Australian Health Practitioner Regulation Agency and the national boards

Health, conduct and performance functions report
Q3 2015–16

June 2016
Table of contents

Introduction 2
Previous reports 2

Q3 2015–16 data 3
Omissions in the data provided 3
AHPRA comment 4

Performance highlights 4
Notifications overview 4
Immediate actions 5
Assessments 6
Investigations 6
Health assessments 7
Panel hearings 8
Tribunal hearings 8
Monitoring and compliance 8

Future performance reporting 8

Table of figures

Figure 1 The number of notifications received by AHPRA, Q1 to Q3 2015–16 4
Figure 2 The number of complaints about registered health practitioners received by the Office of the Health Ombudsman, Q1 to Q3 2015–16 5
Figure 3 The number and timeliness of open and completed health assessments 7
Introduction

One of my functions¹ as the Health Ombudsman for Queensland is monitoring and reporting on the performance of the Australian Health Practitioner Regulation Agency (AHPRA) and the 14 national health practitioner boards in their functions relating to the health, conduct and performance of registered health practitioners in Queensland.²

To fulfil this function I prepare and publish:

- routine quarterly performance reports using information provided to me by AHPRA and the national boards drawn from their health, conduct and performance datasets
- findings from assurance activities targeting specific functions of AHPRA and the national boards, in accordance with my Annual assurance plan 2015–16.³

These publications are designed to:

- encourage performance transparency and accountability of the functions of AHPRA and the national boards relating to the health, conduct and performance of registered health practitioners in Queensland
- recommend improvements in the performance of those functions
- provide information and assurance to the public about the performance of AHPRA and the national boards in Queensland.⁴

This report represents my fifth regular review of the performance of AHPRA and the national boards.

Previous reports

There have been four previous health, conduct and performance function reports, the last one covering the period October–December 2015 (the Q2 2015–16 data), published in March 2016. With four quarters of data collected, noticeable trends and interesting patterns are emerging and will be discussed in this report.

¹ Pursuant to sections 25(d) and (f), Health Ombudsman Act 2013
² Based on the location declared by the practitioner as the address at which they mostly practise their profession.
⁴ Pursuant to section 3(1)(c), Health Ombudsman Act 2013
Q3 2015–16 data

On 29 April 2016, AHPRA and the national boards provided me with their most recent quarterly health, conduct and performance functions data, covering the period January–March 2016 (Q3 2015–16 data—see attachment 1).

AHPRA also provided a submission noting:

- AHPRA has started publishing detailed information about registration management as part of their quarterly report on performance. Information from Q2 2015–16 has already been published on their website and further quarterly reports will be published on an ongoing basis.
- There has been a levelling of notifications received by AHPRA from my office over this reporting quarter compared to the previous quarters, with referral numbers remaining high.
- A higher number of immediate actions were commenced and completed in this quarter than last quarter, with only three open at the end of the reporting period—all open for less than 14 days.
- AHPRA’s focus this quarter has been on completing assessments to ensure risk is identified and appropriately managed. This has resulted in more completed assessments this quarter than any previous quarter.
- The diversion of resources to assessments has caused a decrease in the number of investigations completed during the quarter, resulting in the number of investigations open at the end of the reporting period increasing from Q2 2015–16.
- In March 2016, a new strategy was implemented to deal with the increased notifications workload. The strategy focused on providing additional national resources to the assessment function to free up investigators to progress and finalise investigations more quickly. An additional recruitment strategy to increase the number of staff managing notifications is also underway, which is expected to see an increased notifications closure rate in the Q4 2015–16 data.
- With the exception of changes to the public Register of practitioners resulting from immediate action decisions, there are no current guidelines around updating the register within a certain timeframe following a decision under section 178 of the Health Practitioner Regulation National Law (Queensland), or for any other notification decision (e.g. from panel or tribunal). However, the development of the Public Register Assurance Project aims to capture this data.

Omissions in the data provided

I note that the jurisdiction issue continues in relation to AHPRA’s ongoing assertion that reporting on their performance does not extend to the management of registration functions under the Health Practitioner Regulation National Law (Queensland). AHPRA has not provided the registration data I have requested in their submission, instead referring me to the registration management data published on their website. I consider the detail of information published is inadequate for my monitoring purposes.

I also note that AHPRA continues to report that there is no current system capable of generating data to provide information on the first action taken and the timeliness of the first action taken in cases where a practitioner is suspected of non-compliance or is non-compliant.
I further note that AHPRA continues to report they have no system capability to measure the time taken to update the Register of practitioners when a practitioner’s registration has been cancelled, suspended or when restrictions are imposed. The Register of practitioners is AHPRA’s online public register of practitioners that has accurate, up-to-date information about the registration status of all registered health practitioners in Australia. It is essential that timeframes are reported on in order to evaluate the timeliness in providing accurate information. AHPRA have reiterated that work being undertaken as part of their Public Register Assurance Project will ensure these timeframes are captured. To date, I have not been provided with any information on the timeframes for the completion of this project.

**AHPRA comment**

As with my previous reports, and consistent with the principles of procedural fairness, I provided AHPRA with the opportunity to comment on this report before its release. The AHPRA Queensland State Manager provided me with feedback and response to the draft report. I have subsequently reflected these comments in this report where appropriate.

**Performance highlights**

**Notifications overview**

- AHPRA received a total of 505 notifications in Q3 2015-16 (table 4.1, Q3 data).

This is a slight decrease in the total number of notifications compared to Q2 2015-16, although still higher than Q1. Where the number of notifications received were lower for health and performance, notifications regarding conduct increased from Q2 to Q3 2015-16 (see figure 1 below).

![Number of notifications received by AHPRA](image)

*Figure 1  The number of notifications received by AHPRA, Q1 to Q3 2015–16*
In this and previous reports, AHPRA maintain that the high number of notifications they receive are a result of notifications being referred from my office, noting while the number has slightly decreased in Q3 2015–16, the numbers remain high. I point out that complaints received by my office have also increased from each previous quarter (see figure 2 below), which accounts for an increased number of notifications referred from my office.

![Graph showing total number of registered health practitioner complaints received by the Office of the Health Ombudsman, Q1 to Q3 2015–16.](image)

**Figure 2** The number of complaints about registered health practitioners received by the Office of the Health Ombudsman, Q1 to Q3 2015–16

**Immediate actions**

- Of the 29 immediate actions completed, 26 of these resulted in immediate action taken. This is compared to 11 immediate actions taken in Q2 2015–16 (table 6.1, Q3 data).
- Of the 3 immediate actions open at the end of the reporting period, all 3 have been open for less than 14 days (table 7.1, Q3 data).

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5 Office of the Health Ombudsman – Quarterly performance report – Q1 to Q3 2015–16. This number is calculated based on the actual number of separate complaints received about an individual practitioner and not the number of issues identified within each individual complaint

6 Under the National Law, a national board may take immediate action in relation to a registered health practitioner registered by the board if the national board reasonable believes that because if the practitioner’s conduct, performance or health, the practitioner poses a serious risk to persons and it is necessary to protect public health or safety.
Assessments

- The number of assessments\(^7\) commenced decreased from 549 in Q2 to 500 in Q3 (table 10.1, Q3 data).
- The number of assessments completed increased from 352 in Q2 to 420 in Q3 (table 10.2, Q3 data).
- There were 603 assessments open at the end of the reporting period. However, 58 per cent (n=350) were open for less than 60 days (table 12.1, Q3 data).

AHPRA report they have diverted resources to assessment functions to ensure risk is identified and appropriately managed which has resulted in a decrease in the number of investigations completed. This is discussed further below.

In my last report, I sought clarification from AHPRA for differentiation between three possible outcomes for assessments that remain open at the end of the reporting period, and are recorded as *pending board decision*. AHPRA indicated that this category includes assessments:

- that are open and yet to be submitted to the relevant board
- that have been submitted to the board and are awaiting the board’s confirmed decision
- where the board has made a decision, but AHPRA’s database system has not been updated.

While AHPRA provided assessment data for the number of assessments open at the end of the reporting period pending board decision, post-board decision and subject to a *division 10* process, this data does not clarify why such a high percentage of open assessment matters remain reported as pending board decision.

AHPRA indicated that clarification was not possible as this data is unable to be generated by the reporting system and the information would need to be collected manually. I am considering AHPRA’s suggestion that more detailed examination of this issue be an assurance activity in the future.

Investigations

- The number of open investigations increased from 111 in Q2 to 134 in Q3 (table 13.1, Q3 data), while the number of investigations completed decreased from 55 in Q2 to 45 in Q3 (table 13.2, Q3 data).
- The diversion of resources from investigations to assessment functions may have contributed to the increase in investigations that remained open at the end of the reporting period from 390 in Q2 to 477 in Q3 (table 13.3, Q3 data).

AHPRA reported commencing a strategy to ensure investigations progress more quickly. AHPRA expect that this strategy will have a noticeable effect on the number of investigations completed in Q4 2015–16. AHPRA also noted that the number of notifications received from my office will also have an impact on

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\(^7\) Assessments refer to a preliminary assessment on a matter. Boards have the power to take no further action, investigate the matter further, refer the matter for health assessment, refer the matter for performance assessment, refer the matter for hearing by a panel or the responsible tribunal, or to take a form of action under *division 10* of part 8 of the National Law and it must undertake a show cause process.
the number of investigations completed. As previously acknowledged, this has directly resulted from the increased number of complaints received by my office and is outside of my control.

Health assessments

- The number of health assessments\(^8\) commenced in Q3 was 58, which was an increase of 81 per cent when compared to Q2 \((n=32)\) (table 16.1, Q3 data).
- The number of health assessments open at the end of Q3 was 105. However, 77 per cent \((n=81)\) of these have been open for less than six months (table 18.1, Q3 data).
- The number of health assessments completed in Q3 was 19 (table 17.2, Q3 data). This is a 68 per cent decrease compared to Q4 2014–15.
- Of the 19 health assessments completed in this quarter, 9 have conditions imposed (table 17.1, Q3 data).

\[\text{Figure 3 The number and timeliness of open and completed health assessments}\]

It can be seen in figure 3 that the number of health assessments completed within six months has decreased and the number of health assessments open for more than six months has increased. I note there was a 17 per cent increase from Q1 to Q2 and a further 50 per cent increase from Q2 to Q3 for health assessments that remained open at the end of the reporting period. Considering that almost half of completed health assessments resulted in conditions being imposed, the increasing number of health assessments being open for more than six months is concerning.

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\(^8\) A health assessment is an assessment of a person to determine whether the person has an impairment and includes a medical, physical, psychiatric or psychological examination or test of the person.
While I note management of health assessment matters is also dependent on external factors such as the availability of health assessors and the cooperation of practitioners being assessed, an explanation detailing the reasons why health assessment matters remain open after six months would assist in assuring me that any risks associated are being mitigated. I am interested to see if this trend continues in the Q4 data.

**Panel hearings**

- After a decline in the number of panel hearings that remained open at the end of the reporting period in Q2, there was an increase of 30 per cent in Q3.
- However, of the 30 panel hearings that remain open, 80 per cent (n=24) have been open for less than six months (table 24.1, Q3 data).

**Tribunal hearings**

- There were 11 tribunal hearings completed in Q3 (table 25.2, Q3 data). This is a significant increase compared to Q2 (n=2). This contributed to a 17 per cent decrease in the number of tribunal hearings remaining open at the end of the reporting period.

**Monitoring and compliance**

- The number of new monitoring cases that commenced in Q3 decreased from 170 in Q2 to 108 in Q3 (table 28.1, Q3 data).
- The number of practitioners with conditions or undertakings increased 11 per cent from 962 in Q2 to 1072 in Q3 (table 28.4, Q3 data). AHPRA report that this is a result of a system enhancement which allows for more accurate data to be captured.

The number of monitoring cases commenced in Q2 was high, with AHPRA reporting it was due to an increased number of notifications having a flow-on effect to the monitoring workload and the implementation of the new prohibited practitioner policy which saw an influx of new monitoring cases. Therefore, the decline in Q3 is likely to be levels normalising again.

**Future performance reporting**

I will continue to publish routine quarterly reports on the performance of AHPRA and the national boards for the purpose of monitoring the health, conduct and performance data of AHPRA and the national boards. These reports wouldn’t be possible without the consistent willingness and immeasurable efforts of AHPRA. I encourage AHPRA to continue to collaborate with my office in order to continue adding value to the already large amount of data collected and analysed.

While the Assurance Activity 1\(^9\) continues to be progressed by my office, plans for 2016–17 assurance activities have commenced. The quarterly health, conduct and performance functions reports have

identified possible areas of focus that could benefit by being expanded and reviewed as assurance activities. These areas of focus will be made available soon.

I look forward to working with AHPRA and the national boards further in establishing and maintaining a transparent, accountable and fair system for effectively and expeditiously dealing with complaints and other matters relating to the provision of health services in Queensland.

Leon Atkinson-MacEwen
Health Ombudsman