

Annual report 2022-23



National Health
Practitioner
Ombudsman

Acknowledgement of Country

The office of the National Health Practitioner Ombudsman acknowledges the Wurundjeri Woi Wurrung people as the traditional custodians of the land on which our office is located. We would also like to acknowledge Aboriginal and Torres Strait Islander peoples who are the traditional custodians of the lands where our services extend.

We pay our respects to Elders, past and present, across Australia and to those who may be reading this report. We value and are committed to honouring Aboriginal and Torres Strait Islander peoples' rich contribution and unique and continuing connection to the land, water and community.

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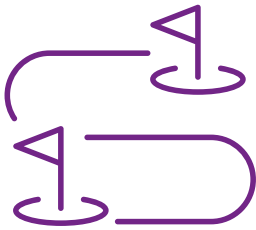
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Our year in figures

We received:



1,884
approaches

up 18 per cent from 2021-22



663
complaints to
the Ombudsman

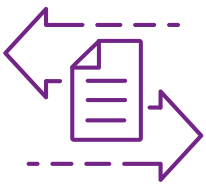
down 20 per cent from 2021-22



44,015
new users
to our website

up 85 per cent from 2021-22

We made:



172

Ombudsman
complaint
transfers to Ahpra



109

preliminary inquiries
into Ombudsman
complaints

We finalised:



1,882
approaches



657
complaints to
the Ombudsman

We published:



3 FOI review
decisions

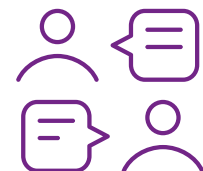
Milestones:



We began receiving
complaints about
accreditation
organisations in the
National Scheme



We developed
constructive complaint
pathways with the
32 accreditation
organisations we
now oversee



We contributed to the
public consultation on
the review of the Boards'
shared English Language
Skills Registration
Standard

Letter of transmittal



Ms Rachel Stephen-Smith MLA
Chair
Health Ministers' Meeting

Dear Minister

I am pleased to present you with the joint National Health Practitioner Ombudsman's and National Health Practitioner Privacy Commissioner's annual report for the period 1 July 2022 to 30 June 2023.

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

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

Yours sincerely

A handwritten signature in black ink, appearing to read "Richelle McCausland".

Richelle McCausland
National Health Practitioner Ombudsman
National Health Practitioner Privacy Commissioner

Foreword

The expansion of my office's powers regarding accreditation organisations in the National Registration and Accreditation Scheme was a watershed moment this financial year. Accreditation ensures health practitioners have the knowledge, skills and professional attributes necessary to practise their profession safely and competently in Australia. My office's expanded role in considering accreditation-related complaints is an important step to providing greater accountability and transparency of accreditation processes. We can now consider complaints, for example, about the assessment of overseas-qualified practitioners by accreditation organisations, and the delivery of specialist medical colleges' training programs.

Australia's health system continues to operate under increased pressure due to the ongoing effects of the COVID-19 pandemic. This gives impetus to ensuring processes supporting health practitioner regulation are fair, effective and efficient.

My office continued to see an increase in people seeking assistance this financial year. We received 1,884 approaches, which is an 18 per cent increase compared with last financial year. This included 1,183 enquiries and 663 complaints to the Ombudsman.

During the year we focused on making continuous systemic improvements in Ahpra's notification and registration processes. Following ongoing feedback about communication and delay in Ahpra's management of notifications, it adopted a new triaging and case management model. This appears to have led to improvements in the time taken to finalise notifications. However, complaints to my office about the notifications process increased by 39 per cent this financial year compared with 2021–22. We will continue to examine and monitor the effects of the new model and suggest appropriate remedies to identified issues.



We continued to progress our independent reviews into accreditation processes, and Ahpra's framework for identifying and managing vexatious notifications. These reviews are essential to identifying opportunities for improvement and presenting evidence-based and practical recommendations to ensure administrative processes reflect best practice.

I thank Ahpra and the organisations we oversee for their responsiveness and engagement with my office this financial year. In particular, I recognise the commitment to continuous process improvement that I have already seen from many accreditation organisations.

I am also thankful for my expert and determined staff who consistently embody my office's values. The respect and empathy I hear every day when they engage with complainants underpins the quality of our work, and my office's ability to continue to bring about positive change in the regulation of health practitioners in Australia.

Richelle McCausland
National Health Practitioner Ombudsman
National Health Practitioner Privacy Commissioner

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Our vision and role

The office of the National Health Practitioner Ombudsman strives for fair and positive change in the regulation of registered health practitioners for the Australian community. We provide an independent complaints service that is free and open to all. Our work ensures the health practitioner regulation system is accountable and fair.

Our primary role is to oversee bodies in the National Registration and Accreditation Scheme (the National Scheme). This includes the Australian Health Practitioner Regulation Agency (Ahpra), the 15 National Health Practitioner Boards (the Boards), accreditation authorities and specialist medical colleges (Figure 1).¹ This report uses the term 'accreditation organisations' when referring collectively to accreditation authorities and specialist medical colleges.

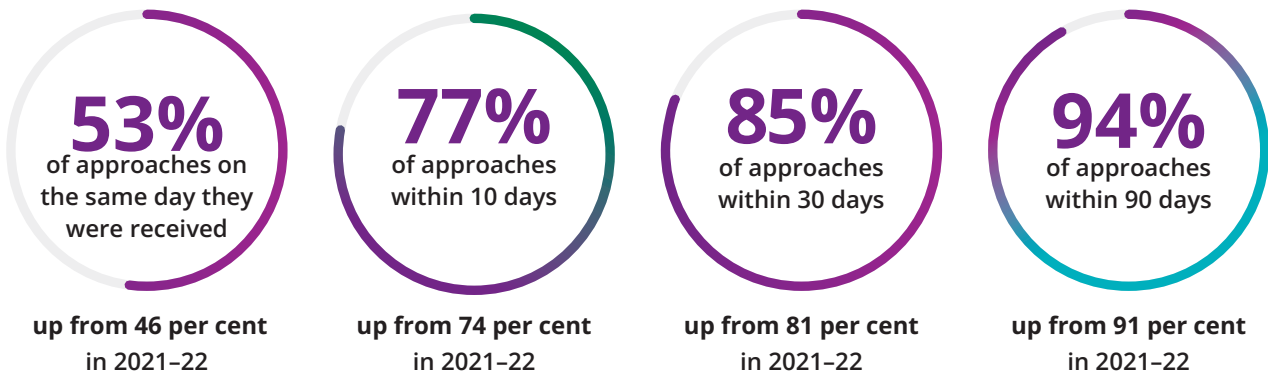
Figure 1: Our role in the National Scheme



Our service charter

We provide a free, independent and high-quality complaint handling service. Our service charter sets out what people can expect when they engage with our office, including when they can expect to hear from us and how long it may take us to finalise their matter. This financial year, we are pleased to report that we continued to exceed our stated service standards (Figure 2).

Figure 2: Approaches finalised in line with our service charter



¹ The Boards currently include the: Aboriginal and Torres Strait Islander Health Practice Board of Australia, Chinese Medicine Board of Australia, Chiropractic Board of Australia, Dental Board of Australia, Medical Board of Australia, Medical Radiation Practice Board of Australia, Nursing and Midwifery Board of Australia, Occupational Therapy Board of Australia, Optometry Board of Australia, Osteopathy Board of Australia, Paramedicine Board of Australia, Pharmacy Board of Australia, Physiotherapy Board of Australia, Podiatry Board of Australia and Psychology Board of Australia. For further information about accreditation authorities and specialist medical colleges we now oversee, see 'Enhancing accountability.'

About our team



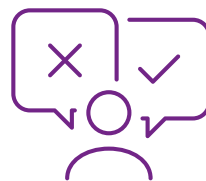
Our team of skilled and committed staff support the Ombudsman and Commissioner to provide high-quality services to the broader community.

Our values



Independent

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



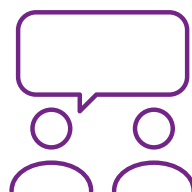
Fair

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



Courageous

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



Respectful

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



Collaborative

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

The Ombudsman and Commissioner

Richelle McCausland is the National Health Practitioner Ombudsman and the National Health Practitioner Privacy Commissioner.

The Health Ministers Meeting (HMM) appoints the Ombudsman and Commissioner for a term of three years. The HMM is made up of health ministers from the Commonwealth and each state and territory of Australia. Richelle is currently serving her second term as Ombudsman and Commissioner after first being appointed to the role in May 2018.

The Ombudsman and Commissioner's role is established by the *Health Practitioner Regulation National Law*, in effect in each state and territory of Australia (the National Law). The Ombudsman and Commissioner's powers come from the *Commonwealth Ombudsman Act 1976*, *Privacy Act 1988*, and *Freedom of Information Act 1982*.

Complaints and freedom of information (FOI) branch

Members of the complaints and FOI branch are empathetic and collaborative in their approach to resolving concerns and addressing issues raised by complainants and FOI applicants.

Our complaints and FOI branch handles:

- complaints to the Ombudsman
- privacy complaints to the Commissioner
- applications for review of FOI decisions made by Ahpra and the National Boards.

All members of the branch are trained in complaints-handling best practice. The Ombudsman and Commissioner delegates some decision-making powers to members of the branch.

During the year, we established a new role in the branch that ensures the quality of our data and systems.

Our complaints teams

We established an early resolution team and two complex investigations teams within our complaints and FOI branch this financial year.

Members of the early resolution team are generally the first point of contact for people engaging with our office. The team provides essential information, including referrals if a person needs to direct their matter to another entity. The early resolution team also generally manages straightforward complaints and facilitates our early resolution transfer process.

The complex investigations teams focus on complaints that raise multiple issues or cannot be resolved through early resolution mechanisms. These teams also assist the Ombudsman and Commissioner to undertake independent reviews and own-motion investigations.

Policy and communications team

Our policy and communications team aims to increase engagement and improve the accessibility of the services provided by our office. This financial year, the team progressed our digital engagement strategy through email and social media communication channels. The team also ensured that the accreditation organisations we now oversee understand our office's role, and their new responsibilities and obligations.

In addition, the team researches and develops submissions on important issues in the National Scheme in collaboration with the Ombudsman and Commissioner. Submissions incorporate our complaints data and trends, and our expertise in administrative processes and decision-making. The team also helps to deliver the office's independent reviews by providing essential stakeholder engagement, research and report-writing support.

Business services team

Our business services team provides administrative services for our office. This financial year, the team supported growth and change in a number of ways. The team recruited qualified staff from diverse professional backgrounds to continue delivering quality services. The team also managed the day-to-day operations of our office, including upgrading hardware and auditing existing assets. In addition, the team ensured occupational health and safety in the workplace.

Our office is hosted by the Victorian Department of Health. The department provides our office with corporate support such as information technology, payroll and human resources support. We greatly appreciate the collaborative working relationship we share with our colleagues in the department.

Strategic directions

Our Governance Committee supports the Ombudsman and Commissioner's decision-making and management of the office's operations.

As part of our commitment to continuous improvement, we regularly reflect on our *Strategic plan 2021-2024*. Our four focus areas include:



influencing systemic improvements



engaging and communicating



building capacity



enhancing accountability

We also have an ongoing commitment to building a team culture of resilience and collaboration.

“

Over the past financial year we have seen many new faces in the office, which has brought fresh perspectives and ideas. I have enjoyed building professional relationships and engaging in training and development opportunities as a team.

- Katrina, Investigator Complex Investigations

How we helped in 2022–23

Our office champions fairness by investigating complaints, facilitating resolutions and making recommendations to improve the regulation of Australia's registered health practitioners.

In 2022–23, we received 1,884 approaches, up from 1,598 in 2021–22.² This included:



663 complaints

to the Ombudsman
(down from 826 in 2021–22)



9 privacy complaints and
7 notifications of eligible data breaches to the Commissioner
(down from 13 and 8 in 2021–22)



22 FOI matters related to
Ahpra's decisions under federal
FOI law (up from 18 in 2021–22)



1,183 enquiries involving
requests for information or concerns
outside our core complaint handling
activities (up from 733 in 2021–22).

In 2022–23, we saw interesting changes to the types of contact we received and the people seeking our assistance. For example, we experienced a 68 per cent increase in contact from people whom we could not directly assist due to their concern being outside our office's role in the National Scheme (1,146 out of jurisdiction enquiries in 2022–23, up from 683 in 2021–22). This overall increase was despite our office receiving fewer enquiries related to the pandemic, including those related to COVID-19 vaccination policy and the safety of COVID-19 vaccines.

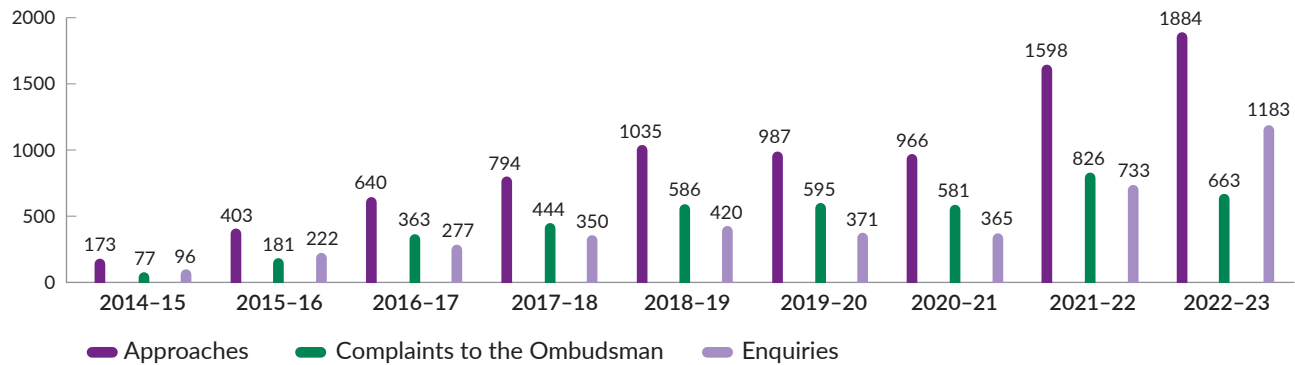
This suggests that more people had trouble finding out where to raise their concerns this year. We know the National Scheme's complexity makes it hard for people to find the right place to raise a health-related concern. Our office continues to monitor this issue to determine whether there are new reasons for the spike in enquiries to our office and potential avenues for improvement.

Complaints to our office about the management of notifications and matters relating to practitioner registration have increased from last financial year. Most notably, complaints about Ahpra's process for receiving and managing concerns about a registered health practitioner (a 'notification') increased from 309 in 2021–22 to 430 in 2022–23. Complaints about Ahpra and the Boards' response to the COVID-19 pandemic have, however, reduced significantly from 2021–22. This change drove the overall reduction in the number of Ombudsman complaints we received this financial year.

We have found that health practitioners are accessing our services more often, with 27 per cent more complaints to the Ombudsman coming from registered practitioners, or those seeking registration in a health profession than last financial year (381, compared to 301 in 2021–22). This suggests that our efforts to increase awareness about our office among health practitioners are working.

² Please note that during 2022–23, we identified a technical error in our webform that led to a small number of matters not being processed promptly. We have taken necessary steps to ensure the error does not occur again. We also apologised to the affected individuals for the error and provided ways to progress their matter if they wished. In addition, the error resulted in some cases being added to our 2021–22 data to ensure our reporting is accurate.

Figure 3: Approaches, enquiries and Ombudsman complaints to our office between 2014–15 and 2022–23



Enquiries

We saw a significant increase in the number of enquiries our office received this financial year (1,183 enquiries compared with 733 enquiries in 2021–22). Enquiries relate to someone requesting general information or raising an issue with our office that is outside our core complaint handling activities. Consistent with past trends, enquiries received in 2022–23 mostly related to matters our office could not consider (1,146).

In response to this increasing demand, we expanded our reporting capability for enquiries. The enquiries we could not consider primarily related to:

- the conduct or performance of a registered health practitioner (458; 40 per cent of enquiries)
- health services (498; 43 per cent of enquiries), of which 13 per cent related to safety and quality of care (152), 9 per cent related to fees and rebates (103) and 9 per cent related to service refusal and delay (101)
- medication, including access to medication, the cost of medication, and safety and approval processes for medications (55; 5 per cent of enquiries)
- handling of concerns by state and territory health complaints entities, regulators, government authorities and other complaints bodies (47; 4 per cent of enquiries).

Most people contacted us to raise concerns about a registered health practitioner or a health service (together, 83 per cent of enquiries). Although we cannot consider these concerns, we refer people to the appropriate service where possible. It is important people can raise these concerns, because they could affect patient safety and the quality of health care received in Australia. In 2022–23, we referred 54 per cent of enquirers to a state or territory health complaints entity (618), 17 per cent to Ahpra to make a notification (199) and 7 per cent to another suitable entity (78).

We also received 30 general enquiries and seven media enquiries in 2022–23.

Ombudsman role

When we receive a complaint, we listen to the complainant and carefully consider the best way to address their concerns. We may:

- make an early resolution complaint transfer (with the complainant’s consent)
- make preliminary inquiries
- decide to investigate
- decide not to investigate and finalise the complaint.

This financial year, we received 663 complaints to the Ombudsman. In line with previous complaint trends, we received the most complaints about how Ahpra and the relevant Board handled a notification (430).

We finalised 657 complaints to the Ombudsman in 2022–23. Our early resolution mechanisms are designed to be quick and to make engaging with our office more straightforward. Often, early intervention is all that is needed to bring about a good result. We finalised 95 per cent of complaints to Ombudsman in 2022–23 without a formal investigation (393 complaints were finalised at the assessment stage, 132 at the early resolution transfer stage and 101 at the preliminary inquiry stage).

Our investigations address complex complaints that usually raise multiple concerns. Investigations help us find out whether there are areas for improvement that need attention. This may result, for example, in the Ombudsman making formal comments or suggestions for improvement to the organisation about how they can address the issues raised in a complaint. We finalised 31 complaints following an investigation in 2022–23. The most common investigation outcome was our office providing feedback to Ahpra about its handling of a matter.

The decrease in complaints received and finalised in 2022–23 compared with last financial year is linked to a significant decrease in the number of COVID-19 pandemic-related complaints. The surge in this type of complaint in 2021–22 was likely driven by a third-party social media post encouraging people to contact us about concerns regarding regulatory responses to COVID-19 vaccinations. If these concerns about Ahpra and the Boards' response to the pandemic are removed from our data set, our office saw an increase in the number of complaints received this financial year (from 520 in 2021–22 to 651 in 2022–23). Correspondingly, we also saw an increase in the number of complaints finalised this financial year when the pandemic-related complaints are removed from our data set (from 577 in 2021–22 to 643 in 2022–23). The most significant increase this year was complaints received about the notifications process (see 'Notification-related complaints').

Commissioner role

We generally receive fewer concerns related to privacy and FOI matters compared with complaints to the Ombudsman. In 2022–23, we received:



9 privacy complaints to the Commissioner

(down from 13 in 2021–22)



7 notifiable data breaches

(down from 8 in 2021–22)



22 applications for a review of an Ahpra FOI decision

(up from 18 in 2021–22)

In 2022–23, we completed our first investigation of a privacy complaint. The investigation resulted in the Commissioner making a determination, and Ahpra taking steps to correct personal information held on the student register. Conciliation successfully resolved a further two privacy complaints. In addition, we finalised two complaints following preliminary inquiries.

In relation to notifiable data breaches, we received and responded to seven notifications. These data breaches all related to Ahpra's inadvertent disclosure of personal, sensitive or protected information. In most cases we found that Ahpra had taken appropriate action to address the issue. In one matter we provided guidance to Ahpra regarding further appropriate action.

We received 22 applications for a review of an Ahpra FOI decision and finalised 25 review applications. The Commissioner made a final decision about three review applications, which are publicly available on our website.

Eleni and Grace's stories³

Eleni and Grace contacted us separately to make complaints about the application of the English Language Skills Registration Standard (the ELS Standard).

Eleni complained that Ahpra did not accept the result of an English language test that she completed at home using remote proctoring. The test cost \$400 and took three hours to complete. Eleni said there was no available information available stating that Ahpra and the Boards would not accept at-home tests. Eleni said that she needed to complete another test at an additional cost of more than \$250 to demonstrate that she met the requirements of the ELS Standard and to become registered.

Grace also sought to meet the requirements of the ELS Standard by completing an English language test. Grace explained that the test provider's website said its computer-based test was accepted by Ahpra. Grace successfully undertook the test and submitted her registration application to Ahpra.

However, Ahpra advised that it would not accept the test results because the speaking component of the test was done via remote proctoring. Grace explained that Ahpra told her this information had been available on its website, but Grace said it had only been published in an inaccessible location after she had already taken the test. Like Eleni, Grace successfully completed another test and became registered.

Our assessment of the available information showed that after Eleni and Grace had obtained registration, the Boards published new information stating that they would temporarily accept the results from English language tests that they had previously refused to accept.

Our office commenced an investigation into both Eleni's and Grace's complaints.

What we found

We concluded that it was reasonably open to Ahpra and the relevant Boards to decline to accept the initial results of both Eleni's and Grace's English language tests.

However, we found there were significant opportunities for improvement in the handling of these matters. We observed that the position of the Boards with respect to remote proctoring in English language tests was only available on Ahpra's website and was not recorded in other documentation or the ELS Standard itself.

We also found that Ahpra and the Boards could have responded more quickly to the changing circumstances surrounding English language tests during the COVID-19 pandemic. The types of tests taken by Eleni and Grace were relevant due to the circumstances created by the pandemic, when it was more difficult for candidates to attend testing centres in person. Ahpra indicated that it could not have developed a temporary position regarding these types of tests earlier because it needed time to undertake appropriate research and consultation. Ahpra also submitted that the time taken was not unreasonable because the remote proctored tests offered by one provider only became accessible to the public in mid-2021.

³ Please note that all case studies are deidentified and we use pseudonyms to protect confidentiality. References to 'a Board' relate to any of the 15 National Health Practitioner Boards.

The evidence our office gathered, however, did not support these arguments. Information about one provider's remote protected tests was available, for example, in March 2020. Our view is that it would have been better if Ahpra took action to respond to the changing nature of English language tests in mid-2020, rather than in mid-2021. This appeared to be the approach of other comparable international regulators.

Our office acknowledged the improvements that had been made to public-facing information about accessing appropriate English language tests since the time that Eleni and Grace sat their tests. However, our office highlighted ongoing barriers to practitioners being able to easily access clear, accurate and consistent information about English language test requirements. For example, relevant information was hosted on Ahpra's COVID-19 FAQ webpage, but not on its pages dedicated to the Standard. Further, during our investigation the Boards' temporary position regarding one type of test expired without public facing information being updated.

Complaint outcome

The Ombudsman made formal comments to Ahpra regarding the importance of addressing the issues identified in our investigation. The Ombudsman commented that:

- Ahpra and the Boards' English language skills-related webpages should be reviewed and updated to ensure that complete and consistent information about English language test requirements is readily accessible and accurate
- Ahpra and the Boards should develop a change management protocol to ensure that any future clarifications or changes in the application of the ELS Standard, even if only temporary, are fully cascaded across Ahpra's communication channels and each of the websites of the Boards
- where changes to public-facing information are time dependent (as is the case with the temporary position), Ahpra should develop a monitoring process to prepare for the required updates before the information becomes out of date.

These complaints also informed our office's submission on the review of the ELS Standard (see 'English Language Skills Registration Standard'). Our investigation, and subsequent submission, emphasised that the ELS Standard should be updated to clarify the Boards' position on tests offered by approved English language test providers that use remote proctoring.

Our complaint handling service in numbers

For complaints made to the Ombudsman we:



made
172
early resolution
transfers



initiated
109
preliminary
inquiries



launched
16
investigations

We finalised **657 complaints** to the Ombudsman.

The stage complaints were finalised in included:



393
at assessment,
down from 590
in 2021-22



132
through early resolution
transfers, **up from 106**
in 2021-22



101
through preliminary
inquiries, **up from 92**
in 2021-22



31
through investigation,
down from 93
in 2021-22

We finalised:



8
complaints to the
Commissioner,
down from 10
in 2021-22



7
eligible data breach
notifications,
down from 8
in 2021-22



25
FOI review
applications,
up from 12
in 2021-22



3
FOI review
decisions,
up from 2
in 2021-22

Influencing systemic change

We focus on identifying opportunities to facilitate positive change in the National Scheme

Influencing systemic change

Our office influences positive change in the regulation of Australia's health practitioners at the system level. Case studies throughout this report highlight the types of individual and system-level changes we created in 2022–23.

Identifying and responding to systemic issues

Our office aims to resolve complaints quickly and efficiently to achieve practical outcomes. We finalise most complaints without an in-depth formal investigation.

In addition to managing complaints in line with the most appropriate process, our office also actively monitors and tracks emerging issues in our complaints data. This gives us insight into issues that may affect many people and may need more immediate attention or review.

Concerns that do not meet the grounds for a notification

One new issue our office began monitoring in 2022–23 was Ahpra's approach to determining whether concerns meet the requirements to be considered a notification under the National Law.

During the financial year, Ahpra introduced a new model for triaging concerns raised with it regarding registered health practitioners. This involved adopting a case management approach to notifications that provides more specialised management depending on the:

- types of concern raised
- level of risk posed
- powers and processes best suited to gathering relevant information
- likelihood that regulatory action might be needed.

These changes have increased the number of matters that Ahpra decided not to progress as a notification. We received 21 complaints related to dissatisfaction that Ahpra had not treated a concern as a notification.⁴

Our assessment of these complaints generally found that the management of these matters could have been better. For example, we found that the letters informing people their concerns did not meet the threshold for a notification often did not provide sufficient reasons for the decision. It was also not always clear from this correspondence which legislative powers Ahpra was using to make its decision. In addition, we found that it was often confusing for complainants to receive correspondence about their 'notification' when the letter explained that Ahpra did not consider their concerns to be a notification.

Our office provided feedback to Ahpra regarding how these matters are recorded and how the outcome of its decisions are communicated. We also provided feedback that Ahpra should consider introducing a naming convention for these concerns to reduce confusion.

While our office identified some concerns with Ahpra's new triaging model, it appears to have helped Ahpra to manage notifications more quickly. There was an overall reduction in the number of issues related to delay in the notifications process (from 110 issues in 2021–22 to 92 issues in 2022–23). However, the triaging model has also changed the number of concerns Ahpra manages as a notification. This has flow-on effects for how we record complaint issues.

While we welcome the general reduction in the time taken to manage notifications, our office finds it troubling there has been a significant increase in the number of issues raised with us regarding concerns that a decision made about a notification was unfair or unreasonable (from 153 issues in 2021–22 to 227 issues in 2022–23) and that the notifications process was unfair (from 46 issues in 2021–22 to 88 issues in 2022–23). We continue to explore the causes of these increases. However, it is important that Ahpra's attempts to reduce the length of time taken to manage notifications does not lead to negative results downstream. Our office acknowledges that Ahpra has sought to refine its new model for triaging notifications during the year, including in response to concerns raised by our office.

⁴ These complaints were made by 19 complainants.

Doha's story

Doha made a complaint to our office about Ahpra's handling of the concerns she had raised about a health practitioner.

Doha said that she had sought to make a notification about the health practitioner, but Ahpra decided that her concerns did not raise appropriate grounds for a notification. Doha said that she provided further information to Ahpra about the practitioner, but this information had not been appropriately considered when Ahpra again decided not to accept the concerns as a notification.

Doha had already made a complaint to Ahpra, but she was concerned she had been 'brushed off'. In particular, she was not satisfied with Ahpra's response to her query about why her concerns did not meet the threshold to be considered a notification.

Our office made preliminary inquiries into Doha's matter, but we did not receive sufficient information from Ahpra about how it had handled Doha's concerns. We therefore decided to commence an investigation into Doha's complaint.

What we found

During our investigation, Ahpra advised that the new information Doha had provided to support her concerns had been reviewed. However, Doha's concerns had not been considered by the Board, and there was no documented reason for this. Ahpra acknowledged Doha's poor experience and explained that her matter had been one of the first considered under its new triaging model. Ahpra advised that it had continued to refine its new model based on its experience and feedback received.

Complaint outcome

As a result of our investigation, Ahpra reconsidered Doha's matter. Ahpra advised that it had accepted Doha's concerns as a notification, meaning the notification would be progressed as required under the National Law.

Ahpra also acknowledged there was a gap in its guidance to staff. This related to how Ahpra would consider further information provided by notifiers about their concerns when the initial decision was that there were no grounds for a notification. Ahpra therefore drafted amendments to its policy for managing new information after an enquiry or notification has closed. This will ensure there is a clear process for managing further information received from a notifier.

Given the reasonable steps Ahpra had outlined to address the issues Doha had raised, our office finalised the investigation. We advised Doha that she was welcome to return to our office if needed once a decision regarding her notification was made by the Board.

Concerns raised by practitioners where immediate action had been taken

Our office continued to monitor concerns raised by practitioners where immediate action had been taken regarding their registration – particularly concerns about delay in Ahpra’s investigation of notifications after immediate action had been taken. Immediate action is an interim action where there are substantive concerns about patient safety that require further investigation.

As noted in last year’s annual report, our routine complaint monitoring activities alerted us to an increased number of issues raised by practitioners regarding immediate action in relation to their registration. We found the increase concerning because Boards take immediate action relatively infrequently, and it can have significant impacts on the practitioner’s ability to work.

The negative effects that lengthy Ahpra investigations have on health practitioners are well-documented. Health practitioners’ emotional and financial wellbeing may suffer when a Board suspends their registration, or places conditions on their registration due to the relevant Board deciding to take immediate action while investigations are ongoing.

In 2022–23, we continued to monitor this issue. We recorded 51 issues related to immediate action being taken (compared with 45 issues in 2021–22 and 24 issues in 2020–21). Eight of the recorded issues about immediate action related to investigation delays (compared with 14 issues in 2021–22). The causes of delay can vary. Sometimes they are due to unavoidable circumstances, such as an ongoing police investigation. However, unnecessary or avoidable delays in managing notifications can exacerbate practitioners’ distress and prolong their experience with the regulator.

During the financial year, Ahpra released findings from an Expert Advisory Group about identifying and minimising distress for practitioners involved in the regulatory process. Sadly, it found that 16 practitioners currently or recently involved in regulatory processes took their lives between January 2018 and December

2021. Four more practitioners had attempted suicide or had self-harmed. The report’s findings indicate that delay in managing notifications was one of the factors that led to increased stress for practitioners.

The report states:

It was common for mentions of the long timeframes to include associations with decreasing well-being as well as chronic and long-term stress.

‘... I’m sure you’ll hear from most people: the stress is in the – the most significant stress is in the waiting.’

Our office welcomes Ahpra and the Boards’ acceptance of all the Expert Advisory Group’s recommendations and their commitment to implementing improvements progressively over 2023–25.

A number of the recommendations relate to timeliness. These include providing accurate expectations of timeframes. They also include reducing delays associated with seeking independent information about a practitioner’s health. This will be achieved by engaging with existing treating practitioners, instead of requiring independent health assessments, where appropriate.

While our office acknowledges the work of the Expert Advisory Group, we intend to launch an own-motion investigation next financial year into the issue of delay in managing notifications where immediate action has been taken. This investigation will help us identify the root causes of delay, and where necessary, make recommendations for improvement.

Independent reviews

Our office undertakes independent reviews of systemic issues in order to achieve positive change in the regulation of Australia's registered health practitioners.

Vexatious notifications framework review

In early December 2020, Ahpra published a new framework to identify and manage vexatious notifications. The framework aims to:

- identify the features of a potentially vexatious notification for the purposes of the National Law
- outline how to manage notifications where those features are identified
- ensure the National Scheme's resources are used appropriately
- reduce the serious impact of vexatious notifications on practitioners
- ensure the process is fair and open for all involved.

In broader terms, the framework also outlines that vexatious notifications can adversely affect Ahpra and the Boards' resourcing, as well as public trust and confidence in the regulation of health practitioners.

The review

Ahpra invited the Ombudsman to complete an independent review of the implementation of the framework. The review will consider Ahpra's approach to vexatious notifications and make recommendations where necessary.

The review has two parts. Part 1 addresses the framework and written internal guidance. Part 2 addresses internal practice to assess the success of implementation.

The review considered information and documentation relevant to the framework, including:

- the 2018 research report *Reducing, identifying and managing vexatious complaints: summary report of a literature review prepared for the Australian Health Practitioner Regulation Agency*
- the Ombudsman's review of confidentiality safeguards for people making notifications about health practitioners

- academic research related to vexatious notifications
- previous Senate inquiry reports and related submissions
- the National Law and other relevant legislation, including use of the term 'vexatious' in related legislation
- news articles discussing the issue of vexatious notifications and complaints.

The review also considered a number of Ahpra's internal documents in relation to the framework.

The review undertook a targeted consultation process to consider how the framework and policies are applied in practice. It also reviewed a sample of notifications and complaints related to the framework.

Why the review is important

The National Scheme empowers Ahpra and the Boards to protect the public through the management of notifications about the performance, conduct and health of registered health practitioners. The process allows people to notify Ahpra and the Boards of potential risks to patient safety.

Health practitioners and their representative bodies, however, are concerned that the notifications process can be 'weaponised' to cause harm to practitioners.⁵ They argue that when Ahpra considers a notification that is without merit or was made to cause harm, or both, this has a disproportionate effect on practitioner wellbeing.

Debate about how to identify and manage vexatious notifications therefore often centres on how to strike the right balance between ensuring the notifications process remains freely accessible and effective, while also ensuring it is fair and not unnecessarily burdensome for practitioners.

Our office anticipates that the review's recommendations will strengthen protections against the use of the notifications process to cause harm, while ensuring that the process remains open and accessible to notifiers raising concerns about patient safety.

⁵ See for example, Holly Payne, 'It's easy and free to ruin a doctors life,' Medical Republic, 12 January 2023. Accessed January 2023, www.medicalrepublic.com.au/its-easy-and-free-to-ruin-a-doctors-life/83905

Complaints related to vexatious notifications

During 2022–23, our office saw a significant increase in the number of issues relating to a complainant's belief that Ahpra failed to identify the vexatious nature of a notification (from 14 issues in 2021–22 to 44 issues in 2022–23). Most of these issues were raised by practitioners (41 issues), particularly where a Board decided to take some form of regulatory action regarding the practitioner's registration (16 issues). Issues mostly related to the medical (27 issues) and psychology (13 issues) professions.

Our qualitative analysis of the themes in these complaints suggest that practitioners' main concerns were:

- whether the framework had been applied
- the use of a notification process to cause harm, including in relation to domestic and family violence
- Ahpra's acceptance of confidential and anonymous notifications, and whether that made it easier for people to make vexatious notifications
- why regulatory action was taken when the practitioner believed the notification was vexatious.

We also observed that delays were a significant stressor for practitioners who believed that a notification made about them was vexatious. Often, the regulator and practitioners had conflicting views about the definition of a vexatious notification.

The review into Ahpra's framework for identifying and managing vexatious notifications tackles these concerns in more depth. It is due to be published in 2023–24.

Independent cosmetic surgery review report released

In November 2021, Ahpra and the Medical Board of Australia (the Medical Board) commissioned a review of patient safety issues in the cosmetic surgery sector. The review arose due to allegations in the media about the quality of cosmetic surgery treatment patients received.

The review was led by former Queensland Health Ombudsman Andrew Brown. The Ombudsman and Commissioner was pleased to accept an invitation to join the review's expert panel alongside the CEO of Choice, Mr Alan Kirkland, and the Chief Medical Officer of the Australian Commission on Safety and Quality in Health Care, Conjoint Professor Anne Duggan.

The review's final report was released in September 2022. The report examines areas such as the need to improve standard setting, the management of cosmetic surgery notifications, and strengthening the regulation of advertising. The review found:

...when it comes to cosmetic surgery, universal minimum standards for education, training and qualifications are non-existent in Australia. The Medical Board's codes and guidelines place the onus on the individual medical practitioner to ensure they practise within their skills, knowledge and competence, and therefore it is up to the practitioner themselves to decide this, without reference to any minimum standards or other more specific guidance. In these circumstances, it is possible for any medical practitioner to offer and perform invasive cosmetic surgical procedures without having undertaken appropriate training or having amassed sufficient supervised experience to reach an acceptable level of competency.

The review made 16 wide-ranging recommendations. These include that Ahpra and/or the Medical Board should:

- implement an endorsement model of practice for cosmetic surgery
- undertake a targeted education campaign about making mandatory and voluntary notifications aimed at the cosmetic surgery sector and others who may subsequently treat cosmetic surgery patients
- conduct a targeted cosmetic surgery advertising audit
- revise the advertising guidelines and/or produce additional material about cosmetic surgery to clarify the standards expected of practitioners
- review, consult on and update guidelines for medical practitioners who perform cosmetic medical and surgical procedures to clarify expectations.

Ahpra and Health Ministers accepted all of the review's recommendations and significant progress has been made to implement them. The Medical Board has revised, consulted on and published guidelines about cosmetic surgery. The following guidelines came into effect on 1 July 2023:

- *Guidelines for medical practitioners who perform cosmetic surgery and procedures*
- *Guidelines for registered medical practitioners who advertise cosmetic surgery.*

The review's recommendation about introducing an area of practice endorsement for cosmetic surgery programs of study has also significantly progressed. The Australian Medical Council (AMC) has set a new accreditation standard for cosmetic surgery programs of study. The standards set new minimum requirements for the education, training and qualifications for cosmetic surgery programs of study. The Medical Board approved and published the accreditation standard.

Ahpra continues to audit health practitioners' advertising of cosmetic surgery. Between 5 September and 14 May 2023, Ahpra audited 62 practitioners. Where practitioners are not complying with the relevant guidelines, Ahpra seeks to first work with the practitioner to address the breach before considering regulatory action.⁶ Ahpra has also established a cosmetic surgery hotline to receive concerns about patient safety in the cosmetic surgery industry.

In addition to this work, Health Ministers progressed changes to the National Law to protect the title 'surgeon'. The proposed amendment bill will change the National Law to restrict who can use the title 'surgeon' to medical practitioners holding specialist registration in surgery, obstetrics and gynaecology or ophthalmology. Queensland Parliament's Health and Environment Committee tabled its report on the amendment bill in June 2023. The bill will be debated in due course.⁷

Our office continues to monitor changes in this space. We welcome Ahpra and the Medical Board's swift and committed response to implementing the review's recommendations.

6 Ahpra 2023, *Communique – May 2023 Cosmetic Surgery Oversight Group Meeting*, 15 June 2023. Accessed June 2023: www.ahpra.gov.au/Resources/Cosmetic-surgery-hub/Latest-news.aspx#

7 Queensland Parliament Health and Environment Committee, Report No. 35, 57th Parliament – Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023. Accessed June 2023: www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=169&id=4254

Engaging and communicating

We ensure our office's services are understandable and accessible to our diverse community

Engaging and communicating

This financial year, we saw an increase in the number of people who contacted us by phone (986 approaches compared with 576 approaches last financial year). The increase in contact by phone was driven by enquiries, mostly about health-related matters we could not assist with (750 enquiries received by phone up from 390 last financial year). We saw a decrease in contact via our web form, though this is likely due to the reduction in approaches related to the COVID-19 pandemic, as these approaches were generally made by web form last year (505 approaches compared to 683 approaches last financial year).

Figure 4: How people contacted us in 2021–22 and 2022–23

Method of contact	2021–22	2022–23
By phone	576	986
Web form	683	505
By email	330	377
By post	9	15
Other	0	1

Our website

We want to make sure anyone who may need to contact us can access our office. Our website provides a central source of information about our office. This financial year, we saw an increase in people accessing our website and its content (Table 1).



85% increase in new website users from 2021–22



78% increase in the number of people who visited the website from 2021–22



52% increase in page views from 2021–22

This suggests that our office is providing valuable information to stakeholders and continues to engage with more people who may need assistance.

Table 1: Website traffic, 2020–21 to 2023–24

Website metric	2020–21	2021–22	2022–23
How many different people visited our website	12,528	24,150	44,380
How many people were new visitors	12,470	23,842	44,015
Website visits	17,403	31,147	55,422
Page views	61,513	114,915	174,272

Submissions to consultations and inquiries

Our office uses complaints data and trends to inform our contributions to public discussions on the regulation of health practitioners in Australia. One way we contribute to discussion is through our submissions responding to public consultations. In 2022–23, we made submissions to the following public consultations:

- September 2022 – the Boards’ shared English Language Skills Registration Standard
- December 2022 – Medical Board’s regulation of medical practitioners who provide cosmetic medical and surgical procedures
- January 2023 – Ahpra’s draft data strategy
- February 2023 – Ahpra and the Boards’ accreditation arrangements
- February 2023 – Ahpra’s issuing of public statements about health practitioners
- May 2023 – Robyn Kruk’s review into the regulatory settings for overseas health practitioners
- June 2023 – Ahpra Board’s Accreditation Committee’s glossary of accreditation terms.

English Language Skills Registration Standard

Our office made a submission to the public consultation on the Boards' shared ELS Standard. The ELS Standard aims to ensure that registered health practitioners have the necessary skills to communicate in English at a level safe to practise their profession. The ELS Standard outlines four pathways applicants can use to demonstrate English language competence. Our submission was based on complaints we received about the Standard.

Our office's submission welcomed changes to clarify the pathways in the ELS Standard by using plain language and new titles. However, it also set out our concerns about the ELS Standard's approach to, and evidence base for, the pathway requirements and list of recognised countries. It also provided suggestions for improvement, including increased flexibility and accessibility.

Pathways to registration

Our submission stated that 70 per cent of complaints to our office about the ELS Standard between 1 July 2020 and 30 June 2022 were made by applicants who had completed their Board-approved qualifications in Australia.⁹ Complainants regularly told us they believe it is unfair that they must sit an English language skills test to meet the requirements of the ELS Standard when they completed their qualification in Australia. Currently, the ELS Standard assumes that practitioners can complete an Australian qualification to become a registered health practitioner without having a safe level of English language skills to practise the profession.

Comparable regulators appear to be more open to accepting that applicants who have completed an approved program of study have acceptable English language skills. For example, medical practitioners in New Zealand can demonstrate English language competence if they have a primary medical qualification from a New Zealand medical school. They can also provide evidence that they speak English as a first language and have an acceptable medical qualification from Australia, the United Kingdom, the Republic of Ireland, the United States of America, Canada or South Africa where English is the sole language of instruction of that medical school.⁸ Similarly, the General Medical Council (GMC) in the United Kingdom states that it may accept primary medical qualifications from an acceptable institution as evidence of knowledge of English, provided the qualification is less than two years old and was taught and examined solely in English.¹⁰

Our submission suggested that if Boards believe practitioners are obtaining approved qualifications without the necessary English language skills, they should review whether those programs of study are adequately assessing students' skills. This is particularly important because most approved programs of study require some practical experience, such as a student placement. If students do not have adequate English language skills, this is a larger issue that should be raised with education providers.

Recognised countries list

Complainants regularly tell our office that the recognised country list is unfair and discriminatory because it preferences some countries above others. Our submission suggested this should be reviewed, including considering using a 'recognised institutions/courses' list based on the minimum English requirements to undertake the program of study.

8 Please note that this does not include complainants where it was unknown where they completed their qualification. We can record multiple issues on each complaint we receive.

9 Medical Council of New Zealand 2020, *Policy on English language requirements*.

10 GMC 2020, 'Using your primary medical qualification.' Accessed August 2020: www.gmc-uk.org/registration-and-licensing/join-the-register/before-you-apply/evidence-of-your-knowledge-of-english/using-your-primary-medical-qualification. Please note that applicants must also supply a letter or certificate from the university or medical college confirming other certain requirements were met.

We noted that this approach appears to be used by comparable regulators, including the GMC. The GMC's website states that it will sometimes accept an applicant's primary medical qualification as evidence of their knowledge of English. The GMC's website provides a list of qualifications that cannot be used as evidence of knowledge of English.

Complainants often told us about the financial and personal cost of having to take an English language test because they did not meet the other available pathways of the ELS Standard.

Suggestions

Our submission emphasised that the ELS Standard needs to ensure those who have adequate English language skills are not subject to unnecessary or unfair processes. The ELS Standard must have a clear empirical basis and rationale for the ways applicants can demonstrate English language skills.

Our suggestions for improvement covered four main categories:

- pathway requirements – that Ahpra and the Boards should undertake a comprehensive review to determine appropriate ways to define and recognise English language skills required to communicate in English at a level safe for practise
- recognised countries – that Ahpra and the Boards should review and assess the principles and criteria used to determine whether a country is 'recognised' for the purpose of the ELS Standard
- discretion and flexibility – that the Boards should have discretion to grant exemptions from meeting the requirements of the ELS Standard based on a practitioner's individual circumstances
- accessibility – that Ahpra and the Boards should review relevant policies and consider our office's recommendations for further clarifying the pathways and relevant definitions to reduce confusion.

Regulation of medical practitioners who provide cosmetic medical and surgical procedures

The independent review of the regulation of medical practitioners who perform cosmetic surgery (the cosmetic surgery review) was published on 1 September 2022. As part of the Medical Board's implementation of the review's recommendations, we provided a submission in response to its public consultation on:

- draft Guidelines for medical practitioners who advertise cosmetic surgery (the draft advertising guidelines)
- draft revised Guidelines for medical practitioners who perform cosmetic medical and surgical procedures (the draft guidelines)
- draft Registration Standard: endorsement of registration for cosmetic surgery for registered medical practitioners (the draft Standard).

Our response welcomed the Board's work to implement the recommendations, specifically in relation to the draft advertising guidelines and draft guidelines on major cosmetic procedures.

However, we also expressed concern that there was not enough evidence or rationale for proposed changes in the guidelines relating to minor cosmetic procedures (non-surgical cosmetic procedures). The cosmetic surgery review did not consider, nor provide recommendations in relation to, these types of procedures. Instead, the review solely focused on cosmetic surgery.

Suggestions

Our submission suggested the Board undertake a more in-depth consideration of issues related to non-surgical cosmetic procedures to ensure the draft guidelines are fit for purpose. The issues that need reform in relation to non-surgical cosmetic procedures are likely to be different to cosmetic surgery procedures, although they may require similar obligations.

We suggested that the Board needs to further examine the scope of the non-surgical cosmetic procedures section of the draft guidelines. We were concerned that the Board had not given enough consideration to the treatment of under-18-year-olds in relation to non-surgical cosmetic procedures, and whether the draft guidelines provided adequate protection to young patients.

Our submission also suggested that the Board needed further evidence and understanding in relation to introducing relevant minimum qualifications or training standards for registered practitioners who perform non-surgical cosmetic procedures, including medical, nursing and dental practitioners.

We noted that the review's scope prevented it from considering whether an endorsement was also necessary in relation to non-surgical cosmetic procedures.

Review into the regulatory settings for overseas health practitioners

Our office provided a submission to the independent review of regulatory settings relating to health practitioner registration and qualification recognition for overseas health professionals and international health students led by Robyn Kruk (the Kruk review).

In our submission, we noted the most common registration issues we receive are from overseas-qualified practitioners, including the issues discussed above in relation to the ELS Standard. Most of these registration issues relate to the nursing and midwifery professions – our office has substantiated problems with delays, communication and procedural issues throughout the assessment process for internationally qualified nurses and midwives.

Our submission also stated that complainants raised issues associated with the cost of the National Scheme's accreditation functions. Most commonly, this included concerns about exam or test costs (including the management of requests for refunds). Some overseas-qualified practitioners also raised issues with the cost of the registration process as a whole. For example, one overseas practitioner said the process had cost more than \$20,000. Another overseas-qualified practitioner who had not gained registration said:

... nobody can give me back the time – hours of study, thoughts and effort I put into this process without a chance of success. An exhausting and highly frustrating and disappointing process.

Our submission also noted that dissatisfaction with the cost of accreditation-related activities, such as exam fees, is currently likely to be underreported.

As a result, our submission supported the development of cost-recovery principles for the National Scheme. We emphasised that information should be publicly available regarding the costs of National Scheme activities, and that there should be transparency regarding the rationale for any charges.

Finally, our submission noted the potential for collaboration following our office's review of accreditation processes, and Ahpra and the Board's review of the existing accreditation arrangements of most professions on 30 June 2024 and paramedicine on 30 November 2023.

Building capacity

We support operational
development and staff excellence

Building capacity

Building capacity is the third pillar in our strategic plan. This pillar focuses on operational excellence and staff wellbeing. In 2022–23, we sought to improve the office’s performance and internal operations.

Organisational change

Our office’s organisational structure has developed over time in response to our growth and related resourcing requirements. Operational excellence and staff wellbeing are the drivers behind the design of our work systems.

This financial year, we underwent our most significant period of transformation to date. Following extensive consultation with our staff, and a formal process under the Victorian Public Service Enterprise Agreement, we revised our organisational structure. Our new structure and systems of work support growth and the efficient management of our increased workload by creating smaller teams managed by existing senior members of the complaints and FOI branch. These teams include an early resolution team and two complex investigations teams.

The revised structure enables us to better respond to the increase in the number of complaints we manage through our early resolution mechanisms, rather than through more formal investigations. It also creates more opportunities for tailored professional development and specialisation of skills, particularly in relation to the office’s expanded role regarding accreditation-related complaints.

Diversity and inclusion working group

The diversity and inclusion working group continued to improve cultural awareness and safety within our office and to support our engagement with complainants this financial year. We assist people from many different backgrounds. Our staff need to be confident in working with members of diverse communities, and to ensure we engage safely and respectfully with all complainants.

Supporting professional development

This financial year we provided our staff with opportunities to connect with likeminded professionals. This is one of our strategies to effectively enhance capability and professional development.

ANZOA membership

The Australia and New Zealand Ombudsman Association (ANZOA) is the peak body for Ombudsmen in Australia and New Zealand. The Ombudsman and Commissioner became a member of ANZOA at the beginning of 2022–23. This means that our office has access to staff interest groups, training and webinars hosted by members of the association. Membership also provides opportunities for sharing and support among staff from Ombudsman offices that perform similar roles.

SOCAP membership

The Society of Consumer Affairs Professionals (SOCAP) is a network for complaints professionals based in Australia and New Zealand. SOCAP provides a wide range of complaints-specific training and allows staff to interact with their peers across a variety of sectors. In 2022–23, our staff took advantage of several tailored training opportunities through SOCAP. These included training related to:

- delivering service through the four lenses of fairness
- managing high-conflict complainants
- the daily habits of resilient complaint handlers
- influencing and energising service staff.

Privacy Awareness Week 2023

Our office took part in Privacy Awareness Week in May 2023 to strengthen our knowledge of privacy issues and handling personal information. We got 'back to basics' by holding a privacy training and quiz session for our team and completing the Office of the Australian Information Commissioner's Privacy in Practice training.

Staff intranet

Our new staff intranet was launched early in 2022–23. The intranet has become a valued resource for our team, particularly when new team members join us. The intranet has been designed to:

- increase connection between individual staff and team units across our office
- ensure staff can easily access important information related to their employment and relevant areas of work
- enhance recordkeeping through document version control
- facilitate improved understanding about staff responsibilities and guidelines, particularly given our unique hosting arrangements with the department.

“

Since moving into the early resolution team, our intranet has been a helpful resource for me in understanding my team, enquiries, and Ombudsman complaints. Over the last week I've browsed the intranet regularly in my downtime to consolidate my knowledge

- *Dylan, new team member*

Enhancing accountability

We highlight our essential
but lesser-known oversight
roles in the National Scheme

Enhancing accountability

Our role in the National Scheme significantly expanded this financial year. Our office can now assist with complaints about all accreditation organisations undertaking accreditation functions under the National Law, and specialist medical colleges in relation to approved programs of study.

Previously, our office could only accept complaints related to accreditation functions undertaken by Ahpra and the Boards, including the work of accreditation committees established by the Boards.

Accepting more accreditation-related complaints

In the 2018 Accreditation Systems Review, Professor Michael Woods recommended that the role of the Ombudsman and Commissioner be expanded to include oversight of all organisations exercising accreditation functions.

Health Ministers accepted this recommendation and on 27 January 2023 the Health Practitioner Regulation National Law Regulation was amended to make this a reality. Our office can now accept:

- complaints to the Ombudsman about some of the processes of accreditation organisations and specialist medical colleges
- complaints to the Commissioner about the use of personal information and alleged breaches of privacy by accreditation organisations and specialist medical colleges.

Accreditation plays an essential role in the National Scheme's public protection objective. It helps ensure people seeking registration as a health practitioner have the knowledge, skills and professional attributes necessary to practise their profession safely and competently in Australia.

We welcome the opportunity to contribute to fair and positive change in this vital area. We may consider, for example, complaints about how matters have been handled in areas such as:

- the accreditation of an education provider, program of study or training site
- assessments of overseas-qualified practitioners or specialist international medical graduates.

Federal FOI legislation does not apply to external accreditation organisations and specialist medical colleges. This means our FOI review function does not apply in relation to these entities.

Understanding accreditation in the National Scheme

Accreditation is the main way that the National Scheme furthers its objective of providing high-quality education and training of health practitioners.¹¹

The National Law sets out five accreditation functions for the National Scheme. These are:

- developing accreditation standards for approval by a Board
- assessing programs of study, and the education providers that provide the programs of study, to determine whether the programs meet approved accreditation standards
- assessing authorities in other countries who conduct examinations, or accredit programs of study, relevant to registration in a health profession to decide whether persons who successfully complete the examinations or programs of study have the knowledge, clinical skills and professional attributes necessary to practise the profession in Australia
- overseeing the assessment of the knowledge, clinical skills and professional attributes of overseas-qualified health practitioners who are seeking registration and whose qualifications are not approved qualifications for the health profession
- making recommendations and giving advice to a Board about any of the above matters.¹²

11 Australian Health Ministers' Advisory Council 2018, *Guide to the National Registration and Accreditation Scheme for health professions*.

12 National Law, s. 42.

Boards have the power to decide which entities will exercise accreditation functions under the National Law. The Board for each profession must decide if an accreditation function will be exercised by an external accreditation entity or by a committee established by the Board. These external accreditation entities and committees are together known as accreditation authorities.

The National Law also specifies that it is a function of the Boards 'to oversee the assessment of the knowledge and clinical skills of overseas trained applicants for registration in the health profession whose qualifications are not approved qualifications for the profession, and to determine the suitability of the applicants for registration in Australia.'¹³ Interpretation of the Boards' function has led to different approaches to assessing overseas-qualified practitioners. For some professions, the Board oversees the assessment of overseas-qualified practitioners under s. 35(1)(e) of the National Law, rather than the accreditation authority.

It is important to note, however, that some 'accreditation' processes are not formally recognised in the National Law. Specialist medical colleges 'accredit' specialist training sites, for example, but this is not a formal accreditation function under the National Law.

Accreditation organisations we oversee

We estimate that more than 65 entities play an accreditation-related role in the National Scheme. However, there are three key groups of accreditation entities our office oversees:

- external accreditation authorities (10 organisations)
- accreditation committees (6 committees)
- specialist medical colleges (16 colleges).

We refer to these entities together as 'accreditation organisations.'

External accreditation authorities

If a Board decides that an accreditation function will be exercised by an external accreditation entity, that entity works with the Board to deliver the specified accreditation function under a formal agreement with Ahpra (on the Board's behalf). There are 10 external accreditation entities (shown in Table 2).

Accreditation committees

If a Board decides that an accreditation function will be exercised by a committee established by the Board, that committee works with the Board according to the committee's terms of reference (refer to Table 3).

Ahpra provides policy and administrative support to the committees. For example, Ahpra's program accreditation team provides advice to assessment teams, drafts reports and analysis, prepares agenda papers and recommendations to the committees, and coordinates committee meetings.

¹³ National Law s. 35(1).

Table 2: Accreditation functions exercised by external accreditation authorities by profession

Profession	Accreditation authority	Functions exercised under the National Law
Chiropractic	Council on Chiropractic Education Australasia	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions
Dental	Australian Dental Council	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas assessing authorities • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions
Medical	Australian Medical Council	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas assessing authorities • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions
Nursing and midwifery	Australian Nursing and Midwifery Accreditation Council	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Providing advice to Board on accreditation functions
Occupational therapy	Occupational Therapy Council of Australia Ltd	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions
Optometry	Optometry Council of Australia and New Zealand	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions
Osteopathy	Australasian Osteopathic Accreditation Council	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas assessing authorities • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions

Profession	Accreditation authority	Functions exercised under the National Law
Pharmacy	Australian Pharmacy Council	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas assessing authorities • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions
Physiotherapy	Australian Physiotherapy Council	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Assessing overseas-qualified practitioners • Providing advice to Board on accreditation functions
Psychology	Australian Psychology Accreditation Council	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Providing advice to Board on accreditation functions

Table 3: Accreditation functions exercised by accreditation committees by profession

Profession	Accreditation authority	Functions exercised under the National Law
Aboriginal and Torres Strait Islander health practice	Aboriginal and Torres Strait Islander Health Practice Accreditation Committee	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Providing advice to Board on accreditation functions
Chinese medicine	Chinese Medicine Accreditation Committee	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Providing advice to Board on accreditation functions
Medical radiation practice	Medical Radiation Practice Accreditation Committee	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Providing advice to Board on accreditation functions
Nursing and midwifery	Nursing and Midwifery Accreditation Committee	<ul style="list-style-type: none"> • Overseeing the assessment of overseas-qualified practitioners
Paramedicine	Paramedicine Accreditation Committee	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Providing advice to Board on accreditation functions
Podiatry	Podiatry Accreditation Committee	<ul style="list-style-type: none"> • Developing accreditation standards • Assessing programs of study and education providers against the standards • Providing advice to Board on accreditation functions

Specialist medical colleges

There are different arrangements for the accreditation of specialist medical education in Australia. The Medical Board appointed the Australian Medical Council (the AMC) as its accreditation authority. The AMC exercises accreditation functions under the National Law, including developing accreditation standards and assessing programs of study and education providers against these standards.

The AMC accredits 16 colleges and their specialist education and training programs (refer to Table 4). The Medical Board has approved these programs of study as providing a qualification for the purposes of specialist medical registration. The colleges have also been appointed by the Medical Board to assess overseas-trained specialists seeking specialist registration in Australia.

Our office is empowered to consider complaints about specialist medical colleges as accredited education providers and their approved program of study.

Table 4: Accredited providers of specialist medical education in the National Scheme

Specialty recognised under the National Law	Accredited provider of specialist education
Addiction medicine	Royal Australasian College of Physicians
Anaesthesia	Australian and New Zealand College of Anaesthetists
Dermatology	Australasian College of Dermatologists
Emergency medicine	Australasian College for Emergency Medicine
General practice	Royal Australian College of General Practitioners Australian College of Rural and Remote Medicine
Intensive care medicine	College of Intensive Care Medicine of Australia and New Zealand
Medical administration	Royal Australasian College of Medical Administrators
Obstetrics and gynaecology	Royal Australian and New Zealand College of Obstetricians and Gynaecologists
Occupational and environmental medicine	Royal Australasian College of Physicians
Ophthalmology	Royal Australian and New Zealand College of Ophthalmologists
Paediatrics and child health	Royal Australasian College of Physicians
Pain medicine	Faculty of Pain Medicine (Australian and New Zealand College of Anaesthetists)
Palliative medicine	Royal Australasian College of Physicians
Pathology	Royal College of Pathologists of Australasia
Physician	Royal Australasian College of Physicians
Psychiatry	Royal Australian and New Zealand College of Psychiatrists

Specialty recognised under the National Law	Accredited provider of specialist education
Public health medicine	Royal Australasian College of Physicians
Radiation oncology	Royal Australian and New Zealand College of Radiologists
Radiology	Royal Australian and New Zealand College of Radiologists
Rehabilitation medicine	Royal Australasian College of Physicians
Sexual health medicine	Royal Australasian College of Physicians
Sport and exercise medicine	Australasian College of Sport and Exercise Physicians
Surgery	Royal Australasian College of Surgeons Royal Australasian College of Dental Surgeons (in relation to Oral and maxillofacial surgery only)

Specialist societies

In some cases, speciality societies accredit training sites and posts. Table 5 summarises these arrangements.

Table 5: Accreditation functions assigned by specialist medical colleges to other entities

Specialty recognised under the National Law	Field of speciality recognised under the National Law	Accredited provider of specialist education	Entity assigned to assess training sites/posts against speciality-specific accreditation standards
Physician	Neurology	Royal Australasian College of Physicians	Australian and New Zealand Association of Neurologists
Physician	Nuclear medicine	Royal Australasian College of Physicians	Australian Association of Nuclear Medicine Specialists
Surgery	General surgery	Royal Australasian College of Surgeons	General Surgeons Australia
Surgery	Neurosurgery	Royal Australasian College of Surgeons	The Neurosurgical Society of Australasia
Surgery	Orthopaedic surgery	Royal Australasian College of Surgeons	The Australian Orthopaedic Association
Surgery	Otolaryngology – head and neck surgery	Royal Australasian College of Surgeons	Australian Society of Otolaryngology Head and Neck Surgery
Surgery	Plastic surgery	Royal Australasian College of Surgeons	Australian Society of Plastic Surgeons
Surgery	Urology	Royal Australasian College of Surgeons	Urological Society of Australia and New Zealand
Surgery	Urology	Royal Australasian College of Surgeons	Australian and New Zealand Society for Vascular Surgery

Engaging with accreditation organisations

We work with accreditation organisations to continuously improve the National Scheme.

We understand it can sometimes be challenging, and even at times confronting, for staff and organisations to begin responding to complaints about the way they have handled matters (even if the allegations are not well founded). We seek to provide helpful information to the organisations we now oversee about the roles of our office, and their new obligations under the National Law.

To this end, we distributed a 'welcome pack' to accredited organisations and have established clear pathways for managing complaints. We also held introductory webinars to explain the interconnection between accreditation organisations and our office.

- In February 2023, the Ombudsman and Commissioner hosted a 'Complaint handling in practice' webinar to share information about our expanded role in accepting complaints to the Ombudsman about accreditation-related matters. The webinar provided an overview of our office's powers and more detailed information about how we handle complaints.
- In May 2023, we hosted a webinar on our office's privacy role. The webinar provided an overview of the Commissioner's powers and more detailed information about how we manage privacy complaints. It also covered accreditation organisations' responsibilities under the Notifiable Data Breaches Scheme.

We are pleased to report that most accreditation organisations have already agreed to participate in our early resolution transfer processes.

We look forward to continuing to work with accreditation organisations to establish constructive and efficient working relationships.

Communicating our new role

We have begun the important task of raising awareness about our expanded role regarding accreditation to ensure that those who need our services can access them. Initially, we focused on ensuring our current audience understands our role in managing accreditation-related complaints, the types of concerns we can consider and how to make a complaint to us.

We will continue our efforts to increase awareness and engagement in relation to accreditation next financial year.

Accreditation processes review

This year, our office made progress on an independent review of accreditation processes in the National Scheme.

Health Ministers commissioned this review in response to a recommendation made by Professor Michael Woods in his Review of Accreditation Systems. Professor Woods recommended that our office should undertake a review of the complaints and appeals processes of accreditation authorities and specialist medical colleges. Health Ministers broadened the review's scope to consider the procedural aspects of accreditation processes more generally to ensure fairness and transparency.

Health Ministers also asked us to pay attention to the processes that specialist medical colleges use to accredit training sites.

In undertaking our review, we have set out five key principles that underpin effective and efficient processes:

- people centred
- transparent
- responsive
- fair
- accountable.

These principles guide our evaluation of accreditation processes.

During the financial year, our office focussed on delivering the first part of our review report, which focuses on specialist medical colleges' training site accreditation processes. We consulted with each college on the findings and recommendations that apply specifically to them. We also gave them an opportunity to respond. Our report will present a detailed analysis and practical recommendations for each college, as well as overarching analysis and recommendations.

The final report on specialist medical training site accreditation is due to be provided to Health Ministers in November 2023, after we have undertaken targeted consultation on its proposed recommendations. Our recommendations aim to provide a practical and achievable roadmap for making specialist training site accreditation processes fairer, more transparent and accountable.

Our broader review of accreditation processes, including in relation to the assessment of overseas-qualified practitioners, will be finalised in 2023–24.

Our office champions fairness

We provide a free, impartial
and independent complaint
handling service for the public
and health practitioners

Ombudsman complaints

In 2022–23, our office received 663 complaints to the Ombudsman. These complaints were made by 466 individuals,¹⁴ some of whom made multiple complaints to us during 2022–23. This represents a 20 per cent decrease in the number of complaints we received compared with last financial year (down from 826 in 2021–22). This decrease is due to a significant reduction in the number of pandemic-related complaints we received this financial year (12 complaints, down from 306 in 2021–22).

Complaints by type

Our office saw a return to pre-pandemic trends for the types of complaints we received (see Table 6).¹⁵ We most commonly received complaints about how Ahpra and the Boards handled a notification (430; 65 per cent of complaints received). This trend has been consistent for many years. However, the volume of notification-related complaints was 39 per cent higher than last financial year.

Twenty-three per cent of complaints related to a registration matter. This is largely consistent with last financial year.

One significant change in 2022–23 was that we received significantly fewer complaints related to a pandemic policy or response (12 complaints compared with 306 complaints in 2021–22).

Table 6: Number of complaints, by complaint type, 2021–22 to 2022–23¹⁶

Complaint type	2021–22	2022–23
Handling of a notification	309	430
Handling of a registration matter	149	153
Concerns about customer service or how Ahpra handled a complaint	30	29
Handling of an accreditation matter	14	23
Pandemic policy or response ¹⁷	306	12
Other complaint types	18	16
Total	826	663

Who complaints were about

As in previous years, most complaints to our office were about the regulation of the medical, nursing and psychology professions (Table 7).

However, this financial year there was a significant decrease in the proportion of complaints received about the regulation of the medical profession, from 70 per cent of all complaints in 2021–22 to 56 per cent of all complaints in 2022–23. This reduction is linked to the decrease in the number of pandemic-related complaints we received. If pandemic-related complaints are excluded from our data, complaints relating to the medical profession increased this financial year (from 296 complaints in 2021–22 to 361 complaints in 2022–23).

¹⁴ This includes 421 named individuals and 45 anonymous complainants.

¹⁵ Data is based on our staff identifying the 'primary issue' when assessing the complaint.

¹⁶ More detail about how the notification, registration and customer experience complaint types are recorded is provided in the relevant sections of this report.

¹⁷ We introduced this complaint type in 2021–22 to record pandemic-related complaints more accurately. Prior to the introduction of this complaint type, they had been categorised as 'Other' complaints.

In 2022–23, our office saw an increase in the number of complaints received about the dental profession (from 27 complaints in 2021–22 to 44 complaints in 2022–23). The growth in complaints appears to have been driven by:

- an increase in complaints from notifiers about the handling of notifications they have made about dental practitioners
- the implementation of our new accreditation function, which enabled our office to accept complaints about the Australian Dental Council, the Board's appointed accreditation authority.

We also recorded an increase in complaints received about a number of other professions, particularly the nursing and psychology professions (see Table 7).

Table 7: Complaints by health profession, 2021–22 to 2022–23¹⁸

Profession	Complaints we received in 2021–22	Complaints we received in 2022–23
Medical	578	371
Nursing	78	90
Psychology	59	73
Dental	27	44
Occupational therapy	6	12
Physiotherapy	8	11
Pharmacy	13	9
Midwifery	0	8
Paramedicine	13	6
Osteopathy	1	5
Chiropractic	2	4
Chinese medicine	5	3
Medical radiation practice	3	1
Podiatry	0	1
Optometry	0	1
Aboriginal and Torres Strait Islander health practice	0	0
Other/unknown	33	24
Total	826	663

¹⁸ This dataset relies on information about the number of complaints raised with our office (not the number of people who made those complaints). Small changes in the data between years, particularly when there is only a small number of complaints, can often be attributed to one or two complainants who have made multiple complaints each.

Where complaints came from

We receive complaints from across Australia and from people located outside Australia who have been in contact with entities in the National Scheme.

As in previous years, most complaints to our office came from people located in Victoria (Table 8). This trend is likely due to the large number of registered health practitioners who are part of the National Scheme in Victoria.

In Queensland, complaints about health practitioners are handled by the Office of the Health Ombudsman. The Office of the Health Ombudsman consults with Ahpra about each complaint it receives to determine who should manage the matter. We only handle complaints about a matter from Queensland if it has been managed by Ahpra.

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

This financial year we recorded more complaints from the Australian Capital Territory and Tasmania compared to the complaints we recorded for those locations during 2021–22. This growth has been primarily driven by increases in notification-related complaints.

Table 8: Complaints made to our office, by location of the complainant, 2021–22 to 2022–23¹⁹

Location	Complaints received in 2021–22	Complaints received in 2022–23	Registered health practitioners in 2022–23
Victoria	204	191	229,160
Queensland	103	109	179,330
Western Australia	109	101	88,806
New South Wales	150	67	241,892
South Australia	48	49	66,995
Australian Capital Territory	11	31	15,598
Tasmania	9	22	19,359
Outside Australia	12	7	-
Northern Territory	8	6	8,676
Other/unknown	172	80	27,303 (no place of practice listed or overseas-based registrants)

¹⁹ Data for 'Registered health practitioners in 2022–23' was provided by Ahpra.

Early resolution of complaints

We seek to resolve complaints in a fair, efficient and effective way. Our early resolution of complaints generally involves using one of the following processes where appropriate:



making preliminary inquiries



an early resolution complaint transfer to Ahpra

Preliminary inquiries

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

We made 109 preliminary inquiries this financial year, including 39 instances where we asked Ahpra for more information after completing the early resolution transfer process. The number of preliminary inquiries made this year is mostly consistent with last financial year (105 in 2021–22).

Early resolution complaint transfers

Our early resolution transfer process transfers a complaint to the organisation being complained about (with the complainant's consent). The purpose is to provide the organisation with an opportunity to respond to the complaint before we decide whether we will take any further action. Once the complaint is transferred, it remains open with our office, and we assess the organisation's response to determine if it is fair and reasonable.

In 2022–23, we transferred 172 complaints through the early resolution transfer process. This was up from 130 in 2021–22. Almost all early resolution transfers involved Ahpra this financial year.²⁰

Investigations

If we cannot achieve an early resolution of a complaint, or there are other exceptional circumstances, we may decide to begin an investigation. Our investigations involve gathering and reviewing the available information to determine whether the actions of the organisation were:

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

We launched 16 investigations into complaints this financial year. In each instance, we commenced the investigation after an informal resolution process did not deliver the information or action required to finalise the complaint.

²⁰ We made one early resolution transfer to an accreditation organisation.

Arthur's story

Arthur made a complaint to our office about how Ahpra was managing concerns he raised about a health practitioner.

Arthur had initially raised his concerns with a health complaints entity but was informed that his matter had been referred to Ahpra. However, he received conflicting advice from Ahpra about which entity was managing his matter. Arthur sought to understand more about how his notification was currently being managed.

Arthur had not made a formal complaint to Ahpra. Our office requested his consent to transfer the complaint to Ahpra via our early resolution transfer process.

What we found

Ahpra acknowledged and apologised to Arthur for the delay in responding to his concerns about the management of his matter. Ahpra explained why there was confusion about which entity should consider his concerns. It confirmed that his concerns had now been referred to the most appropriate entity. Ahpra also apologised for the delay in determining the correct entity to assist with Arthur's concerns.

Complaint outcome

Our office recognised that Ahpra's complaint response appropriately acknowledged and apologised to Arthur for the identified delays and unclear communication. Ahpra also answered Arthur's queries about which entity would now manage his concerns.

As Arthur's concerns were now being dealt with by another entity outside our jurisdiction, we provided Arthur with information about the pathway to make a complaint about that entity if needed.

Finalised complaints

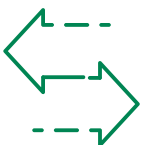
This financial year, our office finalised 657 complaints that were made to the Ombudsman, down from 881 in 2021–22. We finalised 233 complaints after using early resolution techniques (132 following an early resolution complaint transfer and 101 after making preliminary inquiries). We finalised 31 complaints after an investigation (Figure 5).

We finalised most complaints at the assessment stage of our complaint handling process (393). We finalised 33 per cent fewer matters at the assessment stage than in 2021–22. As noted previously, this was largely due to the significant reduction in the number of pandemic-related complaints received by the office, most of which were closed at the assessment stage.

Figure 5: Complaints finalised, by stage in our complaint handling process, 2022–23



393 complaints at assessment



132 complaints at early resolution transfer



101 complaints at preliminary inquiry



31 complaints following an investigation

Outcomes

We recorded 1,044 outcomes from the 657 complaints that our office finalised this financial year. This is a 15 per cent decrease in the number of outcomes we recorded in 2021–22 (1,231).

Early resolution outcomes

We resolved most complaints this financial year without the need for a formal investigation. Table 9 shows the type of outcomes achieved at the assessment, preliminary inquiry and early resolution transfer stages.

Assessment stage

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

- we were unlikely to be able to achieve what the complainant wanted from making a complaint (in these cases we referred the complainant to another service where possible)
- the organisation's complaint response was fair and reasonable
- the complaint issues were already being considered by the organisation being complained about, or a court or tribunal, and involvement from our office was therefore not appropriate at that time
- we did not receive the information we needed from the complainant to progress the complaint further
- we had already considered the same complaint.

Preliminary inquiry stage

We finalised 101 complaints at the preliminary inquiry stage, up from 92 complaints last financial year. As a result of preliminary inquiries, we provided feedback to Ahpra 33 times in 2022–23.

Of the complaints that required further action at the preliminary inquiry stage, 10 went on to an investigation, up from four in 2021–22. We did not transfer any complaints through our early resolution transfer process following preliminary inquiries (one complaint was transferred following preliminary inquiries in 2021–22).

Table 9: Complaints resolved without investigation, by outcome type and stage in our complaint handling process, 2022–23

Outcome type	Assessment	Early resolution transfer	Preliminary inquiry	Total outcomes without investigation
Investigation is not warranted in the circumstances	117	19	70	206
The organisation's response to the complaint is fair and reasonable	40	98	40	178
Regulatory matter is still active the organisation	67	32	12	111
Complainant did not provide requested information to our office	73	14	2	89
Complaint is about the merits of an organisation's decision	34	9	38	81
Complainant is not directly impacted by the complaint issue	42	-	-	42
Feedback was provided by our office to the organisation	2	1	33	36
Anonymous complainant cannot be contacted	30	-	-	30
Complaint was resolved by mutual agreement between the organisation and the complainant	2	22	2	26
Matter was withdrawn prior to investigation	21	3	-	24
Matter is more appropriately handled by a court or tribunal	19	2	1	22
Matter is currently before a court or tribunal	20	2	-	22
We are monitoring the systemic issue	6	3	10	19
Complainant became aware of the matter more than 12 months ago	16	2	1	19
We previously considered the same concerns	11	-	4	15
Complainant has an active complaint with the organisation	10	1	2	13
Complainant has not made complaint directly to the organisation	12	-	-	12
Concerns relate to an accreditation entity that we were not able to accept complaints about at the time	8	-	-	8
Matter concerns a court or tribunal decision	6	1	-	7
We could not investigate without compromising confidentiality	4	-	-	4
Other	3	4	1	8
Total	543	213	216	972

Early resolution transfer stage

In 2022–23, we assessed 174 responses provided through the early resolution transfer process (compared with 130 in 2021–22). The most common outcome following assessment was our office declining to take the complaint further because the response from the organisation was fair and reasonable (98).

Most of the complaints transferred were finalised without further inquiries or investigation by our office (130 complaints; 75 per cent of assessed responses) (Figure 6). This is an increase from last year (104 complaints).

Of the matters that needed further action at the early resolution transfer stage, we went on to make preliminary inquiries in relation to 39 complaints (up from 21 in 2021–22). We also went on to investigate five complaints. This is consistent with the number of complaints that progressed to investigation in 2021–22.

Figure 6: Assessment of early transfer responses in 2022–23



130 complaints finalised with no further action required



39 complaints progressed to preliminary inquiry



5 complaints progressed to investigation

The increase in the number of complaints that needed further action after an early resolution transfer is disappointing. It means our office decided that the complaint response did not adequately address the complainant’s concerns, and we needed to consider it further. Most complaints requiring further action continued to be notification-related (39) rather than registration-related complaints (five) (Table 10).

Table 10: Number of early resolution transfer responses assessed and complaint type, 2021–22 and 2022–23

Early resolution transfer responses assessed	Notification-related complaints		Registration-related complaints	
	2021–22	2022–23	2021–22	2022–23
No further action required	58	84	39	31
Preliminary inquiries made	16	34	4	5
Investigation commenced	2	5	3	0

Benjamin's story

Benjamin's representative made a complaint to our office regarding a regulatory exam administered by Ahpra and the Board.

Benjamin was dissatisfied with the feedback provided by Ahpra after he was repeatedly unsuccessful in passing the exam. He complained about a lack of transparency in the exam results. Benjamin also said he was aware the exam marks had been scaled, and he believed he would have passed the exam had his mark not been scaled down.

We decided to make preliminary inquiries into Benjamin's complaint.

What we found

We determined that information Ahpra and the Board had provided about Benjamin's exam results was clear and appropriately accessible.

Ahpra confirmed to our office that Benjamin's exam results had not been negatively affected by the scaling of marks. We found that Ahpra's explanation about the use of scaling was appropriate.

Complaint outcome

We finalised Benjamin's complaint after communicating our findings to him.

We also provided feedback to Ahpra and the Board about the information it makes publicly available regarding the regulatory exam. We suggested that the information provided to Benjamin in response to his complaint about scaling was relevant to all candidates, and it should be publicly communicated in information provided about the exam.

Investigation outcomes

We finalised 31 complaints following an investigation during 2022–23. We recorded 72 outcomes across these 31 complaints. Most investigations resulted in our office providing feedback to the organisation being complained about, followed by our office providing a further explanation to the complainant (Table 11). Providing a further explanation to a complainant generally means we did not identify a major error in how the organisation handled the complainant’s matter. Instead, we helped the complainant to better understand how their matter had been handled.

The outcome of three investigations included the Ombudsman providing formal comments or suggestions for improvement to Ahpra’s CEO (see, for example, Eleni and Grace’s stories).

Table 11: Investigation outcomes of complaints, 2021–22 and 2022–23

Investigation outcome	Number of outcomes in 2021–22	Number of outcomes in 2022–23
Feedback provided to the organisation	41	20
Further explanation provided by our office	80	18
Positive feedback provided to the organisation	6	7
The organisation agreed to assess new material	3	7
Monitoring as a systemic issue	14	4
Apology or acknowledgement provided to the complainant the organisation	9	4
Facilitated contact between the organisation and the complainant	1	4
Formal comments or suggestions issued by the Ombudsman to the organisation	2	3
Undertaking made by the organisation to change policy or process	1	2
Matter reconsidered by the organisation	4	1
Updates made to the organisation’s public information	1	1
Further explanation provided by the organisation	1	1
Staff training or feedback provided to the organisation’s staff	8	0
Facilitated meeting between the organisation and the complainant	1	0
Complainant referred elsewhere to pursue concerns	1	0
Other outcome	2	0
Total	175	72

Feedback to Ahpra

We provide feedback to Ahpra's national complaints team if we identify a minor issue or an ongoing concern about an issue the Ombudsman has already raised with Ahpra's CEO by providing formal comments or making suggestions for improvement. We track Ahpra's response to comments and suggestions we have previously made, and the feedback we provide therefore acts as a reminder to Ahpra about the importance of addressing the identified issue.

We may also choose to provide feedback to Ahpra if we come to an agreement during the complaints process about how certain issues can be addressed. In these complaints, we acknowledge that Ahpra's national complaints team has efficiently addressed the concerns raised throughout the complaint process.

In 2022-23, we provided feedback to Ahpra in relation to 36 complaints that were resolved at assessment or through our early resolution mechanisms.

Providing feedback to Ahpra was also the most common outcome of our investigations this financial year (20). This is the first time that providing feedback to the organisation involved in the complaint has been the most commonly recorded outcome on investigations. This is likely due to our team's focus on ensuring that feedback is provided to the relevant teams at Ahpra to inform its ongoing operations.

We also provided positive feedback to Ahpra seven times following an investigation.

We undertook a qualitative analysis of the feedback we provided following an early resolution process or an investigation this financial year. Common themes included the need for Ahpra to:



Improve its communication, including appropriate acknowledgement of correspondence



Provide regular updates during the handling of a notification or registration matter



Progress notifications and registration matters in a timely manner



Ensure that decisions and reasons for decisions regarding notifications and registration matters are consistent and clearly outlined



Adhere to the requirements of the National Law and Ahpra's documented policies and procedures.

Notification-related complaints

Notifications help Ahpra and the Boards identify and address potential risks to public safety. Anyone can make a notification to Ahpra about a registered health practitioner if they have a concern about the health, conduct or performance of a practitioner.²¹

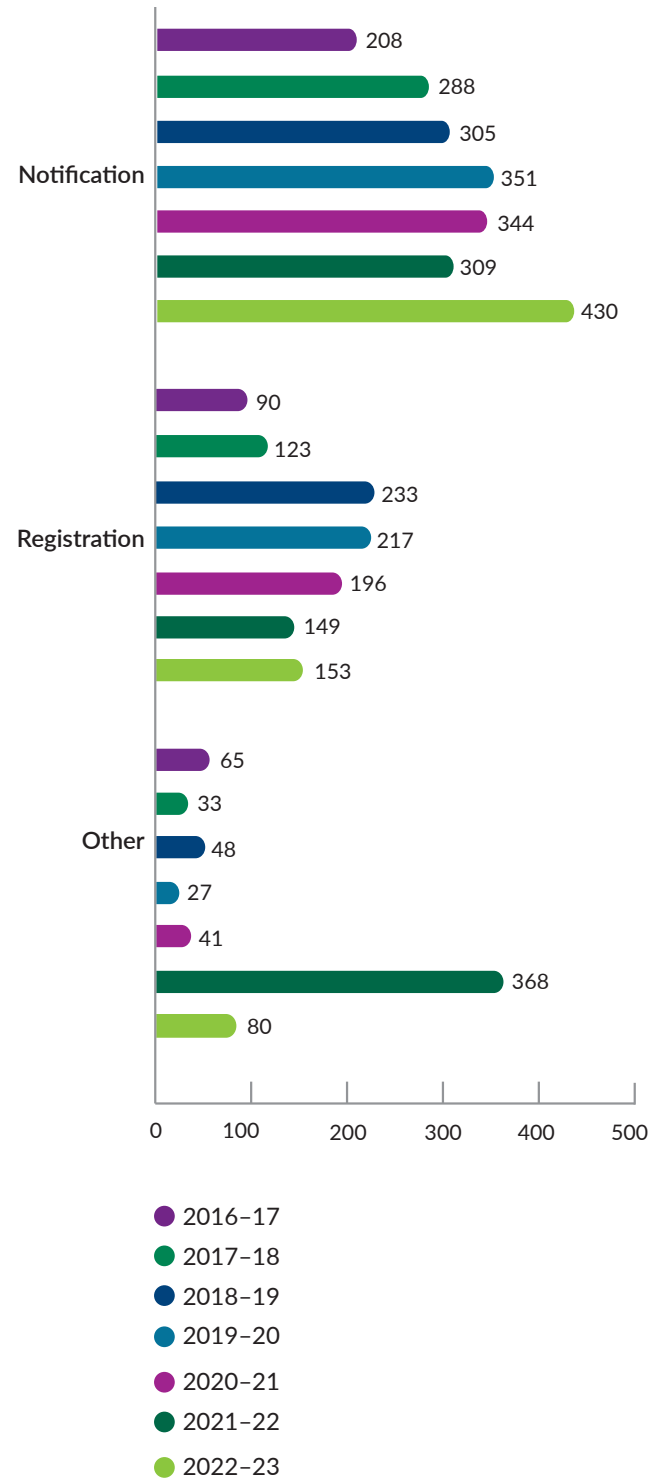
Notification-related complaints we received

Most of the complaints we receive are about the handling of a notification by Ahpra and/or a Board. This financial year, 65 per cent of complaints related to a notification (430) (Figure 7). This is an increase in the number of notification-related complaints compared with 2021–22 (309 complaints; 37 per cent of complaints received).

The proportion of notification-related complaints relative to all complaints received was significantly higher than last year. This is due to the unusual number of complaints we received in 2021–22 in relation to Ahpra and the Boards' pandemic responses or policies.

In 2022–23, notification-related complaints were made by 281 individuals. This is a 24 per cent increase in the number of individuals who made notification-related complaints (up from 226 in 2021–22).

Figure 7: Types of complaints to the Ombudsman, 2016–17 to 2022–23

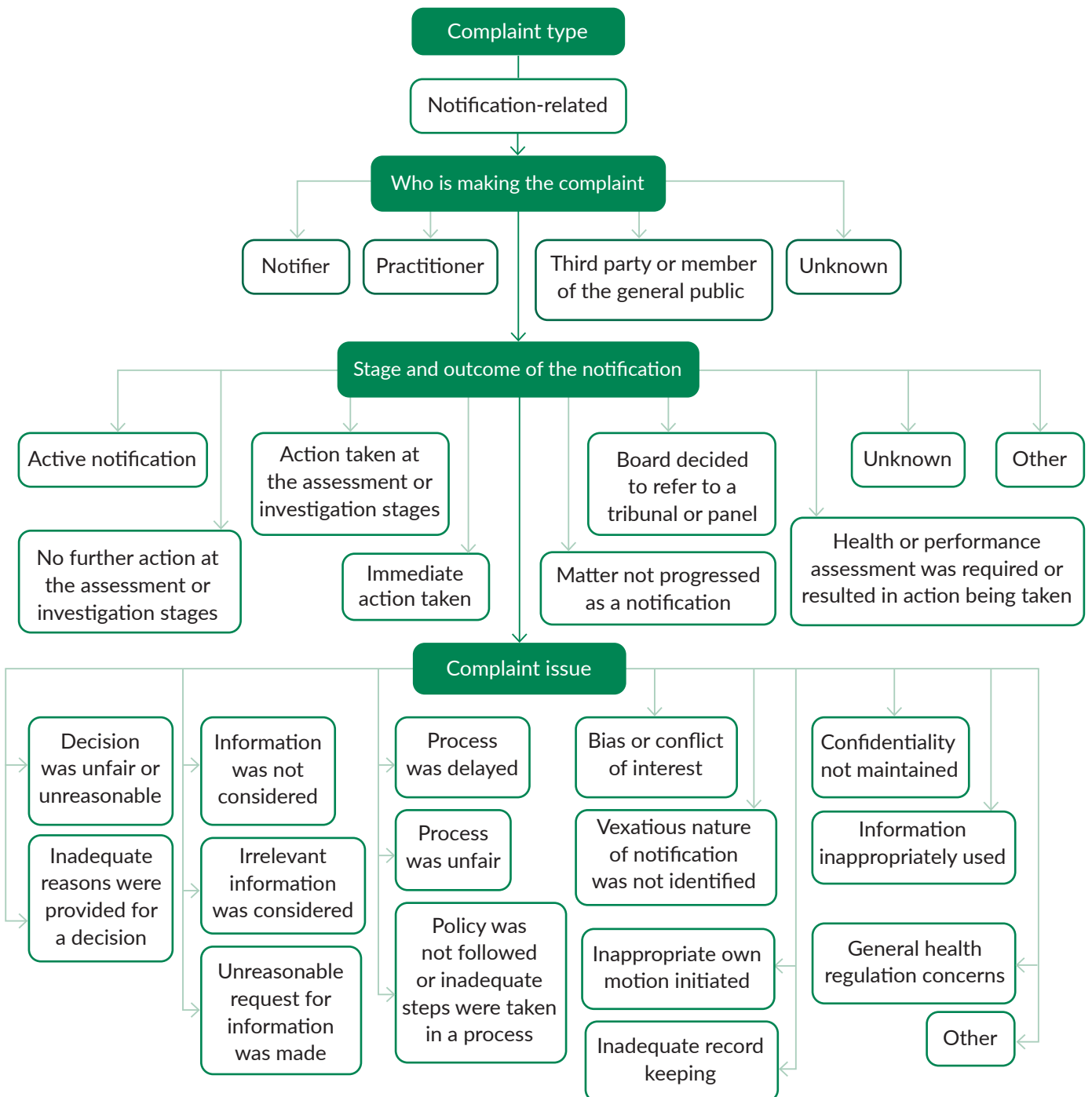


21 Please note that New South Wales and Queensland have different arrangements in place to accept notifications about health practitioners.

How we record notification-related complaint information

We record information about notification-related complaints based on who is making the complaint, the stage and outcome of the notification, and the complaint issues raised (Figure 8).

Figure 8: Notification-related complaint information we record



Alyssa's story

Alyssa, a health practitioner, made a complaint to our office in relation to a notification she had made about another health practitioner's conduct.

Alyssa was concerned that the Board had not appropriately addressed her concerns when deciding to take no further action.

Our office initially sought to resolve Alyssa's concerns through our early resolution process. With Alyssa's consent, we transferred her complaint to Ahpra. In response, Ahpra advised that it was satisfied the Board had considered all relevant information when deciding not to take further action.

Our assessment of the available information, however, suggested that the Board may not have appropriately considered all information. We decided to open an investigation into the matter.

Our investigation found that Alyssa had further information to support her concerns that she had not submitted to Ahpra when she first made the notification. We requested Alyssa's consent to share this new information with Ahpra on her behalf, and she agreed.

Following receipt of Alyssa's new information, Ahpra opened a new notification about the practitioner. We finalised our investigation because we were satisfied that Alyssa was now able to discuss her concerns directly with Ahpra and the new information had been appropriately provided to Ahpra for the Board's consideration.

Who notification-related complaints were about

Most notification-related complaints we received this financial year involved the medical profession (68 per cent of the notification-related complaints; 292). This has been a consistent trend for our office due to a large proportion of notifications received each year being about medical practitioners.

Psychologists were involved in 11 per cent of notification-related complaints, and the nursing profession was involved in 8 per cent of notification-related complaints (Table 12).

Table 12: Notification-related complaints, by health profession, 2022–23²²

Profession	Complaints related to notifications we received in 2022–23	All complaints we received in 2022–23	Notifications received by Ahpra in 2022–2023	Notifications closed by Ahpra in 2022–23	Registered health practitioners in 2022–23
Medical	292	371	5,615	6,087	136,742
Psychology	48	73	671	721	46,347
Nursing ²³	33	90	1,791	1,919	480,070
Dental	31	44	610	750	26,692
Pharmacy	6	9	379	449	36,425
Occupational therapy	4	12	83	66	29,742
Midwifery	2	8	99	103	7,683
Paramedicine	2	6	104	140	24,164
Chinese medicine	1	3	14	32	4,823
Physiotherapy	1	11	140	135	42,098
Optometry	1	1	27	31	6,762
Medical radiation practice	0	1	34	35	18,976
Chiropractic	0	4	67	103	6,345
Osteopathy	0	5	20	29	3,325
Podiatry	0	1	49	56	6,038
Aboriginal and Torres Strait Islander health	0	0	3	3	887
Other/unknown	9	24	-	-	-
Total	430	663	9,706	10,659	877,119

²² Ahpra provided data for 'Notifications received by Ahpra in 2022–23', 'Notifications closed by Ahpra in 2022–23' and 'Registered health practitioners in 2022–23'.

²³ Please note that the number of registered health practitioners also includes those who are registered as both a nurse and midwife

Who made notification-related complaints

Most complaints about the handling of a notification were made by the person who made the notification (the notifier) (268, up from 213 in 2021–22). This included 58 complaints made by health practitioners who were acting as notifiers. Notifiers were more likely to be practitioners than they were last financial year (22 per cent of all notifiers in 2022–23, up from 14 per cent in 2021–22).

A significantly higher number of complaints this year were made by health practitioners who were the subject of the notification (123 complaints, up from 85 in 2021–22).

Members of the public who were not a party to the notification made up a smaller proportion of complaints (37). However, we received more complaints from this group than we did last financial year (up from nine complaints in 2021–22). Much of this increase can be attributed to members of the public seeking to defend a practitioner where regulatory action had been taken regarding the practitioner's registration in response to their conduct during the COVID-19 pandemic.

Where notification-related complaints came from

Most notification-related complaints came from complainants located in Victoria (139), Queensland (73) and Western Australia (72) (Table 13). As noted previously, we generally receive more complaints from people in Victoria.

Our office does not have the power to receive complaints about how a notification (or complaint) has been handled by the Health Care Complaints Commission and the Health Professional Councils Authority in New South Wales. Complaints about the handling of notification-related matters from New South Wales consistently represent a small proportion of the notification-related complaints we receive (4 per cent in 2022–23).

When we do receive notification-related complaints from New South Wales, it is generally because:

- the complainant is not living in same state as the practitioner they made a notification about
- a complainant from New South Wales is seeking to defend a practitioner who lives in another state who has been the subject of regulatory action
- a notifier is unhappy that Ahpra and the Boards are not able to consider their matter and that it has been referred to another regulatory body in New South Wales.

Complaints from people in Victoria increased by 42 per cent this financial year (139, up from 98 in 2021–22). This increase is largely due to our office receiving more complaints from practitioners located in Victoria. In particular, we recorded more issues related to regulatory action being taken regarding a health practitioner (in the form of conditions or other restrictions imposed, immediate action, a referral to a tribunal, or a health or performance assessment) (53 issues in 2022–23, up from 16 issues in 2021–22).

Although we receive a relatively small number of complaints from people in Tasmania, we also saw an increase in notification-related complaints from the state when compared with last financial year (16 complaints, up from three in 2021–22). This increase appears to have been driven by practitioners raising concerns about the notification process. We similarly saw an increase in issues raised about notifications where regulatory action had been taken (from zero issues in 2021–22 to eight issues in 2022–23).

We also observed a similar increase in notification-related complaints being received from the Australian Capital Territory (27 complaints, up from six in 2021–22). However, the increase in notification-related complaints from this location appeared to be driven by notifiers raising concerns, particularly about whether a decision was fair and reasonable (from three issues in 2021–22 to 15 issues in 2022–23).

Table 13: Notification-related complaints made to our office, by location of the complainant, 2022–23²⁴

Location	Complaints we received related to notifications in 2022–23	All complaints received in 2022–23	Notifications received by Ahpra in 2022–23	Notifications closed by Ahpra in 2022–23	Registered health practitioners in 2022–23
Victoria	139	191	3,634	3,841	229,160
Queensland	73	109	2,212	2,784	179,330
Western Australia	72	101	1,444	1,550	88,806
South Australia	41	49	1,276	1,319	66,995
Australian Capital Territory	27	31	292	302	15,598
New South Wales	18	67	90	139	241,892
Tasmania	16	22	333	323	19,359
Northern Territory	3	6	173	168	8,676
Outside Australia	0	7	-	-	-
Unknown	41	80	252*	233*	27,303*
Total	430	663	9,706	10,659	877,119

* No place of practice listed or overseas-based registrants.

Common notification-related issues

We recorded 680 issues in the 430 complaints we received about the handling of a notification in 2022–23.

The top five issues all related to concerns raised by a notifier. These included that:

- a Board's decision to take no further action at the assessment stage was unfair or unreasonable
- there had been delay in Ahpra managing their active notification
- information was not appropriately considered when the Board decided to take no further action at the assessment stage
- the reasons for a Board's decision to take no further action at the assessment stage were not adequately explained
- a Board's decision to take no further action was unfair or unreasonable (where we were not informed of which stage of the notification process the decision was made).

A notifier's concern that a decision to take no further action at the assessment stage was unfair or unreasonable remained the most-identified issue from last financial year.

The top five issues raised by practitioners who have been notified about included that:

- there was a delay in the handling of an active notification
- the notification process was unfair
- a decision made by the Board to take action regarding the practitioner's registration following investigation was unfair or unreasonable
- Ahpra and the Board had failed to identify and address the vexatious nature of an active notification
- a decision made by the Board to take immediate action regarding the practitioner's registration was unfair or unreasonable.

²⁴ Ahpra provided data for 'Notifications received by Ahpra in 2022–23', 'Notifications closed by Ahpra in 2022–23' and 'Registered health practitioners in 2022–23'.

Delays in notification-related complaints

We regularly receive concerns about delays in Ahpra's management of notifications. We have found that delays and lack of communication can cause frustration and often distress for those involved in the notification.

In the 430 notification-related complaints received in 2022–23, we recorded 92 issues about delay. These concerns were raised by 65 individual complainants. Issues mostly related to active notifications (63; 68 per cent of all notification-related delay issues).

A smaller group of complaints concerned notifications that had been finalised when the Board had decided to take no further action (11; 12 per cent of all notification-related delay issues) and notifications where immediate action had been taken regarding the practitioner's registration (eight; 9 per cent of all notification-related delay issues).

This reflects a welcome 16 per cent decrease in concerns recorded about delays from last financial year (110 issues). Much of this reduction may be attributed to Ahpra's new model for triaging notifications, which appears to have resulted in notifications being finalised more quickly.

However, there are still improvements to be made. While issues relating to delay were not raised by practitioners as frequently as last financial year (15 fewer issues recorded), the number of concerns raised by notifiers has remained relatively consistent (a reduction of only two issues compared with last financial year). Further, while concerns related to delays appear to have reduced, there has been a significant increase in notifiers and practitioners complaining about other aspects of the notification process.

Anna's story

We received a complaint from a health practitioner, Anna, who had made a notification about herself to Ahpra.

Anna was concerned about the time Ahpra took to investigate the notification and refer it to the Board for a decision. Anna said the investigation took more than four years and that the matter had been repeatedly reallocated to different Ahpra case officers. She said there were also extended periods of time when she received no updates or communication from Ahpra. She found this lack of communication distressing.

Our office transferred the complaint to Ahpra (with Anna's consent) through our early resolution transfer process. In response, Ahpra apologised to Anna and acknowledged that its investigation was unnecessarily delayed. Ahpra's response did not, however, comprehensively explain why the investigation was delayed. After conducting preliminary inquiries to gather more information from Ahpra, our office commenced an investigation into Ahpra and the Board's handling of the notification.

What we found

Our investigation found that there were significant delays with Ahpra and the Board's handling of the notification about Anna. We found evidence of numerous and lengthy periods of inactivity in the investigation without reason. We also found that Ahpra had provided only three progress updates to Anna during the more-than-four-year investigation.

Ahpra acknowledged that its investigation was unacceptably slow, and apologised again to Anna for the delay. Ahpra also advised our office that it had taken steps to update its investigation processes to prevent similar delays. This included publishing internal staff guidance on the issues raised by the notification, making system improvements to provide better visibility and accountability for the timely completion of tasks, and providing increased support to staff with significant caseloads.

Complaint outcome

Our office provided feedback to Ahpra about its handling of the notification. While we acknowledged the steps taken by Ahpra to prevent similar delays in the future, we reminded Ahpra of the importance of providing timely updates to practitioners under investigation, particularly to alleviate distress during lengthy investigations.

Stage and outcome of notifications driving complaints

In general, concerns that relate to a Board's decision to take no further action continue to be the main driver of notification-related complaints (Table 14). This issue was recorded more frequently than last financial year (211 times compared with 157 times in 2021–22). This trend is likely due to most notifications being finalised by Ahpra and the Boards with a decision to take no further action (6,678 of the 10,659 notifications finalised).²⁵

Another reason why we may see more complaints of this type is because there is no avenue for notifiers to request an external appeal of a Board's decision to take no further action. Practitioners who are the subject of regulatory action, however, can appeal to a relevant tribunal.

The increase in issues regarding a decision to take no further action may also be related to the introduction of Ahpra's new triaging model. As previously discussed, this model appears to have resulted in faster decisions to take no further action.

In addition, Ahpra's new triaging model appears to have resulted in a large number of matters not being considered as a notification. This likely corresponds to the increased number of issues raised about a matter not being processed as a notification (from 15 in 2021–22 to 25 in 2022–23).

Table 14: Stage and outcome of notifications that drove complaints to us, 2021–22 and 2022–23

Type of notifications action taken by Ahpra or a Board	Total number of notification issues 2021–22	Total number of notification issues 2022–23
No further action taken at the assessment stage	157	211
Active notification	111	143
No further action taken at the investigation stage	86	63
Action taken at the investigation stage	27	56
Immediate action taken	45	51
No further action taken at an unknown stage	16	43
Board decided to refer to a tribunal or panel	17	29
Matter not processed as a notification	15	25
Action taken at the assessment stage	11	14
Health or performance assessment was required or resulted in action being taken	6	9
Unknown	12	31
Other	7	5

²⁵ Data provided by Ahpra based on notifications closed in 2022–23 by outcome.

Problems driving complaints

A complainant's concern that a decision was unfair or unreasonable continued to be the most frequently recorded issue in notification-related complaints (227), as well as concerns about process delays (92) (Table 15).

However, our notifications-related issue data for 2022–23 shows a significant shift in the other types of concerns being raised with our office.

Most significantly, there is an increased perception that:

- a notification's outcome was unfair and/or unreasonable (74 more issues than last financial year)
- processes for managing notifications were unfair (42 more issues than last financial year)
- information was not considered before a decision was made about a notification (29 more issues than last financial year).

This suggests that different areas of Ahpra's management of notifications is causing concern compared with the previous financial year (see 'Concerns that do not meet the grounds for a notification').

Table 15: Problems driving notification-related complaints, 2021–22 and 2022–23

Problems related to notifications (based on complainant's concerns)	Total number of notification issues 2021–22	Total number of notification issues 2022–23
Decision was unfair or unreasonable	153	227
Process was delayed	110	92
Process was unfair	46	88
Information was not considered	55	84
Inadequate reasons were provided for a decision	52	45
Vexatious nature of a notification was not identified	14	44
Inadequate steps were taken in a process	29	33
Bias or a conflict of interest	21	15
General health regulation concerns	7	13
Information inappropriately used	2	12
Inadequate recordkeeping	0	7
Unreasonable request for information	0	5
Confidentiality not maintained	3	4
Policy not followed	4	3
Irrelevant information considered or requested	3	3
Inappropriate own motion initiated	2	1
Other	9	4

Outcomes of notification-related complaints

We finalised 424 complaints about the handling of a notification in 2022–23. The stages these complaints were finalised in included:



231 complaints at assessment

(82 more complaints than last year)



84 complaints at early resolution transfer

(24 more complaints than last year)



84 complaints at preliminary inquiry

(21 more complaints than last year)



25 complaints following an investigation

(54 fewer complaints than last year)

As outlined in our 2021–22 annual report, we have improved our early resolution processes to handle complaints more effectively and efficiently. Where appropriate, we use early resolution complaint mechanisms (such as making preliminary inquiries) to resolve concerns, and we have refined our criteria to progress complaints to an investigation. This approach helps us achieve more timely responses and outcomes for complainants. It also focuses our investigative resources on issues that have a broader systemic effect and where positive change could have the greatest impact.

In 2022–23, we usually declined to take further action on a complaint at the assessment stage because an investigation was not warranted based on the available information (52 outcomes). We also finalised complaints at the assessment stage because the matter was still active with the organisation being complained about (49 outcomes) or because the complainant did not provide us with the information we requested (48 outcomes). These three outcome types accounted for 45 per cent of all complaints finalised at the assessment stage of our complaint process.

Where the complaint was concluded following preliminary inquiries or an early resolution transfer, the most common outcome was a finding that the organisation being complained about had responded to the complainant's concerns in a fair and reasonable manner (95 outcomes).

The most common investigation outcome was our office providing feedback to Ahpra about their handling of the notification that prompted the complaint (16 outcomes). The next most common outcome was us finalising a complaint with a further explanation of the concerns raised (13 outcomes), which in the past has been our most common outcome.

Other common investigation outcomes in notification-related complaints included providing positive feedback to Ahpra (7 outcomes) and Ahpra agreeing to assess new material (7 outcomes).

Communication during the notifications process

Ahpra's service charter states that it will keep relevant individuals informed about what is going on with a notification, including what to expect and when. The National Law also requires that Ahpra provides progress updates to people involved in the notification (the notifier and the practitioner) at least every three months during an investigation.

Despite these requirements, we continue to receive complaints that demonstrate Ahpra does not regularly communicate with notifiers and practitioners. We often hear from people involved in a notification that not hearing from Ahpra is frustrating and, at times, distressing. A lack of communication from Ahpra is particularly stressful for people who have had immediate action taken regarding their registration. The ongoing investigation into the notification can affect their ability to work and their future career opportunities. Similarly, notifiers are often deeply connected to the notification they have made, especially when it relates to health care they, or a family member, received.

We recognise that Ahpra has made improvements in communicating with people involved in the notification process, including increased contact by phone when the notification is first received. However, our office continues to provide feedback to Ahpra about the importance of providing regular updates and meeting its legislative requirements to provide updates quarterly (at a minimum) during an investigation.

Karim's story

Karim's legal representative contacted our office about the handling of notifications he had made about two health practitioners relating to care he had received while in hospital.

Ahpra's management of the notifications was complicated and had gone on for several years. Karim told us he was unhappy with the Board's decision to take no further action in relation to these notifications. He was concerned the Board had not appropriately considered all the information he had provided. Karim was also dissatisfied with delays and communication issues throughout Ahpra's handling of the notifications.

After considering Karim's concerns, our office began an investigation into the handling of the two notifications.

What we found

Our investigation found that it was reasonably open to the Board to take no further action after considering the notifications. Ahpra and the Board had thoroughly outlined the information it had considered, and the reasons for the Board deciding to take further action.

However, our investigation found that Ahpra's handling of the notifications over several years could have been better. We found that Ahpra did not meet its obligations under the National Law to provide Karim's nominated representatives with written investigation updates at least every three months.

There were also broader communication issues. Ahpra did not respond to Karim's correspondence in a timely way, and sometimes did not respond at all. There was also delay in progressing the notifications, and new information Karim provided to Ahpra after the closure of the notifications could have been handled more appropriately.

Complaint outcome

Our office acknowledged that Ahpra has made a number of changes since Karim's matters were finalised to minimise the risk of the identified issues occurring again in the future. This included implementing a policy for managing new information received after a notification has been closed, and the introduction of its service charter.

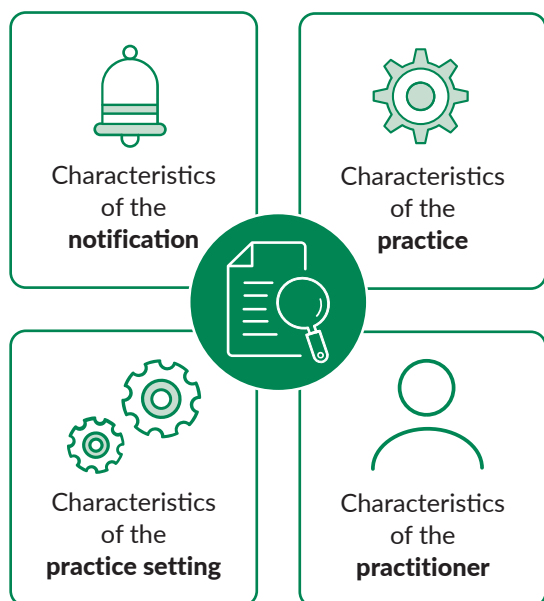
However, our office provided feedback to Ahpra to remind it of the importance of providing regular written updates to notifiers when notifications are being investigated. We also provided feedback about the importance of communicating with notifiers to seek clarifying information about notifications.

Strengthening Ahpra's risk assessments

Ahpra's assessment of notifications is centred around risk. Ahpra uses four quadrants of risk when assessing a notification (see Figure 9). These include the:

- characteristics of the notification – specific concerns raised regarding the knowledge, skill or judgement possessed, or whether care exercised by the practitioner is below a reasonable standard
- characteristics of the practice – the type of practice engaged in, including the inherent risk and any relevant standards or guidelines
- characteristics of the practice setting – the practice setting including the vulnerability of the patient group and whether the practitioner has access to professional peers and support
- characteristics of the practitioner – the practitioner themselves, including their regulatory history and the actions they have taken in response to the concern.

Figure 9: Quadrants of risk in Ahpra's risk assessment and controls framework



Ahpra's risk assessment also involves individual, organisational and regulatory risk controls (refer to Figure 10). This means considering whether the risk controls are sufficient to manage any identified risk.

Figure 10: Risk controls in Ahpra's risk assessment and controls framework



Addressing the quadrants of risk

In 2022–23, our office gave Ahpra feedback about the quality of its risk analysis. We emphasised the importance of considering all the elements of its risk framework when making recommendations to a Board in relation to a notification.

In some complaints considered by our office this financial year, we found there was minimal analysis of whether information provided in relation to each quadrant of risk increased or decreased the overall risk posed to the public. We also found that sometimes the risk rating of a notification had been changed throughout its management, but there was no documented reason for the change with regard to the risk framework.

We continue to provide feedback to Ahpra about how to ensure its risk assessment process is robust and clearly documented.

Registration-related complaints

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

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

Registration-related complaints we received

This financial year, we received 153 registration-related complaints, which represents 23 per cent of all complaints to the Ombudsman.

These complaints were made by 140 individuals and, as expected, were mostly received from health practitioners (94 per cent of registration-related complaints).

After the unusual spike in pandemic-related complaints received last financial year, registration-related complaints returned to being the second-most received type of complaint to our office (Table 16). The overall number of registration-related complaints was slightly higher in 2022–23 than the previous financial year (149 complaints; 18 per cent of complaints received). This appears to suggest that Ahpra has maintained its improved handling of registration matters, as noted in our last annual report.

Table 16: Types of complaints to the Ombudsman, 2016–17 to 2022–23

Complaint type	2016–17	2017–18	2018–19	2019–20	2020–21	2021–22	2022–23
Notification-related	208	288	305	351	344	309	430
Registration-related	90	123	233	217	196	149	153
Other	65	33	48	27	41	368	80

Types of registration matters driving complaints

Consistent with past trends, most of the registration-related complaints recorded in 2022–23 were about general registration (68 per cent). Complaints of this type increased from last financial year (104 complaints, up from 88 complaints in 2021–22). In contrast, complaints related to other registration types, such as provisional registration, limited registration and non-practising registration, have remained consistent or reduced from last financial year (see Table 17).

Table 17: Types of registration applications driving complaints, 2022–23²⁶

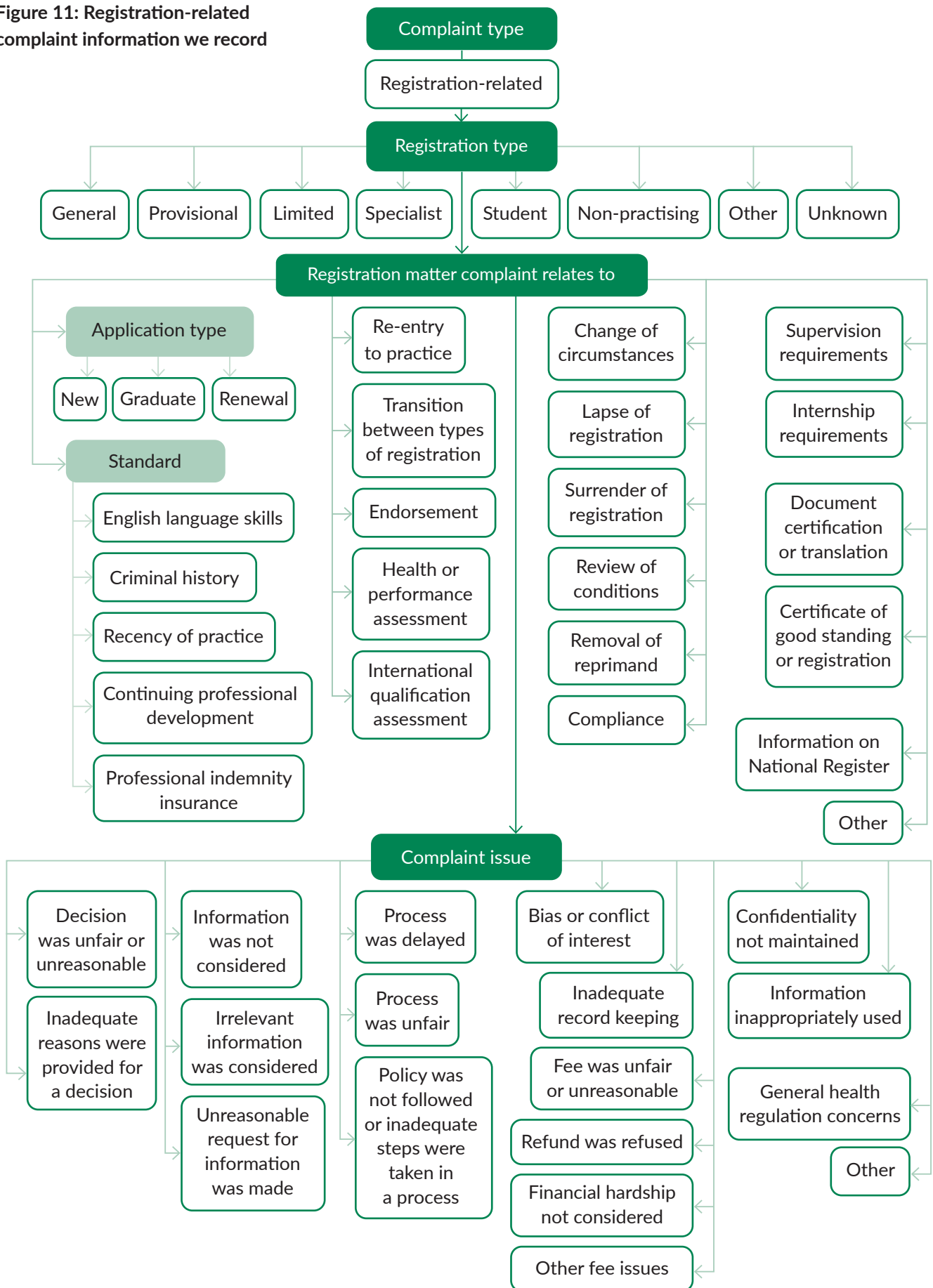
Registration type	Registration-related complaints in 2022–23	Applications received by Ahpra by registration type in 2022–23
General registration	104	68,409
Limited registration	12	3,573
Provisional registration	9	11,793
Specialist registration	7	4,759
Non-practising registration	2	8,345
Other/unknown	19	-
Total	153	96,879

26 Ahpra provided data for ‘Applications received by Ahpra by registration type in 2022–23’.

How we record registration-related complaint information

We record information about registration-related complaints based on the type of registration and the type of registration matter the complaint relates to (Figure 11).

Figure 11: Registration-related complaint information we record



Hudson's story

Hudson complained to our office about Ahpra's management of his application for registration.

Hudson said that he had experienced difficulty in meeting the proof of identity requirements, as one of the required identity documents had expired. Hudson said that Ahpra had advised a family member that he could provide the identity document, alongside a letter explaining that it had expired, together with other forms of identification.

Hudson said he lodged his application in this manner, but Ahpra told him that his application could not be approved because the expired identity document was not acceptable.

Hudson said that he would not have lodged the application if he had received the correct advice. However, Ahpra refused to refund Hudson's registration application fee.

Our office initially made an early resolution transfer of the complaint to Ahpra with Hudson's consent. However, our office did not receive sufficient information about the advice Hudson had initially been provided with. As a result, we made preliminary inquiries into the matter.

What we found

We found that Ahpra gave Hudson's family member incorrect advice regarding the registration application requirements. Ahpra told Hudson's family member it would be better to wait until Hudson had a valid identity document, but also that he could provide the expired document.

Ahpra apologised that the advice provided to Hudson's family member was not correct and acknowledged that without this information, Hudson may not have made an application for registration. On this basis, Ahpra agreed to refund Hudson's application fee.

Complaint outcome

Our office was satisfied that Ahpra had adequately addressed the loss Hudson incurred because of the incorrect advice.

We also found that Ahpra had taken appropriate steps to minimise the likelihood of similar information being incorrectly provided to applicants in the future. Ahpra told us they would use Hudson's matter in training material for its customer service team.

Hudson confirmed that these actions resolved his concerns.

Who registration-related complaints were about

Most registration-related complaints involved the nursing (50) and medical (34) professions (Table 18). This is consistent with previous complaint trends. However, registration-related complaints about the nursing profession were higher than the previous financial year (up from 41 in 2021–22). In comparison, complaints about the medical profession have reduced considerably (down from 50 in 2021–22).

All complaints we received about the osteopathy, podiatry and medical radiation professions related to registration. In addition, all but one complaint received about the physiotherapy, chiropractic, Chinese medicine professions related to registration. Most complaints about the paramedicine (67 per cent) and nursing (56 per cent) professions were also about registration issues. We did not receive any registration-related complaints about the optometry and Aboriginal and Torres Strait Islander health practice professions this year.

Table 18: Registration and complaint numbers, by health profession, 2022–23²⁷

Profession	Complaints related to registration we received in 2022–23	All complaints we received in 2022–23	Registration applications received by Ahpra in 2022–23	Registered health practitioners in 2022–23
Nursing ²⁸	50	90	46,164	480,070
Medical	34	371	20,848	136,742
Psychology	22	73	6,220	46,347
Physiotherapy	10	11	4,597	42,098
Occupational therapy	6	12	3,460	29,742
Dental	5	44	2,167	26,692
Osteopathy	5	5	315	3,325
Paramedicine	4	6	2,489	24,164
Chiropractic	3	4	511	6,345
Pharmacy	3	9	4,394	36,425
Chinese medicine	2	3	699	4,823
Medical radiation practice	1	1	1,626	18,976
Midwifery	1	8	2,292	7,683
Podiatry	1	1	422	6,038
Optometry	0	1	484	6,762
Aboriginal and Torres Strait Islander health practice	0	0	191	887
Other/unknown	6	24	-	-
Total	153	663	96,879	877,119

²⁷ Ahpra provided data for 'Registration applications received by Ahpra in 2022–23' and 'Registered health practitioners in 2022–23'.

²⁸ Please note that the number of registered health practitioners also includes those who are registered as both a nurse and midwife.

Where registration-related complaints come from

Registration-related complaints were most commonly raised by complainants living in New South Wales (33), Victoria (30) and Queensland (24) (Table 19).

Table 19: Complaints made to our office, by location of the complainant, 2022–23²⁹

Location	Complaints we received related to registration in 2022–23	All complaints we received in 2022–23	Registration applications received by Ahpra in 2022–23	Registration applications finalised by Ahpra in 2022–23	Registered health practitioners in 2022–23
New South Wales	33	67	23,009	23,000	241,892
Victoria	30	191	22,749	22,756	229,160
Queensland	24	109	16,819	16,964	179,330
Western Australia	18	101	9,079	9,036	88,806
Tasmania	5	22	1,709	1,709	19,359
South Australia	4	49	6,789	6,823	66,995
Australian Capital Territory	3	31	1,742	1,728	15,598
Northern Territory	3	6	833	856	8,676
Outside Australia	6	7	-	-	-
Unknown	27	80	14,150*	13,264*	27,303*

* No place of practice listed

Common issues related to registration

We recorded 228 complaint issues across the 153 registration-related complaints we received this financial year.

The top five issues related to registration complaints were concerns that:

- an unfair or unreasonable decision was made about the application of the ELS Standard in relation to an application for general registration
- a practitioner seeking general registration believed the process for satisfying the ELS Standard is unfair
- there were delays in Ahpra’s management of new applications for general registration

- there were delays in the management of an application to review conditions on a health practitioner’s general registration
- the assessment of an international qualification for a practitioner seeking general registration was delayed.

In 2022–23, issues recorded in relation to the ELS Standard were identified more frequently than in 2021–22. This was a trend we also noted last financial year. In addition, we again observed increases in complaints relating to international qualification assessments in 2022–23.³⁰

Most issues recorded in 2022–23 related to concerns about the fairness of a decision (58), closely followed by concerns that registration processes were unfair (57) (Table 20). This is mostly consistent with 2021–22.

²⁹ Ahpra provided data for ‘Registration applications received by Ahpra in 2022–23’, ‘Registration applications finalised by Ahpra in 2022–23’ and ‘Registered health practitioners in 2022–23’.

³⁰ Please note that due to complexities associated with assessments of overseas-qualified practitioners, some profession’s assessments are considered ‘registration-related’ while other profession’s assessments are considered ‘accreditation-related’. Please see ‘Assessment of overseas-qualified practitioners’.

Table 20: Action or problem driving registration complaints, 2021–22 and 2022–23

Action or problem (as described by the complainant)	Registration-related complaint issues recorded in 2021–22	Registration-related complaint issues recorded in 2022–23
Unfair or unreasonable decision	55	58
Unfair process	49	57
Delayed process	61	55
Inadequate steps being taken as part of the process	2	11
Unreasonable request for information	7	10
Unfair or unreasonable fees	8	6
General health regulation concerns	4	6
Failure to follow a policy or process	2	4
Information not considered	3	3
Other fee-related concern	3	3
Refusal to refund fees	4	2
Bias or conflict of interest in the process	4	1
Inadequate reasons provided for a decision	3	1
Inadequate recordkeeping	3	1
Timing of fees	1	1
Inappropriate use of information	0	1
Failure to consider financial hardship	0	1
Other	4	7

Delays in registration-related complaints

The issue of delay in Ahpra’s handling of a registration matter is regularly raised with our office. We recorded 55 issues about delay across the 153 registration-related complaints we received in 2022–23. While still high, this represents a decrease in the number of issues raised about delay in registration-related complaints from the previous financial year (61 issues recorded across 149 complaints).

Consistent with past trends, delays were most commonly recorded in relation to new applications for registration (20 issues; 36 per cent). This type of complaint issue has reduced since last financial year (down from 23 issues in 2021–22). This suggests that Ahpra has continued to build on its past efforts to improve the timeliness of its management of registration applications, leading to less dissatisfaction from applicants.

Registration processes driving complaints

We recorded issues relating to a range of different aspects of registration processes in 2022–23. The most common issues related to the application of an ELS Standard (40 issues, up from 28 issues 2021–22). Concerns about the management of a new application for registration (37 issues) and concerns about the assessment of international qualifications (25 issues) were also common (Table 21).

Table 21: Issues related to registration processes, 2021–22 and 2022–23

Registration processes	Registration-related complaint issues recorded in 2021–22	Registration-related complaint issues recorded in 2022–23
Application of an ELS Standard	28	40
Processing of a new application for registration	39	37
Assessment of an international qualification	12	25
Processing of a renewal application	9	15
Fees for registration	16	13
Review of conditions	10	13
Supervision requirements	6	9
Compliance activity	4	8
Application of the Criminal History Registration Standard	1	8
Re-entry to practice	10	8
Transition between registration types	11	8
Information on the National Register	7	6
Access to a preferred practitioner	6	5
Internship requirements	5	4
Application of the Recency of Practice Registration Standard	4	4
Lapse in registration	7	4
Certificates of good standing or registration	2	3
Other processes	4	3
Processing of a graduate application	5	3
Public safety	0	3
Document certification or translation	8	2
Health or performance assessment	7	2
Endorsement of registration	2	2
Change of circumstances application	9	1
Application of the Continuing Professional Development Registration Standard	1	1
Application of the Professional Indemnity Insurance Registration Standard	0	1

Liv's story

Liv made a complaint to our office about Ahpra's process for reminding practitioners about registration renewal.

Liv said that she hadn't received a reminder or warning before Ahpra advised that her registration had lapsed and that she had been removed from the health practitioner register. Liv explained that her registration had been suspended at the time her registration needed to be renewed. Liv confirmed that she had since been able to renew her registration online but was concerned because it was the second time the issue had occurred for her.

With Liv's consent, we transferred her concerns to Ahpra via our early resolution transfer process.

What we found

In response to the complaint, Ahpra apologised that the cause of the issue had not been addressed after the first time. Ahpra assured Liv it had undertaken process improvements, including producing registration renewal reminder notices. Ahpra also proactively organised a refund of Liv's late payment fee.

However, we found that there was a discrepancy in Ahpra's complaint response and previous advice Ahpra had provided to Liv about the late period provided for renewal registration applications. Our office therefore made preliminary inquiries into the matter. We found that a previous email Ahpra sent to Liv contained incorrect information and had not been attached to her registration file for future reference and record-keeping purposes.

Complaint outcome

Ahpra offered a further apology to Liv for her poor experience with Ahpra. It acknowledged that Liv had been provided with incorrect advice that the late period for registration renewal was two months. Ahpra advised that it had provided the relevant staff member and their manager with feedback about this issue to ensure correct communication in the future. Our office closed Liv's complaint on the basis that Ahpra had taken reasonable steps to address the identified issues, including proactively refunding the late fee she had been charged.

Outcomes of registration-related complaints

In 2022–23 we finalised 152 complaints about the handling of registration matters. We recorded 218 outcomes across these 152 complaints. The most common outcome was that we did not consider that an investigation into the complaint was warranted in the circumstances (45 outcomes). This was closely followed by a finding that a fair and reasonable response had been provided by the organisation being complained about (41 outcomes).

We finalised six complaints about the handling of a registration matter following an investigation, recording 14 outcomes across these complaints. The most common outcomes were that we provided the complainant with a further explanation about the concerns raised in their complaint (5 outcomes) and we provided feedback to Ahpra (4 outcomes).

ELS Standard

In 2022–23, we saw a further increase in the number of issues recorded about the ELS Standard (from 28 issues in 2021–22 to 40 issues). The most common issue remained a concern that the application of the ELS Standard resulted in an unfair or unreasonable outcome. There also continues to be a perception among prospective registrants that the processes for assessing English language skills are unfair. These concerns drove most complaints to our office about the ELS Standard this financial year.

As in previous years, a significant number of these complaints relate to the Nursing and Midwifery Board of Australia's ELS Standard (26 issues; 65 per cent of all recorded issues related to the ELS Standard). We recorded 12 more issues in relation to the nursing and midwifery professions' ELS Standard in 2022–23 than we did in 2021–22. For these complaints, the application of the ELS Standard was more often the primary issue being complained about (22 complaints where it was the primary issue, up from nine in 2021–22).

Filip's story

Filip made a complaint to our office about Ahpra's assessment that he was required to sit an English language test to meet the requirements.

Filip said that he was a native English speaker and does not speak another language. Filip explained that Ahpra had assessed that he did not meet any of the other pathways in the ELS Standard because he had completed his secondary education in a non-recognised country. Filip told us that he sat an English language test but was advised by Ahpra that the 'at home' version of the test that he had sat was not accepted by the Board.

Our office commenced an investigation into Filip's complaint.

What we found

Our office found that Filip's application for registration was assessed in line with the ELS Standard.

We did, however, identify a number of deficiencies in Ahpra's handling of the matter. We found that Ahpra's communication with Filip (and other applicants generally) about the types of tests that are accepted by the Boards was not sufficient. This is primarily because relevant information was on a COVID-19 frequently asked questions page of Ahpra's website that many applicants would not have thought to access. Our investigation also concluded that it would have been better if Ahpra and the Board had responded more quickly to form a temporary position on remote proctored English language tests when they became more relevant during the pandemic at the end of the sentence.

Complaint outcome

Our office provided feedback to Ahpra about our investigation findings. We strongly encouraged Ahpra and the Board to consider Filip's complaint as part of its review of the ELS Standard. Our view was that Filip's situation is a clear example of circumstances where Ahpra and the Board would benefit from having discretion to grant an exemption from meeting the ELS Standard's requirements. This was because Filip only spoke English. While he undertook his secondary education in a non-recognised country, he had completed the International Baccalaureate (IB) in English.

In addition, we suggested that Ahpra should conduct its own independent research on the IB program to determine if completing an IB in English should be accepted as evidence of meeting the requirements of the ELS Standard, even if undertaken in a non-recognised country.

We also provided feedback that Ahpra should ensure important information about the ELS Standard is clearly communicated to applicants across all relevant communication channels. We reiterated that it would have been better if Ahpra and the Boards responded more quickly to the changing circumstances surrounding English language tests during the COVID-19 pandemic. Further, we suggested that Ahpra should ensure the ELS Standard is updated to clarify the Boards' position on remote-proctored English tests.

Our office continues to closely monitor Ahpra's overall performance regarding its assessment of registration applications, and any changes that may come following the review of the ELS Standard.

Fees

This financial year, we received a number of complaints related to the fairness of how health practitioner registration fees are charged.

The National Scheme is primarily funded by health practitioner registration fees. Each year practitioners are required to pay a registration fee to cover the costs of regulating their profession. Most professions require the registration renewal fee to be paid on 30 November. The medical, nursing and midwifery professions, however, require registration renewal at different times of the year.³¹

In 2022–23, our office considered several concerns raised by practitioners that they are required to pay a full registration fee, despite the timing of their

application being close to the registration renewal deadline. Essentially, practitioners said they think it is unfair that they are required to pay an annual registration fee in full when they will only be registered for a small part of the year. Practitioners highlighted the financial burden this causes, given renewal fees could be charged shortly after they have paid their application and registration fee for the first time. For example, a practitioner who paid their application and registration fee in August would be required to pay a renewal fee in November. In response, our office is considering whether the Boards' decision not to pro rata registration fees for practitioners registering outside of the standard renewal period is fair and reasonable, and whether legislative amendment is required to address the issue.

Jan's story

Jan made a complaint to our office about the registration renewal fee he had been charged.

Jan explained that he had been living in one state of Australia but had moved to live and work in another state. When he had sought to renew his registration, he was charged a fee for renewal in the state where he had previously lived. This fee was higher than the fee charged in relation to the state he now resided.

Ahpra told Jan that for a new address to be used for the purposes of deciding the appropriate renewal fee, the practitioner must change it before Ahpra sends its 'reminder to renew' email.

Jan said that this means Ahpra could charge fees irrespective of where the practitioner actually lives and works.

Jan provided consent for our office to transfer the complaint to Ahpra as per our early resolution transfer process.

Ahpra's complaint response advised that Jan would be refunded the difference between the fee he was charged and the correct fee based on his current address. Jan was satisfied with this approach, and our office agreed that this was a fair and reasonable response.

31 The Medical Board requires registration renewal by 30 September and the Nursing and Midwifery Board requires registration renewal by 31 May.

Accreditation-related complaints

Accreditation ensures health practitioners have the knowledge, skills and professional attributes necessary to practise their profession safely and competently in Australia.

Accreditation-related complaints we received

This financial year, we received 23 accreditation-related complaints to the Ombudsman. These complaints were made by 12 individuals, all of whom were health practitioners.

We began our expanded role in accepting complaints about accreditation organisations in January 2023. Prior to this, we only accepted accreditation-related complaints that related to accreditation committees established by the Boards. For this reason, we have classified the accreditation-related complaints we received this financial year according to whether they were complaints we could or could not progress when they were received.

We had the power to progress 17 of the 23 complaints that were brought to us in 2022–23. Our analysis of accreditation-related complaints from this point on therefore focuses on the features of these 17 complaints.

Who made accreditation-related complaints

Most of the accreditation complaints we received came from practitioners based in New South Wales (10 complaints), followed by South Australia, Queensland and Western Australia (each with two complaints).

Thirteen of the 17 complaints came from practitioners who were internationally qualified. The remainder were received from practitioners who were trainees or students.

Who accreditation-related complaints were about

Most accreditation-related complaints we received this financial year involved the dental (seven) and medical (seven) professions (Figure 12).

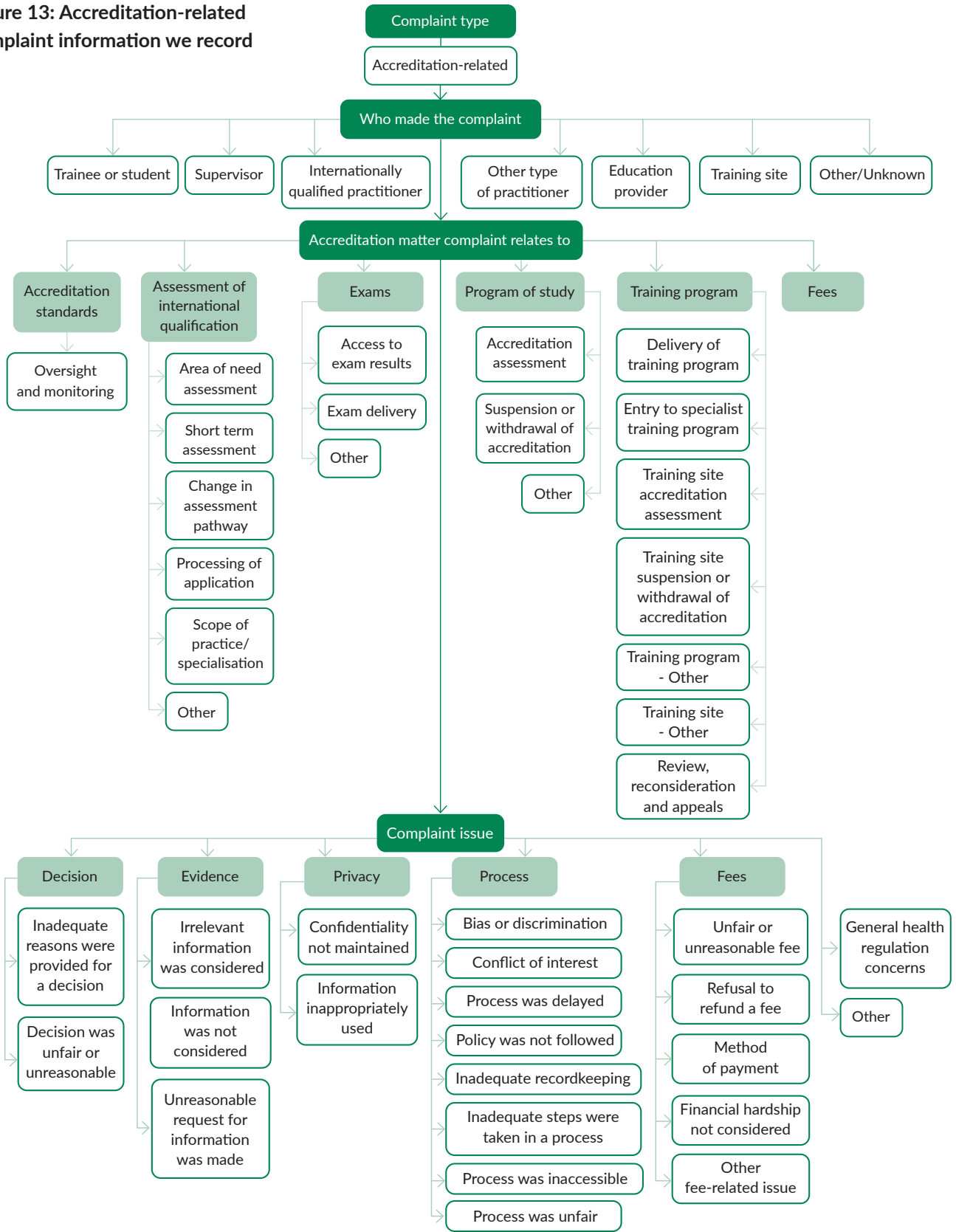
Figure 12: Accreditation-related complaints, by health profession, 2022–23



How we record accreditation-related complaint information

We record information about accreditation-related complaints based on who is making the complaint, the accreditation processes to which the complaint relates, and the complaint issues raised (Figure 13).

Figure 13: Accreditation-related complaint information we record



Common issues related to accreditation

We recorded 44 complaint issues across the 17 accreditation-related complaints. The most common issues were concerns from an internationally qualified practitioner that:

- an exam was delivered in an unfair way (nine issues)
- an exam process was affected by bias or discrimination (six issues)
- a fee charged by an accreditation organisation was unfair or unreasonable (six issues).

Accreditation processes driving complaints

The most common issue we recorded about accreditation-related complaints related to the delivery of an exam by an accreditation organisation (18 issues) (Figure 14).

Figure 14: Issues related to accreditation processes, 2022–23



- Delivery of an exam
- Access to exam results
- Fees charged by an accreditation organisation
- Entry to specialist training program
- Reviews, reconsiderations and appeals of a decision made by an accreditation organisation
- Other concern relating to an exam
- Scope of practice or specialisation

Outcomes of accreditation-related complaints

In 2022–23, we finalised 17 complaints about the handling of an accreditation matter (where we had the power to progress the complaint).

We finalised 13 of these complaints at the assessment stage of our complaints process, and four complaints after completing an early resolution transfer. We did not initiate any preliminary inquiries or investigations of accreditation-related complaints.

We recorded 31 outcomes across the 17 complaints we finalised. The most common outcome was that an investigation was not appropriate because the concerns raised related to matters that the complainant became aware of more than 12 months earlier (12 outcomes). The next-most common outcome was our office making a finding that the accreditation organisation had already responded to the complainant's concerns in a fair and reasonable manner (8 outcomes).

Assessment of overseas-qualified practitioners

The 16 professions have different processes to assess overseas-qualified practitioners. Some Boards have appointed accreditation authorities to oversee and undertake the assessment of overseas-qualified practitioners. However, in some professions, the Board oversees this process, often with Ahpra's assistance, as a registration function. This means that the assessment of overseas-qualified practitioners can be reported on in different parts of our annual report.

We have therefore sought to provide more information about the types of concerns raised about overseas-qualified practitioner assessments in both registration and accreditation-related complaints.

In accreditation-related complaints, we recorded 43 issues across 18 complaints from internationally qualified practitioners. The main issue driving complaints was exam delivery (16 issues), followed by fees (eight issues). The common concerns raised by internationally qualified practitioners were that an accreditation process was unfair (11 issues) and that an accreditation-related decision was unfair (eight issues).

In registration-related complaints, on the other hand, we recorded 25 issues across 14 complaints about an international qualification assessment. Most issues related to internationally qualified practitioners seeking general registration (17 issues). Concerns were mostly about delay in a process (nine issues), a process being unfair (six issues) and that a decision was unfair or unreasonable (six issues).

Mila's story

Mila, an overseas-qualified practitioner, complained to our office about the delivery of the multiple-choice exam (MCQ) and objective structured clinical exam (OSCE) that she was required to sit to become eligible to be registered in Australia.

This included concerns about delay in the publishing of the MCQ handbook, problems with the delivery of the OSCE and a lack of transparency about the feedback she received regarding the OSCE results.

Mila said that Ahpra 'has been delaying the processes, have charged fees that were not justified and held back important information which led to more fees, failed exams and a longer waiting period'. Mila also said that she had experienced financial hardship and mental health issues as she had not been able to work for more than two years due to the length of time taken to progress her application. She sought a refund of the \$4,000 fee to sit the OSCE due to the delivery issues identified, and compensation due to her experience with the MCQ.

Mila agreed to participate in our early resolution transfer process with Ahpra.

What we found

In its response to the complaint, Ahpra acknowledged Mila's frustration and disappointment with the delay. Ahpra explained that the delays were due to the pandemic, and this had affected Mila's experience.

Ahpra explained the purpose of regulatory exams such as the OSCE is not educative. These exams do not seek to provide feedback to candidates to correct errors or direct a candidate's learning. However, Ahpra confirmed that it was considering whether it could provide more information to people who sit the OSCE.

In relation to Mila's requests for compensation and a refund, Ahpra advised that due to the National Scheme's cost-recovery model, it would not refund the registration application fee that she paid. It also advised that it could not compensate her in relation to the MCQ test because she had paid the MCQ provider to undertake the test (not Ahpra). Ahpra advised that due to a review of the results of the OSCE, Mila had now passed the OSCE and was eligible to apply for registration. Ahpra therefore did not provide a refund or review Mila's OSCE outcome.

Complaint outcome

Given Mila was now able to apply for registration, our office finalised our investigation.

However, we acknowledged that Mila's concerns highlight systemic issues in relation to the transparency of the OSCE, including its candidate manual and the release of exam results. Other candidates also submitted similar separate complaints to our office.

Accordingly, our office decided to undertake further work in relation to these issues at the system level. Mila was offered the opportunity to be kept up to date about the progress of this work.

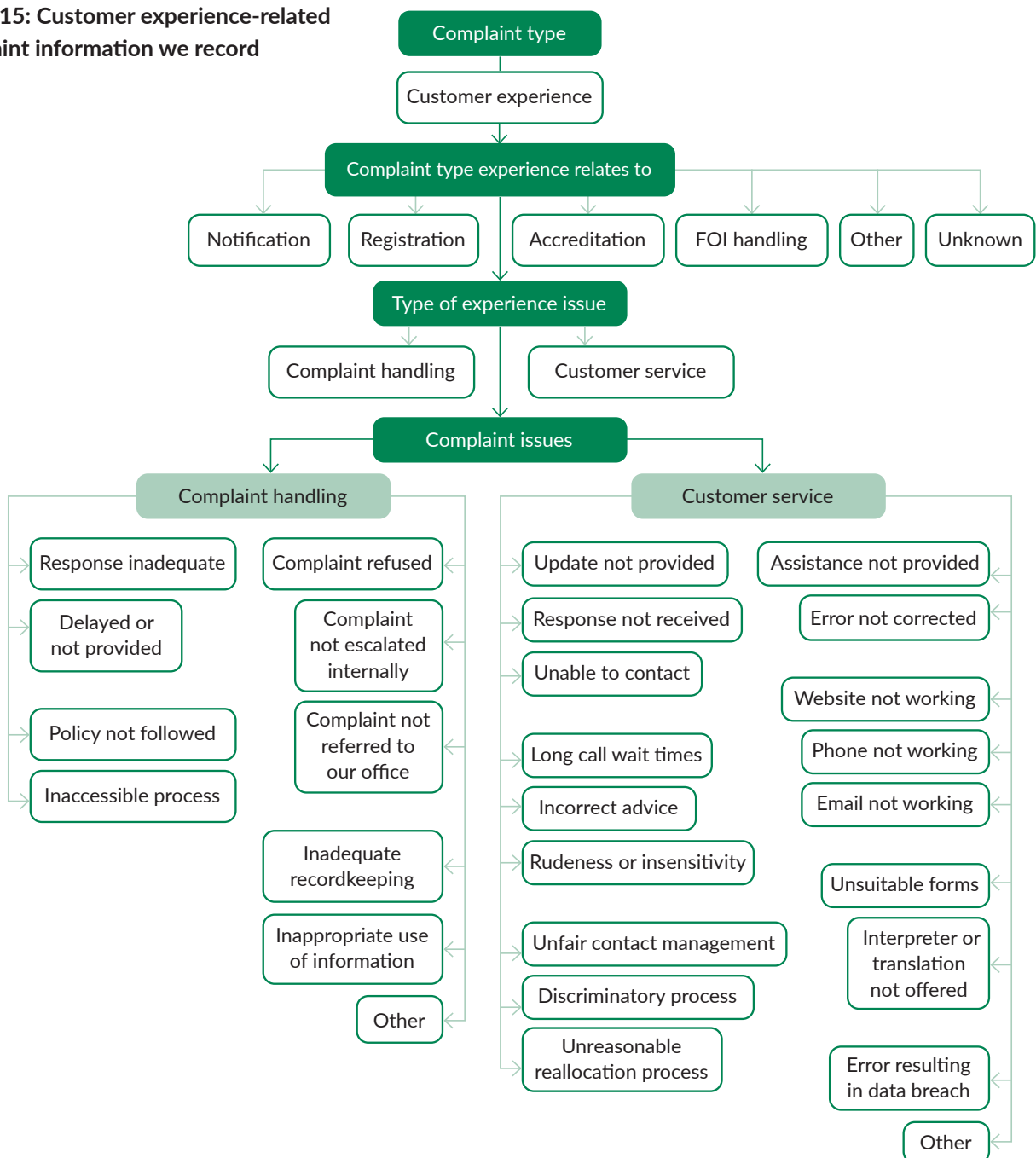
Customer experience complaints

Customer experience complaints relate to concerns about the service a complainant received, or how the organisation they complained to handled their complaint. We received 29 complaints in 2022-23 where the primary concern related to customer experience, including 25 complaints about customer service and four complaints about complaint handling concerns. This is consistent with past trends,

as customer service and complaint handling concerns are usually recorded as secondary issues on complaints to the Ombudsman.

We record information about customer experience complaints based on the type of complaint the experience relates to, the type of experience issue identified, and the complaint issues raised about that type of experience (Figure 15).

Figure 15: Customer experience-related complaint information we record



Customer experience issues

We recorded 308 customer experience issues across all complaints to the Ombudsman in 2022–23 (up from 237 in 2021–22). This included 243 issues about customer service and 65 issues about complaint handling. This represents 23 per cent of issues recorded across all complaints to the Ombudsman in 2022–23.

Customer service issues

In 2022–23, we recorded 243 issues related to customer service (up from 186 issues in 2021–22). Customer service issues were more likely to be raised in relation to a notification-related complaint (145 issues) than a registration-related complaint (89 issues) or other complaint type (nine issues).

Customer service-related concerns were generally about communication (209; 86 per cent). The most common communication-related issue was that the organisation failed to respond to the complainant when they tried to make contact (73 issues, up from 60 in 2021–22). Other issues commonly raised included a failure to provide updates (56 issues), and the provision of incorrect advice (32 issues).

Yeva's story

Yeva contacted our office to make a complaint about the lack of communication they had received from Ahpra after making a notification. Yeva said they had not received any contact from Ahpra in about three months.

Our office received Yeva's consent to transfer their concerns to Ahpra's complaints team for a response. This is in line with our early resolution transfer process, which gives Ahpra an opportunity to address the complainant's concerns.

Yeva then contacted us to share their appreciation for putting them in contact with Ahpra, as it had led to a 'communication breakthrough', with two Ahpra staff members contacting them. Yeva said they were happy with the apologies Ahpra gave for the communication issues.

Complaints related to complaint handling

We generally ask people to first make a complaint to the organisation they are dissatisfied with before contacting our office.

We identified 65 issues related to complaint handling across all complaints to the Ombudsman (5 per cent of all issues).

Concerns were generally about:

- the organisation's complaint response (46 issues)
- the organisation's complaint handling process (16 issues).

Response-related issues included concerns about an inadequate response (31), a delayed response (eight) and a failure to provide a response (seven).

Process-related issues mostly included concerns about a failure to escalate the complaint internally (seven) or to refer a complainant to our office to make a complaint (five).

As seen with customer service-related complaints, more issues were recorded in relation to handling notifications (45) than a registration matter (13).

Ahpra's national complaints team appears to have been less successful in resolving complaints related to notifications than last year. We note there was a near doubling of issues about the adequacy of complaint responses for notification-related matters (23 issues, up from 12). This may be linked to the changes previously discussed in relation to Ahpra's new model for triaging notifications (See 'Concerns which do not meet the grounds for a notification'). By comparison, issues relating to Ahpra's complaints responses for registration matters have remained relatively consistent, only increasing by two since last year.

Other complaint types

We received four complaints about the handling of FOI matters in 2022–23. Due to the Commissioner's FOI review powers, we generally only consider FOI matters as complaints to the Ombudsman if they relate solely to concerns about how Ahpra and/or a Board handled an FOI matter, rather than the merits of an FOI decision. The FOI Act does not apply to external accreditation authorities and specialist medical colleges.

However, we can consider concerns about Ahpra and the Boards' handling of FOI matters including the inappropriate use of information during the FOI process and the failure to appropriately consult about the release of requested documents.

We received fewer complaints about the handling of FOI matters in 2022–23 than in 2021–22 (four complaints, down from 10 complaints in 2021–22). We have found that people seeking information under the FOI Act often want to know more about the management of, and decision about, a notification they made. This means that sometimes while we are handling a notification-related complaint, the complainant will raise an issue about the fairness of Ahpra's FOI process, which we then consider as an FOI complaint.

Our office can also assist with complaints about how Ahpra or the Boards handle a statutory offence matter. We generally do not receive many complaints about this type of matter, and this was the case in 2022–23 (4 complaints received).

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

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

Our role

Our office accepts complaints to the Commissioner about the handling of personal information by Ahpra, the Boards and accreditation organisations.

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

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

Complaints to the Commissioner

This financial year, our office received nine privacy complaints to the Commissioner. These complaints were made by nine individuals. This is fewer complaints than we received in 2021–22 (13 complaints).

Most privacy complaints in 2022–23 related to the medical (four), nursing (two) and psychology (two) professions. This is consistent with trends seen in complaints to the Ombudsman.

We recorded 17 issues across the nine privacy complaints, including three issues related to customer experience. We record privacy complaints differently from complaints to the Ombudsman. Privacy complaints to the Commissioner are recorded based on the APPs. The most common issues we recorded in 2022–23 related to:

- APP 6 – inappropriate use or disclosure of personal information (seven)
- APP 11 – security of personal information (three)
- APP 12 – access to personal information (two).

We also recorded one issue related to APP 3 (solicited personal information) and another related to APP 5 (notice of collection of personal information).

Inappropriate use or disclosure of personal information (APP 6)

The inappropriate use or disclosure of personal information was recorded as an issue in most of the privacy complaints we received in 2022–23 (seven). APP 6 outlines when an APP entity, such as Ahpra, a Board or an accreditation organisation, may use or disclose personal information. These entities are generally required to only use and disclose an individual's personal information in ways the individual would expect (or where an exemption applies). Most of the complaints we received in relation to APP 6 involved concerns about Ahpra inappropriately using or disclosing information about a practitioner (four), a notifier (two), or a third party (one).

We welcome a decrease in complaints about notifiers' personal information being disclosed this financial year (from eight issues in 2021–22 to two issues in 2022–23). Last year's annual report outlined our significant concern that Ahpra breached notifiers' privacy by providing their personal information to the practitioner who was the subject of the notification. This included three notifiers who told us that they had asked for their identity to remain confidential from the practitioner who was the subject of the notification, but Ahpra inadvertently released their name. It appears that Ahpra's process improvements have led to a reduction in this type of error occurring and being reported to our office.

However, there has been an increase in concerns about the disclosure of a practitioner's personal information (from one to four issues).

During 2022–23, we undertook preliminary inquiries three times and also commenced two conciliations in relation to privacy complaints.

Outcomes of privacy complaints

Our office finalised eight complaints made to the Commissioner this financial year (down from 10 in 2021–22). These complaints were most often finalised through informal mechanisms. We finalised three complaints at the assessment stage, two at the preliminary inquiry stage and two at the conciliation stage.

We also finalised our first investigation of a privacy complaint during 2022–23. This investigation culminated in the Commissioner making a determination that an interference with privacy had occurred under the Privacy Act. You can read more about this investigation outcome in the following case study.

The most common outcome on privacy complaints we finalised was that an investigation was not warranted in the circumstances (four outcomes). Where we had conciliated the complaints, we were able to obtain further explanation from Ahpra for the complainant about what happened to their personal information. One complainant also received an apology from Ahpra.

Aron's story

Aron raised a complaint with our office about the way his personal information had been used and disclosed by Ahpra.

Aron was concerned that Ahpra and the Board had unfairly stored information about him on the student register and then inappropriately disclosed that information to a third party.

While our office also considered some of Aron's concerns as an Ombudsman complaint, the details shared here relate to our consideration of his privacy complaint to the Commissioner.

What we found

Our office investigated Aron's concerns and found that the information Ahpra held about Aron on the student register was not accurate, up-to-date or complete. This indicated that Ahpra was not complying with APP 10.

We also found that the disclosure of information from the student register to a third party on two occasions were inappropriate disclosures of Aron's personal information. This breached the confidentiality provisions of the National Law, and was not consistent with APP 6.

In addition, we found that Ahpra could better satisfy the requirement under APP 5 in relation to how it notifies students about the collection of their personal information for the student register. Further, Ahpra was not providing students with appropriate mechanisms to seek access to, and correction of, the personal information it holds, contrary to the requirements of APP 12 and APP 13.

Complaint outcome

The Commissioner made a determination under the Privacy Act that Ahpra had engaged in conduct constituting an interference with Aron's privacy, and that it must take steps to ensure that such conduct is not repeated or continued.

Ahpra provided Aron with a formal apology for the interference with his privacy. It also referred the matter for review through its serious incident reporting process. This will ensure that Ahpra identifies systemic issues that contributed to the disclosure of personal information and that these issues are addressed.

Ahpra also informed the Commissioner that it is implementing significant changes to address issues surrounding data sharing and data quality for student registrants. This will include ensuring better verification of data provided by education providers and streamlining communication and data sharing to reduce potential duplication. Ahpra advised that as part of its business transformation project, it will create new comprehensive work instructions for managing student registrations.

In addition, Ahpra updated its website to include a privacy collection statement that is specific to students. It also published information about how students can contact Ahpra to receive a copy of their personal information and request that it is amended if it is incorrect.

Notifiable Data Breaches Scheme

Under the Notifiable Data Breaches Scheme, Ahpra, the Boards and accreditation organisations must notify our office of any data breach involving personal information that is likely to result in serious harm. This is called an 'eligible data breach'.

The Notifiable Data Breaches Scheme's main purpose is to 'ensure individuals are notified if their personal information is involved in a data breach that is likely to result in serious harm'.³² Essentially, if a person knows about a data breach that affects them, they can take action to reduce problems or harms from the breach. At the system level, the scheme also helps to keep those holding personal information accountable for protecting privacy and encourages them to take privacy breaches seriously. This in turn helps to build trust that entities such as Ahpra, the Boards and accreditation organisations handle personal information appropriately.

This financial year, we received seven eligible data breach notifications from Ahpra (compared with eight in 2021–22).

Eligible data breaches in the National Scheme

A data breach is when personal information that Ahpra, a Board or an accreditation organisation holds is lost or subjected to unauthorised access or disclosure. For a data breach to be eligible, and therefore to require notification to our office:

- it must be likely to result in serious harm to any individual
- remedial action taken by the organisation has not successfully prevented the likely risk of serious harm.

All organisations are required to notify affected individuals of the eligible data breach and recommend steps they should take in response (except if an exemption is applicable).

Although notification is not formally required for breaches assessed to be unlikely to result in serious harm to those affected, we welcome voluntary disclosure of any data breaches.

How we handle eligible data breach notifications

When we receive an eligible data breach notification, we may choose to make further enquiries about the data breach. This may be, for example, to get more information to assess the organisation's response.

We then consider the information provided, including the type and sensitivity of the data breach and the number of people involved. We explore whether the:

- data breach has been contained or is being contained where possible
- organisation has taken, or is taking, reasonable steps to mitigate the impact of the breach on those at risk of serious harm
- organisation has taken, or is taking, reasonable steps to minimise the likelihood of a similar breach occurring again.

Based on our assessment of this information, we may take a range of actions including deciding:

- that appropriate action has been taken
- to offer guidance and assistance in relation to possible remedial action or steps that can be taken to reduce the likelihood of a similar breach occurring in the future
- to take regulatory action.

While the Commissioner can take regulatory action, we generally prefer to work collaboratively with the organisations we oversee to ensure compliance with the Privacy Act.

³² Office of the Australian Information Commissioner 2019, *Data breach preparation and response. A guide to managing data breaches in accordance with the Privacy Act 1988 (Cth)*.

Eligible data breach notifications we received

Each of the seven eligible data breach notifications we received this financial year related to Ahpra's inadvertent disclosure of personal, sensitive or protected information.

Notably, none of the data breach notifications we received this year related to the disclosure of a confidential notifier's identity. This a positive improvement from the previous financial year, when five eligible data breaches related to this specific issue.

All but one of the six eligible data breach notifications received this financial year related to personal information being disclosed by Ahpra staff via email, more often than not in the course of managing a notification about a health practitioner. Emails were a consistent source of inadvertent disclosure, including due to sending information to an incorrect email address, or because information and documents related to third parties was included among email attachments by mistake.

We decided that Ahpra had taken appropriate action to address the issue in five of the eligible data breaches. We also provided guidance to Ahpra regarding further appropriate action to address one of the eligible data breaches.

Our office will continue to monitor the changing nature of eligible data breaches to determine whether further action is necessary to address identified issues.

Case study

Ahpra advised our office of a privacy breach that occurred as a result of human error. In summary:

- an Ahpra staff member sent a letter related to its investigation of a notification about a health practitioner to a generic email address at the health practitioner's place of work without their authorisation. This information was therefore available to, and was accessed by, several staff members at the workplace.
- a representative of the workplace brought the breach to Ahpra's attention. Ahpra spoke to the representative, and it was confirmed that the health practitioner had been informed of the breach. Individuals who had sighted the letter were asked to delete any copies in their possession and refrain from disclosing and further discussing its contents.
- Ahpra contacted the practitioner, apologised for the breach and confirmed that containment steps had been taken. Ahpra also advised that it was implementing measures to mitigate the risk of a similar breach occurring in the future.

Our office assessed the breach and confirmed that it met the threshold for an eligible data breach. We found that Ahpra had taken steps to contain the breach and to notify each of the affected parties in accordance with the Privacy Act.

To reduce the likelihood of a similar data breach occurring in future, Ahpra had provided specific counselling to the staff member responsible for the breach regarding:

- the need for increased scrutiny when sending sensitive information and the risks of using generic email addresses for sending personal and sensitive information
- acting on proper authorisation for sending correspondence, specifically, that authorisation to send correspondence to a particular email address can only be given by the relevant practitioner; not by an external workplace (as was the case here).

In addition to the above, Ahpra explained that it will amend the template correspondence that was involved in this privacy breach to remove text referring to an investigation, given this information is not mandatory to include when requesting additional material as part of an investigation. The relevant staff members are attending to this task as a matter of priority.

Freedom of information

Everyone has the right to request access to information held by Ahpra, its Management Committee and the Boards under the Freedom of Information Act 1982 (the FOI Act).

The FOI Act's purpose is to:

- give the Australian community access to information held by government by requiring agencies to publish that information and by providing a right of access to documents
- promote Australia's representative democracy by:
 - increasing public participation in government processes, with a view to promoting better-informed decision making
 - increasing scrutiny, discussion, comment and review of government activities
- increase recognition that information held by government is to be managed for public purposes and is a national resource.

The FOI Act does not currently apply to accreditation organisations.

Our role

Our office provides oversight of Ahpra and the Boards' application of the FOI Act. Mostly, we provide oversight by considering applications to review a decision made by Ahpra under the FOI Act.

This financial year we:



Received
22 FOI review applications



Finalised
25 FOI review applications



Published
3 FOI review decisions

FOI review applications

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

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

We can choose to conduct a review of a decision in whatever way we consider appropriate, with as little formality and technicality as possible. Generally, a staff member from our office will manage the application for review. However, only the Commissioner can make the final decision after a review has been completed.

Other FOI matters

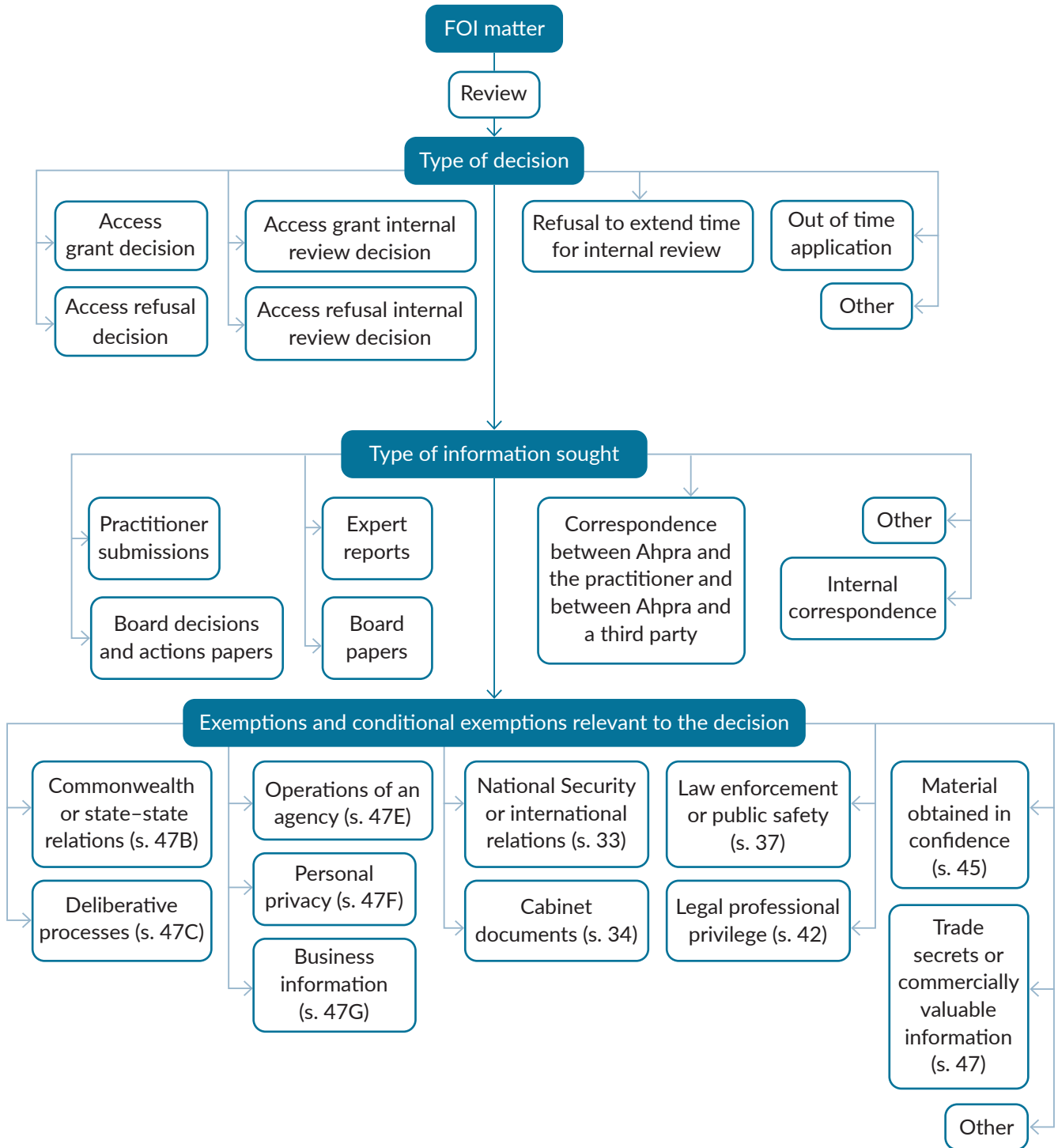
Our office can also consider a range of other matters related to FOI including:

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

We generally do not receive many of these types of matters, and this was the case in 2022-23.

We record information about FOI review applications based on the type of decision the application relates to, the type of information sought and the exemptions or conditional exemptions relevant to the decision (Figure 16).

Figure 16: FOI review information we record



FOI review applications we received

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

Ahpra received 248 FOI applications this financial year and 15 applications for an internal review of a decision.³³ This financial year we received 22 applications to review a decision made by Ahpra, from 21 individual applicants. This is a small increase in the number of applications compared with 2021–22 (18).

Types of FOI review application decisions we received

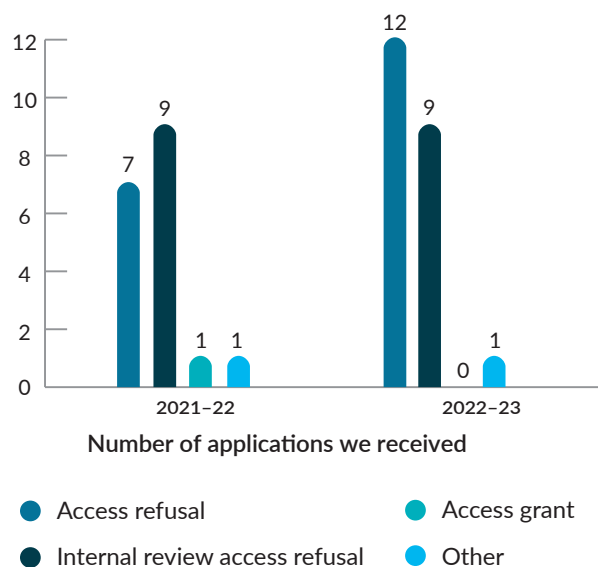
We can consider several types of FOI decisions made by Ahpra. This includes where Ahpra:

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

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

We received 12 applications to review an access refusal decision and nine applications to review an internal review access refusal decision. This is mostly consistent with the number of applications we generally receive. We also received one invalid application (Figure 17).

Figure 17: Types of FOI decisions that were the subject of review applications in 2021–22 and 2022–23



Types of information sought and relevant exemptions

Applicants most frequently sought Board papers (24), correspondence that had passed between Ahpra and a third party (11), or correspondence between Ahpra and a practitioner (10).

Most reviews considered Ahpra’s use of conditional exemptions related to operations of an agency (section 47E) (30, up from 23 in 2021–22) and personal privacy (section 47F) (27, up from 19 in 2021–22). These trends are mostly consistent with the types of information and exemptions we generally see in review applications.

Our office did find, however, that there was a more diverse range of issues raised in FOI review matters in 2022–23. For example, we received more applications where Ahpra had not been able to locate the specific document sought by the applicant, or where Ahpra had decided to neither confirm nor deny that a document existed in its notice of decision.

33 Data provided by Ahpra.

Outcomes of FOI review applications

In 2022–23, we finalised 25 FOI review applications, including 17 in which we had formally commenced an FOI review. Three applications proceeded to a final determination by the Commissioner.

During 2022–23, we assessed eight applications as not warranting the commencement of an FOI review. The most common reason was that the application was misconceived or lacking in substance (6 applications, up from one in 2021–22).

We also declined to commence a review in relation to two applications because the:

- application was made out of time, and we did not grant an extension of time (one)
- we could not make contact with the person who had submitted the application (one).

During 2022–23, we discontinued seven FOI review applications and six applications were finalised after we had explored alternative dispute resolution options with Ahpra and the applicant. We formed a preliminary view on four FOI applications, and one applicant decided to withdraw their application after receiving our preliminary view.

Determinations made by the Commissioner

If a review application is not finalised via preliminary view, the Commissioner may make a final decision on the matter. After considering relevant documents and submissions from those involved, the Commissioner can decide to:

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

In 2022–23, the Commissioner made three FOI review decisions. In ‘AH’ and ‘AI’ the Commissioner affirmed Ahpra’s FOI decision. In ‘AJ’ the Commissioner varied Ahpra’s FOI decision.

The Commissioner’s review decisions are published on our [FOI review decisions webpage](http://www.nhpo.gov.au/foi-review-decisions) <www.nhpo.gov.au/foi-review-decisions>.

Financial statement

Our funding arrangements

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

Our financial statement

The department provides financial services to our office. Our financial operations are consolidated with the department's and are audited by the Victorian Auditor-General's Office. A complete financial report is therefore not provided in this annual report.

A financial summary of the expenditure for 2022-23 is provided below and has been certified as true and correct by the department's acting deputy chief finance officer.

Retained earnings balance 1 July 2022 ³⁴	\$445,000
2022-23 revenue (invoices raised to Ahpra)	\$2,890,000

Expenditure for 2022-23	
Salaries	\$1,952,978
Salary on-costs	\$325,783
Supplies and consumables	\$580,626
Indirect expenses (includes depreciation and long service leave)	\$19,232
Total expenditure	\$2,878,619
Balance as of 30 June 2023	\$456,381

³⁴ At the end of each financial year, we hold onto any unspent funds to invest in longer term projects.

Appendix: Our data

We introduced our new custom-built case management system in 2020–21 to improve our ability to record and share our complaint handling work and relevant complaint trends. These improvements mean that some aspects of our data cannot be compared with years prior to 2020–21.

Data definitions

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

Complaint type refers to the main regulatory area the complaint relates to. Complaint types for complaints to the Ombudsman include notification, registration, accreditation, customer experience, offence and FOI handling. Complaint type directly relates to an individual complaint and therefore allows us to compare data we recorded this year with previous financial years.

Complaints finalised refers to complaints we finalised based on the complaints we closed between 1 July 2022 and 30 June 2023.

Stage complaints were finalised in refers to the last complaint process the complaint was progressing through when it was closed (assessment, preliminary inquiries, early resolution transfer or investigation) between 1 July 2022 and 30 June 2023.

Complaints received refers to complaints we received based on the complaints we recorded receiving between 1 July 2022 and 30 June 2023.

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

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

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

