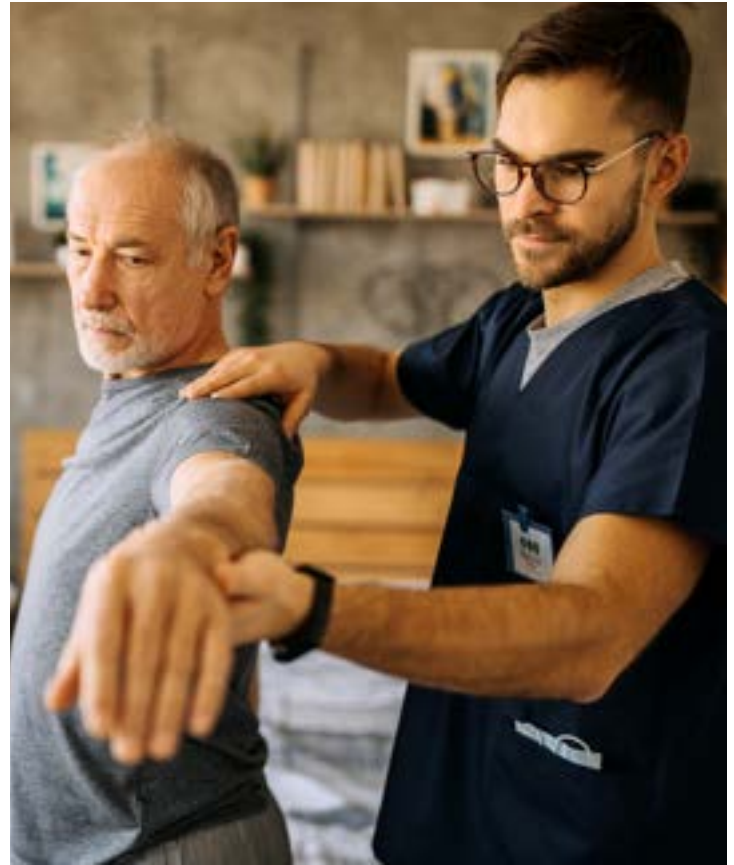




HEALTH COMPLAINTS COMMISSIONER

Supporting safe and ethical healthcare



ANNUAL REPORT 2023-24



OUR PURPOSE

Support the consumer's voice and learn from complaints to help drive ongoing improvement in the quality of health services in Victoria.

OUR MISSION

Our independent service assists consumers and healthcare providers, through fair and effective complaint handling, education and regulatory actions.

OUR VALUES

ACT WITH INTEGRITY

We operate in an impartial and independent way. We always maintain high professional standards.

BE RESPECTFUL

We respect others and always take a person-focused approach.

BE SUPPORTIVE

We focus on protecting and promoting the health and wellbeing of our people and the community. We strive to equip people to help themselves thrive.

BE INNOVATIVE

We are committed to continuous learning and improvement in the health services sector and in the way we operate every day.

ACKNOWLEDGEMENT OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES LIVING IN VICTORIA

The department acknowledges the strength of Aboriginal and Torres Strait Islander peoples across the Country and the power and resilience that is shared as members of the world's oldest living cultures.

We acknowledge Aboriginal and Torres Strait Islander people as Australia's First People and recognise the richness and diversity of all Traditional Owners across Victoria.

We recognise that Aboriginal and Torres Strait Islander people in Victoria practice their lore, customs and languages, and nurture Country through their deep spiritual and cultural connections and practices to land and water.

We are committed to a future based on equality, truth and justice. We acknowledge that the entrenched systemic injustices experienced by Aboriginal and Torres Strait Islander people endure, and that Victoria's ongoing treaty and truth-telling processes provide an opportunity to right these wrongs

and ensure Aboriginal and Torres Strait Islander people have the freedom and power to make the decisions that affect their communities.

We pay our deepest respect and gratitude to ancestors, elders, and leaders – past and present. They have paved the way, with strength and fortitude, for our future generations.

DIVERSITY STATEMENT

At Health Complaints Commissioner, we recognise and value that diversity, equity and inclusion are at the core of who we are as an organisation. These values are central to our mission to assist consumers and healthcare providers, through fair and effective complaint handling, education and regulatory actions. We celebrate having diverse and inclusive perspectives to help us better understand our stakeholders and generate better ideas. Our commitment is to create a workplace that cultivates diversity, equity and inclusion and which reflects the diversity of the Victorian community we serve

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FOR MORE INFORMATION

This Annual Report details our performance over the 2023 – 2024 financial year against performance of the Commissioner’s functions under the Health Complaints Act (2016) our mission and Service Charter. Our office administers the Health Complaints Act 2016 and Health Records Act 2001.

FOR CONSUMERS

If you want more information about our role or if you want to make a complaint about a health service, please visit hcc.vic.gov.au or call us on 1300 582 113.

FOR HEALTH SERVICE PROVIDERS

If you would like more information about our process, if we received a complaint about you, or about training, resources or your responsibilities under the Health Complaints Act 2016 and Health Records Act 2001, please visit hcc.vic.gov.au or call us on 1300 582 113

DISCLAIMER

All names used in the case studies throughout this report have been changed for privacy reasons. The images accompanying case studies are not of complainants or health service providers.

DATA DISCLAIMER

The nature of case / complaint management means that the data are dynamic and can change over time as more information comes to light during the case management process. This can result in reclassification of cases in accordance with our complaint and enquiry definitions. Additionally, it is not uncommon for complainants to contact our office through multiple channels simultaneously, i.e. by email, online complaint form submission and by telephone. As we identify these multiple versions of the same case these may be consolidated. Occasionally our office needs to reopen complaints as new information comes to light following complaint closure.

A MESSAGE FROM THE COMMISSIONER



ADJUNCT PROFESSOR

BERNICE REDLEY

HEALTH COMPLAINTS
COMMISSIONER

Welcome to the 2023-2024 Health Complaints Commissioner's Annual Report, my third as Commissioner.

The past financial year has seen a 15% increase in overall demand for our services. Not only did we rise to this challenge, but we also exceeded our performance of previous years while also implementing significant work to improve our service for our users, our staff and the community. I wish to acknowledge the outstanding efforts of our staff to achieve this great result.

On 1 July 2023 we commenced implementation of our 2023-27 Strategic Plan. In this first year of executing the plan, we prioritised strategies about Our People and Our Process to establish a strong foundation for work in subsequent years. Progress across the four priority focus areas was as follows:

Our people: Our primary focus this year has been on cultivating a great place to work by enabling a culture of supportive collaboration and continuous learning. To achieve this goal, we have implemented a Staff Capability Framework, a Learning and Development Plan aimed at building the confidence and expertise of our employees, and a Psychological Hazard Risk Management Plan to support staff wellbeing. Success in this area is reflected in the improved results of our 2024 People Matters Survey.

Our processes: We have made significant progress in improving our internal processes for complaint handling to better serve our users (complainants and service providers), our staff and the community. Despite an increase in demand during 2023-24, we have successfully improved the responsiveness of our telephone service, taken timely action on high-risk complaints, reduced the overall time to finalise cases, including a 20% improvement in cases resolved within 7 days.

Our impact: Throughout the year, we engaged with a wide range of consumers, providers and other stakeholders to help us update our Complaint Handling Standards and Service Charter for the next

3 years. We also shared data insights with key stakeholders and major hospitals to help guide complaint handling and service improvement efforts. We have completed our Risk Appetite Statement to inform our Risk Management Plan. Success is reflected in the high levels of engagement and the considered regulatory actions taken to safeguard the Victorian public.

Our users: Our users, health consumers and health service providers, are at the centre of all our work. This year we piloted a measure of satisfaction with our phone service and completed research examining consumer experiences of our service to inform priorities for future improvement work and measuring success. We have added the Complaint Handling electronic learning module to our online education offering and defined our Engagement Framework.

We have experienced an increase in demand for our services, which has been challenging at times. Thanks to our efforts raising awareness of the HCC, we have seen a 30% increase in enquiries. The number of complaints has remained consistent.

During the 2023-24 year, I have personally participated in a range of events across the state. This included visits to 9 regional and 15 metropolitan public hospitals, as well as attendance at 14 health industry events and conferences. I also delivered lectures to undergraduate and postgraduate health students at several universities.

Finally, I am pleased to announce the addition of 5 new members to our Advisory Council. Catherine Dunlop, our president, and Tony McBride are serving the last of their 3-year terms. I take this opportunity to thank the retiring members, Jennifer Morris, Susan Sdrinis, and Andrea Driscoll for their service and valuable contributions to the HCC over recent years.

I look forward to sharing our progress as we continue to implement our Strategic Plan into 2025 and beyond.

Adjunct Professor Bernice Redley
Health Complaints Commissioner

OUR ADVISORY COUNCIL

The HCC Advisory Council is appointed by the Victorian Minister for Health. Its functions are to:

- Liaise with health service providers and consumers to advise the Commissioner in the development of a practice protocol and complaint handling standards, and
- Provide advice to the Commissioner, on the request of the Commissioner, regarding any function or power of the Commissioner.

THE HCC ADVISORY COUNCIL FOR 2023-2024

We welcomed 5 new members to our Advisory Council in 2023. Two members, Catherine Dunlop, our president, and Tony McBride are ongoing, serving the last of their 3-year terms.

The full profile of our Advisory Council members can be found on the HCC website.



MS. CATHERINE DUNLOP (PRESIDENT)

Catherine is a partner at Maddocks Lawyers, specialising in workplace and public health and safety, investigations, inquests and inquiries. She brings experience in handling some of Victoria's most significant safety matters, inquisitorial hearings and Royal Commissions. Catherine is serving her third and last 3-year term as President of the HCC's Advisory Council.



MR. TONY MCBRIDE

Tony is a former CEO of the Health Issues Centre, a Victorian consumer advocacy and research organisation. He brings more than 40 years' experience in the health and community sectors, and has held positions in non-government organisations, local, federal government and a university. This is Tony's third and last 3-year term as member of the HCC's Advisory Council.



PROFESSOR CLARICE TANG

Clarice is a professor of Physiotherapy at Victoria University. As a registered physiotherapist, Clarice brings extensive clinical experience working across a variety of health institutions in Victoria and in research improving health outcomes for people with chronic diseases from culturally and linguistically diverse backgrounds. Clarice is currently serving her first term on the HCC Advisory Council.


MS. KELLY GRIFFITHS

Kelly is a Partner in the Disputes and Investigations team of Gadens Lawyers. With specialist expertise in relation to healthcare regulation, investigations and litigation, Kelly brings a wealth of experience to her role. Kelly is also an experienced company director in the healthcare industry. This is Kelly's first term on the HCC Advisory Council.


MS. KERRY MAY

Kerry is an experienced health care executive with over 25 years' experience in both public and private health care sectors. She is currently the CEO of Frances Perry House, a private maternity hospital in Melbourne. Kerry considers it a privilege to care for her community and deliver the highest patient and family experience - supported by an amazing staff experience. This is Kerry's first term on the HCC Advisory Council.


PROFESSOR LISA MCKENNA

Lisa has served as the Dean of the School of Nursing and Midwifery at La Trobe University in Melbourne since January 2017. She brings extensive experience in teaching undergraduate and postgraduate health professionals, as well as in research on various aspects of nursing, midwifery and health professional education. She has a particular focus on health workforce, professional practice and patient safety. This is Lisa's first term on the HCC Advisory Council.


MS. CATE GRINDLAY

Cate is the Executive Director of Integrated and Primary Care at Your Community Health. She is a registered nurse, holding postgraduate qualifications in midwifery, health consumer and community engagement as well as a Masters in Healthcare Leadership. Cate brings extensive experience in clinical leadership, clinical quality, safety and governance, stakeholder engagement and change management. Cate is serving her first term on the HCC Advisory Council.

REVISED COMPLAINT HANDLING STANDARDS & SERVICE CHARTER (2023)

The Commissioner is required under section 134 of the Health Complaints Act 2016 (HCA) to review the Complaint Handling Standards and Service Charter at least once every 3 years. The Commissioner undertook a two-phase process of consultation with consumers, health service providers and key stakeholders which ran from July 2023 to February 2024.

Phase 1 consisted of a public consultation paper that included draft amended Complaint Handling Standards and Service Charter. These documents were released on the Commissioner's website and promoted through social channels and in direct emails to a wide range of stakeholders. Face-to-face forums were also conducted with key stakeholders in metropolitan, rural and regional areas of Victoria. Phase 2 involved targeted consultation with consumers via the Health Issues Centre and selected health service providers. Stakeholder feedback was integrated into the final standards outlined below.

The revised Complaint Handling Standards (2023) were published in the Government Gazette in April 2024, and on the HCC website in May 2024 in line with our obligations under our legislation.



COMPLAINTS HANDLING STANDARDS

STANDARD 1

POLICIES AND PROCEDURES



Health service providers have a complaints management system which enables timely acknowledgement and resolution of the complaint.

STANDARD 2

EFFECTIVE COMMUNICATION



Ensure clear and concise communication with complainants, actively listen to their concerns, confirm accurate understanding, and provide relevant updates throughout the resolution process.

STANDARD 3

FAIR AND IMPARTIAL REVIEW & RESPONSE



Conduct a thorough and unbiased review of complaints, ensure all relevant information and different perspectives are considered before reaching an outcome.

STANDARD 4

TRANSPARENT RESOLUTION



Provide complainants with a clear explanation of the findings, the reasons behind a resolution decision, and any actions taken to address the complaint.

STANDARD 5

CONTINUOUS IMPROVEMENT AND RECORD KEEPING



Regularly review and evaluate complaint handling processes, identify areas for improvement, implement corrective actions and monitor effectiveness to enhance overall complaint management.



READ MORE ABOUT COMPLAINT HANDLING STANDARDS AND GUIDING PRINCIPLES

SERVICE CHARTER

Our Service Charter reflects our commitment to providing excellent customer service. It outlines the standards of service that complainants and health service providers can expect from us, as well as the expectations we have from them when interacting with our office. Our Charter also clarifies what we can and cannot do, our approach to working with complainants and health service providers and the process of lodging a complaint regarding services received from our office.

The revised Service Charter (2023) was published on the HCC website in May 2024 in line with our obligations under our legislation.

COMPLAINTS ABOUT US



During the year we received 87 complaints about our service delivery. Of those, 68 were made directly by complainants, and 17 were enquiries raised by the Victorian Ombudsman on receipt of a complaint about the HCC. Two complaints were raised by Safer Care Victoria. It is worth noting that none of the enquiries made by the Ombudsman escalated to a formal investigation. Of the finalised service delivery issues raised, 44% were substantiated. Delays in service and dissatisfaction with complaint outcomes were the most common issues.

→ REVISED SERVICE CHARTER



STRATEGIC PLAN



This was the first year of implementing the HCC's new, 2023-27 strategic plan. We have started seeing some positive results across our 4 priorities as outlined in the Commissioners message on page 4.



OUR USERS

EXCELLENCE IN CUSTOMER SERVICE


Our service demonstrates understanding, impartiality and transparency for all involved.



OUR PEOPLE

CREATE A GREAT PLACE TO WORK



We are a thriving organisation, with a high performing and engaged workforce, enabled by a culture of support and continuous learning.



OUR PROCESSES

BEST PRACTICE IN COMPLAINT MANAGEMENT

We deliver efficient, effective, and fit-for-purpose complaints management.



OUR IMPACT

MAKING A DIFFERENCE WITH SYSTEM-WIDE CHANGE

We use our data, insights, and collaborative relationships to identify regulatory and other changes to improve quality of the health sector.

HIGHLIGHTS

THE YEAR IN REVIEW 2023-2024

IN 2023-24 WE RECEIVED



5,582
COMPLAINTS



5,394
COMPLAINTS
UNDER THE HCA

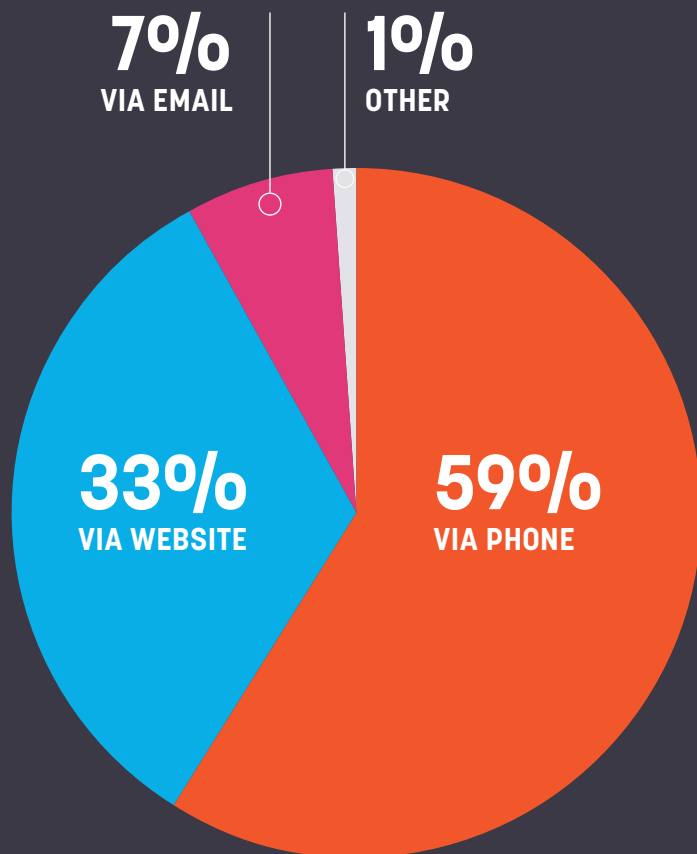


188
COMPLAINTS
UNDER THE HRA



3,458
ENQUIRIES

HOW COMPLAINTS WERE MADE



PHONE CALLS

We received
12,367
CALLS

We answered
83%
OF ALL CALLS

Users waited an
average of
5m 51s

WE FINALISED



5,683

COMPLAINTS



2,342

WITHIN 30 DAYS



3,495

WITHIN 90 DAYS



3,454

ENQUIRIES



2,234

WITHIN 3 DAYS

INVESTIGATIONS

We commenced

17

INVESTIGATIONS
UNDER THE HCA

This comprised of

11

COMPLAINT
INVESTIGATIONS

6

OWN-MOTION
INVESTIGATIONS

The Commissioner
issued

32

ORDERS

and published

1

GENERAL HEALTH
WARNING STATEMENT

We finalised

15

INVESTIGATIONS

9

OWN MOTION
INVESTIGATIONS

and

6

COMPLAINT
INVESTIGATIONS

Across these finalised
investigations, we
identified

25

CODE BREACHES

There was

1

REVOCATION OF A
PROHIBITION ORDER

PUBLIC HOSPITALS WITH 10+ CLOSED COMPLAINTS

FY2023/24 COMPARED TO PREVIOUS YEAR

SORTED BY % ADVISED TO ATTEMPT DIRECT RESOLUTION

PUBLIC HOSPITALS	HOSPITAL CATEGORY	FY 2022/23			FY 2023/24		
		COMPLAINTS PER 1000 SEPARATIONS	% OF COMPLAINTS ADVISED TO ATTEMPT DIRECT RESOLUTION S14(i)	% OF CASES REOPENED DUE TO UNSUCCESSFUL DIRECT RESOLUTION	COMPLAINTS PER 1000 SEPARATIONS	% OF COMPLAINTS ADVISED TO ATTEMPT DIRECT RESOLUTION S14(i)	% OF CASES REOPENED DUE TO UNSUCCESSFUL DIRECT RESOLUTION
Metro A	Metro	0.69	62%	5%	0.53	67%	9%
Metro B	Metro	0.81	75%	5%	0.86	56%	19%
Metro C	Metro	0.71	65%	5%	0.71	74%	12%
Metro D	Metro	0.54	58%	11%	0.56	58%	10%
Metro E	Metro	0.60	68%	12%	0.64	63%	15%
Metro F	Metro	0.66	53%	5%	0.58	64%	11%
Metro G	Metro	0.89	63%	0%	0.80	63%	10%
Metro H	Metro	0.73	55%	10%	0.53	51%	17%
Metro I	Metro	0.48	69%	6%	0.57	60%	9%
Specialist A	Specialist	0.67	75%	3%	0.64	60%	21%
Specialist B	Specialist	17.76	48%	11%	12.30	58%	11%
Specialist C	Specialist	0.50	67%	0%	0.77	41%	11%
Specialist D	Specialist	0.77	64%	0%	1.00	56%	0%
Specialist E	Specialist	0.48	42%	20%	0.40	38%	0%
Regional A	Regional	0.70	61%	3%	0.61	60%	14%
Regional B	Regional	1.07	63%	13%	1.01	59%	11%
Regional C	Regional	0.86	46%	6%	0.75	63%	0%
Regional D	Regional	0.44	67%	0%	0.75	33%	14%
Regional E	Regional	0.48	50%	20%	0.70	63%	10%
Regional F	Regional	0.43	82%	0%	0.41	55%	33%
Regional G	Regional	0.40	44%	14%	0.36	60%	17%
Regional H	Regional	0.68	80%	8%	0.41	60%	0%

ACCESS TO HEALTH RECORDS

COMPLAINT

We received a complaint from Peter who called our office on behalf of his brother, Ian. Ian was unexpectedly hospitalised overseas with a heart condition and needed urgent bypass surgery. Peter contacted us seeking assistance in obtaining Ian's medical records. This request was made to allow Ian's travel insurance provider to assess whether his policy would cover the expenses associated with his repatriation to Australia.

Unfortunately, Ian's medical clinic in Australia had closed. Neither Peter nor Ian knew how to access the health records, so they contacted the HCC.

Ian's serious medical condition meant he couldn't provide consent for Peter to make a complaint to the HCC on his behalf. Despite this obstacle, the HCC deemed it appropriate to intervene given the pressing circumstances and urgency of the situation.

WHAT WE DID

The HCC prioritised the complaint as it needed a rapid response and could have important consequences for Ian's health and wellbeing.

We gathered further information from Peter to identify Ian's treating doctors. Subsequently, we reached out to the Australian Health Practitioner Regulation Agency (Ahpra) to request their contact information. Ahpra agreed.

We contacted the treating doctors and informed them we had received a complaint to get access to Ian's health records. The treating doctors provided details of the practice manager at the now-closed clinic. We then contacted the practice manager who facilitated electronic access to Ian's health records.

OUTCOME

Ian's health records were provided electronically to Peter, who then submitted them to the travel insurer. As a result, Ian was able to be repatriated back to Australia to undergo bypass surgery.

COMPLIANCE WITH COMPLAINT HANDLING STANDARDS

COMPLAINT

We received a complaint from Sumi about a large private hospital in Victoria. Sumi initially complained directly to the hospital but was dissatisfied with their handling of the situation. Sumi then lodged a complaint with the HCC through our online platform, citing delays in the hospital's response, the need for repeated follow-ups on her part, and her surprise at receiving a response from the individual she had originally complained about.

WHAT WE DID

We contacted Sumi to better understand her concerns and what outcome she was seeking. We assisted Sumi in summarising her complaint. We then forwarded the summary of Sumi's complaint to the hospital and requested a response.

When the hospital complaints officer contacted the HCC, we offered guidance on how to address Sumi's complaint.

OUTCOME

The hospital accepted Sumi's complaint had initially not been handled properly. In response to Sumi's complaint the hospital revised their complaint handling policy to align with the HCC Complaint Handling Standards. Additionally, the hospital updated the information provided to patients about making a complaint to the hospital. Sumi expressed satisfaction with this outcome and the improvements implemented by the hospital.

POOR QUALITY HOSPITAL CARE

COMPLAINT

Jane contacted the HCC to make a complaint on behalf of her elderly mother. Her mother had been receiving treatment for multiple skin cancers at a local public health facility. Jane expressed her deep concerns regarding the care her mother had received. She informed us that, during her mother's hospital stay, new leg ulcers had developed, and existing wounds had become infected. Jane also recounted a distressing incident where her mother needed urgent medical attention, but delays by hospital staff exacerbated her mother's condition. Jane feared that the current treatment was inadequate, as the skin cancer appeared to be spreading.

Jane accompanied her mother to a second health service provider who validated her concerns about the treatment provided at the initial health service facility.

WHAT WE DID

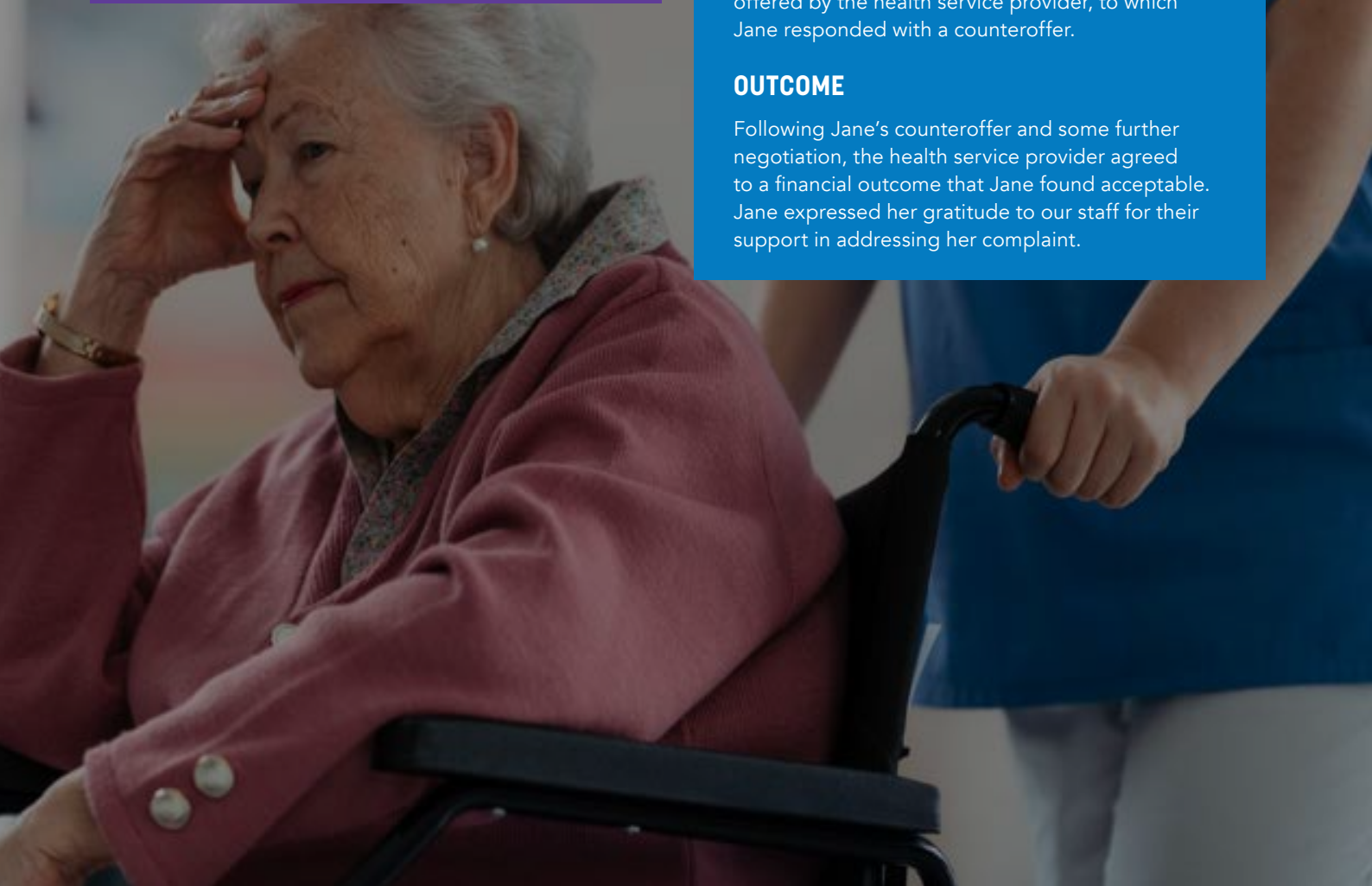
We requested further information from Jane including specific details about her mother's care. Jane supplied detailed information and photos that highlighted her concerns about her mother's treatment and overall wellbeing. She also documented all the extra expenses she incurred.

During our discussions with Jane, we enquired about the desired outcome she was seeking. Jane expressed her desire to prevent similar incidents from occurring in the future. She also wanted our complaint resolution process to help her obtain reimbursement for the expenses she had incurred.

When the HCC notified the health service of Jane's complaint, they agreed to participate in our complaint resolution process. Over the course of several months, we facilitated negotiations between Jane and the health service provider. The provider agreed to make changes to improve care for older people. A financial resolution was offered by the health service provider, to which Jane responded with a counteroffer.

OUTCOME

Following Jane's counteroffer and some further negotiation, the health service provider agreed to a financial outcome that Jane found acceptable. Jane expressed her gratitude to our staff for their support in addressing her complaint.



HCC COLLABORATION WITH AHPRA

At the HCC, we can accept complaints about the provision, or offer, of any health service in Victoria. This includes complaints about individual registered health practitioners. We cannot take disciplinary action against registered health practitioners, but we can achieve other outcomes.

The Australian Health Practitioner Regulation Agency (Ahpra) deals with the registration and accreditation, as well as the health, performance and professional conduct of individual registered health practitioners across Australia.

Ahpra can also prosecute offences under the Health Practitioner Regulation National Law Act 2009, such as falsely claiming to be a doctor or performing certain types of restricted procedures.

The HCC and Ahpra must (by law) share information about complaints and notifications that could be the subject of action by the other body and decide which agency is best placed to respond to a complaint.

- During the reporting period, we received **1635** notifications from Ahpra
- The HCC shared information on **1085** complaints
- Following consultation, Ahpra referred **307** notifications to the HCC
- We referred **272** complaints about registered practitioner's to Ahpra
- We referred **2** matters to the Mental Health and Wellbeing Commission.

COMPLAINTS RESOLUTION

We aim to address complaints in a timely and informal manner, in line with the guiding principles of the HCA (2016). We encourage complainants and their providers to engage in conversation with each other and find that facilitating productive contact is sometimes all that is required to reach a mutual understanding and resolution. We provide a range of resources to assist complainants and providers to engage in early informal complaint resolution.

Of the 5497 finalised HCA complaints, 2637 (48%) were either referred back to, or assisted to raise their complaints with their health service provider to attempt local resolution in the first instance.

Subsequently, 379 (14%) of these complainants who attempted direct resolution with the health service provider, returned to the HCC as complaint resolution was unsuccessful.

WHO COMPLAINTS WERE ABOUT

FINALISED COMPLAINTS BY PROVIDER TYPE

We group complaints into 5 types of health service providers

1. General health service providers
2. Registered practitioners
3. Hospitals
4. Prison health services
5. Other

The following figures show the complaints we finalised in 2023–2024 for the five provider types, with additional details based on provider speciality.



1. GENERAL HEALTH SERVICE PROVIDER

299

General Health Service Providers are those providers whose health services do not require them to be registered with Ahpra.

Cosmetic service	60	Optical service	6
Laboratory services	58	Aged care service	4
Mental health service	49	Diet and nutrition service	4
Allied health service	45	Birth related services	2
Massage therapy	24	Health promotion	2
Complementary and alternative health service	13	Reproductive/sexual health service	2
Community and social services*	11	Health promotion	2
Physical therapy service	7	Operational support service	2
Dental/oral health support service	7	Disability service	2
		Nursing support service	1

* Community and social services comprise of child and family health support workers, community health workers and palliative care staff.



2. REGISTERED PRACTITIONERS

1,312

This category includes all practitioner types registered with Ahpra

Medical Practitioner	1054	Radiology	9
General practice	494	Others	15
Surgery	126	Dental	201
Psychiatry	82	Psychology	83
Physician	50	Nursing and Midwifery	31
Obstetrics & Gynaecology	38	Pharmacist	29
Paediatrics	26	Physiotherapy	28
Anaesthesia	16	Paramedic	13
Ophthalmology	15	Optometry	10
Dermatology	11	Other	24
Pain medicine	11		



3. HOSPITALS

1,543

Public Hospital	1,326
Private Hospital	217



4. PRISON HEALTH SERVICES

814



5. OTHER

1,544

Clinic	1135	Day Procedure Centre	34
Pharmacy	92	Non Health Service Provider	32
Ambulance and patient transport	89	Home Doctor	6
Medical Imaging	79	Nurse-on-Call	3
Community Health Services	72	Council	2

WHAT COMPLAINTS WERE ABOUT

COMPLAINTS MAY HAVE MULTIPLE ISSUES

Each complaint can have more than one issue or concern, therefore there are more issues than complaints.

ACROSS THE

5,683

COMPLAINTS FINALISED IN 2023-24

WE RECORDED

6,801

ISSUES IN ALL FINALISED COMPLAINTS

COMMON ISSUES RECORDED

The most common issues in finalised HCA complaints about general health service providers were:

41%

SERVICE NOT BEING PROVIDED IN A SAFE AND ETHICAL MATTER

14%

FINANCIAL EXPLOITATION

10%

COMPLAINT MANAGEMENT

The most common issues in finalised HCA complaints about non-general health service providers were:

34%

TREATMENT

19%

ACCESS

1%

CONDUCT AND BEHAVIOUR

The most common issues in finalised HRA complaints were:

37%

ACCESS

15%

USE AND DISCLOSURE

14%

MAKING INFORMATION AVAILABLE TO ANOTHER

GENERAL HEALTH
SERVICE PROVIDERS:**343**ISSUES FOR FINALISED
COMPLAINTS

Safe and ethical manner	139	Breach of Prohibition order	11
Financial exploitation	47	Infection control	8
Complaint Management	36	Physical or mental impairment	7
Sexual misconduct	18	Responding to adverse events	6
Misinformation	18	Record keeping	6
Conduct in relation to treatment advice	13	Other Issues	22
Consent	12		

NON-GENERAL HEALTH
SERVICE PROVIDERS:**6,151**ISSUES FOR FINALISED
COMPLAINTS

Treatment	2,109	Facilities	80
Access	1,183	Complaint Management	66
Conduct and behaviour	694	AHPRA Notification	14
Fees, costs and billing	626	Human rights	13
Medication	594	General	10
Communication	397	Other Issues	29
Diagnosis	336		

HRA COMPLAINTS

307ISSUES IN FINALISED
HRA COMPLAINTS

Access	113	Data Quality	26
Use and Disclosure	47	Collection	13
Making Information available to another Health Service Provider	44	Correction	12
Data Security & Retention	32	Other issues	20

COMPLAINTS FROM PRISONERS

We received

796

COMPLAINTS FROM PRISONERS

in

814

FINALISED COMPLAINTS FROM PRISONERS

Access	369
Medication	321
Treatment	141
Diagnosis	32
Communication	12
Conduct and behaviour	5
Other	15

We identified

895

ISSUES

COMPLAINT RESOLUTION PROCESS

An important aspect of the complaint resolution process is that it is voluntary for both health consumers and health service providers. We expect health service providers to engage in our complaint resolution processes and to make genuine attempts to address and resolve complaints.

Where a provider fails to participate in a complaint resolution process without a reasonable excuse, the Commissioner may decide to conduct an investigation under Part 4 of the HCA if she believes the matter should be investigated.

The decision to investigate however, does not rely on whether a health service provider is willing to participate, or if they withdraw from the process, but whether their decision is reasonable in the circumstances. It is at the Commissioner's discretion as to whether she will conduct an investigation.

OUTCOMES IN FINALISED COMPLAINTS

During the reporting period, we received **188** complaints about the handling of health information and finalised **186** complaints. In addition, we finalised **717** enquiries related to the Health Records Act.

THE MOST COMMON AGREED OUTCOMES UNDER THE HCA WERE:

27%	EXPLANATION
23%	REFUND
18%	ACCESS TO SERVICE
16%	APOLOGY
10%	FEE WAIVED
4%	REFER TO PROVIDER FOR SOLUTION
3%	OTHER OUTCOMES

FOR HRA COMPLAINTS THE MOST COMMON AGREED OUTCOMES WERE:

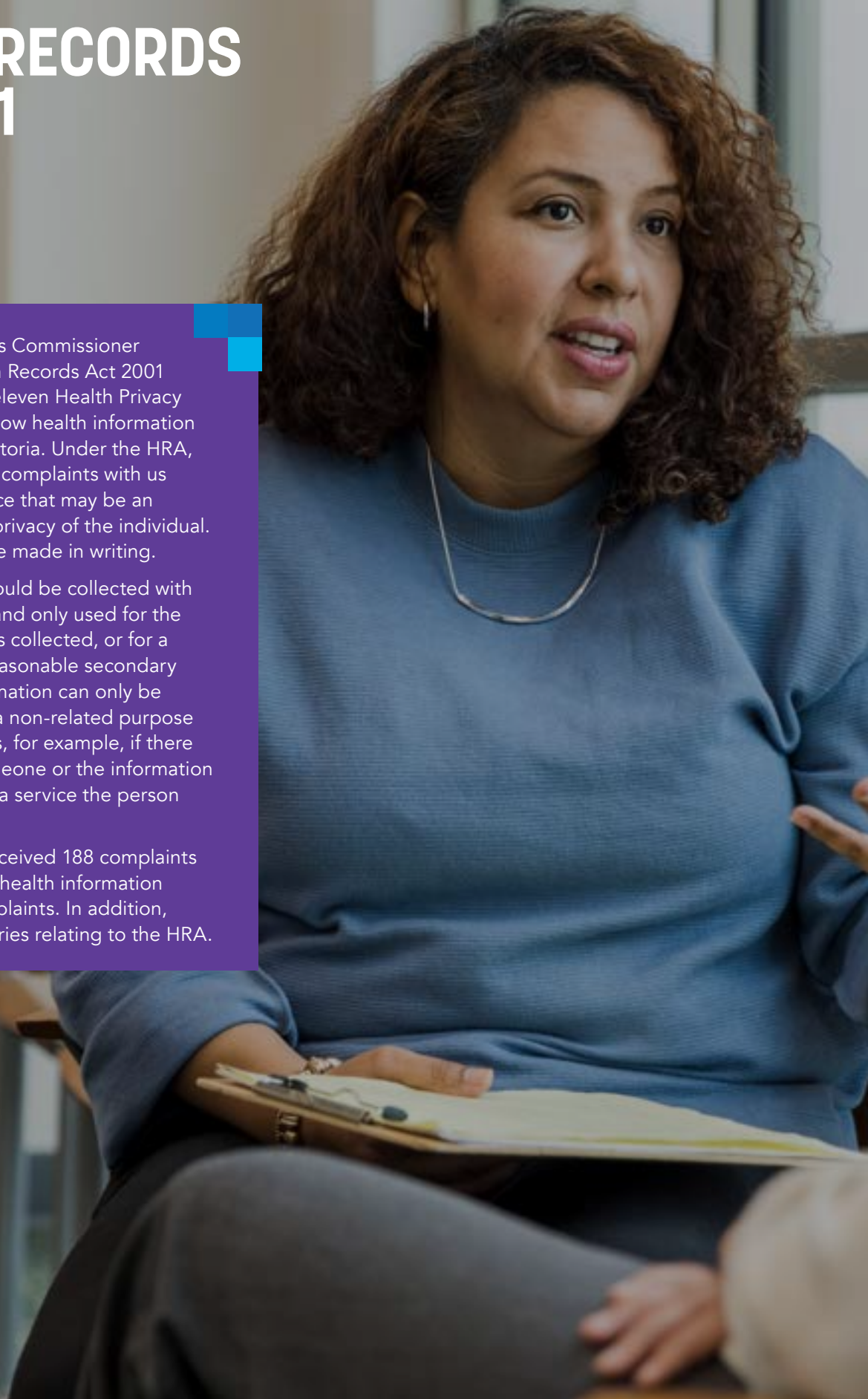
38%	ACCESS TO RECORDS
23%	EXPLANATION
17%	TRANSFER OF HEALTH INFORMATION
9%	APOLOGY
5%	APPROPRIATE FEES CHARGED
4%	CORRECTION OF HEALTH INFORMATION
4%	OTHER OUTCOMES

HEALTH RECORDS ACT 2001

The Health Complaints Commissioner administers the Health Records Act 2001 (HRA) which sets out eleven Health Privacy Principles that guide how health information is to be handled in Victoria. Under the HRA, individuals may lodge complaints with us about an act or practice that may be an interference with the privacy of the individual. The complaint must be made in writing.

Health information should be collected with the person's consent and only used for the primary purpose it was collected, or for a directly related and reasonable secondary purpose. Health information can only be used or disclosed for a non-related purpose in some circumstances, for example, if there is a serious risk to someone or the information is needed to evaluate a service the person received.

During the year, we received 188 complaints about the handling of health information and finalised 186 complaints. In addition, we finalised 717 enquiries relating to the HRA.



PROTECTING VICTORIANS – OUR INVESTIGATIONS

Protecting Victorians from unsafe and unethical health services and health service providers is a core purpose of the Health Complaints Commissioner. Part of this function is the power to conduct investigations into general health service providers where the Commissioner believes that the general health service provider has breached the Code of Conduct for General Health Service Providers. In cases where the Commissioner is satisfied there is a serious risk to the life, health, safety or welfare of a person or the public, the Commissioner has the power to issue Interim Prohibition Orders (IPOs) or Prohibition Orders (POs). Through IPOs or POs, the Commissioner can limit or prohibit entirely what services a general health service provider may offer or provide.

Under the HCA the Commissioner can initiate a complaint investigation or own-motion investigation. The Minister for Health may also refer a matter for investigation.

In carrying out the regulatory functions under the HCA the Commissioner applies the regulatory practice principles.



YOU CAN ACCESS A FULL DESCRIPTION OF OUR REGULATORY PRACTICE PRINCIPLES AT [HCC.VIC.GOV.AU](https://www.hcc.vic.gov.au)

CONDUCTING INVESTIGATIONS TO KEEP THE PUBLIC SAFE

The Commissioner may carry out enquiries into a matter under investigation as they believe necessary to establish the facts. This may include requesting clinical notes, treatment plans, policies, and procedures, and conducting interviews with witnesses and health service providers. The Commissioner can also seek independent expert advice or apply for and execute search warrants. The aim as far as practicable, is to take the least intrusive measures that are appropriate in the circumstances.

Once the relevant facts are established, the Commissioner then aims to identify what measures, if any, may need to be taken to protect the public from risk to their health, safety, and/or welfare while offering or receiving a general health service in Victoria.

KEEPING THE COMMUNITY SAFE DURING AN INVESTIGATION

During an investigation, the Commissioner may determine that allowing a health service provider to continue offering general health services poses a significant risk to the public. In these circumstances, the Commissioner may decide to make an IPO against the general health service provider to prohibit the provider from offering or providing all or part of their health service while the investigation is underway. The provider is invited to respond to a proposed IPO and the Commissioner considers any submissions received, before making a final decision on whether to impose an IPO.

If an IPO is made, the general health service provider must ensure they comply with the conditions or prohibitions imposed. Any contravention of an IPO is an offence under the HCA. The Commissioner has the power to prosecute general health service providers where they contravene the orders, and significant penalties apply for breaching an IPOs or PO including fines, a term of imprisonment or both.

WHEN AN INVESTIGATION IS COMPLETED

Once an investigation is completed, a report is issued to the general health service provider. We may also provide the investigation report to other parties such as Ahpra, other regulators, the Minister for Health or the Secretary of the Department of Health, where necessary and appropriate.

The investigation report sets out the Commissioner's findings, whether the provider has breached the Code and any recommendations to address the breaches. These recommendations may include further education or training for a provider, or that the provider introduces or updates certain policies or procedures. Under the Act, the provider must respond to the Commissioner and explain how they will implement the Commissioner's recommendations. If a provider fails to provide a response or provide a reasonable excuse as to why the recommendations have not been implemented, the Commissioner can consider further action such as a prosecution or a follow-up investigation.

Following an investigation, the Commissioner may decide to impose a PO on a general health service provider. A PO can only be made where it is necessary to avoid a serious risk to the life, health, safety or welfare of an individual or the public by prohibiting the general health service provider from providing all or part of their health service or imposing conditions on them. The Commissioner can also publish a variety of public health warning statements to provide details of a serious risk to the health, safety or welfare of the public. All IPOs, POs and warning statements are published on the Health Complaints Commissioner website.

KEEPING THE COMMUNITY SAFE

The past year has shown a continued trend in complaints about services not provided in a safe and ethical matter, financial exploitation and management of complaints. Most of these complaints involved general medical practices, clinics and surgery.

We continue to refine our approach and, where appropriate, take protective measures including IPOs, POs and warning statements. We implement learnings from tribunal or court decisions and from other regulators.

We delivered education sessions for the public and general health service providers about the HCC's investigative functions and the Code of Conduct. We also engaged with a number of professional associations to educate them on our functions and legislation so that they can provide accurate advice and guidance to their general health service provider members.

General health service providers—those health services which do not require registration with Ahpra—are subject to the Code of Conduct under the HCA. Registered practitioners may also be subject to the Code of Conduct if they provide services outside the scope of their registration. For example, registered psychologists are regulated by Ahpra, while counsellors and psychotherapists are regulated by the Health Complaints Commissioner. If a psychologist's registration is suspended, for example, by the Psychology Board of Australia, they may be able to continue to provide services as a counsellor. In this situation, the provider would be bound by the Code of Conduct.

PROTECTING THE PUBLIC

COMPLAINT

We received complaints from two clients, Susan and Jane, regarding the treatment they received from the same counsellor.

Susan alleged that while undergoing treatment, she engaged in a sexual relationship with the counsellor. This relationship had a detrimental effect on her mental health.

Jane alleged the counsellor engaged in behaviour of a sexual nature with her. This included calling her sexy and discussing their respective sex lives during her counselling sessions. The complainant expressed feeling embarrassed and ashamed for not addressing the counselor's actions sooner.

WHAT WE DID

The Commissioner commenced an own motion investigation under s.47 of the HCA to consider the two complaints together. The complaints identified serious concerns about the provider including a lack of experience in managing high-risk clients, an inability to set and maintain professional boundaries and engaging in sexual misconduct.

In order to protect the public during the investigation, the Commissioner issued Interim Prohibition Orders (IPOs) against the provider, preventing the delivery of any general health service during the investigation. As a matter of procedural fairness, the provider was given the opportunity to respond to the allegations and make submissions on each IPO prior to the Commissioner deciding on them. The provider unsuccessfully appealed one of the IPOs to VCAT.

OUTCOME

The investigation substantiated the complainants' allegations and demonstrated that the provider had breached the Code of Conduct for General Health Services (Code). The breaches included: failing to provide a health service in a safe and ethical manner; disregarding the limitations of their treatment capabilities and neglecting to refer clients to other competent health service providers in appropriate circumstances; and engaging in sexual misconduct.

The Commissioner considered the Code breaches extremely serious and concluded that the counsellor lacked the necessary qualities for safe practice. The Commissioner recommended a permanent Prohibition Order (PO). The provider's response to the proposed PO demonstrated a rudimentary understanding of professional boundaries and the power imbalance between a provider and client.

Having taken account of the investigation's findings and reviewing the provider's submissions, the Commissioner determined that, in order to ensure the health, safety, and wellbeing of the public, a permanent PO prohibiting the provider from providing any general health service must be issued.

ENGAGING VICTORIANS

We continue to engage with our key stakeholders through our online education and training modules as well as our education seminars. Our training sessions help educate health service providers about their obligations and responsibilities under the law, as well as the benefits of proactive and positive complaint handling.

Our online e-Learning program offers The General Code of Conduct, The Health Records Act and the Successful Complaints Handling as three self-paced training modules, where participants can stay engaged with the education and training options we run, while completing their training in a safe manner.

Over the last year,

1,176
PEOPLE UNDERTOOK
THE HEALTH RECORDS
ACT MODULE

achieving a

96%
COMPLETION RATE

whilst

351
REGISTERED FOR
THE SUCCESSFUL
COMPLAINT HANDLING
MODULE

and

84%
COMPLETED IT

The General Code of Conduct attracted 281 customers;

83%
ACHIEVED THE
DESIRED OUTCOME

We have delivered one of each of our regular education seminars (Understanding the Health Records Act and Successful Complaint Handling). They have generated high levels of interest with a range of health providers. Our Investigations team delivered the General Code of Conduct training to two groups of participants.

PROTECTED DISCLOSURES AND DISCLOSURES UNDER THE HCA

PROTECTED DISCLOSURES

The Protected Disclosure Act 2012 (the PD Act) creates the legislative framework for receiving protected disclosures and protecting those who make them. Under the PD Act, the Independent Broad-based Anti-Corruption Commission (IBAC) has a key role in receiving, assessing, and investigating disclosures about corrupt or improper conduct as well as preparing and publishing guidelines to assist public bodies to interpret and comply with the protected disclosures regime. The PD Act also broadens the operation of the previous whistleblower scheme to match the scope of the new integrity system and applies to disclosures about all public bodies and officers within IBAC's jurisdiction.

Section 16 of the PD Act requires that any disclosures relating to the HCC must be made to either the Victorian Ombudsman or IBAC.

For the current reporting period, the HCC reports the following:

- number of disclosures — nil
- public interest disclosures referred to the Ombudsman or IBAC — nil
- disclosures referred to the HCC — nil
- disclosures of any nature referred to the Ombudsman — nil
- investigations taken over by the Ombudsman — nil

DISCLOSURES UNDER THE HCA

Section 138 of HCA requires us to report on specific information in relation to the exercise of the Commissioner's powers and functions.

This includes the frequency of disclosure of information under Division 1 of Part 13 of the HCA, as follows:

- disclosure under section 150(2)(a) — nil
- disclosure under section 150(2)(b)(i) — nil
- disclosure under section 150(3) — 3



Supporting
safe and ethical
healthcare



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