Health and Community Services
COMPLAINTS COMMISSION

Annual Report 2021/22

Health and Community Services
COMPLAINTS COMMISSION

Twenty-Fourth Annual Report (2021/22)

The Honourable Chanston (Chansey) James Paech MLA

Attorney General and Minister for Justice

Parliament House

DARWIN NT 0800

Dear Minister

In accordance with the requirements of section 19(1) of the *Health and Community Services Complaints Act*, I am pleased to present the Annual Report of the Health and Community Services Complaints Commission for the year ending 30 June 2022.

Yours sincerely

Stephen Dunham

Commissioner

23 March 2022

Glossary of Terms

ACQSC	Aged Care Quality and Safety Commission
AGD	Department of Attorney General and Justice
Ahpra	Australian Health Practitioner Regulation Agency
ASCC	Alice Springs Correctional Centre
DCC	Darwin Correctional Centre
CARHS	Central Australia Regional Health Service
COAG	Council of Australian Governments
Commission	Health and Community Services Complaints Commission
Complaint	Unless otherwise specified, complaints include matters received by the HCSCC on which a formal decision was made and Notifications to Ahpra in which formal decisions were made at consultation
DoH	Department of Health
GP	General Practitioner / General Practice
NDIS	National Disability Insurance Scheme
NDISQSC	National Disability Insurance Scheme Quality and Safety Commission
Notification	A report of concern about the health, conduct or performance of a registered health practitioner
NTCS	Northern Territory Correctional Services
PPHCS	Prison Primary Health Care Service
RACGP	Royal Australian College of General Practitioners
RDH	Royal Darwin Hospital
TERHS	Top End Regional Health Service

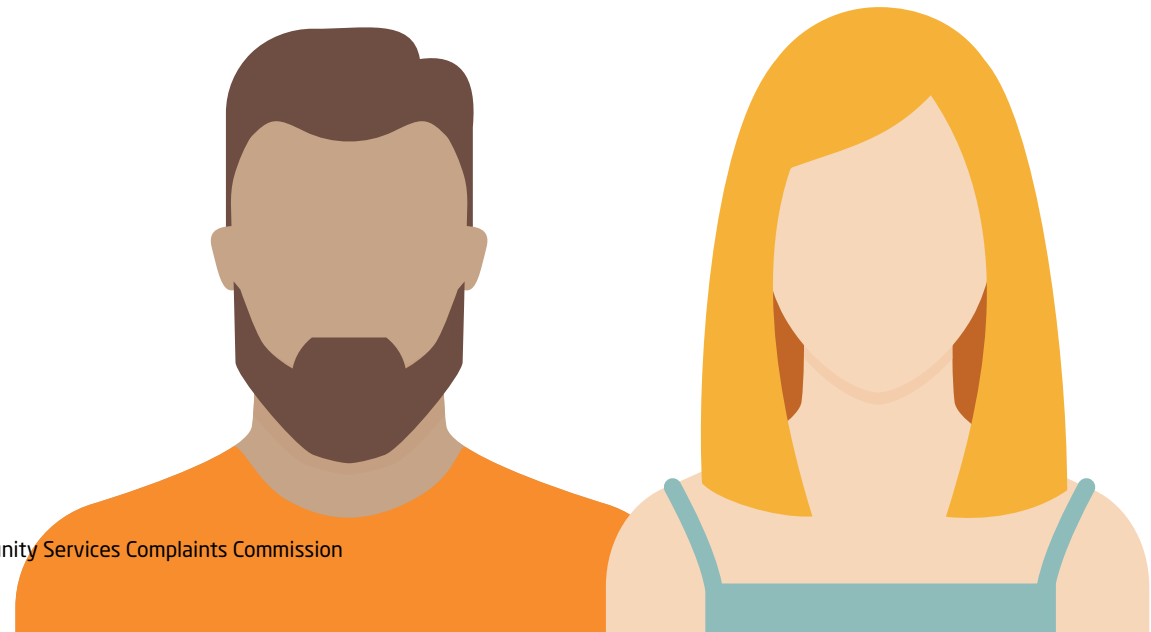


Table of Contents

Figures

Tables

Commissioner's Report

The year in review has brought mixed blessings and significant challenges to the Commission. The anomalous and intrusive effects of the COVID-19 pandemic have now been factored in to standard practice and it appears that we can confidently return to the normalcy of earlier years, albeit with some permanent modifications to our business practice.

It is evident that COVID-19 had an impact on enquiry and complaint numbers with reductions in workload. 772 complaints and enquiries were recorded in 2019/20 (down from 909 the previous year) and 650 in 2020/21. This represents an almost 30% reduction over this two year period as can be seen in the table below. 2021/22 has seen a return to previous growth trends and I expect that next year the Commission will again face record numbers of enquiries and complaints. Staff absences and work from home arrangements also proved challenging, with the latter now a standard (and beneficial) feature of public service delivery. It is also worth noting that a significant number of COVID-19 specific complaints were handled directly by the Department of Health and do not feature in the Commission's statistics. These complaints and enquiries were handled by a small centralised team specifically tasked with investigating and responding. Although the details were not logged, they were estimated to be in the thousands. In sum these complaints have increased the gross number of complaints about health services predictably and unrelentingly each year.

This report offers some insight (albeit statistical and de-identified) into the confidential workings of the Commission. Given the lack of any interrogation of the Commission's activities on the last seven occasions that the Parliament Estimates Committee has undertaken this task across government, few opportunities are available for external parties to oversee the Commission's work. I view this Annual Report as uniquely affording an insight into the Commission and for this reason it is incumbent on me to be frank. Obviously, the several hundred parties to a complaint each year have a good awareness of the matters critical to that particular episode, but the strong legislative confidentiality requirements do not allow for wider third party involvement or appraisal.

The Department of Health, particularly its services at the Alice Springs Hospital, Royal Darwin Hospital and the Prison Health Service at the Darwin Correctional Precinct, has frequent interaction with the Commission due to the understandably high numbers of complaints and enquiries emanating from these three sites. The Commission experiences a highly productive relationship with the Department and has special arrangements with these service providers. I am happy to report that genuine goodwill and patient centred care are the prime factors in both complaint resolution and system improvement. Health staff are to be complimented on their approach to resolving disputes with complainants and to improving safety and quality in services.

The Health and Community Services Complaints Review Committee

Since the inception of the Act in 1998, there has been a statutory Committee whose function (s79(1) of the Act refers) is:

(a) *to review the conduct of a complaint to determine whether the procedures and processes for responding to the complaint were followed and, as it thinks fit, to make recommendations to the Commissioner in respect of the conduct of the complaint;*

(b) *to monitor the operation of this Act and make recommendations to the Commissioner in respect of any aspect of the procedures and processes for responding to complaints;*

(c) *to advise the Commissioner and the Minister, as appropriate, on the operation of this Act* and the Regulations.

Previous Committees over the last 20 plus years have singularly focussed on reviewing complaints pursuant to s79(1)(a). This section authorises the committee to review the conduct of a complaint to determine whether the procedures and processes for responding to the complaint were followed, and make any relevant recommendations to the Commissioner in respect of the conduct of the complaint. It is noted that very few applications are received annually and there have been occasions when the Committee has not met during a year. There is commonly some confusion relating to the role of the Committee with some parties viewing it as an avenue to appeal and overturn the decisions, findings or recommendations of the Commissioner. The Act is very clear about the inability of the Committee to consider 'appeals' of this type and this may account in part for the low numbers of complainants who use this option. Parties are alerted to the Committee and its functions along with an invitation to access this process if they have any dissatisfaction regarding the conduct of their complaint when advised of the closure of their complaint.

As reported last year the current Committee has shown an interest in its other functions and chosen to seek guidance from the Minister about the government's intentions regarding the anticipated new tasks of the Commission, particularly the *Code of conduct for health care workers*, and the now long overdue statutory review of the Act. As I reported last year, this power, while allowed for under the Act at s79(1)(c), has never been used previously. This matter is further expanded on below.

All of the appointments of the five members of the Committee lapsed on 27 March 2022. No appointments had been made during the financial year although applications were sought by newspaper advertisement on 22 April 2022, closing 15 May 2022, and I am hopeful that appointments are imminent.

The six people who were appointed to the five positions provided exemplary service in this role and enjoyed a good working relationship with the Commission. All appointees had substantial other roles and the work of the Committee would have been a major intrusion on their everyday jobs. I thank them for their service and approach to this important task.

Review of Act and the 2004 review

By letter of 7 July 2021 the then Minister, the Honourable Selina Uibo advised me that she had directed the Department of Attorney General and Justice to conduct a desktop review of the Act and to seek my views and those of the Committee on that review. An ambitious target of 31 December 2021 was set for the finalisation of the review, but this has been well exceeded in this reporting year and no advice on the new target date at year's end has been advised to me.

As previously reported, the Act at s106 requires that, after an initial review two years following commencement in 1998, periodic reviews at intervals not longer than 5 years be conducted. Thus, five reviews have been statutorily required over the life of the present Act. One was undertaken in 2004 but for reasons unknown, it was never tabled by the then Minister as required by s106(3). Over the last 18 years its status remained as embargoed and possibly confidential, with a number of calls for its public release.

The current review of the Act would obviously benefit from access to the substantial body of work in the 2004 review, comprising 171 pages and making 78 recommendations following 15 month's consultative work and receipt of 24 submissions. While obviously some recommendations may now be obsolete or overtaken by the lapse of time and the major changes to health, disability and aged persons service provision, many will have contemporary application.

The review is now a public document and, coinciding with the notification of the decision to review the Act, is placed on the Department of Attorney General and Justice's web site.

It can be accessed here:

https://justice.nt.gov.au/__data/assets/pdf_file/0018/1052505/Review-of-the-Northern-Territory-Health-and-Community-Services-Complaints-Act-1998.pdf

It is my intention to remain at arm's length from the current review and provide comment following the release of a public consultation draft. I am of the view that the current Act is still functional and fit for purpose. This said, there are a number of modifications which would provide clarity and assist with processes. There is also the fundamental democratic role of consulting the people who are subject to the regulatory influences of statutes to seek comment periodically on their span, intention and effect. This is particularly important when considering new or expanded powers. The ability of the Commission to instigate matters on an own motion basis would conform with all other jurisdictions, and while recommended, (see recommendations 10 and 11) was seen as contentious during the 2004 review.

The 'community services' in the Commission's title and legislative ambit are ill described and a source of confusion. The Act was commenced at a time when the Government of the day delivered services through a Department of Health and Community Services, and the understanding of what constituted a community service derived from this. Since that time, these services have been disaggregated across numerous Departments and an easy or universal definition evades most Territorians. The major

demographics of 'people with a disability' and 'aged persons' are evident and amply expanded in the current regulations. While the Act at s4(1) defines a community services as a service for aged people or a service for people with a disability, numerous other services can fall within this descriptor. The vast array of other community services was considered by the 2004 Review, and it devotes some of its attention and recommendations to this grouping. Appendix 11.6 page 166 suggests the catchment for the regulations (for instance baby-sitting, long term housing assistance and 'correctional or rehabilitative supervision and protection of public safety through corrective arrangements and advice to courts and parole boards' are not recommended, but community services provided through local government and non-government organisations are proposed for inclusion). The logic for this apportionment and cleavage is not apparent, but the Review Committee is to be commended for attempting to provide some clarity.

There have also been a number of new entrants in the health, disability and aged persons environment focusing on safety, quality, rights and complaint resolution and there may be benefit in recognising these relationships in statute in a similar way as the relationship between the Commission and the Boards (now Ahpra).

Further, there are some new functions not currently in the NT Act which augment the regulatory repertoire of my interstate counterparts, with the *Code of conduct for health care providers* the most obvious. This code arises from a unanimous national commitment by all Australian Health Ministers in 2015 and has been commented on in previous Annual Reports. The Northern Territory is now one of only four jurisdictions which has not enacted legislation to implement the code. Of these four, both Western Australia and Tasmania are well advanced with the enabling legislation and appear ready to participate in the National Code in the near future. Notably this code requires Commissions to use own motion powers, whereas at present, the Commission can only exercise its powers in response to a complaint conforming with a number of preconditions at s22 of the Act. As I have advised previously, in addition to regulatory changes, the Commission is unable to undertake this role in the absence of a significant augmentation of resources as has been the case interstate.

Budget

I have previously reported that the reduction to the Commission's resources is the biggest threat to its independence. The reduction is able to be empirically demonstrated in the table below. The impact of CPI of 1.7%pa over the last seven years has tangibly reduced the Commission's real funding and the ramifications of this reduction on activity is also able to be catalogued. While any attempt to calibrate the diminution in 'independence' is moot, it is inarguable that such a reduction exists. Of note is the high probability that CPI will be vastly in excess of 1.7% in the coming year, with the resultant massive and continuing erosion in the Commission's spending capability.

I recognise the current fiscal circumstances of the Northern Territory and am familiar with the March 2019 report by the Fiscal Strategy Panel (the Langoulant Review). I am curious about the level of the Commission's cuts in the context of its growth in workload and would be interested to compare this across the NTPS, or at least other work units in the Department of Attorney General and Justice to confirm equity in approach to fiscal restraint.

Budget Allocation	$m	$,000 and percentage change on previous year	Workload (enquiries and complaints)
2014/15	1.205		608
2015/16	1.196	Minus $9 (1%)	621
2016/17	1.164	Minus $32 (3%)	823
2017/18	1.194	Plus $30 2.5%	824
2018/19	1.116	Minus $78 (6.5%)	929
2019/20	1.123	Plus $7 1%	772 (Covid affected)
2020/21	1.031	Minus $92 (8.2%)	650 (Covid affected)
2021/22	**1.020**	**Minus $11 (1%)**	**674**

Reduction in $ terms:
1.205 - 1.020 = $185k
15.5% reduction

Reduction factoring in inflation:
$1.205 in 2014 equates to $1.36 in 2021
(12.6% over 7 years to 2021 @ 1.7pa
SOURCE: Reserve Bank of Australia)

Thus

1.36 - 1.020 = $340k
25% reduction

Workload increases for this period are calculated at:
674 - 608 = 99
11% increase

Two statutes have relevance to the reductions to the Commission's budget. While I have chosen to cite them here, I leave it to others to determine obligations and judge the adherence or abrogation thereto in this context.

The Health and Community Services Complaints Act at s14(1) requires:

The Chief Executive Officer of the Agency administering this Act must provide the Commissioner with staff and facilities to enable the Commissioner to properly perform the Commissioner's functions.

Two duties are inherent in this section;

- an assessment of the 'proper' performance of my functions, and thence,
- to fund them accordingly.

Neither has been done and budgets have been prepared without any reference to me. Some independent benchmarking with other Australian health complaint entities or like independent statutory offices (for instance) would provide some insight into the resourcing

assessments to allow the proper performance of the Commission's functions. In my view, non-conformance with statutory obligations is a significant indicator of inability to 'properly' perform functions. I have expanded on this element below.

Secondly, the *Fiscal Integrity and Transparency Act* gives credence to the budget figures and acts to independently certify that the allocations in the budget papers are sufficient to meet the Government's intentions.

The Under Treasurer, at page 3 of Budget Paper 2 certifies:

Under Treasurer's Certification

In accordance with provisions of the Fiscal Integrity and Transparency Act 2001, I certify that the financial projections included in the May 2021 Budget documentation were based on Northern Territory Government decisions that I was aware of or that were made available to me by the Treasurer before 27 April 2021. The projections presented here are in accordance with the Uniform Presentation Framework.

Craig Graham Under Treasurer 27 April 2021

Historically such independent certification was viewed as necessary to ensure that confidence could be assured that the fiscal data was unaffected by interference to 'artificially reduce' budgets and attested to the sufficiency of funds to meet activities.

Curtailment and reductions of activities

- **Travel**
  The Commission has now instituted a policy of complete cessation of travel, with only two overnight trips in the reporting year.

- **Staffing**
  Employee expenses have been reduced by:

  - Downgrading the Deputy's position from ECO1 to SAO2 saving $75 000 per annum. I note that the abolition of the ECO1 level service wide was recommended by Mr Langoulant in his 2019 review and this reduction accords with this. I would be interested to know if this has been actioned throughout the NTPS as it appears that a number of ECO1 positions still exist.
  - The engagement of a Business Manager on a half time basis (unlike other Independent Offices) renders a saving of circa $50 000.
  - Cessation of the Disability Support staff member, who worked several hours per week. This action was taken reluctantly with a cost saving of $15 000.
  - No provision for overtime payment

- **Vehicles**
  The single vehicle allocated to the Commission not been replaced with associated lease, running cost and parking savings. Currently, the restrictions imposed by COVID-19 have meant that this has had little impact with staff using public transport, taxis or their own vehicles if required.

  In the process of seeking a replacement vehicle the Commission experienced unexplained delays and bureaucratic inertia for several months. It became evident that those responsible for procuring the vehicle

on the Commission's behalf were unilaterally disinclined to do this when the following proposition was put to me by the Ag Chief Financial Officer, with her kind regards and an invitation to discuss:

This is an opportunity for fiscal restraint and reducing our spending.

Does leasing another vehicle, when we have underutilised vehicles in AGD and other agencies, portray Government's message of tightening our belts?

The Commission has sought a comparative analysis of the cost containment measures (including reductions to the vehicle fleet) of other units throughout the Department to gauge relativity of effort and equity in resourcing. I have now sought this data a number of times and am yet to receive it. In response to the rhetorical question posed by the Chief Financial Officer, I have decided to use this Annual Report to portray the Commission's contribution to the 'Government's message of tightening our belts'.

- **Petty cash, overtime, hospitality, marketing, promotions**
  The Commission has a long history of identifying efficiency measures and has embarked on this some years before Mr Langoulant's report. In addition to reductions in staffing, travel and vehicle costs mentioned above, the cessation of subscriptions and periodicals, hospitality, promotional initiatives, indoor plant hire, and the move to paper free processing, for instance, have all been put into effect.

Non-conformance with statutory obligations

It is important to use this report to advise non-conformance with statutory obligations, some of which are my responsibilities. The public, stakeholders, users of the Commission's services, Politicians, and interested parties should be aware that a number of the statutory tasks and obligations set out in the *Health and Community Services Complaints Act*, are presently not being performed at optimum levels, or at all. The curtailment and cessation of these activities is solely due to the lack of resources.

- **Community engagement.** This work is viewed as promoting people's rights (a statutory obligation under s3(a)(iv) and (v) of the Act) and has a strong nexus with complaints, as people who are aware of their rights are highly likely to exercise them. Conversely, ignorance about rights is a factor in people not complaining about substandard services and may explain in part the reduction in complaints and enquiries coinciding with a diminution in the Commission's community engagement activities. Community engagement has been dramatically reduced with activities outside of Darwin almost ceased.

- **Returns from prescribed providers.** Section 99 of the Act, regulation 7 also applies. Seven organisations are required to provide returns on complaints to the Commission annually when requested to do so. During the year I advised each organisation that I had decided to desist from requiring reports from the previous year and will hold this request in abeyance pending the review of the Act.

  For a number of reasons these reports have largely morphed into a stereotypic red tape exercise which adds an extra work burden for limited or no return. I do not believe that the original intent of the legislators was being met.

Each provider adopts differing methodology to determine what a complaint is and the returns all differ in definitions, style and the form of the report. The low numbers cited by some providers do not give confidence that the numbers are comparable. The helicopter view of the aggregated and non-identifiable data to enable *'...monitoring and responding to trends in community and health services...'* is, although worthy, a complex, high level and time consuming task. I must frankly acknowledge that it is not being done at the present time, and in all likelihood has never been done.

The data is required to be held on a singular central register pursuant to s12(1)(d). This has not, and has never been done.

- **Review of the Act.** S106(1) refers. As outlined above, with one exception (which was unfinalised) this has never been done.
- **Tabling of the 2004 review of the Act.** S106(3) refers. Although the 2004 review report is now in the public realm, it has yet to be tabled as required by the Act.
- **Conciliations and investigations.** Part 6 and 7 of the Act refer. The options to conciliate or investigate a matter have historically provided excellent outcomes in terms of complaint resolution and system improvement. A formidable catalogue of changes to processes to ensure quality and safety in service provision can be directly attributed to the Commission's involvement. I advised last year that I have adopted a high threshold for embarking on investigations. While valuable, conciliations and investigations require a heavy time commitment, and I have been reluctant to embark on these options in current circumstances.

Office (Business) Manager

Last year in an optimistic but premature way I reported that the part time Business Manager position which had been shared between this Commission and the Children's Commission had been upgraded to full time and singularly dedicated to this Commission's work. I said at the time:

> *The previous arrangement of the Commission sharing the Business Manager 50/50 with the Children's Commission has long been an unsatisfactory arrangement for both agencies...(approval) was granted for the position to be upgraded to full time for a 12 month period...The capacity to undertake the full array of deferred projects and the alleviation of many of the administrative tasks which fell to the Commissioner and Deputy Commissioner is able to be clearly and empirically demonstrated.*

The position was redesignated Office Manager in keeping with the convention in other Independent Offices and as a more accurate description of its duties and functions. Following the expiration of the 12 month approval, the position reverted to a half time job. Given the other replica portion of the position had been upgraded to a fulltime 'Office Coordinator' in the Children's Commission, I sought to have the same logic apply to this Commission, and the position permanently designated as full time. All other Independent Offices also have full time Office/ Business Manager positions. This request was refused and I am at a loss to understand this differential in treatment.

Understandably, the officer undertaking the full time role did not wish to be downgraded with a 50% cut to her remuneration and sought employment elsewhere. Despite my initial misgivings, the Commission has attracted a highly qualified person (Mrs Rebecca Byers) to this position on a half time basis. It is a tribute to Mrs Byers that she is able to undertake the extensive (in my view, full time workload) in half

the hours. Having said this, a substantial unmet administrative workload continues to fall to others, intruding on and displacing operational activities.

Webpage

Over the years, the Commission's electronic portal has assumed a greater importance and is now without doubt, the Commission's 'front door' facilitating the bulk of our complaints and enquiries, 80% of complainants choose this mode to lodge complaints. It also acts to educate potential complainants on the limitations, focus and approach of the Commission; other agencies who may be able to assist; and contact details of other complaint bodies. It was therefore concerning that I was advised some years ago that it was non-conforming and required replacement with an authorised version.

Although work has continued sporadically on the construction and installation of a replacement, it has now become imperative that this occur in the short term. The Deputy Commissioner and Mr Meissner have taken the carriage of this project, assisted by:

- **Emmylou Trombley**
  Senior Content Designer – Digital Communications
  Department of Corporate and Digital Development | Northern Territory Government
- **Kirsten MacCarthy**
  Senior Forms Designer – Digital Communications
  Department of Corporate and Digital Development | Northern Territory Government
- **Freya Mulvey and Maxwell Rowe**
- Senior Lawyers – Commercial AGD

This assistance has been of great benefit to the Commission and is gratefully acknowledged. I have been assured budget coverage on a once off basis by the CEO and for this I am grateful. It is expected that the new website will be fully operational in the coming year.

Impending changes to services for seniors and people with disabilities

Further to comments made above about the lack of definition regarding 'community services', the Act provides me with sufficient latitude to make determinations on those matters which are either within or outside my jurisdiction. I also adopt a policy of desisting involvement in a complaint where another competent body or party has carriage of the matter, notwithstanding the Commission's ability to accept the complaint. It is not uncommon for the Commission to not pursue a complaint it has received which is also under active consideration by the Coroner, Ahpra, Police, the Anti-Discrimination Commission, the Courts or a number of other bodies. In the cases of seniors (referred to as aged persons in the Act) and people with disabilities there has been significant change, increase to funding and empowerment of oversight bodies in the Commonwealth arena. Royal Commissions have also investigated shortcomings in service provision and made recommendations relating to both demographics. COVID-19 related deaths in aged care and investigations into these added to community disquiet and demands for change.

National focus continues in both areas and the recent federal election witnessed some accusatory debate and robust interrogation of current policy. I was disappointed with the tenor and focus of apportioning blame evident in public hearings involving the Aged Care Quality

and Safety Commissioner, Ms Janet Anderson and some aged care providers. I was simultaneously impressed with Ms Anderson's candour and civil responses to lengthy, robust, accusatory interrogation.

Nevertheless, the current Federal government has made significant increases to funding for some aged care initiatives part of its platform. While the intention behind the election promises is laudable, I am doubtful that they can be achieved in the NT, particularly those that relate to the engagement of registered nurses.

The incoming Government's commitments include:

- Mandating every aged care facility to have a registered, qualified nurse on site, 24 hours a day, 7 days a week by July 2023.
- Mandating an average of 200 minutes of care time per resident by October 2023 and 215 minutes of care by October 2024.
- Accepting and funding the Fair Work Commission's decision on better pay for aged care workers.
- Working with the aged care sector to develop and implement mandatory nutrition standards for aged care homes to ensure every resident gets good food.
- Making residential care providers publicly report their spending and giving the Aged Care Safety Commissioner powers to ensure accountability and integrity.
- Funding free aged care TAFE courses as part of its broader policy of 465,000 free TAFE places.

I am concerned that these policies may prompt an exit of aged care providers for fiscal reasons due to the costs associated with the initiatives and difficulties with adhering to the regulatory mandates such as the engagement of registered nurses. In such cases it is common for inappropriate institutionalisation of aged people in acute settings to be the only viable option. It would also mean that the complaint mechanisms via the Aged Care Quality and Safety Commission would not be available for this group, leaving this Commission as the sole independent instrumentality to resolve grievances.

To further confuse matters, the Commonwealth instrumentalities use truncated definitions to determine the demographic catchments for disabilities and seniors.

The NDIS uses the nomenclature 'participant' to determine eligibility whereas the Commission uses the wider accepted definition of 'disability'. This has the effect of the NDIS providing its (substantial) services and protections, including the right to complain to a small portion of people with disabilities. As at 30 June 2022, 4 963 people in the Northern Territory are benefiting from the NDIS, from a population of people with disabilities in the NT estimated at 20500. Nationally, some millions of people with disabilities are unable to access any form of support from the NDIS. I have reported on this in previous Annual Reports.

Likewise the Aged Care Quality and Safety Commission investigates matters only where Commonwealth funding is involved, with the Commission carrying wide powers which include education, transport, recreation and food services for example.

Interstate Commissions for Health and Disability Complaints

I am obliged to acknowledge and thank my interstate colleague who provide assistance and advice to me in Australia's smallest jurisdiction. I have sought specific and general assistance on numerous occasions and have received speedy, generous and helpful responses.

2021/22 AT A GLANCE

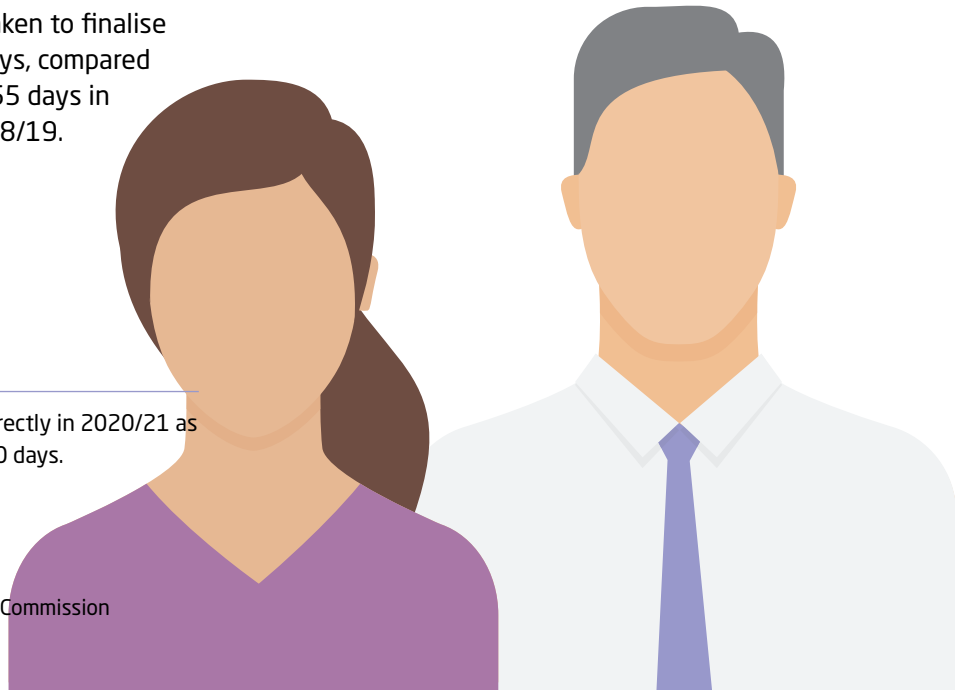
Key deliverables

Table 1: Key deliverables 2019/20 - 2021/22

Key deliverables	2019/20	2020/21	2021/22
Enquiries and complaints received	772	650	**732**
Enquiries and complaints closed	797	644	**772**
% Complaints closed within 180 days	83%	75%[1]	**75%**
% Complaints and enquiries closed/ complaints and enquiries received	103%	99%	**105%**

Enquiries

- An increased number of enquiries received in 2021/22 (640 in 2021/22 compared with 525 in 2020/21, 604 in 2019/20, and 711 in 2018/19).
- An increased proportion of total complaints and enquiries were handled at enquiry level (87% in 2021/22 compared with 81% in 2020/21, 78% in 2019/20 and 77% in 2018/19).
- An increased number of enquiries were closed in 2021/22 (645 in 2021/22 compared with 515 in 2020/21, and 614 in 2019/20). This is due to both an increase in the total number of enquiries and complaints received, and the Commission's practice of managing an increasing proportion of cases informally at enquiry level.
- The average number of days taken to finalise enquiries decreased to 8.89 days, compared with 9.75 days in 2020/21, 9.55 days in 2019/20 and 8.98 days in 2018/19.



1 2020/21 data was reported incorrectly in 2020/21 as 80% complaints closed within 180 days.

Complaints

- Ninety-two (92) complaints were received, a significant decrease on the 125 complaints received in 2020/21 and 168 in 2019/20. This reflects the Commission's practice noted above, of managing an increasing proportion of cases informally as enquiries, rather than through its formal complaints process.
- One hundred and twenty-seven (127) complaints were closed, approximating the 128 complaints closed in 2020/21 and 183 in 2019/20.
- Seventy-five per cent (75%) of complaints were closed within 180 days, which was equal to 75% in 2020/21 and a decrease on 83% in 2019/20. As the threshold for cases to be managed formally has risen, the complexity of those cases being managed through this formal process has also increased. This makes it more challenging to meet timelines. The benchmark for closure of complaints within 180 days is 80%.
- Of matters formally assessed in 2021/22, the KPI of 80% assessed within 60 days was not met. 68% of complaints were assessed within 60 days, which is a significant increase on 39% in 2020/21 and comparative to 66% in 2019/20. The KPI of assessment within 60 days derives from s27 of the Act, and has never been a realistic target. Engagement with complainants and clarification of complaint issues takes time, and NT Health requires a minimum of four weeks to provide a written response to a complaint. Complainants also require time to review responses and may have further queries, which makes it difficult to meet the 60 day KPI.

Community engagement

The Commission hosted stalls at the Seniors and All Abilities Expos in Darwin, presented at a Grand Round at Royal Darwin Hospital, and held a number of meetings with the Territory Manager, Ahpra and with the Acting Territory Director and a Senior Complaints Officer NDIS. The Commissioner and Deputy Commissioner also attended turning of the sod for Somerville's new High Physical Support Homes, which are the first in the Territory, and the opening of Carpentaria's Harry's Café, which provides training and workplace opportunities for people with a disability.

Community engagement was otherwise severely curtailed due resources already being stretched, and prioritising of finalisation of outstanding investigations, website development and staff mentoring and development.

Whilst the significant majority of complainants contact the Commission either by phone or via its website, some people either prefer to visit the office in person or need to do so due to special needs. Complainants are welcome to visit the Commission in person and there is a wheelchair accessible front counter.

Chapter 1: The Commission

OUR VISION

High quality, responsive, person centred health, disability and aged care services throughout the Territory.

OUR MISSION

Independent, just, fair and accessible complaints systems which promote the rights of service users and contribute to safety and quality improvement in health, disability and aged care services in the NT.

OUR VALUES

The Commission is guided by the following values:

- Accessibility
- Accountability
- Fairness
- Innovation
- Person-centred
- Professionalism

OUR HISTORY

The Health and Community Services Complaints Commission (Commission) was established in 1998 with the passage of the *Health and Community Services Complaints Act* (the Act). It sat with the Ombudsman's Office until 2010 when the Commission became a stand-alone entity with an independent Commissioner.

The Commission was set up to provide an independent, just, fair and accessible mechanism for the resolution of complaints between users and providers of health, disability and aged services. The focus of the Act is on the resolution of complaints, the improvement of services and the promotion of the rights and responsibilities of both service users and providers.

OUR FUNCTIONS

The Commissioner's powers and functions as set out in sections 3 and 12 of the Act include:

- encouraging and assisting users and providers to resolve complaints directly with each other;
- leading to improved services and promoting rights and responsibilities;
- providing information, advice and reports to Boards, service users, the Minister and the Legislative Assembly ;
- consulting with providers, organisations and users of health and community services; and
- enabling users and providers to contribute to the review and improvement of health services and community services.

OUR STRATEGIC OBJECTIVES

1. Provide a quality, accessible and transparent complaints assessment, resolution and investigation service.
2. Promote the capacity of the health, disability and aged services sectors to resolve complaints directly with service users.
3. Analyse complaints to identify causes, detect trends and contribute to systemic improvement.
4. Provide independent advice to government on matters affecting health, disability and aged care services in the Territory.
5. Operate the office in accordance with good governance and resource management practices.

OUR TEAM

The Commission receives support from the Department of Attorney-General and Justice in areas such as human resources, finance, procurement, record management, office accommodation and information technology. The Commission is co-located with the Office of the Children's Commissioner.

The organisational structure and staffing of the Commission as at 30 June 2022 is as follows:

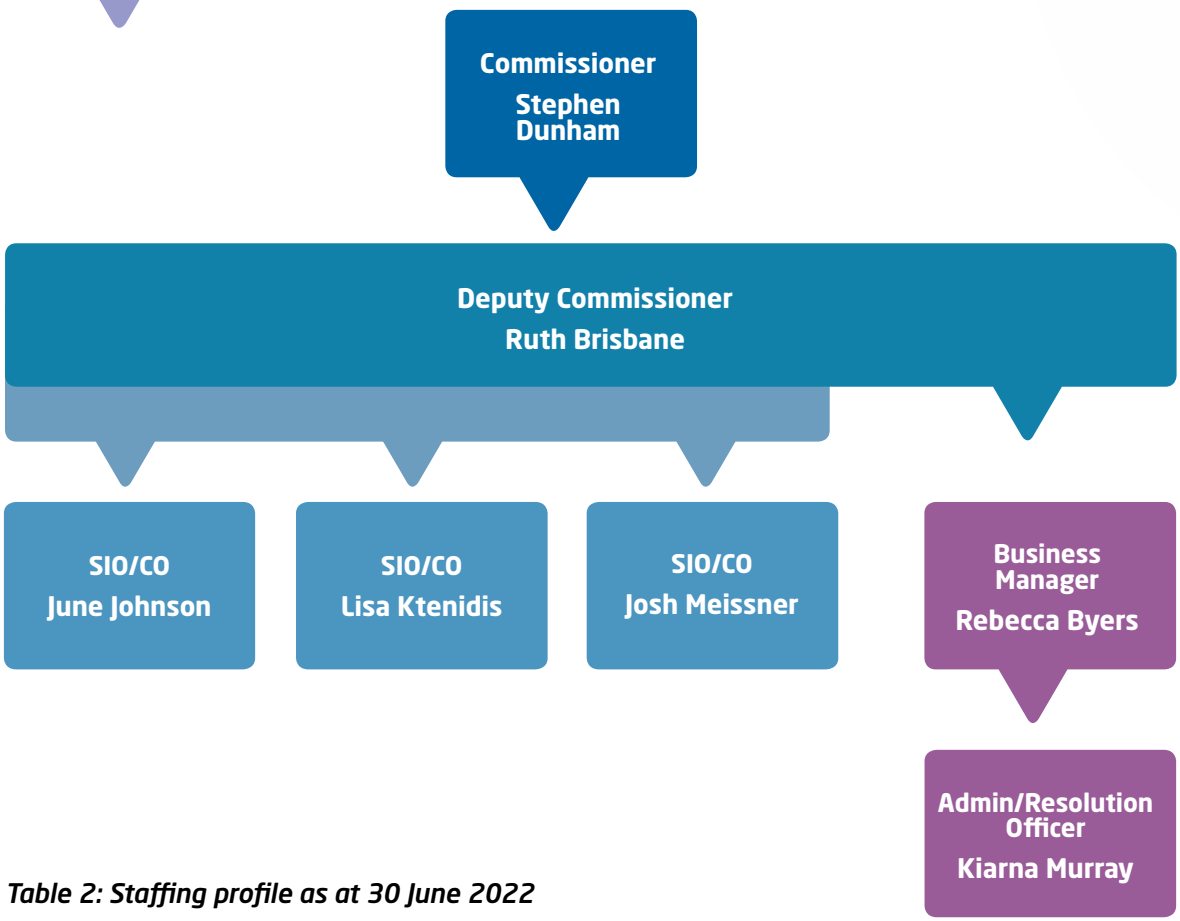


Table 2: Staffing profile as at 30 June 2022

Position Level	Male	Female	TOTAL
Commissioner (EC02)	1	0	1
Deputy Commissioner (SA02)	0	1	1
Administrative Officer 7 (AO7)	1	2	3
Administrative Officer 6 (AO6)	0	1	1
Administrative Officer 4 (AO4)	0	1	1
Total	**2**	**5**	**7**

Chapter 2: Quality Complaints Management

ACHIEVEMENTS 2021/22

Monitoring quality improvement

The Commission has three primary functions; the promotion of service quality, the promotion of the rights and responsibilities of service users and service providers, and the resolution of complaints.

Two separate mechanisms are employed to promote quality improvement. The first is to encourage service providers to reflect on the issues which led to a complaint or enquiry, and to improve service quality to reduce the likelihood of other, similar complaints. These outcomes are recorded on Resolve, the Commission's complaint management system. The Commissioner making suggestions for quality improvement when closing a complaint achieves the second mechanism. To determine the effectiveness of its focus on quality, the Commission decided to monitor quality improvements made through complaints in 2021/22.

Quality Improvement outcomes recorded

In 2021/22, the Commission recorded 32 (compared with 25 in 2020/21) quality improvement outcomes from complaints across health, disability and aged care services. Examples of these quality improvements include:

- A project to raise awareness of transgender issues to ensure appropriate accommodation and facilities;
- Introduction of an annual, ongoing computer based reminder system to ensure compliance with annual maintenance of sterilisers;
- An audit of processes for the management of prescription medications and storage of medications in a lockable safe ;
- Implementation of a complaints management database and policy of forwarding all complaints to the CEO;
- Professional development provided in relation to appropriate communication and patient care.

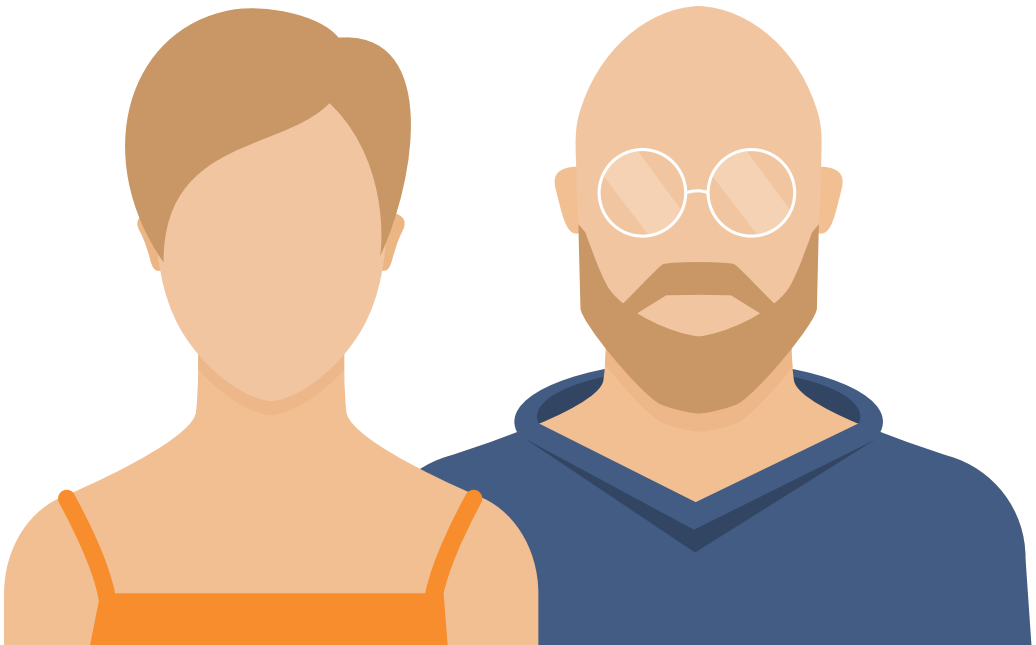
The Commission is unable to provide further without divulging the identity of the service providers and/or service users.

Enquiries

Increasing proportion of complaints handled as enquiries

The Commission has continued its focus on resolving matters at the lowest level possible by managing an increasing proportion of matters referred to it as an enquiry. The term 'enquiries' is used to refer to matters dealt with informally. In 2021/22, 87% (compared with 81% in 2020/21) of the 732 matters received were managed as an enquiry.

Some serious matters can be handled informally, and some are handled this way when a prompt outcome is desirable. Factors that are considered when deciding whether to handle a matter informally include whether the issue is current, complexity, risk and the maintenance of relationships.



Increase in enquiries received and closed

Figure 1: Number of complaints and enquiries received 2017/18 - 2021/22

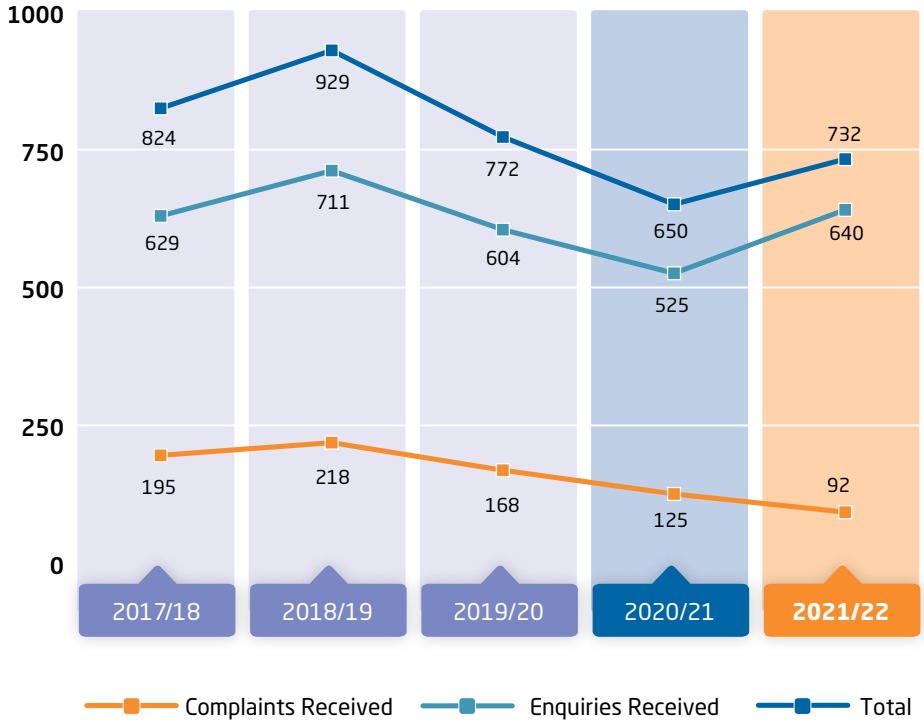


Figure 1 depicts in 2021/22, 640 enquiries were received, an increase of 18% on the 525 received in 2020/21. Our aim is to close enquiries within 14 days. In 2021/22, this goal was achieved in 82% of matters (an increase from the 79% recorded in 2020/21).

Figure 2: Number of complaints and enquiries closed 2017/18 - 2021/22

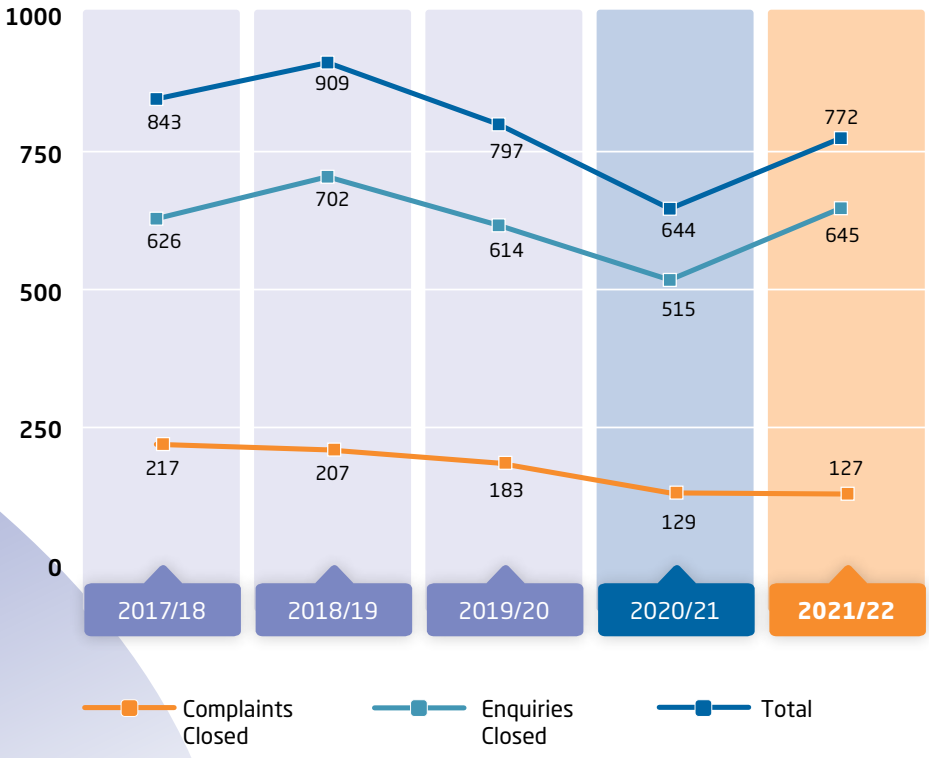


Figure 2 depicts the number of complaints and enquiries closed from 2017/18 until 2021/22. The numbers of complaints rose between 2017/18 and 2018/19, fell for the period 2019/20 and 2020/21 and rose again 2021/22. This is likely to be a result of COVID-19, which also reduced the Commission's capacity to carry out community engagement. Part of the purpose of Community Engagement is to ensure service users are aware of their right to make a complaint and how to do so. It follows that a lower number of complaints will be made in an environment where community engagement has been restricted.

When assessing enquiries, Commission staff may handle several separate issues in the one file. For example, a service user might complain about the billing practice of their GP. If they complain to the Practice Manager about these billing practices and are unhappy with the response and the way it was delivered, they might also complain about the way their complaint was handled. Thus, there would be one enquiry, but two issues.

Table 3: Categories and percentage enquiry outcomes all issues 2019/20 - 2021/22

	2019/20		2020/21		2021/22	
Enquiry Outcomes	**No**	**%**	**No**	**%**	**No**	**%**
Enquiry - information provided	154	19	184	24	183	20
Enquiry - referred back	282	34	285	37	341	38
Enquiry - resolved	72	9	65	8	97	11
Enquiry - other	57	7	27	3	48	5
Enquiry - referred elsewhere	164	20	142	18	127	14
Enquiry - referred to Commission complaints process	94	11	72	9	100	11
Total	**823**	**100**	**775**	**100**	**896**	**100**

Figure 3: Average time to finalise enquiries (days) 2017/18 - 2021/22

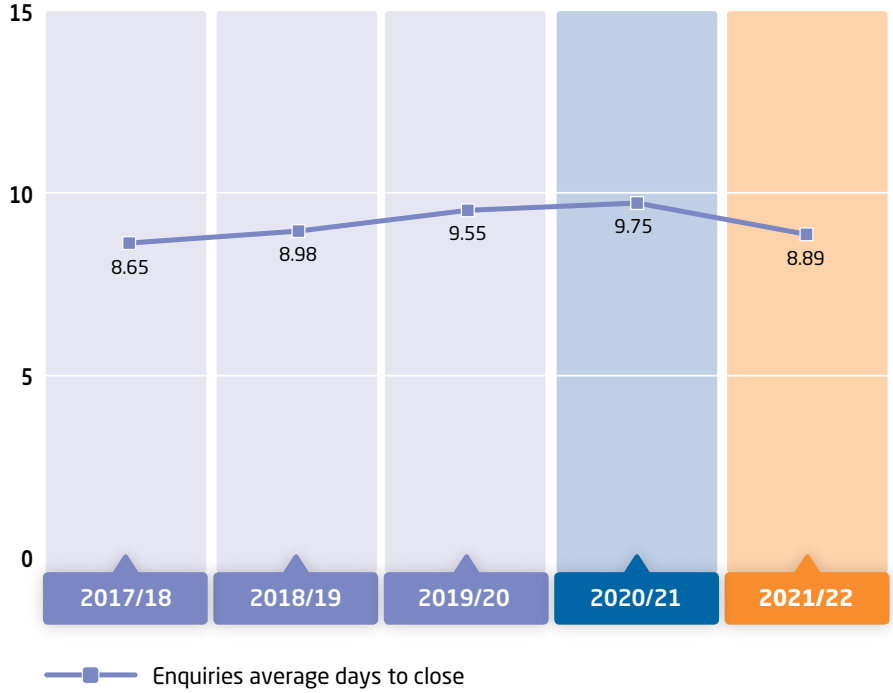


Figure 3 depicts the average time taken to close enquiries for the past five years. This decreased to 8.89 days in 2021/22 compared with 9.75 days in 2020/21.

Person-centred approach to enquiries

A person-centred approach requires that Commission staff are aware of the impact of a situation on all parties to a complaint.

Referring back

The Commission is increasingly referring complaints back for direct resolution. Where a complainant has not attempted to resolve a complaint directly with a service provider, Commission staff will forward the complaint to the provider for a direct response and close the file. Complainants are invited to recontact the Commission if the response they receive does not resolve their complaint. Where a complaint is more serious, the Commission may also request that a copy of the response be provided to the Commission.

Complaints

If a concern cannot be, or is not suitable to be resolved at enquiry level, it is dealt with as a complaint. Commission processes for assessing and resolving complaints have gradually changed over time, so that while a formal structure is retained, there is also the flexibility to adapt processes to fit the needs of individual parties and circumstances. With every complaint, staff of the Commission will consider how it might best be resolved, keeping in mind the goal of resolving all complaints as informally and quickly as possible in accordance with s86 of the Act.

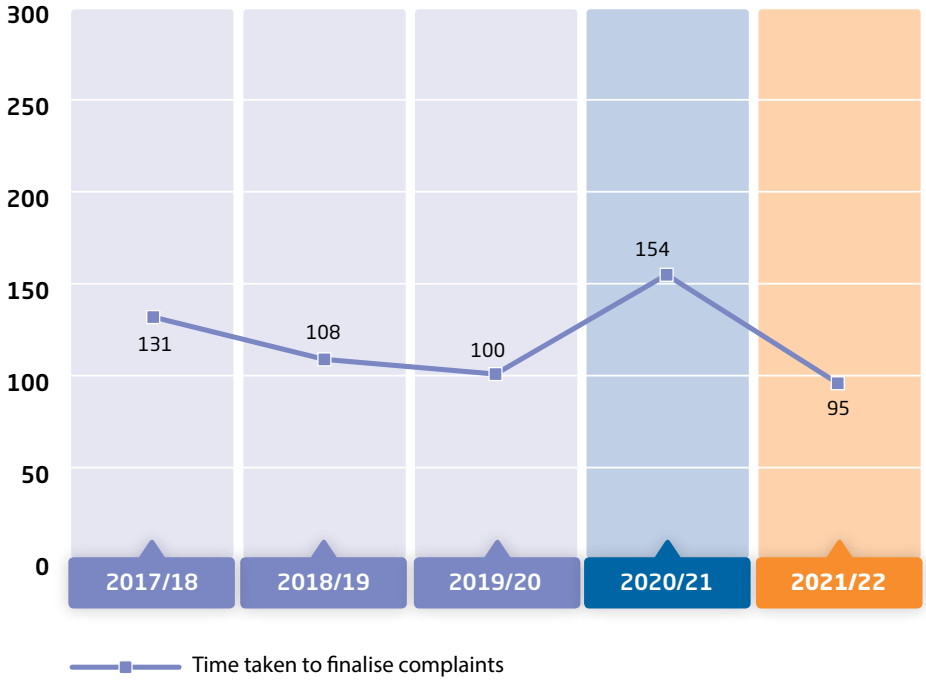
Complaint numbers each year comprise complaints received by the Commission and notifications received by Ahpra. In 2021/22, the Commission closed 127 complaints (62 received by the Commission and 65 received by Ahpra). Every complaint contains at least one complaint issue, with some large and complex complaints containing many more. The number of complaint issues will therefore always be greater than the number of complaints. In 2021/22, outcomes were recorded for 382 issues in the 127 matters finalised. This is slightly less than the 391[2] issues assessed in 2020/21.

2 2020/21 was reported incorrectly, as 347 issues in the complaint matters finalised.

Timelines

In 2021/22, 75% of complaints were closed within 180 days, which is under the KPI of 80% complaints closed in this period. This is attributable in part to significant staffing changes at the Senior Investigator and Conciliator level in the previous financial year and the ongoing need to upskill staff. Newer staff require additional support, and initially are not able to progress complaints as quickly as staff who have been in the position for longer. The Commission's threshold for managing concerns as a formal complaint rather than as an enquiry formally has also increased. This means that complaints that are managed formally are on average more serious and complex, and likely to be more time consuming.

Figure 4: Time taken to finalise complaints (average days) 2017/18 - 2021/22



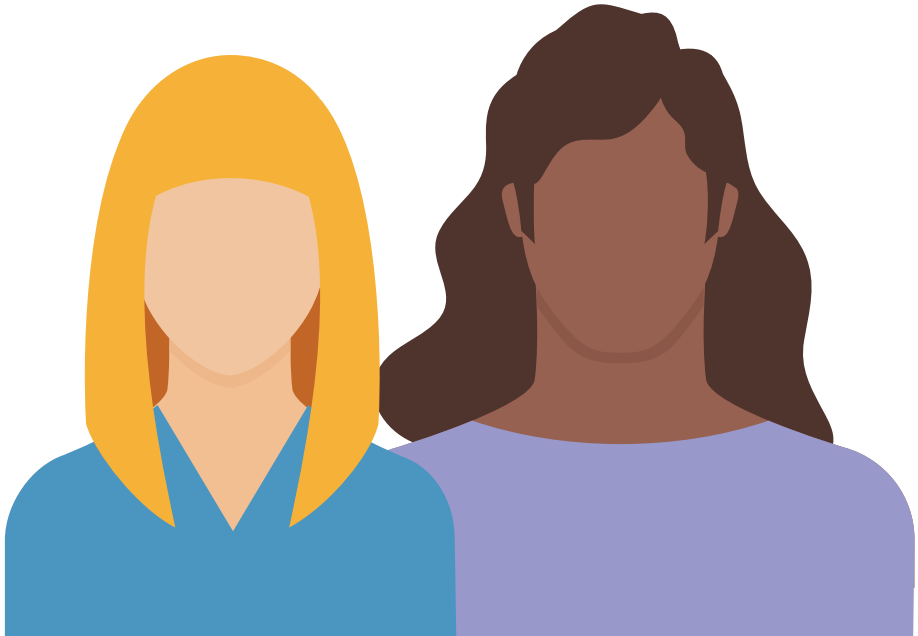
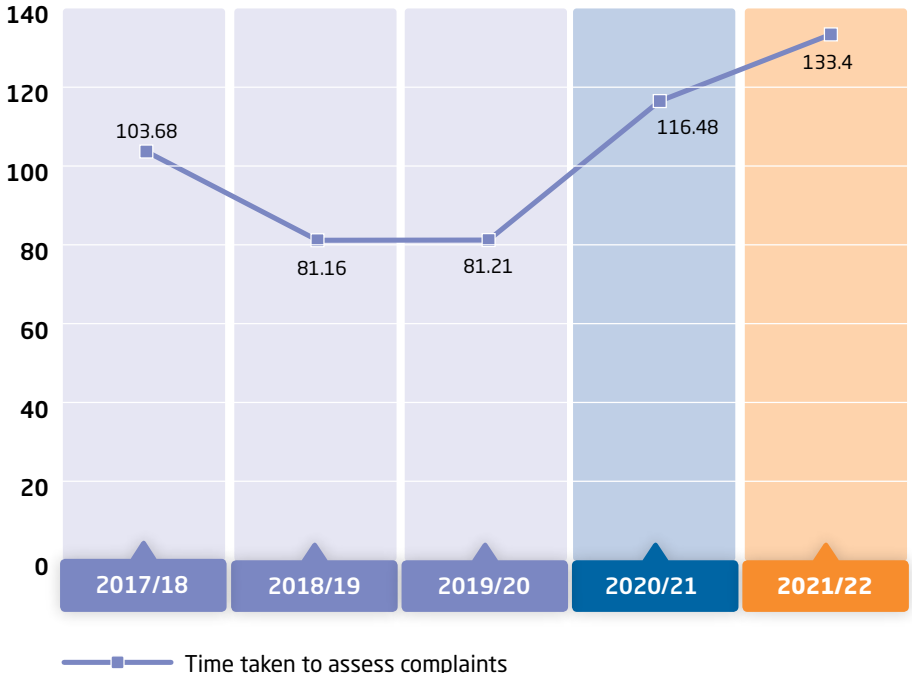
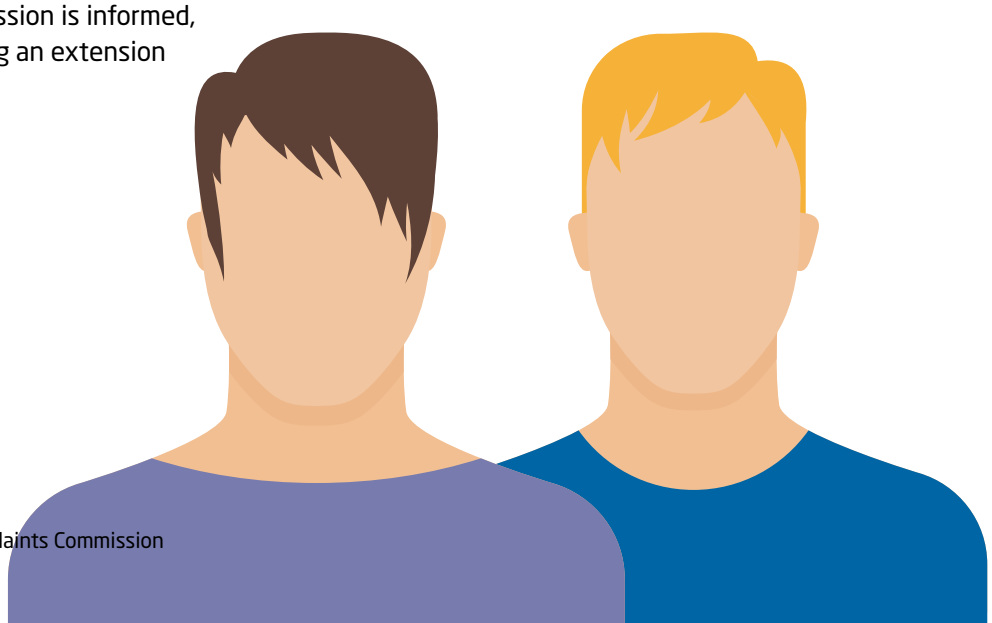


Figure 5: Time taken to assess complaints (average days) 2017/18 - 2021/22



In 2021/22, 68% of complaints were assessed within 60 days as required by section 27(1) of the Act. This fell below the Commission's KPI of 80% although increased significantly compared from the 39% achieved in 2020/21.

A number of factors can impinge on timeliness. They include complexities in the complaint itself, and complexities which arise during the assessment of a complaint. One such example is where concerns about the standard of practice of a registered provider becomes apparent during assessment requiring Ahpra consultation. There are often delays over Christmas when organisations (including the Commission) are short staffed. Aboriginal Legal Aid organisations prefer to speak to their clients face to face, and it is not unusual to wait for months for a response from the complainant, as many communities are only visited every three months. As long as the Commission is informed, there is no issue with providing an extension for this purpose.



Commissioner's decision

Section 27 of the *Health and Community Services Complaints Act*, requires the Commissioner to make one of four decisions after assessing a complaint. The Commissioner can refer a matter to conciliation, refer a registered provider to a National Registration Board, take no further action under section 30 of the Act or investigate the complaint. If a matter is not suitable for conciliation and if there is no registered provider (or if a complaint about a registered provider was referred to Ahpra for assessment during weekly consultation), the Commissioner is left with two options; refer the matter to investigation or take no further action. A matter is referred to investigation only if it meets requirements set out in section 48 of the Act; that is if there appears to be a significant issue of public health or safety or public interest; or a significant question as to the practices and procedures of a service provider. Investigations are resource intensive, and for this reason, a very small proportion of matters are managed this way.

The Commissioner consistently decides to take no further action with a significant proportion of complaint issues. In 2021/22, the Commissioner decided to take no further action with 56% of complaint issues, proportional to the 50% recorded in 2020/21. One reason for a reduction in the number of complaints referred to conciliation over time is the NT Health's policy of not conciliating matters involving financial compensation. When this is no longer an option, some complainants no-longer wish to pursue conciliation, resulting in a greater proportion of no further action decisions. In 2021/22, 19% of complaints were closed with no further action because they were resolved, compared with 22%[3] in 2020/21 a slight decrease.

Table 4: Reasons for closure - Issues closed 2019/20 - 2021/22

Reason for closure	2019/20	2020/21	2021/22
Conciliation complete	29	2	0
Dealt with by Board	105	90	63
Investigation complete	19	9	4
Referred to Board	35	8	10
No further action	190	121	145
Referred to other entity	2	20	2
Total	**380**	**250**	**224**

3 2020/21 data was reported incorrectly in 2020/21 as matters closed with no further action because they were resolved 26% of issues closed.

Table 5 below demonstrates that the primary reason for no further action was that further investigation was unnecessary and/or unjustified. The proportion of issues closed due to failure to reasonably resolve with the provider remained the same, complaint withdrawn decreased and required information was not received increased. Complainant cooperation and engagement is essential to the Commission's process, and when a file is closed due to required information not being provided by a complainant, they are advised that they may recontact the Commission should they wish to re-engage in the future subject to the two year limitation period.

Table 5: Reason for no further action - Issues closed 2019/20 - 2021/22

Reason for no further action	2019/20	2020/21	2021/22
No basis for complaint /Out of Jurisdiction	5	2	7
Complaint over 2 years old	8	0	0
Failure to reasonably resolve with provider	12	5	5
Further investigation unnecessary and/or unjustified	89	68	89
Complaint lacks substance	1	0	0
Complaint is resolved	36	26	28
Complaint determined by a court, tribunal or board	1	3	0
Civil proceedings commenced	0	1	0
Required information not received	19	8	10
Complaint has been withdrawn	19	8	6
Total	**190**	**121**	**145**

Consultations with Ahpra

Section 68 of the Act states that if the Commission receives a complaint about someone classified as one of the health professions which comprise registered providers, the Commissioner must notify the relevant Board as soon as practicable after the complaint is received. Similarly, section 150(1) of the *Health Practitioner Regulation National Law Act 2009* (National Law) provides that if the subject matter of a notification received by Ahpra falls within the jurisdiction of the local health complaints entity, the National Board must notify the health complaints entity accordingly.

The requirements of these two pieces of legislation are met through consultation between the Deputy Commissioner of the Commission and the Operations Manager, Notifications (Investigations) at Ahpra. Through these consultations, a joint decision is made regarding the agency best suited to manage complaints and notifications about registered providers.

As a result of these consultations, the Commission referred ten complaints about registered providers to the relevant Board for assessment in 2021/22.

Notifications received by Ahpra may be also be referred to the Commission for management. In 2021/22, this occurred on 25 occasions when the complaint was generally about lower risk behaviour and the outcomes sought could be better achieved in the Commission's jurisdiction.

Conciliations

One option available to the Commission to assist parties to resolve complaints is conciliation. Conciliation is a form of alternate dispute resolution in which parties come together to discuss the issues of complaint in a confidential environment with the aim of settling the dispute. It is a voluntary, flexible process. Its purpose is to act as an alternative to medico-legal processes, often resulting in explanations provided to parties, along with apologies where appropriate. In many cases, agreements reached through conciliation can lead to improvements in services, even resolving issues that are assessed as potentially affecting public safety and avoiding a time consuming and costly investigation.

In 2021/22, two conciliations were closed. The number of matters being resolved via conciliation is likely to remain static as the DoH is not willing to discuss compensation at conciliation and will only manage matters where compensation is sought as an outcome through legal processes. Accordingly, the Commission refers any complainant who is seeking compensation from DoH as an outcome of their complaint for legal advice from the outset.

Investigations

Four investigations completed in 2021/22

The Commissioner may decide to investigate a complaint, or series of complaints, which raise significant issues of public health or safety, or public interest. Investigation is a formal process during which the Commissioner may interview people involved and seize documents.

One of the main aims of an investigation is to look into systemic issues and identify areas for service improvement. At the conclusion of an investigation, the Commissioner will make findings and may make recommendations for action or change. Where a recommendation is made, the party concerned will be advised of the recommendations and reasons for the decision. The provider is then required to advise the Commissioner of action to be taken to comply with the recommendation and the Commission monitors implementation of the recommendations to ensure that undertakings are met and improvements made. An investigation is a major body of work and is difficult for Investigation/Conciliation Officers to complete when there are competing priorities such as responding to enquiries and complaints. In 2021/22, the Commission finalised four investigations.

Policy role

National Code of Conduct for unregistered health practitioners

In April 2015, Australian Health Ministers issued a Communique announcing their intention to give effect to a code regulation regime for all health care workers not registered under the National Registration and Accreditation Scheme for health practitioners. The National Code of Conduct sets standards for expected conduct and practice for unregistered health workers to be implemented consistently in each State and Territory. It will apply to practitioners such as massage therapists, social workers, counsellors, naturopaths and hypnotherapists amongst many others. A Code regime has been implemented in Queensland, New South Wales, Victoria and South Australia. Both Western Australia and Tasmania are well advanced with the enabling legislation and appear ready to participate in the National Code in the near future.

Essentially, this code would apply to the health practitioners (such as masseurs, personal care attendants, social workers and some therapists) who are not registered by one of the 15 National Boards which comprise Ahpra, (for instance nurses, medical practitioners and dentists). The various occupations covered by this code are commonly those which provide services to people with disabilities.

Once introduced, the Commission is expected to have authority to issue orders prohibiting unregistered health and community service providers from practising in a way which is unsafe, limit scope of practice or prohibit practice altogether. This will strengthen the capacity of the Commission to ensure the safety of service users.

DoH is currently preparing a draft Bill which would establish a code regulation scheme in the NT, with the model largely based on that which currently operates in South Australia.

The Deputy Commissioner attends a regular national online meeting with other Health Complaints Entities, which offers the opportunity to share information and strategies regarding implementation of the National Code of Conduct. This has served as a useful opportunity to gain knowledge and benefit from the experience of Victoria, New South Wales, Queensland and South Australia, which have already implemented this legislation. The NT Commission has also established and facilitated a separate working group for jurisdictions which have yet to implement the code, being Northern Territory, Tasmania, the Australian Capital Territory and Western Australia.

THE YEAR AHEAD: 2022/23

The team meets annually to decide on priorities for the upcoming year within the constraints of the Strategic Plan. Factors which determine priorities for the coming year include the core business of the Commission, outcomes of the Commission's performance indicators, the policy environment in which the Commission operates, and resources.

Finalising investigations

In 2021/22, four investigations were finalised, compared to nine in 2020/21 and eight in 2019/20. The Commission will maintain its focus on finalising investigations and tracking the progress of the implementation of recommendations coming out of investigations in 2022/23.

Updating policy

The Commission planned to update the investigations section in the Policy and Procedures Manual. The Deputy Commissioner and Resolution Officer did not complete this due to a redirection of focus to upskilling staff. Updating the Investigations section of the Policy and Procedures Manual is a large task and remains a focus for 2022/23.

The Office Manager and Resolution Officer commenced the process of developing a procedure manual for the numerous tasks, which make up their roles. Whilst this was not completed, very substantial progress was made given the large amount of work involved in this task. Completion was also impacted by the Office Manager position reverting back from full time to half time. The procedure manual for the numerous tasks carried out by the Resolution Officer and Officer Manager is expected to be finalised in the 2022/23 financial year.

Improving efficiency of complaint handling

There will continue to be a focus on reducing the time taken to finalise complaints in 2022/23 including ensuring parties respond to the Commission in a timely fashion. Delays in completing assessments and sending correspondence will continue to be monitored in weekly file meetings and in quality assurance audits when files are closed.

Improving accessibility

In 2020/21 the Commission intended to undertake consultation and develop a strategy to raise awareness of the Commission's role and improve accessibility amongst Indigenous service users. At present, Indigenous Territorians form a disproportionately small number of complainants. This is particularly marked in the enquiries and complaints received from the prison environment where Indigenous Australians significantly outnumber non-Indigenous prisoners. Development of consultation and strategy to more effectively engage with Indigenous service users was not achieved in 2021/22 due to competing priorities and budget restraints, and remains a focus for 2022/23.

National Code of conduct for unregistered health practitioners

The National Code of conduct is operational in Queensland, New South Wales, Victoria and South Australia. Legislation has passed in the Australian Capital Territory and Tasmania, and a bill to implement the National Code was introduced to the Western Australian parliament in November 2021. Legislative change to enable implementation of the regime has not yet been passed in the Northern Territory.

The Commission has worked with the DoH to plan how the new Code regime will be implemented via its legislation and this work is ongoing.

Chapter 3: Promote Capacity & Improve Systems

ACHIEVEMENTS 2021/22

Coaching

When approached with a complaint, the Commission will always determine whether the service user has made a reasonable attempt to resolve the complaint first. If not, the complainant will generally be asked to try to resolve their complaint directly with the service provider. The Commission's experience is that people who contact the Commission with a complaint are often quite happy to try to resolve their complaint this way, but do not do so because they don't quite know how to go about it. Commission staff will coach service users in how to go about making a complaint.

Coaching is also provided to service providers at enquiry stage to assist with direct resolution of matters and when a complaint is being assessed with a view to skills learned being adaptable to future complaints.

Management by the most appropriate complaints body

Table 6 below details the number of complaints about disability services, mental health services and aged care services over the past five years, which were managed formally. Contacts about aged services are consistently low because almost all Aged Care Complaints are managed by the Aged Care Quality and Safety Commission. In 2021/22, the Commission managed one complaint about Disability Services through its formal complaints process. The NDIS Quality and Safeguards Commission is responsible for managing complaints from participants who receive services from NDIS funded service providers. The Commission is also able to receive complaints about services for people with a disability irrespective of funding source. In practice, the Commission refers complaints about NDIS funded services to the NDIS Quality and Safeguards Commission.

Table 6: Aged, disability and mental health services complaints 2017/18 - 2021/22

Provider type	2017/18	2018/19	2019/20	2020/21	2021/22
Disability services	4	8	0	0	1
Mental health services	16	16	24	14	7
Aged services	2	0	2	1	2
Total	**22**	**24**	**26**	**15**	**10**

The data in **Table 7** below demonstrates that low numbers of enquiries were received about disability, aged and mental health services. This is because the NDIS Quality and Safeguards Commission is responsible for managing complaints from participants who received services from NDIS funded service providers and the Commonwealth Aged Care Quality and Safety Commission manages most complaints about Aged Care Services. Whilst the Commission dealt with seven complaints and 55 enquiries about mental health services, many people with grievances about mental health services choose to lodge their complaint with the Community Visitor Program.

Table 7: Aged and disability services enquiries 2017/18 - 2021/22

Provider type	2017/18	2018/19	2019/20	2020/21	2021/22
Disability services	40	37	18	11	15
Mental health services	60	44	42	23	55
Aged services	19	9	17	8	11
Total	**119**	**90**	**77**	**42**	**81**

Prison Primary Health Care Service (PPHCS)

Prisoners at Darwin Correctional Centre (DCC) and Alice Springs Correctional Centre (ASCC) are able to contact the Commission to raise concerns about the health services they receive via a dedicated, secure phone line. In 2021/22, 153 enquiries (including 24 enquiries about the health care service at ASCC and the balance at DCC) were received, raising 225 separate issues.

Table 8 below details the number of contacts from prisoners. TERHS and CARHS have processes enabling prisoners to lodge complaints about the prison health clinics directly with the service. Prisoners complete a feedback form available on the prison block and are provided with a response. If no response is received, or the response does not resolve the concern, the prisoner may lodge a complaint by phone with the Commission. This process of direct resolution has resulted in a continuing drop in the proportion of enquiries received from prisoners from 31% in 2020/21 to 24% in 2021/22.

Table 8: Number and proportion of enquiries about PPHCS 2017/18 - 2021/22

Year	Number	Proportion of all enquiries
2017/18	137	22%
2018/19	156	22%
2019/20	171	28%
2020/21	161	31%[4]
2021/22	153	24%

4 2020/21 data was reported incorrectly in 2020/21 as proportion of enquiries about PPHCS in relation to 28% of all enquires.

Prescribed provider reports

Providers prescribed in Schedule 7 of the *Health and Community Services Complaints Regulations* (the Regulations), in accordance with section 99 of the Act, are required to provide details of complaints received during the financial year by a date determined by the Commissioner. Prescribed providers for this purpose as set out in Schedule 7 of the Regulations are:

- Anyinginyi Congress Aboriginal Corporation
- Central Australian Aboriginal Congress Incorporated
- Danila Dilba Biluru Butji Binnilutlum Medical Service Aboriginal Corporation
- Miwatj Health Aboriginal Corporation
- Wurli Wurlinjang Aboriginal Health Service
- Darwin Private Hospital Pty. Ltd.
- Northern Territory Health Services (now DoH)

The organisations required to lodge provider returns under the Act made up the largest provider organisations when the Act was passed in 1998. Neither the prescribed provider list, nor any other aspect of the Act has been updated since its introduction. As a result, important organisations are missing from this list. They include the Katherine West Health Board, Sunrise Health Service and a number of large disability organisations.

In 2021/22 details of complaints received by prescribed provider organisations were not requested by the Commissioner. The rationale for this was that the prescribed provider list is no-longer representative of large providers in the Territory, which restricts the usefulness of the data. The Commission is also conscious of the pressures faced by health and community services providers, and does not wish to add to this unnecessarily. The Act is currently under review and it is expected that deficits in this section of the Act will be addressed when the Act is amended.

THE YEAR AHEAD 2022/23

Maintain work with disability sector

In the coming year, the Commission will continue to work with the NDIS Quality and Safeguards Commission to increase participation from the disability sector in complaints processes, ensuring that that there will be 'no wrong door' and that any person contacting either Commission will be referred to the agency best able to manage the complaint.

Access to the Commission website

Anyone can access the Commission through its website at *www.hcscc.nt.gov.au*. The website has links to our on-line complaint form, information that includes the latest Annual Report and brochures, complaints handling training, the Guide to Complaints Resolution and our legislation. Website access increased 4% in 2021/22 when compared with the year 2020/21.

Updating the Commission's website

Updating the Commission's website was commenced during the 2020/21 financial year and work is continuing. The website needs to be replaced as it does not meet NT Government website requirements and requires updating. This very large task is being coordinated and managed by the Office Manager and Deputy Commissioner.

Updating information and handouts

A review of all Commission templates and handouts commenced in 2020/21 and is ongoing. This process includes updating information about all the Commission's functions, including conciliation handouts to ensure they are accurate and user friendly. Information sheets and outcome letters are being reviewed to ensure that reasons for decisions can be easily understood.

Ongoing coaching of complainants and service providers

Resolving complaints requires some skill and willingness by service providers and service users. As stated earlier in this report, Commission staff, when referring a complainant back to resolve their complaint at point of service, will when possible provide coaching to assist this process. Coaching addresses the best person to contact with their issue and how to prepare for this contact (for example, being clear about the complaint and what they hope to achieve from it). Similarly, service providers can contact the Commission for advice on how to manage existing or potential complaints.

There is already helpful information on the Commission's website to assist parties when they are making a complaint or responding to complaints. This information is being reviewed as part of the website update.

Table 9: Website access 2016/17 - 2021/22

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
Total visits	6853	5072	6155	6066	6277	**6651**

Chapter 4: Governance & Resource Management

Health and Community Services Complaints Review Committee

Sections 78-84 of the Act set out the establishment, role and functions of the HCSCC Review Committee. Section 79 sets out its powers and functions as follows: to review the conduct of a complaint to determine whether procedures were followed and to make recommendations to the Commissioner; to monitor the operation of the Act and make recommendations to the Commissioner; and to advise the Commissioner and Minister on the operation of the Act and Regulations.

When a complaint is closed, all parties to a complaint (with the exception of DoH entities) are informed in writing of the right to have the conduct of the complaint reviewed by the HCSCC Review Committee established under Section 78 of the Act.

During 2021/22 the HCSCC Review Committee comprised:

M Andrew George – Chairperson

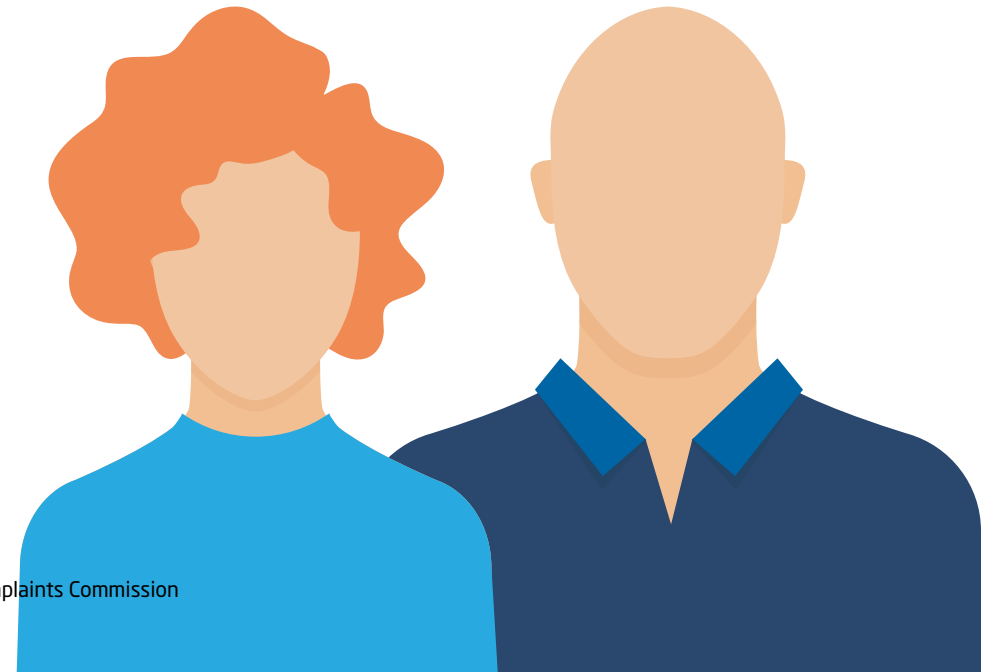
Dr Joanne Seiler – Provider Representative

Ms Susan Burns – Provider Representative

Mr Robert Kendrick – User Representative

Mr Mark Coffey – User Representative.

There were two requests for a review in 2021/22.



ACHIEVEMENTS 2021/22

The year 2021/22 has been an extremely challenging for the Commission. Reversion of the Office Manager position (which provides vital support to the Deputy Commissioner in particular) back to half time from full time has had a significant impact, as has work involved in redesign of the Commission's website. Although staffing has been stable, significant work was undertaken providing training and support to staff, and a number of projects planned for 2021/22 were not able to be completed. The Commission continued to work effectively with service users and providers in conducting its core business.

THE YEAR AHEAD 2022/23

The Commission remains a learning organisation

The Commission offers a quality service by ensuring that staff are properly trained, and that they provide a consistent service that is courteous and empathetic to all parties.

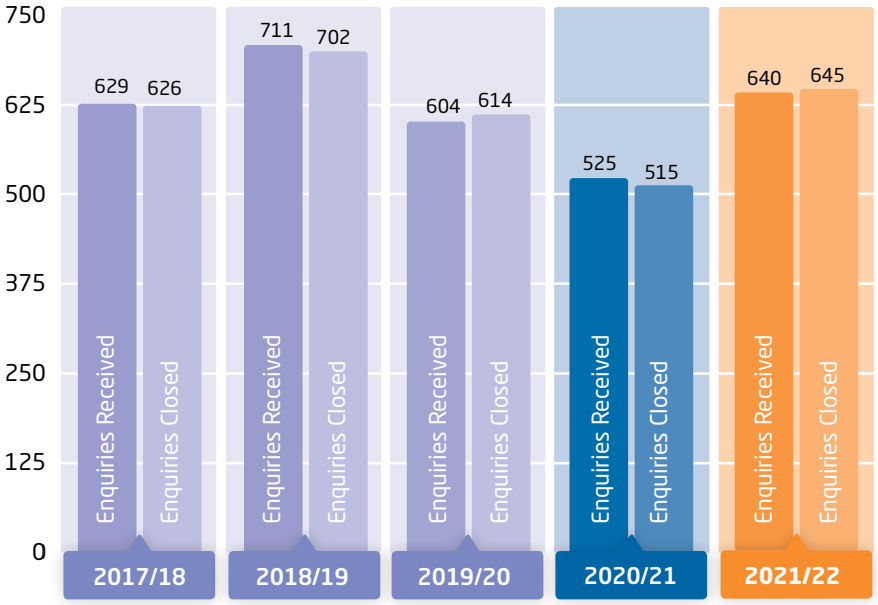
In 2021/22, staff undertook performance evaluation reviews to set work goals and identify development needs and training required. Monthly staff meetings are held which often includes inviting speakers to the Commission for mutual professional development opportunities.

Appendix 1: Performance

Enquiries / informal complaints

In 2021/22, the Commission received 640 enquiries and closed 645. This is higher than the number received and closed in both 2020/21 and 2019/20.

Figure 6: Enquiries received and closed 2017/18 - 2021/22



Although the majority of enquiries do not become formal complaints, they represent a substantial proportion of the Commission's workload.

Public providers accounted for 65% of the providers about whom enquiries were received in 2021/22, which is slightly lower compared to 68% received in 2020/21.

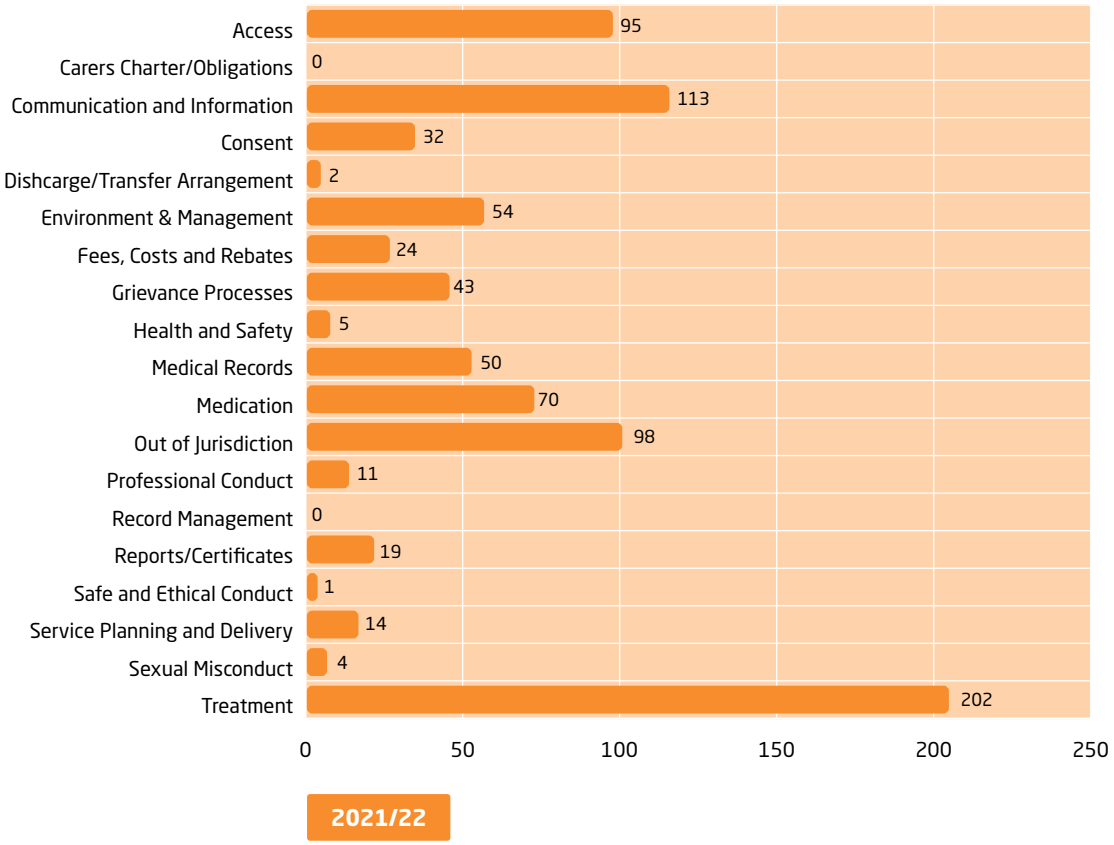
Table 10: Providers subject of enquiries 2017/18 - 2021/22

Providers	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**
Private	184	207	180	183	257
Public	495	559	468	392	478
Total	**679**	**766**	**648**	**575**	**735**

Issues raised in enquiries

Often more than one issue is raised per enquiry, 837 issues were dealt with when assisting with the 640 enquiries received. The most common issues raised and dealt with through our enquiry process were standard of treatment, access to services, medication and communication and information. Ninety-eight issues were out of jurisdiction. Out of jurisdiction enquiries include contacts from prisoners where it is assessed that the issue relates to correctional rather than health issues, enquiries about environmental health issues and people seeking general information. The Commission has a 'no wrong door' policy, and ensures that every enquiry receives some consideration, ensuring that the caller is provided with the information needed.

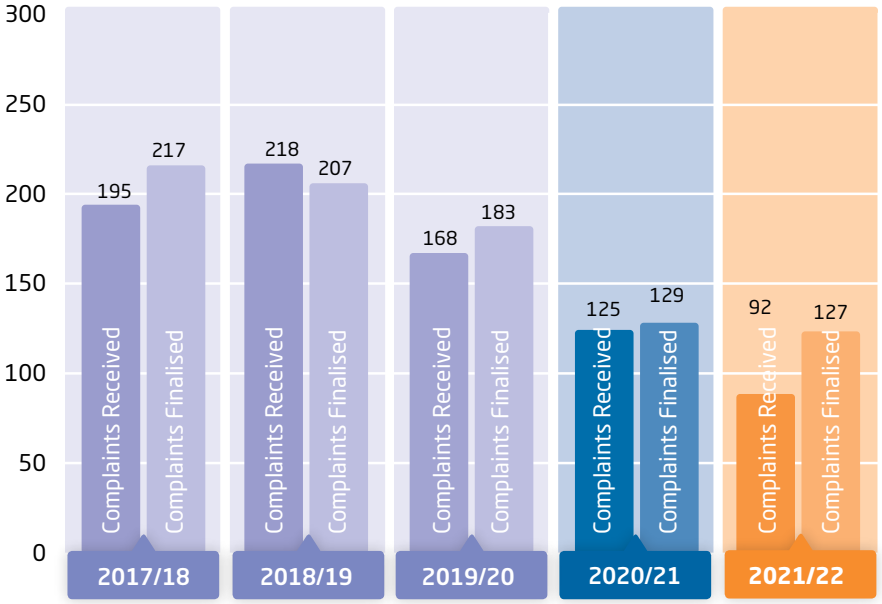
Figure 7: Issues raised in enquiries closed 2021/22



Complaints

Ninety-two new complaints were received in 2021/22, representing a 26% decrease on the number received in the previous year. The drop is the same proportional reduction as the previous year and reflects the Commission's approach of increasingly managing complaints informally as enquiries where proper consideration of the matter permits.

Figure 8: Complaints received and closed 2017/18 - 2021/22

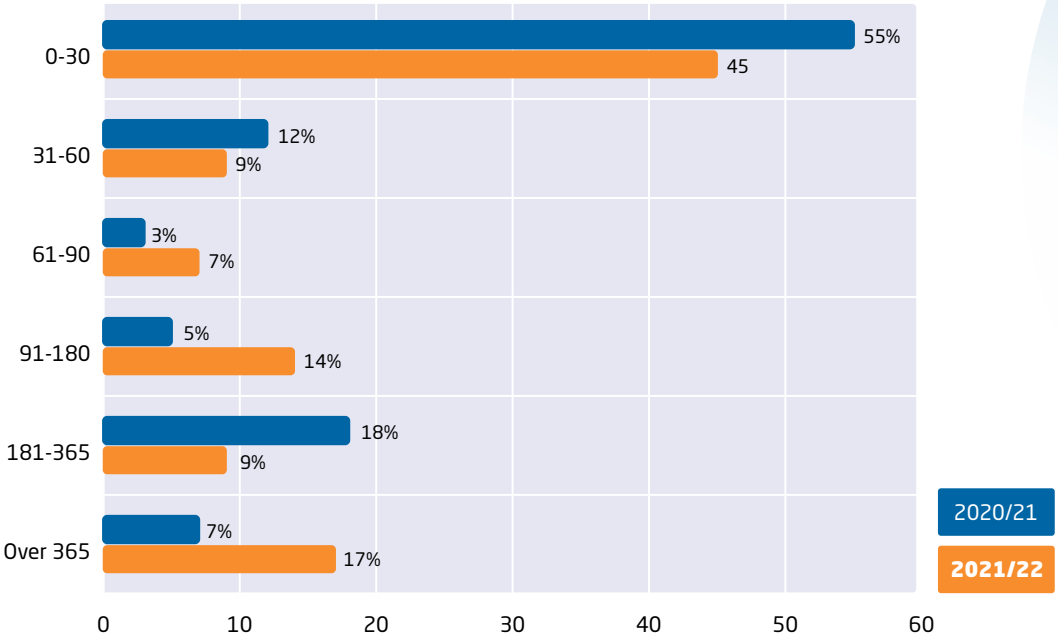


Time taken to finalise complaints

The average time taken to finalise complaints[5] (where complaints include complaints received by the Commission and notifications received by Ahpra subject to consultation with Commission) increased from an average 127 days in 2020/21 to 292 days in 2021/22. This is partly due to the increasing average complexity of issues managed formally as complaints and as a result of newer staff being less familiar with Commission processes and requiring more time to assess and finalise complaints.

5 Time taken to finalise complaints is measured from the date it is entered on Resolve to the date it is closed, and may include additional actions including investigations and conciliations.

Figure 9: Percentage complaints closed and timeframes 2020/21 and 2021/22

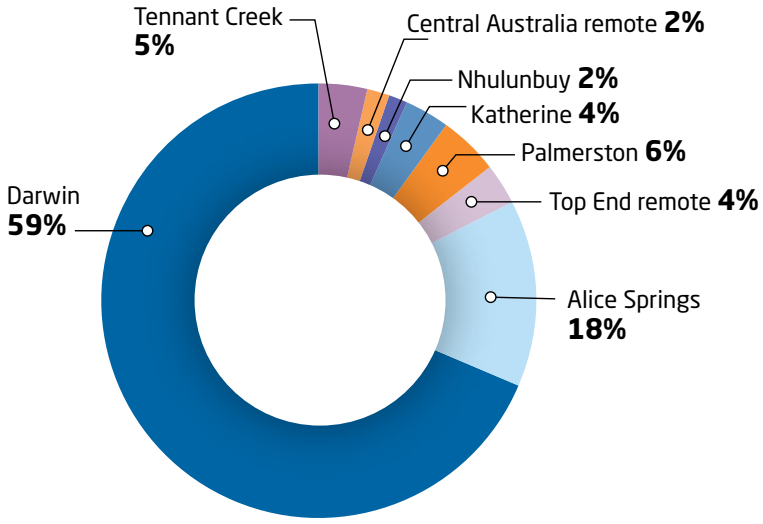


In 2021/22, 75% of complaints were closed within 180 days. The benchmark for closure within 180 days is 80%.

Location of services complained about

As expected, the majority of services subject to a complaint were located in Darwin (59%), a slight decrease from 2020/21. There was a slight increase in complaints received about services in Alice Springs and a slight decrease about services in Palmerston in 2021/22. The number of complaints received from remote NT remains relatively constant.

Figure 10: Location of services 2021/22



How are complaints received?

Where the complaint is made by phone, the complainant may asked to confirm it in writing. Where a complainant is unable to confirm a complaint in writing, the Commission may decide to assist them to reduce it to writing and provide a copy to the complainant.

In 2021/22, of the 35 complaints (that is complaints received and subsequently managed formally) made directly to the Commission, 80% of complainants approached the Commission by electronic means (37% by email and 43% by the Commission website), 9% by phone and 11% were received by mail.

What services are complained about?

For the purpose of this report, organisational and individual providers are counted only once in each complaint even though there may be multiple issues against each; however, the same provider may be involved in several complaints and in this sense is counted several times.

In 2021/22, there were a total of 123 providers involved in the 92 complaints[6] received by the Commission. Of these, 59 (48%) were public providers and 64 (52%) were private.

Thirty-two per cent (32%) of all public sector complaints were about hospitals, with doctors receiving the highest number of complaints about individual named practitioners (20% of all public sector complaints) followed by nurses and midwives (19%).

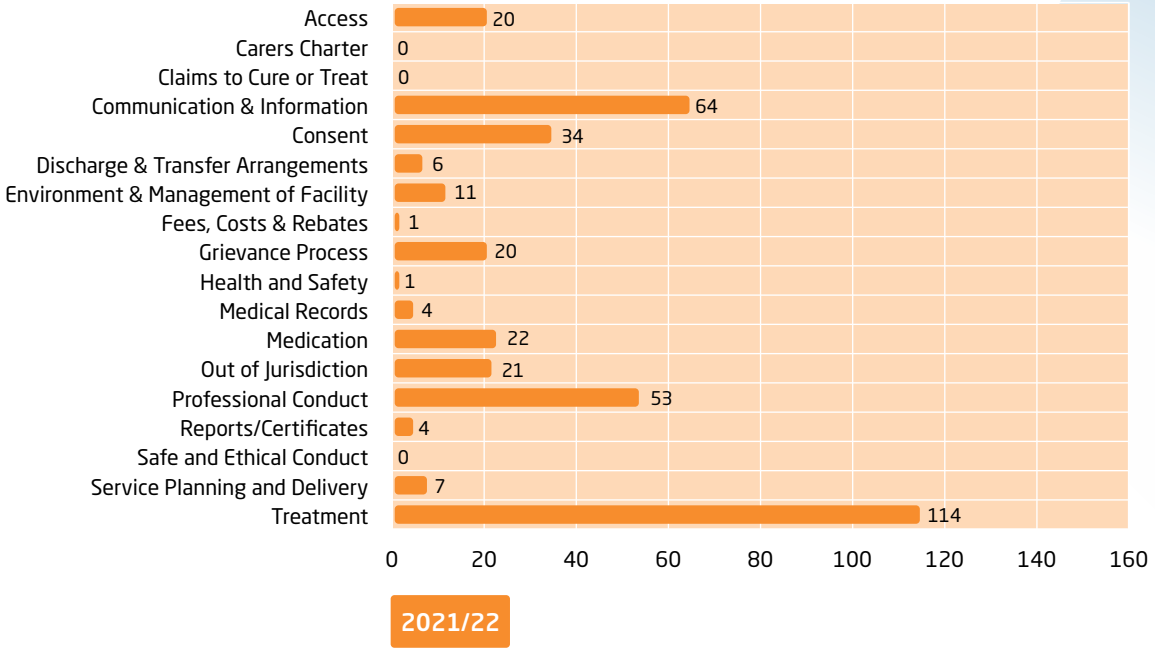
In the private sector, the highest number of complaints about organisations were about services offered by Primary Health (Medical) (17%). Medical practitioners were subject to the greatest number of private sector complaints about individual practitioners (34%), followed by nurses and midwives (17%) and paramedicine (9%).

What issues are complained about?

Each issue described in individual complaints received by the Commission is recorded for reporting purposes, with some complaints raising more than one issue. Issue categories are used relatively consistently across Australia to allow for comparison. In 2021/22, a total of 382 issues were assessed.

6 Comprising complaints received by the Commission managed formally and notifications received by Ahpra.

Figure 11: Issues raised in complaints closed 2021/22



Issues are recorded against all complaints received by the Commission, including Ahpra notifications. This method of reporting allows for a more complete picture of the types of issues complained about in the NT.

The top three issues of treatment, communication and conduct, remain consistent year on year. Serious conduct matters are generally dealt with by the National Health Practitioner Boards.

A further breakdown of each of the categories of complaint issue and a comparison with previous years can be found below. The breakdown does not include the six issues assessed as out of jurisdiction.

Table 11: Complaints about access 2017/18 - 2021/22

Access	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**
Access to facility	2	1	0	7	2
Access to subsidies	2	3	2	2	1
Refusal to admit or treat	3	5	3	3	10
Service availability	6	5	7	4	2
Waiting list	1	1	0	1	5
Total	**14**	**15**	**12**	**17**	**20**

Issues relating to access made up 5% of all issues raised in complaints in 2021/22. Concerns about access to services, however, comprised 11% of all enquiry issues, largely due to the high proportion of contacts from prisoners and waiting lists for outpatient appointments.

Table 12: Complaints about carers charter 2017/18 - 2021/22

Carers Charter	2017/18	2018/19	2019/20	2020/21	2021/22
Obligations to carers not met	1	0	0	1	0
Total	**1**	**0**	**0**	**1**	**0**

This issue is included because section 23(1)(k) of the Act specifically refers to service provider obligations to meet the expectations of the NT Carers Charter as set out in the R*egulations to the Carers Recognition Act*.

Table 13: Complaints about communication & information 2017/18 - 2021/22

Communication and Information	2017/18	2018/19	2019/20	2020/21	2020/21
Attitude and manner	46	24	36	26	33
Inadequate information provided	29	17	23	19	20
Incorrect/misleading information provided	15	5	4	9	9
Special needs not accommodated	4	4	5	3	2
Total	**94**	**50**	**68**	**57**	**64**

Issues relating to communication and information made up 17% of all issues complained about. This is an increase on 15% in 2020/21.

Table 14: Complaints about consent 2017/18 - 2021/22

Consent	2017/18	2018/19	2019/20	2020/21	2021/22
Consent not obtained or inadequate	19	7	4	4	31
Involuntary admission or treatment	12	0	3	3	2
Uninformed consent	4	3	1	1	1
Total	**35**	**10**	**8**	**8**	**34**

Issues relating to consent constituted 9% of all issues complained about in 2021/22. This is an increase on 2% in 2020/21.

Table 15: Complaints about discharge and transfers 2017/18 - 2021/22

Discharge and Transfers	2017/18	2018/19	2019/20	2020/21	2020/21
Delay	2	1	0	0	1
Inadequate discharge	11	9	5	4	4
Mode of transport	2	1	1	3	1
Patient not reviewed	0	1	0	2	0
Total	**15**	**12**	**6**	**9**	**6**

Two per cent (2%) of issues raised in 2021/22 related to discharge and transfer arrangements, remaining the same as the previous financial year.

Table 16: Complaints about environment & management of facility 2017/18 - 2021/22

Environment and Management	2017/18	2018/19	2019/20	2020/21	2021/22
Administrative processes	15	6	2	3	2
Cleanliness/hygiene of facility	6	2	1	4	1
Physical environment of facility	6	4	4	1	0
Staffing and rostering	5	0	1	0	1
Statutory obligations/ accreditation standards not met	8	4	6	2	5
Resources	0	0	0	1	2
Workforce issues/staff related issues	0	5	3	2	0
Total	**40**	**21**	**17**	**13**	**11**

Complaints in this category relate to administration rather than the care/treatment component of the service. These issues made up 3% of all issues raised in complaints, which remains the same as the previous financial year.

Table 17: Complaints about fees, costs & rebates 2017/18 - 2021/22

Fees, Costs and Rebates	2017/18	2018/19	2019/20	2020/21	2021/22
Billing practices	6	7	5	3	0
Cost of treatment	2	0	2	4	1
Financial consent	4	1	1	0	0
Total	**12**	**8**	**8**	**7**	**1**

Issues relating to cost of service constituted 0.3% of issues in complaints in 2021/22.

Table 18: Complaints about grievance procedures 2017/18 - 2021/22

Grievance	2017/18	2018/19	2019/20	2020/21	2021/22
Inadequate/no response to complaint	22	15	11	16	19
Information about complaint procedure not provided	2	1	0	0	0
Reprisal/retaliation as a result of complaint lodged	3	1	0	0	1
Total	**27**	**17**	**11**	**16**	**20**

Issues related to grievance procedures and complaint handling made up 5% of all issues complained about, an increase from 2020/21.

Table 19: Complaints about medical records 2017/18 - 2021/22

Medical Records	2017/18	2018/19	2019/20	2020/21	2021/22
Access to/transfer of records	3	4	2	2	3
Record keeping	2	8	4	11	1
Record management	6	0	1	0	0
Total	**11**	**12**	**7**	**13**	**4**

The medical records category includes complaints about errors and inadequacies in medical records. They accounted for 1% of all issues complained about in 2021/22. The Commission may refer complaints that are only about records to the relevant information specialist: the Office of the Information Commissioner in the NT for public records, or the Australian Office of the Information Commissioner for private records (such as those held by GPs).

Table 20: Complaints about medication 2017/18 - 2021/22

Medication	2017/18	2018/19	2019/20	2020/21	2021/22
Administering medication	6	7	1	15	5
Dispensing medication	5	8	1	6	6
Prescribing medication	22	11	5	9	9
Supply/security/storage of medication	3	2	3	2	2
Total	**36**	**28**	**10**	**32**	**22**

Medication related concerns made up 6% of all issues in 2021/22. In addition, the Commission handled 70 complaints (8% of all enquiries) about medication at enquiry level. Many of these complaints were about access to opiate replacement therapy by prisoners prior to release.

Table 21: Complaints about professional conduct 2017/18 - 2021/22

Professional Conduct	2017/18	2018/19	2019/20	2020/21	2021/22
Annual declaration not complete	0	1	0	0	0
Assault	4	5	3	2	2
Boundary violation	1	4	5	2	6
Breach of condition	3	2	2	0	4
Breach of guideline/law	12	20	2	4	10
Competence	26	13	16	20	10
Discriminatory conduct	3	2	0	2	1
Emergency treatment not provided	3	2	0	0	2
Financial fraud	4	0	0	0	0
Illegal practice	5	1	2	4	0
Impairment	0	0	2	2	2
Inappropriate disclosure of information	8	7	8	12	2
Misrepresentation of qualifications	5	1	0	2	0
Sexual misconduct	0	0	5	6	14
Total	**74**	**48**	**45**	**56**	**53**

Issues relating to professional conduct consistently made up around 14% of all issues complained about. Many of these matters are dealt with by the relevant Board after consultation has occurred as required by the *Health Practitioner Regulation National Law Act* and the *Health and Community Services Complaints Act*.

Table 22: Complaints about reports/certificates 2017/18 - 2021/22

Reports/Certificates	2017/18	2018/19	2019/20	2020/21	2021/22
Accuracy of report/certificate	6	2	5	1	2
Costs of reports/certificates	0	0	0	0	0
Inadequate/no consultation	0	0	0	0	0
Refusal to provide reports/ certificates	1	1	0	0	2
Report written with inadequate or no consultation	1	1	1	0	0
Timeliness of report/certificate	0	0	0	0	0
Total	**8**	**4**	**6**	**0**	**4**

Complaints about reports and certificates made up 1% of issues in complaints in 2021/22. The Commission has no jurisdiction in relation to the process of writing, or the content of, a health status report as per Schedule 2, Part 2 of the *Health and Community Services Complaints Regulations*.

Table 23: Complaints about service planning and delivery 2018/19 - 2020/21

Service Planning and Delivery	2018/19	2019/20	2020/21	2021/22
Decision making and choice	2	1	3	0
Person centred planning	5	2	3	4
Privacy and dignity of service user[7]	*	1	4	3
Total	**7**	**4**	**10**	**7**

Two per cent (2%) of issues assessed on 2021/22 related to service planning and delivery.

Table 24: Complaints about treatment 2017/18 - 2021/22

Treatment	2017/18	2018/19	2019/20	2020/21	2021/22
Attendance	1	0	1	0	0
Coordination of treatment	25	16	9	15	12
Delay in treatment	20	12	15	19	8
Diagnosis	24	23	17	16	13
Excessive treatment	0	1	1	2	0
Experimental treatment	2	0	1	3	0
Inadequate care	17	16	11	18	7
Inadequate consultation	8	11	4	0	6
Inadequate prosthetic device	1	0	0	0	0
Inadequate treatment	50	39	64	25	34
Infection control	2	2	3	2	1
No/inappropriate referral	10	4	5	9	6
Public/Private election	3	1	0	0	1
Rough and painful treatment	5	1	3	5	4
Unexpected treatment outcome/ complications	27	15	14	20	4
Withdrawal of treatment	4	0	0	1	1
Wrong/inappropriate treatment	17	7	9	13	13
Total	**216**	**148**	**157**	**138**	114

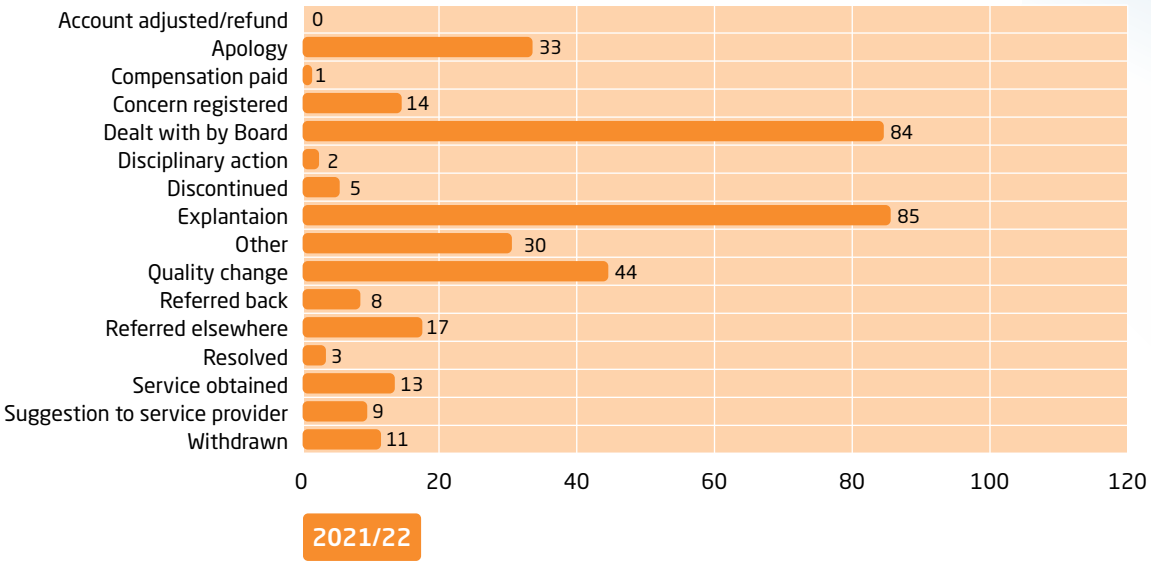
Issues relating to treatment constituted 30% of all issues in complaints closed in 2021/22, a decrease from 35% in 2020/21. Inadequate treatment is identified as the primary concern within this category.

7 New category 2019/20

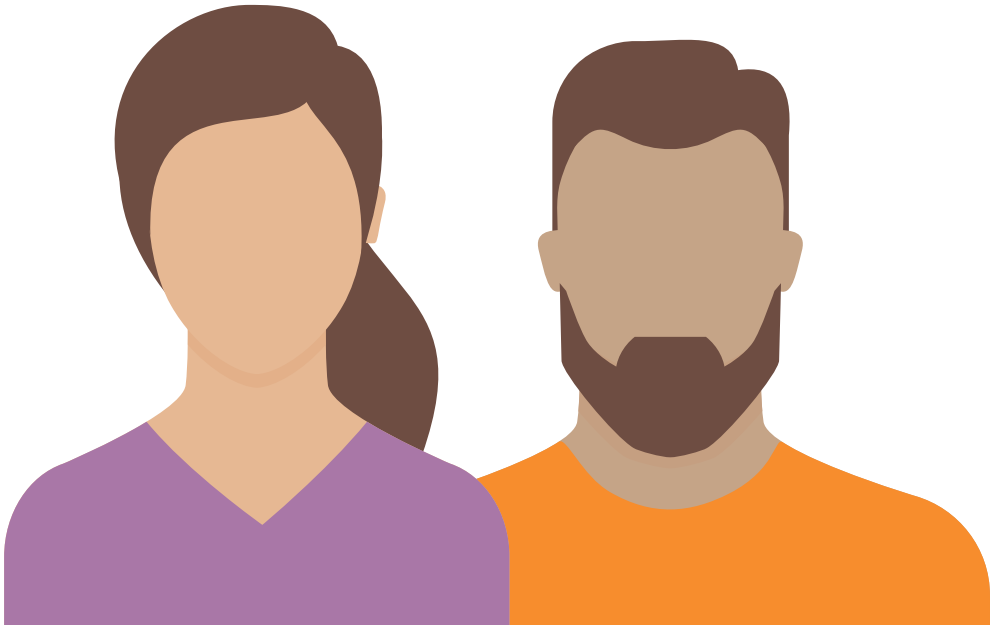
Outcomes of issues complained about

When complaints are finalised, the outcome of each issue identified in the complaint is recorded. The outcome of notifications received by Ahpra and managed within that jurisdiction are not included in the outcomes below, apart from recording that the issue was dealt with by the Board.

Figure 12: Outcomes of issues raised in complaints closed 2021/22



The most common outcome from issues closed by the Commission was an explanation (24%) and by being dealt with by the relevant Board (23%). Twelve per cent (12%) of matters resulted in a quality improvement and 5% were referred elsewhere. The Commissioner made suggestions for quality improvements under section 12(1)(e) of the Act on eight occasions. An apology was an outcome of 9% of issues.



Health and Community Services
COMPLAINTS COMMISSION

For more information about the HCSCC, including more information about how to resolve complaints, how to make a complaint or how to respond to a complaint, please contact the HCSCC or visit our website.

GPO Box 4409
Darwin NT 0801

Level 4, NT House
22 Mitchell St, Darwin NT 0800

Phone: 08 8999 1969
Freecall: 1800 004 474

Email: *hcscc@nt.gov.au*

TTY: 133 677 or 1800 555 677

Translating and Interpreting Service (TIS): 131 450

www.hcscc.nt.gov.au