

Office of the Health Ombudsman

Performance report January 2018



Office of the
**HEALTH
OMBUDSMAN**

Listen. Respond. Resolve.

Office of the Health Ombudsman – Performance report January 2018

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Introduction

This document reports on our performance during January 2018.

As Queensland's health service complaints agency, the Office of the Health Ombudsman (OHO) exists to protect the health and safety of the public by assessing, investigating and resolving complaints made about health services provided in Queensland.

Our vision is to be the cornerstone of a transparent, accountable and fair system for effectively and quickly dealing with complaints and other healthcare matters in Queensland. Our performance reports—which we update and publish monthly, quarterly and yearly—are a testament to this.

We are committed to ensuring that all decisions are well-informed, fair, impartial and timely.

Data in this report is correct as at 6 February 2018, but is subject to change.

Intake of complaints

Type of contacts

| Type of contact | Number | Percentage |
|----------------------|-------------|---------------|
| Complaint | 681 | 62.14 |
| Enquiry | 415 | 37.86 |
| Yet to be classified | 0 | 0.00 |
| Total | 1096 | 100.00 |

'Yet to be classified' includes contacts in which not enough information was provided for a determination to be reached—but further information is being sought, or matters that were not able to be finalised prior to the end of the reporting period. Contacts deemed 'yet to be classified' will be allocated as complaints or enquiries once additional information is received and registered as such in the next reporting period.

The number of complaint contacts will not equal the number of decisions made in the table below.

Type of complaints

| Type of complaints | Number | Percentage |
|------------------------------|------------|---------------|
| Health consumer complaint | 608 | 89.28 |
| Mandatory notification* | 12 | 1.76 |
| Voluntary notification* | 53 | 7.78 |
| Self-notification* | 5 | 0.73 |
| Referral from another agency | 3 | 0.44 |
| Total | 681 | 100.00 |

*Notifications are matters raised by health service providers which do not otherwise meet the definition of a health consumer complaints can include complaints by members of the public and health practitioners (other than those identified as a 'notifier' under the National Law, as required under the *Health Practitioner Regulation National Law (Queensland)*).

Complaint decisions

Decision timeframes—within seven days

| Decision made within seven days of receiving a complaint | Number | Percentage |
|--|------------|---------------|
| Yes | 509 | 95.50 |
| No | 24 | 4.50 |
| Total | 533 | 100.00 |

Accepted vs not accepted

| Number of decisions made | Number | Percentage |
|--------------------------|------------|---------------|
| Accepted | 365 | 64.83 |
| Not accepted* | 168 | 29.84 |
| Decision pending** | 30 | 5.33 |
| Total | 563 | 100.00 |

*'Not accepted' decisions relate to matters in which the Health Ombudsman has decided to take no further action under section 44 of the *Health Ombudsman Act 2013*.

**'Decision pending' relates to matters where more information is required before a decision on whether to accept or not accept can be made, or because the matter came in just before the end of the reporting period and is still being processed.

An additional 22 matters were determined to fall outside the jurisdiction of the Act.

Accepted decision outcomes

| Type of relevant action | Number | Percentage |
|---|------------|---------------|
| Assessment | 114 | 30.65 |
| Local resolution | 123 | 33.06 |
| Conciliation | 0 | 0.00 |
| Investigation | 7 | 1.88 |
| Referral to AHPRA and the national boards | 128 | 34.41 |
| Referral to another entity | 0 | 0.00 |
| Immediate registration action | 0 | 0.00 |
| Interim prohibition order | 0 | 0.00 |
| Total | 372 | 100.00 |

Accepted decisions may result in multiple issues and/or practitioners being identified, each requiring its own action. The data in the above table includes all identified issues/practitioners requiring action that were identified in the accepted complaints (noted in the previous 'Accepted vs not accepted' table).

Health service complaints profile

Main issues raised in complaints

| Issue | Number | Percentage |
|--|------------|---------------|
| Access | 94 | 9.64 |
| Code of conduct for healthcare workers | 27 | 2.77 |
| Communication/information | 133 | 13.64 |
| Consent | 11 | 1.13 |
| Discharge/transfer arrangements | 15 | 1.54 |
| Environment/management of facilities | 20 | 2.05 |
| Fees/cost | 27 | 2.77 |
| Grievance processes | 15 | 1.54 |
| <i>Health Ombudsman Act 2013 offence</i> | 0 | 0.00 |
| Medical records | 36 | 3.69 |
| Medication | 92 | 9.44 |
| Professional conduct | 104 | 10.67 |
| Professional health | 20 | 2.05 |
| Professional performance | 367 | 37.64 |
| Reports/certificates | 14 | 1.44 |
| Research/teaching/assessment | 0 | 0.00 |
| Total | 975 | 100.00 |

These figures are based on issues recorded during the reporting period. A single complaint can contain multiple issues. Reporting on all issues identified in complaints allows comprehensive monitoring of trends, which can in turn inform a range of health complaint management system functions, such as education and information provision.

Number and type of issues identified in complaints by health practitioner

| Practitioner type | Access | Code of conduct for healthcare workers | Communication and information | Consent | Discharge/transfer arrangements | Environment/management of facility | Fees and costs | Grievance process | Health Ombudsman Act 2013 Offence | Medical records | Medication | Professional conduct | Professional health | Professional performance | Reports/certificates | Research/Teaching/Assessment | Total |
|----------------------|-----------|--|-------------------------------|----------|---------------------------------|------------------------------------|----------------|-------------------|-----------------------------------|-----------------|------------|----------------------|---------------------|--------------------------|----------------------|------------------------------|------------|
| Alternative care | - | 16 | - | - | - | - | - | - | - | - | - | 4 | - | - | - | - | 20 |
| Chinese medicine | - | - | - | 1 | - | - | - | - | - | - | - | 1 | - | - | - | - | 2 |
| Chiropractor | - | - | - | 1 | - | 1 | - | - | - | 1 | - | 1 | - | 1 | - | - | 5 |
| Dentistry | 1 | - | - | 1 | 1 | - | 1 | - | - | 3 | - | 7 | 1 | 19 | - | - | 34 |
| Emergency care | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 2 | - | - | 3 |
| General medical | 10 | 1 | 29 | - | 1 | - | 2 | 2 | - | 8 | 22 | 23 | 3 | 80 | 5 | - | 186 |
| Medical radiation | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Medical specialty | 1 | 1 | 10 | - | - | - | 3 | - | - | 3 | 5 | 4 | 2 | 26 | 2 | - | 57 |
| Nursing | 1 | 4 | 1 | - | - | - | - | - | - | 2 | 5 | 21 | 6 | 8 | - | - | 48 |
| Occupational therapy | - | - | - | - | - | - | - | - | - | - | - | 2 | - | 2 | 1 | - | 5 |
| Optometry | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Osteopathy | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Other | - | 5 | 1 | - | - | - | - | - | - | - | 1 | 14 | 4 | 3 | - | - | 28 |
| Pathology service | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | - | - | 1 |
| Pharmacy | - | - | - | - | - | - | - | - | - | - | 5 | 2 | 1 | - | - | - | 8 |
| Physiotherapy | - | - | 1 | - | - | - | 1 | - | - | - | - | 3 | - | 1 | - | - | 6 |
| Podiatry | - | - | 1 | - | - | - | - | - | - | - | - | 1 | - | 1 | - | - | 3 |
| Psychology | - | - | 3 | - | - | - | - | - | - | 2 | - | 5 | 1 | 3 | 1 | - | 15 |
| Speech pathology | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Surgical | - | - | 2 | 1 | - | - | - | 1 | - | - | - | 1 | 1 | 17 | - | - | 23 |
| Total | 13 | 27 | 48 | 4 | 2 | 1 | 7 | 3 | 0 | 19 | 38 | 89 | 20 | 164 | 9 | 0 | 444 |

These figures are based on issues recorded during the reporting period. A single complaint can contain multiple issues.

Number and type of issues identified in complaints by health service organisation

| Organisation type | Access | Code of conduct for healthcare workers | Communication and information | Consent | Discharge/transfer arrangements | Environment/management of facility | Fees and costs | Grievance processes | Health Ombudsman Act 2013 Offence | Medical records | Medication | Professional conduct | Professional health | Professional performance | Reports/certificates | Research/Teaching/Assessment | Total |
|-----------------------------|-----------|--|-------------------------------|----------|---------------------------------|------------------------------------|----------------|---------------------|-----------------------------------|-----------------|------------|----------------------|---------------------|--------------------------|----------------------|------------------------------|------------|
| Aged care facility | - | - | 2 | - | - | 3 | - | - | - | - | - | - | - | 10 | - | - | 15 |
| Allied health service | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | - | - | 1 |
| Community health service | 3 | - | 2 | - | - | 1 | - | 1 | - | - | - | 1 | - | 2 | 1 | - | 11 |
| Correctional facility | 37 | - | 4 | - | - | - | - | - | - | - | 37 | - | - | 25 | - | - | 103 |
| Dental service | 2 | - | 7 | - | - | - | 4 | 1 | - | - | - | - | - | 5 | - | - | 19 |
| Hospital and Health Service | - | - | - | - | - | 1 | - | - | - | - | 1 | - | - | 6 | - | - | 8 |
| Laboratory service | - | - | - | - | - | - | 2 | - | - | - | - | - | - | 2 | 1 | - | 5 |
| Licensed private hospital | - | - | 5 | 2 | - | - | 2 | - | - | - | 3 | 1 | - | 9 | - | - | 22 |
| Medical centre | 12 | - | 13 | - | - | 1 | 5 | - | - | 8 | 1 | 4 | - | 12 | 1 | - | 57 |
| Mental health service | 3 | - | 7 | 3 | 1 | 1 | - | - | - | 1 | 2 | 2 | - | 11 | 1 | - | 32 |
| Other government department | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | - | - | 1 |
| Other support service | 1 | - | - | - | - | - | - | - | - | - | 1 | - | - | 1 | - | - | 3 |
| Pharmaceutical service | 2 | - | 1 | - | - | 2 | 1 | 3 | - | - | 4 | - | - | 1 | - | - | 14 |
| Private organisation | - | - | 1 | - | - | 1 | 1 | - | - | - | - | - | - | 2 | - | - | 5 |
| Public health service | 1 | - | - | - | - | - | - | - | - | - | - | - | - | 1 | - | - | 2 |
| Public hospital | 19 | - | 39 | 2 | 12 | 9 | 2 | 7 | - | 7 | 5 | 5 | - | 109 | - | - | 216 |
| Specialised health service | 1 | - | 2 | - | - | - | 1 | - | - | 1 | - | 2 | - | 3 | - | - | 10 |
| Health information service | - | - | 1 | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 |
| Licensed day hospital | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | - | - | 1 |
| Optical store | - | - | - | - | - | - | 2 | - | - | - | - | - | - | 1 | 1 | - | 4 |
| Social work service | - | - | 1 | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 |
| Total | 81 | 0 | 85 | 7 | 13 | 19 | 20 | 12 | 0 | 17 | 54 | 15 | 0 | 203 | 5 | 0 | 531 |

These figures are based on issues recorded during the reporting period. A single complaint can contain multiple issues.

Assessment

In December 2018 improvements were made to the office's case management system to more accurately capture the commencement date of Assessment cases. This update is an example of our commitment to continual improvement as we mature as an agency and the importance we place on transparent, robust data.

Assessments started and completed

| Assessments this month | Number |
|------------------------|--------|
| Assessments started | 127 |
| Assessments completed | 130 |

Completed assessment timeframes

Of the 130 assessments finalised in January, 90 were completed within 30 days or 60 days with an approved extension, representing a finalisation rate within statutory timeframes of 69.23 per cent.

Of the 40 assessments completed within 60 days, 28 matters were approved for extension.

The 28 matters completed outside of 60 days were due to the continuing high volume of matters that require additional assessment, the complexity of many of the matters in assessment, and delays in receiving information from parties or in obtaining the necessary independent clinical advice required to appropriately assess the matters.

| Assessment timeframes | Number | Percentage |
|--------------------------------|------------|---------------|
| Completed within 30 days | 62 | 47.69 |
| Completed within 60 days* | 40 | 30.77 |
| Completed in more than 60 days | 28 | 21.54 |
| Total | 130 | 100.00 |

*Assessments are able to be completed within 60 days when granted an extension of 30 days as a result of legislated requirements being met.

Assessment decisions

| Type of relevant action | Number | Percentage |
|---|------------|---------------|
| Local resolution | 1 | 0.70 |
| Conciliation | 8 | 5.59 |
| Investigation | 9 | 6.29 |
| Referred to AHPRA and the national boards | 14 | 9.79 |
| Referral to another entity | 43 | 30.07 |
| Immediate registration action* | 0 | 0.00 |
| Interim prohibition order* | 0 | 0.00 |
| No further action | 68 | 47.55 |
| Total | 143 | 100.00 |

Total assessment decisions will not equal the total number of assessments (in previous tables) as a single assessment can result in multiple relevant actions.

The figures for the type of relevant action decided in the assessment stage may not correspond with totals for respective relevant actions (e.g. local resolution, conciliation, investigation) due to the time between a decision being made and an action being taken crossing over different reporting periods.

*Immediate action assessment decision figures may not align with the immediate action figures later in the report due to immediate action decisions being made outside of the assessment process.

Local resolution

In December 2018 improvements were made to the office's case management system to more accurately capture the commencement date of Local Resolution cases. This update is an example of our commitment to continual improvement as we mature as an agency and the importance we place on transparent, robust data.

Local resolutions started and completed

| Local resolutions this month | Number |
|------------------------------|--------|
| Local resolutions started | 133 |
| Local resolutions completed | 85 |

The number of local resolutions started in the month may not directly match the number of assessment decisions to undertake local resolution due to the time between a decision being made and an action taken crossing over different reporting periods.

Completed local resolutions

Timeframes

Of the 85 local resolutions finalised in January, 72 were completed within 30 days or 60 days with an approved extension, representing a finalisation rate within statutory timeframes of 84.71 per cent.

Of the 21 local resolution matters completed within 60 days, 9 were approved for extension.

We strive to finalise all matters within legislated timeframes, however, some can take longer than others due to factors outside of our control, such as delays in receiving information and responses from individual parties.

| Local resolution timeframes | Number | Percentage |
|--------------------------------|-----------|---------------|
| Completed within 30 days | 63 | 74.12 |
| Completed within 60 days* | 21 | 24.71 |
| Completed in more than 60 days | 1 | 1.18 |
| Total | 85 | 100.00 |

*Local resolutions are able to be completed within 60 days when granted an extension of 30 days as a result of legislated requirements being met.

Outcomes

| Local resolution outcomes | Number | Percentage |
|-------------------------------------|-----------|---------------|
| Resolved | 68 | 80.00 |
| Not resolved | 12 | 14.12 |
| Complaint withdrawn* | 3 | 3.53 |
| Local resolution did not commence** | 2 | 2.35 |
| Total | 85 | 100.00 |

*Complainants can choose to withdraw their complaint at any stage during local resolution.

**A local resolution may not commence where the complaint is resolved directly with the health care provider prior to the commencement of the process.

Decisions for matters that were not resolved

| Type of relevant action | Number | Percentage |
|---|-----------|---------------|
| Assessment | 0 | 0.00 |
| Conciliation | 0 | 0.00 |
| Investigation | 0 | 0.00 |
| Referral to AHPRA and the national boards | 1 | 8.33 |
| Referral to another entity | 0 | 0.00 |
| Immediate action | 0 | 0.00 |
| No further action | 11 | 91.67 |
| Total | 12 | 100.00 |

Conciliation

Conciliations started and closed

| Conciliations this month | Number |
|--|--------|
| Conciliations open at the start of the month | 47 |
| Conciliations started | 11 |
| Conciliations closed | 9 |

The number of conciliations started in the reporting period may not match the number of decisions to refer for conciliation noted in other areas of the report due to the time between a decision being made and an action taken crossing over different reporting periods.

'Conciliations started' includes all matters—including matters where agreement to participate has or has not been reached or the decision is pending—that entered the conciliation workflow during the reporting period following the OHO assessing them as being suitable for conciliation. Similarly, 'conciliations closed' are all matters that were closed during the reporting period, whether due to parties not agreeing to participate or the matter being closed after completing the conciliation process. Closed conciliations differ from completed conciliations below, as completed conciliations only include matters where both parties agreed to participate and the conciliation process was completed.

Agreement to participate in conciliation

| Agreement to participate in conciliation | Number |
|--|--------|
| Parties agreed to conciliation | 2 |
| Party/ies did not agree to conciliation | 4 |
| Decision pending at end of month | 18 |

Once the decision is made to attempt conciliation, both parties must agree to participate in the process. If either one, or both, of the parties do not agree, the conciliation process does not commence and the matter is closed.

'Decisions pending' includes matters where parties are still deciding whether to participate in conciliation. It also includes matters that have been referred to another relevant action, where conciliation may not commence until this relevant action has been finalised.

Completed conciliations

Timeframes

| Completed conciliation timeframes | Number | Percentage |
|-----------------------------------|----------|---------------|
| Less than 3 months | 0 | 0.00 |
| 3–6 months | 1 | 20.00 |
| 6–9 months | 2 | 40.00 |
| 9–12 months | 1 | 20.00 |
| More than 12 months | 1 | 20.00 |
| Total | 5 | 100.00 |

The data above relates to matters where parties agreed to participate in conciliation and the conciliation process was completed within the specified timeframes. 'Completed conciliations' differ from 'closed conciliations'—in the table on page 15—as they only relate to matters where parties agreed to participate and the conciliation process was completed.

Outcomes

| Conciliation outcomes | Number | Percentage |
|---------------------------|----------|---------------|
| Successful | 5 | 100.00 |
| Not successful | 0 | 0.00 |
| Ended by Health Ombudsman | 0 | 0.00 |
| Total | 5 | 100.00 |

The data above relates to matters where parties agreed to participate in conciliation. After agreeing, the conciliation process was completed with the matter either being successful or not successful—or in rare instances, the Health Ombudsman ending it. 'Completed conciliations' differ from 'closed conciliations'—in the table on page 15—in that they only relate to matters where parties agreed to participate and the conciliation process was completed.

Decisions for conciliations that were not successful

| Type of relevant action | Number | Percentage |
|---|----------|-------------|
| Local resolution | 0 | 0.00 |
| Investigation | 0 | 0.00 |
| Referral to AHPRA and the national boards | 0 | 0.00 |
| Referral to another entity | 0 | 0.00 |
| Immediate action | 0 | 0.00 |
| No further action | 0 | 0.00 |
| Total | 0 | 0.00 |

Open conciliation timeframes

| Open conciliation timeframes | Number | Percentage |
|------------------------------|-----------|---------------|
| Less than 3 months | 19 | 38.78 |
| 3–6 months | 12 | 24.49 |
| 6–9 months | 9 | 18.37 |
| 9–12 months | 4 | 8.16 |
| More than 12 months | 5 | 10.20 |
| Total | 49 | 100.00 |

Matters can be referred simultaneously to conciliation and another relevant action. Conciliation may not necessarily commence until after the other relevant action has been finalised.

There are 13 matters on hold until the outcome of another process is finalised (e.g. the process of another agency such as AHPRA). This includes 6 matters that have been open for less than 3 months, 1 that has been open for 3–6 months, 2 that have been open for 6 – 9 months, and 4 that have been open for more than 12 months.

To allow for continued transparency in the timeliness of conciliation processes, open conciliation timeframes include the time in which a matter was on hold whilst another process was finalised.

Investigation

In October 2017 improvements to systems and processes were made to allow multiple investigations about health service providers which involve similar allegations to be combined and dealt with together under section 40(2) of the *Health Ombudsman Act 2013*. This approach will ensure greater efficiency, transparency and accountability in dealing with health service complaints. As a result of this, the number of open investigations reported on page 21 has decreased significantly when compared to previously reported performance data.

To allow for continued transparency in the timeliness of investigation processes, where an investigation involves more than one complaint or other matters, timeframes are calculated from the oldest decision to investigate date.

Investigations started and closed

| Investigations this month | Number |
|---|--------|
| Investigations open at the beginning of the month | 227 |
| Investigations started | 18 |
| Investigations closed | 21 |
| Investigations amalgamated under s40(2) | 1 |

The number of investigations started in the reporting period may not match the number of assessment decisions to undertake investigation due to the time between a decision being made and an action taken crossing over different reporting periods, or due to investigations being started via other processes (e.g. own-motion investigation).

Closed investigations

Timeframes

| Closed investigation timeframes | Number | Percentage |
|---------------------------------|-----------|---------------|
| Less than 3 months | 1 | 4.76 |
| 3–6 months | 4 | 19.05 |
| 6–9 months | 1 | 4.76 |
| 9–12 months | 2 | 9.52 |
| 12–24 months | 6 | 28.57 |
| More than 2 years | 7 | 33.33 |
| Total | 21 | 100.00 |

Outcomes

| Investigation outcomes | Number | Percentage |
|--|-----------|---------------|
| Recommended for referral to Director of Proceedings* | 16 | 72.73 |
| Referred to AHPRA | 1 | 4.55 |
| Referred to another agency | 0 | 0.00 |
| No further action | 5 | 22.73 |
| Referred to Executive Director, Legal Services** | 0 | 0.00 |
| Total | 22 | 100.00 |

*Matters determined suitable for referral to the Director of Proceedings at the conclusion of an investigation are sent to the Health Ombudsman for consideration and determination on whether referral to the Director of Proceedings is appropriate.

** These matters are referred to the Executive Director, Legal Services division within the office for consideration as to whether there is evidence of a breach of the Act that constitutes an offence that should be prosecuted in the courts. These matters differ to those referred to the Director of Proceedings, which require an independent determination of whether the matter should be put before the Queensland Civil and Administrative Tribunal.

Open investigations

Open investigations consist of two categories—active investigations and paused investigations.

Active investigations are being currently investigated by the office, while paused investigations are not able to be investigated by the office until such time as another agency—such as the Queensland Police Service or the Office of the State Coroner—concludes their own processes. Despite the office being unable to progress paused investigations, they are still considered to be open investigations.

Active investigation timeframes

| Active investigation timeframes | Number | Percentage |
|---------------------------------|------------|---------------|
| Less than 3 months | 43 | 22.75 |
| 3–6 months | 26 | 13.76 |
| 6–9 months | 19 | 10.05 |
| 9–12 months | 19 | 10.05 |
| 12–24 months* | 58 | 30.69 |
| More than 2 years* | 24 | 12.70 |
| Total | 189 | 100.00 |

* All investigations that have been open for more than 12 months are published on the investigations register on the OHO website.

Paused investigation timeframes

| Paused investigation timeframes | Number | Percentage |
|---------------------------------|-----------|---------------|
| Less than 3 months | 6 | 17.65 |
| 3–6 months | 5 | 14.71 |
| 6–9 months | 7 | 20.59 |
| 9–12 months | 2 | 5.88 |
| 12–24 months | 9 | 26.47 |
| More than 2 years | 5 | 14.71 |
| Total | 34 | 100.00 |

Certain matters may be referred to an external agency, such as the Queensland Police Service in accordance with section 92 of the *Health Ombudsman Act 2013*). From an OHO perspective, those matters are not 'closed', but rather, they are effectively 'paused' within the OHO's complaints management system until such time as the external agency finalises its investigations.

Total open investigation timeframes

| Total open investigation timeframes | Number | Percentage |
|-------------------------------------|------------|---------------|
| Less than 3 months | 49 | 21.97 |
| 3–6 months | 31 | 13.90 |
| 6–9 months | 26 | 11.66 |
| 9–12 months | 21 | 9.42 |
| 12–24 months | 67 | 30.04 |
| More than 2 years | 29 | 13.00 |
| Total | 223 | 100.00 |

Total open investigation categories

| Type of investigation | Number |
|--|------------|
| Health service complaint | 148 |
| Systemic issue | 24 |
| Another matter* | 49 |
| Matters identified for further investigation** | 2 |
| Total | 223 |

*Matters that are brought to the Health Ombudsman's attention by means other than through a health service complaint or notification.

**Matters referred for further investigation by the Health Ombudsman under section 105 of the Act following referral to Director of Proceedings.

Monitoring investigation recommendations

The OHO monitors the implementation of recommendations made as an outcome of two types of investigation process—recommendations made as a result of an OHO investigation and recommendations made as a result of a health service provider investigation.

OHO recommendations

At the completion of certain investigations, the Health Ombudsman makes recommendations to health services for how they can improve service delivery and/or prevent the issues identified in the investigation from happening again. In these instances, the OHO puts in place a recommendations monitoring program to track the implementation of the recommendations.

Health service provider recommendations

In addition, a health service provider may conduct its own investigation, or engage another entity to conduct an independent investigation, resulting in recommendations for improvement. The Health Ombudsman may decide to monitor the implementation of these recommendations.

OHO recommendations monitoring

| Cases this month | Number |
|--|--------|
| Cases open at the beginning of the month | 4 |
| Recommendations monitoring cases started | 0 |
| Recommendations monitoring cases closed | 0 |

Health service provider recommendations monitoring

| Cases this month | Number |
|--|--------|
| Cases open at the beginning of the month | 2 |
| Recommendations monitoring cases started | 0 |
| Recommendations monitoring cases closed | 0 |

Open recommendations monitoring timeframes

| Open case timeframes | Number | Percentage |
|----------------------|----------|---------------|
| Less than 6 months | 0 | 0.00 |
| 6–12 months | 2 | 33.33 |
| More than 12 months | 4 | 66.67 |
| Total | 6 | 100.00 |

Director of Proceedings

Matters referred to the Director of Proceedings by practitioner type

| Practitioner type | Number | Percentage |
|-------------------------------|-----------|---------------|
| Registered Nurse | 6 | 37.50 |
| Medical practitioner | 2 | 12.50 |
| Audiologist | 2 | 12.50 |
| Massage therapist | 2 | 12.50 |
| Pharmacist | 1 | 6.25 |
| Podiatrist | 1 | 6.25 |
| Physiotherapist | 1 | 6.25 |
| Chinese medicine practitioner | 1 | 6.25 |
| Total | 16 | 100.00 |

Matters determined suitable for referral to the Director of Proceedings at the conclusion of an investigation are sent to the Health Ombudsman for consideration and determination on whether referral to the Director of Proceedings is appropriate. As a result, these figures will differ from 'closed investigation outcomes' figures.

Matters currently with the Director of Proceedings by practitioner type

| Practitioner type | Number | Percentage |
|---------------------------------|------------|---------------|
| Registered nurse | 42* | 32.81 |
| Medical practitioner | 38 | 29.68 |
| Pharmacist | 11 | 8.59 |
| Psychologist | 8 | 6.25 |
| Massage therapist | 8 | 6.25 |
| Dentist | 5 | 3.91 |
| Advanced care paramedic | 2 | 1.56 |
| Audiologist | 2 | 1.56 |
| Podiatrist | 2 | 1.56 |
| Physiotherapist | 2 | 1.56 |
| Chinese medical practitioner | 2 | 1.56 |
| Unregistered chiropractor | 1 | 0.78 |
| Holding out as registered nurse | 1 | 0.78 |
| Student nurse | 1 | 0.78 |
| Chiropractor | 1 | 0.78 |
| Assistant in nursing | 1 | 0.78 |
| Medical radiation practitioner | 1 | 0.78 |
| Total | 128 | 100.00 |

*Two practitioners held dual registration as a midwife.

Decisions made by the Director of Proceedings

The Director of Proceedings considers all relevant aspects of each matter to determine whether to refer the matter to the Queensland Civil and Administrative Tribunal.

Matters referred to the Queensland Civil and Administrative Tribunal

| Practitioner type | Number | Percentage |
|-------------------|----------|---------------|
| Registered nurse | 3 | 100.00 |
| Total | 3 | 100.00 |

Matters referred back to Health Ombudsman

| Practitioner type | Number | Percentage |
|-----------------------------------|----------|---------------|
| Registered nurse | 1 | 50.00 |
| Holding out as a registered nurse | 1 | 50.00 |
| Total | 2 | 100.00 |

Offences against the *Health Ombudsman Act 2013*

The *Health Ombudsman Act 2013* specifies a number of breaches of the Act which constitute either a summary or indictable offence.

Where there is evidence of such a breach, a matter may be referred to the Executive Director, Legal Services to commence prosecution within the courts.

No matters were referred for summary prosecution in January.

Immediate action

The *Health Ombudsman Act 2013* allows for the Health Ombudsman to take immediate action against registered and unregistered health practitioners in instances where the Health Ombudsman reasonably believes the practitioner's health, conduct or performance poses a serious risk to the health and safety of the public.

Show cause notices

Six show cause notices were issued in January. These relate to:

- one registered nurse for reasons relating to conduct
- one personal carer for reasons relating to performance
- one paramedic for reasons relating to conduct
- one enrolled nurse for reasons relating to conduct
- one unregistered physiotherapist for reasons relating to conduct
- one registered nurse for reasons relating to conduct, performance and health.

As outlined in the *Health Ombudsman Act 2013*, upon receipt of a show cause notice, a health service provider is invited to make a submission within a stated period of time. The Health Ombudsman will then consider the submission before deciding whether to take immediate action against the provider.

Immediate registration actions

| Practitioner type | Number | Action taken | Reasons/s for taking action | | |
|-------------------------------|--------|--------------|-----------------------------|---------|-------------|
| | | | Health | Conduct | Performance |
| Chinese medicine practitioner | 1 | Conditions | | | ✓ |

Immediate registration actions apply only to registered practitioners and may result in the Health Ombudsman issuing a suspension—or imposing conditions upon—a registered practitioner's registration.

Interim prohibition orders

| Practitioner type | Number | Action taken | Reasons/s for taking action | | | |
|--------------------|--------|--------------|-----------------------------|---------|-------------|------------|
| | | | Health | Conduct | Performance | Interstate |
| Unregistered nurse | 1 | Prohibition | | ✓ | | |
| Massage therapist | 1 | Prohibition | | ✓ | | |
| Counsellor | 1 | Prohibition | | ✓ | | |

The Health Ombudsman has powers to issue interim prohibitions orders to unregistered practitioners and registered practitioners practicing outside their field of registration. An interim prohibition order can prohibit or restrict the practitioner from providing any health service, or a specific health service.

The Health Ombudsman can also enforce a prohibition order or an interim prohibition order issued in another state or territory where that interstate prohibition order corresponds—or substantially corresponds—to the type of prohibition order that can be made in Queensland.

The details for current prohibition orders can be found on the OHO website on the prohibition order register.

Monitoring practitioner compliance

When the Health Ombudsman takes immediate action against a health practitioner the OHO monitors the practitioner's compliance with the conditions of the order.

For interim prohibition orders this means monitoring compliance with the restriction(s) on or prohibition of service, and with immediate registration actions this means monitoring compliance with condition(s) on or suspension of a practitioner's registration.

The Health Ombudsman may take immediate action against a single practitioner with both immediate registration action and an interim prohibition order. This can occur, for example, in instances where there is a risk that a registered practitioner may also practice in an unregistered capacity.

Practitioner monitoring cases

| Cases this month | Number |
|--|--------|
| Cases open at the beginning of the month | 100 |
| Practitioner monitoring cases started | 3 |
| Practitioner monitoring cases closed | 3 |

Open monitoring cases

Timeframes

| Open case timeframes | Number | Percentage |
|----------------------|------------|---------------|
| Less than 6 months | 17 | 17.00 |
| 6–12 months | 24 | 24.00 |
| More than 12 months | 59 | 59.00 |
| Total | 100 | 100.00 |

Immediate action types

| Open cases by immediate action type | Number | Percentage |
|--|------------|------------|
| Interim prohibition order—restrictions | 22 | 22.00 |
| Interim prohibition order—prohibited | 32 | 32.00 |
| Immediate registration action—conditions | 27 | 27.00 |
| Immediate registration action—suspension | 19 | 19.00 |
| Total | 100 | 100 |

*As of 31 January 2018 10 practitioners were under monitoring in relation to more than one immediate action type.

Registered practitioners under monitoring by practitioner type

| Practitioner type | Number | Percentage |
|---|-----------|---------------|
| Aboriginal and Torres Strait Islander health practitioner | 0 | 0.00 |
| Chinese medicine practitioner | 4 | 7.02 |
| Chiropractor | 1 | 1.75 |
| Dental practitioner | 3 | 5.26 |
| Medical practitioner | 9 | 15.79 |
| Medical radiation practitioner | 0 | 0.00 |
| Nursing and midwifery practitioner | 34 | 59.65 |
| Occupational therapist | 0 | 0.00 |
| Optometrist | 0 | 0.00 |
| Osteopath | 0 | 0.00 |
| Pharmacist | 1 | 1.75 |
| Physiotherapist | 2 | 3.51 |
| Podiatrist | 0 | 0.00 |
| Psychologist | 3 | 5.26 |
| Total | 57 | 100.00 |

These figures are based on the number of individual registered practitioners being monitored by the OHO during the reporting period. As a single practitioner may be monitored in relation to more than one immediate action, these figures may not match the total number of open monitoring cases.

Unregistered practitioners under monitoring by type

| Open cases by practitioner type | Number | Percentage |
|---|-----------|---------------|
| Aboriginal and Torres strait islander health worker | 1 | 3.03 |
| Assistant in nursing | 3 | 9.09 |
| Audiologist | 2 | 6.06 |
| Counsellor | 1 | 3.03 |
| Dental assistant | 1 | 3.03 |
| Dental nurse | 1 | 3.03 |
| Former nurse | 1 | 3.03 |
| Holding out* | 3 | 9.09 |
| Massage therapist | 12 | 36.36 |
| Naturopath | 1 | 3.03 |
| Natural therapist | 1 | 3.03 |
| Other health provider | 1 | 3.03 |
| Paramedic | 3 | 9.09 |
| Personal carer | 1 | 3.03 |
| Social worker | 1 | 3.03 |
| Total | 33 | 100.00 |

These figures are based on the number of individual unregistered practitioners being monitored by the OHO during the reporting period. As a single practitioner may be monitored in relation to more than one immediate action, these figures may not match the total number of open monitoring cases.

*Certain titles of registered health professions are protected under the National Law. Anyone who uses a protected title (e.g. medical practitioner), without being registered for that profession, are classified as 'holding out' as a practitioner of that profession.

Australian Health Practitioner Regulation Agency

Notifications from AHPRA

In January the OHO received one new notification (under section 193 of the Act) relating to a possible serious matter.

Consultation on matters

The office consults with AHPRA on matters that are considered to be appropriate for AHPRA to manage. For matters that we are considering referring to AHPRA under section 91 of the *Health Ombudsman Act 2013*, we provide AHPRA with all necessary information in order for AHPRA to form a view as to whether they need to discuss or accept and progress the referral.

For complex cases or where a pattern of conduct may be present we may hold case conferences with AHPRA, either in person or electronically, which can sometimes delay the consultation process. By encouraging robust conversations during this process productive and consistent decisions between the co-regulatory agencies is achieved.

| Consultation matters | Number |
|----------------------------------|--------|
| Matters consulted on* | 152 |
| Matters referred | 173 |
| Matters retained by the office** | 6 |
| Decision pending | 6 |

*The number of matters consulted on may not equal the total number of matters referred, withdrawn and pending as a matter may have commenced consultation prior to the start of the reporting period.

**Under certain circumstances additional information may be received in the course of consultation resulting in the office retaining carriage of the matter and/or taking other relevant action.

Relevant action proposing referral

| Relevant action | Number | Percentage |
|-------------------|------------|---------------|
| Intake and triage | 128 | 84.21 |
| Assessment | 18 | 11.84 |
| Conciliation | 0 | 0.00 |
| Local resolution | 3 | 1.97 |
| Internal review | 2 | 1.32 |
| Investigations | 1 | 0.66 |
| Total | 152 | 100.00 |

Age of matters on commencement of consultation

In order to prevent duplication of work, we aim to ensure that matters are referred to AHPRA as early as possible in the complaint management process.

Due to the type of matters in which investigation or conciliation is deemed appropriate, and the more time intensive nature of these processes, these matters are usually older when consultation commences.

| Relevant action | 0–7 days | 8–14 days | 15–30 days | 30–60 days | More than 60 days |
|-------------------|------------|-----------|------------|------------|-------------------|
| Intake and triage | 128 | 0 | 0 | 0 | 0 |
| Assessment | 0 | 1 | 2 | 7 | 8 |
| Local resolution | 0 | 1 | 1 | 1 | 0 |
| Conciliation | 0 | 0 | 0 | 0 | 0 |
| Internal review | 0 | 0 | 0 | 0 | 2 |
| Investigation | 0 | 0 | 0 | 0 | 1 |
| Total | 128 | 2 | 3 | 8 | 11 |

'Age of matters' is calculated from the date on which a matter was accepted by the office.

Consultation duration

| Consultation duration | Number | Percentage |
|-----------------------|------------|---------------|
| 0–3 days | 131 | 86.18 |
| 4–7 days | 21 | 13.82 |
| 8–11 days | 0 | 0.00 |
| More than 12 days | 0 | 0.00 |
| Total | 152 | 100.00 |

Number of practitioners referred to AHPRA by practitioner type

| Practitioner type | Number | Percentage |
|---|------------|---------------|
| Aboriginal and Torres Strait Islander health practitioner | 0 | 0.00 |
| Chinese medicine practitioner | 2 | 1.16 |
| Chiropractor | 2 | 1.16 |
| Dental practitioner | 15 | 8.67 |
| Medical practitioner | 98 | 56.65 |
| Medical radiation practitioner | 0 | 0.00 |
| Nursing and midwifery practitioner | 35 | 20.23 |
| Occupational therapist | 4 | 2.31 |
| Optometrist | 0 | 0.00 |
| Osteopathy | 0 | 0.00 |
| Pharmacist | 8 | 4.62 |
| Physiotherapy | 0 | 0.00 |
| Podiatrist | 1 | 0.58 |
| Psychologist | 8 | 4.62 |
| Unregistered practitioner | 0 | 0.00 |
| Total | 173 | 100.00 |

Number of issues referred to AHPRA by practitioner type

| Registered practitioner type | Access | Communication and information | Consent | Discharge/transfer arrangements | Environment/management of facility | Fees and costs | Grievance process | Medical records | Medication | Professional conduct | Professional health | Professional performance | Reports/certificates | Total |
|---|----------|-------------------------------|----------|---------------------------------|------------------------------------|----------------|-------------------|-----------------|------------|----------------------|---------------------|--------------------------|----------------------|------------|
| Aboriginal and Torres Strait Islander health practitioner | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Chinese medicine practitioner | - | - | - | - | - | - | - | - | - | 1 | - | 1 | - | 2 |
| Chiropractor | - | - | 1 | - | 1 | - | - | 1 | - | 1 | - | 1 | - | 5 |
| Dental practitioner | - | - | - | - | - | - | - | 2 | - | 3 | 1 | 12 | - | 18 |
| Medical practitioner | 2 | 17 | 2 | - | - | - | 1 | 2 | 13 | 12 | 4 | 82 | 4 | 139 |
| Medical student | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Medical radiation practitioner | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Nursing and midwifery practitioner | 1 | 2 | - | - | - | - | - | 2 | 5 | 19 | 7 | 8 | - | 44 |
| Nursing student | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Occupational therapist | - | - | - | - | - | - | - | - | - | 3 | - | 1 | - | 4 |
| Optometrist | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Osteopath | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Pharmacist | - | - | - | - | - | - | - | - | 1 | 4 | 2 | - | - | 7 |
| Physiotherapist | - | - | - | - | - | - | - | - | - | 1 | - | - | - | 1 |
| Podiatrist | - | 1 | - | - | - | - | - | - | - | - | - | 1 | - | 2 |
| Psychologist | - | 2 | - | - | - | - | - | - | - | 3 | 2 | 2 | - | 9 |
| Unregistered practitioner | - | - | - | - | - | - | - | - | - | - | - | - | - | 0 |
| Total | 3 | 22 | 3 | 0 | 1 | 0 | 1 | 7 | 19 | 47 | 16 | 108 | 4 | 231 |

The figures above represent the number of issues referred to AHPRA, not the number of practitioners. The referral of a single practitioner may include multiple issues relating to that practitioner, with each issue requiring its own action.

Demographics

Reporting parameters for demographics data were updated as of June 2017. Previously, demographics contained within the office's reporting related to complaints that had completed the assessment process during the reporting period.

Refinements to systems and processes now allow for reporting on the demographics of complainants, consumers and practitioners who have made, or were identified in, a complaint during the reporting period. This change will result in higher numbers in the following four tables from June 2017.

This update is an example of the office's commitment to continual improvement as it matures as an agency and the importance it places on transparent, robust data.

Unless otherwise specified, data is based on healthcare consumers, not the complainant, as the complainant in a matter may not be the consumer of the health service. Matters where the healthcare consumer is an organisation are not included in these figures.

Gender

| Gender | Number | Percentage |
|-----------------------|------------|---------------|
| Female | 241 | 44.46 |
| Male | 277 | 51.11 |
| Prefer not to specify | 0 | 0.00 |
| Unknown* | 24 | 4.43 |
| Total | 542 | 100.00 |

*Not recorded or not provided for a particular matter.

Age

| Age | Number | Percentage |
|--------------------|------------|---------------|
| Less than 18 years | 32 | 5.90 |
| 18–24 years | 37 | 6.83 |
| 25–34 years | 95 | 17.53 |
| 35–44 years | 96 | 17.71 |
| 45–54 years | 94 | 17.34 |
| 55–64 years | 75 | 13.84 |
| 65–74 years | 39 | 7.20 |
| More than 75 years | 34 | 6.27 |
| Unknown* | 40 | 7.38 |
| Total | 542 | 100.00 |

*Not recorded or not provided for a particular matter.

Location of healthcare consumers

| Location of healthcare consumers | Number | Percentage |
|----------------------------------|------------|---------------|
| Brisbane | 222 | 40.96 |
| Central West | 0 | 0.00 |
| Darling Downs | 16 | 2.95 |
| Far North | 22 | 4.06 |
| Fitzroy | 13 | 2.40 |
| Gold Coast | 59 | 10.89 |
| Mackay | 15 | 2.77 |
| North West | 1 | 0.18 |
| Northern | 25 | 4.61 |
| South West | 2 | 0.37 |
| Sunshine Coast | 30 | 5.54 |
| West Moreton | 11 | 2.03 |
| Wide Bay–Burnett | 52 | 9.59 |
| Outside Queensland | 19 | 3.51 |
| Unknown* | 55 | 10.15 |
| Total | 542 | 100.00 |

*Not recorded or not provided for a particular matter.

Location of health service providers

| Location of health service providers | Number | Percentage |
|--------------------------------------|------------|---------------|
| Brisbane | 276 | 45.85 |
| Central West | 0 | 0.00 |
| Darling Downs | 20 | 3.32 |
| Far North | 27 | 4.49 |
| Fitzroy | 13 | 2.16 |
| Gold Coast | 63 | 10.47 |
| Mackay | 23 | 3.82 |
| North West | 1 | 0.17 |
| Northern | 23 | 3.82 |
| South West | 3 | 0.50 |
| Sunshine Coast | 37 | 6.15 |
| West Moreton | 7 | 1.16 |
| Wide Bay-Burnett | 57 | 9.47 |
| Outside Queensland* | 4 | 0.66 |
| Unknown** | 48 | 7.97 |
| Total | 602 | 100.00 |

*Health service provider location is taken from the primary address of the provider recorded in the OHO complaints management system. Complaints can be made about health service providers from other states if they provided the service in Queensland.

**Not recorded or not provided for a particular matter.



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