

Health and Community Services Complaints Commissioner

2018/19 Annual Report Companion Document



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Section 1
Overview



HCSCC Statistics 2018/2019

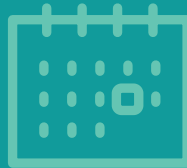


2547

total contacts

2.95%

increase in contacts from 17/18



1982

contacts were closed
within 21 days

49%

of health complaints were
about treatment received



10

matters were moved
into conciliation

1

successful prosecution
of an unregistered
health practitioner



From the Commissioner

This is my first full year as Health and Community Services Complaints Commissioner and it has been a busy and productive one. I am pleased to report on the results of the year which can be characterised as ones of change and renewal.



Relationship building

Mediation and conciliation are key aspects of the HCSCC's resolution approach. Helping parties negotiate agreed outcomes is a core skill set for health care complaints resolution. That is why, over the last year, I have met regularly with Chief Executive Officers and senior executives of Local Health Networks, senior executives of the Department of Health and Wellbeing and of the Australian Health Practitioner Regulation Agency, non-government organisations, consumer organisations and service provider organisations. If the office is perceived as being an honest broker, parties are more willing to enter into negotiations. Therefore, strong relationships with these bodies are critical, not only to assist in the work of my office but, importantly, to achieve good outcomes for complainants.

Strategic Planning and Values Development

I mentioned in last year's report that I had two overarching principles for our work. The following two questions are ones I consistently ask of me and my staff: Are we being customer service focussed? And, are we adding value? They were key questions when developing the HCSCC Strategic Plan this year. Our vision is: improved quality, safety and confidence in South Australian health and community services through excellence in complaints resolution and education. There are three fundamental domains in achieving this: We provide an accessible, fair and responsive complaints resolution service to the community; we continuously improve the quality of our services; and we share our learnings.

Awareness and Accessibility

To achieve some of this work, we developed a Communications Strategy to increase awareness of the office in the community and ensure we are as accessible as we can be. We established a solid social media presence on Twitter and Facebook which we have used effectively to highlight our work and undertake targeted promotions.

Our new website was launched on 25 March 2019. It was consumer tested and has been very well received by consumers, service providers and key stakeholders. I am very happy with the outcome we achieved with our new site and believe it better serves the purpose of our office.

We have established a quarterly newsletter to our health and community stakeholders, highlighting our work over the preceding quarter and have substantially increased our traditional media presence, which I see as an important accessibility strategy.

Processes and Data

I also foreshadowed in last year's report that I wanted to undertake a review of our complaints processes. The first step in that process was recruiting to the Manager, Complaints Resolution and Investigation position. I am delighted to welcome Mr John Herrmann to that position. John comes with a wealth of investigative, clinical and regulatory experience and has already begun the task of bringing his experience to the review. To that end, we have changed the way we assess complaints and are much quicker at determining whether we conciliate, investigate, refer or take no further action on a complaint. This year, while our complaint numbers have decreased slightly, our enquiry figures have increased. This means we are providing more advice and guidance to people calling us which may be facilitating a direct resolution with the service provider. In 2018-19, the overall number of contacts to the office of the HCSCC rose by nearly three percent. In two years, we have experienced a 16 percent increase.

As a result of the changes to our processes, we have seen an increase in matters that are being conciliated. Conciliation is an important aspect of complaint resolution. As a direct result of more conciliation being taken this year, we have seen a decrease in the number of investigations that were conducted.

So we can track our performance adequately, I commissioned a review of the office's Resolve case management system. That task was completed by 30 June 2019 and will now enable issues, case load, internal/external review tracking and timeframe reporting to better keep us accountable for our performance.

The purpose of these changes is to improve the quality of the work of the office and, in broader terms, improve the quality and safety of health and community services in South Australia.

Legislative and Code of Conduct

In March 2019, South Australia adopted the National Code of Conduct for Health Care Workers (known in South Australia as the Code of Conduct for Certain Health Care Workers). This is a culmination of many years of hard work by Commissioners and Ministers across Australia.

There are fewer complaints about unregistered health care workers this year. It is unclear why there has been a drop in complaints but we will continue to promote the Code and ensure health care workers are aware of their responsibilities.

However, we successfully prosecuted an unregistered health care worker who was providing drug and alcohol counselling. Robert Mittiga was successfully prosecuted for three breaches of a prohibition order and breach of bond resulting in a three and a half month term of incarceration, suspended with a 12 month good behaviour bond. This result was because of many years of work and I was delighted with outcome. It served as strong deterrent to others who are not adhering to the Code.

Changes to the Health and Community Services Complaints Act 2004 also came into effect in March. These changes increased certain powers of the HCSCC and changed the way we refer to consumers, formerly referred to as service users. This helps place consumers as partners in the system of complaints resolution, and health care more generally.

Year Ahead

Work on the review of our processes and procedures will continue. Once those processes are as efficient and effective as the legislation allows, we will use that work to develop key performance indicators for our work and track it effectively through our Resolve case management system.

In line with our Communications Strategy and outreach and awareness work, we intend to review our logo so the office can rebrand to have a more modern, open, inviting public presence.

With the introduction of regional local health networks, I will travel and meet with regional Chief Executive Officers and Board Chairs to ensure strong relationships exist with those organisations.

We will also explore technological solutions to our enquiry line to determine whether better outcomes and more efficient service may be offered by introducing a QMaster system.

Finally, I would like to acknowledge and thank the staff of the office. This has been a very busy year and the way staff have worked collaboratively while continuing to provide a high quality service is inspirational.



Associate Professor Grant Davies
Health and Community Services Complaints Commissioner

Our strategic focus

The office of the HCSCC's vision is for improved quality, safety and confidence in South Australia's health and community services through excellence in complaints resolution and education.

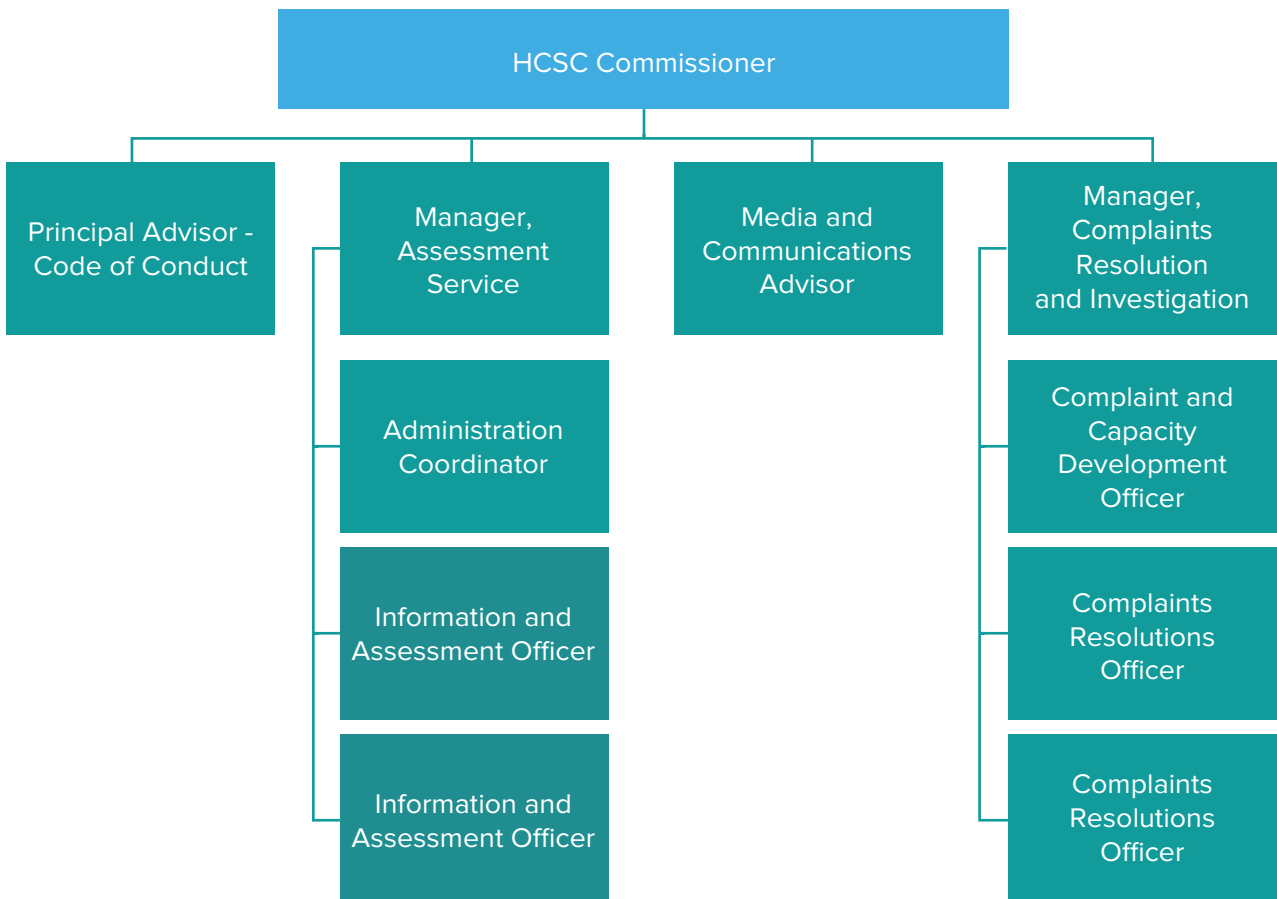
To achieve this:

- we will provide an accessible, fair and responsive complaints resolution service to the SA community.
- we continuously improve the quality of our services.
- we share our learnings.

A full copy of the HCSCC's strategic plan is available at: <https://www.hcsc.sa.gov.au/about/hcsc-strategic-direction-2/>.

Our organisational structure

HCSCC Organisational Structure as at 30 June 2019





Performance at a glance

Below is a summary of the performance of the HCSCC in 2018-19:

- 73 more total contacts (a 2.95 per cent increase).
- An increase in the number of total health contacts but actual complaints decreased while enquiries increased.
- 2558 matters were closed, which is greater than the total number of new contacts received.
- Five fewer requests (a 22.72 per cent reduction) for an internal review.
- Changes to the way complaints are assessed providing for a quicker determination about conciliation, investigation, referral or taking no further action on a complaint.
- First successful prosecution of an unregistered health care worker.

Section 2

Accessible, fair
and responsive
complaints resolution
service to the SA
community



Performance summary

Number and type of contacts in 2018-19*

Service Provider Type	17-18 Total	18-19 Complaints / Own Motions	18-19 Enquiries	18-19 Total	Increase / Decrease
Health	2295	1184	1257	2441	+6.36%
Community Service	116	58	36	94	-18.97%
Child Protection**	63			12	-80.95%
Total contacts	2474***			2547	+2.95%

*The HCSCC is now reporting its total contacts in a way that reflects our core work. More detailed figures are available later in this document.

**In December 2017, Ombudsman SA became the lead agency responsible for the investigation of complaints about child protection services.

The HCSCC received 12 contacts from the public about child protection matters in 2018-19. The HCSCC referred all these matters to Ombudsman SA.

***This number varies from the reported figures in last year's Annual Report because some complaints or enquiries were re-opened in 18-19.

Resolution Data 2018-19

In 2018-19, 2558 contacts were closed, of which:

- 1982 (77.5 percent) were closed within 21 days.
- 401 (15.7 per cent) were closed between 22 and 100 days.
- 130 were (5.1 per cent) closed between 101 and 364 days.
- 45 (1.7 per cent) were closed after 365 days or more.

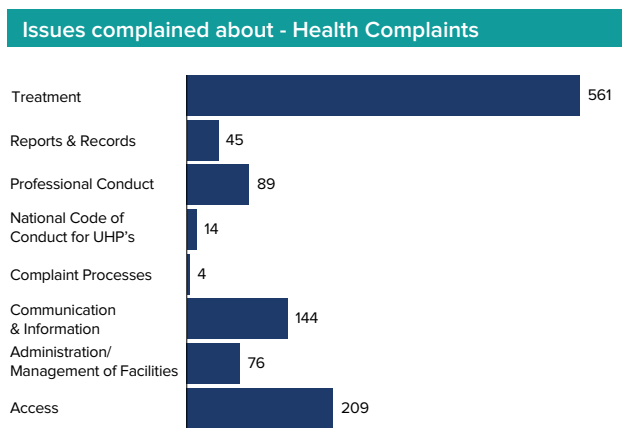
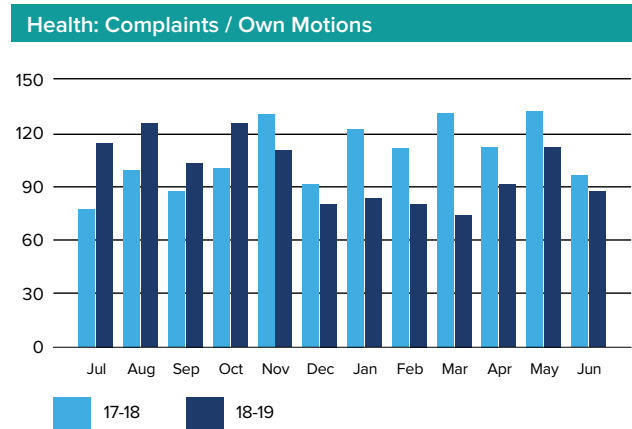
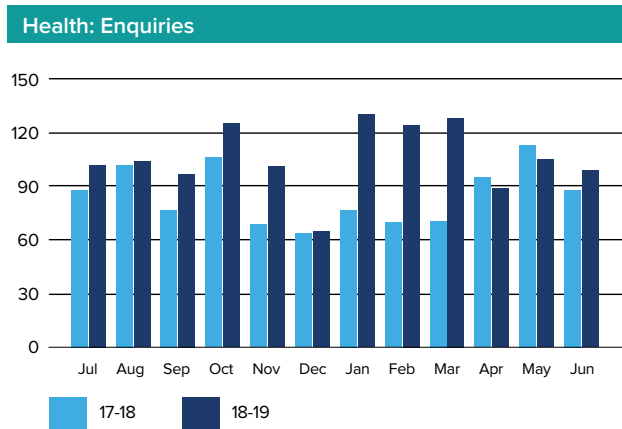
The number of contacts closed in 2018-19 is greater than the amount received as some matters began in previous financial years.

As at 30 June 2019, the HCSCC had 172 complaints or enquiries that remained open.

Health

The office of the HCSCC received 146 more (a 6.36 per cent increase) health contacts in 2018-19. Complaints are fewer but our enquiry figures have increased. This means the office of the HCSCC is providing more advice and guidance to people calling us which may be facilitating a direct resolution with the service provider.

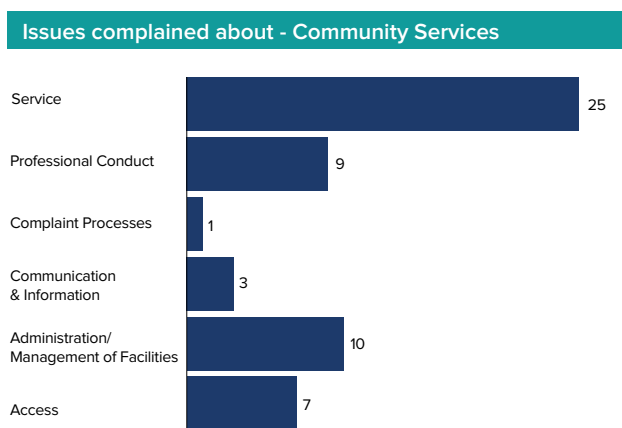
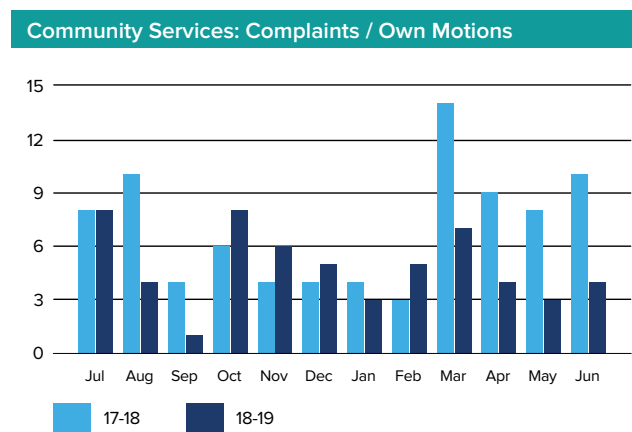
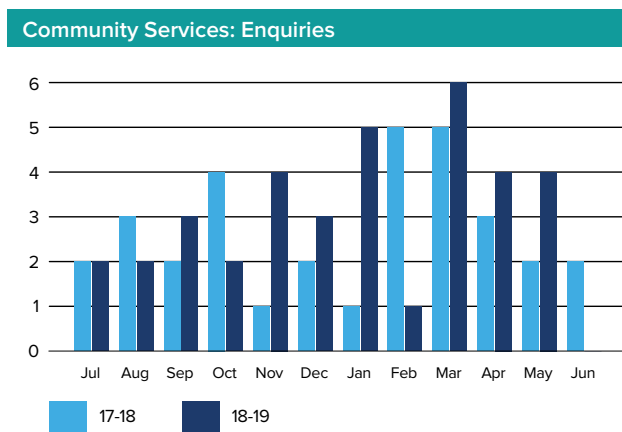
This is an important step in the complaint resolution process.



Note: a single complaint may raise more than one issue.

Community Services

The office of the HCSCC had 22 fewer (an 18.97 per cent decrease) Community Service contacts in 2018-19. This is related to the transfer of disability services complaints to the NDIS Quality and Safeguarding Commission and we anticipate this figure to further reduce over time.



Note: a single complaint may raise more than one issue.

Grounds for Complaint 2018-19

Charter of Health and Community Services Rights grounds

(Refer to <http://www.hcsccl.sa.gov.au/about-the-hcsccl-charter/>)

Charter 1 - Access	220
Charter 2 - Safety	10
Charter 3 - Quality	743
Charter 4 - Respect	14
Charter 5 - Information	83
Charter 6 - Participation	24
Charter 7 - Privacy	18
Charter 8 - Comment	4

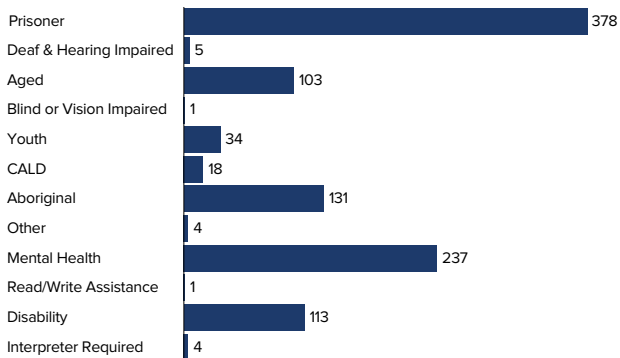
Health and Community Services Complaints Act 2004 Section 25 – Grounds on which a complaint may be made

S 25 1 (a) - service not provided or discontinued	103
S 25 1 (b) - service provision not necessary/inappropriate	25
S 25 1 (c) - unreasonable manner in providing service	80
S 25 1 (d) - lacked due skill	189
S 25 1 (e) - unprofessional manner	96
S 25 1 (f) - lack of privacy/dignity	1
S 25 1 (g) - quality of information	63
S 25 1 (h) - unreasonable action - lack of information/access to records	3
S 25 1 (i) - unreasonable disclosure to a third party	9
S 25 1 (j) - improper action on a complaint	5
S 25 1 (k) - inconsistent with the Charter	4
S 25 1 (l) - did not meet expected standard of service delivery	561
Other	90
Total	2345

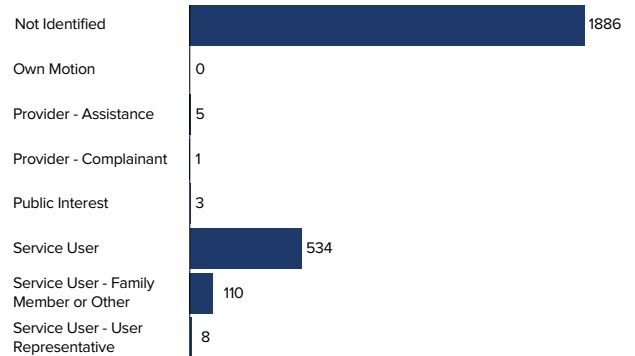
Note: a single complaint may raise more than one ground.

Other Statistics

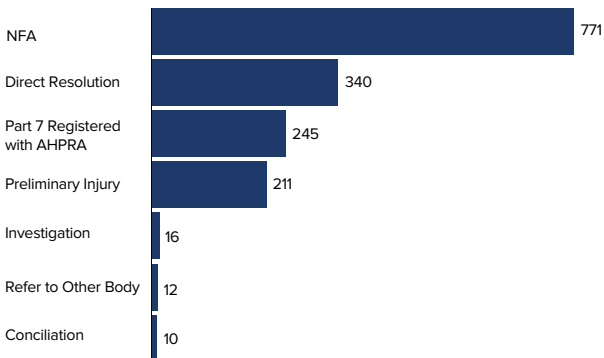
Complaints from Consumers with Special Needs



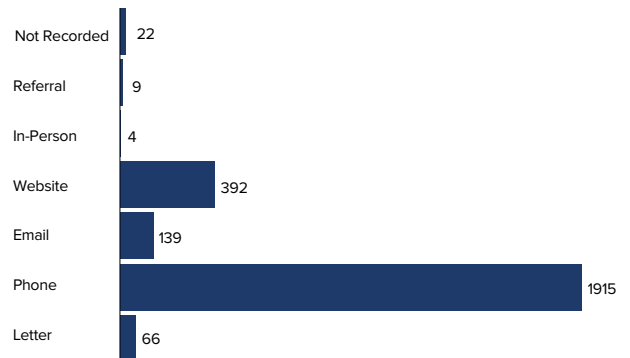
Legal role of contact person



Number of Assessment Determinations



Method of Contact



Note: a single complaint may raise more than one issue.

Part 6 Summary of Investigations by type of provider



Complaints about Unregistered Health Care Workers 2018-19

Number of complaints made and assessed under Schedule 2 Health and Community Services Complaints Act Regulations 2005.	35
Matters concerning unregistered health practitioners that remain ongoing at 30 June 2019.	7

In March 2019, South Australia adopted the National Code of Conduct for Health Care Workers (known in South Australia as the Code of Conduct for Certain Health Care Workers).

There are fewer complaints about unregistered health care workers this year. It is unclear why there has been a drop in complaints. It may be because we have promoted the Code and health care workers are gaining more awareness of their responsibilities.

The office of the HCSCC successfully prosecuted an unregistered health care worker who was providing drug and alcohol counselling. Robert Mittiga was successfully prosecuted for three breaches of a prohibition order and breach of bond.

Reasons for Closure of Complaints 2018-19

Advice and information provided	23
Outside of Jurisdiction	18
Part 6 - s54 Report	8
Part 6 s56C order	1
s33(1)(a) not entitled to make complaint	14
s33(1)(b) does not disclose ground of complaint	19
s33(1)(c) should be determined by legal proceedings	7
s33(1)(d) proceedings have commenced before a tribunal authority or other	18
s33(1)(e) reasonable explanation(s) or information earlier	169
s33(1)(g) complaint lacks substance	11
s33(1)(h) the complainant has failed to comply with a requirement	112
s33(1)(j) the complaint is abandoned	131
s33(1)(j) the complaint is resolved	87
s33(1)(k) reasonable cause - agreement to take reasonable steps to resolve complaint and/or prevent recurrence	52
s33(1)(k) reasonable cause - differing versions of events - unable to prefer one over the other	7
s33(1)(k) reasonable cause - individual complaint raises issues best dealt with as a systemic matter	2
s33(1)(k) reasonable cause - other	58
s33(1)(k) reasonable cause - s27 outside of time limit	13
s33(1)(k) reasonable cause - s29(2)(d) referral to another agency	10
s33(1)(k) reasonable cause - s29(3) referral to ACQ&SC	6
s33(1)(k) reasonable cause - s29(5) attempting direct resolution	304
s33(1)(k) reasonable cause - service provider met reasonable standards	25
s33(1)(k) reasonable cause - service provider resources are limited and equitably provided	7
s33(2) complaint has been adjudicated by a court tribunal authority or other	12
s33(3)(a) suspension - court proceedings have commenced	2
s33(3)(b) suspension - Coronial inquest has commenced	5
s34(1) - complaint withdrawn	14
s57(2)(b) referred to registration authority	118
Suspended - pending another agency's action	3
Other	2
Total	1258

Conciliation outcomes

In 2018-19, 10 matters were moved into conciliation. All of them commenced in May and June 2019 and hence, there is no outcome to report.

One conciliation was completed in October 2018 (the complaint was made in an earlier financial year). The complainant received financial compensation for this matter.

Why conciliation?

Conciliation is an important aspect of complaint resolution and the office of the HCSCC has a renewed focus on this important process.

Conciliation:

- utilises an impartial third party to help resolve a complaint;
- assumes useful conversations are possible; and
- aims to resolve complaints in a timely manner in a confidential environment.

Conciliation enables listening, tests assumptions, acknowledges the complex emotions and nature of complaints and creates a safe space for parties to explore the impact of events. It acknowledges different views, even if parties do not agree.

Where an opportunity for conciliation exists, it offers the potential for a better outcome for consumers and service providers alike.



Registered Health Providers

The following tables provide information about the HCSCC / Australian Health Practitioner Regulation Agency (AHPRA) consultations during 2018-19 as required under Part 7 of the Act.

HCSCC consultations with AHPRA and referral of complaints to AHPRA by the HCSCC

	No of HCSCC complaint consultations with AHPRA	Number of HCSCC complaints referred to AHPRA	Number of HCSCC complaints split* with AHPRA
Medical	207	80	17
Dental	26	11	0
Nursing & Midwifery	17	8	2
Pharmacy	0	0	0
Chiropractic	1	1	0
Physiotherapy	2	2	0
Optometry	4	2	0
Osteopathy	0	0	0
Psychology	8	3	0
Podiatry	0	0	0
Chinese Medicine	0	0	0
Medical Radiation Practice	0	0	0
Occupational Therapy	2	1	0
Aboriginal and Torres Strait Islander Health Practice	0	0	0
Paramedicine (commenced Dec ember 2018)	0	0	0
Total	267	108	19

*Part of the complaint involving a registered health practitioner is referred to AHPRA and part of the complaint is dealt with by HCSCC

AHPRA investigation outcomes resulting from referral of complaints by the HCSCC to AHPRA

	Number of outcomes notified by AHPRA of action taken from HCSCC complaint referrals	AHPRA notified outcome*	
Medical	48	48	No further action
Dental	7	5	No further action
		1	Cautioned
		1	Conditions imposed
Nursing & Midwifery	7	6	No further action
		1	Practitioner surrender
Pharmacy	0	1	No complaints referred
Chiropractic	1	6	No further action
Physiotherapy	2	1	No further action
		1	Cautioned
Optometry	1	0	No further action
Osteopathy	0	1	No complaints referred
Psychology	3	1	No further action
Podiatry	0	1	No complaints referred
Chinese Medicine	0	1	No complaints referred
Medical Radiation Practice	0	0	No complaints referred
Occupational Therapy	1	3	No further action
Aboriginal and Torres Strait Islander Health Practice	0	0	No complaints referred
Paramedicine (commenced December 2018)	0	0	No complaints referred
Total	70	70	

*Note: 57 ongoing investigations - no outcomes notified by AHPRA as at 30.6.19

AHPRA consultations with the HCSCC and referral of complaints from AHPRA to the HCSCC

	Number of AHPRA complaint consultations with HCSCC	Number of AHPRA complaints referred to HCSCC
Medical	188	3
Dental	16	0
Nursing & Midwifery	26	2
Pharmacy	17	0
Chiropractic	1	0
Physiotherapy	4	0
Optometry	1	0
Osteopathy	0	0
Psychology	10	0
Podiatry	1	0
Chinese Medicine	1	0
Medical Radiation Practice	0	0
Occupational Therapy	1	0
Aboriginal and Torres Strait Islander Health Practice	0	0
Paramedicine (commenced December 2018)	1	0
Unregistered Health Practitioner	0	0
Systemic	2	2
Total	269	7

Outcomes following referral of a complaint or notification are discussed as matters are finalised.

As at 30 June 2019:

- AHPRA had 0 complaints open from HCSCC referrals to AHPRA in 2012-13
- AHPRA had 1 complaint open from HCSCC referrals to AHPRA in 2013-14
- AHPRA had 0 complaints open from AHPRA complaints consulted with HCSCC in 2013-14
- AHPRA had 0 complaints open from AHPRA complaints consulted with HCSCC in 2014-15
- AHPRA had 0 complaints open from HCSCC referrals to AHPRA in 2015-16
- AHPRA had 1 complaint open from AHPRA complaints consulted with HCSCC in 2015-16
- AHPRA had 6 complaints open from AHPRA complaints consulted with HCSCC in 2016-17
- AHPRA had 1 complaint open from HCSCC referrals to AHPRA in 2016-17
- AHPRA had 4 complaints open from AHPRA complaints consulted with HCSCC in 2017-18
- AHPRA had 0 complaints open from HCSCC referrals to AHPRA in 2017-18

AHPRA outcomes and outcome of any AHPRA action taken on AHPRA complaints consulted with the HCSCC

	Number of outcomes notified by AHPRA of action taken by AHPRA	AHPRA notified outcome
Medical	117	108 No further action
		2 Refer part of the notification to another body; Undertakings; Cautioned
		2 Conditions imposed
		1 Cautioned
		1 Accept undertakings
		3 Referred to HCSCC
Dental	4	4 No further action
Nursing & Midwifery	19	17 No further action
		1 Cautioned
		1 Referred to HCSCC
		1 Cautioned
Pharmacy	8	7 No further action
		1 Cautioned
Chiropractic		No outcome as at 30.06.19
Physiotherapy	4	2 No further action
		2 Cautioned
Optometry	1	1 No further action
Osteopathy	0	0 Nil consulted
Psychology	5	4 No further action
		1 Conditions imposed
Podiatry	1	1 Cautioned
Chinese Medicine		No outcome as at 30.06.19
Medical Radiation Practice	0	0 Nil consulted
Occupational Therapy		No outcome as at 30.06.19
Aboriginal and Torres Strait Islander Health Practice	0	0 Nil consulted
Paramedicine (commenced December 2018)	1	1 No further action
Total	160	160

Section 3

Continuously
improve the quality
of our services



Reviews of HCSCC decisions by the Ombudsman

Category of complaints by subject	Number of instances
Dissatisfaction with the HCSCC complaint assessment and / or investigation processes or outcomes.	10

Nature of complaint or suggestion	Number of instances
Dissatisfaction with the HCSCC complaint assessment and / or investigation processes or outcomes.	In nine matters, the Ombudsman found that the HCSCC had not acted in a manner that was unreasonable, unlawful or wrong. One matter remained ongoing at 30 June 2019.

Number of public complaints reported

Internal Reviews conducted by the Commissioner

The HCSCC received 17 requests from complainants for an internal review by the Commissioner on the basis that they were not satisfied with the outcome of their complaint.

Of these:

- 15 decisions were confirmed, with the HCSCC taking no further action.
- One part of a complaint was re-opened but upon further enquiries, the HCSCC took no further action.
- One matter remains ongoing as at 30 June 2019.

This is five fewer (22.72 per cent reduction) than 2017/18.

Resolve Review

The office of the HCSCC commissioned a review of the office's Resolve case management system so we can better track our performance.

This body of work was completed by 30 June 2019 and has provided a quicker and easier records management process.

It will also enable issues, case load, internal/external review tracking and timeframe reporting to better keep the HCSCC accountable for our performance.

The purpose of these changes is to improve the quality of the work of the office and, in broader terms, improve the quality and safety of health and community services in South Australia.

New HCSCC Website

The HCSCC's website had not been reviewed or updated since it was developed. It was hard to navigate and visually unattractive.

As part of our continual desire to improve the service we offer the South Australian public, it was decided that a new website was needed.

Our new website launched on 25 March 2019. It was consumer tested and has been very well received by consumers, service providers and key stakeholders.

The HCSCC is delighted with our new site and believe it better serves the purpose of our office, consumers and service providers.

Journal Club

The office of the HCSCC has implemented a journal club. Every member of staff has, or will have, the opportunity to provide their colleagues with a journal article related to the health and community service sector.

So far, the team has discussed a wide range of issues like real-time data in the health space, complaint resolution and consumer and service provider ethics.

The journal club was implemented so staff can continue their professional development and to discuss contemporary issues affecting the sector.

Service improvements for period

The office of the HCSCC is undertaking a review of its complaints processes. We have changed the way we assess complaints and are much quicker at determining whether to conciliate, investigate, refer or take no further action on a complaint.

Work on the review of our processes and procedures will continue. Once those processes are as efficient and effective as the legislation allows, we will develop key performance indicators and track those effectively through our Resolve case management system.

Old HCSCC Website



New HCSCC Website





Section 4

Sharing our learnings



Social media

Social media is an important avenue to share information with the public. It is utilised by many organisations to inform and educate. The HCSCC did not have any social media presence and this restricted how we share information with consumers and service providers.

This financial year, the HCSCC launched three new social media platforms – Facebook, Twitter and LinkedIn. They have provided the HCSCC with a new voice in the community and this is an important step in providing an information about the work the office does.



Events

During the last financial year, the HCSCC attended a variety of events across the South Australian community, including:

- The Disability, Ageing and Lifestyle Expo;
- Feast Festival's Picnic in the Park; and
- Strong Aboriginal Children's Health Expo.

The HCSCC strongly believes that attending events is an important part of educating consumers and service providers about the role of the HCSCC and an avenue to reach people who may not be IT literate or find it difficult to access information online.

Submissions and education pieces

The HCSCC was asked to make written submissions about the following issues:

- Health Services in South Australia (Select Committee on Health Services in South Australia).
- Surgical Implantations Medical Mesh in South Australia (Social Development Committee).
- Aged Care (Royal Commission into Aged Care Quality and Safety).

The HCSCC is regularly asked to comment on particular trends or issues which may arise from time to time within the sector. As an independent office, we see this as a fundamental part of our role.

We also participated in a variety of education events.

For example, the Commissioner attended the launch of the New Australian Charter of Healthcare Rights, which was streamed nationally. He spoke about how the Charter provides a set of clear directions for consumers to participate in the health care they receive and encourages consumers to be equal partners in that healthcare delivery.

