



AGED CARE COMMISSIONER

ANNUAL REPORT

1 JULY 2014 – 30 JUNE 2015



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

OUR MISSION > 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.





Australian Government

Office of the Aged Care Commissioner

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Senator the Hon Mitch Fifield
Assistant Minister for Social Services
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 Aged Care Commissioner's functions during the period 1 July 2014 to 30 June 2015.

Yours sincerely

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

RAE LAMB
Aged Care Commissioner

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COMMISSIONER'S FOREWORD



Much has changed in the handling of aged care complaints since I was first appointed to this role in January 2011.

In my first year the focus of the Aged Care Complaints Scheme (the Scheme) was shifted from an investigation based approach to one with greater options for addressing complaints and a focus on resolution. Over time this has been built on and developed further.

In August 2013 I was given greater powers to strengthen my independent review of the decisions and processes of the Scheme. As highlighted in my last annual report, this has provided greater opportunity for us to improve the outcomes of some complaints.

In September 2013 the Scheme was moved from the former Department of Health and Ageing to the

Department of Social Services (the Department) as part of machinery of government changes.

Now it is intended that responsibility for complaints about Australian Government funded aged care will transfer from the Secretary of the Department to me, as Aged Care Commissioner, in early 2016. This was announced in the Budget in May.

It will build on the changes to date and create independence for the Scheme.

All of this has occurred amidst significant developments in the design and delivery of care and services for older Australians and alongside a growing and game-changing focus on consumer directed aged care. Some of these developments are still being rolled out, with others scheduled ahead.

One thing that has not changed, and will not change, is the importance of complaints about aged care.

When I reflect on the past year, I think of the people who have contacted us seeking independent examination. Some have asked me to examine decisions that have been made on their complaints about aged care. Others have requested a review of the way their complaints were handled by the Scheme.

Most often they have been sons and daughters seeking to resolve outstanding concerns about a parent's care, usually in a nursing home. Sometimes they have been a spouse or a partner. Occasionally complaints come from the person receiving care or are about the way the Australian Aged Care Quality Agency (the Quality Agency) accredits nursing homes rather than about the Scheme. All of these people have wanted their complaints to improve care.

Such complaints are precious and rare. It is well established in the complaints literature that for everyone who makes a complaint, about anything, there will be more who may have cause to complain but do not do so.

That is why it is so important to value complaints. To respond to them well. To ensure they make a difference to care.

The two activities that stand out the most for me and my team this year, have been about just that – specific initiatives by us to ensure that complaints make a positive difference to aged care.

In January we completed a substantial inquiry into how the Scheme refers complaints information to the Quality Agency and what it does with this information.

When the Scheme considers a complaint that raises wider systemic issues which may affect more than one nursing home resident, it may refer information fully or in part, to the Quality Agency. In doing so, it indicates whether, or how quickly, the Quality Agency should respond by visiting the service to see if the required standards for accreditation are being met.

We closely examined a significant number of cases where such referrals had occurred. I was satisfied the referrals process is helping to ensure that systemic issues that may impact on the health, safety and wellbeing of residents are being identified, promptly followed up and remedied. But I also found areas for improvement and I made several recommendations which are discussed later in this report.

In March we ran our first complaints workshop for Scheme officers from across Australia. Previously I have participated in Scheme training for its officers but this year it was fantastic to be able to run our own, with an agenda focusing on the lessons from complaints to us about the Scheme's decisions and processes. All of my team were involved.

The themes included ways the Scheme could work better with aged care advocacy services, using conciliation well, and why apologies are so important in resolving complaints and should be encouraged. As you will see later in this report, the workshop was very successful with universally positive feedback from the Scheme officers who attended.

Other standout activities this year have been some of the opportunities I have had, and continue to have, to engage with other people working to ensure that older Australians receive great care and services and to contribute to this.

In particular, my appointment in February as an ex officio member of the Quality Agency Advisory Council is allowing me, as Commissioner, to use the lessons we learn from aged care complaints and participate in the provision of advice to the Quality Agency on how to widen the quality agenda to incorporate consumer expectations in aged care.

Another example was the invitation to me to give a keynote speech to the National Aged Care Alliance which includes service providers, and staff and consumer representatives. This was another welcome chance to promote the importance of responding well to complaints and using the lessons to improve care and services.

On a more general note, a meeting I set up in July 2014 with Commissioners, Ombudsmen and some other like agencies at Commonwealth and State level has resulted in an informal network which provides regular opportunities for those of us with responsibilities for older Australians to share and work together on matters of common interest. We call the group Independent Agencies for Older Australians and we have met three times this year.

One thing that has assisted me and my team to carry out additional, wider activities like these this year has been a noticeable drop in complaints to me about the Scheme's decisions and processes, which you will see reflected later in this report.

In part it reflects a return to levels prior to 2013-2014 (when complaints to me increased largely due to multiple complaints from single complainants). It is difficult to know what other factors have contributed to the fall in complaints this year. One reason may be that there were fewer complaints to the Scheme. It may also reflect increased satisfaction with the Scheme's complaints handling and that would be good. Improved complaint handling is certainly what this office aims for when giving directions and recommendations to the Scheme in relation to its decisions and processes.

Regardless, there has been no reduction in the complexity of the complaints to me. We continue to see the hardest cases that have been before the Scheme. Most of the cases that end up in my office involve multiple issues. By the time the cases reach us, relationships between the parties have almost invariably broken down. Often there are difficult family dynamics. The best opportunity to resolve complaints is early and directly between the people involved. By the time complaints reach us that opportunity is generally long gone.

Acknowledgements

None of this work can be done alone. Thanks are again due to my small team for their continued commitment to ensuring that aged care complaints are valued and make a difference to the quality of care and services. As always, I include in this the lawyers from the Australian Government Solicitor who provide us with high quality independent advice.

Thank you also to the wonderful people whose photographs are in this report, and those who helped us with this process.

Rae Lamb
Aged Care Commissioner

WHO WE ARE AND WHAT WE DO

The Commissioner is a statutory office holder, appointed by the Minister under Part 6.6 of the *Aged Care Act 1997 (the Act)*. The current Commissioner Rae Lamb was first appointed on 5 January 2011 and reappointed in June 2013. Her term expires on 4 January 2017.

Functions

The Commissioner’s functions are set out under Part 6.6 of the Act and Part 7 of the *Complaints Principles 2014 (Complaints Principles)*.

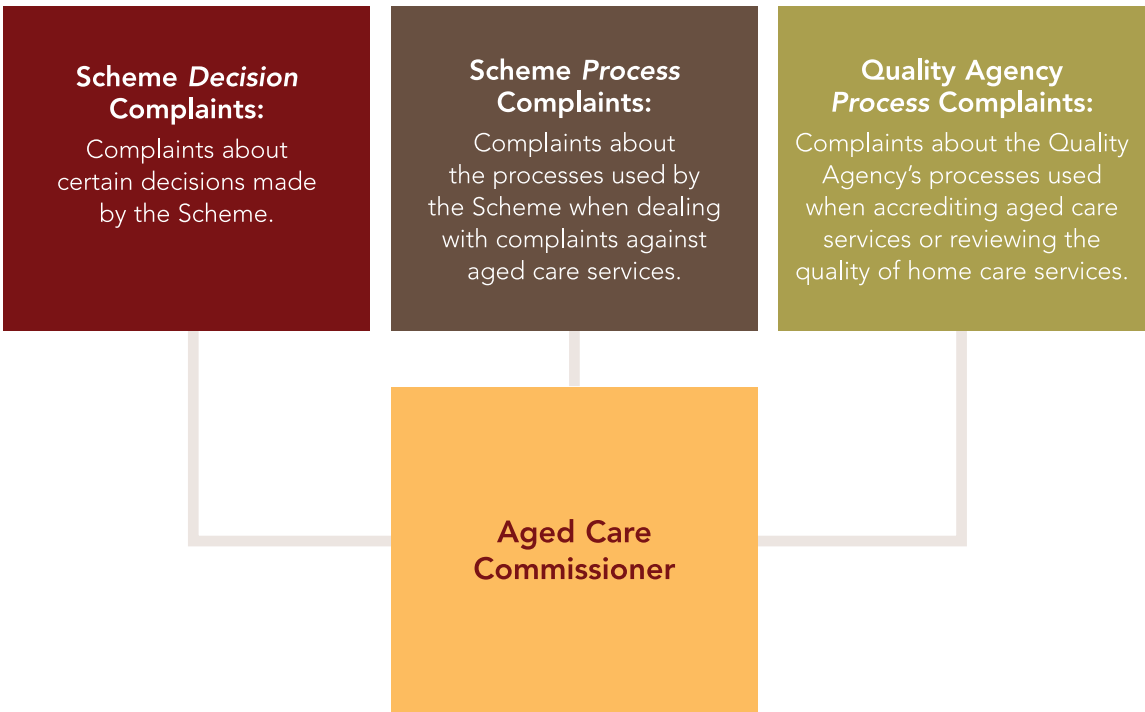
Complaints

The Commissioner examines complaints against the:

- **Aged Care Complaints Scheme (the Scheme)** – a branch of the Australian Government’s Department of Social Services. The Scheme examines concerns about the care or services provided to people receiving Australian Government subsidised aged care;
- **Australian Aged Care Quality Agency (the Quality Agency)** – a Commonwealth statutory agency, which accredits and monitors Australian Government subsidised residential aged care and home care services.

Three types of complaints can be made to the Commissioner. These are:

Figure 1: Types of complaints which can be made to the Commissioner



Outcomes of an examination

Once the Commissioner has examined a complaint, she may make recommendations to the Scheme or direct it to re-examine all or part of the complaint and take particular matters into account. Alternatively, she may make recommendations to the Quality Agency to take certain actions to improve its processes.

Other Functions

The Commissioner does not have to receive a complaint to examine the processes of the Scheme or Quality Agency. She may also start an examination when she identifies what may be a systemic issue or issues relating to the processes of the Scheme or the Quality Agency. This is known as an own initiative examination.

At any time, or at the Minister's request, the Commissioner may advise or provide a report to the Minister about matters relevant to her statutory functions, such as themes identified from her examinations.

The process for managing complaints

Complaints to the Commissioner can be made by telephone, mail, email, facsimile or through an online complaints form. If people contact the office with an issue that is not related to the Commissioner's role or function, they are referred to a relevant agency wherever possible.

If a complaint appears to be about a matter that the Commissioner can assist with, it is approached from the position that all complaints should be examined unless there is a good reason not to do so.

There are certain time limits for accepting and examining complaints. Reasons why complaints may not be accepted by the Commissioner are outlined in the Complaints Principles.

Figure 2: The complaints management process



Staffing

The Commissioner is supported by 10 staff, including a Director and an Assistant Director who assist with overseeing the office's operations.

The Assistant Director leads a team of senior investigations officers whose primary role is to examine complaints.

An administration team, under the supervision of the Director, provides support to the office in a number of areas including handling the intake of complaints. The two teams work closely together to ensure smooth complaints management.

Lawyers from the Australian Government Solicitor (AGS) attend the office on a regular basis to provide independent legal advice to the Commissioner.



The Commissioner and some of the team

Budget

The Commissioner's budget this year was \$1.46 million. This includes staff salaries. The budget falls under the Department of Social Services' Outcome 3 – Ageing and Aged Care and is monitored and reported on by the Department.

Activities

Throughout the year the Commissioner and her staff participated in a variety of key activities, which complemented the office's core business of managing complaints. Some highlights from the year are detailed over the page.



The Commissioner with Australian and New Zealand health complaint entities
See page 13 for more information

July – September

- A position paper explaining the Commissioner's views on the importance of the Scheme encouraging apologies from aged care services where due, was provided to the Department and the Assistant Minister for Social Services.
- The Commissioner convened the first meeting of Independent Agencies for Older Australians (IAFOA). This group of independent office holders, with responsibilities for care and services for seniors, met twice more during the year to discuss matters of common interest. Invited guests covered topics such as elder abuse and planning for an ageing population.
- The Commissioner spoke on ABC radio in Melbourne about aged care issues and good complaints handling.

October – December

- The Commissioner and staff relocated to a new office on Collins St, Melbourne.
- The Commissioner met with the Quality Agency's state and national managers and spoke about her role and function, recommendations she made to the Quality Agency in 2013-14 and her own initiative examination of the referral process between the Scheme and the Quality Agency.
- The Commissioner met with the Commonwealth Ombudsman's staff to discuss her role and function and her shared jurisdiction with the Ombudsman in relation to complaints about the processes of the Scheme.

2014

January – March

- The Commissioner's own initiative examination into the process for referring concerns about aged care services from the Scheme to the Quality Agency was completed. The report and recommendations were sent to all key parties.
- 'Australian Ageing Agenda' magazine profiled the Commissioner. The profile focused on the independence of the office and how the Commissioner's new powers, introduced in August 2013, have improved the outcomes of some complaints to the Scheme.
- COTA Australia's chief executive Ian Yates opened the Commissioner's annual staff planning day in February with a consumer perspective on recent and upcoming changes in aged care and the place of the Commissioner's office. The theme for the planning day was "Back to Basics" with a focus on consumer feedback, improving the quality of core services, and staff development and support.
- 'Through the Looking Glass', a one-day workshop for Scheme officers from all states and territories, was run by the Commissioner and her staff to feed back the lessons from her examination of Scheme decisions and complaints processes.
- The Commissioner made a keynote speech to the National Aged Care Alliance about the importance of complaints and the opportunities they provide to improve aged care.
- The Commissioner spoke at the 25th anniversary of the Aged Rights Advocacy Service in South Australia and launched the 2015 World Elder Abuse Awareness Day Community Activity Starter Kit.
- The Commissioner was appointed as ex officio member of the Australian Aged Care Quality Advisory Council.

April – June

- The first and second meetings of the Australian Aged Care Quality Advisory Council were held in April and June.
- The Commissioner participated in a two day meeting with Commissioners and Ombudsmen from the health complaints entities for all the Australian states and territories and New Zealand. This included arranging and facilitating a briefing for the commissioners on consumer directed aged care.

PERFORMANCE REPORTING

The Commissioner is required by the Act to report on a number of indicators in her Annual Report (see Appendix).

In addition to these, she reports on a variety of activities carried out by the office which help to improve and add value to aged care complaints handling, and, in turn, aged care.

Public Enquiries

People frequently contact the office with questions and concerns which do not relate to the Commissioner's function. Sometimes they have concerns about the care they or a family member are receiving and are unsure who to contact. Others have more general questions or matters.

These enquiries are mainly received through the free call telephone line (1800 500 294). When the office receives these enquires staff listen to the caller's concerns, discuss options and where possible refer them to relevant agencies. Occasionally written enquires are received by letter or email. Again, staff respond to these enquiries with the details of agencies that may be able to assist them.



This year the office received approximately¹ 472 such 'out of scope' enquires, with 330 of these received via telephone, and 142 in writing.

Complaints Overview

A complaint to the Commissioner about a Scheme decision² must come from either the person who has already raised a complaint with the Scheme, or from the service provider involved.

Anyone can make a complaint about the Scheme's processes or the accreditation and review processes of the Quality Agency.

The number of complaints received by the Commissioner this year represented a very small percentage of the total number of complaints that went to the Scheme, as has been the case in other years. Complaints about the Quality Agency have also continued to be low.

Also in keeping with previous years, the vast majority of complaints came from aged care recipients and their families rather than aged care services.

However this year, in comparison to previous years, there has been a marked decrease in the numbers of complaints received and finalised by the Commissioner.

¹ The office most likely received more contacts than this as this number is under reported.

² The decisions of the Scheme which can be examined by the Commissioner are listed in s 24 of the *Complaints Principles 2014*.

This decrease in numbers may be attributed to several factors. Most significantly, the Scheme also received fewer complaints this year, reporting a 3.4% decrease in complaints received. This reduction in the number of complaints to the Scheme, and in turn to the Commissioner, may indicate service providers are doing a good job dealing with concerns directly and/or that there is less to complain about in aged care. It could also mean people are choosing not to complain regardless of whether they have cause to. All or none of these things may be the cause and there is insufficient information to be sure.

The decrease in complaints to the Commissioner may also indicate increased satisfaction with the Scheme’s complaint handling. The implementation of the Commissioner’s recommendations and the education that the Commissioner provides to the Scheme, contribute to better complaint handling.

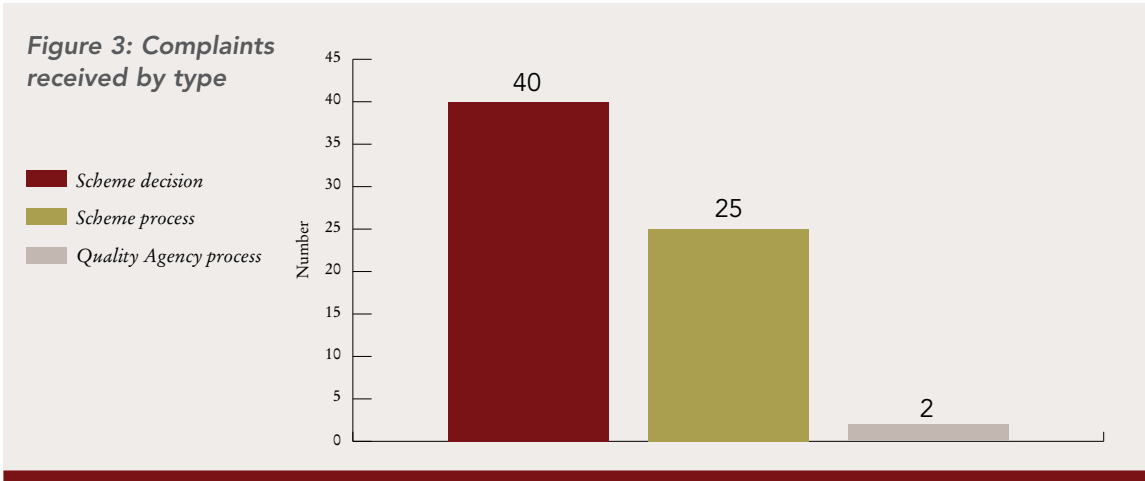
The smaller figures this year also reflect a return to more typical complaint levels. Last year’s figures were inflated by a small number of complainants who made multiple complaints about decisions and processes of the Scheme to the Commissioner.

Despite fewer new complaints, the office was busy. The Commissioner accepted two more cases for examination than last year. The complaints also continued to be very complex with the majority of cases containing multiple issues which needed to be examined.

Complaints Received

The Commissioner received 67 complaints this year. Forty complaints (60 per cent), related to Scheme decisions while 25 (37 per cent) were about Scheme processes. Two complaints (three per cent) were about the Quality Agency’s processes.

The Commissioner decided to either examine or to take no further action in relation to each and all of these complaints, within the 14 day statutory timeframe.



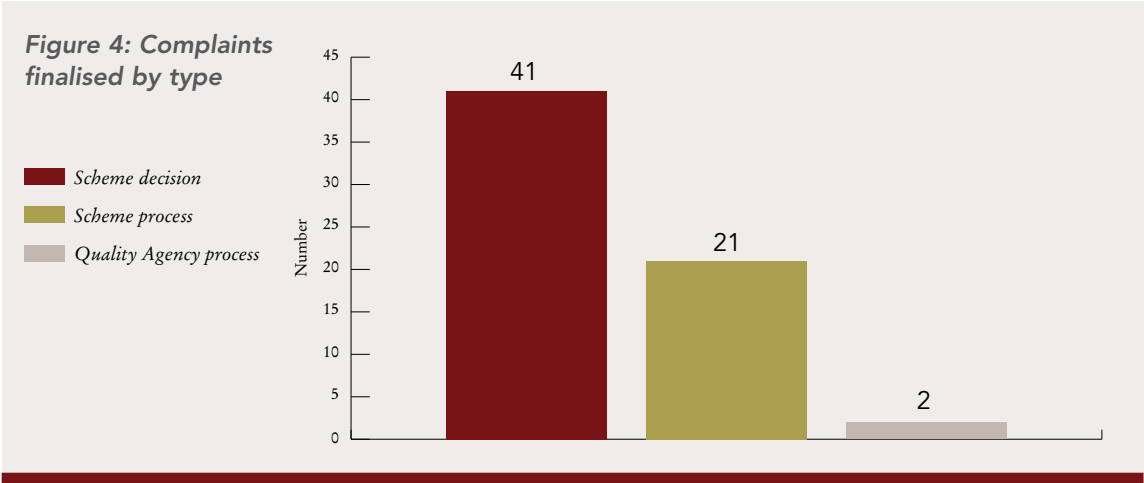
Complaints Commenced

The Commissioner accepted 45 complaints for examination. Of these, 21 (47 per cent) were about Scheme decisions, 23 (51 per cent) about Scheme complaints processes and one (two per cent) was about the Quality Agency’s accreditation process.

Twenty two complaints were finalised without examination.

Complaints Finalised

The Commissioner finalised 64 complaints. Some of these had been received during 2013-2014. Forty-one (64 per cent) were about Scheme decisions, 21 (33 per cent) were about Scheme complaints processes and two (three per cent) were about Quality Agency accreditation processes.



Complaints about Scheme Decisions

When people have made complaints to the Scheme and they, or the service provider, are unhappy with its decision, they may complain to the Commissioner³. If the Commissioner accepts the complaint for examination, she has 60 days to examine it.

Received and accepted

As noted earlier, the Commissioner received 40 complaints about Scheme decisions. Thirty-nine came from people who had originally made the complaint to the Scheme, and one was from an aged care service.

The Commissioner accepted and commenced examination of 21 decision complaints.

Finalised without examination

There are various reasons why the Commissioner may decide to finalise a complaint without examining it. For example, the complaint may be withdrawn by the person who lodged it, a complaint may be outside the Commissioner’s jurisdiction or the Commissioner may decide, given all of the circumstances of the particular case, that examination is not warranted.

³ See section 24 of the *Complaints Principles 2014*

This year 12 complaints relating to Scheme decisions fell outside the Commissioner's jurisdiction and the Commissioner decided not to examine another seven.

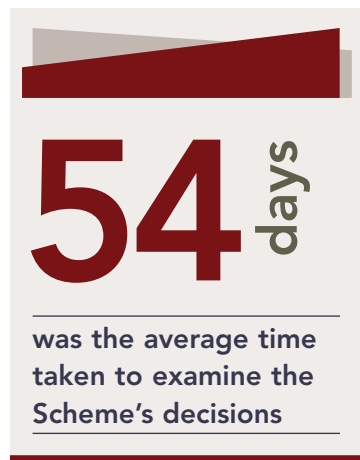
Finalised by examination

Twenty-two complaints about Scheme decisions were finalised by an examination. Within these complaints, the Commissioner examined decisions covering 84 distinct issues. 'Issues' are essentially a complaint within a complaint, each one requiring a separate examination and decision.

Some of these complaints were received before the start of the year.

All the examinations were completed within the statutory timeframe of 60 days from the date of acceptance. On average, the examinations were completed within 54 days.

The Commissioner decided to take no further action on one complaint before the examination was finalised.



Nature of Examinations

The 84 distinct issues that the Commissioner examined covered a range of concerns including:

- that the Scheme did not give appropriate consideration to all the information available;
- the Scheme based its decision on incorrect information;
- the actions taken by the service provider did not adequately address the complainant's concerns; and
- the Scheme should have conducted a resolution process for a complaint rather than making a referral to another organisation.



CASE STUDY

The value of clinical advice

When the Commissioner directed the Scheme to look at a complaint again, it sought clinical advice to inform its new decision and this resulted in the service provider taking action to improve its clinical practice.

A complainant was concerned about issues, including falls a care recipient experienced at a service, and about the level of help the care recipient was given with eating and drinking. The Scheme investigated this complaint. As a result, it was satisfied that the service provider had addressed the concerns about falls, but it could not determine what assistance with meals was needed or provided.

The Commissioner agreed with the Scheme that the service provider had taken steps to improve falls management for residents of the service. However, she also identified that the Scheme had not adequately looked at how the service provider responded to one of the falls in order to reduce the risk of the care recipient falling again.

In relation to the nutrition issue, the Commissioner agreed it was difficult to determine whether the care recipient was assisted with meals, but this was at least in part due to issues with the service provider's documentation. The Commissioner said the Scheme needed to consider the service provider's documentation practices and communication to staff about the care recipient's needs before finalising this complaint. The Commissioner directed the Scheme to look at the issues again and consider seeking clinical advice to inform its new decision.

During the new resolution process, the Scheme sought clinical advice and found further errors in the service's practices, which needed to be resolved. In response, the service provider made comprehensive changes to staffing, training and guidance in relation to falls management, and assessment and documentation of nutritional needs.

The service provider also offered to meet with the complainant to answer any further questions, to which the complainant agreed.

Recommendations and Directions

After examining a Scheme decision, the Commissioner is required to

- decide to take no further action;
- recommend that the Scheme does not re-examine the complaint (does not undertake 'a new resolution process'); or
- direct the Scheme to re-examine the complaint (undertake 'a new resolution process').

If the Commissioner directs the Scheme to re-examine the complaint, she may specify certain matters it needs to consider in the new resolution process. The Scheme must take these into account. It must also send the Commissioner its preliminary findings from the new resolution process and then take any further comments from the Commissioner into account before finalising the case.

Directions and Recommendations to the Scheme

Of the 22 decision complaints finalised by examination, seven (32 per cent) resulted in the Scheme being directed to re-examine all or some issues. In 14 cases (64 per cent) no further resolution processes were recommended and one case was finalised with a decision of no further action.

Impact of the Commissioner's directions

Some of the actions taken by the Scheme after they had been directed to re-examine a complaint, included:

- facilitating a meeting between a complainant and a service provider, resulting in a change to financial arrangements for a care recipient and the resolution of the complaint;
- issuing a Notice of Intention to Issue Directions to a service provider, resulting in the service provider indicating that it was willing to meet with the complainant to better address the concerns and make significant improvements to address the problems identified through the complaint; and
- obtaining an apology from a service provider for failings that were identified through a new resolution process.



CASE STUDY

Apologies and consent

A service provider has improved its practices for gaining informed consent from care recipients' legally appointed representatives⁴, following an examination by the Commissioner and a further resolution process by the Scheme. The service provider has also formally apologised to the complainant.

The complainant contacted the Scheme about issues including the use of a therapeutic device for a care recipient. The Scheme found that the service provider was acting in the care recipient's best interests and had consulted with their representative (the complainant), and therefore it had acted appropriately in using the device despite the representative's continued opposition.

The complainant asked the Commissioner to examine this decision. The Commissioner agreed the service provider sought to act in the care recipient's best interests, but said the Scheme should have investigated whether the service provider had obtained the representative's informed consent to use the therapeutic device. Given the representative stood in the care recipient's shoes in relation to decisions about treatment, and opposed the use of the device, the Scheme needed to consider whether the service provider should have continued its use. The Commissioner directed the Scheme to look at the issue again.

In doing so, the Scheme found the service provider had not met its responsibility to gain informed consent to use the device. The service provider made comprehensive changes to its procedures and guidance for staff in relation to informed consent as a result of the Scheme's new findings.

Before the Scheme's new process was finalised, it provided its draft report to the Commissioner for comment. In her comments, the Commissioner commended the service provider's actions and suggested it could say sorry to the complainant, given the deficiencies that had been identified.

The Scheme raised this with the service provider. It agreed to formally apologise to the complainant for its mistakes.

4. For example: Guardians and Attorneys

Complaints about Scheme Processes

If a person wishes to complain to the Commissioner about processes used by the Scheme when handling a complaint, they have up to 12 months from the completion of the process to do so.

Received and Accepted

As noted earlier, 25 complaints about the Scheme's process were received by the Commissioner.

The Commissioner accepted and commenced examination of 23 complaints.

Finalised without Examination

As with complaints about the Scheme's decisions, there are a variety of reasons why complaints about the Scheme's processes may not be examined⁵.

This year the Commissioner decided that two complaints did not warrant an examination.

Finalised by Examination

The Commissioner finished examining 19 complaints about the Scheme's processes, involving 47 issues.

Complaints about Scheme processes were finalised on average within 120 days.

Unlike decision complaints, there is no mandated time in which the Commissioner must finalise her examination of process complaints.

Because the investigation of these complaints goes beyond an examination of the information that led to a decision, they generally take longer to examine than decision complaints. Additionally, a decision complaint has often been lodged at the same time as a process complaint and must be finalised first in order to meet the 60 day timeframe.



5. See s 29(2) and (3) of the *Complaints Principles 2014*

CASE STUDY

Aged care advocates and complaint handling

The Commissioner made recommendations to improve the way the Scheme works with aged care advocates.

This followed a complaint from an advocate to the Scheme on behalf of anonymous care recipients. The Scheme had concluded that some of the issues had been addressed by the service provider and others did not warrant further action.

The advocate complained to the Commissioner that the Scheme had not properly investigated the concerns raised, as it had not gathered information from the care recipients and had not engaged with the advocate throughout the process.

When care recipients wish to remain anonymous, it can be difficult for the Scheme to investigate specific concerns without the risk of revealing identities. In this case, however, the Commissioner said the Scheme could have better discussed with the advocate options for handling the complaint in a confidential way. The Commissioner found that the Scheme did not adequately communicate with the care recipients through the advocate.

The Commissioner recommended that the Scheme should provide written guidance to its staff about how to best work with advocates representing care recipients to collect information and seek their feedback on the Scheme's findings. The Commissioner recommended the Scheme use this complaint as a case study for training purposes.

The Scheme agreed with the Commissioner's recommendations about the value of advocates and identified how it will address this process issue.

Nature of Examinations

The 47 process issues the Commissioner examined included whether the Scheme:

- considered all relevant information;
- took too long to investigate a complaint;
- took the appropriate resolution path (e.g. investigation rather than conciliation);
- communicated with all the relevant parties during the investigation; and
- appeared to show bias towards one of the parties during the investigation.

Recommendations

The Commissioner made 23 recommendations for improvements to the Scheme's complaints processes. These covered such matters as the Scheme taking action to:

- provide advice to its officers on how to handle complainants who wish to be confidential or anonymous;
- ensure officers seek all relevant information to progress a complaint; particularly where there are questions regarding the capacity of a care recipient;
- educate officers about the importance of speaking with complainants early in the resolution process about their expectations and time the process will take;
- ensure that officers, when asking parties to a complaint for additional information, are clear about how and when that information needs to be supplied; and
- encourage post conciliation reflective practices, through peer review and opportunities to present shared lessons, and include this action in its fact sheets and guidelines.



The Scheme accepted 21 (91 per cent) of the Commissioner's recommendations. At the end of the year, the Scheme had yet to advise whether it would accept two recommendations.

No recommendations were rejected by the Scheme.

Implementation of Commissioner's Recommendations

Twice a year the Commissioner follows up with the Scheme on its progress in implementing her recommendations which it has accepted. The Commissioner followed up progress on recommendations accepted for 12 complaints from this year, as well as multiple outstanding actions from the previous financial year.

This is the third year in which the Commissioner has actively followed up with the Scheme about its progress in implementing her recommendations. Each year the Scheme has demonstrated a greater degree of action taken in response to them. The Scheme has already implemented most of the Commissioner's recommendations accepted during 2014-15, with the few remaining actions to occur later in 2015 (for example through training sessions scheduled for delivery later this year). Actions to implement all except one recommendation from previous financial years are complete.

Actions taken by the Scheme in implementing the Commissioner's recommendations include:

- updating the guidelines for Scheme officers;
- using 'Master Classes' across the country to remind staff of the role of advocates and the assistance they can provide in representing care recipients;
- internal reviews, discussions and formal training for Scheme officers around the need to set consistent expectations with complainants about timeframes for providing information; and
- developing and distributing factsheets on topics such as the reconsideration process.

CASE STUDY

Handling bullying complaints and conducting conciliations

The Commissioner made recommendations to improve how the Scheme investigates bullying allegations and conciliates complaints.

This follows a complaint to the Scheme from a care recipient about being bullied by a service provider's staff. The Scheme attempted to conciliate the issue and then conducted an investigation, which it later finalised after finding that the service provider had addressed the issues.

The complainant felt that the Scheme did not address the issues quickly enough and contacted the Commissioner. The Commissioner agreed, finding that the Scheme's initial response to the bullying allegation was not proportionate to the issues raised as it did not adequately mitigate any risk to the complainant. The Commissioner also identified shortcomings in the conciliation process.

The Commissioner recommended the Scheme remind staff of the importance of escalating bullying related issues to a more senior representative of the service provider who is not the subject of the original complaint. She recommended the Scheme use this complaint as a case study in training staff on how best to handle complaints involving bullying allegations.

The Commissioner also recommended the Scheme update its guidance to staff on preparing for and evaluating conciliation meetings. She said that staff should be given additional training and support in relation to conciliation strategies and techniques.

The Scheme agreed with the Commissioner's recommendations and identified the steps it would take to implement them, including additional conciliation training for staff.

Complaints about Quality Agency Processes

The Commissioner is able to examine complaints about the Quality Agency's processes for accrediting aged care services and home care services.

The Commissioner received two complaints about Quality Agency's processes.

One was finalised without examination because the Commissioner decided it did not warrant an investigation.

One examination of the Quality Agency's processes was commenced and also finalised.

This examination looked into several issues including the manner in which the Quality Agency conducted interviews and whether all information was appropriately considered by the Quality Agency during its accreditation process.

Implementation of the Commissioner's Recommendations

As with the Scheme, the Commissioner follows up on the implementation of recommendations made by her to the Quality Agency and its predecessor. The Commissioner made four recommendations to the Quality Agency as a result of one complaint. These related to the resources it provides to service providers about accreditation audits as well as the arrangements for residents or representatives to be able to provide information to assessors confidentially during audits. The Quality Agency has completed actions in response to two of these recommendations and is in the process of implementing the other two.

The Commissioner also made recommendations to the Quality Agency arising from her own initiative examination into the referral process between it and the Scheme. Further details are below.

Own Initiative Examinations

One own initiative examination, which commenced in May 2014, was finalised in January 2015⁶.

This examination saw the Commissioner recommend a number of improvements to the process used by the Scheme to refer concerns to the Quality Agency.

While the Commissioner found the referral process largely achieves its goal of ensuring that systemic concerns are appropriately referred, in a way that supports prompt and effective action, she identified a number of measures to enhance, and improve public confidence in, this system. Broadly these are:

- clarifying whose responsibility it is to follow up quality improvements made by service providers as a result of a complaint to the Scheme, and ways to achieve this;
- publishing de-identified information on service improvements resulting from complaints;

⁶ The Commissioner examined 56 randomly selected cases, involving 63 referrals from the Scheme to the Quality Agency, against applicable legislation, policy and guidelines.

- improving public information about the purpose of referrals from the Scheme to the Quality Agency, including what it will do with the information, and what feedback a complainant can expect to receive about any action it takes;
- addressing inconsistent Scheme practices for referring information to the Quality Agency (by improving guidelines and training to better inform staff about how to make and document recommendations to refer information during a complaint process; what information to include in a referral; what information to give the complainant; and how to use the information received back from the Quality Agency); and
- reminding Quality Agency staff to apply their own guidelines on documenting decisions following receipt of referrals from the Scheme.

Both organisations have acknowledged that the recommendations will add value to how the referral system works. The Scheme accepted most of the recommendations in full and indicated that it will liaise with the Quality Agency regarding those that impact on both organisations.

The Scheme considers one recommendation will require additional resources. It has accepted the intent of the recommendation and indicated that further consideration needs to be given to its implementation.

The Quality Agency accepted the recommendations. It has completed action against the recommendation that it remind staff about making quick decisions on receipt of referrals and documenting reasons for any delays in its subsequent process. Its actions in relation to two further recommendations are in progress.

Requests from the Minister

The Commissioner met with the Assistant Minister for Social Services twice this year, and met the former Minister for Social Services once.

There were no Ministerial requests for formal advice from the Commissioner.

Complaints to the Commonwealth Ombudsman

People who have complaints about the Commissioner's decisions or processes may complain to the Commonwealth Ombudsman. There was one outstanding investigation by the Ombudsman into the Commissioner's process at the start of the year and this was finalised with no adverse findings. No other investigations were notified to the Commissioner.

QUALITY ASSURANCE

A number of measures are undertaken by the Commissioner and her staff during the year to ensure the quality of service that they provide is consistently high, and to encourage reflection and continuous improvement in the office's processes.

Satisfaction Survey

Each year the Commissioner invites complainants, service providers and Scheme officers who have been a party to a complaint to give feedback via the office's satisfaction survey.

Survey participants respond anonymously to questions about the quality of service, the fairness of the investigation process and the practice of the office. Their responses inform the practice of the office and are a part of our ongoing commitment to monitor and improve service.

Two different surveys are sent out: one to the complainants and service providers (the public survey) and one to Scheme officers (the Scheme survey). Due to the small number of complaints about the Quality Agency, its staff are not surveyed because the sample is too small to provide anonymous feedback.

This year, for the first time, half of the public surveys were sent via email. The remainder were sent by regular mail. The Scheme survey was conducted electronically, as it is every year.

The survey asked participants to rate their experiences of the office on a five point scale from 'strongly disagree' to 'strongly agree'.

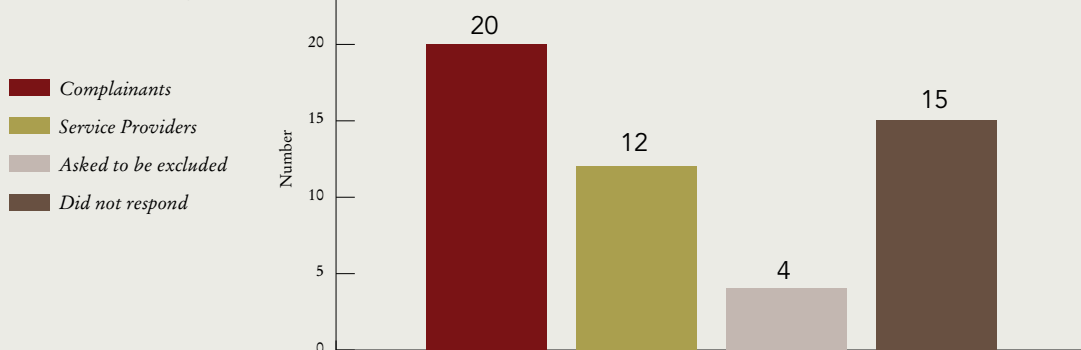
Public Survey

The public survey was sent to 51 people. Of these, 32 questionnaires were sent to complainants and 19 to service providers. The office received 36 responses, which is a response rate of 71 per cent. Twenty were from complainants and 12 from service providers. Another four respondents asked to be removed from the survey. Fifteen complainants and service providers did not respond.

In general the complainants and service providers responded positively. The majority of respondents indicated that they thought the Commissioner's staff were professional and polite in their interactions. Most respondents also indicated that they were satisfied with the level of clarity regarding issues and that they found it easy to contact the office with questions about their case.

Respondents also provided some useful comments and feedback on the content of reports and the communication processes used with complainants and service providers.

Figure 5: Response to public survey



Scheme Survey

Surveys were sent to 57 departmental officers. This is fewer than last year, largely because some Scheme officers have left the department since complaint processes were completed.

Twenty two staff responded, which is 39 per cent of those surveyed. No Scheme officers asked to be removed from the survey and 35 did not respond. This is a lower response than previously.

Scheme staff gave useful feedback about the relationship of the Scheme to the office. Most respondents said that the Commissioner's decisions were outlined clearly in her final reports and that when the Commissioner made directions, the matters she raised were useful. In addition most of the Scheme officers who were interviewed by the Commissioner's staff during the year indicated that their interaction was positive.

When asked to provide comments on areas that could be improved, Scheme officers made suggestions around the length of reports, the achievability of some of the Commissioner's recommendations, and how to improve communication between the Scheme and the Commissioner.

Using Survey Feedback to Inform Service

Generally, the survey results were positive and the feedback received from the public and the Scheme was beneficial.

Nonetheless, there was some negative feedback. All the survey results have been carefully analysed and provided valuable insight into ways that the office can and will improve its service. There is a demonstrated commitment to this. For example, the office recognises that it can continue to improve the clarity of communication, and should remain mindful of the importance of regular updates to complainants. Staff are continuing work that was already underway to ensure complex decisions are explained simply, clearly and concisely.

The survey feedback has been shared with staff and discussed, to ensure that they are aware of the steps they can take to improve the service and practices of the office.

Post Case Conferences

The Commissioner and staff meet every two months to review recently closed cases. During these conferences investigation and complaints intake staff present several different cases and discuss what was learned from them. This provides an opportunity to reflect on complaints and the issues raised, to highlight any lessons relevant to the office's procedures or to future cases, and to ensure consistency of approach across all cases. It also assists with staff professional development.

File Audit

A random selection of closed case files is annually reviewed against a list of indicators in order to support good file maintenance and record keeping. This year's file audit was completed in May. The results were positive and showed that the communications of staff when dealing with complainants and other stakeholders are constantly professional, transparent and empathetic.

There was a marked improvement on last year's audit in the tone and detail of file notes and in the clarity of written correspondence. The audit also identified some areas for improvement, including using the correct naming conventions for files, making sure parties to a complaint are contacted at certain stages of the complaint's process and that all contact, or attempts to contact, a party are recorded in file notes. Feedback was given to staff regarding these areas.

Through the Looking Glass

In March the Commissioner held her first one-day workshop for Scheme officers from all states and territories, called 'Through the Looking Glass'. Case studies and common complaint pitfalls seen by the Commissioner were used to encourage Scheme officers to consider new ways to improve complaints handling. These included ways to improve conciliation meetings, working better with aged care advocacy services, and demonstrating why apologies are so important in resolving complaints.

Another aim of the workshop was to enhance the Scheme's understanding of the Commissioner's role and function, which was an area identified for development by the Scheme in last year's satisfaction survey.

The feedback after the workshop was extremely positive with 92 per cent of the respondents agreeing the course was relevant to their work and 92 per cent agreeing that the presenters were knowledgeable. It was suggested that the workshop be taken on the road or become a regular event.

Many participants identified networking as an integral part of the day. For example, one respondent said "the collaboration with colleagues from other offices, and the Commissioner's office was interesting and provided great opportunity to take on different viewpoints".

When asked how the information from the workshop would affect how they went about their jobs, responses included that one Scheme officer would “pay close attention to the matters that the Commissioner has highlighted, to avoid making similar mistakes and to ensure continuous improvement occurs within my team” and another would focus on “conciliation and advocacy in resolution of cases”.

The workshop provided an opportunity for professional development for the Commissioner’s staff through running, facilitating and participating in the sessions. It was also a chance to reflect on the office’s processes with outside feedback, and to identify opportunities for quality improvement.

Key Performance Indicators

The Commissioner has internal targets to assist in monitoring the office’s performance and the quality of its work. There are 10 indicators relating to four performance measures. This year’s performance across each indicator is outlined below.

Performance Measure One

Complaints to the Commissioner are responded to promptly, people are regularly updated, and matters are finalised within reasonable timeframes.

Indicator	Result
95% of complaints are acknowledged in writing within three working days of their initial contact with the office.	Exceeded. 100% of complaints were acknowledged within three working days.
All complaints (100%) are assessed and decisions made regarding acceptance or no further action, within 14 days of receipt by the office.	Fully met. 100% of complaints were assessed and decisions made within 14 days.
100% of decision complaints are completed within 60 days from acceptance.	Fully met. 100% of decision complaints were completed in 60 days. On average, examinations were completed within 54 days.
80% of process complaints are completed within 182 days (six months) of acceptance, and 100% are completed within 365 days (a year).	Partially met. 79% of process complaints (19 cases) were finalised within six months. Four cases fell outside this timeframe (by two weeks or less) due to their complexity. 100% of process complaints were completed within one year.

Performance Measure Two

The Commissioner and staff consistently provide a high standard of service to the people who contact the office, and demonstrate fairness, impartiality and best practice in the manner in which complaints are handled. Opportunities to improve the service and internal processes and practice are identified and followed up.

Indicator	Result
A random sample of all files closed in the previous six months is reviewed by the Director once a year to monitor the quality of service and documentation. Any concerns are followed up through staff training and feedback and/or adjustments to practices and procedures.	Fully met. A file audit was completed and the outcome was positive, finding that files overall showed a high standard of service and detailed note taking and documentation. Feedback was provided to staff around naming conventions and communication.
All complainants and service providers (from decision complaints) are surveyed once a year about our processes. 90% who respond rate the office 4 or above (Agree or Strongly Agree) on the below factors: a. High standard of service b. Fairness and impartiality c. Best practice	Not met. Of the complainants and aged care services who responded: a) 75% rated best practice as 4 or above; b) 74% rated impartiality and fairness as 4 or above; and c) 70% rated the standard of service as 4 or above. This is a new KPI which deliberately sets a high bar. Survey feedback has been analysed and discussed with staff and action taken to address matters identified for improvement. ⁷
At least a third (33%) of all finalised complaints are reviewed at a post case conference. Lessons from the complaint and the way it was managed are identified, shared with all staff and recorded.	Exceeded. 35% of finalised cases were presented at a post case conference and lessons were recorded.
All complaints about the office are handled in accordance with the Service and Privacy Complaints Manual, and opportunities for improvement are reported to the Commissioner.	Fully met. No formal complaints about the office's process were received.

⁷ Many factors can influence people's satisfaction with the office. Changes to legislation and the outcome of complaints are just two. People may be dissatisfied when the Commissioner's decision does not accord with their views. The small survey sample and relatively small response rate also makes it difficult to interpret the extent of any issues raised. Nonetheless, survey feedback is an important part of the office's ongoing commitment to quality improvement and best practice.

Performance Measure Three

The Scheme improves its processes as a result of the recommendations from the Commissioner.

Indicator	Result
95% of all recommendations for process improvement are accepted by the Complaints Scheme.	Fully met. The Scheme accepted all of the Commissioner's recommendations.

Performance Measure Four

Staff are well supported in their roles with regular opportunities for further training and professional development.

Indicator	Result
A staff training or development opportunity is offered on average once a month, with at least six 'all staff' training/development opportunities provided during the year.	Exceeded. An average of two training/development opportunities were provided each month, and nine all staff training opportunities were provided.



TABLE OF FIGURES

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APPENDIX

The Commissioner's annual reporting requirements are set out in section 95A-12 of the *Aged Care Act 1997* (below).

95A 12 – Annual report

- (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.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

- (2) The *Aged Care Commissioner must include in the report:
- (a) the number of decisions made under the Complaints 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 processes for handling matters under the Complaints Principles;
 - (ii) the processes mentioned in subparagraphs 95A 1(2)(d)(i) and (ii); 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 Commissioner to the Minister during the financial year in response to requests by the Minister; and
 - (k) any other information required by the Commissioner Principles to be included in the report.

CONTACT US

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