



Australian Government  
Aged Care Complaints Commissioner

# ANNUAL REPORT 2017–18



Resolve.  
Protect.  
Improve.

Aged Care Complaints Commissioner

# ANNUAL REPORT

## 2017-18

Resolve.  
Protect.  
Improve.

## **Our vision**

People trust that making a complaint is worthwhile; that it will lead to resolution for the individual and improve care for others.

## **Our values**

- We will be approachable, independent, impartial and fair in the way we respond to complaints and concerns.
- We will listen to you, explore what went wrong and work with the people involved to fix it.
- We will help to ensure that complaints improve care.

## **Our objectives**

### **Resolve.**

To work with you and the service provider to acknowledge and resolve your concerns or complaint and make a positive difference for people receiving aged care.

### **Protect.**

To take timely action on issues raised through complaints to ensure people receiving aged care are well cared for and protected.

### **Improve.**

To work with the aged care community to learn from complaints and act on opportunities to improve aged care.

**12,398**  
contacts



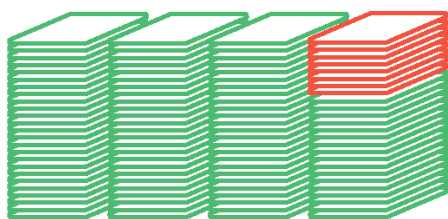
**+13%**  
from 11,007 last year  
2016-17

Refer page 19



Refer page 20

**93% EARLY RESOLUTION**  
was achieved for 5,317 of finalised complaints



Refer page 22

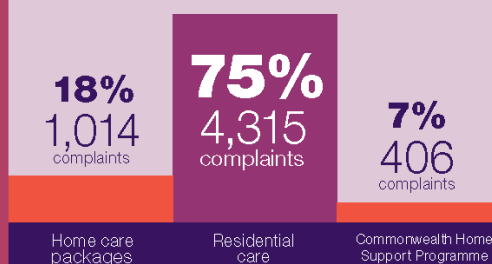
REFERRALS TO THE  
Quality Agency

**1,073**  
REFERRALS



Refer page 26

Most complaints were about  
**residential care**



Refer page 20



**5,738**  
complaints  
**finalised**  
in 2017-18

**+24%**  
from 2016-17



Refer page 22

The Hon. Ken Wyatt AM, MP  
Minister for Senior Australians and Aged Care  
and Minister for Indigenous Health  
Parliament House  
CANBERRA ACT 2600

Dear Minister

As required under section 95A-12 of the Aged Care Act 1997, I provide you with the Aged Care Complaints Commissioner Annual Report for the period 1 July 2017 to 30 June 2018.

Yours sincerely

**RAE LAMB**  
**Aged Care Complaints Commissioner**

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## Commissioner's Introduction

Recently a woman wrote to us saying it was a great relief to find that complaints 'do actually land on someone's desk' at our offices and that we 'ring back to offer guidance and assistance'.

in expressing her appreciation and thanks for our help, she said our involvement had made a significant difference to her relationship with the aged care service and to her father's care.

This letter is not unusual. Every week my team receives emails, letters and telephone calls from people who report that with our help their concerns have been addressed. We also hear from service providers who have made changes to practices, policies and behaviour as a result of our intervention.

The feedback supports what we know about our work - that complaints can and do make a positive difference to aged care in Australia.

Take for instance a woman who contacted us with concerns about the way aged care staff provided her mother's daily care. While there were day to day issues that needed fixing, her overarching concern was that the staff did not value her ability to contribute to her mother's care.

Having cared for her mother for many years, she had reluctantly put her into care when she could no longer cope. She understood her mother's needs and felt upset when staff failed to listen to her and include her in the care.

We arranged a conciliation meeting. Each of the individual care issues was able to be remedied to the daughter's satisfaction through changes agreed at that meeting. But the service provider went further. They invited the woman to give a presentation to staff about her role as her mother's primary carer for many years. She talked about how she had a great deal of valuable experience in knowing her mother's care needs. Most importantly, she talked about what it feels like to put a loved one in a home and to have to allow others to provide care, when you still want to be deeply involved.

The presentation not only improved relationships between the daughter and staff, it helped improve the mother's care. Younger staff got some personal insight into the experiences of family members and long term carers in general, which they had not appreciated previously. They better understood what lay behind the daughter's concerns about the care.

Often the outcomes from complaints are like this - not just about improving individual aspects of care but also relationships, understanding and communication. in many cases it's also about acknowledging failings, apologising and explaining or providing information.

Sometimes the results are very tangible. For example, some people who have come to us with concerns this year about being charged additional residential care fees for things they don't want, can't use, or should not have to pay for, have received reductions or refunds. Others, as a result of a complaint, have received equipment or changes to care or services so these better reflect their individual needs and preferences.

There are times when we cannot achieve an outcome people are looking for. This is because our focus is on resolving the issues complained about. Also we have to work with the tools we have under the legislation to ensure service providers are meeting their responsibilities. We cannot impose sanctions on services or restrict accreditation although, as this report shows, we make significant numbers of referrals to those who can - the Australian Aged Care Quality Agency (Quality Agency) and the Department of Health (the Department) who can and do act when regulatory action is needed. Where we identify a need for urgent action to protect the health and wellbeing of people receiving aged care services we promptly make such referrals while we get on with trying to resolve the complaint.



## Highlights

As this report shows, record numbers of people have sought our help to resolve concerns about aged care this year. The growth builds on the 20 per cent increase in complaints that we saw in our first year. In all, complaints to us have increased by around 47 per cent since 2015-16. We have seen particularly marked growth in the number of people coming to us with complaints about care delivered in their homes. These now account for around one in four complaints.

It is not surprising that aged care complaints are continuing to increase. More and more people are receiving care, particularly in their own homes. We are now two and a half years old and have worked hard at increasing our visibility. Providing independence and putting a 'face' to aged care complaints (a Commissioner) has helped. We have a very clear identity. And it's been a year where there has been significant public attention and concern about aged care.

I am the first to agree that there are people who still don't know about us and that some people feel too vulnerable to raise concerns. But the numbers speak for themselves. They show that more people are speaking out when they have concerns about care, and that more people know about us and where to go with unresolved concerns about aged care.

This report also shows that despite the big increase in our workload, the vast majority of complaints to us continue to be resolved relatively quickly, working informally and co-operatively with complainants and service providers using what we call 'early resolution'. It also shows that complaint issues can usually be closed on the basis that they have been resolved to the complainant's satisfaction.

Of course, this report reflects only the matters that come to us. Many complaints can and should be resolved directly with service providers. The earlier and more directly a concern can be addressed the more likely it is to be resolved. Too often we see missed opportunities by service providers to respond in a way that will resolve people's concerns and mean they don't need to come to us.

We have an important education function, which allows us to focus on improving the way providers respond to complaints, as well as assisting consumers to raise them. This year we have actively promoted, through presentations, blogs, articles and other materials, a theme known as the 'Golden Moment'. It builds on the well-established concept in emergency medicine that the way services respond in the first hour has a major impact on survival and the outcome for a patient. Complaints are the same - the better the first response, the higher the chance of a successful outcome. This is also the focus of a sold-out interactive workshop we have prepared for the Quality Agency's 2018 national Better Practice conference.

From a complainant: *"I would like to thank you and any others who have helped in the handling of my complaint. Your help will make a difference in the care provided for my husband and other residents."*

Last year I publicly challenged aged care providers to be more open about complaints and how they respond to them so that people can be more confident about raising concerns. This year we have focused on getting that message to the boards that govern aged care services. I have met with several of the boards of big aged care service providers. So far at least one organisation has told us it is planning to publish more complaints information on its website as a result of the challenge. Others are still considering it. I hope that this will catch on and others will follow.

We have been out and about around the country talking to many others in order to raise our profile and awareness of the services we offer. For instance, in late 2017 we reached out to Home Care providers and the Community Visitors Scheme to ensure they know about us and how we can help. This resulted in an influx of requests from them for presentations by us. Efforts to raise our profile in regional areas have included a visit to Aboriginal and Torres Strait Islander services and other aged care services in the Northern Territory and participating in the Darwin Seniors Expo. We also participated in an aged care roadshow in Queensland.

We have signed a Memorandum of Understanding with the Older Persons Advocacy Network (OPAN) to support and promote us working more closely together. New education resources this year include Top Tips for Providers for responding to complaints (a companion to last year's Top Tips for

Consumers) and materials promoting consumer rights in aged care.

Another highlight, though more internally focused, has been work we have done to ensure that when we write to people it is empathetic, clear and simple; that decisions on complaints are not only well made but well explained. Called 'Speaking in the Commissioner's Voice', the workshops and training we have run with all staff, with supporting materials, have focused on communicating in a human way that is relevant and avoids the use of acronyms and bureaucratic language. It's been a big investment in time and energy but we think it's important. Poor communication is a real barrier to understanding. The feedback I mentioned earlier and other feedback I see suggests we are making great progress with this.

## **Acknowledgements**

As I have said in previous years, although I hold the office and title, it is the work of my team that delivers such great outcomes for people who seek our help to resolve their concerns. When I spend time in our offices around the country, I sit with the staff and can hear and see them interacting with people who seek our help and those who provide services. I continue to be deeply impressed by the care and expertise I observe. Despite a significant and ongoing increase in workload, the team have continued to resolve complaints in a timely and proportionate way; to develop and provide high quality external education, information and resources; and to provide internal training and guidance and support for the more complex complaints matters. They do this with good grace and a high degree of professionalism. We have delivered some great results. I am very proud of our team and what we achieve.

Thanks and acknowledgement are also due to members of our external Consultative Committee who provide us with insight and wise feedback and help to keep us in touch with the people we serve.

I also want to again acknowledge the co-operative and effective way staff from the Quality Agency and the Department work with us in relation to our shared responsibilities in aged care.

Finally, and most importantly, thank you to the many people who have raised complaints with us this year and the service providers who have worked well with us to resolve them.

It's not easy making a complaint or being complained about. But complaints are vitally important. Sometimes they expose abuse, negligence or substandard care. Most often they shed light on opportunities for improvement.

Behind every complaint is a person - an older Australian who has a right to expect good care. We owe it to them to fulfil our vision that, *'People trust that making a complaint is worthwhile; that it will lead to resolution for the individual and improve care for others'*.

**Rae Lamb**  
**AGED CARE COMPLAINTS COMMISSIONER**

## Letters to us

The words below are excerpts from letters received by the Complaints Commissioner.

*... It was, for me, a great relief to find that 'complaints' do actually land on someone's desk at the Aged Care Complaints Commissioner, and as a result someone does actually ring back to offer guidance and assistance. I'd begun to think that this was an abnormal expectation in the land of 'Aged Care', where my struggle to be heard and taken notice of at [residential service] went unheeded for so long.*

*I much appreciate the time you took to listen to my concerns regarding my father's care, and the efforts you made to address all the issues we discussed. Your involvement in the investigation of my complaint has made a significant difference to the manner in which [residential service] responds to matters relating to the care of my father, and I'm hopeful that a better 'working relationship' now exists.*

*...given that my father's care needs are increasing, your efforts to assist with effecting a change in his care have been both timely and much appreciated.*

*Thank you again for your interest and your professional expertise in managing my complaint...*

*... I am currently working with [staff member] of your office and just wanted to relate how professional and helpful she has been. The issue is still ongoing, but already [she] has managed to ascertain an acknowledgement and apology. This has meant the world to us.*

*I'm a great believer in giving positive as well as negative feedback. It's important, I believe, that organisations know when they are getting things right.*

*From the first phone call, I have found [the staff member] to be very knowledgeable and sensitive in her dealings with my husband and myself. I must say prior to my talks with [her], I found the concept of voicing our concerns and complaints very daunting. She has clearly explained to us our options and most importantly has at all times spoken to us in a polite and compassionate way. This has been very much appreciated by us and we wanted to say 'Thankyou' and 'Well done'...*

*...I write to advise you of the exemplary handling of [my] complaint, initially by the young lady who answered my telephone call and subsequently by [staff member], who was responsible for resolving the issues raised.*

*[Staff member] handled his telephone calls to me with great sensitivity and I do not know how he could make out half (of what) I said, as talking about [my husband's] situation reduced me to tears.*

*The result has been life changing for me. The "extras" charge of \$300 a month for extras my husband was not receiving has been dropped. This might not sound like much but by paying this, our savings have been totally depleted and I did not know how I was going to afford it... Naturally, I do not begrudge my darling husband anything but he has advanced dementia and is unable to participate in any activities or extras provided to other residents. Further, his care has improved considerably. Most of the time now, he is clean and sometimes shaved. The feeling of stress and impotency has been greatly relieved.*

*If ever you should question the need for your services, I for one can tell you that you are sorely needed and that your staff are doing a wonderful job...*

# Roles and Functions

## What we do

The Commissioner and her team work under the *Aged Care Act 1997* (the Act) and the *Complaints Principles 2015* (the Principles).

The Commissioner's main functions are to:

- **resolve complaints** about Australian Government funded aged care services, and
- **educate people and aged care providers** about the best ways to resolve complaints and the issues they raise.

The Commissioner can also undertake a resolution process on her own initiative if we receive any information that raises concerns about the responsibilities of an aged care service provider. Further, the Commissioner may be requested to advise the Minister about matters relating to any of her functions.

## How we manage complaints

Anyone can raise a concern with the Commissioner and her team. our service is free.

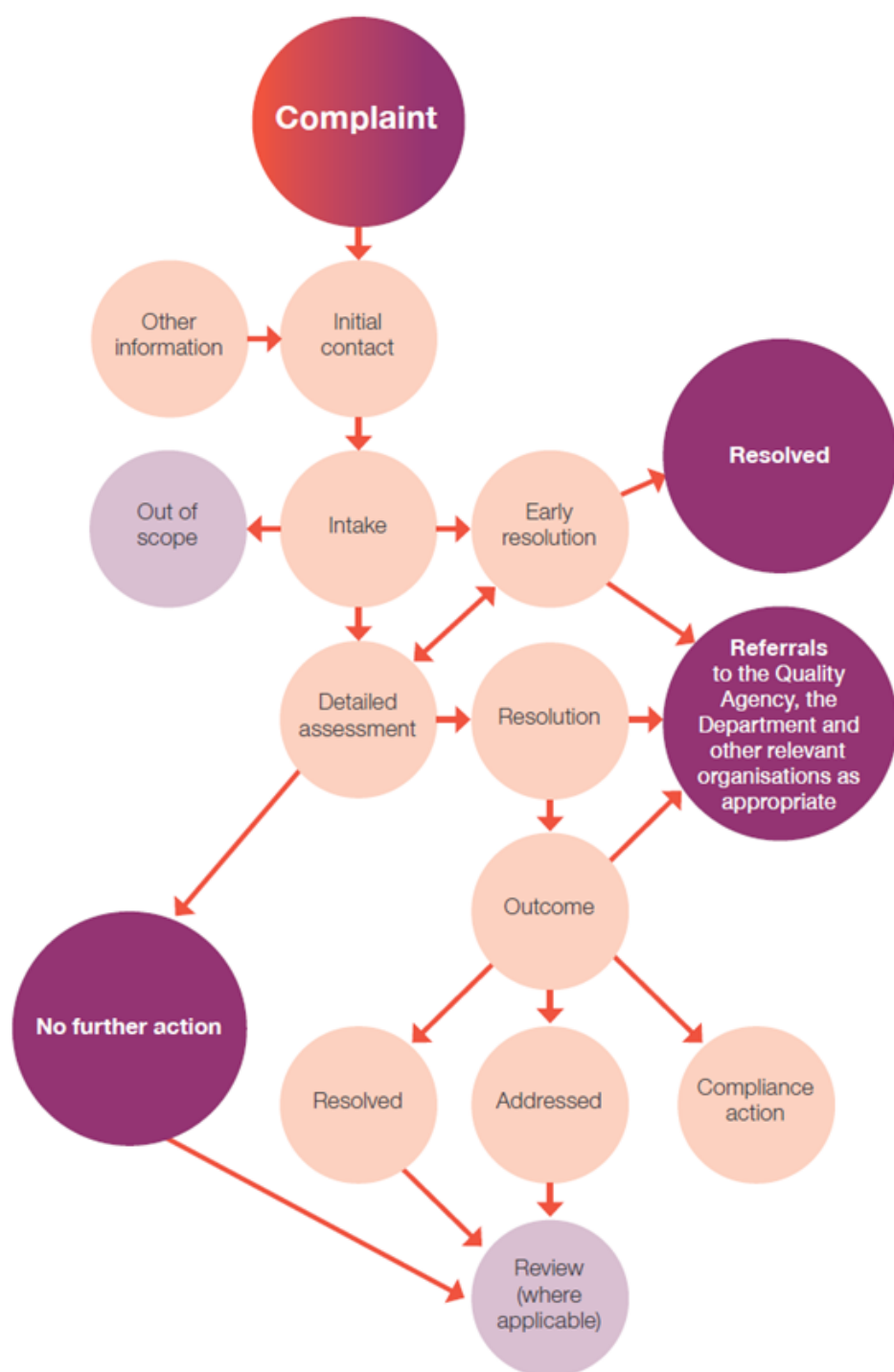
We can examine concerns relating to an aged care service provider's responsibilities under the Act or Government funding agreement (the Agreement). Complaints can be about Australian Government funded:

- residential or respite care
- Home Care Packages
- Commonwealth Home Support Programme (CHSP) services, and
- flexible care, including transition care, innovative care or multi-purpose services and the National Aboriginal and Torres Strait islander Flexible Aged Care Programme (NATSIFACP).

Complaints can be made by telephone on 1800 550 552, by mail or through our website using an online complaints form.

Complaints about aged care services are generally received and managed by complaints officers in the region where the care is being provided.

## Complaints management flow chart



Our approach ranges from supporting people to resolve their concerns with the aged care service provider (either through early resolution or the service provider resolution process and conciliation) to investigation. We may visit a service to seek information.

Where necessary, the Commissioner has the power to direct a service provider to demonstrate that it is meeting its responsibilities under the Act or the Agreement. The Commissioner can also, at any time, refer matters to the Department, the Quality Agency and other relevant agencies.

## About our team

We have approximately 170 experienced staff based in Adelaide, Brisbane, Canberra, Hobart, Melbourne, Perth and Sydney dealing with complaints from across Australia. We aim to operate as one national team across multiple sites under two streams:

- **Complaints operations Stream**

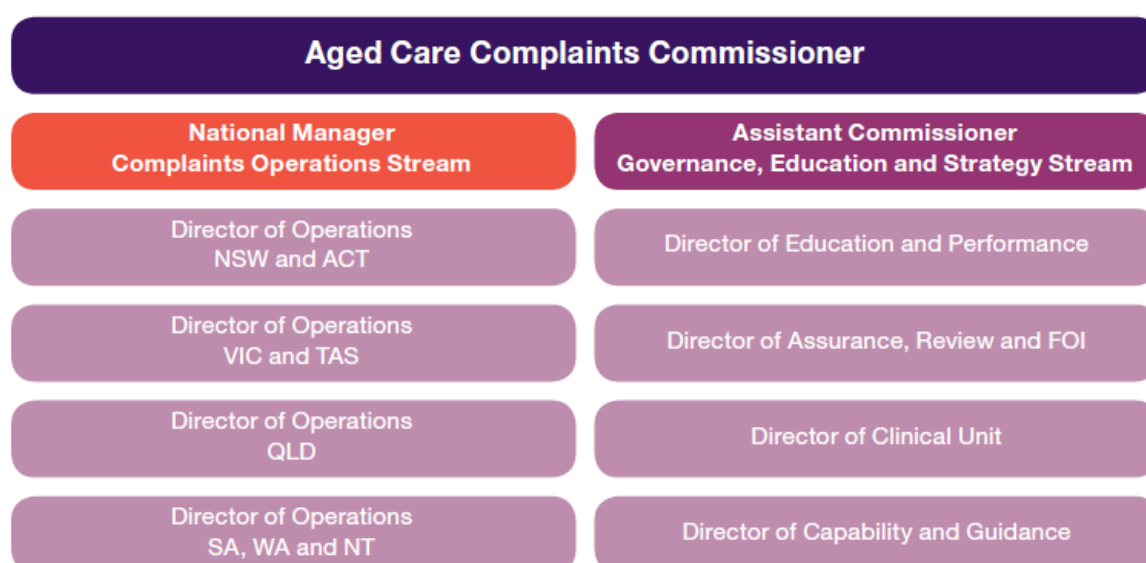
This stream works directly with people to resolve complaints. The National Manager of Complaints operations leads and supports the Directors, who lead complaints operations in four regions (SA/WA/NT, VIC/TAS, NSW/ACT and QLD). Our complaints officers come from diverse backgrounds including nursing, allied health, police, law, counselling, mediation and administration.

- **Governance, Education and Strategy Stream**

This stream is responsible for education and the development of associated resources, as well as corporate and strategic functions including corporate planning and improvement, capability and procedural guidance, stakeholder relations, complaints assurance, reviews, quality reporting and data analysis. The clinical advice unit, which provides specialised advice and assistance to complaints officers about clinical matters encountered during complaints, is also a part of this stream. This stream is led by the Assistant Commissioner and officers come from backgrounds such as law, nursing and allied health, communications, aged care policy, information technology and administration.

All staff are public servants. They are required to uphold the Australian Public Service Values and the Australian Public Service Code of Conduct.

## Organisational structure and leadership team



## **Budget**

The budget for 1 July 2017 to 30 June 2018 was approximately \$18.3 million. The budget is included in the Department's operations and is monitored and reported on by the Department.

## **Our legal framework**

Along with the Act and the Principles, the Commissioner acts in accordance with relevant legislation including:

- the Commissioner Principles 2015
- the Public Governance, Performance and Accountability Act 2013
- the Privacy Act 1988 and the Australian Privacy Principles
- the Information Principles 2014, and
- the Freedom of Information Act 1982.

## **Our regulatory and compliance framework**

We are part of the regulatory framework for ensuring quality services for people receiving Australian Government funded aged care. The regulatory framework governs:

- who may provide Australian Government funded aged care services
- the type of care and services that must be provided
- the standard of care and services that must be provided, and
- the rights and responsibilities of people receiving aged care and those providing it.

We work closely with two other Australian Government organisations, the Quality Agency and the Department.

The Quality Agency is responsible for assessing the quality of services delivered by Australian Government funded aged care providers against Australian standards for care and services in aged care. This includes services delivered through a residential aged care service, in a person's own home or in a community setting. We may refer information to the Quality Agency where issues might be of a systemic nature to help inform future quality monitoring of aged care services.

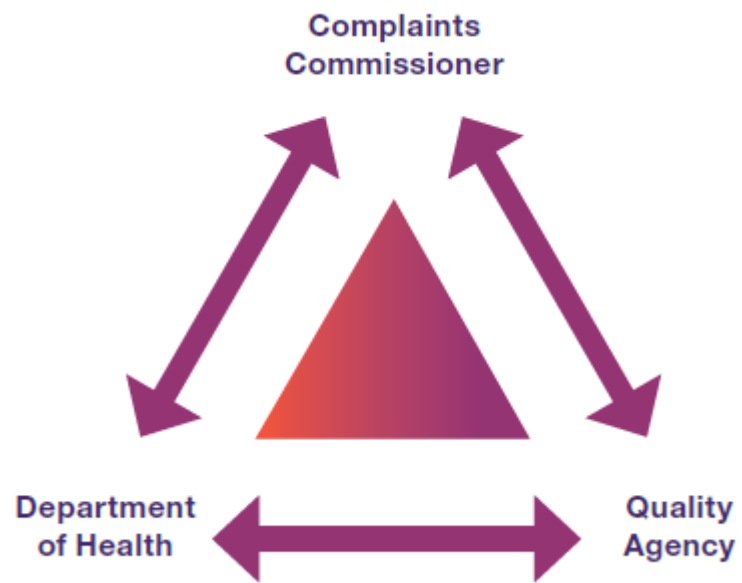
The Department is responsible for managing national programs that regulate approved providers and manage grants for service providers. Through these programs it:

- monitors provider compliance with the Act or their Agreement
- establishes, promotes and enforces prudential regulations protecting accommodation payments paid by residents to approved providers, and
- determines and monitors the appropriateness of entities, including their key personnel.

While all three organisations have clear and independent roles, we work cooperatively through formal referral arrangements, information sharing and regular meetings. This is to ensure there is a coordinated approach to protecting the safety and wellbeing of people receiving aged care services.



## Regulatory framework triangle



## Our performance

The Commissioner is required by the *Commissioner Principles 2015* to report on a number of indicators in the annual report (see Appendix).

This report provides data for 2017-18 and shows comparative data for 2016-17<sup>1</sup>, the two complete financial years since the commencement of the Aged Care Complaints Commissioner on 1 January 2016.

## Public contact



People contact us with questions and concerns which may not directly relate to the Commissioner's functions. These enquiries are mainly received through our free call telephone number (1800 550 552). Where the question is outside the Commissioner's functions, we provide the person with helpful information or refer them to another organisation that can help them. Examples of such contacts are complaints about retirement villages (which are regulated by the states and territories), questions about industrial matters and requests for legal or clinical advice.

We had 12,398 contacts this year, **an increase of 13 per cent** from 11,007 contacts in the previous year. Of these contacts, 3,046 (25 per cent) were matters which did not directly relate to the Commissioner's functions. This is a decrease in out of scope enquiries by 10 per cent from 2016-17. The remaining 9,352 contacts were for matters that related to our functions. Of these, 3,479 (37 per cent) were enquiries, an increase from 2,821 enquiries in the previous year. Enquiries that are in-scope can include matters such as requests for information from people who want to better understand the responsibilities of the provider or how to raise a concern directly with a service provider. Information is provided and they are invited to contact us again if they require further assistance.

There were 68 contacts where the Commissioner initiated an own resolution process (refer **own initiative resolution processes** page 27) and 26 related to new resolution processes which were commenced following a request for review (refer **Reviews** page 28).

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<sup>1</sup> Based on revised 2016-17 data as at 30 June 2018.

## Complaints received



The remaining 5,779 contacts were complaints, **an increase of 23 per cent** from 4,711 complaints in 2016-17. Of these, 3,253 complaints (56 per cent) came from family members or representatives of people receiving care (see Figure 1), and 1,083 (19 per cent) were from care recipients. The remaining complaints (25 per cent) were from anonymous sources, other interested parties and referrals from other agencies.

There were 4,315 complaints about residential care, which accounted for 75 per cent of all complaints, compared with 78 per cent last year. This year, 18 per cent of complaints were about home care packages (1,014) and 7 per cent were about CHSP (406), compared with 15 per cent and 7 per cent respectively last year. There were also 44 complaints about Flexible Care.

There can be many issues in a complaint and they may be resolved in different ways. The most common issues raised in complaints about residential aged care were about medication administration and management (706), personal and oral hygiene (473) and personnel numbers/ratio (452)<sup>2</sup>.



<sup>2</sup> This is the number of times the issue has been raised, not the number of complaints. There can be multiple issues in a complaint.

Medication administration and management was also one of the most common issues in residential care complaints in 2016-17.

This year 452 issues were raised about staff numbers and ratios, making it one of the top three issues in residential care complaints for the first time. There were many other issues raised in complaints about residential aged care. These are so wide ranging in nature that even the most common issue, medication administration and management, represents only 7 per cent of all issues raised.

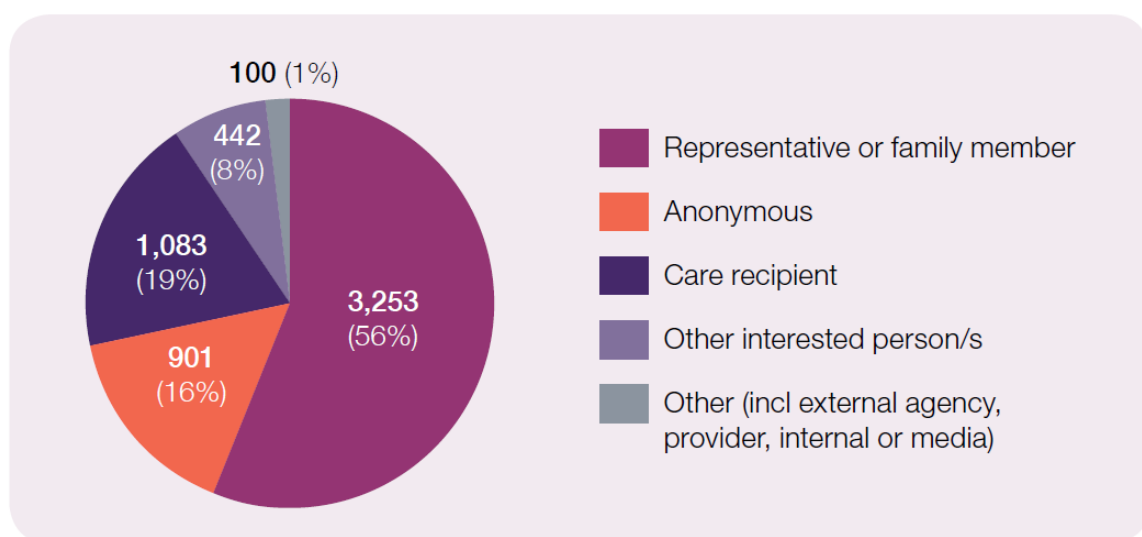
In home care, the most common issues complained about were fees and charges (336), lack of consultation and communication (167) and communication about fees and charges (144). These were also the top three issues in complaints about home care last year.

For CHSP, the most commonly complained about issues were fees and charges (98), lack of consultation and communication (80) and communication about fees and charges (51).

Fees and charges continues to be a major factor in complaints about both home care and CHSP, accounting for 19 per cent and 18 per cent respectively of all issues.

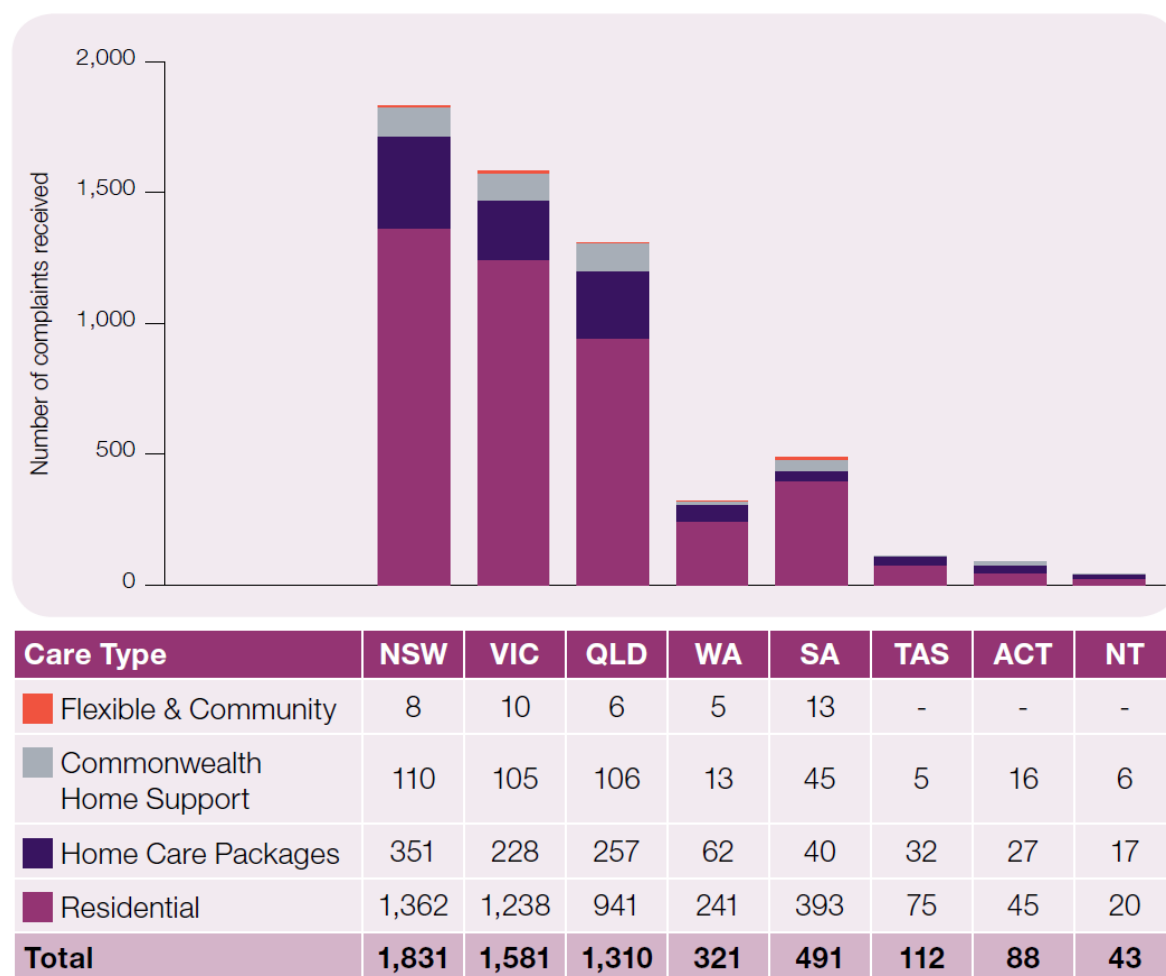
For flexible care, there were too few issues to be able to report which were most commonly complained about.

**Figure 1: Number of complaints received by initiator type 2017-18**



*Total numbers do not reflect total complaints received as we have removed data from states or territories that contained fewer than five complaints*

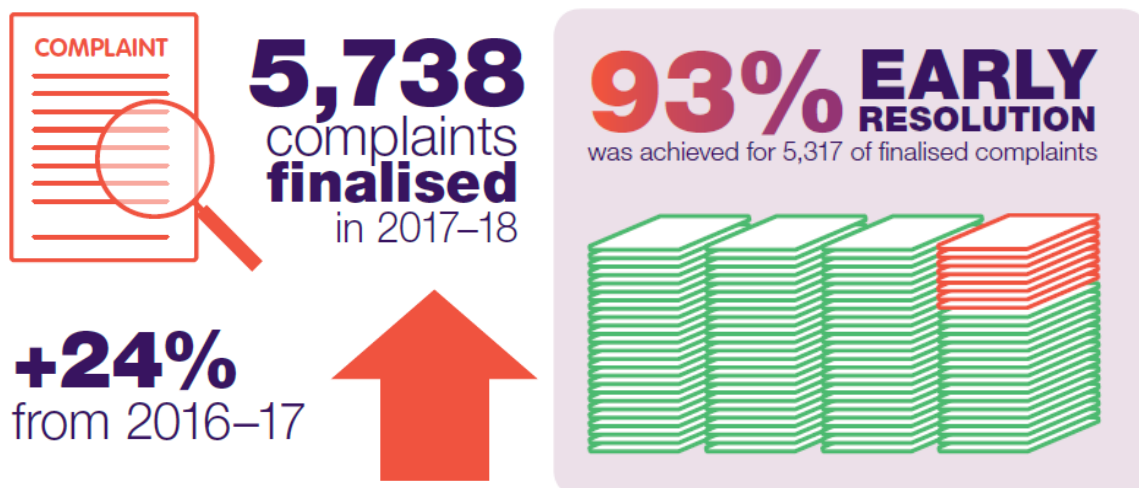
**Figure 2: Total complaints received by service state/territory 2017–18**



*Total numbers do not reflect total complaints received as we have removed data from states or territories that contained fewer than five complaints*

## Complaints finalised

We finalised 5,738 complaints, an increase of 24 per cent from the 4,617 complaints finalised in the previous year. This year, 4,185 (73 per cent) were finalised within 30 days and 5,330 (93 per cent) within 90 days.



Complaints are resolved in a number of ways. Where possible, we support the complainant to resolve their concerns quickly and directly with the service provider. This is called early resolution and it was achieved for 5,317 complaints (93 per cent of complaints finalised). Last year 92 per cent (4,229) of complaints were finalised through early resolution.

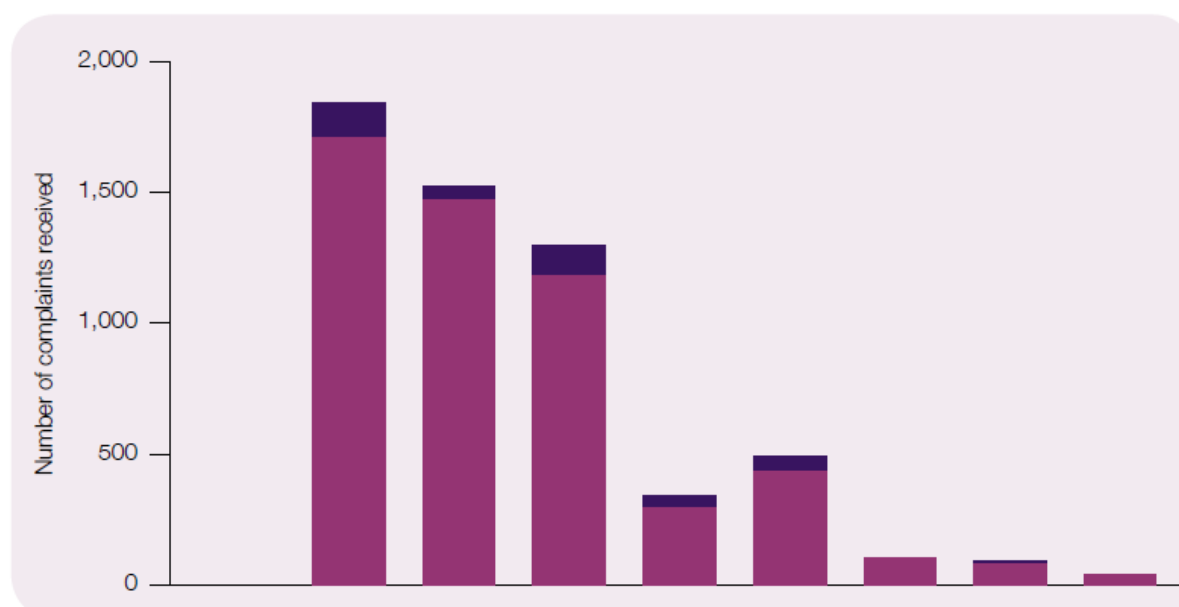
We received 13,162 complaints issues this year. 11,589 complaint issues were finalised during early resolution this year and 62 per cent of them were finalised to the satisfaction of the complainant.

There are circumstances where we may decide to take no further action regarding a complaint or some of the issues within a complaint. This includes where a particular issue is withdrawn or the person receiving care does not want an issue to be considered. Following initial assessment, 4,204 (36 per cent) of the 11,589 issues finalised during early resolution required no further action.

Where early resolution is not possible or appropriate, we examine the issues in each complaint to determine the best way to resolve them. Different issues within a complaint may be approached differently.

The 1,573 issues of the 421 complaints resolved using formal resolution processes were addressed using 457 approaches<sup>3</sup>, comprising investigation (271), provider resolution (140) and conciliation (46).

**Figure 3: Total complaints finalised by service state/territory 2017-18**



Stage Resolved	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Resolution	137	52	114	41	60	5	9	-
Early resolution	1,707	1,472	1,184	298	432	102	82	40
<b>Total</b>	<b>1,844</b>	<b>1,524</b>	<b>1,298</b>	<b>339</b>	<b>492</b>	<b>107</b>	<b>91</b>	<b>40</b>

*Total numbers do not reflect total complaints received as we have removed data from states or territories that contained fewer than five complaints*

From a complainant: *"The assistance you provided was outstanding, it has given me greater confidence in growing older"*

<sup>3</sup> Different issues in a complaint can be resolved using different approaches. Approach types are investigation, provider resolution, conciliation and mediation.

## Site visits

Visits to aged care services can assist in the collection of information about a complaint and with resolving the complaint. During these visits, complaints staff may talk to residents to determine their views about their care, make independent observations and gather information. The visits may be part of an informal meeting or a more formal prearranged visit to interview staff and people receiving aged care as part of an investigation. Most visits are announced, where the service provider is told about the planned visit beforehand. This is to ensure the right people and information are available. However, visits can also be unannounced, where we judge that giving notice of the visit would be likely to affect the resolution of the issue, place the safety, health or wellbeing of any person at risk or place any person at risk of intimidation or harassment.

It is important to note that these visits are very different to the visits conducted by the Quality Agency in carrying out its accreditation and monitoring work. Where we consider urgent action may be needed to address a serious health and safety issue we are more likely to refer this to the Quality Agency for action than visit ourselves. This is because they have greater ability to take action in such circumstances.

This year we improved the way we record visits to aged care facilities so we can differentiate between a meeting at a site and a formal site visit. We also made significantly more referrals to the Quality Agency (refer **Referrals** page 26). As a result, the number of formal site visits we made decreased and the number of meetings increased. Our staff made 34 site visits, with 23 of these announced and 11 unannounced. There were 111 meetings at services.

## Notices of intention to issue directions (notices) and directions

During a resolution process, the Commissioner may decide to direct a service provider to take action to comply with its responsibilities under the Act and the Aged Care Principles or the Agreement. Before issuing a direction, the Commissioner must give a **notice** to the service provider that she intends to issue a direction. The notice explains the preliminary findings on any issues of concern and gives the service provider the opportunity to respond to the concerns by identifying how it has, or will, address the issues identified. If the response to the notice is inadequate, the Commissioner must direct the service provider to take certain action to comply with its responsibilities. Service providers are required to comply with such a **direction**. If the Commissioner is not satisfied with the service provider's response, she will refer the matter to the Department so it can consider taking compliance action.

The Commissioner sent 23 notices during the period. Of these, 18 notices did not result in a direction being issued. This was because the services satisfactorily addressed the concerns that were raised. The remaining 5 notices resulted in a direction being issued.

The Commissioner issued 14 directions in the year of which 9 related to notices that were issued in the previous year. The 14 directions covered 17 complaint issues comprising 16 financial fees and charges issues and 1 issue relating to health care and palliative/end of life care. Of these issues, 15 related to residential services and two related to help at home.



## Referrals

In certain circumstances the Commissioner releases information to other organisations such as the Department, the Quality Agency, state and territory governments, Public Health Units, the police, coroners, the Australian Health Practitioner Regulation Agency and health care complaints bodies. We do this when the other organisation is better placed to assist or to act on the information.

Referrals to the Quality Agency usually relate to complaints that show a breakdown of processes or practices that affect, or may affect, a number of people receiving aged care, or a failure that has been ongoing. This includes any process or practice that the Commissioner is not confident will be resolved and prevented for everyone affected, even though specific issues may have been resolved for an individual.

Referrals are made to the Secretary of the Department where information has been received or a resolution process has identified that a service provider's non-compliance with their responsibilities under the Act, the Principles or the Agreement is of such concern that the Department may need to take compliance action.

The Commissioner made 1,110 referrals to external organisations, an increase of 117 per cent from last year (511)<sup>4</sup>. Of these, 1,073 were to the Quality Agency and most commonly related to behaviour or conduct of personnel, falls prevention and post-fall management, and medication administration and management. This was more than double the referrals we made last year (468), a strong indication of improved collaboration between our organisations. A further 28 referrals were to the Secretary of the Department where matters were out of scope for the Commissioner or were of a nature that the Department was the more appropriate agency to deal with them. The referral issues included financial fees and charges, management of finances and other financial issues. The other 9 referrals were to other external agencies such as state and territory governments, advocacy organisations and coroners.

## Own initiative resolution processes

The Commissioner can also initiate a resolution process based on information received from a source other than a complaint. During the period, we commenced 68 processes on our own initiative, an increase of 39 per cent compared to 49 initiated last year. The issues were diverse but most related to financial fees and charges, and medication administration and management. Of the own initiative resolution processes commenced, 82 per cent were about residential aged care. We finalised 66 own initiative resolution processes.

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<sup>4</sup> Referral numbers may differ in reported data from other organisations due to differences in timing and collection methods.

## Reviews

People who make complaints have the right to seek a review of the decisions or to complain about our process and the service providers involved have the right to seek a review of our decisions. Actions available to people seeking a review include the following:

- after a complaint is finalised, the complainant can ask the Commissioner to review a decision to take no further action or to end a resolution process
- after a complaint is finalised, the service provider can ask the Commissioner to review a decision to end a resolution process
- anyone involved in a complaint can complain to us about the handling of the complaint or a complaints officer's conduct, and
- any person involved in the complaint can seek external examination by the Commonwealth Ombudsman if they are not happy with our actions in managing a complaint or a subsequent review.

The Commissioner received applications to review 80 complaints after they were finalised. Fifteen of the applications were discontinued or found to be invalid because they did not meet the required timeframes or did not state the reasons why review was sought. Thirty reviews resulted in the original decisions being confirmed and 25 led to new resolution processes, with a further 10 reviews still in progress at the end of the reporting period.

The Commonwealth Ombudsman (the Ombudsman) commenced four investigations under Section 8 of the *Ombudsman Act 1976* about how we handled specific complaints. We provided information in response to all four investigations. As of 30 June 2018, the Ombudsman notified us that, having considered all the relevant circumstances, no further investigation was warranted in any of the four cases.

## Requests from the Minister

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

## Education and other activities

As well as resolving complaints, our other main function is to educate people and aged care providers about their rights and responsibilities and the best way to handle complaints.

Our core education efforts this year continued to focus on communicating with service providers and consumers about who we are, what we do and the importance of making complaints. The Commissioner also continued to promote her challenge to service providers to be more open about complaints and the need to make it easy to complain.

In late 2017 we reached out to Home Care providers and the Community Visitors Scheme. This resulted in increased interest and we delivered education sessions across the country about who we are and what we do.

In early 2018 we reached a significant milestone in our relationship with the Older Persons Advocacy Network by signing a Memorandum of Understanding between our two organisations allowing us to work better together through increased engagement and information sharing.

We also updated our Memorandum of Understanding with the Quality Agency, to support the two agencies to continue to work closely through regular engagement and liaison.

## Education

We delivered 92 education sessions to different audiences around the country. Many of these were held in regional areas across all states and territories, including a visit to Darwin where we presented at three aged care services and held an information booth at the NT Seniors Expo. We ran 12 information booths at various aged care events across all states and territories.

The Commissioner and her staff presented at 10 major conferences, including the ACSA National Summit, LASA National Congress, COTA's aged care reform conference, the 5th National Elder Abuse Conference and the Better Together LGBTIQ National Conference. The themes covered in these presentations were varied and included *the Power of the Apology*, *the Golden Moment*, and *Addressing the Evolving Expectations of Quality*. The director of our clinical unit also presented on our framework for clinical decision making at the Australian Association of Gerontology conference and presented clinical case studies at the Palliative Care Nurses Australia conference.

We continued our involvement with the Quality Agency's Better Practice conferences by participating in panel discussions and presenting on *the Golden Moment* in complaints handling in Sydney, Melbourne and Brisbane. The Commissioner's staff also participated in the LASA Professional Development panel series across the country, discussing the interaction between agencies and advocacy services using case study examples.

We played a key part in the Aged Care Roadshow 2018 where we toured regional areas of Queensland with the Department, presenting to aged care service providers and consumers.

A new education resource was also developed, called Top Tips for Service Providers: Managing Complaints. The resource provides practical tips to staff of aged care services to help them deal more effectively with complaints. It follows a similar resource developed last year for consumers.

We continue to maintain a comprehensive collection of print and online resources to help people receiving aged care, and their families, friends and representatives, to understand how to raise a concern with an aged care service or with us. Our most popular print resources are now available in 24 languages other than English.

## Community engagement

The Commissioner and her staff engage regularly with representatives from industry and consumer and advocacy groups. This year we attended 193 meetings with external stakeholders. We also attended public meetings in Bundaberg and Melbourne to answer questions and provide information about our role and services.

Our external Consultative Committee continues to provide an important link to the community. Its members represent the interests of consumers and industry, Aboriginal and Torres Strait Islander people, the LGBTI community and people from culturally and linguistically diverse backgrounds. This year, members contributed to: development of a quality improvement plan that supports the corporate plan; design of education and engagement activities; interpretation of performance and complaints data; the development of new education resources; and a review of our key performance indicators.

Members suggested that engaging more directly with boards and chief executives of aged care providers would provide an opportunity to influence and improve provider behaviour. The Commissioner met with and spoke to the governing boards of four large aged care providers and further meetings are planned. These meetings allow the Commissioner to promote greater openness about complaints and reinforce the message that complaints can be a positive driver for change.

The meetings were well received and generated positive feedback such as the following: “since your visit, we have put a staff member on for a year to roll out a customer feedback portal and start publishing our feedback on our website. Well done on your great presentation and positive influence”.

Media awareness of our work continues to grow. As well as responding to requests from mainstream media for information and comment, we further developed our social media presence through Twitter, Facebook and LinkedIn to increase awareness of our role and responsibilities. During the year we disseminated almost 900 tweets and posts, gained more followers, posted 4 blogs and had more than 4,000 interactions on social media.

The Commissioner also continued her involvement with the Australian and New Zealand Health Complaints Entities through meetings, and as an ex officio member of the Quality Advisory Council and the Aged Care Sector Committee’s Quality Sub-Group.

The Commissioner participated in the Review of National Aged Care Quality Regulatory Processes, conducted by Ms Kate Carnell AO and Professor Ron Paterson ONZM. The Commissioner and her leadership team met with Ms Carnell and Professor Paterson, providing information as part of a targeted consultation process.

The Commissioner made written submissions to and appeared before two parliamentary inquiries: the Senate Community Affairs Reference Committee’s inquiry into the effectiveness of the aged care quality assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised; and the House of Representatives Standing Committee on Health, Aged Care and Sport’s inquiry into quality of care in residential aged care facilities in Australia. A written submission was also made to the Senate Standing Committee on Economics’ inquiry into the financial and tax practices of for-profit aged care providers.

## **Case Study**

### **Additional fees and charges in residential care**

**A resident and his wife have saved \$300 per month and received a backdated refund from the service provider after we helped resolve their complaint about financial and care issues.**

The resident had been moved to a dementia specific area which was able to handle his more complex care needs. His wife contacted us and raised concerns about a fee that was still being charged to her husband for additional services he could not use.

His wife told us that she initially agreed to pay the fee so that her husband was able to engage in activities such as day trips and arts and crafts, as well as go for meals at the local R.S.L. Club. However, since his condition declined, the resident had been unable to participate in or benefit from any of the additional activities. His wife had written to the provider and had not received a response, and she wanted our staff to speak to the provider about the issue.

We contacted the provider immediately and we were able to convey the concerns and desired outcomes. The provider agreed that charging the additional services fee was not appropriate in this circumstance. They promptly stopped charging the fee and organised a backdated refund to be issued to the resident and his wife. They also said they would check to make sure other residents weren't being charged for services they couldn't access. The provider also addressed some day to day care issues that had been raised.

## **The importance of social interaction and activities**

**Residents are delighted with changes to a recreational activities program to make it more inclusive and accessible for residents with specific needs, following a complaint.**

The daughter of a resident contacted us about an ongoing concern she had that her mother was not getting enough social interaction.

She said that because her mother was receiving pressure care and was in bed, she was not included in social activities or interactions that she would normally be able to engage in. She was especially upset that her mother was missing out on church group activities.

The daughter said that she had tried to raise her concerns with the service provider many times without success and she wanted our help.

When we contacted the provider, they said that although their care model is holistic, social activities are not a priority, and they acknowledged that although they treat residents equally despite diagnosis or special needs, the resident had been unable to access activities due to being in bed.

We provided education to the provider about their responsibilities to the resident by explaining that they were required to ensure each resident had access to social and recreational activities. Further, the provider needed to have programs to encourage residents to take part in these social activities and they should be designed to promote and protect the resident's dignity.

The provider reviewed their recreational activities program and found several activities that were not accessible to residents with complex needs. They agreed to develop new creative solutions including regular music therapy, a new activity of taking residents in bed to the courtyard for conversation and light massage, and organising for hymns to be performed at the service.

The resident's family told us the courtyard sessions and music therapy have changed the entire mood of the facility, and their mother and other residents are delighted.

## **Consultation and Communication**

**Consultation and communication between a service provider and a resident's family has improved after we helped the provider understand their responsibilities and the importance of clear communication channels.**

The daughter of a resident contacted us about dietary concerns and the lack of communication and consultation about her father's care needs.

She told us the provider had ignored her requests for a dietary review for her father and was not responding to complaints about his care. The provider had arranged for their speech therapist to review her father despite agreeing to allow her to select her own. She asked us to assist as she believed she wasn't achieving what she wanted by contacting the provider herself.

We contacted the provider and raised concerns about the dietary care provided to the father as well as a lack of consultation and communication with his daughter. The provider reviewed the resident's records and their processes and responded.

They acknowledged that their communication with the daughter was not adequate and that their communication channels and complaints process could be improved. They acknowledged that the lack of consultation with the daughter about the visit by the speech therapist was inappropriate and that this was due to a lack of staff training. The provider also acknowledged the concerns the daughter had about her father's dietary requirements, specifically her request for vegetarian meals and supplements to support his diet.

The provider apologised to the resident and his daughter and implemented measures to prevent similar issues from occurring across the service. This included updating the resident's care plan to reflect his needs, and providing staff-wide communication and training about responsibility in administering supplements, complaints handling, speech pathology visits and catering. The provider's management team also organised weekly meetings between the Director of Nursing (DoN), nurses and the chef to discuss issues within the service and to identify areas for improvement, as well as monthly meetings between the general manager, caterers and the DoN to resolve ongoing complaints at the service.

The daughter told us that her family was satisfied that they were finally able to be heard and that we were instrumental in improving the quality of her father's care. She also told us that while speaking to other families she found that the new measures had made everyone feel more confident and comfortable talking about their concerns with the service.



## **Improving dementia care**

**The quality of life for a resident with dementia improved following changes to a service's pain management and manual handling.**

A woman contacted us and said she was concerned that the service provider was not managing her husband's behaviour appropriately or treating him with appropriate respect. She also said he had lost significant weight over the past year. She informed us her husband had advanced dementia.

We investigated and found significant concerns about the service's ability to provide appropriate care for residents living with dementia. Because we were not satisfied the service was meeting its responsibilities in providing this care, we issued a notice (see page 26) explaining our concerns about pain management, manual handling, referral systems and case conferencing. We indicated that if the service provider did not address these issues and satisfy us that they had done so, we would issue formal Directions (see page 26) requiring them to take certain actions.

In response the service provider engaged an occupational therapist, a dietitian and a speech pathologist. They held a case conference with the resident's wife and followed this up with regular discussions with her about his care. This resulted in his pain being assessed and managed appropriately and other problems were able to be addressed quickly. The service also provided relevant training for all staff and updated their procedures and policies in the areas identified.

The service said that they had viewed this complaint as an opportunity to improve, and had reviewed and updated all their systems and processes related to dementia care, pain management and manual handling. They believe that their changes have improved care for all residents, especially residents who suffer from dementia.

The resident's wife was pleased with the help that we provided and the outcomes we achieved. Her husband started to regain weight and his attitude had become more positive. She believed that other residents with dementia would receive more appropriate care as a result of the action arising from her complaint.

## Home Care package

**A service provider has apologised to a home care package recipient and changed the way they manage rostering and communication to ensure carers turn up.**

A family friend contacted us with concerns that his friend, a home care package recipient, had not received a visit from her care worker the previous day. The care recipient used a wheelchair and was living with dementia so she relied on daily visits from her care worker to provide meals and washing and toileting assistance.

We urgently contacted the home care provider and they confirmed that the care recipient did not receive care on that day. They agreed to look into the matter immediately and provide an update. In the interim, to ensure the immediate safety of the care recipient, staff went to visit her to provide any outstanding care.

The provider later explained that it had found a number of staff involved in care provision, rostering and triaging clients did not adequately understand the company's rostering and communication policies and were not fully trained to use the company's rostering program. The result was that the carer who had been scheduled to provide the care had been double booked and as a result no alerts were raised through the system or verbally.

Acknowledging their mistake and the distress it caused, the service apologised to the home care package recipient and assured her and the family friend that it would not happen again. They reviewed her care plan and updated her support plan to include additional tasks which were not originally included like bringing her dog inside and opening the blinds. They also offered to start a "communication book" which each carer would sign and note with any relevant information.

The service provided individual training for the rostering program to the staff involved in the incident, as well as staff-wide updates of company policies about rostering and communication. Training was placed as an ongoing agenda item in their monthly meetings.

The family friend was very satisfied with the response of the service and considered that care would be provided appropriately and without interruption in future. He said the complaint experience gave him greater confidence in aged care.

# What our customers say

## Customer satisfaction survey

We are always interested to hear from complainants and service providers about what we have done well and what we can improve. In the past, we included satisfaction surveys with the finalisation letter which is sent to the complainant and the service provider once a complaint process is finalised, although some surveys were completed online. Getting enough responses, particularly from complainants, was always a challenge.

This year, we implemented a new approach to obtaining feedback which included four key features. Wherever possible we emailed the request for feedback, asking participants to fill in a confidential survey using an online surveying tool; where not possible, we continued to mail the survey. For the first time, our survey sample included complainants whose complaints had been dealt with quickly and closed on the basis it was resolved to their satisfaction. Finally, we asked slightly different questions that were more closely aligned with our service charter.

The results of the new approach have been very pleasing. By asking more participants for feedback and by making it quicker to provide feedback, we more than doubled the number of responses from complainants (812 compared to 304 the previous year). This initiative also identified more opportunities for improvement and allowed us to pass on more specific feedback to complaints officers.

Notably, however, the number of responses from providers decreased this year - 268 compared to 418 last year, so further action may be required to address this. Overall, 80 per cent of respondents agreed or strongly agreed that they were satisfied with our service, fairness, transparency and impartiality.

From a complainant: *"I was listened to and fairly treated."*

From a service provider: *"If any concerns arise we use it as continuous improvement, training and customer service."*

From a service provider: *"Issues considered, facility actions reviewed, fair decision made."*

## Key performance indicators

We discussed our internal key performance indicators (KPIs) with the Consultative Committee in November 2017. At the meeting, it was agreed that the KPIs used for the 2016-17 annual report were still suitable and should continue to be used except that:

- the second part of KPI 2.3 about the proportion of directions issued which were complied with by providers should be removed because providers are required by law to comply with directions, and
- the target for the number of events at which we provide education presentations in KPI 3.4 was increased from 10 to 70. A target that we would present at a minimum of 5 national conferences was added.

Objective		Indicator
Resolve	1.1	Complaints are responded to in a timely manner and matters are finalised within reasonable timeframes to appropriate standards.
<b>Measure:</b> We aim to close 70 per cent of complaints within 30 days, 80 per cent within 60 days and 90 per cent within 90 days. We further aim to fully meet the standards in the service charter in 85 per cent of cases randomly selected for audit. <b>Result:</b> Part A: Met. 73 per cent of complaints were resolved within 30 days, 89 per cent within 60 days and 93 per cent of complaints were resolved within 90 days. Part B: Met. 85 per cent of audited cases fully met the standards of our service charter.		

Objective		Indicator
Resolve	1.2	Resolve concerns quickly and directly between the complainant and the aged care provider, whenever possible.
<b>Measure:</b> We aim to resolve at least 75 per cent of complaints through early resolution. <b>Result:</b> Met. 93 per cent of complaints were resolved through early resolution.		

Objective		Indicator
Resolve	1.3	Use complaint feedback surveys to gauge how satisfied complainants and providers are with our resolution of each complaint.
<b>Measure:</b> We aim for at least 85 per cent of people who complete the survey to express satisfaction with our service, fairness and impartiality and transparent process. <b>Result:</b> Not met. 80 per cent of respondents were satisfied. Historically, complainants tend to be less satisfied with our service than service providers. This year, we received more responses from complainants than from service providers which resulted in this result declining. Despite this change in respondent mix, we have received more feedback from complainants than ever before which has provided more opportunities for improvement and we are committed to improving this result for next year and finding additional meaningful ways to gauge satisfaction about our services.		

Objective		Indicator
Protect	2.1	Complaints with a 'significant' risk rating are escalated to a complaints manager within 24 hours
<b>Measure:</b> We will escalate all significant risk complaints to a complaints manager within 24 hours <b>Result:</b> Met. 100 per cent of complaints rated as significant risk were escalated within 24 hours.		

Objective		Indicator
Protect	2.2	Maintain an effective and cooperative working relationship with the Department of Health and the Australian Aged Care Quality Agency through which we work towards quality aged care.
<b>Measure:</b> We aim to establish and adhere to agreements, MOUs and communication protocols with our strategic partners. We will further aim to attend all strategic meetings set out under these agreements and share information in accordance with the MOUs and legislation.		
<b>Result:</b> Met. All strategic meetings were attended and information was properly shared, including information referrals.		

Objective		Indicator
Protect	2.3	Providers take appropriate action in response to our notices of intention to issue directions (notices) and comply where a direction has been issued.
<b>Measure:</b> We aim to work with providers to address issues and ensure that at least 75 per cent of notices do not result in directions because appropriate action has already been taken by the provider.		
<b>Result:</b> Part A: Met. We were satisfied with the actions taken following 78 per cent of notices issued during the period so that a direction was not required.		

Objective		Indicator
Improve	3.1	Resolve concerns quickly and directly between the complainant and the aged care provider, whenever possible.
<b>Measure:</b> We aim to provide feedback from all reviews to the original decision maker, and to consider and implement recommendations for process improvements arising from reviews where possible.		
<b>Result:</b> Met. 100 per cent of feedback from reviews was provided to the original decision maker and all recommendations arising from reviews were considered and implemented.		

Objective		Indicator
Improve	3.2	Stakeholder feedback from multiple sources is used to identify priorities for education activities and resource development.
<b>Measure:</b> We will seek feedback from as many sources as practical, and actively consider and act on the feedback where appropriate.		
<b>Result:</b> Met. Feedback was sought from numerous sources and actively considered and acted on.		

Objective		Indicator
Improve	3.3	The Commissioner will continue to work with all parties to a formal resolution process to have the concerns addressed in a way that improves care and services.
<b>Measure:</b> We will aim to ensure that at least 90 per cent of issues finalised by formal resolution processes are addressed by the service provider to the satisfaction of the Commissioner without needing to issue a notice or direction <b>Result:</b> Met. 96 per cent of issues finalised by formal resolution were addressed without proceeding to notice or direction.		

Objective		Indicator
Improve	3.4	Good complaints practice and improved care and services resulting from complaints are promoted to industry and the community at large.
<b>Measure:</b> We aim to give presentations at 70 or more events including presenting at or participating in at least 5 national conferences. <b>Result:</b> Met. We presented at 92 events including 10 major conferences.		

Objective		Indicator
Improve	3.4	Providers are encouraged to acknowledge, apologise and ensure improvements are made where care and services could have been better.
<b>Measure:</b> We aim to operate a multi-faceted education campaign, designed and implemented to help facilitate and foster a proactive attitude to complaints. <b>Result:</b> Met. Presentations, events, mainstream and social media were used to facilitate and foster a proactive attitude to complaints. The Commissioner also met with the boards of four large aged care providers and wrote to Home Care providers and Community Visitors Scheme auspices. We also developed a new resource and highlighted our work through our website, social media and through the annual report.		

# Appendix

## Excerpt from Commissioner Principles 2015

### Section 6 - Annual Reports

For subsection 95A-12(2) of the Act, a report on the Aged Care Complaints Commissioner's operations during a financial year must include the following information:

- (a) an assessment of the performance of the Commissioner's functions during the financial year, using any performance indicators or outcomes set out for the Commissioner in portfolio budget statements for the financial year;
- (b) the number of times the Commissioner was contacted during the financial year;
- (c) of those contacts, the number that were within the scope of the Commissioner's functions;
- (d) the number of complaints made to the Commissioner under the Complaints Principles during the financial year, including:
  - (i) the number that related to residential care; and
  - (ii) the number that related to home care; and
  - (iii) the number that related to flexible care;
- (e) the issue or issues most commonly raised in those complaints;
- (f) the number of complaints finalised during the financial year and what approaches were used in finalising the complaints;
- (g) the number of resolution processes undertaken by the Commissioner during the financial year on his or her own initiative, including:
  - (i) a summary of the nature of the issues that were the subject of the resolution processes; and
  - (ii) how many of the resolution processes were finalised during the financial year;
- (h) the number of visits to premises of aged care services undertaken during the financial year, including:
  - (i) the number of announced visits; and
  - (ii) the number of unannounced visits;
- (i) the number of notices of intention given to approved providers under the Complaints Principles during the financial year;
- (j) the number of directions given to approved providers under the Complaints Principles during the financial year, and a summary of the nature of those directions;
- (k) the number of issues referred by the Commissioner during the financial year, including:
  - (i) a summary of the nature of the issues referred; and
  - (ii) the number of issues referred to the Secretary; and



- (iii) the number of issues referred to the Quality Agency;
- (l) the number of decisions reconsidered under the Complaints Principles during the financial year;
- (m) the number and kind of education and training activities undertaken by the Commissioner during the financial year;
- (n) the number of requests for advice made by the Minister to the Commissioner during the financial year, including:
  - (i) a summary of the nature of the requests; and
  - (ii) a summary of the nature of the advice provided in response to the requests.

From a service provider: *"All issues brought to our attention were adequately resolved in a short period of time. Review of certain processes. An opportunity for staff to reflect on their communication style."*

From a complainant: *"Your team has done a very good job, so thanks to all, and keep the good work up."*

## Contact us

If you have any comments or questions about this Annual Report please contact:

### The Annual Report officer

Aged Care Complaints Commissioner  
GPO Box 9848  
Canberra ACT 2601  
Phone: 1800 500 294  
Email: [enquiries@agedcarecomplaints.gov.au](mailto:enquiries@agedcarecomplaints.gov.au)

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### Website

This Annual Report is available electronically on our website at:  
<https://www.agedcarecomplaints.gov.au/internet/accc/publishing.nsf/Content/annual-report>

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