National Health Practitioner
Ombudsman and
Privacy Commissioner

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Annual report 2015–16

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Letter of transmittal

The Hon Jill Hennessy MP
Chair
Australian Health Workforce Ministerial Council
PO Box 344
Rundle Mall
ADELAIDE SA 5000

Dear Minister,

In accordance with Regulation 24 of the Health Practitioner Regulation National Law Regulation (No. 42/2010), I am pleased to present you with the National Health Practitioner Ombudsman and Privacy Commissioner's annual report for the period 1 July 2015 to 30 June 2016.

I am satisfied that the office of the National Health Practitioner Ombudsman and Privacy Commissioner has appropriate financial and governance processes in place to meet its specific needs and comply with the requirements of Regulation 23 of the Health Practitioner Regulation National Law Regulation (No. 42/2010).

Regulation 24 of the Health Practitioner Regulation National Law Regulation (No. 42/2010) requires each member of the Australian Health Workforce Ministerial Council to cause a copy of this annual report to be laid before each House of Parliament of the jurisdiction the member represents.

Yours sincerely,

Samantha Gavel

National Health Practitioner
Ombudsman and Privacy Commissioner

Foreword from the Ombudsman and Privacy Commissioner

2015–16 was a year of consolidation for the office of the National Health Practitioner Ombudsman and Privacy Commissioner. We successfully built on the achievements of the previous year to ensure we provide high-quality complaint-handling services to the public and health practitioners. Much of the work undertaken by the office in 2014–15 focused on eliminating a backlog of complaints, recruiting suitably qualified staff and improving office processes and policies. In 2015–16, we progressed this work further while successfully managing an increasing number of complaints to the office.

Highlights

The key highlights for 2015–16 included:

- implementing initiatives to better profile the office's services, including the launch of a new, user-friendly website
- developing better information resources for the public, health practitioners and stakeholders
- providing more publicly available statistical information that accurately reports on a range of data metrics, including case workload and monthly complaint numbers, as well as the overall performance of the office
- developing improved complaint-handling procedures to better use provisions of the *Ombudsman Act 1976* (Cwlth)
- signing memorandums of understanding with the Australian Health Practitioner Regulation Agency and the Victorian Department of Health and Human Services to formalise and guide these important stakeholder relationships.

Office performance

A marked increase in the workload of the office began to emerge in 2016. This coincided with the launch of the office's new website, which suggests that the increase may be partly attributable to new initiatives aimed at lifting the public profile of the office.

In addition, issues relating to health practitioner regulation have received regular attention in the media as a result of high-profile investigations in a number of states. This is likely to have resulted in an increased awareness of the role of the Australian Health Practitioner Regulation Agency and the National Health Practitioner Ombudsman and Privacy Commissioner, which also could have contributed to the increased workload.

Despite the increasing number of approaches to the office, staff members dealt with complaints promptly and efficiently during the reporting period. Importantly, the office no longer has a backlog of complaints, as initiatives implemented in previous years mean we can now more effectively manage our workload. Staff worked efficiently during the year to ensure that complaints were dealt with in a timely manner and as they were received. This means that the majority of complaints were finalised within 30 days. A smaller proportion of complaints, typically involving more complex matters, required up to 90 days to complete.

During 2015–16, the majority of complaints to the office were about the administrative actions of the Australian Health Practitioner Regulation Agency and the National Boards in relation to notifications about the health, conduct or performance of registered health practitioners. These complaints were made by both the public and health practitioners. The office also received complaints from health practitioners regarding registration matters.

Complaints to the National Health Practitioner Ombudsman and Privacy Commissioner often involve serious matters, such as a poor health outcome or a registration issue that may impact on a health practitioner's employment. These complex and difficult issues need to be handled by staff with the skills and experience to deal sensitively with them.

An important role of an ombudsman's office is to provide feedback about systemic issues identified through the investigation of complaints, as well as providing suggestions for process improvements to prevent similar problems occurring in the future. The office has established a collaborative relationship with the Australian Health Practitioner Regulation Agency, which enables us to effectively deal with complaints and provide feedback to the Australian Health Practitioner Regulation Agency's senior management team and the National Boards.

Looking forward

We are committed to continuous improvement, and our priorities for the year ahead include:

- upgrading the complaints management system
- formalising a comprehensive complaint-handling guide
- improving strategic and operational planning through the implementation of key performance indicators
- developing further information resources for the public and health practitioners, and increasing engagement with the broader community.

I am very pleased with the progress of the office during 2015–16. The office is meeting its statutory obligations and is providing independent, timely and accessible services to the public and health practitioners. Importantly, the office is helping to ensure that the Australian Health Practitioner Regulation Agency and the National Boards are effective regulators.

I would particularly like to thank my staff for their hard work and dedication during the year. I would also like to thank senior management at the Australian Health Practitioner Regulation Agency for their willingness to discuss issues and take on board feedback identified by my office in the course of our activities.

Finally, I would like to thank the Australian Health Ministers' Advisory Council Secretariat and the Secretary and staff of the Victorian Department of Health and Human Services for their assistance and support during the year.

Samantha Gavel

National Health Practitioner
Ombudsman and Privacy Commissioner

PERFORMANCE SUMMARY

403
approaches to the office, up from **173** in 2014–15

There are **14** regulated health professions and
657,621
registered health practitioners in Australia

16%
of health practitioners are medical practitioners, and
57%
are nurses and midwives

We made formal inquiries into
62%
of complaints

34%
of complaints were about registration issues concerning health practitioners

40%
of complaints received were in relation to the actions of the Australian Health Practitioner Regulation Agency and the Medical Board

May was the busiest month, with **67** approaches to the office

The Ombudsman and Privacy Commissioner commenced **1 own-motion investigation**

54%
of complaints were closed after we provided the complainant with a further or better explanation of the decision/action that was the subject of the complaint

156
complaints were closed

181
complaints received, up from **77** in 2014–15

46%
of complaints were closed within **10 days**

The average time taken to close a complaint was
23 days

About the office of the National Health Practitioner Ombudsman and Privacy Commissioner

The National Health Practitioner Ombudsman and Privacy Commissioner

The National Health Practitioner Ombudsman and Privacy Commissioner is an independent statutory officer appointed by the Australian Health Workforce Ministerial Council.

The current National Health Practitioner Ombudsman and Privacy Commissioner is Samantha Gavel. Ms Gavel was appointed in November 2014 for a term of three years.

The National Health Practitioner Ombudsman and Privacy Commissioner is assisted by a small staffing complement. In 2015–16, this comprised a Senior Investigator and Manager, a Principal Legal Policy Officer, a Senior Project Officer and, for part of the year, a Lodgement and Investigation Officer. The office also commenced the recruitment of a Complainant Liaison Officer in 2015–16. Staff of the office are employees of the Victorian Department of Health and Human Services, and report to the National Health Practitioner Ombudsman and Privacy Commissioner for day-to-day operational duties.

We are focused on providing practical and meaningful outcomes to complainants

Our role

The Health Practitioner Regulation National Law, in force in all states and territories, establishes a national registration and accreditation scheme for health practitioners in 14 professions. For the purpose of implementing this scheme, the Health Practitioner Regulation National Law establishes the Australian Health Practitioner Regulation Agency, the Australian Health Practitioner Regulation Agency Management Committee, the Australian Health Workforce Advisory Council, and the 14 National Boards. The National Boards are:

- Aboriginal and Torres Strait Islander Health Practice Board of Australia
- Chinese Medicine Board of Australia
- Chiropractic Board of Australia
- Dental Board of Australia
- Medical Board of Australia
- Medical Radiation Practice Board of Australia
- Nursing and Midwifery Board of Australia
- Occupational Therapy Board of Australia
- Optometry Board of Australia
- Osteopathy Board of Australia
- Pharmacy Board of Australia
- Physiotherapy Board of Australia
- Podiatry Board of Australia
- Psychology Board of Australia.

The role of the National Health Practitioner Ombudsman and Privacy Commissioner is to provide ombudsman, privacy and freedom of information oversight of these entities, particularly the Australian Health Practitioner Regulation Agency and the National Boards.

In order to fulfil these functions, the Health Practitioner Regulation National Law confers specified jurisdiction on the National Health Practitioner Ombudsman and Privacy Commissioner that is derived from the *Ombudsman Act 1976* (Cwlth), the *Privacy Act 1988* (Cwlth), and *the Freedom of Information Act 1982* (Cwlth). These Acts are modified by the Health Practitioner Regulation National Law Regulation (No. 42/2010) to make them suitable for the national regulatory scheme.

The National Health Practitioner Ombudsman and Privacy Commissioner has an important role in promoting confidence in the administration of health practitioner

regulation by acting as an independent and impartial complaint-handling body for both the public and for health practitioners.

The National Health Practitioner Ombudsman and Privacy Commissioner also provides an accountability mechanism by addressing individual complaints and assessing systemic issues identified through the investigation of complaints.

Our vision

Our vision is to provide an independent and accessible complaint-handling service to ensure that the national registration and accreditation scheme for health practitioners is accountable and responsive.

We seek to work collaboratively with entities in our jurisdiction to ensure their conduct and decision-making is lawful, reasonable and transparent.

We aim for excellence in providing a professional service to the public and to produce timely and high-quality work.

Our values

Independence

We act independently and in the interest of public health and safety.

Integrity

We are open, honest and transparent in our actions and decisions. We act lawfully and ethically with good judgement.

Impartiality

We act impartially, neither as an advocate for complainants nor the entities in our jurisdiction. We investigate complaints thoroughly and fairly, and our decisions are based on available facts and evidence.

Professionalism

We maintain high professional standards when delivering our services and treat all people equitably, with dignity and respect.

Excellence

We pursue excellence in all that we do in order to provide the best possible service.

Our principles

Accessible

We are responsive and adapt our approaches to meet people's individual needs.

Our service is free, and we strive to ensure everyone can access and use our information and services. We are committed to making our written material easy to read and understand, and to developing simple processes that are easy to navigate.

Accountable

We keep individuals and entities within our jurisdiction informed about actions and outcomes through regular communication.

The National Health Practitioner Ombudsman and Privacy Commissioner is formally accountable to the Australian Health Workforce Ministerial Council, and submits regular progress reports to the Australian Health Ministers' Advisory Council. Information about the performance of our office is also publically available in our annual report.

Collaborative

We understand the importance of good relationships and communication.

We share what we learn, and we use our resources and information to influence positive change.

Outcome focused

We are focused on providing practical and meaningful outcomes to complainants.

We aim to help entities within our jurisdiction meet their obligations to health practitioners and the public by improving the ways they deliver services and handle complaints.

Our services

What we do

We can investigate the administrative actions of the Australian Health Practitioner Regulation Agency and the National Boards. The office also deals with complaints about breaches of privacy by the Australian Health Practitioner Regulation Agency, and complaints about the handling of freedom of information requests by the Australian Health Practitioner Regulation Agency.

An investigation may occur as a result of receiving a complaint or as a result of the National Health Practitioner Ombudsman and Privacy Commissioner deciding to investigate the action on her own motion.

Our investigations seek to determine whether the relevant action was lawful and reasonable, whether applicable policies and procedures have been followed, and whether all relevant considerations have been taken into account.

At the conclusion of an investigation, we may:

- determine that the actions were reasonable in all of the circumstances and take no further action
- provide (or suggest that the Australian Health Practitioner Regulation Agency or a National Board provide) a better explanation of the decision or action to the complainant
- expedite delayed action
- suggest that an apology be offered to the complainant
- suggest that processes or policies be reviewed or changed, and/or
- suggest that a decision be re-considered.

What we cannot do

Our jurisdiction focuses on the administrative actions of the Australian Health Practitioner Regulation Agency and the National Boards with respect to their regulation of Australian health practitioners.

In general, we cannot:

- force the Australian Health Practitioner Regulation Agency or a National Board to review or change a decision it has made (although we can suggest that it reconsider its decision or take some other course of action)
- provide legal advice to a complainant or act as an advocate for a complainant
- order that compensation be paid to a complainant (except if a complaint is about an interference with privacy, in which case a declaration may be made that a complainant is entitled to compensation for any loss or damage suffered)
- force the Australian Health Practitioner Regulation Agency or a National Board to release a document determined to be exempt under the *Freedom of Information Act 1982* (Cwlth)
- suggest that the Australian Health Practitioner Regulation Agency or a National Board take action that is not legally available to it.

What complainants can expect from us

When a complainant contacts us, they can expect to be treated in a courteous and respectful way.

A complainant can expect that we will:

- give careful attention to their concerns in order to ensure that we understand the complaint
- communicate in a clear way about how we can assist the complainant, and what we require from the complainant in order to proceed with the complaint
- provide the complainant with the name of a contact person at the office and keep the complainant regularly informed about the progress of their complaint
- promptly assess all information provided by the complainant, the entity complained about, and any other relevant third parties, in a fair and impartial way
- effectively explain to the complainant what we can and cannot do about their complaint and provide reasons for our decisions
- refer the complainant to the most appropriate alternative complaint-handling body if we are unable to assist the complainant with their particular concerns.

What we expect from complainants

When dealing with us, we expect that complainants will be courteous at all times. Our ability to provide complainants with a high level of service depends on mutual respect.

We believe there are a number of factors that make it easier and quicker for us to assist complainants, including that the complainant should:

- raise their concerns directly with the Australian Health Practitioner Regulation Agency before lodging a complaint with this office
- provide us with accurate information and respond to our requests for information in a timely way
- tell us if they have special requirements, such as requiring assistance from an interpreter
- inform us as soon as possible if they need to correct or update any information they have provided to us, including if they wish to withdraw their complaint
- be polite and willing to listen.

Performance

The office of the National Health Practitioner Ombudsman and Privacy Commissioner received 403 approaches during 2015–16 (181 complaints and 222 inquiries).

In general, a 'complaint' to the office is defined as an expression of dissatisfaction regarding an 'administrative action' of an entity in our jurisdiction (typically the Australian Health Practitioner Regulation Agency and/or a National Board).

In contrast, an 'inquiry' is an approach to the office concerning a matter that the National Health Practitioner Ombudsman and Privacy Commissioner is generally unable to assist with, most often due to lack of jurisdiction. When the office receives an inquiry, staff make best efforts to refer the complainant to an alternative complaint-handling mechanism that may be able to better address their concerns.

For clarity, an 'administrative action' is any action taken by an agency in relation to carrying out its duties and functions, or in exercising its powers or discretion in doing so. Administrative actions that may be the subject of a complaint to the National Health Practitioner Ombudsman and Privacy Commissioner include:

- the actions of the Australian Health Practitioner Regulation Agency in assessing and investigating notifications made to it
- the actions of a National Board when deciding what action to take in response to a notification
- the actions of a National Board when deciding to refuse registration to a health practitioner or deciding to place conditions on the registration of a health practitioner.

The National Health Practitioner Ombudsman and Privacy Commissioner may also investigate complaints regarding how the Australian Health Practitioner Regulation Agency has handled personal information or a freedom of information request.

Table 1: Approaches to the office from July 2012 to June 2016

Approaches	2012–13	2013–14	2014–15[1]	2015–16
Complaints received	176	196	77	181
Inquiries received	1	124	96	222
Total approaches	**177**	**320**	**173**	**403**

Table 1 outlines the approaches to the office from July 2012 to June 2016.

Figure 1: Approaches to the office from July 2012 to June 2016

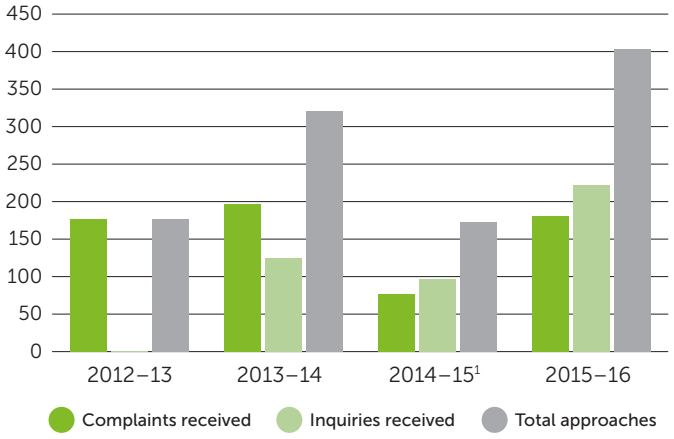


Figure 1 outlines the approaches to the office from July 2012 to June 2016.

The upward trend in the number of approaches received was consistent throughout the financial year and was highlighted in our monthly complaints report publications.

The reasons for the increase in approaches are likely to include:

- the launch of the office's new website, as it aimed to lift the profile of the office to ensure that the public and health practitioners are aware of our services
- increased media attention on the regulation of health practitioners due to high-profile investigations in a number of states, as this is likely to have resulted in greater awareness of the role of the Australian Health Practitioner Regulation Agency and the National Health Practitioner Ombudsman and Privacy Commissioner.

1 As a result of improved recordkeeping practices implemented by the office during 2015–16, there have been minor amendments to the complaints data reported for 2014–15. We are committed to continuous improvement in the office's recordkeeping practices, and accurate recordkeeping will be supported in the future by the implementation of a new complaints management system.

Improvements to complaint-handling processes

The Health Practitioner Regulation National Law confers specified jurisdiction on the National Health Practitioner Ombudsman and Privacy Commissioner that is derived from the *Ombudsman Act 1976* (Cwlth). During 2015–16, the office commenced work on the development of an improved complaint-handling process to better use the provisions of the *Ombudsman Act 1976* (Cwlth).

In particular, the new process more accurately reflects the relationship between the provisions and obligations of the *Ombudsman Act 1976* (Cwlth), and the nature of the investigative work undertaken by the National Health Practitioner Ombudsman and Privacy Commissioner.

The National Health Practitioner Ombudsman and Privacy Commissioner consulted with the Australian Health Practitioner Regulation Agency and the National Boards in regard to the new process and it has been agreed that it will take effect from 1 July 2016.

It is anticipated that the new arrangements will provide greater clarity in relation to the National Health Practitioner Ombudsman and Privacy Commissioner's investigation powers and a stronger basis on which to obtain information from the Australian Health Practitioner Regulation Agency. The new complaint-handling model should also provide the National Health Practitioner Ombudsman and Privacy Commissioner with an enhanced ability to make comments and suggestions to the Australian Health Practitioner Regulation Agency and National Boards once an investigation has been concluded. We expect that this will allow us to more effectively provide feedback and suggest process improvements to the Australian Health Practitioner Regulation Agency and the National Boards in relation to areas of concern identified during the course of our investigations.

The new process is not expected to result in an increase in workload for either the Australian Health Practitioner Regulation Agency or the office of the National Health Practitioner Ombudsman and Privacy Commissioner. A review will be conducted at the end of 2016 to ensure the process is meeting its objectives.

Notification complaints

The overwhelming majority of complaints received by the office of the National Health Practitioner Ombudsman and Privacy Commissioner concern the administrative actions of the Australian Health Practitioner Regulation Agency and the National Boards in relation to notifications. A 'notification' is a complaint or concern about the health, conduct or performance of a registered health practitioner.

For context, anyone can make a notification about a registered health practitioner. When the Australian Health Practitioner Regulation Agency receives a notification, staff assess (and at a later stage, may investigate) the notification and put the information gathered before the relevant National Board. The National Board determines what action to take, if any. Possible action could include issuing the health practitioner with a caution or imposing conditions on their registration.

In 2015–16, a large portion (40 per cent) of all complaints received by the National Health Practitioner Ombudsman and Privacy Commissioner were from people who had lodged a notification about a health practitioner with the Australian Health Practitioner Regulation Agency and were subsequently concerned about how their notification had been handled. Common concerns were that:

- the Australian Health Practitioner Regulation Agency and the relevant National Board did not take into consideration all of the information presented by the notifier
- the Australian Health Practitioner Regulation Agency did not comprehensively investigate all of the issues raised in the notification
- the Australian Health Practitioner Regulation Agency did not adequately explain the reasons for the relevant National Board's decision in relation to the notification.

A smaller percentage (14 per cent) of complaints to the National Health Practitioner Ombudsman and Privacy Commissioner were received from health practitioners who were dissatisfied with the way a notification made against them had been handled by the Australian Health Practitioner Regulation Agency and the relevant National Board.

Table 2: Types of notification complaints received

Type of notification complaint	Complaints received
Complaint by notifier	72
Complaint by practitioner	26
Complaint about delay	1

Table 2 outlines the types of notification complaints received by the office.

Case study: complaint from patient who made a notification to the Australian Health Practitioner Regulation Agency

Mr Boronia was a patient of Dr Wattle.

Mr Boronia experienced post-operative complications after Dr Wattle performed a procedure for him. Mr Boronia lodged a notification about Dr Wattle with the Australian Health Practitioner Regulation Agency on the basis that he believed Dr Wattle's post-operative care was inadequate.

The Australian Health Practitioner Regulation Agency assessed the matter and provided an assessment report to the relevant National Board for its consideration. The National Board decided to take no further action.

Mr Boronia complained to this office that he was dissatisfied with the way the Australian Health Practitioner Regulation Agency and the National Board had handled his notification.

We conducted an extensive investigation into the matter, which included interviewing Mr Boronia, staff of the Australian Health Practitioner Regulation Agency and members of the National Board.

At the conclusion of the investigation, the Ombudsman and Privacy Commissioner drafted a detailed report which made a number of comments and suggestions concerning the Australian Health Practitioner Regulation Agency and the National Board.

These comments and suggestions included that the Australian Health Practitioner Regulation Agency review certain internal policies to improve notification assessment processes, and also that the Australian Health Practitioner Regulation Agency review its template letters to ensure that it provides appropriate information to notifiers.

The Australian Health Practitioner Regulation Agency and the National Board accepted the Ombudsman and Privacy Commissioner's comments and suggestions. The Australian Health Practitioner Regulation Agency also outlined the significant improvements it had made to its notification processes since the time that Mr Boronia lodged his notification.

The Ombudsman and Privacy Commissioner is pleased that a number of issues of concern identified in her comments have already been successfully addressed by the Australian Health Practitioner Regulation Agency and the relevant National Board.

Registration complaints

The office of the National Health Practitioner Ombudsman and Privacy Commissioner receives a significant number of complaints from health practitioners regarding registration issues. Common complaint themes this financial year included concerns about the application of registration standards, dissatisfaction with the application of qualification assessment models in relation to internationally qualified health practitioners, and delays associated with the processing of applications for registration and renewal of registration.

Table 3: Types of registration complaints received

Type of registration complaint	Complaints received
Complaint about delay	16
Complaint about fees	1
Complaint about process or policy	44

Table 3 outlines the types of registration complaints received by the office.

Case study: complaint from family of health practitioner regarding registration fee

Mrs Banksia's husband, Mr Banksia, was a health practitioner. Mr Banksia died suddenly.

Mrs Banksia complained to our office that, after being informed of Mr Banksia's death, the Australian Health Practitioner Regulation Agency refused to partially refund the fee relating to Mr Banksia's registration. This was concerning to Mrs Banksia as the annual fee was only paid the month before Mr Banksia's death.

We made inquiries about Mrs Banksia's complaint. The Australian Health Practitioner Regulation Agency informed this office that it believed there was no provision in the Health Practitioner Regulation National Law allowing for the pro-rata refund of registration fees and that it had no formal policy for dealing with such a request.

We made further inquiries with the Australian Health Practitioner Regulation Agency and were subsequently advised that the Australian Health Practitioner Regulation Agency would partially refund the registration fee to Mrs Banksia.

Our office worked with the Australian Health Practitioner Regulation Agency to develop a policy to deal with future requests that it may receive about the partial refund of registration fees in the event of a health practitioner's death.

Privacy complaints

The Health Practitioner Regulation National Law confers specified jurisdiction on the National Health Practitioner Ombudsman and Privacy Commissioner that is derived from the *Privacy Act 1988* (Cwlth). For reason of efficiency, the separate Ombudsman and Privacy Commissioner roles are combined in the single office of the National Health Practitioner Ombudsman and Privacy Commissioner.

In certain circumstances, the National Health Practitioner Ombudsman and Privacy Commissioner can make a determination regarding what action (if any) should be taken to resolve a complaint about a breach of privacy, and may also make a declaration that a complainant is entitled to compensation for any loss or damage suffered if their privacy has been interfered with.

Since its inception, this office has received very few complaints relating to privacy matters. In 2015–16, the office did not receive any complaints that were specifically considered by the National Health Practitioner Ombudsman and Privacy Commissioner in her capacity as Privacy Commissioner. From time to time, however, the office receives complaints about an administrative action of the Australian Health Practitioner Regulation Agency that also raises privacy concerns. Depending on the nature of the matter, these complaints can be dealt with by the National Health Practitioner Ombudsman and Privacy Commissioner in her capacity as Ombudsman.

Case study: complaint from health practitioner raising privacy concerns

Mr Eucalyptus, a health practitioner, complained to our office that the Australian Health Practitioner Regulation Agency had scanned and retained a copy of personal documents it had received about him. Mr Eucalyptus claimed this administrative action could result in a breach of his privacy, as the documents were unrelated to his registration as a health practitioner.

We made inquiries with the Australian Health Practitioner Regulation Agency regarding its handling of the documents relating to Mr Eucalyptus. The Australian Health Practitioner Regulation Agency's view was that it was obliged to retain a copy of the documents as they formed a public record that needed to be retained under the relevant state's recordkeeping legislation.

We made further inquiries with the Australian Health Practitioner Regulation Agency on the basis that we were not satisfied that the documents were received in the course of the official functions of the Australian Health Practitioner Regulation Agency, and that the documents did not form a public record that was required to be retained.

After seeking legal advice, the Australian Health Practitioner Regulation Agency destroyed the documents that were of concern to Mr Eucalyptus, as it had come to the view that the documents were not received in the course of its official functions.

We investigate complaints thoroughly and fairly, and our decisions are based on available facts and evidence

Complaints by national entity

During 2015–16, 40 per cent of complaints received by the office concerned the administrative actions of the Australian Health Practitioner Regulation Agency and the Medical Board of Australia, followed by 18 per cent of complaints concerning the Australian Health Practitioner Regulation Agency and the Nursing and Midwifery Board of Australia.

A possible reason for this is that these professions have the largest number of registrants, comprising approximately 74 per cent of the total number of registered health practitioners.

As anticipated, fewer complaints are received from professions with a smaller number of registrants. A breakdown of complaints by national entity is detailed below.

Table 4: Complaints by national entity

National entity	Complaints received
The Australian Health Practitioner Regulation Agency	16
The Australian Health Practitioner Regulation Agency and the Aboriginal and Torres Strait Islander Health Practice Board of Australia	1
The Australian Health Practitioner Regulation Agency and the Chinese Medicine Board of Australia	4
The Australian Health Practitioner Regulation Agency and the Chiropractic Board of Australia	5
The Australian Health Practitioner Regulation Agency and the Dental Board of Australia	12
The Australian Health Practitioner Regulation Agency and the Medical Board of Australia	72
The Australian Health Practitioner Regulation Agency and the Medical Radiation Practice Board of Australia	3
The Australian Health Practitioner Regulation Agency and the Nursing and Midwifery Board of Australia	33
The Australian Health Practitioner Regulation Agency and the Occupational Therapy Board of Australia	4
The Australian Health Practitioner Regulation Agency and the Optometry Board of Australia	2
The Australian Health Practitioner Regulation Agency and the Osteopathy Board of Australia	0
The Australian Health Practitioner Regulation Agency and the Pharmacy Board of Australia	4
The Australian Health Practitioner Regulation Agency and the Physiotherapy Board of Australia	1
The Australian Health Practitioner Regulation Agency and the Podiatry Board of Australia	0
The Australian Health Practitioner Regulation Agency and the Psychology Board of Australia	24
Total	**181**

Table 4 outlines the complaints the office received by national entity.

Complaints by state and territory

The majority of complaints to this office originate in Victoria (38 per cent). This is to be expected, as the office has limited jurisdiction in relation to health practitioner regulation in New South Wales and Queensland, and a significant number of registered health practitioners reside in Victoria.

In summary, due to co-regulatory arrangements, there are different processes for making a notification (or complaint) in New South Wales and Queensland. In New South Wales, notifications are handled by the Health Care Complaints Commission; the National Health Practitioner Ombudsman and Privacy Commissioner does not have power to receive complaints about how a notification has been handled by the Health Care Complaints Commission.

In Queensland, complaints about health practitioners are handled by the Office of the Health Ombudsman. The Office of the Health Ombudsman assesses each complaint it receives to determine if it should be transferred to the Australian Health Practitioner Regulation Agency or if it should be managed by the Office of the Health Ombudsman. The National Health Practitioner Ombudsman and Privacy Commissioner does not have power to receive complaints regarding how a matter has been handled by the Office of the Health Ombudsman; this office only handles complaints about how a matter has been handled if it has been referred to the Australian Health Practitioner Regulation Agency by the Office of the Health Ombudsman.

Importantly, this office has jurisdiction to handle complaints about registration matters in all states and territories, including New South Wales and Queensland.

Table 5: Complaints by state and territory

State or territory	Complaints received
Australian Capital Territory	9
New South Wales	18
Northern Territory	4
Queensland	29
South Australia	16
Tasmania	12
Victoria	68
Western Australia	22
International	3
Total	**181**

Table 5 outlines the complaints the office received by state and territory.

Figure 2: Complaints by state and territory

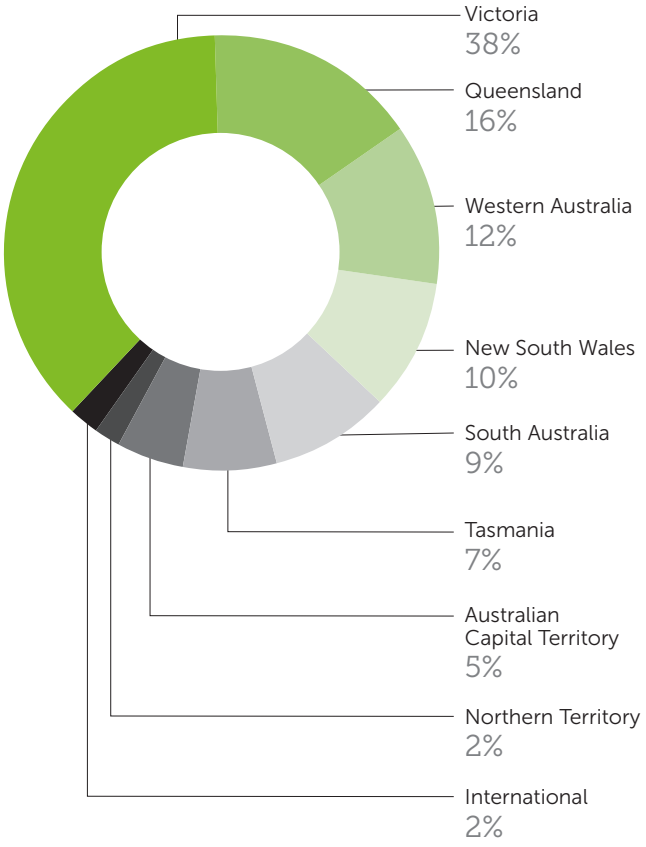


Figure 2 outlines the percentage of complaints receivedby each state and territory.

Complaint outcomes

There are a number of remedies available to the National Health Practitioner Ombudsman and Privacy Commissioner in cases where there has been found to be some deficiency in the administrative actions of Australian Health Practitioner Regulation Agency and/or a National Board.

Based on the particular circumstances of the complaint, practical remedies may include:

- the provision of a better explanation of the decision or action to the complainant
- the expedition of a delayed action
- an apology to the complainant from the Australian Health Practitioner Regulation Agency and/or a National Board
- a suggestion to change a procedure, policy or practice of the Australian Health Practitioner Regulation Agency and/or a National Board.

The National Health Practitioner Ombudsman and Privacy Commissioner does not have power to overturn a decision of the Australian Health Practitioner Regulation Agency and/or the National Boards, but can raise concerns and in some instances, make recommendations for their consideration.

In 2015–16, the majority of complaints to this office (54 per cent) were resolved when the National Health Practitioner Ombudsman and Privacy Commissioner provided the complainant with a further explanation of the reason for the decision or action that they were complaining about.

Thirty-three per cent of complaints were closed on the basis that the complainant had not raised their concerns with the Australian Health Practitioner Regulation Agency before contacting the office of the National Health Practitioner Ombudsman and Privacy Commissioner. This year the office formalised a consistent process for referring people back to the Australian Health Practitioner Regulation Agency to use its internal complaint process in instances such as these. The rationale for this approach is that it provides the Australian Health Practitioner Regulation Agency with the opportunity to promptly resolve any outstanding issues before the National Health Practitioner Ombudsman and Privacy Commissioner becomes involved in the matter. It also provides the Australian Health Practitioner Regulation Agency with direct insight into systemic issues of concern to notifiers and health practitioners.

Importantly, once a matter has been through the Australian Health Practitioner Regulation Agency's internal complaint process, the complainant can lodge a complaint with the National Health Practitioner Ombudsman and Privacy Commissioner if the complainant remains dissatisfied with the way a matter has been handled.

Table 6: Complaint outcomes

Complaint outcome	Number of complaints
Assisted resolution by the Australian Health Practitioner Regulation Agency	4
Declined to take further action – action pending in court/tribunal	1
Declined to take further action – complainant had not used the Australian Health Practitioner Regulation Agency's internal complaint process	51
Declined to take further action – matter not within jurisdiction	4
Declined to take further action – other	8
Further explanation given by National Health Practitioner Ombudsman and Privacy Commissioner	84
Withdrawn by complainant	4
Total	**156**

Table 6 outlines the outcomes of complaints received by the office.

Case study: providing a further explanation of the National Board's decision

Ms Waratah was an internationally qualified health practitioner. Ms Waratah's application for registration had been refused by the relevant National Board on the basis that she did not hold a qualification that was considered to be substantially equivalent to an approved qualification, and she also failed to meet the recency of practice registration standard.

Ms Waratah complained to this office that she did not understand the reasons for the National Board's decision and also that she was dissatisfied with the communication from staff of the Australian Health Practitioner Regulation Agency.

We made inquiries into Ms Waratah's complaint. As a result of these inquiries, we were able to provide comprehensive information to Ms Waratah regarding the criteria that an individual's qualification must satisfy in order to be considered eligible for registration.

We were also able to explain in more detail the reasons why the National Board had refused her application for registration. While Ms Waratah remained disappointed with the outcome of her application for registration, she was pleased that we had provided additional information which helped her understand the reasons for the National Board's decision.

Time taken to close complaints

During 2015–16 the National Health Practitioner Ombudsman and Privacy Commissioner introduced a service charter which documents the standards of service that can be expected from the office.

This service charter aims to provide the public with a better understanding of the office's practices and to also enhance the transparency of its operations.

A key aspect of the service charter is the timeliness benchmarks set by the office.

When we receive a complaint, we aim to:

- acknowledge receipt of the complaint within three working days
- decide whether the complaint is in the jurisdiction of the office within fourteen working days
- finalise the complaint within three months
- deal with more complex cases within nine months.

While a matter is open with this office, we aim to:

- provide the complainant with a progress update every six weeks, unless there are circumstances when it is not practical or appropriate to do so
- return any telephone calls within three working days
- respond to written communication within fourteen working days.

We are committed to ensuring complaints are handled in a timely manner; however, the complexities of individual complaints must also be taken into account when setting appropriate timeframes for the resolution of a complaint.

Of the 181 complaints received during 2015–16, 156 were closed by the conclusion of the financial year (86 per cent). The average time taken to close a complaint was 23 days, a further improvement on the previous year's average of 66 days. 72 per cent of complaints received by the office were closed within 30 days and 24 per cent of complaints required up to 60 days to be finalised.

Table 7: Time taken to close complaints

Time taken	Number of complaints
1 to 10 days	72
11 to 30 days	40
31 to 60 days	33
60 to 90 days	4
Over 90 days	7
Total	**156**

Table 7 outlines the number of days taken to close complaints.

Figure 3: time taken to close complaints

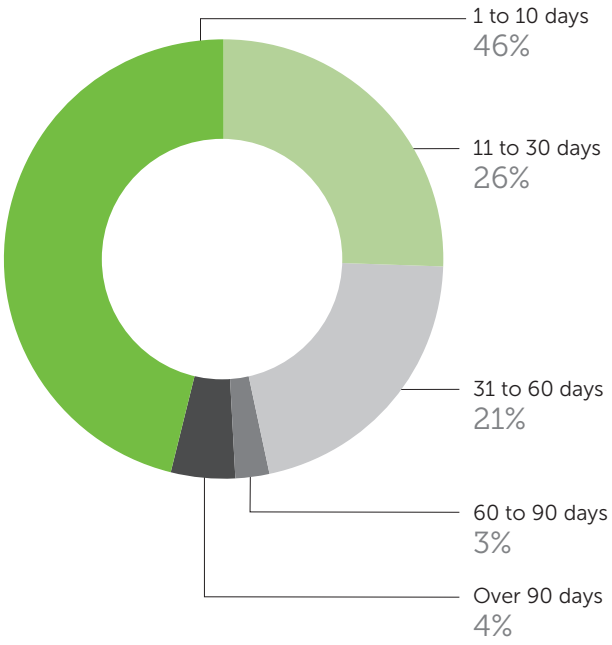


Figure 3 outlines the number of days taken to close complaints and the percentage of complaints in each category.

Review of our decisions

Concerns and compliments are important ways of gaining feedback about our services, and we are committed to continuous improvement.

During 2015–16, the office implemented a formal process for the internal review of complaints.

Requests for review are carefully assessed to determine if there are sufficient grounds for a review. If the National Health Practitioner Ombudsman and Privacy Commissioner agrees to review a decision, the request is assigned to a staff member who was not involved in the handling of the complaint in the first instance. The review typically considers:

- the process that was adopted to handle the complaint and whether it fairly and appropriately addressed all of the issues raised
- the merit of the conclusion reached, particularly whether it was reasonably based on the information available
- whether the decision was adequately explained to the complainant.

The complainant is informed of the outcome of the review in writing. Possible outcomes include:

- upholding the original decision
- changing the decision
- referring the matter back to the staff member who originally had responsibility for the complaint so further inquiries can occur.

Once a matter has been reviewed, there is no further avenue of appeal or review of the decision. We only review a matter once.

During 2015–16, the office received a small number of requests for internal review. These requests were carefully considered and actioned in accordance with office policy.

Stakeholder engagement

The office of the National Health Practitioner Ombudsman and Privacy Commissioner seeks to build and maintain positive relationships with stakeholders. We understand the importance of communication and we adapt our approaches to meet people's individual needs.

During 2015–16, the Ombudsman and Privacy Commissioner continued to strengthen important relationships with the office. This has involved meeting and working with a wide array of stakeholders, including:

- the Victorian Department of Health and Human Services
- the Australian Health Practitioner Regulation Agency
- the Australian Health Practitioner Regulation Agency Management Committee
- the National Boards
- the Australian Health Workforce Ministerial Council Secretariat
- the Victorian Health Services Commissioner
- the Mental Health Complaints Commissioner
- the Australian Information Commissioner.

A key focus during the year was to lift the profile of the office and provide better information resources to the public, health practitioners and other stakeholders. It is particularly important that there is an awareness of the role of the office of the National Health Practitioner Ombudsman and Privacy Commissioner in addressing concerns people may have about the administrative actions of the Australian Health Practitioner Regulation Agency and the National Boards.

New website

The redevelopment of the National Health Practitioner Ombudsman and Privacy Commissioner's website was one of the key projects for the office during 2015–16. We successfully launched the new website at www.nhpopc.gov.au in May 2016.

The new website is a valuable resource for health practitioners and members of the public who are seeking information about how to lodge a complaint about the administrative actions of the Australian Health Practitioner Agency and the National Boards. The website's core message is illustrated in an engaging video animation that has been developed to assist people to understand the role of the office and to provide information about how to make a complaint.

The website features informative fact sheets, policies and monthly complaints reports, which provide valuable insight into our performance. The National Health Practitioner Ombudsman and Privacy Commissioner is committed to being transparent and accountable, and the new website enables the office to fulfil these principles through regular statistical reporting. The website allows us to communicate regularly with our stakeholders and to provide the public with important information as it becomes available.

The launch of the new website was communicated to a number of key stakeholders and it has acted as an important tool in promoting the office's services, particularly in relation to other government agencies in Australia.

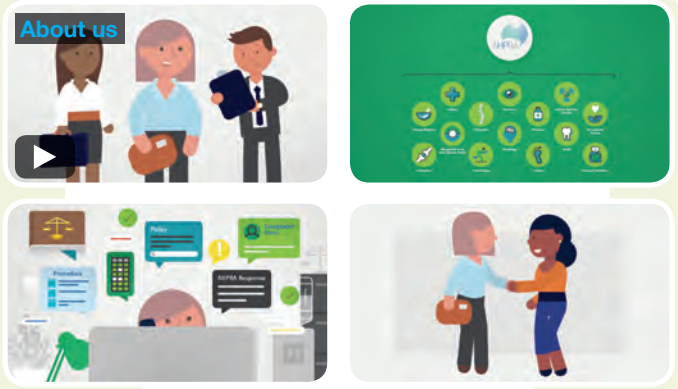
The new website also features a feedback widget that enables the public to provide us with valuable comments and suggestions around useability. We have received exceptionally positive feedback from both the public and our stakeholders regarding the new website, and we are proud to have achieved another fundamental milestone in the office's development.

Our website received

1,375

visits and more than **4,020** page views since its launch in May 2016

See the 'About us' video **www.nhpopc.gov.au/about-us/** for a quick overview of the office's services.



Documents were accessed

264

times from our website, including monthly complaints reports, factsheets and policies

63%

of visitors returned to our website

We now publish a **monthly complaints report**, which provides valuable insight into our performance

Relationship with key stakeholders

The office of the National Health Practitioner Ombudsman and Privacy Commissioner is hosted by the Victorian Department of Health and Human Services and is able to access departmental services, including information technology, human resources and procurement on a shared-services basis. This arrangement assists the office to operate more efficiently and better manage its costs. In early 2016, the office signed a memorandum of understanding with the Victorian Department of Health and Human Services, which formalised the roles and responsibilities of both parties under the host jurisdiction arrangements.

The office also signed a memorandum of understanding with the Australian Health Practitioner Regulation Agency in December 2015. This memorandum seeks to promote mutual understanding of the roles and responsibilities of both parties, to facilitate cooperation in the public interest, to allow for timely and effective information sharing, and also to set out agreed administrative arrangements in relation to complaints handling under the *Ombudsman Act 1976* (Cwlth).

Consultation regarding the implementation of recommendations relating to the Review of the National Registration and Accreditation Scheme

During the year, the National Health Practitioner Ombudsman and Privacy Commissioner participated in the consultation by the Victorian Department of Health and Human Services in regard to giving effect to the recommendations of the Review of the National Registration and Accreditation Scheme conducted by Mr Kim Snowball (released in December 2014).

In 2014, the office provided a submission to Mr Snowball's review which was based on insights obtained through the handling of complaints. One of the key issues highlighted in our submission (and indeed in other submissions to the review) was the need to improve the experience of notifiers who have lodged a notification with the Australian Health Practitioner Regulation Agency. The review's report contained a number of recommendations aimed at improving communication with notifiers and the overall notifier experience.

Some of the report's recommendations have been implemented without the need for legislative changes. In particular, the Australian Health Practitioner Regulation Agency has introduced a number of initiatives to improve communication with notifiers, including more detailed outcome letters explaining the reasons for a decision of a National Board.

Other recommendations will require amendments to the Health Practitioner Regulation National Law. The National Health Practitioner Ombudsman and Privacy Commissioner is pleased to have the opportunity to contribute in the consultation process in relation to this.

Corporate governance

Accountability

The office of the National Health Practitioner Ombudsman and Privacy Commissioner is aware of its obligations under the Health Practitioner Regulation National Law Regulation (No. 42/2010) to ensure its operations are carried out efficiently, effectively and economically.

The National Health Practitioner Ombudsman and Privacy Commissioner is formally accountable to the Australian Health Workforce Ministerial Council and the office submits regular progress reports to the Australian Health Ministers' Advisory Council.

The National Health Practitioner Ombudsman and Privacy Commissioner also meets with the Secretary of the Victorian Department of Health and Human Services on a quarterly basis. This promotes timely and effective information sharing and communication in relation to the services provided by the Department of Health and Human Services.

The staff of the office of the National Health Practitioner Ombudsman and Privacy Commissioner are employees of the Victorian Department of Health and Human Services and are required to comply with departmental policies, including the Code of Conduct for Victorian Public Sector Employees.

Implementing best practice

We aim for excellence in providing a professional service to the public and we strive to maintain high professional standards.

During 2015–16, the office of the National Health Practitioner Ombudsman and Privacy Commissioner undertook considerable work to further improve key policies and procedures. We developed and implemented a number of important policies, including a code of conduct, privacy policy and service charter. We also formalised essential complaint processes, such as providing the opportunity to request a review of our decisions. These significant achievements allowed us to further develop our systems and to identify new ways of improving our work.

Continuous improvement and innovation

One of the key priorities for the year ahead is to improve our strategic and operational planning. The National Health Practitioner Ombudsman and Privacy Commissioner has organised for facilitation of a strategic planning day to strengthen the office's governance arrangements, specifically the implementation of key performance indicators.

The office is committed to providing its staff with learning and development opportunities. This ensures we attract and retain suitably qualified staff, while promoting a positive workplace culture. The Department of Health and Human Services' performance and development process provides a framework to support managers and employees to develop individual plans. The aim is to provide clarity about employee performance expectations, behavioural expectations and development needs, ensure individual efforts are aligned with office priorities and provide a platform for ongoing dialogue about performance between employees and their managers.

Financial information

Funding arrangements

At the Australian Health Workforce Ministerial Council meeting on 11 April 2014, it was agreed that the office of the National Health Practitioner Ombudsman and Privacy Commissioner would be funded by health practitioner registrants to ensure a sustainable source of funds. Accordingly, the Australian Health Practitioner Regulation Agency has agreed to provide ongoing funding to support the office in meeting its independent statutory obligations.

The National Health Practitioner Ombudsman and Privacy Commissioner is required to submit an annual budget proposal to the Australian Health Ministers' Advisory Council by 1 March each year. On approval, the Victorian Department of Health and Human Services (as host jurisdiction) raises quarterly invoices on behalf of the office payable by the Australian Health Practitioner Regulation Agency. These funding arrangements are outlined in the memorandums of understanding with the Australian Health Practitioner Regulation Agency and the Department of Health and Human Services.

The office of the National Health Practitioner Ombudsman and Privacy Commissioner is obliged under the Health Practitioner Regulation National Law Regulation (No. 42/2010) to ensure its operations are carried out efficiently, effectively and economically. Accordingly, the office has proposed a lesser amount of funding for the 2016–17 financial year compared to the amount received during 2015–16.

At the end of the financial year, any unspent funds are retained by the office to allow for investment in relevant longer-term projects.

Financial statement

The Department of Health and Human Services provides financial services to the office of the National Health Practitioner Ombudsman and Privacy Commissioner. The financial operations of the office of the National Health Practitioner Ombudsman and Privacy Commissioner are consolidated with those of the Department of Health and Human Services and are audited by the Victorian Auditor-General's Office. A complete financial report is therefore not provided in this annual report.

A financial summary of the expenditure for 2015–16 is provided below.

Revenue	
Income received	$1,500,000
Total revenue	**$1,500,000**

Expenditure	
Salaries	$542,457
Salary on-costs	$73,956
Supplies and consumables	$184,257
Indirect expenses (includes depreciation and LSL)	$33,051
Total expenditure	**$833,721**