



# Annual report 2023-24



National Health  
Practitioner  
Ombudsman

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## 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 and pays respects to their Elders, past and present. We also acknowledge Aboriginal and Torres Strait Islander peoples who are the traditional custodians of the lands where our services extend. We acknowledge their sovereignty was never ceded.

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Authorised and published by the National Health Practitioner Ombudsman.

GPO Box 2630

Melbourne VIC 3001

Phone 1300 795 265

[Email](mailto:complaints@nhpo.gov.au) <complaints@nhpo.gov.au>

[Website](http://www.nhpo.gov.au) <www.nhpo.gov.au>

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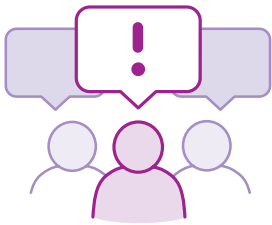
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# Our impact at a glance

## In 2023-24 we received



**691**

complaints to the Ombudsman  
up from 663 complaints in 2022-23



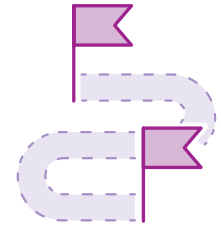
**12**

privacy complaints  
up from 9 complaints in 2022-23



**40**

freedom of information matters  
up from 22 matters in 2022-23



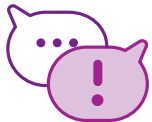
**1,787**

approaches  
down from 1,884 approaches in 2022-23

## Ombudsman complaints



**166** early resolution transfers were made



**183** preliminary inquiries were made



**42** investigations commenced

## In 2023-24 we finalised



**660** complaints to the Ombudsman, up from 657 complaints in 2022-23

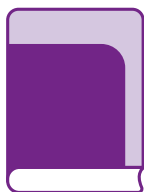


**14** privacy complaints, up from 8 complaints in 2022-23



**29** freedom of information matters, up from 25 matters in 2022-23

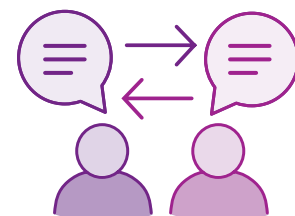
## Milestones



We published *A roadmap for greater transparency and accountability in specialist medical training site accreditation*, outlining the findings and recommendations of part 1 of our Processes for Progress review



The Ombudsman and Commissioner joined the expert panel for the independent review of the regulation of podiatric surgeons



We contributed to public consultations on the regulation of health practitioners who perform and who advertise non-surgical cosmetic procedures and proposed reforms to the Health Practitioner Regulation National Law

# Letter of transmittal

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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 2023 to 30 June 2024.

The report has been prepared in line with ss 10 and 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 ss 9 and 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

# Ombudsman and Commissioner's message

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**I am honoured and energised to begin my third term as Ombudsman and Commissioner following my reappointment by Health Ministers in 2023–24. This financial year we've seen rapid changes to health practitioner regulation in response to evolving workforce and community needs. This environment has highlighted my office's unique importance as a champion of fairness and good administrative processes.**



My office has continued its commitment to ensuring accountable and transparent accreditation processes since the expansion of our role in early 2023. The first part of my Processes for Progress review: *A roadmap for greater transparency and accountability in specialist medical training site accreditation* was published in November 2023. The report outlined practical, outcomes-focused recommendations based on 5 key reform areas. I welcomed Health Ministers' policy direction regarding the development of an implementation plan for my office's suggestions for reform. The implementation plan is well underway, with ongoing recognition that a collaborative and coordinated approach is necessary to achieve positive, systemic change.

This financial year we strived for fairness in regulatory approaches affecting health practitioners and those engaging with the regulatory system. A highlight for me was presenting with Assistant Ombudsman Chris Jensen on my office's review of Ahpra's framework for identifying and managing vexatious notifications at the Society of Consumer Affairs Professionals' annual conference in Sydney. We shared our thoughts on how the right balance can be struck between ensuring public safety concerns are received and managed appropriately while also ensuring practitioners who are the subject of a notification are treated fairly and not placed under undue stress.

Our ability to affect meaningful systemic change comes from our commitment to really listening and taking the time to understand the root causes of a complainant's negative experience. This financial year my team effectively managed a small increase in Ombudsman complaints (691 complaints, up from 663 in 2022–23) and privacy complaints (12 privacy complaints, up from 9 in 2022–23). My office regularly talks about complaints as 'gifts' because they highlight how a process could be improved to benefit others. I thank the organisations my office oversees that have embraced this commitment to continuous improvement.

I am a firm believer that we do our best work when surrounded by a supportive and inclusive team. It was heartening to see the results of our staff survey, which showed that staff feel safe and supported to undertake their roles. I thank all my staff for their contribution to our positive team culture. It is a joy to work with others who are dedicated to making a difference, even when it can be challenging.

A handwritten signature in black ink that reads 'Richelle McCausland'.

**Richelle McCausland**  
National Health Practitioner Ombudsman  
National Health Practitioner Privacy Commissioner

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# Getting to know us

Our office strives for fair and positive change in the regulation of registered health practitioners for the Australian community.

We are here to keep the system that regulates health practitioners in Australia accountable. One of the main ways we do this is by providing a free and independent complaints service that everyone can access.

We assist with complaints about 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).<sup>1</sup>

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

- uphold fair, transparent and just processes
- actively create a better health practitioner regulatory system
- cultivate a future-ready office where people thrive.

Figure 1: Our role in the National Scheme



<sup>1</sup> 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. Appendix 1 outlines our oversight role in relation to each of the accreditation authorities and specialist medical colleges.

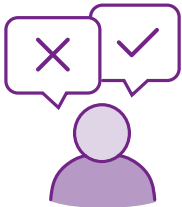


## Our values



### 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.



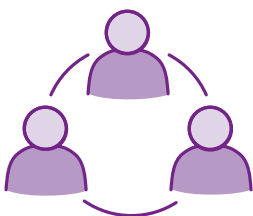
### Courageous

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

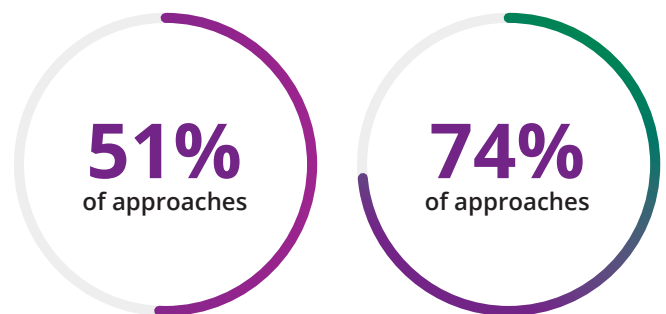
We work with others to resolve issues and identify opportunities to improve.

## Our service charter

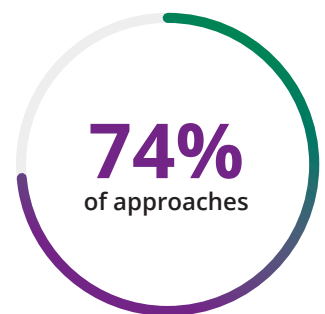
It's important to us that everyone has the opportunity to be heard and have their concerns considered by our office.

Our service charter sets out what people can expect when they engage with us, including when we'll be in contact. This is one way we keep ourselves accountable for providing a high-quality service to the Australian community.

We are pleased that we continued to go beyond our stated service standards in 2023–24.



were finalised on the same day they were received (883)



were finalised within 10 days (1,291)



were finalised within 30 days (1,442)



were finalised within 90 days (1,656)



# Our team

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

In June 2024 Health Ministers across Australia announced that Richelle was reappointed as Ombudsman and Commissioner for another 3-year term. Health Ministers expressed their continued confidence in Richelle's leadership and contribution to the National Scheme.

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*, the *Privacy Act 1988* and the *Freedom of Information Act 1982*.

The Ombudsman and Commissioner is supported by a small team of dedicated staff. The office's Governance Committee supports the Ombudsman and Commissioner's decision making and management of the office's operations.

## Complaints and Freedom of Information branch

Members of our Complaints and Freedom of Information (FOI) branch are delegated some decision-making powers by the Ombudsman and Commissioner. Team members are generally responsible for handling:

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

The branch has 3 teams to ensure appropriate management of the different types of assistance we provide. The early resolutions team is usually the first point of contact for people engaging with our office.

This team generally manages straightforward complaints, facilitates our early resolution transfer process and provides referral information if our office cannot help a complainant with their concerns. Our 2 complex investigations teams focus on complaints that raise multiple issues or cannot be resolved through early resolution mechanisms.

Complaints and FOI branch members focus on achieving quick, informal and meaningful resolutions wherever possible. Team members provide empathetic and responsive complaint handling services. The branch also helps with the Ombudsman's own motion investigations. These investigations can be initiated without a complaint being made and generally respond to broader systemic issues we've identified.

## Policy and Communications team

Our Policy and Communications team is mainly responsible for:

- ensuring our services are accessible and available to anyone who may need them
- responding to emerging issues in the National Scheme in collaboration with the Ombudsman and Commissioner, including through making submissions and engaging with other organisations in the National Scheme
- providing quality assurance of our complaints data and processes
- supporting the Ombudsman and Commissioner to undertake independent reviews and larger own motion investigations.

In 2023-24 the team focused on ensuring greater awareness of our new role in accepting complaints related to accreditation in the National Scheme. It's important that those who have accreditation-related concerns know how we can assist with issues they are experiencing, and when and how to make a complaint.

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## Business Services team

Our Business Services team works closely with our host, the Victorian Department of Health, to provide corporate support for our office. The team provides wide-ranging support, from assisting with recruitment processes to ensuring workplace health and safety. This includes maintaining a collaborative and productive working relationship with our colleagues at the department.

This financial year the team has continued to focus on ensuring staff are safe and supported at work.



**We uphold fair,  
transparent and  
just processes**

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# Upholding fair, transparent and just processes

## A snapshot of our work on Ombudsman complaints

When we receive a complaint, we:

- aim to listen and empathise with the complainant, allowing them the opportunity to fully explain their concerns and what they are seeking from making a complaint
- explain our role and try to ensure the complainant understands what outcomes we can achieve
- provide clear information about what the complainant can expect from our office in terms of next steps, including providing relevant referral information if necessary.

### The top 5 issues<sup>2</sup> raised in notification-related complaints were:

- a notifier's concern that a Board's decision to take no further action at the assessment stage of the notifications process was unfair or unreasonable
- a notifier's concern that information was not appropriately considered when the Board decided to take no further action at the assessment stage of the notifications process
- a notifier's concern that the reasons for a Board's decision to take no further action at the assessment stage of the notifications process were not adequately explained
- a practitioner's concern that there had been delay in Ahpra managing an active notification about them
- a notifier's concern that inadequate steps had been taken when a Board decided to take no further action at the assessment stage of the notifications process.

This financial year we received 691 complaints to the Ombudsman, up from 663 in 2022–23. As in previous years, most complaints were about Ahpra and the Boards' process for receiving and managing concerns about a registered health practitioner (a 'notification') (435 complaints in 2023–24, up from 430 in 2022–23). We also continued to receive a significant number of registration-related complaints (123 complaints), though we received fewer complaints about a registration matter than in 2022–23 (153 complaints).

### The most common issues raised in registration-related complaints included that:

- the process for satisfying the English Language Skills (ELS) Registration Standard in relation to an application for general registration was unfair
- registration fees were unfair or unreasonable
- an unfair or unreasonable decision was made about the application of the ELS Registration Standard in relation to an application for general registration
- there was delay in Ahpra's management of an application for general registration
- there was delay in assessing an international qualification for a practitioner seeking general registration
- an unfair or unreasonable decision was made about an application for general registration.

<sup>2</sup> Note that we can record multiple issues raised in relation to a complaint.

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The increase in Ombudsman complaints received in 2023–24 was driven by complaints related to accreditation processes (79 complaints in 2023–24, up from 23 complaints in 2022–23). Our new role in assisting with complaints related to accreditation processes was introduced in January 2023. This means that 2023–24 was the first full year that we could receive complaints to the Ombudsman about:

- an accreditation authority's processes for accrediting a program of study
- the delivery of a specialist medical college's approved program of study
- the assessment of an internationally qualified practitioner by accreditation authorities and specialist medical colleges.

Once we have determined that we have the power to assist with a complaint, we consider the most appropriate way to address the concerns raised. We may:

- make preliminary inquiries
- transfer the complaint directly to the organisation being complained about for a response (with the complainant's consent)
- start an investigation
- decide not to take any further action.

We finalised 660 complaints to the Ombudsman in 2023–24, up from 657 in 2022–23. Most complaints were finalised without the need for a formal investigation (418 complaints were finalised at the assessment stage, 103 at the early resolution transfer stage and 127 at the preliminary inquiry stage of our complaint handling process). We aim to resolve complaints as informally and quickly as possible. This could mean, for example, that the complainant and organisation being complained about agree on a way to resolve the concerns without the need for a formal investigation.

We finalised 12 complaints following an investigation in 2023–24. The most common investigation outcome was our office providing feedback to Ahpra about its handling of a matter.<sup>3</sup>

The case studies in this annual report show the types of individual complaint outcomes and positive systemic changes we saw because of our work in 2023–24. Note that all case studies use pseudonyms, and we have sought to remove identifying information, to protect privacy.<sup>4</sup>

More information about our complaint process and how we managed Ombudsman complaints in 2023–24 is detailed in the 'Ombudsman complaints' section of this report.

<sup>3</sup> Note that we can record up to 3 outcomes on each complaint.

<sup>4</sup> References to 'a Board' relate to any of the 15 National Health Practitioner Boards.

## Case study

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A practitioner, Anand, made a complaint to us about information Ahpra published about him on the national register of practitioners (the public register). Anand expressed concerns that Ahpra published a link to a tribunal decision that included the conditions a tribunal had imposed on Anand's registration.

However, Ahpra had not published the full details of these conditions on the public register, noting that certain conditions were not publicly available due to privacy considerations. These conditions related to Anand's health.

After considering Anand's concerns, our office commenced an investigation into how Ahpra publishes links to tribunal and court decisions on the public register, and its decision not to publish conditions that have been made public by a court or tribunal.

### What we found

Our investigation found that Ahpra and the Boards' decision to publish links to adverse tribunal decisions and court outcomes on a practitioner's record on the public register is reasonable and in line with the National Law. The approach also aligns with the recommendation made by the Independent Review of the use of Chaperones to Protect Patients in Australia. We were satisfied that Ahpra and the Boards have a reasonable basis for their view that publishing links to adverse tribunal and court decisions on the public register helps to protect the public through increased transparency.

It also helps provide more complete information for patients to make informed decisions about the care they receive.

In relation to Anand's record on the public register, our investigation found that Ahpra had published information about conditions on Anand's registration related to his practice as a health practitioner and also included a note that Anand's registration is subject to other conditions that are not publicly available due to privacy considerations. However, the relevant tribunal decision outlining the other conditions (relating to Anand's health) was publicly available and linked to Anand's record on the public register. We therefore found that it was incorrect for Ahpra to state on Anand's record that the conditions are not publicly available to due privacy considerations.

### Complaint outcome

During the course of our investigation, Ahpra recognised that there may be inconsistencies in the way it publishes information on the public register about conditions imposed on a practitioner's registration by a court or tribunal.

Ahpra agreed to reconsider aspects of its process for publishing conditions on a practitioner's registration that have been imposed by tribunals. This will ensure greater consistency and transparency about the process for publishing decisions.

We provided formal comments to Ahpra, including suggesting that it audits a sample of matters where a tribunal or court decision is linked to a practitioner's record on the public register to ensure common areas of inconsistency are identified and addressed. We also suggested that Ahpra provides an update to our office on the progress of its audit.



## In the spotlight: our Commissioner's role

In 2023–24 we received:



**12 privacy complaints to the Commissioner**  
up from 9 in 2022–23



**7 notifications of eligible data breaches**, the same number as in 2022–23



**40 FOI matters** related to Ahpra's decisions under federal FOI law, up from 22 in 2022–23

In 2023–24 we saw a small increase in privacy complaints to the Commissioner. As in previous years, most complaints related to the inappropriate use or disclosure of personal information. We finalised more privacy complaints in 2023–24 than in the previous financial year (14 complaints, up from 8 in 2022–23). For more information about our work in this area, refer to the 'Privacy' section of this report.

We received significantly more FOI review applications in 2023–24 when compared with the previous financial year (40 applications, up from 22). Consistent with previous trends, most applications for a review related to a decision by Ahpra to refuse access to requested documents.<sup>5</sup>

In 2023–24 we finalised 29 review matters. The Commissioner made a final decision about 3 of these matters. The Commissioner's decisions are publicly available on our website. For more information about how we manage FOI matters, refer to the 'Freedom of information' section of this report.

## An open and accessible complaint service

We want to make sure anyone who has a complaint that we can assist with knows to contact us. We accept complaints by phone, email and post, or through our webform (available on our website).

People continued to contact us mostly by phone this financial year (987 approaches, up from 986 in 2022–23) (Table 1). However, we saw fewer people contact us via our webform (392 approaches, down from 505 in 2022–23). We continued to receive a consistent number of approaches via email (381 approaches, up from 377 in 2022–23).

**Table 1: How people contacted us in 2022–23 and 2023–24**

Method of contact	2022–23	2023–24
By phone	986	987
Webform	505	392
By email	377	381
By post	15	27
Other	1	0

<sup>5</sup> Federal FOI legislation does not apply to external accreditation organisations and specialist medical colleges. This means our FOI review function does not apply to these entities.



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Our website continued to provide a central source of information for people seeking to understand our role and how we can help. We continued to see many people accessing our website (30,465 users), including mostly people who are new to our website (30,328 new users).<sup>6</sup> Our website received 45,156 interactions (called 'sessions')<sup>7</sup> and 65,089 page views.

In 2023–24 our office began work on an engagement plan and targeted campaign to raise awareness about our new functions related to accreditation complaints. The awareness campaign will communicate with our target audience about our new role, including how we can assist overseas-qualified practitioners seeking registration in Australia, and those affected by the accreditation of programs of study that lead to an eligible qualification for registration in Australia. This will help ensure stakeholders are aware of, and know when to access, our services. The awareness campaign will be rolled out in 2024–25.

## Helping people get to where they need to go

We know it can be hard for people to find out how to make a health-related complaint in Australia. There are many organisations that can assist, depending on what someone is seeking from making a complaint and where they received health care. When we can't assist, we play an important role in helping people get to the organisation best suited to address their concerns. We call these types of matters 'enquiries'. Enquiries also include someone requesting general information or media enquiries.

Our office received fewer enquiries in 2023–24 than in the previous financial year (1,037 enquiries, down from 1,183 enquiries in 2022–23), including 38 general enquiries and a media enquiry. Most enquiries were about matters our office cannot consider (998 enquiries were recorded as an out-of-jurisdiction enquiry in 2023–24).

In 2023–24 these enquiries generally related to:

- health services (486, down from 498 in 2022–23), of which most related to concerns about the safety and quality of care (171), fees and rebates (130), access to or transfer of records (71) and service refusal or delay (69)
- the health, conduct or performance of a registered health practitioner (343, down from 458 in 2022–23)
- handling of concerns by state or territory health complaints entities (46, up from 32 in 2022–23).

## Ensuring appropriate referral pathways for health-related complaints

Health-related complaints are an important mechanism for accountability and safety in health care, for health services and health practitioners. This is why it's important that we help people get in touch with the right organisation to raise their concerns. In 2023–24 we referred most people making enquiries to a state or territory health complaints entity (601), another suitable entity (126) or to Ahpra to make a notification about a health practitioner (125).

It is positive to note a small reduction in the number of enquiries we received this financial year. We hope this means more people are finding the right organisation to contact directly about their concerns.

<sup>6</sup> Note that this data is collected by Google Analytics (GA). In 2023–24 we needed to update our website from GA3 to GA4. For this reason, we have not included comparative data for this financial year as reporting mechanisms have changed.

<sup>7</sup> A session is a period of time during which someone interacts with our website.

## Case study

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Ella made a complaint to Ahpra about how it had handled her concerns regarding a practitioner. Ella contacted our office because she remained dissatisfied after receiving Ahpra's response. Ella told us that she was concerned Ahpra had not adequately addressed why her matter had been referred to 2 health complaints entities.

She believed Ahpra should have handled her concerns because they related to a registered health practitioner.

Ella also raised concerns with us about Ahpra's communication approach and the time taken to consider her concerns about the practitioner.

### **What we found**

Our office made preliminary inquiries with Ahpra to receive more information to assess Ella's complaint. Ahpra's response indicated that it had assessed Ella's concerns as being about a registered health practitioner and also about a health service. Ahpra had consulted with a relevant health complaints entity, which agreed to manage Ella's concerns.

We found that Ahpra had understood and considered Ella's concerns about the practitioner but also that it was open for Ahpra to consider whether another complaints entity was better suited to manage her concerns. We found that Ahpra had taken reasonable steps to consult with the relevant health complaints entity and that it was mutually agreed that the health complaints entity would handle her concerns.

However, our office uncovered that after this initial agreement was made, the health complaints entity then referred Ella's concerns to another health complaints entity for management. We found that the second health complaints entity then sought to consult with Ahpra about the concerns Ella had raised. Through consultation, it was agreed that the second health complaints entity would manage Ella's concerns.

In considering Ahpra's complaint response, we found that it contained some inaccuracies and a misunderstanding about whether it had received a copy of Ella's concerns.

### **Complaint outcome**

Our office recognised Ella's ongoing concerns about the time it took to consider her matter because it was referred between 3 organisations. Ella's experience reveals some of the challenges people can face when seeking to raise a health-related concern.

We found that Ahpra had provided an appropriate explanation and apology to Ella for the incorrect information provided in its response to her complaint and the misunderstanding about Ella's matter. However, we provided feedback to Ahpra that its complaint response could have better addressed Ella's concerns about the first consultation that occurred between Ahpra and the relevant health complaints entity. This information could have been useful for Ella to better understand how her matter was handled, and to our office in assessing her complaint.

Since Ella's matter was then being dealt with by the second health complaints entity, we provided Ella with information about how to make a complaint about that entity if needed.

# Our complaint handling service in numbers

For Ombudsman complaints in 2023–24, we:



made  
**166**  
early resolution transfers,  
down from 172 in 2022–23



initiated  
**183**  
preliminary inquiries, up  
from 109 in 2022–23



launched  
**42**  
investigations, up  
from 16 in 2022–23

We finalised **660 Ombudsman complaints**, up from 657 in 2022–23.  
The stage in which complaints were finalised included:



**418**  
at assessment,  
down from 393  
in 2022–23



**103**  
through early resolution  
transfers, down from  
132 in 2022–23



**127**  
through preliminary  
inquiries, up from  
101 in 2022–23



**12**  
through an  
investigation, down  
from 31 in 2022–23

In 2023–24, we also:



finalised  
**14**  
complaints to the  
Commissioner, up  
from 8 in 2022–23



assessed and confirmed  
**7**  
eligible data breach  
notifications, the same  
number as in 2022–23



finalised  
**29**  
FOI review matters,  
up from 25  
in 2022–23



published  
**3**  
FOI review decisions,  
the same number  
as in 2022–23

**We actively  
create a healthier  
regulatory system**

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# Actively creating a healthier regulatory system

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## Independent reviews and own motion investigations

Our office undertakes independent reviews and own motion investigations into systemic issues to achieve positive change in the regulation of Australia's registered health practitioners.

### Processes for Progress review

In November 2023 we published part 1 of our *Processes for Progress review: A roadmap for greater transparency and accountability in specialist medical training site accreditation*.

Health Ministers commissioned our office to undertake a review of the complaints and appeals processes of accreditation authorities and specialist medical colleges. Health Ministers then broadened the review's scope to consider the procedural aspects of accreditation processes more generally to ensure fairness and transparency. The review's terms of reference are available on our website.

The part 1 report focuses on the review's findings and recommendations regarding specialist medical training site accreditation. Effective accreditation of Australia's specialist medical training sites supports quality and safe patient care. Australia is fortunate in being highly regarded for the quality of its specialist medical practitioners and training.

The review found that the complex arrangements underpinning accreditation in the National Scheme have created an environment where gaps have emerged in the accountability of processes for accrediting specialist medical training sites. For example, the accreditation of specialist medical training sites is not a recognised accreditation function under the National Law.

The review also acknowledged that concerns continue to be raised about specialist medical training site accreditation standards and requirements and their ability to respond appropriately to immediate workforce needs and broader workforce planning undertaken by jurisdictional health departments across Australia.

These circumstances give impetus to ensuring specialist medical training site accreditation processes are people-centred, transparent, fair, responsive and accountable.

The part 1 report outlines the review's findings on key processes for specialist medical training site accreditation in relation to 5 priority areas for improvement:

- enhancing accountability and transparency in accreditation standards
- ensuring fairness and transparency in accreditation processes and assessments
- clarifying and strengthening monitoring processes for accredited training sites
- developing an appropriate framework for:
  - assessing and managing concerns about accredited training sites
  - managing non-compliance with the accreditation standards, including processes for making adverse changes to a training site's accreditation status (such as placing conditions on, suspending or withdrawing accreditation)
- ensuring grievances about accreditation processes and decisions are managed fairly and transparently.

The review focused on delivering practical, outcomes-focused recommendations to provide a roadmap for progress. Recognising capacity and time constraints, recommendations were graded by priority.

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On 1 September 2023 Health Ministers issued a policy direction to clarify expectations for accrediting specialist medical training sites. The policy direction included that Ahpra and the Medical Board of Australia (the Medical Board) require the Australian Medical Council (the AMC) to work with jurisdictions and colleges on an implementation plan for the review's suggested reforms.

The Ombudsman has welcomed recognition by colleges and health jurisdictions of the importance of working together to achieve positive change. The AMC and colleges have continued to keep the Ombudsman informed about the implementation plan and its progress in 2023–24.

Our office is also continuing work on part 2 of the Processes for Progress review and has begun consulting with accreditation authorities on our findings and proposed recommendations. The report is due to be published in 2024–25.

## **Independent review of the regulation of podiatric surgeons in Australia**

In October 2023 Ahpra and the Podiatry Board of Australia (the Podiatry Board) commissioned an independent review of the regulation of podiatric surgeons in Australia. The review was prompted by the Podiatry Board's concern about the high rate of notifications made about podiatric surgeons. Subsequent media reports also highlighted patient stories about concerns with their treatment and that their podiatric surgeon was not medically trained.<sup>8</sup> The review considered the current regulatory framework for podiatric surgeons, including any risks to patient safety, and was tasked with recommending improvements to better protect the public.

Former New Zealand Health and Disability Commissioner and Parliamentary Ombudsman Professor Ron Paterson led the review. The Ombudsman and Commissioner was pleased to join the review's expert panel, alongside the president of the Podiatry Council in New South Wales, Luke Taylor, senior medical adviser from the Australian Commission on Safety and Quality in Health Care, Heather Buchan, and community member of the Medical Board, Mark Bodycoat.

One of the review's significant findings was that there was widespread confusion about the use of the term 'podiatric surgeon'. As the review succinctly summarised: 'when people hear "podiatric surgeon" they assume the practitioner is medically qualified'. The review also found opportunities to improve the regulatory framework for podiatric surgeons because it 'does not currently assure of safe practice.'

Professor Patterson made 14 recommendations, all of which the Podiatry Board and Ahpra accepted, including:

- seeking Health Ministers' approval to change the protected title for the specialty from 'podiatric surgeon' to an alternative title such as 'surgical podiatrist' and supporting this change with appropriate education and community engagement
- strengthening registration and practice requirements for podiatric surgeons, including by:
  - requiring all podiatric surgeons to hold an endorsement for scheduled medicines
  - revising the Podiatry Board's continuing professional development standard (CPD standard) to more closely align with the Medical Board's CPD standard
  - developing guidelines for practitioners performing podiatric surgery

<sup>8</sup> Refer, for example, to Charlotte Grieve and Amelia Adams, 'Sole destroying: How surgeons wield scalpels without medical degrees', *Sydney Morning Herald*, 3 December 2023.

- enhancing accreditation assessments for programs of study relevant to podiatric surgery by ensuring accreditation assessment teams include relevant surgical expertise, with input from the AMC
- ensuring Ahpra and the Podiatry Board make better use of the full range of regulatory tools available when responding to notifications, including requiring practitioners to undertake performance assessments if they have had 3 or more substantiated notifications about their clinical practice over a 5-year period, or the Board reasonably believes the practitioner may be practising unsatisfactorily
- strengthening enforcement of advertising offences and producing more resources to guide appropriate advertising.

## Vexatious notifications framework review

This financial year we worked towards finalising our independent review of the implementation of Ahpra's framework for identifying and dealing with vexatious notifications. The framework defines a vexatious notification as a 'notification without substance, made with an intent to cause distress, detriment or harassment to the practitioner named in the notification.'

Ahpra invited the Ombudsman to complete this review after it introduced its framework for managing vexatious notifications in late 2020. The review has considered Ahpra's approach to vexatious notifications and has proposed recommendations for improvement.

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

The review has 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 about 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 has also considered a number of Ahpra's internal documents in relation to the framework and has undertaken a targeted consultation process to consider how the framework and policies are applied in practice. It has also reviewed a sample of notifications and complaints about the framework.

The Ombudsman has provided the review's report to Ahpra for consultation in line with the agreed terms of reference. The report will be published in 2024–25.

## Complaints about vexatious notifications

This financial year we continued to note an increase in the number of issues raised with our office in relation 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 to 73 issues in 2023–24).

An interesting issue the review is considering, which we also saw in complaints to our office this financial year, is how the Boards use s 151(1)(a) of the National Law to decide to take no further action in response to a notification. Section 151(1)(a) allows a Board to decide not to take action if it reasonably believes a notification is 'frivolous, vexatious, misconceived or lacking in substance'. The review has considered:

- how this section of the National Law aligns with Ahpra's risk-based assessment of notifications
- notifiers' perceptions that a decision made under this section suggests that they were deemed not to be justified in raising a concern with Ahpra.

The following case study provides an example of how we managed a complaint on this issue in 2023–24.



# Case study

Deena contacted our office regarding a notification she had made about a specialist medical practitioner who operated on her relative. Deena was concerned that the practitioner had not provided adequate treatment to her relative and she was seeking a refund or compensation for the practitioner's fees.

The relevant Board decided to take no further action in relation to the notification under s 151(1)(a) of the National Law. This section of the National Law enables the Board to take no further action if it reasonably believes the notification is 'frivolous, vexatious, misconceived or lacking in substance'.

Deena told us that she believes the Board had not considered all the information she provided and that she had been made to feel like she was in the wrong for making the notification. Deena was concerned that the Board's decision implied the concerns she raised were 'baseless' and 'frivolous'.

## What we found

Our office initially sought to resolve Deena's concerns through our early resolution transfer process. With Deena's consent, we transferred her complaint to Ahpra. In response, Ahpra provided Deena with more information about the Board's decision-making process and the types of decisions that the Board can make. Ahpra explained that the Board cannot award compensation or direct a practitioner to apologise. After reviewing Ahpra's response to Deena, we decided to undertake preliminary inquiries to further assess Deena's complaint.

We found that Ahpra correctly advised Deena that the Board could not award compensation. Ahpra also appropriately referred some of the

concerns she raised about the practitioner to a health complaints organisation that was better placed to achieve the outcomes Deena was seeking.

We found that Ahpra had communicated appropriately with Deena and had not referred to her concerns as being 'baseless' or 'frivolous'. Ahpra had used the terminology of s 151(1)(a) of the National Law in its outcome letter to Deena. She appeared to have interpreted this to imply she was in the wrong for making her notification.

## Complaint outcome

Our office provided a more detailed explanation to Deena about how the Board considers risk when deciding whether to take action on a notification. We also explained the meaning of references to s 151(1)(a) of the National Law in the notification outcome letter she received from Ahpra. We gave Deena more information about the Board's decision, the information it considered, and the next best steps if Deena wanted to know more about how her notification was managed.

We acknowledged that Ahpra and the Board had handled Deena's notification in a fair and reasonable way. However, we also provided feedback to Ahpra about the importance of tailoring communication to a notifier to ensure the Board's reasons for making a decision are clearly outlined. We suggested that when the Board relies on s 151(1)(a) of the National Law to make a decision, it should seek to clarify the grounds on which it is choosing to take no further action (i.e. whether the Board believes the notification is 'frivolous', 'vexatious', 'misconceived' or 'lacking in substance').

## Case study

John contacted our office to make a complaint about Ahpra and the relevant Board's handling of a notification that was made about him. John raised several concerns, including that the Board did not consider all available documentation relevant to the allegations raised in the notification.

Further, John was concerned that the notification had not been appropriately assessed to determine whether it was vexatious.

John also raised concerns with us about how a separate notification he had made about the notifier (who was also a practitioner) was handled by Ahpra and the relevant Board. He was concerned that the Board had not appropriately considered all the issues he had raised about the practitioner's conduct.

### What we found

We conducted preliminary inquiries to inform our decision about whether to investigate John's complaints. After receiving a response from Ahpra, we decided to investigate the handling of John's matters.

Our office found that there were some aspects of Ahpra and the Board's handling of the notification about John that could have been better. We found that Ahpra could have progressed the notification faster – it had taken 6 months for Ahpra to contact John about the notification and to request a submission from him.

We found that it was reasonable for Ahpra to manage the notification made about John in line with its usual notifications process, rather than progressing the matter as a vexatious notification (using its associated framework).

However, we found that Ahpra could have explored John's claim that the notification was made vexatiously more thoroughly.

We also found that there was certain technical information related to the notification about John that should have been provided to the Board when it decided on the notification. This was particularly important because that information was directly referenced in the Board's decision when it proposed to take action against John.

In relation to John's concerns about the notification he had made, we found that the Board had not specifically addressed the concerns raised by John about the performance of the practitioner.

### Complaint outcome

Our office provided feedback to Ahpra about the importance of contacting practitioners as soon as possible after a notification is received about them. This helps to ensure notifications are managed in a timely manner.

We also reiterated that in instances where a practitioner claims that a notification about them is vexatious, Ahpra should ensure its consideration of these concerns is thorough and well documented.

We provided feedback that Ahpra should ensure the Board has all relevant information available for its consideration at the time it makes a decision about a notification. We suggested that the Board should not propose to take action against a practitioner unless the decision to do so is well evidenced and reasoned.

In addition, we provided feedback to Ahpra about how John's notification was managed. We suggested that the Board's silence on whether John's concerns about the practitioner's performance had been fully considered reasonably led to John's view that they had not been. In response, Ahpra advised that it would consider the concerns John raised in his notification again, to decide whether the matter should be returned to the Board for reconsideration.

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## Own motion investigation into delay and procedural safeguards for practitioners who are subject to immediate action

In 2022–23 our office saw an increase in the number of issues raised by health practitioners subject to immediate action, including where a health practitioner’s registration had been suspended and where significant restrictions had been placed on a health practitioner’s registration.

We have seen Ahpra’s recent commitment to improving health practitioners’ experiences throughout the notifications process, particularly where a notification relates to a practitioner’s health. However, we continue to be concerned about the timeliness of immediate action-related processes and investigations into health practitioners subject to immediate action. For example, we have seen investigations taking longer than 2 years to complete while a health practitioner remains subject to immediate action.

We recognise that stakeholder expectations on timeliness may not always align with the practicalities of undertaking complex investigations involving immediate action. However, we also acknowledge that prolonged investigations can have undue negative impacts on health practitioners. This is particularly true given regulatory action taken in the form of immediate action can have significant financial and mental health repercussions for health practitioners and their families.

In June 2024 we commenced an own motion investigation to consider these issues further. The Ombudsman is investigating:

- whether Ahpra’s current policies and procedures allow for the timely:
  - use of immediate action
  - investigation of health practitioners subject to immediate action
- whether there are sufficient procedural safeguards for health practitioners subject to immediate action.

Our investigation will be multifaceted and include public consultation on the issues identified. We will publish more information about the investigation on our website as it becomes available.

## 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. An important way we contribute is through making submissions in response to public consultations. In 2023–24 we made submissions to the following public consultations:

- September 2023 – targeted consultation on how Ahpra and the Boards propose to use the new power to issue interim prohibition orders
- September 2023 – Ahpra and the Boards’ possible changes to the shared ELS Registration Standard
- September 2023 – Ahpra and the Boards’ preliminary review of the Criminal History Registration Standard and other work to improve public safety in health regulation
- October 2023 – the Nursing and Midwifery Board of Australia’s draft general registration standard for internationally qualified registered nurses
- October 2023 – Ahpra’s Accreditation Committee’s glossary of accreditation terms
- February 2024 – proposed reforms to the National Law regarding the management of professional misconduct and strengthening protections for notifiers
- March 2024 – Ahpra and the Boards’ regulation of health practitioners who perform and who advertise non-surgical cosmetic procedures.

Our office also responded to 3 confidential consultations. Some of the office’s most substantial public submissions are summarised as follows.

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## **Review of the Criminal History Registration Standard and other work to improve public safety in health regulation**

The National Law requires the Boards to establish 5 core registration standards. This includes a standard for assessing the criminal history of applicants seeking registration as a health practitioner. Our office made a submission to Ahpra and the Boards' preliminary consultation on the review of the Criminal History Registration Standard (the CH Registration Standard) and other work to improve public safety in health regulation. The CH Registration Standard aims to ensure that only practitioners who are suitable and safe to practise are granted registration in Australia. It also provides information to the public, applicants for registration and registered health practitioners and students about what factors the Boards will consider when assessing a practitioner's criminal history and whether they are suitable to be registered.

Our office's submission welcomed Ahpra and the Boards publishing more information about their decision making on matters that need to consider a person's criminal history. However, it also set out our concerns that more clarification and guidance is needed to clearly communicate the purpose of the CH Registration Standard and the circumstances where it will be applied.

Our submission emphasised the importance of ensuring the CH Registration Standard's application is clear. We noted that it did not explicitly address what is considered a 'suitable person to be registered.' It was therefore unclear what assessment framework was being used to weigh the different factors when making a decision, or the standard against which the assessment was being undertaken.

Also, we found that the CH Registration Standard could more clearly spell out how it is applied when a health practitioner is registered but commits an offence or is the subject of a notification. The consultation paper recognised, for example, that a health practitioner's criminal history is used in the context of the Boards' powers to take immediate action if it is in the public interest to do so. However, it did not specifically address how it is applied if a criminal offence is committed when the practitioner is registered, nor how the information gained as part of their criminal history is considered when a notification is made about them. We therefore suggested that there was a need to clarify the CH Registration Standard's application as it relates to immediate action decisions and the notifications process. Confusion about the relationship between the standard and these processes could lead to inconsistent assessments, or assessments based on different criteria.

Our submission also suggested that offences that have been decriminalised should not be included in the relevant Board's consideration of a matter and should have no bearing on a practitioner's ability to practise.

We generally support Ahpra and the Boards publishing more information about their approach to deciding on matters related to serious professional misconduct. However, we noted that publishing relevant information would need to appropriately consider rights to privacy and confidentiality, and that there would need to be appropriate grievance processes for practitioners to raise concerns regarding the information published about them.

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## Draft registration standard: General registration for internationally qualified registered nurses

Our office made a submission to the public consultation on the Nursing and Midwifery Board of Australia's draft registration standard for internationally qualified registered nurses (IQRNs). The draft registration standard proposed 2 pathways to general registration for selected cohorts of IQRNs. Both pathways rely on the Nursing and Midwifery Board's decision to recognise certain jurisdictions as comparable jurisdictions (called 'approved comparable jurisdictions'). Applicants for pathways 1 and 2 must show current or previous general registration as a registered nurse in any of the approved comparable jurisdictions and have completed 1,800 hours of practice as a registered nurse in any of the approved comparable jurisdictions.<sup>9</sup> In comparison, however:

- Pathway 1 requires applicants to have a relevant qualification from an approved comparable jurisdiction that led to general registration as a registered nurse in the approved comparable jurisdiction.
- Pathway 2 requires applicants to have a relevant qualification not obtained in any of the approved comparable jurisdictions from 1 January 2017 and have successfully completed a regulatory examination process for IQRNs in any of the approved comparable jurisdictions.

Our submission recognised the Nursing and Midwifery Board's commitment to streamlining pathways to registration for IQRNs. However, we also expressed concern that there was a lack of clarity regarding the roles and responsibilities of the Nursing and Midwifery Board and other bodies involved in assessing IQRNs, including the relevant accreditation authority (the Nursing and Midwifery Accreditation Committee [NMAC]) and Ahpra.

In addition, we outlined our concerns about the evidence-informed rationale for the stated number of practice experience hours IQRNs must have to meet the requirements of the registration standard, and the list of comparable international regulatory jurisdictions.

Our office suggested that the Nursing and Midwifery Board, NMAC and Ahpra determine and clearly communicate their respective roles and responsibilities in assessing IQRNs. We noted that both the Nursing and Midwifery Board and NMAC have the responsibility of overseeing the assessment of overseas-qualified nurses and midwives under the National Law. However, documentation we considered did not clearly distinguish the roles of each entity in relation to this function. We outlined that without clearly articulated roles and responsibilities, there is a lack of transparency for stakeholders and a greater likelihood of inconsistent decision making.

We also suggested that the Nursing and Midwifery Board ensure there is an evidence-informed rationale for all relevant registration standards. We were concerned that it had not been sufficiently outlined why 1,800 hours of practice experience in a comparable jurisdiction was an accurate measure of competency. We noted that there was significant diversity in how members of the International Nurse Regulator Collaborative (INRC) approach assessing overseas-qualified practitioners. This appeared at odds with the Nursing and Midwifery Board's statement that the practice experience requirement was based on research and benchmarking undertaken by the INRC.

<sup>9</sup> Pathway 2 applicants must have completed these requirements after 1 January 2017.

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We also found that there did not appear to be a stated standard against which the comparable jurisdictions had been assessed to determine comparability. The list of comparable jurisdictions comprised members of the INRC. However, it was not clear whether the Nursing and Midwifery Board had sought to assess other countries not within the INRC to establish comparability. While we noted that membership of a collaborative may be cause for recognition, we argued that for the process to be fair, it must be based on a set of objective and evidence-informed requirements. Otherwise, the process could be unnecessarily exclusionary and subject to conflict of interest concerns. We reiterated that for decision making to be transparent, it was important that the Nursing and Midwifery Board clearly establishes the standard against which comparable jurisdictions are assessed to gain recognition as a comparable country for the purposes of the registration standard.

Finally, our office considered that more should be done to set the parameters for the requirement of completing 1,800 hours of practice experience in a comparable jurisdiction.

It was not clear, for example, whether the required 1,800 hours of practice experience had to be completed:

- within a specific timeframe
- continuously (or whether there could be gaps between periods of practice)
- while practising full-time (or whether part-time hours would be considered)
- within one specific jurisdiction (or whether hours practising in different jurisdictions could be aggregated to meet the requirement).

We emphasised that setting these parameters is important because we know that applicants bring different and varied experiences in their applications for registration. A lack of clarity about requirements can leave applicants unsure about whether they meet the relevant standards, or why their application has not been successful when they believe they have met the requirements.



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## Regulation of health practitioners who perform and who advertise non-surgical cosmetic procedures

The independent review of the regulation of medical practitioners who perform cosmetic surgery was published on 1 September 2022. Building on reforms to the regulation of cosmetic surgery following the review, Ahpra and the Boards considered the need for stronger regulation of registered health practitioners who perform and who advertise non-surgical cosmetic procedures. We provided a submission in response to the public consultation on draft guidelines for:

- registered health practitioners who perform non-surgical cosmetic procedures
- nurses who perform non-surgical cosmetic procedures
- registered health practitioners who advertise non-surgical cosmetic procedures.

Our response acknowledged the Boards' commitment to addressing issues related to the regulation of practitioners performing non-surgical cosmetic procedures, including in response to the recommendations made by the cosmetic surgery review.

However, we also expressed concern that there was not a clear evidence-informed rationale for some aspects of the draft guidelines as they relate specifically to non-surgical cosmetic procedures. This was primarily because the draft guidelines drew from the findings of the cosmetic surgery review, which did not consider, nor provide recommendations on, these types of procedures.

Our submission focused on suggesting improvements that could be made to provide more clarity and consistency. We suggested there could be greater clarity in how 'non-surgical cosmetic procedures' are defined in the draft guidelines. The non-surgical cosmetic procedures covered by the draft guidelines were broad and ranged from laser hair removal to cosmetic injectables.

We suggested that further exploration of the scope of the non-surgical cosmetic procedures section of the draft guidelines was necessary, particularly given certain non-surgical cosmetic procedures may be performed by people who are not registered health practitioners.

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

We also considered that there was a lack of clarity on psychological assessment requirements. There did not appear to be a clear rationale for requiring practitioners to undertake assessments of patients, including for underlying psychological issues. We found that despite imposing an obligation on practitioners to undertake an 'evidence-based assessment' there was limited guidance about what this would entail.



**We cultivate  
a future-ready  
office where  
people thrive**

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# Cultivating a future-ready office where people thrive

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We strive to ensure our staff feel safe, supported and included. This financial year we have focused on ensuring that our people have the right knowledge, skills and expertise to make a difference in the National Scheme.

## Creating team cohesion and improving capability

In response to a needs analysis of staff capabilities, this financial year we implemented a comprehensive training plan designed to elevate the skills and knowledge of our staff. This initiative focused on office-wide training, as well as continuous learning opportunities tailored to individual development needs. This approach has helped ensure our staff are well equipped to meet the evolving needs of our office.

In 2023–24 we also applied the ‘RACI framework’ to our recruitment and selection practices.<sup>10</sup> The framework allows us to more clearly define roles and responsibilities in our selection process. This has helped to improve role clarity, leading to better collaboration and empowered staff decision making.

## Spotlight on: vicarious trauma awareness and prevention training

Members of our Early Resolutions Team undertook training in 2023–24 designed to better understand and prevent vicarious trauma. Our office regularly hears from people who describe distressing events that have affected their lives and wellbeing. It is important that we respond to each person’s unique circumstances and provide an empathetic response to concerns raised with us. At the same time, we also need to ensure our staff feel confident and supported to reduce risks associated with experiencing vicarious trauma. Staff who attended this training brought their learnings back to the office and shared their insights with the whole team.

This included providing information about how to take proactive steps to address early signs of vicarious trauma, including by accessing available support services. We also explored ways to prevent and limit our exposure to potentially traumatic material and approaches to staying safe and healthy when exposed to potentially traumatic material.

## Creating safe activity-based workspaces

In response to the evolving needs of a modern office we have applied activity-based principles to improve our work environments in both the office and our remote work locations. For example, our team undertook ‘ergonomic challenges’ at both their office and home working environments. Ergonomic checks are an essential way we can reduce risks associated with our working environment. If workstations aren’t appropriately set up, it can put unnecessary stress and strain that can lead to injuries. We have worked hard to ensure our work environments enhance productivity, safe work and staff wellbeing.

First aid initiatives this financial year have also improved staff capability and safety. In addition, our wellbeing action plan promotes a supportive environment that priorities mental health and fosters a culture of care and inclusivity.

Our office has also undergone minor but impactful changes by adopting activity-based working principles. Our office now features improved collaborative meeting areas, tailored ergonomic equipment for focused work and areas that support wellbeing and informal social interactions.

<sup>10</sup> RACI is a responsibility assignment matrix based on assigning responsibilities for a task based on whether a team member is responsible or accountable for a task or should be consulted or informed about the task.

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## Supporting diversity and inclusion

This financial year, our Diversity and Inclusion Working Group has focused on ensuring our services are accessible and that we respond to each individual's needs. Our diversity allows opportunities to learn and to be open to different practices while understanding and appreciating cultures and behaviours.

In 2023–24 we organised an all-staff workshop on neurodiversity in the workplace. Following this session, the Diversity and Inclusion Working Group began work to improve how we accommodate individual staff and complainant needs.

Another important initiative this financial year was developing and implementing a communication preferences guide to ensure our contact with those accessing our services is considerate and respectful. The guide offers practical advice to ensure we recognise that people who engage with our office may have different communication styles and preferences. It helps staff to consider ways to adapt our communication to meet the needs of individuals where practical and appropriate. The Diversity and Inclusion Working Group also developed resources to improve staff confidence around accessing interpreters and the National Relay Service.

The Diversity and Inclusion Working Group continued to focus on ensuring Aboriginal cultural awareness and safety. Current projects include researching the appropriate collection and use of information about complainants who identify as Aboriginal and/or Torres Strait Islander and providing appropriate referral pathways and interpreter services. We also continue to ensure staff receive appropriate training to support Aboriginal cultural awareness.

## Our commitment to continuous improvement

As an Ombudsman's office, we firmly believe that every complaint represents an opportunity for reflection and improvement. The same is true for concerns raised about our office's decisions and service delivery. We welcome applications from complainants for an internal review of a decision and feedback about their experience engaging with us.

### Internal review applications

In 2023–24 we received 26 applications for an internal review of a decision we made. These applications were made by 14 complainants.

In their applications for an internal review, complainants often told us that:

- they believed a decision had been based on erroneous or incomplete information
- relevant information had not been considered by the decision-maker
- not all complaint issues had been responded to.

All internal review applications are assessed by a staff member who has not previously made a decision on the complaint to decide if there is sufficient reason for a review.

If the assessment does not find enough evidence of a potential incorrect decision, the application for an internal review will not be successful and the complaint will remain closed. In these circumstances, the complainant receives a detailed letter explaining why the original decision will not be reviewed and, where possible, more information to address their outstanding concerns. Of the 27 internal review applications we finalised during 2023–24, 26 applications were concluded in this manner.

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If we identify evidence that suggests the correct and preferable decision may not have been made, the application is successful and an internal review is undertaken. Generally this means the complaint is reopened and allocated to a new team member to allow for a fresh decision to be made. This was the outcome of one internal review application in 2023–24.

Where relevant, feedback about our service delivery is also considered and responded to when assessing an internal review application.

### Feedback about our service delivery

In 2023–24 we recorded 10 instances of feedback about our service delivery. Most of the feedback was about our handling of complaints and FOI review matters, such as concerns about a delay or a failure to respond to correspondence. We also received positive feedback about the way we managed matters.

When a complainant or FOI applicant provides negative feedback about their experience of dealing with our office, we fully explore the concerns and openly acknowledge when we could have done better. For example, an FOI review applicant raised a concern that there was a delay in the handling of their matter. When considering this feedback, we identified that the assigned team member had provided an update one week later than our service standards required. We apologised for this oversight and provided reassurance that the delayed update did not have an impact on our overall timeliness in considering their matter.

Wherever possible we speak to the dissatisfied person by telephone to better understand their perspective, and we conclude the process with written correspondence explaining our findings.

Where feedback helps us identify an opportunity for improvement, we take steps to make any required refinements to our processes.

Opportunities for improvement that we identified during 2023–24 broadly included:

- updating our internal processes or policies
- developing new guidance materials and/or undertaking training for staff
- enhancing our public-facing information including our website, factsheets, template correspondence and forms.

For example, one complainant provided feedback that they did not speak with their assigned investigator by telephone before the investigator assessed their complaint and decided not to take it further. This happened because the complainant could not speak with the investigator when they tried to call without notice. We acknowledged that the complainant would have preferred for us to schedule a time to speak with them by telephone, and we apologised for not ensuring they felt heard in our complaints process. We have since implemented a process to ensure we are more responsive to the communication needs and preferences of individual complainants.

Recommendations for improvement are escalated to our Governance Committee for consideration. If approved, a member of our leadership team is assigned to implement, monitor and report back on the implementation of the improvement.

“ Thank you so much for your comprehensive and detailed review of my complaint. It was only after your team became involved that Ahpra started progressing my matter. This led to conditions that made employment possible. Thankfully I am now working. Without your involvement I would still be unemployed and living in poverty. I am extremely grateful for all you have done. – *Complainant's feedback* ”

**We champion  
fairness,  
ensuring that  
every complaint  
is heard and  
taken seriously**

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# Ombudsman complaints

Most of the complaints our office receives are complaints to the Ombudsman. We received 691 complaints to the Ombudsman in 2023–24, up from 663 complaints in 2022–23. These complaints were made by 412 people,<sup>11</sup> some of whom made multiple complaints. The increase in complaints was mostly driven by the number of accreditation-related complaints we received (79 complaints, up from 23 in 2022–23).

Our complaint trends this financial year were relatively consistent with previous years (Figure 2).<sup>12</sup> Complaints about how Ahpra and the Boards handled a notification continued to be the most common type of complaint (435; 63% of complaints received). Refer to ‘Notification-related complaints’ for more information about how we handled these matters.

Complaints about registration matters were the second most common complaint type (123; 18% of complaints received). This is largely consistent with last financial year, though we received 30 fewer registration-related complaints (Figure 2). More information about how we handled these complaints is outlined in ‘Registration-related complaints.’

The most significant change was in the increase in accreditation-related complaints (79 complaints compared with 23 complaints in 2022–23). This includes complaints about Ahpra, the Boards, accreditation authorities and specialist medical colleges.<sup>13</sup> This increase is likely because it was the first full financial year where we have had been able to accept all accreditation-related complaints (as our expanded role began midway during the previous financial year). The increase in complaints may also suggest increased awareness about our new role in assisting with complaints related to 32 additional accreditation entities.

Figure 2: Number of complaints, by complaint type, 2022–23 to 2023–24<sup>14</sup>

Complaint type	2022–23	2023–24
Handling of a notification	430	435
Handling of a registration matter	153	123
Handling of an accreditation matter	23	79
Concerns about customer service or how Ahpra handled a complaint	29	22
Other complaint types	28	32
<b>Total</b>	<b>663</b>	<b>691</b>

11 This includes 395 named people and 17 anonymous complainants.

12 Data is based on our staff identifying the ‘primary issue’ when assessing the complaint.

13 Appendix 1 has more detail about the complaints we can receive about accreditation authorities and colleges.

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

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## Who complaints were about

As in previous years, most complaints to our office were related to the medical, nursing and psychology professions (Table 2).

Most complaints across notification, registration and accreditation complaint types related to the medical profession. This profession represented the most significant increase in complaints this financial year (from 371 complaints in 2022–23 to 453 in 2023–24).

It appears that notification-related complaints related to the medical profession have consistently been more common due to the large number of notifications that are received each year about medical practitioners (6,380 of the 11,200 notifications received in 2023–24).<sup>15</sup>

Registration-related complaints about the medical profession increased from 34 complaints in 2022–23 to 46 in 2023–24. This increase appears to have been in part driven by complaints about registration fees (refer to 'Responding to the increase in complaints about registration fees').

The increase in accreditation-related complaints this financial year was also largely due to complaints related to the medical profession. We received 60 accreditation-related complaints about the medical profession in 2023–24, up from 7 in 2022–23. The larger portion of complaints about the medical profession can be expected because we receive complaints about more entities undertaking accreditation-related roles for the medical profession, including the 16 specialist medical colleges (38 complaints). Most accreditation-related complaints this financial year were about the Medical Board's external accreditation authority, the AMC (22 complaints).

We recorded notable decreases in complaints about the psychology and dental professions when compared with the previous financial year (Table 2). We received fewer notification and registration-related complaints about the psychology profession (35 notification-related complaints, down from 48; and 16 registration-related complaints, down from 22). We similarly saw fewer complaints related to the dental profession across notification and registration complaint types (18 notification-related complaints, down from 31 and 1 registration-related complaint, down from 5).

We regularly record fewer complaints related to the smaller professions in the National Scheme. This can make it more challenging to identify complaint trends. In 2023–24 we did not receive any complaints related to the Chinese medicine or the Aboriginal and Torres Strait Islander health practice professions. We only recorded one registration-related complaint related to the occupational therapy profession and one notification-related complaint about the optometry profession.

<sup>15</sup> Data provided by Ahpra.



Table 2: Complaints by health profession, 2022–23 and 2023–24<sup>16</sup>

Profession	Complaints received in		Registered health practitioners in 2023–24 <sup>17</sup>
	2022–23	2023–24	
Medical	371	453	142,569
Nursing	90	89	477,822
Psychology	73	52	48,240
Dental	44	26	27,583
Midwifery	8	14	8,283
Pharmacy	9	7	38,610
Medical radiation practice	1	6	19,851
Physiotherapy	11	5	44,895
Podiatry	1	5	6,135
Osteopathy	5	5	3,526
Paramedicine	6	4	25,345
Chiropractic	4	3	6,526
Occupational therapy	12	1	32,047
Optometry	1	1	7,051
Chinese medicine	3	0	4,853
Aboriginal and Torres Strait Islander health practice	0	0	972
Other/unknown	24	20	N/A
<b>Total</b>	<b>663</b>	<b>691</b>	<b>920,535</b>

<sup>16</sup> 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 1 or 2 complainants who have made multiple complaints each.

<sup>17</sup> Data for 'Registered health practitioners in 2023–24' was provided by Ahpra.

## Where complaints came from

We assist with complaints from people located in all states and territories of Australia, and from overseas-qualified practitioners and others living outside of Australia who engage with the National Scheme.

As in previous years, most complaints to our office came from people located in Victoria (Table 3). This trend is likely due to the large number of registered health practitioners who are part of the National Scheme in Victoria.

In Queensland, the Office of the Health Ombudsman handles complaints about health practitioners. 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.

In 2023–24 we recorded the largest increase in complaints from Queensland when compared with 2022–23 (from 109 to 148 complaints). This change was primarily driven by an increase in notification-related complaints (107 complaints, up from 73 in 2022–23).

Table 3: Complaints made to our office, by location of the complainant, 2022–23 and 2023–24

Profession	Complaints received in		Registered health practitioners in 2023–24 <sup>18</sup>
	2022–23	2023–24	
Victoria	191	232	239,654
Queensland	109	148	186,787
Western Australia	101	88	93,355
New South Wales	67	53	249,653
South Australia	49	51	68,419
Australian Capital Territory	31	29	16,124
Tasmania	22	19	19,669
Northern Territory	6	8	8,774
Outside Australia	7	4	-
Other/unknown	80	59	38,100 (no place of practice listed or overseas-based registrants)
<b>Total</b>	<b>663</b>	<b>691</b>	<b>920,535</b>

<sup>18</sup> Data for 'Registered health practitioners in 2023–24' was provided by Ahpra.

# Case study

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Gertrude made a notification to Ahpra about the care provided by a practitioner to her late family member. The relevant Board considered Gertrude's concerns and decided to take regulatory action against the practitioner.

Gertrude was concerned about the time taken to finalise the notification. She also said the notification outcome letter she received from Ahpra left her family feeling empty because it did not provide details of the action that was taken against the practitioner and it was confusing to read because it referred to sections of legislation.

### What we found

Our office transferred Gertrude's complaint to Ahpra through our early resolution transfer process. In its response, Ahpra apologised for the time taken to finalise Gertrude's matter and acknowledged this was outside of its guidelines for managing notifications. Ahpra also provided an explanation to Gertrude about the sections of the National Law referred to in the notification outcome letter she received.

Ahpra's complaint response explained that due to privacy considerations, it could not provide details of the regulatory action that was taken in relation to the notification. However, our office noted that information about the regulatory action taken against the practitioner could be found on the public register of practitioners.



### Complaint outcome

Our office sought further clarification from Ahpra about its complaint response, and Ahpra confirmed it had provided incorrect advice to Gertrude. It acknowledged that information published on the public register is not confidential and can be freely shared.

We gave Gertrude more information about the regulatory action that was taken in response to her notification. Ahpra also apologised to Gertrude for the error in its communication with her.

Our office provided feedback to Ahpra about the wording in its complaint response. Ahpra agreed to review the wording in its notification outcome letters where action is taken against a practitioner to make information more transparent for notifiers.

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## How we managed and finalised complaints

Once we have assessed that we can help with a complaint, we consider the most appropriate way to address the concerns raised. We may:

- transfer the complaint to the organisation being complained about for a response
- make preliminary inquiries
- start an investigation
- decide not to take any further action.

This financial year we finalised 660 Ombudsman complaints, up from 657 in 2022–23. We recorded 1,144 outcomes across the 660 complaints.

We are committed to efficiently resolving complaints by minimising the time taken to finalise the matter and focusing on achieving practical outcomes. This is why we finalise most complaints without the need for a formal investigation. In 2023–24 we finalised most complaints at the assessment stage of our complaint handling process (418, up from 393 in 2022–23).

More information is provided about the outcomes of the different types of complaints we finalised in the following sections about notification, registration, accreditation and customer experience-related complaints in this report. Table 7 in Appendix 3 also provides a summary of all outcomes across complaints finalised at all stages of our complaint handling process.

### Early resolution complaint transfers

Our early resolution transfer process involves our office transferring a complaint to the organisation being complained about (with the complainant's consent). The process provides 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 stays open with our office and we assess the organisation's response before determining next steps.

This financial year, we:

- transferred 166 complaints using the early resolution transfer process, down from 172 in 2022–23 (almost all early resolution transfers involved Ahpra this financial year<sup>19</sup>)
- finalised 103 complaints following an early resolution transfer, down from 132 in 2022–23.

### Preliminary inquiries

We make preliminary inquiries to find out basic information about a complaint at the assessment stage of our complaint handling process. We can decide to make preliminary inquiries where we:

- need more information to decide whether we can, or should, investigate a complaint
- are seeking an answer to a straightforward and/or limited inquiry.

We made 183 preliminary inquiries this financial year, up from 109 in 2022–23. In 65 of these matters, we made preliminary inquiries because we decided that we needed more information from Ahpra after completing the early resolution transfer process.

We finalised 127 complaints after making preliminary inquiries this financial year, up from 101 in 2022–23.

### Investigations

Investigations are generally necessary for complaints that are very serious, complex or where the issue raised appears to be widespread. Investigations can:

- enable us to provide the complainant with information, or suggest remedies, that resolve their concern(s)
- determine whether there are areas for improvement that need an organisation's attention
- result in the Ombudsman making formal comments or recommendations to the organisation about how they can address the issue(s) raised.

<sup>19</sup> We made 6 early resolution transfers to specialist medical colleges.

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We commenced 42 investigations into complaints this financial year, up from 16 in 2022–23. Most investigations were launched after our office had first sought to resolve the complaint informally. For example, we made preliminary inquiries into 33 complaints before they were progressed to investigation. Nine complaints went through both the early resolution transfer and preliminary inquiry processes prior to investigation.

In 2023–24 we finalised 12 complaints following an investigation, down from 31 in 2022–23. We recorded 25 outcomes across these complaints. Most investigations resulted in our office providing feedback to the organisation being complained about (8), followed by our office providing a further explanation to the complainant (6). We also recorded 4 outcomes where:

- the organisation provided an apology or acknowledgement to the complainant about one or more of the complaint issues
- we are monitoring an identified complaint issue as a systemic issue. This may include, for example, as part of our ongoing monitoring activities or as part of an own motion investigation.

The outcomes of 3 investigations included the Ombudsman providing formal comments or suggestions for improvement to Ahpra's CEO (refer, for example, to Anand's and Stevie's stories in this report).

The increases in preliminary inquiries and investigations commenced this financial year is likely due to several factors. First, this increase may have been driven by the receipt of more accreditation-related complaints. Last financial year, we initiated 4 early resolution transfers and did not make any preliminary inquiries or start any investigations into accreditation-related complaints.<sup>20</sup>

In comparison, in 2023–24 we initiated 9 early resolution transfers, made preliminary inquiries 13 times and commenced 8 investigations into accreditation-related complaints.<sup>21</sup>

This suggests that the increase in the number of accreditation-related complaints received by our office has made it necessary for us to take more action to both understand and address complainants' concerns.

Second, notifiers have more frequently made complaints to us about a Board's decision not to take further action on a notification. This financial year we have needed to make more preliminary inquiries to inform our decision about whether to investigate complaints of this type. This issue is further explored in the below section on 'Responding to complaints about a Board's decision to take no further action.'

Finally, we undertook process improvements in 2023–24 to ensure the appropriate application of our preliminary inquiry and investigation policies. Our previous approach led to the office commencing fewer investigations, leading to fewer complaints being finalised after an investigation in 2023–24. Process-related improvements included clarifying and providing training to staff on the appropriate threshold for progressing from preliminary inquiries to an investigation. This appears to also have contributed to more complaints moving from the preliminary inquiry to the investigation stage in our complaint handling process.

20 In 2022–23 we received 17 complaints that we could progress subject to our expanded jurisdiction.

21 In 2023–24 we received 79 complaints that could all be progressed.



# Case study

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We received a complaint from a practitioner, Elessa, who was concerned about the time Ahpra was taking to investigate notifications that had been made about her.

Elessa told us that the investigation had been ongoing for 4 years, and this had become stressful for her. She wanted to know when Ahpra's investigation would be finalised and to understand how the investigation had been progressing.

Our office made preliminary inquiries with Ahpra to understand why the investigation had been ongoing for several years. The information we got from Ahpra provided some reasons for the timeframe of the investigation. However, it was not clear to our office that the investigation had progressed adequately during the 4 years that it had been ongoing. We decided to investigate Elessa's complaint.

## What we found

We found that Ahpra's investigation of the notifications about Elessa had been delayed. We identified that the causes of the delay included misalignment between Ahpra's investigation strategy and the Board's requests for Ahpra to obtain specific information, and the reallocation of the case to different Ahpra regulatory advisors.



## Complaint outcome

During our investigation, Ahpra acknowledged that some of its administrative decisions had contributed to delays in managing the investigation and also recognised that the multiple case reallocations had affected the investigation's timeframe.

We provided feedback to Ahpra about:

- reviewing its procedure for reallocating case officers to notifications to identify ways in which the process could be improved
- keeping clearer records
- ensuring its administrative actions align with the Board's directions about information that should be gathered during an investigation.

# Case study

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We received a complaint from a practitioner, Bill, who had been experiencing difficulties while undertaking a training program to get an endorsement. Bill had contacted Ahpra for advice about how he could progress in the training program but said he had not received timely responses.

Bill said he had then applied for an area of practice endorsement in an attempt to receive a response to his concerns. His application was refused because he had not met the requirements for endorsement.

Our office sought Bill's consent to transfer his complaint to Ahpra for a response. Ahpra's response focused on why his application for endorsement had been refused. But Bill explained to our office that he was more concerned about Ahpra's insufficient responses to his questions before applying for endorsement.

We made preliminary inquiries into Bill's matter to better understand how Ahpra had responded to Bill's queries. After reviewing Ahpra's response, we commenced an investigation into the matter.

## What we found

Our investigation found that Ahpra did not communicate with Bill in a timely manner with respect to his concerns about progressing on his training program, or about his application for endorsement. The delays in communication appeared to have been due to the unforeseen absence of Ahpra staff members who had been responsible for dealing with Bill's matter.

We also found that Ahpra had not adequately explained to Bill what steps it could take to resolve his concerns about the training program.

Additionally, we found that some of Ahpra's documents could have been clearer about the training program's requirements.

## Complaint outcome

We provided feedback to Ahpra about responding to questions from practitioners in a timely manner and to ensure that in instances where an assigned staff member is unavailable to attend to their matters, arrangements are made for another staff member to manage the matters. We reminded Ahpra of the importance of ensuring it has robust processes in place for reallocating matters in the event of unexpected staff leave.

We also suggested that Ahpra update some of its documents to clarify the requirements for obtaining endorsement after completing a training program.



# Notification-related complaints

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The notifications process allows Ahpra and the Boards to be alerted to potential risks to public safety and to respond accordingly by taking regulatory action when necessary.<sup>22</sup>

Patients, health practitioners and organisations 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.<sup>23</sup> Ahpra must consider every notification it receives. It gathers information about the notification and presents it to the relevant Board. The Board then decides whether regulatory action is necessary to protect the public.

Most complaints our office receives are about the handling of a notification by Ahpra and/or a Board. This continued to be the case in 2023–24, with 63% of complaints related to a notification (435). There was a minor increase in the number of notification-related complaints compared with 2022–23 (430 complaints).

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 (Appendix 2, Figure 3).

## About the notification-related complaints we received

The 435 notification-related complaints we received this financial year were made by 238 people. As in previous years, most complaints about the handling of a notification were made by the person who made the notification (the notifier) (277, up from 268 in 2022–23). This included 64 complaints where the notifier was a health practitioner, up from 58 complaints in 2022–23.

This financial year we continued to receive more complaints from health practitioners who were the subject of a notification (139 complaints, up from 123 in 2022–23).

Members of the public who were not a party to the notification made up a smaller proportion of complaints this financial year (19, down from 37 in 2022–23). This is more consistent with previous financial years, where this cohort made fewer complaints (9 in 2021–22).

## Common notification-related issues

We recorded 1,033 issues across the 435 complaints we received about the handling of a notification in 2023–24. A notifier's concern that a decision to take no further action at the assessment stage of the notifications process was unfair or unreasonable has been the most recorded issue in the past 3 financial years. In general, concerns about a Board's decision to take no further action continued to be the main driver of notification-related complaints (Appendix 3, Table 8).

A concern that a decision was unfair or unreasonable similarly continued to be a frequently recorded issue in notification-related complaints (270). This financial year, however, we recorded more issues about a process being unfair (131 issues, up from 88 issues in 2022–23). Concerns about process delays were also commonly recorded (125 issues, up from 92 issues in 2022–23) (Appendix 3, Table 9).

## How we resolved notification-related complaints

In 2023–24 we finalised 422 notification-related complaints. Across these complaints we recorded 780 outcomes.

<sup>22</sup> Part 8 of the National Law outlines how notifications can be made and how they must be managed by Ahpra and the Boards.

<sup>23</sup> Note that New South Wales and Queensland have different arrangements for accepting notifications about health practitioners.

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The stages of our complaint handling process during which these complaints were finalised included:



**246 complaints at assessment**  
(15 more than last financial year)



**74 complaints at early resolution transfer**  
(10 fewer than last financial year)



**97 complaints at preliminary inquiry**  
(13 more than last financial year)



**5 complaints following an investigation**  
(20 fewer than last financial year).

As in previous years, most notification-related complaints were finalised without the need for a formal investigation.

The most common investigation outcome was our office providing feedback to Ahpra about their handling of the notification that prompted the complaint (5 outcomes). This was similarly the most frequent outcome recorded last financial year. The next most common outcomes were:

- the organisation being complained about providing an apology or acknowledgement of the complainant's concerns (3 outcomes)
- our office providing the complainant with more information about the handling of their matter (3 outcomes).

## Responding to complaints about a Board's decision to take no further action

As noted above, the most common notification-related complaint we receive involves concerns about a notification being finalised with a decision to take no further action. During 2023–24, complaints about decisions to take no further action accounted for 50% of all notification-related complaints. We recorded more complaints about notifications that were finalised with a no further action decision in 2023–24 than we did in 2022–23 (216, up from 189).

Most complaints about a decision to take no further action concerned notifications finalised at the assessment stage of Ahpra's notifications process (168 complaints in 2023–24; 78%) and were made by the notifier (150 of 168 complaints; 89%).

There are a number of factors that likely lead to more complaints being made about no further action decisions. These include that:

- most notifications are finalised by Ahpra and the Boards with a decision to take no further action (7,438 of the 11,156 notifications finalised in 2023–24)<sup>24</sup>
- there is no avenue for notifiers to appeal a Board's decision to take no further action. Practitioners who are the subject of regulatory action, however, can appeal to the relevant tribunal.

During 2023–24 we finalised 165 complaints from notifiers who raised concerns about no further action decisions made at the assessment stage of Ahpra's notifications process. We recorded 328 outcomes across these 165 complaints.

<sup>24</sup> Data provided by Ahpra based on notifications closed in 2023–24.

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The most common outcome was that, after making preliminary inquiries, we decided an investigation was not warranted in the circumstances (50 outcomes). This was often because we assessed that it was reasonably open to the relevant Board to decide to take no further action based on the information we had obtained and our consideration of the requirements of the National Law and Ahpra's notifications policies and processes. Our decision that an investigation was not warranted was sometimes partnered with other outcomes, including that Ahpra apologised for an error and committed to making improvements, or we facilitated the complainant providing new information to Ahpra about the notification.

The next most common outcome was that Ahpra's response to the complaint was fair and reasonable, also following preliminary inquiries (33 outcomes). This suggests that these complaints were finalised once we got enough information from Ahpra to verify that the process followed to decide to take no further action was fair and reasonable.

We commonly provided feedback to Ahpra about how it could improve its handling of notifications when we closed complaints made by notifiers about no further action decisions at the assessment stage of Ahpra's notifications process. Common themes in the feedback provided to Ahpra and the Boards during 2023–24 highlighted the need for improvements in:

- the quality of reasons for decisions, including which section of the National Law a decision to take no further action is made under and how it is communicated
- the completeness of notification documentation presented for the relevant Board's consideration
- timely, accurate and empathetic communication with notifiers, particularly those with vulnerabilities such as mental ill-health or non-English speaking backgrounds
- the lawful use of audio recordings and transcripts provided in relation to a notification
- meaningful complaint responses that address all concerns raised.

# Case study

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Rosa made a complaint to our office about Ahpra and the relevant Board's handling of a notification she made about a health practitioner in their role as an expert witness.

Rosa raised concerns with Ahpra that the practitioner provided a delayed and inaccurate report about her for the court proceedings. The Board took no further action under s 151(1)(e) of the National Law on the basis that the subject matter of the notification had already been dealt with by another entity.

Our office transferred the complaint to Ahpra (with Rosa's consent) through our early resolution transfer process. In response, Ahpra advised that the Board had not taken further action because it did not identify an ongoing risk to the public that required its intervention. Ahpra also advised that the Board had determined that Rosa's concerns about the report would not constitute a departure from acceptable standards to the extent that would warrant regulatory action.

Ahpra's response, however, did not comprehensively explain why the Board considered that another entity had already dealt with the matter and therefore why it decided to take no further action under s 151(1)(e) of the National Law.

## What we found

Through making preliminary inquiries, we found that the court matter involving the report had not been to trial and the court did not explicitly deal with the concerns Rosa raised about the practitioner.



As a result, we found that it would have been preferable for the Board to decide to take no further action under a more appropriate section of the National Law. This is because s 151(1)(e) is only relevant if the Board has determined that another entity has already dealt with the matter.

## Complaint outcome

We acknowledged Rosa's concerns and confusion in relation to the Board's decision to take no further action on the basis that the subject matter of the notification had already been dealt with by another entity.

We provided feedback to Ahpra and the Board that when assessing notifications where it is not entirely clear that another entity has dealt with the concerns raised in the notification, the Board should not make a decision under s 151(1)(e) of the National Law. Instead, Ahpra and the Board should consider whether there are other more appropriate sections of the National Law to take no further action under. This would also ensure notifiers get accurate reasons for the Board's decision.

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## Responding to complaints about concerns that are not progressed as a notification

In 2022–23 our office began monitoring Ahpra’s approach to determining whether concerns meet the requirements to be considered a notification under the National Law. This followed Ahpra’s introduction of a new model for triaging concerns. The new model has involved Ahpra 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.

This financial year we received 27 complaints related to dissatisfaction that Ahpra had not treated a concern as a notification (up from 21 complaints in 2022–23).<sup>25</sup>

This included complaints that:

- Ahpra assessed there were no grounds for a notification
- Ahpra concluded it did not have enough information to process the concern as a notification (‘insufficient particulars’)
- the concern was about the referral of a matter to a health complaints entity (such as the Office of the Health Ombudsman or the Health Care Complaints Commission)
- Ahpra assessed that the information concerned a previous notification that had been finalised
- Ahpra treated the complainant’s concerns as an administrative complaint.

Of the 27 complaints about a concern not being progressed as a notification, 7 were about Ahpra deciding that the concern did not meet the grounds for a notification under s 149(1)(b) of the National Law (up from 5 complaints in 2022–23). Another 3 complaints were about a decision made by Ahpra under s 146(2) of the National Law that the complainant had not provided enough information to assess the concerns (3 complaints of this type were also received in 2022–23).

In 2023–24 we saw some improvements in Ahpra’s assessment of whether a concern contains sufficient particulars or raises grounds for a notification under the National Law. For example, in 2022–23 we found that Ahpra’s letters informing people that their concern did not meet the threshold for a notification often did not provide adequate reasons for the decision. Our assessment of relevant complaints received in 2023–24 found Ahpra had generally improved the quality of the reasons for its decisions, including by providing a summary of the concerns raised and a brief explanation for why the concerns did not raise grounds for a notification.

We also found that Ahpra is no longer referring to concerns that do not meet the grounds for a notification as a ‘notification’ in its decision letters. We identified an inconsistent use of terminology in 2022–23 and provided feedback to Ahpra that references to a ‘notification’ in this context cause confusion. The complaints we received in 2023–24 showed that Ahpra now uses the word ‘concerns’ to describe matters that it decides do not raise appropriate grounds for a notification.

<sup>25</sup> These complaints were made by 22 complainants

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The complaints received in 2023–24 also indicated that Ahpra is generally referring to the correct section of the National Law when communicating a decision that a concern does not raise appropriate grounds for a notification. This is an improvement from 2022–23, when we provided feedback to Ahpra about this issue. However, during 2023–24 we identified one instance where Ahpra did not refer to the correct section of the National Law when explaining its decision. We also identified a separate instance where Ahpra referred to the relevant section of the National Law, but the reasons Ahpra provided indicated the decision was made on a different basis.

The complaints we have received about Ahpra deciding that a matter does not meet the grounds for a notification have helped us to identify trends in this area. In particular, we identified that there may be inconsistencies in Ahpra's approach, which means that similar concerns could be assessed by Ahpra as either:

- not raising adequate grounds for a notification, or
- meeting the requirements of a notification but that no further action should be taken because it is 'lacking in substance' or 'misconceived'.

We have provided general feedback to Ahpra about this possible inconsistency.

We continue to closely monitor Ahpra's handling of concerns and its decisions about whether there are grounds for a notification. These monitoring activities will inform whether we undertake an own motion investigation into this issue in the future.

## Case study

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Charlotte made a complaint to our office about Ahpra's handling of concerns she had sought to raise about a health practitioner. Charlotte said she tried to make a notification about the health practitioner, but Ahpra decided that her concerns did not raise appropriate grounds for a notification.

Charlotte told us that, following this decision, she provided more information about her concerns to Ahpra. However, Ahpra decided the extra information lacked sufficient particulars to be considered a notification.

Charlotte had already complained to Ahpra but was dissatisfied with Ahpra's response. In particular, she was concerned that Ahpra maintained its view that her concerns would not be progressed as a notification. Charlotte was also troubled by the sections of the National Law Ahpra referred to in its decisions.

Our office made preliminary inquiries into Charlotte's complaint. We got information and documents about Ahpra's handling of Charlotte's concerns, including the decisions it made.

### What we found

We assessed that Ahpra considered all information Charlotte provided about her concerns. We found that it was reasonably open to Ahpra to decide that Charlotte's concerns did not raise appropriate grounds, or otherwise include 'sufficient particulars', to be considered a notification. We also found that Ahpra referred to the appropriate sections of the National Law in its correspondence to Charlotte.

### Complaint outcome

We finalised Charlotte's complaint based on our finding that it was reasonable for Ahpra to have decided her concerns did not meet the grounds for a notification. However, Charlotte's complaint highlighted that Ahpra may be applying an inconsistent approach when it receives similar concerns raised by other notifiers. This is because Ahpra and the relevant Board may at different times:

- determine concerns do not raise grounds for a notification, or
- accept concerns as a notification and decide to take no further action because it is 'lacking in substance' or 'misconceived'.

We advised Ahpra of our concern about this potential inconsistency when we finalised Charlotte's complaint. We also confirmed we would continue to monitor this issue, including as part of our ongoing monitoring of Ahpra's decisions not to progress concerns as a notification.



# Registration-related complaints

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All people seeking to work in one of the 16 regulated health professions must meet the requirements to be registered by the Board that represents their profession. In general, registered practitioners must renew their registration every 12 months.

Ahpra generally manages the receipt and assessment of registration and renewal applications on behalf of the Boards.

Registration-related complaints we receive can relate to many different points in the registration process including the:

- initial application process
- registration renewal process
- assessment of an international practitioner's qualifications<sup>26</sup>
- decision to refuse registration, including because a practitioner does not meet the Board's requirements as outlined in its registration standard(s)
- decision to place conditions on a practitioner's registration (such as supervised practice conditions) and the process for ensuring compliance with these conditions.

We record information about registration-related complaints based on the type of registration the complaint has or is seeking, and the type of registration matter the complaint relates to (Appendix 2, Figure 4).

## About the registration-related complaints we received

We received 123 registration-related complaints in 2023–24, down from 153 complaints in 2022–23. All but two of these complaints were made by health practitioners (including complaints by persons/entities representing health practitioners and anonymous practitioners).<sup>27</sup> We recorded 279 complaint issues across the 123 complaints.

Registration-related complaints continued to be the second-most common type of complaint made to our office. However, we received a smaller number of registration-related complaints in 2023–24. While there may be many causes for this, it is likely that Ahpra's approach to managing registration-related matters and registration-related complaints has continued to improve. For example, we continued to see a decrease in the number of issues raised about delay in the processing of a registration matter (from 61 issues in 2021–22 to 55 issues in 2022–23 to 34 issues in 2023–24).

Most of the registration-related complaints we received this financial year continued to be about concerns related to general registration (92 complaints). This is to be expected given it is the most common registration type. Complaints related to other registration types, such as provisional registration, limited registration and non-practising registration, also remained mostly consistent with last financial year (see Appendix 3, Table 10).

<sup>26</sup> Under ss 53 and 58 of the National Law.

<sup>27</sup> There were 104 individual complainants.

# Case study

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**Stevie made a complaint to our office about Ahpra's handling of her registration renewal. Stevie explained that her registration had been suspended early in the year.**

Typically, practitioners practising Stevie's profession must renew their registration by 30 November each year. However, because Stevie's registration was suspended, she was not able to renew her registration at that time (but remained on the public register).

Later the next year, the suspension of Stevie's registration was revoked, and instead a condition was imposed on her registration not to practise the profession. Stevie was provided with a one-month grace period in which to renew her registration. However, she was not advised of this. Stevie failed to renew her registration within this period and as a result her registration lapsed and she was removed from the public register.

Stevie said she contacted Ahpra to resolve the issue and was advised that Ahpra was in the process of generating a new renewal application for her. She said that Ahpra told her it would inform her once this had occurred so she could reapply for registration. Stevie said that despite this advice and following up on multiple occasions, the issue had not been resolved and she remained unregistered.

Stevie was concerned that her inability to renew her registration and subsequent removal from the public register impacted her ongoing legal proceedings.

## **What we found**

Our office made preliminary inquiries into Stevie's matter, but the requested information was insufficient to make a determination about the complaint. We decided to investigate Stevie's complaint.

Our investigation found that Ahpra did not follow its Regulatory Operations Procedural Documentation for revoking a suspension when communicating with Stevie about her registration renewal. We found that on at least 2 occasions Stevie was not informed that a registration renewal application had been generated for her to action. On another 2 occasions Ahpra did not provide Stevie with a reasonable amount of time to complete the renewal application. We also found that Ahpra should have contacted Stevie by email when attempts to contact her by phone were unsuccessful.

## **Complaint outcome**

Ahpra acknowledged that it should have advised Stevie of the need to renew her registration and apologised for this oversight. Ahpra also advised our office that it intended on making system changes to streamline the process for applicants seeking to renew their registration following a period of suspension.

The Ombudsman made formal comments to Ahpra about the importance of:

- notifying practitioners when their registration renewal application is available to action on Ahpra's online portal
- communicating any relevant information about registration renewal in writing, particularly if attempts to contact the practitioner by phone have been unsuccessful.

We also suggested that Ahpra implements a reasonable minimum period for a practitioner to action their registration renewal application.

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## Common registration-related issues

Most issues raised in registration-related complaints this financial year concerned a:

- process being unfair (83 issues, up from 57 issues in 2022–23)
- decision being unfair or unreasonable (68 issues, up from 58 issues in 2022–23)
- process or decision being delayed (34 issues, down from 55 issues in 2022–23) (Appendix 3, Table 11).

Similarly to previous years, the ELS Registration Standard's application was the most common issue raised across registration-related complaints (48 issues, up from 40 issues in 2022–23). The second and third most common issues were also consistent with previous trends and included the:

- processing of a new application for registration (45 issues, up from 37 issues in 2022–23)
- assessment of an overseas qualification (26 issues, up from 25 issues in 2022–23) (Appendix 3, Table 12).

Concerns about the assessment of overseas qualifications were most often about the nursing and midwifery professions (15 issues).

Interestingly, we saw increases in the number of issues related to compliance activity (24 issues, up from 8 in 2022–23). The other significant increase in issues related to concerns about registration fees (23 issues, up from 13 issues in 2022–23) (Appendix 3, Table 12).

## Responding to the increase in complaints about registration fees

The National Scheme is primarily funded by health practitioner registration fees. Each year practitioners have 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 each year. The medical, nursing and midwifery professions, however, require registration renewal at different times of the year.<sup>28</sup>

This financial year we saw the number of issues raised about fees associated with registration rise from 13 in 2022–23 to 23 in 2023–24.<sup>29</sup> Across all registration-related Ombudsman complaints made in 2023–24, concerns about a fee for general registration being unfair or unreasonable was one of the top five issues.

Issues about fees in the medical profession increased in 2023–24, from 5 issues in 2022–23 to 14 issues. A driving factor for this change appeared to be the increase in registration fees charged by the Medical Board. Due to the implementation of a new cost allocation model by Ahpra and the Boards, the cost of registration fees set by the Medical Board increased more significantly in 2023–24 than in previous years (from \$860 to \$995).

Some of the common concerns raised in complaints about registration fees included dissatisfaction with Ahpra and/or a Board:

- refusing to pro-rata fees based on the proportion of the year that a practitioner was registered
- increasing fees charged for registration
- refusing to refund application fees after a registration application was refused or withdrawn.

<sup>28</sup> The Medical Board requires registration renewal by 30 September and the Nursing and Midwifery Board requires registration renewal by 31 May.

<sup>29</sup> These issues were raised across 18 complaints (made by 17 individual complainants).

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Concerns were also raised about a lack of alternative methods for making payment of registration fees and about the fairness and costs associated with assessing an internationally qualified practitioner.

While it is not possible to determine the exact cause of the growth in complaints about registration fees, we recognise that health practitioners are likely being affected by recent increases to the cost of living, including costs associated with essential services and supplies. Similarly, recent reports, such as Robyn Kruk AO's Independent review of overseas health practitioner regulatory settings, have highlighted the oftentimes substantial costs internationally qualified practitioners face when seeking registration in Australia.

In 2022–23 our office considered several complaints involving situations where health practitioners had sought to gain registration, or change registration types, outside of the standard registration cycle for their profession. While the details of these complaints were specific to the individual's circumstances, complainants raised similar concerns about the fairness of having to pay the entire registration fee when they would not be registered for the full 12-month registration cycle. These complaints served as a catalyst for our office to commence an own motion investigation to consider the fairness and reasonableness of Ahpra and the Boards' charging model.

The investigation was ongoing in 2023–24 and has considered the impact of the existing charging model, including:

- whether there are certain cohorts of practitioners who may be adversely affected by the charging model
- the main causes of complainants' dissatisfaction with the current charging model.

The complaints considered by our investigation have highlighted complainants' views that there are unfair financial implications for practitioners who pay the registration fee in full when registered for a period of less than 12 months. Affected people often described unique circumstances, such as returning from parental leave, which had led to paying a registration fee in full outside of the standard registration cycle and then paying a registration renewal fee within a period of less than 12 months.

The investigation is also considering how the current charging model is applied across professions and how it relates to existing fee setting and cost recovery processes. The report on our investigation will be published in 2024–25.

## How we resolved registration-related complaints

We finalised 122 complaints about the handling of registration matters this financial year, down from 152 in 2022–23. We recorded 212 outcomes across these 122 complaints. The most common outcome was that we did not consider that an investigation into the complaint was warranted in the circumstances (50 outcomes). Other common outcomes included:

- a finding that a fair and reasonable complaint response had been provided by the organisation being complained about (36 outcomes)
- the complainant did not provide the requested information to our office (30 outcomes). This could mean, for example, that we did not have enough information to proceed with the complaint.

We finalised 7 complaints about the handling of a registration matter following an investigation, up from 6 complaints in the previous financial year. We recorded 13 outcomes across these complaints.

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The most common outcomes from our investigations this financial year were that we:

- made formal comments or suggestions to Ahpra (3 outcomes)
- provided feedback to Ahpra (3 outcomes)
- provided the complainant with a further explanation about the concerns raised in their complaint (3 outcomes)
- used the complaint as part of our monitoring of a systemic issue (3 outcomes)
- facilitated an apology or acknowledgement from Ahpra to the complainant (1 outcome).

## Complaints about the ELS Registration Standard

The ELS Registration Standard aims to ensure registered health practitioners can communicate in English at a level safe to practise their profession. Our office recognises that with increasing demand for health practitioners in Australia, registration standards must support public protection and confidence in the National Scheme, as well as health workforce availability.

We have regularly received complaints about the ELS Registration Standard. In 2023–24 we saw another increase in the number of issues recorded about this registration standard (48 issues, up from 40 issues in 2022–23). The most common issue related to a perception that the processes for assessing English language skills are unfair (20 issues, up from 15 issues in 2022–23). The second most common concern was that the application of the ELS Registration Standard resulted in an unfair or unreasonable outcome (11 issues, down from 18 issues in 2022–23).

It is interesting that we recorded more issues about the fairness of the process to meet the registration standard, rather than the fairness of a decision about how the registration standard was applied. This suggests that the concerns being raised with us this financial year go beyond individual outcomes and instead speak to the fairness of the process for satisfying the requirements of the ELS Registration Standard more broadly. This may also reflect our staff identifying these issues more systematically.

Common themes raised by complainants included that:

- it is unfair that, after completing an approved program of study in Australia, they have to show evidence of further full-time study or completion of an English language test to meet the requirements of the ELS Registration Standard
- the ELS Registration Standard is discriminatory because it disproportionately affects people who did not undertake all of their primary and secondary schooling in Australia
- their work experience or lived experience in Australia has not been appropriately recognised when determining whether they meet the ELS Registration Standard's requirements
- there are significant costs associated with sitting an English language test to meet the requirements of the ELS Registration Standard
- the requirements of the ELS Registration Standard are unfairly preventing practitioners from practising their profession in Australia when there are health workforce shortages.

Our office continues to hear most complaints from applicants who have to sit an English language test because they do not meet the requirements of the alternative available pathways. As noted, the financial burden of the test has been raised as an issue with our office. It is likely that this financial year, these concerns are compounded by increases in the cost of living.

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As in previous years, many complaints were about the Nursing and Midwifery Board's ELS Registration Standard (35 issues; 73% of all recorded issues about the ELS Registration Standard). We recorded 9 more issues in relation to the Nursing and Midwifery Board's ELS Registration Standard in 2023–24 than we did in 2022–23.

### **Responding to complaints about the ELS Registration Standard**

Our office has considered many of the issues raised by complainants this financial year in similar complaints previously considered by us. This means we have already provided multiple suggestions for improvement to Ahpra regarding the ELS Registration Standard and its application. We recently summarised our suggestions for improvement in our submission to a public consultation undertaken by Ahpra and the relevant Boards on a revised ELS Registration Standard. In developing this submission, we used insights gained from our monitoring of complaints data to highlight perceived inadequacies and unfairness in processes and decision making regarding the ELS Registration Standard.

In 2023–24, for example, we saw complainants continue to share with us that they believe it is unfair that after completing an approved program of study in Australia, they have to show that they meet the ELS Registration Standard through passing an approved test or showing evidence of more education in an approved English-speaking context. Eighty-five per cent of complaints this financial year were made by people who reported that they had obtained their qualifications in Australia but could not rely on their successful attainment of that qualification to show English language proficiency. Our submission outlined concerns that if the Boards believe practitioners are obtaining approved qualifications without the necessary English language skills, the Boards have a broader responsibility to review whether approved programs of study are sufficiently assessing students.

As one complainant succinctly put it, 'does this mean that [Ahpra's] not trusting the education provider to determine that graduates have acceptable levels of English language competency?'

Complainants also argued that more of their vocational and higher education should be recognised by Ahpra and the Boards when assessing whether they meet the requirements of the ELS Registration Standard. Complainants have repeatedly expressed concerns that their higher or vocational education in English is not taken into account, most often because the education was not full-time or it was undertaken too long ago. Our submission stated that it is unfair that the ELS Registration Standard assumes that completing higher or vocational education does not indicate greater competency in English when compared with completing primary or secondary school in English in Australia. We suggested that further review and consideration of the ELS Registration Standard pathway criteria is necessary.

Ahpra and the relevant Boards have not yet published their response, or a revised ELS Registration Standard, following the public consultation process. We will continue to engage with Ahpra on these issues, including when the revised standard is published.

## Case study

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Francis made a complaint to our office about Ahpra's assessment of his registration application. Ahpra assessed that he needed to sit an English language test to meet the requirements of the English language skills registration standard.

Francis told us his secondary and tertiary education was taught and assessed solely in English. However, he did not meet the 'combined secondary and tertiary education pathway' under the registration standard because his secondary education took place in a non-recognised country.

Francis completed more than 7 years of full-time vocational and tertiary education in Australia. However, he took a 6-month break from education due to personal hardship. This meant he did not meet the 'extended education pathway' under the registration standard because his studies were not continuous.

Francis disagreed with Ahpra's assessment and complained to our office.

### **Complaint outcome**

Our office reviewed the information Francis provided to us. We found that Ahpra had assessed his application in line with the registration standard and it had communicated its assessment in a timely and detailed manner.

We explained to Francis that Ahpra had applied the registration standard correctly. While we understood his disappointment, Ahpra's advice that he must undertake an English language test was in line with the registration standard.

Francis told us that though he now understood that the registration standard was applied correctly, he felt it was unfair and unreasonable. He said he felt disheartened about how the registration standard defines 'recognised countries' and 'full-time equivalent continuous education' without scope for considering an individual applicant's circumstances.

We shared with Francis that our office continues to provide feedback to Ahpra about how the registration standard is operating, including through our submission to Ahpra and some of the Boards' consultation on a revised registration standard. Francis said that he now better understood the registration standard, despite his disagreements with it.



# Case study

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Sadia made a complaint to our office that the English language skills registration standard is unfair and discriminatory. Sadia said she had contacted Ahpra's customer service team and had been advised to complete a self-assessment of whether she met the registration standard.

Sadia believed she would need to sit an English language test to show she met the registration standard.

Sadia said that she had completed her primary education in Australia before moving to the United Kingdom to complete some of her secondary education. Following that, she said she moved to a different campus of the same international school in Qatar. She said that she had completed the International Baccalaureate program there, which was delivered in English. Sadia then returned to Australia and completed 2 years of tertiary education. She completed an approved program of study in Australia, gaining a qualification for registration in her profession.

Sadia complained that it was unreasonable for people like herself, who had completed their education entirely in English, to be required to sit an English language test to meet the registration standard.

While Sadia's complaint was open with our office, Ahpra advised Sadia that her application for registration was approved. She was advised that she met the registration standard because she had completed some of her secondary education in the UK, which is a 'recognised country' for the registration standard's purposes.

Although Sadia had been granted registration, she emphasised that she had attended different campuses of the same international school in Qatar and the UK, but her education in Qatar was not recognised. She therefore continued to be concerned that the registration standard is unfair and discriminatory.

## Complaint outcome

Our office explained to Sadia that her concerns raised similar issues that previous complainants had also raised with our office, including that the recognised country list preferences some countries above others. We shared information with Sadia about our ongoing work to ensure the registration standard is fair, including our submissions to Ahpra and the Boards as part of the review of the registration standard. In our submissions, we have suggested that the criteria used to decide the list of 'recognised countries' should be reviewed and consideration given to creating an alternative 'recognised institutions/courses' list.

Sadia was satisfied that the concerns she had raised were being taken seriously by our office and with the explanation provided about the application of the registration standard in her case.

# Accreditation-related complaints

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

From January 2023, our office began assisting with complaints about accreditation functions in the National Scheme that are undertaken by accreditation authorities. Broadly speaking, this relates to 2 areas: the accreditation of programs of study leading to eligibility for registration in Australia and the assessment of overseas-qualified practitioners seeking registration in Australia.

We can also assist with complaints about specialist medical colleges' training programs and assessments of specialist international medical graduates.

The AMC accredits 16 colleges and their specialist training programs. 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.

We received 79 accreditation-related complaints this financial year, including 41 complaints about accreditation authorities and 38 complaints about specialist medical colleges.

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 (Appendix 2, Figure 5). Note that we have not sought to compare this year's complaints data with last financial year because 2023–24 is the first full financial year that we have had the power to accept all accreditation-related complaints.

## Program accreditation complaints

All Boards have appointed an accreditation authority to undertake accreditation functions related to programs of study. Program accreditation processes centre on assessing whether a program of study (such as a university course or training program) should be accredited because it meets the relevant accreditation standards. Programs of study that the accreditation authority believes should be accredited are recommended to the relevant Board for approval. Once a program of study is approved, students or trainees who complete it are recognised as having a qualification that makes them eligible for registration in Australia.

We can assist with complaints about program accreditation processes undertaken by accreditation authorities, Ahpra and the Boards. This includes complaints about:

- the development and approval of accreditation standards
- assessments of education providers and their program of study against the accreditation standards
- how an accreditation authority has monitored whether an approved program of study continues to meet the accreditation standards
- decisions an accreditation authority has made to place conditions on an approved program of study because it is no longer meeting the accreditation standards, or decisions to remove accreditation
- how an accreditation authority managed a complaint or application for a review of its decisions.

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## Complaints about colleges' training programs

Specialist medical colleges play a unique role in the National Scheme because they provide the only approved programs of study for each medical specialty (called 'training programs'). Colleges' training programs are competitive, and college trainees generally also play an important role in delivering health services when completing the training program.

We can help with complaints about the delivery of colleges' training programs. This includes complaints about:

- entry to and withdrawal from the training program
- processes and decisions related to the accreditation of a training site (where the training program is delivered)
- how a college managed a complaint or application for a review of its training program decisions, including complaints from trainees and training sites.

## Assessment of overseas-qualified practitioners

The process for assessing overseas-qualified practitioners to determine if they hold the required skills and competencies to practise in Australia varies by profession. Nine Boards have appointed an accreditation authority to undertake accreditation functions related to assessing overseas-qualified practitioners (Appendix 1). In some professions, however, the Board (often with Ahpra's assistance) manages the end-to-end assessment of overseas-qualified practitioners without an accreditation authority's involvement.<sup>30</sup>

The Medical Board has appointed colleges to undertake assessments of specialist international medical graduates for each specialty. Colleges are not, however, accreditation authorities. Currently, colleges' assessments of specialist international medical graduates are based on their 'comparability' to an Australian trained specialist. Colleges' processes involve an 'interim' assessment to determine whether an applicant is not comparable, partially comparable or substantially comparable to an Australian trained specialist. If applicants are assessed to be partially or substantially comparable, they have to undertake extra requirements, including differing periods of supervised practice, before the relevant college makes its final assessment decision. This can mean that specialist international medical graduates undertake components of the college's training program, and applicants generally undertake their supervised practice at an accredited training site.

This financial year was characterised by a greater focus from government, regulators, employers and health service providers on the need to address current health workforce shortages in Australia. This resulted in extra scrutiny and pressure to improve existing processes to enable overseas-qualified practitioners to become registered to practise in Australia. For example, in December 2023, Health Ministers endorsed the recommendations made by Robyn Kruk OA in her independent review of health practitioner regulatory settings. This included 28 recommendations across 5 broad reform areas:

- improving the applicant experience
- expanding fast-track registration pathways
- improving workforce data and planning
- increasing flexibility while ensuring safety and quality of care
- enhancing regulator performance and stewardship.

<sup>30</sup> Note that complaints about these processes would more likely be recorded as registration-related complaints by our office unless the Board has appointed an accreditation authority to undertake an assessment or examination of the overseas-qualified practitioner.

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In response to the review's recommendations, several initiatives have aimed to implement the recommendations. For example, the Medical Board has set up a working group to support its efforts to create an expedited pathway to registration for some medical specialties. General practitioners, anaesthetists, obstetricians/gynaecologists and psychiatrists have been identified as the priority specialties for this expedited pathway.

The Medical Board also began consulting on its draft revised registration standard for specialist registration. The Medical Board has proposed that the expedited specialist pathway will involve recognising qualifications that it has determined are substantially equivalent or based on similar competencies to an approved specialist qualification.<sup>31</sup> We will continue to engage with the Medical Board on these issues, including through making submissions to upcoming consultation processes on the expedited pathways.

## Complaints about accreditation authorities

We received 79 accreditation-related complaints this financial year, including 41 complaints about accreditation authorities. The 41 complaints were made by 36 people. Thirty-six complaints were made by overseas-qualified practitioners (32 people).

Complaints were received about 5 accreditation authorities. Most complaints were about the AMC (22 complaints). This was primarily due to changes made to an examination for internationally qualified medical graduates (refer to 'Responding to examination-related issues'). We also received complaints about the:

- Nursing and Midwifery Accreditation Committee (11)
- Australian Dental Council (5)
- Council on Chiropractic Education Australasia (2)
- Australian Nursing and Midwifery Accreditation Council (1).

The most common issues across complaints about accreditation authorities were an overseas-qualified practitioner's concern that:

- a decision about an examination was unfair or unreasonable (20 issues)
- the process for delivering an examination was unfair (14 issues)
- the reasons provided for an examination-related process/decision were not adequate (14 issues).

In general, complainants mostly raised concerns that a process was unfair (32 issues), a decision was unfair or unreasonable (25 issues) or the reasons for a decision were inadequate (18 issues).

<sup>31</sup> Under s 58(b) of the National Law.

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## How we resolved complaints about accreditation authorities

We finalised 61 accreditation-related complaints in 2023–24, including 36 complaints about accreditation authorities. We finalised 35 complaints about accreditation authorities at the assessment stage of our complaint handling process (one complaint was finalised following an early resolution transfer). We recorded 42 outcomes across these 36 complaints.

As discussed in more detail below, most complaints were finalised because we commenced an own motion investigation to consider similar issues raised by multiple complaints in more depth (20 complaints).

## Responding to examination-related issues

This financial year we received a cluster of 20 complaints about a change the AMC made to pass requirements for its clinical examination for international medical graduates. In summary, the AMC changed the pass requirement for the clinical exam from 10 out of 14 stations to 9 out of 14 stations for clinical exams conducted from 21 March 2024 onwards. The change was announced on the AMC's website on 25 April 2024.

Our office was contacted by 20 complainants (including 2 anonymous complainants) who had sat the clinical exam in February or March 2024 and had not achieved the pass requirement at that time (10 stations). Instead, these complainants had passed 9 stations. These complainants raised common concerns with our office, including concerns that:

- the change was announced on 25 April 2024, but was effective from 21 March 2024
- the change to the pass requirement unfairly impacted those who completed the exam and passed 9 stations before 21 March 2024
- the rationale for the change to the pass requirement, including the effective date, was not adequately explained

- they will have to wait several months to retake the exam due to the waitlist for available exam dates
- they had difficulty contacting the AMC to discuss the change because it was announced on a public holiday (one candidate said that the AMC's office was also closed the following day)
- they had difficulty identifying how to make a complaint to the AMC via its website.

We commenced an own motion investigation to consider the issues raised by these complainants in more depth. The investigation is currently ongoing.

## Complaints about specialist medical colleges

We received 38 complaints about specialist medical colleges this financial year, which were made by 27 people. These complaints were made about 8 of the 16 colleges. Most complaints related to the Royal Australasian College of Surgeons (12 complaints).

We also received complaints about the:

- Royal Australian and New Zealand College of Psychiatrists (9)
- Royal Australian and New Zealand College of Radiologists (4)
- Royal Australian College of General Practitioners (4)
- Royal Australasian College of Physicians (4)
- College of Intensive Care Medicine of Australia and New Zealand (3)
- Australian College of Rural and Remote Medicine (1)
- Australian and New Zealand College of Anaesthetists (1).

Of the 38 complaints we received, 21 were made by overseas-qualified practitioners (13 people). Sixty-seven issues were raised across the 21 complaints made by overseas-qualified practitioners. Most of these issues concerned a college's review, reconsideration or appeal process (16 issues).

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This included, for example, concerns about delays in the process (3) or a failure to follow the relevant policy (3).<sup>32</sup> The second most common issue raised with us was about the assessment of an international qualification (15 issues).

Fourteen of the 38 complaints received about colleges were made by specialist medical trainees (12 people, including one anonymous complainant).<sup>33</sup> Fifty-seven issues were raised across the 14 complaints made by trainees, most of which were about a college's reconsideration, review and appeal process (10 issues). The other most common issue raised with us related to concerns about entry to a specialist medical training program (10 issues).

Across both groups of complaints, complainants generally raised concerns that a:

- process was unfair (13 issues raised by trainees; 11 issues raised by overseas-qualified practitioners)
- decision was unfair or unreasonable (22 issues raised by overseas-qualified practitioners; 9 issues raised by trainees).

## How we resolved complaints about colleges

We finalised 25 complaints about the colleges in 2023–24. Thirteen of these complaints were made by overseas-qualified practitioners and 9 related to complaints by trainees.

Most complaints were finalised at the assessment stage of our complaint handling process (20) or after we made preliminary inquiries with the college being complained about (4). We finalised one complaint following an early resolution transfer.

We recorded 15 outcomes across the 13 complaints that we finalised in relation to overseas-qualified practitioners. Some of the reasons for finalising complaints included because the complaint was still active with the college (3 outcomes) or the complainant had not yet made a complaint to the college (2 outcomes).

We recorded 10 outcomes across the 9 complaints that we finalised from trainees. The most common outcome was our office finalising the matter at the assessment stage of our complaint handling process because the matter was still active with the college (2 outcomes). We generally prefer to provide the organisation being complained about with an opportunity to resolve a complaint before we consider becoming involved.

<sup>32</sup> Note that when a practitioner wants the outcome of their assessment decision changed, it is often more appropriate for them to first seek a merits review of the decision by the college. This means that some complainants may contact us after engaging with a college's merits review process.

<sup>33</sup> Note that sometimes we receive complaints on behalf of a group of people.



# Customer experience complaints

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Customer experience complaints relate to concerns about the service a complainant received or how the organisation they complained to handled their complaint. We received 22 complaints this financial year where the primary concern was customer experience, down from 29 complaints in 2022–23.

We recorded 528 customer experience issues across all complaints to the Ombudsman in 2023–24 (up from 308 in 2022–23). This means that customer experience issues were often a secondary issue raised by a complainant. Through reporting on customer experience issues across all complaints we receive, we can more accurately and effectively identify opportunities for service delivery improvement.

We record information about customer experience complaints based on the type of complaint the experience relates to, the issue identified and the complaint issues raised about that type of experience (Appendix 2, Figure 6).

## Customer service issues

We recorded 376 issues about customer service (up from 243 issues in 2022–23). Customer service issues continued to be more common in relation to notification-related complaints (262 issues) than registration-related complaints (74 issues) or other complaint types (40 issues).

Customer service-related concerns were generally about communication (320 issues). The most common communication-related issues were that the organisation failed to provide an update(s) (80 issues, up from 56 issues in 2022–23) or respond to the complainant when they tried to make contact (74 issues, up from 73 in 2022–23).

## Issues about complaint handling

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

We identified 152 issues about complaint handling across all complaints to the Ombudsman, up from 65 issues in 2022–23.

Concerns were generally about:

- the organisation’s complaint response (110 issues, up from 46 issues in 2022–23) – these concerns mostly related to an inadequate (53) or delayed response (31), or a failure to provide a response (26)
- the organisation’s complaint handling process (35 issues, up from 16 issues in 2022–23) – these concerns mostly cover a failure to follow a policy (9), inadequate recordkeeping (9) and a failure to escalate the complaint internally (5).

## Other complaint types

We received 12 complaints about the handling of FOI matters this financial year, up from 4 complaints 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.<sup>34</sup> We can assist with 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. While we saw an increase in complaints about Ahpra’s FOI process this financial year, the number of complaints is similar to that received in 2021–22 (10 complaints).

Our office can also assist with complaints about how Ahpra or the Boards handled a statutory offence matter. This financial year we received 10 complaints related to a statutory offence matter, up from 4 complaints in 2022–23.

<sup>34</sup> The FOI Act does not apply to external accreditation authorities and specialist medical colleges.



## Case study

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Darcy contacted our office to make a complaint about Ahpra's handling of their FOI request. Darcy was seeking access to documents in relation to a notification they made about a practitioner.

After reviewing Darcy's request, Ahpra determined it did not meet the requirements of a valid request under the FOI Act. Ahpra contacted Darcy to assist them to revise their request to allow Ahpra to respond to it.

Darcy contacted our office because they had sent several emails to Ahpra about their request that were not acknowledged or responded to. This included an email accepting Ahpra's proposed revisions so Darcy could submit a valid request for access to documents.

Darcy provided consent for our office to transfer his complaint to Ahpra's complaints team for a response in line with our early resolution transfer process.

Ahpra's complaint response explained that Ahpra had undertaken a comprehensive search of its email systems and could not find Darcy's emails. Ahpra, however, apologised that Darcy's emails were not responded to and explained that a member of its FOI team would be in contact with Darcy to discuss his FOI request.



Ahpra apologised to Darcy that his earlier emails had not been received and that their request had been withdrawn as a result. Ahpra said it would open a new request and work to progress the matter urgently.

We acknowledged Darcy's frustration at having to start the FOI process again. However, we recognised that Ahpra had responded to the issues raised and taken appropriate action to remedy Darcy's concerns.

Ahpra's subsequent review of its server records confirmed that Ahpra did not receive Darcy's emails.

# Privacy

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Our office plays an important role in protecting privacy rights in the National Scheme. One of the main ways we do this is by assisting with privacy complaints about Ahpra, the Boards, accreditation authorities and colleges.<sup>35</sup>

The *Privacy Act 1988* (Cth) sets out how privacy is protected in Australia and how organisations like those in the National Scheme need to handle personal information. The Act has 13 Australian Privacy Principles (APPs) that outline:

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

We can assist with complaints if someone believes their personal information has not been handled as it should have been.

## Privacy complaints to the Commissioner

This financial year we received 12 privacy complaints to the Commissioner. Most of these complaints were about Ahpra, except for one complaint about the Royal Australasian College of Surgeons. The 12 complaints were made by 10 people. This is a small increase from the number of complaints we received in 2022–23 (9).

Most privacy complaints in 2023–24 related to the medical profession (7). We also received 2 complaints each about the osteopathy and psychology professions. This is mostly consistent with the previous financial year, when most complaints were related to the medical profession (4).

We recorded 21 issues across the 12 privacy complaints received in 2023–24. Privacy complaints to the Commissioner are generally recorded based on the APPs.

The most common issues this financial year related to:

- APP 6 – inappropriate use or disclosure of personal information (8)
- APP 5 – notice about the collection of personal information (4)
- APP 11 – security of personal information (3).

Concerns about the inappropriate use or disclosure of personal information (APP 6) were also the most common issue we recorded in 2022–23. APP 6 outlines when an APP entity may use or disclose personal information. Most of the complaints we received in relation to APP 6 involved concerns about an entity inappropriately using or disclosing information about a practitioner (4), a notifier (3) or another party (1).

Interestingly, while the numbers are small, this financial year we recorded more issues related to notices about the collection of personal information (APP 5) (4 issues, up from 1 issue in 2022–23). This increase was mainly driven by concerns that the relevant organisation had not notified a person about the purpose for collecting their personal information. This was not an issue raised with us in 2022–23.

We recorded 2 issues about APP 2 (the right to deal anonymously or using a pseudonym), another issue that had not been raised with our office in 2022–23. We also recorded 2 issues about APP 12 (access to personal information), one issue about APP 3 (collection of solicited personal information) and one customer service-related issue.

This financial year our office made more preliminary inquiries into privacy complaints (5) than in the previous year (3). We transferred one complaint to Ahpra for a response using our early resolution transfer arrangements. We also commenced 2 investigations into privacy complaints, up from zero in the previous year.

<sup>35</sup> Refer to Appendix 1 for more information about the functions accreditation authorities and colleges undertake that we oversee.

## Case study

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Jorge, a practitioner, contacted our office about Ahpra's investigation of a notification about him. Jorge said that Ahpra had emailed his workplace's general email address seeking clinical records related to its investigation.

Jorge told us he believed that Ahpra had breached his privacy by sending the information request to his workplace in this manner because all his colleagues could access that email account.

### **What we found**

The information request that Ahpra sent to Jorge's workplace did not explicitly identify him as the practitioner under investigation. However, we found that Jorge was still reasonably identifiable from the information included in the email sent to his workplace.

We found that Ahpra had not breached Jorge's privacy. This is because Ahpra is authorised to make information requests while investigating a notification. However, we found there were reasonable steps Ahpra could have taken to reduce the risk of unnecessarily disclosing Jorge's personal information when gathering information during its investigation.



### **Complaint outcome**

Although we found Ahpra had not breached Jorge's privacy, his complaint helped our office identify improvements to Ahpra's processes. We provided feedback to Ahpra that it should send information requests to specific people, rather than shared email addresses. We also provided feedback about improving its guidelines to ensure staff actively seek to protect each person's privacy.

Ahpra agreed with our office's feedback and informed us it had begun reviewing its work instructions for staff.

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## Outcomes of privacy complaints

Our office finalised 14 privacy complaints this financial year, an increase of 8 from the previous financial year. These complaints were most often finalised through informal mechanisms. We finalised:

- 7 complaints following an assessment, up from 3 in the previous year
- 4 complaints after we made preliminary inquiries, up from 2 in the previous year
- 1 complaint as a result of a conciliation
- 1 complaint following an early resolution transfer
- 1 complaint following an investigation.

The most common outcome of privacy complaints was that we decided an investigation was not warranted in the circumstances (8 outcomes). This included, for example, because we were satisfied that the entity had taken appropriate steps to address the cause and effects of a breach or we were satisfied that the entity had the authority to undertake an activity (although the complainant believed they did not). We declined to investigate 4 complaints because the issues raised did not relate to an interference with privacy, up from one complaint in the previous year. We also declined to investigate a complaint because the complainant became aware of a matter more than 12 months ago (1 outcome).

Our investigation into one privacy complaint resulted in a further explanation being provided to the complainant and an agreement with the organisation being complained about to change its policy and procedure.

## Notifiable Data Breaches Scheme

Ahpra, the Boards, accreditation authorities and colleges 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' under the Notifiable Data Breaches Scheme.

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'.<sup>36</sup> At an individual level, the scheme ensures people are informed about a data breach that affects them so they can take action to reduce problems or harms from the breach. At the system level, the scheme helps to keep those holding personal information accountable for protecting privacy and encourages them to take breaches seriously. This in turn helps to build trust that the entities we oversee handle personal information appropriately.

This financial year we received 7 eligible data breach notifications from Ahpra. This is the same number of notifications we received in 2022–23.

### How we manage eligible data breaches

A data breach is when personal information that an entity holds is lost or subjected to unauthorised access or disclosure. For a data breach to be eligible and require notification to our office, it must be likely to result in serious harm to an individual and any remedial action taken has not been successful in preventing the likely risk of serious harm.

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

<sup>36</sup> 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)*.

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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.

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

- that appropriate action has been taken
- to offer guidance and assistance for 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.

## **Eligible data breach notifications in 2023–24**

All 7 eligible data breach notifications we received this financial year related to Ahpra's inadvertent disclosure of personal, sensitive or protected information. Most notifications we received were about the disclosure of the name of a person who wished to be confidential when making a notification about a practitioner (3 notifications). We also received notifications about Ahpra inappropriately:

- publishing personal information on the public register of health practitioners (2)
- disclosing a practitioner's regulatory history to a third party (1)
- releasing a third party's personal information to another party (1).

There were a variety of ways in which the data breaches occurred. Most of the eligible data breach notifications received this financial year related to Ahpra staff disclosing personal information via email (4). Two notifications related to Ahpra's publication of personal information on the public register of health practitioners, and one was about personal information being disclosed during a phone call with Ahpra staff. This contrasts with the previous financial year, where all but one of the eligible data breach notifications was about personal information being disclosed by email.

Our office was satisfied that Ahpra had taken appropriate action to address the data breaches in all the notifications received. In one case, the Commissioner made a declaration that Ahpra was exempt from notifying a person of a data breach under s 26WQ of the Privacy Act. The Commissioner is empowered to declare that an agency is exempt from notifying a person of an eligible data breach if satisfied that it is reasonable in the circumstances to do so. The Commissioner considers several factors when deciding whether a declaration is warranted, including whether the notification is in the public interest and any other relevant information about the nature of the breach, such as any potential impacts that notifying the affected parties of the breach may have.



# Case study

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Ahpra notified our office of a privacy breach that occurred due to human error. Ahpra explained that it had received a confidential notification about a practitioner. Ahpra advised that during a call to the practitioner's lawyer, a regulatory officer had disclosed the notifier's identity.

The privacy breach was not, however, identified at that time. Later, a different regulatory officer spoke with the notifier and the notifier confirmed that they did not want their identity disclosed to the practitioner. The notifier expressed significant concerns for their and their family's safety around the practitioner. The practitioner had previously also threatened Ahpra staff.

Ahpra was alerted to the privacy breach when the practitioner's lawyer provided written correspondence that identified the notifier (based on the phone call with the regulatory officer that had occurred more than 18 months before). Ahpra contacted the notifier, informed them of the privacy breach and apologised for the error. Ahpra assured the notifier that remedial action was being taken to significantly reduce the likelihood of a similar breach occurring in the future. The notifier was also provided with information about their right to make a complaint to our office.

Ahpra then undertook an internal review to ascertain what steps should be taken with respect to the safety of the notifier. Ahpra advised the notifier to contact the police if they became concerned for their safety.

Our office assessed the privacy 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 the affected parties in line with the Privacy Act.

We determined that Ahpra had also taken steps to reduce the likelihood of a similar data breach occurring in future. Ahpra provided specific counselling to the staff member responsible for the breach regarding Ahpra's processes around notifier confidentiality. Ahpra also informed our office that it was working with its learning and development team to update its online privacy training.

Our office acknowledged that since the time the privacy breach occurred, Ahpra had implemented a new policy that included extra mechanisms to remind staff to assess the confidentiality status of a notifier. This policy had also been more recently updated and more privacy training conducted.

We were generally satisfied with Ahpra's response to the eligible data breach. However, we noted that when the notifier initially expressed significant concerns for their and their family's safety, Ahpra did not appear to take any further action. We provided feedback to Ahpra about the importance of responding to a notifier's safety concerns at the time they are raised.

# Freedom of information

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Our office provides oversight of Ahpra’s application of the Freedom of Information Act 1982 (the FOI Act). One of the main ways we provide oversight is by considering applications to review a decision made by Ahpra under the FOI Act.<sup>37</sup>

This financial year we:



received  
**40 FOI review applications**



finalised  
**29 FOI review matters**



published  
**3 FOI review decisions**

Everyone has the right to request access to information held by Ahpra, its Management Committee and the Boards under the FOI Act.

The FOI Act aims 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.

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 (Appendix 2, Figure 7).

## 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. People generally apply to the Commissioner to review an FOI decision because they are unhappy that Ahpra has decided:

- not to give access to documents or information they requested, or
- 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. The review is assigned to one of our staff members to manage. Only the Commissioner can make the final decision after a review has been completed.

This financial year we received 40 applications to review a decision made by Ahpra, from 21 applicants. While we did see a significant increase in the number of applications we received compared with 2022–23 (an extra 18 applications), the same number of people made FOI review applications. In particular, we received a large number of applications from one applicant regarding their numerous FOI requests to Ahpra.

All applications we received were made by the person who made the original FOI request to Ahpra. Most of the applications concerned information requested in relation to a notification (21 applications). This included 15 applications made by a notifier and 5 applications from a practitioner who was the subject of the notification. We also received 19 applications that were not notification-related.

<sup>37</sup> The FOI Act does not currently apply to accreditation authorities or specialist medical colleges.



## 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 33 applications to review an access refusal decision and 4 applications to review an internal review access refusal decision. We generally receive more applications about access refusal decisions, which was again the case this financial year (Table 4).

## Types of information sought and relevant exemptions

We recorded 87 issues across the 40 FOI review applications we received. Applicants most frequently sought access to Ahpra's internal documents (18). These requests mostly related to Ahpra's internal documents about COVID-19 vaccinations. Applicants also sought access to Board papers (16) and correspondence between Ahpra and a practitioner (15).

Most reviews considered Ahpra's use of conditional exemptions related to operations of an agency (s 47E of the FOI Act) (28, down from 30 in 2022–23) and personal privacy (s 47F of the FOI Act) (19, down from 27 in 2022–23). These were also the most common exemptions we considered last financial year.

Table 4: Types of FOI decisions that were the subject of review applications in 2021–22, 2022–23 and 2023–24

Type of FOI review decision	Applications we received in		
	2021–22	2022–23	2023–24
Access refusal	7	12	33
Internal review access refusal	9	9	4
Access grant	1	0	3
Internal review access grant	0	0	0
Other	1	1	0

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Our office continued to see a more diverse range of issues raised in FOI review matters in 2023–24. For example, we received:

- 9 applications where Ahpra had decided that a document was missing or did not exist under s 24A of the FOI Act
- 5 applications where Ahpra decided the work involved in processing the request would substantially and unreasonably divert its resources from other operations under s 24AA(1)(a) of the FOI Act.

## Other FOI matters

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

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

As is often the case, we did not receive any of these matters in 2023–24.

## Outcome of FOI review matters

In 2023–24 we finalised 29 FOI review matters, including 16 in which we had formally commenced an FOI review. Three applications proceeded to a final determination by the Commissioner.

During 2023–24 we assessed 11 applications as not warranting a review. The most common reasons were that the application was misconceived or lacking in substance (3 applications, down from 6 in 2023–24) or the applicant had not already requested an internal review from Ahpra (3 applications, up from zero in 2022–23).

We also declined to commence a review in relation to 5 applications because:

- the application for review was not valid (2)
- the applicant failed to cooperate (2)
- we could not contact the person who had submitted the application (1).

During 2023–24, 2 applicants withdrew their FOI review applications before we began a review.

We discontinued 11 FOI review matters after commencing a review. We formed a preliminary view on 5 FOI matters, and 2 applicants decided to withdraw their application after receiving our preliminary view.

## Determinations made by the Commissioner

If a review is not finalised after we provide a 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 2023–24 the Commissioner made 3 FOI review decisions (the same as in 2022–23). In 'AK' and 'AL' and 'AM' the Commissioner affirmed Ahpra's FOI decisions.

In 'AL' the Commissioner considered Ahpra's use of the conditional exemptions related to legal professional privilege (s 42 of the FOI Act). This decision was a milestone for our office because it involved the Commissioner publishing a determination about the application of s 42, which is a provision the Commissioner had not previously considered.

The Commissioner's decision in 'AL' and other 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 financial statement

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.

The Department of Health 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 2023–24 is provided below and has been certified as true and correct by the Department of Health's deputy chief finance officer.

Retained earnings balance at 1 July 2023 <sup>38</sup>	\$456,000
2023–24 revenue (invoices raised to Ahpra)	\$3,035,000

## Expenditure for 2023–24

Salaries	\$2,012,305
Salary on-costs	\$309,694
Supplies and consumables	\$754,302
Indirect expenses (includes depreciation and long service leave)	\$12,066
<b>Total expenditure</b>	<b>\$3,088,367</b>
<b>Balance at 30 June 2024</b>	<b>\$402,633</b>

<sup>38</sup> At the end of each financial year, we retain any unspent funds to invest in longer term projects.

# Appendix 1: Accreditation bodies we oversee

There are complex arrangements regarding which accreditation entities undertake accreditation functions as outlined in the National Law.

## 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 5).

Table 5: 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"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas assessing authorities</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Dental	Australian Dental Council	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Medical	Australian Medical Council	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas assessing authorities</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Nursing and midwifery	Australian Nursing and Midwifery Accreditation Council	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Advising the Board on accreditation functions</li> </ul>

Profession	Accreditation authority	Functions exercised under the National Law
Occupational therapy	Occupational Therapy Council of Australia Ltd	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Optometry	Optometry Council of Australia and New Zealand	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Osteopathy	Australasian Osteopathic Accreditation Council	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas assessing authorities</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Pharmacy	Australian Pharmacy Council	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas assessing authorities</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Physiotherapy	Australian Physiotherapy Council	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Assessing overseas-qualified practitioners</li> <li>• Advising the Board on accreditation functions</li> </ul>
Psychology	Australian Psychology Accreditation Council	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Advising the Board on accreditation functions</li> </ul>

## 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 (Table 6).

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.

**Table 6: 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"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Advising the Board on accreditation functions</li> </ul>
Chinese medicine	Chinese Medicine Accreditation Committee	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Advising the Board on accreditation functions</li> </ul>
Medical radiation practice	Medical Radiation Practice Accreditation Committee	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Advising the Board on accreditation functions</li> </ul>
Nursing and midwifery	Nursing and Midwifery Accreditation Committee	<ul style="list-style-type: none"> <li>• Overseeing the assessment of overseas-qualified practitioners</li> </ul>
Paramedicine	Paramedicine Accreditation Committee	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Advising the Board on accreditation functions</li> </ul>
Podiatry	Podiatry Accreditation Committee	<ul style="list-style-type: none"> <li>• Developing accreditation standards</li> <li>• Assessing programs of study and education providers against the standards</li> <li>• Advising the Board on accreditation functions</li> </ul>



## Specialist medical colleges

The AMC accredits 16 colleges and their specialist training programs. 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.

### 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
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

Specialty recognised under the National Law	Accredited provider of specialist education
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 (for oral and maxillofacial surgery only)

### Specialist societies

In some cases, speciality societies accredit training sites and posts.

### 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	Vascular surgery	Royal Australasian College of Surgeons	Australian and New Zealand Society for Vascular Surgery

## Appendix 2: Our data

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### Definitions

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

**Complaint type** refers to the main regulatory area the complaint relates to. Complaint types for complaints to the Ombudsman include notification, registration, customer experience, accreditation, 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 2023 and 30 June 2024.

**Stage complaints were finalised in** refers to the last complaint process the complaint was progressing through when it was closed (assessment, preliminary inquiry, early resolution transfer or investigation) between 1 July 2023 and 30 June 2024.

**Complaints received** refers to complaints we received based on the complaints we recorded receiving between 1 July 2023 and 30 June 2024.

**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.

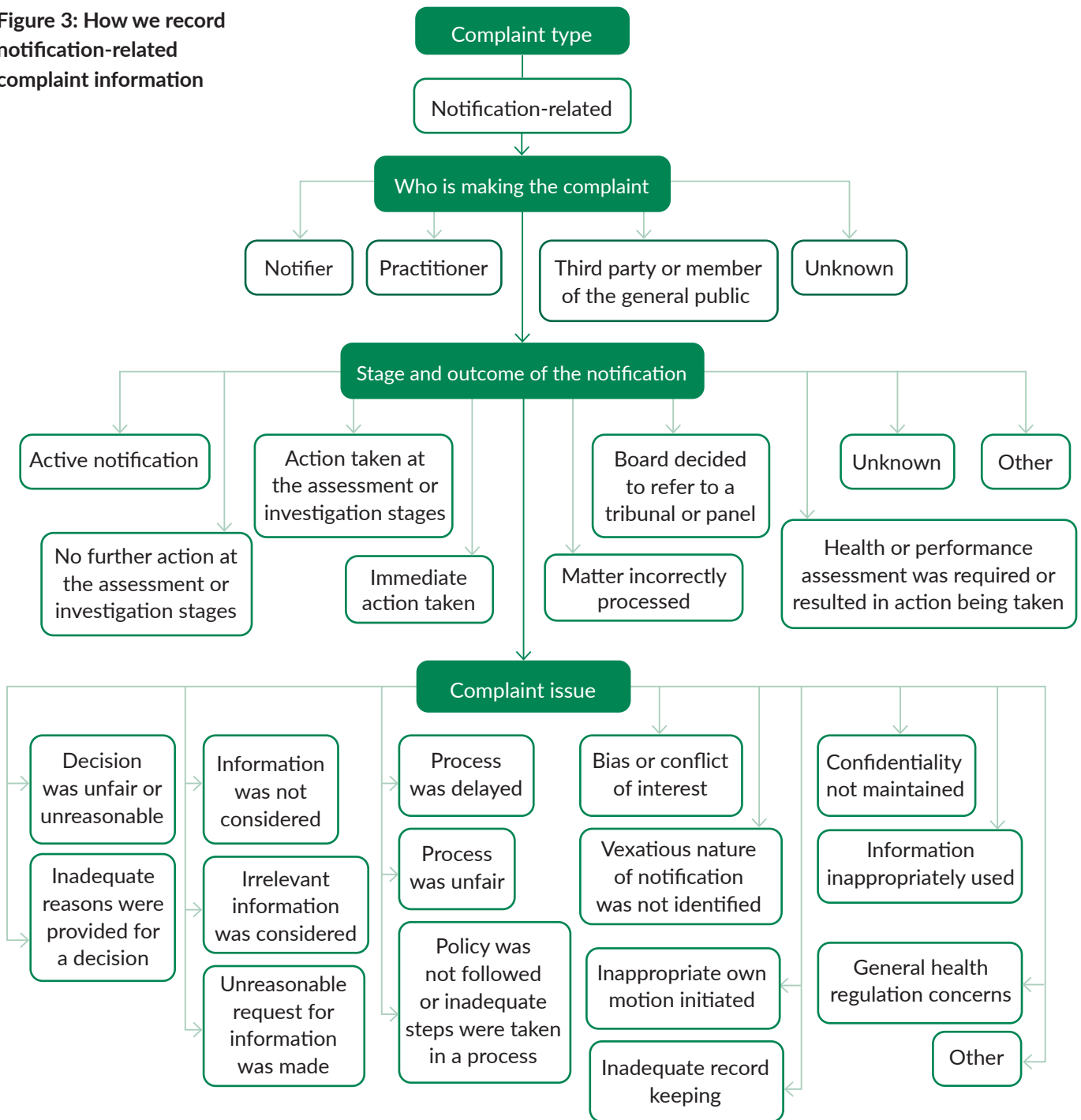
**Outcome type** refers to the stage in our complaint process in which the complaint is finalised. The outcome types for complaints to the Ombudsman are assessment, preliminary inquiry, early resolution transfer and investigation.

**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 the complaint process and complaint type. We can record up to 3 outcomes for each complaint.

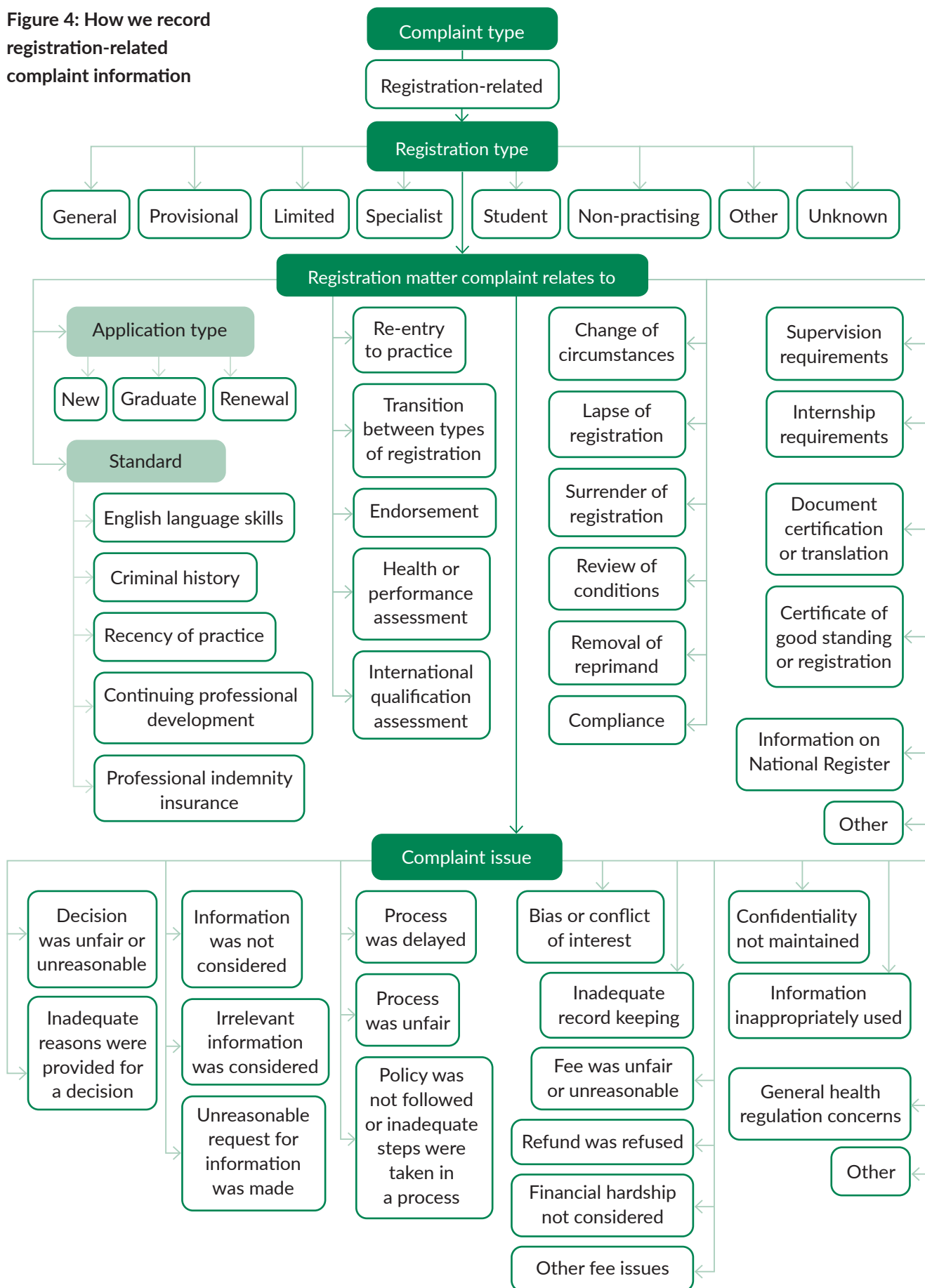
## How we record complaints

The below diagrams provide an overview of how we record notification (Figure 3), registration (Figure 4), accreditation (Figure 5) and customer experience (Figure 6) Ombudsman complaints and FOI matters (Figure 7).

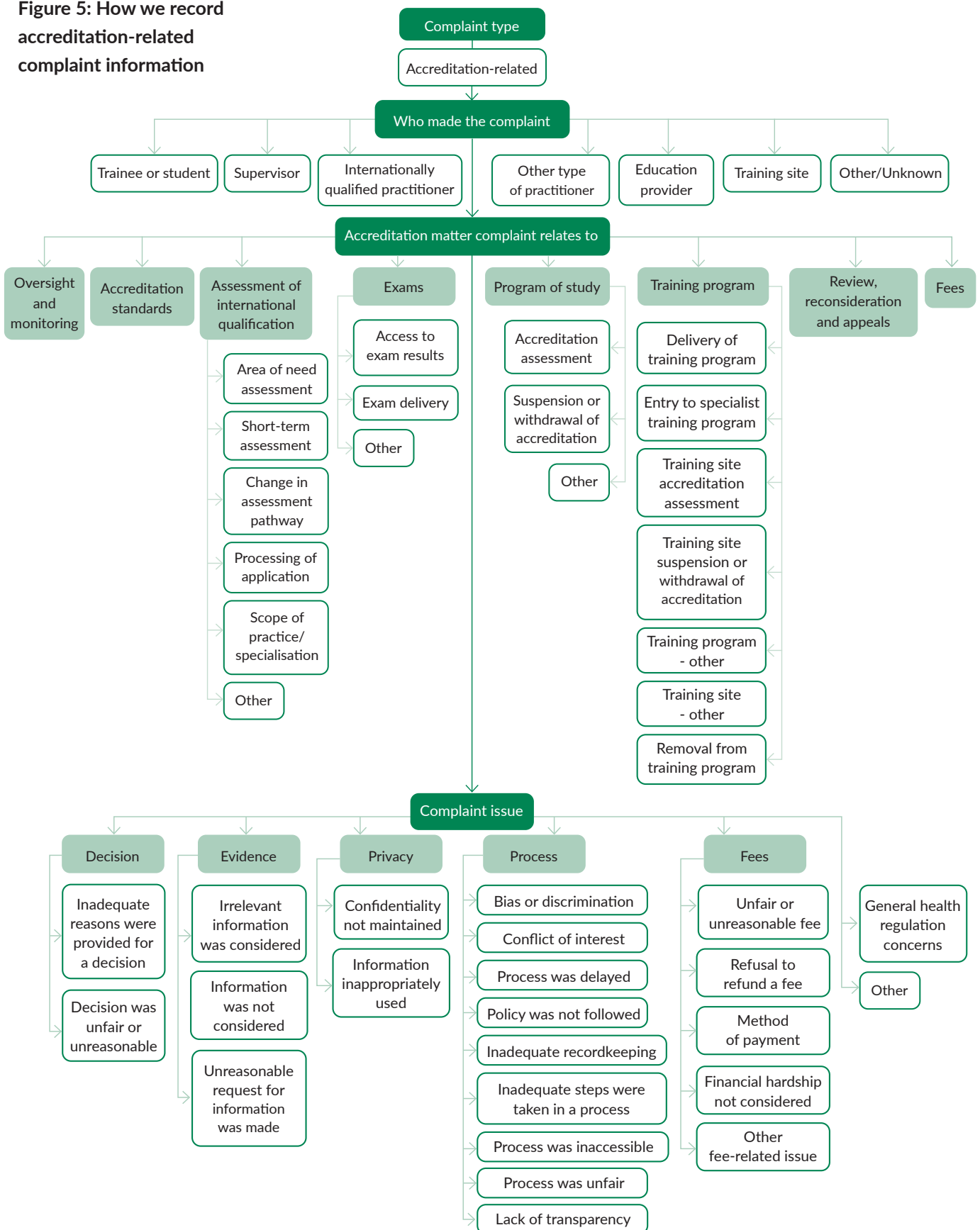
**Figure 3: How we record notification-related complaint information**



**Figure 4: How we record registration-related complaint information**



**Figure 5: How we record accreditation-related complaint information**



**Figure 6: How we record customer experience-related complaint information**

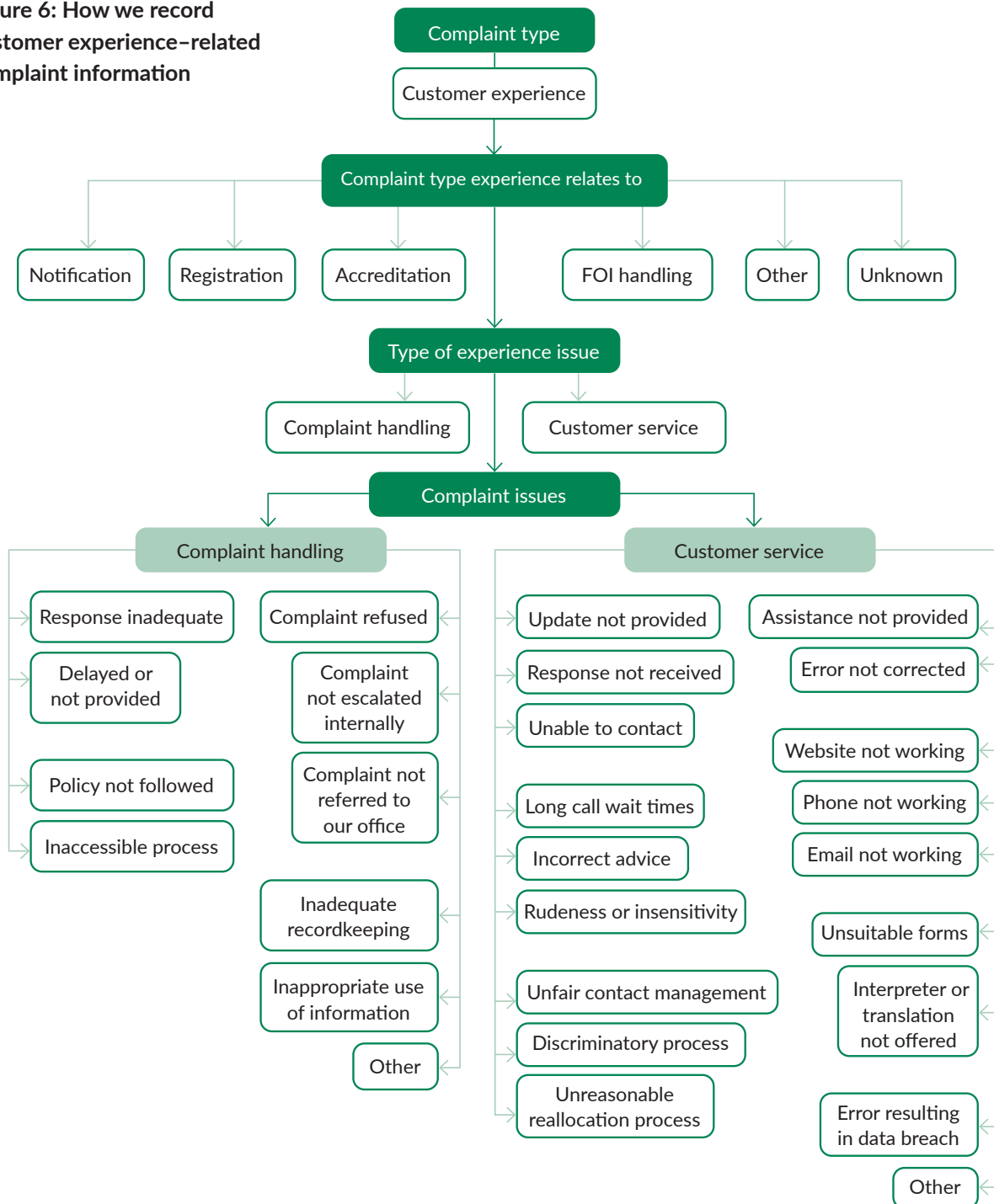
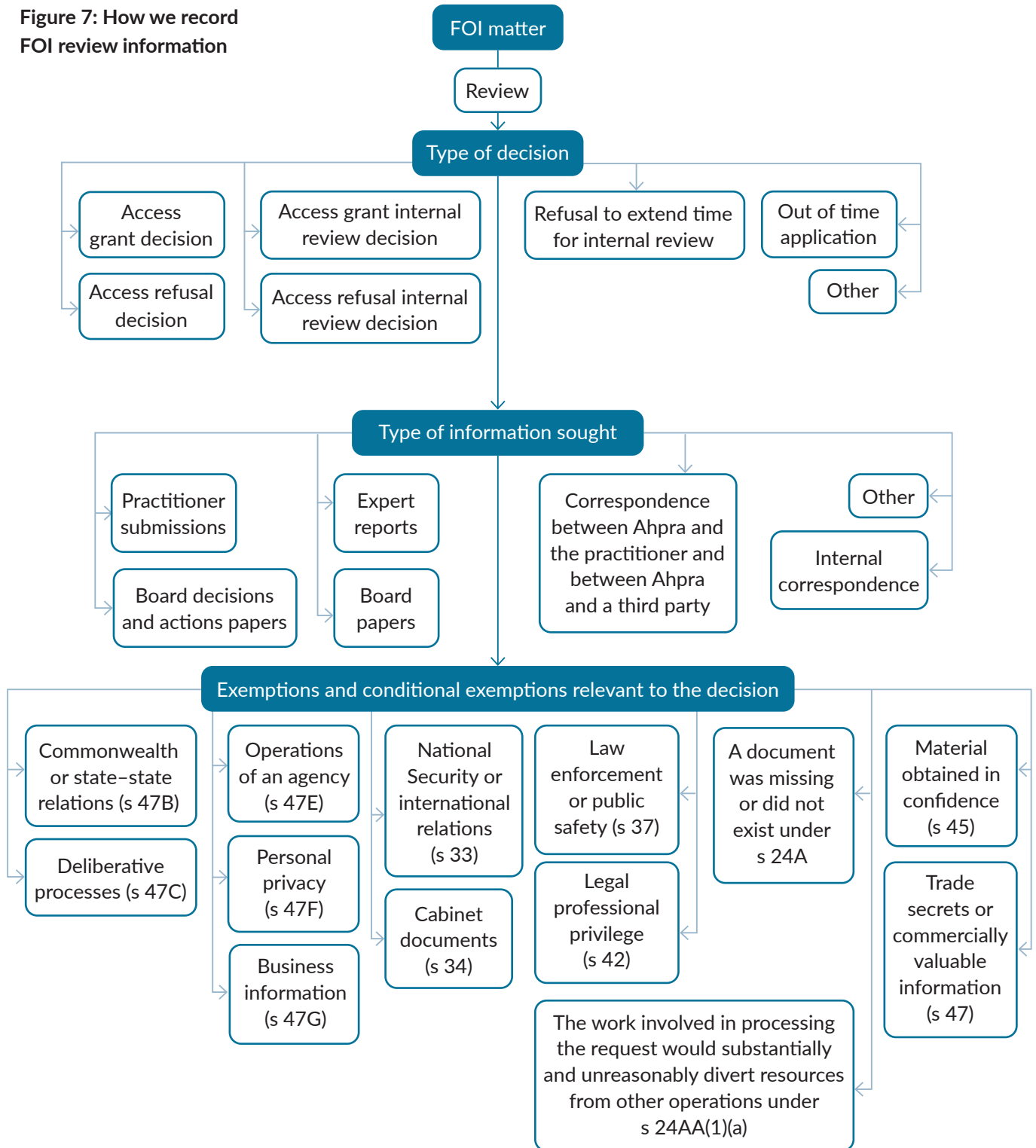




Figure 7: How we record FOI review information



## Appendix 3: Ombudsman complaint information

The following tables provide summaries of information about our notification, registration, accreditation and customer experience Ombudsman complaints data.

Table 7: Summary of complaints resolved without investigation, by outcome type and stage in our complaint handling process, 2023–24

Outcome type	Assessment	Early resolution transfer	Preliminary inquiry	Total outcomes without investigation
Investigation is not warranted in the circumstances	135	46	94	275
The organisation's response to the complaint is fair and reasonable	33	92	60	185
Complainant did not provide requested information to our office	111	15	-	126
Complaint is about the merits of an organisation's decision	34	15	29	78
Regulatory matter is still active with the organisation	48	12	6	66
We are monitoring the systemic issue	46	4	9	59
Feedback was provided by our office to the organisation	2	8	44	54
Complaint was resolved by mutual agreement between the organisation and the complainant and/or the complainant was satisfied with how their concerns had been addressed	25	14	2	41
Matter was withdrawn prior to investigation	30	4	4	38
We previously considered the same concerns	28	3	1	32
Complainant has not made a complaint directly to the organisation	29	1	-	30
Complainant has an active complaint with the organisation	28	-	1	29
Matter is more appropriately handled by a court or tribunal	16	7	1	24

Outcome type	Assessment	Early resolution transfer	Preliminary inquiry	Total outcomes without investigation
Complainant became aware of the matter more than 12 months ago	19	1	1	21
Complainant is not directly impacted by the complaint issue	19	-	2	21
Anonymous complainant cannot be contacted	17	-	-	17
Matter concerns a court or tribunal decision	10	4	-	14
Matter is currently before a court or tribunal	8	-	-	8
We could not investigate without compromising confidentiality	1	-	-	1
<b>Total</b>	<b>639</b>	<b>226</b>	<b>254</b>	<b>1,119</b>

Table 8: Summary of the stage and outcome of notifications that drove complaints to us, 2022–23 and 2023–24

Type of notifications action taken by Ahpra or a Board	Total number of notification issues	
	2022–23	2023–24
No further action taken at the assessment stage	211	395
Active notification	143	207
Immediate action taken	51	84
Action taken at the investigation stage	56	81
No further action taken at the investigation stage	63	65
Board decided to refer to a tribunal or panel	29	60
Matter not processed as a notification	25	43
No further action taken at an unknown stage	43	37
Action taken at the assessment stage	14	17
Health or performance assessment was required or resulted in action being taken	9	4
Unknown	31	32
Other	5	8
<b>Total</b>	<b>680</b>	<b>1,033</b>

Table 9: Summary of problems driving notification-related complaints, 2022–23 and 2023–24

Problems related to notifications (based on complainant's concerns)	Total number of notification issues	
	2022–23	2023–24
Decision was unfair or unreasonable	227	270
Process was unfair	88	131
Process was delayed	92	125
Information was not considered	84	106
Inadequate steps were taken in a process	33	93
Inadequate reasons were provided for a decision	45	77
Vexatious nature of a notification was not identified	44	73
Bias or a conflict of interest	15	51
Unreasonable request for information	5	21
Inadequate recordkeeping	7	19
Irrelevant information considered or requested	3	18
General health regulation concerns	13	14
Information inappropriately used	12	8
Policy not followed	3	8
Confidentiality not maintained	4	4
Inappropriate own motion initiated	1	3
Other	4	12
<b>Total</b>	<b>680</b>	<b>1,033</b>

Table 10: Types of registration applications driving complaints, 2023–24<sup>39</sup>

Registration type	Registration-related complaints in 2023–24	Applications received by Ahpra by registration type in 2023–24
General registration	92	74,904
Limited registration	9	3,964
Non-practising registration	1	8,410
Provisional registration	9	13,250
Specialist registration	9	4,854
Other/unknown	3	-
<b>Total</b>	<b>123</b>	<b>105,382</b>

Table 11: Action or problem driving registration complaints, 2022–23 and 2023–24

Action or problem (as described by the complainant)	Registration-related complaint issues recorded in	
	2022–23	2023–24
Unfair process	57	83
Unfair or unreasonable decision	58	68
Delayed process	55	34
Information not considered	3	14
Unfair or unreasonable fees	6	12
Unreasonable request for information	10	11
Bias or conflict of interest in the process	1	10
Inadequate reasons provided for a decision	1	10
General health regulation concerns	6	9
Refusal to refund fees	2	6
Inadequate steps being taken as part of the process	11	5
Other issues	18	17
<b>Total</b>	<b>228</b>	<b>279</b>

<sup>39</sup> Ahpra provided data for 'Applications received by Ahpra by registration type in 2023–24.'

Table 12: Issues related to registration processes, 2022–23 and 2023–24

Registration processes	Registration-related complaint issues recorded in	
	2022–23	2023–24
Application of an ELS Registration Standard	40	48
Processing of a new application for registration	37	45
Assessment of an international qualification	25	26
Compliance activity	8	24
Fees for registration	13	23
Processing of a renewal application	15	19
Transition between registration types	8	15
Supervision requirements	9	13
Review of conditions	13	11
Endorsement of registration	2	8
Lapse in registration	4	7
Application of the Recency of Practice Registration Standard	4	6
Health or performance assessment	2	5
Other issues	48	29
<b>Total</b>	<b>228</b>	<b>279</b>



