



annual report

1 JULY 2004 - 30 JUNE 2005

Commissioner for Complaints



Australian Government

Office of the Commissioner for Complaints
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The Hon Julie Bishop MP
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 2004 to 30 June 2005.

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

A handwritten signature in black ink, appearing to read 'Rob Knowles'.

ROB KNOWLES
Commissioner for Complaints

Commissioner's Introduction

Ageing of the population is a worldwide trend and has become one of the important social and health issues of our time. This trend has generated a much broader interest in the ageing process and in the access of older people to health care, including long term accommodation. Advances in geriatric education and skills have created new therapeutic opportunities and given older people greater access to many and varied specialist disciplines dedicated to improve treatment and care.

With ageing there is an almost imperceptible slowing down of all processes and, while not synonymous with illness, the incidence of common chronic and disabling conditions does escalate with advancing age. There are several myths about ageing and people of all ages face the prospect of growing old with some trepidation. Thoughts and fears about physical frailty, mental confusion, losing independence, being neglected by family, dying and death creep into consciousness and discussions. The Government has encouraged more active discussion around the role of older people in the community, including involving older people in discussions that affect their lives. This is a pleasing development.

The ageing process modifies roles and functions, and ageing individuals sustain multiple physical and material losses. An individual's inner strength and resourcefulness, self image, health and economic status play a significant part in overcoming these deficits and adjusting to life changes. Society, particularly health care professionals, should be sensitive to the subtleties and differences age decrements impose.

The reality is that a lot of older people continue to function independently and many others are able to remain at home with additional support. A small proportion of elderly people however reside in aged care facilities.

Residential care in Australia no longer represents poor standards and abandonment by family and friends. The vast majority of aged care services provide high quality care and have changed from objects of ridicule to facilities where the emphasis is on resident rights and the goal is to maintain independence and quality of life based on the assessed psychosocial, emotional and physical needs of each individual.

For providers there are many challenges in operating an aged care service. Probably the most important and difficult challenge is meeting the expectations of residents, their families and the wider community. To be effective, providers must assess each resident's total care needs and implement an appropriate and comprehensive plan to meet those needs.

In the front line of care for the elderly is the family. If we explore the roles played by family members prior to admission it is obvious that they are often involved in care planning and in the actual provision of care to older relatives. Over months or years many family members have accompanied elderly relatives to doctor's appointments and have been involved in health care decisions, including the decision leading to accept residential aged care.

Family members have personalised knowledge of the ageing process and its consequences for older relatives. For them knowledge is not reduced to a set of problems but is understood in the context of their lives and experiences. Family members know their relative intimately; they understand and share their needs, fears and desires.

Despite often experiencing a degree of relief in no longer being responsible for the day to day care of residents there is often a continuing psychological distress among relatives. Access to information about the resident's medical conditions and care are a high priority for families and, in order to both share and gain information, family members generally seek to establish quality relationships with health care staff. Relatives generally hold the view that while a resident is reliant on management and staff for many of their daily needs, they continue to depend on the love and support of family members and trust them to act in their best interest.

It is important for facility staff to be aware of the effects that admission to long term care has on members of the resident's family. They too will depend on a range of coping mechanisms as they react to the knowledge that their loved one is unlikely to return home and their words and actions will also have an effect on the resident's ability to handle emotions and adapt to their changed circumstances.

The presence and involvement of family is a significant and contributing factor in promoting resident well being and facilitating connections with the wider community. Family members value the opportunity to engage in joint planning and discussions and welcome the chance to share information about the resident as well as receiving feedback.

Staff who show a caring nature and emotional investment in the resident and seek to develop collaborative relationships with relatives find their work made easier and more rewarding. By creating a cordial environment and caring partnership, free from intimidation, family members are reassured that their relative's needs are being met and at the same time regain their own sense of usefulness.

Ongoing and meaningful communication among residents, relatives and staff is essential and can affect a range of resident outcome measures, including satisfaction. Regular dialogue centred on the planning and provision of care, treatment decisions, the importance of activities, and including some discussion on role sharing will do much to enhance relationships.

Historically, society supported an ageist stance. While the Australian Government rejects ageist assumptions and has provided for the rights of individuals accommodated in residential care services, paternalistic attitudes have been carried forward and much work needs to be done before we see any redress among the wider community and changes within the aged care industry.

Across Australia the Complaints Resolution Scheme continues to deal with a considerable number of complaints each year and I am committed to improving consistency and efficiencies in complaint handling. I recognise the many difficult tasks that confront staff on a daily basis and sincerely thank them for their polite and courteous attention given to the public and their conscientious approach to their work. I would also like to express my appreciation to the various State/Territory Managers and to the staff of Quality Outcomes Branch and Legal Services Branch for the timely assistance and support to staff and to this Office throughout the year.

My thanks and gratitude also go to the panel of chairpersons and all committee members for their expertise, professionalism and competence in what is a difficult role and for assisting me so diligently throughout the year.

I would again 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.

Finally, and in particular I wish express my gratitude to my staff for their outstanding contribution to our work and for coping so well with the increasing demands made on my Office. Their commitment is unwavering and I thank them, individually and collectively, most sincerely.

Rob Knowles
Commissioner for Complaints

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1. Mandate and Organisation

1.1 Background

Like many other industrialised countries, over the last century Australia has experienced an appreciable improvement in average life expectancy and at the same time faced a slowing population growth. As a result Australia's population is becoming older and this ageing is projected to continue over the coming decades.

In Australia the proportion of the population aged 65 years and over has progressively increased and by 2,031 is expected to reach 21 per cent of the total population. Australians are increasingly living to old, old age and, at 30 June 2003, it was estimated that 3,800 people were aged 100 years or more and over 18,800 people were aged 95-99 years.

Population projections also 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.

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 to remain at home and informal caregivers (family and friends) often provide much needed support. Others rely on government-funded programs such as the Home and Community Care Program (HACC), Community Aged Care Packages (CACPs) and Linkages to enable them to continue to live at home.

It is accepted that chronic disease, illness and disability are major factors preventing some older people from remaining self-sufficient and that dementia has been found to be the largest single contributor to the burden of disease in old age. These factors are the principal reasons for admission to residential aged care. Approximately six per cent of older Australians are currently admitted to aged residential care services.

The Aged Care Act 1997 (the Act) and the *Aged Care Principles* (the Principles) provide a package of measures designed to improve the quality of care and services in Australia's aged care service system. From October 1997 the structure of aged care services changed and nursing homes and hostels were combined into one system. At 30 June 2005 there were 2,930 mainstream residential aged care services providing 161,165 places, and a total of 32,558 CACPs 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.

Aged Care Assessment Teams (ACATs) play an important role and must first assess a person as eligible for a particular service before a Federal Government subsidy is provided for residential care (either high or low care and including respite care); CACPs or EACH programs.

The Australian Government provides recurrent funding for each resident admitted to a residential care setting. The funding is based on a needs based model, known as the Residential Classification Scale (RCS), where the individual care needs of residents are assessed by nursing, personal care and allied health staff employed within the facility. Residents may also pay fees and charges 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). The Agency published data identifying that at 30 June 2005 a total of 2,935 homes were accredited and of that number 2,708 had received accreditation for three years or more.

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 Residents' 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 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 responsibilities under the Act or the Principles. 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 medical and nursing registration boards, police, coroner, and to Health Service Complaints Commissioners as appropriate.

Changes to the Principles came into effect on 1 July 2004. The amendments are designed to improve the efficiency and effectiveness of the Scheme and provide greater flexibility to the way in which complaints may be handled and also increased timeframes for responses from the parties.

The inclusion of additional functions for the Commissioner better reflects the role the Commissioner plays in ensuring an effective quality assurance system is implemented for the Scheme. The changes also mean that Aged Complaints Resolution Committees (committees) must also refer evidence of systemic or serious isolated issues to the Commissioner who must ensure that any such evidence is referred to the Agency.

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 of 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 the Commissioner 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 evidence referred by a committee relating to a systemic or serious isolated issue is referred to the Agency.

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 (the Department) through its various State and Territory offices.

2.1 About the Office

The focus this year has been on review and further improving service quality and accountability mechanisms for the Scheme. To this end, the Commissioner released Practice Minutes relating to a range of matters designed to improve consistency and the Scheme's processes.

The Commissioner also contributed articles to a number of health care journals, and meetings have been conducted with a variety of stakeholders. The Commissioner and staff have participated in a range of industry and academic education and information sessions.

As the lease to the existing accommodation was not renewed the Office of the Commissioner for Complaints was relocated during the year, to refurbished premises at 12-20 Flinders Lane Melbourne. All other contact details remain unchanged.

The website for the Office is continually updated and may be found at www.cfc.health.gov.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 \$441, 733 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 are 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 2004-2005 financial year these funds have been authorised and managed by the Quality Outcomes Branch.

2.3 Demand

Demands on this Office increased further during this financial year.

During the reporting period the Office was contacted by 56 people who felt aggrieved at the way they have been treated or the way their complaint is or was being managed. This translates as 5.57 per cent of complainants involved with the Scheme during the financial year. In managing these complaints, both complainants and the Scheme expect and rely on complete objectivity and impartiality and officers are committed to demonstrating the independence of the review process.

The majority of these complainants raised issues in relation to complaints that were ongoing. Following intervention and liaison with the Scheme, complainants have continued to utilise the Scheme and achieve resolution of their complaint without seeking further recourse through the Commissioner.

The Office also received 86 contacts from 44 complainants seeking information about the legislation and the Scheme's procedures, including appeal and determination processes. This figure excludes calls received from providers, industry bodies, advocacy services, legal representatives and the Commonwealth Ombudsman. It also excludes numerous calls from people seeking information about the aged care system and Australian Government funded services in particular.

In addition to these matters, the Office has regularly interrogated the database 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.

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.
- During the year the Commissioner met with all chairpersons and committee members to inform them of changes to the legislation.
- The Office obtains and disseminates legal advice and other information on an ongoing basis.
- Preparation and distribution of a newsletter designed to keep all committee members informed and up to date with events in aged care and the Scheme.
- As well as the ongoing contact necessary in the conduct of hearings and reviews, additional meetings have been 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 against the non-acceptance of complaints

- 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.

2.4.3 Oversight the effectiveness of the Scheme

- An internal quality assurance framework was established for the Scheme. The framework is utilised as a case management tool and requires program managers to involve themselves in the monitoring and ongoing management of complaints. The instrument was implemented 1 July 2004.
- Changes to enhance the Scheme's database have been ongoing. It is anticipated that once fully implemented the changes will improve the capacity of the Scheme to identify and capture the information collected as part of its operations, and enable an accurate and more comprehensive reporting of this information, including performance indicators and other quality assurance measures.
- The Commissioner and staff have participated in six-monthly National Management Meetings.
- The Office distributed the Scheme's National Service Charter to all service providers.
- The Scheme's online complaint form was finalised and is operational.
- The Scheme Strategic Plan 2003-2008 was reviewed.
- The Director has presented at each session of the ongoing national induction program. During the year a total of 20 staff from the Scheme took part in this program. The program also attracted participants from other departmental programs. All staff new to the Scheme, including those on short term contracts, participated in an internal orientation program.
- During the year the Commissioner issued Practice Minutes relating to:
 - Presence of lawyers in Scheme processes.
 - Reconsidering (under section 10.47) a decision under section 10.45 of the Principles.
 - Taping of telephone calls and other private conversations.
 - Providing telephone numbers to parties.
 - Provision of committee contact details.
 - Complaints from former staff and advocates.
- 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.

2.4.4 Deal with complaints about the operation of the Scheme

- During the reporting period 56 complainants contacted the Commissioner's Office to complain about the operation of the Scheme. These complaints were resolved satisfactorily.
- The Office also receives calls from complainants whose matters have been finalised and who are contemplating or have initiated appeals for review.

2.4.5 Manage the determination process, including the review of determinations

- The Office corresponds with all parties when complaints are referred for determination. The correspondence outlines committee processes and provides fact sheets, including Attending a Hearing and How to Write Submissions.
- 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 26 hearings were conducted. Ten applications for review were received. Two of these applications were outside the legislative timeframe and were not accepted and one application was withdrawn.

2.4.6 Promoting an understanding and acceptance of the Scheme

- In order to improve knowledge and give a better understanding of both the Scheme and the role of the Commissioner, a number of speaking engagements and meetings have been undertaken with both consumer and provider groups and government bodies, including Public Advocates and advocacy groups. Staff also accepted invitations to present at a range of educational institutions.
- 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 information package sent to complainants contacting the Scheme now includes the Scheme's Service Charter and Privacy Statement as well as brochures outlining the role of advocacy services and the Scheme.

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

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

3. The Complaints Resolution Scheme

The Scheme enables people to formally raise concerns about 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 7,400 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 five per cent of complaints are finalised via a determination by a committee. The Scheme may decide not to accept a complaint after assessment. Further, at any stage after acceptance, the Scheme has the capacity to cease to deal with a complaint or part of a complaint. A complaint may also be withdrawn by the complainant.

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, each of which comprise three independent members with skills in aged care and complaints resolution; and
- determination review and overseeing of 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;
- operate as an independent, unbiased, free and accessible Scheme 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

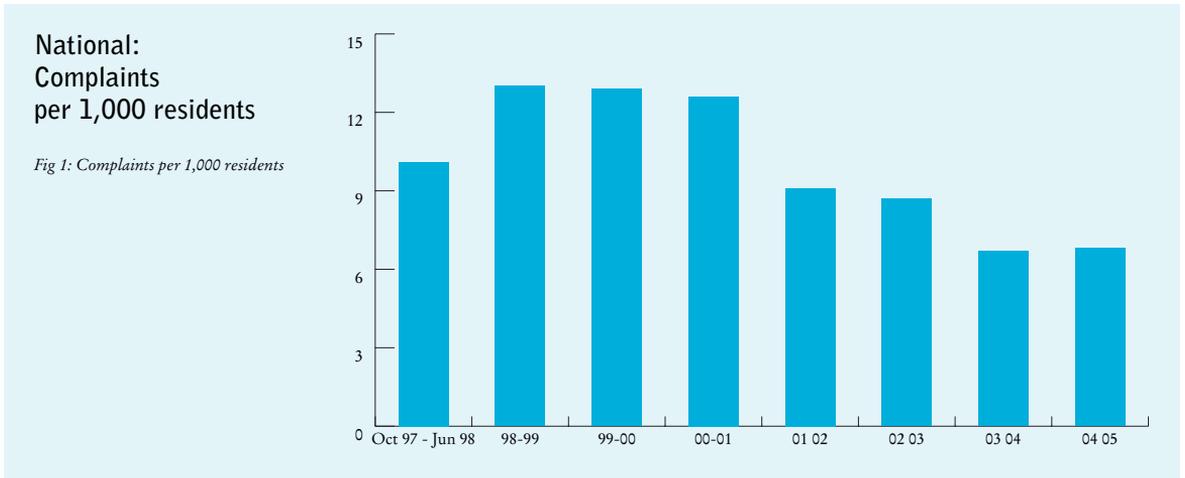
The role of officers is to:

- 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 (review panels) for review; and
- be accountable for ensuring that decision-making and the progression of complaints occurs in a timely and efficient manner.

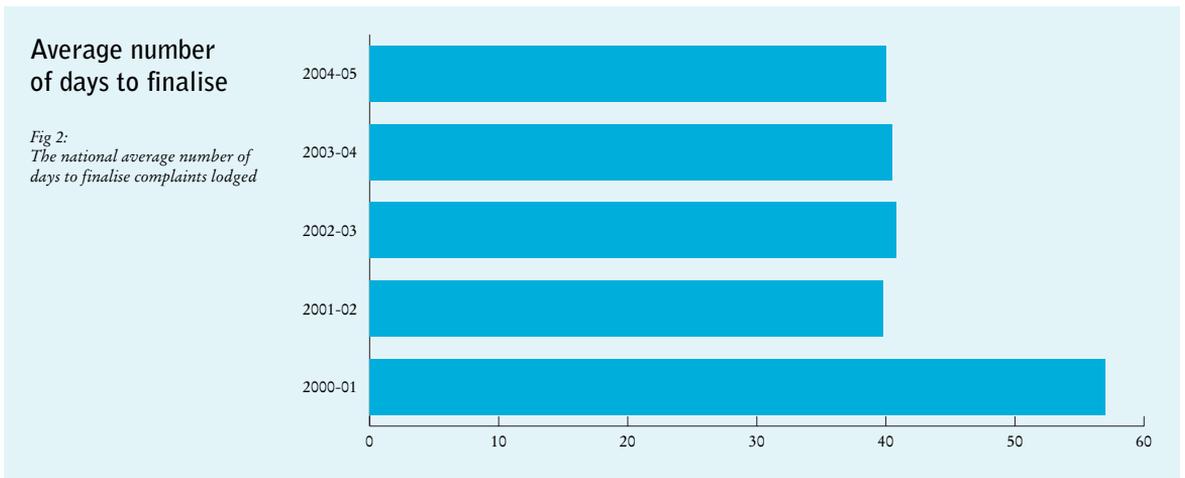
3.3 Complaint management

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 2005.



The following figure shows the average number of days taken to finalise complaints accepted during various reporting period and shows a relatively stable pattern over the last three years.



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. 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 of the complaint, or otherwise, 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 decide not to deal any further with a complaint after it has been accepted. This is to better deal with issues that ought to be dealt with by agencies other than the Scheme. Along with the ability to cease to deal with a matter comes the requirement to provide a statement of reasons to the complainant and the capacity for them to appeal the decision. Requests for reconsideration of a decision to cease to deal are made to the Secretary.

If the decision not to deal any further with a complaint is the subject of a request for reconsideration, the Secretary must refer the request to the Commissioner and, taking into account the Commissioner's advice, either confirm the decision or set the decision aside and substitute a new decision to accept the complaint.

The Commissioner is also able to discontinue dealing with a complaint once it has been referred to a committee for determination if the Commissioner considers that it is no longer necessary or appropriate for the complaint to be resolved by determination.

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 including a brief description of each issue referred for mediation and the outcome, if any, achieved in relation to each issue.

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

3.5 The role of Complaints Resolution Committees

A committee has the power to make a determination about a complaint 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 provider's 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 providers' responsibilities under the Act.

During the reporting period the average number of days between the determination hearing and finalisation of a determination report was 35.76 days.

3.6 The role of Determination Review Panels

Both complainants and approved providers are able to seek a review of a determination. Currently 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 Committee Principles and generally 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.

The average time between the review and the provision of the Panel's written decision on the review was one day.

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 in particular 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).

Under subsection 56-4(1) of the Act, an approved provider must:

- establish an internal complaints resolution mechanism for the aged care service;
- use that mechanism to address any complaints made by or on behalf of the care recipient;
- advise the care recipient of any other mechanisms available to address complaints as well as providing such 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 such access to the service as is specified in the *User Rights Principles 1997*; and
- comply with any relevant determination made by a complaints resolution committee.

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 the care recipients and the approved provider (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 (Schedule 2 to those Principles), 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 and 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 Residents' 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 (Schedule 1).

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

4. Quality assurance

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

The database is an essential case management tool and an important adjunct in the consideration of all quality assurance issues. A wide range of statistical reports, complaint and trend information can be generated from the database, however, the ability to produce meaningful, easily verified and reliable data continues to be problematic. Work is ongoing and the need to implement agreed changes designed to improve the capacity of the Scheme to capture data and to enhance the provision and accuracy of future reports remains a high priority.

4.2 Performance Indicators

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

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* was distributed to all service providers in August 2004. The Charter provides a clear statement about the responsibilities and standards of service the community can expect to receive from the Scheme. Interest in the Charter was unprecedented and an additional 5,000 copies were distributed on request. 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. The plan was last reviewed during the National Management Meeting in May 2005.

A total of five working groups have been established to oversee the implementation of all goals and objectives. The working groups are:

- National Policy and Programs
- People Management and Support
- Quality Assurance
- Information Technology and Telecommunications
- Industry, Stakeholder and Consumer Liaison

5. Complaints Resolution Committees

5.1 Legislative framework and committee selection

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

5.1.1 Committee appointments

The composition of committees is outlined in the Committee Principles. Those 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).

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 conflicts of interest.

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

Thirty complaints were referred for determination and 26 hearings are recorded as having been conducted during the year. Twenty-two of these determinations were finalised and four decisions remain outstanding at the end of the reporting period. In addition, seven determinations related to hearings conducted in the previous year were also finalised during this reporting period.

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 last year, Chairpersons report:

- all cases involved a breakdown in communication;
- inadequate or poor understanding and implementation of complaints processes at the facility level;
- increased numbers of complaints involving restricted access;
- neither complainants nor providers are well prepared and generally there has been less documentation submitted during the hearing. There appears to be little understanding of the need to support assertions through presenting written evidence or calling witnesses;
- cases are multilayered and the nature of the issues raised are increasingly more complex. The number of issues referred for determination varied but is increasing. In a few instances two complaints involving the same parties have been heard concurrently;
- notwithstanding an increased emphasis encouraging parties to provide submissions prior to the hearing, there is a continuing trend not to divulge information until the day of the hearing;
- an over representation of senior management at hearings and too little reliance on clinical staff;
- a continuing trend on the part of parties to adopt a legalistic, adversarial and sometimes hostile approach.

Chairpersons reported that this year there has been more evidence of the inequality in the bargaining positions of the parties. With the exception of one complaint all cases referred for determination related to residential care services. The issues were complex and wide ranging and related to all aspects of care and services.



Fig 3: Complaints Resolution Committee: Hearings Conducted

New South Wales and the Australian Capital Territory

Seven complaints were referred for determination and five hearings were conducted during the reporting period, one of which related to a complaint lodged in the Australian Capital Territory. One complaint was referred toward the end of the period and will not be heard until current court action is finalised and in one case the Commissioner made a decision to cease dealing with the complaint and referred all systemic issues to the Secretary for information and action.

In New South Wales the average time between lodgement of the complaint and the hearing was 167.5 days. The average time between referral to a committee and the conduct of a hearing was 63.5 days. This interval allows the parties to prepare a written submission, in some cases with the assistance of the 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 31.67 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 195.5 days, and 37 days elapsed between referral to the committee and the hearing. The time between the hearing of the case and finalisation of the report was 31 days.

Victoria

In Victoria, five complaints were scheduled to be heard. One matter was withdrawn by the complainant immediately prior to the hearing and in another instance the committee was dissolved and the matter was heard by a second committee. All hearings were conducted in the metropolitan area.

The average time between lodgement of the complaint and the hearing was 236.1 days. The average time between referral to a committee and the conduct of a hearing was 63.57 days and, on average, 25.2 days elapsed between the hearing and the provision of a determination.

Queensland

A total of 15 hearings were scheduled in Queensland. Of these one case was finalised immediately prior to the hearing and in two cases the complaint was withdrawn by the complainant. The average time between lodgement of the complaint with the Scheme and the hearing was 159.15 days and the average time between referral to a committee and the hearing was 44.15 days. On average 47.25 days elapsed between the hearing and the provision of a determination.

Western Australia

Two cases were heard in Western Australia. The average time between lodgement of the complaint with the Scheme and the hearing was 90 days and the average time between referral to the committee and the hearing was 37 days. On average, 25.75 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. A committee heard two cases in South Australia during the reporting period. The time between lodgement of the complaint and referral to the committee was 163 days, and 37.33 days elapsed between and the hearing. The average time taken between the hearing and the finalisation of the determination report was 28 days.

Tasmania

No determination hearings were conducted in relation to complaints origination in Tasmania.

6.1 Determination reviews

Should the 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 the 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.

A total of ten applications for review were received during the reporting period. One application was withdrawn; two applications were received outside the legislated timeframe and were not accepted. Two reviews were conducted in relation to cases originating in Western Australia and in each case the panel confirmed the committee's decision. The panel confirmed decisions relating to cases originating in New South Wales, Victoria and the Australian Capital Territory.

Two reviews were conducted to cases in Queensland. The panel confirmed the decision in one matter and, in the second case, confirmed the decision with a variation.

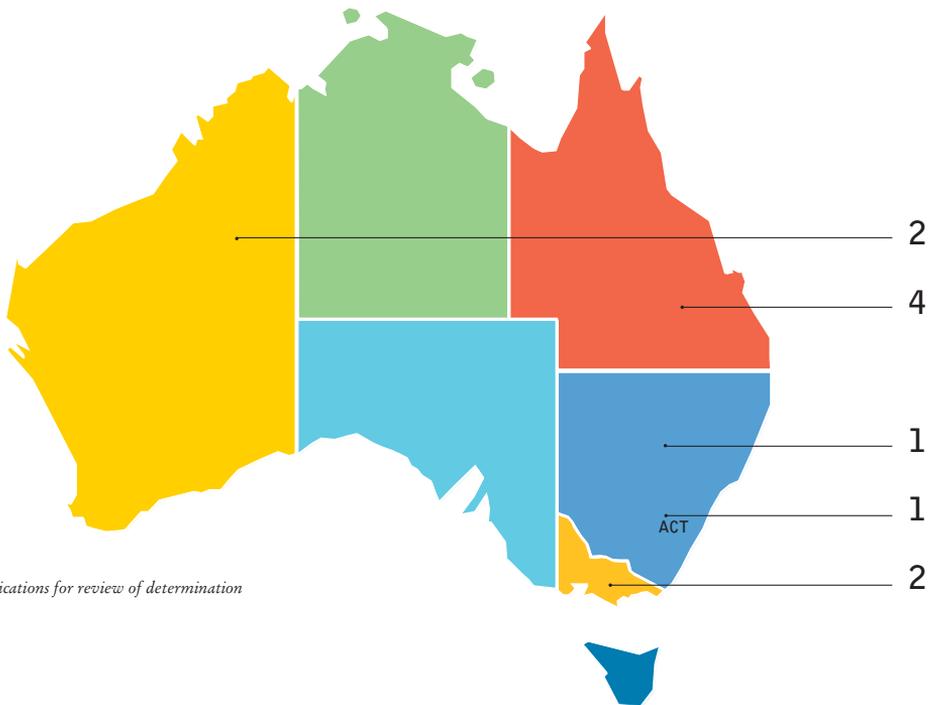


Fig 4: Applications for review of determination

The average time between receipt of the application for review and conduct of the review was 35 days. This period 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 determination review report to all parties was one day.

7. Trends and Issues

7.1 Communication

The overwhelming majority of complaints arise from a lack of or breakdown in communication between the parties. This appears to be true even in those cases where the Scheme has not clearly identified communication as an issue for resolution. The Charter of Residents' Rights and Responsibilities makes it abundantly clear that residents have the right to make their own decisions and to participate at their level of ability. In line with this entitlement they expect to be given information that allows them to fully participate in care planning and to make informed decisions. Where necessary and appropriate this entitlement is exercised to a designated family member or guardian.

Participation in health care decisions is unlikely to occur where there is an imbalance of power and a pervasive paternalistic attitude adopted by the carers. Adopting a healthy attitude toward ageing is not enough on its own and, if staff are to make their task easier and provide high quality care, they should seek to develop a cooperative partnership with residents and their relatives.

Ongoing communication with residents and family members is essential if there is to be an agreed understanding of policies and practices in place and what to expect from care and treatment plans. It is generally the case that where services are designed and delivered with an understanding of the needs and views of the resident, the services provided are more likely to meet those needs and to the satisfaction of the parties involved.

7.2 Culturally and linguistically diverse groups

Australia is one of the most culturally diverse nations in the world and it has been estimated that within the next six years almost one quarter of older Australians will be from culturally and linguistically diverse (CALD) communities.

It is essential that all culturally diverse groups in Australia have equality of access to the Scheme. To assist in this goal the Scheme has prepared explanatory brochures in 15 different languages and provides access to interpreter services at no cost to the individual.

During the reporting period, the Scheme received a total of 45 complaints from aged services dedicated to the provision of care and accommodation to CALD groups. This equates to 4.5 per cent of all complaints lodged during the year. The Scheme also purchased the services of one interpreter during this period. In reporting these data, it should be acknowledged that in some instances family members will act as interpreters. It should also be noted that these figures do not include complaints that may have been lodged by people from ATSI communities nor does it include complaints lodged by other CALD individuals accommodated in main stream services across Australia.

7.3 Literature Review: Retribution and Fear of Retribution

During the year the Office prepared a project brief and managed a project designed to examine and synthesise available evidence through a systematic international literature review related to retribution in residential aged care services or services providing similar institutional care (for example disability and mental health services). The project report was also expected to identify any strategies that have been implemented in the various settings to deal with potential and actual retribution that may have application in aged care.

The project followed on from work undertaken by the Commissioner and the Department which sought to establish the extent to which retribution or fear of retribution is an existing issue and the extent to which these phenomena might be an under-identified issue. The project brief anticipated that the work undertaken would lead to a better understanding about the interrelationship of aged care staff and residents, factors leading to incidents of retribution, possible differences in the incidence of retribution in high and low care facility and strategies adopted to deal with potential and actual retribution in these settings. The project was not intended to study or assess:

- the precise magnitude of the problem
- the nature of the power relationship between staff, care recipients/families
- the effects of retribution on either the perpetrator or victim.

The report established that there is a general recognition that acts of reprisal or retaliation, often characterised as fear or experience of rough physical or verbal handling, are prevalent to some extent and that fear or apprehension of reprisal or retaliation is consistent with that prevalence. What cannot be extrapolated from this review is the level of that prevalence. The report also identified a number of strategies and service elements that emerged consistently in the literature including:

- the recognition of and management of the power imbalance between staff and residents, including some emphasis on the loss of autonomy and choice experienced on entry to residential care;
- the knowledge, skills, understanding and training of care staff in managing aggressive or non-compliant behaviour in residential care residents;
- the establishment of an institutional culture that emphasises respect of residents and the importance of visitors and advocates.

The literature review was presented and discussed at meetings with the Aged Care Advisory Committee and National Aged Care Advocacy Program in May and September 2005 respectively.

7.4 Involvement of lawyers

The Scheme is predicated on an informal, alternative dispute resolution model designed to repair and rebuild relationships between the parties. It is of concern that over the last twelve months the Scheme and by extension, the Commissioner's Office, has progressively had more contact and dealings with lawyers wishing to represent the parties. This leads to an increasingly adversarial approach and fundamentally undermines the principal approach adopted by the Scheme. Unless they are a party to a complaint in their own right, eg. because they are the son or daughter of the affected care recipient and they have lodged a complaint in that capacity, lawyers cannot be parties to a complaint and cannot represent parties during mediation or determination processes. This in no way interferes with a party's right to seek advice from legal counsel but the Scheme cannot have a relationship with anyone outside the parties to the complaint. The Scheme will not discuss protected information with third parties and will correspond directly with the complainant or provider involved.

Office of the Commissioner for Complaints

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

Panel of Chairpersons

Mr George Amarandos
Professor Derek Anderson
Mr John Kelly
Ms Vivienne McCutcheon, until January 2005
Professor Charles Mulvey
Professor Alan Pearson
Ms Helen Twohill
Mr Roger Valentine

Panel of Committee members

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

Appendix 1: Complaints Resolution Scheme: Statistics for the period 1 July 2004 to 30 June 2005

The following statistical information has been drawn from the 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 1,004 complaints for the current reporting period. This represents a slight increase (37) in the number of complaints lodged with the Scheme since the last reporting period.

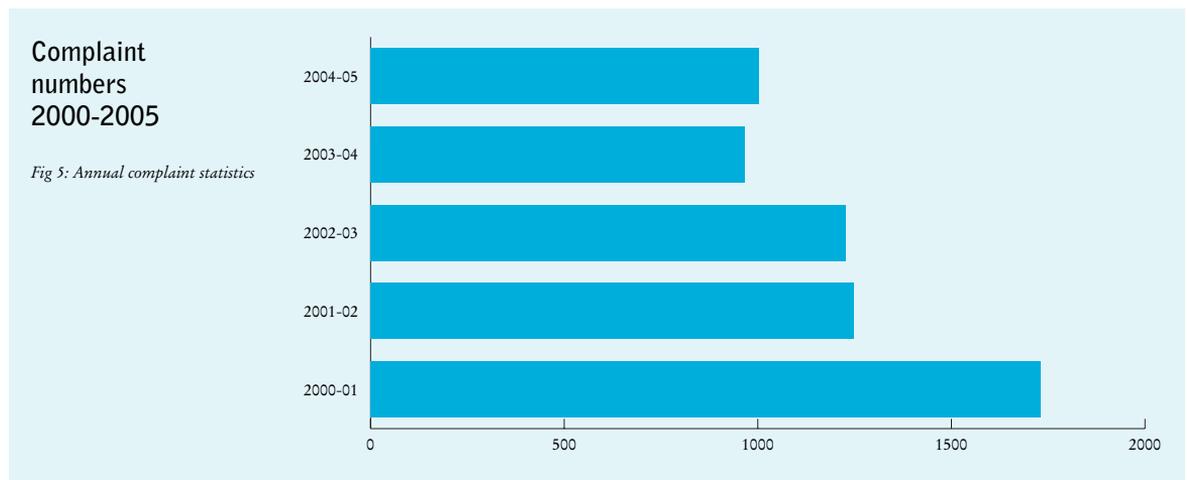
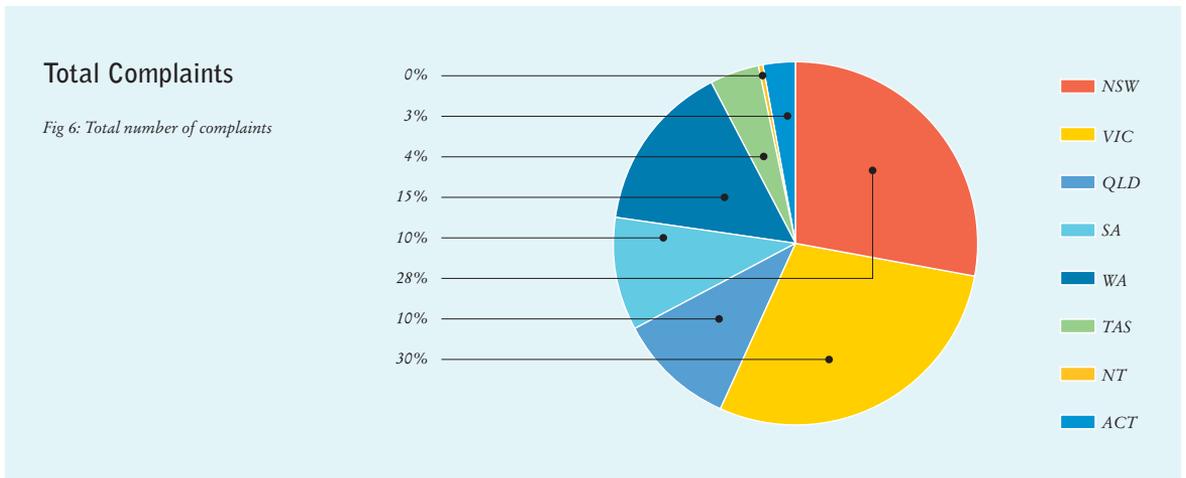


Figure 6 below shows that Victoria recorded the highest number of complaints with 30 per cent (290) of the total received across Australia followed by New South Wales with 28 per cent of the total complaints received (280). Queensland and South Australia each recorded ten per cent of complaints (105 and 101 respectively), Western Australia registered 15 per cent of complaints (151), Tasmania four per cent (44), the Australian Capital Territory registered three per cent (29) complaints and four complaints were recorded in the Northern Territory.



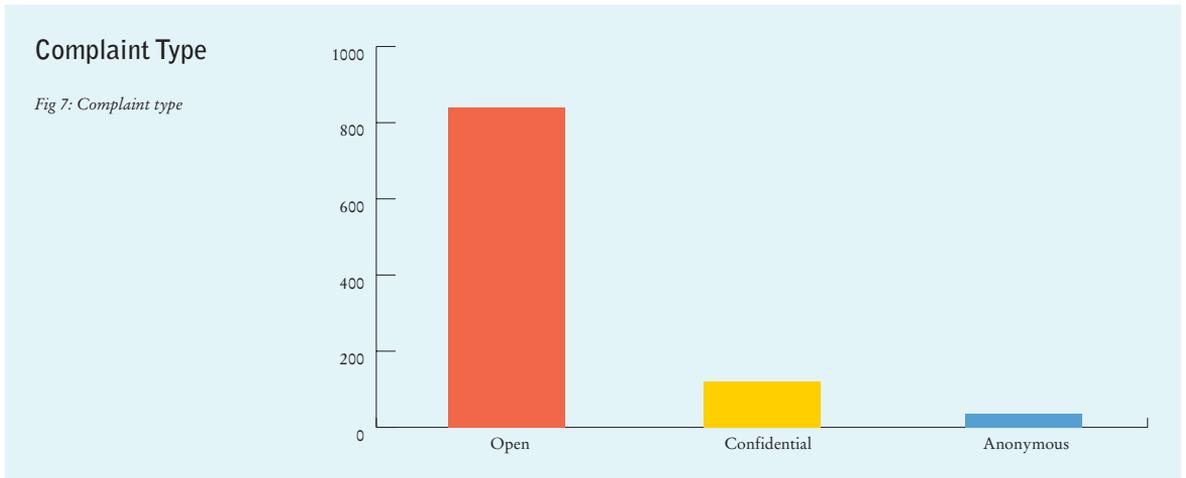
The majority of these complaints (96 per cent) related to residential aged care services. Three per cent of complaints were related to CACPs and one per cent (six complaints) were lodged about flexible care services.

The database records that relatives lodged a majority of complaints (70 per cent) and 12 per cent of complaints were lodged by care recipients. Five per cent of complaints were made by staff. Ex staff and friends each contacted the Scheme in two per cent of cases and advocates lodged one per cent of complaints. The database records that 'others' lodged six per cent of complaints and the status of two per cent of complainants is listed as 'unknown'.

During the reporting period the database records that site visits were undertaken in 29 per cent of all complaints lodged. Officers undertook a total of 320 site visits to 236 facilities either as part of the preliminary assessment or ongoing management of 302 complaints. The majority of these visits (61 per cent) were carried out in Victoria. Eleven per cent of visits were undertaken in Western Australia, nine per cent in Tasmania and eight per cent were conducted in South Australia. Six per cent of visits were undertaken in South New South Wales, two per cent were undertaken in the Australian Capital Territory and less than one per cent in the Northern Territory.

1.2 Complaint type

Of the 1,004 complaints recorded with the Scheme, 840 (84 per cent) were registered as open complaints, 129 (13 per cent) were confidential and 35 (three 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 Compliance Section of the Department for further action.

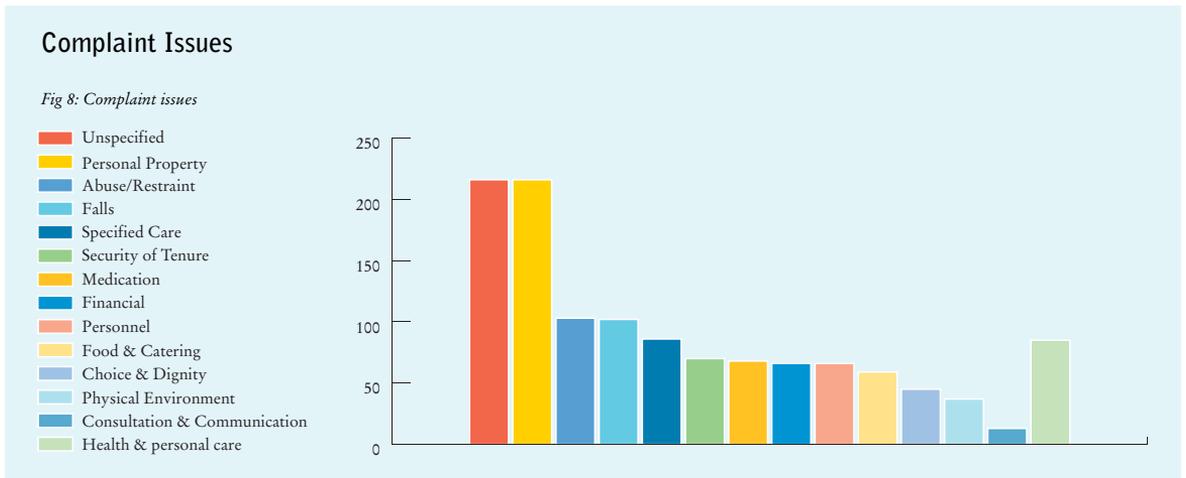


1.3 Complaint issues

Each complaint accepted by the Scheme consists of at least one issue, but generally multiple issues, that must be dealt with. The Scheme utilises 13 key words with agreed definitions to assist the identification of major concerns in a complaint. Officers now 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.

During the period a total of 919 issues were recorded. Poor data input has led to a reduction in the utility and clarity of complaint issues and it is becoming increasingly difficult to demonstrate the complexity of complaints the Scheme has dealt with during the period. It will be important to closely monitor the use and application of these keywords to ensure that issues and trends are captured effectively.

Fig 8 shows the number of issues recorded in each of the 13 categories during the reporting period.



Analysis shows that the complexity of complaints and the foundations underpinning the Scheme has created a situation where timeliness can become a problem and this allows for further grievance and additional issues to arise.

1.4 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. 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 of all the issues that have been lodged nor on the actions and timeframes taken to deal with issues identified as urgent.

1.5 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 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 105 complaints, or 10 per cent of all complaints lodged during the reporting period, were not accepted by the Scheme. Additionally, nine 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 114.

During the reporting period all complaints lodged in the Northern Territory and the Australian Capital Territory were accepted. The majority of non-accepted complaints (79) were lodged in Victoria. Twenty-seven per cent of complaints lodged in Victoria were not accepted. In Queensland the proportion was 9.5 per cent, in Tasmania 4.5 per cent, and in Western Australia 0.6 per cent. Three per cent of complaints lodged in New South Wales were not accepted and in South Australia the proportion was 4.9 per cent.

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 may 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 22 per cent of those complaints that were not accepted by the Scheme.

From the appeals conducted the Commissioner recommended that 15 decisions (60 per cent) be confirmed and five decisions (20 per cent) be set aside. In the remaining five cases, the Commissioner recommended that the decision not to accept some complaint issues be set aside and in others that the decision be confirmed.

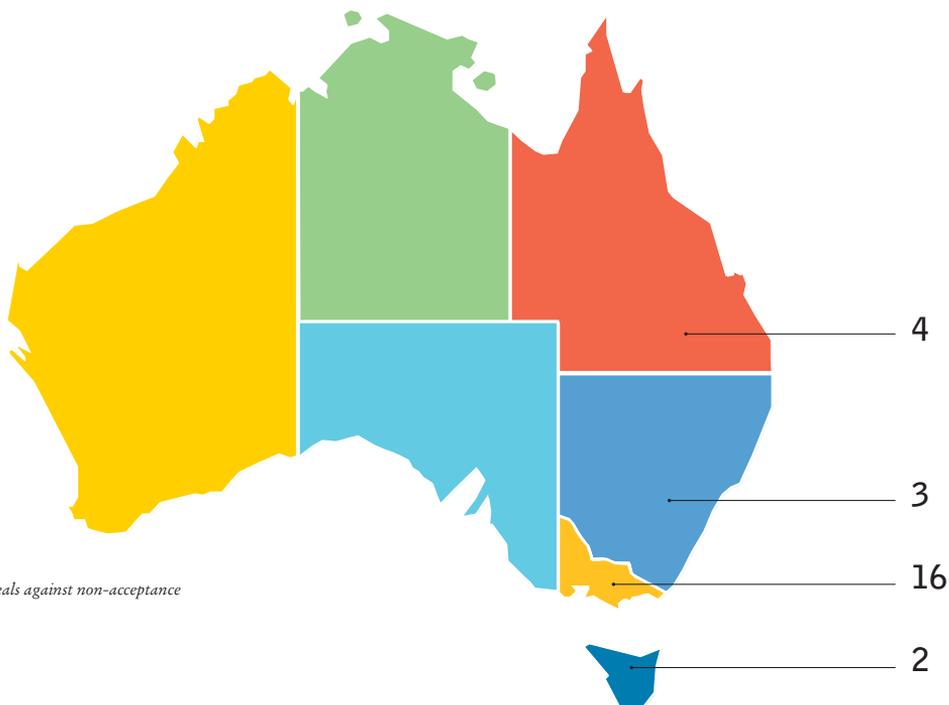


Fig 9: Appeals against non-acceptance

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 10 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.

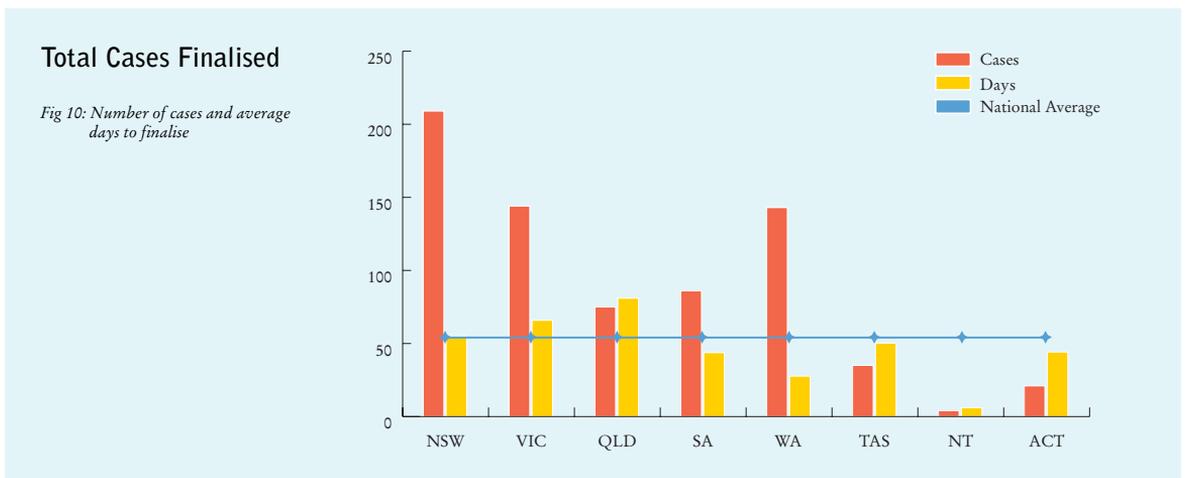
1.7 Average time to resolve complaints/issues

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. As the complaint process is driven by the parties' delays can also be attributed to time waiting for complainants and providers to provide and/or respond to information.

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 40 days, similar to that recorded in the previous reporting period. Of the 621 complaints lodged and finalised 73 per cent were resolved by negotiation, seven per cent by mediation, four per cent by determination and in one per cent of cases the Scheme made a decision to cease to deal with the complaint.

In addition to the complaints lodged and finalised the Scheme finalised 100 complaints lodged prior to the reporting period. The average number of days taken to finalise all 721 complaints was 52 days.

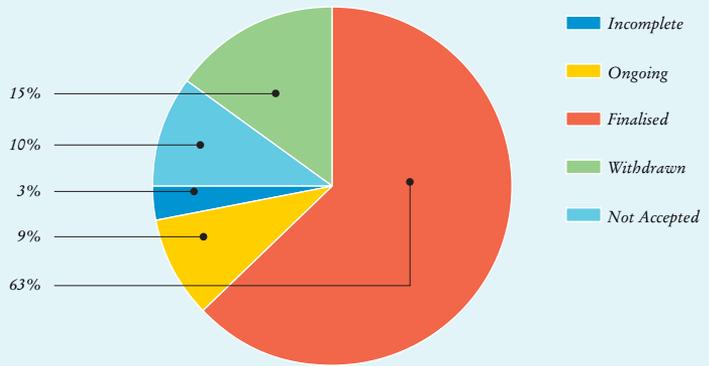
The following figure shows the total number of cases finalised in each jurisdiction and the average number of days taken to resolve these cases, compared with the national average of 52 days.



At the end of the reporting period the database shows that 63 per cent of the 1004 complaints lodged were finalised, nine per cent are ongoing, three per cent were listed as incomplete and 15 per cent of cases were withdrawn and the remaining ten per cent were not accepted by the Scheme.

Case Status

Fig 11: National data at end of reporting period



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 721 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

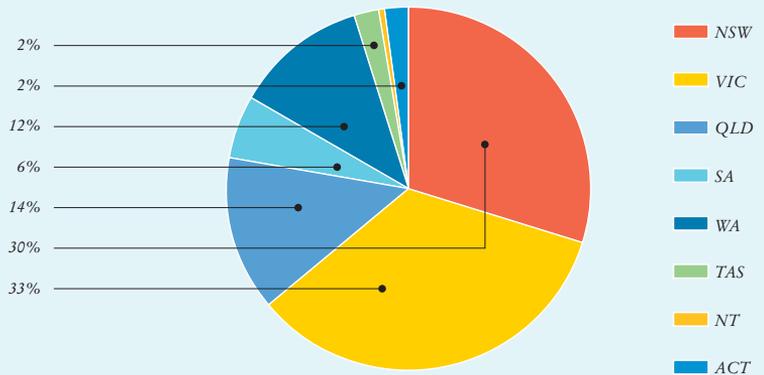
Fig 12: Finalised cases



In addition to accepting and managing complaints, officers from the Scheme also respond to inquiries from the public, some of whom later go on to register a complaint with the Scheme. The following figure shows the breakdown of all calls to the Scheme recorded in each State/Territory during the reporting period, that is, the number of complaints, information and feedback calls shown as a percentage of the total 5,928 calls recorded nationally.

Total Number of Calls

Fig 13: Total number of calls registered

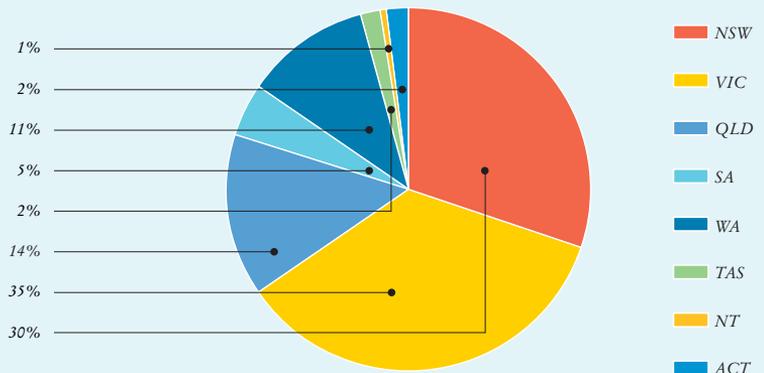


Of the total number of calls taken during the reporting period 1004 (17 per cent) were recorded as complaints and 4,924 (83 per cent) as information calls compared to data provided in the last annual report of 13 per cent and 87 per cent respectively.

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 14: Information calls



Not all information callers specify an outlet and, during the reporting period these data were recorded for 56 per cent of all callers. A total of 54 per cent of calls recorded were associated with residential care services, two per cent were related to CACPs and nine calls were linked to flexible care services. The majority of requests for information (85 per cent) relate to general information about the provision of aged residential services. In 15 per cent of calls registered callers sought information outside the jurisdiction of the Scheme.

The category of caller was only recorded in 44 per cent of information calls. Of those recorded 1,220 (24 per cent) identified themselves as relatives, 274 (six per cent) as staff, 68 (one per cent) as ex-staff and 271 (six per cent) were care recipients. A further 75 callers (two per cent) stated they were friends, 28 callers (one per cent) identified themselves as advocates. Officers recorded 171 callers (four per cent) as 'other' (including visiting health professionals, lawyers and union officials) and 56 per cent as 'unknown'.

The time taken to deal with information calls was recorded in 4,217 cases. Of those recorded 2,114 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 1,409 (33 per cent) of calls were recorded as taking between 15 and 30 minutes. In the case of 614 calls (15 per cent), officers recorded that they required between 30 minutes and one hour to deal with the issues and 80 information calls (two 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 2004 to 30 June 2005.

In an attempt to better identify satisfaction with the various elements of the Scheme's processes and capture relevant client demographic information such as age groups and ethnicity, satisfaction surveys were redesigned and implemented from 1 July 2004.

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 than 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 621 complaints were finalised and 604 completed surveys were returned for analysis. Assuming both parties to the complaints finalised received survey forms the overall response rate is 49 per cent.

Satisfaction surveys 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.

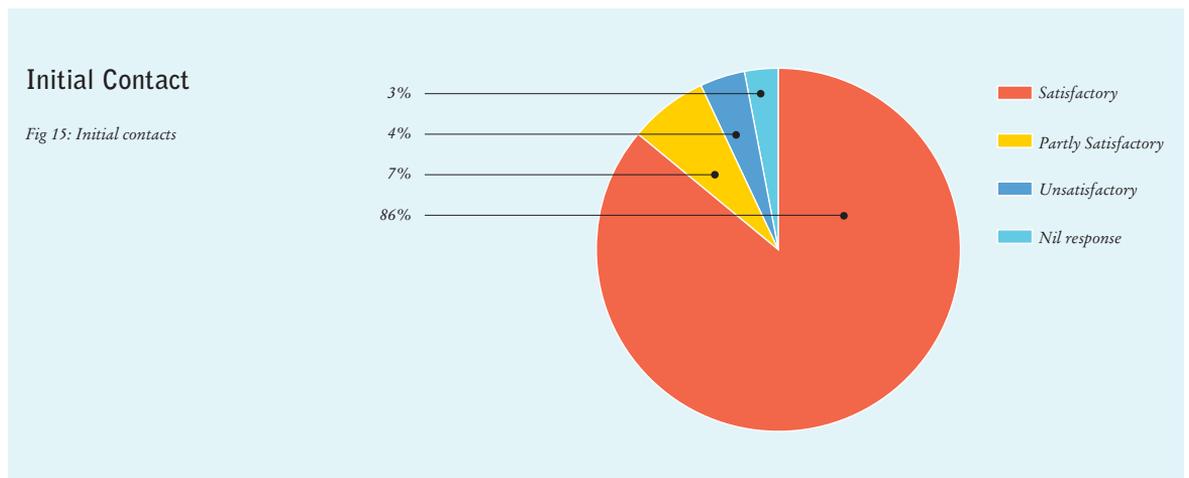
Readers should note that the percentages provided in this report are based on the overall number of surveys that were received during the reporting period and the accompanying graphs reflect the nil response figures where appropriate.

Satisfaction Survey: Complainant responses

During the period a total of 263 complainants across Australia returned completed surveys giving a response rate for complainants of 42 per cent.

Initial Contact

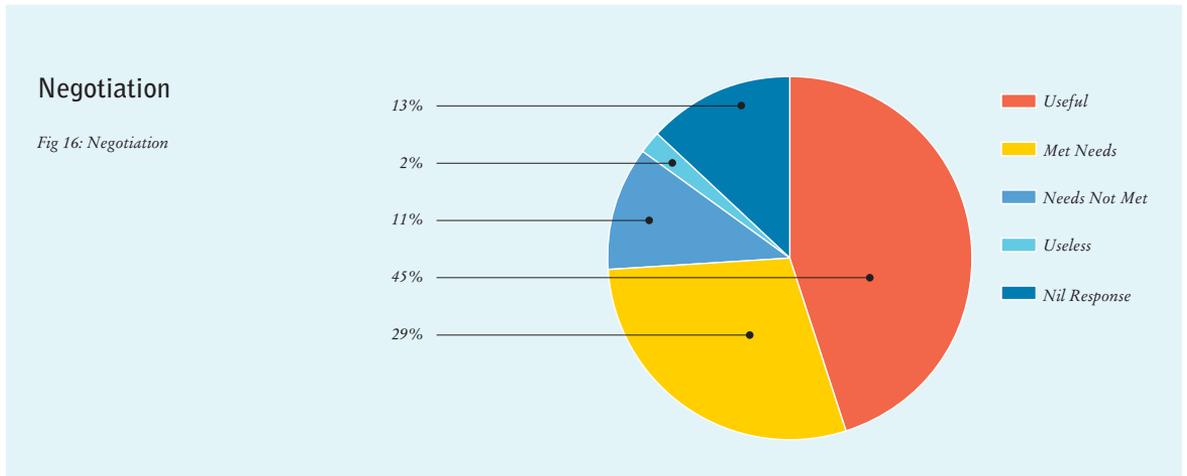
The data show that 86 per cent of complainants who returned surveys and responded to this question were satisfied with their initial contact with the Scheme. Seven per cent of respondents said that they were partly satisfied and four per cent of respondents indicated that this initial contact was unsatisfactory.



The majority of complainants commented positively on the attitudes and actions of officers involved in the initial contact and used numerous descriptors such as helpful, receptive, sympathetic, concerned, attentive, polite, understanding, fair, efficient and professional. Others provided broad observations which were not specific to the initial contact and some complainants included negative comments including: officers were unsure what to do, unable to assist, disinterested, nothing was done, adopted a 'know it all' attitude and engaged in 'standover power play'.

Negotiation Process

Respondents are asked whether they found the process adopted during the negotiation phase to be useful and able to meet their needs or otherwise. Of the 263 respondents 46 per cent found the process to be useful, 29 per cent said that their needs were met, 11 per cent said that their needs were not met and two per cent described the process as useless. Thirteen per cent of respondents did not answer the question.



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. Eighty-eight per cent of respondents answered the question and 12 per cent made no comment. Seventy-seven per cent indicated that they had been kept informed; seven per cent said that they were partly kept informed and four per cent said that they had not been kept informed.

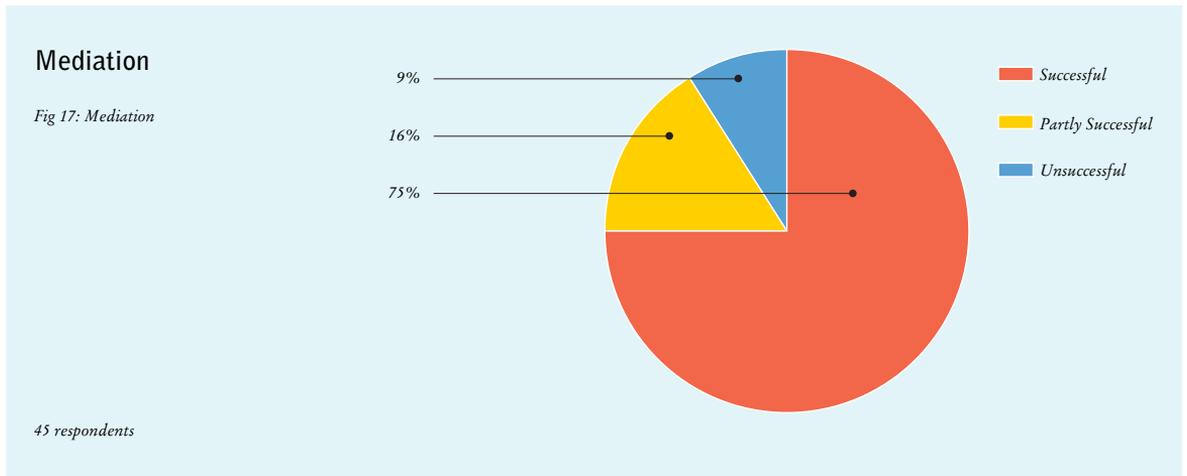
Complainants commented that they had generally been kept informed, usually by telephone, and were pleased with the expertise, support and attention given and considered officers had been helpful. Others commented that they were kept informed of negotiations with the provider, given clear answers, achieved realistic outcomes and success when there is good will on the part of the parties involved. In some instances complainants commented that phone contact was maintained, however, it took longer to receive any written communication. Negative comments included that the Scheme did not reply to or address all the issues, there was provider bias, complainants were kept in the dark, communication was one way (with the provider) and that providers lied and were allowed additional time to respond.

While some complainants commented positively on minimal response times others indicated that that timeliness was a concern, particularly where security of tenure was an issue. A small number of respondents said they had difficulty in contacting the Scheme, a few said they had received phone calls to say that the Scheme was no longer dealing with the complaint as the issues had been referred to another agency.

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. Forty-five complainants responded to this question. Of this number 75 per cent (34) indicated that mediation had been successful; 16 per cent (seven) said that mediation was partly successful and nine per cent (four) said that mediation was unsuccessful.

Not all respondents provided additional comment. The majority of respondents expressed a level of satisfaction both with the mediator and the process. One person said that mediation was successful beyond all expectations. Others indicated that the process was successful but then failed to provide any guarantees and complained that there was no capacity to ensure that the providers adhered to the agreements made. Another respondent clearly stated that the provider had not implemented the actions agreed at mediation. One respondent felt that mediation had been forced on them and was a waste of public money. Two people were critical of the time wasted waiting for mediation and two respondents made comments about the (perceived) bias of the mediator.



Determination

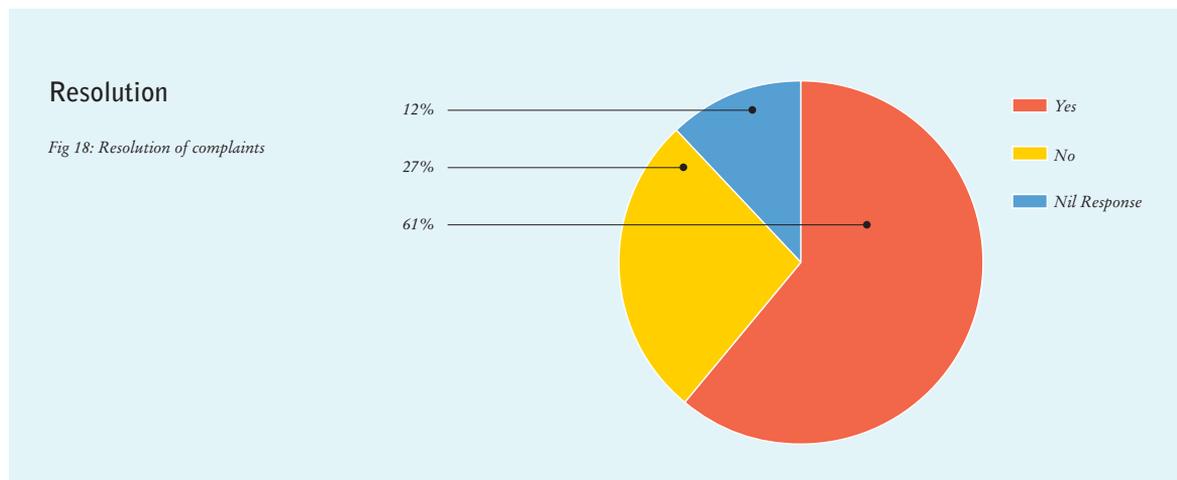
Complainants are invited to comment on the determination processes and are asked whether the committee gave them every opportunity to put their view and secondly, whether the committee provided reasons for their decision that they could understand. Ten complainants answered questions in relation to the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

Only a small number of complainants provided additional comment. Most commented that committees were professional and skilled and generally indicated their satisfaction with the process. However, one respondent indicated that the outcome was as expected and did not expose the incompetence of either the Scheme or the Agency. Six respondents said that they had understood the reasons given for the decisions made and one respondent said that they did not understand the reasons given by the Committee and felt that the report 'softly let down the abusers'.

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 and whether they understood the reasons given in the determination review report. Seven people responded to the questions. All respondents stated that the information provided by the Commissioner's Office was helpful and the reasons given by the Panel were clear, one respondent indicated that the reasons given were only partly understood.

Resolution

Complainants are asked whether they feel the complaint has been resolved, and if not, why not. Two hundred and thirty-one complainants responded to the question. Sixty-one per cent of respondents (160) said that the complaint had been resolved. Twenty-seven per cent of complainants who answered the question (71) felt that the complaint had not been satisfactorily resolved.



Sixty-one per cent of respondents (160) said that their complaint had been resolved. A small number of respondents provided additional positive comments including: the 'care recipient's needs had been met', 'there is definite improvement' and 'the service listened'. Two respondents reported that they were hopeful and three advised that the matter had been referred to the Coroner. The majority of respondents with ongoing concerns reported that no action had been taken as yet, only some of the issues had been addressed or only some required changes had been implemented. Other negative comments included: the provider is mouthing platitudes but tangible results are needed, it will take time for the culture to change, staff training is sadly lacking, the veracity of staff remains questionable, problems remain, or, there are other issues in play. One respondent decried the entire process claiming a waste of public money and believed that the provider knew that nothing would be done to expose the incompetency of the Department or the Scheme. Two respondents indicated that they were uncertain about the outcome as they had not received any feedback after the complaint had been referred. Another said that they had no knowledge and so could not form an opinion. One respondent indicated that there was bias towards the provider. One respondent claimed that because they were old they were easy targets and no-one believed them. Three respondents stated that the legislation was inadequate.

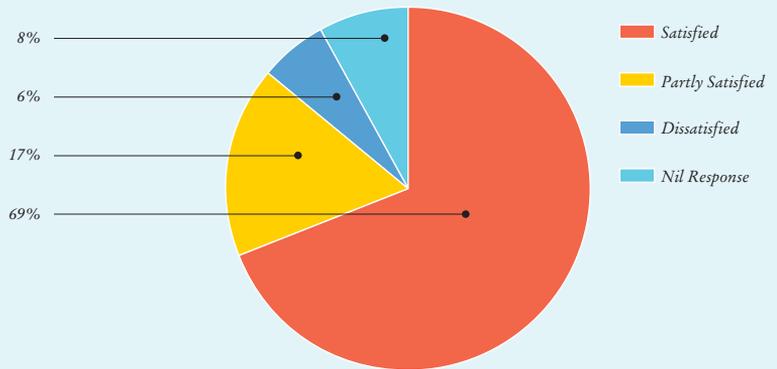
Overall satisfaction

The data show that 69 per cent of complainants who returned surveys and responded to this question were satisfied with the overall service provided by the Scheme. A further 17 per cent indicated they were partly satisfied. Six per cent of respondents indicated that they were dissatisfied and eight per cent of respondents did not answer the question.

Many respondents commented positively about their interactions with staff describing them as articulate, attentive and empathetic and offered congratulations on the management of their complaint. Negative comments were based around the length of time taken to deal with the complaint, poor communication on the part of the Scheme and one care recipient complained about the number of phone calls taken and suggested that it was 'more appropriate for an investigator to visit an elderly person who complains'. A small number of respondents (six) were critical about the Scheme's lack of responsiveness - comments included nobody cared or listened carefully, nothing was done about my complaint because it was referred, if the Scheme's sole purpose is to resolve issues then it should be more attentive to the total complaint, I would be more satisfied if I had tangible results, mediation is not the way to handle issues, the Scheme did everything to put a stop to my complaint I had to go to Canberra. One person indicated that they were only satisfied by the committee process.

Overall satisfaction

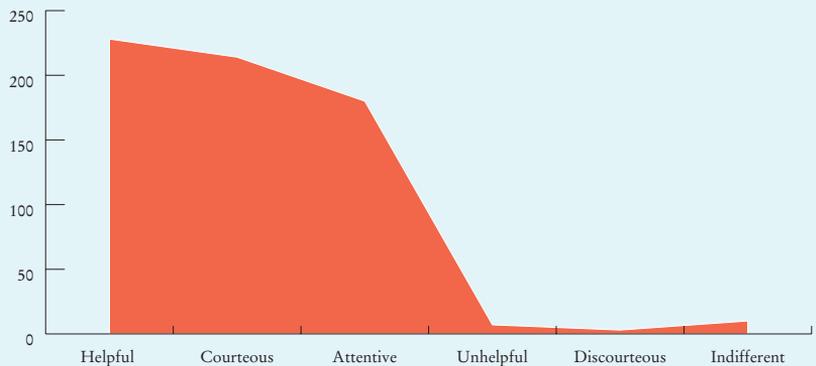
Fig 19: Overall satisfaction



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 staff were found to be helpful, courteous and attentive.

Complainants' Perception of Staff

Fig 20: Staff attitudes



Suggestions for improvement

Thirty-six per cent of respondents provided additional comment; however, suggestions were often duplicated by respondents and in some cases suggestions were aimed at improving health care and other programs rather than the Scheme. A number of complainants raised communication issues and time lines.

Two people commented on poor public awareness of the Scheme. Others discussed a need for unannounced visits - including in rural areas, the ability to clearly identify issues early on the process and perceived bias. A small number of respondents suggested face-to-face visits with complainants and joint meetings with complainants, providers and the Scheme. Others suggested a requirement to follow-up the implementation of agreed outcomes and the provision of feedback and continuity of complaint officer. Complainants also suggested there was a need to improve the process - negotiation was useless, two people said mediation should not be utilised yet others suggested a need for face to face meetings with the parties. Four respondents suggested a need to strengthen the legislation - two mentioned a capacity to investigate and one suggested that all complaints go to the Commissioner as 'there is room for corruption and collusion in the Department and between parties'.

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.



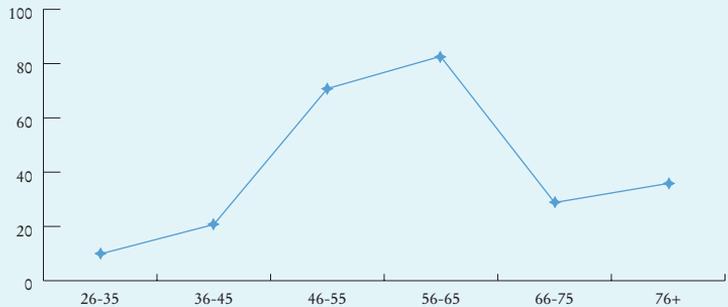
Twenty-nine per cent of complainants identified that their dealings were with the Scheme in New South Wales, 15 per cent of respondents were Victorians and 14 per cent interacted with the Scheme in Queensland. Nine per cent of respondents indicated their dealings were with the Scheme in South Australia, 22 per cent in Western Australia, six per cent in the Australian Capital Territory, five per cent in Tasmania and one respondent dealt with the Scheme in the Northern Territory.

Twelve respondents identified themselves as indigenous Australians. The majority of respondents indicated that their first language was English. Fourteen respondents reported that their first language was other than English. Languages spoken included Dutch, Tagalog, Ukrainian, Greek, Italian, Slovenian and Cantonese.

Complainants were asked to identify one of seven age groups in which they belonged. Thirteen respondents (five per cent) did not answer the question. The majority of respondents (34 per cent) were aged between 56-65 years. Twenty-eight per cent of respondents were aged between 46-55 years, 14 per cent were aged 76 years and over, 12 per cent were aged between 66-75 years, eight per cent were between 36-45 years and ten respondents (four per cent) were aged between 26-35 years of age.

Age Groups

Fig 22: Age groups



Satisfaction Survey: Service Provider responses

During the period a total of 341 service providers across Australia returned completed surveys giving a response rate 55 per cent. 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.

Survey Responses

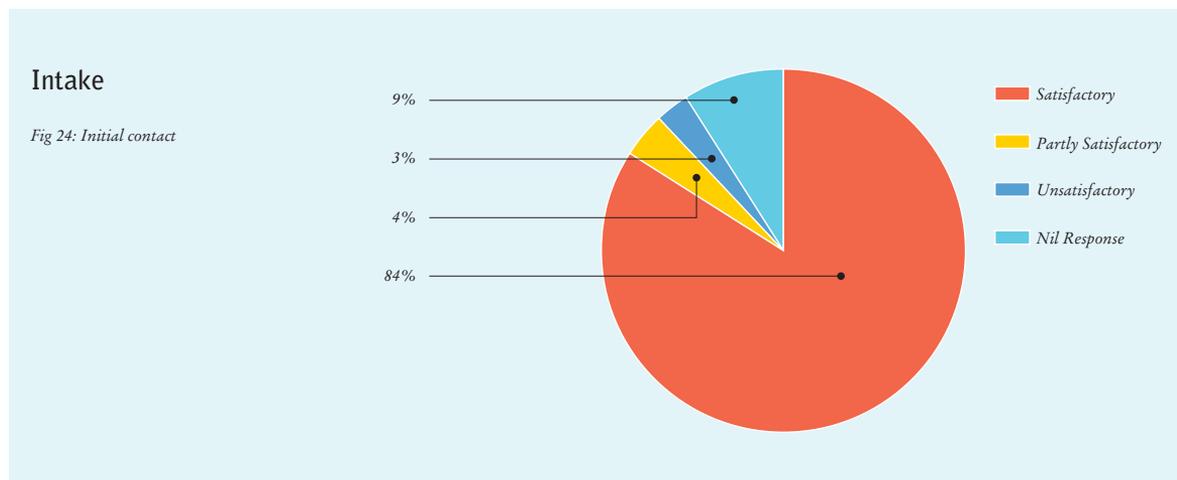
Fig 23: Survey responses



Thirty-seven per cent of providers identified that their dealings were with the Scheme in New South Wales, 15 per cent of respondents were Victorians and 11 per cent interacted with the Scheme in Queensland. Sixteen per cent of respondents indicated their dealings were with the Scheme in South Australia, 14 per cent in Western Australia, four per cent in the Australian Capital Territory, three per cent in Tasmania and one respondent dealt with the Scheme in the Northern Territory

Initial Contact

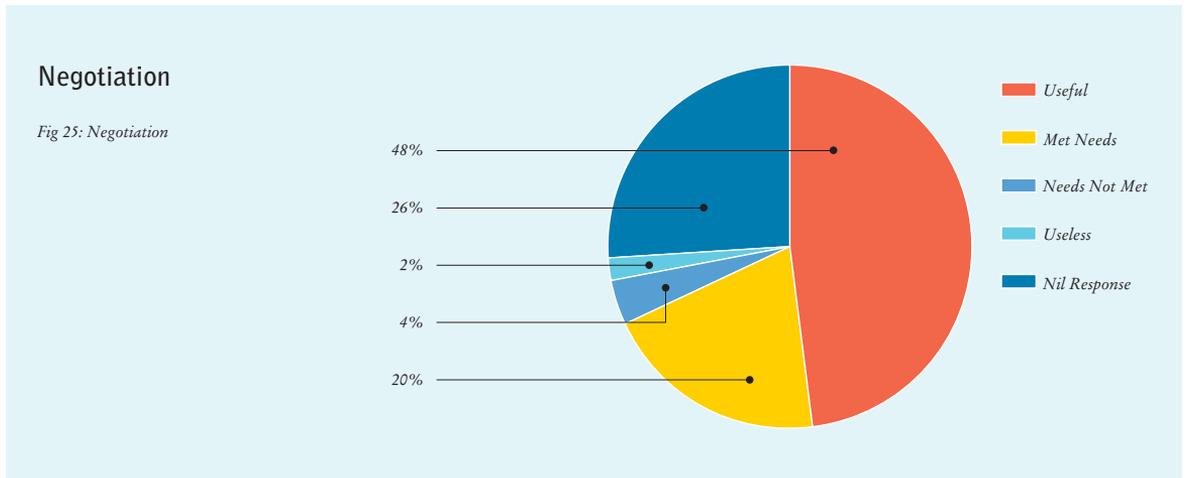
Respondents are asked to describe their initial contact with staff and are invited to make a general comment. The data show that 84 per cent of service providers who returned surveys and responded to this question were satisfied with their initial contact with the Scheme. Four per cent of respondents said they were partly satisfied and three per cent said that the contact was unsatisfactory. Nine per cent of respondents did not answer the question.



The majority of providers reported that during the initial contact staff were polite, professional and adopted a positive but neutral approach and indicated that they felt comfortable answering all queries. Service providers that were not satisfied also offered comments included officers; presumed the provider was at fault, refused to divulge information, first knowledge of the complaint was through a compliance visit, and one provider was critical because officers only divulged their given (first) name.

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. Ninety respondents (26 per cent) did not answer the question. Of the 251 respondents providers 48 per cent found the process to be useful, 26 per cent said that their needs were met, four per cent said that their needs were not met and two per cent indicated that negotiation was useless.

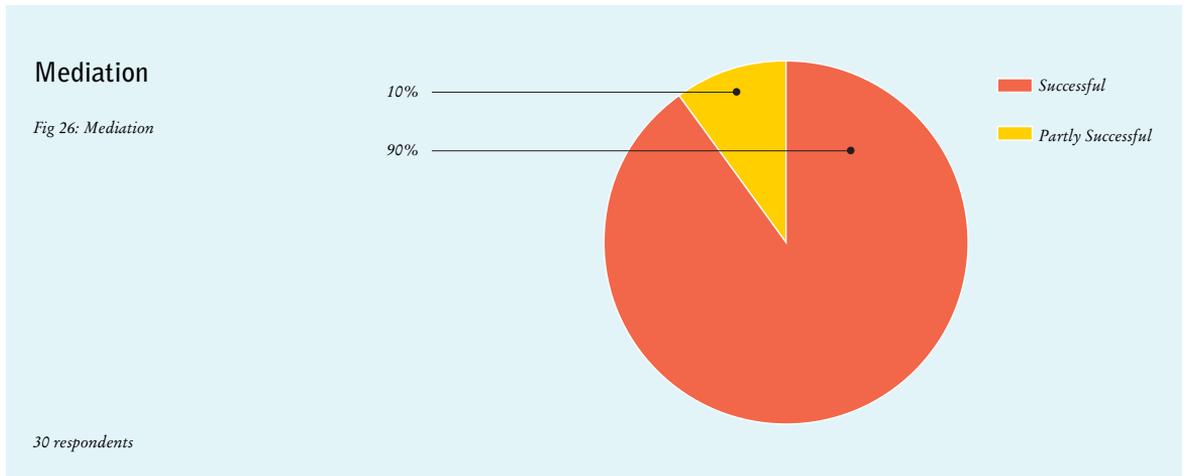


Providers are also asked if they were kept informed of the progress during negotiation and are invited to make general comments about the negotiation process. Seventy-seven per cent of service providers indicated that they had been kept informed, seven per cent said that they were partly kept informed and four per cent of respondents said that they had not been kept informed. Significantly, 31 providers (12 per cent) did not respond to this question.

The majority of service providers who reported satisfaction with the process did not provide additional comment. Five indicated that they were unaware of any negotiation or that they had not been involved, one said that the Scheme had not participated in the process and negotiation occurred between the organisation and the complainant only, and two others said that they had provided information and the complaint was closed without any negotiation. Another provider who reported dissatisfaction commented that it was difficult to understand why the complainant's issues had been taken seriously by the Scheme and they were uncomfortable with a feeling of guilty until proven innocent.

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. Again only a small number of providers (30) responded to this question. Ninety per cent (27) indicated that mediation had been successful and ten per cent (three) said that mediation was not successful.



Only six providers commented on the mediation process - one provider was satisfied, another said that the matter was referred for determination and another complained about a 12 hour process. One provider commented that the mediator did not follow the process and made a biased comment without hearing the full story and another said that the mediator did not deal with the issues but was focussed on keeping the complainant happy. One respondent reported that they felt the issues would surface again in a different guise.

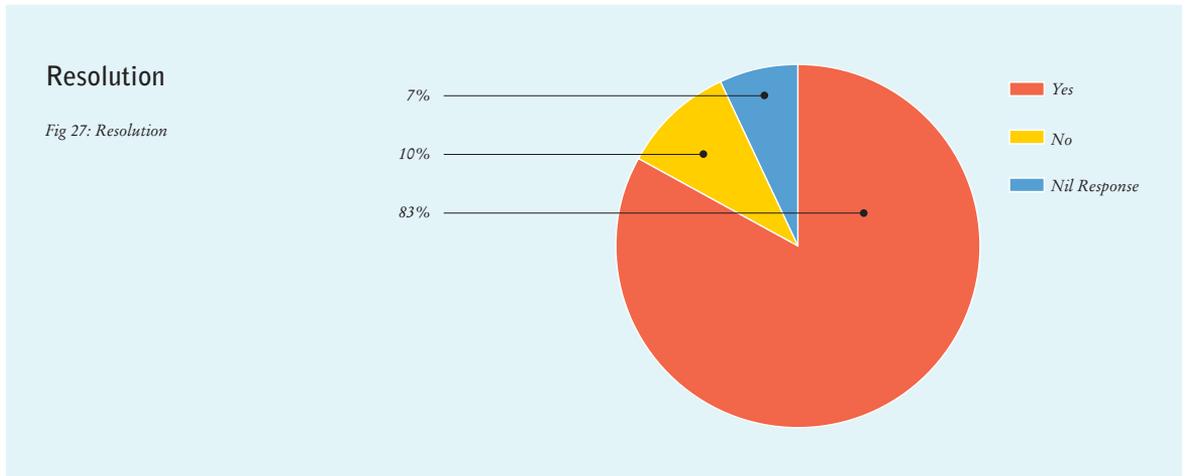
Determination

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. Seven providers responded to these questions. Six providers indicated that they were given an opportunity to put their view and one responded in the negative. All respondents said that the committee provided reasons for their decision that they could understand.

Providers are also asked that, if the complaint progressed to a review of the determination, whether the information provided by the Commissioner's Office was helpful and whether they understood the reasons given in the determination review report. Four providers responded to these questions. All respondents advised that the information provided by the Commissioner's Office was helpful. Three providers indicated that they understood the reasons given in the review report and one responded in the negative.

Resolution

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

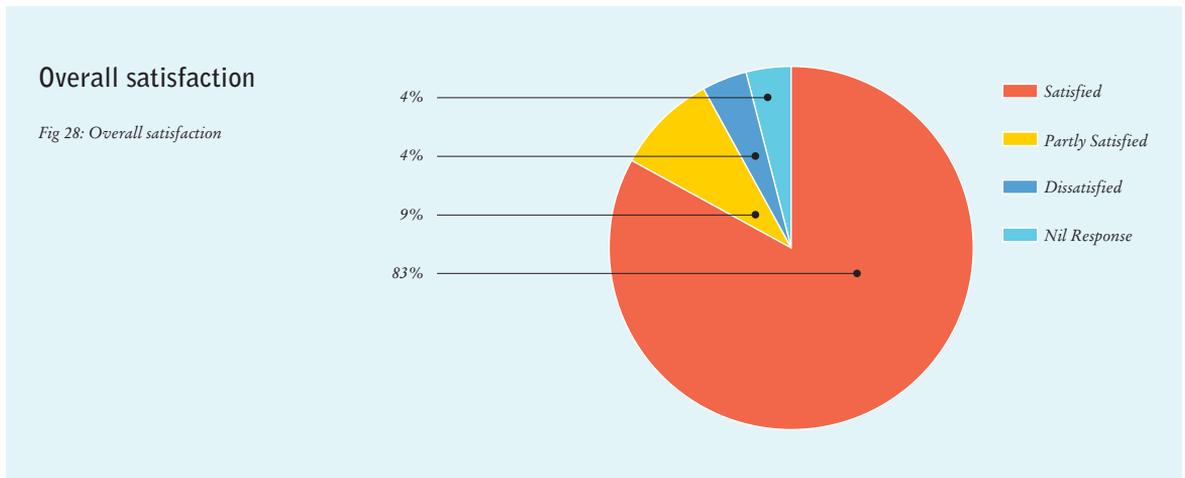


Thirty respondents provided additional, negative, comments. Providers indicated that; the complainant made no effort to cooperate, there are other underlying issues, the complainant has unrealistic expectations, the complainants expressed need will always exceed the providers' capacity to meet those needs, the relative makes complaints every day, the family still blames the provider. One provider asserted that they were never given an opportunity to respond and indicated that the facility staff were dissatisfied. Respondents felt that complaints made by former employees were often frivolous or malicious and indicated that it was often difficult to deal with anonymous complaints, which left one respondent feeling 'frustrated and heavy-hearted'. A number of respondents made the point that they often had to deal with dysfunctional families and grieving relatives who had unrealistic expectations and would never be satisfied. Some providers said that it was also difficult to know when/if confidential complainants were satisfied. Two providers described the complaints system as frustrating and time consuming.

Overall satisfaction

Ninety service providers responded to this question. The data show that 83 per cent of service providers who returned surveys were satisfied with the overall service provided by the Scheme. A further nine per cent indicated they were partly satisfied, four per cent indicated dissatisfaction and four per cent did not answer the question.

A number of respondents provided additional information; however, many responses repeated information given in previous answers. Many providers commented on the professional attitude of complaints officers and the overall positive impact of the complaint handling process, including the resulting improved relationships with complainants. While providers generally commented positively on the attitude of Scheme staff a number indicated dissatisfaction with the complaint processes. A small number of providers claimed bias and a perception the service was considered guilty from the outset. Some indicated that they should have the right to question complainants and that complainants should be required to utilise the internal complaints process in the first instance.



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. One hundred and eighty-five providers (54 per cent) said that their service had changed.

Many providers found the complaints process to be a positive experience and one which highlighted gaps in service provision and existing inefficiencies. Comments were often duplicated and these included an increased: understanding of complaint handling generally and of the Scheme's resolution processes, awareness of relatives' feelings and residents' rights and the need to improve communication, recognition of the requirement for comprehensive and accurate documentation. Many providers indicated that they had instituted internal and/or external reviews of all processes with an emphasis on quality improvement and had increased staff education and competency assessment. Others reported increased staff supervision, improvements to the physical environment, wound management and admission processes. Respondents advised that palliative care and pain management had been improved, better nutrition and hydration, menu changes and the introduction of weight charts. Operational matters have been addressed including the purchase of additional linen, the employment of additional cleaners, weekend access to stores, increased security services, and changes to staff rosters.

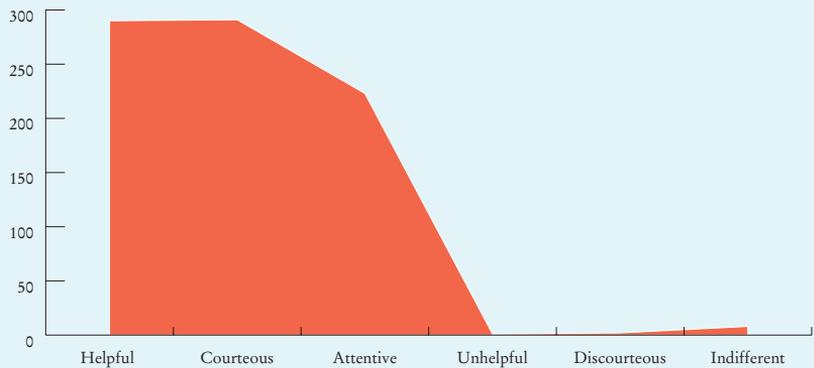
However, some responses were disappointing. Four providers said that the complaint was invalid because they had met all 44 outcomes and had been accredited for three years. Others adopted a no blame attitude and said that staff had followed all procedures and had been unfairly treated. Providers spoke about vexatious complaints, deranged relatives and difficult families. Others were even more cynical and stated that henceforth they would 'document to death', maintain a distance and not become personally involved, and one respondent reported that 'in the future we will send the care recipient to accident and emergency without any due concern for their comfort level when they are ill and their doctor cannot be contacted. This is irrespective of day or night'.

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 to be helpful, courteous and attentive. Eight respondents found staff to be indifferent, two indicated that staff were discourteous and one was found to be unhelpful.

Providers' Perception of Staff

Fig 29: Staff attitudes



Suggestions for improvement

Seventy 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 direct application to the Scheme included: meeting with all parties early in the process, continue to support staff in aged care, ensure complainants are required to comply with the process, ensure impartiality, promote contact with the service provider in the first instance, allow additional time for providers to respond, investigate without taking a guilty until proven otherwise approach, improve timeliness and be mindful of natural justice principles. Providers suggested that the legislation be strengthened to remove anonymous complaints and proposed that there be formal interviews with the parties. Other comments included that the Scheme should not adopt an adversarial approach, should ensure that the issues are clarified in the first instance and should only accept written complaints - referring verbal/informal complaints back to the provider. One provider stated that 'the fundamental premise that complaints cannot be resolved until the complainant is satisfied is seriously flawed'.

Additional comments were generally that the process had been an interesting learning process, a positive experience and one that led to change and improvements, which would ultimately benefit everyone. It was reported that, while the process was somewhat daunting, it proved to be very helpful and constructive. Providers also commented that they are required to deal with dysfunctional families, grieving relatives and vexatious complainants and felt that this was overlooked by the Scheme who gave complainants 'unjustified credibility'.

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.

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 remains at 100 per cent. The database indicates one denominator in the Northern Territory, however the target was not met. The database indicates that across Australia, an average of 84 per cent of contacts received an acknowledgment card within the stipulated timeframe.



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 95 per cent of cases.

Indicator 2

Fig 31: Performance Indicator 2



Indicator 3 relates to the prompt referral to appropriate internal or external agencies. The database indicates that a total of 259 matters were referred during the reporting period. Records show that 153 matters were referred to other sections of the Department for information and/or action, 22 matters were referred to committees for determination, 52 for mediation, 10 to the police and 22 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 89 per cent of cases, nationally.

Indicator 4

Fig 32: 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 Queensland, the Northern Territory or the Australian Capital Territory. The target set for this indicator is 90 per cent; however, the database indicates that none of the jurisdictions recording urgent issues met this indicator. This result appears to be the consequence of poor data input. 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 70 per cent the database shows a national average of 90 per cent.



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 85 per cent for both indicators.

Indicator 7.1

Fig 34: Performance Indicator 7.1: Complaints

Achievement
National Average
Target



Indicator 7.2

Fig 35: Performance Indicator 7.2: Providers

Achievement
National Average
Target

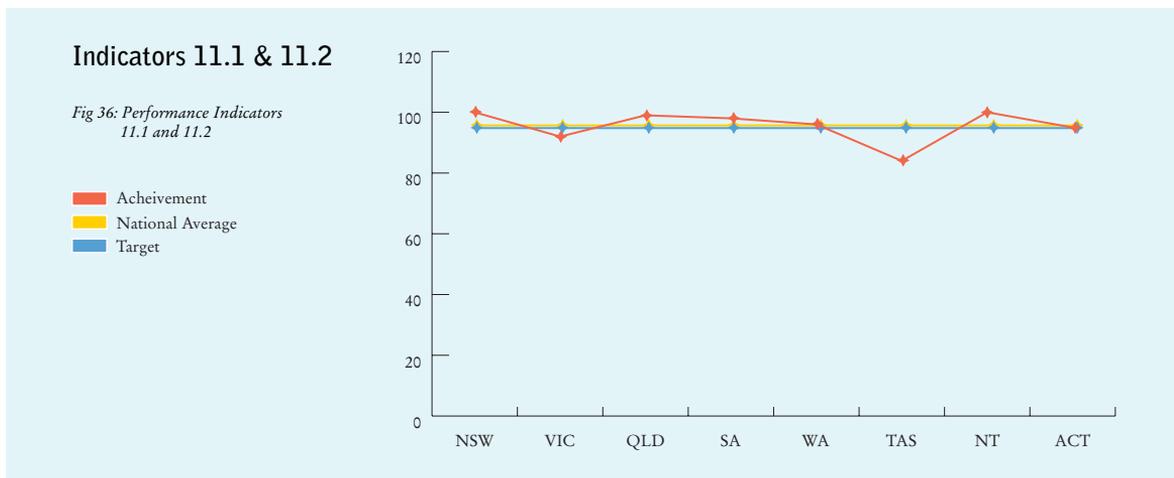


Indicator 8 proposes that determination reports outlining the results of hearings conducted by committees should be provided within seven working days from the date the determination is received by the secretariat. A review of the database indicates that of the 29 determinations provided for the period the indicator was met in 59 per cent of cases (17), however details required to measure the remaining 12 cases are not provided on the database.

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 73 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 96 per cent.



Indicators 11.2 and 12.2 record the number of complainants and service providers (expressed as a percentage) who indicate they are satisfied or mostly satisfied with the way their complaint was handled by the Scheme. These figures are taken from the satisfaction survey database and show that 93 per cent of complainants who responded to the survey were satisfied or mostly satisfied with the service provided by the Scheme. Separately, 88 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.

A total of seven new staff were employed in Victoria and two additional staff were employed on a temporary basis. All new staff participated in the national orientation program, six staff took part in an internal Scheme orientation program and three attended a departmental orientation program. One staff member is completing an undergraduate degree in Psychology and Human Biosciences. During the year six staff have attended a range of additional courses including:

- Business writing and grammar skills
- Contract management
- Administrative law
- Freedom of information
- Managing time
- Quality assessor training
- Nurse education workshop
- Communicating successfully
- SAP financials.

During the year four new staff were employed in New South Wales and all participated in an internal orientation program. Three staff took part in the national orientation program and a number of staff attended conferences related to dementia and other courses including:

- Multicultural awareness
- Health Systems
- Business writing skills
- Advanced Negotiation.

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

- Good decision making under the Aged Care Principles
- Freedom of Information
- Multicultural awareness
- Aged care in Aboriginal and Torres Strait Islander communities
- The Ageing Brain
- Business Planning
- Influencing and Negotiation Skills

- Communicating Successfully
- Balance and Ageing
- Information Privacy Principles
- Preventing harassment, discrimination and bullying

Three new staff were employed in South Australia. All attended the national orientation program and two participated in an internal orientation program. Four staff in South Australia attended education related to Information Privacy Principles, three attended Discovering Clerkiness and two staff took part in a course entitled Influencing and Negotiation Skills for Practitioners.

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

- Advanced Negotiation
- Advanced Influencing and Negotiation Skills
- Good Decision Making
- Conflict Management
- Business Planning
- Leadership and Leading Your Team
- Managing for Performance
- Managing for Change

One new staff member was employed in Tasmania and took part in both internal and external orientation programs. All staff took part in various additional training and courses included:

- Managing for Performance
- Managing for Change
- Writing skills
- Supervisors Refresher program
- Integrated Leadership Systems
- Practical Application of Values
- Team Leaders Community of Practice.

In the Northern Territory one new staff member joined the team and participated in orientation programs. No new staff were employed in the Australian Capital Territory, however, existing staff attended education related to conflict management.

Appendix 4 Glossary

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

