (by way of a complaint or otherwise) in relation to a matter involving an approved provider's responsibilities under the Act or the Principles.

The Scheme has the power to investigate concerns raised. The investigation process has a number of steps or decision points; however, in practice many of the steps may be undertaken concurrently or in very quick succession.

Information may be provided to the Scheme confidentially or anonymously if required, although this may limit the investigation process and capacity. Information provided to the Scheme often involves more than one issue. The Scheme is able to refer issues if it is decided that the matter could be more appropriately managed by another statutory body such as police, medical and nursing registration boards, and Health Services Complaints Commissioners.

The Scheme is able to take action if an investigation determines that the approved provider has not met its responsibilities under the Act and Principles. In the event that a breach is identified, the Scheme may decide to issue an NRA or it may determine that the breach has been remedied.

The legislation permits the Commissioner to examine certain decisions made by the Secretary's delegate. In reviewing decisions, the evidence and all reasonable inferences deducible from them are considered in the light of the Scheme's findings and the appropriate legislation. The Commissioner will recommend the original decision be confirmed if that decision is supported by substantial evidence, that is, evidence that a reasonable person might accept as adequate to support the conclusion, given the legislation. The Commissioner will recommend the original decision be varied where some aspect of the decision cannot be supported or where additional breaches are found. A recommendation to set aside a decision is made where the Commissioner is satisfied that the decision is not the correct and preferable decision.

Following receipt of the Commissioner's recommendation, the Department has 21 days to reconsider a decision that has been appealed to the Commissioner. The legislation requires the Scheme to advise the parties of the Scheme's decision on reconsideration at the end of this timeframe. The legislation also requires the Secretary to advise the Commissioner of the final decision made on reconsideration; however, no timeframe is stipulated in the legislation.

There are occasions when issues related to the matter under review arise which should be brought to the attention of the Scheme and warrant a best practice comment. These issues generally relate to administrative procedures or the conduct of the investigation itself.

These matters are included in the final report to the Department under a section titled 'Related Issues'. The recommendations made in the related matters report are intended to inform management, improve processes and assist learning. A formal follow-up procedure is in place in order to assess effectiveness of these best practice comments (see section 4, page 14).

The legislation also permits the Commissioner to examine the process the Scheme used in handling complaints and investigations. This can follow a complaint or be as a result of the Commissioner's own initiative. Where the Commissioner considers due process has not been followed or identifies potential improvements, recommendations are made to the Secretary.

3.3 The Aged Care Standards and Accreditation Agency

The Agency is an independent company limited by guarantee and established under the *Corporations Act 2001 (Cth)* and the *Commonwealth Authorities and Companies Act 1997 (Cth)*. The Agency has been appointed by the Department as the accreditation body under the Act.

The core functions of the Agency are to:

- manage the residential aged care accreditation process using the Standards
- promote high quality care and assist industry to improve service quality by identifying best practice, and providing information, education and training
- assess and strategically manage services working towards accreditation
- liaise with the Department about services that do not comply with the relevant Standards.

Approved providers wishing to appeal accreditation decisions made by the Agency must apply to the Administrative Appeals Tribunal. However, the Commissioner is authorised to examine a complaint about the conduct of the Agency and/or the conduct of a person carrying out an audit or making a support/assessment contact. At the conclusion of an examination the Commissioner provides a report, including recommendations, to the Chief Executive Officer.

3.4 The Commonwealth Ombudsman

The Commonwealth Ombudsman has wide reaching and significant powers and functions which are set out in the *Ombudsman Act 1976 (Cth)* (the Ombudsman Act). Section 4(2) and section 5 of that Act refer to the investigation, following a complaint or on the Ombudsman's own motion, of actions taken by Commonwealth agencies that relate to a matter of administration, including actions taken by persons classed as Commonwealth approved providers. The Ombudsman also has functions related to the Ombudsman's other capacities and under other legislation.

Complaints about the Commissioner's processes are included within the jurisdiction of the Commonwealth Ombudsman.

During the financial year the Ombudsman closed eight cases received from people who had dealt with this Office. In one matter the Ombudsman asked the Commissioner to re-examine the status of an appellant. On review, the Commissioner determined that the appellant was acting as an advocate for the care recipient and subsequently examined the appeal. After investigation the Ombudsman issued Section 12 Notices in the remaining matters, closing all cases with no adverse findings against this Office.

CHAPTER 4. PERFORMANCE AND STATISTICS

4.1 Annual report

Section 95A-12 of the *Aged Care Act 1997 (Cth)* states

- (1) *The Aged Care Commissioner must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament a report on the Aged Care Commissioner's operations during that year.*
- (2) *The Aged Care Commissioner must include in the report:*
 - (a) *the number of decisions made by the Secretary under the Investigation Principles that the Aged Care Commissioner examined during the financial year; and*
 - (b) *the number of complaints about the following matters (examinable complaints) that were made to the Aged Care Commissioner during the financial year:*
 - (i) *the Secretary's processes for handling matters under the Investigation Principles;*
 - (ii) *the conduct of an *accreditation body relating to its responsibilities under the Accreditation grant Principles;*
 - (iii) *the conduct of a person carrying out an audit, or making a support contact, under those Principles; and*
 - (c) *the number of examinable complaints that the Aged Care Commissioner started to examine during the financial year; and*
 - (d) *the number of examinable complaints that the Aged Care Commissioner finished examining during the financial year; and*
 - (e) *a summary of the nature of the examinations made by the Aged Care Commissioner during the financial year of examinable complaints; and*
 - (f) *the number of examinations made by the Aged Care Commissioner on his or her own initiative during the financial year; and*
 - (g) *a summary of the nature of examinations made by the Aged Care Commissioner on his or her own initiative during the financial year; and*
 - (h) *the number of requests for advice the Minister made to the Aged Care Commissioner during the financial year; and*
 - (i) *a summary of the nature of those requests; and*
 - (j) *a summary of the nature of advice given by the Aged Care Commissioner to the Minister during the financial year in response to requests by the Minister; and*
 - (k) *any other information required by the Investigation Principles to be included in the report.*

The Commissioner is restricted to examining matters that occurred on or after 1 May 2007. The statistics reported here are for the period 1 July 2010-30 June 2011.

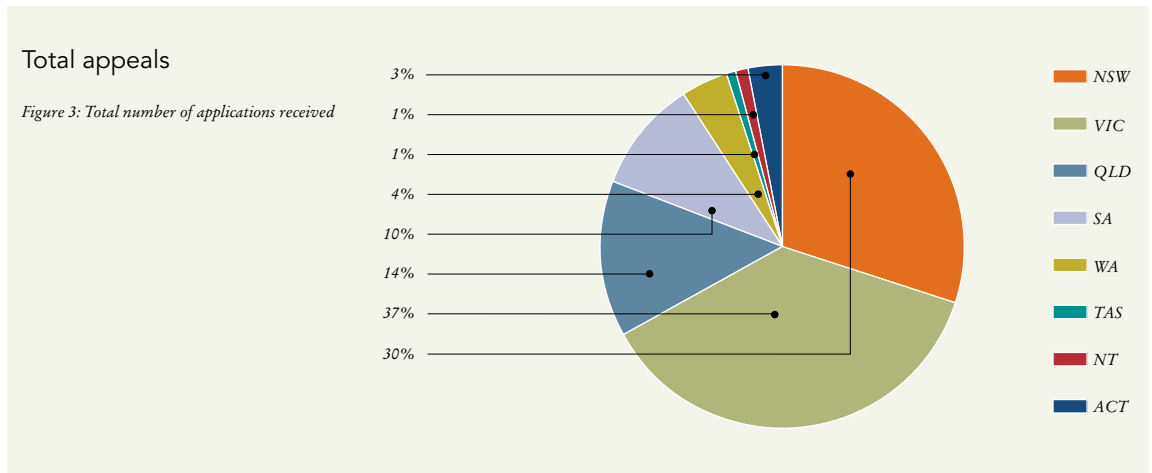
4.2 Examinable Decisions

Applications asking the Commissioner to examine a relevant decision necessarily apply to decisions made by the Scheme under the Investigation Principles. The legislation is prescriptive in relation to the 14 day appeal timeframe. The Commissioner does not have discretion to waive this requirement and therefore is unable to lawfully accept applications that fall outside this period.

The examination of 13 appeals lodged during the previous financial year continued into this reporting period. During 2010-2011 the Commissioner received a total of 118 applications to examine a decision made by the Scheme (appeals). Of these, 81 per cent were lodged by care recipients or their representatives (informants) and 19 per cent by approved providers. Appellants are able to lodge their application verbally or in writing. Of the total appeals received, 38 per cent (45) were lodged orally and 62 per cent (73) were written.

Ninety per cent of applications were accepted. Three cases were conciliated and six cases were withdrawn. The Commissioner was unable to accept 12 appeals. Of these, one matter which was lodged by a Type B informant³, and 11 cases (nine per cent) were received outside the 14 day legislative timeframe. Two of the appeals received outside the 14 day timeframe were lodged as verbal appeals.

Figure 3 shows that 37 per cent of all the appeals originated in Victoria, 30 per cent from New South Wales, 14 per cent from Queensland and 10 per cent from South Australia. Four per cent of appeals originated from complaints lodged in Western Australia, three per cent in the Australian Capital Territory, one per cent of appeals were lodged about decisions made in Tasmania and the Northern Territory, respectively.



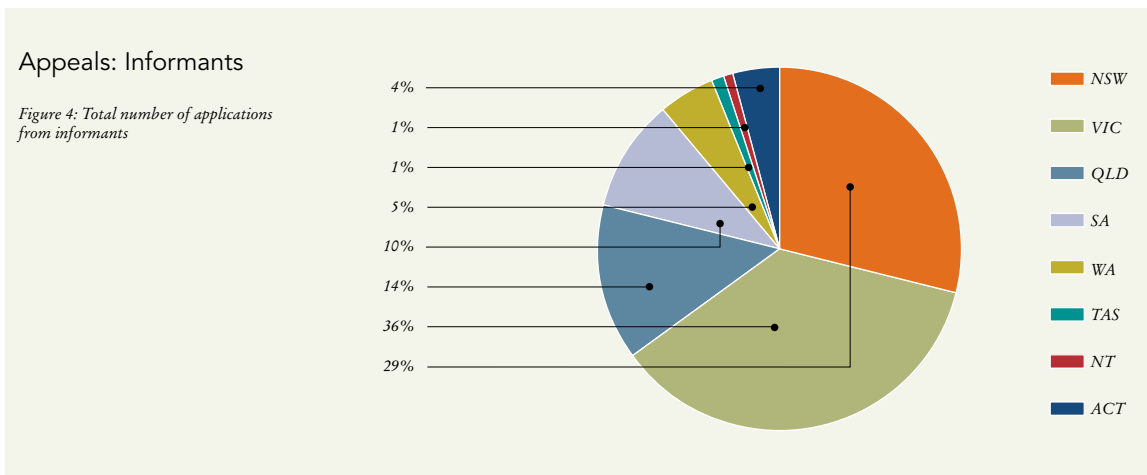
³ Any other person, other than a care recipient or their representative, providing information about an approved provider's responsibilities.

Appeals from Informants

Section 16A.21 of the Investigation Principles identifies that care recipients or their representatives (informants) may apply to the Commissioner for an examination of the following:

- a decision by the Secretary not to investigate a matter relating to an approved provider's responsibilities
- a decision by the Secretary to cease investigating a matter
- a decision by the Secretary that there has not been a breach of the approved provider's responsibilities
- a decision by the Secretary not to issue an NRA
- the terms/conditions of an NRA that directly relate to the aggrieved person.

Figure 4 shows the state of origin and percentage of all applications lodged by informants.



Thirty-six per cent of appeals lodged by informants were in relation to decisions made in Victoria. Twenty-nine per cent of appeals came from New South Wales, 14 per cent originated in Queensland and 10 per cent came from South Australia. Informants from Western Australia lodged five per cent of applications; four per cent came from the Australian Capital Territory and one per cent from Tasmania and the Northern Territory respectively

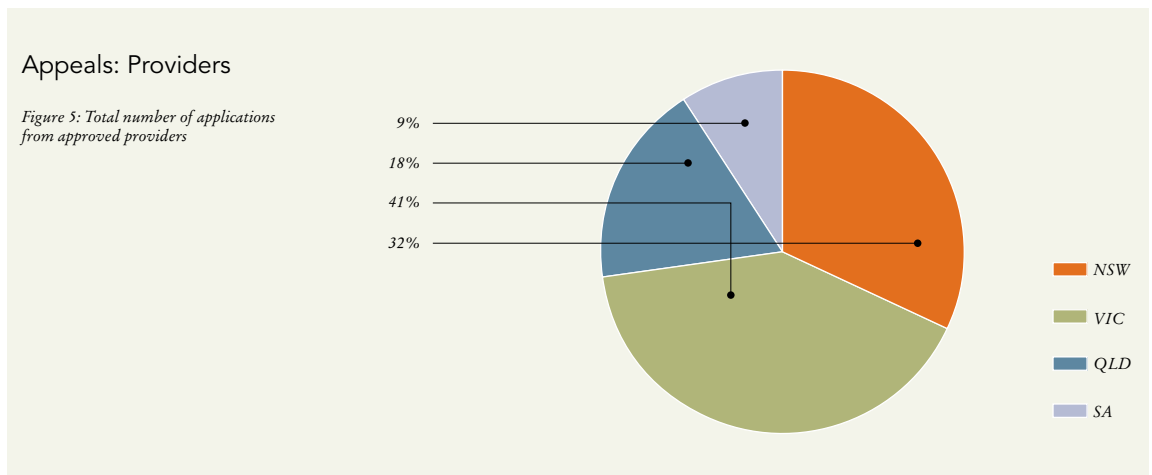
The majority of informants (88 per cent) appealed the Scheme's decision not to find the approved provider in breach of its responsibilities. Six per cent of applications from informants appealed the Scheme's decision not to issue an NRA. Four per cent of applications related to the Scheme's decision to end the investigation. One per cent of applications related to a decision not to investigate and a further one per cent related to the terms and conditions of the NRA issued.

Appeals from Approved Providers

Section 16A.22 of the Investigation Principles indicates that an approved provider may ask the Commissioner to examine:

- a decision by the Secretary that there has been a breach of the approved provider's responsibilities
- a decision by the Secretary to issue an NRA
- a decision setting, adding or varying the conditions of an NRA.

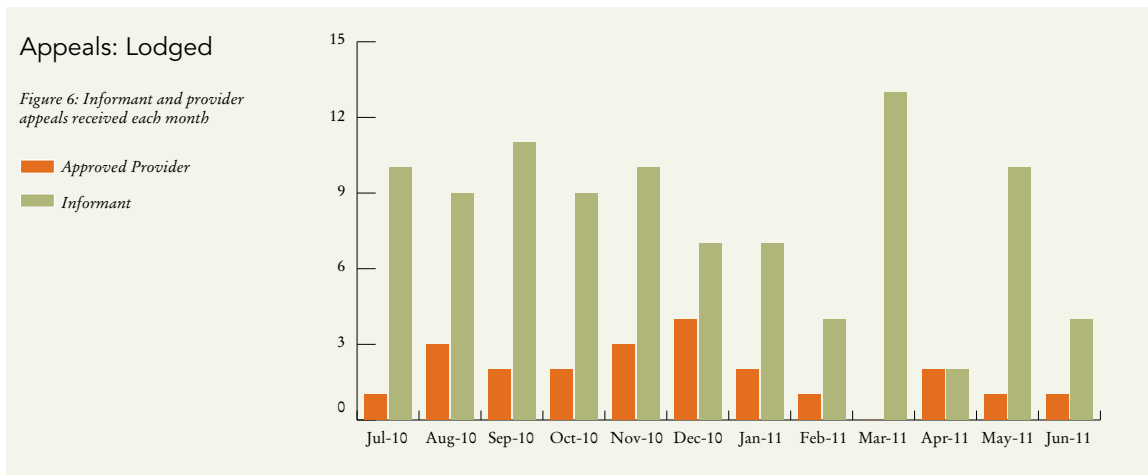
The following figure shows the state of origin and percentage of all applications lodged by approved providers.



Forty-one per cent of applications received from approved providers related to decisions made in Victoria and 32 per cent arose in relation to decisions in New South Wales. Eighteen per cent of appeals from approved providers originated in Queensland and nine per cent came from South Australia. No appeals were received from approved providers in Western Australia, Tasmania, the Australian Capital Territory or the Northern Territory.

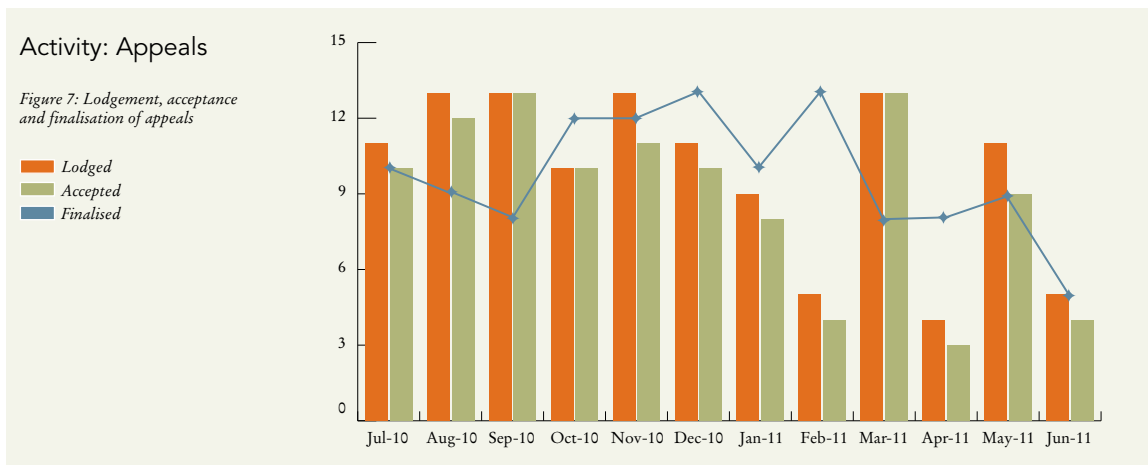
All approved providers (100 per cent) appealed the Scheme's decision to find the approved provider in breach of its responsibilities.

The following graph shows the split between informant and approved provider appeals and the rate at which appeals were lodged on a monthly basis.



4.2.1 Finalisation of Appeals

Figure 7 shows the level of activity in relation to the management of appeals. The graph shows the number of appeals lodged, accepted and finalised each month during 2010-2011. At the end of the reporting period the examination of 12 appeals was underway. These cases are due to be finalised in July and August 2011.



A total of 117 appeals were finalised during the reporting period. This includes three cases that were conciliated, six cases that were withdrawn and 12 cases the Commissioner did not accept.

The average number of days to finalise these matters was 50 days. Taken separately, the average number of days to finalise 95 applications received from informants was 51 days and the average number of days to finalise 22 applications from approved providers was 47 days.

A total of 96 cases were finalised after investigation. The average time to finalise these cases was 57 days.

4.2.2 Commissioner's Recommendations: Appeals

The Commissioner does not have determinative powers but is required to provide a recommendation to the Secretary after examining the appeal against a decision made by the Scheme.

Of the 96 appeals finalised during the reporting period, the Commissioner recommended that the Scheme's decision be confirmed in 45 per cent of cases (43). In 41 per cent of cases (39) the Commissioner recommended that the original decision be varied and in 14 per cent of cases (14) the Commissioner recommended that the original decision be set aside.

The following table shows the breakdown of recommendations relevant to each jurisdiction.

	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
Confirmed	15	17	3	5	1	0	1	1
Varied	10	17	6	3	1	0	0	2
Set Aside	1	8	1	3	0	1	0	0

4.2.3 Reconsiderations

During the reporting period the Commissioner provided 96 reports with recommendations to the Secretary. The Secretary is required to advise the parties of the reconsideration decision within 21 days after receiving the Commissioner's recommendations. The legislation also requires the Secretary to advise the Commissioner of all decisions made on reconsideration.

The Scheme advised the Commissioner of the reconsideration decision in relation to all 96 cases finalised. The Scheme disagreed with the Commissioner's recommendation on one occasion (one per cent) and partially disagreed with the Commissioner's recommendation on two occasions (two per cent).

The average number of days for the Commissioner to receive notification of reconsideration decisions was 18.5 days.

4.2.4 Related Issues

During the examination of an appeal, process or best practice issues that are not directly part of the appeal process are sometimes identified as matters that should be brought to the attention of the Department. These issues are often repeated within and between jurisdictions.

In these circumstances, the Commissioner will raise these matters as related issues and will often suggest remedial actions.

The nature of the related issue and any recommendations are advised to OACQC and the Scheme through the finalisation letters and in the body of the final report. Responses to related issues are sent to the Commissioner, generally on a quarterly basis.

Throughout the reporting period the Commissioner raised related issues in three cases, that is, in three per cent of appeals finalised. Not all related issues carried a recommendation; however, the best practice comments were predominantly associated with administrative practices and included comments on:

- statement of reasons
- the investigation process
- conflation of complaint issues
- timeliness
- natural justice
- incorrect legislative reference
- incorrect identification of informant type.

The Commissioner received written responses to all related issues and recommendations raised. The Department noted and agreed with the recommendations made. The responses referred to training programs provided to staff during September-December 2010; the revision of the Scheme's procedures manual, the establishment of checklists to assist delegates and a new issues verification module used during initial contact with complainants. The Commissioner was also told of performance indicators that related to timeliness and the development of a quality assurance framework, including an audit process.

4.3 Complaints

The management of complaints has always been a significant component of the work and a major challenge for the Office. Examinations conducted by the Office are intended to fulfil the functions set out by the Parliament, address natural justice and accountability issues, and meet the expectations of the wider community.

At the conclusion of an investigation the Commissioner can make recommendations to the Secretary or accreditation body following an examination of a complaint against these organisations. Recommendations vary but generally suggest appropriate corrective action in an area of practice. Often, more than one action is recommended.

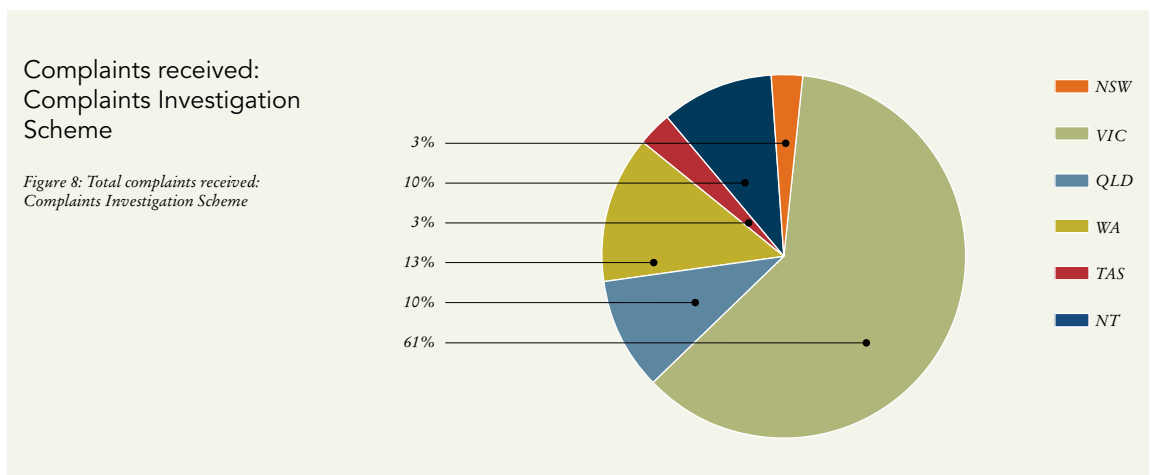
There is currently no requirement under the legislation for either the Department or the Agency to appropriately or adequately action recommendations made, or indeed to formally respond to the Commissioner's recommendations. However, the Commissioner has an expectation that a response be provided, not only because quality improvement and good practice would seem to dictate this, but also because the Commissioner should be able to report to the Minister, Parliament and the wider community, regarding the recommendations made.

4.3.1 Office of Aged Care Quality and Compliance

During the reporting period the Commissioner received 30 complaints related to the Secretary's processes for handling matters under the Investigation Principles. Twenty five of the complainants (83 per cent) also lodged appeals with the Commissioner.

It is considered that the examination of a complaint about the Scheme's process involves up to four times more work than the examination of an appeal. This is because the investigation of a complaint is a *de novo*⁴ matter which involves all parties to the complaint and goes beyond the examination of a decision made by the Scheme.

In a situation where an appeal and complaint are lodged at the same time, the Office has adopted a guiding principle whereby the complaint will be accepted and managed after the appeal has been finalised. One reason for this is to ensure the appeal can be completed in the required 60 days.



Sixty-one per cent of complaints received related to complaints managed by the Scheme in Victoria and 13 per cent originated with complaints handled in Western Australia. Ten per cent of complaints were lodged by people dealing with the Scheme in Queensland and the Australian Capital Territory respectively and three per cent related to cases managed in both Tasmania and New South Wales.

A total of 27 complaints relating to the Scheme were finalised during the financial year. The Office was unable to deal with five complaints and six were withdrawn prior to finalisation. Sixteen complaints were finalised following an investigation. The average number of days taken to finalise all matters was 298 days.

⁴ Term meaning "anew" or "from the beginning"

The top priority for the Office was to finalise long standing complaints that were not able to be investigated during the previous reporting period and had been put on hold. As a result, the average number of days taken to finalise the 16 investigations, including the period where all complaints were on hold, was 390 days.

In finalising the 16 cases a total of 41 complaint issues related to the Scheme's processes were examined. While each case is individual some of the issues raised were common to more than one complaint. Issues included the following:

The Scheme:

- failed to provide natural justice
- was biased in its investigation
- failed to speak to all relevant parties
- acted outside its scope
- timeliness; failed to provide updates
- did not adequately identify, investigate or address complaint issues
- failed to take relevant information into account
- accepted information at face value
- did not provide parties an opportunity to respond to information; did not clarify information
- breached confidence
- was insensitive; included derogatory and unnecessary information in the statement of reasons
- issued two different statements of reasons (a) to the same individual (b) to the parties.

Twenty issues were substantiated and 21 issues were not. The Commissioner made a range of recommendations which predominately related to administrative processes and covered matters such as:

- investigation practices, including contact with all relevant parties
- the responsibility of delegates
- accuracy in the preparation of reports and correspondence
- natural justice and procedural fairness
- staff training
- statement of reasons.

Following an examination of a complaint, all final reports are considered by the Department's Executive prior to responding to the Commissioner. The Commissioner received responses in relation to all cases finalised during the financial year.

In responding, the Department addressed the recommendations individually and accepted all of them. The Commissioner was advised of a number of initiatives and improvements that had been instituted during the reporting period. For example, comprehensive training packages had been delivered to Scheme officers during August and December 2010 and the procedures manual was being revised. OACQC had developed a number of checklists to guide officers during the intake process and in writing statements of reasons. The Scheme's written bulletin to staff was replaced by an intranet 'blog' and a quality assurance program including random audit processes had been introduced.

4.3.2 The Aged Care Standards and Accreditation Agency

During the reporting period the Commissioner did not receive any complaints related to the accreditation body, or the conduct of persons carrying out an audit or support assessment contact.

4.4 Internal Complaints

Complaints can, and should, help organisations to identify areas of service that need improvement or show where expectations of service levels exceed what can reasonably be delivered. To facilitate this, the Office maintains an internal complaints policy which provides a framework for responding to complaints and for using consumer feedback to improve services. The objective in investigating internal complaints is to firstly address the complainant's dissatisfaction, secondly to take remedial action if necessary and thirdly to consider how to prevent similar issues arising in the future.

Whilst no complaints were received during the reporting period, a comment that staff included a value laden statement in one report was examined. While the comment was not substantiated, guidance was given to staff in relation to this and other procedural matters.

4.5 Own Motion Investigations

The Commissioner did not initiate any own motion examinations.

4.6 Requests from the Minister

The Commissioner did not receive any requests from the Minister.

CHAPTER 5. Quality Assurance

The development, implementation, management and reporting of quality assurance activities takes time and effort, however, the overall benefits are significant. A comprehensive quality assurance program will demonstrate accountability and assist in meeting the commitment to continuous improvement. This Office uses a broad systemic approach supported by other measures, including policy and procedural documents, which provide for and enhance best practice. This includes the use of key performance indicators, satisfaction surveys and case review conferences.

5.1 Performance Indicators

These are internal numerical measures, expressed as a percentage. They describe important and useful information about the performance of the Office. Targets have been set for each indicator and the resulting data, once collated and analysed, assists the Office to assess whether it is achieving its overall objectives and to understand where there are opportunities to improve. The indicators are just one component of the Office's quality assurance program.

Results

Indicator 1 measures the provision of an acknowledgement letter to people contacting the Office to lodge an appeal or complaint. The acknowledgement letter is to be provided within four working days after the initial contact and the established target is 100 per cent. Ninety-six per cent of contacts across Australia were sent an acknowledgement letter within the stipulated timeframe.

Indicator 2 measures the time between receipt of the appeal or complaint and the time taken to inform the appellant or complainant that the Commissioner is unable to accept their appeal or complaint. This contact should be made within 14 days following the receipt of an appeal or complaint. This period is intended to allow the Office to receive relevant documents from either the Scheme or the Agency and confirm jurisdictional issues. The expected target is 90 per cent. The Commissioner was unable to deal with 12 appeals and five complaints. Sixty-two per cent of these contacts were sent correspondence advising the Commissioner was unable to deal with their matter, within the stipulated timeframe.

Indicator 3 relates to the development of an investigation matrix. The matrix is to identify the issues, potential breach(s), where evidence might be found, the avenues of inquiry and timelines for follow-up as appropriate. The matrix is to be developed within 21 days of the acceptance of the appeal or complaint and the expected target is 90 per cent. During the reporting period the target was met in 98 per cent of accepted appeal cases. The target was not met in relation to complaints.

Indicator 4 measures the time between the acceptance of a complaint and its finalisation. Complaints should be resolved and finalised in accordance with the assessed complexity measure (straightforward or complex), that is, between 30 and 141 days. The target is 70 per cent. In light of the priority given to completing older complaints and the number of cases held over, the target was met in 18.5 per cent of cases this year.

Indicator 5: Part A measures the time between the receipt of an appeal and a documented finalisation date and provision of a recommendation to the Secretary recorded within 60 days. This indicator is based on the legislative requirement.

The target is 100 per cent. It was met in 97 per cent of cases. Two cases were unable to be finalised within 60 days. One of these was finalised after the Commonwealth Ombudsman asked the Commissioner to reconsider the status of the informant. In the other case the Commissioner received new information after provision of the draft report. In the interests of accuracy and natural justice, the Commissioner sent a second draft report to the parties prior to finalising the appeal.

Part B of Indicator 5 measures the time between receipt of an appeal and provision of a report to the Secretary about a refusal to examine a decision under s16A.24(3) of the Principles. The Commissioner did not refuse to examine any decisions under this subsection.

Indicator 6 is based on the rationale that appellants and complainants should receive timely feedback regarding the finalisation of an appeal or complaint. The indicator measures the number of written contacts made within seven working days of finalisation (a) in relation to appeals and (b) in relation to complaints. The target for each indicator is 100 per cent. The targets were met in 100 per cent of cases.

Indicator 7 measures the number of investigation reports provided to (a) OACQC and (b) the Agency within four days from the date the Commissioner's investigation of a complaint is finalised. The target is 100 per cent. Sixteen cases were finalised following an examination of the Secretary's processes for handling a complaint. The target was fully met.

Indicator 8 measures the number of post case conferences conducted after a complaint or appeal has been finalised. The intention is to critically review the management of a case once finalised and to identify any areas for improvement. The target is 35 per cent. Ninety-six appeals and 16 complaints were finalised after investigation; a total of 45 cases were reviewed. The indicator was met in 40 per cent of finalised cases.

Indicator 9: Part A measures the number of satisfaction surveys sent to complainants after the finalisation of a complaint. The target is 95 per cent. During the reporting period 16 complaints were finalised following investigation. Satisfaction forms were sent to all complainants, therefore this indicator was met in 100 per cent of finalised cases.

Part B of the indicator measures the number of satisfaction surveys returned from complainants who indicate they rate the overall handling of their complaint as either very good or good. The target is 80 per cent. Four respondents who indicated this Office had dealt with a complaint were found to have returned surveys following an examination of appeals. Therefore no completed surveys were returned in relation to finalised complaints.

Indicator 10: Part A measures the number of satisfaction surveys sent to the parties after the finalisation of the appeal process with a target of 95 per cent. During the reporting period 96 appeals were finalised following an examination and 192 satisfaction surveys were sent. This indicator was met in 100 per cent of cases.

Part B of the indicator also measures the number of satisfaction surveys returned from people after the finalisation of an appeal process who indicate they rate the overall handling of the appeal as either very good or good. The target for this indicator is 80 per cent. Thirty-four completed surveys were returned. Twenty one respondents (62 per cent) rated the handling of their appeal as very good and four (12 per cent) said it was good. This means that 74 per cent of respondents (25) reported that the overall management of the appeal was either good or very good. The target was not met.

The performance indicator data gathered and reported here has been analysed to detect shifts affecting business objectives over the 2010-2011 financial year and beyond. The results of this analysis will be used in the review of key performance indicators over the coming year and in setting priorities and structuring services to improve the efficiency and effectiveness of the Office.

5.2 Satisfaction Surveys

Satisfaction surveys assist the Office in considering whether it is meeting the needs and expectations of its clients. The overall purpose is to promote a focus on client outcomes and stimulate improvement in the work practices and processes used within the Office. Trends in client satisfaction and key indicators of customer dissatisfaction are documented and are supported by objective information. These trends are periodically reported to and reviewed by, senior management.

Additionally, the surveys are designed to capture client demographic information such as ethnicity, age groups and approved provider types.

However, there are limitations. An analysis of the data in previous years suggests there is a correlation between the Commissioner's recommendations and satisfaction rates. In other words, where the respondent believes the outcome is favourable to their interests they are more likely to be satisfied with the work undertaken by the Office.

Furthermore, people who feel strongly about their outcome, whether it be a positive or negative response, seem more likely to return the survey forms. The response rate is low, so the numbers available for analysis are small.

This, plus the fact that some people completing and returning surveys continue to confuse this Office with the Scheme, demonstrates that the data received from the satisfaction surveys do not provide reliable information on which the Office can plan its quality improvement efforts alone. For these reasons, satisfaction surveys are simply another element of the continuous quality assessment and improvement program.

Methodology

Survey forms are sent to complainants as complaints are finalised and to complainants and approved providers when appeals are finalised. A pre-paid envelope is provided to facilitate responses. There are nine questions and there is room on the forms for written responses to three questions. The survey sent to informants also seeks demographic data and the survey sent to approved providers asks about the type of service they operate.

Results

During the reporting period 34 completed survey forms were returned. All related to finalised appeals. Fourteen responses (41 per cent) were received from approved providers and 20 (59 per cent) from informants. Assuming 208 satisfaction surveys were sent, the overall response rate was 16 per cent.

Question one asks respondents to rate our professionalism and service. Sixty two per cent of respondents rated this as very good; 21 per cent said this was good and nine per cent said it was satisfactory. One respondent respectively found our professionalism and service, poor or very poor and one respondent did not answer the question.

Question two asks respondents to rate the way we communicated in writing. Fifty six per cent of respondents rated this as very good; 15 per cent said this was good and 17 per cent found it was satisfactory. One respondent said our written communication was poor, two said it was very poor and one respondent did not answer the question.

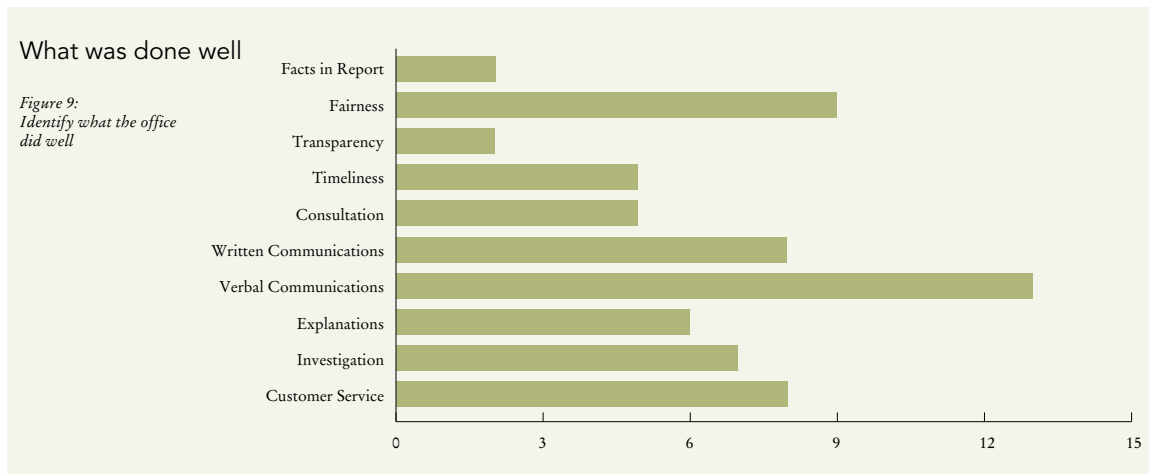
The third question asks respondents to rate our ability to provide clear reasons for our recommendations. Fifty per cent of respondents reported this was very good; 24 per cent said it was good and nine per cent said it was satisfactory. Nine per cent of respondents said our ability to provide clear reasons for recommendations was poor, two said it was very poor and one person did not answer the question.

Respondents are asked to rate the overall fairness and impartiality displayed by the office in question four. Sixty-two per cent of respondents reported this was very good, nine per cent said it was good and six per cent of respondents said our overall fairness and impartiality was satisfactory. Fifteen per cent said it was very poor and a further three respondents did not answer the question.

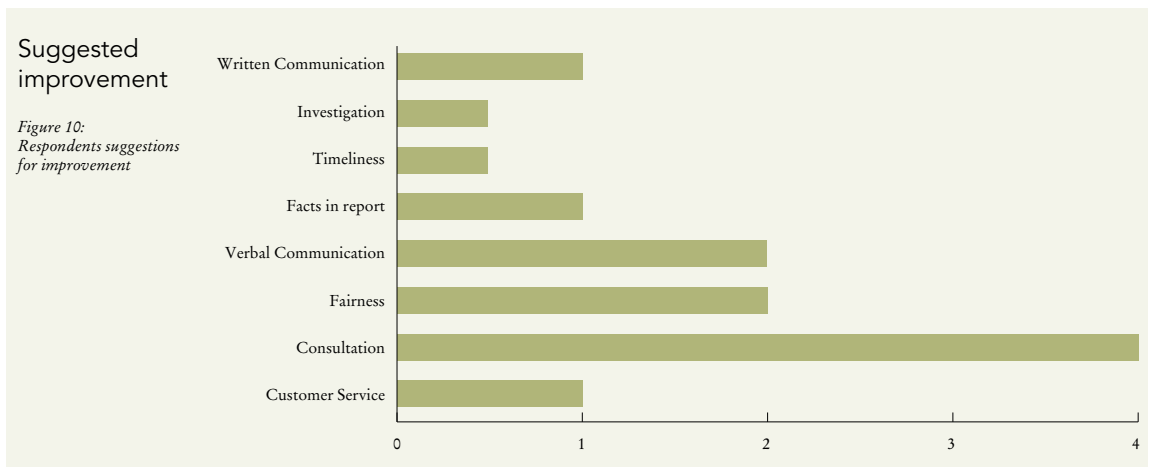
Question five asks respondents to rate the consideration, courtesy and respect afforded to them. Seventy-one per cent rated this as very good; three per cent said it was good and six per cent of respondents found this to be satisfactory. One respondent found our courtesy and respect to be poor, nine per cent said it was very poor and three people did not respond to the question.

General feedback is sought in question six, which asks respondents for an overall rating on how their case was handled. Sixty-two per cent of respondents rated this as very good; 12 per cent found this to be good and a further three per cent said this was satisfactory. Three per cent of respondents rated this as poor, 18 per cent said it was very poor and one respondent did not answer the question.

Question seven asks respondents to identify what the Office did particularly well. Fourteen informants and five approved providers responded to this question. Figure 9 depicts their responses.



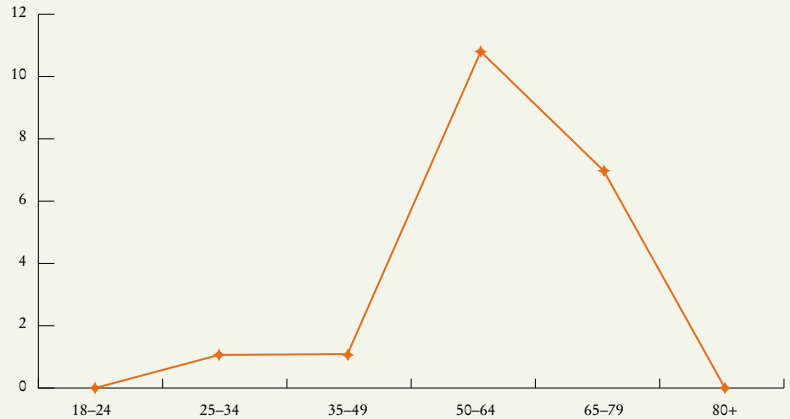
Question eight asks what aspect of its work the Office could improve. Figure 10 depicts the responses received and also shows areas of overlap or contradiction with information reported in Figure 9.



No respondent indicated a first language other than English; one person identified themselves as an Aboriginal or Torres Strait Islander. All informants identified their age group. The figure below identifies that the majority of informants contacting this office and completing survey forms said their age group was 50 to 64 years of age.

Age Groups

Figure 11: Respondent Age groups



Thirteen surveys were returned by respondents living in New South Wales, nine were from Victoria, three were from Queensland and South Australia respectively and one respondent resided in Western Australia. Seven approved providers identified their business was privately owned and five said they operated a church/charitable facility.

5.3 Post Case Conferences

Post case conferences (PCCs) are based on the premise we should continually assess our work and learn from it. By doing little or no assessment we risk losing touch with the needs of our clients and administrative practices, fail to make needed improvements or corrections in processes and demonstrate poor stewardship of our legislative responsibilities.

The post case conferences provide an opportunity for the entire team to develop critical thinking and analytical skills; to discuss multiple issues, balance different views and to apply collective knowledge in problem solving situations.

The conferences are generally held monthly. The principal goals are to identify the strengths and weaknesses of the work undertaken in the cases under review, to highlight any learning, to reinforce an understanding of our role and the legislation that guides it, to reduce the risk of errors in the future and to improve efficiency and effectiveness of the Office.

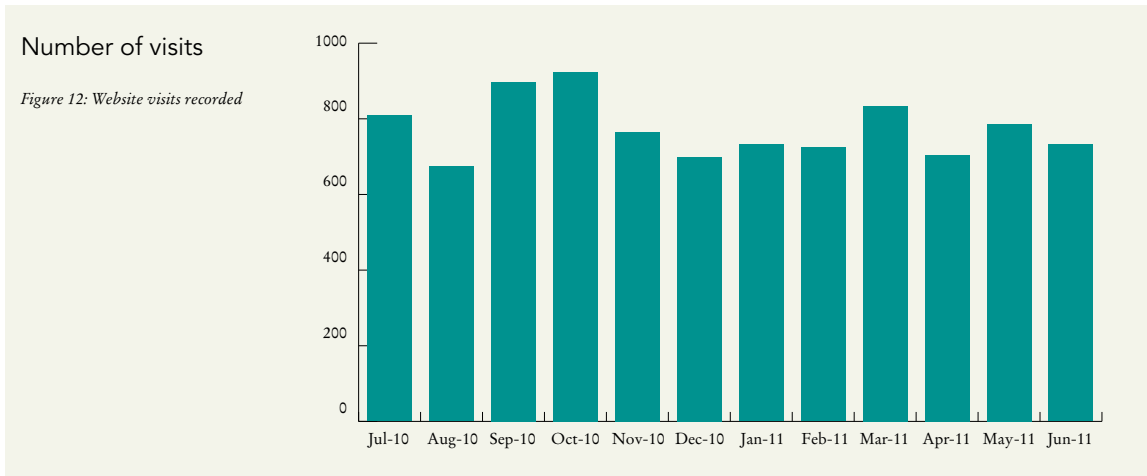
This process also assists in ensuring consistency and conformity with office procedures and the legislation. It helps participants to recognise trends and issues; not only those facing staff from this Office, the Scheme and the Agency, but also the issues confronting approved providers and their staff, as well as users of aged care services and their representatives.

Results

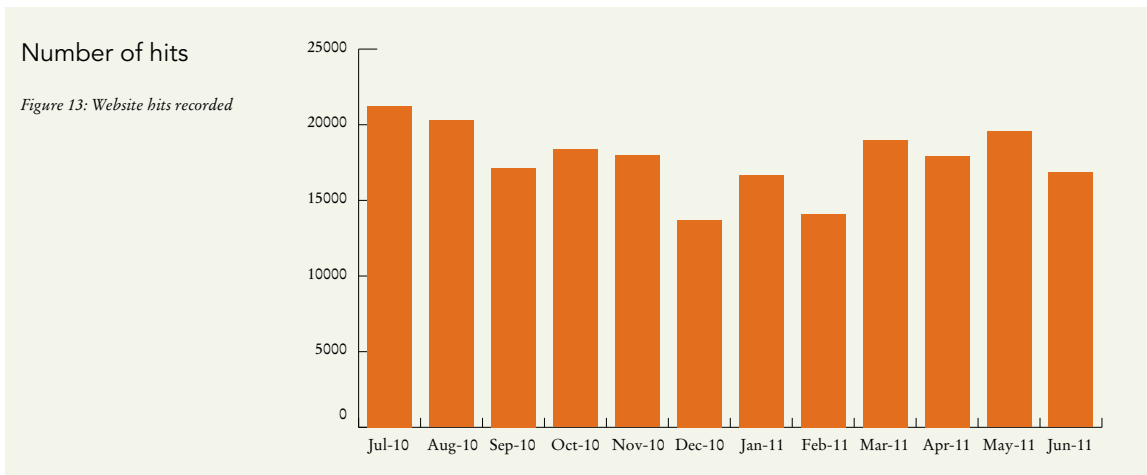
During the financial year a total of 112 cases were finalised after investigation. Of these, 45 cases (40 per cent) were methodically reviewed. The learning from each case was recorded and considered as part of ongoing quality improvement.

CHAPTER 6. Website data

The website received 9281 visits between 1 July 2010 and 30 June 2011. This reflects an increase in activity when compared with the number of visits recorded in previous years.



Data collected also capture the number of hits on the website. This is a measurement of the amount of information downloaded from the site. A total of 212,760 hits were recorded, demonstrating an increase in the number of hits when compared to previous reporting periods.



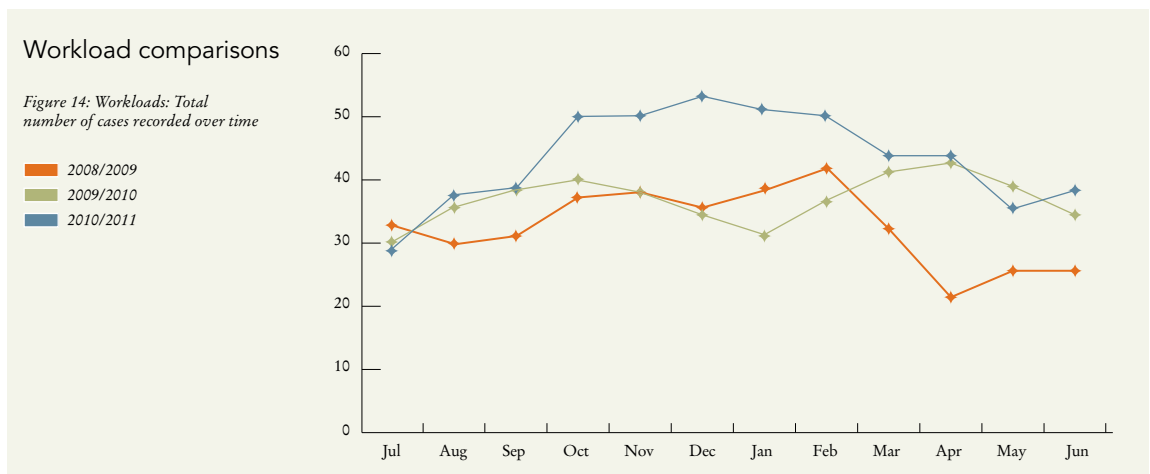
When analysing which countries are actually visiting the website the data also show a similar pattern to that recorded in the last financial year, with the majority of visitors to the site originating in Australia.

CHAPTER 7. Trends

The collation and analysis of data since the inception of this Office provides some useful information regarding work load patterns and trends. It assists in identifying where improvements can be made, results in better deployment of resources and helps to inform decision making.

Although the first Aged Care Commissioner was appointed in May 2007, the first full year data was recorded on the case management system in 2008-2009. Therefore the tables below primarily include data collected during the financial years from 2008-2009 to 2010-2011. Where comparative data is available for 2007-2008 it has been included.

Figure 14 shows the overall work load for complaints and appeals has been higher this year. It does not include the time and work involved in responding to calls from members of the public seeking general information about issues common to older Australians such as pensions and housing, or to discuss problems they have encountered with services such as telephones, newspaper delivery and access to health care.

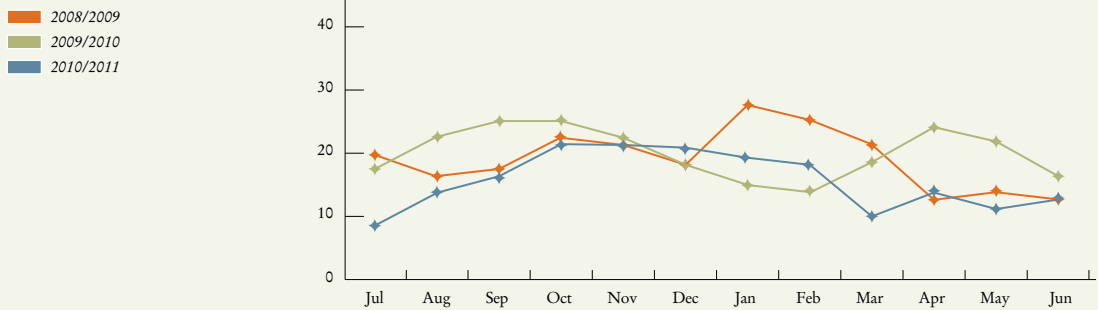


7.1 Appeals

During the current reporting period the Commissioner received fewer applications to examine decisions made by the Scheme. One hypothesis is that the training programs offered to Complaint Scheme staff, particularly those that have focused on the preparation of a sound statement of reasons, have had a positive impact and that the majority of people receiving decisions better understand the decision and how it was made. However it remains to be seen whether this is the reason.

Workloads: Appeals

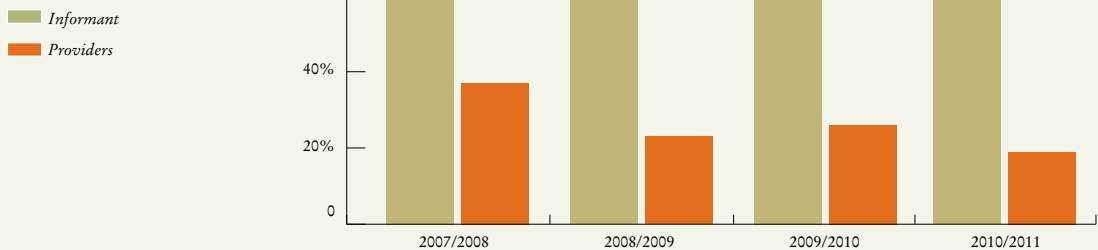
Figure 15: Workloads: Appeals recorded over time



The number of appeals lodged by informants has always been higher than that of approved providers. Figure 16 demonstrates that the difference has become more marked over time.

Appeals: percentages lodged

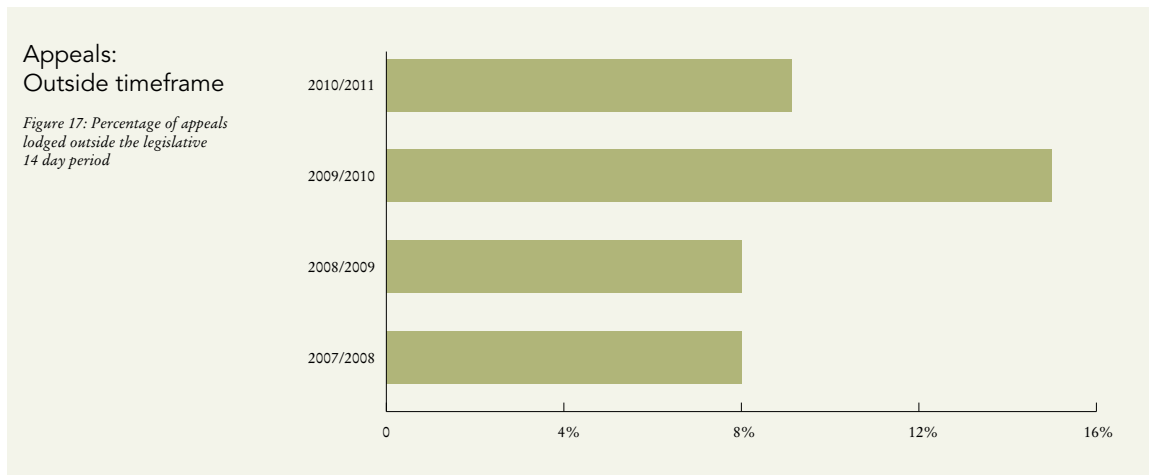
Figure 16: Percentage of appeals lodged by informants and providers annually



Each year there are a number of appeals lodged outside the legislative timeframe. In 2007 the legislation was amended to extend the previous seven day appeal period to 14 days.

Additionally, in 2009, the legislation was amended to permit verbal appeals. However, some appeals continued to be received outside the statutory period. In 2008-09, this amounted to five verbal appeals from a total of 12 late appeals (42 per cent). Six verbal appeals from a total of 21 (29 per cent) were received outside the 14 day period during 2009-10. In the current reporting period two verbal appeals of a total 11 (18 per cent) were received outside the legislative period.

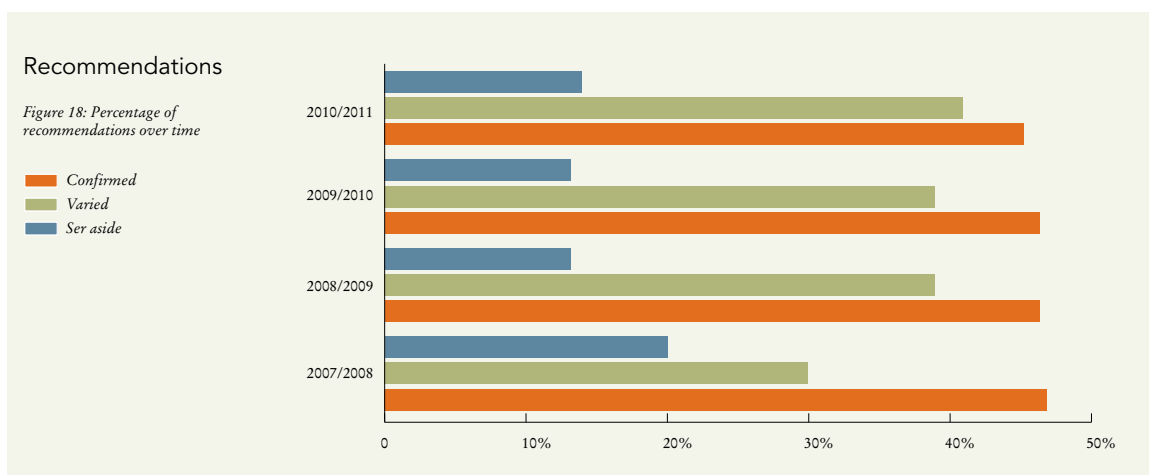
The following graph shows the percentages of appeals lodged outside the legislative timeframe in this and previous reporting periods.



7.2 Recommendations

Following the acceptance of an application and an examination of the reasons for the appeal, the Commissioner is required to provide the Secretary with a recommendation. While each case appealed generally comprises of more than one appeal issue, the Commissioner’s recommendations are ‘case based’.

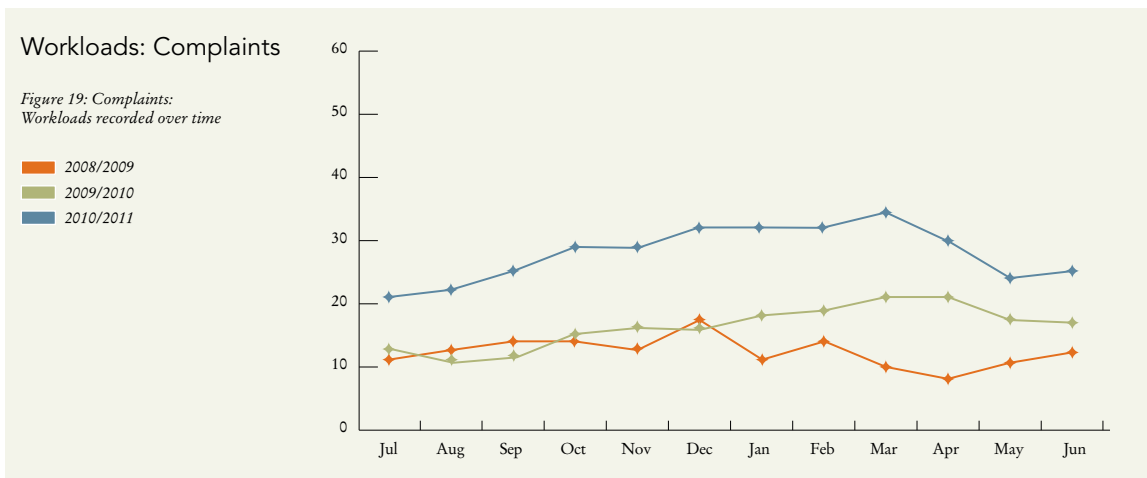
The following graph shows the nature and percentages of recommendations over time. During the current reporting period, the percentage of recommendations to confirm decisions is less than in previous years; conversely the percentage of recommendations to vary the Scheme’s decisions is higher. The percentage of recommendations to set aside the Scheme’s original decisions is slightly higher than in the two previous years but remains lower than that reported for the 2007-2008 year.



7.3 Complaints

Since 2007, the Commissioner has received nine complaints in relation to the conduct of the accreditation body and/or assessors. Two of these complaints included two complaint elements. These were examined and reported separately. No complaints relating to the accreditation body or assessors were received during the current reporting period.

The volume of complaints about Scheme processes managed during the current reporting period is higher than that recorded in previous years. Reasons for this are unclear; however, workloads in 2010-2011 began from a higher base as there were a greater number of complaints held over from the previous year. The trend in the past two years has been to see a rise in activity between November and March and reduced numbers in April. The data also show an increase in complaint numbers in June of each year.



GLOSSARY

Act	<i>Aged Care Act 1997 (Cth)</i>
Agency	Aged Care Standards and Accreditation Agency Ltd
AGS	Australian Government Solicitors
Commissioner	Aged Care Commissioner
Department	Department of Health and Ageing
Minister	The Hon. Mark Butler MP,
NRA	Notice of Required Action
OACQC	Office of Aged Care Quality and Compliance
Office	Office of the Aged Care Commissioner
Principles	<i>Investigation Principles 2007 (Cth)</i>
Scheme	Complaints Investigation Scheme
Secretary	Secretary, Department of Health and Ageing
Standards	Accreditation Standards in Schedule 2 to the <i>Quality of Care Principles 1997 (Cth)</i> made under the Act

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Aged Care Commissioner

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