Commissioner for Complaints
GPO Box 1245
Melbourne 3001

Telephone Freecall 1800 500 294
(03) 9665 8033
Facsimile (03) 9663 7369

annual report

1 JULY 2005 - 30 JUNE 2005

Commissioner for Complaints

Australian Government

Office of the Commissioner for Complaints
Level 4, 12–20 Flinders Lane, MELBOURNE VIC 3000
GPO Box 1245, MELBOURNE VIC 3001
Tel: 1800 500 294, (03) 9665 8033, Fax: (03) 9663 7369
ABN: 83 605 426 759

Senator the Hon Santo Santoro
Minister for Ageing
Parliament House
CANBERRA ACT 2601

Dear Minister

Pursuant to my obligations under section 10.34A of the *Committee Principles 1997* I hereby submit my Annual Report on the operation of the Complaints Resolution Scheme for the period 1 July 2005 to 30 June 2006.

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 Parts 6 and 7).

Yours sincerely

ROB KNOWLES
Commissioner for Complaints

Commissioner's Introduction

This is to be my final report as Commissioner for Complaints.

One of the fundamental tenets in providing and overseeing the care of older people is to develop and direct interventions with the intention of improving the quality of life. I have embraced my role as Commissioner and have reviewed the past six years in that context.

My work over the last six years has reinforced my belief that in all situations there is a need for unfettered communication if we are to avoid confusion and conflict. In oversighting complaints I have been surprised at the reluctance on the part of some people and organisations to enter into open and honest dialogue and to give others that which we would seek for ourselves.

The Commissioner's role is multifaceted, but one of my primary functions has been to oversee the effectiveness of the Complaints Resolution Scheme. This has enabled me to observe complaint handling across jurisdictions and to note the positive and negative aspects of the current system.

The Scheme receives complaints from and on behalf of some of the most vulnerable people in society. It is also true to say that these complaints cover sensitive, personal issues and have increased in complexity over time. It is uncommon for the Scheme to receive a complaint that is confined to one issue and generally resolution necessitates dealing with multiple parties.

The aged care industry has also changed. We have seen an expansion in the range of service types available and today there are more providers managing large homes or corporations across multiple jurisdictions. The best of these organisations use information from complaints to seek out problems and improve services, but we are yet to reach a stage where the industry as a whole accepts complaints as a legitimate element of quality assurance. It is important for providers to overcome the perception that all complaints are a personal attack on the integrity of the staff and the services provided.

However, during the term of my appointment and as a generalisation, I have observed an industry that is committed to providing high quality care and is doing much better that six years ago.

Much of my attention has been focused on achieving an improved external complaints handling mechanism on a national basis. Over time I have raised a number of issues and impediments, both internally and externally, in relation to the efficient and effective operation of the Scheme. The current tripartite management arrangement has undermined consistency in complaint handling and lacks a career structure for staff. Confusion between complaint and compliance activities and accreditation processes, together with a lack of adequate feedback, has led to expressed levels of dissatisfaction from complainants and providers alike.

Satisfaction surveys and focus groups have consistently shown a preference for a model structured around investigation and conciliation. This would not only be less onerous for the parties involved, but would also provide a more effective means of dealing with querulous or persistent complainants.

In my view the current role of the Commissioner is significantly limited. The position carries a number of legislative responsibilities; however, the Commissioner has no capacity to direct the Scheme to take a course of action and relies on the goodwill of State and Territory offices of the Department of Health and Ageing (the Department) to institute improved practices and act on advice provided. Promoting an understanding and awareness of the complaint handling mechanism is a worthwhile objective and is a statutory responsibility. Another challenge is to protect and strengthen the scope, autonomy and independence of this role and provide the resources necessary to meet the legislative requirements.

However, it is not enough just to articulate problems and, with my Office, I have sought ways to address and remedy identified difficulties in a constructive way and to create a climate that supports and encourages procedural and cultural change without allowing personalities and self-interest to get in the way.

I wish to record my appreciation to the Minister for Ageing, the Hon Senator Santo Santoro, for considering my recommendations for change and look forward to his promised announcement prior to my retirement from office. I look forward to the changes being implemented in a way that addresses the limitations of the current Scheme and I am confident that my successor will receive the same support and loyalty that I have enjoyed over the last six years.

My time as Commissioner has not been without its frustrations but overall it has been an immensely rewarding role and an honour. I have long held an interest in the wellbeing of older people and the systems that support them. I have been particularly concerned to ensure that the rights of people are protected and upheld, particularly those people who are disadvantaged by virtue of their age or illness or disempowered by the very systems designed to serve them.

I am indebted to the staff of Legal Services, particularly Marlene Hall and Mary Koh, and genuinely thank them for their ongoing support and acumen. I also want to pay tribute to the staff of the Complaints Resolution Scheme who are required to perform a specialised and difficult role.

I would like to acknowledge the efforts of all advocates, complainants and service providers who have worked with the Scheme and my Office in seeking resolution to their differences. My sincere thanks also go to the panel of chairpersons and all committee members for their expertise, professionalism and proficiency in undertaking a complex role and for assisting me so tirelessly throughout the year.

Finally, I could not have achieved the requirements of my statutory obligations without the enthusiastic and hard working staff of my Office. Their extensive knowledge, patience and dedication to tasks is unparalleled and their loyalty unswerving. I thank them most sincerely.

ROB KNOWLES
Commissioner for Complaints

Table of Contents

LIST OF FIGURES

1. Mandate and organisation

1.1 Background

Historically, the relative poverty or affluence and sophistication of countries have been contrasted and measured by the health status and life span of their citizens. In Australia there has been a significant improvement in average life expectancy and this, together with a slowing in population growth, has resulted in a population that is becoming older.

The Australian Bureau of Statistics has indicated that the ageing of Australia's population, which is already apparent in the current aged structure, will continue. By 2051 the proportion of the population aged 65 years and over is projected to increase to between 26–38 per cent in 2051 and to between 27–31 per cent of the total population in 2101. A significant aspect of population ageing is within the aged population itself. Australians are increasingly living to old, old age and the number of people aged 85 years and over is projected to grow to 2–3 per cent of the total population by 2021, to 6–8 per cent by 2051 and to 7–10 per cent by 2101.

Australia's aged population is rapidly becoming more ethnically diverse. Population projections indicate that the number of older Australians from culturally and linguistically diverse backgrounds will increase and the previous dominance of European cultures will increasingly give way to people from Asian backgrounds. At 30 June 2005 24 per cent of the Australian population was born overseas. Of that number, 24 per cent were born in the United Kingdom, nine per cent in New Zealand, five per cent in Italy and four per cent came from China and Vietnam respectively.

The majority of older people continue to reside in private dwellings, living active lives and continuing to contribute to society in meaningful ways. However, some older people require a level of assistance and in recent years older people have increasingly been supported in their choice to remain living in the wider community, and wherever possible in their own homes, assisted by informal caregivers (family and friends) and others through the provision of government-funded programs such as the Home and Community Care Program (HACC), Linkages, Community Aged Care Packages (CACPs) and the Extended Care at Home (EACH) program.

People aged 65 years and over are more likely to have disabilities and the likelihood of acquiring a disability increases with age. The severity of disability also increases as people get older. Accordingly, older people tend to need more assistance with their activities of daily living and increased access to health and community services.

Chronic disease, illness and disability are major factors preventing some older people from remaining self-sufficient and these factors are the principal reasons for admission to residential aged care. Approximately six per cent of older Australians are currently admitted to residential services.

The *Aged Care Act 1997* (the Act) and *Committee Principles 1997* (the Principles) provide a package of measures designed to improve the quality of care and services in Australia's aged care service system.

In line with public expectations there is an ongoing emphasis on the provision and evaluation of community care programs to help people remain in their own homes; nevertheless the number of residential places has also increased. At 30 June 2006 there were 2,921 mainstream residential aged care services providing 165,782 places, and a total of 38,492 operational community care places available throughout Australia. These figures include flexible care services such as Extended Aged Care at Home (EACH) programs and Multi-Purpose Services (MPSs), permanent innovative care (IC) and places provided under the Aboriginal and Torres Strait Islander Aged Care Strategy (ATSI). EACH places are attributed as community care, while MPS, IC and ATSI flexible places are attributed as residential care and community care packages.

Entitlement to residential care (either high care, low care or respite services), the EACH program and CACPs is determined by Aged Care Assessment Teams (ACATs). A person must be assessed as eligible for any of these particular services before an Australian Government subsidy is provided.

The Australian Government provides recurrent funding for each resident admitted to a residential care setting. The funding is currently formulated on a needs based model, known as the Resident Classification Scale (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.

Before approved providers can receive government funding aged care facilities must satisfy accreditation requirements. The responsibility for assessing aged care services against the Accreditation Standards (the Standards) lies with the Aged Care Standards and Accreditation Agency (the Agency).

As part of the accreditation 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*.

As best practice dictates, anyone experiencing difficulties with care and accommodation issues is encouraged to approach the service provider in the first instance and many complaints are resolved at this level. However, for a variety of reasons, some people prefer to access a complaints system external to that offered by the service provider. The 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 (Commissioner) and the Scheme is confined to these services and is limited to the period following the commencement of the Act and 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 aged care services funded by the Australian Government 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 free call 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, matters may be referred to Health Service Complaints Commissioners as appropriate.

On 1 July 2004 the Principles were amended. The changes were designed to improve the efficiency and effectiveness of the Scheme by providing greater flexibility in the way complaints are handled and to increase the timeframes for responses from the parties.

The inclusion of additional functions for the Commissioner better reflects the role he or she plays in ensuring an effective quality assurance system is implemented for the Scheme. The changes also mean that Aged Care Complaints Resolution Committees (Committees) must also refer systemic or serious individual issues of concern to the Commissioner who will then refer the matter on to the Secretary, Department of Health and Ageing (Secretary), for information and action as necessary.

2. Role of the Commissioner for Complaints

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 ensure that an effective quality assurance system is implemented for 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 committee reports for the financial year and to give the reports to the Minister for presentation to the Parliament. The Commissioner is also required to provide advice to the Secretary in instances where an application to reconsider the non-acceptance of a complaint, or an appeal to reconsider a decision to cease to deal with a complaint, has been received.

Section 10.35A specifically outlines the performance of the functions of the Commissioner which are that he must:

- ensure that the Scheme operates as an independent, unbiased, free and accessible Scheme in which the paramount consideration is, where feasible, to resolve complaints for complainants;
- encourage the resolution of complaints at the service level;
- ensure the Scheme includes appropriate measures to ensure parties to a complaint are kept informed during the assessment and resolution of the complaint;
- ensure the Scheme includes appropriate measures to ensure parties are able to comment on and complain about the operation of the Scheme; and
- ensure that any matter referred by a Committee relating to a systemic or serious isolated matter is referred to the Agency or another organisation.

The Commissioner may do anything necessary or convenient to be done for, or in relation to, the performance of these functions.

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 and Ageing, through its various State and Territory offices.

2.1 About the Office

In keeping with the community's increasing expectations of a fair, transparent and accountable complaint handling mechanism the Office has continually reassessed the rationale for the current restriction on investigative powers and re-examined the scope of the Scheme. The Minister was provided with a working paper and has supported a review of the Scheme.

The Commissioner and staff have participated in a range of industry and academic education and information sessions. The Commissioner has also participated as member of the judging panel for the Minister for Aged Care Awards for Excellence; the 2005 Victorian Public Healthcare Awards and the Awards for Excellence presented by Aged and Community Services Australia.

The website for the Office has moved to an external web hosting site and may now be found at www.commissionerforcomplaints.net.au The website places our service in context and provides hyperlinks to other complaint handling services – Public Advocates, Australian Government and State/Territory Health Departments.

2.2 Budget

A budget of $534,000 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. Legal costs and costs incurred by committees were met by the Department's Quality Outcomes Branch. The Commissioner's

Office is responsible for administration of costs incurred by committees, including travel. While the Office has a discrete budget allocation, during the 2005–2006 financial year these funds have been authorised and managed by the Quality Outcomes Branch.

2.3 Demand

During the reporting period the Office was contacted by 49 people who felt aggrieved at the way they had been treated or the way their complaint is or was being managed. This translates as 3.9 per cent of complainants involved with the Scheme during the financial year and marks a 1.67 per cent reduction in the number of complaints about the operation of the Scheme.

The issues raised were complex and in the main the circumstances were such that not only had the complainant's relationship with the provider become strained, but communication between the complainant and the Scheme had broken down. All complaints required considerable liaison between the various parties. The majority of complaints were resolved following an exploration of the issues and negotiation between the parties however, the Office conducted ten investigations in relation to complaints that were of a more serious nature. Following intervention, and where the complaint lodged with the Scheme was ongoing, complainants have continued to utilise the Scheme and achieve resolution of their complaint without seeking further recourse through the Commissioner.

In addition to managing complaints, the Office also received 164 contacts from 104 complainants seeking information about the legislation and the Scheme's procedures including appeal and determination processes. These figures exclude calls received from providers, industry bodies, advocacy services, legal representatives and the Commonwealth Ombudsman. It also excludes numerous information calls from people seeking details or clarification about the aged care system and Australian Government funded services in particular and those seeking information outside the jurisdiction of the Commissioner and/or the Scheme.

In addition to these matters the Office has regularly interrogated the database on a random basis and scrutinised a number of complaints to establish whether the Scheme has followed due process in the management of those complaints. The Office has also sought legal advice in relation to the management of complaints lodged with the Scheme and referred for determination and has provided support to officers employed with the Scheme on an ongoing basis.

2.4 Achievements

Throughout the year Office staff have worked in collaboration with the Scheme and a number of achievements have been recorded.

2.4.1 Supervising chairpersons and other members of committees

– The Commissioner convenes separately constituted committees at the time individual complaints are referred for determination. Committees are drawn from the panel of potential chairpersons and panel of potential committee members and are convened giving due recognition to the workload and expertise of the individuals concerned.

– The Office obtains and disseminates legal advice and other information on an ongoing basis.

– As well as the ongoing contact necessary in the conduct of hearings and reviews, additional meetings were scheduled with chairpersons.

– The Office continues to monitor the costs associated with committee hearings.

2.4.2 Coordinate and review complaints received by the Secretary and provide advice to the Secretary on all appeals

– The Office interrogates the database on a regular and random basis. The Scheme, 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 when an appeal is lodged against the non-acceptance of a complaint. Additionally the Commissioner provides advice in relation to an application for reconsideration of a decision to cease to deal with a complaint or part of a complaint.

– The Office also receives calls from complainants whose matters have been finalised and who are contemplating or have initiated appeals.

2.4.3 Oversight the effectiveness of the Scheme

– 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.

– Changes to improve the Scheme's database have been ongoing.

– The Commissioner and staff participate in National Management Meetings.

– The Director has presented at each session of the ongoing national induction program. During the year a total of 23 staff from the Scheme took part in this program. The program also attracted participants from other departmental programs.

2.4.4 Deal with complaints about the operation of the Scheme

– During the reporting period 49 complainants contacted the Commissioner's Office to complain about the operation of the Scheme. This equates to 3.9 per cent of complainants who lodged complaints with the Scheme. Thirty-nine required negotiation with the Scheme and these complaints were resolved satisfactorily. Ten complaints necessitated an investigation and report.

2.4.5 Manage the determination process, including the review of determinations

– As each case is referred for determination the Office corresponds with the parties to outline committee processes and provide fact sheets, including *Attending a Hearing* and *How to Write Submissions*.
– The Office also receives calls from complainants whose matters have been finalised and who are contemplating or have initiated appeals for review.
– 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 33 hearings and five reviews were conducted.

2.4.6 Promoting an understanding and acceptance of the Scheme

– The Commissioner and the Director are members of the Council of Administrative Tribunals and attend the regular meetings of Australasian 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.
– The Commissioner and staff accept speaking engagements with provider, consumer and educational groups.

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.
– The Commissioner has participated in meetings of the Aged Care Advisory Committee.

3. The Complaints Resolution Scheme

The Scheme enables people to formally raise concerns about aged care services funded by the Australian Government, including CACPs, residential care and flexible services. The Scheme is based on alternative dispute resolution principles and provides an opportunity for both parties 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 oversee 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 8,600 complaints. The majority of complaints accepted and managed by the Scheme are resolved by negotiation and/or referral; approximately three per cent through mediation by an independent mediator and three per cent of complaints are finalised via a determination by a committee. The Scheme does not accept a percentage of complaints after assessment,

and, after acceptance, has the capacity to cease to deal with a complaint or part of a complaint. A percentage are withdrawn by complainants.

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

– preliminary assessment is handled by officers prior to the acceptance or non acceptance of a complaint;
– negotiation is managed by the officers;
– mediation is conducted by qualified, external mediators;
– determination hearings are conducted by committees, which comprise three independent members with skills in aged care and complaints resolution; and
– determination review and overseeing the Scheme is the responsibility of the Commissioner.

Officers have the capacity to determine which phase (negotiation, mediation or determination) is better suited to resolving the complaint and may refer a matter directly to that phase.

3.1 The objective of the Complaints Resolution Scheme

The objective of the Scheme is to attempt to resolve complaints about aged care services funded by the Australian Government. 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 all parties to a complaint are kept informed;
– ensure that all parties are given the opportunity to comment on, and complain about, its operation;
– include 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 officers is to:

– apply the requirements of the legislation;
– work within the requirements of the 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 how best to manage the complaint, including which issues can be handled by the Scheme and which issues can 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;
– resolve complaints through negotiation, or where not able to do this, refer complaints for mediation or for determination;
– provide, as required, determination information to the Determination Review Panels (the Panels) for review; and
– be accountable for ensuring that decision-making and the progression of complaints occurs in a timely and efficient manner.

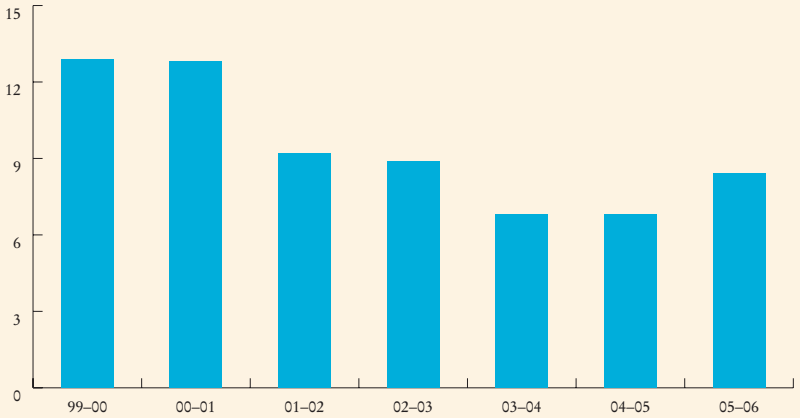
3.3 Complaint management

Most people today are aware that they have the right to complain about the care and services offered when those services do not meet community or personal expectations. It is always preferable for concerns to be raised directly with the service provider in the first instance; however, there are circumstances where this is not possible. The Scheme is an independent forum for the resolution of those complaints where, for whatever reason, the complainant feels unable to raise the matter with the provider or in those situations where the provider has been unable to resolve the issues to the satisfaction of an individual complainant.

Figure 1 shows the number of complaints per 1,000 residents, received nationally, each financial year between October 1997 and June 2006. The calculations are based on the number of permanent residents at 31 December each calendar year and the data show an increase from an average of 6.8 complaints in 2004–2005 to 8.4 complaints in the current reporting period.

National:
Complaints
per 1,000 residents

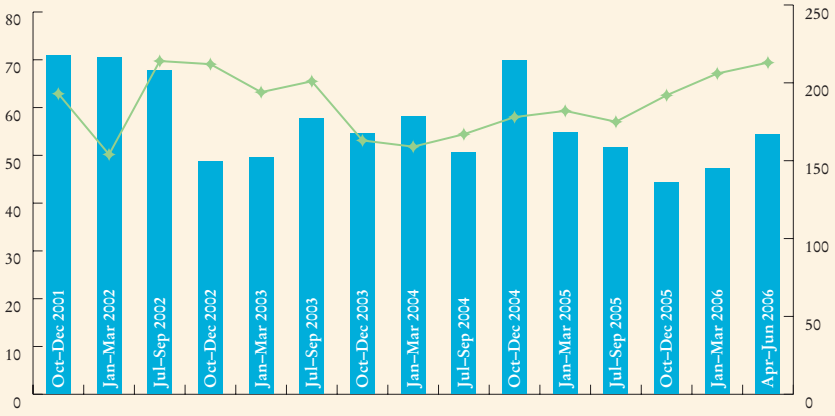
Fig 1: Complaints per 1,000 residents



Complaint numbers vary between jurisdictions and resultant workloads have been monitored regularly. All staff who carry an active case load, plus Executive Officers, have been included when scrutinising workload ratios. In June 2006 the case load ranged from three cases per officer in Queensland through to 9.6 cases per officer in Victoria. The following figure shows the number of cases finalised and the average number of days taken to finalise complaints during various reporting periods.

Total complaints finalised
and average number
of days to finalise

Fig 2:
The national average number of days to finalise complaints lodged



3.3.1 The nature of complaints

All complaints are handled conscientiously and with due diligence. For management purposes, complaints or individual issues 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.

Some complaints raise serious allegations of misconduct or impropriety that require urgent attention. Examples of urgent issues 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. The majority of complaints lodged with the Scheme are complex in that they are multi-layered and involve multiple issues and numerous parties.

Complaints are recorded as open, confidential or anonymous. The majority of complaints are open, that is, the details about the complainant can be released to other parties to the complaint. A confidential complaint is one where the officer 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 Scheme is obliged to act on the information provided and each complaint is assessed on an individual basis. The nature of anonymous complaints is such that most are not taken beyond the assessment phase; however, a proportion are referred internally to other sections of the Department or other government organisations for information and/or further action.

3.3.2 Site visits

All jurisdictions have now adopted an approach whereby officers often visit the facility during the assessment phase. While numbers vary across jurisdictions, visits take place as soon as practicable after the complainant's initial contact with the Scheme. 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 assess the legitimacy or otherwise of the complaint at the outset.

3.3.3 Non-acceptance of complaints

In the event that their 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. 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 Secretary gives it considerable weight.

3.3.4 Cease to deal

The Scheme is able to stop dealing with a complaint after it has been accepted. If this course of action is to be taken the complainant must receive a statement of reasons and must be advised of their right to appeal the decision. Appeals for a reconsideration of a decision to cease to deal are made to the Secretary.

If the decision to stop dealing with a complaint is appealed, the Commissioner for Complaints is asked for a recommendation. Taking into account the Commissioner's recommendation, the Secretary must either confirm the decision or set the original decision aside and substitute a new decision stating how the complaint is to be dealt with.

The Commissioner is also able to stop dealing with a complaint once it has been referred to a Committee for determination or a Review Panel for determination review, for example if the complaint has become the subject of a legal proceeding.

3.4 The role of mediators

Where negotiation has been unsuccessful in resolving a complaint the Scheme may utilise the services of external, independent qualified mediators.

Mediation is a cooperative, rather than an adversarial process and offers a constructive method for resolving differences between individuals and organisations. Participation in mediation is voluntary and will only be successful if the parties enter the process in a cooperative spirit and with a willingness to communicate their individual needs and capacity to compromise on important issues.

Should mediation occur, the mediator is required to provide a report summarising the issues mediated and the outcomes for each of the issues.

Where mediation is not assessed to be practical or feasible, or the complaint is not withdrawn following mediation, the matter is referred for determination by a committee.

3.5 The role of Complaints Resolution Committees

A committee has the power to make determinations about complaints that cannot be resolved through negotiation or mediation. 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. Parties are not entitled to legal representation at hearings.

A committee must finalise a complaint by making a determination and, following a hearing, a written determination report is provided to the parties. The report will identify whether there has been a breach of the providers legislative responsibilities or not 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. The report may also include recommendations. Recommendations are actions that the committee feels would assist in the resolution of the complaint but go beyond the provider's responsibilities under the Act.

3.6 The role of Determination Review Panels

Both complainants and approved providers are able to seek review of a determination. The Commissioner must receive an application for review of a determination within fourteen days after the day the person or organisation is provided with a copy of the determination report. The application must state the reason why the review is being sought, other than mere dissatisfaction with the outcome of the determination, and may be supported by additional information.

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 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 it sets the determination aside, the panel must refer the matter back to a new committee for a new determination.

3.7 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, the standards require all aged care services to establish an internal system for dealing with comments or complaints from residents and/or their family and friends. It was envisaged that the internal complaints resolution mechanism would form part of a comprehensive quality assurance program with the potential to provide a valuable source of feedback to providers.

It is crucial, therefore, that staff of approved providers are aware of the significance of establishing and maintaining a good internal complaints resolution mechanism and, at least, the nature of the responsibilities that are on the approved provider concerning this issue. A brief summary of the most relevant legislative provisions follows.

3.7.1 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 1997*; 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).

3.7.2 Responsibilities under the Aged Care Principles

3.7.2.1 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".

Clearly, all the above items are relevant to the establishment and maintenance of a good internal complaints mechanism and failure to do so, as well as potentially breaching 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.

Experience shows that those approved providers who make use of a good internal complaints mechanism are also likely to satisfy the standards more generally, particularly where those standards deal with matters such as continuous improvement, regulatory compliance, education and staff development, planning, leadership and human resource management. In other words, these are approved providers and services that strive to learn from their experience, training and education to improve the care and services that they are delivering to their residents.

3.7.2.2 User Rights Principles 1997 – Charter of Residents' Rights and Responsibilities

In the Charter of Resident's Rights and Responsibilities in Schedule 1 to the *User Rights Principles 1997*, 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.

Under the Act, paragraph 56-1(l), an approved provider is obliged not to act in a way that is inconsistent with the above rights.

4. Quality Assurance

A comprehensive quality assurance program has been established for the Scheme. The program incorporates many elements including: satisfaction surveys, performance indicators, action plans, an internal quality assurance framework, focus groups, a strategic plan and national service charter. In order to promote consistency of practice officers are provided with a comprehensive procedures manual and receive legal and complaint management advice as required. Additionally, the Scheme is supported by a comprehensive database and a range of education programs. Feedback is provided on an ongoing basis and through the distribution of state-specific quarterly reports.

4.1 Database

A wide range of statistical reports, complaint and trend information can be generated from the database. However, while work designed to enhance the database has been ongoing, careless and inadequate data input together with errors in the data reports produced continue to pose problems for accurate and timely data analysis and reporting. As the database is an essential case management tool and an important adjunct in the consideration of all quality assurance and accountability measures, the intent and ability to produce reliable and verifiable data is critical and must remain a high priority.

4.2 Performance Indicators (Appendix 1)

Performance indicators are one element of the quality assurance mechanism instituted by the Commissioner. Without comparable measures it would be difficult to effectively compare outcomes and determine whether or not the Scheme is meeting its goals, objectives and legislative requirements. Performance measurement involves comparing actual performance against expectations and established targets. The data generated can be utilised in determining effectiveness, assessing options for improvement, communicating success and achieving a level of accountability.

4.3 Satisfaction Surveys (Appendix 2)

A number of different factors contribute to determining client expectations and, in the minds of each respondent, it is likely that the different elements and dimensions of a quality service on the part of the Scheme are not necessarily independent of one another, and may overlap. Moreover, their respective importance and level of satisfaction can vary significantly depending on the outcome ultimately achieved.

Satisfaction surveys were redesigned and implemented from 1 July 2004. The new surveys are designed to better identify satisfaction with the various elements of the Scheme as well as improve the capture of relevant demographic data, including age groups and ethnicity.

4.4 Service Charter

The *National Service Charter* provides a clear statement about the responsibilities and standards of service the community can expect to receive from the Scheme. The Charter is available from the Commissioner's website.

4.5 Strategic Plan

The Strategic Plan articulates the philosophies, concepts and direction of the Scheme and is therefore another management tool used to improve performance and accountability.

5. Complaints Resolution Committee

5.1 Legislative framework and committee selection

Committees are established under section 96-3 of the Aged Care Act to determine the resolution of complaints referred by the Scheme.

5.1.1 Committee appointments

The composition of committees is outlined in the Principles. The 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). The current term of appointment for chairpersons and committee members ends on 31 August 2006.

5.1.2 Convening a Committee or Review Panel

The Commissioner is required to convene a committee following the referral of a complaint for determination. A review panel must be constituted within seven days after the application for review is made to the Commissioner.

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 of, and not directed by, the Department in carrying out their functions. Review panels generally comprise the Commissioner as chairperson and another person appointed by the Commissioner from the panel of potential chairpersons.

When nominating committees and review panels the Commissioner takes into account workloads, the issues referred for determination or review, the expertise of the various members and ensures there are no potential conflict of interest issues.

At the end of each financial year chairpersons are required to prepare a report on the committee's activities during the year. Those reports have been consolidated and are included here.

6. Chairpersons' reports

During the reporting period a total of 38 complaints, or three per cent of all complaints received, were referred for determination. Nine matters were carried over from the previous financial year, bringing the total of determinations to be heard to 47. During the reporting period a total of 33 hearings were conducted and, of those, three decisions remain outstanding. In addition four complaints were finalised/withdrawn prior to the hearing, one matter is the subject of a Federal Court injunction, the Commissioner ceased to deal with one complaint and nine remain to be heard.

Hearings were conducted in metropolitan areas and regional centres. Providers from all sectors of the industry (private, public and voluntary) were represented, some with industry support, and the majority of complainants utilised advocacy services. In most instances, chairpersons advised that they had heard cases in and beyond the State in which they reside.

In addition to the issues outlined in previous years, Chairpersons report:

- poor communication underlies all complaints and in some instances this has led to considerable hostility between the parties and the involvement of lawyers;
- there has been an increase in the number of hearings involving complaints about security of tenure, accommodation bonds, fees and charges and medication management;
- while only two in number, there is concern about complaints involving a cessation of service through community aged care packages where there is a continuing need for service but no follow-up or transfer of arrangements with alternative providers;
- submissions prepared by complainants and respondents alike increasingly canvass issues beyond those accepted and referred by the Scheme;
- there is a poor understanding of corporate governance issues on the part of approved providers and service managers. This is particularly evident in smaller local community and charitable not for profit services;
- committees are increasingly confronting situations were facilities have an internal complaint mechanism in theory but not in practice;
- there is a generalised poor understanding of guardianship and enduring power of attorney arrangements;
- there is a continuing trend not to divulge information until the day of the hearing. In some cases this extends to a decision on the part of the provider not to provide any written or oral evidence in support of assertions made to the committee. There also continues to be an over representation of senior

management (often external to the facility) at hearings and little reliance on the evidence of clinical staff with first hand knowledge.

With the exception of two complaints, all cases referred for determination related to residential care services. The complexity of complaints continues to escalate; the inequality in the bargaining positions of the parties remains evident and, while the number of issues referred for determination is variable, they are generally at the higher end of the scale.

The issues referred for determination were wide ranging and related to: consultation and communication, fees and charges, security of tenure, restricted access, choice and dignity, resident rights, internal complaints process and management. Numerous issues related to the level of clinical care – including pain management, medication management, pressure care, behaviour management, continence, mobility, dental care, nutrition and hydration.

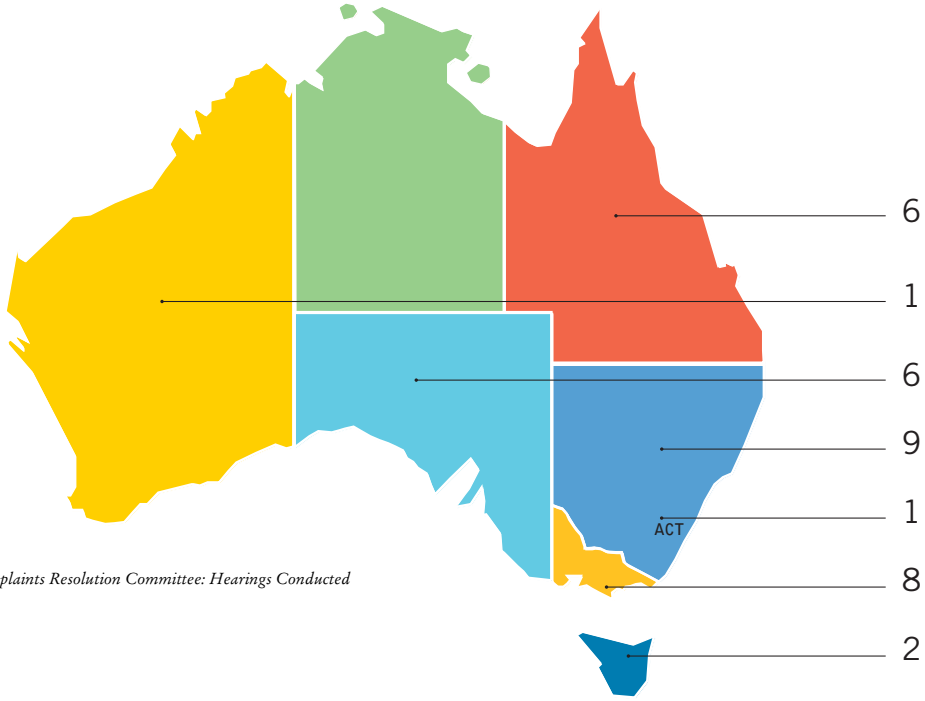


Fig 3: Complaints Resolution Committee: Hearings Conducted

New South Wales and the Australian Capital Territory

Three complaints referred for determination were outstanding at the beginning of the reporting period and a further ten complaints were referred during the financial year. A total of ten cases were heard, the Commissioner ceased to deal with one matter, one complaint was withdrawn prior to the hearing and one complaint is yet to be heard (the subject of a court injunction).

In New South Wales the average time between lodging the complaint and the hearing was 156 days. The average time between referral to a committee and the conduct of a hearing was 47 days. This interval allows

the parties to prepare a written submission, in some cases with the assistance of an advocacy service, and further time, following the exchange of information, to allow all parties, including the committee, to become familiar with the substance of the submissions. The average time between the hearing of the case and finalisation of the report was 23 days.

In relation to the one complaint heard and finalised in the Australian Capital Territory, the time between lodgement of the complaint and referral to the committee was 133 days, 18 days elapsed between referral and the hearing and the time between the hearing and finalisation of the determination report was 25 days.

Victoria

In Victoria, four complaints were outstanding from the previous period and eleven complaints were referred for determination during the financial year. Eight hearings were conducted during the year and one complaint was finalised prior to the hearing. Six complaints remain unresolved. Two of these involve the same issue and relate to the same approved provider; therefore five hearings have been scheduled.

The average time between lodging the complaints and the hearing was 197 days. The average time between referral to a committee and the conduct of a hearing was 63.57 days and, on average, 73 days elapsed between the hearing and the provision of a determination report. These elevated figures include one hearing that was postponed twice at the request of the parties and another that involved a large number of complex issues.

Queensland

In Queensland, one case was outstanding at the beginning of the period and eight were referred during the financial year. Six hearings were conducted and three hearings are scheduled. The average time between lodgement of the complaint with the Scheme and the hearing was 118 days and the average time between referral to a committee and the hearing was 42 days. On average 38 days elapsed between the hearing and the provision of a determination report.

Western Australia

One case was referred and heard in Western Australia. The time between lodgement of the complaint with the Scheme and the hearing was 76 days and the time between referral to the committee and the hearing was 33 days. A total of 22 days elapsed between the hearing and finalisation of the determination report.

South Australia and Northern Territory

During the reporting period there were no determination hearings in the Northern Territory. Committees heard six cases in South Australia including one which was outstanding at the beginning of the reporting period. The average time between lodgement of the complaints and referral to the committee was 125 days, and on average 33 days elapsed between the referral and the hearing. The average time taken between the hearing and the finalisation of the determination reports was 28 days.

Tasmania

Two determination hearings were conducted in relation to complaints originating in Tasmania. The average time between lodgement of the complaints and referral to the committee was 175 days and, on average, 39 days elapsed between the referral and the hearing. The average time taken between the hearing and the finalisation of the determination reports was 7 days.

6.2.1 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. The Commissioner must receive such an application with reasons, apart from mere dissatisfaction, within fourteen days after receipt of the determination by the party making the application.

Review Panels are established under the Principles and are constituted as the need arises and may confirm, vary or set a determination aside. A different panel is constituted for each review.

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 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.

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.

Eight applications for review were received during the reporting period. Five reviews have been completed, two reviews will be conducted during the next quarter and one application was not accepted.

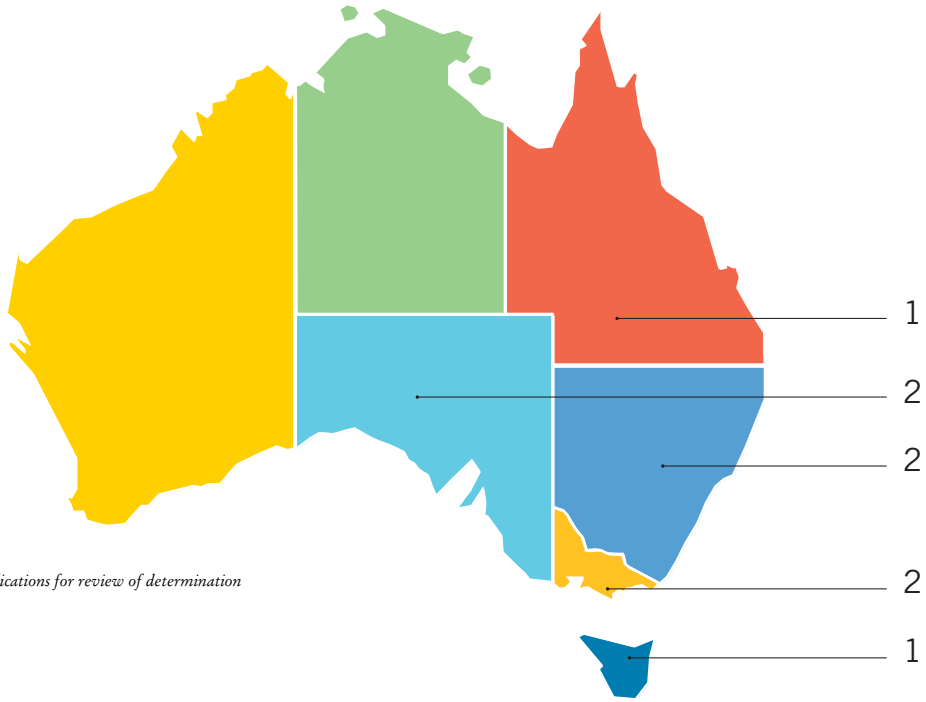


Fig 4: Applications for review of determination

Review Panels confirmed the decision of the original committee in four of the cases reviewed and varied the decision in a fifth case. The average time between receipt of the application for review and conduct of the review was 33 days. This period allows for the exchange of information between the parties and the preparation of submissions. The average time between the finalisation of the review and the provision of the Determination Review Notice to all parties was one day.

7. Trends and Issues

7.1 Guardianship/Enduring Power of Attorney

Among other things, the Charter of Resident's Rights and Responsibilities encourages residents to maintain their independence and to take responsibility for decisions that affect their lives. Despite this, there are times when professional caregivers and family members seem to discount the idea that older people, although frail, are able to have and express preferences, hold opinions and make decisions. The law continues to protect the right of a capable person to self-determination and not to recognise this is ageist and paternalistic. Only when there is a critical lack of insight or loss of communication skills and the ability to plan are caregivers justified in bypassing older people and negotiating solely with family members, appointed guardians or other surrogate decision makers including someone who holds an enduring power of attorney (however named).

Difficulties in health care can arise if the care recipient has lost the capacity to make decisions but there are mechanisms to enable substitute decision makers, either a responsible family member or formally appointed guardian, to make decisions on behalf of someone with impaired capacity. Each jurisdiction has legislation

in place establishing the circumstances in which a guardian may be appointed for a person who has lost decision-making capacity to give a trusted person a power of attorney or an enduring power of attorney. In some jurisdictions, an enduring power of attorney can be extended to expressly provide that the attorney under power may give consent, or refuse or withdraw consent, to lawful medical treatment.

However, the duties and responsibilities accorded these positions are not well understood either by those who seek to exercise the role or those whose task it is to deal with those so empowered. This lack of understanding impacts adversely when communicating care issues and/or lodging and resolving complaints. The instrument of appointment of a guardian or an attorney under power should be produced if a person is claiming the right to act as a substitute decision-maker. The extent of the power conferred by the instrument and the circumstances under which the power may be exercised will be evident from the wording of the instrument. It is important for everyone to understand these roles. Details pertaining to appointments and responsibilities are included on various websites, particularly those of the Public Advocate or the Public Guardian, in each jurisdiction.

7.2 Falls and falls management

Falls are a leading cause of injury in aged care facilities. Each year around four per cent of complaints lodged with the Scheme relate to falls and falls management. Most of these complaints describe situations where injuries, ranging from bruises and scratches through to lacerations and fractures, have been sustained.

While many providers adopt a proactive approach it appears that some fail to understand that in addition to multiple medical conditions, residents are at greater risk of falling on admission because of an increased incidence of confusion and changed environmental factors. In addition to the serious physical and psychological harm to the individual, falls have a negative impact on the family and contribute to the overall cost of the health system.

If we take time to think about the importance of our mobility it is easier to acknowledge the significance of any restriction of movement and to recognise how important mobility, without a fear of falling, is to an older person. It follows that, on admission, it is appropriate that a falls risk assessment be undertaken for each resident. This will provide a predictive value for falls and assist the development of appropriate strategies to lessen any risk.

There is considerable literature available to assist providers in the implementation a falls risk assessment program and a number of low cost practical interventions that can be progressively introduced as part of a multisystem approach to falls management.

7.3 Nutrition and hydration

Nutrition and hydration are biological necessities and these take on even greater importance in the context of chronic illness. Over the last few years around seven per cent of complaints annually relate to food and catering. Many of these complaints are about the type and quality of food provided; however a small

proportion relates specifically to issues about the adequacy of nutrition and hydration in situations other than at the end of life.

Nutrition and hydration should be closely scrutinised in the older person. Simply put, dehydration occurs when fluid loss exceeds intake – the body is then less able to maintain adequate blood pressure, deliver enough oxygen and nutrients to the cells and to rid itself of waste products. Malnutrition is a nutritional disorder resulting from not having enough food, or enough of the right food, for a long time. Dehydration, malnutrition and unintended weight loss should always be seen as indicators of sudden decline in the elderly.

While meals are generally considered to be part of the 'hotel services' provided, the serving of food and fluids to older people is an important part of their ongoing care. Older people are at risk of dehydration or malnutrition for a variety of reasons, including: multiple drug therapies, reduced activity, loss of appetite, chronic disease, sensory loss, swallowing and dental problems, changed environment and other factors linked to diminished cognitive ability and a reduced sense of overall physical well being.

Regardless of the causes, the early recognition of presenting problems can help ensure appropriate and timely interventions. For many residents, assessment by a dietician and simple modifications to feeding or drinking regimes, including honouring resident food choices and allowing ample time for meals, may be sufficient. Others may require more complex interventions and dietary adjustments such as geriatrician, dental and speech therapy evaluation, changes to the texture of food and fluids, oral food supplements and the daily monitoring of food and fluid intake and output.

American research indicates that family members perceive a need for interventions when residents consume, on average, only half of the food and fluid items provided during mealtime. Family members who raise complaints with the Scheme find the lack of monitoring and/or recognition of nutritional or hydration problems, particularly in the presence of obvious weight loss, both galling and inexcusable.

A variety of risk assessment tools are available to help carers evaluate the nutritional and hydration status of residents. Most tools not only assist staff in identifying deficits and barriers but also provide practical ways for dealing with recognised problems.

7.4 Abuse

Abuse in any form is totally unacceptable. Recent media attention has focused on instances of physical and sexual abuse in residential aged care. Fortunately these instances are extremely rare. Nevertheless the gravity of these matters led to the allocation of funding in the 2006 Federal Budget to support several initiatives aimed at addressing elder abuse in residential care. Measures announced by the Minister included mandatory police checks, an increase in the number of community visitors, compulsory reporting of abuse, unannounced visits by the Agency and changes to the Scheme.

Providers will be expected to embrace these changes, to take positive action to protect residents and to establish programs to deal with abuse and abusers.

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
Professor Charles Mulvey
Professor Alan Pearson
Ms Helen Twohill
Mr Roger Valentine

Panel of Committee members

Ms Vivienne Allanson
Professor Robert Beal
Mr Ian Campbell
Mr Chris Gardiner
Ms Patricia Harper
Ms Marjorie James
Mr Allen Martin
Mr Alasdair McGregor
Ms Pauline Pallister
Ms Sheree Ritchie
Ms Josephine Tiddy
Ms Jacqueline Woodhead
Mr Bruce Wright (until 11 July 2005)
Dr Michael Anderson
Ms Mandy Beylacq
Dr Judith Davis
Professor Jeff Giddings
Ms Jenny Harrison
Mr John Jameson
Ms Anne-Marie Mioche
Ms Diana Noack
Mr Rusty Priest
Professor Gordon Senator
Mr Luigi Tuia
Ms Margaret Allen
Ms Marcia Coleman
Mr Brian Easton
Ms Janne Graham
Dr Philip Henschke
Hon Louis Lieberman
Dr Chris Moorhouse
Ms Melanie Ottaway
Ms Sheila Rimmer
Ms Beverley Stehn
Ms Lesley Woolfe

Appendix 1: Complaints Resolution Scheme: Statistics for the period 1 July 2005 to 30 June 2006

The following statistical information has been drawn from the Complaints Resolution Scheme database and, as with all statistics, care should be taken when interpreting these data. The statistics provided in this report should be regarded as indicative rather than definitive information.

1. Complaints

Throughout Australia the Scheme recorded a total of 1260 complaints for the current reporting period. This represents an increase in the number of complaints lodged with the Scheme since the last reporting period. This increase is thought to be due to increased media interest in aged care during the third quarter of the current reporting period.

Total Complaints

Fig 5: Annual complaint statistics

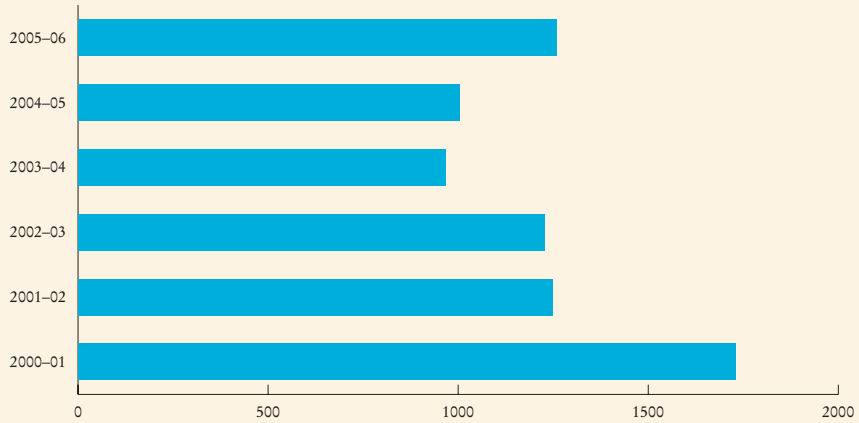
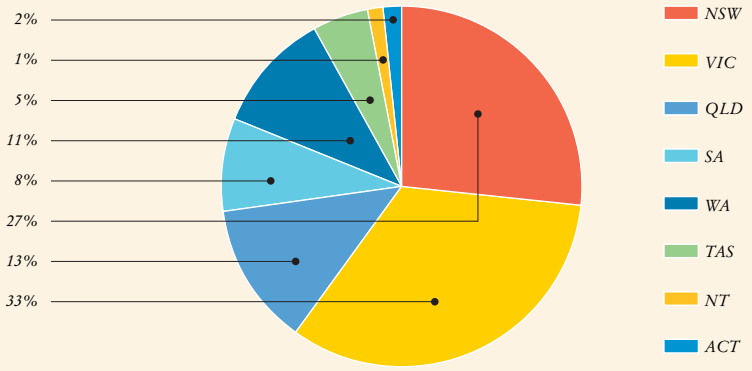


Figure 6 below shows that Victoria recorded the highest number of complaints with 33 per cent (418) of the total received across Australia followed by New South Wales with 27 per cent of the total complaints received (338). Queensland recorded ten per cent of complaints (163), Western Australia registered 11 per cent of complaints (136), South Australia eight per cent (105) and Tasmania five per cent (64). The Australian Capital Territory registered two per cent (20) and one per cent of complaints (16) were recorded in the Northern Territory.

Total Complaints

Fig 6: Total number of complaints



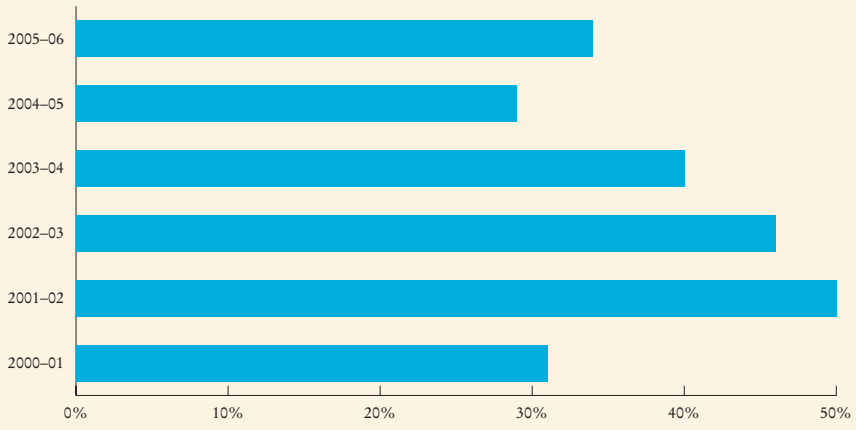
The majority of these complaints (95 per cent) related to residential aged care services. Four per cent of complaints were related to CACPs and one per cent of complaints were lodged in relation to flexible care services.

The database records that relatives lodged a majority of complaints (69 per cent), 13 per cent of complaints were lodged by care recipients and three per cent of complaints were made by staff. Ex staff and friends each contacted the Scheme in 2 per cent of cases and advocates lodged one per cent of complaints. The database records that 'others' lodged ten per cent of complaints. This category includes health care professionals visiting aged care facilities.

The number of site visits undertaken increased marginally this financial year.

Site Visits

Fig 7: Annual site visits



During the reporting period the database records that site visits were undertaken in 34 per cent of all complaints lodged. Officers undertook a total of 425 site visits to 296 facilities either as part of the preliminary assessment or ongoing management of 400 complaints. The majority of these visits, 65 per cent,

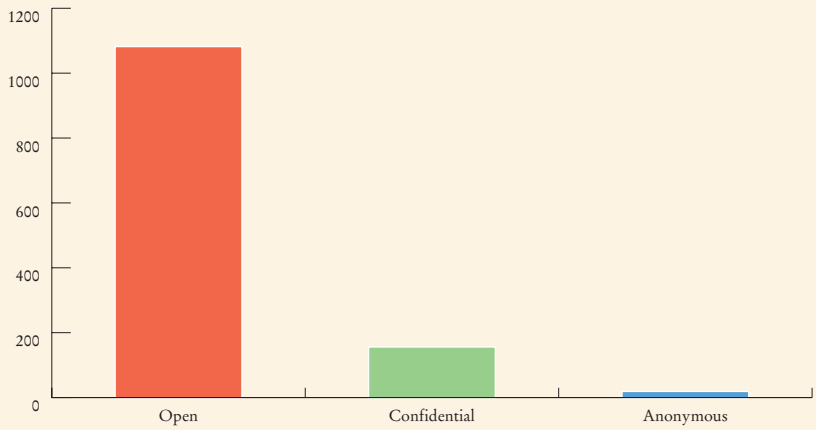
were carried out in Victoria and this equates to 66 per cent of all complaints lodged in that jurisdiction. Ten per cent of visits were undertaken in Tasmania, eight per cent in South Australia and seven per cent were conducted in Western Australia. Four per cent of visits were undertaken in Queensland and three per cent in New South Wales. One per cent of visits were undertaken separately in the Australian Capital Territory and in the Northern Territory.

1.1 Complaint type

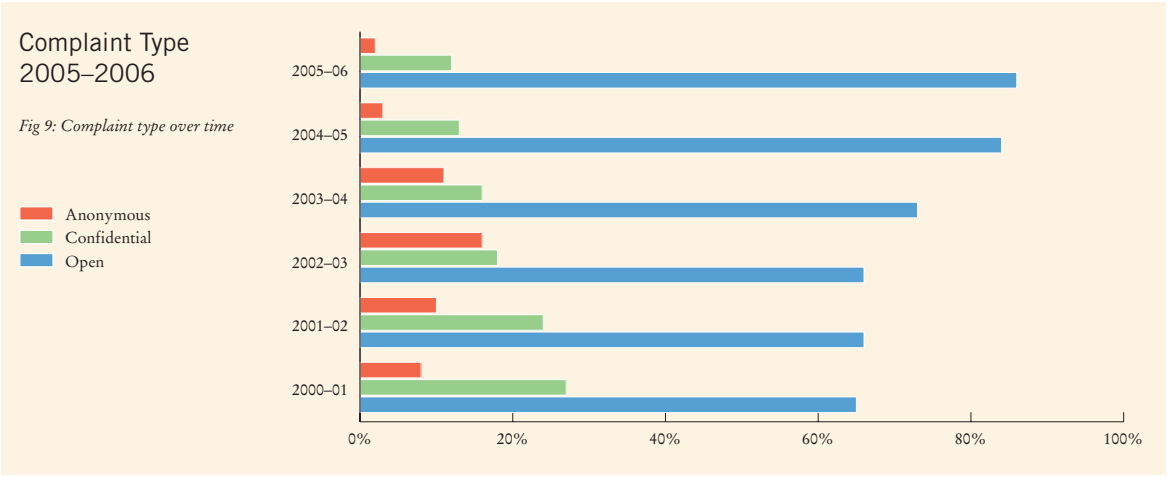
Of the 1260 complaints recorded with the Scheme, 1083 (86 per cent) were registered as open complaints, 157 (12 per cent) were confidential and 20 (two per cent) were anonymous complaints. It should be noted that a proportion of complainants who initially lodge a confidential complaint with the Scheme subsequently amend the status of their complaint and request that the issues be dealt with as an open complaint. Moreover, the nature of anonymous complaints is such that most are not taken beyond the assessment phase; however, a proportion are referred to the relevant compliance section of the Department for further action.

Complaint Type

Fig 8: Complaint type



Over time the number of open complaints lodged has grown significantly, increasing from 65 per cent in the 2000–2001 financial year to 86 per cent in the current reporting period. Conversely, during the same time frame, the number of anonymous complaints has fallen from 25 per cent to seven per cent.

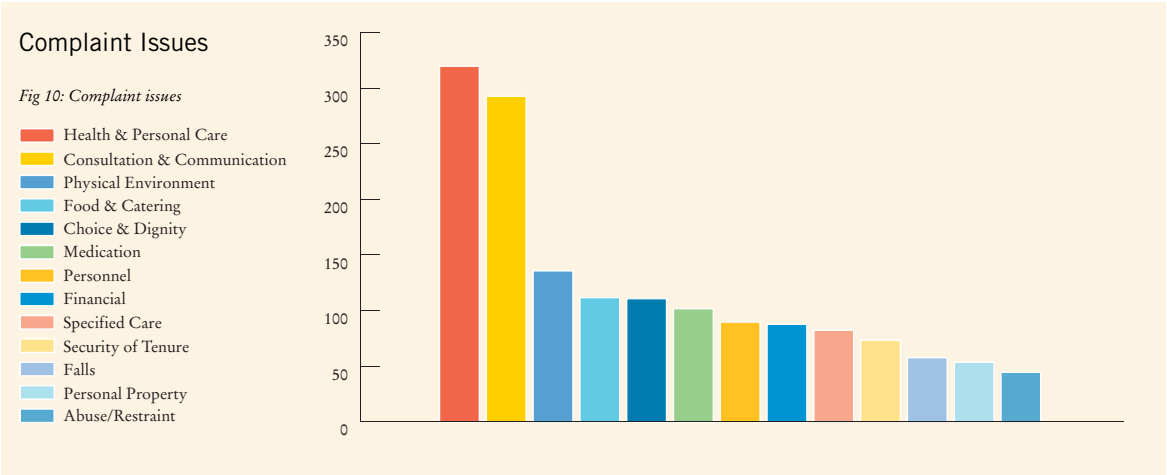


1.2 Complaint issues

The Scheme utilises 13 key words with agreed definitions to assist the identification of major concerns in a complaint. Officers apply one keyword to each separate issue and, wherever possible, are encouraged to create one issue per case. That is, choose the one keyword that outlines the principal concern underlying the issue and thereby the case.

Ongoing monitoring of the use and application of key words suggests that the current practice has led to a reduction in the utility and clarity of complaint issues. Each complaint accepted by the Scheme consists of at least one issue, but generally multiple issues, that must be dealt with. The complexity of complaints is obvious through ongoing review; however, it is difficult to support this opinion when relying on the data currently available. During the period a total of 1566 issues were recorded giving an average of 1.2 issues per registered complaint. The data base indicates that an additional 133 issues were unspecified. After including these figures the data provides an average of 1.34 issues per complaint; however this is contrary to observations that complaints generally involve multiple issues.

Fig 10 shows the number of issues recorded in each of the 13 categories during the reporting period.



1.3 Issue priorities

During the reporting period 98 per cent of the issues were assessed as complex and the remaining two per cent were assessed as urgent. These data are consistent with statistics reported during the last three financial years.

However, when analysing the data it is evident that officers do not always record issue priorities in a way that enables the Scheme to report on the status either of all the issues that have been lodged or on the actions and time frames taken to deal with issues identified as urgent.

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 officers 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 not accept a complaint if they are 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;
- the complaint is not a complaint that the complainant is entitled to make; or
- the complaint should not be accepted for another reason.

The Scheme is required to provide the complainant with a written statement of reasons in those instances where a complaint, or elements of a complaint, are not accepted. 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.

The database indicates that across Australia a total of 91 complaints, or 7 per cent of all complaints lodged during the reporting period, were not accepted by the Scheme. Additionally, six complaints that had been lodged in the previous reporting period were not accepted, bringing the total number of complaints not accepted by the Scheme to 97. The majority of non-accepted complaints (65 per cent) were lodged in Victoria.

During the reporting period Victoria did not accept 14 per cent of complaints lodged. In New South Wales the proportion was four per cent, in Queensland three per cent, South Australia two per cent and in Western Australia and the Australian Capital Territory the proportion was one per cent. In Tasmania the proportion of complaints lodged and not accepted during the reporting period was nine per cent and in the Northern Territory the proportion was 12.5 percent as two of the 16 complaints lodged were not accepted.

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 matter 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 25 appeals against the non-acceptance of a complaint. This figure represents 26 per cent of those complaints that were not accepted by the Scheme.

From the appeals conducted the Commissioner recommended that 14 decisions (56 per cent) be confirmed and five decisions (16 per cent) be set aside. In the remaining seven cases (28 per cent), the Commissioner recommended that the decision not to accept some complaint issues be set aside and in others that the decision be confirmed.

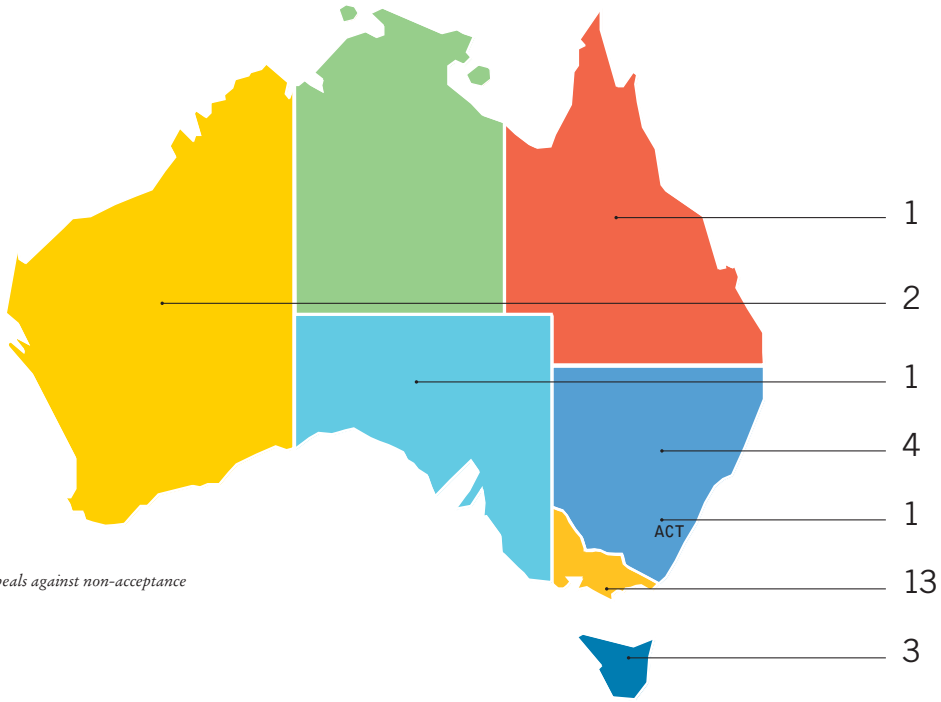


Fig 11: Appeals against non-acceptance

1.5 Reconsideration of a decision to cease to deal with a complaint

During the reporting period the Scheme made a decision to cease to deal with a total of 21 complaints. Advice was requested from the Commissioner in relation to three instances where complainants sought a reconsideration of the decision made. The appeals related to complaints originating in New South Wales, Victoria and Queensland. The Commissioner recommended that all three decisions be confirmed.

1.6 Referrals

Once a complainant has contacted the Scheme the legislation provides an initial fourteen days for officers to assess the complaint. Officers must decide 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 and 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 does not only take place during the assessment phase, but may occur at any time during the complaint resolution process.

The level of reporting and recording of referrals on the database is poor. During the reporting period the database indicated that a total of 259 issues were referred. Of this number 153 (59 per cent) were referred to other sections of the department for information and/or further action and ten matters (four per cent) were referred to the Police. Fifty-two (20 per cent) of referrals were for mediation, 22 cases (eight per cent) were referred for determination and a further 22 matters (eight per cent) were referred to other bodies, including medical and nursing registration boards, Health Services Commissioners and the Coroner.

1.7 Average time to resolve complaints/issues

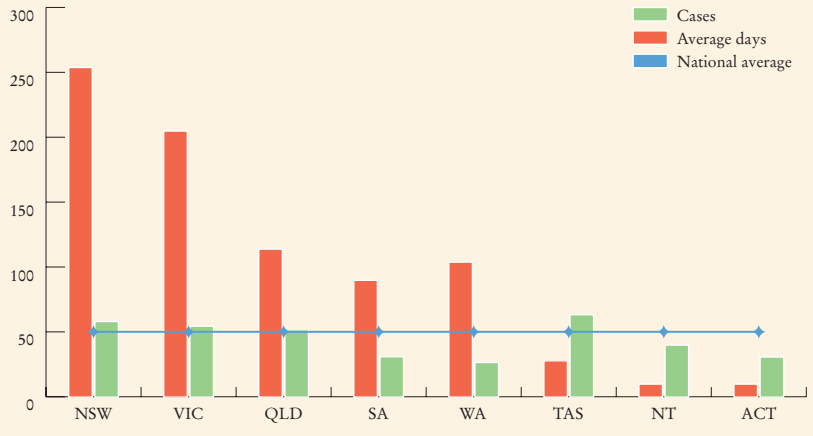
All complaints accepted by the Scheme involve at least one, but generally several issues. The effective and efficient management of cases is primarily dependent on the complexity and number of complaints accepted in a period and the number and skills of the staff available to complete the allocated tasks.

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 lodged during the period was 41.58 days. In addition to the complaints lodged and finalised the Scheme finalised 92 complaints lodged prior to the reporting period. The average number of days taken to finalise all 815 complaints was 49.27 days.

The following figure shows the total number of cases finalised in each jurisdiction and the average number of days taken to resolve these cases, compared with the national average of 49.27 days.

Total Cases Finalised
Average days to finalise
compared with the
national average

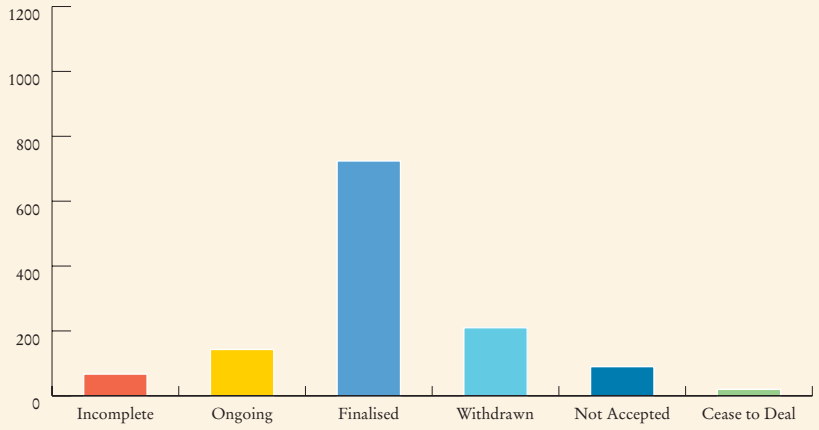
Fig 12:
Number of cases and
average days to finalise



At the end of the reporting period the database shows that 58 per cent of the 1260 complaints lodged were finalised, eleven per cent were ongoing, five per cent were listed as incomplete, 17 per cent of cases were withdrawn, seven per cent were not accepted and the Scheme ceased to deal with two per cent.

Case Status:
30 June 2006

Fig 13:
Case Status: national data at end of reporting period

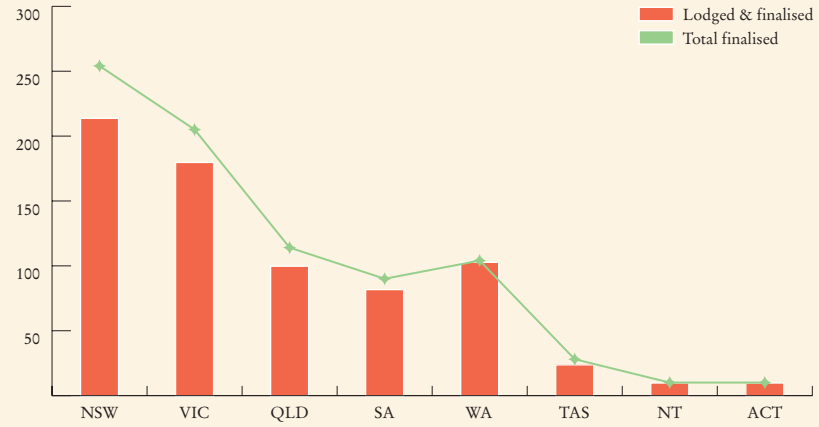


Twenty-five per cent of the 725 complaints finalised were finalised in assessment, 55 per cent were resolved by negotiation, seven per cent by referral, seven per cent by mediation and three per cent by determination. Two per cent of cases were withdrawn, but were inaccurately assigned and recorded, and in one per cent of cases the Scheme made a decision to cease to deal with the complaint.

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 815 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.

Complaints Finalised
2005–2006

Fig 14: Finalised cases

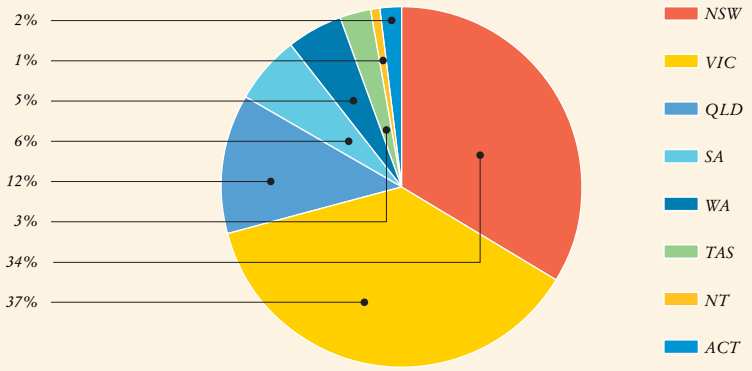


In addition to accepting and managing complaints, officers also respond to inquiries from the public, some of whom later go on to register a complaint with the Scheme. The following figure shows the breakdown of all calls to the Scheme recorded in each State/Territory during the reporting period, that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

of complaints, information and feedback calls shown as a percentage of the total 6,157 calls recorded nationally.

Total Calls

Fig 15: Total number of calls registered

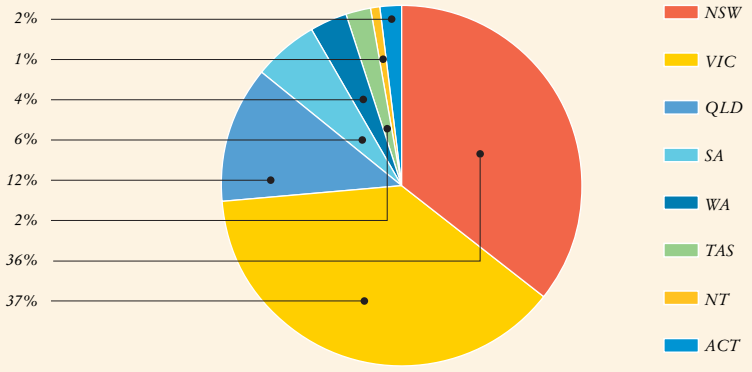


Of the total number of calls taken during the reporting period 1260 (20 per cent) were recorded as complaints and 4,897 (80 per cent) as information calls compared to data provided in the last annual report of 17 per cent and 83 per cent respectively.

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

Information Calls

Fig 16: Information calls



While not all information callers specify an outlet during the reporting period these data were recorded for 61 per cent of all callers. Ninety-six per cent of calls recorded were associated with residential care services, three per cent were related to CACPs and one per cent of calls were linked to flexible care services.

The majority of requests for information (69 per cent) relate to general information about the provision of residential aged care services. In 31 per cent of calls registered, callers sought information outside the jurisdiction of the Scheme.

The category of caller was only recorded in 48 per cent of information calls. Of those recorded 53 per cent (1250) identified themselves as relatives, 16 per cent (368) as staff, 12 per cent (289) were care recipients and five per cent of callers (110) said they were friends. Advocates and ex-staff each placed three per cent of information calls and officers recorded 188 callers (eight per cent) as 'other' (including visiting health professionals, lawyers and union officials).

The time taken to deal with information calls was recorded in 3,857, or 79 per cent of cases. Of those recorded 1,923 information calls (50 per cent) were concluded in under 15 minutes. However, when considering the workload generated by information calls it is interesting to note that a further 1,421 (37 per cent) of calls were recorded as taking between 15 and 30 minutes. In the case of 445 calls (11 per cent), officers recorded that they required between 30 minutes and one hour to deal with the issues and 68 information calls (2 per cent) were recorded as taking between one and three hours to complete.

Appendix 2: Satisfaction Surveys

This report provides an analysis of the information obtained through satisfaction surveys returned from complainants and service providers across Australia during the period 1 July 2005 – 30 June 2006.

Satisfaction surveys are sent to parties when complaints are finalised and a pre-paid envelope is provided to facilitate a direct response to the Office of the Commissioner for Complaints. The survey is ongoing and is part of a strategic approach designed to measure and monitor client satisfaction and to utilise the quantitative and qualitative information to improve service to the public.

Researchers point out that self completed surveys often attract a low response rate, generally not higher that 10–20 per cent. This can lead to a degree of uncertainty because the opinions of others surveyed who did not return completed forms are unknown. Indications are that a response rate lower than 60 per cent should be treated with a degree of caution. For this reason the satisfaction surveys are but one element of a comprehensive quality assurance program instituted by the Commissioner.

During the reporting period a total of 815 complaints were finalised and 748 completed surveys were returned for analysis. Assuming both parties to the complaints finalised received survey forms the overall response rate is 46 per cent. This is three per cent lower than the last year but remains a high response rate for a voluntary return survey.

The Satisfaction Survey forwarded to complainants comprises 15 questions, including questions relating to ethnicity and age groups. Service providers are invited to respond to 13 questions and to identify in which state the service operates. Respondents are asked to either provide a yes/no answer, or rate their response according to an accompanying scale. Complainants and service providers are invited to provide additional written comment when responding to all questions except two. A range of categories and keywords has been established in order to record and analyse these responses.

Readers should note that the percentages provided in this report are based on the overall number of surveys that were received during the reporting period and the accompanying graphs reflect the nil response figures where appropriate.

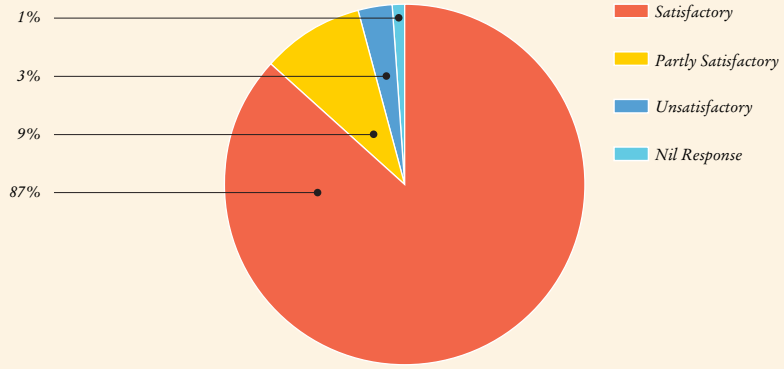
Satisfaction Survey: Complainant Responses

During the period a total of 324 complainants across Australia returned completed surveys giving a response rate for complainants of 40 per cent.

The data show that 87 per cent of complainants who returned surveys and responded to this question were satisfied with their initial contact with the Scheme. Nine per cent of respondents said that they were partly satisfied, three per cent of respondents indicated that this initial contact was unsatisfactory and one per cent did not answer this question.

Initial Contact

Fig 17: Initial contact



The experience of individuals was varied. The majority of respondents appreciated the capacity to provide input by phone and welcomed the opportunity to receive clear information about the complaints process. Most respondents considered staff were easy to talk to and over eighty compliments were paid to staff, either individually or generally. Generally staff were described as courteous, approachable, professional, compassionate, reassuring, empathetic, calming, softly spoken, helpful, patient, supportive, friendly, and attentive.

Others clearly found this contact difficult and some staff were described as ill-informed, poor communicators, disinterested, defensive and critical of the concerns being raised. Callers criticised the number of times calls were transferred to other operators and the lack of information given.

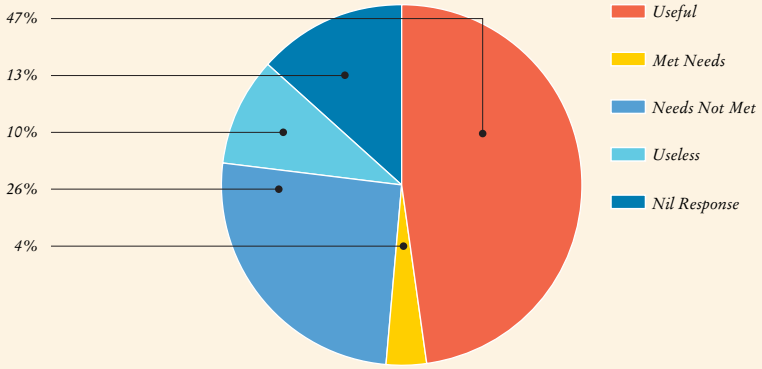
Negotiation Process

Respondents were asked whether they found the process adopted during the negotiation phase to be useful and able to meet their needs or otherwise. Forty-seven per cent of respondents found the process to be

useful, 26 per cent said that their needs were met; ten per cent said that their needs were not met and four per cent described the process as useless. Thirteen per cent of respondents did not answer the question.

Negotiation Process

Fig 18: Negotiation



Complainants are also asked if they were kept informed of the progress during negotiation and are invited to make general comments about the negotiation process. Ninety-three per cent of respondents answered the question and seven per cent made no comment. Eighty-one per cent indicated they had been kept informed; seven per cent said that they were partly kept informed and five per cent said that they had not been kept informed.

Many complainants indicated that frequent contact and the speed at which the negotiation progressed was important in easing their mind in what they described as a stressful situation. Communication was described as efficient, professional, easy to follow, open and honest. Four complainants indicated the Scheme worked promptly and got results quickly while others complained about long periods of inactivity.

A number of respondents commented on communication gaps, of either not receiving information or having to 'prod' the Scheme for information. One person commented that they had dealt with three different case officers in a short space of time.

Fifteen complainants commented positively on the productivity of the negotiation process, the assistance provided by the Scheme and the resolution achieved. Again, staff were found to be informative, professional, supportive, courteous and efficient. They were reported as providing good advice, careful explanations and accepted the complainant's point of view.

Others were less complimentary about the negotiation process and were concerned because complaint issues were changed, service providers were seen to whitewash the complaint or not change their practices and the grievances were not taken as far as the complainant wished to go. Many of the complainants appeared not to recognise the negotiation phase. Comments included, 'What negotiation?', the complaint was placed in the too hard basket and passed to the Agency, there was no negotiation just letters, negotiation was

'restricted by Federal Government Policy' and that the complainant was simply informed the complaint was finalised.

Mediation Phase

If the complaint went to mediation, complainants are asked to indicate whether they felt mediation was successful, partly successful or unsuccessful and are invited to provide general comments about the mediation process. Sixty-four complainants responded to this question. Of this number 64 per cent (41) indicated that mediation had been successful; 23 per cent (15) said that mediation was partly successful and 13 per cent (8) said that mediation was unsuccessful.

Not all respondents provided additional comment. Eight complainants expressed a level of satisfaction both with the mediator and the process and four respondents reported positive outcomes following mediation. One complainant said that the mediator did not have enough background or experience to mediate regarding aged care services.

Seven respondents indicated a concern about resolution, believing that the attitude of the service provider impacted on the outcome. One complainant considered the facility's motivation was to impress the Scheme rather than implementing improvements and another complainant said the agreement reached had since been withdrawn by management. Three complainants expressed concern in that the mediation technique glossed over the issue in pursuit of its own goal, another that while the mediation itself was successful enquiries were still being carried out in the home.

Determination

Complainants are invited to comment on the determination processes and are asked whether the committee gave them every opportunity to put their view and secondly, whether the committee provided reasons for their decision that they could understand. Eleven complainants answered questions in relation to the determination process. All indicated that they were provided an opportunity to put their views during the determination hearing. Complainants are also asked if the committee provided reasons for their decision that were understood. Nine respondents answered yes and two respondents said no.

Three complainants provided positive comment regarding the hearing process and indicated the committee listened and they were given ample opportunity to speak. Committees were portrayed as extremely professional, capable and thorough and the hearings were said to be skilfully conducted and fair. Another complainant believed that all complaints should go to determination as a fair outcome is provided and the process is comprehensive, democratic and just.

Two complainants provided mixed comment, saying that they found the process excellent and the committee very astute, however minor points were misinterpreted. One respondent said that while one member of the Committee made them feel comfortable another made them feel intimidated. The other said they found the process intimidating, and considered that the process was so structured and with so many guidelines that it was almost impossible to convey a particular issue or related issue.

Complainants are also invited to comment on the determination review process and are asked, if the complaint progressed to a review of the determination, whether the information provided by the Commissioner's office was helpful. Three people responded to this question. Two indicated the information had been helpful and one answered in the negative. Respondents are also asked whether they understood the reasons given in the determination review report. Two people answered this question and both said no.

Resolution

Complainants are asked whether they feel the complaint has been resolved, and if not, why not. Ninety per cent of respondents (292) answered this question, ten per cent did not respond. Sixty-six per cent of respondents said that the complaint had been resolved and 24 per cent felt that the complaint had not been satisfactorily resolved.

Sixty-six per cent of respondents (213) said that their complaint had been resolved. Notwithstanding this a number of complainants who said their complaint was resolved expressed serious reservations. In the main, their misgivings were linked to concerns about the integrity of service providers and their commitment to change and/or limitations to the Department's authority or perceived reluctance to act.

Comments from seventy respondents who said their complaint issues were partly addressed, not addressed or ongoing also reflected a level of cynicism. These included: the complaint was resolved as nothing more could be done, changes were not made; only time would tell if the complaint was addressed, and an expressed doubt that the arrangements made would continue and one person felt pressured to agree to resolution. One complainant said the complaint process was long and arduous and took a lot of perseverance, another that their complaint was simply finalised by the Scheme. Some complainants commented that they had moved the care recipient to another facility in order to resolve existing concerns.

One complainant said they had lost out in the final result with less assistance and more expense but seemingly the only option. Another said that resolution had extended only to sending the co-ordinator's boss a copy of the complaint and another argued the issues were not addressed because the Department believed the service provider's documentation which did not reflect the actual standard of care being delivered.

A proportion of respondents envisaged ongoing problems as they linked quality of care issues to inadequate staff numbers, insufficient trained staff, lack of a stable staffing complement and use of changing agency staff, insufficient knowledgeable and permanent supervisory staff and unsatisfactory ongoing education and training.

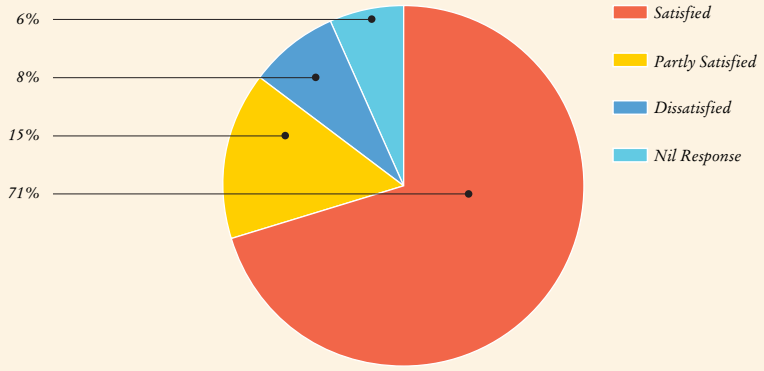
Over forty other comments were made about improving the resolution of complaints. Some complainants considered that the Scheme should be given the power to investigate and apply sanctions and indicated that a quick resolution was facilitated if the right people were employed and involved. Others argued the need for an audit three months after resolution to confirm the implementation of promised changes.

Overall satisfaction

The data show that 71 per cent of complainants who returned surveys and responded to this question were satisfied with the overall service provided by the Scheme. A further 15 per cent indicated they were partly satisfied. Eight per cent of respondents indicated that they were dissatisfied and six per cent of respondents did not answer the question.

Overall Satisfaction

Fig 19: Overall satisfaction



Again, many respondents commented positively about their interactions with staff describing them as courteous, articulate, efficient, attentive and empathetic.

Most provided positive comments about the overall management of their complaint, indicating that communication was ongoing, responses were prompt and resolution timely. Complainants described the Scheme as a necessary protection for frail aged and as a vital go-between in dealings involving providers and complainants and again lamented the lack of investigatory powers.

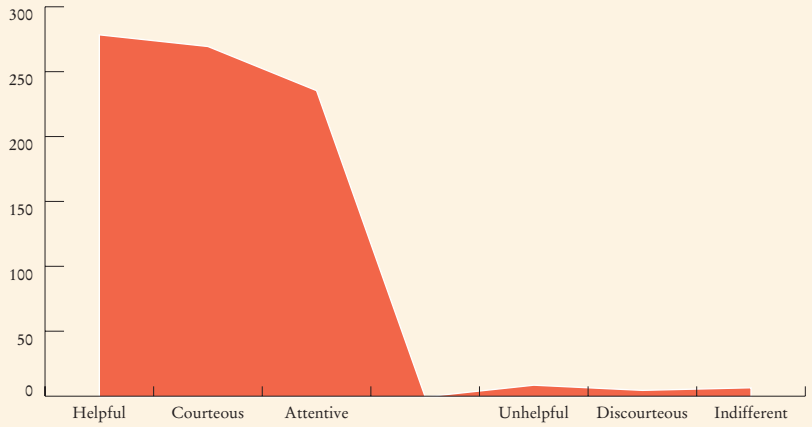
Other respondents made negative comments. These included: the nature of the complaint was disregarded, the facts were not established, the complaint was not resolved; the process took too long and did not look at the past or the truth, the complaints officer did everything possible to sweep the issue under the carpet. Additionally, respondents commented that the Scheme only went through the service provider records and did not see the actual nursing that takes place; service providers were covering up issues or 'pulling the wool', the facility was forewarned of the Scheme's visit and given time to prepare and one complainant was critical that the provider sought resolution through an Executive Director, responsible for fourteen homes, rather than the Director of Nursing who was in charge and had specific and local knowledge.

Another familiar concern raised was the lack of feedback given both at the provider level, purportedly as the result of privacy laws, and in the Scheme's management of the complaint where matters are raised with the compliance area and/or the Standards Agency. Interestingly, one complainant queried the Scheme's political allegiances and relationship to other departments and asked whether the satisfaction survey was merely to appease government direction.

Complainants were asked to comment on staff attitudes encountered during the management of their complaint. Respondents are able to tick more than one box. The majority of respondents said staff were helpful, courteous and attentive. Nine respondents indicated staff were unhelpful, seven said staff were indifferent and five found staff to be discourteous.

Complainants' Perceptions of Staff

Fig 20: Staff attitudes



Suggestions for improvement

As in previous years some suggestions were duplicated by respondents and in some cases dealt with issues beyond the jurisdiction and role of the Scheme. Common themes related to improving timeliness, communication and impartiality in complaint handling.

A number of complainants believed the Scheme was biased towards the provider. Some respondents saw written communications as tiresome, slow and sometimes ambiguous and suggested the use of emails, face to face meetings and tape recorders as a way of speeding up processes. A number also commented on their right to know the surnames of the people managing their complaint and to be fully informed about the facility's remarks and observations.

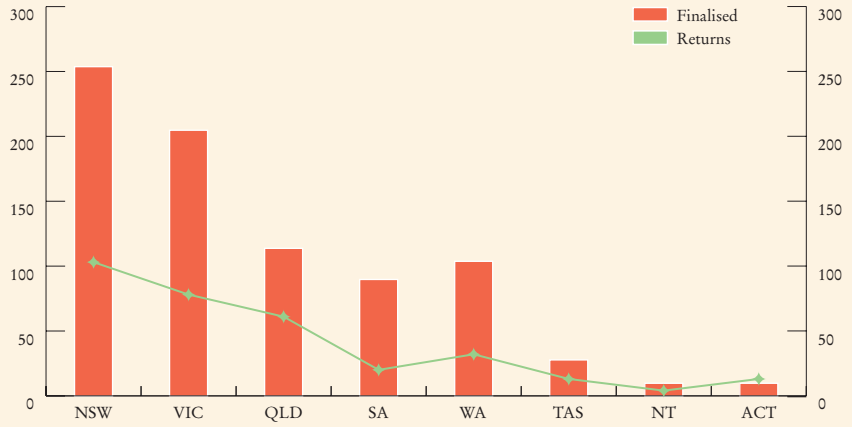
Broader policy issues were also raised and many related to the Scheme's independence and investigatory powers, and the use of sanctions for those who deliberately mislead. Several respondents used terms such as the Scheme 'had no teeth' or 'was a paper tiger' and referred to the need for legislative change to strengthen the role of the Scheme and provide for follow-up action.

Demographics

The source of survey responses is depicted in the graph below and is of course related to the number and origin of complaints finalised during the period.

Total number of complaints finalised and surveys returned by complainants

Fig 21: Origin of survey responses



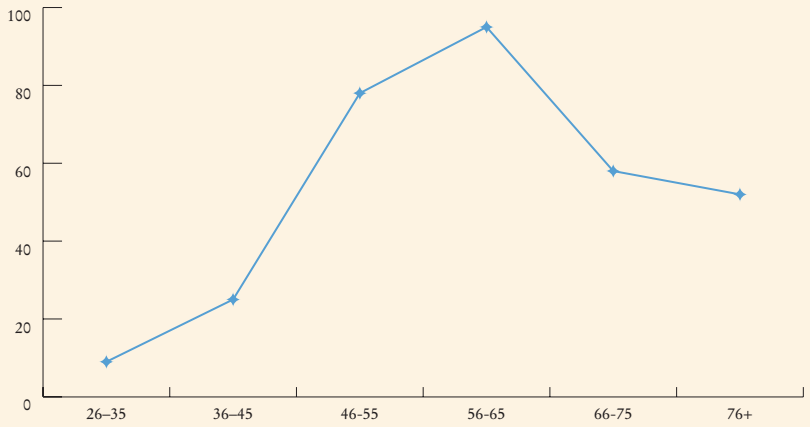
Thirty-two per cent of complainants identified that their dealings were with the Scheme in New South Wales, 24 per cent of respondents were Victorians and 19 per cent interacted with the Scheme in Queensland. Six per cent of respondents indicated their dealings were with the Scheme in South Australia, ten per cent in Western Australia, four per cent in Tasmania and the Australian Capital Territory respectively and one per cent with the Scheme in the Northern Territory.

Sixteen respondents identified themselves as indigenous Australians. The majority of respondents indicated that their first language was English. Eighteen respondents reported that their first language was other than English. Languages spoken included Russian, Persian, Dutch, Afrikaans, Ukrainian, Greek, Italian, Macedonian, Maltese, Arabic and German.

Complainants were asked to identify one of seven age groups in which they belonged. Seven respondents (two per cent) did not answer the question. The majority of respondents (29 per cent) were aged between 56–65 years. Twenty-four per cent of respondents were aged between 46–55 years, 18 percent were aged between 66–75 years, 16 per cent were aged 76 years and over, eight per cent were between 36–45 years and three percent were between 26–35 years of age.

Complainant:
Age Groups

Fig 22: Age groups

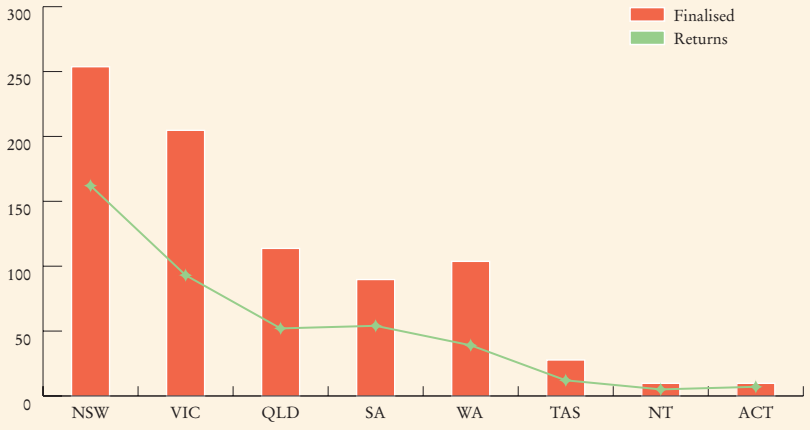


Satisfaction Survey: Service Provider Responses

During the period a total of 424 service providers across Australia returned completed surveys giving a response rate of 52 per cent. The following graph depicts the source of survey responses received during this reporting period and is related to the number and origin of complaints finalised during the period.

Total number of complaints finalised and surveys returned by providers

Fig 23: Provider survey



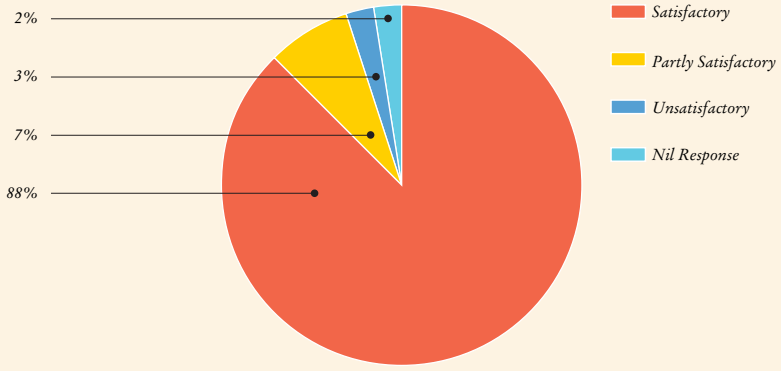
Thirty-eight per cent of providers identified that their dealings were with the Scheme in New South Wales, 22 per cent of respondents were Victorians and 12 per cent interacted with the Scheme in Queensland. Thirteen per cent of respondents indicated their dealings were with the Scheme in South Australia, nine per cent in Western Australia, three per cent in Tasmania, two per cent in the Australian Capital Territory and one per cent of respondents dealt with the Scheme in the Northern Territory

Initial Contact

Respondents are asked to describe their initial contact with staff and are invited to make a general comment. The data show that 88 per cent of service providers who returned surveys and responded to this question were satisfied with their initial contact with the Scheme. Seven per cent of respondents said they were partly satisfied and three percent said that the contact was unsatisfactory. Two per cent of respondents did not answer the question.

Initial Contact

Fig 24: Initial contact



The majority of providers reported that their initial contact with staff was satisfactory. During the initial contact staff were said to be polite, tactful, approachable, supportive, helpful, non-threatening, sympathetic and professional and provided clear explanations of the issues at hand and the complaints resolution process. However, a few described a different experience and believed staff were accusatory, defensive and predetermined that the provider was guilty without listening to their side of the story. One person was concerned that the facility manager was notified before the approved provider and one said the first they knew of the complaint was when it was referred for determination and others said that the short notice before a visit was evidence of bias and notification by email would have been appreciated.

Negotiation Process

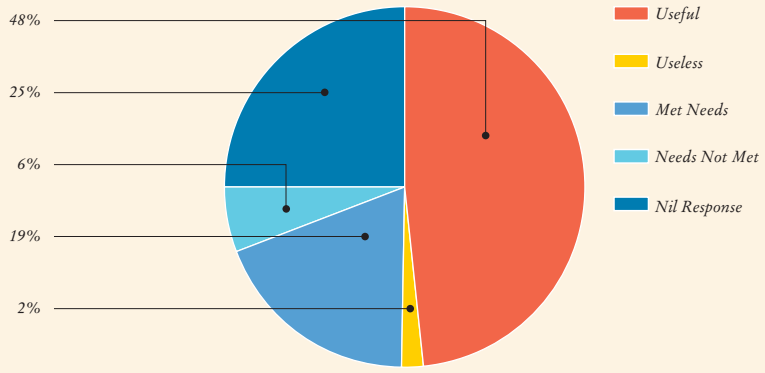
Respondents were asked whether they found the process adopted during the negotiation phase to be useful and able to meet their needs or otherwise. Twenty-five per cent of respondents (106) did not answer the question. Forty-eight per cent of respondents found the process to be useful, 19 per cent said that their needs were met, eight per cent said that their needs were not met and two percent indicated that negotiation was useless.

Providers are also asked if they were kept informed of the progress during negotiation and are invited to make general comments about the negotiation process. Seventy-five per cent of service providers indicated that they had been kept informed, eight per cent said that they were partly kept informed and five per cent of

respondents said that they had not been kept informed. Twelve per cent of respondents did not answer this question.

Negotiation Process

Fig 25: Negotiation



Some service providers commented that issues were resolved quickly and that officers worked hard to achieve resolution. However, many expressed disquiet related to the timely resolution of complaints. Common concerns were that it was difficult to contact officers, there were long intervals between activities, the process was time consuming and too many people were involved constantly covering the same issues.

Over thirty comments related to communication with the Scheme. Again many providers reported a positive experience indicating that they had been kept well informed. However, many service providers commented on a lack of contact during the process and several indicated that key people were not informed and that contact was initiated by themselves rather than the Scheme. Several providers commented that they were advised of the complaint and its finalisation or withdrawal in the same correspondence and some expressed frustration when officers were changed repeatedly during the process and explanations had to be repeated.

Some providers questioned the negotiation process, believing this was an exchange of information only. Two providers felt the process was biased as information was conveyed from the provider to the complainant, but there was no feedback from the complainant to the provider.

Mediation Phase

If the complaint went to mediation, providers are asked to indicate whether they felt mediation was successful, partly successful or unsuccessful and are invited to provide general comments about the mediation process. Forty-eight providers responded to this question. Of that number 96 per cent (46) indicated that mediation had been successful and four per cent said that mediation was not successful.

There was mixed comment from service providers in relation to mediation. Positive comments were that both parties worked well at mediation, there was a good outcome, the mediator was excellent, issues were resolved, the process was handled well, an action plan was put in place to improve service, the process

was challenging but well managed. Other comments were that mediation was an excellent way to deal with the issue as the family were bound to act in a civil manner during the mediation, a thorough mediation was conducted, and this was a beneficial process which allowed the implementation of organisational change.

Negative comments centred on the mediation process or the mediator. Comments included: the mediator was not listening, providers were given limited opportunity to address the issues and little information about how to proceed, the process was lengthy with little specificity as to the issues discussed and others believed the problem had been resolved prior to mediation so the meeting was a waste of time. Others commented that the appointment of the mediator and the mediation date was not negotiable.

One service provider said that, had they argued the accusations were untrue, the complaint may have proceeded to Determination but this would have been too costly both in time and emotional energy. Another argued that the agreement reached could compromise their duty of care and did not meet the resident's needs.

Determination

Providers are invited to comment on the determination process and are asked whether the committee gave them every opportunity to put their view and secondly, whether the committee provided reasons for their decision that they could understand. Eight providers responded to these questions. Seven providers indicated that they were given an opportunity to put their view and said that the committee provided reasons for their decision that they could understand. One provider responded in the negative.

Three comments were provided regarding the determination process. Two providers said that the determination committee was fair and clear directives were provided which would be able to be implemented immediately. One said that it was a very cold and frustrating process, they had to supply a lot of written validation and the determination report was biased towards the consumer.

Providers are also asked if the complaint progressed to a review of the determination, whether the information provided by the Commissioner's office was helpful. Two providers responded. One said that the information was helpful and one said it was partly helpful. Respondents are also asked whether they understood the reasons given in the determination review report. Three providers responded. Two respondents indicated that they understood the reasons given in the review report and one responded in the negative.

One service provider indicated that they understood the reasons given by the review panel but did not agree with the decision. Another service provider commented they were now working with the holder of a power of attorney and Public Trustee to develop a long term plan of care.

Resolution

Service providers are asked whether they feel the complaint has been resolved, and if not, why not. Eighty per cent of providers said that the complaint had been resolved; fourteen per cent felt that the complaint had not been satisfactorily resolved and six per cent of respondents did not answer the question.

While the majority of providers indicated the complaint had been resolved, most comments received were negative. Some providers felt that the complaint led to waste of time and resources as it was without merit; however, respondents generally focussed on the behaviour of complainants.

A number of service providers raised the subject of serial complainants and indicated many complainants had unrealistic expectations or were dealing with psychological (grief and loss) or family issues, were vexatious or were seeking compensation.

Some providers also considered that the complaint process has the potential to be detrimental to the resident, that staff can feel distressed or compromised and in some cases unsympathetic. Some providers also protested that, in dealing with the complaint, the Scheme had also referred the issues to Compliance and the Aged Care Standards and Accreditation Agency.

Overall satisfaction

The data show that 78 per cent of service providers who returned surveys were satisfied with the overall service provided by the Scheme. A further 11 per cent indicated they were partly satisfied, seven per cent indicated they were dissatisfied and four per cent did not answer the question.

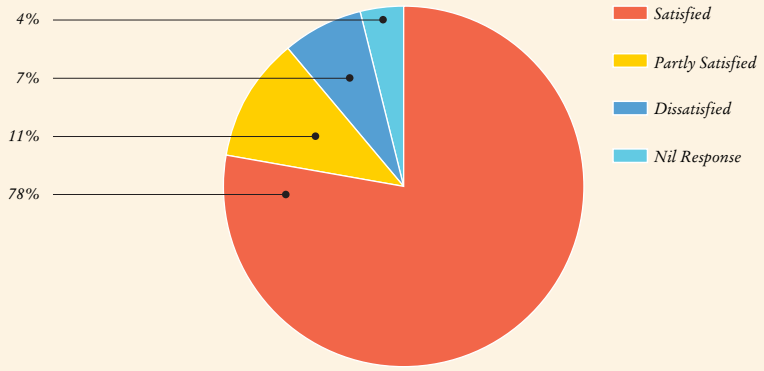
A number of providers commented on their overall satisfaction with the current procedures, the professionalism of staff and the prompt resolution of complaints, expressing a belief that the Scheme is performing a necessary service. Eleven respondents specifically commented positively on their communication with the Scheme and some commented positively on a perceived flexible approach to complaint handling.

Many negative comments centred on the Scheme's processes and included: it was difficult to make contact with officers, the Scheme refused to use discussion, negotiation or mediation, officers had insufficient knowledge of the law regarding guardianship, problems arose when officers were changed during complaint handling procedures, officers stood by while staff were abused by relatives, a phone call would have remedied the situation rather than having two officers visit, mediation was not appropriate, the issue should have been investigated and the facility been given an opportunity to explain before referral to the Agency, the processes of the Scheme provide no protection for the approved provider against vexatious complainants.

Others complained that they were unaware of the complaint until late in the process, information was inappropriately sent to the complainant, the complaint was lodged by an employee who was resistant to change, the ease with which people are able to make false accusations which are then distressing for both family and staff, facilities always have to prove they are providing quality care, and one service provider said that the Scheme had been fully briefed about a frivolous complaint but this was to no avail.

Overall Satisfaction

Fig 26: Overall satisfaction



Service Improvement

Service providers are asked if their service has changed or is likely to change as the result of the complaint process and are invited to describe the changes. Two hundred and twenty eight providers (54 per cent) said that their service had changed. Forty providers said they had learnt lessons as the result of the complaint and 50 per cent of respondents reported on the type of actions taken as a result of a complaint.

Comments were often duplicated but included continuous improvement strategies; policy and procedural changes; clearer management structures; improved communication with family members – both face to face and in the provision of documents; upgrading of equipment and buildings; reviews of pharmacy, payment and employment systems; improved palliative care; increased clinical services; enhanced staff education and support.

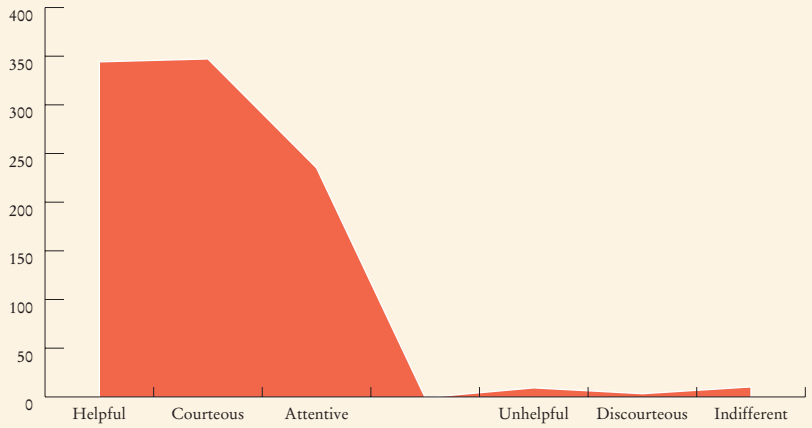
Nine service providers said complaints did not add any value and considered that the systems in place were adequate; correct procedure had been followed, they were managing the issues raised already, all care has been provided to a very high standard. Others commented more broadly on issues such as documentation, intervention orders, the adequacy of government funding, and defensive practice.

Staff Attitudes

Service providers are asked to comment on staff attitudes encountered during the management of their complaint and are able to tick more than one box. The majority of respondents found staff of the Scheme to be helpful, courteous and attentive. Ten respondents indicated that staff were unhelpful, 11 found staff to be indifferent, and four indicated that staff were discourteous.

Providers' Perceptions of Staff

Fig 27: Staff attitudes



Suggestions for improvement

Twenty-eight per cent of respondents offered suggestions about how the management of complaints could be improved in the future. As with complainants, some provider suggestions were very broad in their nature and did not directly relate to the Scheme. Suggestions with application to the Scheme included: maintaining impartiality, improving ways of dealing with serial or vexatious complainants and disgruntled employees, outsource the Scheme to an independent agency, distinguish between genuine complaints and the complainant's inability to deal with guilt or grief issues, do not accept anonymous complaints or complaints from third parties, seek the views of other family members, improve staff education and attitudes, one government agency should deal with the provider not three.

Over thirty suggestions for improvement related specifically to communication. Respondents suggested that there needs to be improvement in the identification and notification of complaint issues, better communication between government offices, stricter timeframes on the return response from the complainant, to use email contact, to return calls promptly, provide face to face negotiation and meetings, to establish the facts before feeding information to other parties who are not involved, to discuss the complaint with key personnel only, to provide follow up contact, Providers were also critical of the overly bureaucratic style of written communications and one service provider said they would appreciate a reduction in the 'lecturing' in the Department's letter.

Service providers were asked if they had any other comment and over fifty further comments were provided. Some providers took the opportunity to compliment staff again for their professionalism and complaint handling skills. Additionally respondents suggested that mature staff with an understanding of life and family conflict should be employed and experienced officers should deal with repeat complainants.

Much of the information received related to staff knowledge and training and the need for impartiality by the Scheme, one arguing that the process is one sided and encourages people with an axe to grind. Some considered the Scheme represented a waste of money and resources and was in need of review. Others

believed that the Scheme should defend the facility where it is shown the complaint is unfounded and some asserted that there is no significant support for service providers when residents act inappropriately.

Appendix 3: Performance Indicators

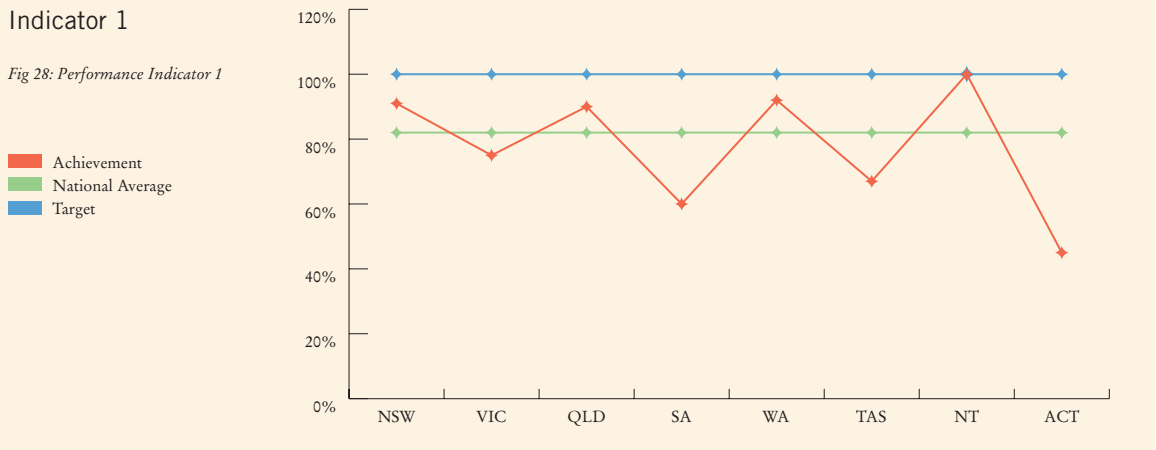
The performance indicators established for the Scheme are numerical measures, expressed as a percentage, which are designed to describe important and useful information about the performance of the Scheme. The performance indicators are monitored at regular intervals, compared with one or more criterion, to demonstrate whether the Scheme is achieving its overall objectives and meeting set targets. The performance indicators were first implemented in October 2001. The indicators have been reviewed annually and, where appropriate, have been amended. The following data provide a comparative view of each State/Territory's achievement against the established target and the national average for each indicator.

Performance indicator reports continue to generate unreliable data and significant changes in reported achievements were noted in some jurisdictions. Consequently, data obtained through performance indicator reports during the first three quarters were tested and confirmed by database administrators. During the final quarter a unilateral decision was taken by the Scheme to transfer data and report from a different database. The revised system was designed to provide more accurate data; however, validity remains questionable and the changes introduced have created difficulties in analysing data across the financial year. This report comprises raw data collated for each of eleven months and one month derived from the revised system as this is considered to be a more accurate reflection of data and activities. Therefore the data reported here are indicative at best.

Indicator 1 measures the prompt provision of an acknowledgment card to people contacting the Scheme to lodge a complaint. This indicator was revised to allow the provision of an acknowledgment card within four days of the initial contact, as opposed to the previously agreed three days, to account for weekends and public holidays. The expected target is 100 per cent. The database indicates that across Australia, an average of 82 per cent of contacts received an acknowledgment card within the stipulated time frame.

Indicator 1

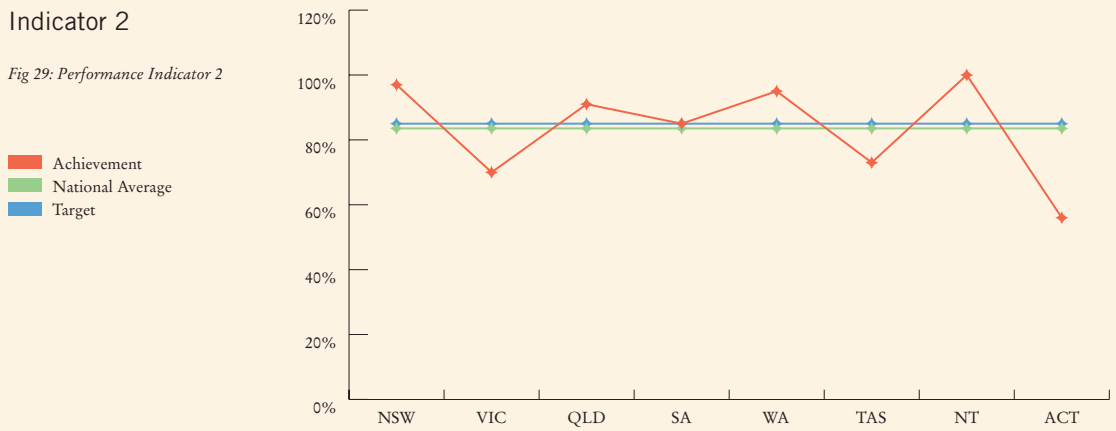
Fig 28: Performance Indicator 1



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 84 per cent of cases.

Indicator 2

Fig 29: Performance Indicator 2

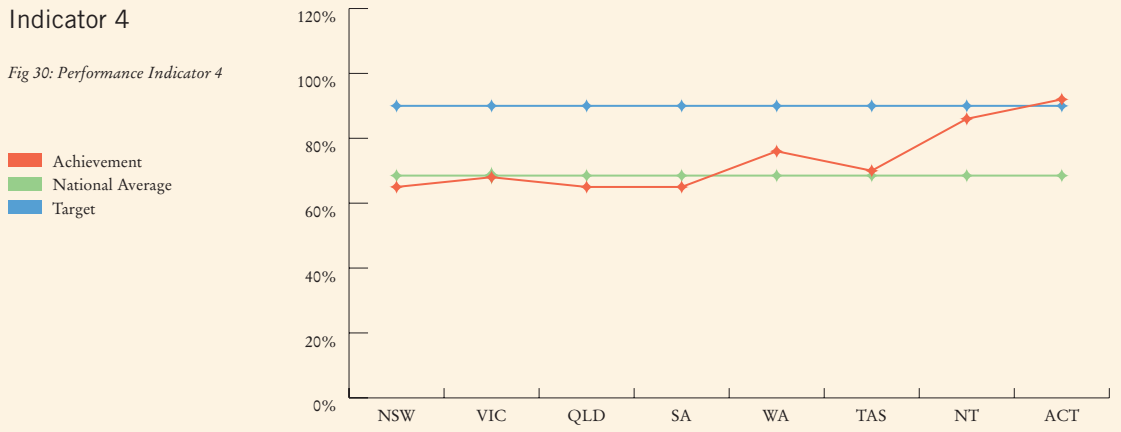


Indicator 3 relates to the prompt referral to appropriate internal or external agencies. The database indicates that a total of 285 matters were referred during the reporting period. Records show that 188 matters were referred to other sections of the Department for information and/or action, 32 matters were referred to committees for determination, 42 for mediation, 12 to the police, one to State Health and 10 to 'other'. The measurement of time between receipt of the complaint and the referral of the complaint, or part thereof, is not currently available from the database.

The target 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. During the reporting period this indicator was met in an average 69 per cent of cases, nationally.

Indicator 4

Fig 30: Performance Indicator 4

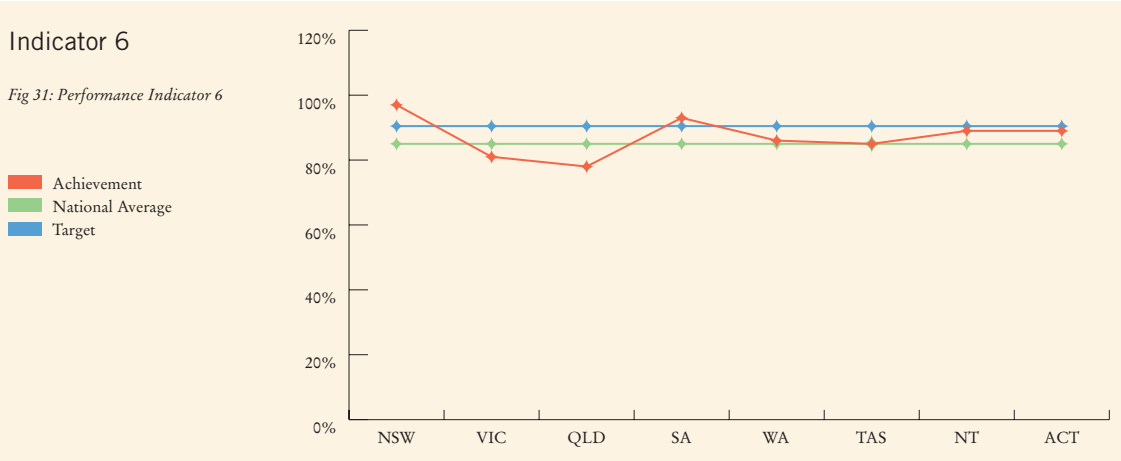


Indicator 5 is based on the rationale that there should be prompt and appropriate intervention in the case of all issues that have been assessed as urgent. The indicator measures the time between the receipt of issues assessed as urgent and the undertaking of an appropriate intervention within seven days. The database denotes that only two per cent of complaint issues were assessed as urgent during the financial year. No urgent issues were recorded in New South Wales, Western Australia and the Northern Territory. The target set for this indicator is 90 per cent; however, the data collected monthly indicates that none of the jurisdictions recording urgent issues met this indicator. This result appears to be the consequence of poor data input where, in those instances where urgent and complex issues occur within the one complaint officers have not completed the required database actions to record the appropriate intervention in relation to the urgent issue.

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 90 days. Against a target of 90 per cent the database shows a national average of 85 per cent.

Indicator 6

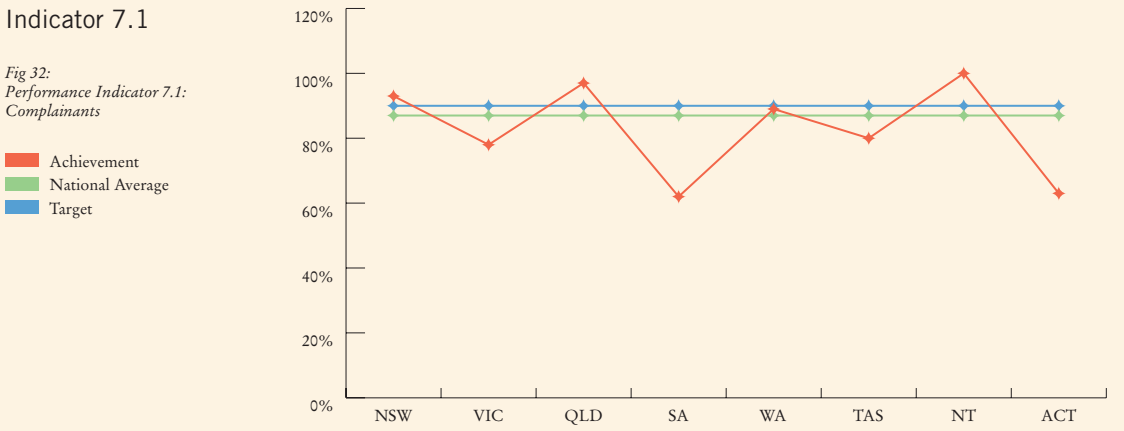
Fig 31: Performance Indicator 6



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 87 per cent for indicator 7.1 and 88 per cent for indicator 7.2.

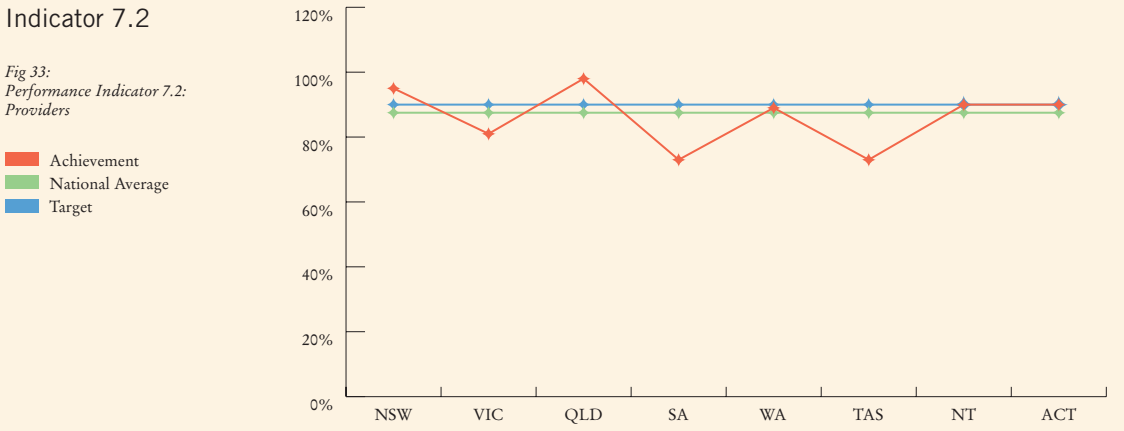
Indicator 7.1

Fig 32:
Performance Indicator 7.1:
Complainants



Indicator 7.2

Fig 33:
Performance Indicator 7.2:
Providers



Indicator 8 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. A review of the database indicates that the indicator was met in 93 per cent of cases.

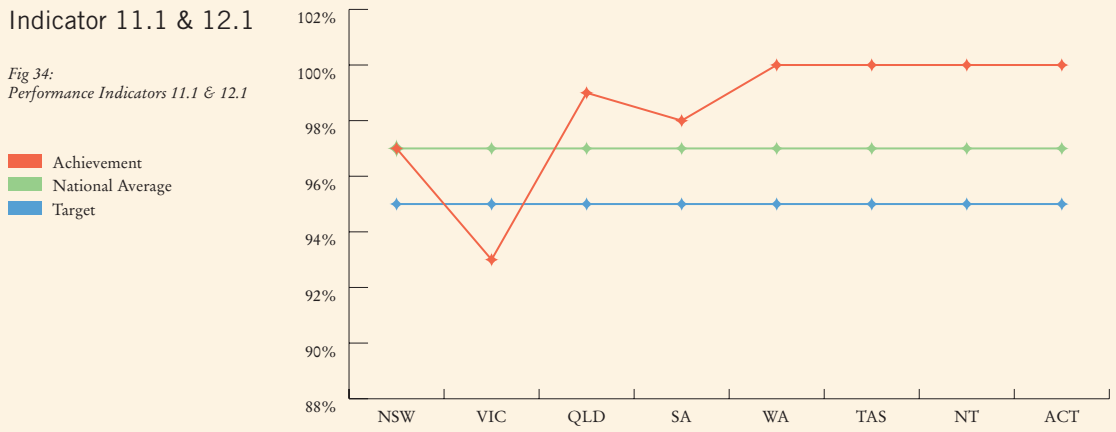
Similarly, indicator 9 requires that a Determination Review: Notice of Decision is provided to all parties within seven days of the signing of the report. This indicator was met in 100 per cent of cases.

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. This indicator was met in 79 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 established for both indicators. In both instances the database records a national average of 97 per cent.

Indicator 11.1 & 12.1

Fig 34:
Performance Indicators 11.1 & 12.1



Indicators 11.2 and 12.2 have a target of 80 per cent. The indicators 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. These figures are taken from the satisfaction survey database and show that 86 per cent of complainants who responded to the survey were satisfied or mostly satisfied with the service provided by the Scheme. Separately, 89 per cent of those 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 make available information as to the training opportunities offered and taken up by staff during the reporting period. It should be noted that not all States/Territories had recruited new staff during this current reporting period and in many instances 'new' staff were seconded to the Scheme on a short term basis.

During the financial year three new staff were employed in New South Wales and one staff member returned from extended maternity leave. All new staff participated in both internal and external orientation programs.

Eleven staff attended a range of educational programs including:

- Legal Issues in Residential Aged Care
- Decisions at End of Life
- Multicultural Program
- Influencing and Negotiating (introduction and advanced courses)
- Communicating with Internal / External Stakeholders
- Centrelink information Sessions
- Discovering Clerkliness
- Business Planning
- Coaching and Mentoring
- Team Building
- Prevention and Management of Negative Workplace Behaviour Course
- Business and e-Writing Skills
- Understanding Accountabilities in the APS
- Performance Development
- Excel (intermediate and advanced)

In Victoria a total of nine new staff were employed on a temporary basis, including those relieving short term. Of those four staff attended in internal orientation program and the orientation program for new starters in the Department of Health and Ageing. Seven people participated in the national orientation program. During the year nine staff have attended a range of additional courses including:

- Influencing and Negotiating (Introduction)
- Influencing and Negotiating (Advanced)
- Writing
- Performance development
- Program management
- Mental Health First Aid
- Work injury program
- Multicultural program

Four new staff were employed in Queensland and all participated in both internal and external orientation programs. Eight staff also attended a range of educative programs including:

- Older people in rural and remote Queensland
- Multicultural program

- Continence management
- The palliative approach
- Ageing and disability
- Physical activity promotion
- Information management to support active ageing and aged care
- Ageing and health expenditure
- Elder Abuse
- Better practice seminars
- Transition care
- Communicating with internal/external stakeholders
- Records management
- Working with legislation
- Privacy
- Understanding accountabilities in the APS
- Performance development
- Supervisors program

Three new staff were employed in South Australia and all participated in an internal orientation program.

In Western Australia two new staff members joined the team and have participated in both internal and external orientation programs. Four staff attended a range of educative programs including:

- Advocacy workshop
- Best practice seminars
- Chronic disease management
- Communicating with stakeholders
- Influencing & negotiation skills
- Understanding financial statements
- Legal training
- Stakeholder partnerships
- Protecting vulnerable people
- Protective awareness
- The way forward presentation.

In addition to these programs staff attended various departmental training programs including:

- Capability mapping and recruitment
- Professional development scheme
- Supervisor training
- Policy advice training
- Fire warden training
- Mentoring & coaching tips and
- Excel training
- Writing.

One new staff member was employed in Tasmania and took part in both internal and external orientation programs. Two other staff participated in the three day external orientation program. Three staff took part in various additional training programs including:

- Better practice seminars
- Risk management
- Supervisory training
- Financial training

No new staff were employed in the Northern Territory; however, staff have attended a range of educational programs including:

- Multicultural training
- Senior first aid
- Writing
- File management
- Performance development
- Program management
- Understanding accountabilities

In the Australian Capital Territory two new staff joined the team and participated in an internal orientation program. During the year five staff from this jurisdiction attended the three day external orientation program.

Appendix 4: Glossary

ACAT	Aged Care Assessment Team
Act	*Aged Care Act 1997*
Agency	Aged Care Standards and Accreditation Agency

CACPs	Community Aged Care Packages
Commissioner	Commissioner for Complaints
Committee	Complaints Resolution Committee
CRO	Complaints Resolution Officer
Department	Department of Health and Ageing
EACH	Extended Aged Care at Home
Minister	The Hon Julie Bishop MP, Minister for Ageing (until 26 January 2006) Senator The Hon Santo Santoro, Minister for Ageing (from 27 January 2006)
MPS	Multi Purpose Service
Office	Office of the Commissioner for Complaints
Principles	*Committee Principles 1997* made under the Act
RCS	Resident Classification System
Panel	Determination Review Panel
Scheme	Complaints Resolution Scheme
Secretary	Secretary, Department of Health and Ageing
Standards	Accreditation Standards in Schedule 2 to the *Quality of Care Principles 1997* made under the Act

This page has been left blank intentionally

This page has been left blank intentionally