

Annual report 2020–21




National Health
Practitioner
Ombudsman



Acknowledgement of Country

The office of the National Health Practitioner Ombudsman acknowledges the Wurundjeri Woi Wurrung people as the custodians of Country on which our office is located and acknowledge the First Nations custodians of Country across Australia where our services extend.

We pay our respect to Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.



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Our year in numbers

We received:

965

approaches



We finalised:

544

complaints to
the Ombudsman



580

complaints to
the Ombudsman



118

investigations
of complaints to
the Ombudsman



17,403

visits to our website

We published:



5

FOI review
decisions

Milestones:



Richelle McCausland
was reappointed
as Ombudsman
and Commissioner



Began accreditation
processes review

Launched
our new
website



We made:

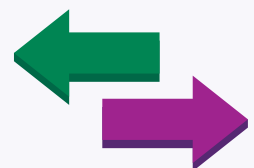


11

formal comments
or suggestions
for improvement

171

complaint transfers to Ahpra



Letter of transmittal



National Health
Practitioner
Ombudsman

The Hon Stephen Wade MLC
Chair
Health Council

Dear Minister

I am pleased to present you with the joint National Health Practitioner Ombudsman's and National Health Practitioner Privacy Commissioner's annual report for the period 1 July 2020 to 30 June 2021.

The report has been prepared in accordance with s. 29 of the Health Practitioner Regulation National Law Regulation 2018.

I am satisfied that the office of the National Health Practitioner Ombudsman's financial and governance processes meet our specific needs and comply with the requirements of s. 28 of the Health Practitioner Regulation National Law Regulation.

Yours sincerely

Richelle McCausland
National Health Practitioner Ombudsman
National Health Practitioner Privacy Commissioner

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Melbourne, Victoria 3001

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Ombudsman and Commissioner's message



The coronavirus (COVID-19) pandemic continued to have a profound effect on our professional and personal lives this financial year. Australia's health sector is at the centre of the pandemic response, and our community has rightly praised the extraordinary work of registered health practitioners who went above and beyond to provide essential services.

In response to the challenging circumstances raised by the pandemic, my office prioritised the safety of our communities and the wellbeing of our staff. We focused on providing a continuous, high-quality and empathetic complaint-handling service while also supporting our staff who worked from home for most of the year.

Despite the challenging circumstances, I am proud that my office has continued to champion fairness and bring about significant changes in the National Registration and Accreditation Scheme. Highlights from this financial year included:

- working with the Australian Health Practitioner Regulation Agency (Ahpra) and the National Health Practitioner Boards to resolve individual concerns and make systemic improvements (examples of significant improvements are found in the case studies throughout this report)
- beginning my office's review of accreditation processes, including engaging with the many accreditation entities to understand existing complaint and appeal processes, prior to my office undertaking our new role in handling complaints about accreditation entities
- launching our new website to make our office more accessible to health practitioners and the public.

In a time when disconnection and isolation could have become the norm, I would like to thank my staff for their support of one another, their resilience, and our shared determination to achieve our vision of creating fair and positive change in the regulation of health practitioners.

I also extend my thanks to Ahpra's senior leadership team and national complaints team for their continued commitment to working with my office to address identified issues.

It is a privilege to have been reappointed Ombudsman and Commissioner for a second term. It has been deeply rewarding to guide my office through a transformative three years, and I look forward to working with my team to deliver on our full potential over the next three years.

During the pandemic, I put this quote from Mark Twain above my computer: 'Continuous improvement is better than delayed perfection'. This idea underpins my office's approach to all aspects of our work. I thank all of those who have worked alongside me and my office to strive for continuous improvement in the National Scheme.

A handwritten signature in black ink, reading 'Richelle McCausland'.

Richelle McCausland
National Health Practitioner Ombudsman
National Health Practitioner Privacy Commissioner

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**We strive for fair
and positive change
in the regulation of
registered health
practitioners for the
Australian community**

Our purpose

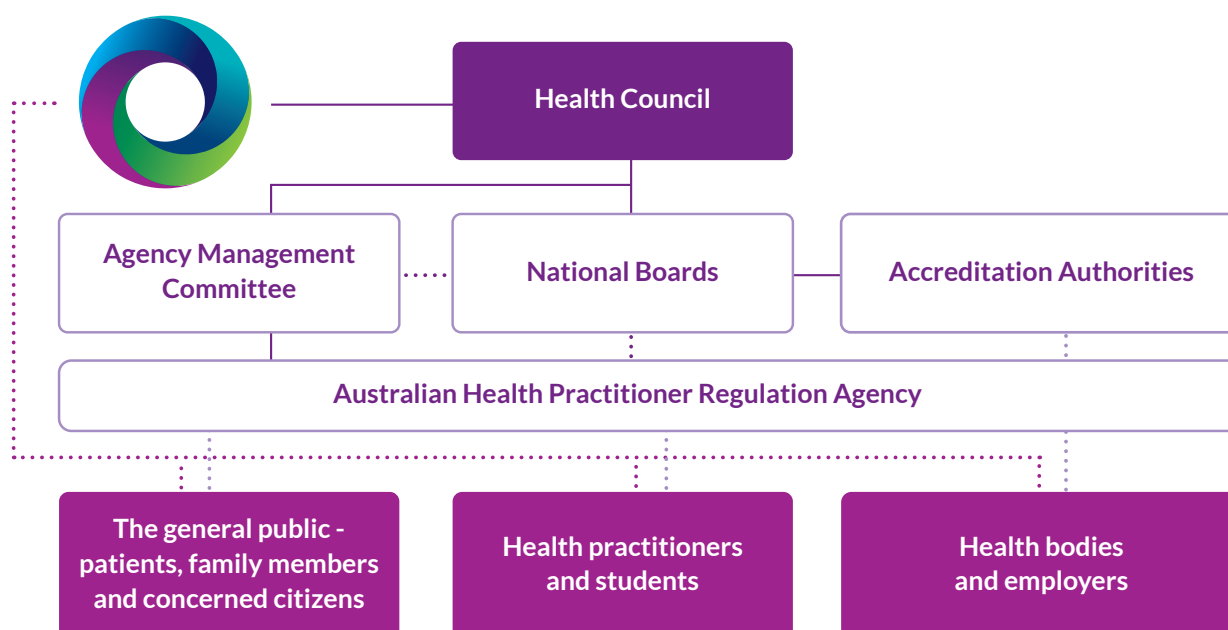
We champion fairness through investigating complaints, facilitating resolutions and making recommendations to improve the regulation of Australia's registered health practitioners.

The National Health Practitioner Ombudsman oversees bodies in the National Registration and Accreditation Scheme (National Scheme) including the Australian Health Practitioner Regulation Agency (Ahpra) and the 15 National Health Practitioner Boards (the Boards)¹ (Figure 1).

We provide a free and independent complaint-handling service for the public and health practitioners. We assist with:

- complaints to the National Health Practitioner Ombudsman, mostly about the notification and registration processes
- complaints to the National Health Practitioner Privacy Commissioner, generally about how personal information is used
- applications to review Ahpra's freedom of information (FOI) decisions.

Figure 1: The role of our office



¹ The Boards currently include the: 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, Paramedicine Board of Australia, Pharmacy Board of Australia, Physiotherapy Board of Australia, Podiatry Board of Australia and Psychology Board of Australia.

Our values

Independent

We make decisions and recommendations based on evidence and without taking sides



Fair

We are open and follow impartial processes to make sure everyone is treated equally



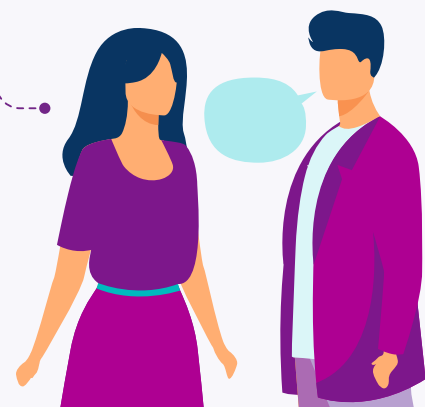
Courageous

We do what is in the public interest even if it is challenging



Respectful

We listen to and seek to understand the unique perspectives of everyone we engage with



Collaborative

We work with others to resolve issues and identify opportunities to improve



What we do: creating positive change

We see complaints as an invaluable way to identify and address problems with how registered health practitioners are regulated in Australia. We strive to achieve complaint outcomes at the individual and system levels.

Achieving meaningful outcomes for complainants

At the individual level, we aim to provide a resolution to complainants based on what they have told us they would like to achieve from making a complaint. The most common complaint outcome involves us providing a complainant with more information or a better explanation about the decision or action that led to their complaint. Our complaint-handling work has also resulted in:

- the reconsideration of a notification by a Board (primarily if we found the Board had not considered all relevant information)
- Ahpra giving a more detailed explanation of a decision
- Ahpra sharing an update on the status of a matter
- Ahpra apologising to a complainant for how their matter was handled
- speeding up a delayed matter.

System-level improvement

We use complaints as an important tool to identify and address issues that are systemic and could be affecting others.

One way we help improve health practitioner regulation is by providing Ahpra and the Boards with formal and informal suggestions for improvement. Examples of where the Ombudsman and Commissioner has made formal suggestions for improvement in 2020–21 include the need for Ahpra to:

- improve timeframes for finalising investigations and avoid periods of inactivity in managing notifications
- develop a more comprehensive service charter to encourage more frequent communication with notifiers and practitioners while managing notifications.

Our office has also worked with Ahpra to improve its processes for managing conflict of interest disclosures in relation to independent opinion providers during the notifications process. For example, Ahpra agreed it could better document its processes about conflicts of interest when getting independent opinions. It undertook to develop a guide to assist staff to identify, record and assess potential conflicts of interest regarding independent opinion providers.

In addition, we ensure we engage with our community to respond to any issues that arise in relation to the National Scheme. This includes:

- responding to requests and enquiries about our complaints data or trends
- making submissions to relevant consultations about issues that could affect the regulation of Australia's registered health practitioners
- responding to requests to review existing or planned policies and procedures from entities within the National Scheme.

Meet the Ombudsman and Commissioner

In June 2021 the Health Council reappointed Richelle McCausland as Ombudsman and Commissioner for a second term.

The Health Council is made up of health ministers from the Commonwealth and each state and territory in Australia.

Richelle's first term as Ombudsman and Commissioner marked a phase of transformation for the office. We focused on improving our internal processes to demonstrate excellence and to continue creating positive change in the regulation of Australia's registered health practitioners.

Our office has come a long way since it was created in 2010. We've seen a fivefold increase in approaches to the office from 2014–15 to the last financial year. In response, we've adapted and implemented new mechanisms to ensure we continue to offer an empathetic, fair and effective complaint-handling service.

"It is a privilege to champion fairness for patients and practitioners by providing accountability in health practitioner regulation. Every complaint matters to us. I look forward to continuing to work with our community to identify problems in the regulation of health practitioners so they can be fixed for the benefit of all Australians."

– Richelle McCausland



Highlights of Richelle's first term included:

- implementing a new early resolution complaint transfer process with Ahpra to improve complainants' experiences
- upgrading our case management system to better track and report on complaints and trends
- updating [our website](https://www.nhpo.gov.au/) <<https://www.nhpo.gov.au/>> to make it more informative and accessible for our community.

A new phase for our office

Richelle's vision for our next phase is based on our four key strategic directions: influencing systemic improvements; engaging and communicating; building capacity; and enhancing accountability. We are already working on several exciting developments including:

- launching our new digital engagement strategy and social media presence to make sure those who need our services can access them
- enhancing accountability by implementing our new role in overseeing accreditation entities.

Please read more about our [accreditation processes review](https://www.nhpo.gov.au/accreditation-processes-review) <<https://www.nhpo.gov.au/accreditation-processes-review>>, which is currently underway.

A plan to champion fairness

Our 2020 to 2023 strategic plan outlines how we strive for positive change in the regulation of Australia's registered health practitioners. Our plan to champion fairness has four strategic directions.



1. Influencing systemic improvements

We work with stakeholders to identify and maximise opportunities for positive systemic changes in the regulation of Australia's registered health practitioners.

Outcome 1	We provide thorough, evidence-based suggestions for improvement to relevant entities
Outcome 2	We effectively use our own motion investigation powers to create positive systemic improvements
Outcome 3	Our relationships with the Boards are strengthened to enhance our ability to make positive change



2. Engaging and communicating

We effectively engage and communicate with Australia's diverse communities. The coronavirus (COVID-19) pandemic showed the importance of building digital engagement with our communities.

Outcome 4	Our services are available and accessible to the Australian community
Outcome 5	We are a recognised leader in oversight and accountability in the National Scheme
Outcome 6	We share our story and successes in a way that is engaging for the Australian community



3. Building capacity

We facilitate operational growth and staff excellence with a focus on supporting staff to adapt and maximise hybrid working arrangements.

Outcome 7	Our complaint-handling service follows and sets good practice standards
Outcome 8	We continually improve our governance and internal processes to benefit our staff and community
Outcome 9	We value and enhance our staff's professional development and their health and wellbeing



4. Enhancing accountability

Our role has broadened significantly in the past three years to increase the level of accountability in the National Scheme. This is particularly clear in the areas of FOI and accreditation. Our priority actions focus on driving awareness of these new areas to ensure we can provide effective oversight and empathetic complaint-handling service.

Outcome 10	Our community is aware of and uses the services we provide in relation to our new accreditation complaint-handling function and lesser known FOI review and privacy functions
Outcome 11	We work directly and collaboratively with the agencies we oversee to promote good administrative practice
Outcome 12	We conduct independent reviews and provide reports and submissions that are influential, trusted and evidence-based

About our team

Our small team of highly skilled and committed staff support the Ombudsman and Commissioner to provide quality services.

Our team's continued dedication to providing an excellent complaint-handling service throughout the COVID-19 pandemic shows their tenacity. Our team persevered through multiple lockdowns to keep connected and support each other through challenging circumstances.

Complaints and freedom of information team

The Ombudsman and Commissioner delegates some decision-making powers to the complaints and FOI team. Staff can decide whether to investigate complaints and can make findings about the outcomes of investigations. Some staff can also conduct reviews of FOI decisions.

Members of the complaints and FOI team are trained in providing best practice complaint handling. They are skilled in listening and responding empathetically to people's concerns. The team values working collaboratively with stakeholders to resolve complaints.

During the year, our office welcomed its first senior investigator to lead our FOI work. This has helped develop our dispute resolution capacity and improved our ability to provide meaningful outcomes to FOI applicants.

Business services team

Our business services team provides administrative and governance support to our office. This financial year, the team has proactively responded to the risks associated with the COVID-19 pandemic and supported a positive team culture in a remote or hybrid working environment.

The business services team also drives staff recruitment in response to the office's continued development.

This year, a new administration and procurement officer has helped the team to triage complaints in a quick and effective way.

Strategy and communications team

Our strategy and communications team focuses on ensuring our community can access our services. Our team has prioritised establishing and promoting communication strategies that will continue to be effective during the COVID-19 pandemic.

The team also helps develop relevant submissions in collaboration with the Ombudsman and Commissioner and works with our community to respond to requests for information.



Case study²

Mohammed made a complaint to the Ombudsman because he was not happy with the Medical Board of Australia's decision not to take further action in response to his notification about a doctor. Mohammed was concerned the Board had not considered the main issue he had raised about the medical opinion report the doctor had written about him.



We launched an investigation into Mohammed's complaint. Although we were satisfied Ahpra had correctly identified the main issue raised in the notification, our investigation found the Board did not have enough information available to support its finding that the doctor had practised to a reasonable standard. The Board had not seen the doctor's response to the notification or a copy of the medical opinion report. We raised these issues with Ahpra, and Ahpra agreed to arrange for the Board to reconsider the notification.

Mohammed's story shows how our office can often work with complainants and Ahpra to reach a meaningful resolution.

Case study

Dr Wang made a complaint to the Ombudsman about how Ahpra managed her application for limited registration with approved supervision arrangements. After lodging her application, Dr Wang said she contacted Ahpra to update her supervision arrangements and provide the required information about her new employer.

However, when she received the decision from Ahpra about her application for registration, the Medical Board of Australia had approved her previous employer for supervised practice instead of her new employer. Dr Wang was frustrated because after making a complaint to Ahpra, she was informed that Ahpra had not received the email about her new employer.

Ahpra advised her she would need to submit another request for a change of circumstances in her supervision arrangements.

Our investigation found that, while Ahpra's regulatory officer had no recollection of it, there were records showing Ahpra had received Dr Wang's formal request to change employer, along with the required information about the new employer. Following our investigation, Ahpra apologised to Dr Wang for this oversight. Ahpra also offered Dr Wang a telephone meeting with a senior leader of Ahpra's registration team to discuss next steps to promptly progress her application.

² Please note that all case studies have been deidentified and we have used pseudonyms to protect confidentiality.

About our data

Our new custom-built case management system has significantly enhanced our ability to record and share our work to resolve complaints. As a result, our complaints data looks different this year when compared with previous annual reports.

The enhancements that the new case management system has delivered include the ability to:

- create individual complainant and applicant profiles to capture relevant information about who is approaching our office
- capture information at each stage of our complaints and FOI review processes so we can better report on our efforts to resolve matters quickly and effectively
- record all issues complainants raise with us, including issues about the customer experience (there are no longer limits to the number of issues we can record on a single complaint, which means we can better report on why someone has contacted us)
- record up to three outcomes for each complaint. As a result, we can now record multiple actions that were taken to resolve a complaint, such as Ahpra providing an apology to the complainant, the matter being considered further by a Board and the Ombudsman providing formal comments to Ahpra and the relevant Board.

Due to these enhancements, some aspects of our data cannot be compared with previous years. Our reporting on complaint issues and outcomes provides a new basis for more comprehensive monitoring of trends.

How we record Ombudsman complaints

Most of our data relates to complaints made to the Ombudsman. We generally record complaints through five steps.

1. Complaint type

We first identify and record what type of complaint the person wants to make. The complaint types we can record are outlined in Table 1.

Table 1: Types of complaints to the Ombudsman

Description
Notification-related These complaints are about how Ahpra or a Board handled a notification made about a registered health practitioner
Registration-related These complaints are about how Ahpra or a Board handled a registration matter
Customer experience These complaints are about how Ahpra provided customer service (mainly regarding communication). We call these 'customer service' complaints. Customer experience also relates to how Ahpra managed the complaints it received. We call these 'complaint-handling' complaints
Accreditation-related These complaints are about how an accreditation-related issue was managed (such as the accreditation of programs of study leading to registration as a health practitioner)
Offence-related These complaints are about how Ahpra or a Board handled a statutory offence matter (such as holding out to be a health practitioner or the unlawful advertising of a regulated health service)
FOI-related These complaints are about how Ahpra or a Board handled an FOI matter (which is separate to our review function in FOI decisions)

We create a complaint file for each notification, registration or other regulatory matter we receive a complaint about. This means one complainant may lodge more than one complaint with our office at a time. For example, if a notifier contacted us because they were concerned about two notifications they had made, we would create a separate complaint file for each individual notification matter.

2. Complaint-type information

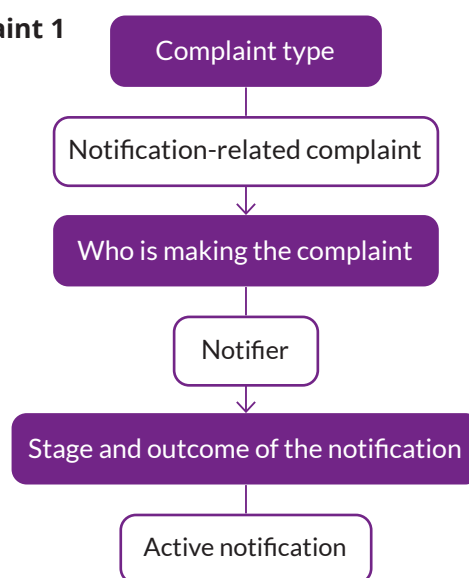
We then record information that relates specifically to the complaint type we have selected (Figure 2). This information generally covers the:

- characteristics of the person who made the complaint (such as whether they are a notifier or health practitioner)
- area of the regulatory scheme that is driving the complaint (such as a decision to take no further action in relation to a notification or processing an application for general registration as a health practitioner).

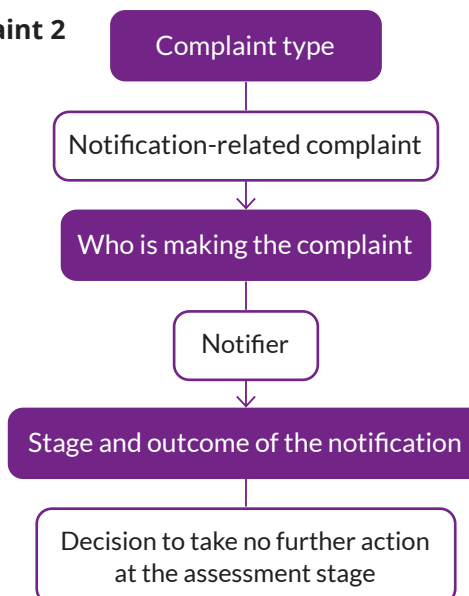
Figure 2: Example complaint type

Example of a notifier who contacted our office and wanted to make a complaint about an active notification and a notification where a Board decided to take no further action

Complaint 1



Complaint 2



3. Complaint issues

We then record the issue or issues that are driving the complaint (Figure 3). For example, this could include the complainant's concern about delay or that inadequate reasons were provided for a decision. We record all issues relevant to the complaint.

4. Complaint progression

As the complaint progresses, we record which stages of our complaint process it moves through. All complaints go through the assessment stage. Complaints may then progress through the early resolution transfer, preliminary inquiries or investigation stages. Our complaints team uses a workflow that is created in the complaint file to ensure all interactions are recorded throughout the case's progress.

5. Complaint outcomes

Once we have finalised a complaint, we record all relevant outcomes. This might include, for example, the Ombudsman making formal comments to Ahpra's CEO and our office providing a further explanation to the complainant about the issue they raised concerns about.

For more detail about how we report on complaints to the Ombudsman, refer to Appendix 1. The other appendices also outline how we record information about complaints to the Ombudsman (Appendix 2), privacy complaints to the Commissioner (Appendix 3) and FOI matters (Appendix 4).

Figure 3: Example complaint issues

Example of a customer experience complaint received from a notifier who had not received a response to their request for an update about their notification and believed Ahpra's management of the notification was delayed



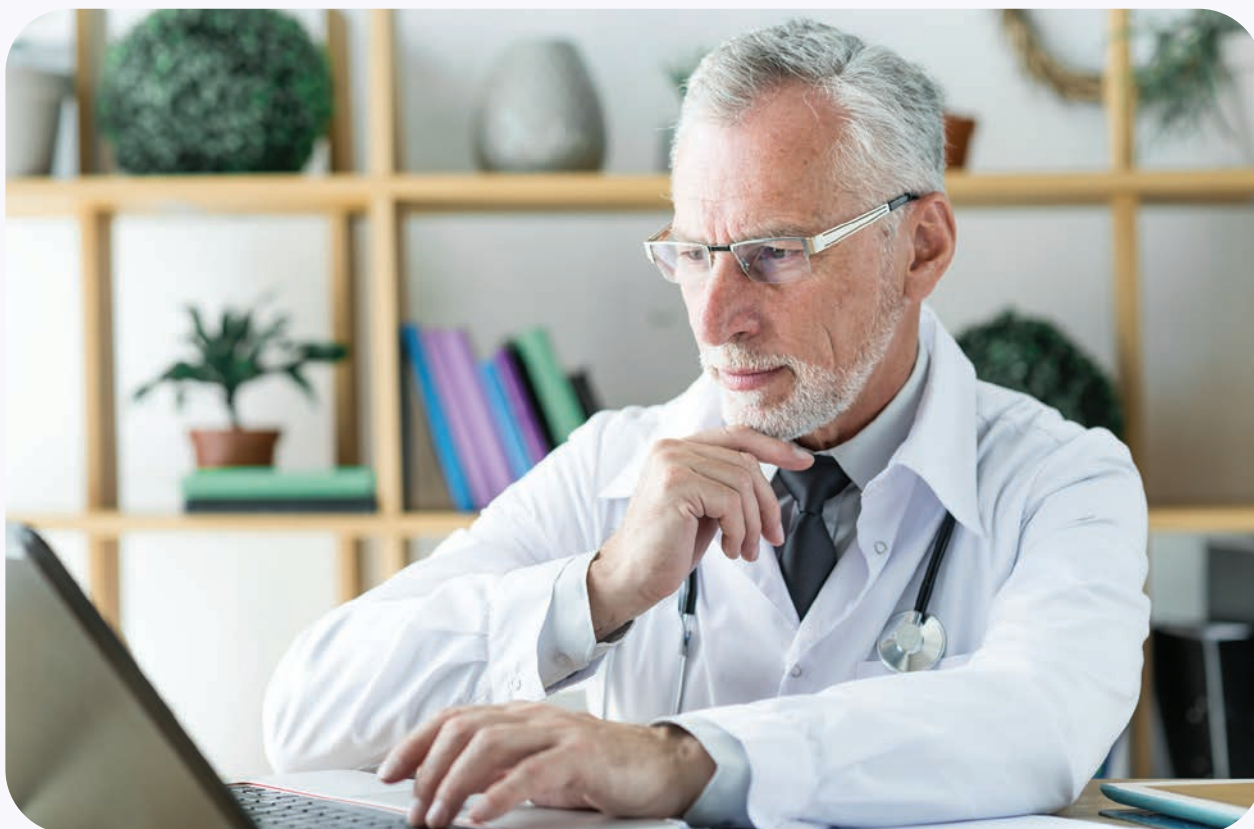
Case study

Jose contacted our office with concerns about the reasons for the Medical Board of Australia deciding not to take action on his notification about a doctor. Jose believed that Ahpra did not present the Board with correct information and that Ahpra's investigation into the issues raised in the notification was unreasonably delayed.

Our investigation found it was open to the Board to decide to take no further action. We were also satisfied that Ahpra undertook the necessary risk assessment for the notification within a reasonable timeframe.

However, although our investigation found the Board had considered a verbal submission from the doctor when making its decision, there was no formal record of this submission.

The Ombudsman made formal comments and suggestions to Ahpra about this observation. The Ombudsman stated that it is important that Ahpra documents verbal submissions. Ahpra agreed this is necessary and published its *Guide to documenting verbal information*.

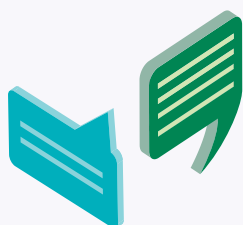


**We champion fairness
through investigating
complaints, facilitating
resolutions and making
recommendations to
improve the regulation
of Australia's registered
health practitioners**

Our complaint handling service in numbers

Finalised:

544



complaints to the Ombudsman

Made

171



early resolution transfers

118



investigations of
complaints to the Ombudsman

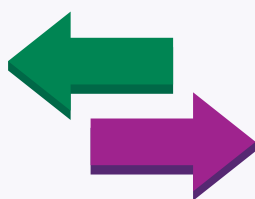
Assessed

1

notifiable
data breach



63%



of early resolution
transfers we assessed without the
need for inquiries or investigation

Published



5

FOI review
decisions

Approaches and complaints to the NHPO between 2014-15 and 2020-21



Assisting people who approach our office

We recorded 965 approaches in 2020–21 including:



580 complaints to the Ombudsman about how Ahpra and the Boards handled a matter



365 enquiries involving requests for information or concerns outside of our core complaint-handling activities



16 FOI matters related to Ahpra's decisions under federal FOI law



3 privacy complaints and **1** notifiable data breach to the Commissioner.

Complaints to the Ombudsman

This financial year we received 580 complaints to the Ombudsman. These complaints were mostly concerns about how Ahpra and the Boards handled a notification or registration matter.

We listen to concerns and carefully consider the most appropriate way to resolve complaints. We may:

- make an early resolution transfer to Ahpra
- make preliminary inquiries with Ahpra
- decide to investigate
- decide not to investigate.

We finalised 544 complaints to the Ombudsman in 2020–21. The most common outcome was providing a further explanation to the complainant after an investigation. This means we did not identify any major error in how Ahpra or the relevant Board handled the complainant's matter. Instead, we helped the complainant to better understand how their matter had been handled.

Complaints to the Commissioner

We received three privacy complaints to the Commissioner in 2020–21. Two complaints were finalised during the financial year. One complaint was withdrawn after we made preliminary inquiries and the other complaint was not investigated following our assessment that it did not relate to an interference with privacy.

Enquiries

Enquiries relate to someone requesting general information or raising an issue with our office that is outside our core complaint-handling activities. We received 365 enquiries in 2020–21.

Ninety per cent of enquiries (328) related to concerns we were not able to consider. Our staff ensure that people requesting assistance with issues outside our jurisdiction are referred to the appropriate service wherever possible. We referred 54 per cent of these matters to a state or territory health complaints entity (176) and 16 per cent to Ahpra to make a notification (53).

We also received 31 requests for general information about our office and six media requests.

Trends in contact with our office

As expected, the COVID-19 pandemic and subsequent restrictions across Australia appear to have affected the number of people who have contacted us over the past two years.

This financial year we saw a two per cent decrease in approaches to our office (from 987 to 965) and a three per cent decrease in complaints (from 595 to 580) when compared with 2019–20. This is a change for the office because we had seen continued growth each year in the number of people contacting the office until the pandemic began last financial year.

Other Ombudsman offices across Australia also noted unusual complaint trends last financial year. For example, the New South Wales Ombudsman saw an 18 per cent decrease in contact,³ and the Queensland Ombudsman saw a five per cent decrease in contacts⁴ compared with the previous financial year.

There are many possible reasons for the unusual trends that relate directly to the unique circumstances created by the pandemic including:

- people feeling less inclined to continue with their complaint due to fatigue from, or their need to focus more energy on, managing the challenges posed by this new and often stressful environment
- restricted access to certain health services (or limited to emergency care) due to stay-at-home orders resulting in less patients interacting with registered health practitioners.

Trends in contact with our office are also closely linked to shifts in Ahpra's operations. Factors that may have influenced this reduction in complaints include:

- Ahpra receiving fewer notifications than the previous financial year (one per cent reduction, 10,147 notifications)⁵ – this is particularly relevant because the largest proportion of complaints to our office come from people who have made a notification to Ahpra
- Ahpra's national complaints team continuing to increase its capacity to resolve matters without involving our office
- Ahpra introducing a web form to capture concerns, making it more accessible to complainants without the assistance of our office.

3 New South Wales Ombudsman, Annual report 2019–20, October 2020. Accessed July 2021: <https://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/nsw-ombudsman>.

4 Queensland Ombudsman, Annual report 2019–20, August 2020. Accessed July 2021: <https://www.ombudsman.qld.gov.au/about-us/corporate-documents/annual-report>.

5 2020–21 annual report data provided by Ahpra.

Responding to COVID-19

The COVID-19 pandemic has presented unique challenges for people across the world. In Australia, we have seen health practitioners working under new and often stressful situations, and patients and their families directly affected by the pandemic.

Our communities have also had to adjust to multiple changes to restrictions to prevent the spread of COVID-19. From this perspective, it is particularly important to acknowledge that our office and Ahpra's national office are located in Melbourne. This financial year, Melbourne and surrounding areas have experienced three separate lockdowns that have required working-from-home arrangements for all non-essential workers. Melbourne's second lockdown began in the first month of the financial year and lasted more than 100 days. The lockdown included a curfew and strict stay-at-home orders in response to a surge in COVID-19-related cases and, tragically, deaths. We acknowledge that restrictions across Australia at different times have undoubtedly affected our staff, Ahpra's staff and those who we provide services to.

Our office has sought to identify and closely monitor how COVID-19 is affecting the regulation of Australia's health practitioners. We also worked with Ahpra to consider how to address these issues given the significant ongoing impacts of COVID-19.

Enquiries about COVID-19

During the financial year we received a small number of enquiries about the COVID-19 pandemic. In these cases, our staff provided information about the best alternative entity to address the concerns raised. The COVID-19-related enquiries we received generally related to:

- patients wanting to complain about how a health service was implementing infection control and safety measures
- the availability of health services during the pandemic, including the refusal to see patients in person.

Some people also sought information about COVID-19 such as:

- statistics about the prevalence of COVID-19
- concerns about COVID-19 and finding safe treatment
- concerns about whether COVID-19 is causing deaths or whether it is real
- concerns about the legality of restrictions imposed by governments.

In these instances, our office provided the person with the details of the national COVID-19 hotline or relevant official COVID-19 website for information.

Complaints about COVID-19

Our office received a small number of complaints about Ahpra and the Boards that specifically related to COVID-19 in 2020–21.

We acknowledge the shift to working from home and adjusting to a new COVID-safe environment has affected Ahpra's workforce, as it has with other service providers. In response, Ahpra has taken steps to manage notifications and applications for registration as quickly as possible. However, delay was a common issue raised in complaints about COVID-19.

Complainants often mentioned they had trouble completing, or were delayed in completing, certain parts of the health practitioner registration process. Concerns were mostly due to the:

- cancellation or postponement of relevant exams or courses
- suspension and delay of performance assessments
- inability to attend in-person continuing professional development opportunities.

COVID-19-related concerns often affected overseas practitioners and those wanting to meet the English Language Skills Registration (ELSR) Standard. For example, one practitioner wanted Ahpra to refund her registration application fee because she was no longer able to travel to Australia due to COVID-19.

Several other issues were raised, including concerns about Ahpra issuing a statement about the obligations of registered health practitioners regarding COVID-19 vaccinations.

Our office worked with each complainant to understand what outcome they were after. Generally, we worked with Ahpra and the complainant to resolve the concerns raised or to provide more information to the complainant about their matter.

Case study

Maria made a complaint to the Ombudsman about the Chinese Medicine Board of Australia's decision not to accept applications for registration from internationally qualified practitioners due to COVID-19. Maria said that she is currently based in Australia but was qualified to practise Chinese medicine in another country.

We spoke with Maria about our early resolution transfer process, and Maria agreed for us to transfer her complaint to Ahpra for a response. Ahpra responded to Maria's complaint and confirmed the Board made the difficult decision to stop accepting applications for registration from internationally qualified practitioners. It explained that this was due to the significant impact the pandemic had on implementing its new regulatory examination.

Ahpra advised that the Board was committed to removing the restriction on applications in the future and Ahpra would soon publish information about the upcoming reimplementation of the required exam.

We spoke with Maria about Ahpra's response, and while she accepted Ahpra's reasoning, she wanted more information about when the Board would reopen applications. We made preliminary inquiries with Ahpra and it provided more information about potential timeframes. We spoke with Maria about this update and that we believed it was open to the Board to require that an exam is undertaken as part of the application process. We advised Maria to monitor the Board's website for information about the exam.

Case study

Dr Smith made a complaint to the Ombudsman about how his application for registration was handled. He said the Board required him to undergo a performance assessment but due to COVID-19, all performance assessments had been suspended. He was concerned because he had not received a response from Ahpra to his emails requesting an update on when his performance assessment would take place. He told us being unable to work was causing him and his family financial hardship.

We spoke with Dr Smith about our early resolution transfer process because he had not made a complaint to Ahpra. He agreed to the transfer of his complaint. Ahpra advised Dr Smith that the Board requires the assessment to ensure he can practise safely. Ahpra also advised that the health and performance assessment team would prioritise critical applications, including Dr Smith's, once it was possible for them to be reinstated.

Ahpra's national complaints team apologised to Dr Smith for his difficulty in contacting his registration officer who had been unavailable due to a short period of leave. Ahpra said it would contact Dr Smith once there was an update on when he could book his performance assessment.

Dr Smith remained unhappy with Ahpra's response because of the delay in booking his performance assessment. Based on this, we made preliminary inquiries to Ahpra to request more information about its plans for conducting performance assessments in the immediate future. Ahpra advised Dr Smith's performance assessment had been rescheduled and that the Board was considering trialling some performance assessments in a virtual environment. Ahpra then provided an update to Dr Smith that he had been booked in to complete a performance assessment. Dr Smith thanked our office for assisting him and later informed us he had completed his performance assessment.



Ombudsman complaints

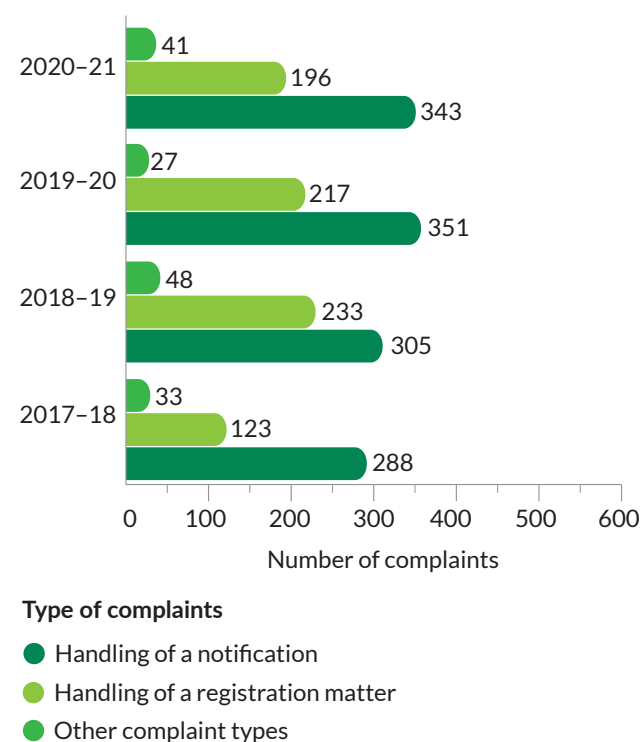
In 2020–21 our office received 580 complaints to the Ombudsman. These complaints were made by 393 individuals, some of whom made multiple complaints to us over the course of 2020–21.

The Ombudsman can consider complaints that relate to how a matter was handled, not whether Ahpra or a Board's decision about a matter was right or wrong.

Complaints by type

In 2020–21 we mainly assisted with complaints about how Ahpra and the Boards handled a notification (59 per cent) or a registration-related matter (34 per cent) (Figure 4). Complaints to our office about these matters were slightly lower in 2020–21 compared with 2019–20.

Figure 4: Number of complaints, by complaint type, 2017–18 to 2020–21



Common complaint issues

Our new case management system allows us to tell a fuller story about the most common issues raised in complaints to the Ombudsman. We identified 1,071 issues across the 580 complaints we received in 2020–21.

As expected, most complaint issues related to the notification (47 per cent) and registration (27 per cent) complaint types. Issues associated with customer service were also frequently raised (17 per cent) (Table 2).

Table 2: Complaint issues, by complaint type, 2020–21

Complaint type	Number of issues
Handling of a notification	505
Handling of a registration matter	292
Customer experience	256
Accreditation processes	10
Handling of a statutory offence matter	5
Handling of an FOI matter	3
Total	1,071

Delay-related issues

Delay in managing a notification or registration matter is a frequent issue raised with our office. Delay was more commonly recorded as an issue across registration-related complaints, though it was also a common issue in notification-related complaints.

Delay in the registration process

Across the 196 registration-related complaints we received in 2020–21, we recorded 103 issues about delay.

Issues about delay were commonly raised in relation to new applications for registration (33, 32 per cent), applications for a review of conditions on a practitioner's registration (11, 11 per cent) and applications for registration made by graduates (10, 10 per cent).

Issues about registration delay were more commonly reported by practitioners in the medical (28, 27 per cent), nursing (26, 25 per cent) and psychology (20, 19 per cent) professions.

Delay in the notifications process

Across the 343 notification-related complaints received in 2020–21, we recorded 79 issues about delay. Notifiers were slightly more likely to raise concerns about delay in the processing of a notification (42, 53 per cent) compared with practitioners (35, 44 per cent).

Issues about a delay in the notifications process were most often recorded in relation to active notifications (41, 52 per cent of all notification-related delay issues). Concerns were also relatively common where immediate action had been taken against a practitioner and the matter remained ongoing (10, 13 per cent).

Where the complaint related to a notification that had been finalised, delay was often recorded as an issue in circumstances where the Board had decided to take no further action (15, 19 per cent).

Addressing delay issues

Ahpra has been responsive to problems we have raised about delay. In several cases, when Ahpra was made aware of the delay as part of our office's early resolution transfer process,⁶ the complainant was offered an apology and was connected with Ahpra staff to discuss and progress their matter.

While delay continues to be a problem that needs improving, there are two significant changes this financial year that could reduce delay in the future:

- a new framework for efficiently dealing with low-risk notifications
- potential amendments to the Health Practitioner Regulation National Law (the National Law) currently being considered by health ministers, which may result in reducing the time it takes to finalise notifications.

Our office continues to monitor concerns about Ahpra's timeliness and to identify areas where improvements to processes may reduce delay. We have also suggested improvements to Ahpra about the need to outline realistic expectations for managing matters when revising its service charter.

⁶ The early resolution transfer process facilitates the transfer of a complaint to Ahpra, with the complainant's consent, for resolution. The complaint is still open with our office and we assess Ahpra's response to determine necessary next steps.

New framework for dealing with low-risk notifications

Ahpra recently implemented a new framework for dealing with notifications that are considered low risk. The new model focuses on assessing the regulatory risk posed by the practitioner through considering the characteristics of the notification, the practitioner (including the practice setting and any regulatory history) and the risk controls in place. If, after considering these characteristics, Ahpra is satisfied the matter is low risk, it recommends that the relevant Board takes no further action. Progressing low-risk matters more promptly, and without lengthy investigations, is likely to reduce unnecessary stress for health practitioners.

Our office is pleased that the framework has recently been successful in improving Ahpra's timeliness in the assessment stage of the notifications process. Ahpra has already accepted our feedback about important refinements to this new model and we will continue to monitor how low-risk notifications are handled over 2021–22.

Case study

Dr Kim made a complaint to the Ombudsman about Ahpra's management of her application to change approved places of practice on her registration. Dr Kim's complaint included concerns about a lack of communication from Ahpra and delay in the processing of her application that she said prevented her from finding work.

Our investigation found the delay of three months in processing Dr Kim's application was due to an administrative oversight, specifically the failure to action an email about Dr Kim's application while the relevant Ahpra staff member was on leave.

Our investigation also found there were issues with how Ahpra had communicated with Dr Kim about how her application was progressing.

We provided feedback to Ahpra about these issues. In response, Ahpra's national manager for compliance advised that Ahpra staff would be reminded of the importance of setting up an out-of-office alert before starting a period of leave. Ahpra also offered an apology to Dr Kim for the lack of communication about her application.

Ahpra advised us that the issue of how matters are reallocated when staff take leave will be considered when setting up its new digital platform to ensure that Ahpra's workflows are more effectively managed during staff absences.

National Law reforms

In July 2018 the COAG Health Council undertook a public consultation process on the National Law to ensure that it is up to date and fit for purpose.⁷ The consultation covered about 30 issues, most of which came from the recommendations of comprehensive independent reviews of the National Scheme.

Our submission to the public consultation suggested several improvements to reduce delay, including amending the National Law to achieve the following:

- Empower practitioners and employers to provide patient and practitioner records during the assessment stage of the notifications process. This has the potential to improve timeliness because Boards could access more comprehensive information about a notification to better inform their decision about whether to investigate a matter.
- Clarify the powers of a Board at the assessment stage, including a specific power to enable the relevant Board to refer a matter to be dealt with by another entity. It is likely that such an amendment will improve the efficiency of the assessment process because matters can be referred to the right entity as soon as possible. It will also increase the likelihood that notifiers' expectations about the outcome of their notification can be set earlier in the notifications process.
- Empower a Board to decide not to refer a matter to a responsible tribunal for a hearing when the Board believes there are no serious ongoing risks to the public. This change would also reduce delay and avoid the potentially costly process of referring a matter to a tribunal when it is not in the public interest to do so. This in turn will lead to greater efficiency and use of resources.

Monitoring and identifying areas to reduce delay

Each month Ahpra provides updates to our office about its progress in reducing delays. Our office continues to focus on monitoring and identifying areas within the registration and notifications processes that can lead to delay. For example, we have made suggestions to Ahpra about:

- more quickly reassigning matters when required (for example, if a staff member goes on leave)
- promptly allocating notifications to a regulatory officer at the assessment stage of the notifications process
- tightening procedures around commissioning an independent opinion report, including promptly engaging the required health practitioner and responding to their requests for further information, and setting expectations for delivering the opinion report.

⁷ COAG Health Council, Progressing reforms to the Health Practitioner Regulation National Law. Accessed April 2021: <https://www.coaghealthcouncil.gov.au/Projects/Health-Practitioner-Regulation-National-Law>

Case study

Dr Devi made a complaint to the Ombudsman about the handling of a notification made about him. Dr Devi disagreed with the Dental Board of Australia's decision and said there was a conflict of interest involving the independent opinion provided by another health practitioner about the matter. He also raised concerns he was not given enough time to respond to Ahpra's correspondence, that there was unreasonable delay in Ahpra's investigation, and that Ahpra did not inform him of how to complain about the Board's decision.

Our investigation found it was reasonable for the Board to consider the independent opinion report because Ahpra took reasonable steps to confirm the independent opinion provider did not know Dr Devi.

We also found, however, that the investigation took 27 months to complete and that while

there was regular activity during this time, Ahpra could have potentially reduced the investigation's overall length.

The Ombudsman made formal comments and suggestions for improvement to Ahpra, particularly about the processes surrounding the independent opinion. The largest contributing factor to the length of the investigation was the time taken to commission and obtain the independent opinion. The investigation could have been completed faster had Ahpra commissioned the report quickly and responded to the independent opinion provider's requests for more information promptly. The Ombudsman also noted that although Dr Devi had been provided with enough time to make submissions to Ahpra and the Board, he should have been formally invited to respond to the independent opinion report and been afforded enough time to do so. We are pleased to see that this is now Ahpra's standard process.

Case study

Anastasia made a complaint to the Ombudsman regarding the handling of a notification she made about a psychologist. Anastasia believed action should have been taken against the psychologist and that the Psychology Board of Australia had not considered the information she had provided. She was also concerned with Ahpra's communication during the notifications process.

Our investigation found it was open to the Board to decide to take no further action, and that the Board had been presented with all the information provided by Anastasia.

We did, however, provide formal comments to Ahpra about the delay in managing Anastasia's notification. The delay appeared to be due to a failure to allocate the notification to an Ahpra regulatory officer for eight months.

We also provided feedback that Ahpra could improve its communication by more promptly sending correspondence and explaining the reasons for any delay in managing notifications.



Who complaints were about

As in previous years, most complaints to our office were about the regulation of the medical, nursing/midwifery and psychology professions (Table 3). All complaints we received involve Ahpra in some way because Ahpra is the main point of contact for people interacting with the National Scheme.

This financial year there was a significant increase in complaints related to the psychology profession. We will continue to monitor this trend in 2021–22.

Table 3: Complaints by health profession, 2019–20 to 2020–21^{8,9}

Profession	Complaints we received in 2019–20	Complaints we received in 2020–21	Complaints Ahpra received in 2020–21	Registered health practitioners
Medical	315	266	323	129,066
Nursing and midwifery	117	113	232	465,291
Psychology	52	83	132	41,817
Dental	36	41	32	24,984
Chiropractic	6	11	6	5,968
Paramedicine	17	10	20	21,492
Physiotherapy	7	8	15	37,650
Pharmacy	16	7	19	35,262
Chinese medicine	2	6	6	4,863
Occupational therapy	6	3	7	25,632
Optometry	3	3	4	6,288
Osteopathy	0	2	1	2,951
Podiatry	6	2	4	5,783
Aboriginal and Torres Strait Islander health practice	0	1	2	829
Medical radiation practice	7	1	9	17,844
Other/unknown	5	23	–	–
Total	595	580	812	825,720

⁸ Data for 'Complaints Ahpra received in 2020–21' and 'Registered health practitioners' was provided by Ahpra.

⁹ This dataset relies on information about the number of complaints raised with our office (not the number of individuals who made those complaints). Small changes in the data between years, particularly when there is only a small number of complaints, can often be attributed to one or two complainants who have made multiple complaints each.

Where complaints came from

We receive complaints from across Australia and from people located outside Australia who have been in contact with Ahpra or a Board.

As in previous years, most complaints to our office came from people located in Victoria (Table 4). This trend is likely due to the large number of registered health practitioners who are part of the National Scheme in Victoria.

In 2020–21 there was a 118 per cent increase in the number of complaints made by complainants located in South Australia. Our analysis of this trend suggests the increase was largely driven by a few complainants who raised multiple issues with our office during the year. It does not appear to relate to any systemic issues occurring in South Australia.

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 manage the complaint or refer it to Ahpra. We only handle complaints about a matter from Queensland if it has been referred to Ahpra.

New South Wales also has different arrangements in place for managing notifications about health practitioners. Our office does not have the power to receive complaints about how a notification has been handled by the Health Care Complaints Commission and the Health Professional Councils Authority in New South Wales. This explains why the number of complaints from people located in New South Wales is small relative to its population size.

Table 4: Complaints made to our office, by location of the complainant, 2019–20 to 2020–21¹⁰

Location	Complaints received in 2019–20	Complaints received in 2020–21	Registered health practitioners in 2020–21
Victoria	187	184	216,134
Queensland	127	116	168,279
South Australia	45	98	63,830
Western Australia	95	73	82,411
New South Wales	61	49	233,387
Australian Capital Territory	15	10	14,895
Outside Australia	15	6	-
Tasmania	15	5	18,390
Northern Territory	6	2	8,653
Other	29 (unknown)	37 (unknown)	19,741 (no place of practice listed or overseas-based registrants)

¹⁰ Data for 'Registered health practitioners' was provided by Ahpra.

Resolving complaints quickly

We aim to resolve complaints in an efficient and effective way. This generally involves using the following two processes where appropriate:

- making preliminary inquiries
- an early resolution complaint transfer to Ahpra.

Preliminary inquiries

We conduct preliminary inquiries to find out basic information about a complaint. This information may lead to a quick decision about the outcome of a complaint, without requiring a formal investigation.

We made 111 preliminary inquiries this financial year, including 22 instances where we asked Ahpra for more information after completing the early resolution transfer process.

Early resolution complaint transfers

Introduced in September 2019, the early resolution transfer process facilitates the transfer of a complaint to Ahpra (with the complainant's consent) for resolution. The complaint is still open with our office and we assess Ahpra's response to determine necessary next steps. The early resolution transfer process provides Ahpra with the opportunity to first address a complainant's concerns before we decide whether an investigation is warranted. It has brought about significant improvements for complainants by reducing lengthy investigations.

This financial year we transferred 171 complaints through the early resolution transfer process.

Investigations

In situations where we have been unable to achieve an early resolution of a complaint, we may decide to launch an investigation. Our investigations involve gathering and reviewing the available information to determine whether the actions of Ahpra and/or the relevant Board were:

- lawful and reasonable
- consistent with relevant policies and procedures.

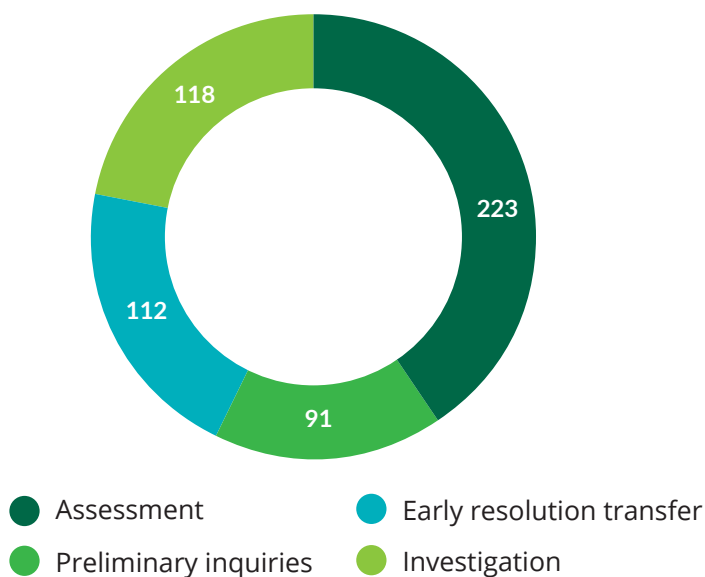
We started investigations into 165 complaints this financial year.

Outcome type

In 2020–21 our office finalised 544 complaints to the Ombudsman.

Most complaints were finalised at the assessment stage of our complaint-handling process (223). We finalised 118 complaints after an investigation by our office, and 112 complaints were finalised as part of the early resolution transfer process with Ahpra (Figure 5).

Figure 5: Complaints finalised, by stage in our complaint-handling process, 2020–21



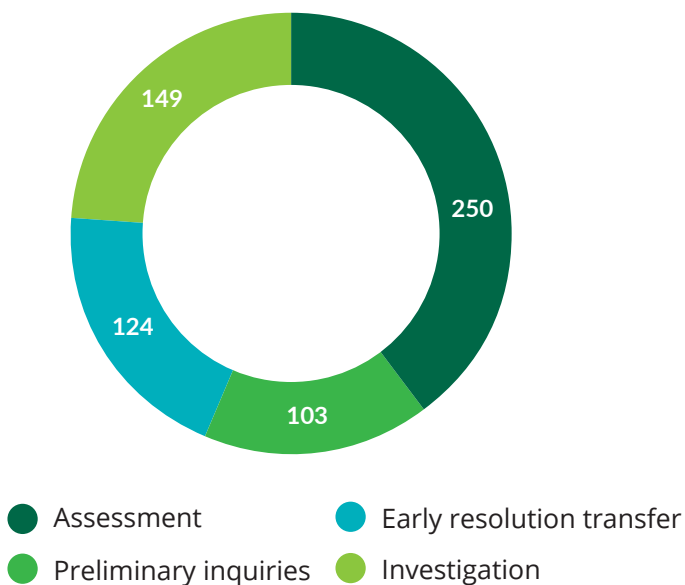
Outcomes

We recorded 626 outcomes across the 544 complaints our office finalised this financial year (Figure 6).

Early resolution outcomes

We resolved most complaints without formal investigation in 2020–21 (Figure 6). This is consistent with previous complaint trends.

Figure 6: Complaint outcomes, by stage in our complaint-handling process, 2020–21



The type of outcomes achieved at the assessment, preliminary inquiry and early resolution transfer stages are summarised in Table 5.

Assessment stage

Generally, we finalised complaints at the assessment stage without investigation because:

- our assessment found we were not best suited to investigate the complaint issues or achieve what the complainant wanted from making a complaint (in these cases we referred the complainant to another service)
- the complaint issues were already being considered by a court or tribunal, and involvement from our office was therefore not appropriate
- our office did not receive the information we needed to progress the complaint further, or we had already considered the same complaint.

Preliminary inquiry

Ninety-one complaints were finalised at the preliminary inquiry stage. The most common outcome was that we achieved a mutual agreement between Ahpra and the complainant about how the complaint should be resolved (26).

Of the matters that required further action at the preliminary inquiry stage:

- 12 matters went on to an investigation
- four matters were transferred to Ahpra through the early resolution transfer process.

Table 5: Complaints resolved without investigation, by outcome type and stage in our complaint-handling process, 2020–21

Outcome type	Assessment	Preliminary inquiry	Early resolution transfer	Total outcomes without investigation
Ahpra response to complaint is fair and reasonable	17	13	45	75
Investigation is not warranted in the circumstances	44	16	13	73
Regulatory matter is still active with Ahpra	36	24	12	72
Complaint was resolved by mutual agreement	8	26	29	63
Complainant did not provide requested information to our office	40	1	1	42
Matter withdrawn prior to investigation	15	3	11	29
Complainant has active complaint with Ahpra	23	4	1	28
Complaint is about the merits of Ahpra/Board's decision	9	2	4	15
Complainant has not made complaint directly to Ahpra	11	2	0	13
Complainant is not directly impacted by complaint issue	11	1	1	13
We previously considered same concerns	8	3	0	11
Matter is currently before a court or tribunal	4	3	2	9
Matter is more appropriately handled by a court or tribunal	5	1	3	9
Concerns relate to an accreditation entity	4	1	1	6
Matter concerns a court or tribunal decision	5	1	0	6
Anonymous complainant cannot be contacted	5	0	0	5
Complainant became aware of matter more than 12 months ago	4	1	0	5
Other	1	1	1	3
Total	250	103	124	477

Early resolution transfer process

In 2020–21 we assessed 166 responses that Ahpra provided through the early resolution transfer process. Most of these complaints were finalised without further inquiries or investigation from us (104, 63 per cent). The most common outcome of complaints finalised at the early resolution transfer stage was our office deciding Ahpra's response to the complaint was fair and reasonable (45).

This is a decrease in transferred complaints being finalised without further action from our office compared with the previous financial year, when 85 per cent of transferred complaints were finalised without further action. There are multiple factors that may have influenced more matters progressing beyond the early resolution transfer process. One factor is that our office has received slightly fewer complaints related to registration this financial year. These complaints are generally easier to resolve through the early resolution transfer process.

Of the matters that needed further action at this stage:

- 40 complaints went on to an investigation
- 22 complaints went on to preliminary inquiry.

Further action was mostly in response to notification-related complaints. We initiated preliminary inquiries in 18 per cent of notification-related complaints transferred to Ahpra, and an investigation began into 38 per cent of these complaints (Table 6). This indicates that we often didn't consider Ahpra's responses to notification-related concerns adequately addressed all of the concerns raised in the complaint.

Ahpra's compliance with the agreed response times for early resolution transfers was generally satisfactory. Ahpra provided an acknowledgement of the transfer within the required timeframe 80 per cent of the time (35 failures to meet the timeframe). Ahpra provided a response to the complaint within the required timeframe 74 per cent of the time (45 failures to meet the timeframe). This result contrasts with Ahpra's compliance with agreed timeframes in 2019–20, when Ahpra acknowledged and responded to complaints within the required timeframe 89 per cent of the time. Our office accepts the change in working arrangements due to COVID-19 may have contributed to this difference in the rate of compliance.

Table 6: Number of early resolution transfers, by response and complaint type, 2020–21

Early resolution transfer responses assessed in 2020–21	Notification-related complaints	Registration-related complaints
No further action required	38	61
Preliminary inquiries made	15	7
Investigation commenced	32	8

Case study

Yan made a complaint to the Ombudsman because she was worried she wouldn't receive her nursing registration in time to start her first job as a nurse. Yan had submitted her graduate application for registration to Ahpra but was concerned that Ahpra's online portal was not showing updated information after her university advised it had provided the required information to Ahpra.

Yan was frustrated she could not contact her regulatory advisor at Ahpra and that her calls were not returned as promised.

Yan hadn't made a complaint directly to Ahpra, so we obtained her consent to transfer the complaint to Ahpra. In response to the transfer, Ahpra's national complaints team advised that the registration team had decided on Yan's application that day, and that she would receive confirmation of her registration soon. Ahpra also provided an explanation for the time required to assess the application.

Our office spoke with Yan about Ahpra's response and she was happy to close her complaint. We explained to Yan that her feedback about Ahpra's communication would continue to be used in our work to improve Ahpra's responsiveness at the system level.



Investigation outcomes

We finalised 118 complaints following an investigation during 2020–21. All but 10 of these complaints related to a notification matter (108, 92 per cent).

We recorded 149 outcomes across these 118 complaints. Most investigations resulted in our office providing a further explanation to the complainant, followed by the Ombudsman providing formal comments or suggestions for improvement to Ahpra (Table 7).

Providing a further explanation to the complainant

The most common investigation outcome was providing a further explanation to the complainant about the decision or action they complained about (98). This means we did not identify a major error in how Ahpra or the relevant Board handled the complainant's matter. Instead, we helped the complainant to better understand how their matter had been handled. This is a consistent trend in our complaints data.

Table 7: Investigation outcomes of complaints, 2020–21

Investigation outcome	Number of outcomes
Further explanation provided by our office	98
Formal comments or suggestions issued to Ahpra	11
Apology or acknowledgement provided by Ahpra or the Board	8
Matter reconsidered by Ahpra or the Board	7
Staff training or feedback provided to Ahpra or Board staff	6
Other outcome	4
Matter withdrawn after investigation commenced	3
Ahpra or a Board agreed to release additional information to the complainant	2
Positive feedback provided to Ahpra	2
Undertaking made by Ahpra or a Board to change policy or process	2
Ahpra or a Board agreed to assess new material	1
Appropriate systemic improvement in development or achieved	1
Changes made to Ahpra or the Board's decision or reasons	1
Facilitated meeting between Ahpra or the Board and the complainant	1
Updates made to Ahpra's or the Board's public information	1
Further explanation provided by Ahpra or the Board	1

Providing formal comments or suggestions to Ahpra

The outcome of 11 investigations included the Ombudsman providing formal comments and/or suggestions for improvement to Ahpra and the relevant Board. We also provided positive feedback to Ahpra twice. The complainant stories in this report show the types of comments and suggestions made during 2020–21 and the steps Ahpra has taken to address them.

Our office has recently refined our approach to providing comments and suggestions to Ahpra. We generally make formal comments and suggestions for improvement only once about any identified issue. If the same issue is identified again during the investigation of another complaint, we provide informal feedback to Ahpra's national complaints team rather than raising the same issue again through formal comments and suggestions for improvement. This approach ensures we can build on our previous work while continuing to track Ahpra's response to comments and suggestions previously made.

Ahpra's national complaints team has also increased its capacity to efficiently address issues identified during our investigations. This has meant the Ombudsman has chosen not to make formal comments or suggestions for improvement in some instances because resolutions have already been agreed by the time the investigation has concluded.

Actions taken by Ahpra or the Boards

Our office works with Ahpra and the Boards to determine the best way to address concerns raised by complainants. This resulted in Ahpra and the Boards taking several different actions in 2020–21 including:

- Ahpra providing an apology or acknowledgement to the complainant (8)
- a Board reconsidering the matter at issue (7)
- Ahpra providing training or feedback to its staff (6)
- Ahpra releasing more information to the complainant (2).

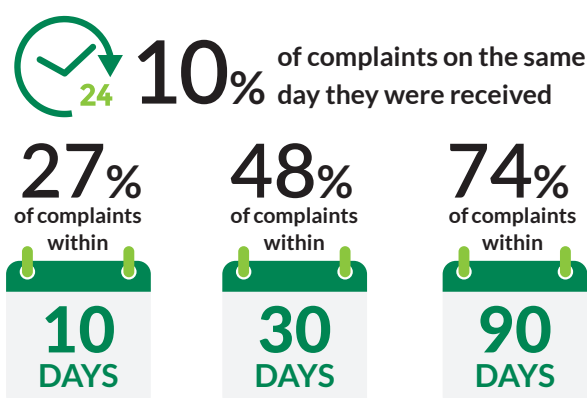
On one occasion each, Ahpra or a Board agreed to:

- assess new material
- make a systemic improvement
- make a change to its decision or reasons for the decision
- meet with the complainant
- update its publicly available information
- provide further explanation to a complainant (refer also to Table 7).

Our service charter

Our service charter sets out what people can expect when they engage with our office. This includes when they can expect to hear from us and how long it may take us to deal with their complaint.

In 2020–21 we finalised:



Notification-related complaints

Notifications are one of the main ways that Ahpra and the Boards hear of potential risks to public safety. Anyone can make a notification to Ahpra about a registered health practitioner if they have a concern about the health, conduct or performance of the practitioner.¹¹

Ahpra must consider every notification it receives. It gathers information about the notification and presents it to the relevant Board. The Board then decides whether regulatory action is necessary to protect the public.

Notification-related complaints we received

Most complaints we receive raise concerns about the handling of a notification. This financial year, 59 per cent of complaints related to a notification (343). This is in line with the proportion of complaints received about the handling of notifications in previous financial years (Figure 7).

These notification-related complaints were made by 195 individuals. This suggests people making a notification-related complaint to our office are more likely to raise numerous complaints when compared with those making a registration-related complaint.

Who made notification-related complaints

Most complaints about the handling of notifications were made by the person who made the notification (the notifier) (248), including 49 complaints made by health practitioners who were acting as a notifier. This is a consistent trend in our complaints data (Figure 8).

A significantly smaller number of complaints were made by health practitioners who were the subject of the notification (80) and members of the public who were not a party to the notification (15).

Figure 7: Types of complaints to the Ombudsman, 2016-17 to 2020-21

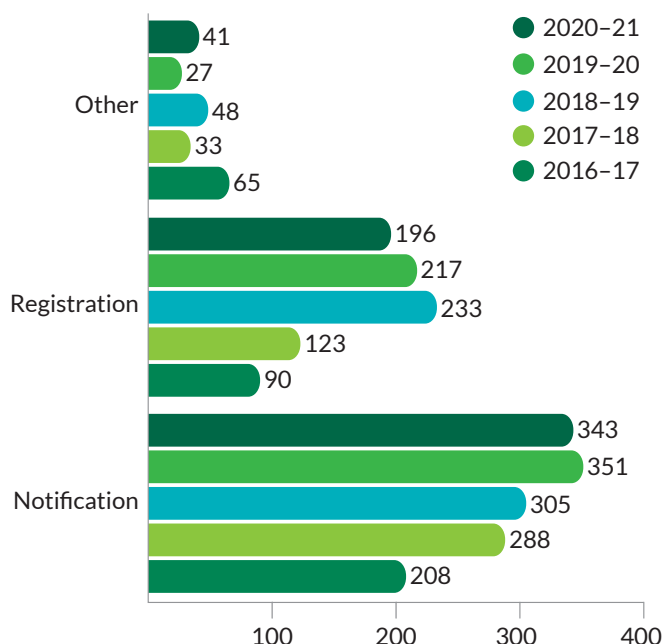
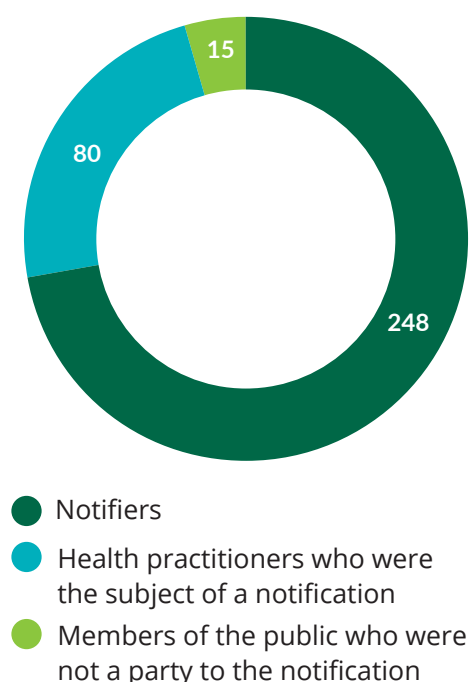


Figure 8: Who made notification-related complaints, 2020-21



¹¹ Please note that New South Wales and Queensland have different arrangements in place to accept complaints/notifications about health practitioners.

Who notification-related complaints were about

Most notification-related complaints made to our office involved the medical profession. Seventy-two per cent of complaints about the medical profession were about the handling of notifications. In comparison, only 45 per cent of complaints about nursing and midwifery were about notifications. This is consistent with the greater proportion of notifications Ahpra received about the medical profession than about other professions in 2020–21.

Table 8: Notification-related complaints, by health profession, 2020–21¹²

Profession	Complaints related to notifications we received in 2020–21	All complaints we received in 2020–21	Notifications received by Ahpra in 2020–21	Notifications closed by Ahpra in 2020–21	Registered health practitioners
Medical	190	266	5,516	5,445	129,066
Nursing and midwifery	51	113	2,191	2,137	465,291
Psychology	45	83	655	715	41,817
Dental	26	41	710	757	24,984
Chiropractic	8	11	99	80	5,968
Physiotherapy	4	8	140	130	37,650
Optometry	2	3	38	50	6,288
Paramedicine	2	10	167	126	21,492
Osteopathy	1	2	22	19	2,951
Pharmacy	0	7	405	476	35,262
Medical radiation practice	0	1	40	31	17,844
Occupational therapy	0	3	79	70	25,632
Podiatry	0	2	43	44	5,783
Chinese medicine	0	6	33	32	4,863
Aboriginal and Torres Strait Islander health practice	0	1	9	9	829
Other/unknown	14	23	–	–	–
Total	343	580	10,147	10,121	825,720

¹² Data for 'Notifications received by Ahpra in 2020–21', 'Notifications closed by Ahpra in 2020–21' and 'Registered health practitioners' was provided by Ahpra.

Where notification-related complaints came from

Most notification-related complaints came from complainants located in Victoria (123), South Australia (74) and Queensland (66) (Table 9). Our office does not have the power to receive complaints about how a notification has been handled by the Health Care Complaints Commission and the Health Professional Councils Authority in New South Wales. As expected, complaints about the handling of notifications from New South Wales only represented a small proportion of the notification-related complaints we received in 2020–21 (2 per cent).

Table 9: Notification-related complaints made to our office, by location of the complainant, 2020–21¹³

Profession	Complaints we received related to notifications in 2020–21	All complaints received in 2020–21	Notifications received by Ahpra in 2020–21	Notifications closed by Ahpra in 2020–21	Registered health practitioners
Victoria	123	184	3,676	3,717	216,134
South Australia	74	98	1,096	1,133	63,830
Queensland	66	116	2,630	2,695	168,279
Western Australia	46	73	1,210	1,308	82,411
New South Wales	8	49	117	142	233,387
Australian Capital Territory	4	10	273	267	14,895
Tasmania	4	5	306	280	18,390
Northern Territory	2	2	144	151	8,653
Outside Australia	0	6	695 (no place of practice)	428 no place of practice listed)	19,741 (no place of practice listed)
Unknown	16	37			

¹³ Data for 'Notifications received by Ahpra in 2020–21', 'Notifications closed by Ahpra in 2020–21' and 'Registered health practitioners' was provided by Ahpra.

Common notification-related issues

Across the 343 complaints we received about the handling of a notification, we recorded 505 issues.

The top five issues involved:

- a notifier's concern that a decision to take no further action at the assessment stage was unfair or unreasonable
- a notifier's concern that the reasons for a decision to take no further action at the assessment stage were not adequately explained
- a notifier's concern that not all information had been considered when a decision to take no further action was made at the assessment stage
- a notifier's concern that there had been a delay in managing their active notification
- a practitioner's concern that there had been a delay in managing their active notification.

In general, a decision that the Board would take no further action was the main driver of notification-related complaints (Table 10). This is likely due to most notifications being finalised by Ahpra and the Boards with a decision to take no further action (7,193 of the 10,121 notifications finalised).¹⁴

Notification-related issues were more likely to occur at the assessment stage of the notifications process. This is likely due to most notifications being finalised by Ahpra and the Boards at this stage in 2020–21 (7,335 of the 10,121 notifications finalised).¹⁵

Table 10: Type of notifications actions by Ahpra or the Boards that drove complaints to us, 2020–21

Type of notifications action taken by Ahpra or the Boards	Total number of notification issues
No further action taken at the assessment stage	233
Active notification	84
No further action taken at the investigation stage	44
Action taken at the investigation stage	35
Immediate action taken	24
Action taken at the assessment stage	18
Unknown	14
Health or performance assessment was required or resulted in action being taken	14
Board decided to refer to a tribunal or panel	13
No further action taken at an unknown stage	11
Other	10
Matter incorrectly processed	5

¹⁴ Data provided by Ahpra based on notifications closed in 2020–21 by outcome.

¹⁵ Data provided by Ahpra based on notifications closed in 2020–21 by stage at closure.

Outcomes of notification-related complaints

A complainant's concern that a decision was unfair or unreasonable was frequently recorded in notification-related complaints (213), as well as concerns about delay in a process (79) (Table 11).

Table 11: Problems driving notification-related complaints, 2020–21

Problems related to notifications (based on complainant's concerns)	Total number of notification issues
Decision was unfair or unreasonable	213
Process was delayed	79
Information was not considered	40
Inadequate reasons were provided for a decision	39
Process was unfair	34
Inadequate steps were taken in a process	29
Vexatious nature of a notification was not identified	17
General health regulation concerns	13
Irrelevant information considered	12
Bias or a conflict of interest	8
Information inappropriately used	7
Inappropriate own motion investigation initiated	5
Other	5
Confidentiality not maintained	3
Unreasonable request for information	1

In 2020–21 we finalised 322 complaints about the handling of a notification, including 108 following an investigation.

The most common investigation outcome for notification-related complaints was our office providing the complainant with a further explanation about the concerns raised (91). This included sharing more detailed information with the complainant about why a decision was made.

Other investigation outcomes included:

- the Ombudsman providing formal comments or suggestions for improvement to Ahpra (8)
- Ahpra or a Board providing an acknowledgement of a shortfall or poor experience, or an apology to the complainant (4)
- the matter being reconsidered by Ahpra or the Boards (7)
- staff feedback or training being provided to Ahpra staff (5)
- Ahpra releasing more information to the complainant (2)
- Ahpra or a Board agreeing to assess new material (1)
- Ahpra or a Board agreeing to change a policy or process (1).

Improving the health practitioner experience

A key area of focus for our office this financial year (and in 2021–22) is improving the health practitioner experience during the notifications process. Our office is concerned about the wellbeing of health practitioners, particularly given increasing mental health considerations because of COVID-19 and the unique stressors it causes.

Understanding the health practitioner experience

It can be difficult and emotionally distressing for health practitioners to have a notification made about their health, conduct or performance. Health practitioners often express deeper concerns about their reputation and the reputation of their workplace, their health and wellbeing, and the impact on their livelihood and the livelihood of their family, particularly due to financial hardship.

It is important to acknowledge there are existing support services available to health practitioners whose wellbeing may be affected by being the subject of a notification, or who have had regulatory action taken against them. This includes support from:

- the many free, confidential and accessible mental health services across Australia – this includes services provided by not-for-profit organisations such as Beyond Blue and Lifeline
- profession-specific support services that can provide guidance and support to health practitioners (we provide referrals to these services as needed, as does Ahpra – [our website](https://www.nhpo.gov.au/helplines-and-services) lists these services <<https://www.nhpo.gov.au/helplines-and-services>> including the Pharmacists' Support Service, AMA Doctor Support Service, Dental Practitioner Support (an initiative of the Dental Board of Australia) and Nurse and Midwife Support (an initiative of the Nursing and Midwifery Board of Australia))
- professional indemnity insurers of registered health practitioners, which are generally well-resourced and experienced in providing relevant advice to practitioners about the notifications process.

An action plan for positive change

We believe it is important to continually improve how notifications are managed by identifying areas where practitioners may need to be better supported to ensure a positive outcome for the National Scheme.

In December 2020 our office took part in a joint workshop with Ahpra to discuss ideas specifically aimed at improving the health practitioner experience. These ideas included:

- developing service standards for Ahpra staff that better outline expectations around contact with health practitioners during the notifications process, and aligning these service standards with staff performance measures
- developing and implementing training for Ahpra staff that focuses on compassion-based approaches to managing notifications
- increasing connection between Ahpra and industry-based support services for health practitioners and developing clearer pathways for referrals to support services
- exploring partnerships with peak industry bodies to better understand perceptions of the health practitioner experience and how it can be improved.

Ahpra has developed an action plan from these discussions, and we will continue to be heavily involved in this work. We will also closely monitor trends in this area to determine what further action is needed.

Case study

Dr Garcia made a complaint to our office about an unreasonable delay and a lack of transparency around the status of Ahpra's investigation of a notification made about her. Dr Garcia explained that Ahpra had not shared with her the reasons for the delay or what information it was asking for and from which entities.

Our investigation found Ahpra did not provide consistent updates to Dr Garcia and did not comply with its legislative requirement to provide an update at least every three months.

We found there was delay in Ahpra's investigation, which had already been approximately three and a half years long and was ongoing. These factors contributed to a highly stressful experience for Dr Garcia.

In response to our findings, Ahpra apologised to Dr Garcia and provided an adequate explanation about how its investigation would be progressed and finalised.

The Ombudsman made formal comments to Ahpra regarding the impact infrequent and inadequate communication and delay have on health practitioner wellbeing.



Procedural fairness for practitioners

An important element of ensuring people are treated fairly during the notifications process is to ensure they are aware of the substance of any allegations made about them where those allegations have the potential to affect their interests (and there is no other legal reason to withhold the information).

This principle of procedural fairness is important for health practitioners who are the subject of a notification. Ahpra generally invites practitioners

to respond to a notification made about them as standard practice and affords practitioners 14 days to do so. This is a key way of ensuring the relevant Board gets detailed information about the allegations raised.

However, our office received complaints this financial year that suggested there are areas where Ahpra could improve to ensure practitioners are provided with the opportunity to comprehensively respond to the allegations made in notifications.

Case study

Dr Muller made a complaint to the Ombudsman about Ahpra and the Medical Board of Australia's handling of a verbal notification made about him. Dr Muller was concerned he had been denied procedural fairness because Ahpra had not provided him with all relevant information, including a copy of the written record of the verbal notification. He also said Ahpra's investigation into the notification was too long.

Our investigation found that despite repeated requests from Dr Muller, Ahpra provided the record of the verbal notification to Dr Muller two years after it was first requested. We also found that there was delay in progressing the notification, which took two years and eight months to finalise.

The Ombudsman provided formal comments and suggestions for improvement to Ahpra about the importance of procedural fairness

and reducing delay. While the failure to provide the record of the verbal notification appeared to be due to a misunderstanding at Ahpra, the Ombudsman expressed disappointment that Ahpra did not respond to Dr Muller's requests. The Ombudsman advised that Ahpra staff should more thoroughly address concerns raised by practitioners about a failure to disclose notification materials.

The Ombudsman also said the delay in the investigation of this matter was understandably very frustrating for Dr Muller, particularly because the Board ultimately decided to take no further action. While the notification involved some complexities that contributed to the delay, the Ombudsman said there was an unexplained gap of approximately one year where little progress was made on the matter. The Ombudsman acknowledged that while Ahpra is taking steps to avoid lengthy investigations, our office will continue to closely monitor this issue and would appreciate continued discussions about timeliness in the ongoing regular meetings between our office and Ahpra.

Explaining a decision or action

A core way we can build trust in the National Scheme is to ensure each person who engages with the scheme feels their matter has been handled fairly.

Most of the complaints we receive are resolved through our office providing a further explanation to the complainant about why a decision was made or an action was taken.

Often, we find that when it becomes clear to complainants that their matter has been through a fair process, they are likely to accept the outcome they receive, even if it is not the outcome they were hoping for.

We continue to work with Ahpra in several ways to improve how decisions are communicated.

Explanations for decisions in the new low-risk notification framework

In 2020 Ahpra made changes to its model for assessing notifications with the goal of reducing the time taken to assess matters deemed to be of low risk to patient safety.

Our office received some complaints where it was clear Ahpra's new letters to those involved in a low-risk notification were too brief. The letters did not provide enough detail about:

- the risk framework used to make the decision
- how the Board had applied the framework to come to its decision to take no further action.

Our office provided feedback to Ahpra that these letters could be updated to better explain:

- the reasons why a Board had decided not to take further action
- where appropriate, what steps the practitioner who was the subject of the notification had taken to remedy a matter and reduce future risk, such as undertaking further training.

Our office was pleased Ahpra accepted the suggestions we made about these matters.

Registration-related complaints

Registration is fundamental to achieving the National Scheme's aim of protecting the public by ensuring all registered health practitioners meet the same, high-quality national professional standards.

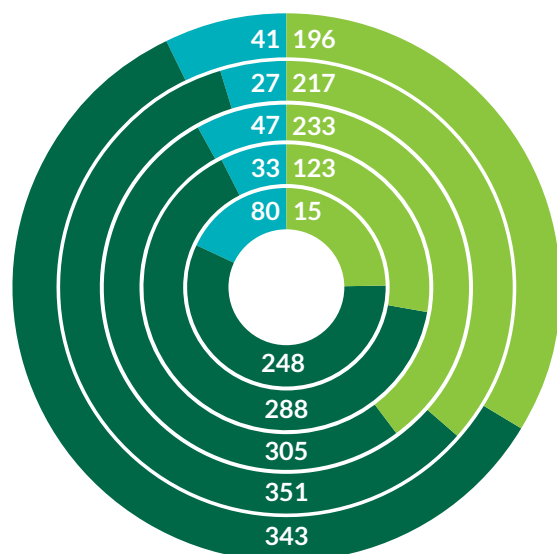
To work in one of the 16 registered health professions practitioners must be registered by the Board that represents their profession. Registered practitioners must renew their registration every 12 months.

Registration-related complaints

Complaints about how a registration matter was handled are the second most common type of complaint the Ombudsman receives (Figure 9).

This financial year, 34 per cent of all complaints to our office were about health practitioner registration (196). This is slightly lower than the number of registration-related complaints we received last financial year, though it is generally consistent with the proportion of complaints we have received related to registration in the past.

Figure 9: Types of complaints to the Ombudsman, 2016–17 to 2020–21



Each circle represents a financial year from the outside (2020–21) to the inside (2016–17)

- Registration-related complaints
- Notification-related complaints
- Other complaints

Common issues related to registration

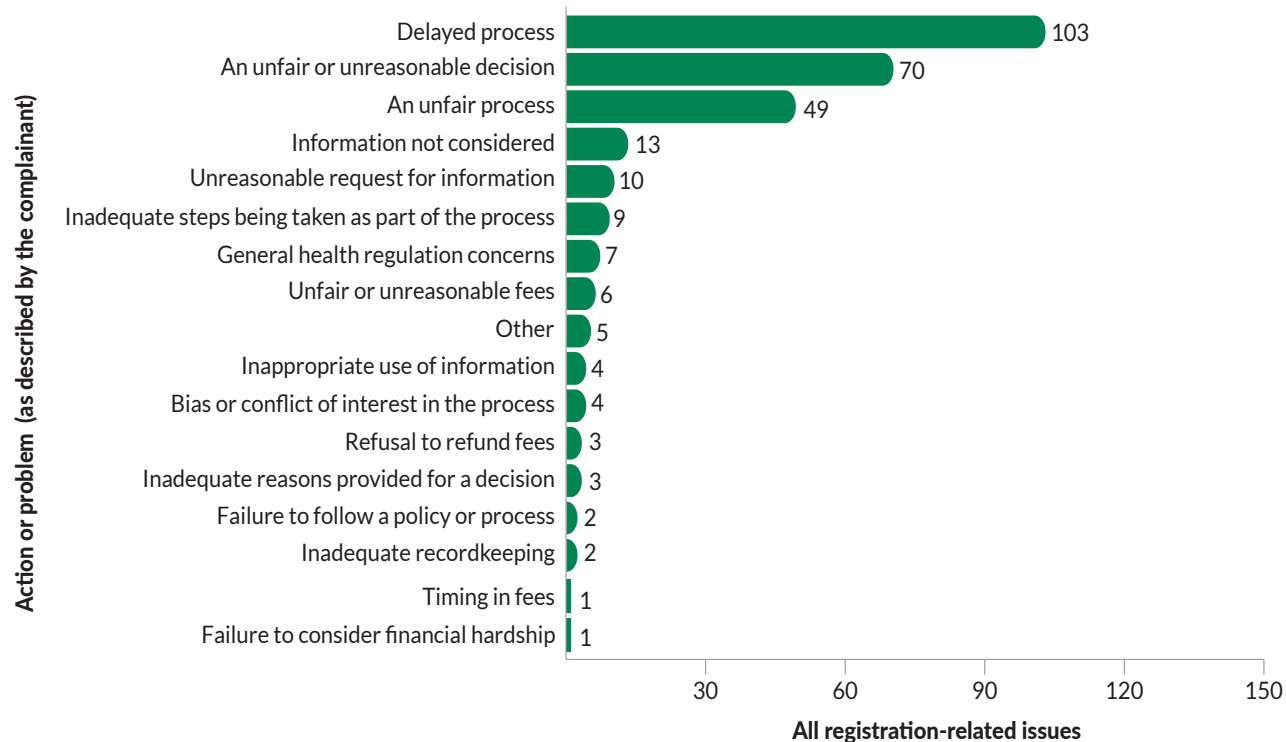
Across the 196 registration-related complaints we received this financial year, we recorded 292 complaint issues.

The top five issues related to registration complaints were:

- delay in managing a new application for general registration
- delay in managing a review of conditions on a health practitioner's general registration
- an unfair or unreasonable decision made about the ELSR Standard
- an unfair or unreasonable decision about a practitioner's registration raised by a patient or the general public
- delay in managing a graduate application for general registration.

Most issues were about concerns with a process, followed by dissatisfaction with a decision made in relation to a registration application (Figure 10).

Figure 10: The action or problem driving registration complaints, 2020–21



Types of registration applications driving complaints

Most of the registration-related complaints our office received were about general registration (69 per cent) and provisional registration (13 per cent) (Table 12). This is to be expected because these registration types represent most registration applications Ahpra receives.

Table 12: Types of registration applications driving complaints, 2020–21¹⁶

Registration type	Complaints we received in 2020–21	Applications received by Ahpra by registration type in 2020–21
General registration	136	55,886 ¹⁷
Provisional registration	26	10,733
Limited registration	12	1,924
Other/unknown	19	
Specialist registration	2	9,023
Non-practising registration	1	7,041

¹⁶ Data for 'Applications received by Ahpra by registration type in 2020–21' was provided by Ahpra.

¹⁷ Please note that Ahpra's data includes general registration – teaching and assessment.

Who registration-related complaints were about

Most registration-related complaints involved the medical (60) and nursing and midwifery professions (59) (Table 13).

All complaints we received about the pharmacy, Chinese medicine, podiatry and medical radiation practice professions were related to registration. In addition, most complaints received about the paramedicine (80 per cent), occupational therapy (67 per cent) and nursing and midwifery (52 per cent) professions were about registration issues.

Table 13: Registration and complaint numbers, by health profession, 2020–21¹⁸

Profession	Complaints related to registration we received in 2020–21	All complaints we received in 2020–21	Registration applications received by Ahpra in 2020–21	Registered health practitioners
Medical	60	266	22,052	129,066
Nursing and midwifery	59	113	38,481	465,291
Psychology	33	83	6,423	41,817
Dental	9	41	1,718	24,984
Paramedicine	8	10	2,566	21,492
Pharmacy	7	7	3,436	35,262
Chinese medicine	6	6	494	4,863
Physiotherapy	3	8	3,616	37,650
Occupational therapy	2	3	2,545	25,632
Podiatry	2	2	396	5,783
Medical radiation	1	1	1,495	17,844
practice	1	11	425	5,968
Chiropractic	1	3	426	6,288
Optometry	1	2	380	2,951
Osteopathy	0	1	154	829
Aboriginal and Torres Strait Islander health practice	3	23	-	-
Total	196	580	84,607	825,720

¹⁸ Data for 'Registration applications received by Ahpra in 2020–21' and 'Registered health practitioners' was provided by Ahpra

Where registration-related complaints come from

Registration-related complaints were most commonly raised by complainants living in Victoria (50) and Queensland (38) (Table 14).

As expected, more than three-quarters of complaints from New South Wales were about the registration process (37). This is due to the different arrangements in place for managing notifications in that state, which means we receive very few notification-related complaints from people living in New South Wales.

Table 14: Complaints made to our office, by location of the complainant, 2020–21¹⁹

Profession	Complaints we received related to registration in 2020–21	All complaints we received in 2020–21	Registration applications received by Ahpra in 2020–21	Registration applications finalised by Ahpra in 2020–21	Registered health practitioners
Victoria	50	184	21,812	21,780	216,134
Queensland	38	116	16,655	16,925	168,279
New South Wales	37	49	23,051	23,457	233,387
Western Australia	24	73	8,607	8,525	82,411
South Australia	20	98	6,199	6,248	63,830
Australian Capital Territory	6	10	1,506	1,535	14,895
Tasmania	1	5	1,620	1,625	18,390
Northern Territory	0	2	768	785	8,653
Outside Australia	5	6	4,389 (no place of practice listed)	3,352 (no place of practice listed)	19,741 (no place of practice listed)
Unknown	15	37			

¹⁹ Data for 'Registration applications received by Ahpra in 2020–21', 'Registration applications finalised by Ahpra in 2020–21' and 'Registered health practitioners' was provided by Ahpra.

Outcomes of registration-related complaints

In 2020–21 we finalised 185 complaints about the handling of a registration matter. The most common outcome identified across these complaints was that we found Ahpra’s response to be fair and reasonable (without the need for investigation) (44, 20 per cent).

We finalised 10 complaints about the handling of a registration matter following an investigation. Of the 23 outcomes recorded against these complaints, the most common outcome was providing the complainant with a further explanation about the concerns raised in their complaint (30 per cent).

Review of conditions

The handling of reviews of conditions on a practitioner’s registration was an issue 28 times across all registration-related complaints (10 per cent of all issues identified) in 2020–21.

Our office recognises that it can be challenging and highly emotive for practitioners to manage conditions placed on their registration. Conditions can often negatively affect a practitioner’s ability to find an appropriate workplace and can result in unfavourable perceptions about their ability to effectively practise their profession.

The following case studies show how our office can work with practitioners who may be experiencing issues with the review of conditions on their registration through our early resolution transfer process.

Case study

Dr Silva complained to the Ombudsman because he believed Ahpra and the Medical Board of Australia had unlawfully refused his request to review the conditions placed on his registration. He was concerned Ahpra had not responded to his requests for information about a review of the conditions.

We spoke with Dr Silva about our early resolution transfer process and he agreed to us transferring his complaint to Ahpra. Ahpra’s national complaints team apologised that Dr Silva’s experience with Ahpra had not met his expectations and that he was not given more timely responses or updates about how his request for review was progressing.

Ahpra advised Dr Silva’s concerns had been escalated to a manager in its compliance team and confirmed that his case officer had contacted him to advise of the date the Board would review the conditions on his registration.



Case study

Ana first contacted our office to make a complaint to the Ombudsman because she was unhappy with the conditions the Nursing and Midwifery Board placed on her registration.

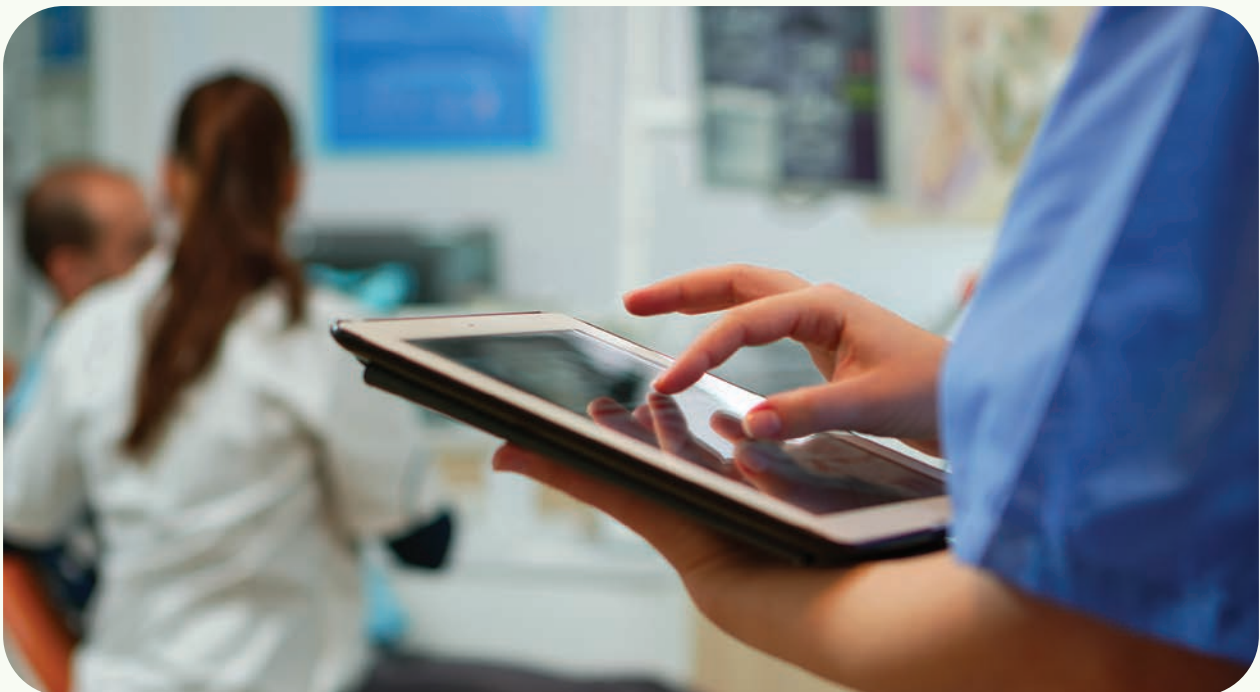
Ana had not yet complained to Ahpra, so we got her consent to transfer the complaint to provide Ahpra with the opportunity to address her concerns. Her complaint stayed open with our office so we could track its progress.

Although Ana was mostly satisfied with the response Ahpra provided through this process, we decided to make preliminary inquiries because some issues remained unresolved. This included that Ana had not been given information about how

or when the conditions could be removed from her registration, and neither the compliance nor complaints team at Ahpra had not responded to Ana's requests for this information.

In response to our preliminary inquiries, Ahpra advised Ana the Board would consider whether to remove the conditions on her registration at its next meeting.

While there were several delays and issues with communication during the process, we were satisfied Ahpra had adequately responded to Ana's concerns. Ana was satisfied with the outcome of her complaint and the Board's subsequent decision to remove the conditions from her registration because she had satisfied the Board's requirements.



English Language Skills Registration Standard

This financial year we identified the ELSR Standard as an issue 25 times (9 per cent of all issues identified). Most complaints we received about the ELSR Standard were about the Nursing and Midwifery Board of Australia's ELSR Standard, the latest version of which came into effect on 1 March 2019.

We have previously made both formal and informal suggestions to Ahpra for improving the application of the ELSR Standard, including a submission in 2017 to the Nursing and Midwifery Board on proposed revisions to its ELSR Standard.

We continue to monitor the application of the ELSR Standard and make further submissions about future revisions of the Boards' shared ELSR Standard.

Case study

Li contacted our office because she was unhappy with Ahpra's decision to decline her application for registration as a Chinese medicine practitioner on the basis that she did not meet the requirements of the ELSR Standard.

Li explained she had grown up in another country where English was the predominant language spoken and had completed 11 years of study in Australia, including a master's degree. Li believed it was unfair that Ahpra had told her she needed to pass the English language test to become registered. Li shared that she had previously sat and passed the English language test, but Ahpra would not recognise the results because they had been obtained too long ago. She also said the Department of Immigration had accepted her English proficiency based on her extensive Australian tertiary education and did not require her to sit the English language

test for visa purposes. Li said the current ELSR Standard was unfair to those who did not complete their schooling in Australia and was unnecessarily prescriptive.

We advised Li that it appeared as though Ahpra had appropriately applied the requirements set by the Chinese Medicine Board (and approved by health ministers) to meet the ELSR Standard. Based on this, Li would likely be required to take the English language test. We explained that the registration standards are agreed by the Boards and approved by health ministers, and that we cannot change the requirements. However, we also let Li know we would ensure her complaint would be used as part of our work to improve the ELSR Standard at the system level, particularly because we have heard similar concerns from other complainants. We assured Li we would continue to engage with Ahpra and the Boards on any future revisions of the ELSR Standard.

Customer experience complaints

Our new case management system lets us capture more specific data about complaints to our office that relate to customer experience. These types of complaints relate to concerns about the customer service a complainant received, or how Ahpra handled their complaint.

We received 27 customer experience-related complaints in 2020–21, including 24 complaints about customer service and three about complaint-handling concerns.

Customer experience issues

We recorded 256 customer experience issues across all complaints to the Ombudsman in 2020–21 (including notification-related and registration-related complaints). This included 179 issues about customer service and 77 issues about complaint handling.

Customer service issues

There are many different teams within Ahpra that provide services to health practitioners and the public. This includes the customer service team, which is the first point of contact for many applicants, and Ahpra's operational teams including those managing notifications, registration, compliance and accreditation.

Customer service-related concerns were generally about communication (153, 85 per cent) and process problems (17, 9 per cent). Communication concerns therefore represented a significant portion of the issues raised with our office. The most common communication-related issue was that Ahpra did not respond to the complainant's efforts to make contact (53), closely followed by concerns that Ahpra did not provide reasonable updates (48). Other issues included Ahpra being uncontactable (12) or having unreasonably long call wait times (7).

Where Ahpra and complainants were in contact, some issues were raised about Ahpra providing incorrect advice (13), Ahpra staff allegedly interacting in a way that was rude or insensitive (19), or Ahpra putting in place unreasonable contact management rules (1).

These types of communication issues were reported to be occurring both in Ahpra's management of notifications (81) and in its management of registration matters (60).

We can often resolve customer service-related issues without investigation. For example, Ahpra may agree to contact the complainant to provide them with a meaningful update about the progress of their matter.

There are opportunities for improvement in Ahpra's communication. However, we acknowledge that Ahpra and the Boards have shown a commitment to improving and have recently made significant progress. We also recognise COVID-19 and related restrictions have affected workplaces across the country, and Ahpra staff too have been managing challenges related to hybrid and working-from-home arrangements, which can affect service delivery.

The main areas of improvement in Ahpra's communication this financial year relate to setting expectations for communication and enhancing progress updates to those engaging with Ahpra.

Updating Ahpra's service charter

The Ombudsman has welcomed discussions with Ahpra this financial year about the importance of revising its service charter. A service charter is a proactive measure to determine what staff and those engaging with an entity can expect from one another.

Discussions about developing a more comprehensive service charter come from systemic issues we identified about communication issues repeatedly raised by complainants. These issues include:

- a lack of transparency about the notifications or registration processes
- frustration with unanswered phone calls or written correspondence
- not receiving updates about a matter, particularly if it is delayed.

The Ombudsman has suggested that setting more comprehensive service standards will help address these concerns in a number of different ways.

From an organisational perspective, it would assist Ahpra to induct staff and ensure staff have a clear understanding of their role in communication.

From a complainant perspective, these standards also operate to set expectations about what level of communication they can look forward to, and therefore reduce unnecessary stress or anxiety associated with uncertainty.

We will continue to work with Ahpra on revising its service charter.

Case study

Ying made a complaint to the Ombudsman about the handling of a notification she had made about a doctor. Ying raised issues with delay and Ahpra's communication during the notifications process.

Our investigation found there had been little action taken for six months in relation to Ying's notification. Ahpra did not acknowledge or respond to questions Ying had asked or provide updates about the notification during this time.

In response to our investigation, Ahpra acknowledged and apologised to Ying for the delays and poor communication she had experienced. Ahpra also met with Ying to better understand how its handling of the notification affected her.

The Ombudsman made formal suggestions for improvement to Ahpra, raising concerns about the delay in assessing the matter. The Ombudsman also acknowledged Ahpra has taken meaningful steps to avoid delay and improve its communications, particularly in relation to the planned revision of its Service Charter.

Case study

Ahmad made a complaint to the Ombudsman about how his graduate application for registration as a chiropractor was managed. Ahmad contacted us because he was concerned that it took five months to finalise his application. He said this caused him to miss out on employment opportunities and experience financial hardship. He felt because he had disclosed a criminal history as part of his application (the charges of which were withdrawn or struck out), he had been treated like a criminal. He said Ahpra did not communicate with empathy, respond promptly or meet stated deadlines. He told us that Ahpra had contacted him at inappropriate times requesting information to be provided within short timeframes.

Our investigation found Ahmad's application was completed within a reasonable timeframe during a peak registration period. However, we found Ahmad had difficulty contacting his regulatory officer at Ahpra and he often did not receive a response to his emails or phone calls. We also found Ahpra had contacted Ahmad about his application at 4.00 pm on Christmas Eve to provide the results of his criminal history check and to ask him for further information.

This experience was distressing for Ahmad and the timeframe for providing the requested information put additional pressure on him over the holiday period.

The Ombudsman made formal comments to Ahpra about Ahmad's complaint. She noted the importance of providing timely and regular communication to applicants during the registration process, particularly if their application is complex or delayed. The Ombudsman reiterated her suggestion about developing service standards for staff to provide updates and respond to written and verbal communication.

The Ombudsman also encouraged Ahpra staff to think carefully about the timing of providing sensitive correspondence to applicants. She acknowledged that, more recently, staff had been advised to avoid issuing notices that may cause distress to applicants either immediately before or during a holiday period. This is a positive step to improve the registration process.

The Ombudsman also suggested Ahpra ensures applicants are aware that they can request more time to respond to information if needed. This is particularly important in circumstances where the response timeframe falls over a period with public holidays and it can be more challenging for applicants to obtain and then send documents to Ahpra.



Improving updates

An area of concern for our office is repeated complaints about the need for more updates or further information from Ahpra about the progress of a matter. Ahpra has made some improvements, including by encouraging staff to make telephone contact with notifiers and practitioners at the time something changes with an investigation and providing a written update via email based on that conversation. Our office will continue to monitor this important area.

Case study

Ali made a complaint to the Ombudsman about how Ahpra handled his notification. Ali's main concerns were that Ahpra's communication was poor and there had been an unreasonable delay in making a decision about the notification.



Our investigation found there had been delay in the handling of Ali's notification at the assessment stage and that Ahpra had not given regular updates about the notification's progress.

Ahpra has a legislative requirement to provide an update about the investigation of a notification every three months. However, there is no such legislative requirement when a notification is being assessed.

We provided feedback that Ahpra should provide updates to notifiers at least every three months at the assessment stage in line with the investigation stage timeframe.

Case study

John made a complaint to the Ombudsman about the handling of his notifications by Ahpra, the Medical Board of Australia and the Nursing and Midwifery Board of Australia. The notifications were about the hospital staff involved in his father's health care. John believed Ahpra and the Boards did not manage his notifications correctly. He was concerned there were conflicts of interest involving Board members and staff from the hospital where his father had been treated and that he had been prevented from providing relevant information to the Boards about the notification.

Our investigation found the information John had provided to Ahpra and the Boards was handled appropriately and in line with legislative requirements and relevant policies. Our investigation also found no evidence of a conflict of interest involving the Board members and staff at the hospital but noted Ahpra had agreed to consider this issue further if John provided the names of those involved who he believed had a conflict of interest.

However, we concluded Ahpra's communication with John during the notifications process was not sufficient. We found John did not receive any communication from Ahpra before receiving letters informing him the Boards had decided to take no further action. John had made repeated calls to Ahpra to request an update about his notifications and was advised that once a regulatory officer was assigned, they would contact him. However, John did not speak with Ahpra before the Boards' decisions were made. Ahpra submitted that it attempted to contact John, but these attempts were not recorded because of disruptions associated with transitioning to working from home due to COVID-19.

While we acknowledged John received an apology from Ahpra's national complaints team about the lack of communication, we provided feedback to Ahpra that it was disappointing John was not contacted and that the attempts to contact John were not documented as required. We acknowledged Ahpra's explanation about the transition to working from home due to COVID-19. However, there were many instances of Ahpra failing to respond to John's contact before the beginning of the pandemic. We also reiterated our expectation that Ahpra acknowledges receipt of a new notification in every instance.

Complaint handling-related complaints

Ahpra has an established complaint-handling policy and procedure. Ahpra generally manages complaints through two stages:

- Stage one complaints are those that can be managed quickly by frontline staff.
- Stage two complaints raise complex issues and/or require more time to review and resolve.

Stage two complaints are usually managed by Ahpra's national complaints team. We generally request that (wherever possible) people first make a complaint with Ahpra before contacting our office.

In 2020–21 we identified 77 complaint-handling issues across all complaints to the Ombudsman (7 per cent of all issues).

Concerns were generally about the following areas:

- Ahpra's complaint response (61, 79 per cent)
- Ahpra's complaint-handling process (13, 17 per cent).

Response-related issues included concerns about an inadequate response (24), a failure to provide a response (23) and a delayed response (14).

Process-related issues included concerns about a failure to escalate the complaint internally (4), a failure to follow Ahpra's complaint-handling policy (4), a refusal to accept a complaint (3) and inaccessibility of the complaints process (2).

Complaint-handling issues were almost evenly distributed between notification and registration-related issues (identified 31 times in notification-related complaints and 33 times in registration-related complaints).

Case study

Mary contacted our office because she believed Ahpra and the Nursing and Midwifery Board of Australia had incorrectly assessed that she did not meet the requirements of the ELSR Standard. She was advised she would need to complete an English language test to become registered, but because the testing centres were closed due to COVID-19, Mary withdrew her application for registration.

Following this, Mary made a complaint to Ahpra about the handling of her application for registration on two occasions, but she was dissatisfied with both the timeliness and quality of Ahpra's complaint response.

Mary complained to our office and our investigation found it was reasonable for Ahpra to assess Mary's application as not meeting the requirements of the ELSR Standard.

However, we found Ahpra's response to Mary's first complaint was not provided within the required timeframe under Ahpra's complaint-handling policy and procedure. We also found that Ahpra did not respond to Mary's second complaint. Ahpra initially advised it did not have a record of receiving this complaint, though it was later found.

We provided feedback to Ahpra about the delay in responding to Mary's first complaint and the mismanagement of Mary's second complaint. However, we also acknowledged the delay in responding to Mary's complaint was likely due to the closure of Ahpra's physical offices due to COVID-19 and the shift to working from home. We also recognised that while the response from Ahpra's national complaint team was delayed, Ahpra's registration team responded to Mary promptly and thoroughly addressed her concerns.

Other complaint types

This financial year, we received eight complaints related to accreditation, four complaints about the handling of statutory offence matters and two complaints about the handling of an FOI matter.

We are not yet progressing complaints about the administrative actions of accreditation entities. Our role in relation to these complaints is described later in this report.

Due to the Commissioner's FOI review functions, we generally only consider FOI matters as complaints to the Ombudsman if they relate solely to concerns about how an FOI matter was handled. This includes the inappropriate use of information during the FOI process and failure to appropriately consult about the release of requested documents.

Case study

Jean contacted our office because she was unhappy with the response she received from Ahpra's national complaints team about the search value parameters on the public register of health practitioners. Jean was concerned the general public could not easily access the information on the public register because of limitations in the search functions.

For example, Jean explained that it is only possible to search for an individual by their name (including the correct spelling) or their registration number. Jean said this limits the public's ability to self-advocate for safe health care and that the public should be able to search for practitioners by location or facility.

We made preliminary inquiries to Ahpra about Jean's concerns and shared Ahpra's response with her. Ahpra advised it wanted to increase the search functionality of the public register later in 2021 as it now has the technical capacity to do so. Ahpra explained changes would include increased ability to search by geographical location. Ahpra also advised that it intends to review the purpose of the public register and will seek public consultation on this issue, including perceptions on how people use it.

Ahpra explained it would consult with our office about these changes and the public consultation process.

In addition, Ahpra advised there are other mechanisms to access the public register's information beyond the online search tool.

We found Ahpra's response to be comprehensive and that the planned improvements addressed Jean's concerns. We also found Ahpra's response appropriately explained its legislative requirements for the public register and that there were appropriate alternative mechanisms to access public register information beyond the online search tool. We assured Jean we would continue to monitor complaint trends in this area and Ahpra's projected improvements to the register.



Commissioner complaints

In Australia the *Privacy Act 1988* (Cwlth) sets out how privacy is protected. The Act has 13 Australian Privacy Principles that govern the protection of privacy including:

- how personal information is collected, used, shared or corrected
- the responsibilities of organisations and agencies
- rights to access personal information.

Our role

Our office accepts complaints to the Commissioner about the handling of personal information by Ahpra and the Boards. Ahpra and the Boards keep records that may contain personal information including:

- registration, notification and investigation files
- public register information, including previous registration and disciplinary information
- legal files
- employment files
- general administration files and documents.

When we receive a complaint about the handling of personal information, the Commissioner can decide:

- what action should be taken to resolve a complaint
- whether compensation should be awarded for any loss or damage suffered due to a breach of privacy
- that the handling of personal information was reasonable and take no further action.

The Commissioner's power to consider privacy complaints comes from the Privacy Act, which has been modified by the National Law.

Complaints to the Commissioner

This financial year, our office received privacy-related complaints from three different people. We have historically received very few privacy complaints, including only one complaint in 2019–20.

The three complaints received this financial year were about Ahpra's inappropriate use or disclosure of personal information. Concerns raised by these complainants related to different issues, including that Ahpra had breached a person's privacy by disclosing their identity to a third party, and Ahpra sending the wrong practitioner personal information due to an error.²⁰

Our office finalised one complaint made to the Commissioner this financial year after making preliminary inquiries into the release of another person's personal information to the complainant.

²⁰ For more information about how we record privacy complaints to the Commissioner, refer to Appendix 3.

Notifiable Data Breaches Scheme

Ahpra and the Boards must notify our office about data breaches involving personal information that are likely to result in serious harm. A data breach of this nature is called a 'notifiable data breach'.

Although notification is not formally required for breaches assessed to be unlikely to result in serious harm to those affected, the Commissioner welcomes voluntary disclosure of any data breaches by Ahpra and the Boards.

Notifiable data breach

This financial year we received one eligible notification from Ahpra about a data breach. This is the first eligible notifiable data breach we have received since our role in the Notifiable Data Breaches Scheme began on 22 February 2019.

The privacy breach related to confidential information being inadvertently sent by email to a registration applicant as part of a bundle of documents. Ahpra advised our office of the privacy breach and took steps to notify each of the affected parties. Ahpra asked the recipient to delete the information they received in error.

Ahpra also advised our office of the steps it would take to reduce the likelihood of a similar event occurring again. This included:

- undertaking a review of the circumstances that led to the breach
- determining whether additional steps can be inserted into the process of releasing this type of information in the future to prevent inadvertent releases
- providing additional training or counselling to staff involved in this incident around the importance of carefully reviewing documents before disclosure to ensure they do not contain information that should not be disclosed.

The Commissioner was satisfied Ahpra had taken appropriate steps in response to the notifiable data breach and to reduce risks associated with a future breach.

Freedom of information matters

By law, everyone has the right to request access to information held by Ahpra, its Management Committee and the Boards.

For the past two years, our office has had the power to review Ahpra's FOI decisions.

This financial year we received 16 applications to review a decision made by Ahpra under the Commissioner's FOI powers.²¹ This is a small decrease in the number of applications compared with the previous financial year (20).

Freedom of information review applications

This financial year we:



Received
16 FOI review applications



Finalised
22 FOI review applications



Started
11 FOI reviews



Published
5 FOI review decisions

People generally apply to the Commissioner to review an FOI decision because either:

- they are unhappy with Ahpra's decision not to give access to documents or information they requested
- they are unhappy Ahpra has decided to release information about them they believe should not be released.

A review application must be in writing and include a copy of Ahpra's FOI decision that the applicant would like reviewed along with the applicant's contact details.

When we conduct a review of an FOI decision, the Commissioner considers Ahpra's decision and can decide to:

- affirm the decision (not change it)
- vary the decision (not change the decision itself but modify aspects of it), or
- set aside the decision and make a fresh decision.

Types of freedom of information review applications

We can consider several different types of FOI review applications. This includes applications to review a decision where Ahpra:

- did not release documents or certain information requested by the applicant (called an access refusal decision)
- has decided to release documents or certain information that the applicant has requested are not disclosed (called an access grant decision)
- has reviewed its original FOI decision to grant or refuse access (called an internal review decision).

²¹ For more information about how we record FOI matters and the Commissioner's role, refer to Appendix 4.

We can also consider applications for a review of Ahpra's refusal to extend the timeframe for an applicant to request an internal review of an FOI decision.

Ahpra received 204 FOI applications this financial year and 13 applications for an internal review of a decision.²² We received nine applications to review an access refusal decision and seven to review an internal review decision. It therefore appears that applicants who had already requested an internal review from Ahpra regarding its original FOI decision were more likely to request a review from our office as well.

Applicants most frequently sought documents from Ahpra regarding notifications made about health practitioners. This included the practitioners' responses to notifications (7) and Board papers that informed the Boards' decisions about notifications (including assessment reports, investigation reports and attachments) (17).

Most reviews considered Ahpra's use of conditional exemptions related to personal privacy (s 47F) (27) or operations of an agency (s 47E) (22). These exemptions are discussed further in relation to the Commissioner's published FOI reviews.

Other freedom of information matters

We can consider a range of other matters related to FOI including:

- notices of extensions of time for Ahpra to manage an FOI request as agreed between Ahpra and the FOI applicant
- applications for an extension of time for Ahpra to manage an FOI request (where there has not been an agreement with the applicant)
- applications for an applicant to be declared vexatious.

We did not receive any of these other FOI matters this financial year. This is a continued trend from the previous financial year where all FOI matters we received were about FOI review applications.

Working with Ahpra's freedom of information team

This financial year we worked with Ahpra's FOI team to establish a positive working relationship and facilitate better outcomes. We met for an initial workshop with Ahpra's FOI team to discuss a framework to support communication and effective resolutions. From this workshop, Ahpra and our office agreed to:

- establish regular meetings (at least once a fortnight) to discuss the progress of active reviews or any other issues
- add FOI matters to the agenda for the monthly meeting between our office and Ahpra's senior leadership team
- develop shared principles of engagement with applicants, including setting out the process for managing preliminary inquiries and alternative dispute resolution mechanisms.

We have found these developments have led to better communication and transfer of information between our office and Ahpra.

²² Data provided by Ahpra.

Freedom of information review decisions

In 2020–21 the Commissioner published five FOI review decisions. This is more than double the number of decisions made in the previous financial year (2).

The Commissioner's [FOI review decisions](https://www.nhpo.gov.au/foi-review-decisions) are on our website <<https://www.nhpo.gov.au/foi-review-decisions>>.

Freedom of information review exemptions

All FOI review decisions published this financial year related to a decision by Ahpra to exempt (fully or partially) a document from release. This means Ahpra decided it would not release the information requested by the FOI applicant.

Commonly applied exemptions

Most decisions made by the Commissioner included a review of Ahpra's decision to exempt a document or documents from release under the 'agency operations conditional exemption' and the 'personal privacy conditional exemption' in the FOI Act. This is consistent with the previous two decisions made by the Commissioner last financial year.

Agency operations conditional exemption

A document is conditionally exempt from release under s. 47E(d) of the FOI Act if disclosure would or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency. Put simply, if release would mean Ahpra's operations would be negatively affected in a significant way, and this would be contrary to the public interest, then the information does not need to be released.

Documents commonly considered by the Commissioner in her reviews regarding this exemption included:

- a practitioner's response to a notification made by the FOI applicant
- Ahpra's internal documents and emails about its assessment of a notification made by the FOI applicant
- Ahpra's reports, including investigation reports, prepared for a Board regarding a notification made by the FOI applicant.

In the reviews finalised this year, the Commissioner generally agreed with Ahpra's view that releasing these documents would prejudice the integrity and robustness of its notifications processes. Regarding a practitioner's response to a notification, this was primarily because if a practitioner does not consent to releasing their response, and Ahpra releases it, a reasonable person, including other practitioners, would expect that any documents they provide to Ahpra in the future may not be treated confidentially. This could affect Ahpra and the Boards' ability to carry out their functions because the important information they need may become harder to get. Release of a practitioner's response to a notification without their consent is also not consistent with Ahpra's duty of confidentiality under the law.

Similarly, for Ahpra's internal documents and reports, the Commissioner agreed with Ahpra's submissions that there is a reasonable expectation information prepared in the course of an assessment or investigation of a notification would be treated confidentially. If Ahpra discloses this information, a reasonable person could conclude that information prepared for the Board in the future may not be treated confidentially. This in turn could reasonably be expected to affect how effectively Ahpra and the Boards can carry out their functions because the information they need may be more difficult to obtain or less readily provided.

Personal privacy conditional exemption

A document is conditionally exempt from release under s. 47F of the FOI Act if disclosure would involve the unreasonable disclosure of personal information of any person (including a deceased person). In applying this conditional exemption, the decision-maker must also consider whether disclosure would not be in the public interest.

Examples of information the Commissioner considered in this exemption included:

- a document containing information about a practitioner who was the subject of a notification made by the FOI applicant
- a practitioner's response to a notification by the FOI applicant
- a practitioner's contact details, opinions or other information of a personal nature
- Ahpra's internal documents and emails about its assessment of a notification made by the FOI applicant
- Ahpra's reports, including investigation reports, prepared for the Board about a notification made by the FOI applicant.

In the reviews finalised this year, the Commissioner generally agreed with Ahpra's reasoning that disclosing the above information would involve an unreasonable disclosure of third-party personal information and that it would be contrary to the public interest. Regarding Ahpra's internal documents, the Commissioner recognised the expectation that the personal information in these documents was provided to Ahpra on the basis that Ahpra and the Board would only use it in the notifications process.

In 'AA and Ahpra', however, the Commissioner concluded it was highly likely the name of a public sector employee found in documents about a notification would already be known to the FOI applicant and that disclosure of the name was reasonable. When making this decision, our office consulted with the relevant public sector agency and it did not object to releasing the information.

The Commissioner also decided the identity of a practitioner's medical indemnity insurer found in documents about a notification was not exempt from release. This is because hyperlinks and information relating to third-party organisations (including the name, logo, contact details, Australian business number and website) do not identify an individual and do not comprise personal information.

Alternative dispute resolution

During the FOI review process, we work with Ahpra and the applicant to explore ways to resolve some or all the issues raised in the review. For example, in one FOI review matter, our office worked with Ahpra and the applicant to come to an agreement about reducing the scope of the review. The applicant agreed they no longer sought access to four of the documents that they had originally requested from Ahpra, which meant the Commissioner was able to make a quicker decision about the one remaining document in question.

Other freedom of information review application outcomes

Most FOI review applications our office received were withdrawn during the FOI review process (12). It is important to recognise an applicant withdrawing their application may not necessarily mean that the applicant does not wish to continue with a review but may instead indicate that their concerns have been addressed in another way.

We help applicants to understand the likely outcome of their review application, particularly if the Commissioner has previously made decisions based on similar information and circumstances.

Nine applications were withdrawn after we provided the applicant with a preliminary view about their application and the applicant decided not to take the matter further. This is an 80 per cent increase in applications resolved this way since the last financial year.

Administrative release of information

One of the ways we can help applicants address the issues raised in a review is by working with Ahpra and the applicant to reach an agreement about the release of certain information (called an administrative release of information). This financial year Ahpra agreed to release certain information to an applicant in five FOI review matters.

Complaint transfers to the Ombudsman

Our office aims to understand what an applicant hopes to achieve from making an FOI review application. If we believe there is another way to better address the applicant's concerns, we will discuss this with the applicant. For example, in one FOI review application, the applicant agreed to instead lodge a complaint with the Ombudsman about the underlying concern that led to their FOI request. This concern was about how Ahpra and a Board handled a notification the applicant made.

Applications we declined to review

We declined two FOI review applications because the applicant could not be contacted. We also declined one review application for each of the following reasons:

- the application was not valid
- the application was misconceived or lacking in substance
- the applicant did not meet the necessary timeframe for lodging an application.

Case study

Ashley made an FOI review application to our office after Ahpra refused to provide them with details about a notification that had been made about them.

We spoke to Ashley about their concerns and explained that they appeared to relate to Ahpra's handling of the notification made about them, rather than how Ahpra had applied the FOI Act to their request for access to documents. We informed Ashley that there are different pathways available

to them that may be more appropriate to address their concerns. We suggested Ashley may wish to instead make a complaint to the Ombudsman about how Ahpra handled their notification and whether it was reasonable for Ahpra to withhold the details of the notification from them due to concerns about the notifier's confidentiality. Ashley appreciated this advice and decided to make a complaint to the Ombudsman and withdraw their FOI review application.



**Strategic direction:
influencing
systemic change**

Progress update: safeguarding confidentiality of notifiers review

Our office has welcomed Ahpra's progress on implementing all the Ombudsman and Commissioner's 10 recommendations from her review into safeguarding the confidentiality of people making notifications about registered health practitioners.

The review was conducted after the conviction of a general practitioner for the attempted murder of a pharmacist. Before the attack, Ahpra informed the general practitioner that the pharmacist had made a notification about his prescribing practices and it is thought the notification was the motive for the crime.

The primary issue we considered was whether Ahpra's handling of notifications adequately safeguards the confidentiality of notifiers. The review found Ahpra's current approach offers reasonable safeguards for notifiers, but the Ombudsman and Commissioner offered 10 recommendations for further improvement.

On 27 May 2021 Ahpra and the Boards announced that all the Ombudsman and Commissioner's recommendations have been implemented or are currently being implemented.

Several significant areas of progress include Ahpra and the Boards:

- updating relevant policies to reflect that possible confidentiality safeguards for the notifier will be considered when assessing each new notification
- publishing an updated privacy policy and collection statement to clarify how personal information will be used and disclosed (particularly in relation to confidential and anonymous notifications)
- providing new guidance to staff about how to safeguard confidentiality, including in relation to redacting a notifier's information and sharing a notifier's information with the relevant practitioner.

Ahpra is awaiting further advice from health ministers about the recommended amendment to the National Law to make it an offence for a registered health practitioner to harm, threaten, intimidate, harass or coerce a notifier.

The Ombudsman and Commissioner is satisfied with Ahpra and the Boards' progress and our office has welcomed continued involvement and consultation following the review.

"I am pleased that Ahpra and the Boards have taken significant steps to strengthen and communicate the safeguards available to those who make a notification.

It's essential that people feel safe to notify Ahpra and the Boards if they are concerned that a practitioner's health, conduct or performance is putting the public at risk. Health practitioners also need to have confidence that they will be treated fairly if a notification is made about them.

I will continue to monitor issues about confidentiality safeguards for notifiers. I encourage notifiers or practitioners to contact Ahpra to discuss any concerns and to reach out to my office about any unresolved issues."

– Richelle McCausland

Vexatious notifications framework

In December 2020 Ahpra published a framework for vexatious notifications. It was an important improvement in how notifications are managed. The framework outlines how Ahpra will:

- identify potentially vexatious notifications
- manage notifications where features of a potentially vexatious notification are identified
- escalate notifications where the information suggests a notification is vexatious, including liaising with the relevant Board.

The framework is available on the [vexatious notifications page](https://www.ahpra.gov.au/Notifications/How-we-manage-concerns/Vexatious-notifications.aspx) of Ahpra's website <<https://www.ahpra.gov.au/Notifications/How-we-manage-concerns/Vexatious-notifications.aspx>>.

Understanding vexatious notifications

Ahpra defines a vexatious notification as one that is 'without substance, made with an intent to cause distress, detriment or harassment to a practitioner named in the notification'.²³ However, complainants generally express a broader definition of the term 'vexatious', which can lead to confusion. Complainants often believe:

- Ahpra and a Board should not have considered or investigated a notification that had no merit or was not warranted (irrespective of the notifier's intent in making the notification)
- the notification itself caused the practitioner distress
- Ahpra or the Board were biased or inadequately performing their functions when informing a complainant they did not believe a notification met the criteria to be 'vexatious'.

Concerns about vexatious notifications generally raise broader issues about the way Ahpra managed notifications. For example, delays in investigations or a lack of communication were frequently identified as stressors and were often the primary reason a complainant contacted our office. This suggests that broader improvements to how notifications are managed (some of which have been outlined in this report) are likely to reduce complaints of this nature.

It is also important that efforts to address the issue of vexatious notifications do not reduce the effectiveness of the notifications process. Notifications are one of the most valuable ways Ahpra and the Boards hear about risks to public safety. It is important to ensure barriers do not prevent Ahpra from receiving legitimate concerns.

This financial year we recorded 17 complaints to the Ombudsman where a practitioner raised a concern that the vexatious nature of a notification was not identified during Ahpra and the Board's examination of the notification (constituting 2 per cent of all issues raised with our office).

²³ Ahpra's website, 'Vexatious notifications', reviewed December 2020. Accessed January 2021: <https://www.ahpra.gov.au/Notifications/How-we-manage-concerns/Vexatious-notifications.aspx>

Recommendations to improve Ahpra's management of vexatious notifications

The Senate Community Affairs References Committee's inquiries in 2016 and 2017 both made recommendations about addressing the issue of vexatious notifications in the National Scheme. These recommendations included that Ahpra and the Boards needed:

- a process, method or criteria to identify vexatious complaints²⁴
- to develop and publish a framework for identifying and dealing with vexatious notifications.²⁵

In her review of the confidentiality safeguards for people making notifications about health practitioners in 2019, the Ombudsman and Commissioner recommended that Ahpra implement a framework for identifying and dealing with vexatious notifications in line with the previous Senate Committee recommendations. This recommendation stemmed from a need to address concerns about the ease of making vexatious notifications on a confidential or anonymous basis.

Ahpra accepted all the Ombudsman and Commissioner's recommendations and in October 2020 requested that our office review Ahpra's draft framework for identifying and dealing with vexatious notifications. Ahpra accepted the Ombudsman and Commissioner's suggestions, and the framework was published on 10 December 2020.

Monitoring the framework's effectiveness

Our office has received one complaint this financial year that mentioned the application of the new framework. We continue to monitor complaint trends related to concerns about Ahpra and the Boards' management of vexatious notifications.

Ahpra and the Ombudsman and Commissioner have agreed that we will undertake a formal review to assess the roll out of the framework for vexatious notifications beginning in December 2021. The review will consider whether the framework has been effective and if it has had any unintended consequences.

24 Senate Community Affairs References Committee, Medical complaints in Australia, November 2016

25 Senate Community Affairs References Committee, Complaints mechanisms administered under the Health Practitioner Regulation National Law, May 2017

**Strategic direction:
engaging and
communicating**

Launch of new visual identity and website

Following the momentous 10-year anniversary of the National Scheme in 2020, we decided to update our visual identity and our messaging to better share who we are and how we can help.

A fresh, engaging and secure website

We launched our new website in October 2020. The website has been designed to put people first and to help our diverse community navigate the complex health practitioner regulation space. It features new content about our role, how we can help and what to expect when making a complaint or applying for a review of an FOI decision made by Ahpra. One of the most exciting developments for the website is the inclusion of an online form to make it easier for people to contact us.

The website is hosted on a new platform and has mechanisms to ensure it meets privacy, security and accessibility requirements.

As part of our commitment to being transparent about our work, our website hosts our key strategic documents and policies. We also publish all monthly complaint reports.

We have already seen increases in the useability of our website, represented by a:

- 49 per cent increase in the time people spend (on average) when viewing our website
- 90 per cent increase in the number of web pages people visit when they access our site
- 40 per cent reduction in the number of ‘bounces’ (where a user leaves the website without clicking anything else).

We have also seen an increase in people accessing our website and its content, including a 117 per cent increase in page views (Table 15).

Table 15: Website traffic, 2019–20 to 2020–21

Website metric	2019–20	2020–21	Increase
How many different people visited our website	11,164	12,528	12 per cent
How many people were new visitors	11,074	12,470	13 per cent
Website visits	15,244	17,403	14 per cent
Page views	28,365	61,513	117 per cent

Our new look and logo

Since establishing our office in 2010, we have been known as the National Health Practitioner Ombudsman and Privacy Commissioner. Our new name is the National Health Practitioner Ombudsman. Our shortened name is a lot easier to remember and say.

Our new logo represents the different ways we champion fairness and strive for positive change in the National Scheme.

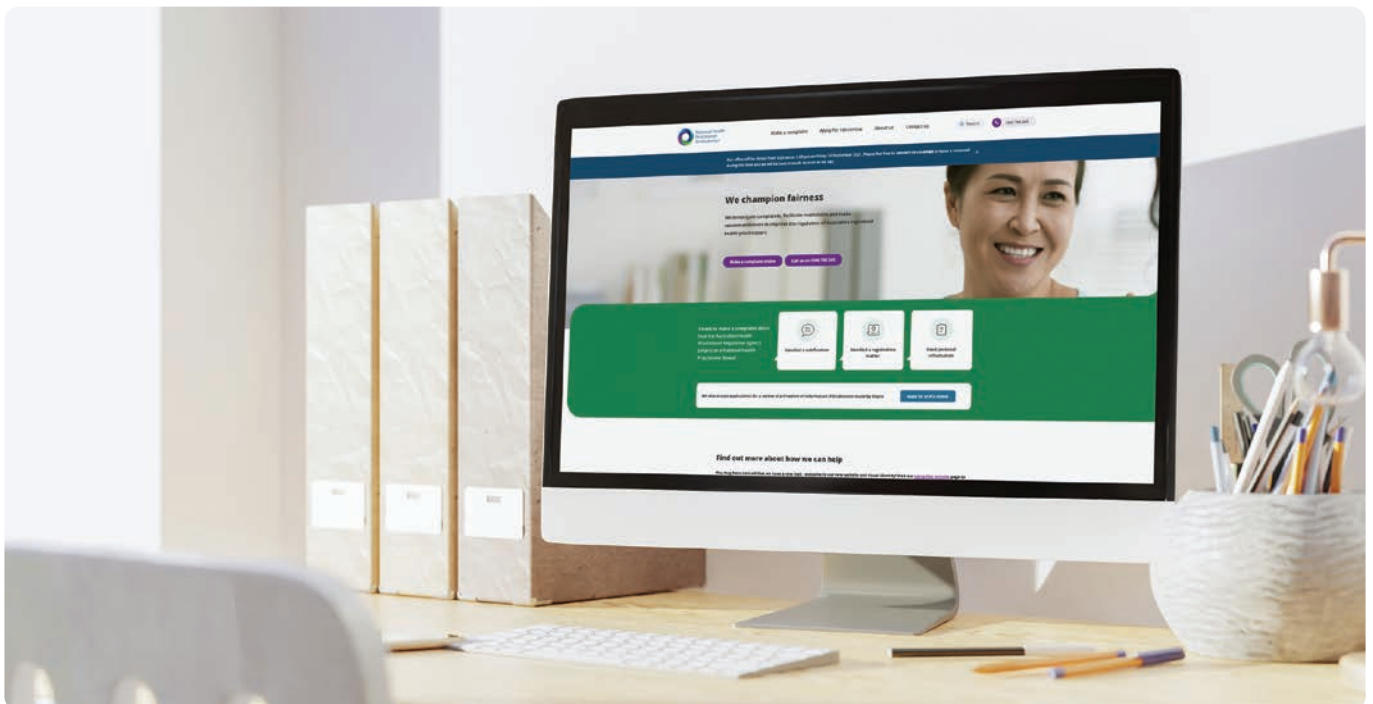
- Complaints to the Ombudsman: The green in our logo symbolises the Ombudsman's role and our assistance with complaints about how Ahpra and the Boards handled a notification about a health practitioner or a registration matter.
- Complaints to the Commissioner: The navy represents the role of the Commissioner and our assistance with complaints about Ahpra and the Boards regarding privacy and the handling of personal information.

- FOI review applications: The teal is linked to our role in conducting reviews of FOI decisions made by Ahpra.
- The purple connects the unique roles of the Ombudsman and the Commissioner with the overarching goals and values of our office and the services we provide.

Despite the shortened name, we continue to undertake the functions of both the National Health Practitioner Ombudsman and the National Health Practitioner Privacy Commissioner.



National Health
Practitioner
Ombudsman



Submissions to consultations and inquiries

Our office aims to use evidence from our complaints data and trends to contribute to discussions and respond to requests for information or consultation that could affect the regulation of Australia's registered health practitioners.

Response to regulatory principles update

Adopting regulatory principles for the National Scheme in 2014 was an important milestone. These principles have provided a touchstone to guide its administration, particularly for decision-making processes and taking regulatory action. The regulatory principles help Ahpra, the Boards and our office to better explain regulatory decisions.

We welcomed the opportunity to respond to Ahpra and the Boards' consultation on a review of the regulatory principles. We offered general support for the proposed revisions to the regulatory principles in May 2021.

Our submission highlighted that the revisions result in a clearer articulation of the intention of the National Scheme based on both the National Law and ministerial direction. We also suggested a small number of further changes that could be implemented.

Importance of public protection and confidence in the National Scheme

Our submission outlined that the proposed revisions were necessary to ensure the regulatory principles are consistent with the communique and policy direction issued by the COAG Health Council in late 2019. The COAG Health Council explained in its communique and policy direction that the paramount guiding principle for administering the National Scheme is to ensure public protection and public confidence in the National Scheme. Health ministers agreed in principle to amend the National Law to 'make explicit the guiding principle for administering the Act is that public protection and confidence in the National Scheme is paramount'.²⁶

Further suggestions

We also provided several suggestions for further review including:

- clarifying Ahpra and the Boards' risk framework, particularly focusing on current and ongoing risks to the public
- giving greater prominence to, and incorporating the principle of, ensuring public confidence in the registered health professions and the concepts of fairness and transparency.

We also supported updating the regulatory principles to recognise Ahpra and the Boards' role in developing a culturally safe and respectful health workforce that:

- responds to Aboriginal and Torres Strait Islander peoples and their health
- contributes to eliminating racism in health services.

²⁶ COAG Health Council, Communique, 31 October to 1 November 2019. Accessed April 2021: <http://www.coaghealthcouncil.gov.au/Announcements/Meeting-Communiques1>

Shared code of conduct submission

Our office also welcomed the opportunity to respond to the consultation on the Boards' review of the shared code of conduct (the shared code).²⁷ Our submission acknowledged the commitment of the 12 Boards to review their shared code to ensure it is:

- up to date, relevant and useful for practitioners
- more accessible for health consumers
- used as an effective regulatory tool to protect the public.

We supported most of the amendments outlined in the consultation paper provided by Ahpra about the shared code. This included the addition of principles to underpin the shared code, including a new principle about meeting the needs of Aboriginal and Torres Strait Islander Peoples and their health and cultural safety. Our submission stated these principles may assist practitioners to make decisions on issues that the shared code does not explicitly mention. Given the comprehensive information provided in the code, articulating key principles would likely assist practitioners to recognise and recall their responsibilities about the shared code.

We also noted new guidelines in the shared code of conduct for health practitioners about bullying and harassment and health practitioner responsibilities for making notifications (including avoiding vexatious notifications).

Further suggestions

We made several suggestions for further improvement. First, this included that the principles and their content could be expressed in shorter, more direct language. For example, the code of conduct for nurses published by the Nursing Council of New Zealand²⁸ articulates its eight principles in a clear and active voice.²⁹ The code of conduct for nurses published by the United Kingdom's Nursing and Midwifery Council similarly phrases content in active, plain language that is easy to read and remember.³⁰ The simplicity of these codes suggests these organisations have prioritised ensuring that the code guides conduct, rather than trying to cover all instances relevant to the practitioner in their daily practice.

We also suggested it would be beneficial to include new sections to:

- outline the role of notifications and mandatory notifications, how this applies to the shared code directly, and why it is important for people to feel safe to make a notification in good faith
- clearly explain all relevant complaint mechanisms and articulate the avenues available should practitioners or others experience an adverse event or believe the shared code has been breached
- better reflect how social media may affect adherence to the shared code.

27 The code of conduct is shared by the Aboriginal and Torres Strait Islander Health Practice Board of Australia, Chinese Medicine Board of Australia, Chiropractic Board of Australia, Dental Board of Australia, Medical Radiation Practice Board of Australia, Occupational Therapy Board of Australia, Optometry Board of Australia, Osteopathy Board of Australia, Paramedicine Board of Australia, Pharmacy Board of Australia, Physiotherapy Board of Australia and Podiatry Board of Australia.

28 We note that the shared code's update has taken into account the Nursing and Midwifery Board's literature review and update to its code of conduct.

29 Nursing Council of New Zealand, Code of Conduct for Nurses. Accessed June 2021: https://www.nursingcouncil.org.nz/Public/Nursing/Code_of_Conduct/NCNZ/nursing-section/Code_of_Conduct.aspx

30 Nursing and Midwifery Council, The Code. Accessed June 2021: <https://www.nmc.org.uk/standards/code>

Senate Inquiry

In March 2021 the Senate referred an inquiry into the administration of registration and notifications by Ahpra and related entities under the National Law to the Senate Community Affairs References Committee. The inquiry's scope is broad, and its terms of reference relate to several areas in the administration of registration and notification matters. The committee is due to report on its findings in late November 2021.

Our submission

The inquiry's areas of interest are also very important to our office, and we appreciated the opportunity to be invited to make a submission to the committee.

Our submission aimed to give the committee a clear understanding of how our office provides oversight in the National Scheme and the systemic issues we have identified, progress made to address or resolve these issues, and areas we continue to monitor.

Our response to the terms of reference

Our submission responded to the following terms of reference of the inquiry.

(b) the role of Ahpra, the National Boards, and other relevant organisations, in addressing concerns about the practice and conduct of registered health practitioners

We sought to clarify our role in the National Scheme, including how we make positive change in the regulation of Australia's registered health professions and our new powers in relation to accreditation functions.

We also suggested relevant reviews and updates of foundational concepts in the National Scheme that could influence this inquiry including:

- proposed legislative amendments to the National Law, particularly to recognise the paramount guiding principles of public protection and public confidence in the National Scheme

- the Boards' review of the revised regulatory principles
- the Boards' review of the shared code of conduct for registered health practitioners.

(c) the adequacy and suitability of arrangements for health practitioners subject to supervised practice as part of the registration process or due to a notification

Our submission focused on the importance of responding to timeliness and responsiveness issues. We explained we have provided informal and formal suggestions for improvement to Ahpra, including about setting expectations regarding anticipated timeframes for processing registration-related matters.

(d) the application of additional requirements for overseas-qualified health practitioners seeking to become registered in their profession in Australia

We provided the committee with information covered in this report about several issues our office has assisted with that relate to the overseas-qualified health practitioner experience including:

- our role regarding accreditation in the National Scheme from late 2021 / early 2022 that will expand our ability to consider issues related to overseas qualified practitioners, particularly complaints about assessing overseas-qualified specialist medical practitioners
- improvements to the ELSR Standard, including the need for a review of the 'recognised countries' and greater discretion for Ahpra and the Boards to consider the individual circumstances of applicants
- the application of the Recency of Practice Standard, particularly regarding effective communication and minimising delay.

(f) access, availability and adequacy of supports available to health practitioners subject to Ahpra notifications or other related professional investigations

We shared our concerns about the wellbeing of health practitioners and, as discussed further in this report, the development and implementation of an action plan with Ahpra to address this issue.

(g) the timeliness of Ahpra's investigation of notifications, including any delays in handling, assessment and decision-making, and responsiveness to notifiers

As this report has outlined, we shared an overview of the Ombudsman and Commissioner's formal comments and suggestions for reducing unnecessary delay and improving communication about the reasons for delay.

We assured the committee we will closely monitor trends in this area to determine what further action is needed, including a potential own motion investigation. Own motion investigations could include a review into:

- delays in Ahpra's investigations of health practitioners
- the frequency of Ahpra's investigation updates to notifiers and health practitioners.

(h) management of conflict of interest and professional differences between Ahpra, Boards and health practitioners in the investigation and outcomes of notifications

Our submission provided details about the suggestions our office has made to Ahpra and the Boards that have led to improvements in relevant conflict of interest policies and procedures. This includes in relation to independent practitioner opinions, Ahpra staff and Board members.

We recognised that while there continues to be opportunities for improvement, Ahpra and the Boards have taken significant steps to make these policies and procedures more robust.

(i) the role of independent decision-makers, including state and territory tribunals and courts, in determining the outcomes of certain notifications under the National Law; and (j) mechanisms of appeal available to health practitioners where regulatory decisions are made about their practice because of a notification

We provided the committee with evidence that the unique roles of our office, tribunals and courts are essential to ensuring the National Scheme operates in a fair and accountable way.

While complaints related to tribunal proceedings are outside of our office's jurisdiction, we continue to monitor instances where the administrative actions of Ahpra and the Boards intersect with the tribunal's roles in each state and territory.

(k) how the recommendations of previous Senate inquiries into the administration of notifications under the National Law have been addressed by the relevant parties

As further described in this report, we noted Ahpra's progress in publishing a framework for dealing with vexatious notifications in December 2020, and that our office would complete a review of its application beginning in December 2021.

We also noted progress in recognising the issue of bullying and harassment in the professions in the proposed revised shared code of conduct, which was released for public consultation.³¹

³¹ Ahpra and the Boards, Shared code of conduct consultation paper, May 2021. Accessed May 2021: <https://www.ahpra.gov.au/News/Consultations.aspx>

Connecting with our community

It is essential that our office is open and available to everyone who we can help.

We recognise the health complaints area can be complex and difficult for Australians to navigate. We believe sharing stories about the positive changes we have helped bring about at the individual and system levels can help demystify our important role in the National Scheme.

Productive relationships

One of our core values is being collaborative: we work with others to resolve issues and identify opportunities to improve.

This financial year, the Ombudsman and Commissioner was invited to present to several entities within the National Scheme to help build understanding about our role and how we can cooperate to achieve positive outcomes.

Media engagement

Our office received six media enquiries this financial year. This is a slight decrease from the previous financial year. This is likely because of frequent, ongoing health-related news due to COVID-19 and less proactive media engagement from our office.

Digital engagement strategy

Our focus for 2021–22 will include increasing our ability to provide effective digital communication through a digital engagement strategy. We recognise the unique opportunities provided by social media and electronic direct mail to engage and communicate with our stakeholders and ensure our services are accessible to those who need them.

A comprehensive digital engagement strategy, incorporating social media and electronic direct mail channels, will support us to:

- promote how we can help, including how to make a complaint or FOI review application
- share relevant information and updates about service availability
- create a dialogue between our office and our communities
- share targeted information, including to specific audiences such as journalists or registered health practitioners
- provide another avenue to hear and understand our audiences' views and beliefs.

**Strategic direction:
building capacity**

Addressing COVID-19 in the workplace

A key focus for the building capacity strategic direction was to support staff to navigate the challenges associated with changing working arrangements during the COVID-19 pandemic.

Wellbeing working group

One of the most significant changes during the financial year was creating our office's wellbeing working group. As with other workplaces across Australia and the world, each of our staff members experienced periods of lockdown and COVID-19-related issues in different ways. We formed the working group with a goal to better support one another through this difficult time. Some of the initiatives the working group have initiated include:

- undertaking a survey and facilitated discussion on the introduction of hybrid working arrangements
- sharing a wellbeing newsletter to promote a range of self-care activities and strategies for staff
- providing new opportunities for staff to engage, connect and support one another
- hosting a team-building workshop where staff could collaborate and connect with one another while exercising their creative skills.

Cultural safety

Another important area for capacity development this financial year was our office's progress to ensure we provide a culturally safe environment for staff and those accessing our services. A highlight for our office was undertaking three whole-of-office cultural awareness workshops with the Victorian Aboriginal Child Care Agency. The workshops centred on working respectfully with Aboriginal children, families and workers.

Following on from these workshops, we set up a working group to continue this important work. The working group has led changes to our workspaces and organisational processes to support a culturally safe workplace.

Policy and procedure improvements

Our office is dedicated to continually improving our policies and procedures. This financial year we focused on ensuring we have an evidence-based policy framework to support our team's work and staff wellbeing. Highlights in further developing this framework included:

- updating our privacy policy and introducing protective markings (protective markings are visual sensitivity labels on public sector information and indicate the sensitivity of information and signal how it should be managed)
- updating our media policy and providing social media safety training for staff
- developing a quality assurance policy and procedure, particularly in relation to the use of peer review for certain types of communication.

Governance

This financial year marked a period of significant change in our office's governance. The changes meant building essential new relationships to ensure our office continues to provide effective and efficient services.

Health Council

In May 2020 the Prime Minister, Premiers and Chief Ministers agreed to continue the National Cabinet established to coordinate Australia's response to COVID-19 and form a new National Federation Reform Council, ceasing the Council of Australian Governments.

Based on this decision, the former COAG Health Council is now known as the Health Council and the Australian Health Ministers' Advisory Council is called the Health Chief Executives Forum (the HCEF). The HCEF provides advisory support to the Health Council.

In practice, this means the Health Council is now responsible for appointing the Ombudsman and Commissioner and the HCEF approves our office's budget request each year.

Hosting arrangements

At the beginning of the financial year, the Victorian Department of Health and Human Services hosted our office, providing support in a range of different activities such as information technology, human resources and procurement.

In November 2020 the Victorian Premier announced a machinery-of-government change where the Department of Health and Human Services would become two departments – the Department of Health and the Department of Families, Fairness and Housing. This change aimed to reshape how the Victorian public service would meet ongoing challenges with the COVID-19 pandemic, Victoria's recovery and its provision of health and social services.

Department of Health

As part of these changes, our office shifted its hosting arrangements to the Department of Health (the department). This aligns with our focus on striving for positive change in the regulation of Australia's registered health practitioners.

The department is responsible for health and ambulance services, the mental health and ageing portfolios and continues leading the Victorian Government's public health response to the pandemic.

We continue to build on our hosting arrangements with the department. The Ombudsman and Commissioner welcomed the opportunity to work with the department's new Secretary, Euan Wallace, and to thank former Secretary Kym Peake for her leadership and the support she provided to our office. The Ombudsman and Commissioner continues to meet with the Secretary quarterly to improve the efficiency of our hosting arrangements and progress opportunities for further development.

**Strategic direction:
enhancing
accountability**

New accreditation powers

From late 2021 we expect the National Law to be amended to enable the Ombudsman and Commissioner to consider complaints about accreditation entities under the National Law. This will benefit the National Scheme and health practitioners by:

- increasing accountability and transparency in accreditation matters
- enhancing consistency in the National Scheme's approach to handling complaints about accreditation processes.

The Ombudsman and Commissioner's role will be expanded to include:

- accepting complaints about how accreditation entities handle matters, in line with the Ombudsman's current powers
- accepting privacy complaints to the Commissioner about accreditation entities.

The FOI Act does not apply to accreditation entities and so the scope of our role has not been expanded in relation to reviewing FOI matters.

Why our role has expanded

In early 2020 health ministers agreed an independent review should be undertaken into the procedural aspects of accreditation processes. This followed Professor Michael Woods' recommendations in his Accreditation Systems Review in October 2018.

Professor Woods' review examined options for reforming accreditation systems and structures and made recommendations about overall policy directions for Australia's health workforce.

Importance of independent oversight

Professor Woods found in his review that despite the significant impact decisions made by accreditation entities have on institutions and health practitioner registrants, there was no right of appeal of these decisions other than to ask for a judicial review.

It was acknowledged that proceeding with a review through the courts is expensive, time consuming and beyond the reach of most people.

Professor Woods therefore recommended:

- accreditation entities and their functions should be subject to the same requirements as all other decision-making entities specified under the National Law. These encompass privacy, FOI and the role of our office in reviewing administrative actions relating to:
 - (a) health profession accreditation bodies in relation to programs of study and education providers of those programs
 - (b) postgraduate medical councils and specialist colleges in relation to the accreditation of training posts/sites
 - (c) any designated entity undertaking an assessment of the qualifications of an overseas-trained practitioner (including specialist colleges).

Consistent and efficient appeals processes

Professor Woods also found that while accreditation authorities have internal appeal procedures, there were variations in transparency and efficacy. It was therefore recommended that our office reviews the grievances and appeals processes of the accreditation entities, with the view to making recommendations for improvements.

Health ministers agreed this review was necessary and should be extended to include a review of the procedural aspects of accreditation processes to ensure fairness and transparency.

Our office welcomed the opportunity to work with accreditation entities to establish strong complaint- and appeal-handling processes, and to build essential relationships with these entities before we begin accepting complaints about accreditation authorities.

About the review of accreditation processes

The Ombudsman and Commissioner began her independent review of relevant accreditation processes in the National Scheme in December 2020.

The review is primarily considering the quality of the existing complaint and appeal processes of entities performing accreditation functions within the National Scheme. The review is also generally considering the fairness and transparency of accreditation processes because any issues associated with these areas can result in higher numbers of complaints.

The role of accreditation entities

Accreditation entities have an essential role in the National Scheme including to:

- develop accreditation standards for a Board's approval
- accredit and monitor education providers and programs of study to ensure they meet the necessary requirements
- assess overseas-qualified practitioners and accrediting authorities
- provide advice to the Boards about these functions.

Multiple accreditation bodies, including specialist colleges, are responsible for undertaking the National Scheme's accreditation functions. The accreditation process varies by health profession.

Types of accreditation authorities

There are two types of accreditation authorities in the National Scheme: external accreditation entities and committees established by the Boards.

Some accreditation authorities also have arrangements with other entities, such as specialist medical colleges, to perform certain accreditation functions. This can include accrediting training sites and assessing the qualifications of overseas-trained practitioners.

External accreditation authorities

External accreditation authorities work with the relevant Board to deliver specified accreditation functions under a formal agreement with Ahpra on the Board's behalf.

Committees established by the Boards

Committees established by the Boards work with the Board based on the committee's terms of reference.

What the review is considering

The review focuses on the internal complaint and appeal mechanisms of accreditation authorities, including specialist medical colleges. We are working with accreditation authorities to ensure the handling of complaints reflects best practice. The [terms of reference](https://www.nhpo.gov.au/accreditation-processes-review) for the review are available on our website <<https://www.nhpo.gov.au/accreditation-processes-review>>.

Our assessment of complaint and appeal procedures will be based on existing standards related to these areas, including consideration of the:

- Australian Standard AS/NZS *Guidelines for complaint management in organisations* (10002:2014)
- Commonwealth Ombudsman's Better practice guide to complaint handling.

We may also consider whether other processes followed by bodies performing accreditation functions under the National Law are:

- aligned with the principle of procedural fairness
- transparent and easily understood
- applied consistently and fairly.

How we will conduct the review

We are undertaking the review in three key stages:

- reviewing the processes of specialist medical colleges
- reviewing the processes of all other accreditation entities exercising accreditation functions
- preparing and finalising the written report of the review.

The Ombudsman is providing regular progress updates to the HCEF about the review via the New South Wales Ministry of Health, and will provide a written report on completion.

We are using a range of information sources to conduct this review. This includes:

- information provided by entities exercising accreditation functions about their current policies and procedures when handling complaints and appeals, and performing other accreditation functions
- submissions from, and consultations with, other bodies involved in accreditation such as the Boards, Ahpra, Ahpra's Agency Management Committee, the Accreditation Liaison Group and the Health Professions' Accreditation Collaborative Forum
- documentation about the roles and responsibilities of accreditation entities, such as accreditation agreements between Ahpra and accreditation entities, the quality framework developed for the accreditation function, and the good practice guidelines issued by the Boards about complaint-handling and accreditation processes
- the reports and outcomes of recent relevant reviews including, for example, Deloitte's external review of the specialist medical colleges' performance conducted in 2017
- applicable complaint-handling standards and guides
- submissions from, and consultations with, any interested organisations and members of the community.

Collaborative reviews

Our office values working collaboratively to identify and address issues that may affect health practitioners or the public when they engage with the National Scheme.

An important development that we have welcomed this financial year is Ahpra proactively asking for feedback from the Ombudsman and Commissioner on new policies or processes before they are implemented. This is valuable work because it gives us the opportunity to shape new initiatives in a way that avoids issues that could lead to dissatisfaction or complaints.

For example, in May 2021 Ahpra invited our office to take part in a joint workshop on a desktop guide it had developed for its regulatory advisers. The desktop guide aimed to provide a quick reference for Ahpra staff when they are contacting a practitioner for the first time about a notification. The workshop provided the opportunity for Ahpra's staff to learn from our staff about what we thought was working in the guides, and what could be improved, based on our experience in dealing with complaints. It also provided the opportunity for us to better understand from Ahpra staff how they communicate with practitioners. This proactive and collaborative approach to new initiatives has the potential to benefit the National Scheme as a whole.

Financial statement

Health practitioner registration fees fund our office. Each year we submit an annual budget proposal to the HCEF. On approval, the department (as our host) raises quarterly invoices on our behalf, which are payable by Ahpra. These funding arrangements are outlined in memorandums of understanding with Ahpra and the department.

At the end of each financial year, we hold onto any unspent funds to invest in longer term projects. Longer term projects proposed for 2021–22 include our digital strategy and refinements to our new case management system.

Our financial statement

The department provides financial services to our office. Our financial operations are consolidated with the department's 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 2020–21 is provided below and has been certified as true and correct by the department's chief finance officer.

Retained earnings balance 1 July 2020	\$593,229
2021–21 revenue (invoices raised to Ahpra)	\$2,570,000

Expenditure for 2020–21

Salaries	\$1,633,325
Salary on-costs	\$251,369
Supplies and consumables	\$849,941
Indirect expenses (includes depreciation and long service leave)	\$84,722
Total expenditure	\$2,819,357
Balance as at 30 June 2021	\$343,872

Appendix 1:

Data definitions

Complaint refers to the individual complaint files we create based on each notification, registration or regulatory matter raised by the complainant.

Complaint type refers to the main regulatory area the complaint relates to. Complaint types include: notification, registration, customer experience, accreditation, offence or FOI handling.

Complaint type directly relates to an individual complaint and therefore allows us to compare data we've recorded this year with previous financial years.

Issue refers to the concern driving a complaint. We generally refer to the issues recorded by complaint type, but we may also refer to issues that have been identified across all complaints.

We can record multiple issues on each complaint. When we report on issues, we are reporting on all issues recorded.

Outcome type refers to the stage in our complaints process in which the complaint is finalised. The outcome types are: assessment, preliminary inquiry, early resolution transfer and investigation.

Outcome(s) refers to the way or ways we resolved or finalised a complaint. We generally report on what outcomes we achieved based on the stages of the complaint process and complaint type. We can record up to three outcomes for each complaint.

Complaints received refers to complaints we received based on the complaints we recorded receiving between 1 July 2020 and 30 June 2021.

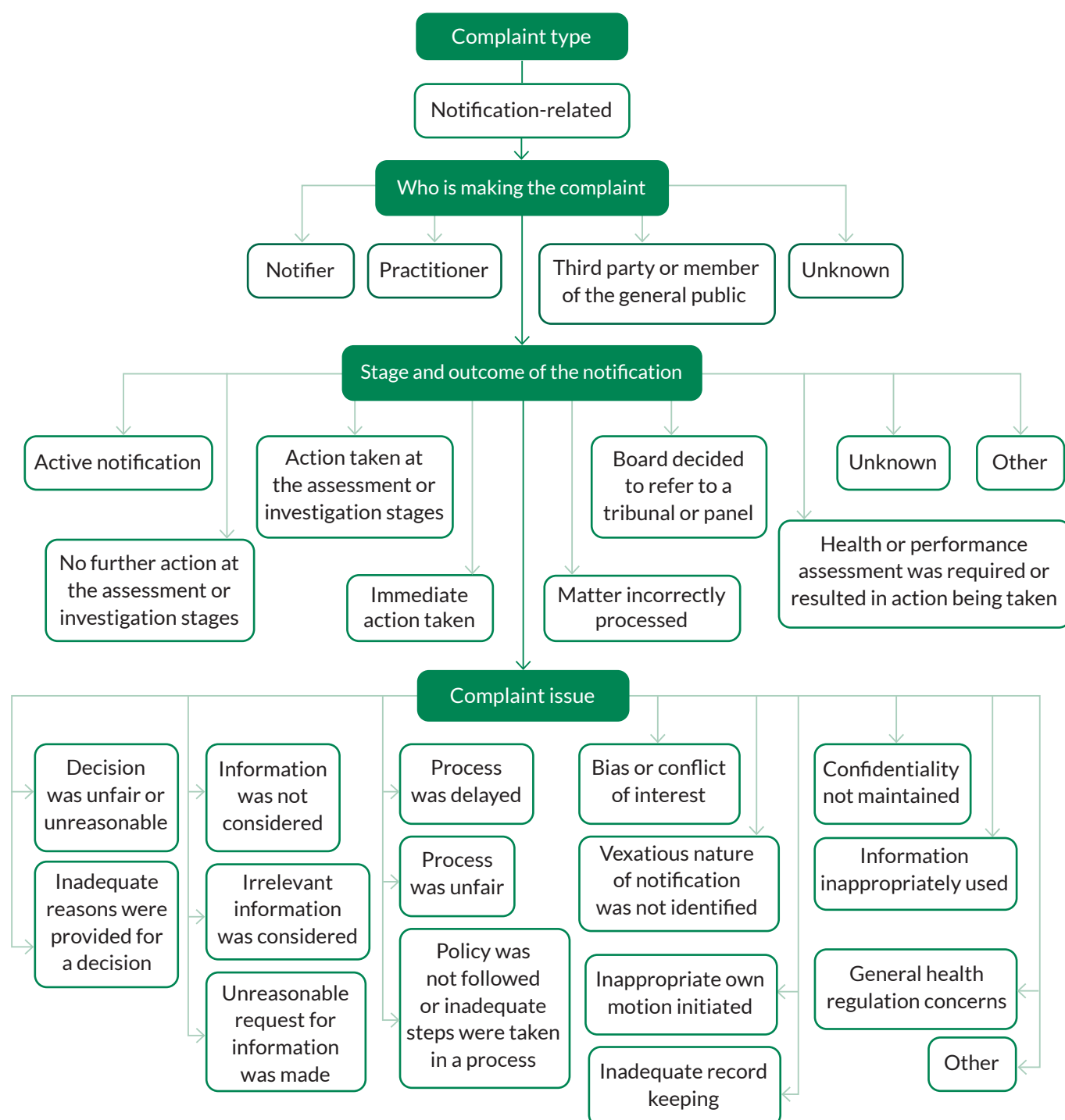
Complaints progressed based on stage in our complaint-handling process refers to progress of complaints based on when we started a particular process between 1 July 2020 and 30 June 2021.

Complaints finalised refers to complaints we finalised based on the complaints we closed between 1 July 2020 and 30 June 2021.

Appendix 2: Complaint type information

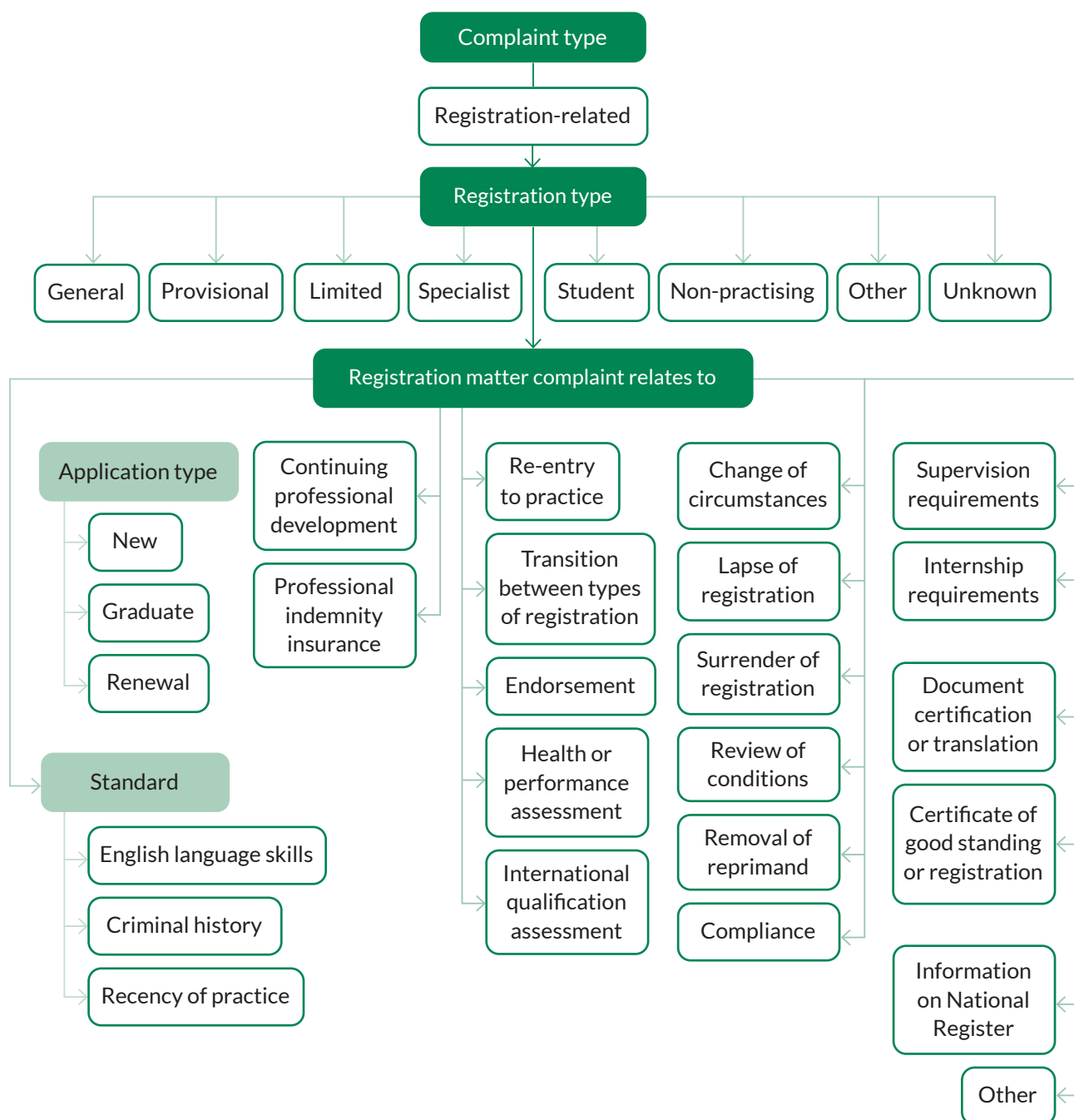
Notification-related complaint type information

Notification-related complaints are recorded based on the following categories.



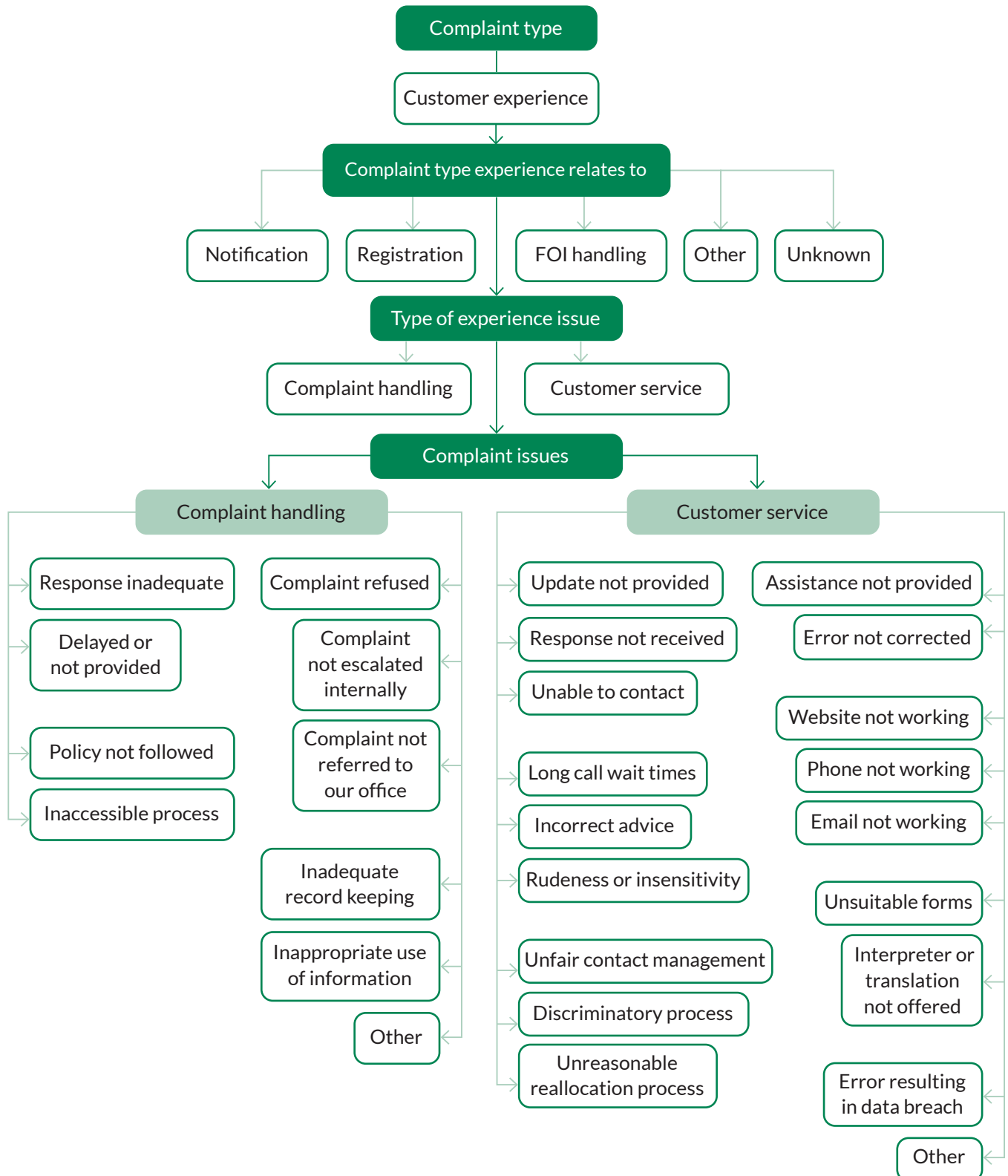
Registration-related complaint type information

Registration-related complaints are recorded based on the following categories.



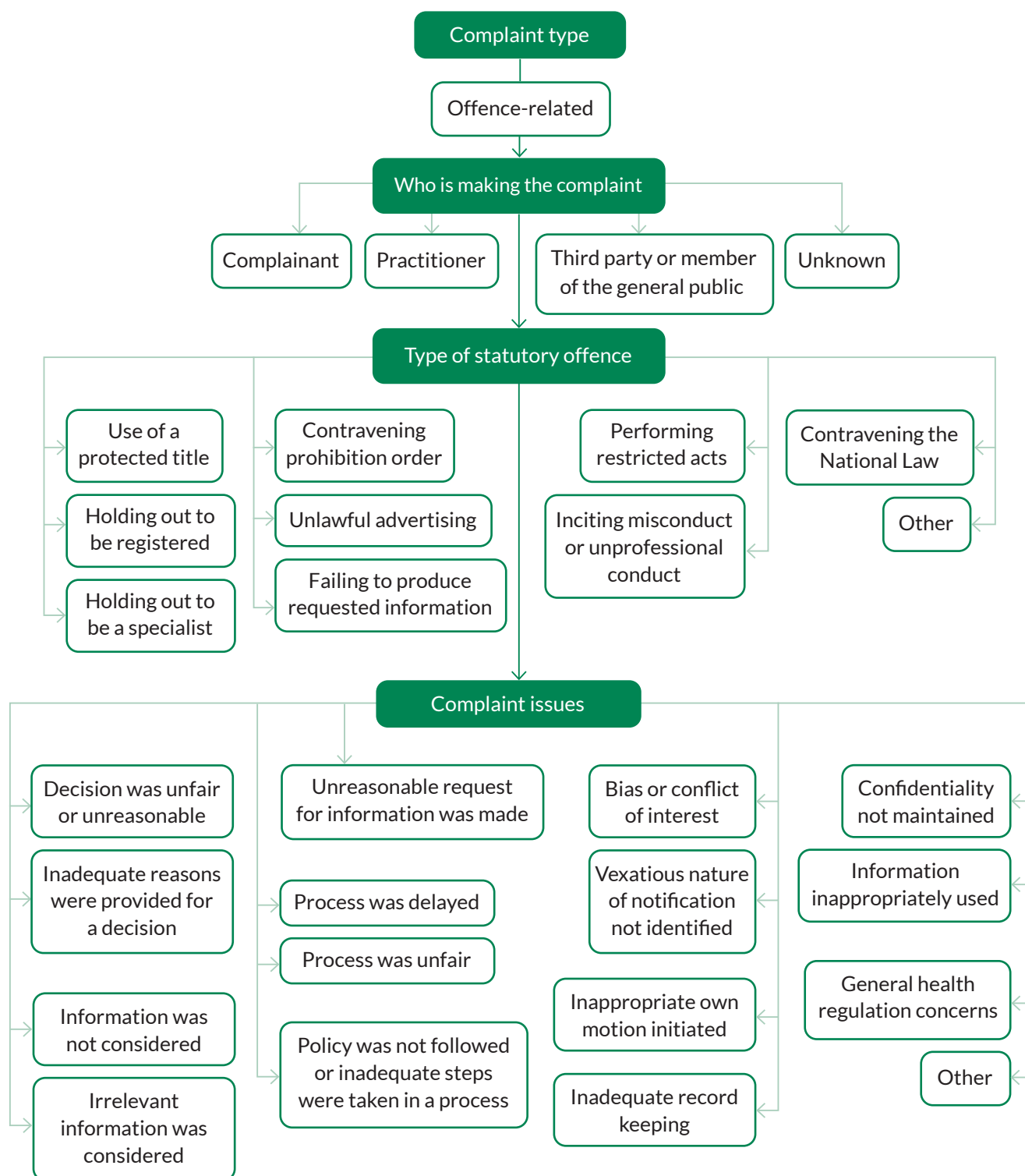
Customer experience complaint type information

Customer experience-related complaints are recorded based on the following categories.



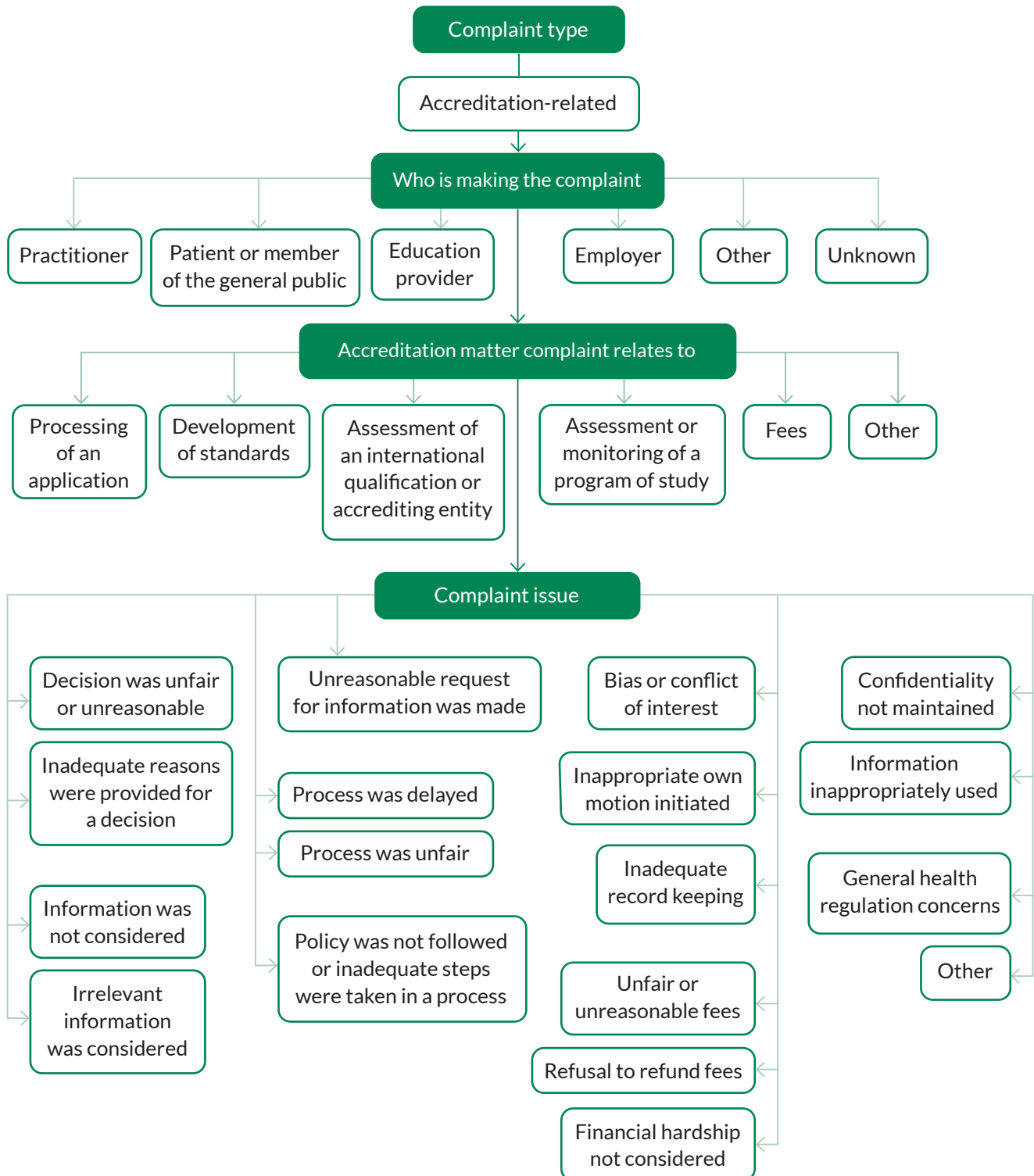
Offence complaint type information

Statutory offence-related complaints are recorded based on the following categories.



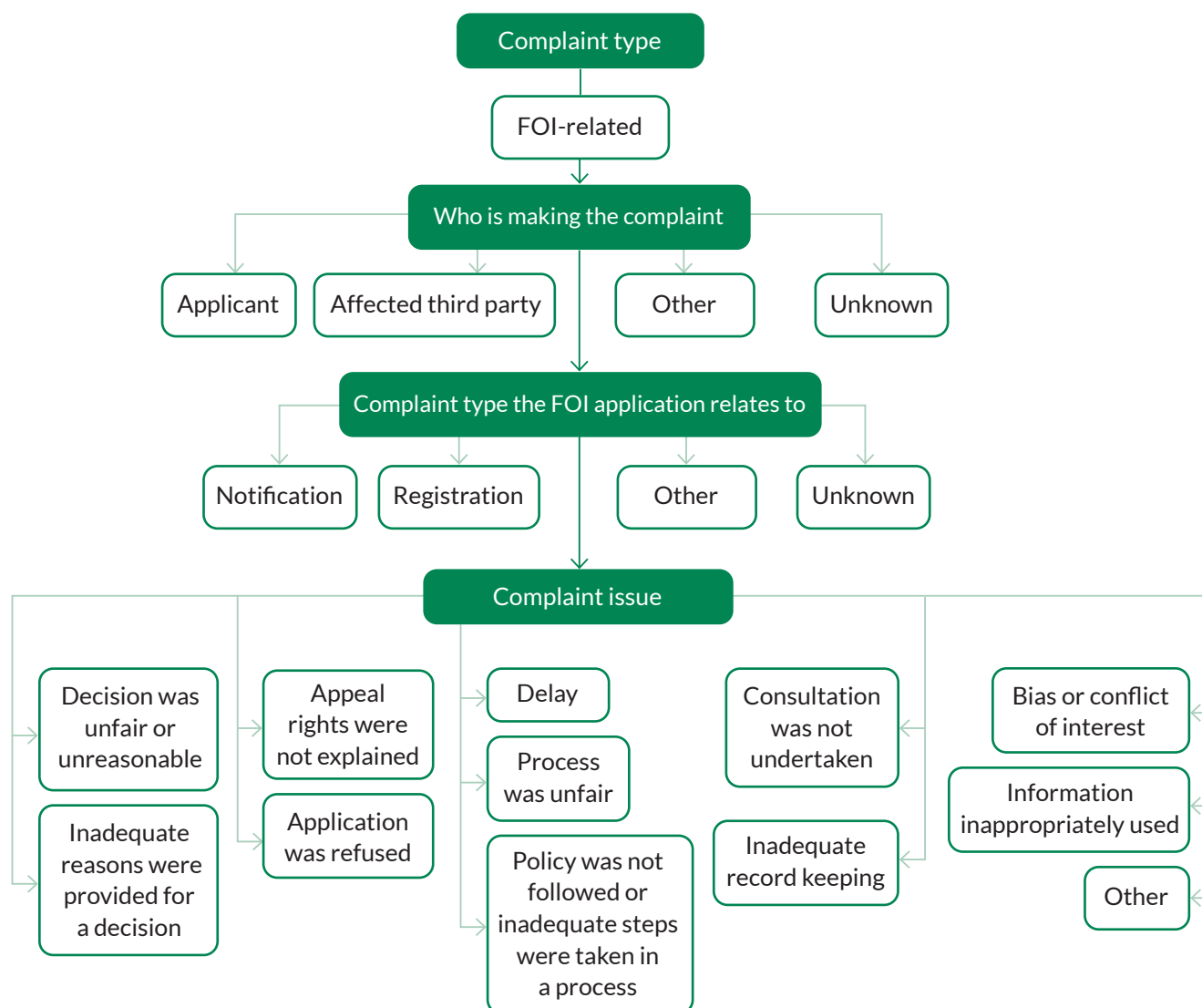
Accreditation-related complaint type information

Accreditation-related complaints are recorded based on the following categories.



Freedom of information–related complaint type information

FOI-related complaints are recorded based on the following categories.



Appendix 3:

Commissioner complaints

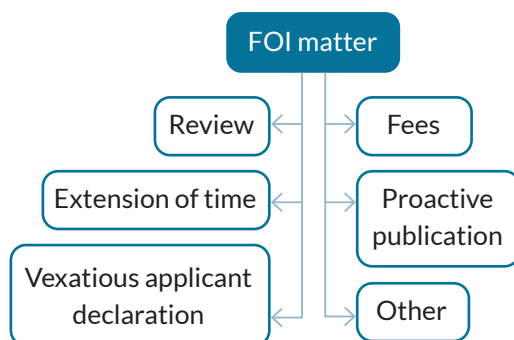
Privacy complaints to the Commissioner are recorded based on the Australian Privacy Principles. We record privacy complaints differently from complaints to the Ombudsman.

Australian Privacy Principle	Issue
Management of personal information	<ul style="list-style-type: none">• Inadequate privacy policy• Inaccessible privacy policy• Inadequate management of enquiries or complaints• Noncompliant practices• Other
Anonymity and pseudonymity	<ul style="list-style-type: none">• Failure to allow a pseudonym• Failure to allow anonymity• Other
Solicited personal information	<ul style="list-style-type: none">• Unnecessary collection of information• Non-consensual collection of sensitive information• Collection of information not directly from individual• Unlawful or unfair collection of information• Other
Unsolicited personal information	<ul style="list-style-type: none">• Failure to destroy or de-identify• Other
Notice about collection	<ul style="list-style-type: none">• Failure to notify of collection• Failure to notify of purpose of collection• Failure to notify of consequences of not collecting• Failure to notify how information might be disclosed• Failure to notify of privacy policy• Other
Inappropriate use or disclosure	<ul style="list-style-type: none">• Impacting notifier• Impacting practitioner• Impacting third party• Other
Direct marketing	<ul style="list-style-type: none">• Inappropriate use of information• Other
Cross-border disclosure	<ul style="list-style-type: none">• Failure to ensure overseas recipients adhere to the principles• Other

Australian Privacy Principle	Issue
Government-related identifier	<ul style="list-style-type: none"> • Unreasonable use of identifier • Other
Quality of personal information	<ul style="list-style-type: none"> • Failure to ensure information is accurate • Use of information that is not accurate • Other
Security of personal information	<ul style="list-style-type: none"> • Failure to protect information • Failure to destroy or de-identify information • Other
Access to personal information	<ul style="list-style-type: none"> • Refusal to allow access to information • Unfair or unreasonable processing of request • Delay in processing request • Failure to provide adequate reasons for decision • Other
Correction of personal information	<ul style="list-style-type: none"> • Failure to correct personal information • Unfair or unreasonable processing of request • Delay in processing request • Failure to associate statement with information • Other
Other	<ul style="list-style-type: none"> • Other

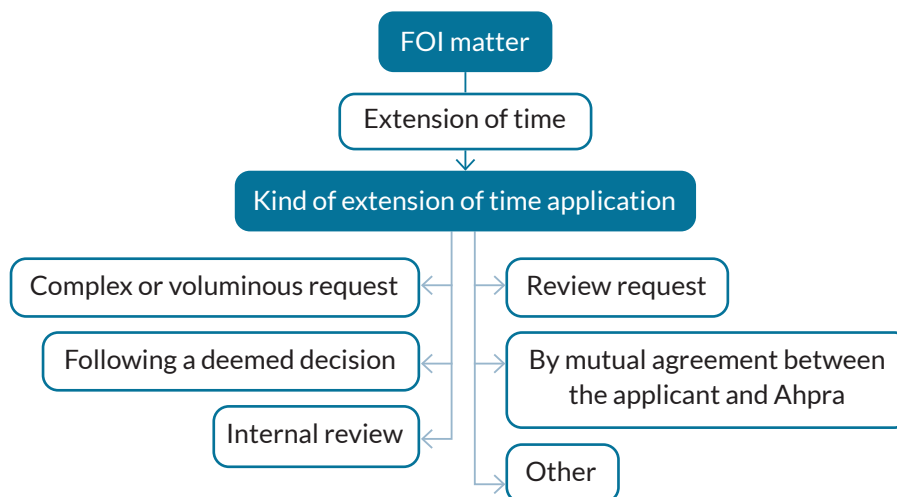
Appendix 4: Freedom of information matters

Freedom on information (FOI) matters that the Commissioner considers are also recorded differently.



Extension of time

We record applications for extensions of time in the following categories.



Freedom of information review

We record FOI review applications in the following categories.

