

Office of the Health Services Commissioner Report



March Quarter 2003

Commissioner's Report

I am pleased to present an analysis of complaints trends from 1 January to 31 March 2003. Complaints received by HSC during that quarter under the *Health Services (Conciliation & Review) Act 1987* and the *Health Records Act 2001* are included. Complaints information received from 28 hospitals submitting data to HSC is also included. As well as an analysis of the data, this report contains information about complaints management and other work being undertaken by the Office of the Health Services Commissioner including the work of the conciliators, the Aboriginal outreach program and a research project entitled "*Best Practice in Complaints Handling*" which is being auspiced by the Health Services Review Council rather than the Health Services Commissioner.

Analysis Of Complaints Trends

1 January to 31 March, 2003

The Office of the Health Services Commissioner received 2579 new enquiries and complaints. Complaints comprised 493 lodged under the *Health Services (Conciliation & Review) Act 1987* (HSC) and 38 lodged under the *Health Records Act 2001* (HRA). There were a total of 2102 telephone enquiries where the caller was either given assistance over the phone or referred elsewhere. These comprised 1566 HSC enquiries and 536 HRA enquiries.

Figure 1

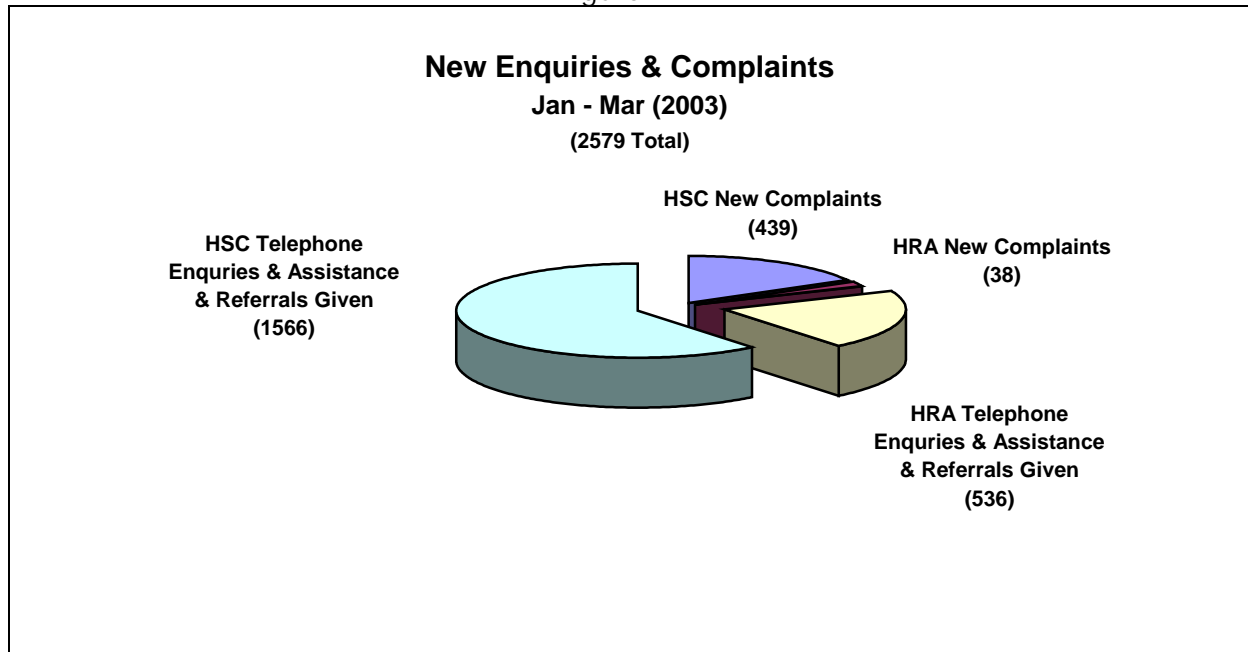
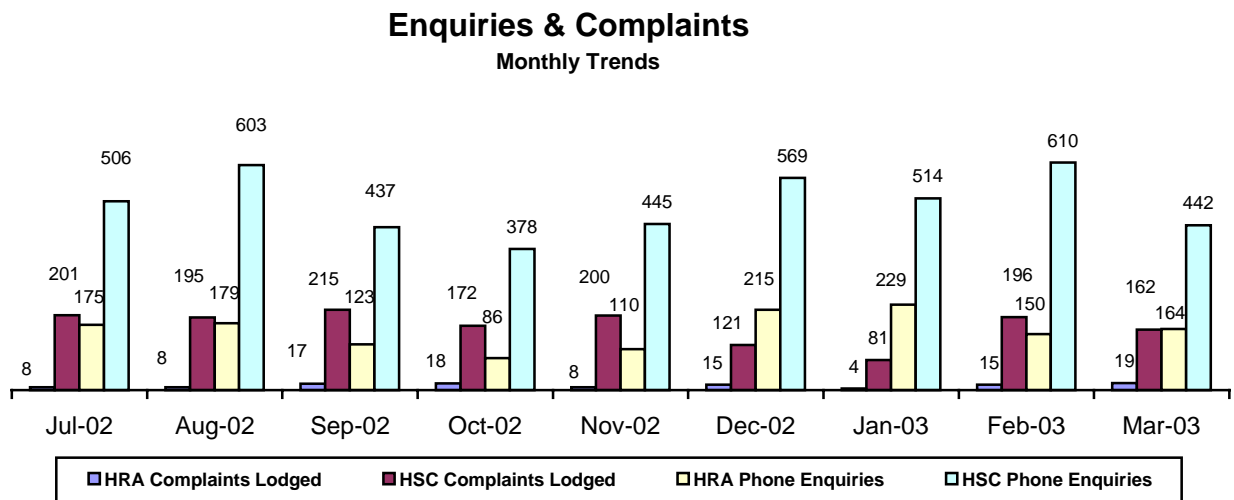


Figure 2



The database used to record enquiries and complaints has remained unreliable throughout the reporting period. This resulted in some loss of recorded data and in delays in entering data due to concerns about reliability. While there appears to be a slight decrease in numbers of complaints and enquiries in March, the total for the quarter is in line with the previous reports.

New Complaints & Telephone Enquiry Comparisons

Table 1

	2nd Quarter			3rd Quarter						
	Oct	Nov	Dec	Jan	Feb	Mar				
Health Services (Conciliation & Review) Act 1987										
New complaints lodged	172	200	121	493	21%	81	196	162	439	17%
Telephone Enquiries & Assistance/referrals given	283	469	608	1360	59%	514	610	442	1566	61%
Fees	42	72	81	195		61	125	51	237	
Health insurance	6	15	23	44		16	22	25	63	
Hospital waiting lists	6	5	41	52		28	36	17	81	
Food & environmental health issues	27	39	92	158		64	62	60	186	
Other	136	135	138	409		153	158	90	401	
Access to records	2	7	25	34		17	13	15	45	
Referred elsewhere	79	165	133	377		145	173	130	448	
Aboriginal/Torres Strait Islander	5	10	4	19		11	7	19	37	
Brochure	9	7	32	48		19	14	35	68	
HSC Total	550	645	690	1885	80%	595	806	604	2005	78%
Health Records Act 2001										
New complaints lodged	18	8	15	41	2%	4	15	19	38	1%
Telephone Enquiries & Assistance/referrals given	86	110	215	411	18%	229	150	164	536	21%
Referred to Federal Privacy Commissioner	0	4	10	14		3	0	3	6	
Referred to State Privacy Commissioner	0	3	11	14		1	1	0	2	
Referred to FOI Act	3	5	11	19		28	2	6	36	
Privacy Information	36	31	28	95		51	39	40	130	
Fees	6	6	51	63		23	22	7	52	
Access to records	38	42	74	154		76	67	73	216	
Aboriginal/Torres Strait Islander	40	3	0	3		4	4	16	24	
Brochure	3	16	30	49		43	15	19	77	
HRA Total	104	118	230	452	20%	233	165	183	574	22%
Total complaints & enquiries	654	763	920	2337	100%	828	971	787	2579	100%

Forty eight percent of complaints lodged under the Health Services (Conciliation & Review) Act 1987 were confirmed in writing and become cases, and 40% of complaints lodged under the Health Records Act 2001 were also confirmed in writing. This is an increase in confirmed HRA complaints over the previous quarter.

Primary Issues in Complaints

Difficulty in accessing records continues to be the most common reason for complaints under HRA. While issues concerning treatment are still the major source for complaints under the Health Services (Conciliation & Review) Act

Figure 4

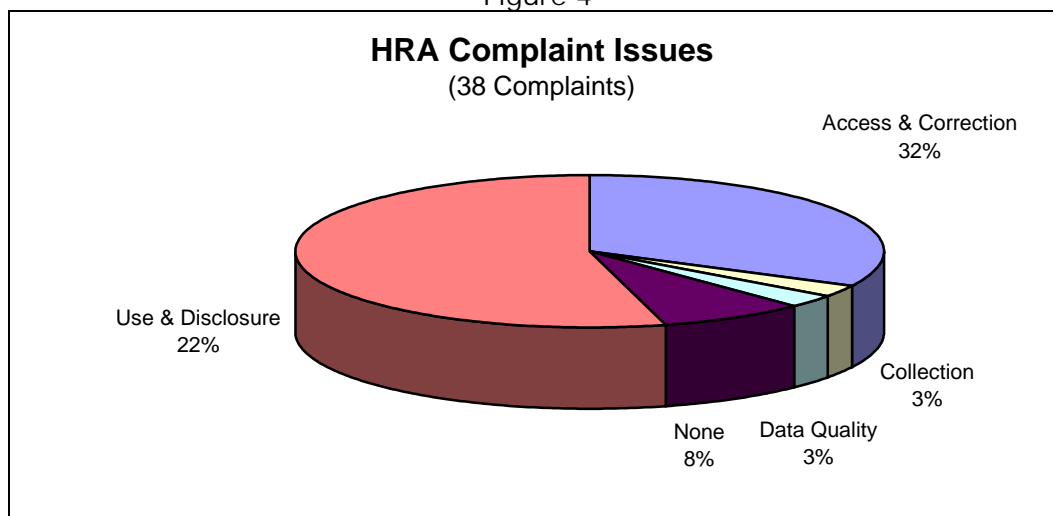


Table 2

	1st Qtr	2nd Qtr	3rd Qtr
Access & Correction			
Access refused	9	23	12
Inaccurate information not concealed	0	1	0
No written reason for refusal	2	1	0
	11	25	12
Anonymity			
Refusal of anonymity	0	2	0
Collection			
Breach of in-confidence details	1	1	1
Unnecessary collection	1	0	0
	2	1	1
Data Quality			
Data inaccurate, incomplete or out of date	1	1	1
Unlawful deletion	0	1	0
	1	2	1
Info available to another HSP			
Information refused	0	0	1
Unreasonable time in delivery	1	0	0
	1	0	1
Openness			
Policies unavailable, unclear or inadequate	2	0	0
Transfer/Closure of HSP			
Inadequate notification	1	0	0
Use & Disclosure			
Disclosure - Inadequate consent	12	9	19
Disclosure - Inadequate disclosure	1	0	1
	13	9	20
None	2	2	3
Total	33	41	38

Figure 5

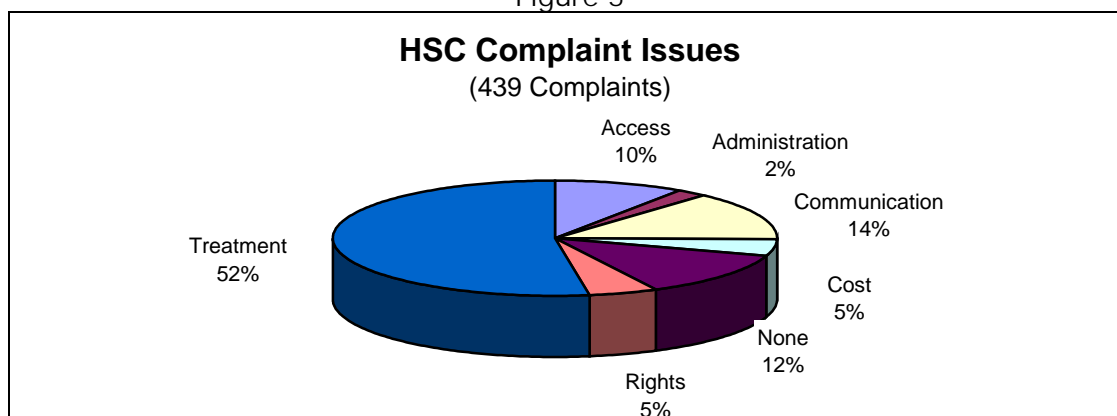


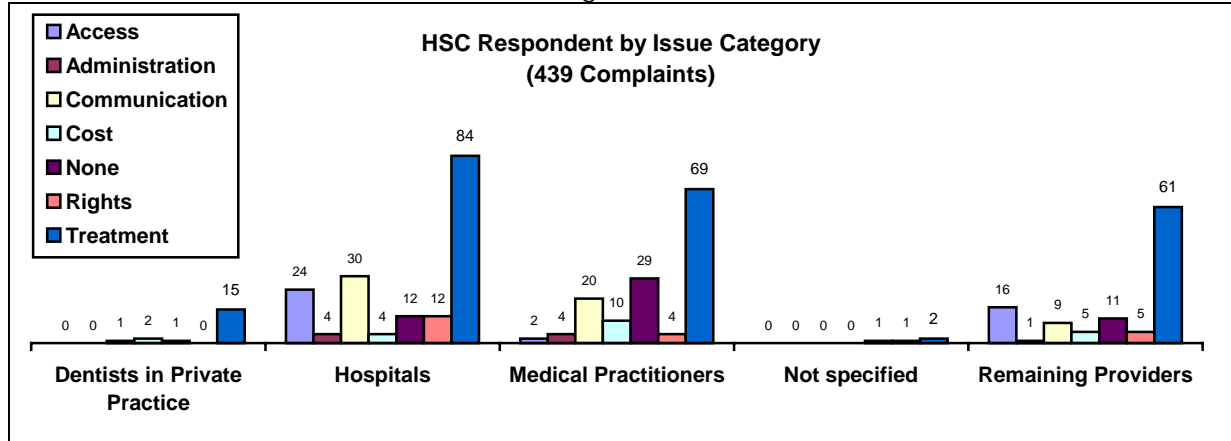
Table 3

HSC Complaints								
1st Qtr 2nd Qtr 3rd Qtr				1st Qtr 2nd Qtr 3rd Qtr				
Access				Cost				
Communication breakdown	5	2	1	Amount charged	13	15	5	
Delay in admission	7	6	4	Billing practices	11	12	5	
Delay in treatment	19	10	15	Information on costs	3	5	7	
Discharge arrangements	5	4	2	Other	1	1	2	
Discharge/Transfer	4	3	1	Over servicing	1	2	1	
No/inadequate service	21	20	13	Public/Private election	0	0	1	
Non attendance	12	2	1	Private health insurance	0	4	0	
Non attendance - service busy	2	1	1	Unnecessary treatment	1	1	0	
Other	0	0	2		30	40	21	
Refused admission	4	2	2					
Transport	1	2	0					
	80	52	42					
Administration				Rights				
Management practices	5	4	4	Access to records	4	4	2	
Advertising	0	3	0	Accuracy of records	1	1	1	
Failure to provide certificate	1	2	1	Assault	4	5	0	
Hygiene	2	0	0	Discrimination	2	1	3	
No/inadequate response	3	2	1	No/insufficient consent	3	4	7	
Other	3	3	1	Other	2	1	3	
Policy	1	1	2	Privacy/confidentiality	8	3	2	
	15	15	9	Refusal to treat	2	2	2	
				Unprofessional conduct	10	2	2	
					36	23	22	
Communication				Treatment				
Absence of caring	5	12	11	Inadequate diagnosis	51	41	46	
Failure to consult	10	10	4	Inadequate treatment	100	87	75	
Inconsiderate/undignified service	8	12	10	Medication	36	25	19	
Other	2	1	1	Negligent treatment	36	41	28	
Poor attitude/discourtesy	21	18	11	Other	8	5	5	
Wrong/misleading Information	22	12	23	Rough treatment	18	8	7	
	68	65	60	Unskilful/incompetent treatment	60	47	37	
				Wrong diagnosis	9	8	9	
				Wrong treatment	0	2	5	
					318	264	231	
				None	64	34	54	
				Grand Total	611	493	439	

Respondent Analysis by Primary Issue

In each quarter there are a number of complaints where the issue has not been recorded. While all attempts are made to clarify and identify issues with callers at the time of the telephone complaint there are occasions when a caller will not be willing or able to do so. At these times a complaint form will be sent and the available information entered on the database. If the complaint is not confirmed in writing there will be data where the issues are not known.

Figure 6



Treatment provided by Hospitals and Medical Practitioners continues to be the major source of complaints under the HSCRA,

Figure 7

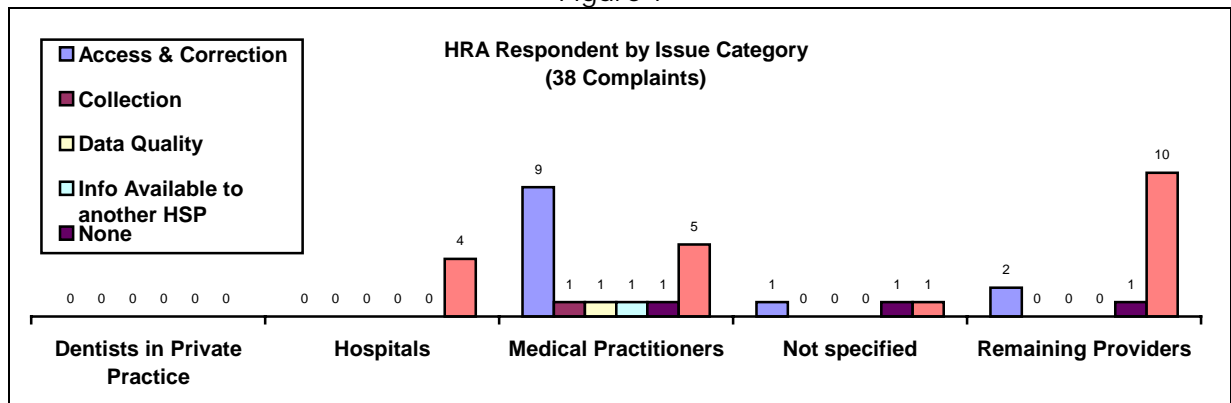


Table 4

	2nd Qtr						3rd Qtr							
	Dentists in Private Practice	Hospitals	Medical Practitioners	Remaining Providers	Not specified		Dentists in Private Practice	Hospitals	Medical Practitioners	Remaining Providers	Not specified			
HSC														
Access	1	17	8	26	0	52	10%	0	24	2	16	0	42	9%
Administration	0	4	4	7	0	15	3%	0	4	4	1	0	9	2%
Communication	2	15	36	11	1	65	12%	1	30	20	9	0	60	13%
Cost	3	4	14	18	1	40	7%	2	4	10	5	0	21	4%
None	1	12	17	3	1	34	6%	1	12	29	11	1	54	11%
Rights	0	13	5	5	0	23	4%	0	12	4	5	1	22	5%
Treatment	17	91	90	64	2	264	49%	15	84	69	61	2	231	48%
	24	156	174	134	5	493	92%	19	170	138	108	4	439	92%
	5%	32%	35%	27%	1%	100%	4%	39%	31%	25%	1%	100%		
HRA														
Access & Correction	0	2	20	3	0	25	5%	0	0	9	2	1	12	3%
Anonymity	0	0	2	0	0	2	0%	0	0	0	0	0	0	0%
Collection	0	0	0	1	0	1	0%	0	0	1	0	0	1	0%
Data Quality	0	0	1	1	0	2	0%	0	0	1	0	0	1	0%
Info Available to another HSP	0	0	0	0	0	0	0%	0	0	1	0	0	1	0%
None	0	0	1	1	0	2	0%	0	0	1	1	1	2	0%
Openness	0	0	0	0	0	0	0%	0	0	0	0	0	0	0%
Transfer/Closure of HSP	0	0	0	0	0	0	0%	0	0	0	0	0	0	0%
Use & Disclosure	0	3	3	3	0	9	2%	0	4	5	10	1	20	4%
	0	5	27	9	0	41	8%	0	5	18	13	3	38	8%
	0%	12%	66%	22%	0%	100%	0%	13%	47%	34%	8%	100%		
Grand Total	24	161	201	143	5	534	100%	19	175	156	121	7	477	100%
	4%	30%	38%	27%	1%	100%	4%	37%	33%	25%	1%	100%		

How Complaints Are Managed

Table 5

Stage of Complaint Process	1st Quarter				2nd Quarter				3rd Quarter			
	HRA	HSC	Total	%	HRA	HSC	Total	%	HRA	HSC	Total	%
Closed in Enquiry (Single Contact Complaints)	11	278	289	44%	24	351	375	52%	21	260	281	52%
Closed in Assessment	0	239	239	36%	13	209	222	31%	12	195	186	34%
Closed in Conciliation	0	130	130	20%	2	125	127	17%	2	54	56	10%
Closed in Investigation	0	0	0	0%	0	2	2	0%	0	1	1	0%
Complaints closed	11	657	658	100%	39	687	726	100%	35	510	545	100%

Table 5 shows the number of complaints closed during the quarter. While 477 complaints were lodged in the reporting period, 545 were closed in that time. These include complaints received prior to the reporting period. A number of complaints received during this period remained open for ongoing management in the next quarter.

In keeping with past trends, approximately half of the complaints received were not confirmed in writing.

Primary Issue In Complaint By Seriousness Rating At Closure

Table 6

	2nd Quarter				3rd Quarter					
	High	Medium	Low	Total	High	Medium	Low	Total		
HRA										
Access & Correction	0	5	13	18	2%	0	7	12	19	3%
Anonymity	0	0	0	0	0%	0	1	1	2	0%
Collection	0	0	1	1	0%	0	1	0	1	0%
Data Quality	0	0	0	0	0%	0	0	1	1	0%
Info Available to another HSP	0	0	1	1	0%	0	0	0	0	0%
None	0	3	2	5	1%	0	0	0	0	0%
Openness	0	0	1	1	0%	0	0	0	0	0%
Transfer/Closure of HSP	0	1	0	1	0%	0	0	1	0	0%
Use & Disclosure	1	7	4	12	2%	0	6	5	11	2%
	1	16	22	39	5%	0	15	20	35	6%
HSC										
Access	3	42	29	74	10%	0	27	33	60	11%
Administration	0	8	10	18	2%	0	4	9	13	2%
Communication	2	32	42	76	10%	3	21	39	63	12%
Cost	0	11	35	46	6%	0	9	11	20	4%
None	2	39	5	46	6%	3	37	12	52	10%
Rights	7	15	13	35	5%	2	10	23	35	6%
Treatment	53	261	77	391	54%	23	155	89	267	49%
	67	409	211	687	95%	31	263	216	510	94%
Total Complaints Closed	68	425	233	726	100%	31	278	236	545	100%
	9%	59%	32%	100%						

Hospital Health Complaints Information Program Data

During the period under review 28 hospitals submitted data containing 1580 complaints. These complaints consisted of 1813 multiple issues. Table 8 indicates the name of those hospitals and their reporting frequency.

Issues in Complaints

Figure 8

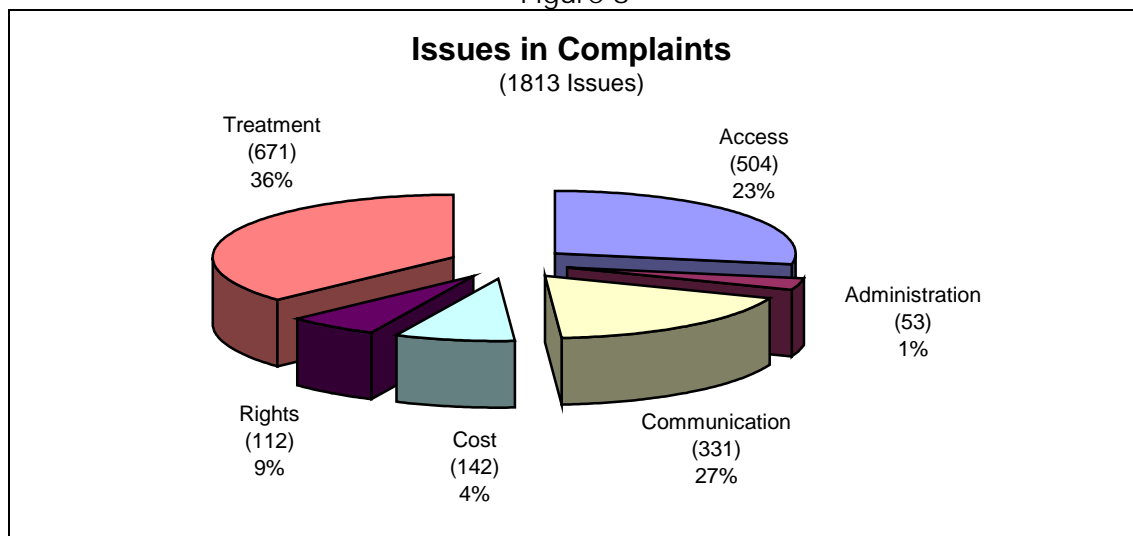


Table 7

Primary Issue in Complaint by Seriousness Rating

1st Quarter							
	Trivial	Minor	Routine	Substantial	Serious	Total	
Access	50	169	130	9	1	359	31%
Administration	16	12	20	3	0	51	4%
Communication	66	73	128	7	1	275	24%
Cost	11	27	19	5	1	63	6%
Rights	22	24	72	14	0	132	12%
Treatment	51	70	127	13	4	265	23%
Total	216	375	496	51	7	1145	100%
	19%	33%	43%	4%	1%	100%	

2nd Quarter							
	Trivial	Minor	Routine	Substantial	Serious	Total	
Access	40	81	119	18	1	259	21%
Administration	10	7	16	2	0	35	3%
Communication	62	100	204	23	4	393	32%
Cost	6	4	13	1	0	24	2%
Rights	13	24	64	16	4	121	10%
Treatment	55	76	204	42	9	386	32%
Total	186	292	620	102	18	1218	100%
	15%	24%	51%	8%	1%	100%	

3rd Quarter							
	Trivial	Minor	Routine	Substantial	Serious	Total	
Access	179	73	234	17	1	504	28%
Administration	17	6	28	2	0	53	3%
Communication	78	60	178	12	3	331	18%
Cost	24	9	105	3	1	142	8%
Rights	14	32	51	12	3	112	6%
Treatment	100	79	444	39	9	671	37%
Total	412	259	1040	85	17	1813	100%
	23%	14%	57%	5%	1%	100%	

Assessment And Investigation

The Assessment Team manages the large numbers of telephone and in-person inquiries to the Office. In addition to this, each of the four officers carries a caseload of around 30 current complaints, which are being assessed. Historically 90% of these cases will be resolved informally during this stage by bringing the complaint to the provider's attention and seeking further explanations and advice for the complainant.

The Health Records Act has generated many inquiries and some additional cases for the Team. Because the Act is very specific about the rights of access and privacy, the issues that become cases seem to be quite complex. This has necessitated regular liaison with the HRA team and, in particular, the Legal Officer. Currently it is the opinion of the major Medical Defence Organisation that access to the records of a deceased person under the HRA can only be given to a person granted probate or letters of administration. This has posed some delays and difficulties in a small number of cases and also has implications to obtaining responses to complaints under the Health Services (Conciliation & Review) Act. The Commissioner has sought independent legal advice on this issue.

Executive Services

Health Records Act 2001

Train the trainer

This quarter resulted in the Health Records Act team developing an exciting new 'train the trainer' package for privacy and training offices of various organisations to attend and develop their knowledge of the legislation so they can train staff in their own organisations. Two sessions were held during the quarter attended by approximately 50 individuals representing organisations as diverse as Victoria Police and Turning Point a Drug and Alcohol counselling service. This package is on our updated website.

DHS training

Privacy Victoria, this office and the Department of Human Services Privacy Unit developed a training package of 3 modules aimed at DHS Managers, Agency Liaison officers and funded agencies. The delivery of this package commenced in February and continues until the end of the financial year. It covers all DHS regions and includes 14 separate locations.

Private lives

In March this office in conjunction with Privacy Victoria and the Victoria Law foundation were honoured to have the Attorney General the Honourable Rob Hulls MP launch the booklet 'Private Lives' a privacy law in Victoria. This is a joint effort between the 3 organisations and the booklet is available from this office.

Aged care expo

The office provided a passive display at the 2 day Aged Care Expo held at the Caulfield Racecourse in February. This included an ongoing PowerPoint presentation on the role of the office and in particular the *Health Records Act 2001*. The various brochures and posters of the office were displayed and distributed.

Compliance training project

The office employed a project officer early in the quarter to formulate and project manage submissions for an online health privacy compliance program. The aim of the program is to educate and test organisational compliance with the Health Privacy Principles as specified in the HRA.

Information Technology

All staff received new computers and flat screen monitors that meet current Departmental standards. The computers are cheaper to run and more environmentally friendly requiring only 20 watts compared to 200 to run. They are also more ergonomically correct for staff.

Occupational Health & Safety

An OH&S consultant was engaged to review the workstations of all employees and provide a report recommending best practice. All recommendations were acted on.

Conciliation

Complaints referred to conciliation continue to be prioritised as follows:

HRA complaints are allocated immediately because most are about failure to provide access to records within the statutory time frame stipulated under the Act.

Other complaints are dealt with according to date of referral to conciliation (oldest file in the Office is dealt with first) unless the state of health of the complainant and/or provider dictates otherwise or there is a time problem due to the Limitation of Actions Act 1958.

The majority of conciliation files continue to raise issues of a complex nature, which require in depth analysis, research, consultation and management.

Where the conciliation process identifies systemic issues within the Victorian health service industry, the conciliation team adopts a very proactive role, in cooperation with the participants, to address these issues effectively to achieve long-term change management.

The Koori Outreach Programme (which is part of the conciliation team's brief) is very dynamic, reaching many remote communities in country Victoria. The Programme recognises the Koori Community's reluctance to complain formally, requiring immediate handling of matters that arise, in a culturally sensitive manner. The Koori Liaison Officer is also involved in a broad education outreach programmes relating to the HSC and HRA legislation. It is evident through the contacts with this Office, that the production of Koori pamphlets and fridge magnets has been a very successful means of publicising the existence of the Office of the Health Services Commissioner.

Aboriginal Outreach Program Quarterly Report Aboriginal Outreach Program Quarterly Report

1. Provision of information (ATSI)

- a. Mail outs of brochures, fridge magnets, annual reports & other information: 127
- b. Requests for information/training sessions: 3
- c. Number of ATSI information sessions attended: 7

2. Meetings attended by the ALO

Date	Organisation
13 January	Met with ATSI enquirer.
21 January	Bendigo & District Aboriginal Co-operative. Information session on HSC services.
21 January	Met with ATSI enquirer.

- 23 January Meeting with Helen Sherbourne, Office of Health Review, Western Australia.
- 28 January Moogji Aboriginal Co-operative. Information session on HSC services.
- 29 January Gippsland & East Gippsland Aboriginal Co-operative. Information session on HSC services.
- 29 January Met with 2 ATSI enquirers.
- 3 February Met with ATSI enquirer
- 25 February Attended HRA Consumer Reference Group meeting. Gave report on progress of Aboriginal Outreach Program.
- 27 February Meeting with Koori Health Unit, Department of Human Services, to discuss development at HSC, seek feedback and suggestions on the Koori Health Rights Bulletin and invite them to contribute stories for upcoming editions.
- 5 March Moogji Aboriginal Co-operative. Further information session on HSC Services.
- 6 March Attended Health Records Act Implementation Reference Group Meeting. Gave report on progress of Aboriginal Outreach Program.
- 20 March Lake Tyers Aboriginal Trust. Met with a number of community members, discussing the role of the HSC and delivering written information.
- 26 March Bendigo & district Aboriginal Co-operative. Further information session on HSC services.

3. Complaints

- a. Total number of ATSI enquiries: 61
- b. Number of meetings with ATSI enquirers: 15

4. Mainstream

- Assisted Susan Herbert in the design of the flyer for the Health Services Review Council seminar "Health Records Act – A Year on."
- Provided administrative assistance to the Conciliation Waiting List when and as needed.

5. Other

- Established an email mailing list for people interesting in receiving information regarding upcoming events occurring as part of the Aboriginal Outreach Program. We currently have 12 members.
- Established a centralised Excel database detailing upcoming Outreach activities.
- Provided assistance to Cultural Partners (for Privacy Victoria) in the form of providing database of Aboriginal & Torres Strait Islander contacts.
- Further amended "Conciliation Information Sheet for Aboriginals & Torres Strait Islanders" by creating a brochure, including layout and illustrations.
- Updated the Aboriginal & Torres Strait Islander mailing list.
- Attended conciliation meetings.

'Best Practice' in Complaint Handling Project

This project was designed to assist hospitals and health institutions to develop and implement best practice Guidelines for complaint handling. The Commission's Health Services Review Council was successful in obtaining a grant from the Department of Human Services to develop and implement the project. Ms Diane Spartels has been employed as Project Officer for 12 months.

Background to the project:

The Health Services Commissioner is aware that the current complaint handling systems in public and private hospitals differ markedly. In many cases, they are inadequately resourced or, in some cases, non-existent. For example:

- Only 10% of regional hospitals had a designated specialist complaint liaison officer (cf 78% of metropolitan hospitals).
- Complaint liaison officers have minimal training and inadequate management support
- The median length of time in a CLO position was under 2 years
- Critical differences occur in CLO positions in training, importance, priority, qualifications and involvement in hospital quality processes. (Source: Annual Report 2001, HSC, pp 18-20 "Status of Complaint Liaison Officers")

The HSRC also noted that, under the Medicare Agreement between Commonwealth and State governments, the state/public system has obligations to maintain appropriate complaint handling systems.

Accordingly, improved complaint handling systems should enable:

- prompt and speedy resolution of legitimate complaints;
- minimisation of costs (direct and indirect) involved with complaint
- handling; risk management, potentially limiting the number of complaints
- which may become formal legal claims;
- promote better health care outcomes;
- better quality assurance, by providing feedback to service delivery functions; and
- ensure compliance with statutory and regulatory requirements

Where is the Best Practice in Complaint Handling Project up to?

Ms Diane Spartels was appointed late October 2002, and proceeded to briefly review current literature and similar projects (within Australia & overseas). The process for consultation with the healthcare community was to establish:

1. Stakeholder Group

Invite all funded healthcare organizations via letter to register their interest in the project. Eighty-two organizations responded. These organizations have been formed into the Stakeholder Group and are informed of initiatives in the project, invited to comment and participate via e-mail. Participants in the Stakeholder group put forward nominations to pilot the guidelines, host focus groups, and recommended relevant projects/literature to be included in reviewing current complaint handling practice.

2. Project Reference Group

Representatives from industry related organizations were invited to provide advice to the project and inform the development of the guidelines by meeting to identify and discuss

- critical components required in a best practice complaint handling system
- the first draft of the Best Practice in Complaint Handling Guidelines and
- feedback on the draft guidelines upon completion of piloting the guidelines in 4 public hospitals

3. Focus Groups

With nominations received from the Stakeholder Group the project conducted focus groups with representatives from 29 rural, regional and metropolitan healthcare services to identify specific issues pertinent for inclusion in the Best Practice Guidelines. Ten focus groups were conducted across Victoria. Participants in the *focus* groups included Executive Officers, Risk and Quality Managers, DON's, Patient Advocates/CLO's and frontline complaint handlers.

4. Piloting the draft guidelines

Thirteen nominations have been received from rural, regional Victoria, urban and metropolitan public hospitals. The HSRC project management team in consultation with DHS is currently selecting the pilot sites from nominations received. It is anticipated the pilots will commence in mid July 2003.

- The project is currently collating and analyzing data collected from the *focus* groups, integrating relevant materials into the draft guidelines and developing the training program to support implementation of the guidelines during the pilot stage.

Registrar

The Registrar meets and liaises regularly with the Registration Boards to exchange information and discuss complaints to establish which organisation is most appropriate to deal with the complaint. This networking is to be extended beyond the Registrar with meetings between OHSC complaint handling staff and staff of the Medical Practitioners Board and the Nurses Board planned for the next quarter. The Registrar also attends a bi-monthly Registrars meeting of all Registration Boards to exchange ideas, network and develop improved methods of complaint management.

In this quarter 296 complaints received by the OHSC were discussed with the respective Boards. This resulted in the formal referral of 18 complaints for attention by the Boards – 15 to the Medical Practitioners Board of Victoria, 1 to the Dental Practice Board of Victoria and 2 to the Optometrists Registration Board of Victoria.