Health & Community Services Complaints Commissioner

South Australia

ANNUAL REPORT 2015-16

Health and Community Services Complaints Commissioner Annual Report 2015-16

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Letter of Transmittal

30 September 2016

Health & Community Services Complaints Commissioner

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The Honourable Jack Snelling MP
Minister for Health
Citi Centre Building
11 Hindmarsh Square
ADELAIDE SA 5000

Dear Minister

It is my duty and privilege to submit the annual report of the Health and Community Services Complaints Commissioner for the year ended 30 June 2016, in accordance with the requirements of Section 16 (1) of the *Health and Community Services Complaints Act 2004*.

This report provides a summary of the activities and achievements for the 2015-16 financial year.

Yours sincerely

Steve Tully
Health and Community Services Complaints Commissioner

About this Report

This report records the Health and Community Services Complaints Commissioner's (HCSCC) achievements in contributing to the improvement of the safety and quality of health and community services in South Australia during 2015-16. The report also includes information about HCSCCs statutory obligations and financial position for the year.

The report is a key accountability document and the principle way in which the Health and Community Services Complaints Commissioner reports on HCSCC activities to the Parliament and the South Australian community.

Case studies
The case studies have been included to demonstrate HCSCCs work. The details of some case studies have been changed and all case studies have been de-identified to protect the privacy of HCSCC complainants.

Making HCSCC accessible
HCSCC is committed to being accessible to South Australians who need assistance with communication and to people from culturally and linguistically diverse backgrounds. HCSCC utilises a variety of support services to enable effective communication with people including the HCSCC website which has enhanced accessibility features.

If you need assistance to access this annual report, please contact our Enquiry Service on 08 8226 8666 or toll free 1800 232 007 (from a Country SA landline) and HCSCC will arrange the appropriate assistance to share this report with you.

If you are deaf, have a hearing impairment or speech impairment, contact us through the National Relay Service:

- TTY users phone 133 677 then ask for 08 8226 8666
- Speak and Listen (speech-to-speech relay) users phone 1300 555 727 then ask for 08 8226 8666
- Internet relay users connect to the National Relay Service (http://www.relayservice.com.au/ for details) then ask for 08 8226 8666
- SMS relay for mobile phone users dial 0423 677 767

Feedback
HCSCC welcomes your feedback on this annual report. Please contact the HCSCC Enquiry Service on 08 8226 8666 or toll free 1800 232 007 (from a Country SA landline), fax 08 8226 8620, email info@hcscc.sa.gov.au or complete the online contact form at www.hcscc.sa.gov.au.

Contents

1 Commissioner's Overview

Major developments at national, state and local levels have accelerated this year and have had a major impact on health and community services in South Australia.

National Level

National Code of Conduct for Health Care Workers

I reported last year that South Australia already has a Code of Conduct for Unregistered Health Practitioners not registered by the Australian Health Practitioner Regulation Agency (AHPRA) and that some legislative change is required for that code to meet the national code imperatives. HCSCC has made a number of suggestions in relation to required amendments but as at the end of the financial year, legislation had not been introduced into the Parliament.
See pages 13-14 of this report for more details.

Independent Review of the Australian Health Practitioner Regulation Agency

The Australian Health Ministers' Advisory Council commissioned a review into AHPRA and the national law it administers and that report was made public on 7 August 2015.

HCSCC and AHPRA have reviewed all protocols, processes and correspondence at the state level to improve matters of timeliness and transparency. HCSCC has also worked at the national level with service improvements that need national changes. These actions have been, by and large, concluded, but will be subject to continuous monitoring.

National Disability Insurance Agency

South Australia signed a bilateral agreement with the Commonwealth to cover the transition period up to and including the full roll-out of the National Disability Insurance Scheme (NDIS) in 2018-19. From a safeguarding perspective, all existing mechanisms funded by the State of South Australia stay in place during the transition period whilst the ongoing safeguarding measures are considered and decided. The consideration will include a national disability complaint handling facility, formal reporting requirements of service providers for critical incidents, community visiting arrangements, advocacy models, workforce training and codes of conduct for disability employees and service providers.

HCSCC continues to raise the following issues:

a) The national scheme will not provide services to all people seeking them.
b) A disability service provider network will be required at state level.
c) The state will need to decide if it provides a complaints service to those involved.
d) A national code will be in place for unregistered health practitioners that is administered by the states and territories at full roll-out. How will that scheme relate to any national code for disability support workers?

e) What body or authority will be responsible for ensuring that services provided to NDIS participants that involve vital issues outside the scheme, such as education, transport, legal, health, etc, are constantly improving. In particular, will complaints concerning such matters be handled by the national complaints body?
f) What body or authority will be responsible for evaluating the success of improving participant quality of life and employment opportunities?
g) What body or authority will coordinate and analyse incident trends and data?

HCSCC will continue to contribute to the National Safeguarding Framework and believes that the language around quality of services and empowerment are diminishing and the focus is already reverting to service inputs. Further, HCSCC believes that consumers are not being fully involved in the development of safeguarding strategies.

State Level

Transforming Health

The Transforming Health program has accelerated during the year and continues to strive for efficiencies in the delivery of the state's three metropolitan local health networks in order to combat increasing pressures on the networks.

I repeat my comments from last year's report that HCSCC will continue to push for a balanced health system that has due regard to primary and preventative health. HCSCC has been pleased to see an increased involvement of health consumers, carers and health consumer organisations in the transformation of health processes; and as a consequence, is more confident that health consumers with multiple and complex health needs will be better catered for in a system that is moving towards specialisation.

Mental Health Act

A new South Australian Mental Health Act is expected to be passed early in the new financial year and this will provide the legislative foundation for improved services.

SA Mental Health Commission

The Mental Health Commission was established on 29 October 2015.
Dr Stephen Christley was appointed as Interim Commissioner between 14 November 2015 and 14 May 2016. An announcement about the appointment of the ongoing Commissioner, Mr Chris Burns, was made on 14 May 2016. HCSCC will work closely with the Commission to improve the safety and quality of mental health services.

Health Performance Council

I was appointed as a member of the Council on 27 August 2015. I was then appointed by the Governor of South Australia as Chairperson on 29 May 2016 for a term of three years.

The Council is auspiced under Part 3 of the *Health Care Act 2008* and its functions include providing advice to the Minister about:

- The operation of the health system;
- Health outcomes for South Australians and, as appropriate, for particular population groups;
- The effectiveness of methods used with the health system to engage communities and individuals in improving their health outcomes.

There are benefits in my combined roles which are consistent with each other and focus on consumer centred care.

The Health Performance Council produces a separate annual report that may be accessed at www.hpcsa.com.au.

Child Protection
The SA Child Protection Systems Royal Commission will report early in the next financial year and HCSCC has been pleased to assist with a range of materials including a number of complex case studies. HCSCC looks forward to the Royal Commission's final report.

Partnering with Consumers
HCSCC has continued to be heavily involved with public health initiatives aimed at increasing consumer involvement and thereby improving the safety and quality of services.

Local Level

Improving safety and quality is a prime function of HCSCC.
Complaints are a rich source of information; they provide practical examples of how consumers have been treated and how health or community service systems have performed. Complaints should always shine a light on where such systems can be improved.

HCSCC is always looking at ways and means through program development that are active in prevention of complaints. Such programs include the 2013-15 HCSCC Supported Decision Making project which was comprehensively and independently evaluated. A copy of the evaluation is available on the HCSCC website, www.hcscc.sa.gov.au.

This year the office has devoted resources toward the Less Silence More Safety project, which is described in detail in section 6 of this report.

Administrative Matters

Workforce
Over the past four years the office has reduced its administrative workforce from three to one and directed these savings toward programs such as the Less Silence More Safety project and funding expert opinions in order to best consider more complex complaints.

New complaints management system 'Resolve'
This customised database was developed on time and within budget. The system will allow for more efficient and accurate reporting as required.

Financial Outcomes
HCSCC finished the financial year on budget (however, in July, a SA Health adjustment resulted in an overspend).

Administrative Support
Administratively, the office is assisted by SA Health in terms of financial, budgetary, office leasing, information technology and human resources support. The assistance from those areas is, as ever, very much appreciated.

Support from the Crown Solicitor's Office
I also wish to recognise and thank officers from the Crown Solicitor's Office for their assistance and legal advice.

Stakeholder recognition
I again record my support to all consumers, consumer agencies and service providers that the office has had dealings with throughout the year.

Lastly I thank all the staff of the office for their continued efforts, often in challenging circumstances.

Steve Tully
Health and Community Services Complaints Commissioner

2 Functions of the HCSCC

Our Challenge
To optimise our efforts in responding to individual complaints and systemic issues across HCSCCs broad jurisdiction with particular effort to support and encourage those who would otherwise be unlikely to complain.

Our Vision
A complaint is an opportunity to:
- get information about what happened
- redress individual grievance and harm
- uphold the HCSCC Charter of Health and Community Services Rights
- ensure action to improve services and systems.

Our Values
HCSCC is guided by the following values:
- independence and impartiality
- integrity and professionalism
- accessibility
- a rights based and public interest focus to HCSCC work
- excellence in customer service
- responsiveness to criticism about HCSCC performance.

Our History
The office of the Health and Community Services Complaints Commissioner is an independent statutory office established by the *Health and Community Services Complaints Act 2004* (the Act). HCSCC opened on 4 October 2005.

HCSCC provides free information and assistance to resolve complaints and address systemic issues about public, private and non-government health and community services, including disability and child protection services. HCSCC encourages direct resolution with the service provider first. HCSCC may assist when direct resolution with the service provider would be unreasonable or has not succeeded.

Our Objectives
Section 3 of the Act requires HCSCC:
(a) to improve the quality and safety of health and community services in South Australia through the provision of a fair and independent means for the assessment, conciliation, investigation and resolution of complaints
(b) to provide effective alternative dispute resolution mechanisms for users and providers of health or community services to resolve complaints
(c) to promote the development and application of principles and practices of the highest standard in the handling of complaints concerning health or community services
(d) to provide a scheme which can be used to monitor trends in complaints concerning health or community services
(e) to identify, investigate and report on systemic issues concerning the delivery of health or community services.

HCSCC also

- promotes and upholds the statutory HCSCC Charter of Health and Community Services Rights
- conducts outreach with people who have special needs and their advocates
- provides training to improve the capacity to raise and resolve complaints locally
- promotes and upholds the statutory HCSCC Code of Conduct for Unregistered Health Practitioners.

HCSCC assistance to service providers

One of HCSCCs roles is to assist service users, complainants and service providers to improve the safety and quality of services provided and to improve management of complaints.

During the year, service providers and peak bodies contacted HCSCC seeking advice and assistance with issues about their own complaints management processes.

HCSCC seeks to provide sufficient information or appropriate referrals to assist the service provider to manage the situation. Sometimes HCSCC identifies that formal action needs to be taken and will either request the matter be formally referred to HCSCC or will take independent action on issues.

The following are examples of the types of assistance service providers sought from HCSCC during 2015-16:

- concerns about the actions or inaction of other health or community service providers
- inquiries about whether a provider can complain about services provided to a patient in the past by another provider
- advice on how to respond to complaints made about their services
- where and how their clients can access advocacy services
- how to identify, manage and resolve complaints about their members.

Community Engagement

The breadth and complexity of HCSCCs jurisdiction requires HCSCC to develop a broad range of networks and professional partnerships. The following information provides a brief summary of HCSCCs key initiatives for 2015-16.

External Relationships
HCSCC met regularly throughout the year with a number of key stakeholders, some of which include representatives from:

Carers SA	Council on the Ageing (COTA)
Department for Aboriginal Affairs and Reconciliation	South Australian Council of Social Service
Department for Education and Child Development (DECD)	Department for Communities and Social Inclusion (DCSI)
Families SA	Public Advocate
Interstate complaints entities	Aboriginal Health Council of SA
Members of Parliament	South Australian Parliament
Mental Health Coalition	Disability SA
SA Health	Ministers of relevant portfolios
Other South Australian statutory authorities	Health Consumers Alliance SA

Much of this work relates to the direct exchange of information, the progression of individual matters and/or to influence the development of strategic policy or service initiatives for the purpose of addressing identified systemic issues.

Examples of some of this work include:
- Community Visitor Scheme Advisory Committee with SA Health and DCSI
- SA Health Partnering with Consumers and the Community Advisory Group
- Health Performance Council (SA Health)
- Safeguarding and rights for people living with disabilities.

Submissions
- Child Protection Systems Royal Commission
- Royal Commission into Institutional Responses to Child Sexual Abuse
- Royal Australasian College of Surgeons Expert Advisory Group
- *SA Assisted Reproductive Treatment Act 1988* Review
- SA Health Resuscitation Planning Policy Framework
- Retirement Villages Bill 2016
- Department of Social Services review of the National Disability Advocacy Program (NDAP)

Promotional activities
HCSCC was promoted at diverse forums and events, for example:
- National Aborigines and Islanders Day Observance Committee (NAIDOC) 2015 event
- Onkaparinga Health Rights Forum
- Disability Expo
- Strong Aboriginal Children's Health Expo
- National Sorry Day
- Southern Reconciliation Week

HCSCC Presentations
During 2015-16, HCSCC staff provided a number of external presentations which included:

- Living Well Information Session, Adelaide Hills
- North Eastern Alliance for the Mentally Ill (NEAMI) Port Adelaide
- Commonwealth Department of Social Services, Aged Care and Compliance
- TAFE Certificate IV
- SA Health's Partnering with Consumers Advisory Group
- NEAMI Bowden
- AHPRA Nursing and Midwifery Board
- Northern Carers Network Dementia Support Group
- National Disability Insurance Agency

HCSCC Resources
During 2015-16, HCSCC distributed 7732 consumer brochures and 8827 'Know Your Rights – a guide to the HCSCC Charter of Health and Community Services Rights' brochures in response to requests from a wide variety of individuals and organisations. Demand for other HCSCC resources also included high levels of interest in the Speak Up brochures and posters and the new Less Silence More Safety brochure.

Website Information
The HCSCC website at www.hcscc.sa.gov.au :

- provides information on HCSCCs role
- allows complaints to be made online
- gives guidance on the complaint process
- explains how service providers can deal directly with complaints
- details the rights of health and community service consumers
- gives access to HCSCC brochures and more.

It is also where HCSCCs public statements, media releases and orders against unregistered health practitioners are published.

Training
HCSCC has a range of courses that can be tailored to meet an organisation's needs - the majority are free of charge. For more information please contact HCSCC.

2.1 Key Activities 2015-16

Our Achievements

- Responded to a total of 2186 complaint contacts
- Closed 77% of complaints within 21 days
- Had a presence in various community forums and expos
- Enhanced our workforce's skills with ongoing development and training.

Less Silence More Safety project commenced

In August 2016, the Less Silence More Safety project commenced; its goals are to promote vigilance about violence and abuse towards those living with disability and support and inform people and their carers. It will also work to raise awareness of this issue across the entire community.

Code of Conduct for Unregistered Health Practitioners

The Code of Conduct for Unregistered Health Practitioners (the Code) came into effect in March 2013 and provides HCSCC with powers to place conditions or prohibitions on unregistered health practitioners if there are concerns about serious public safety issues.

HCSCCs resources have been stretched to accommodate the increasing work of managing investigations under the Code. During 2015-16, HCSCC investigated 86 matters under the Code. Some of these came from individual complaints, others were 'own motion' investigations as a result of information provided from various sources.

Some investigations under the Code resulted in interim conditions or prohibition orders on individual unregistered health practitioners. The law does not allow HCSCC to make interim orders known to the public. HCSCC published three statements about investigations under the Code in 2015-16. More information on these matters may be found at: http://www.hcscc.sa.gov.au/orders-issued-code-conduct-unregistered-health-practitioners/.

As well as dealing with complaints and investigations under the Code, HCSCC has been involved in:

1 National Code of Conduct for health care workers

- In April 2015, the Council of Australian Governments (COAG) decided there should be a National Code across Australia. The National Code will be similar in content to the current South Australian Code and will cover all workers connected with health services who are not registered with AHPRA, including disability and personal care workers.
- Each state and territory is currently working on amending and/or creating laws and regulations to meet the directions of COAG. The new laws will allow for condition and/or prohibition orders issued in one state or territory, to be applicable across all of Australia.
- HCSCC has been informed that the SA National Code should be in operation by mid-2017.

- For more information, go to: http://www.coaghealthcouncil.gov.au/NationalCodeOfConductForHealthCareWorkers/ArtMID/529/ArticleID/40/A-National-Code-of-Conduct-for-health-care-workers

2 HCSCC Code Awareness project

HCSCC understands that organisational and individual workers' awareness of the Code needs to be improved. To address this, HCSCC engaged the services of Dr Iolanda Principe in January 2016 to assist with the following work:

- Identify relevant departments/organisations, professional association bodies, education providers and employers who have contact with students, volunteers and workers covered by the Code and develop a broad communication strategy to provide information about the Code and HCSCCs statutory role.
- Ensure prioritised departments/organisations, professional association bodies and employers:
    - Are aware of the Code and have polices and processes in place regarding the requirement to adhere to the Code and understand HCSCCs statutory function regarding the Code
    - Are aware of obligations and/or the public interest benefit to notify HCSCC of possible or known breaches of the Code.
- Develop protocols with relevant agencies to ensure they:
    - inform HCSCC of possible or known breaches of the Code
    - assist HCSCC with investigations into possible breaches of the Code
    - have mechanisms in place to act on HCSCC notification of an Order placing conditions or prohibition on a worker.

To achieve the above project HCSCC has worked with a broad range of government and non-government agencies as well as professional groups to draft information, protocols and audit tools about the Code.

The Code Awareness project has not progressed as planned due to the delay in the enactment of the SA National Code of Conduct for health care workers – see point 1 above for details.

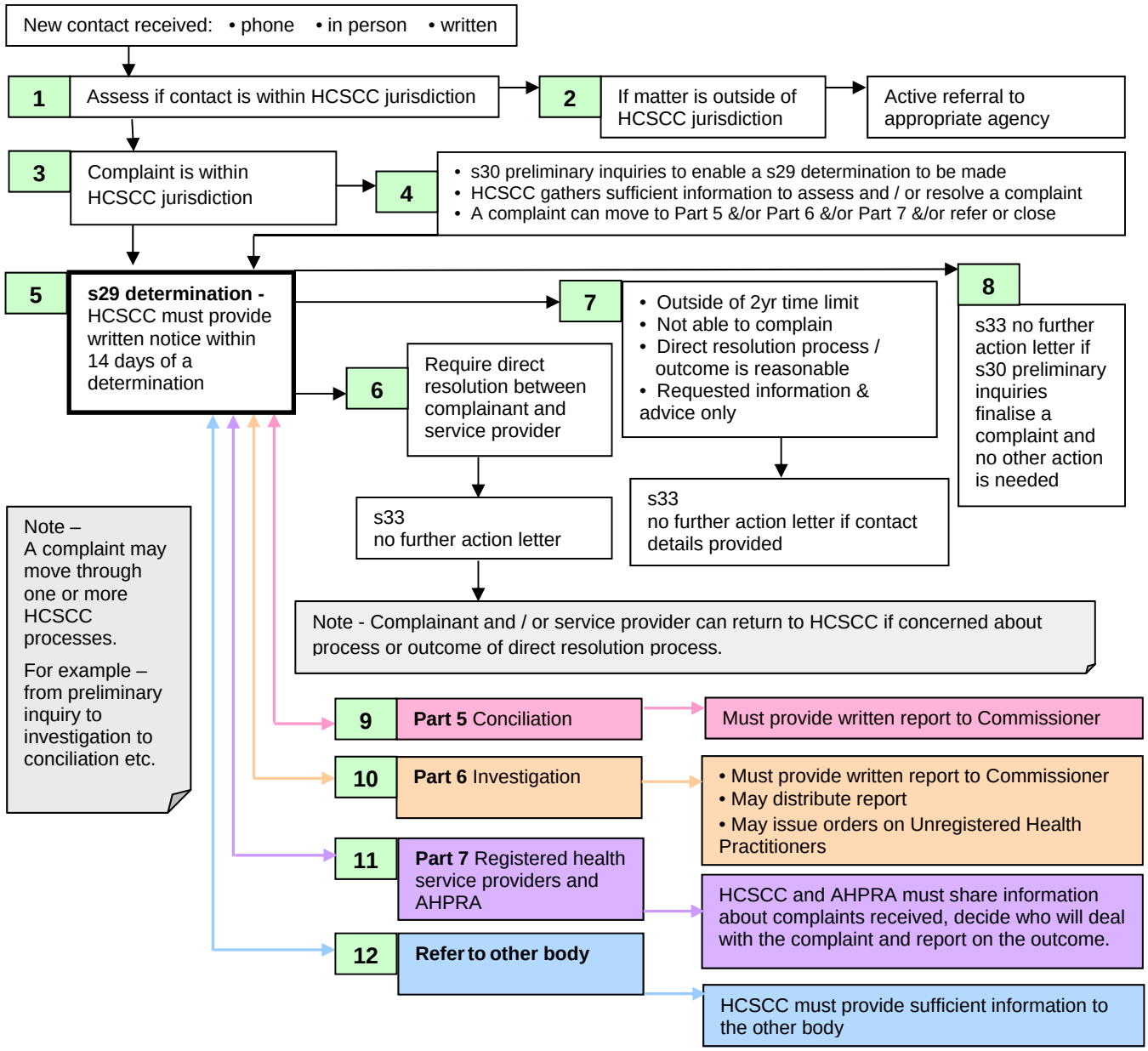
2.2 Future Directions

For the year 2016-17 HCSCC anticipates directing resources to the following:

- provide capacity for dealing with around 2000 complaints
- continue to work directly with people with disability and their carers on the Less Silence More Safety project
- implement the National Code of Conduct for Health Care Workers not registered by AHPRA
- continue to refine the use of experts in considering more complex complaints
- contribute to national efforts with regard to:
    - unregistered health practitioners
    - safeguarding for people living with a disability
    - the Australian Health Practitioner Regulation Agency (AHPRA)
- optimise benefits of working with the Health Performance Council
- contribute to improving safety and quality of public health services to people living with disability
- prepare for roll-out of the National Disability Insurance Scheme to broader groups in South Australia
- promote the HCSCC Charter of Health and Community Service Rights in South Australia to groups in the community, specifically Aboriginal and Torres Strait Islanders, people with disability and recently arrived migrants.

3 Complaint Resolution Service

Flowchart: HCSCC complaint resolution process



Note:
- **Split complaints** – HCSCC can split a complaint. For example, deal with one aspect in an investigation and refer another aspect to AHPRA.
- **AHPRA** – HCSCC has a legal relationship with AHPRA.
- **Review of HCSCC actions and decisions** – 1. Parties can request reviews by the Commissioner and / or the State Ombudsman. 2. Some Part 6 investigation reports can be reviewed by the District Court.
- **HCSCC recommendations and monitoring of safety and quality improvements** – HCSCC tracks progress and outcomes of recommendations and agreed improvement strategies.
- **Withdrawal of complaints** – HCSCC can decide to investigate a complaint in the public interest if a complaint is withdrawn. Written notice of withdrawal and decision to investigate is required.
- **Annual report** – the *Health and Community Services Complaints Act 2004* requires HCSCC to report on all HCSCC complaints activities.

Flowchart Explanatory Notes – HCSCC Complaint Resolution Process

1	Assess if the contact is within HCSCC jurisdiction (a) Is it about an SA health, community or child protection service? (b) Is the person entitled to complain? (c) Is the person complaining about a ground under the Act?
2	If the contact does not fall within the Act it is assessed as being 'outside jurisdiction'. (a) HCSCC will explain the reasons HCSCC cannot deal with their complaint and make every attempt to refer them to the appropriate place.
3	If the contact does fall within the Act then one or more of the following actions can occur.
4	Section 30 of the Act allows HCSCC to make preliminary inquiries into a complaint in order to gather sufficient information to make a determination about what action to take. Some complaints are only dealt with in this part while others can move to investigation and/or conciliation and/or referral to another agency. HCSCC preliminary inquiries can include requiring service providers to provide written information and responses, attend meetings, review policies etc. Some complaints are closed in this section when the complaint is finalised and no further action is needed.
5	The Act requires HCSCC to make an s29 determination about how a complaint will be dealt with. The following actions can be determined: (a) s 33 take no further action - such as in 4. 6. 7. & 8. (b) Pt 5 conciliation and/or - see 9. (c) Pt 6 investigation and/or - see 10. (d) refer to another agency - see 11.
	Sometimes HCSCC will assess a new complaint and decide to take no further action for the following reasons:
6	The Act requires, where it is reasonable, that people first make their complaint to the service provider before asking HCSCC to consider it. HCSCC calls this direct resolution and deals with it in two ways: 1. HCSCC will provide the complainant with detailed information about how to complain and will provide accurate information about who to complain to in the service. • Both the complainant and the service provider are able to return to HCSCC at any time. 2. HCSCC will facilitate direct resolution by sending a copy of the complaint to the service provider asking them to respond to the complainant and provide a copy of their response to HCSCC. HCSCC will review the service provider's response and assess if further action is needed. • Both the complainant and the service provider are able to return to HCSCC at any time.
7	HCSCC will not take action on a new complaint when: 1. The complaint is over two years old and the Commissioner assesses there would be no benefit in taking action. 2. The complainant provides HCSCC with information about the outcome of direct resolution with the service provider and HCSCC assesses that the response is reasonable and that there would be no benefit in taking action. 3. The complainant is not entitled to complain under the Act - e.g. they were not the service user and/or do not have the service user's authority to represent them.
8	Section 30 preliminary inquiries reveal information which allows a complaint to be finalised with no further action needed - see 4.
9	HCSCC can invite the complainant and service provider to conciliate a matter. This is a voluntary process and the issues addressed and decisions reached are private between the parties.
10	HCSCC can investigate matters arising from an individual complaint and/or systemic matters that are identified and/or as a Commissioner's own motion. Investigations can include requiring service providers to provide written information and responses, attend meetings, review policies, HCSCC seeking expert opinion etc. HCSCC can impose conditions or orders relating to Code of Conduct for Unregistered Health Practitioners.
11	HCSCC has a legal relationship with the Australian Health Practitioner Regulation Agency (AHPRA) in relation to individual registered health practitioners such as doctors, dentists, psychologists etc. HCSCC and AHPRA must decide which agency will deal with the complaint and share information about relevant complaints received and the outcome of those complaints.
12	Where appropriate, HCSCC can refer a complaint to relevant agencies such as the federal Aged Care Complaints Commissioner, State Ombudsman etc.

3.1 Complaint Resolution Data

The following HCSCC complaint resolution data for 2015-16 fulfils HCSCCs annual statutory reporting requirements.

Of all new complaints received in 2015-16:

- 77% were closed within 21 days
- 94% were closed within 100 days
- 99% were closed within 1 year
- 1% were open for 1 year or more.

- HCSCC was notified of eight HCSCC decisions being reviewed by the State Ombudsman. This equates to 0.01% of the total complaints received by HCSCC.

Number and type of complaint contacts

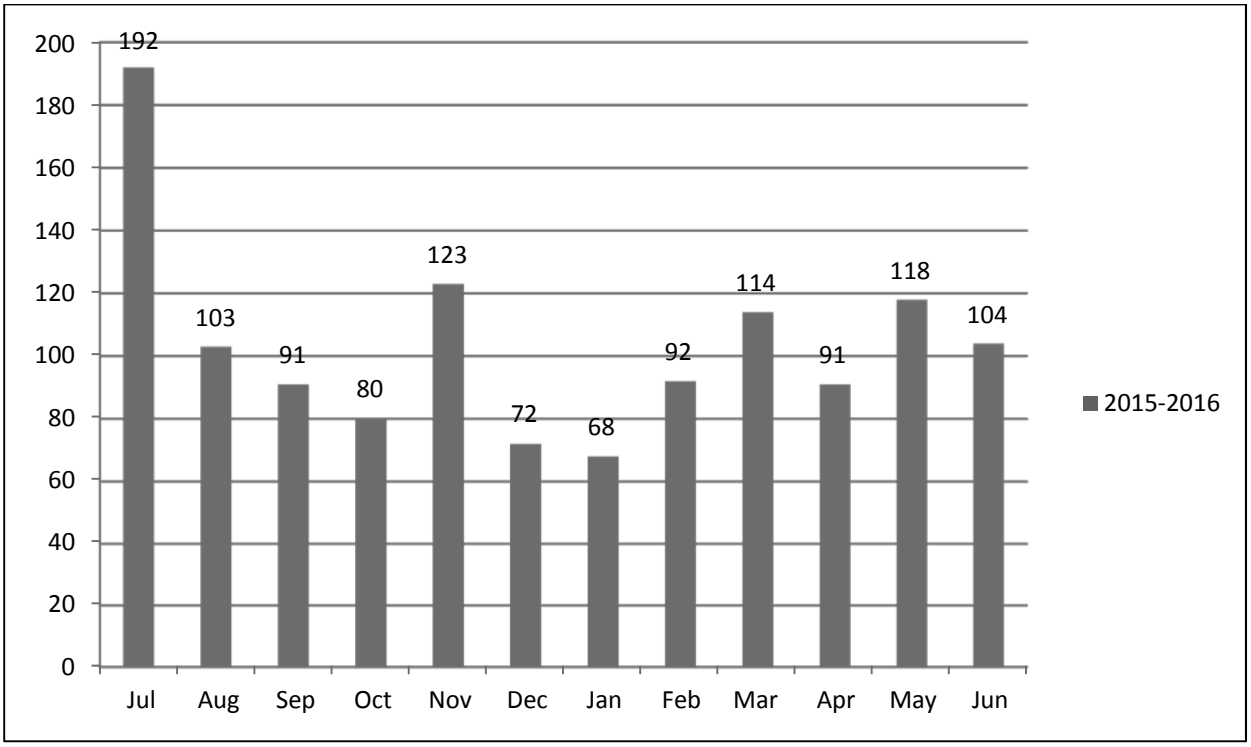
Service Provider Type	Health	Community Services	Child Protection	2015-16 Total
Public	698	35	49	782
Private	453	8	0	461
Non-government organisation	10	40	0	50
Sub total	**1161**	**83**	**49**	**1293**
Other complaint contacts – all service providers				**746**
Total complaint contacts				**2039**
Out of jurisdiction contacts				**147**
Total contacts				**2186**

Complaints not finally dealt with

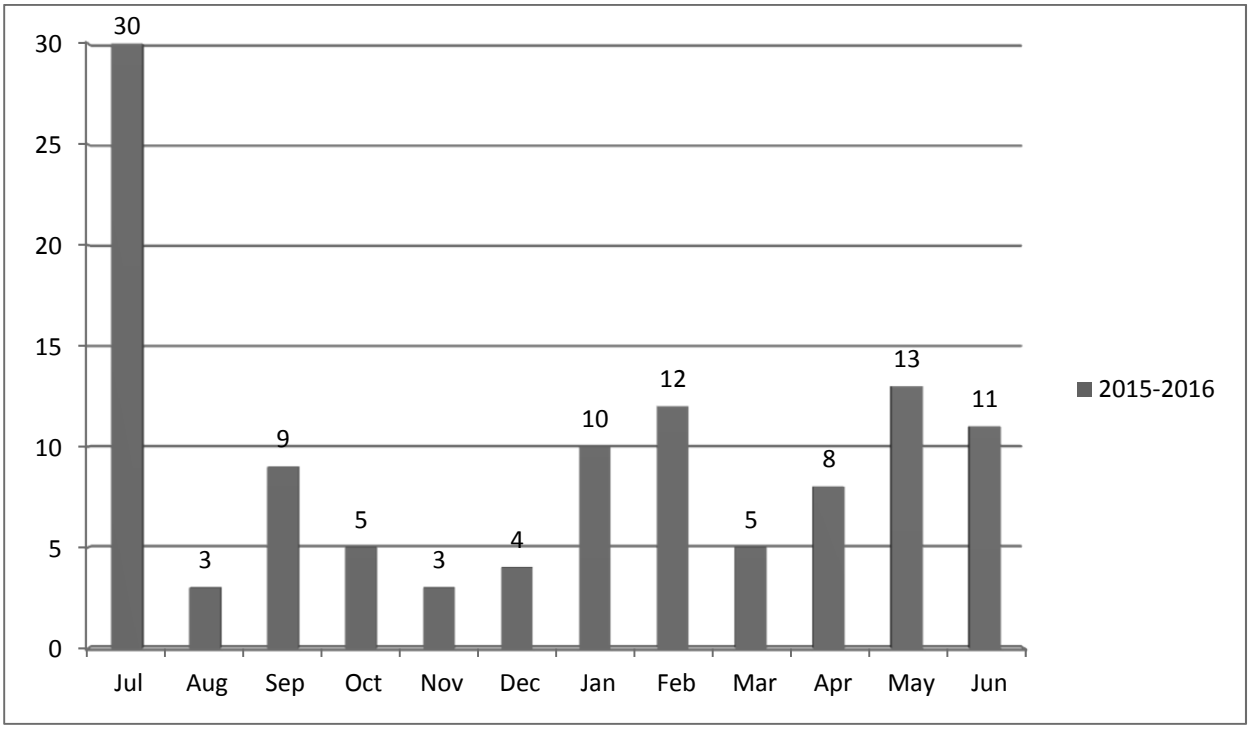
As at 30 June 2016, HCSCC had a total of 128 open complaint files.

Complaints opened each month

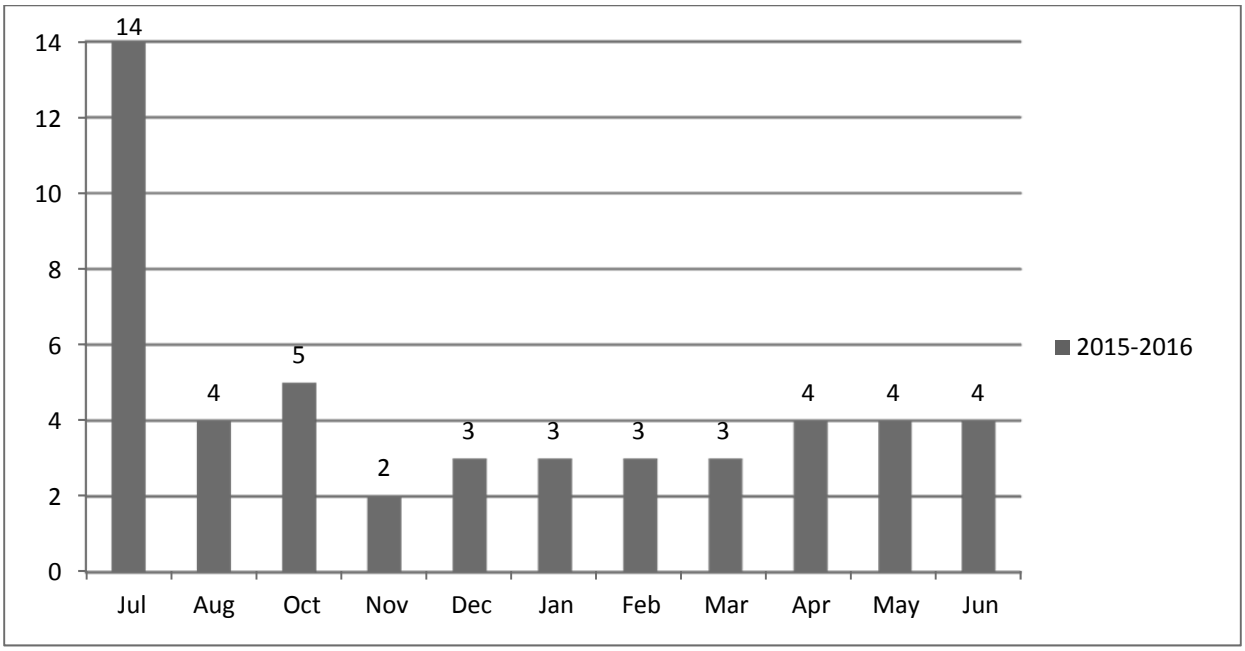
Health complaints received each month



Community service complaints received each month

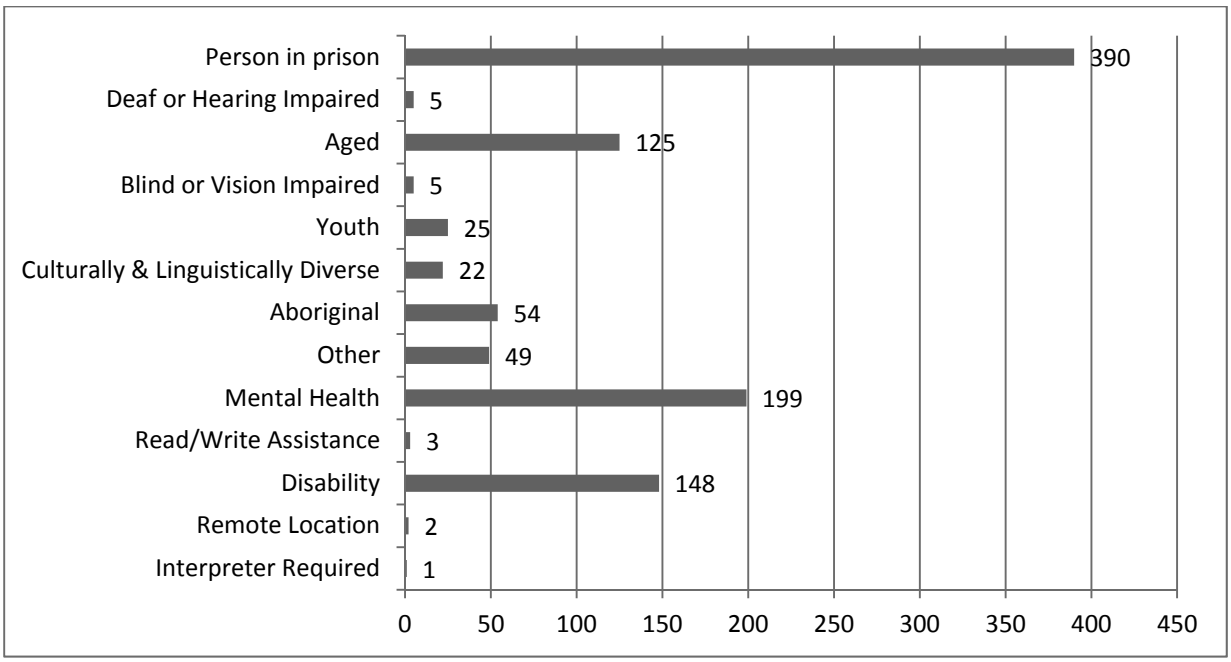


Child protection service complaints received each month



Note: No complaints were received in September 2015.

Complaints from service users with special needs



The Act uses the term ‘special needs groups’ as ‘particular classes of persons who because of the classes to which they belong, may suffer disadvantage in the provision of services unless their needs are recognised’.

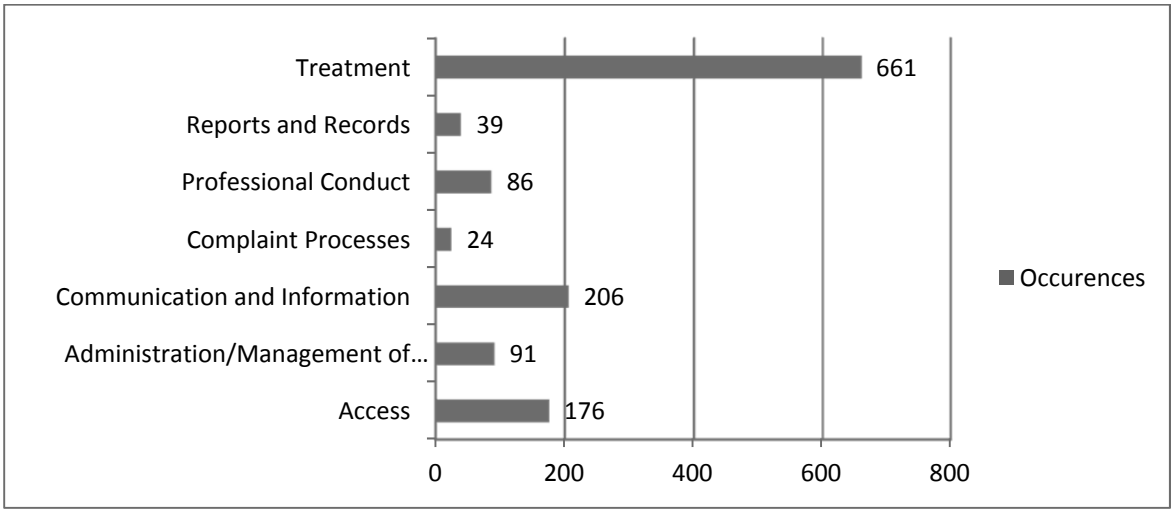
Consumers of health services are not always comfortable with the term, ‘special needs’, as some consumer groups advocate that all complainants by definition have special needs.

Grounds for complaint (section 25)*

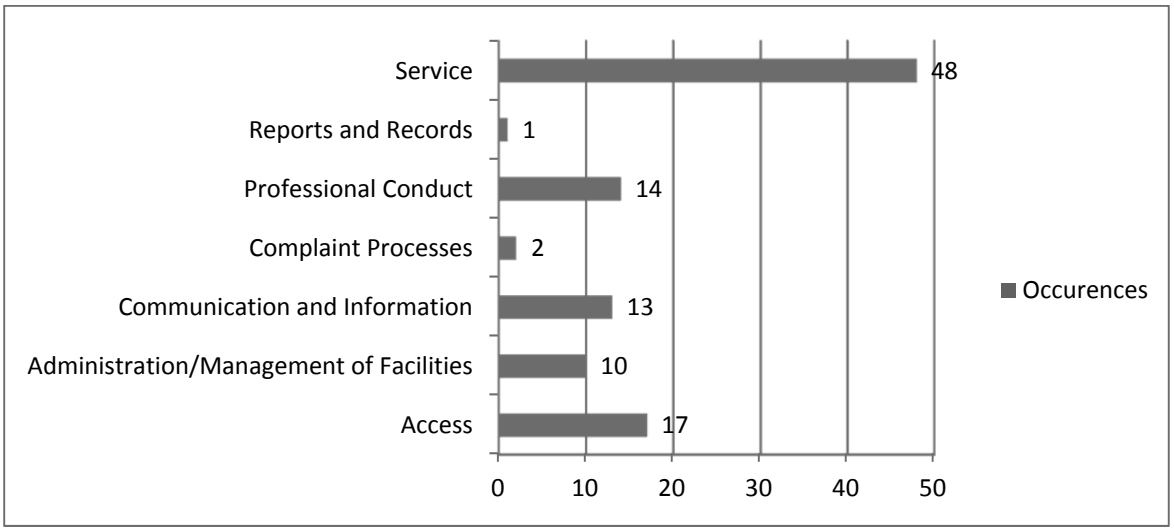
Charter and Grounds	2015-2016
Charter 1 - Access	237
Charter 2 - Safety	51
Charter 3 - Quality	893
Charter 4 - Respect	53
Charter 5 - Information	203
Charter 6 - Participation	98
Charter 7 - Privacy	18
Charter 8 - Comment	35
S 25 1 (a) - service not provided or discontinued	87
S 25 1 (b) - service provision not necessary/inappropriate	34
S 25 1 (c) - unreasonable manner in providing service	67
S 25 1 (d) - lacked due skill	184
S 25 1 (e) - unprofessional manner	117
S 25 1 (f) - lack of privacy/dignity	11
S 25 1 (g) - quality of information	92
S 25 1 (h) - unreasonable action - lack of information/access to records	22
S 25 1 (i) - unreasonable disclosure to a third party	5
S 25 1 (j) - improper action on a complaint	24
S 25 1 (k) - inconsistent with the HCSCC Charter	13
S 25 1 (l) - did not meet expected standard of service delivery	798
Other	6
TOTAL	**3048**

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

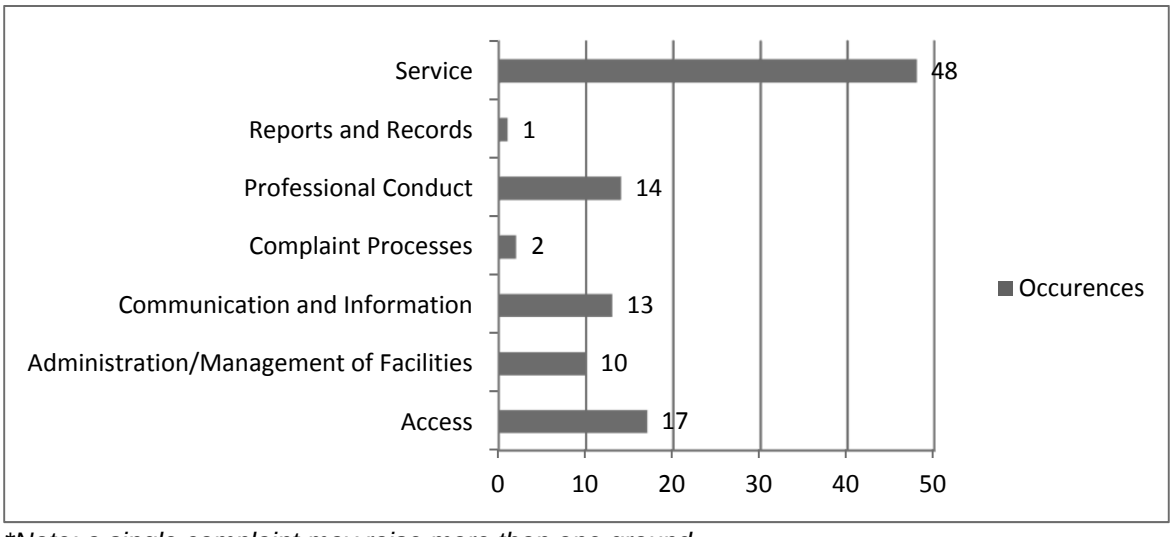
Issues complained about – Health complaints*



Issues complained about – Community service complaints*

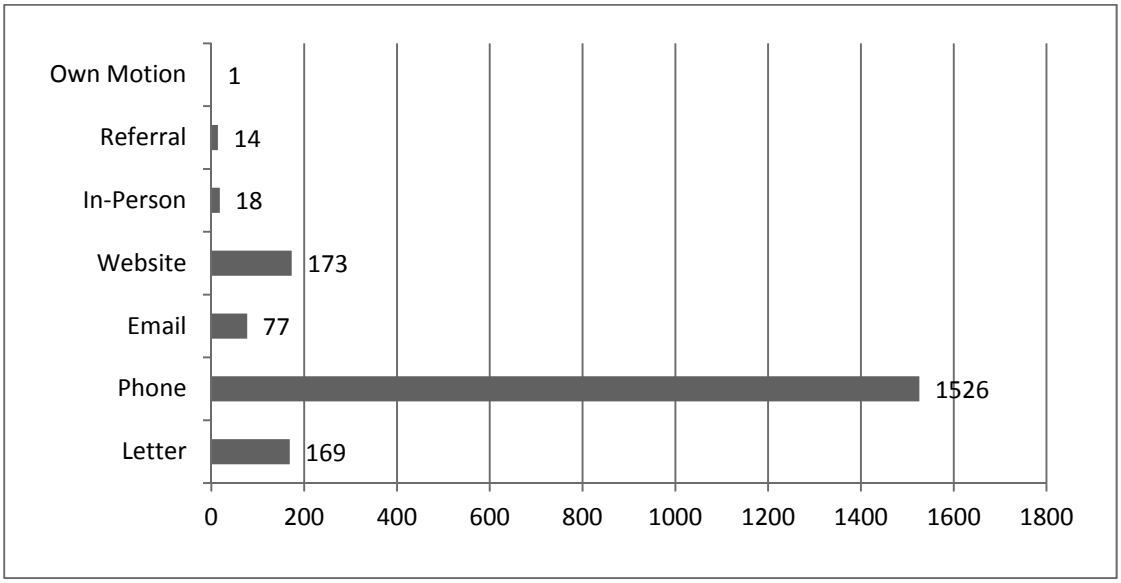


Issues complained about – Child protection complaints*

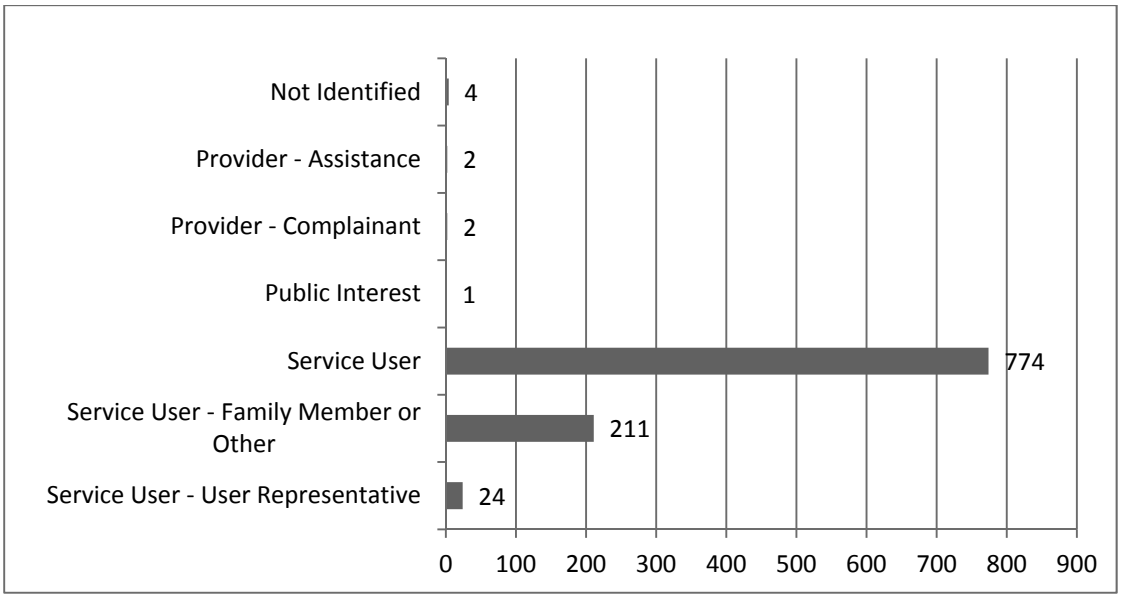


**Note: a single complaint may raise more than one ground.*

Method of Contact



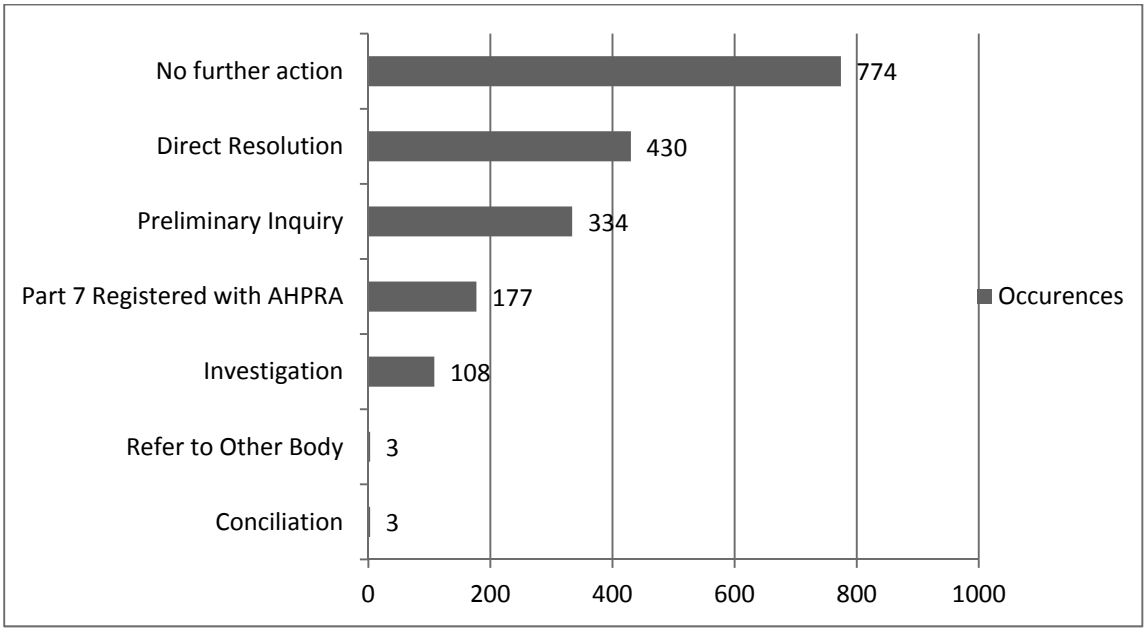
Legal role of contact person



4 Assessment (section 29 of the Act)

During 2015–16, HCSCC made a total of 1829 assessments and determinations under section 29 of the Act. A summary of the determinations are listed below.

Number of section 29 Determinations



Note: A single complaint can have a number of determinations.

Direct resolution

HCSCC encourages people to resolve their complaint directly with the service provider if this is reasonable. Callers to the Enquiry Service receive tailored information and advice about how to take appropriate steps to try and resolve their complaint with the service in the first instance. Each telephone call is an opportunity to build the capacity and confidence of individuals to deal with their current concerns and any future complaints, without the intervention of HCSCC.

People who visit the HCSCC website looking for advice about how to deal with complaints are directed to a HCSCC brochure - Guide for Consumers and other information that outlines step-by-step guidance about how to make a complaint directly to the service.

HCSCC provides further assistance to people who need help to resolve their complaint directly. For example, if it would be unreasonable to expect the person to approach the service, if a person has tried to resolve a complaint directly but this has not worked, or if a complaint is serious enough to warrant HCSCCs consideration in the public interest. In these situations HCSCC can take action immediately, if necessary, and this often results in prompt resolution of matters.

Facilitated direct resolution
In some situations HCSCC is able to facilitate direct resolution of a complaint; for example, when a complainant has identified they have special needs that make it more difficult for them to make a complaint without HCSCC assistance. This usually involves HCSCC forwarding a copy of the complaint to the service provider with a cover letter from HCSCC explaining HCSCCs expectations in relation to the service provider's response. This has proven to be a very effective way of addressing a relatively large number of complaints that do not involve serious safety or quality issues but warrant follow up.

In general HCSCC has found that service providers are receptive to this approach and mostly provide good quality responses to the complainant.

Case study - Facilitated direct resolution

Enzo was concerned about a persistent cough in his three-year-old son, Giorgio. He regularly took his son to two local medical centres and over several weeks Giorgio was diagnosed with viruses, chest infections and asthma. Giorgio had been fully vaccinated, including for whooping cough, so this was not initially considered.

Giorgio's illness persisted and on the next visit to a GP, Enzo insisted on a whooping cough test. The test came back positive. Unfortunately by this time, Giorgio had been regularly attending childcare and a number of other children at the childcare centre also tested positive for whooping cough. Giorgio's family were relieved to have a diagnosis but concerned about the delay and impact on others.

Enzo complained to HCSCC about three of the local GPs who saw Giorgio but did not recognise the possibility of a whooping cough diagnosis and did not request the appropriate test.

HCSCC wrote to three GPs advising of the complaint and requested responses from all three doctors. All of the doctors acknowledged the complexity of the situation in that the family had all had various coughs, colds and viruses over the winter season and that Giorgio had been immunised. All the doctors acknowledged that they could have been more vigilant in relation to diagnosing whooping cough and stated they would reflect on their practice, speak with their colleagues and increase their vigilance in the future. They apologised to the family and acknowledged the impact on others such as the children in Giorgio's childcare centre who also fell ill with whooping cough.

Enzo was satisfied with the outcome of his complaint.

Case study – Facilitated direct resolution

Stella went to a metropolitan public hospital and was diagnosed as needing emergency eye surgery. She was told by hospital staff that she could have the surgery done as a private patient at no cost because her private health insurance would cover the fee. Stella gave consent to have the surgery done as a private patient in a public hospital.

Stella went home to recover and was surprised to receive a bill from the hospital soon afterwards. She queried this and was told that her private health insurance did not cover the full fee. Stella contacted HCSCC to complain about this.

HCSCC contacted the hospital and asked for an internal investigation into what happened. The hospital looked into it and found that staff had given the incorrect information about Stella's private health cover to her. Given this error, the hospital apologised and refunded the amount. Importantly, the hospital reminded staff about checking these details carefully in future so that patients do not have bill shock later on.

Stella was satisfied with this outcome and received a cheque in the mail soon after.

5 Preliminary Inquiries (section 30 of the Act)

Section 30 provides HCSCC with the legislative power to make inquiries and/or require information about a complaint. It allows HCSCC to uncover information that clarifies core issues, problems or concerns within a complaint; and when fully informed, HCSCC can make decisions about what action to take with a complaint.

While most complaints take a small number of inquiries to address, other, more complex complaints, may need time for extensive preliminary inquiries in order to find out what happened and why. Most complaints that end up being investigated under Part 6 of the Act have usually spent some time being explored under section 30, where the results of the preliminary inquiries have led to information that needs further investigation.

As informal mediation is included in section 30 of the Act, many of the complaints that can be resolved through an informal mediation process are dealt with under section 30.

Q - What does a successful outcome look like after a complaint to HCSCC has been through the informal mediation process under section 30 of the Act?

A - The complainant's concerns have been considered and discussed and led to an agreed remedy that seems fair; and a service provider who has had a chance to consider the complainant's concerns and provide a response. A service provider can appreciate a complainant's feedback and can use this information to resolve a complaint and make service improvements. A successful outcome is when complainants and service providers have taken the time to openly discuss the cause of a complaint and willingly contributed to finding appropriate action for resolving the complaint and improving services for others.

Case study

Aditi called HCSCC to complain about an optometrist. Aditi had taken her small, twin sons to see the optometrist. Instead of feeling confident that the twins had received complete and thorough eye checks, Aditi felt that the checks had been cursory and she had been charged extra for their sessions with the optometrist. Aditi made a formal complaint to the optometry company and had not received a response.

Because the complaint was about a registered health practitioner, as required by law, HCSCC consulted with AHPRA. It was agreed HCSCC would undertake preliminary inquiries and inform AHPRA of the outcome. For more information about HCSCC and AHPRA, see section 5.6.

Under section 30 of the Act, HCSCC made preliminary inquiries into Aditi's complaint. HCSCC contacted the optometry company and asked about Aditi's concerns. The company said they had found Aditi's complaint valid and had followed up her complaint with the optometrist. The company had asked the optometrist to contact Aditi and make sure that she and the twins were provided with a quality service. It was obvious that the optometrist had not followed up with Aditi.

When speaking with HCSCC, the company suggested that they contact Aditi directly and make suitable arrangements for her twins to have their eyes re-checked with another optometrist – free of charge. The company also told HCSCC that the optometrist had not met the company's standards of service and so they would be counselling the optometrist about how to better deal with complaints and improve customer service.

When HCSCC contacted Aditi, the optometry company had already been in touch with her and she was very happy with the outcome of her complaint to HCSCC.

Case study

Ralph, a social worker, called HCSCC to complain about the way one of his clients had been treated when she called a mental health help line. Ralph told HCSCC that his client had called the line because she was unwell and needed advice; but because the person on the line had been rude, his client was now too frightened to try the help line again. Ralph's client had told him that the person answering her call was impatient and had not allowed her to explain why she had needed to call.

HCSCC contacted the service to make preliminary inquiries about Ralph's complaint. Because all calls to the help line were recorded, HCSCC asked the service to review the particular call and see if the worker had dealt with this client appropriately. The service investigated Ralph's complaint and listened to the call.

The service found that the advice the worker had provided to Ralph's client was clinically correct. However, they also found that the person answering the call had been abrupt and impatient and had hurried the client through her answers. The service told HCSCC that it was obvious by the end of the call that Ralph's client was nervous and unable to talk openly. The service found this was an inappropriate approach for someone answering calls on a mental health help line.

The service told HCSCC that they had taken action to address Ralph's concerns. The worker had been counselled about their actions, the service implemented a relevant training program for its workers and had also implemented a new supervision system and a way of monitoring calls, to try and prevent this from happening again.

When HCSCC told Ralph about the services improvements, Ralph was pleased his complaint had made a real difference. Ralph thought the service improvements would help to restore trust in the service and stop his clients turning away from a service that could help them.

5.1 Conciliation (Part 5 of the Act)

Part 5 of the Act provides for the Commissioner, following preliminary inquiries under section 30 or a Part 6 Investigation, to refer a complaint for formal conciliation. Conciliation is a voluntary process and there is no statutory obligation for the parties to participate.

A consideration for referral of complaints for conciliation is where the complainant is seeking a financial settlement due to a preventable adverse incident that caused the individual harm.

Conciliation facilitated by HCSCC under the Act, gives the parties a strictly confidential process with the opportunity to speak openly about their concerns and if possible, to reach an amicable resolution. Conciliation can result in resolution for the individual complainant and may contribute to the process of identifying and addressing systemic improvements concerning the delivery of health and community services.

SA Health is currently reviewing the *Policy for the Payment of Financial Compensation arising from Complaints in the Public Health System in South Australia.* The policy was first developed in 2008 between HCSCC and SA Health as a guide for SA Health staff handling financial settlements in conciliation.

5.2 Investigations (Part 6 of the Act)

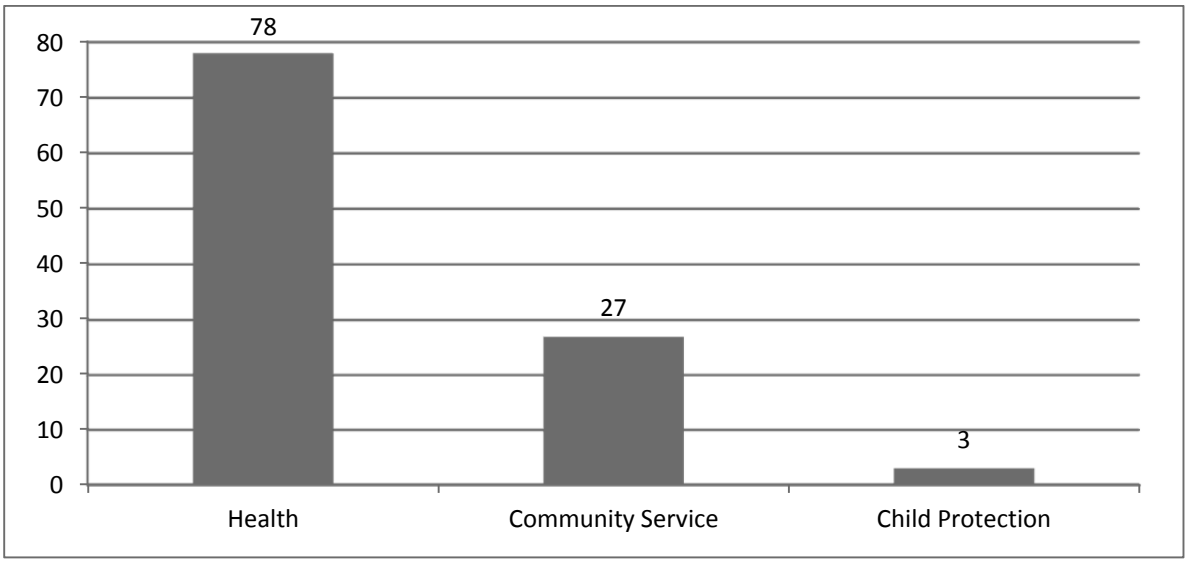
During 2015-16 HCSCC commenced or continued work on a total of 108 investigations under Part 6 of the *Health and Community Services Complaints Act 2004* (the Act).

Individual complaints requiring independent expert opinion
Sometimes an individual's complaint is moved into an investigation because Part 6 of the Act allows HCSCC to obtain expert advice.

Systemic investigations
- some investigations start from individual complaints where systemic issues have been identified
- some own motion investigations were opened based on information received from a variety of sources.

Investigations relating to individual Unregistered Health Practitioners
The Code of Conduct for Unregistered Health Practitioners (the Code) came into effect in March 2013 and provides HCSCC with powers to place conditions or prohibitions on unregistered health practitioners, if there are concerns about serious public safety issues.
See section 2.1 for more information.

Part 6 Summary of investigations by type of provider



5.3 Recommendations made by HCSCC

The following are examples of safety and quality improvements as a result of complaints to, and/or investigations by, HCSCC. Some were identified by service providers, others were recommended by HCSCC.

Hospitals – public and private

- Education for staff to ensure that consent is obtained before surgery and not while patient is under sedation.
- Development of a procedure that supports patients having access to paid personal carers.
- Improved incoming mail system to manage incoming registered mail.
- Develop informed financial consent procedure for overseas visitors with no private insurance (non-Medicare patient).
- Ensure protected medication administration time - medication rooms are a no-go zone while staff are checking charts and medications.
- Staff Medication Error Reflection Summary developed and implemented, with the aim of learning from errors and creating uniform procedures for medication errors.
- Management of patients' own medication - new procedure developed for managing patients' own medications as well as a new brochure for patients.
- Management of high risk medications - introduced targeted awareness/ education on medication management including staff memos, audits and promoting role of staff pharmacist as consultant on medication safety.
- Medication storage - management of patient medication cupboards has been reviewed and policy/procedure updated and communicated to all staff.
- Medication management plans - workgroup organised to update medication management plans and improve templates and information with medication management and reconciliation as the major focus.

Families SA (FSA)

- Death of a child or young person under the custody or guardianship of the Minister Practice Guide and Procedure April 2011 - amended to prevent property being destroyed on authority of FSA staff.
- Develop better system for matching foster children with foster carers:
  - FSA to do survey of foster carers and kinship carers to identify needs
  - FSA will improve the eCase Management system to include care plans
  - FSA to strengthen child's voice in FSA redesign and Solution Based Casework
  -Viewpoint online tool now being used to give children better say in their care
  - termination of foster care has been improved through redesign
  - contested decisions are to be authorised at executive level.
- Engage independent experts in complex cases.
- Meet with Guardian for Children and Young People to ensure that the Guardian is aware of the child and to ensure that the child's voice is heard.
- Discussions with Guardian to improve the role for the Guardian in termination of placements.
- That the intake and regular assessment processes for recruiting and maintaining foster care placements be reviewed, assessed and improved; in order to improve the access to support services for foster parents and the children or young

persons placed in their care; and to improve outcomes for transition to a new placement should such transition/s be deemed necessary.
- That on a case by case basis, the rights of the child to participate in the decisions made about them be taken into consideration; not just in policy and on paper but in practice, throughout the state child protection system.
- To include in FSA practice guidelines and tuition, practical processes for staff to enable them to encourage children to play an active part in the decisions made that affect them, including transition.
- To ensure that the decisions made are child-focused; maintain FSA records that register the views of the child or young person regarding important decisions made that affect them and to record the reasons Families SA may or may not have taken these views into account.
- That FSA set up a special review and planning process specifically for use when considering the termination of a foster care placement; to ensure that placements end in a carefully planned transition to a new placement with as little associated trauma as possible.

Pathology tests

- Health care outcomes are improved when the service user and/or their health service provider/s choose to use the same pathology provider, and not more than one pathology service provider, when obtaining blood test results.
  Using just one pathology service provider will provide results that can be more easily compared, will reduce the number of variations that may be involved in the process and will provide a more consistent basis on which to rely when making treatment decisions.

Unregistered Health Practitioners

- Adhere to the requirements of the Code of Conduct for Unregistered Health Practitioners.
- Remove information about misleading qualifications or treatment outcomes.
- Ensure specified services are only provided under coordination with an appropriate medical practitioner.
- Undertake training and/or professional supervision.
- Improve record keeping.

SA Ambulance Service

- Clarify review options when fees for ambulance services are disputed.
- Review alternative options to transport mobility aids (eg wheelchairs) given current ambulances unable to accommodate most aids with patients.
- Review future designs of ambulances to better accommodate mobility aids.

Community Services

- Ensure management and staff are aware of and adhere to the requirements of the Code of Conduct for Unregistered Health Practitioners.
- Improve complaint management processes.
- Recognise and appropriately include clients' legal guardians, carers and social supports.

5.4 Reasons for Closure of Complaints

Within the Act, the Commissioner may determine at any stage to take no further action on a complaint, or to suspend action on a complaint.

During 2015-16, HCSCC made a total of 1275 determinations to close complaints. A summary of determinations are listed below:

Reasons for Closure of Complaints

Advice and information provided	**62**
Outside of Jurisdiction	13
Part 5 - s39 Conciliation may be bought to an end	1
Part 6 - s54 Report	11
Part 6 s56C Condition or prohibition order	4
s33(1)(a) not entitled to make complaint	6
s33(1)(b) does not disclose ground of complaint	6
s33(1)(c) should be determined by legal proceedings	2
s33(1)(d) proceedings have commenced before a tribunal authority or other	18
s33(1)(e) reasonable explanation(s) or information earlier	105
s33(1)(g) complaint lacks substance	3
s33(1)(h) the complainant has failed to comply with a requirement	250
s33(1)(j) the complaint is abandoned	2
s33(1)(j) the complaint is resolved	52
s33(1)(k) reasonable cause - agreement to take reasonable steps to resolve complaint and/or prevent recurrence	25
s33(1)(k) reasonable cause - differing versions of events - unable to prefer one over the other	5
s33(1)(k) reasonable cause - individual complaint raises issues best dealt with as a systemic matter	4
s33(1)(k) reasonable cause - other	158
s33(1)(k) reasonable cause - s27 outside of time limit	10
s33(1)(k) reasonable cause - s29(2)(d) referral to another agency	5
s33(1)(k) reasonable cause - s29(3) referral to ACCS	1
s33(1)(k) reasonable cause - s29(5) attempting direct resolution	407
s33(1)(k) reasonable cause - service provider met reasonable standards	24
s33(1)(k) reasonable cause - service provider resources are limited and equitable provided	9
s33(2) complaint has been adjudicated by a court tribunal authority or other	1
s33(3)(a) suspension - court proceedings have commenced	1
s33(3)(b) suspension - Coronial inquest has commenced	1
s34(1) - complaint withdrawn	2
s57(2)(b) referred to registration authority	84
Suspended - pending another agency's action	2
Unspecified	1
TOTAL	**1275**

5.5 Review of HCSCC actions and decisions

If people have concerns about the actions or decisions of HCSCC, either during or on conclusion of their complaint, they are able to:

- request an internal review by the Commissioner
- complain to the State Ombudsman
- seek a review in Court if the complaint is related to a Code of Conduct for Unregistered Health Practitioner's order.

The Commissioner is legally obliged to write to every complainant when a complaint is closed. Information about the complainant's right to seek a review from HCSCC and contact details for the State Ombudsman are included in these letters.

Internal Review

Cases where reviews were requested are captured in the table below. In all cases, reviews were requested by complainants after HCSCC had decided to close a file. Reviews requested represent a very low percentage of all matters dealt with.

Review opened and closed during 15-16	Review opened during 15-16 and still open at 30/6/16
13	2

Of the 13 reviews closed during the year, HCSCC decided in 11 cases to uphold the original decision. Of the remaining two, HCSCC made further inquiries before making variations to findings and commencing new inquiries into matters arising from the original complaint.

Case study

Hanh complained that she had not received a response from a service provider to concerns she had raised about their services. HCSCC requested information from the service provider which appeared to show that the service had provided Hanh with a reasonable written response to her complaint.

Hanh contacted HCSCC again because she had not received the letter from the service provider.

HCSCC checked with the service provider and found that the correspondence had not been sent. They apologised to Hanh. HCSCC found that the response provided a reasonable explanation and apology to Hanh. The service also committed to improve overall complaints and correspondence management.

Ombudsman review

Section 86 (c) of the Act entitles a person who has made a complaint to HCSCC to request that the State Ombudsman reviews HCSCC decisions and actions in regard to their complaint. At various times during the HCSCC complaint process, HCSCC advises complainants of this right of review. Service providers can also complain to the Ombudsman about HCSCC.

The Ombudsman does not advise HCSCC in all cases if a complainant has sought a review of an HCSCC decision or action. HCSCC only becomes aware that a review has been sought if the Ombudsman requests information from HCSCC. The Ombudsman may request information from HCSCC in order to decide if a complaint should be investigated more formally. In most cases the Ombudsman requires HCSCC to have conducted an internal review prior to accepting a complaint.

During 2015-16, the Ombudsman informed HCSCC of eight reviews. Of these, two were still open at 30 June 2016. In the other six cases the Ombudsman found that HCSCC had not acted in a manner that was unreasonable, unlawful or wrong. One of these complaints to the Ombudsman was made by a service provider.

Opened and closed during 15-16	Opened during 15-16 and still open at 30/6/16
6	2

In addition to these reviews, the Ombudsman contacted HCSCC in relation to two other matters during the year but chose not to pursue them.

Case study

HCSCC dealt with a complaint from Linda, a former foster carer, about a decision made by a child protection agency not to return a child to her care. HCSCC found that the agency involved had acted reasonably and had good reasons for the decision.

The complainant requested a review from HCSCC and the original decision was upheld. In addition, HCSCC ruled that some aspects of the complaint were outside of the two year time limit, as specified in the Act, and that others were already being dealt with through other external processes.

Linda approached the Ombudsman who requested a response from HCSCC.

After reviewing HCSCCs response, the Ombudsman found that HCSCC had not acted in a manner that was unreasonable, unlawful or wrong.

5.6 Registered Health Service Providers (Part 7 of the Act)

On 1 July 2010 a national agency, the Australian Health Practitioner Regulation Agency (AHPRA) commenced operation to support the implementation of the National Registration and Accreditation Scheme under a national law, the *Health Practitioner Regulation National Law 2010* (the national law).

Fourteen health professions are now regulated by national boards, supported by AHPRA. Commencing on 1 July 2010, the first 10 nationally registered professions were chiropractic, dental, medical, nursing and midwifery, optometry, osteopathy, pharmacy, physiotherapy, podiatry and psychology. On 1 July 2012, four additional professions were registered and included in the national scheme; occupational therapy, Aboriginal and/or Torres Strait Islander health workers, Chinese medicine and medical radiation practitioners.

The role of AHPRA and the national boards is to protect the health and safety of the public by maintaining professional standards of competence and conduct. Information about AHPRA and the 14 national boards is available at www.ahpra.gov.au.

Part 8 of the Act of the national law requires AHPRA and HCSCC to notify each other as soon as practicable, and to consult each other about the management of any matter they receive concerning the health, performance or conduct of an individual nationally registered health practitioner, including a student health practitioner.

A Memorandum of Understanding (MOU) was developed between AHPRA and, except in NSW, all the state/territory Health Complaints Entities (HCE's).

The MOU represents the agreement between AHPRA and the HCE's to achieve timeliness and consistency about:

1) notifying each other about the receipt of complaints and notifications
2) consulting about the future management of a complaint or notification and
3) sharing information.

The MOU describes the legal obligations of HCSCC and AHPRA to one another and how HCSCC and AHPRA will meet them. The MOU is available at www.hcscc.sa.gov.au

HCSCC and AHPRA meet fortnightly to exchange information and consult about the management of notifications and complaints involving individual nationally registered health practitioners.

Case study - Registered health service providers and AHPRA

Liu Wei was visiting Adelaide from Western Australia and developed an ear ache while on holiday. He went to a local Adelaide GP to have his ears checked. The GP decided to syringe his ears. There were no problems at first but when Liu Wei returned to Western Australia he realised that one of the grommets in his ears had been dislodged and this caused him considerable pain and required him to see a specialist to have the grommet replaced. The specialist told him that people who have grommets in their ears should not have their ears syringed. Liu Wei wanted to complain about the GP's actions so that the GP would learn from this situation and prevent it from occurring again.

HCSCC consulted with AHPRA and AHPRA then decided to investigate Liu Wei's complaint about the doctor.

The following tables provide information about HCSCC-AHPRA consultations during 2015-16.

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

	Number of HCSCC complaint consultations with AHPRA	Number of HCSCC complaints referred to AHPRA	Number of HCSCC complaints split* with AHPRA
Medical	146	53	10
Dental	26	12	0
Nursing & Midwifery	13	7	1
Pharmacy	1	1	0
Chiropractic	2	0	0
Physiotherapy	2	1	0
Optometry	2	0	0
Osteopathy	0	0	0
Psychology	6	4	0
Podiatry	5	1	0
Chinese Medicine	0	0	0
Medical Radiation Practice	3	2	0
Occupational Therapy	0	0	0
Aboriginal and Torres Strait Islander Health Practice	0	0	0
TOTAL	**206**	**81**	**11**

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

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

	Number of outcomes notified by AHPRA of action taken from HCSCC complaint referrals	AHPRA notified outcome *	
Medical	38	29	No further action following assessment
		2	No further action following investigation
		4	Caution following investigation
		1	Caution following assessment
		1	Offence – closed following compliance after demand
		1	Notification withdrawn
Dental	1	1	Caution following assessment
Nursing & Midwifery	3	2	No further action following assessment
		1	Caution following assessment
Pharmacy	1	1	Caution following assessment
Chiropractic	0	0	No complaints referred
Physiotherapy	0	0	No outcome advised as at 30.6.16
Optometry	0	0	No complaints referred
Osteopathy	0	0	No complaints referred
Psychology	0	0	No outcomes advised as at 30.6.16
Podiatry	0	0	No outcomes advised as at 30.6.16
Chinese Medicine	0	0	No complaints referred
Medical Radiation Practice	0	0	No outcomes advised as at 30.6.16
Occupational Therapy	0	0	No complaints referred
Aboriginal and Torres Strait Islander Health Practice	0	0	No complaints referred
TOTAL	**43**	**43**	

***Note: 49 ongoing investigations - no outcomes notified by AHPRA as at 30.6.16*

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

	Number of AHPRA complaint consultations with HCSCC	Number of AHPRA complaints referred to HCSCC
Medical	58	0
Dental	14	0
Nursing & Midwifery	14	0
Pharmacy	5	0
Chiropractic	1	0
Physiotherapy	2	0
Optometry	1	0
Osteopathy	1	0
Psychology	10	0
Podiatry	0	0
Chinese Medicine	2	0
Medical Radiation Practice	0	0
Occupational Therapy	1	0
Aboriginal and Torres Strait Islander Health Practice	0	0
Unregistered Health Practitioner	7	7
Systemic	10	10
TOTAL	**126**	**17**

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

	Number of outcomes notified by AHPRA of action taken by AHPRA	AHPRA notified outcome	
Medical	32	24	No further action following assessment
		5	No further action following investigation
		1	Caution following assessment
		1	Offence – No further action taken
		1	HCSCC to retain
Dental	8	6	No further action following assessment
		1	Caution following assessment
		1	Caution following investigation
Nursing & Midwifery	8	4	No further action following assessment
		1	No further action following investigation
		1	Caution and conditions imposed following assessment
		1	Caution following assessment
		1	Insufficient particulars – no grounds for notification
Pharmacy	4	2	No further action following assessment
		1	Caution following assessment
		1	Caution following investigation
Chiropractic	1	1	Caution following assessment
Physiotherapy	0	0	No outcomes advised as at 30.6.16
Optometry	0	0	Nil consulted
Osteopathy	0	0	Nil consulted
Psychology	5	5	No further action following assessment
Podiatry	0	0	Nil consulted
Chinese Medicine	1	1	No further action following assessment
Medical Radiation Practice	0	0	Nil consulted
Occupational Therapy	1	1	Caution following investigation
Aboriginal and Torres Strait Islander Health Practice	0	0	Nil consulted
TOTAL	**60**	60	

Outcomes following referral of a complaint or notification are discussed as matters are finalised.
As at 30.6.16 AHPRA had 3 complaints open from HCSCC referrals to AHPRA in 2012-13
As at 30.6.16 AHPRA had 0 complaints open from AHPRA complaints consulted with HCSCC in 2012-13
As at 30.6.16 AHPRA had 3 complaints open from HCSCC referrals to AHPRA in 2013-14
As at 30.6.16 AHPRA had 7 complaints open from AHPRA complaints consulted with HCSCC in 2013-14
As at 30.6.16 AHPRA had 1 complaint open from HCSCC referrals to AHPRA in 2014-15
As at 30.6.16 AHPRA had 6 complaints open from AHPRA complaints consulted with HCSCC in 2014-15

6 Less Silence More Safety project

The Less Silence More Safety project (LSMS) is HCSCCs contribution to improving the safety and quality of services provided to people with disability.

> *'Experiences of abuse are not merely unfortunate encounters with bad people, but are more likely given certain environmental factors. These may include structures and processes promoting disadvantage and social exclusion, constraining individuals' resources and life chances.'*
> (Daniel and Bowes, 2010)

Background to the Less Silence More Safety project
HCSCC knows there is violence, abuse and rights denial of people with disability in our community, from the subtle daily humiliations and lacerations of the spirit, through to overt and egregious acts of violence. HCSCC also realises there are few complaints made by people who live with a disability. HCSCC aims to raise the profile of HCSCC but also more broadly to speak up about the effects of violence and abuse against people with disability.

> *"Relying solely on those who are subject to violence and rights denial in human services to **voice their allegations through formal complaints is to simultaneously overlook the nature of dependency in services and other evidence that violence may be present.***
> *Abuse and neglect, in a range of forms, remains a pressing problem for policy makers and others committed to rights protection and the safety of adults considered to be in heightened vulnerability. This also drives the concerns of the Health and Community Services Complaints Commissioner."*
> (*Towards quality and safety in disability services: Confronting the 'corruption of care'*. Associate Professor Lorna Hallahan, Flinders University, South Australia, Nov 2012)

HCSCC established LSMS, funded for two years at three days a week, in August 2015. LSMS is using a community development/anti-violence approach to gather wisdom and build strong relationships with people who live with disability and those who love and stand by them. This approach also invites our community to pay attention and act when they see or believe violence to be at work.
LSMS wants to:-

- promote greater vigilance about violence and abuse
- support people who are being badly treated
- give people knowledge and information about HCSCCs role to investigate what happens to people with disability, and
- mobilise the community to speak up on this issue.

> *"It's neglect, passive aggressive behaviours, control, not listening, deliberately not following directions, treating my things as if they own them… You may not be aware of it and if you've lived with it for years and years, it may go right over your head"*
> (*Combating Violence & Abuse of People with Disabilities – A Call to Action*. Fitzsimons 2008)

LSMS Activities
The Disability Peer Project Officer has been talking with and learning from:-

- people who live with a disability
- the people who love them
- those who have other connections with people with disability in their local community, and
- people in services who have knowledge of violence and rights denial.

Through these conversations, LSMS have heard stories of violence and abuse and how people have developed ways of keeping safe and who are their allies. This is powerful information for HCSCC. It also builds the picture of where the safe places are in South Australia and where people with disability are likely to find respect and support for redress.

LSMS has also provided a mix of formal workshops and presentations with people who have a disability and those who have a naturally occurring connection with them. One area that was explored was, what stops us 'seeing' and recognising abuse against people with disability and how to push past that hiddenness. HCSCC wants to build connections with a network of people who claim their rights to a good and safe life and those who will join them in speaking out against abuse and rights denial.

Who have LSMS been talking with?
LSMS owes a debt of thanks to the 29 individuals who live with a disability and who have met with the Project Officer for many powerful and informing conversations.

LSMS has also built connections and met with people from peer support groups, community groups and various organisations including:
People First Adelaide; First People's Disability Network; Women with Disability Australia; Our Voice Self Advocacy Group; Up the Hill Project, Flinders University; No Strings Attached Theatre of Disability; Crossing the Bridge; Salisbury Council Access and Inclusion program; the Kitchen Cabinet parent support group; JFA Purple Orange; Independent Advocacy; Citizen Advocacy; Disability Rights and Advocacy Service; The Dulwich Centre; SAPOL Special Crimes Investigation Team; Carer's SA; Circle of Friends and Micro Enterprises Projects CLP; Dignity for Disability; Law4All Disability Justice program; Families4Families and Community Centres SA. Thanks to all of them for their interest in and support for the project.

LSMS has presented to 178 people in 16 different groups including:- Holiday Explorers Volunteers; Special Olympics Athletes leadership group; JFA Purple Orange's Peer Mentors, Youth Meet Up and User Led Initiatives; National Disability Coordination Officer Program - 4 regional groups; Yarrow Place Rape and Sexual Assault Service; Crossing The Bridge community group for African women with disabilities at the YWCA; Purple Orange NDIS Capacity Building Your Rights and the Law workshop; Child Sexual Abuse Counselling Team, Uniting Communities; and the Developmental Educators Australia Inc professional development session.

Some of the feedback from the explorations about what matters in standing against violence and rights denial:

- *As a young woman with disability this topic is so important to talk about together, to support each other – thank you*
- *The importance of being vigilant, watching for changes in our student's behaviour, advocate for them*
- *The need to be vigilant both professionally and personally for the safety of those with disability*
- *The importance of people with disabilities to have a voice and be heard and my role in that*
- *Whole new learning curve for me*
- *Be mindful of whether I am the disabling factor, (maybe because I haven't listened)*
- *The 'stereotypes' information. My role is to help break those stereotypes*
- *Give the (people I volunteer with) "a voice" – listen to their needs and act accordingly*
- *Bringing my attention to the subtle ways abuse happens*
- *The difference between social and medical models and impact on people with a disability*
- *Thoroughly enjoyed listening to (presenter), a very sobering topic, but such an important discussion that needs to continue*
- *Thought provoking as anticipated – Thank you! Appreciation to both speaker and the organisers.*

Other activities

LSMS has had the opportunity to participate in NDIS consultations on Safeguarding and the Framework for Information, Linkages and Capacity Building.

LSMS have attended the Disability Justice Symposium and attended the Disability Justice Conversation with Graham Innes organised by Purple Orange; participated in the Disability and Ageing Expo; walked with the Disability Pride March on the International Day for People with Disability 2015 (IDPwD) and joined the Panel for the Adelaide City Council's International Day of People with Disability Hypothetical. LSMS is also a member of the Peer Support Network facilitated by JFA Purple Orange.

Information

LSMS has brochures that are accessible through the HCSCC website http://www.hcscc.sa.gov.au/less-silence-more-safety-project/

It also has a Facebook page to tap into the current important voices in the disability activist anti-violence world and share the work of the project.
https://www.facebook.com/LessSilenceMoreSafety/?ref=aymt_homepage_panel

Future goals for LSMS

No Strings Attached Theatre of Disability and LSMS are collaborating on Testimonies – a story recording and performance / video project.

From these testimonies of violence, abuse and rights denial, No Strings Attached will create video stories that highlight the themes, consequences of violence and stories of resistance. LSMS is very grateful to the people who are telling their stories and honour their courage in this. They tell of times of despair at how they or their family member were treated and where they found their voice to resist and survive. We also appreciate the support of the Dulwich Centre in making this experience a way to tell difficult stories in a safe way.

HCSCC plans to launch Testimonies on International Day of People with Disability 2016. The Testimonies videos will then be part of continuing conversations with organisations and individuals to highlight the reality of abuse and violence for people with disability in South Australia.

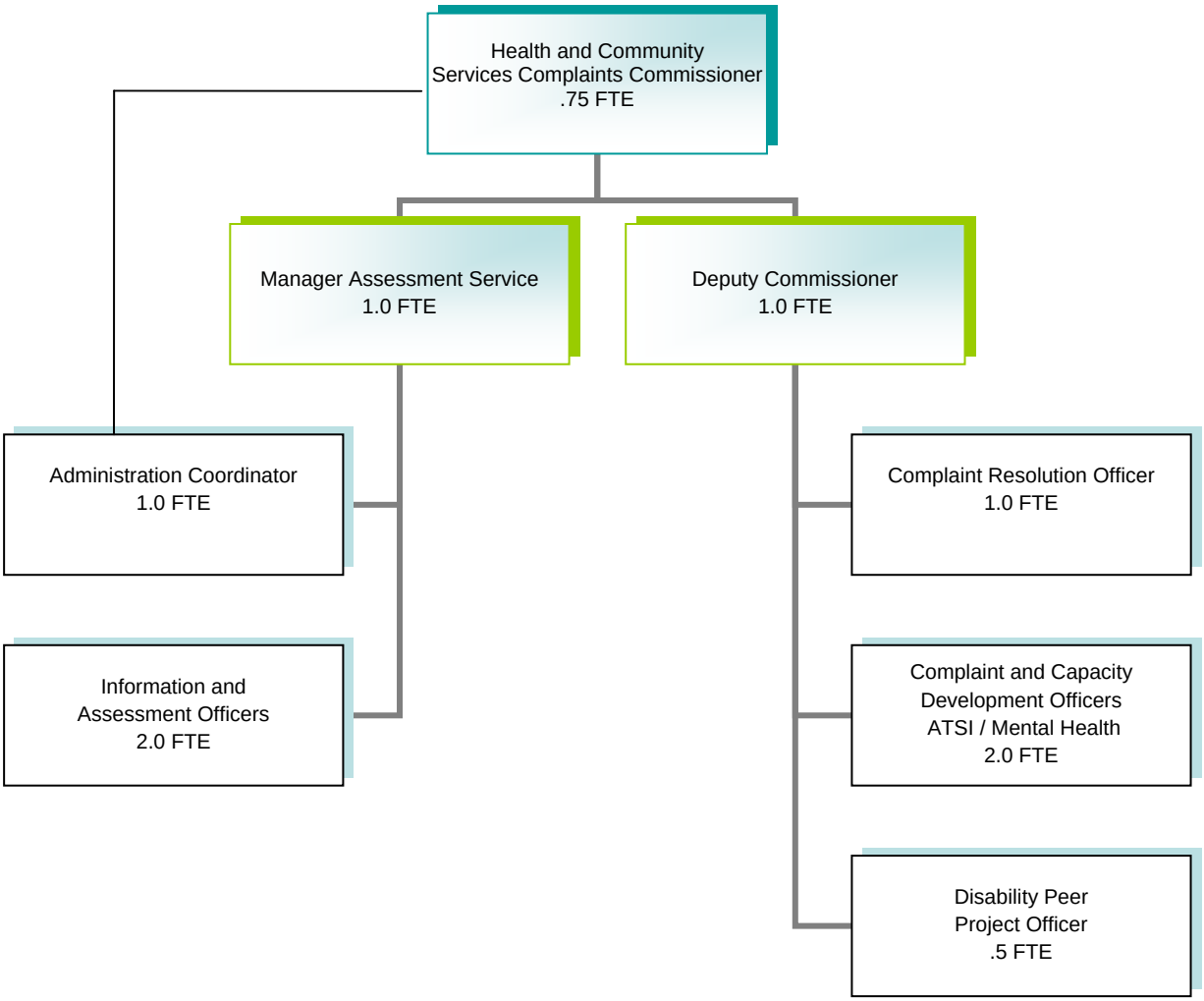
HCSCC wants to raise awareness of these realties, build more connections with people with disability and to increase the vigilance around and reporting of violence.

LSMS will offer opportunities to disability support organisations to join in the exploration of how to guard against violence and abuse in support relationships and build a more accountable response when violence or abuse is reported.

LSMS welcomes the chance to collaborate widely and grow the knowledge and actions we need in place to build more safety for people who live with a disability through less silence on the very real issues of violence and rights denial.

7 Human Resources

HCSCC organisational chart as at 30 June 2016



Staff of the office of the HCSCC (excluding the Commissioner) are employed by the Department for Health and Ageing. Statistical reporting relating to HCSCC staff is also captured in the Department for Health and Ageing 2015-16 Annual Report.

Number of Employees by Age Bracket by Gender

Age Bracket	Male	Female	Other	Total	Percent of Total	2014 Workforce Benchmark*
15 – 19						5.5%
20 – 24						9.7%
25 - 29						11.2%
30 - 34						10.7%
35 - 39		1		1	9.09	9.6%
40 - 44		1		1	9.09	11.4%
45 - 49	2	1		3	27.27	11.1%
50 - 54		1		1	9.09	11.4%
55 - 59		2		2	18.18	9.1%
60 - 64	1	2		3	27.27	6.7%
65+						3.6%
Total	3	8		11	100	**100%**

** Source: Australian Bureau of Statistics Australian Demographic Statistics, 6291.0.55.001 Labour Force Status (ST LM8) by sex, age, state, marital status – employed – total from Feb78 Supertable, South Australia at November 2013*

Number of Employees with Disabilities according to Commonwealth DDA Definition

	Male	Female	Other	Total	Agency %
Total				0	0

Types of Disability (Where Specified)

	Male	Female	Other	Total	Agency %
Disability requiring workplace adaptation				0	0
Physical				0	0
Intellectual				0	0
Sensory				0	0
Psychological/Psychiatric				0	0

Executives by Gender, Classification and Status

	Ongoing		Term Tenured		Term Untenured		Other (Casual)		Total			
Classification	M	F	M	F	M	F	M	F	M	%	F	%
Commissioner			1						1	100		
Total			**1**						**1**	**100**		

Leave management
Average Days Leave Taken (per FTE)

Leave Type	2012-13	2013-14	2014-15	2015-16
1) Sick Leave Taken	7.40	9.0	9.46	9.0
2) Family Carer's Leave Taken	1.10	0.5	1.66	2.0
3) Miscellaneous Special Leave	1.60	7.0	2.54	2.2

Documented review of individual performance management

Employees with …	% Total Agency
A review within the past 6 months*	0.0
A review older than 6 months	81.8
No review	18.2

** Includes all performance development plans established or reviewed in the last 6 months.*

Leadership and Management Training Expenditure

Training and Development	Total Cost	% of Total Salary Expenditure
Total training and development expenditure	$34 886	3.3%
Total leadership and management development expenditure	$11 628	2%

Work Health and Safety and Injury Management
HCSCC Work Health and Safety and Injury Management information is included in the Department for Health and Ageing Annual Report.

Further human resources information is available from the Commissioner for Public Employment website: http://www.dpc.sa.gov.au/annual-reports

8 Finance

HCSCC is funded from the state budget. HCSCCs financial transactions are included in the financial statements of the Department for Health and Ageing (DHA) Annual Report. HCSCC transactions are audited by the Auditor-General, along with those of DHA.

HCSCCs funding and expenditure (expressed in rounded dollars) for 2015-16, as provided by the DHA, is summarised below.

Summary of Revenue and Expenditure

Revised net budget as at 30/6/16 (includes Crown Solicitor's Office budget of $79 000)	**$1 418, 806**
Total Revenue	**$134 000**
Salaries and Wages	$1 061 461
Goods and Services	$537 398
Total Expenses	**$1 598 859**
Net Operating Result	**$1 464 860**
Under / (Over) Budget Result*	**($46 054)**

** Year end leave liability adjustments by SA Health, advised after 30 June 2016, resulted in the actual budget outcome.*

9 Mandatory Reporting Items

Freedom of Information Statement
Under the *Freedom of Information (Exempt Agency) Regulations 1993*, the Commissioner is exempt from the provisions of the *Freedom of Information Act 1991*. HCSCC follows the SA Health Code of Fair Information Practice as far as possible.

Reporting Against the *Carers Recognition Act 2005*
HCSCC complies with section 6 of the *Carers Recognition Act 2005*.

Disability Access and Inclusion Plans
HCSCC has had as a major initiative, it's Less Silence More Safety project which is detailed in section 6 of this report.

10 Glossary

ACCC	Aged Care Complaints Commissioner
AHPRA	Australian Health Practitioner Regulation Agency
CALD	Culturally and Linguistically Diverse
CLP	Community Living Project
COAG	Council of Australian Governments
COTA SA	Council on the Ageing SA
DCSI	Department for Communities and Social Inclusion
DDA	Disability Discrimination Act
DECD	Department for Education and Child Development
DHA	Department for Health and Ageing
FSA	Families SA
FTE	Full time equivalent
GP	General Practitioner
HCE	Health Complaints Entities
IDPwD	International Day for People with Disability
LSMS	Less Silence More Safety project
MOU	Memorandum of Understanding
NAIDOC	National Aborigines and Islanders Day Observance Committee
NEAMI	North Eastern Alliance for the Mentally Ill
SAPOL	SA Police
SMS	Short Message Service
TAFE	Technical and Further Education
TTY	Text Telephone
YWCA	Young Women's Christian Association

NOTES