



Reports

Commissioner for Complaints Annual Report - 1 July 2000 to 30 June 2001



COMMONWEALTH OF AUSTRALIA

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The Hon Bronwyn Bishop MP
Minister for Aged Care
Parliament House
CANBERRA ACT 2601

Dear Minister

Pursuant to my obligations under section 10.34 A of the *Committee Principles 1997* I hereby submit my first Annual Report on the operation of the Complaints Resolution Scheme for the period 1 July 2000 to 30 June 2001.

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 5 and 6).

Yours sincerely

ROB KNOWLES
Commissioner for Complaints

Commissioner's Introduction

This is the first annual report of the Commissioner for Complaints and, while the Office of the Commissioner has only been established for a period of 10 months, the report itself covers the period 1 July 2000 to 30 June 2001.

Good health and good health care are basic human rights and impact directly on the quality of life one experiences. These rights are compromised when providers and practitioners abandon the high ethical and clinical standards expected of them by their peers and the community. Consumers today are aware that they have a right to complain about the care and services offered. These expectations are a result of heightened awareness about the delivery of health, community and residential care services.

Experience shows that poor communication is one of the most common reasons for conflict. It is difficult to stimulate anything but counter attack or defensiveness from a position of anger or blame. Nonetheless, I believe it is always preferable for consumers to take their concerns directly to the service provider in the first instance.

Having read and listened to the expectations of many complainants, I believe that complainants generally desire two broad outcomes when they lodge a complaint, either with the service provider or the Complaints Resolution Scheme (the Scheme). These are firstly a validation of their grievance, that is, an acknowledgment by the provider that the complaint has justification and secondly, that having acknowledged the complaint, the provider will either fix the problem or undertake some action to try and ensure it does not re-occur.

It is essential that the consumers are able to place their absolute trust in those providing care and treatment. One way to facilitate this is for providers and practitioners alike to see themselves from the perspective of the resident, their family members and the wider community.

Good organisations want people to complain. Those organisations use the information derived from complaints, and the investigations they trigger, as a quality assurance mechanism to seek out problems and improve services. The message I have consistently taken to service providers is that the time to start practising good communication skills with others is not when they are locked in the throes of a bitter and acrimonious dispute. I have advocated that it is much easier to learn, to find common ground and to resolve any problems that may arise from a position of openness, honesty, mutual respect and authenticity.

There will, however, be occasions when access to an external complaints mechanism is both advisable and necessary. Our task is to ensure when that situation does arise that we have in place an effective and efficient mechanism using Negotiation, Mediation and Determination as appropriate to bring resolution, or at least closure, to a particular grievance.

The first year of operation has been an exciting but demanding one for myself and the staff of my Office. During the year the management and operation of the Scheme has continued to evolve and improve in the light of experience and review.

As a result, greater emphasis is now given to understanding the complainant's particular concern at the point of lodgement to ensure the Scheme is the most appropriate mechanism for addressing the particular grievance. It is not the function of the Scheme to punish but to uphold care standards and to protect the community. The Scheme promotes and respects the rights of all parties to the complaint and focuses on the resolution of the complaint for all parties wherever possible.

The management of complaints is complex and highly intersectoral by its nature. The successful implementation and ongoing effective operation of the Scheme will be dependent on achieving better links with key stakeholders and a continual evaluation and refinement of the protocols and processes adopted by the Scheme. I am pleased with the achievements during the first 10 months of operation.

We are constantly reviewing our practices as a result of feedback from complainants, service providers and other key stakeholders. A key challenge for my Office is to build a culture of acceptance of complaints within the aged care industry. This is important, not only to overcome longstanding feelings of fear and concerns about retaliation and the perception that complaints are viewed as a personal attack on the integrity of aged care staff, but also to build a strong platform and focus for complaints to be used as a quality assurance mechanism.

In these demanding times Complaint Resolution Officers (CROs) have worked diligently and I believe they provide a valuable community service in what can only be described as a stressful environment. I would like to acknowledge the efforts they have made working towards our vision of improving consumer service throughout Australia and to thank them for their contribution and sensitivity in addressing the complex issues raised. The support given to officers of the Scheme by the various State/Territory managers is appreciated. I would like to acknowledge the cooperation afforded to my Office by the Department of Health and Aged Care (the Department) and the Complaints and Compliance Taskforce during this establishment phase and the particular efforts of David Graham, Jane Bailey, Stephen Taylor, Stephen Goggs, Mal Gibson and Anthony Plowright.

In the course of their day-to-day work staff are required to liaise with a wide range of organisations and statutory authorities. I am most appreciative of the cooperation shown to this Office and to officers of the Scheme by those stakeholders. I would also like to acknowledge and thank the panel of Chairpersons and all Committee Members who undertake a difficult task and who assist me so willingly and so ably. I welcome the appointment of three new Committee Members in recent months and look forward to working with them during the coming year.

My thanks also go to the staff in my Office who have provided me with the necessary support in building a relationship between the Office of the Commissioner and the Department in a way which respects the independence of the Commissioner and the expertise of the Department.

Finally, I would like to pay tribute to all complainants and service providers who have worked with the Scheme and my Office in seeking a resolution to their differences.

ROB KNOWLES
Commissioner for Complaints

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1. Mandate and Organisation

1.1 Background

The provision of quality care is one of the most important and emotive issues facing government and the community. Our aged population is growing both in absolute numbers and as a proportion of the population. History shows that as the population profile alters and becomes more diverse our expectations change. The industry that provides support services to the aged must also necessarily change in order to meet the needs and expectations of the community.

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. As part of this package, in 1997-1998, residential aged care was restructured. The previously two separate residential categories, nursing homes and hostels, were combined in the single concept of a 'residential aged care service'. This allows for facilities to offer the full continuum of care and enables older people to 'age in place', removing the necessity for older people to face a disruptive move to another service as their care needs change. People with both low and high care needs can now be accommodated within the one service. This has meant that couples with different levels of dependency can now continue to live together within the one facility. Care recipients and their families are no longer faced with the distressing situation where partners of long standing were required to live in different facilities, often separated by great distances, which made visiting difficult if not impossible.

At 1 July 2000 there were 3,007 residential aged care services, providing 141,237 places, available throughout Australia. The majority of residential care beds (64 per cent) are provided by charitable, not-for-profit, organisations. Private (for profit) organisations provide 24 per cent and the remainder are provided by State Governments. Commonwealth funding is provided for each resident on a needs based model, known as the Residential Classification System (RCS), where the individual care needs of residents are assessed by nursing, personal care and allied health staff. Residents also pay fees, which contribute to the ongoing and capital costs of residential care. In addition to these facilities a total of 18,149 Community Aged Care Packages (CACPs) were provided and a number of Extended Aged Care at Home (EACH) pilots, Multi-Purpose Services (MPSs) and services receiving flexible funding under the Aboriginal and Torres Strait Islander Aged Care Strategy in operate across Australia. The mandate of the 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.

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

The aged care industry is a major employer. It is estimated that over 100,000 people are employed in the residential care area alone. The vast majority of the aged care sector is well managed, provides good quality care and is committed to continuous improvement. Nonetheless, the industry is facing many challenges in order to meet the demand for high quality services.

Accreditation Standards (the Standards) were also introduced in 1997. In addition to a primary focus on care the Standards present an increased concentration on continuous improvement, education and staff development. To be granted accreditation status each facility must demonstrate high quality personal care and meet management, living environment and lifestyle standards.

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

As part of these new arrangements, all aged care services were required to establish an internal system for dealing with comments or complaints from residents and/or their family and friends. In addition, the right to complain about any aspect of care or services is prescribed within the Charter of Resident Rights and Responsibilities. Anyone experiencing difficulties with care and accommodation issues is encouraged to approach the service provider in the first instance and many complaints are resolved at this level. However, for a range of reasons, some people prefer to access a complaints system external to that offered by the service provider. For this reason, 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 Scheme allows anyone to make a complaint about any issue that affects a person who is, or was, eligible to receive Commonwealth funded aged care services. Complaints can be made orally or in writing and can be dealt with on an open, confidential or anonymous basis. A national toll free telephone number is available to ensure people throughout Australia have access to the Scheme.

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

2. Role of the Commissioner

Legislation to establish the statutory role of the Commissioner for Complaints (the Commissioner) was made on 31 August 2000. The Commissioner's role is set out in the Committee Principles 1997 as follows:

10.34A The Functions of the Commissioner for Complaints

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

- to supervise the chairpersons and other members of the Complaints Resolution Committees;
- to coordinate and review complaints received by;
- to oversight the effectiveness of the Scheme;
- to deal with complaints about the operation of the Scheme ;
- to manage the Determination process, including reviews of Determinations;
- to promote an understanding and acceptance of the Scheme;
- to advise the Minister for Aged Care (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 to the Department of Health and Aged Care (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 has been received.

2.1 Establishing the Office

The Office of the Commissioner for Complaints was established in September 2000. The initial 10-month period has been a challenging time. As the first announcement that there was to be a Commissioner for Complaints was made in July 2000, it was essential that the Office of the Commissioner become operational as quickly as possible and to accommodate the Government's desire and public expectations with respect to the availability of an independent Commissioner.

The success in getting organised so speedily was largely due to the cooperation received from officers of the Department, Complaints and Compliance Taskforce and the Accommodation Manager, of the Department's Victorian Office. In order to meet the legislative requirements established for the role of the Commissioner, a broad work plan was developed and agreed between the Office and the Department. This document then became the basis for the development of a detailed three year strategic plan for the Office of the Commissioner.

In establishing the Office consideration has been given to a range of important factors, including the need to:

- establish transparent and unambiguous strategic directions to ensure the high goals of the Office are achieved;
- establish simple, rather than complex processes to meet the needs of complainants and providers while maintaining the Commissioner's standing amongst government, academic, medical, nursing and other policy agencies;
- provide education and information through appropriate public relations mechanisms, within the legislation framework;
- balance public protection and individual resolution;
- encourage feedback as a method of improving service quality;
- balance the inherent conflicts around the Commissioner's responsibilities to maintain and administer the rights of consumers and forming impartial opinions on any breaches of those rights;
- accept that the consumer watchdog role will not always be popular and remain aware of the inherent difficulties in maintaining staff focus and morale in this environment.

Temporary accommodation was found initially at 140 William Street. The Office moved to permanent premises at 123 Lonsdale Street Melbourne on 29 January 2001.

2.2 Demand

As the legislation announcing the appointment of the Commissioner preceded the establishment of the Office, staff had little opportunity to organise the Office on a gradual basis. A number of early complaints originated from people already known to the Scheme who had a particular interest or issue and who saw the Office as another venue to pursue their issue. This aspect of the workload has not diminished and there has been a small but steady influx of enquiries and complaints from people dissatisfied with the operation of the Scheme.

Since September 2000 this Office has received 53 contacts about the operation of the Scheme. Some contacts involved complaints about the operation of the Scheme. However, a number of issues were resolved through the provision of further information. One complainant corresponded with both the Commissioner and the Commonwealth Ombudsman to outline a complaint about the operation of the Scheme. Following consultation with the Office of the Commonwealth Ombudsman, agreement was reached for an in depth investigation of the management of this complaint to be conducted by the Office of the Commissioner. The examination of this complaint is still in progress.

In addition to these matters the Office has regularly interrogated the database (see Part 4.1 below) on a random basis and has scrutinised a number of complaints to establish whether the Scheme has followed due process in the management of those complaints. The Commissioner has also examined a range of matters including the provision of services by general medical practitioners to a particular nursing home in South Australia and has met with the Australian Medical Association to discuss the identified issues. In all instances the investigation of these complaints has been resource intensive.

In many instances the Commissioner was seen primarily as a promoter of the rights of consumers rather than an independent investigator of complaints about the operations of the Scheme, or even alleged breaches to the Act or the industry code of practice. A range of strategies have been adopted to improve interagency understanding and rapport. The Commissioner has met with advocacy services and a range of industry representatives and statutory authorities.

2.3 Achievements

From the time the Office was established the staff have worked hard to reinforce the status of the legislation and the effectiveness of the Office. All strategies have been pursued through effective action plans and over this time a number of achievements have been recorded:

The Office is gradually establishing a public profile and presence with providers and consumers of aged care services. In order to improve knowledge and give a better understanding of both the Scheme and the role of the Commissioner a number of speaking engagements have been undertaken.

A number of small but significant changes have been introduced to improve the effectiveness and operation of the Scheme. These changes include:

- ensuring there is a stronger focus on identifying complaints and compliance issues and referring appropriately;
- providing a letter of acknowledgment to all complainants prior to acceptance of their complaint or otherwise;
- conducting face to face visits with service providers as soon as possible after receipt of a complaint in order to better assess the complaint;
- conducting spot checks in those instances where the issues outlined in the complaint suggests that there may be a serious risk to care recipients;
- establishing protocols to ensure the monitoring and reporting of the implementation of Determinations.

In addition the Department has taken steps to implement recommendations arising from the July 2000 Own Motion Report of the Commonwealth Ombudsman.

These include:

- amending the Complaints Resolution Scheme Procedure Manual;
- providing a 3-day training course for all CROs;
- supporting the involvement of senior managers in reviewing complaints handling in their respective jurisdictions;
- amending the Principles - departmental officers no longer participate on Determination Review Panels;
- enabling the tape recording of Committee Hearings;
- ensuring letters to complainants and service providers from the Scheme advise of the availability of both the Commissioner and the Ombudsman.

A quality assurance strategy has been developed. The strategy includes the:

- preparation of performance indicators for the Scheme;
- development of guidelines for the use of Complaints Resolution Committees;
- preparation of a range of fact sheets providing advice to interested parties;
- critical analysis of previous Determinations and random case studies;

- development of a comprehensive satisfaction survey database and the collation, analysis and reporting of structured satisfaction surveys for both complainants and service providers;
- establishment of protocols between the Commissioner and Department Compliance Section to report the implementation of Determinations;
- development of a project brief and training manual.

Apart from the ongoing contact necessary in the conduct of Hearings and Reviews, the Commissioner has met with Chairpersons on a quarterly basis and has met with Committee Members in each State/Territory in order to discuss matters of policy and practice. An orientation for new Committee Members was provided. Additional resources have been provided to assist Committees in their role, including a manual outlining guidelines for the conduct of Hearings and the writing of Determination Reports. Briefing sessions for Committee Members will be conducted over the coming months.

The distribution of a quarterly newsletter from the Commissioner's office has been instigated. The newsletter is designed to keep all Committee Members informed and up to date with events in aged care and the Scheme.

The Office of the Commissioner has had input into policy and procedural development. Consultation has been sought on the development of a National Service Plan, Complaints Resolution Scheme Procedure Manual, Complaints Kit and a training program for Scheme staff. The Commissioner participated in each of the 3-day educational programs conducted.

Agreement was reached between the Department and the Commissioner that the Department, through its Compliance arm, will monitor the implementation of Determinations made. Agreed protocols have been established to enable the reporting of this monitoring activity to the Commissioner.

As part of a quality assurance program for the Scheme, the Commissioner reached an agreement whereby all completed Satisfaction Surveys from 1 January 2001 would be returned to his Office. Subsequent to that agreement the development of a database to collate and analyse satisfaction surveys from both complainants and service providers was finalised. All surveys received from 1 January 2001 have been analysed and details are recorded in this report.

An objective set of performance indicators have been developed for the Scheme and are currently the subject of a consultation process. It is anticipated that, following agreement, the current database will be modified to enable the routine collation and reporting of these performance indicators.

A project brief, preparatory to the development of website, has been prepared and initial discussions with webmasters will occur in the coming weeks. The website will be an important avenue for the provision of information and as a further means of obtaining feedback. A range of fact sheets, which present consumer friendly information, have been prepared and will be posted on the website once completed.

A culture base around commitment and productivity has been established within the Office and internal procedures have been developed to handle the reception, referral of inquiries, the intake of complaints and computerise record keeping. A toll free number was installed to provide members of the public with easy access to the Office and a discrete GPO Box number has been established.

2.4 Budget

An indicative salary and operational budget of \$997,500 was allocated to support the establishment and operation of the Office of the Commissioner for Complaints. The salary for the Commissioner was set by the Remuneration Tribunal and is included in the budget allocation for salaries and on costs. The allocation for operational costs in this financial year included an amount for one off establishment costs which will not be applicable in future years. The Complaints and Compliance Taskforce currently meets the legal costs and costs incurred through the operation of the Committees. While the Office has a discrete budget allocation, during the 2000-2001 financial year these funds have been authorised and managed by the Complaints and Compliance Taskforce.

3. The Complaints Resolution Scheme

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. As part of a comprehensive quality assurance program an effective internal complaint mechanism has the potential to provide a valuable source of feedback to providers. It also offers both parties the opportunity to address a grievance in such a way that enhances or rebuilds the relationship between the provider, the care recipient and their family that is so necessary in any ongoing association.

The whole philosophy of the Scheme is to provide a framework for resolving grievances within a context of encouraging the rebuilding of a relationship that often has become very strained or in some cases completely broken down. Since its inception the Scheme has received in excess of 5,000 complaints. Approximately 1 per cent of complaints are finalised via a Determination by a Committee, 2-3 per cent through Mediation by an independent Mediator, a similar number are withdrawn, and the balance (approximately 95 per cent) are dealt with by Negotiation and/or referral by the CRO.

There are four separate but inter-related elements within the Complaints Resolution Scheme that underpin the resolution process: Negotiation, Mediation, Determination and review.

- Negotiation (including preliminary assessment) is handled by the CROs;
- Mediation is conducted by qualified mediators;
- Determination is conducted by Committees, which are constituted of independent members with skills in aged care and complaints resolution; and
- Determination Review and oversight of the Scheme is the responsibility of the Commissioner.

3.1 The Objectives of the Complaints Resolution Scheme

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

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

- ensure that, in appropriate cases, issues are referred to other relevant agencies.

The draft National Service Charter identifies that the aim of the Scheme is to provide consumers with a high level of assistance and support when complaints are made and sets out the Scheme's commitment to consumers and to improving work services. The Charter puts forward the following service standards, identifying that the Scheme will:

- acknowledge your complaint in writing within 7 working days;
- give you the name of the CRO in the office who will handle your complaint;
- agree with you on a time frame for the resolution of your complaint;
- treat confidential information with privacy and respect;
- use language that is clear and easy to understand;
- discuss the options available to you, including your preferred solutions;
- inform you about other appropriate avenues for resolving your complaint;
- provide you with regular, accurate updates about the progress of your complaint and information about your rights and entitlements in the process;
- explain the reasons for any decision made;
- ask you within 6 weeks of your complaint being finalised if the actions taken by the CRO were satisfactory and, if necessary, inform you about other appropriate avenues to address any issues you are still concerned about.

3.2 The Role of Complaints Resolution Officers

The role of CROs is to:

- apply the requirements of the legislation;
- work within the requirements of administrative law;
- work within the delegated powers vested in the Secretary;
- receive inquiries which could become complaints;
- explain to the inquirer the roles and responsibilities of the Scheme and the rights of all parties involved in the process if a complaint is made;
- liaise with complainants, service providers, and any other party to a complaint;
- determine the issues which may form the basis of a complaint and decide which issues can be handled by the Scheme and which issues 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, prepare complainants and the other parties for possible Mediation;
- refer, as required, complaints to the Committees for Determination;
- provide, as required, Determination information to the Panels for Review; and
- be accountable for ensuring that decision-making and the progressing of complaints occurs in a timely and efficient manner.

A number of States/Territories have now adopted an approach whereby the Scheme staff visit the facility during the assessment phase, 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 establish the legitimacy of the complaint, or otherwise, at the outset.

Not all complaints are accepted by the Scheme. A complaint may not be accepted if it is considered 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 should not be accepted for another reason.

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.

During the reporting period a total of 4 requests for reconsideration have been lodged. Of these the Commissioner recommended that the decision to not accept the complaint be confirmed in 2 cases. In the other 2 cases the Commissioner recommended that the decision be set aside and that the complaint be accepted by the Scheme.

3.2.1 Staff recruitment and training

To ensure people throughout Australia have access to the Scheme, offices have been established in each State/Territory and some 50 officers are currently employed. A prerequisite to effectiveness is adequate resources and the importance of recruiting, training, supporting and retaining staff cannot be underestimated. The Scheme promotes high standards for public administration, but resources have not always been sufficient to allow for a consistent and comprehensive review of all complaints received. In order to guarantee that capacity exists for an effective program, staffing issues must be addressed. To this end steps have, and are being, taken to ensure that staff are well trained and supported in the roles they undertake.

Individual staff are probably the most important factor in ensuring that the Scheme is responsive to consumers. If consumers feel that the staff member dealing with their complaint is competent, knowledgeable and effective, they are more likely to be satisfied with the complaint handling system overall.

The position requires a variety of character traits, skills, and experience including:

- Problem solving ability.
- Skill in handling tense, stressful, and multi-task situations.
- Strong sense of responsibility and commitment.
- Good communication (including listening) skills and voice clarity.
- Writing skills.
- Knowledge of aged care and relevant processes.

- "People skills" with consumers and co-workers.
- Compassionate, consumer-oriented attitude, tempered with an ability to retain a neutral and unbiased position.
- Computer skills or aptitude.
- Health professional qualifications are desirable and sometimes required.

The Department commissioned a Skills Analysis of the Scheme. The consultants reported in December 2000 and recommended that the Scheme:

- develop and implement a standard, structured induction program;
- establish a national continuous improvement role with state-based equivalents;
- create a set of references (paper and/or electronic);
- develop training in house as much as possible;
- arrange for all staff to meet at least once a year for a national conference;
- conduct regular manager and team leader meetings;
- conduct peer review sessions on a regular basis;
- conduct specific training for senior officers.

The consultants met with a number of staff who clearly articulated the skills necessary to undertake various roles within the Scheme. It is important that management note the conclusions in this report to not only provide the necessary education and support but also to use the findings to develop clear selection criteria for future staff employment within the Scheme.

Following this report, and that of the Commonwealth Ombudsman (July 2000), significant progress has been made in the development of structured national programs. The Complaints Resolution Scheme Procedure Manual has been substantially modified in order to provide greater role clarity and a consistent approach to the management of complaints. All staff from the Scheme participated in a 3-day training program in March 2001 and plans are under way to provide an induction program, database training and other educational/training programs at a national level. Other recommendations have been adopted and readily implemented at the State/Territory level.

Officers in the Scheme operate in a climate of continuous improvement and have indicated their interest in ongoing education. It is anticipated that training in the use of the complaints database will occur in the second half of the 2001 calendar year. The appropriate recording and collection of complaints requires enhanced listening skills with an ability to identify the precise issues of the complaint while at the same time developing a rapport with the complainant and putting them at ease. The enhancement of these skills is vital in the ongoing development of staff. Staff have also requested training including administrative law, advanced Negotiation, Mediation, conflict resolution and risk assessment skills.

3.3 The Role of Mediators

Where Negotiation has been unsuccessful in resolving a complaint the Scheme utilises the services of external, independent qualified mediators. In each State and Territory there is a panel of mediators who may be called on to assess whether

Mediation is an option and if so make a recommendation to proceed to Mediation. Where Mediation is not assessed to be practical or feasible the complaint may proceed directly to a Determination hearing by a Committee.

Mediation is a cooperative, rather than an adversarial process and offers a constructive method for resolving differences between individuals and organizations. 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.

Anecdotal evidence suggests that Mediation between parties often uncovers 'new' issues that have not previously been raised with the Scheme and this can be an issue if Mediation fails to resolve the conflict and the matters are referred to a Committee for Determination. The database currently records those cases/issues that have been referred for Mediation and are finalised at that point. What is not known is what percentage of mediated agreements remain in place in either the short or longer term. It is clear that there are a percentage of mediated agreements which do break down and consumers express a level of discontent when they are informed that these agreements are between the parties, outside the departmental jurisdiction and are therefore not enforceable under the Act.

3.4 The Role of Complaints Resolution Committees

A Complaints Resolution Committee (the Committee) is an independent committee that has the power to make Determinations about complaints that cannot be resolved through Negotiation or Mediation. A Committee comprises a State Chairperson and two other members drawn from a panel of potential Committee Members.

A Committee is independent of the Department and is not directed by the Department in carrying out its functions. Committees have a wide range of functions as set out in the Principles. One of their main functions, however, is to conduct hearings on complaints that have been referred for Determination. A Committee must finalise a complaint by making a Determination. The Determination may set out a course of action that an Approved Provider must follow to address the issues raised in the complaint and to ensure compliance with their responsibilities under the Act and Principles. Approved Providers have a responsibility under the Act to comply with Determinations and follow-up occurs approximately 6 weeks after the date of the Determination.

3.5 The Role of Determination Review Panels

If a party wishes to seek review of a Determination, the Commissioner must receive an Application for Review of a Determination within 7 days after the day the person or organisation is provided with a copy of the Determination. The application must state the reason why the review is being sought, other than mere dissatisfaction with the outcome of the Determination, and must be supported by additional information.

Determination Review Panels (the Panel) 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 fresh Determination.

4. Quality Assurance

4.1 Database

Technology utilisation is critical in complaint handling systems. A comprehensive database has been developed for the Scheme. A wide range of statistical reports, complaint and trend information can be generated from the database. This means that the database is a useful adjunct in the consideration of all quality assurance issues and that in the medium to longer term, the Scheme is in a better position to align services to meet consumer expectations.

Notwithstanding this, there are a number of gaps and limitations in reporting the available data and care needs to be exercised when interpreting the statistics provided. The Department is currently undertaking a major review of the data capture and reporting capabilities for the Scheme and is trying to address the needs of a diverse range of stakeholders. It is anticipated that identified problems will be addressed within the foreseeable future.

4.2 Performance Indicators

Monitoring what is taking place and measuring results is the only reliable way of differentiating success from failure. Performance indicators are an extremely useful management and quality assurance tool and are designed to measure the quality of services or processes provided and to highlight those areas requiring further development. The development of performance indicators is an evolutionary process and it is recognised that, over time, measures will change as goals are met and improvements are made.

The Office of the Commissioner is currently consulting on an initial set of 16 objective performance measures that have been developed for the Scheme. It is envisaged that once agreement is reached the database will be modified to allow the routine and regular reporting of indicators from 1 January 2002.

4.3 Satisfaction Surveys

Satisfaction Surveys can point the way to understanding the root causes of consumer problems and help an organisation target core processes that need improvement. Satisfaction survey forms have been developed by the Scheme to elicit relevant information from both complainants and service providers. Survey forms have been collected since the commencement of the Scheme in October 1997. Satisfaction Surveys are forwarded to complainants and service providers when a complaint is finalised through Negotiation, Mediation or Determination and is accompanied by a pre-paid envelope.

From 1 January 2001, as part of the quality assurance program established for the Scheme, all completed forms are returned directly to the Office of the Commissioner for Complaints. A database has been developed to enable the collation, analysis and reporting of the data. It is proposed that, in the foreseeable future, the structure of the satisfaction survey forms will be modified and the database redeveloped. However, it will be necessary to consult with the users of the Scheme before this can occur.

This report covers those Satisfaction Surveys received from the period 1 January 2001 to 30 June 2001. The objective of this report is to capture data relating to the perceptions of complainants and service providers regarding the service delivery of the Scheme. It is also intended to use this analysis, along with other input, as a platform for the development of an instrument to further measure factors fundamental to effective service delivery.

Between 1 January 2001 and 30 June 2001 a total of 161 Satisfaction Surveys were received from complainants and a further 189 forms were received from service providers. Of the 161 complainants, 92 per cent expressed some level of satisfaction compared to 95 per cent of the 189 service providers. This means that 93.5 per cent of participants in the Scheme who have returned satisfaction surveys have expressed a level of satisfaction with the Scheme.

A number of complainants and service providers gave unsolicited written comments relating to the professional, courteous and helpful service provided by individual CROs. These expressions of support for the service provided by the Scheme are significant both as a measure of satisfaction and endorsement of practice, as well as being valuable recognition and feedback for the individual.

5. Complaints Resolution Committee

5.1 Legislative framework and Committee Selection

Committees are established under the Act to review complaints received by the Scheme. The Committees have the power to make Determinations about complaints that cannot be resolved through Negotiation and/or Mediation.

The Principles provide for the Secretary to appoint persons to each of two panels, one for potential Committee Chairpersons and another for potential Committee Members.

A national selection process was undertaken in 1998 to select Chairpersons and Committee Members. All applicants were assessed against the eligibility criteria specified in the Principles and additional administrative selection criteria. The current term of appointment of Chairpersons and Committee Members is until March 2002 and August 2002 respectively.

At the time individual complaints are referred by the Secretary for Determination, separately constituted Committees are convened by the Commissioner to hear them.

Committees comprise a Chairperson and two Committee Members. 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 person may complain about any matter that may be a breach by an Approved Provider of its responsibilities under the Act or the Principles, and which the complainant thinks is unfair or makes the affected care recipient dissatisfied with the service.

Following a hearing the Committee provides a written Determination. In most instances where the Committee finds that a service provider has breached a statutory responsibility, the Determination sets out a course of action for the service provider to follow to address the issue.

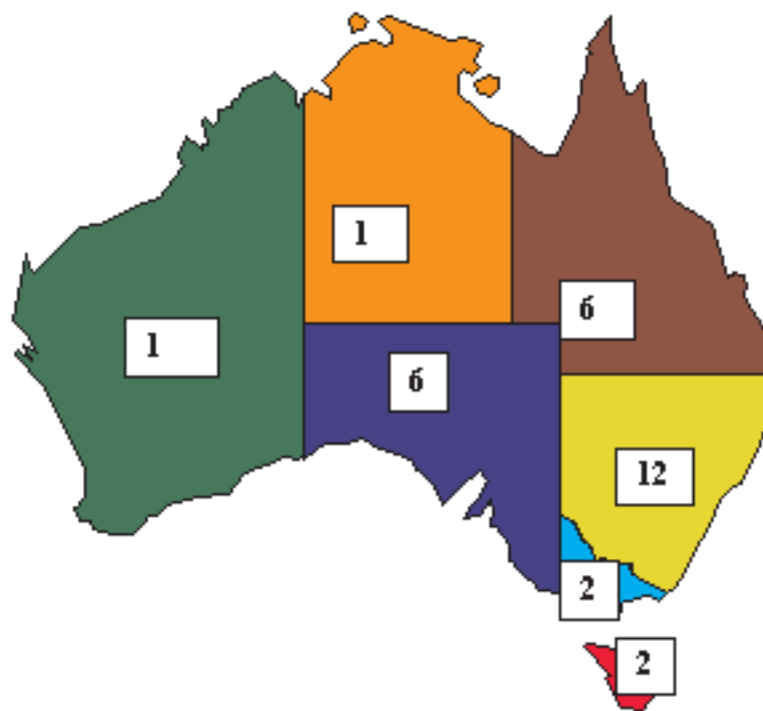
The Commissioner initially met with Chairpersons on an informal basis soon after the Office was established. The first formal meeting with State/Territory Chairs was conducted over two days on 27 and 28 November 2000. The second meeting occurred on 2 May 2001. The Commissioner sought approval for the appointment of additional Committee Members in New South Wales and Western Australia and a schedule of meetings with Committee Members in each State/Territory has been established.

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

5.2 Chairpersons Reports

Committees heard a total of 30 cases during the 2000-2001 financial year. The majority of these cases were convened in New South Wales. All but one case related to care and services provided in residential care facilities, with the remaining case relating to the provision of services through a CACP. The cases heard included level of care, consumer rights, environmental and administration issues.

Fig: 1 Complaints Resolution Committee Hearings



New South Wales and the Australian Capital Territory

There were 12 Hearings conducted in relation to complaints received by the Scheme. Of these, 2 were conducted in rural regions and the remaining 10 took place in the metropolitan area. None of the cases related to services located in the Australian Capital Territory. All but one case related to aged residential care services. Seven cases involved services within the private sector and 5 were from the voluntary/charitable sector. The matters before the Committees predominantly related to care, administration and communication issues. A total of 67 issues were heard. The number of issues in each case ranged from 2 issues in one case to 13 in another. The average time between referral from the Scheme to the Committee Hearing was 4 weeks. This 4-week period allows 2 weeks for parties to prepare a written submission, in some cases with the assistance of the Advocacy Service, and 1 week 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 is 30 days.

Three cases in New South Wales related to the care provided to younger disabled and brain injured people accommodated in aged residential facilities. In all 3 cases these care recipients were not in receipt of large compensation pay outs and were reliant on the aged care system for their care.

Victoria

Two hearings were conducted in Victoria. Both Hearings were conducted in the metropolitan area and both were from the voluntary/charitable sector. The matters before the Committees included care, communication and fees. One Hearing was held over several months and resulted in the finalisation of all complaints. The second case was heard on 5 December 2000 and the Determination report was finalised on 18 December 2000.

Queensland

A total of 6 cases were heard in Queensland, 5 of which were finalised during the period. A total of 17 issues were put before the Committees. All cases except one dealt with issues related to care and communication. The remaining case related to a resident's right to use a motorised wheelchair. Five cases were heard in Brisbane and 1 case took place in rural Queensland. All cases related to facilities in the private sector. The average time between the date of referral to the Committee and the Hearing was approximately 6 weeks and the average time between the Hearing date and finalisation of the Determination was 5 weeks.

The emerging trends in Queensland appear to encompass complex and emotive issues related to the care residents are receiving and the ensuing breakdown in communication between service providers and the residents/residents' families. From a procedural aspect it appears that approved providers are appearing before the Committees represented by their administration only and not calling staff to give evidence but relying on the residents' progress notes to support their case.

During the year the Chairperson was represented by a Committee Member who participated at the annual Aged Care Queensland conference.

Western Australia

The 1 case heard in Western Australia concerned the restricted access of a visitor to a nursing home. The visitor in this case was not related to any resident accommodated at the facility. The case was heard in the metropolitan area and involved a voluntary/charitable sector provider. The time between referral to the Committee and the hearing was 2 months. The case was heard on 21 June 2001 and the matter was finalised the same day. Parties to the complaint were provided with the Determination Report on 6 July 2001.

South Australia and Northern Territory

Seven cases were referred to Committees in South Australia and Northern Territory. Six of the 7 cases related to services in South Australia and 27 issues were heard overall. The matters heard related to care, security of tenure, infringement of rights, fees and administration issues. One case was conducted in Alice Springs and the remainder were heard in Adelaide. Three providers were from the private

sector and 4 were from the voluntary/charitable sector. The average time between referral to the Committee and the Hearing was 50 days. The average time taken between the Hearing and the finalisation of the Determination report was 10 days.

It has been noted that in most of the complaints heard in these jurisdictions, the supporting submissions forwarded by both complainants and approved providers have been very limited (in 2 cases no submissions were forwarded) and all parties were not well prepared for the Determination Hearing. With one exception, care documentation maintained by the approved provider and examined during the Hearing was overly complex and this made documentation a poor source of evidence. Generally speaking, complaints relating to care issues were not well substantiated but complaints regarding management processes and communication were found to be legitimate.

Tasmania

Two cases were referred to Committees in Tasmania. One case was conducted in a regional city, the other in a regional town. A total of 11 matters were heard and related to care, administration and safety issues. One facility is private and the other in the voluntary/ charitable sector.

The average time between referral to the Committee and the Hearing was approximately 3 weeks and the average time between Hearings and the finalisation of the Determination report approximately 30 days. These averages apply because one report was compiled over the Christmas/ New Year period. During the financial year the Chairperson accepted 6 speaking engagements.

6. Determination Reviews

Should an approved provider, the complainant or the affected care recipient be dissatisfied with a Determination, they can make application in writing to the Commissioner for a review of the Determination by a Panel.

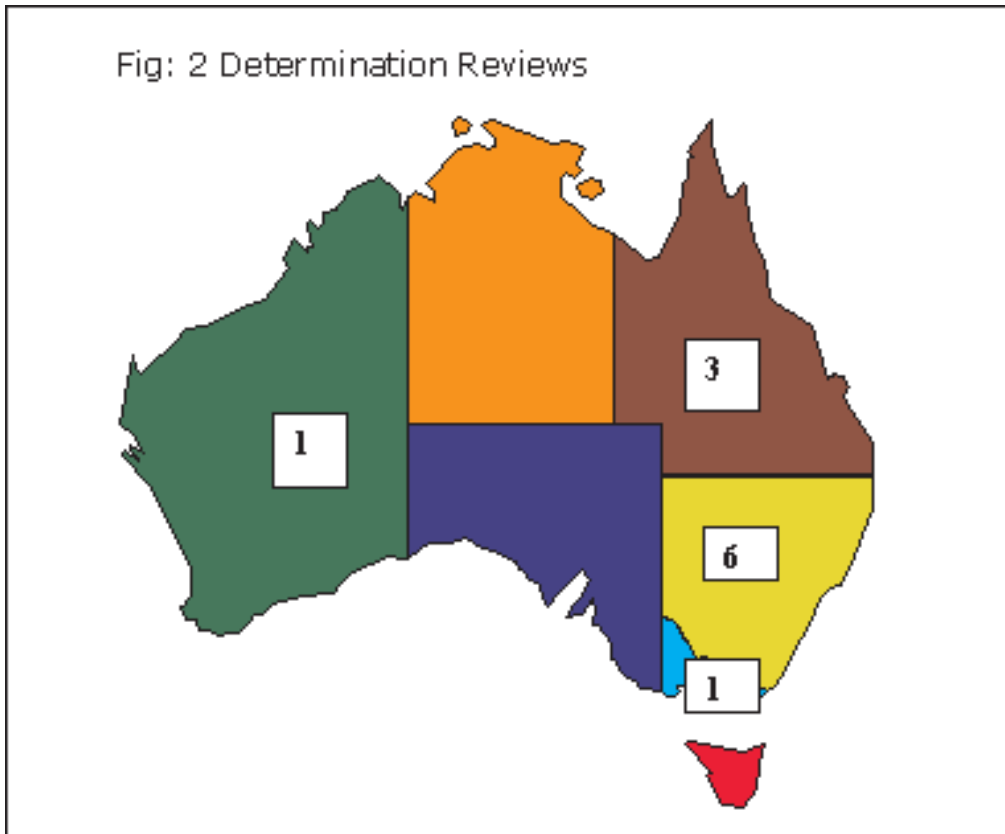
The Panels are constituted as the need arises and usually comprise the Commissioner and one Chairperson from the Panel of Chairpersons. Panels are constituted differently for each Review. The composition of the Panel takes into account workload issues and a need to ensure that there is no conflict of interest and that Panel members have not previously been involved in the case.

The Panel 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. The Panel is appointed under the Principles and may confirm the Determination, vary the Determination, or set the Determination aside.

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 a hearing, although if it 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. The Review Notice also specifies the date on which it comes into effect.

A total of 11 reviews have been conducted.

Fig: 2 Determination Reviews



In 4 cases an Application for Review was received from both the complainant and service provider, in 6 cases the application was made by the complainant and in 1 case by the service provider.

During this financial year 3 Determinations were confirmed in New South Wales by the Review Panel, 2 were varied and 1 was set aside. The Determination in the case originating in Victoria was confirmed. The Committee's Determination in the matter heard in Western Australia was varied and of the cases originating in Queensland 2 Determinations were confirmed and 1 was varied.

The average time between receipt of the Application for Review and conduct of the Review was 35 days. This allows for the exchange of information between the parties and the preparation of submissions. The average time between the Review and the provision of the Review Notice to all parties was 21 days.

7. Trends and Issues

7.1 The nature of complaints

All complaints are serious to the individual concerned and all are handled with diligence. For management purposes, however, complaints or each issue identified within a complaint are initially assessed as urgent, complex or minor. The classification of the complaint can be changed in the event that there is a change in the circumstances. Examples of things that require urgent attention are allegations of assault, harassment, a threat to security of tenure, care and safety issues that pose a threat to the well being of the residents. A complex complaint involves exploring a number of issues or one very complicated single issue or where the issues require detailed negotiations with a number of parties. A complaint is classified as minor if it is a single issue without complexity. In recent times the trend has been for the Scheme to receive more complaints of a complex nature, that is, complaints with multiple issues, most of which are of a serious character, and a significantly reduced number of complaints that could be described as minor.

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 CRO knows the name and contact details of the complainant and care recipient, but the complainant has requested that these details are not passed on to the service provider or any other party. Confidential complaints cannot go beyond the Negotiation phase. A complainant may also make an anonymous complaint. In these circumstances the identity of the complainant is unknown and the issue may only be approached on broad systemic level. Anecdotal evidence is that some service providers believe that the Scheme should not accept anonymous complaints and feel that some complaints are vexatious and lodged by disgruntled staff or past employees. There is a need, however, to allow people (staff, residents, relative and or visitors) who may fear retribution to lodge a complaint. Each complaint received needs to be assessed on an individual basis and the current practise of introducing face to face visits as part of the assessment phase should assist in alleviating the concerns of service providers.

7.2 Security of tenure

'Ageing in place' was instituted by the Commonwealth to allow aged care residents to receive increasingly high levels of care within the one facility. Consumers use the term to refer to freedom of choice in terms of living arrangements. For older people it means that they are able to stay in a familiar environment, close to friends, and with access to age appropriate activities.

'Ageing in place' has also meant that couples with different levels of need can now be accommodated within the one facility. It should also mean that older people no longer have to fear transfer and dislocation at a time when they are feeling frail and vulnerable.

However, some complainants have advised that, notwithstanding a facility's agreement to adopt the 'ageing in place' concept, there are occasions where the

facility seeks to relocate residents when general care needs increase or behaviour becomes more difficult to manage. Complainants have reported that an admission to hospital has been suggested, or in fact taken place, without a valid reason. That is, there has been no acute illness or dramatic change in health status to warrant hospital admission. Complainants have advised that the facility has then stated that the care recipient will not be accepted back to the facility on the pretext that they can no longer meet the care needs and in some instances another resident has been admitted to the facility. This problem appears to arise in situations where the resident has high care needs, often at RCS level 1/2 or where the resident has dementia and associated intractable behavioural problems. In a number of instances it would appear that the facility has not initiated or investigated other treatment options and/or support measures, nor have attempts been made to assist the family to find alternative accommodation, but the provider has taken the easier option of transfer to hospital. While this might not be a new issue within the aged care industry it is much less defensible in the current environment.

7.3 Entry to residential care

Most families are actively involved in the decision making process to seek residential care and in the selection of the facility. Others have these decisions foisted on them by unexpected circumstances, such as a sudden deterioration in health either of the care recipient or themselves as carers. The choice is always a difficult one and complainants frequently state that, when seeking accommodation, thinking about an internal complaint mechanism is not at the forefront of their considerations.

Complainants present various scenarios that cause concern. The first is that despite the availability of information on websites, through brochures etc, they have little knowledge of the roles of Aged Care Assessment Teams (ACAT) and the requirement that the eligibility for residential care must first be assessed by an ACAT. While information is generally available as to the accreditation status of the facility, information relating to the location, design, resident mix and staffing structures of facilities is not easily obtained. Some relatives have been critical that there is no readily available assistance (case management) in placing their relatives. This is particularly difficult for those families who work full time as a matter of necessity. Another scenario is that the assessment takes place in a hospital setting without their knowledge or input or that their relative has been assessed very early in the recovery process and has not been afforded the opportunity for rehabilitation. Others have complained that the decision making process has been complicated by an overload of information, and they are required to understand financial implications and the rights and responsibilities of all parties at a time when they are feeling pressured either to find suitable accommodation or to accept an offer.

7.4 Younger people with disabilities

The Commonwealth Disability Discrimination Act 1992 and comparable State/Territory legislation recognises that people with disabilities have the right to equality before the law. Within the framework of the Commonwealth/State Disability Agreement, State Governments took responsibility for community based

accommodation and support for people with disabilities, while the Commonwealth Government took responsibility for funding of aged care facilities.

Currently 4 per cent of aged care nursing home residents in Australia are younger people with a disability (generally defined in the literature as people aged less than 60 years). This group includes people with a long term physical disability or a more recent severe physical and/or brain injury.

Widespread consumer perceptions are that nursing homes do not provide age appropriate activities for younger people with disabilities who tend to be isolated by age from other residents. It is considered that aged care facilities provide few opportunities for interaction with same age peers and offer limited choices in regard to daily living. Some people contend that aged care facilities do not encourage people to take control of their own lives and are limited in their capacity to provide a home-like environment. Others contend that aged care facilities do not welcome the involvement of family members in the provision of care. Many people argue that the staff employed tend not to be trained to work with people with disabilities and are dominated by the culture of an aged care milieu that contrasts with the rehabilitation culture of the disability field or sub acute environment.

Today, younger people with a disability and their families are perhaps more aware of their rights and are prepared to argue for those rights. There has been an increase in the number of complaints involving younger disabled residents in nursing homes whose placement in these facilities has become necessary owing to the absence of more suitable accommodation. In reviewing a number of these cases it is apparent that the lack of more appropriate service models is the source of much grievance and this may be an issue that the Commonwealth would wish to pursue with the States and Territories.

7.5 Advocacy Services

In any service delivery system, human mistakes, lapses in service standards or differing expectations of what constitutes good care, will inevitably occur from time to time. An effective internal mechanism to address the consequential grievance experienced by the care recipient and/or their family, friend or advocate is vitally important if the ongoing relationship between the provider and the care recipient and their family is to be a healthy and respectful one.

Conventional wisdom is that self-advocacy by consumers is perhaps the most desirable solution to many problems consumers face, but it is important to acknowledge that frail elderly people and their families may not be able to advocate for themselves when confronted with systems that are complex or fear retribution.

Of course, even the best internal complaint resolution process will not be able to address all grievances and therefore access to a cost free and impartial Complaints Resolution Scheme has been an important component of the Aged Care Reform Program. Along side this program the Commonwealth also funds Advocacy Services in each State/Territory. (Advocacy Services are deemed an effective

means for frail residents and families to be provided with support to advocate on behalf of the resident to the service provider.)

While the Scheme does not directly refer consumers to Advocacy Services, staff do advise consumers of the availability of these services and actively encourage contact, particularly in those cases where complainants present as frail, vulnerable, without resources and other support mechanisms. It appears that as the result of this encouragement more complainants are seeking the support of advocacy services.

7.6 Restricted access

There has been an increase in the number of complaints related to restricted access. Where these complaints have progressed to Determination the Committee must consider the rights of the resident while taking into account the interests of other possibly affected care recipients, the proprietary rights of providers and the occupational health and safety issues that may confront the approved provider. The Scheme is unable to accept complaints where the approved Provider has initiated legal action and taken an 'apprehended violence order' against a particular visitor to the home.

7.7 Complaints Resolution Scheme referral

In addition to dealing with complaints the Scheme has the capacity to refer issues to other bodies with the capacity to more appropriately deal with the matter. Where systemic issues are identified within a facility these may be referred to the Agency. Other matters may be referred internally within the Department, for example to Compliance or to the sections that deal with fees or fraud. External referral can be to a range of statutory authorities: for example, issues involving criminal matters are referred to the police; suspicious death to the coroner; and where professional misconduct is alleged issues are referred to the appropriate registration body and or the Health Services Commissioners/ Health Rights Commission.

As the result of these referrals there are two issues facing the Scheme. The first is the capacity of the Scheme to actually finalise the complaint or issue upon referral to another organisation and secondly, the willingness or otherwise of these external agencies to provide the Scheme with feedback as to the actions taken and the outcome of those actions. Memoranda of Understanding between the Scheme and these external organisations have been developed and implemented with varying degrees of success.

7.8 Complaints Resolution Scheme processes

Issues such as timeliness and perceived bias continue to be raised by people who interact with the Scheme. The increasing complexity of complaints continues to impact on workloads and while more emphasis is currently being placed at the front end of the process, that is assessment, it is difficult to demonstrate either the benefits derived or the level of staff time involved. Since its inception, the management and operation of the Scheme has continued to evolve and improve in the light of experience and review. It is likely that the outcome of the recently

introduced practices that focus on improving the assessment of each complaint will see an increase in the number of complaints not accepted by the Scheme. This in turn will give rise to a growth in the number of appeals lodged. There has also been an increase in the number of cases referred to Committees. This is thought to be due in part to the increased complexity of the issues raised but also because the Scheme has no capacity to enforce agreements between parties that are made at either the assessment phase or through Mediation.

Concluding Remarks

The Complaints Resolution Scheme was established in October 1997 and since that time has provided a valuable community service. The effectiveness of the Scheme has improved over time and continues to be modified in the light of knowledge and experience.

The information available to me through consultation with key stakeholders does not indicate a level of unmet demand or access issues and the reported overall level of satisfaction of both complainants and service providers is gratifying. However, I am very much aware that there are issues that need to be addressed if the efficiency and effectiveness of the Scheme is to be improved further.

In overseeing the effectiveness of the Scheme I have drawn attention to procedures that are unacceptable and areas where improvement is required and have called for greater direction to, and support of, officers in the handling of complaints. However, I have also found practices that are exemplary and a genuine commitment and willingness on the part of staff to embrace any change that will lead to an overall improvement in the Scheme.

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
Mrs Averil Fink AM MBE
Ms Margaret Lothian
Professor Charles Mulvey
Professor Alan Pearson
Mr Roger Valentine OAM

Panel of Committee members

Ms Vivienne Anderson	Professor Derek Anderson	Ms Mandy Beylacq
Ms Wendy Brown	Mr Ian Campbell	Mr Antony Carpentieri
Mr Dennis Chugg	Mr Jim Colville	Ms Sharon Davies
Ms Margaret Halsmith	Ms Marie Heaton	Ms Katherine Henderson
Ms Marjorie James OAM	Mr John Jameson	Dr Malcolm Lovegrove
Mr Allen Martin	Ms Alma Martin	Ms Diana Noack
Ms Pauline Pallister	Ms Judith Paxton	Mr Quentin Proctor
Mr Phillip Pusey	Ms Linda Savage-Davis	Ms Beverley Stehn
Ms Marie Steiner	Ms Helen Storer	Mr Chris Townsend
Mr Ian Watkins	Ms Judith Whyte	Ms Jacqueline Woodhead
Ms Julie Wilksch		

Appendix 1: Satisfaction Survey Statistics for the period 1 July 2000 to 30 June 2001

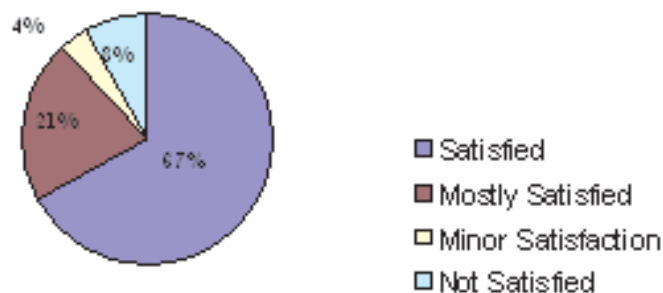
This report considers each set of data independently and then compares results between the two data sets. It should be noted, however, that the percentages provided in this report are based on the number of complainants/service providers who responded to each question, not the overall number of Satisfaction Surveys that were received during the reporting period.

The Satisfaction Survey forwarded to complainants comprises 8 questions and that to service providers 9 questions. Respondents are asked to either provide a yes/no answer, or rate their response according to an accompanying scale. Questions 2, 7 and 8 of the complainant Satisfaction Survey invite further written comment as does Questions 7,8 and 9 of the service providers' form and a range of categories and key words have been established in order to record and analyse these responses. The forms also allow room for respondents to provide the facility name and complainant details, however, the essential facts are those that convey information as to the State/Territory and the date of completion of the survey.

1. Satisfaction Survey: Complainant Responses

1. Overall Satisfaction	Satisfied67%	Mostly satisfied21%	Minor satisfaction4%	Not satisfied8%
2. Assisted to make a complaint	Yes86%	No6%	To some extent8%	
3. Scheme helpful	Very Helpful77%	Helpful20%	Not Helpful3%	
4. Kept informed	Always68%	Mostly20%	Sometimes7%	Never5%
5. Wishes respected	Always73%	Mostly18%	Some8%	Never1%
6. Informed regarding rights	Yes83%	No5%	To some extent12%	
7. Complaint resolved	Yes73%	No27%		
8. Suggestions	Yes49%	No51%		

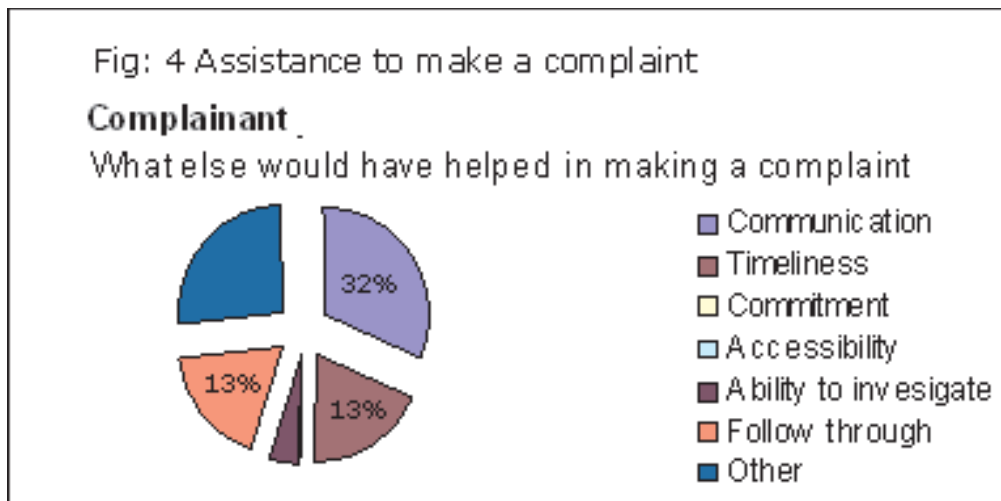
Fig: 3 Complainant overall satisfaction rate
Complainant Overall Satisfaction Rate



The data show that 88 per cent of complainants who returned surveys and responded to this question were mostly satisfied or satisfied with the service provided by the Scheme.

A total of 86 per cent of complainants indicated they were assisted to make a complaint, a further 8 per cent reported they were assisted to some extent. Seventy-seven per cent of complainants found the Scheme very helpful, 20 per cent helpful and 3 per cent reported that they did not find the Scheme to be helpful.

When commenting on the assistance provided complainants were invited to comment on "What else would have helped?" those who responded indicated that communication, timeliness and follow through were important considerations for complainants when making their complaint.

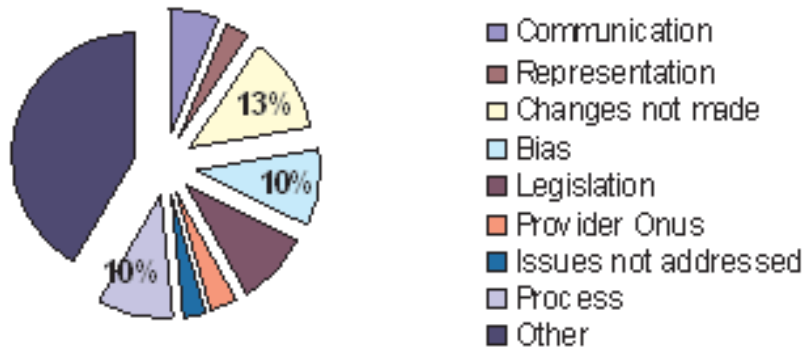


Questions 4, 5 and 6 address the Scheme's ability to keep the complainant informed, respect their wishes and provide information about their rights and options. Sixty-eight per cent, 73 per cent and 83 per cent of complainant responses respectively related this was always done or confirmed this was done. The data indicate that 88 per cent, 91 per cent and 95 per cent of complainants respectively advised that consumer service factors were mostly delivered. The majority (73 per cent) of complainants indicated they felt their complaint was resolved. Those complainants who responded negatively were asked for comment.

Fig: 5 Complainant reasons for unresolved complaints

Complainant

Reasons complaint not resolved



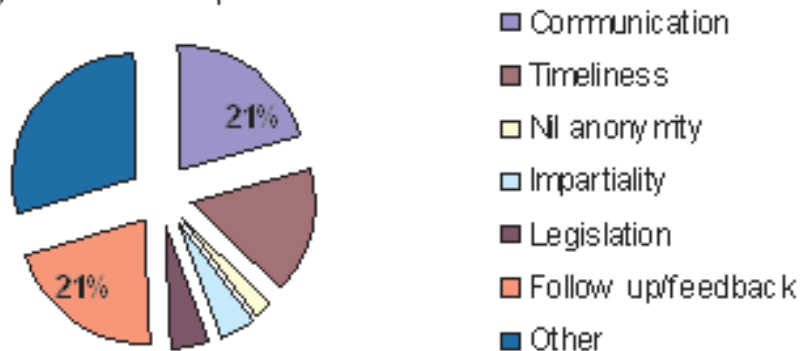
The categories used in the compilation of data indicate that primarily complainants consider resolution had not been achieved because changes were not made by service providers (13 per cent), perceptions of bias (10 per cent). A further 13 per cent of those who responded considered that the legislation hindered resolution and 10 per cent thought there were problems with the process.

The category 'Other' has captured the largest number of responses (42 per cent) and indicates that further examination of raw data is required to draw out these responses. Forty-nine per cent of complainants offered suggestions for improvement in the management of complaints and the responses provided correlate with those given when asked what else would have helped in making your complaint.

Fig: 6 Complainants suggestions for improvement

Complainant

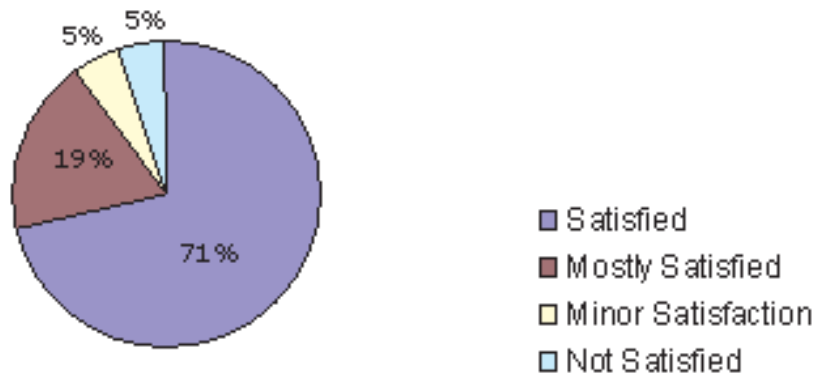
Suggestions for improvement



2. Satisfaction Survey: Service Provider Responses

1. Overall Satisfaction	Satisfied71%	Mostly satisfied19%	Minor satisfaction5%	Not satisfied5%
2. Kept Informed	Always57%	Mostly30%	To some extent8%	Never5%
3. Needs Respected	Always60%	Mostly30%	To some extent5%	Never5%
4. Scheme Helpful	Very helpful62%	Helpful35%	Sometimes3%	Not helpful
5. Information regarding rights	Yes80%	No7%	To some extent13%	
6. Opportunity to contribute	Yes88%	No2%	To some extent10%	
7. Complaint resolved	Yes80%	No20%		
8. Improve business	Yes68%	No32%		
9. Suggestions	Yes41%	No59%		

Fig: 7 Service provider overall level of satisfaction
Service Provider Overall Satisfaction Rate

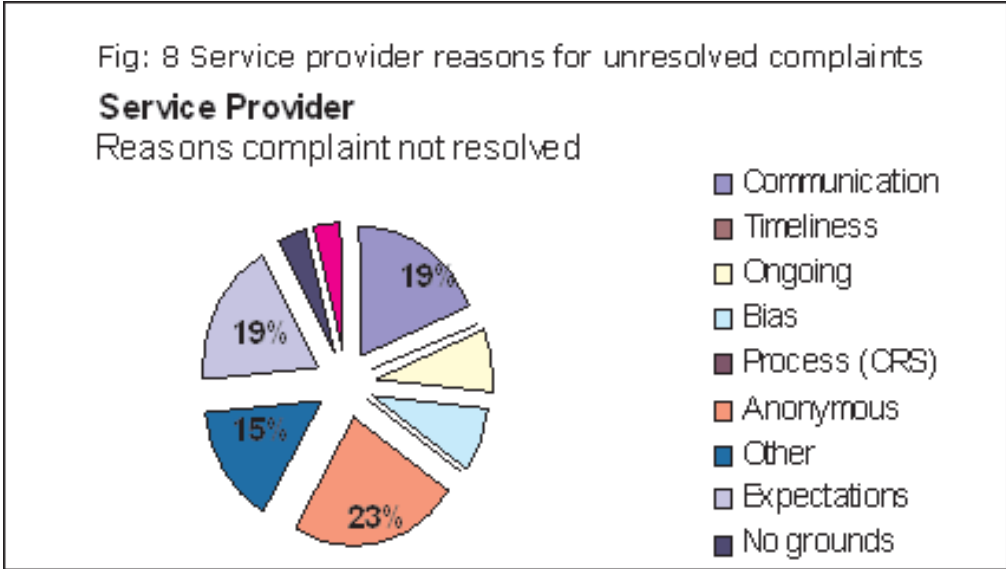


Seventy-one per cent of service providers who responded to the Satisfaction Surveys and answered the question indicated they were satisfied overall with the Scheme and a further 19 per cent reported that they were mostly satisfied. Together these figures indicate that 90 per cent of service providers were satisfied with the service provided by the Scheme.

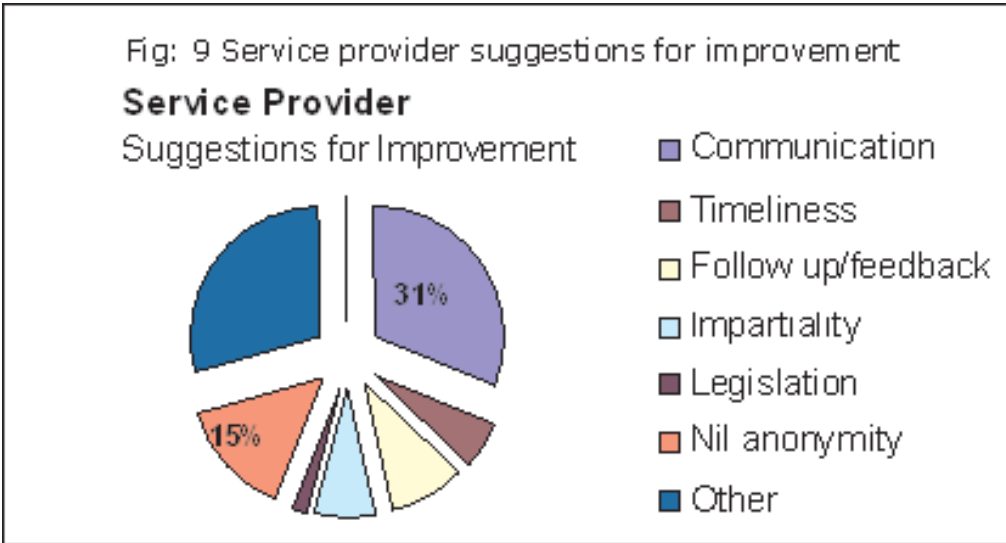
Some 62 per cent of service providers found the Scheme very helpful and 35 per cent advised that they found the Scheme helpful. That is, a total of 95 per cent of service providers responding to the survey between 1 January and 30 June 2001 indicated that they found the Scheme helpful or very helpful.

Similar to the complainant Satisfaction Survey questions 2, 3 and 5 asked service providers if the Scheme kept them informed, respected their needs and provided information about their rights and options. Fifty-seven per cent, 60 per cent and 80 per cent respectively indicated that this was always done or confirmed this was done. Together the responses where service providers related this was mostly done, or to some extent done, indicate that 87 per cent, 90 per cent and 93 per cent of service providers respectively reported that these consumer service factors were mostly delivered.

Eighty-eight per cent of service providers indicated they had the opportunity to contribute to the resolution of the complaint and 80 per cent of those responding indicated they felt that complaints were resolved. Those service providers who responded in the negative were asked for comment.



Of the categories analysed, the data indicate that service providers considered that a lack of resolution involved communication (19 per cent), consumer expectation (19 per cent) and a perception of bias (8 per cent). Four per cent of respondents considered there were no grounds for the complaint while 8 per cent believed the complaint was ongoing. Twenty-three per cent of respondents considered that anonymous complaints were not resolved. Forty-one per cent of service providers offered suggestions for improvements. Predominately these suggestions related to communication (31 per cent), follow up (9 per cent), impartiality (7 per cent), and anonymity issues (15 per cent). The category "Other" has again captured a large number of responses (30 per cent), indicating that further examination of raw data would be needed to comment on the responses obtained in this category.



Sixty-eight per cent of service providers indicated a business improvement as an outcome of the complaint. This figure is not only encouraging but is also an endorsement of the overall effectiveness of the Scheme. It is also a sign that a significant proportion of service providers understand and believe that complaints present a valuable opportunity to enhance the care and services provided to care recipients within the context of an ongoing quality improvement process.

3. Opportunities for improvement

The data provided are most encouraging, however there is room for improvement. Both groups responding to the surveys have offered comments and suggestions as to how the Scheme might better assist parties in conflict and the possible nature of future improvements.

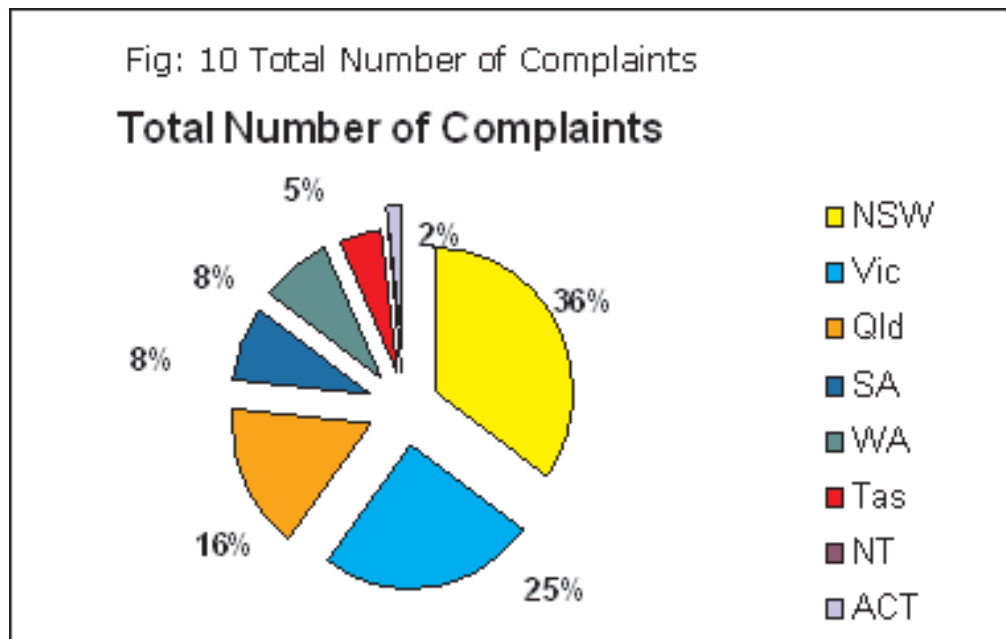
The survey results also suggest that, in order to determine the gap between expectations and service delivery, a closer examination of the findings relating to a perceived lack of resolution of complaints is warranted.

As indicated earlier it is intended that the structure of satisfaction surveys will be further developed in the future. This is to allow for a more meaningful collection of data from respondents and greater examination of the factors reported here.

Appendix 2: Complaints Resolution Scheme: Statistics for the period 1 July 2000 to 30 June 2001

1. Complaints

Throughout Australia the CRS recorded a total of 1,729 complaints during the reporting period 1 July 2000 to 30 June 2001. Figure 10 below shows that New South Wales recorded the highest number of complaints 604 (36 per cent) of the total received across Australia, followed by Victoria 435 complaints (25 per cent), Queensland 284 (16 per cent), South Australia and Western Australia recorded 144 (8 per cent) and 144 (8 per cent) respectively, Tasmania recorded 88 complaints (5 per cent), 27 complaints (2 per cent) were registered in the Australian Capital Territory, and only 1 complaint was recorded in the Northern Territory.



The majority of these complaints (98 per cent) related to aged residential care services, however, 42 complaints (2 per cent) related to CACPs and 5 complaints were about flexible services.

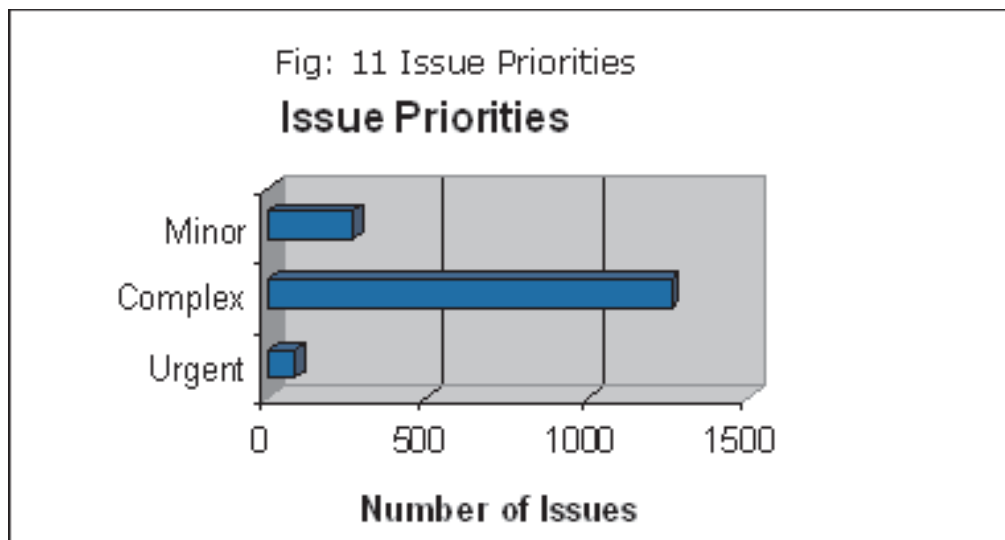
During the period under review, a total of 539 site visits were undertaken by officers as part of the preliminary assessment and ongoing conduct of the various complaints lodged by the Scheme.

1.1 Complaint Type

During the reporting period 78 per cent of the issues were assessed as complex, 17 per cent were minor and 5 per cent were urgent. Figure 11 shows the breakdown of these categories.

1.2 Complainant Type

Of the 1,729 complaints recorded with the Scheme 1,109 (65 per cent) were registered as open complaints, 474 (27 per cent) were confidential and 146 (8 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 being dealt with as an open complaint.

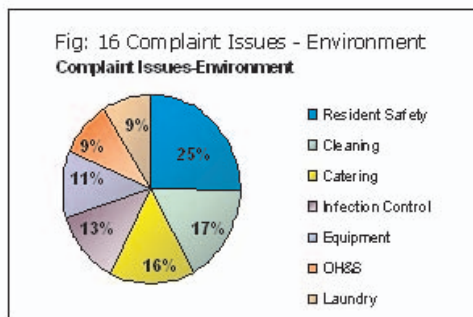
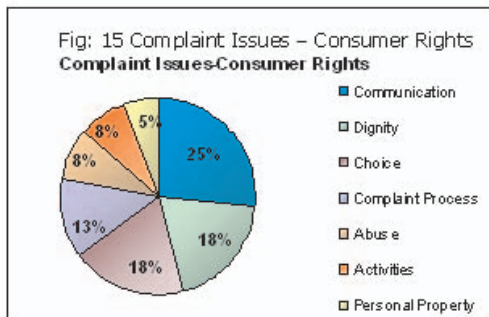
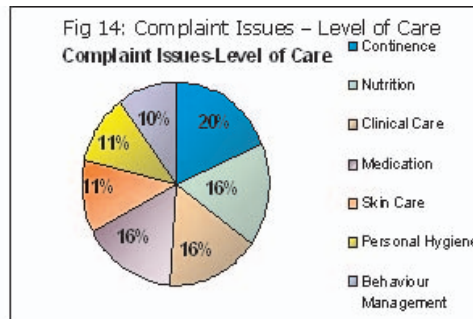
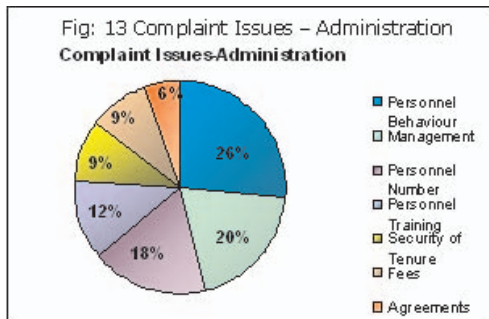
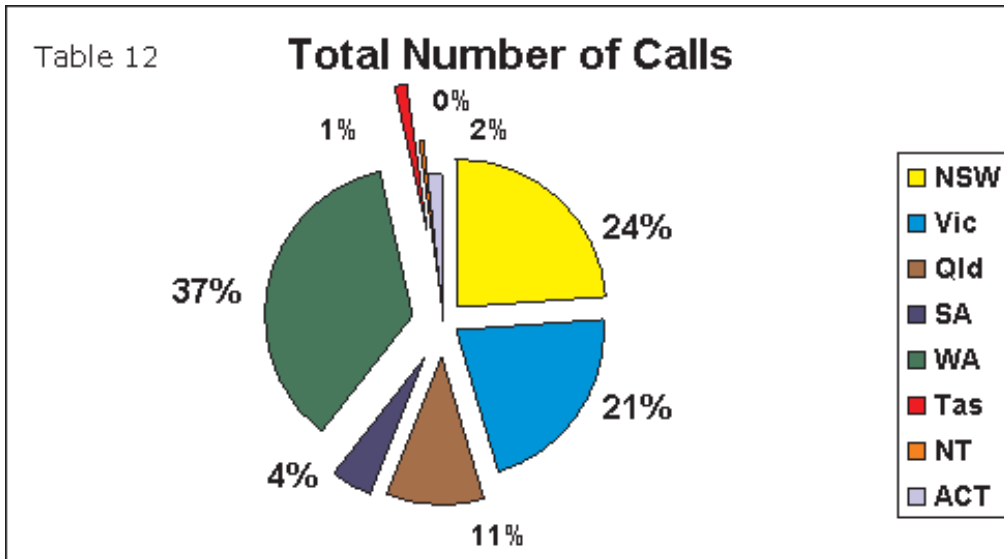


Relatives lodged the majority of complaints (59 per cent) across Australia, 14 per cent were lodged by staff and 10 per cent by residents. Four per cent of complaints were lodged by ex staff, 3 per cent by friends, 2 per cent by advocates 6 per cent by others. The status of 3 per cent of complainants is unknown.

1.3 Complaint Issues

Most issues raised with the Scheme involved a judgement between competing or ambiguous 'goods' and 'rights' and a perception about the best outcome rather than clear cut issues of illegal or immoral behaviour.

Each complaint accepted by the Scheme comprises at least one, but generally multiple issues that must be dealt with. The Scheme has identified some 58 common issues that can be recorded in four main clusters, those being: administration, consumer rights, environment and level of care. The following graphs show the most common seven complaints recorded nationally under each of those headings. The figures are expressed as a percentage of the total number of issues within each category.



1.4 Referrals

Once a complainant has contacted the Scheme the legislation provides an initial 7 days for Officers to assess the complaint. Officers must examine the issues and ascertain whether the complaint should be accepted by the Scheme or whether another statutory authority or organisation would more appropriately deal with the entire complaint, or some elements of the complaint.

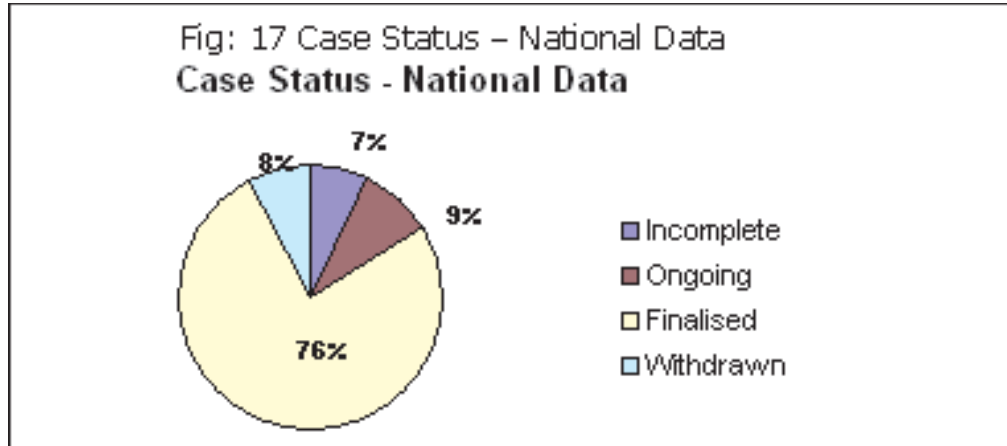
During the reporting period a range of issues (455 in total) have been referred to external agencies. One hundred and eighty-two issues (40 per cent) were referred to Agencies, across all jurisdictions, for their consideration. A total of 166 issues (36 per cent) were referred to other sections of the Department (predominantly Compliance) for further action. Thirty-four matters were referred

to the appropriate State Health Department and 10 matters were referred to the police. Twenty-four issues were referred to other bodies, including medical and nursing registration boards, Health Services Commissioners and the Coroner. During the year a number of complaints have been referred for Mediation and/or to a Committee for determination.

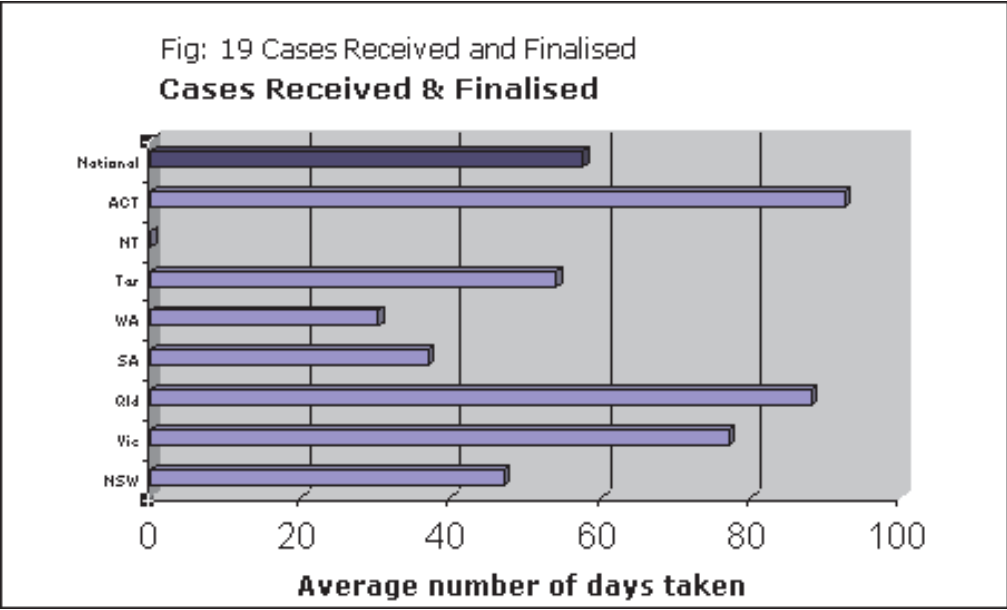
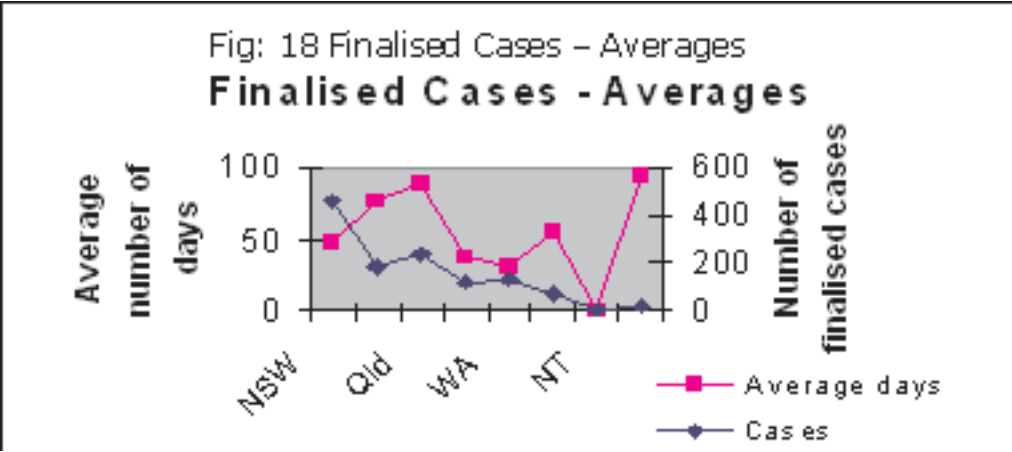
1.5 Average time to resolve complaints/issues

The effective and efficient management of cases is not only dependent on the complexity and number of complaints accepted by the Scheme, but also the number and skill base of the staff available to complete the allocated tasks. Time taken by complainants and service providers to respond to requests for additional information also contributes to the length of time taken to resolve this issue. All complaints accepted by the Scheme involve one or more issues. The data indicate that, while there was a wide variance across Australia in the time taken to resolve the number of cases/issues finalised, nationally the average number of days to finalise complaints was 57 days.

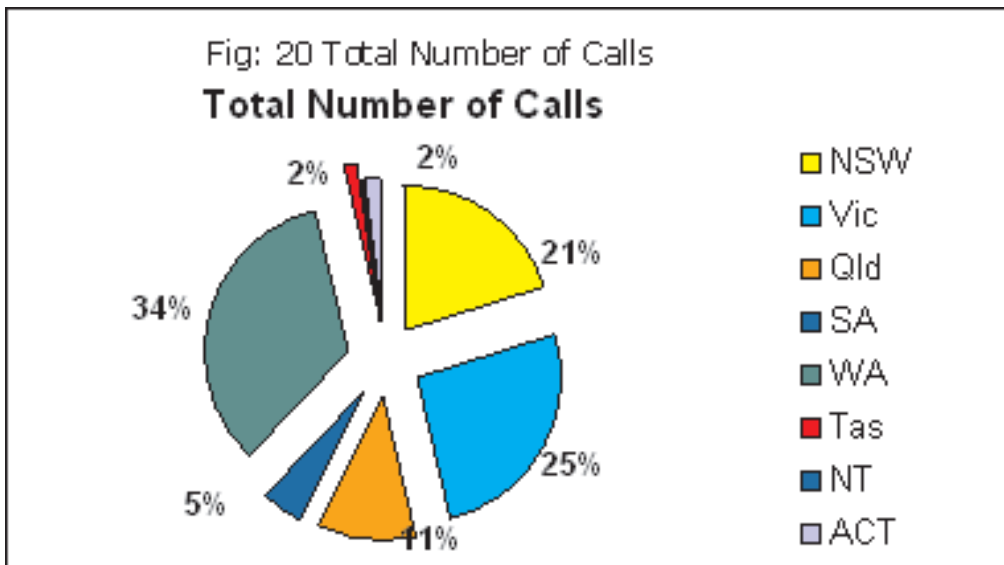
The data base shows that, of the total number of complaints received during the reporting period, at 30 June 2001 76 per cent were finalised, 9 per cent are ongoing, 7 per cent are listed on the database as incomplete and 8 per cent of cases were withdrawn.



The following figures show the number of complaints that were received during the reporting period and finalised by each State/Territory. It should be noted that a proportion of complaints received prior to the reporting period will also have been finalised during this financial year and those figures are not reported here. The available statistics therefore do not accurately represent the total number of complaints finalised during the period and are not a true representation of staff workloads.

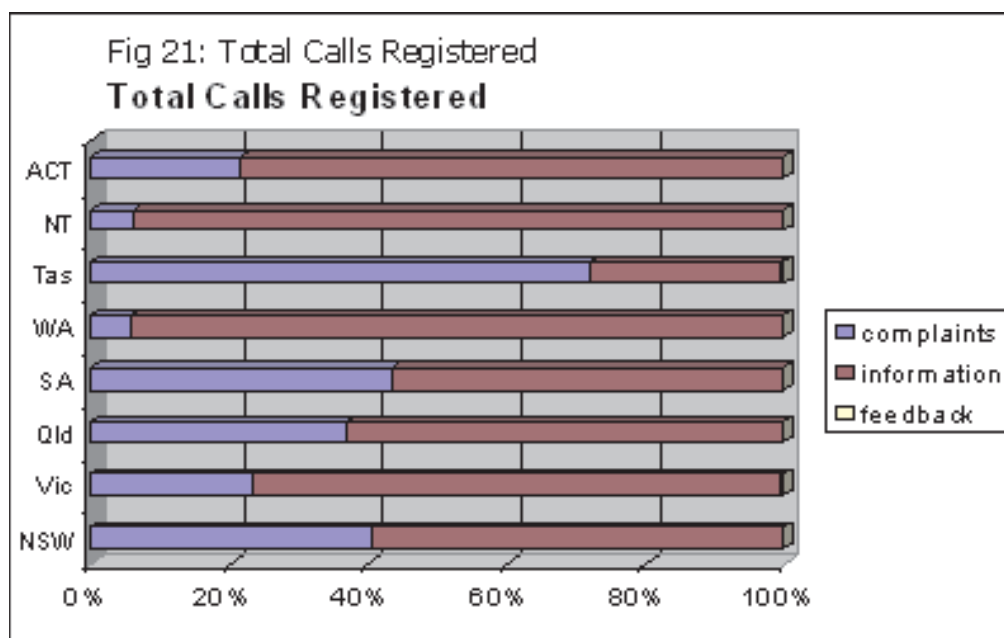


In addition to accepting and managing complaints, staff from the Scheme also respond to inquiries from the public, some of whom later go on to register a complaint with the Scheme. The following table shows the breakdown of all calls to the Scheme recorded in each State/Territory during the reporting period, that is the number of complaints, information and feedback calls shown as a percentage of the total 7240 calls recorded nationally.



Of the total number of calls taken during the reporting period 1,729, 24 per cent were recorded as complaints, 76 per cent as information calls and 11 calls were recorded as feedback. Nine feedback calls were taken in Victoria, and one in both New South Wales and Tasmania.

In most jurisdictions the majority of calls taken by the Scheme are registered as 'information' calls. The figure below illustrates a breakdown of the number of information and complaints registered, and shows them as a percentage of the total number of calls in each jurisdiction. The small number of feedback calls received are not clearly depicted in the figure.



Appendix 3: Glossary

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