



Australian Government

Commissioner for Complaints

**Annual Report
1 July 2002 to 30 June 2003**

Office of the Commissioner for Complaints
GPO Box 1245
Melbourne Vic 3001



Australian Government

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The Hon Kevin Andrews MP
Minister for Ageing
Parliament House
CANBERRA ACT 2601

Dear Minister

Pursuant to my obligations under section 10.34 A of the *Committee Principles 1997* I hereby submit my Annual Report on the operation of the Complaints Resolution Scheme for the period 1 July 2002 to 30 June 2003.

Under section 10.101 of the Principles I am also required to give you a report, for presentation to the Parliament, which coordinates the reports on activities of Complaints Resolution Committees during the year. I have included that report as part of my Annual Report (see especially part 6).

Yours sincerely

A handwritten signature in blue ink that reads 'Rob Knowles'.

ROB KNOWLES
Commissioner for Complaints

Commissioner's Introduction

The principal function of the Complaint Resolution Scheme is to facilitate the fair, timely and effective resolution of complaints at the lowest appropriate level. Beyond this, my office and indeed the Scheme, aim to have a positive impact on the quality of aged care service delivery.

No doubt, some people will question our ability to deliver this intention, yet it remains one of the most powerful objectives and one I believe in. When all is said and done it would be rather soul destroying to think that the efforts of many people are directed only to the resolution of an endless stream of different complaints, which may assist the individuals concerned, but have no broader impact.

I see the Scheme as a front line program, advocating for one of the most vulnerable groups living in our society, and using complaints as a window of opportunity to improve services. At a micro level it has been gratifying to know that providers interacting with the Scheme respond positively and to learn through the satisfaction surveys that the majority use the experience to improve the conduct of their business.

To secure improvements in quality at the macro level will take longer. However, the answer lies in the use of reports such as this for educational purposes, building a culture of acceptance of complaints within the industry, and in the systematic advocacy on behalf of all older Australians, but particularly those relying on aged care services.

In my view there could be even fewer complaints if there were more emphasis on satisfactory internal procedures. Many complaints, which at first sight appear to relate to the exercise of clinical judgement, actually relate to administrative failures. Things can and do go wrong in every organisation and we need to accept that some error is inherent in all human activity. However, a lack of cooperation and exchange of ideas between management and staff and/or a lack of professional leadership, together with poor communication between management, staff and consumers, creates unnecessary pressure on all concerned. In many instances it is the lack of open communication that gives rise to distrust, dissatisfaction and complaints.

Culture exposes what is important, valued and accepted within an organisation and when it is deeply entrenched culture is not easily changed. Some would argue, that to provide a personalised service is at odds with operating in a structured, mechanistic and systems driven environment. However, there are many aged care workers who recognise the importance of the care-giving relationship and who demonstrate their capacity to transcend the requirements of the economic system.

Ideally, aged care service values are founded on altruism and relief of suffering. Within this philosophy, essential tasks are oriented towards physical care and safety and are performed in a way that confirms resident rights and the values of the service provides a sense of belonging, emotional integration and reassurance of worth for residents.

To create a safe, high quality service means that people managing and working in aged care need to work together with consumers to achieve sustainable improvements and maintain public confidence in the system. As part of this process it is important that complaints be viewed as one way of identifying problems that can be used to positively improve services. In adopting a quality improvement process it is also essential that managers consider the role that systems failure may play in adverse events. This does not remove the need for individuals to be held accountable for their own shortcomings in appropriate cases. It is essential, however, that the process is about resolution and not retribution. That it is not seen as a name/blame/shame exercise but an opportunity to thoughtfully analyse how best to improve the current system to protect the health and safety of residents, while promoting professionalism and supporting health professionals.

I acknowledge and appreciate the increased attention service providers have given to the internal resolution of complaints and the various initiatives directed at improved service delivery. These initiatives reflect positively on service providers themselves and the industry more generally, giving rise to an improved standard of care and increased consumer satisfaction.

I continue to place emphasis on the need for the Scheme to resolve complaints as early as possible, without losing sight of the requirements of natural justice or forgoing a meticulous attention to detail. People will often be disappointed with an unfavourable outcome, but it is essential that the parties to a complaint believe that the process has been fair.

This past year has seen a continuation of the work of the office as we pursue our mission to *promoting effectiveness in complaints resolution and fostering excellence in public administration*.

In the coming months I anticipate that significant work will be undertaken to review the national strategic plan and identify the key issues and goals to be addressed in order to implement the strategic direction and achieve the established mission for the Scheme. In addition work will be undertaken to further develop internal quality assurance measures for the Scheme.

Other objectives in the coming year involve further improvement to the Scheme's internal systems, including a broadening of the internal quality assurance measures, and increased training opportunities. My office is also developing a comprehensive approach to risk management, at strategic and operational levels, to successfully manage our own risks. We will also spend time reviewing existing policies and practices to ensure we are consistent with our stated values.

I deeply appreciate the efforts of the officers of the Scheme who, through their role, are continuing to have a positive impact on complaint resolution and so improve aged care services delivery. In the past staff turnover has been relatively high. It is important to ensure that the Scheme is a workplace of choice, that staff receive the support and training required to carry out their roles so that the quality of our complaints resolution processes is strengthened and the credibility and reputation of the Scheme is enhanced.

During the year I have also been grateful for the support of First Assistant Secretary, Ageing & Aged Care Division and the staff of the Quality Outcomes Branch and Legal Services. I have greatly valued the commitment and enthusiasm of my staff. I would like to acknowledge their professionalism and proficiency and sincerely thank them for their support throughout the year.

To remain relevant to the public we must also look outward and continue to increase our focus on connecting with service providers, the community and consumers. To this end I would like to see my office implement a targeted approach to educational initiatives, with a focus on agencies that interface with the commissioner's office and key provider and consumer groups

The environment in which we all work continues to change and there are greater expectations amongst consumers about their rights. As the issues we face become more complex, it is important to remember that it is the quality and strength of the relationships we make that allow us to expand the limits and find new and innovative ways to move forward into the future.

Rob Knowles
Commissioner for Complaints

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1. Mandate and Organisation

1.1 Background

Like most industrialised countries, Australia supports an ageing population and a changing population profile. Life expectancy in Australia continues to increase. For males life expectancy at 65 years increases to 81.9, an increase of 5.1 years, and for females life expectancy at 65 years rises to 85.5 years, an increase of 3.5 years. Increased life expectancy will mean that a greater number of people will live to be aged 80 years and over. At the Australian census of 2001 nearly 2.4 million Australians (13 per cent) of the population were aged 65 years or older. By 2051 the current number of people aged over 80 are likely to treble to 2.3 million (over 9 per cent). This increase will be matched by the increase in numbers of people aged over 100. At the 2001 census, 2,503 people aged 100 and over - this is predicted to grow to 38,000 people by 2051. There will be a dramatic demographic shift between those Australians achieving workforce age and those reaching retirement age. Indigenous people comprise 2 per cent of the total population and some 19 million people from diverse cultural backgrounds have made Australia their home.

The proportion of people with a severe disability is relatively low among people until age 75 when there is a noticeable increase in the development of health related problems, both in chronic and acute illnesses and diseases. The numbers increase as people advance in age and at age 80 over 51 per cent of women and 36.5 per cent of men are reported to have a profound or severe core activity restriction. As at 30 December 2002 a number of younger disabled resided in aged care services. Ten of these were under 20 years of age, 1,022 were less than 50 and a total of 6,080 were aged less than 65 years of age.

Staying at home is very important for people who want to maintain their independence and dignity and a significant number of older people continue to live independently in private dwellings. However the ability to remain at home depends largely on the level of care needed and the availability of informal care and supporting community care programs such as the Home and Community Care Program (HACC), Community Aged Care Packages (CACPs) and Linkages. Nevertheless, approximately 6 per cent of older Australians are admitted to aged residential care services.

At 30 December 2002 there were 2,974 residential aged care services, providing 145,194 places, throughout Australia. In addition to these facilities a total of 26,953 CACPs were provided. Ten services provided 290 Extended Aged Care at Home (EACH) places and 121 Multi-Purpose Services (MPSs)

providing 2,362 places/packages were available. Under the Aboriginal and Torres Strait Islander Aged Care Strategy, 23 services receive flexible funding to provide 297 places and 94 packages across Australia.

A comprehensive assessment is essential in ensuring that an appropriate level of care is offered to individuals and/or preventing inappropriate or premature admission to services. An Aged Care Assessment Team (ACAT) must first assess a person as eligible for a particular service before a government subsidy is provided for residential care (either high or low care and including respite care); CACPs or EACH programs.

The Australian Government provides recurrent funding for each resident admitted to a residential care setting. The funding is based on a needs based model, known as the Residential Classification System (RCS), where the individual care needs of residents are assessed by nursing, personal care and allied health staff employed within the facility. Residents also pay fees that contribute to the ongoing and capital costs of residential care.

Almost half of the care recipients accommodated in residential aged care services are aged 85 years and over, however, residents in the Northern Territory and other rural and remote areas tend to have a younger age profile. Across Australia approximately 4.5 per cent of all residents are aged less than 65 years. The average length of stay in residential care is approximately 32 months for high care and 23 months for low care.

In order to receive government funding aged care facilities must satisfy their accreditation requirement. Accreditation standards cover management systems, staffing and organisational development; health and personal care; resident lifestyle; physical environment and safety systems. The responsibility for assessing aged care services against the Accreditation Standards (the Standards) lies with the Aged Care Standards and Accreditation Agency (the Agency). In addition to a primary focus on care the Standards present an increased concentration on continuous improvement, education and staff development.

As part of these arrangements aged care services are required to establish and maintain an internal system for dealing with comments or complaints from residents and/or their family and friends. In addition, the right to complain about any aspect of care or services is prescribed within the *Charter of Resident Rights and Responsibilities*.

Anyone experiencing difficulties with care and accommodation issues that may be a breach of an approved provider's legislative responsibility is encouraged to approach the service provider in the first instance and many complaints are resolved at this level. However, for a range of reasons, some

people prefer to access a complaints system external to that offered by the service provider. For this reason, a national Complaints Resolution Scheme (the Scheme) was established on 1 October 1997 to assist people who express concern about any aspect of the care or services provided by residential aged care services, CACPs and flexible care services. The mandate of the Commissioner for Complaints (the Commissioner) and the Scheme is confined to these services and is limited to the period following the commencement of the *Aged Care Act 1997* (the Act) and the *Aged Care Principles 1997* (the Principles) in October 1997.

The Scheme allows anyone to make a complaint about any issue that affects a person who is, or was, eligible to receive Australian government-funded aged care services, and that may be a breach of an approved provider's legislative responsibility. Complaints can be made orally or in writing and can be dealt with on an open, confidential or anonymous basis. A national call free telephone number is available to ensure people throughout Australia have access to the Scheme.

In addition to dealing directly with complaints, the Scheme has the capacity to refer issues to other appropriate investigative and regulatory bodies. For example, where systemic issues are identified these are referred to the Agency; other matters may be referred to Medical and Nursing Registration Boards, Police, Coroner, and to Health Service Complaints Commissioners as appropriate, in each State and/or Territory.

2. Role of the Commissioner

The role of the Commissioner for Complaints was established under statute and commenced on 31 August 2000. The Commissioner's role is set out in the *Committee Principles 1997* as follows:

10.34A The Functions of the Commissioner for Complaints

(1) In addition to chairing committees, the Commissioner's functions are:

- to supervise the chairpersons and other members of the Complaints Resolution Committees;
- to coordinate and review complaints received by the Secretary;
- to oversight the effectiveness of the Scheme;
- to deal with complaints about the operation of the Scheme ;
- to manage the determination process, including the review of determinations;
- to promote an understanding and acceptance of the Scheme;
- to advise the Minister on matters relevant to the operation of the Scheme.

(2) The Commissioner's functions also include the following:

- to give regular reports to the Secretary and the Minister about issues arising out of complaints dealt with under the Scheme;
- to annually review, and report to the Minister about the operation of the Scheme.

Additionally, the Commissioner is required to nominate chairpersons and committee members to hear particular matters, to coordinate all Complaints Resolution Committee (the Committee) reports for the financial year and to give the reports to the Minister for Ageing (the Minister) for presentation to the Parliament. The Commissioner is also required to provide advice to the Secretary to the Department of Health & Ageing (the Secretary) in instances where an application to reconsider the non-acceptance of a complaint has been received.

It should be noted that while the statutory responsibility for overseeing the effectiveness of the Scheme rests with the Commissioner, the Scheme is administered by the Department of Health & Ageing (the Department) through its various State and Territory offices. Given these arrangements there is a critical need for a strong, mutually respectful relationship between State/Territory Offices and the Office of the Commissioner for Complaints (the Office).

2.1 About the Office

Almost three years have passed since the establishment of the Office of the Commissioner for Complaints. The annual work plan and quality assurance strategy was reviewed in line with the strategic plan for the office and revised as appropriate. During the year the Commissioner contributed articles to a number of health care journals, meetings have been conducted with a variety of stakeholders and, by invitation, the Commissioner and staff have participated in a range of education and information sessions.

To improve accessibility the office has a web site and toll free number. The web site may be found at www.cfc.health.gov.au. On our site, visitors will find an array of information regarding our office and the services we provide. The site also provides information about the Scheme, including the determination and determination review processes. The website provides a capacity to provide feedback to the office and complaints about the operation of the Scheme may be registered online.

As part of our commitment to openness and transparency people dealing with this office are advised of all their appeal rights. During the year the Commonwealth Ombudsman:

- conducted an investigation on the outcome of a determination review conducted in 2000. The Ombudsman concluded that in circumstances, the actions and decisions of the Determination Review Panel (the Panel) were reasonable;
- received a complaint about the outcome of an appeal against non-acceptance of a complaint. After examining the processes adopted by this office the Ombudsman declined to take the matter further;
- received a complaint about the rejection an application for review of a determination. The application was rejected on the basis that it failed to meet the legislative timeframes. After reviewing the process the Ombudsman declined to proceed with the complaint.

In addition, during a review of all relevant files the investigating officer, both verbally and in writing, indicated that the files were comprehensive and well maintained.

2.2 Budget

An indicative salary and operational budget of \$774,300 was allocated to support the ongoing operation of the office. The salary for the Commissioner is set by the Remuneration Tribunal and is included in the budget allocation of \$407,000 for salaries and on costs. The allocation for operational costs in this financial year was \$367,300. Legal costs and costs incurred by committees are met by the Department's Quality Outcomes Branch. The

Commissioner's Office has been responsible for administration of costs incurred by committees, including travel. While the office has a discrete budget allocation and monitors expenditure, during the 2002-2003 financial year these funds have been authorised and coordinated through the Quality Outcomes Branch.

2.3 Demand

No one should have to tolerate unjust treatment and if a person feels aggrieved by the way their complaint has been handled by the Scheme they have the right to complain and, if all else fails, they have recourse to the Commissioner. There has been no significant diminution in the number of complainants contacting the office. Most people who make inquiries do so by telephone and the vast majority of inquiries are dealt with by providing verbal information. This will often include an explanation of the Commissioner's jurisdiction and other available options. During the reporting period, 30 different individuals have raised concerns about the operation of the Scheme, and/or the management of their complaints. This figure represents 2.5 per cent of complainants who have had dealings with the Scheme during this financial year and a 0.7 per cent reduction from figures during the 2001-2002 financial year. A minority of issues were resolved through the provision of further information. The majority of these complainants raised issues in relation to complaints that were ongoing. Following intervention and liaison with the Scheme, complainants have continued to utilise the Scheme and achieve resolution of their complaint without seeking further recourse through the Commissioner. The above figures do not include people who have contacted this office in relation to the non-acceptance of their complaint or determination review processes.

The office has also received a number of calls from people seeking information and/or wishing to lodge a complaint. People wishing to lodge a complaint are advised of the Commissioner's role and are referred to the Scheme's toll free number. A small proportion of calls relate to committee and hearing processes while others have sought general information about the aged care system and Australian government-funded services in particular.

2.4 Achievements

All operations have been pursued through effective action plans and a number of achievements have been recorded during the reporting period.

2.4.1 Supervising chairpersons and other members of committees

- A merit based process for establishing panels of chairpersons and committee members culminated in the appointment of 43 successful applicants.
- The office conducted briefing sessions across Australia for all chairpersons and committee members. Sessions concentrated on the guidelines for conducting hearings and the preparation of Determinations.
- The Commissioner convenes separately constituted committees at the time individual complaints are referred for determination. Discrete committees are drawn from the panel of potential chairpersons and panel of potential committee members and are arranged having given due recognition to the workload and expertise of the individuals concerned.
- The office continues to monitor the costs associated with committee hearings and reviews.
- Preparation and distribution of a newsletter. The newsletter is designed to keep all committee members informed and up to date with events in aged care and the Scheme and is circulated three times a year
- Regular meetings have been scheduled with chairpersons and advice pertinent to the conduct of hearings and preparation of Determination reports has been provided on an ongoing basis.

2.4.2 Coordinate and review complaints received by the Secretary and provide advice to the Secretary on all appeals against the non-acceptance of complaints

- The office interrogates the database on a regular and random basis to monitor outstanding cases and, on a random basis, has scrutinised a number of complaints to establish whether the Scheme has followed due process in the management of those complaints. Complaints Resolution Officers (CROs), the office, and the Quality Outcomes Branch frequently communicate in relation to trend information, the ongoing management of individual complaints and workload issues.
- The Commissioner continues to provide advice to the Secretary, or delegate when an appeal is lodged against the non-acceptance of a complaint.

2.4.3 Oversight the effectiveness of the Scheme

- The Commissioner and staff routinely participate in the ongoing national induction program.

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- The database continues to be modified in order to create an efficient and user friendly environment and improve the capacity of the Scheme to identify and capture the information collected as part of its operations, and enable an accurate and more comprehensive reporting of this information. A ‘super-users’ group has been established. The role of this group is to both consider necessary enhancements on an ongoing basis and to provide a level of expertise to other users in each State/Territory.
 - The Commissioner and staff participate in the six-monthly national management meetings.
 - The office managed and participated in a range of projects including a review of relevant legislation, the revision of the national service charter and procedure manual and the development of a harm protocol.
 - The office is responsible for the ongoing collation, analysis and reporting of satisfaction surveys from both complainants and service providers and the analysis and reporting of performance indicators.
 - Separate service provider and complainant focus groups were conducted in each State in order to gain an in-depth understanding of people’s experience

2.4.4 Deal with complaints about the operation of the Scheme

- During the reporting period 30 complainants contacted the Commissioner’s office to complain about the operation of the Scheme.
- The office also receives calls from complainants whose matters have been addressed and who are contemplating or have initiated appeals for review.
- The office maintains a cooperative working relationship with the Commonwealth Ombudsman.

2.4.5 Manage the determination process, including the review of determinations

- The Commissioner continues to monitor workload issues and to nominate the composition of individual committees, recognising previous duties, experience and expertise. During the reporting period 21 hearings were conducted and ten applications for review were received.

2.4.6 Promoting an understanding and acceptance of the Scheme

- In order to improve knowledge and give a better understanding of both the Scheme and the role of the Commissioner, a number of speaking engagements and meetings have been undertaken with both consumer

and provider groups. Staff also accepted invitations to speak at a range of institutions providing nursing education and other bodies interested in developing or enhancing complaint management systems.

- The Commissioner is a member of the Council of Administrative Tribunals and attends the regular meetings of the Health Care Complaints Commissioners and Ombudsmen.
- The office maintains a comprehensive website, which provides information about the Commissioner's role and the Scheme, including fact sheets and statistical information.

2.4.7 Advise the Minister on matters relevant to the operation of the Scheme

- In addition to his annual report the Commissioner provides a quarterly report to the Minister on matters relevant to the operation of the Scheme.

3. The Complaints Resolution Scheme

The Scheme enables people to formally raise concerns about Australian government-funded aged care services, including CACPs, residential care and flexible services. The Scheme is also seen as a means of offering both parties the opportunity to address a grievance in a way that enhances or rebuilds the relationship between the provider, the care recipient and their family which is so necessary to any ongoing association.

While the Commissioner has a statutory requirement to oversight the effectiveness of the Scheme, the administration of the Scheme is the responsibility of the Department.

Since its inception the Scheme has received in excess of 6,000 complaints. The majority of complaints, approximately 95 per cent, continue to be resolved by negotiation and/or referral, 2 per cent through mediation by an independent mediator, 2 per cent of complaints are finalised via a determination by a committee, and a small percentage are withdrawn.

There are a number of separate but inter-related elements within the Scheme that underpin the resolution process: assessment, negotiation, mediation, determination and review.

- preliminary assessment is handled by CROs prior to the acceptance or non acceptance of a complaint;
- negotiation is managed by the CROs;
- mediation is conducted by qualified mediators;

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- determination is conducted by committees, which are constituted of independent members with skills in aged care and complaints resolution; and
 - determination review and oversight of the Scheme is the responsibility of the Commissioner.

3.1 The objectives of the Complaints Resolution Scheme

The objective of the Scheme is to attempt to resolve complaints about Australian government- funded services. The Scheme strives to:

- foster a positive view of complaints as opportunities to reconsider and enhance the delivery of aged care services and programs;
- be free and accessible with the paramount consideration being to resolve complaints for complainants;
- encourage the resolution of complaints at the service level;
- promote and respect the rights of parties to the complaint, including confidentiality;
- ensure that it keeps parties to a complaint informed;
- ensure that it allows all parties the opportunity to comment on, and complain about, its operation;
- ensure that it includes appropriate measures to ensure and specifically remind parties that all parties to a complaint should be free from victimisation or intimidation; and
- ensure that, in appropriate cases, issues are referred to other relevant agencies.

3.2 The role of Complaints Resolution Officers

The role of CROs is to:

- apply the requirements of the legislation;
- work within the requirements of administrative law;
- work within the delegated powers vested in the Secretary;
- receive inquiries which could become complaints;
- explain to the inquirer the roles and responsibilities of the Scheme and the rights of all parties involved in the process if a complaint is made;
- liaise with complainants, service providers, and any other party to a complaint;
- determine the issues which may form the basis of a complaint and decide which issues can be handled by the Scheme and which issues should be referred elsewhere;
- gather further information, if required, in relation to issues in order to assist in their resolution;
- be independent and impartial when attempting to resolve complaints through negotiation;

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- resolve complaints through negotiation, or where not able to do this, prepare complainants and the other parties for possible mediation;
 - refer, as required, complaints to committees for determination; provide, as required, determination information to the Panels for review; and
 - be accountable for ensuring that decision-making and the progressing of complaints occurs in a timely and efficient manner.

3.2.1 The nature of complaints

The Scheme is obliged to act on the information provided and each complaint received needs to be assessed on an individual basis. For management purposes complaints, or individual issues identified within a complaint, are initially assessed as urgent or complex. The classification of the complaint can be changed in the event that there is a change in the circumstances.

Examples of issues that require urgent attention are allegations of assault, harassment, a threat to security of tenure, and care and safety issues that pose a threat to the well being of the resident, or residents. A complex complaint is one that involves exploring a number of issues or one very complicated single issue, or where the issues require detailed negotiations with a number of parties.

During previous reporting periods the Scheme also gave an account of the number of complaints that could be described as minor, namely, a single issue without complexity. As the number of minor complaints had steadily decreased over time a decision was taken to record and report on two complaint types - urgent and complex. The trend has been for the Scheme to receive more complaints of a complex nature, that is, complaints with multiple issues, most of which are of a serious character. The number of complaints assessed as urgent has also decreased in consecutive years and remains low at 3 per cent of the total number of complaints recorded.

Complaints are registered as open, confidential or anonymous. The majority of complaints are open, that is to say, the details about the complainant can be released to other parties to the complaint. A confidential complaint is one where the CRO knows the name and contact details of the complainant and care recipient, but the complainant has requested that these details are not passed on to the service provider or any other party. Confidential complaints cannot go beyond the negotiation phase. A complainant may also make an anonymous complaint. In these circumstances the identity of the complainant is unknown and the issue may only be approached on a broad systemic level. The nature of anonymous complaints is such that most are not taken beyond the assessment phase, however, a proportion are referred internally to the Compliance Section for further action.

3.2.2 Site visits

Based on the information provided a preliminary assessment of a complaint is made in order to determine whether or not a complaint, or part of a complaint, is to be accepted. A number of States/Territories have now adopted an approach whereby officers from the Scheme visit the facility during the assessment phase. These site visits are conducted as soon as practicable after the complainant's initial contact with the Scheme. Alternatively, the officers will interact by telephone with the service provider to gain a full understanding of the complaint. This approach has been welcomed by complainants and service providers alike and is seen by both parties as a willingness on the part of the Scheme to examine the issues and establish the legitimacy of the complaint, or otherwise, at the outset.

3.2.3 Non-acceptance of complaints

When a complaint is not accepted the complainant will receive correspondence from the delegate outlining a detailed statement of reasons. The statement must set out the decision, contain findings on the material questions of fact, refer to the evidence or other material on which those findings were based and give the reasons for the decision.

Providing a statement of reasons not only meets a legislative obligation but it can also be seen as part of a general due process requirement. In many cases the very provision of reasons enables the person affected by the decision to understand why a decision was made. Moreover, because a statement of reasons requires decisions makers to explain their decision they also assist complainants in their consideration of whether to exercise their right of appeal and to point out errors in law or unwarranted findings of fact.

In the event that a complaint is not accepted by the Scheme, complainants have the right to ask the Secretary, in writing, to reconsider the decision made. In these circumstances the Secretary must refer the request to the Commissioner for advice. The statement of reasons provided to the complainant assists the review of the decision by exposing the factual material on the basis of which each decision was made, the considerations that were taken into account and the procedural steps taken by the decision-maker. After due consideration the Commissioner will recommend that the decision either be confirmed, or set aside and the complaint accepted. While not legislatively obliged to accept the Commissioner's recommendation, the Scheme gives it considerable weight.

3.3 The role of mediators

Where a complaint has not been resolved by negotiation the Scheme utilises the services of external, independent qualified mediators. A panel of

mediators has been established in each State and Territory. Individual mediators are drawn from a panel to assess whether mediation is a viable and appropriate option. If mediation is not assessed to be practical or feasible the complaint will be referred to a committee for determination.

Mediation is intended to provide a confidential, informal means of settling disputes and participation is voluntary. The mediation process enables both parties to come together, with a neutral skilled professional, to take an active role in resolving their dispute and coming to a mutually agreed settlement.

3.4 The role of Complaints Resolution Committees

A Complaints Resolution Committee is an independent committee that has the power to make determinations about complaints that cannot be resolved through negotiation or mediation. A committee comprises a chairperson (drawn from a panel of potential chairpersons) and two other members (drawn from a panel of potential committee members).

Committees are independent and are not directed by the Department. While the Principles establish a wide range of functions their main role is to conduct hearings in relation to complaints that have been referred for determination. A committee must finalise a complaint by making a determination and may set out a course of action that an approved provider must follow to address the issues raised in the complaint. Approved providers have a responsibility under the Act to comply with determinations and departmental follow-up occurs approximately six weeks after the date of the determination.

3.5 The role of Determination Review Panels

Should a party wish to seek review of a determination, the Commissioner must receive an application for review within seven days after the day the person or organisation receives a copy of the determination. The application must state the reason why the review is being sought, other than mere dissatisfaction with the outcome of the determination hearing.

Panels are constituted under section 10.72 of the Principles and comprise the Commissioner as chairperson and a panel member, appointed by the Commissioner from the panel of potential chairpersons. The review must be made on the basis of the committee's reasons for the determination and any evidence before the committee when it made the determination, as well as the application for review, a transcript from the hearing and any written submissions made by a party to the complaint. The panel is required to either confirm or vary the determination or to set the determination aside. If the panel confirms or varies the determination, the panel's decision has effect as if it were a determination made by a committee. If the panel sets the

determination aside, the matter is referred to a new committee for determination.

3.6 The role of the Approved Provider

The Act and the Principles provide a package of measures designed to improve the quality of care and services in Australia's aged care service system. As part of these arrangements, all aged care service providers are required to establish an internal system for dealing with comments or complaints from residents and/or their family and friends.

It is essential that providers and staff are aware of importance of establishing and maintaining a good internal complaints resolution mechanism as part of their ongoing quality assurance program and to understand the nature of the approved provider's responsibilities in relation to this issue. A brief summary of the most relevant legislative provisions follows.

3.6.1 Responsibilities under the Act

Approved providers have a number of important responsibilities under the Act and the Principles in relation to the resolution of complaints (paragraph 56-1(i) and section 56-4 of the Act, in particular).

Approved providers must:

- establish an internal complaints resolution mechanism;
- use that mechanism to address any complaints concerning the care recipient;
- advise the care recipient of any other mechanisms available to address complaints as well as providing such as assistance as the care recipient requires to use those mechanisms;
- allow people authorised by the Secretary to investigate and assist in the resolution of complaints ("representatives") such access to the service as is specified in *the User Rights Principles*; and
- comply with any relevant determination made by a committee (subsection 56-4(1) of the Act).

In addition, for residential care services, the complaints resolution mechanism referred to above, must be the complaints resolution mechanism provided for in resident agreements entered into between care recipients and approved providers (paragraph 59-1(1)(g) and subsection 56-4(2) of the Act).

3.6.2 Responsibilities under the Aged Care Principles

3.6.2.1 Quality of Care Principles 1997 – Accreditation Standards

Under the *Quality of Care Principles 1997*, and in particular the Accreditation Standards, one expected outcome is that “each resident (or his or her representative) and other interested parties have access to internal and external complaints mechanisms” (item 1.4). Other particularly relevant items of the Standards are items 3.6 and 3.9, namely that “each resident’s right to privacy, dignity and confidentiality is recognised and respected” and “each resident (or his or her representative) participates in decisions about the services the resident receives, and is enabled to exercise choice and control over his or her lifestyle while not infringing on the rights of other people”.

Obviously, all the above items are relevant to the establishment and maintenance of a good internal complaints mechanism. Failure to do so can give rise to a potential breach of an approved provider’s responsibility to meet the standards (paragraph 54-1(1)(d), section 54-2 of the Act), can have implications in terms of the residential care service’s accreditation.

3.6.2.2 User Rights Principles 1997 - Charter of Residents’ Rights and Responsibilities

In the *User Rights Principles 1997*, in the Charter of Residents’ Rights and Responsibilities, the most relevant rights that residents of residential care services have in relation to internal complaints mechanisms are the rights to:

- be treated with respect and accepted as an individual, and to have his or her individual preferences taken into account and treated with respect;
- freedom of speech;
- complain and to take action to resolve disputes;
- have access to advocates and other avenues of redress; and
- be free from reprisal, or a well-founded fear of reprisal, in any form for taking action to enforce his or her rights (Schedule 1).

Under the Act, an approved provider is obliged not to act in a way that is inconsistent with the above rights.

4. Quality Assurance

Quality assurance is important and the program put in place not only assesses the extent to which the intent of the Act and Principles is being implemented, but also supports improved decision-making and provides useful information regarding the future direction of the Scheme. During the year there has been a further strengthening of internal communication systems and procedures. The CRS internal procedure manual has been

revised to ensure consistency of approach in all complaint handling and is a valuable resource for all new staff. Recent the key words used to identify compliant issues were re-examined. This review underscored the importance of well-defined, accurately reported uniform data in which each item has precisely the same meaning for staff in all jurisdictions.

4.1 Database

The CRS database is both a complaint management tool and, through the wide range of statistical reports generated, is a useful adjunct in the consideration of all quality assurance issues. There are, however, a number of limitations in reporting the available data and care needs to be exercised when interpreting the statistics provided. The database is continually being upgraded to ensure ease of use and practicality and to improve the capacity of the Scheme to capture data and provide accurate and meaningful reports.

4.2 Performance Indicators

A suite of 16 performance indicators was established for the Scheme and comprises one element of an overall quality assurance strategy. In themselves performance indicators do not demonstrate that a program's performance is wholly satisfactory, however, they are a primary tool for establishing accountability and are intended to communicate future directions and establish where there is a need for change or improved performance. The development of performance indicators is an evolutionary process and it is recognised that, over time, measures will change as goals are met and improvements are made. Following a review a minor modification was made to one indicator.

4.3 Satisfaction Surveys

The utilisation of satisfaction measures is part of a strategic approach to improve services to the public where it is warranted. Generally speaking, the satisfaction surveys are intended to measure the overall level of satisfaction of both complainants and service providers and the extent to which their expectations were met by the Scheme. Even before making contact with the Scheme most clients have a perception or belief as to the level and quality of the service that they should receive and an expectation that their desired outcomes will be achieved.

A number of different factors contribute to determining client expectations. When used together, qualitative and quantitative methods can provide richer data than either method used alone. For this reason focus groups were conducted in all States. Participants were offered an opportunity to discuss their shared interests with in an open and non-threatening environment, as a way of adding context, depth and greater insight into people's experiences

and thoughts following their involvement in the complaint resolution process.

4.4 Service Charter

The practice of informing clients about program service standards and the level and quality of service they can legitimately expect to receive underlines a commitment to service delivery and prevents the creation of expectations that cannot possibly be met and so reduces dissatisfaction.

A working party was established to revise the draft *National Service Charter* and recently finalised its work. The charter was prepared in not only response to the Government's requirement that all government bodies which provide services to the public develop individual charters, but also as an expression of the Scheme's commitment to provide quality services in its dealings with consumers.

A second consultation phase to allow further comment on the revised document and accompanying brochure is to occur during the first quarter of the 2003-2004 financial year.

5. Complaints Resolution Committees

5.1 Legislative framework and committee selection

Committees are established under the Act to determine the resolution of complaints referred by the Scheme.

5.1.1 Committee appointments

While the Minister, under 96-3 of the Act, may establish a committee, its composition is to be as provided for in the Principles. These Principles provide for the Secretary to appoint persons to each of two panels, one for potential chairpersons (subsection 10.78(2)) and another for potential committee members (subsection 10.79(3)). The Commissioner then has authority to appoint chairpersons and two other members from the respective panels to constitute committees as required (section 10.79A).

In April 2002 expressions of interest were sought from suitably qualified people who were interested in applying for appointment to these panels. Information kits were sent to 1,302 people and 426 formal applications were subsequently received.

The process for appointment was merit based and designed to identify the best candidates for the role and therefore all applications were assessed against the specified eligibility criteria. Those who met these criteria to a

high degree (156) were further assessed and 98 applicants were short-listed for interview. The interview panel was impressed with the calibre and commitment of all those interviewed. However, as the number of available positions were constrained it was necessary to give serious consideration to the range and mix of skills, expertise and experience available. A total of 43 people were recommended for appointment - eight to the panel of potential chairpersons and 35 to the panel of potential committee members. The period of appointment is for three years from 1 September 2002 to 31 August 2005.

Working as a committee member is a challenging and often difficult position. There is an even greater burden on chairpersons not only to ensure the process of the hearing is appropriate for the parties but that the overall aims of the Scheme are achieved. Chief among those aims is the resolution of complaints and facilitating the ongoing relationship between the parties. The Commissioner would like to publicly acknowledge the hard work and dedication of all outgoing chairpersons and committee members and to thank them for their contribution.

5.1.2 Convening a Complaints Resolution Committee

The Commissioner is required to convene a committee within seven days following the referral of a complaint for determination. In performing its functions the committee is required to act with as little formality and as quickly as the requirements of the Principles and a proper consideration of the issues before the committee allow. Committees are not bound by the rules of evidence and may receive information or submissions orally and/or in writing.

Following a hearing the committee provides a written determination. Where the committee finds that a service provider has breached a statutory responsibility, the determination generally sets out a course of action for the service provider to follow in order to address the issue.

The Commissioner meets with chairpersons on a regular basis and at the end of each financial year the chairperson is required to prepare a report on the committee's activities during the year. Chairpersons are nominated to hear matters across all jurisdictions and therefore their reports have been consolidated and are included here.

6. Chairpersons' reports

A total of 21 cases were referred to committees during the 2002-2003 financial year. The figure below shows the number of cases referred in each jurisdiction. The majority of these cases (62 per cent) were convened in

Queensland. During the year four cases were withdrawn immediately prior to the hearing date. All cases referred for resolution related to care and services provided in residential care facilities.

In most instances chairpersons advised that they had heard cases in and beyond the State in which they reside. Chairpersons reported that the cases referred for determination are generally more complex not only in relation to the number and nature of the issues involved but also because of the often quite tense relationship between the parties and in some cases unrealistic expectations in relation to achievable outcomes. A trend towards a more legalistic approach on the part of both complainants and service providers was also reported by chairpersons.

Chairpersons again reported that in many instances the parties attending hearings were ill prepared and have in some cases not called staff directly involved at the service level to give evidence but relied on senior administrative staff and documentation to support their case. A further concern reported is an increase in the number of submissions tendered to the committee on the day of the hearing. It appears this practice is intended to deny other parties to the complaint access to documents and an outline of the case to be presented prior to the hearing. In order to accord all parties natural justice, chairpersons find it necessary to allow sufficient reading time on the day to enable parties to absorb and respond to this material. On occasions this has led to a second hearing day and a commensurate increase in committee costs.

The interval between referral to a committee for determination and the conduct of a hearing varies. This period of time enables the secretariat to schedule a hearing at a time suitable to all those involved and provides the parties with sufficient time to prepare a written submission, in some cases with the assistance of the advocacy service. Additional time is allocated for the exchange of information and to allow all parties, and the committee to become familiar with the substance of the submissions.

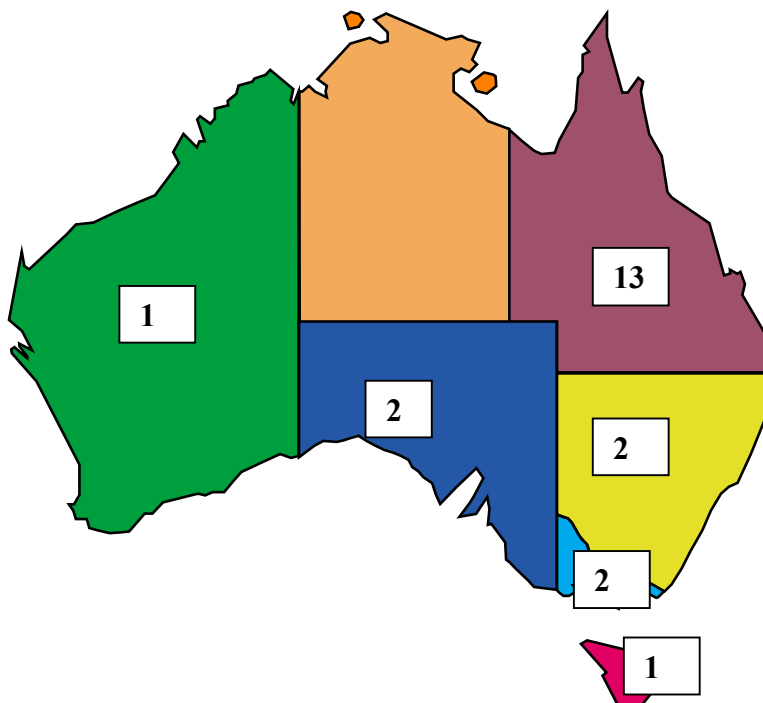


Fig: 1 Complaints Resolution Committee Hearings

New South Wales and the Australian Capital Territory

Two complaints were referred for determination during the reporting period, however, one complaint was withdrawn before being heard. Neither complaint related to services in the Australian Capital Territory. The complainant in the matter that proceeded to determination was supported by an advocate from The Aged-care Rights Service (TARS) and was heard in the metropolitan area. The issues related to the preparation of a contingency plan for emergencies.

The time between lodging the complaint and the hearing was 211 days. The average time between referral to a committee and the conduct of a hearing was 29 days. The time between the hearing of the case and finalisation of the report was 19 days.

Victoria

Two hearings were conducted in Victoria. Both hearings were held in the metropolitan area and involved a service from the voluntary/charitable sector. The matters before the committee included issues related to continence management, call bells, cooling, nutrition and hydration, weight loss, documentation and communication and internal complaints mechanism.

The time between lodging the complaints and the hearings was 150 and 114 days respectively. The time between referral to a committee and the conduct of the hearings was 30 days and 44 days respectively. Twenty-four days elapsed between the hearing and the provision of a Determination in the first matter. The second case was conducted over two days and 25 days elapsed between the second day of the hearing and the finalisation of the determination.

Queensland

A total of 13 cases were referred for determination in Queensland. One did not proceed and two were withdrawn. Of the ten remaining cases, the average time between lodgement of the complaint with the Scheme and the hearing was 156 days and the time between referral to a committee and the hearing was 57.9 days. One determination hearing was not finalised during the reporting period. Of the nine remaining cases an average 32 days elapsed between the hearing and the provision of a determination. Each complaint comprised a number of issues and included; fees, security of tenure, restricted access, continence, medication management, physiotherapy, communication, abuse, privacy, dignity and clinical care issues. All but two of the hearings were conducted in the metropolitan area.

Western Australia

A complaint first lodged with the Scheme in July 2001 was heard during the last financial year and the decision was handed down during this reporting period. Following a determination review in which the decision was set aside the same complaint was re-heard in December 2002. The decision following the re-hearing was handed down 21 days later.

South Australia and Northern Territory

During the reporting period there were no determination hearings in the Northern Territory, however, two determination hearings were scheduled in South Australia. In relation to the South Australian cases, one matter was withdrawn in August after a committee had been convened. The second matter related to a complaint lodged with the Scheme in April 2002. The Commissioner was asked to convene a committee in August and the hearing was conducted on 10 September 2002. The main issues related to injury, pressure care, mobility, pain management, access to records, incontinence and care planning. The time taken between the hearing and the finalisation of the determination was 20 days.

Tasmania

There was one determination hearing in Tasmania during the reporting period. The hearing was conducted in the metropolitan area and the issues

for determination related to the accommodation and use of personal furniture items. The time between lodging the complaint and the hearing was 197 days. The time between referral to a committee and the conduct of the hearing was 37 days. The time between the hearing of the case and finalisation of the report was 11 days.

6.2 Determination Reviews

Should an approved provider, the complainant or the affected care recipient be dissatisfied with a Determination, they can make application in writing to the Commissioner for a review of the determination by a panel. The Commissioner must receive such an application with reasons, apart from mere dissatisfaction, within seven days after receipt of the determination by the party making the application.

The panels are constituted as the need arises and usually comprise the Commissioner and one chairperson from the panel of potential chairpersons. A different panel is constituted for each review. The composition of the panel takes into account workload issues, the need to ensure that there is no conflict of interest and that panel members have not previously been involved in the case.

Applications for review are exchanged with the parties to the complaint who are then invited to make a written submission to the panel. The panel does not hold another hearing but reviews the determination on the basis of the committee's reasons for the determination, any evidence before the committee when it made the determination, the application for review and any written submissions made by a party to the complaint. The panel is appointed under the Principles and may confirm the determination, vary the determination, or set the determination aside.

If the panel decides to set the determination aside, a different committee would then hold a new hearing into the matter. The panel's decision is set out in writing and includes the reasons for the decision and the date on which it comes into effect.

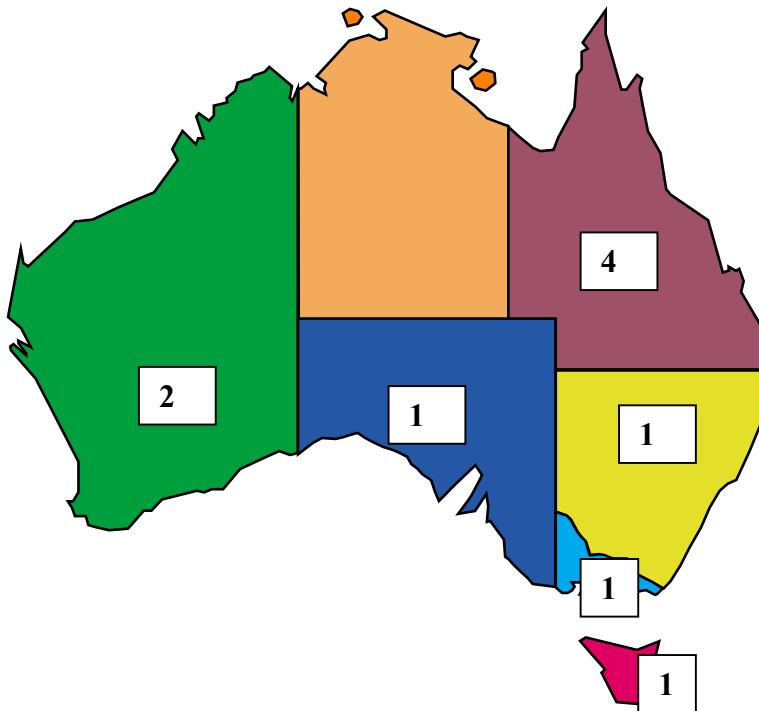


Fig: 2 Determination reviews

A total of ten applications for review were received during the reporting period. Two applications related to cases heard during the previous financial year. The reviews in Western Australia related to the same case, which was re-heard. The determination review in the case originating in Victoria is pending. Of the remaining cases that proceeded to review four were confirmed, two with minor variations. Two were varied and three were set aside.

The complainant in five cases sought a review of the determination, by the approved provider in two instances and by both parties in three cases. The average time between receipt of the application for review and conduct of the review was 32 days. This period allows for the exchange of information between the parties and the preparation of submissions. Four of the determination reviews were sent to the parties on the same day as the matter was finalised, bringing the average time between the review and the provision of the Determination Review: Notice of Decision to all parties to less than one day.

7. Trends and Issues

The statistical information for the following graphs is derived from various reporting elements of the CRS database and covers a three and a half-year period. Figure 3 shows the volume of complaints registered with the Scheme between 1 January 2000 and 30 June 2003.

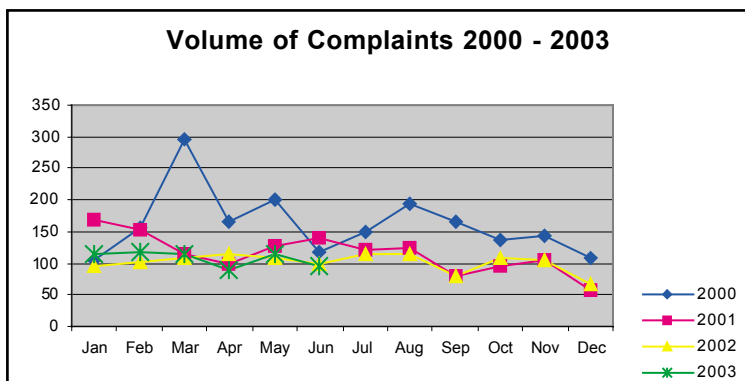


Fig: 3 Volume of complaints

The volume of complaints registered during the 2000 calendar year is higher than that recorded in subsequent years. The significant number of complaints recorded in March 2000 is thought to relate to the considerable media coverage given to an event and subsequent closure of a facility in Victoria. Possible explanations for the reduction in complaint numbers are the adoption of internal complaint mechanisms on the part of aged care services and the ongoing improvement and refinement in the practices adopted by the Scheme.

There is a decrease in the volume of complaints recorded during April each year which may be related to the Easter holiday period, although the trend is not as marked in April 2002 and the down turn in numbers that year continues into the months of May and June. There is also a decline in complaint numbers in September each year. The significant reduction in complaint numbers in September 2001 was initially attributed to events in America. This trend was also noticed by other complaint handling bodies who also reported a reduction in complaint numbers at this time. While this may indeed have had some impact, the volume of complaints recorded in September 2002 was also considerably lower than at other periods during that year. Schools traditionally have a vacation period during this time and this could contribute to the lower complaint numbers seen each September.

The most noticeable and consistent trend is the downturn in the number of complaints recorded between November and December each year, possibly as people prepare for the Christmas period. Peaks in activity may be attributed

to sporadic media attention, the concentration of action from regulators, including the Scheme, Compliance and the Agency, and changes in administration at the facility level. However, further analysis of these facts is necessary before a definitive report can be provided.

The graph shows that, in the year 2002, the Scheme dealt with a smaller number of complaints than in other years and data collated for current calendar year to date gives a similar picture. The role of the Commissioner's office and the Scheme in prevention should be emphasised here. Prevention in this context can be explained as assisting providers to understand that by complying with the Act and Principles complaints are either reduced or eliminated because the service is meeting the needs of consumers.

Related to these figures, Figure 4 shows the number of complaints per 1,000 residents, nationally, each financial year since the inception of the Scheme in October 1997.

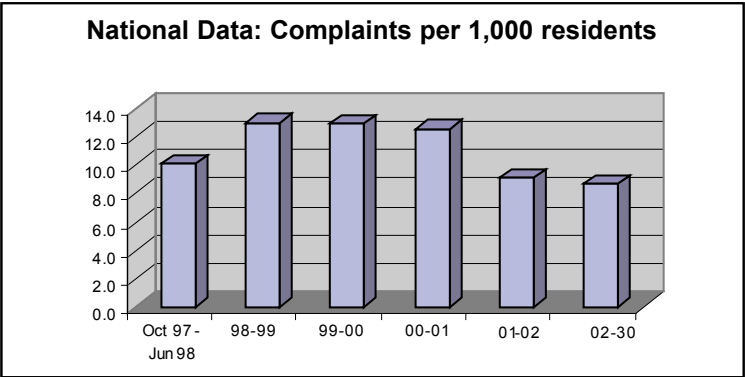


Fig: 4 Complaints per 1,000 residents

Each complaint involves at least one, but generally several issues. Figure 5 shows the volume of issues identified by the Scheme in the years 2000-2003. The trends here closely follow those in Figure 3.

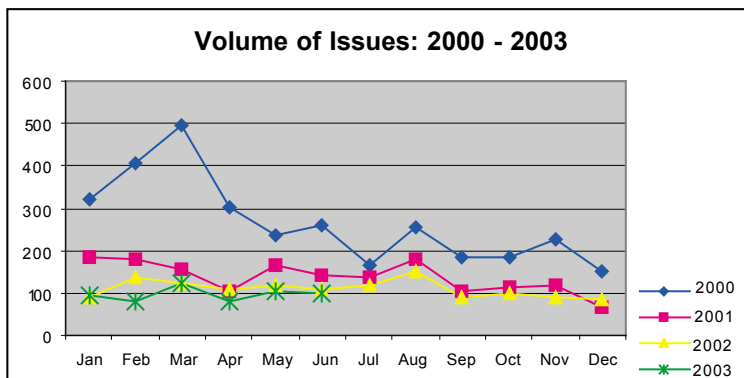


Fig: 5 Volume of issues

The apparent reduction in the number of issues being dealt with at any one time is not necessarily evidence of a lessening of complaint complexity or reduced workload. In depth analysis shows that complaints are multifaceted and more difficult than in previous years, requiring the Scheme to contact and deal with several parties.

Complaints have changed from concerns about single issues such as laundry, cleaning and catering to more intricate issues such as security of tenure, clinical care, medication, resident safety, communication and management. The data are more likely to be a reflection of the improvement in recording practices adopted by the Scheme which have led to a better identification, and less duplication, of the issues involved in each complaint registered. Overtime the overall number of urgent and minor issues reported to the Scheme have reduced to a level where minor issues are no longer recorded and urgent issues are rare.

Officers are working in an area that is often controversial and reported in the media. It is also an environment where people are much more aware of their rights and are increasingly litigious. Not only should officers have a sound knowledge of the Act and Principles they also require a good understanding of administrative and other laws as complaint handling often involves contact with a range of parties including health care professionals, industry and legal representatives.

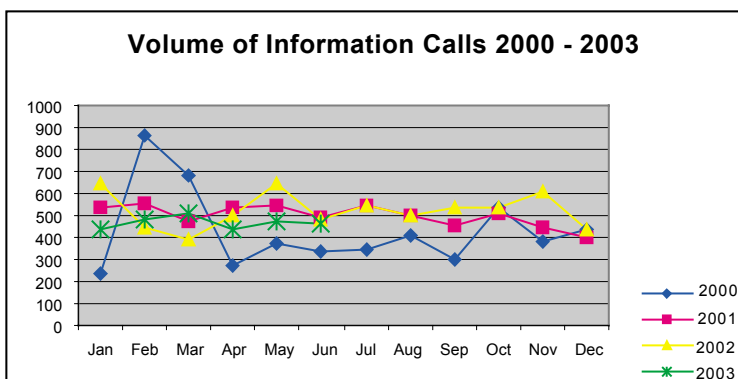


Fig: 6 Volume of information calls

In addition to managing complaints officers are also required to contend with and register information calls and this is a significant part (generally around 80 per cent) of the officers' work. As shown, workloads are variable and reductions in call numbers again appear to relate to holiday periods throughout the year. Approximately 19 per cent of callers seek information outside the Scheme's jurisdiction while 81 per cent seek general information about similar issues to those reported in complaint calls. Generally, these information calls are in addition to those made to the Aged Care Hotline.

It should be noted that the database does not differentiate between information received from and information given to callers. In addition to imparting information it is understood that officers have recorded some anonymous complaints, as well as some complaints that have been resolved during the assessment phase, as information calls.

During the reporting period the number of complaints recorded by the Scheme was similar to the numbers in 2001-2002, while the number of information calls was slightly higher. When analysing data from previous reporting periods the statistics show slightly less calls (both complaints and information calls) recorded in the final quarter of the financial year when compared to the previous quarter and/or the same period last year.

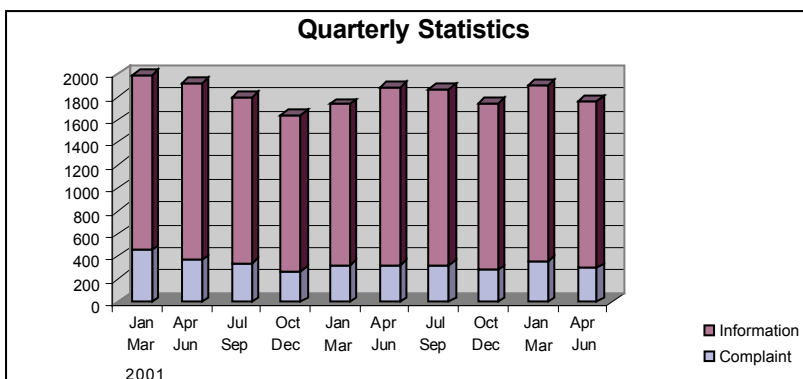


Fig: 7 Quarterly statistics, information and complaint calls

The following figure shows the average number of days taken to finalise complaints accepted during various reporting periods and depicts a rise in the number of cases finalised in the first three-quarters and a reduction in the average number of days taken to finalise cases over the same period. Comparing the final quarter in 2002-2003 with the same period last financial year the statistics show a reduction both in the number of complaints finalised and the average number of days taken to finalise cases.

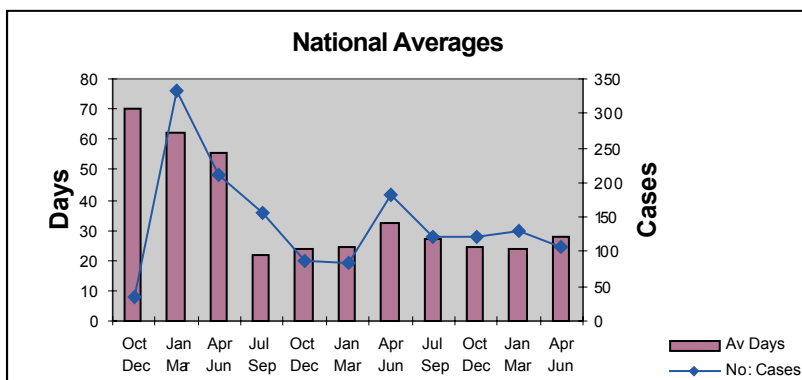


Fig: 8 Cases accepted and finalised

The monitoring and analysis of complaint trends is important, not only to identify issues of concern but also to assist in the allocation of resources, more informed decision making and the careful generation of sensible and relevant aged care policy.

Service providers and complainants have again referred to many of the issues described in previous reports. Importantly for the Scheme, issues such as timeliness, perceived bias, lack of independence and poor communication continue to be raised as areas for improvement.

In addition to these matters the following complex and emotive issues continue to surface in the context of complaints lodged with the Scheme. These issues predominantly relate to the care residents are receiving and the ensuing breakdown in communication between service providers and the resident/residents' families.

7.1 Intimidation

While the creation and use of an internal complaint mechanism is strongly encouraged, there are many circumstances where an independent external complaint resolution is warranted. Many discussions with relatives and friends of care recipients reveal an obvious and pervasive attitude - one where there is an expressed anxiety not to make a fuss, not to complain, not to inquire too often and not to be noticed for fear that it would reflect badly on their relative and lead to some kind of retribution. In fact, some complainants prefer to remain anonymous for these reasons. It is not immediately clear from the database what proportion of these complaints are anonymous or confidential, as opposed to open complaints, nor is it easy to determine what percentage of complaints are withdrawn, if any, because of intimidation or a fear of reprisal.

A word search of the database for the period 1999-2003 indicates that there are 4,365 records that use the word or words, fear, intimidation, retribution, reprisal, harassment and victimisation. In each calendar year, apart from 1999 when data were collected for a short period, around 1,200 documents include one or more of these words, with 'fear' contributing to the highest number of records.

It may well be the case that expressions of fear, intimidation etc are being addressed when they are raised during the progression of a complaint as it is unusual to find an issue moving through to determination. Nevertheless these issues are often the motivation behind why the complaint has been lodged with the Scheme. In addition, this is an area where complainants have expressed strong feelings. It appears, however, that while the information is being recorded, it is not captured as a complaint issue and is therefore not being dealt with explicitly.

7.2 Whistleblowers

Every year, while doing their job, staff employed in aged residential care services witness wrong-doing or problems associated with their capacity to fulfil their roles. Some speak out. During this reporting period some 17 per cent of complaints recorded with the Scheme were raised by staff and ex staff members. The database does not allow analysts to cross tabulate, however, in interrogating the database it is evident that a proportion of complaints not accepted by the Scheme were also raised by this group.

This category of complainants is often classified as whistleblowers. One generally accepted definition of whistleblowers is *an employee who refuses to engage in and/or reports illegal or wrongful activities of his/her employer and/or fellow employees.*

Even though they exhibit some similar characteristics and beliefs all whistleblowers are not the same. Some people who purport to be whistleblowers may in fact be 'problem employees' who engage in such behaviour as a way of getting back at an employer and seek to raise complaints that are vexatious, frivolous, outside the scope of Scheme or that are better dealt with elsewhere. Clearly, not all staff who contact the Scheme have a meritorious claim in relation to either a complaint about the care and services or to an allegation of harassment or retribution. Charges of retaliation are very easy to make and often the evidence is equivocal, pitting one person's word against another's, making this a difficult issue for the Scheme to sort through.

However, many staff have a strong sense of what is right and wrong and raise concerns that are reasonable and well founded in an attempt to correct perceived wrongs and problems in aged care. Before coming to the Scheme many staff have tried to raise their concerns with management. In some instances the issue cannot be resolved internally either because of the intransigence of the employer or because the employer has sought to suppress any dissent through fear or intimidation. Staff have also reported that, in their attempt to bring important information to the attention of others through the Scheme, they often fear for their jobs, suffer discrimination at the hands of the employer and are made to feel that they had broken ranks with their colleagues.

Allegations raised by staff cover a wide range of misconduct and much rests on the focus of reporting these abuses. Through their act of conscience, those staff who speak out protect residents and other staff. This protection can be broadened to include the wider community and government. Experience and an examination of the available literature shows that, rather than receive praise for their integrity and consideration staff sometimes find their issues are too easily dismissed, others believe that they are the targets for harassment and intimidation, or even dismissal.

7.3 Availability of health care professionals

Contacts with the Scheme and this Office indicate that there is a level of concern about the availability of trained nursing staff and medical practitioners in aged care. Not only is there a perceived shortage of staff but also the workforce itself is ageing and overstretched. This is a worldwide problem and is not peculiar to Australia. Nonetheless the current situation

seriously troubles service providers and their existing staff, residents and their families and the general community.

The recruitment and retention of trained nurses is an issue that governments have been grappling with for some time. The introduction of nurse practitioners and the preparedness to extend the scope of enrolled (division 2) nurses may assist to a degree, however, there is a clear need to create an attractive, rewarding work environment for professional staff in residential care. Doctors are legally and ethically responsible for the medical management of their patients in residential care services. However, despite a reported increase in the level of dependence and existing incentives to encourage medical practitioners to participate in care planning, the Australian Medical Association recently reported that number of visits to residential care services between 1998 and 2000 declined by nearly 40,000.

7.4 Security of tenure

A number of complaints continue to revolve around security of tenure. One of an approved provider's responsibilities under the Act is to provide security of tenure for care recipients. Care recipients may be asked to leave a residential care service in only a limited number of circumstances, and then only once specific steps have been taken. It is recognised that, at times, care recipients may exhibit behaviours that challenge the most skilled provider. However, far too often the provider's solution to the presence of these symptoms is to simply transfer the resident, sometimes to hospital, but very often to another aged care facility – despite the fact that the other facility is held to the same standards as the transferring service. Furthermore, these transfers often appear to be the first resort rather than the last and may occur without appropriate medical and/or behaviour assessment and care planning having been undertaken or instituted.

It is obviously in the best interests of all parties to both understand how the Act applies to their situation and to ensure, from the outset, that the resident's agreement clearly outlines the nature and extent of the care to be provided and in what circumstances a resident may be asked to leave.

Concluding Remarks

Health care providers practice in a consumer focussed environment. Today, consumers have greater expectations about their rights and there is a worldwide culture that supports the right of consumers to make complaints.

Conventional wisdom is that self-advocacy is the most desirable solution to many of the problems faced by consumers. However some cannot advocate for themselves, particularly when confronted by systems that are complex,

fragmented or thought to be hostile. It is important that this office and the Scheme advocate for consumers through education about rights while judiciously balancing our knowledge of the resident's perspective on life with the ongoing difficulties faced by providers.

The delivery of aged care services is not an exact science, nor is it foolproof. Often the provider's response to complaints has tended to be characterised by a climate of blame. We are yet to achieve a state where complaints are perceived as an important aspect of learning and a means of providing opportunities for improvement.

This office is strategically placed to examine the operations of the Scheme against recognised principles of good administration and, over time, several changes have been instituted in an effort to improve procedural fairness in the complaints process. More time is now spent in early discussions in order to clarify the issues involved in a complaint. This has led to a more robust examination of the issues and greater attention to the decision making process. As a consequence parties are able to be more confident in the findings and decisions taken. There is still more to be achieved. The Scheme needs to be strengthened further in order to:

- increase the number of consumers who feel empowered to take their own action to resolve complaints;
- increase user friendliness and access to communities who traditionally do not use the service;
- increase the number of providers willing to meet directly with consumers to listen and resolve complaints; and
- resolve standard complaints more quickly.

During this financial year staff have again shown a sincere commitment and a level of enthusiasm and have embraced those changes critical to the maintenance of high standards and provision of a high quality service to the community.

Office of the Commissioner for Complaints

Hon Rob Knowles	Commissioner
Ms Jennifer Theisinger	Director
Mr Grant Davies	Principal Review Officer
Ms Meg Parris	Review Officer
Ms Maria Cioccia	Services Manager

Panel of Chairpersons

Mr George Amarandos
Professor Derek Anderson
Mr John Kelly
Ms Vivienne McCutcheon
Professor Charles Mulvey
Professor Alan Pearson
Ms Helen Twohill
Mr Roger Valentine

Panel of Committee members

Ms Vivienne Allanson	Dr Michael Anderson	Ms Margaret Allen
Professor Robert Beal	Ms Mandy Beylacq	Ms Marcia Coleman
Mr Ian Campbell	Dr Judith Davis	Mr Brian Easton
Mr Chris Gardiner	Mr Jeff Giddings	Ms Janne Graham
Ms Patricia Harper	Ms Jenny Harrison	Dr Philip Henschke
Ms Marjorie James	Mr John Jameson	Hon Louis Lieberman
Mr Allen Martin	Ms Anne-Marie Mioche	Dr Chris Moorhouse
Mr Alasdair McGregor	Ms Diana Noack	Ms Melanie Ottaway
Ms Pauline Pallister	Mr Rusty Priest	Ms Sheila Rimmer
Ms Sheree Ritchie	Dr Gordon Senator	Ms Beverley Stehn
Ms Josephine Tiddy	Mr Luigi Tuia	Ms Lesley Woolf
Mr Bruce Wright	Ms Jacqueline Woodhead	

Appendix 1: Complaints Resolution Scheme: Statistics for the period 1 July 2002 to 30 June 2003

The following statistical information has been drawn from the CRS database. The database continues to be refined in order to enhance the capacity of the Scheme to capture, identify and report on information collected as part of its operations and therefore, as with all statistics, care should be taken when interpreting these data.

1. Complaints

Throughout Australia the Scheme recorded a total of 1,227 complaints for the current reporting period. This compares with a total of 1,249 complaints during the period 1 July 2002 to 30 June 2003.

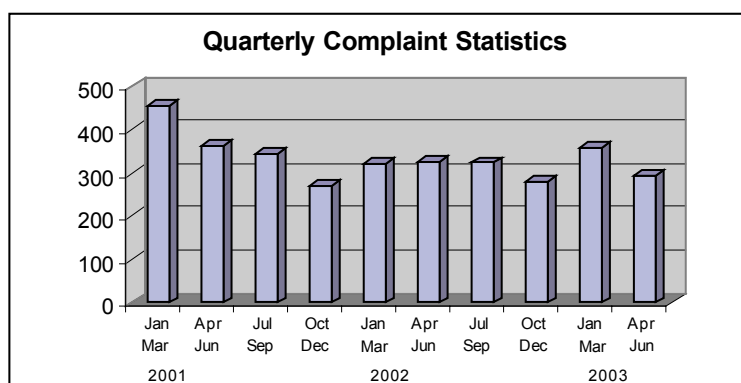


Fig: 9 Quarterly complaint statistics

Figure 10 below shows that Victoria recorded the highest number of complaints with 563 (46 per cent) of the total received across Australia followed by New South Wales 269 complaints (22 per cent). Queensland recorded 120 complaints (10 per cent) and South Australia and Western Australia recorded 98 (8 per cent) and 95 complaints (8 per cent) respectively. Tasmania recorded 54 complaints (4 per cent), 24 complaints (2 per cent) were registered in the Australian Capital Territory and four complaints were recorded in the Northern Territory.

The majority of these complaints (97 per cent) related to aged residential care services. Thirty-three complaints (3 per cent) related to CACPs and two complaints were lodged with the Scheme in relation to the delivery of flexible care services provided through the EACH program.

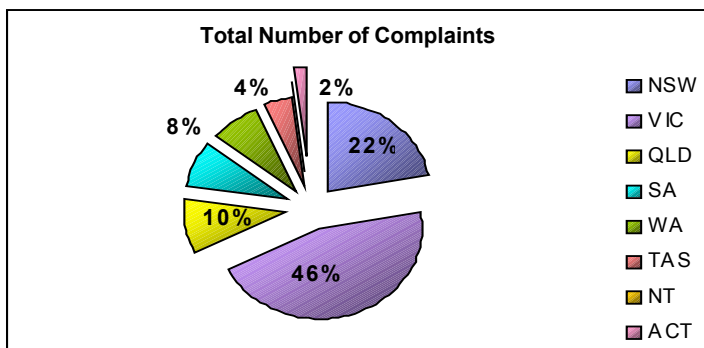


Fig: 10 Total number of complaints

Complaints are received from many sources. The database records that relatives lodge a majority of complaints (59 per cent). Staff made 13 per cent of complaints, while ex-staff contacted the Scheme in 4 per cent of the cases. Care recipients lodged 9 per cent of complaints. Friends lodged 3 per cent of complaints and advocates lodged 1 per cent. The database records that ‘others’ lodged 6 per cent of complaints and the status of a further 4 per cent of complainants is listed as ‘unknown’. These figures are consistent with those recorded in previous years.

During the reporting period the database records that officers undertook a total of 570 site visits either as part of the preliminary assessment or ongoing management of the issues raised. The majority of these visits (401 or 70 per cent) were carried out in Victoria. Tasmania conducted a total of 44 visits and 37 visits were undertaken in New South Wales. In Western Australia 31 visits occurred; 29 in South Australia and 20 in Queensland. Five visits were conducted in the Australian Capital Territory and three in the Northern Territory.

Where it is practical and efficient officers will discuss more than one complaint at the time of a visit. Conversely, follow-up or multiple visits are sometimes indicated. During the reporting period, in order to examine 582 complaints, site visits were conducted at a total of 381 aged care facilities.

1.1 Issue priorities

During the reporting period 3 per cent of issues were assessed as urgent. The remaining 97 per cent were assessed as complex. Previous reports have given an account of the number of urgent, complex and minor issues that the Scheme has dealt with during the reporting period. The number of minor complaints, where there is a single issue without complexity, has steadily

decreased and a decision was taken to record and report on two complaint categories - urgent and complex.

1.2 Complaint type

Of the 1,227 complaints recorded with the Scheme, 810 (66 per cent) were registered as open complaints, 226 (18 per cent) were confidential and 191 (16 per cent) were anonymous complaints. It should be noted that a proportion of complainants who initially lodge a confidential complaint with the Scheme subsequently amend the status of their complaint and request that the issues be dealt with as an open complaint. Furthermore, the nature of anonymous complaints is such that most are not taken beyond the assessment phase, however, a proportion are referred to Compliance for further action.

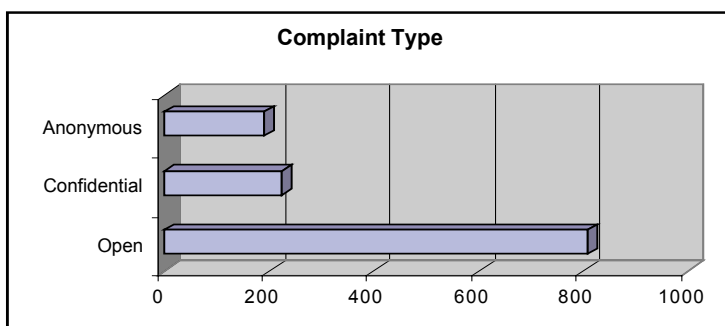


Fig: 11 Complaint type

1.3 Complaint issues

Each complaint accepted by the Scheme comprises at least one issue, but generally multiple issues, that must be dealt with. The Scheme has identified 58 common issues that can be recorded in four main clusters, those being administration, consumer rights, environment and level of care. The following graphs show the seven most common complaint issues recorded nationally under each of those headings. The figures below are expressed as a percentage of the total number of issues within each category and do not equal 100 per cent but are presented this way for ease of viewing.

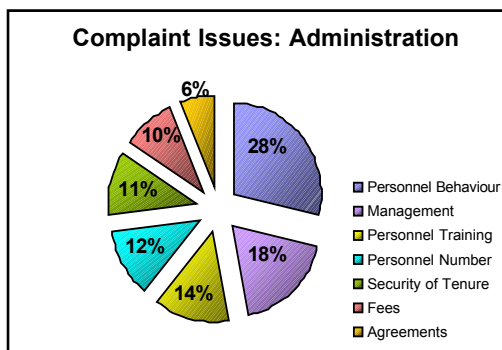


Fig: 12 Complaint Issues – administration

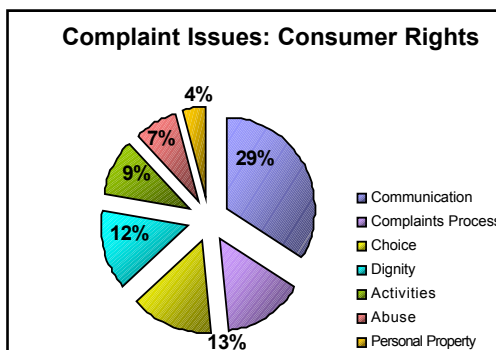


Fig: 13 Complaint Issues – consumer rights

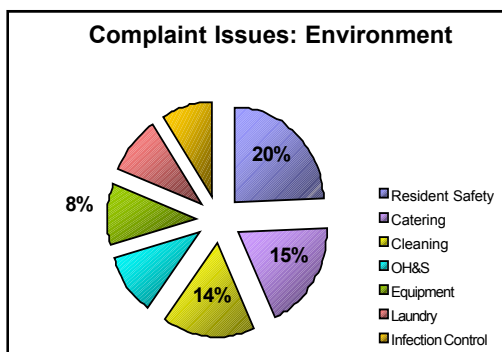


Fig: 14 Complaint Issues - environment

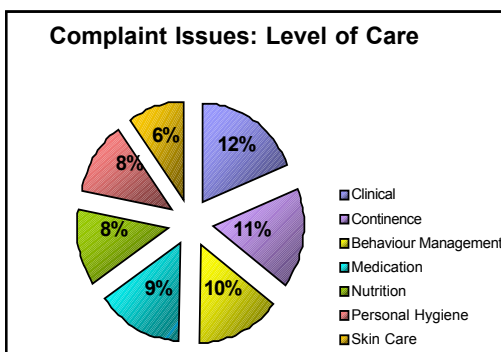


Fig: 15 Complaint Issues - level of care

1.4 Non-acceptance of complaints

A preliminary assessment of a complaint is made to determine whether or not the complaint, or part of the complaint, is to be accepted. This assessment is made on the information available and CROs will not make a decision to accept or not accept a complaint unless they are satisfied that they have sufficient information before them. Moreover, they must be satisfied that accepting the issues as a formal complaint is the best way to handle the problem.

Section 10.45 of the Principles states that the Secretary may refuse to accept a complaint if it is satisfied that:

- the complaint is frivolous, vexatious, or not made in good faith;
- the subject matter has been or is the subject of legal proceedings;
- there is an alternative way of dealing with the subject matter of the complaint and the complainant agrees to have the matter dealt with in that way; and
- the complaint is not a complaint that the complainant is entitled to make; or should not be accepted for another reason.

Where a complaint or elements of a complaint are not accepted complainants are provided with a written statement of reasons. The development and provision of a statement of reasons provides an opportunity for decisions to be properly explained and defended and assists people in making a decision whether to appeal the decision, while at the same time improving the quality of decision making and promoting confidence in the Scheme.

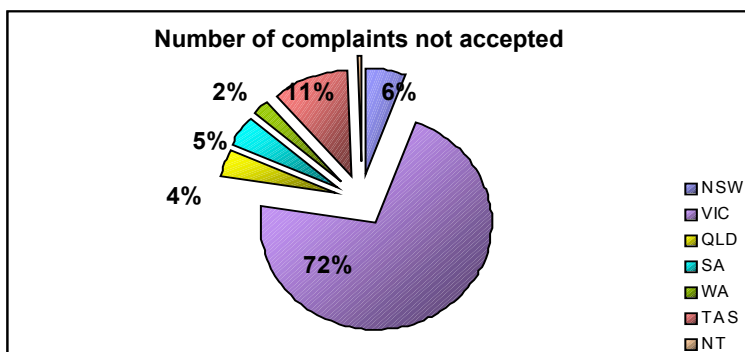


Fig: 16 Total complaints not accepted

During the reporting period the database indicates that, across Australia, a total of 212 complaints lodged during the period were not accepted by the Scheme. These figures represent a total of 17 per cent of all complaints lodged with the Scheme during the period and compared to last financial year corresponds to a proportional reduction of 8 per cent in the number of complaints not accepted by the Scheme.

Complainants who believe the decision not to accept the complaint is erroneous are able to appeal to the Secretary to have the decision reviewed. In these situations the Secretary is required to seek the Commissioner's advice on the matter. After considering the substance of the appeal the Commissioner is required to recommend that the original decision be confirmed or set aside and substituted with a new decision to accept the complaint, or elements of the complaint. During the reporting period the Commissioner was asked to provide advice in relation to 18 appeals against the non-acceptance of a complaint. This figure represents eight per cent of those complaints that were not accepted by the Scheme.

Nine appeals were received in Victoria. This figure represents 6 per cent of all 'non-accept' decisions in this State. Three appeals were received in Queensland, which represents 33 per cent of decisions. Two appeals were received in each of New South Wales, Tasmania and Western Australia. This represents 17 per cent, 40 per cent and 9 per cent respectively of decisions made to not accept complaints in those jurisdictions.

From the appeals conducted the Commissioner recommended that 11 decisions (61 per cent) be confirmed, three decisions be set aside in full and in five instances where multiple issues were reviewed, the Commissioner confirmed the decision in relation to some elements and recommended that others be accepted.

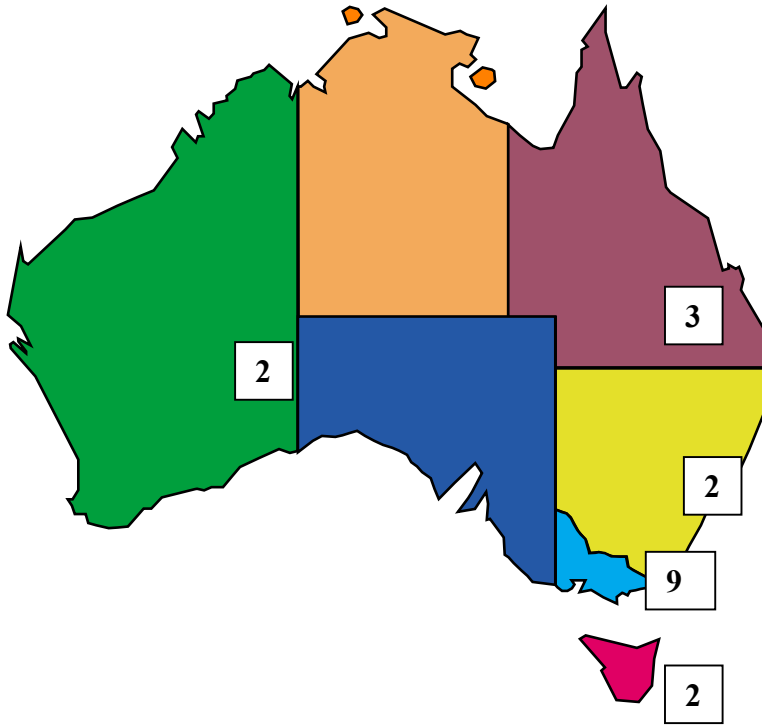


Fig: 17 Appeals against non-acceptance

1.5 Referrals

Once a complainant has contacted the Scheme the legislation provides an initial seven days for CROs to assess the complaint. Officers must examine the issues and ascertain whether the complaint should be accepted by the Scheme or whether another statutory authority or organisation would more appropriately deal with the entire complaint, or some elements of the complaint.

In some instances the referral of information will obviate the need for the Scheme to continue to pursue the matter. Conversely, issues may remain outstanding after referral that still require action by the Scheme. While a complaint may be resolved with respect to the complainant the Scheme may still elect to refer some complaint issues. It should be noted however, that the referral of complaint information may occur at any time during the complaint resolution process.

During the reporting period, a range of issues (218 in total excluding referrals to committees and mediation) were referred either to an external organisation or internally for further consideration and/or action. Across all jurisdictions a total of 113 issues (47 per cent) were referred to the Agency.

A total of 77 issues (32 per cent) were referred to other sections of the Department (predominantly Compliance) for further action. Seven matters (3 per cent) were referred to the appropriate State Health Departments and six matters (3 per cent) were referred to the police. Fifteen issues (6 per cent) were referred to other bodies, including medical and nursing registration boards, Health Services Commissioners and the Coroner.

The overall number of internal and external referrals reported is lower than in previous years, including 2001-2002 when the complaint figures were very similar. This finding may reflect improved practices adopted by the Scheme and a capacity to better identify and deal with issues outlined in complaints.

1.6 Average time to resolve complaints/issues

All complaints accepted by the Scheme involve one or more issues of varying complexity. Previous reports have given an account of the number and type of urgent, complex and minor issues the Scheme has dealt with and finalised in a reporting period. The data indicate that, while there was a wide variance across Australia in the time taken to resolve the number of complaints and issues, nationally the average number of days to finalise complaints was 40.8 days. This figure represents an average increase of one day compared with last financial year but a reduction of 16 days compared to figures reported in the 2000-2001 financial year.

The following figure shows the number of complex issues dealt with in each jurisdiction and the average number of days taken to resolve issues compared with the national average of 40.8 days.

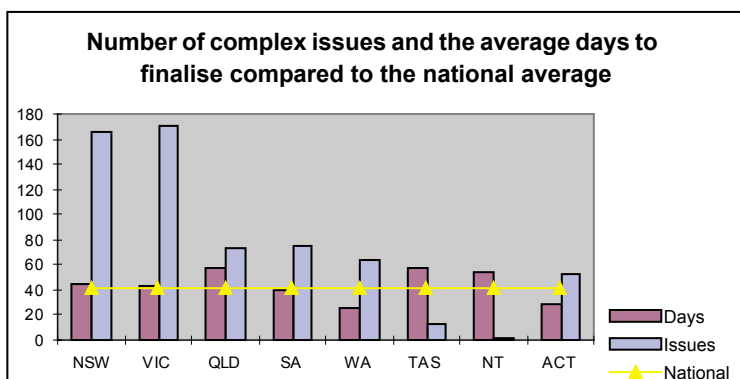


Fig: 18 Finalisation of complex issues

Of the total number of complaints received, at the end of the reporting period the database shows that 69 per cent were finalised, 10 per cent are ongoing, 6 per cent were listed on the database as incomplete and 16 per cent of cases were withdrawn.

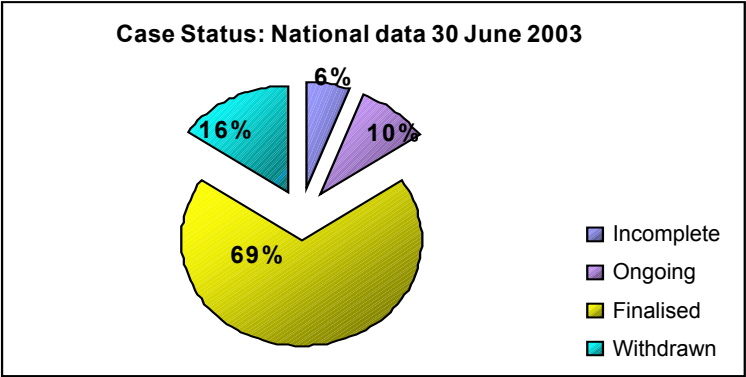


Fig: 19 Case Status – national data

In addition to the number of complaints received and finalised during the financial year each jurisdiction has finalised a number of complaints that were received and accepted by the Scheme prior to the reporting period. When including these figures the data show that a total of 828 complaints were finalised this financial year. These data are presented in the figure below and are a better representation of workload activity during the year.

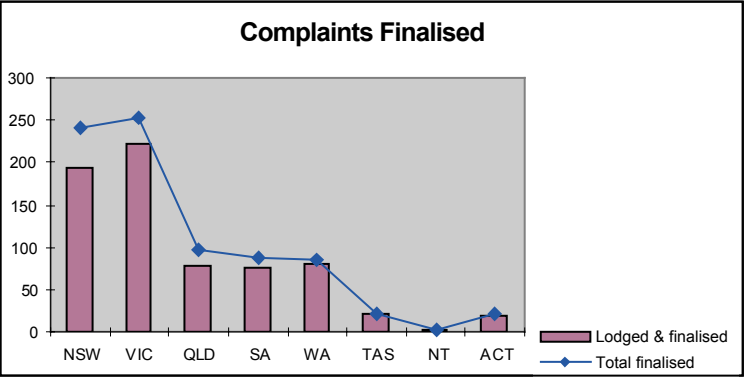


Fig: 20 Finalised cases

In addition to accepting and managing complaints, staff from the Scheme also respond to inquiries from the public, some of whom later go on to register a complaint with the Scheme. The following figure shows the breakdown of all calls to the Scheme recorded in each State/Territory during the reporting period, that is the number of complaints, information and

feedback calls shown as a percentage of the total 7,586 calls recorded nationally.

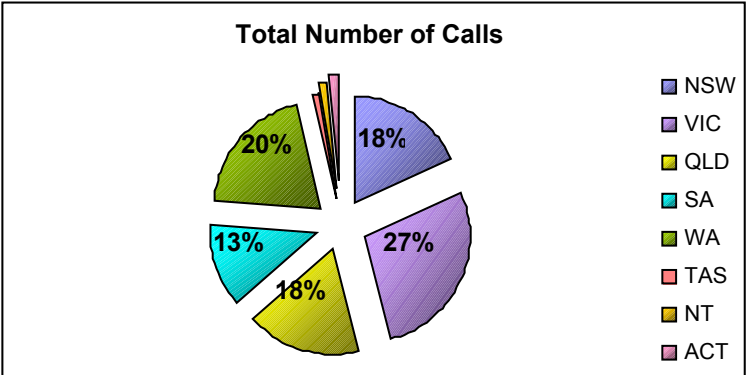


Fig: 21 Total number of calls

Of the total number of calls taken during the reporting period 1,227 (16 per cent) were recorded as complaints, 6,353 (84 per cent) as information calls and six calls were recorded as feedback. In most jurisdictions the majority of calls taken by the Scheme are registered as information calls. The figure below illustrates a breakdown of the number of information calls and complaints registered, and shows them as a percentage of the total number of calls in each jurisdiction. The small number of feedback calls received is not clearly depicted in the figure and a decision has been taken not to record or report these calls in the future.

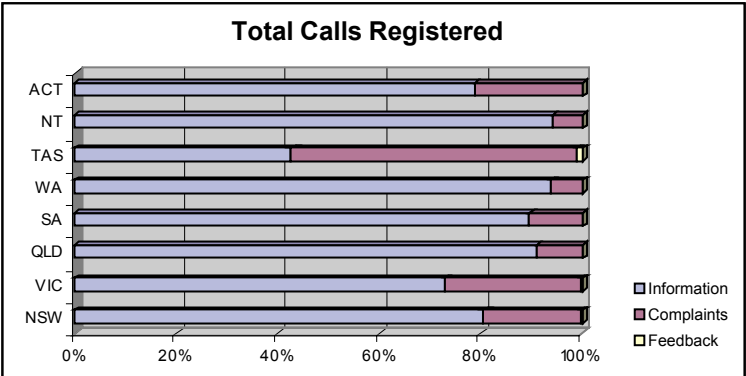


Fig: 22 Total calls registered

Statistics show that dealing with information calls continues to comprise a significant part of the workload for the Scheme. The figure below shows the number of information calls in each jurisdiction shown as a percentage of the total number recorded.

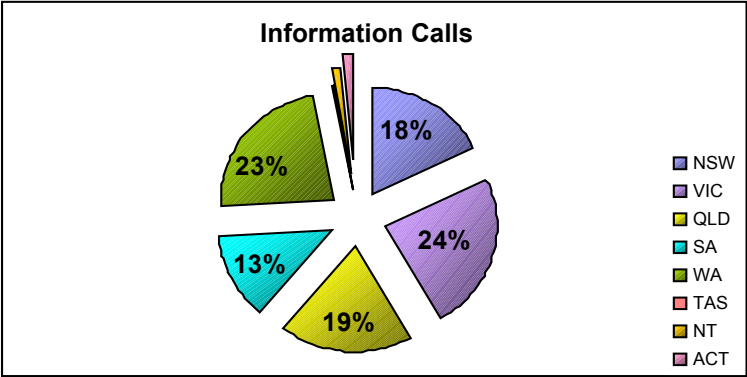


Fig: 23 Information calls

Not all information callers specify an outlet. However, of those recorded a total of 97 per cent related to residential care, 3 per cent related to CACPs. The majority of requests for information (81 per cent) relate to general information about the provision of aged residential services. Nineteen per cent of callers sought information outside the jurisdiction of the Scheme.

The category of caller was recorded in 20.2 per cent of information calls. Of those recorded 1,103 (57.4 per cent) identified themselves as relatives, 248 (13 per cent) as staff, 166 (8.65 per cent) were care recipients. A further 49 callers (2.5 per cent) stated they were friends, 37 (2 per cent) indicated they were ex-staff, 43 (2.2 per cent) identified themselves as advocates. Officers recorded 12 per cent as other and 1 per cent as unknown.

Some 2,861 (54 per cent) of information calls were concluded in under 15 minutes. However, when considering the workload generated by information calls it is interesting to note that a further 1,607 (30 per cent) of calls were recorded as taking between 15 and 30 minutes. In the case of 720 calls (14 per cent), officers recorded that they required between 30 minutes and one hour to deal with the issues. It is of concern that 121 (2 per cent) of information calls were recorded as taking between one and three hours and in each of fourteen calls contact with an officer was for over three hours.

Not all issues are recorded in relation to information calls. Where issues are recorded, officers draw on the same categories and key words used when recording complaints.

The following graphs show the most common seven issues discussed in information calls and recorded nationally, in each of the four categories. The figures are expressed as a percentage of the total number of issues in each category. The totals in the figures therefore do not equal 100 per cent but are shown this way for ease of viewing.

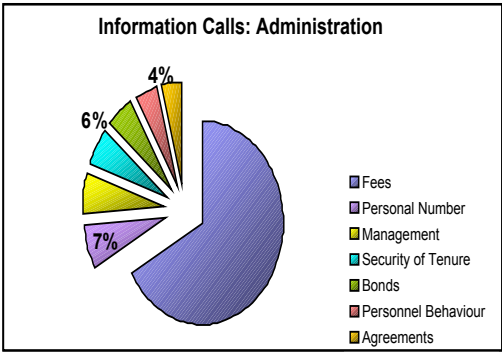


Fig: 24 Information calls-administration

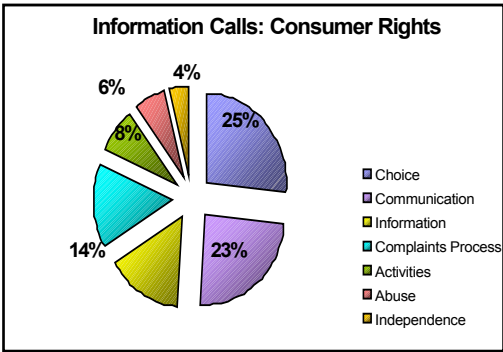


Fig: 25 Information calls - consumer rights

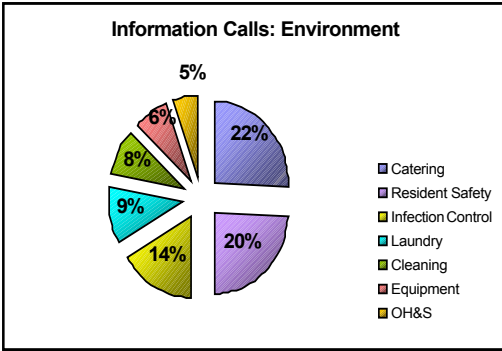


Fig: 26 Information calls - environment

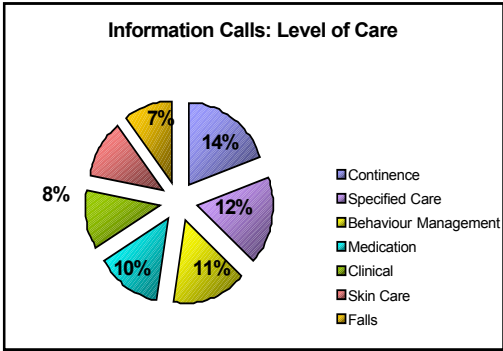


Fig: 27 Information calls - level of care

Appendix 2: Satisfaction Survey: Statistics for the period 1 July 2002 to 30 June 2003

The report considers the information obtained from complainant and service provider surveys separately and then, where practical, compares results between the two data sets. It should be noted, however, that the percentages provided in this report are based on the number of complainants/service providers who responded to each question, not the overall number of surveys that were received during the reporting period. As a result the figures shown in the graphs may not always equal 100 per cent.

While self completed surveys are a popular means of asking a series of multiple choice questions, researchers report that one of the disadvantages of this methodology is the generally low response rate - often as low as 3 per cent and usually not higher than between 10 and 20 per cent. Assuming both parties to the 699 complaints finalised during the reporting period received survey forms, the overall response rate for surveys returned to the Commissioner's office during this period is 43 per cent. Taken separately, the response rate for complainants was 38 per cent while the response rate for service providers was 48 per cent.

The satisfaction survey forwarded to complainants comprises eight questions while service providers are invited to respond to nine questions. Respondents are asked to either provide a yes/no answer, or rate their response according to an accompanying scale. Questions 2, 7 and 8 of the complainant's satisfaction survey invite further written comments as do questions 7, 8 and 9 of the service provider's form. A range of categories and key words have been established in order to record and analyse these responses. The survey forms also allow respondents to provide the facility name and/or complainant details, however, the essential facts conveyed are those that identify the relevant State/Territory and the date of completion of the survey.

Table 1: Satisfaction Survey: complainant responses

1. Overall Satisfaction	Satisfied 67%	Mostly satisfied 18%	Minor satisfaction 7%	Not satisfied 4%	No response 4%
2. Assisted to make a complaint	Yes 89%	No 1%	To some extent 9%		1%
3. Scheme helpful	Very Helpful 73%	Helpful 22%	Not Helpful 3.5%		1.5%
4. Kept informed	Always 75%	Mostly 15%	Sometimes 3%	Never 4%	3%
5. Wishes respected	Always 73%	Mostly 17%	Some 5%	Never 2%	3%
6. Informed regarding rights	Yes 83%	No 4%	To some extent 10%		3%
7. Complaint resolved	Yes 68%	No 25%			7%
8. Suggestions	Yes 21%	No 18%			61%

The data show that 85 per cent of complainants who returned surveys and responded to the question of overall satisfaction were mostly satisfied or satisfied with the service provided by the Scheme. A total of 89 per cent of complainants indicated they were assisted to make a complaint, a further 9 per cent reported they were assisted to some extent.

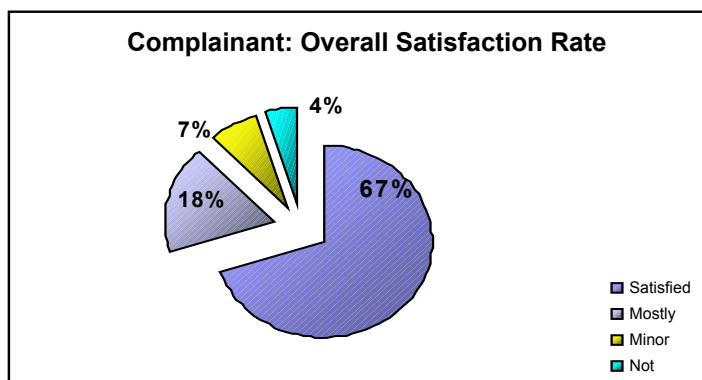


Fig: 28 Overall satisfaction rate

Seventy-three per cent of complainants found the Scheme very helpful, 22 per cent helpful and 3.5 per cent reported that they did not find the Scheme to be helpful. A further 3.5 per cent did not respond to the question.

Complainants are invited to comment on the assistance provided and a total of 31 comments were captured under the heading ‘what else would have helped?’ Overall, the standard of communication was the main issue for complainants. Comments related to the need for better listening skills, the ability to capture and convey information correctly and the necessity to provide a detailed explanation of the complaints procedure at the outset. Other responses included the need for staff training and objectivity as well as the capacity to investigate complaints.

Questions 4, 5 and 6 address the Scheme’s ability to keep the complainant informed, respect their wishes and provide information about their rights and options. Seventy-five per cent, 73 per cent and 83 per cent of complainant responses respectively related this was always done.

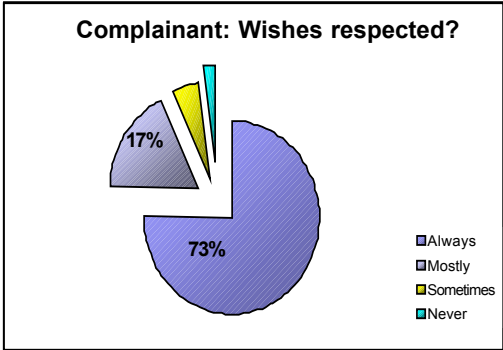
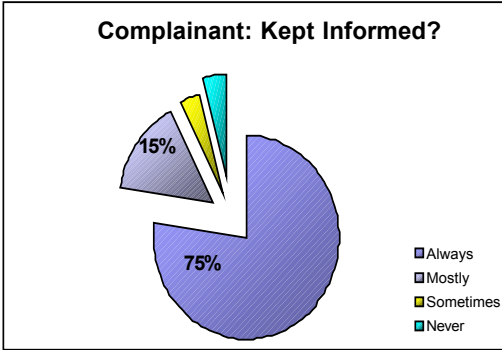


Fig: 29 Complainant: Were you kept informed? Fig: 30 Complainant: Were your wishes respected?

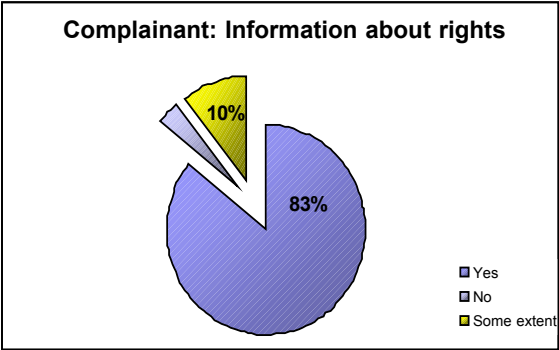


Fig: 31 Complainant: Did you receive information about your rights?

Taken together, the data relating to questions 4, 5 and 6 indicate that 90 per cent, 90 per cent and 87 per cent of complainants respectively, advised that consumer service factors were mostly delivered.

The majority (68 per cent) of complainants indicated they felt their complaint was resolved. Complainants who considered that their complaint was not resolved where asked to comment and 71 observations were captured. Eighteen respondents considered that the issues outlined in their complaint had not been addressed. Sixteen respondents commented on the process. Comments included that the process took too long, the service covered up and further monitoring was required, the investigation was inadequate, there was no feedback to complainants where matters had been referred to other agencies. Other comments included the failure of the service to provide documentation and to make required or agreed changes.

Twenty-one per cent of complainants offered suggestions for improvement in the management of complaints. Of those who responded the majority (29 per cent) suggested communication should be improved. Comments related to the provision of information and contacts between the parties, accurately capturing issues, increasing publicity about the Scheme and improving 'people skills' and the standard of letters. Comments related to timeliness and the general process referred to the time taken to resolve complaints, particularly after mediation or at determination and the need for stronger powers including the capacity to fully investigate complaints. Twenty-five per cent of comments were captured as 'other'. These comments related to issues such as the accountability of approved providers, unannounced visits, and training privacy and guardianship. It should be noted that a number of survey responses made suggestions well outside the role of the Scheme and its capacity to deliver expected outcomes such as proposing the sacking of particular staff and/or the closure of the facility.

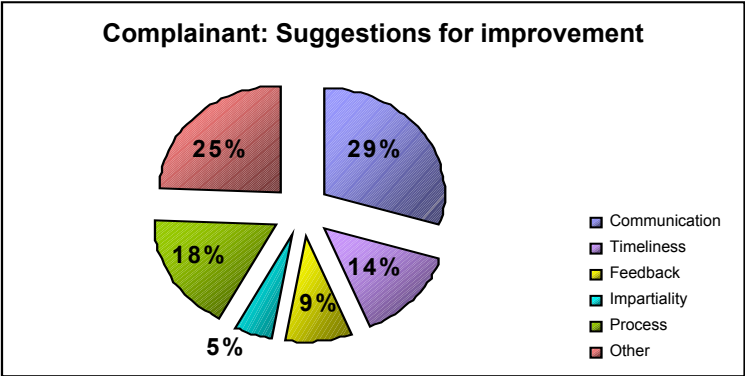


Fig: 32 Complainant: Suggestions for improvement

Table 2: Satisfaction Survey: Service Provider responses

1. Overall Satisfaction	Satisfied 76%	Mostly satisfied 19%	Minor satisfaction 2.5%	Not satisfied 2.5%	No response 0%
2. Kept Informed	Always 68%	Mostly 26%	To some extent 4%	Never 1%	1%
3. Needs Respected	Always 67%	Mostly 25%	To some extent 5%	Never 2%	1%
4. Scheme Helpful	Very helpful 77%	Helpful 21%	Not Helpful 1%		1%
5. Information regarding rights	Yes 86%	No 4%	To some extent 9%		1%
6. Opportunity to contribute	Yes 91%	No 3%	To some extent 5%		1%
7. Complaint resolved	Yes 76%	No 11%			13%
8. Improve business	Yes 59%	No 20%			21%
9. Suggestions	Yes 22%	No 31%			47%

Seventy-six per cent of service providers who responded to the satisfaction surveys and answered the question of overall satisfaction indicated they were satisfied overall with the Scheme. A further 19 per cent reported that they were mostly satisfied. Together these figures indicate that 95 per cent of service providers expressed a level of satisfaction with the service provided by the Scheme. Seventy-seven per cent of service providers found the Scheme very helpful and 21 per cent advised that they found the Scheme helpful. That is, a total of 98 per cent of service providers indicated that they found the Scheme helpful or very helpful.

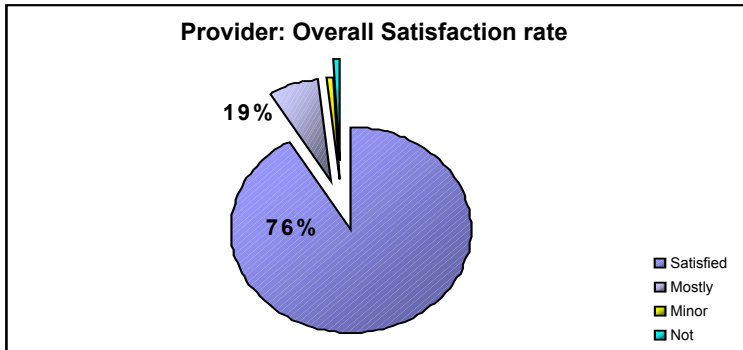


Fig: 33 Provider: Overall satisfaction rate

Similar to the complainant survey, questions 2, 3 and 5 asked service providers if the Scheme kept them informed, respected their needs and provided information about their rights and options. Sixty-eight per cent, 67 per cent and 86 per cent respectively indicated that this was always done. Taken together, the responses demonstrate that 94 per cent, 92 per cent and 86 per cent of service providers respectively reported that these three consumer service factors were mostly delivered.

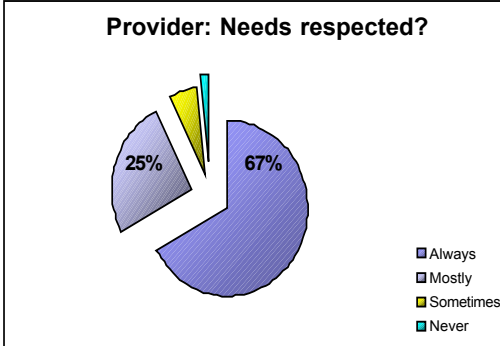
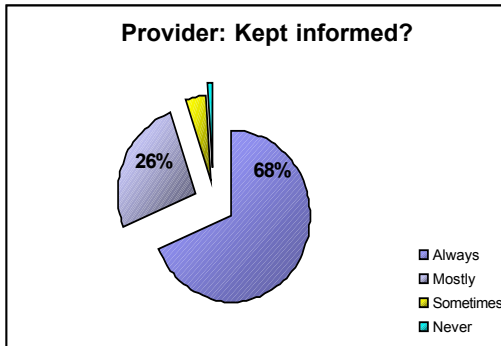


Fig 34: Provider: Were you kept informed? Fig 35: Provider: Were your needs respected?

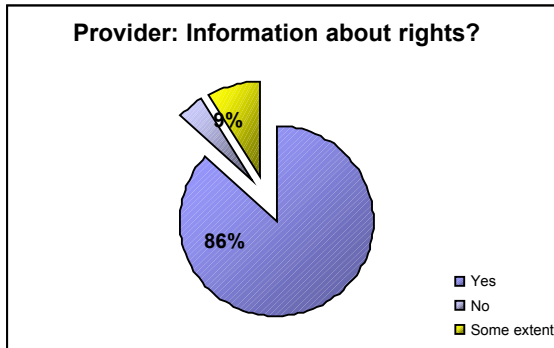


Fig: 36 Provider: Were you given information about your rights?

Importantly, 91 per cent of service providers indicated they had the opportunity to contribute to the resolution of the complaint, 76 per cent of those responding indicated they felt that complaints were resolved and 59 per cent indicated that their way of doing business would be improved as a result of the complaint. Most comments about business enhancement related to applied learning - such as a better understanding of residents and relative needs, continuous improvement cycles, upgrading of documentation and communication processes.

Service providers were also asked to suggest areas of improvement for the Scheme. As with complainants, the majority of service providers responding to this question (34 per cent) made suggestions related to the need to improve all aspects of communication.

Thirty-one comments (41 per cent) were captured under the 'other' heading. A large number of these comments suggested that complaints should go through an internal complaint process before approaching the Scheme. Eight per cent of comments addressed the impact of anonymous complaints - suggesting that anonymity can hide spiteful intent and/or cloud the issues to be addressed. A further 8 per cent of suggestions related to impartiality. The dominant comment being that there is an immediate assumption of wrong doing on the part of the service provider. The need to improve timeliness was suggested by 6 per cent of respondents and mention was made of the necessity to better identify the complaint issues and provide feedback.

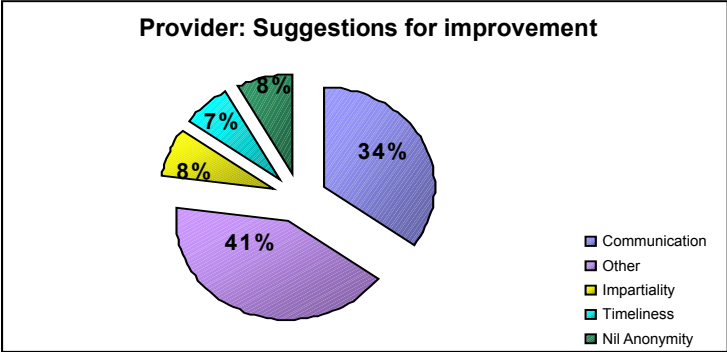


Fig: 37 Provider: Suggestions for improvement

Focus Groups: Opportunities for improvement

Both groups responding to the surveys have offered comments and suggestions as to how the Scheme might better assist parties in conflict and the possible nature of future improvements. The overall nature of these comments has not changed significantly from previous reports. As part of the quality assurance program, focus group meetings for clients (complainants and service providers) of the Scheme were conducted in six of the eight

jurisdictions. The Northern Territory and the Australian Capital Territory were excluded due to the small populations available for sampling. The focus group meetings were conducted over a period from February to April 2003.

Sampling

The Scheme's complaints database was used to source complaint data relating to clients of the Scheme over the period from September 2001 to February 2003.

The optimum period for sampling complaint data was considered to be the 12 month period January to December 2002. This timeframe was considered lengthy enough to provide a reasonable size, while being recent enough to minimise recall difficulties. This period was also thought to allow for a degree of processing of clients' experiences.

Complaints that were lodged and finalised for the periods selected were identified. All complaints that were finalised through negotiation, mediation, determination, or which were accepted and finalised at assessment, (all being stages of the complaints resolution process) were included in the sample. Those complaints that were anonymous, confidential, referred to other bodies or finalised by withdrawal were excluded. Clients were also screened to ensure no-one person or organisation received more than one invitation.

It was intended that the simple random sampling method of choosing the first, then every second complaint that met the criteria would be employed. However, given the small samples available at times, the total sample pool available sometimes became the final sample selected. A possible restriction on attendance relating to geographic remoteness was recognised at the beginning of the sample process. This factor was addressed in jurisdiction as the process of sampling evolved in order to arrive at a final sample pool considered necessary to result in 12 attendees for each group.

Invitations and participation

Letters of invitation were sent to randomly selected clients from the database to participate in the focus groups. These letters advised clients that their participation was completely voluntary and confidential. The letters were followed up with a telephone call to confirm the individual's participation.

Provider and complainant groups were held separately in each jurisdiction. At the start of each focus group, staff of the Office of the Commissioner for Complaints provided background information about the existing structure and Scheme processes as well as current complaint statistics and survey information. Participants were thanked for their time and were reassured that their participation would remain confidential.

Results

Overall the groups elicited useful information that will assist in the quality of the service provided to one of the most vulnerable populations in our society. The Scheme has made significant improvements over the course of the last 12 months but it is clear that more needs to be done to make the Scheme truly effective and accessible to those who need it most. A report has been compiled outlining the information gathered and State specific feedback has been provided to jurisdictions at their invitation.

General Comments: Service Providers

1.1 Positive

- Services providers generally found CROs to be courteous and friendly.
- Many service providers indicated that they had a positive experience with the Scheme, that officers of the Scheme were very open, supportive and objective and that they acted fairly during the complaint.

1.2 Criticisms

- Providers were critical of a number of different State and Australian Government agency contacts about the same complaint leading to duplication of effort on the providers' part.
- Providers complained that the aged care industry is over regulated. They believed that these factors lead to adverse affects on staff morale, a feeling of intimidation and increased likelihood of good staff leaving the aged care sector.
- Some providers felt the Scheme was not fair because it was stacked in favour of the complainant and did not focus on the complainant's responsibilities as well as their rights.
- Some providers also suggested that departmental officers undertook too many roles at the same time, leading to confusion and lack of clarity around those roles.
- All providers were critical of the ability of the Scheme to accept anonymous complaints. Some saw it as a fishing expedition by the Scheme or complainant.
- Generally, providers did not believe they were adequately informed of the progress of the complaint. Many criticised the transition from the preliminary assessment phase into the negotiation phase as being very unclear while some were not aware of the preliminary assessment phase at all.

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- Some providers complained that the Scheme, when undertaking site visits, should provide more time before arriving.
 - Some providers described their interactions with CROs as being poor. They stated that the professionalism and training of some officers needs to be addressed and that the system was adversarial rather than cooperative.
 - Most providers considered that the Scheme needs to investigate complaints more actively in order to achieve better outcomes.
 - Moreover, they felt that the Scheme needs to more accurately record the issues to be addressed during the complaint since this has a flow on effect throughout the subsequent phases of the complaint.
 - Providers thought that the Scheme ought to be able to provide feedback and debriefing about their systems and the complaint.
 - Providers were not clear about what to expect during determination hearings and thought the proceedings during determination were very court like and intimidating.
 - Providers also commented that the letters being sent from the Scheme had a poor tone, were not clear and were too legalistic.

General Comments: Complainants

1.3 Positive

- Complainants thought the CROs were helpful, very sympathetic, professional and caring.
- Some complainants thought the process was excellent and fair, and said that they were informed of their rights and were aware of the complaints processes.
- Complainants felt they were kept informed of the progress of the complaint.

1.4 Criticisms

- In most jurisdictions, complainants indicated they were not fully aware of the phases of the complaints process and did not understand what the Scheme could do.
- Some complainants indicated they were not aware until very late in their complaint of the availability of advocacy services and a number indicated that they had not received satisfaction survey forms at the conclusion of their complaint.

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- A strong claim from complainants was the fear of retribution by providers if they complained. They invariably described the experience as disempowering. Many said they felt particularly unsupported, railroaded and not in control of the process.
 - Complainants said the Scheme need to be able to investigate complaints more fully, including speaking with the complainant when gathering information and involving the complainant in the negotiation phase with the service provider.
 - Complainants described the process as being complex, exhausting and not designed for older people.
 - There was some suggestion from complainants that the Scheme is finalising complaints without the complainants' consent and that the letters being sent from the Scheme are too legalistic and difficult to understand.

A continuously evolving program environment reinforces the need for ongoing assessment of client satisfaction. The collation of information gathered through the focus groups has contributed to the development of a number of recommendations for improvement and feedback has been provided to jurisdictions as appropriate. Consultation is continuing to inform the redevelopment of satisfaction surveys. The introduction of revised survey forms is intended to allow for a more meaningful collection of data from respondents and greater examination of the factors reported here.

Appendix 3: Performance Indicators

The performance indicators established for the Scheme are numerical measures, expressed as a percentage, which are designed to describe important and useful information about the performance of the Scheme. The performance indicators are monitored at regular intervals, compared with one or more criterion, to demonstrate whether the Scheme is achieving its overall objectives and meeting set targets.

Performance indicators are monitored on an ongoing basis and are regularly reported. Inconsistencies in database reporting were identified during the financial year and the database was further refined in order to correct observed irregularities. Monitoring during the year indicated that most jurisdictions continued to improve their performance against the established targets demonstrating a significant level of commitment, particularly on the part of those jurisdictions where there are a large number of complaints. National statistics for the financial year also demonstrate an overall upward trend in meeting indicators when measured against the individual targets set.

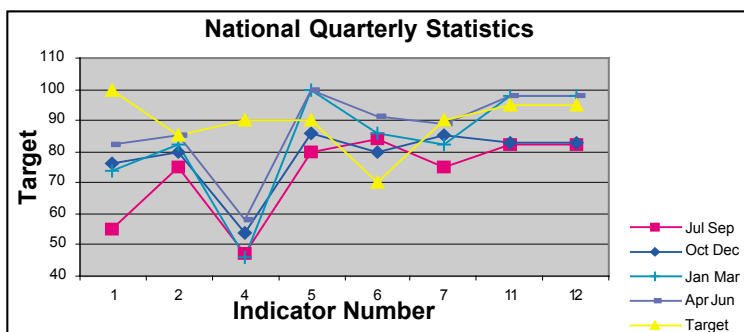


Fig: 38 Quarterly Statistics 2002-2003

The following data provide a comparative view of each State/Territory’s achievement against the national average for this financial year and the target set for each indicator.

Indicator 1 measures the prompt provision of an acknowledgment card to people contacting the Scheme to lodge a complaint. The expected target for this indicator is 100 per cent and tracks the provision of an acknowledgment card within four days of the initial contact. The database indicates that across Australia an average 72 per cent of contacts received an acknowledgment card within the stipulated time frame.

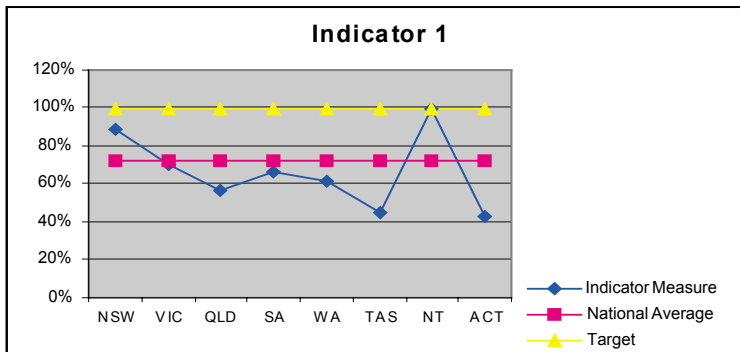


Fig: 39 Performance Indicator 1

Indicator 2 measures the time between the receipt of a complaint and the time taken to inform the complainant how the Scheme proposes to manage the complaint. This contact should be made within seven days following the receipt of a complaint and should advise whether the complaint has been accepted or referred or is still being assessed. The data show that nationally this occurred in an average of 81 per cent of cases during the financial year. The target is set at 85 per cent.

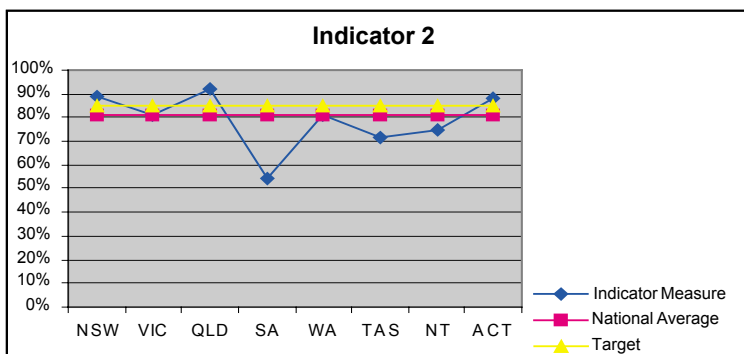


Fig: 40 Performance Indicator 2

Indicator 3 relates to the prompt referral to appropriate internal or external agencies. While the database shows that 238 issues were referred during the last financial year the measurement of time between receipt of the complaint and the referral of the complaint, or part thereof, is not currently available.

The target set for Indicator 4 is 90 per cent. The indicator is based on the assessment of all related factors and the need to document an initial action plan to optimise the outcome of any intervention. The action plan is to be documented within seven days of the acceptance of the complaint. The data show that, other than in New South Wales, meeting this indicator appears not to have been a major consideration. During the reporting period this indicator was met in an average 64 per cent of cases.

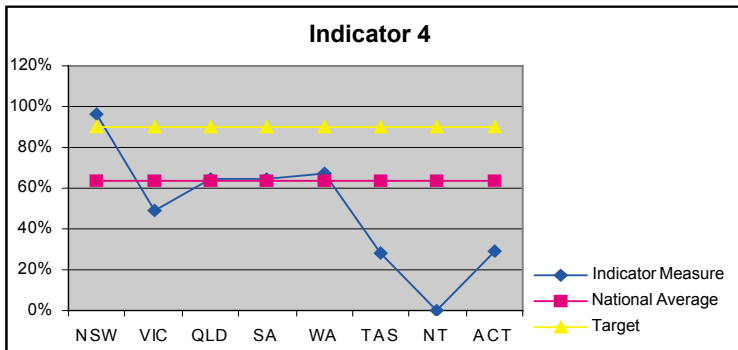


Fig: 41 Performance Indicator 4

Indicator 5 is based on the rationale that there should be prompt and appropriate intervention in the case of all issues that have been assessed as urgent. The indicator measures the time between the receipt of issues assessed as urgent and the undertaking of an appropriate intervention within seven days. The target set for this indicator is 90 per cent and the database records that the national average for this indicator is 96 per cent. Annually there are a very small number of issues assessed as urgent. There were no issues assessed as urgent in the Australian Capital Territory. Therefore, with the exception of the Northern Territory each jurisdiction fully met the indicator. The Northern Territory assessed one issue as urgent but did not record an intervention within the required time frame. Previously, the analysis of data indicated that urgent matters were being addressed as appropriate, however, on occasion the status of the complaint had not been amended where there were additional, non-urgent, components of the complaint took longer to resolve. The current data indicate that this irregularity has now been addressed.

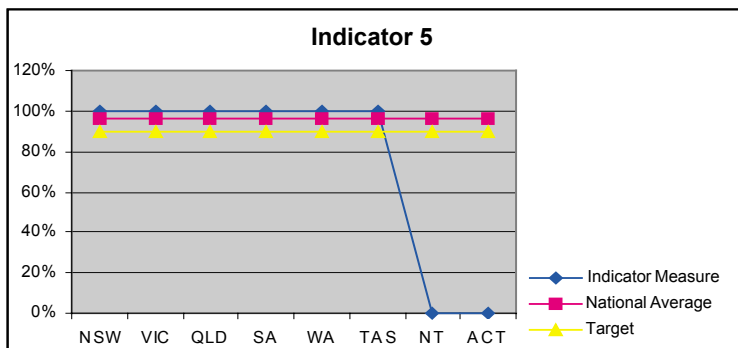


Fig: 42 Performance Indicator 5

Indicator 6 measures the time between the acceptance of a complaint and finalisation of that complaint and provides the number of accepted

complaints with a finalisation date recorded within ninety days. Against a target of 70 per cent the database shows a national average of 90 per cent.

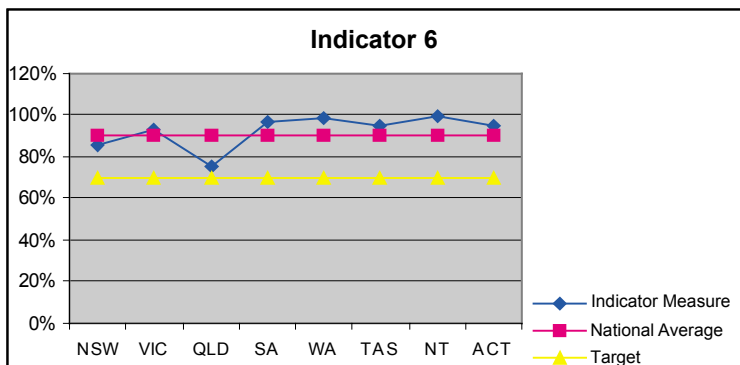


Fig: 43 Performance Indicator 6

Indicators 7.1 and 7.2 are based on the rationale that, as complaints are finalised, timely feedback to all complainants and service providers is essential in order to both ensure good consumer relations and satisfaction and to optimise the outcome and expedite any follow up arrangements.

The target set for both indicators is 90 per cent. The indicators measure the number of written contacts made within seven days of finalisation and the database records a national average of 77 per cent for both indicators.

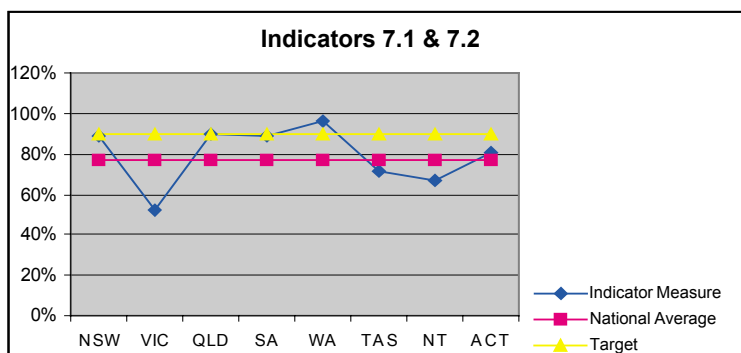


Fig: 44 Performance Indicators 7.1 & 7.2

Indicator 8 has a target of 100 per cent. The indicators proposes that determination reports outlining the results of hearings conducted by committees should be provided within seven working days from the date the Determination is received by the secretariat. This indicator was met in 100 per cent of cases.

Similarly, Indicator 9 requires that a Determination Review: Notice of Decision is provided to all parties within seven days of the signing of the report. This indicator was met in 100 per cent of cases.

Indicator 10 is based on the rationale that complainants are entitled to receive timely advice as to the outcome of their appeal against the non-acceptance of their complaint. The Commissioner is required to provide advice to the Secretary in relation to these matters. The indicator measures the time between the Secretary's request for advice and the provision of that advice by the Commissioner. The target for this indicator is 100 per cent. Advice was provided on 18 occasions and the indicator was met in 67 per cent of cases.

Indicators 11.1 and 12.1 record the number of complainants and service providers respectively who have been provided with a satisfaction survey for completion at the time each complaint is finalised. A target of 95 per cent has been set for both indicators. In both instances the database records a national average of 90 per cent.

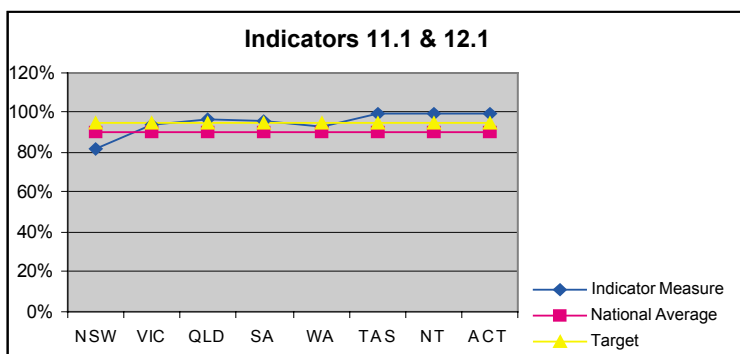


Fig: 45 Performance Indicators 11.1 & 12.1

Indicators 11.2 and 12.2 record the number of complainants and service providers (expressed as a percentage) who indicate they are satisfied or mostly satisfied with the way their complaint was handled by the Scheme. During the reporting period a total of 269 complainants and 335 service providers returned completed surveys.

The figures taken from the satisfaction survey database show that 85 per cent of complainants who responded to the survey were satisfied or mostly satisfied with the service provided by the Scheme. Separately, 95 per cent of service providers responding to the survey indicated that they were satisfied or mostly satisfied with the service provided by the Scheme.

Indicator 13 relates to the provision of staff training and reports the number of new and current staff who have undertaken an internal or national training program against the total number of new staff employed. As the database is yet to be refined to provide this information each State/Territory was asked

to provide information as to the training opportunities offered and taken up by staff during the reporting period.

During the year seven staff from the Scheme participated in the national three-day orientation program and nine took part in internal orientation programs. It should be noted that the number of staff participating in the orientation program has kept pace with staff attrition and the overall staffing pool has not increased in size.

Staff in each jurisdiction were provided with education in a wide range of software programs intended to enhance existing administrative and database skills and many were able to attend various seminars and conferences relevant to their general area of work and the application of specific legislation.

A variety of education programs specifically targeted to develop and improve the role of CROs were accessed by staff in Victoria, New South Wales and Queensland. In addition to training in the use of the database, education sessions included subjects such as negotiation, mediation, stress management, conflict resolution, dealing with challenging behaviours, risk management, problem solving and effective writing. Additionally, it was reported that a number of staff are undertaking post graduate studies, including psychology and law, in order to support and augment their work in the Scheme as their chosen career path.

Appendix 4: Glossary

ACAT	Aged Care Assessment Team
Act, the	<i>The Aged Care Act 1997</i>
Agency, the	Aged Care Standards and Accreditation Agency
CACPs	Community Aged Care Packages
Commissioner, the	The Commissioner for Complaints
Committee, the	Complaints Resolution Committee
CRO	Complaints Resolution Officer
Department, the	Department of Health and Ageing
EACH	Extended Aged Care at Home
HACC	Home and Community Care
Minister, the	The Hon Kevin Andrews MP, Minister for Ageing
MPS	Multi Purpose Service
Office, the	The Office of the Commissioner for Complaints
Principles, the	<i>The Aged Care Committee Principles 1997</i> made under the Act
RCS	Resident Classification System
Panel, the	Determination Review Panel
Scheme, the	The Complaints Resolution Scheme
Secretary, the	Secretary to the Department of Health and Ageing
Standards, the	The Accreditation Standards in Schedule 2 to the <i>Quality of Care Principles 1997</i> made under the Act