

Joint Committee on
the Health Care Complaints Commission



PARLIAMENT OF
NEW SOUTH WALES

Review of the Health Care Complaints Commission's 2021-22 and 2022-23 annual reports



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The motto of the coat of arms for the state of New South Wales is "Orta recens quam pura nites". It is written in Latin and means "newly risen, how brightly you shine".

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Chair's foreword

I am pleased to present the Committee's review of the Health Care Complaints Commission's annual reports for 2021-22 and 2022-23. Reviewing the Commission's performance through the examination of its annual reports is a central part of the Committee's important oversight role under the Health Care Complaints Act 1993. This review is the Committee's first of the 58th Parliament.

During the course of the review there was a change in the Commission's leadership, with Mr John Tansey PSM being appointed as Health Care Complaints Commissioner in July 2024. Noting the changes within the Commission during this time, we sought written responses from health sector stakeholders to gather external evidence on the Commission's performance, in addition to the information contained in its annual reports. These responses have provided us with important evidence to inform our review.

During 2022-23, the Commission experienced a return to the expected levels and types of complaints that were more in line with historical patterns, following a significant COVID-19-related spike in previous years. However, there was also a significant reduction in the timeliness of assessments and investigations during this period.

The Commission told us that its new case management system, which is expected to go-live in late 2024, is designed to significantly enhance the complaint management process, with anticipated improvements in timeliness, data management and user experience. We recommend that the Commission evaluate the new system within the first 6 months of implementation to determine whether the new system is achieving its anticipated benefits.

A key focus of this review was the complexity of the complaints process and the need to improve accessibility, particularly for vulnerable groups and complainants with experiences of trauma. We heard that there are additional barriers for people from First Nations communities and culturally and linguistically diverse communities. To address this, we recommend that the Commission implement trauma-informed options to support complainants who may strongly prefer to not make complaints in writing.

Support for practitioners was another key focus of the review. We heard that infrequent communication is a cause of significant distress among practitioners that are subject to complaint or investigation, particularly where complaints are unfounded or vexatious. For this reason, we recommend that the Commission implement targets around the frequency of its communication with practitioners, and improve its capacity to recognise and respond to vexatious complaints.

The Commission's stakeholder engagement and community outreach work also remains an area of particular interest for the Committee. We heard that engagement with First Nations communities remains an ongoing concern, despite the previous concerns of the committee, and that the Commission does not have an appropriately resourced standalone engagement and outreach function, which has limited its capacity to effectively engage with culturally and linguistically diverse communities. We recommend that the Commission establish a First Nations advisory group to improve its engagement with First Nations communities. We also recommend that additional funding be considered for standalone engagement and outreach activities with culturally and linguistically diverse communities.

I would like to thank the Commission staff for their work in improving our health care complaints system. I would also like to acknowledge the diligence of the new Commissioner in meeting with staff and stakeholders. I look forward to seeing the Commission respond to the evolving challenges within the health care system. I also thank Committee members for their support and engagement, and the Committee staff for their work.

Dr Joe McGirr

Chair

Findings and recommendations

Finding 1 _____ 2

During the reporting period, the percentage of complaints assessed within the statutory 60 day timeframe significantly decreased, while the percentage of investigations that took more than 12 months increased.

Finding 2 _____ 3

The new case management system is expected to improve the complaint management process in several ways, including in relation to timeliness, data management and user experience.

Recommendation 1 _____ 3

That the Health Care Complaints Commission evaluate its new case management system within the first 6 months of implementation to determine whether the new system is achieving its anticipated benefits.

Finding 3 _____ 7

The Health Care Complaints Commission discontinued the reporting of non-statutory key performance indicators (KPIs) in its annual reports and does not have any immediate plans to resume reporting on these KPIs.

Recommendation 2 _____ 7

That the Health Care Complaints Commission develop key performance indicators regarding:

- consumer experience and satisfaction, and
- the frequency of the Commission's communication with both complainants and practitioners.

Reporting on these indicators should commence in the 2024-25 annual report.

Finding 4 _____ 10

The complexity of the complaints process and the requirement for complaints to be made in writing present barriers for many potential complainants, particularly those from vulnerable groups or with experiences of trauma.

Recommendation 3 _____ 10

That the Health Care Complaints Commission implement accessible, trauma-informed options to support complainants who may not have the capacity to provide complaints in writing. This should include dedicated assistance for those who would prefer to make a verbal complaint.

Recommendation 4 _____ 10

That the NSW Government consider providing additional funding for the Health Care Complaints Commission to establish a dedicated First Nations liaison/navigator position to provide a culturally safe and accessible service for Aboriginal people lodging a complaint and/or practitioners subject to a complaint.

Recommendation 5 _____	15
That the Health Care Complaints Commission report back to the Committee in early 2025 on actions it intends to take to address the recommendations made by the Select Committee on Birth Trauma, relating to:	
<ul style="list-style-type: none"> • accessible and trauma-informed support for complainants (Recommendation 40) • the public reporting of complaints data relating to maternity care and birth trauma (Recommendation 43) 	
Finding 5 _____	18
Infrequent communication with health practitioners that are subject to complaint and investigation is a cause of significant distress among practitioners, particularly where complaints are unfounded.	
Recommendation 6 _____	18
That the Health Care Complaints Commission improve the frequency of its communication with practitioners that are the subject of complaint, and that it implements targets around the frequency of its communication. Progress against these targets should be included in the annual report for 2024-25, as per Recommendation 2 above.	
Recommendation 7 _____	18
That the Health Care Complaints Commission improve its capacity to recognise and report on unfounded and vexatious complaints, and reports on actions it is taking in this regard.	
Recommendation 8 _____	22
That the Health Care Complaints Commission develop a program to support health practitioners that are subject to complaint and investigation. This should include the monitoring of, and reporting on, practitioner health and well-being.	
Finding 6 _____	24
Community and health practitioner awareness of the Commission and its work remains low, particularly in the context of other co-regulators operating in NSW.	
Finding 7 _____	24
The Health Care Complaints Commission has taken steps to review and improve its stakeholder engagement and communications functions.	
Recommendation 9 _____	24
That the Health Care Complaints Commission publish the findings and recommendations of the comprehensive stakeholder engagement review that was commissioned and completed in 2023 to improve transparency.	
Finding 8 _____	27
Engagement with First Nations communities remains an ongoing challenge.	
Recommendation 10 _____	27

That the Health Care Complaints Commission establish a First Nations advisory group, with membership from Aboriginal Community Controlled Health Organisations and senior community leaders, to improve its engagement with First Nations communities.

Finding 9 _____ 29

The Health Care Complaints Commission does not have an appropriately resourced standalone engagement and outreach function, which has limited its capacity to effectively engage with culturally and linguistically diverse communities and improve awareness of its role.

Recommendation 11 _____ 29

That the NSW Government consider providing additional funding to the Health Care Complaints Commission for standalone engagement and outreach activities with culturally and linguistically diverse communities.

Chapter One – Complaint management

Summary

This chapter will cover:

- the profile of complaints received by the Health Care Complaints Commission (the **Commission**) during the reporting period (2021-22 and 2022-23)
- the timeliness of assessments and investigations completed during this time, including health sector stakeholder views on the Commission's performance
- the new case management system and its anticipated benefits
- reporting against key performance indicators (**KPIs**).

Complaints and investigations profile

- 1.1 In 2022-23, the Commission experienced a return to the expected levels and types of complaints that were more in line with historical patterns, following a significant COVID-19-related spike in previous years.¹
- 1.2 For example, in 2021-22, COVID-19 made up over 20 per cent of complaints and drove complaint numbers to unprecedented levels, with over 10,000 complaints made to the Commission. The following year, COVID-19 complaints made up only 2.5 per cent of complaints and there was a 9.4 per cent decrease in the overall number of complaints.²
- 1.3 During this period, the majority of complaints about health practitioners continued to relate to medical practitioners (54 per cent of complaints in 2022-23), and treatment continued to be the most common issue across all complaints (42.6 per cent in 2022-23).³

Cosmetic surgery complaints

- 1.4 In its review of the Commission's 2020-21 annual report, the previous Committee noted the significant under-reporting of safety issues in the cosmetic surgery sector, and raised concerns that the low volume of cosmetic surgery complaints reflected a lack of awareness of available complaint mechanisms.⁴
- 1.5 Since then, new national safeguards have been introduced for cosmetic surgery and there have been a number of national reforms to the sector. The Australian

¹ [Answers to supplementary questions](#), Health Care Complaints Commission, 18 October 2024, p 3; Health Care Complaints Commission, [Annual Report 2022-23](#), pp 3, 26.

² [Answers to supplementary questions](#), p 3; [Annual Report 2022-23](#), p 26.

³ [Annual Report 2022-23](#), pp 27, 29, 103, 104, 107.

⁴ Committee on the Health Care Complaints Commission, [Review of HCCC's 2020-21 annual report](#), report 3/57, Parliament of New South Wales, November 2022, pp 23-24.

Health Practitioner Regulation Agency (**Ahpra**) has also developed resources to improve community awareness.⁵

- 1.6 These reforms have not resulted in a notable increase in cosmetic surgery complaints to the Commission, as cosmetic services complaints still made up only 1.7 per cent of complaints about medical practitioners in 2022-23.⁶
- 1.7 However, Mr John Tansey, Commissioner of the Health Care Complaints Commission, did report other changes in the profile of these complaints. For example, most complaints in this area now relate to unregulated premises and unregulated practitioners, rather than qualified practitioners who are pushing the boundaries of their scope of practice. This is reflected in the proportion of complaints about non-registered cosmetic therapists, which rose from 2 per cent in 2021-22 to 5.4 per cent in 2022-23.⁷

Timeliness of assessments and investigations

Finding 1

During the reporting period, the percentage of complaints assessed within the statutory 60 day timeframe significantly decreased, while the percentage of investigations that took more than 12 months increased.

- 1.8 The Commission aims to complete the assessment of each complaint received within the statutory time frame of 60 days, as set out in the *Health Care Complaints Act 1993*.⁸ For complaints that require investigation, the Commission aims to complete these investigations within 12 months.⁹
- 1.9 As part of our review of the Commission's annual reports, the Committee sought written responses from a range of health sector stakeholders. When asked about the Commission's benchmarks and its performance against them:
- most health sector stakeholders felt that the 60 day statutory timeframe for complaint assessment was appropriate¹⁰, but noted that the Commission often fails to meet this timeframe.¹¹

⁵ [Annual Report 2022-23](#), p 3; Mr John Tansey PSM, Commissioner, Health Care Complaints Commission, [Transcript of evidence](#), 27 September 2024, p 16.

⁶ [Annual Report 2022-23](#), p 109.

⁷ Mr Tansey, [Transcript of evidence](#), p 16; [Annual Report 2022-23](#), p 28.

⁸ [Annual Report 2022-23](#), p 7; [Health Care Complaints Act 1993](#), s 22.

⁹ [Annual Report 2022-23](#), p 8.

¹⁰ [Response to written questions](#), Psychotherapy and Counselling Federation of Australia (PACFA), 23 September 2024, p 1; [Response to written questions](#), Rural Doctors Association of NSW (RDANSW), 23 September 2024, p 1; [Response to written questions](#), NSW Health, 20 September 2024, p 2; [Response to written questions](#), Australian Paramedics Association NSW (APA (NSW)), 20 September 2024, p 1; [Response to written questions](#), Australian and New Zealand College of Anaesthetists (ANZCA), 16 September 2024, p 1; [Response to written questions](#), NSW Nurses and Midwives' Association (NSWNMA), 16 September 2024, p 1; [Response to written questions](#), Australian Health Practitioner Regulation Agency (Ahpra), 16 September 2024, p 1; [Response to written questions](#), Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG), 12 September 2024, p 1; [Response to written questions](#), Australasian Birth Trauma Association (ABTA), 25 September, p 7.

¹¹ [Response to written questions](#), NSW Health, p 5; [Response to written questions](#), APA (NSW), p 1; [Response to written questions](#), NSWNMA, p 1; [Response to written questions](#), ABTA, p 7.

- many stakeholders felt that the 12 month timeframe for the completion of investigations was excessive, noting that prolonged investigations exacerbate distress for both complainants and practitioners.¹²

1.10 We were also concerned by significant changes in the timeliness of assessments and investigations during the reporting period, which appeared to be outside of the usual variation expected.¹³ For example, between 2021-22 and 2022-23:

- the percentage of complaints assessed within 60 days fell by more than 10 per cent (from 79 per cent to 68.9 per cent).¹⁴
- the percentage of investigations that took more than 12 months to complete increased by more than 10 per cent (from 14.8 per cent to 25.3 per cent).¹⁵

1.11 The Commissioner told us that the reduction in complaint assessment timeliness may have been due to the continuing impacts of COVID-19. When asked about the increase in investigation length, the Commission attributed this to:

- COVID-19, which remains 'the most definitive impact on timeliness of investigation completion'
- staff turnover
- a higher number of facility investigations, which are 'more protracted and extensive in scope', with multi-party complexity.¹⁶

New case management system

Finding 2

The new case management system is expected to improve the complaint management process in several ways, including in relation to timeliness, data management and user experience.

Recommendation 1

That the Health Care Complaints Commission evaluate its new case management system within the first 6 months of implementation to determine whether the new system is achieving its anticipated benefits.

¹² [Response to written questions](#), Medical Indemnity Protection Society (MIPS), 5 September 2024, p 2; [Response to written questions](#), Medical Insurance Group Australia (MIGA), 16 September 2024, p 1; [Response to written questions](#), Association of Massage Therapists (AMT), 10 September 2024, p 1; [Response to written questions](#), PACFA; [Response to written questions](#), NSWNMA, p 1; [Response to written questions](#), Royal College of Pathologists Australia (RCPA), 20 August 2024, p 1; [Response to written questions](#), NSW Health, p 9; [Response to written questions](#), ABTA, p 8.

¹³ Mr Tansey, [Transcript of evidence](#), p 5; Mr Tim Crakanthorp, [Transcript of evidence](#), p 5.

¹⁴ Mr Tansey, [Transcript of evidence](#), p 4; Mr Tim Crakanthorp, [Transcript of evidence](#), p 4.

¹⁵ [Answers to supplementary questions](#), p 1; Mr Tim Crakanthorp, [Transcript of evidence](#), p 5.

¹⁶ [Answers to supplementary questions](#), p 1; Mr John Tansey, [Transcript of evidence](#), p 4.

- 1.12 The Commission has previously described the replacement of its ageing case management system as 'the most important major project being undertaken' by the organisation.¹⁷
- 1.13 In its 2022-23 annual report, the Commission noted that the project was expected to be completed by June 2024.¹⁸ However, in September 2024 we heard that the new system was not yet fully operational. Although major milestones had been met, the Commission was still 'stabilising the build of the system' and the targeted go-live was late 2024.¹⁹
- 1.14 The Commission told us that the system is designed to 'significantly enhance the handling and resolution of complaints', with anticipated improvements in timeliness, data management and user experience.²⁰
- 1.15 The features of the new system, and the anticipated improvements, are covered in more detail below.

System design and functionality

Efficiency improvements

- 1.16 The Commission told us that the new case management system is designed to 'address several identified inefficiencies' in the Commission's processes by:
- replacing manual data entry tasks with automated workflows that include mandatory data collection
 - consolidating data from various departments into a single repository for centralised information access
 - introducing customisable dashboards to enhance reporting capabilities.²¹

Customisation and scalability

- 1.17 We heard that the system is being built on a flexible cloud-based platform that can be customised to accommodate different types of case types, including those related to registered vs. non-registered practitioners.²²
- 1.18 The Commission explained that these case types are supported by templates that help to automate the generation of relevant documentation and communications to improve the consistency and accuracy of the assessment process.²³

¹⁷ [Annual Report 2022-23](#), p 17.

¹⁸ [Annual Report 2022-23](#), p 17.

¹⁹ Mr Tansey, [Transcript of evidence](#), p 13; [Answers to supplementary questions](#), pp 7,12.

²⁰ [Answers to supplementary questions](#), p 7.

²¹ [Answers to supplementary questions](#), p 8.

²² [Answers to supplementary questions](#), p 8; Mr John Tansey, [Transcript of evidence](#), p 14.

²³ [Answers to supplementary questions](#), p 8.

- 1.19 These templates will also allow the Commission to adapt to changing requirements (for example, future increases in complaints, or changes in legislation or organisational policies).²⁴

Interagency collaboration

- 1.20 The Commission reported that the new case management system includes features that enhance information sharing while ensuring compliance with data privacy laws. Specifically, the system will include:
- Application Programming Interfaces (**APIs**) that allow integration with other regulatory bodies' systems
 - access controls that ensure sensitive data is only accessible to authorised personnel.²⁵

User experience

- 1.21 The Commission told us that the design process for the new system has incorporated feedback from actual users representing all relevant groups, including the Commission, staff, complainants and healthcare providers, through questionnaires and usability testing sessions.²⁶
- 1.22 We heard that comprehensive training programs will be rolled out alongside the launch of the new system to familiarise users with its functionality. Documentation and interactive tutorials will also be provided to aid this process, and mechanisms for continuous user feedback will be put in place to inform future updates and enhancements.²⁷

Data security and privacy

- 1.23 The Commission acknowledged the importance of data security and noted that significant cybersecurity measures have been integrated into the new case management system, including:
- encryption of sensitive data
 - multi-factor authentication for user access
 - regular security audits and updates
 - secure business integration to safeguard sensitive health data, particularly during interagency collaboration.²⁸

²⁴ [Answers to supplementary questions](#), p 9.

²⁵ [Answers to supplementary questions](#), p 9; Mr Tansey, [Transcript of evidence](#), p 14.

²⁶ [Answers to supplementary questions](#), p 9; Mr Tansey, [Transcript of evidence](#), p 14.

²⁷ [Answers to supplementary questions](#), p 10.

²⁸ [Answers to supplementary questions](#), p 10.

- 1.24 To ensure that complainant information is only accessible to authorised personnel, the new system will include role-based access controls. Audit trails will also be maintained for all data access events.²⁹

Risk and incident management

- 1.25 To mitigate risks associated with data loss and system downtime, the new system will incorporate several fail-safes, including regular automated data backups. The Commission also told us that a comprehensive disaster recovery plan is being refined and will be tested annually to ensure its effectiveness.³⁰
- 1.26 We heard that a bespoke risk assessment tool will also be integrated with the new system. This tool is designed to enhance the identification, prioritisation and ongoing management of high-risk complaints through:
- real-time flagging against pre-defined risk parameters
 - automated workflow adjustments for high-risk cases, which will ensure they are promptly escalated and assigned to appropriate staff.³¹

Reporting and data analytics

- 1.27 The Commission stated that 'users can expect significant enhancements in data reporting and analytics capabilities with the new system'. The anticipated improvements include:
- real-time data visualisation that will allow staff to easily track performance against key performance indicators (KPIs)
 - the ability to generate customisable reports that focus on specific metrics, time periods and complaint types.³²
- 1.28 We heard that the new system will also seek to improve the accuracy and quality of data, through automated data validation checks, standardised data entry protocols and regular data audits.³³

Performance metrics

- 1.29 The Commission told us that the success of the new system will be measured against several performance metrics in the first year of operation, including:
- reduced complaint resolution times, particularly for high-risk cases
 - increased staff productivity, including a reduction in time spent managing data entry

²⁹ [Answers to supplementary questions](#), p 10.

³⁰ [Answers to supplementary questions](#), p 11.

³¹ [Answers to supplementary questions](#), p 11.

³² [Answers to supplementary questions](#), p 12.

³³ [Answers to supplementary questions](#), p 13.

- feedback on usability and overall satisfaction with the system.³⁴
- 1.30 The Commission also acknowledged the importance of gathering staff feedback to refine the system's functionality and ensure that it remains responsive to staff needs. To obtain this feedback, the Commission plans to distribute comprehensive post-launch surveys and convene regular feedback sessions on user experiences and desired enhancements.³⁵
- 1.31 The Committee acknowledges the Commission's work to develop its new case management system and notes the various improvements that it is expected to bring about.
- 1.32 We would benefit from a briefing and demonstration of the new case management system and expect that the Commission will provide this in the first half of 2025.
- 1.33 We also recommend an evaluation of the new system in 2025, against the performance metrics outlined above, to determine whether the new system is achieving its anticipated benefits.

Reporting against key performance indicators

Finding 3

The Health Care Complaints Commission discontinued the reporting of non-statutory key performance indicators (KPIs) in its annual reports and does not have any immediate plans to resume reporting on these KPIs.

Recommendation 2

That the Health Care Complaints Commission develop key performance indicators regarding:

- **consumer experience and satisfaction, and**
- **the frequency of the Commission's communication with both complainants and practitioners.**

Reporting on these indicators should commence in the 2024-25 annual report.

- 1.34 In previous annual reports, the Commission included an appendix summarising its performance against a range of targets and key non-statutory indicators that aligned with the Commission's strategic priorities.³⁶
- 1.35 Although the Commission's annual reports continued to report on the volume, profile and outcome of complaints, the appendix of non-statutory KPI reporting was not included in the 2021-22 and 2022-23 annual reports.

³⁴ [Answers to supplementary questions](#), p 13.

³⁵ [Answers to supplementary questions](#), p 13.

³⁶ [Annual Report 2020-21](#), Appendix B, pp 192 – 194.

1.36 When we queried this, the Commissioner explained that he was not aware of the rationale for previous decisions about KPI reporting. However, he told us that continuing to report on non-statutory indicators was 'not immediately attractive' to him:

I would want to be sure that any KPIs we were putting effort into tracking and reporting and recording were highly beneficial not only to the operation of the organisation but to the actual achievement of the outcomes, which is part of our mission.³⁷

1.37 The Commissioner added that reporting against a 'plethora of KPIs' provides lots of information, but not necessarily a 'critical line of useful information'.³⁸

1.38 However, when we asked health sector stakeholders about the Commission's reporting against performance measures, some raised concerns about the discontinuation of reporting, noting the importance of ensuring transparency and public trust.³⁹

1.39 For example, the Psychotherapy and Counselling Federation of Australia stated:

It is crucial to report key indicators. This transparency is essential for maintaining public trust in the process. When people have confidence in healthcare organisations, they are more likely to seek out and utilise their services.⁴⁰

1.40 Health sector stakeholders also suggested reporting on additional performance measures going forward. The most frequently suggested measures included:

- consumer (complainant and practitioner) experience and satisfaction⁴¹
- impacts on patient safety and system improvement (ie. the percentage of cases where the Commission's recommendations led to changes in policies, procedures, or practices within the healthcare system)⁴²
- regularity and consistency of communication with complainants and practitioners.⁴³

1.41 The Medical Indemnity Protection Society suggested that the Commission commit to communicating with practitioners at least once every three months, where that practitioner is subject to investigation. This would assure practitioners that progress is being made on the investigation.⁴⁴ We discuss the importance of clear and timely communication with practitioners in more detail in Chapter 3.

³⁷ Mr Tansey, [Transcript of evidence](#), p 5.

³⁸ Mr Tansey, [Transcript of evidence](#), p 6.

³⁹ [Response to written questions](#), PACFA, p 2; [Response to written questions](#), MIPS, p 3.

⁴⁰ [Response to written questions](#), PACFA, p 2.

⁴¹ [Response to written questions](#), AMT, p 2; [Response to written questions](#), NSW Health, p 10; [Response to written questions](#), ANZCA, p 1; [Response to written questions](#), ABTA, p 9; [Response to written questions](#), Health Consumers NSW (HCNSW), 30 September 2024, p 4.

⁴² [Response to written questions](#), NSW Health, p 11; [Response to written questions](#), HCNSW, p 4.

⁴³ [Response to written questions](#), MIPS, p 2; [Response to written questions](#), APA (NSW), p 1.

⁴⁴ [Response to written questions](#), MIPS, p 2.

- 1.42 We recommend that the Commission develops the KPIs suggested above and commences reporting against them in the 2024-25 annual report to improve transparency and confidence in its complaint management functions.
- 1.43 The Committee will also continue to monitor the reporting of KPIs to determine whether additional indicators should be included as statutory requirements.

Chapter Two – Support for complainants

Summary

This chapter will explore:

- the accessibility of the Health Care Complaints Commission (the **Commission**) and key barriers, particularly for complainants from First Nations and culturally and linguistically diverse communities
- how the Commission can improve support for complainants who have experienced birth trauma.

Accessibility of the complaints process

Finding 4

The complexity of the complaints process and the requirement for complaints to be made in writing present barriers for many potential complainants, particularly those from vulnerable groups or with experiences of trauma.

Recommendation 3

That the Health Care Complaints Commission implement accessible, trauma-informed options to support complainants who may not have the capacity to provide complaints in writing. This should include dedicated assistance for those who would prefer to make a verbal complaint.

Recommendation 4

That the NSW Government consider providing additional funding for the Health Care Complaints Commission to establish a dedicated First Nations liaison/navigator position to provide a culturally safe and accessible service for Aboriginal people lodging a complaint and/or practitioners subject to a complaint.

- 2.1 As part of our review of the Commission's annual reports, the Committee asked health sector stakeholders about the accessibility of the Commission's services, particularly for First Nations and culturally and linguistically diverse communities.
- 2.2 The Committee heard that the complaints process was not easy or straightforward, even for educated complainants with a good faculty of the English language, and that people from First Nations or culturally and

linguistically diverse communities are likely to experience additional barriers in navigating the process.⁴⁵

Requirement for complaints to be in writing

- 2.3 Many stakeholders told us that the requirement for complaints to be in writing creates a significant barrier to accessibility.⁴⁶ This barrier disproportionately affects vulnerable groups, including:
- people with experiences of trauma
 - individuals with communication needs and/or low literacy skills
 - people from First Nations communities
 - people from culturally and linguistically diverse communities
 - people in correctional centres.⁴⁷
- 2.4 NSW Health told us that it was unclear, from the Commission's website, whether a complaint could be made over the phone. They said that this could present a barrier to making a complaint where a person has a preference for making a verbal complaint over a written one, or where English is not their first language.⁴⁸
- 2.5 The Association of Massage Therapists told us that they have received calls from 'distressed members of the public', who did not have the stamina to lodge a written complaint with the Commission, but who would have verbally lodged a complaint if given the opportunity.⁴⁹
- 2.6 Speech Pathology Australia also advocated for a more accessible process that would allow for verbal complaints to be made. They explained that they have implemented accessibility measures within their own complaints process, including accepting complaints in non-written formats.⁵⁰
- 2.7 Although the *Health Care Complaints Act 1993* requires complaints to the Commission to be made in writing,⁵¹ the Commissioner noted that there is an 'open question' as to who needs to put those complaints in writing.⁵²

⁴⁵ [Response to written questions](#), Australasian Birth Trauma Association (ABTA), 25 September 2024, p 10; [Response to written questions](#), NSW Health, 20 September 2024, pp 11 – 13; [Response to written questions](#), NSW Nurses and Midwives' Association (NSWNMA), 16 September 2024, p 2.

⁴⁶ [Response to written questions](#), NSW Health, pp 11 - 12; [Response to written questions](#), Association of Massage Therapists (AMT), 10 September 2024, p 1; [Response to written questions](#), Speech Pathology Australia (SPA), 23 September 2024, p 1; Dr Amanda Cohn, [Transcript of evidence](#), 27 September 2024, p 12.

⁴⁷ [Response to written questions](#), NSW Health, pp 11 - 12; [Response to written questions](#), AMT, p 1; [Response to written questions](#), SPA, p 1; [Response to written questions](#), ABTA, p 10; Dr Cohn, [Transcript of evidence](#), p 12.

⁴⁸ [Response to written questions](#), NSW Health, pp 11 - 12.

⁴⁹ [Response to written questions](#), AMT, p 2.

⁵⁰ [Responses to written questions](#), SPA, p 1.

⁵¹ [Health Care Complaints Act 1993](#), section 9.

⁵² Mr John Tansey PSM, Commissioner, Health Care Complaints Commission, [Transcript of evidence](#), 27 September 2024, p 12.

- 2.8 The Commissioner told us that the Commission's Enquiry Service already provides some support for potential complainants by acting as a 'telephone front door' and assisting people to lodge complaints, where they may be limited in their capacity to make a written complaint.⁵³
- 2.9 The Enquiry Service is designed to inform potential complainants of their rights and responsibilities, address concerns about health care services in NSW, and determine if the Commission is the appropriate body to handle a complaint.⁵⁴
- 2.10 Through this service, an Enquiry Officer may complete and submit a complaint form on behalf of a complainant, where a complainant is 'unable to complete the complaint form themselves due to disability, low literacy skills, or other communication constraints'.⁵⁵
- 2.11 The Committee acknowledges that the Enquiry Service is a valuable service for supporting potential complainants through the complaints process, particularly for individuals that may be limited in their capacity to make a written complaint.
- 2.12 However, during both 2021-22 and 2022-23, only 0.1 per cent of enquiries resulted in an Enquiry Officer drafting the complaint (a total of 9 complaints each year).⁵⁶ The Commissioner also noted that the Enquiry Service does not have the resources to extensively talk people through a high volume of complaints.⁵⁷
- 2.13 During the hearing, the Commissioner indicated that he would be happy to reflect on how the Commission can better support people who are limited in their capacity to make a written complaint.⁵⁸
- 2.14 We encourage the Commission to implement accessible, trauma-informed options to support complainants, include dedicated assistance for those who would prefer to make a verbal complaint.

Additional barriers for complainants from First Nations communities

- 2.15 The Committee heard that there are 'ongoing challenges' for First Nations communities in navigating the complaints process. For example, there is limited awareness of how the Commission operates from the perspective of Aboriginal and Torres Strait Islander communities. This lack of understanding is further challenged by the fact that 'cultural differences can affect how services are delivered and received', which may make it harder for First Nations people to interact with the Commission.⁵⁹

⁵³ Mr Tansey, [Transcript of evidence](#), p 12.

⁵⁴ Health Care Complaints Commission, [Annual Report 2022-23](#), p 7.

⁵⁵ [Annual Report 2022-23](#), p 7; Health Care Complaints Commission, [Annual Report 2021-22](#), p 57.

⁵⁶ [Annual Report 2022-23](#), p 25.

⁵⁷ Mr Tansey, [Transcript of evidence](#), pp 12-13.

⁵⁸ Mr Tansey, [Transcript of evidence](#), p 12.

⁵⁹ [Response to written questions](#), NSW Health, p 12; [Response to written questions](#), Australian Health Practitioner Regulation Agency (Ahpra), 16 September 2024, p 2.

- 2.16 Additionally, a historical distrust of the healthcare system, due to past experiences of racism, may result in a reluctance for First Nations people to engage with the Commission and its staff.⁶⁰
- 2.17 Noting these barriers, the Australian Health Practitioner Regulation Agency (**Ahpra**) told us that Aboriginal and Torres Strait Islander complainants will often prefer to speak to a First Nations Officer when lodging a complaint with the Commission, but that there is currently no service offering or resource to accommodate this.⁶¹
- 2.18 Ahpra told us that they have recently recruited dedicated Aboriginal and Torres Strait Islander Process Navigators (Identified) to provide a 'culturally safe and accessible service' for First Nations people lodging a complaint. These staff will support clients from the beginning of the process through to the end.⁶²
- 2.19 Similarly, Speech Pathology Australia offers First Nations complainants the option of being assisted by a representative who is Aboriginal and/or Torres Strait Islander.⁶³
- 2.20 Other stakeholders agreed that introducing dedicated First Nations officers, like Ahpra has, would improve support and cultural understanding for First Nations people wanting to make a complaint to the Commission.⁶⁴
- 2.21 When we asked what was being done to support First Nations complainants, the Commission explained that all staff complete 'Respecting the Difference' training 'to strengthen their understanding and sensitivity towards First Nations communities'.⁶⁵ The Commission said it was committed to 'continuing to improve services for First Nations complainants', but noted the difficulties with resourcing in a small agency.⁶⁶
- 2.22 We acknowledge that the Commission is seeking to provide culturally respectful and responsive services, with the limited resourcing that it has available. However, given the significant barriers that First Nations communities continue to face, we recommend that the NSW Government provides additional funding for the Commission to establish a dedicated First Nations liaison/navigator position. This will enable the Commission to provide a culturally safe and accessible service to assist First Nations people with lodging a complaint.

⁶⁰ [Response to written questions](#), NSWNMA, p 2; [Response to written questions](#), NSW Health, p 13.

⁶¹ [Response to written questions](#), Ahpra, p 2.

⁶² [Response to written questions](#), Ahpra, p 3.

⁶³ [Response to written questions](#), SPA, p 2.

⁶⁴ [Response to written questions](#), NSWNMA, p 3; [Response to written questions](#), NSW Health, p 16; [Response to written questions](#), Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG), 12 September 2024, p 2.

⁶⁵ [Answers to supplementary questions](#), Health Care Complaints Commission, 18 October 2024, p 4.

⁶⁶ [Answers to supplementary questions](#), p 5.

Additional barriers for culturally and linguistically diverse communities

- 2.23 The Committee also heard that there are additional challenges in navigating the complaints process for culturally and linguistically diverse communities, including:
- language barriers that make it difficult to articulate their experiences
 - distress in making a complaint due to values of compliance and obedience (and the stigma around 'whistleblowing')
 - prior experiences of racism and/or discrimination, leading to a reluctance to access the Commission's services.⁶⁷
- 2.24 We acknowledge that the Commission provides multicultural health communication resources on its website, with website material available in 81 languages to support culturally and linguistically diverse communities.⁶⁸ The Commission has also developed 12 Easy Read fact sheets on key topics, including 'healthcare fees', 'assessing complaints' and 'investigating complaints'.⁶⁹
- 2.25 However, as we noted during the hearing, digital inclusion for many culturally and linguistically diverse communities is low.⁷⁰ This means that there may be limited value in translating website material into different languages.
- 2.26 We explore the Commission's engagement and outreach with culturally and linguistically diverse communities in more detail in Chapter 4, and recommend that additional funding is considered to support standalone engagement and outreach activities with these communities.

⁶⁷ [Response to written questions](#), NSWNMA, p 2; [Response to written questions](#), NSW Health, p 12; Dr David Saliba, [Transcript of evidence](#), 27 September 2024, p 7.

⁶⁸ [Response to written questions](#), NSW Health, pp 11 – 12; [Response to written questions](#), Ahpra, p 3.

⁶⁹ [Answers to supplementary questions](#), p 5.

⁷⁰ Dr Saliba, [Transcript of evidence](#), p 7.

Support for birth trauma complainants

Recommendation 5

That the Health Care Complaints Commission report back to the Committee in early 2025 on actions it intends to take to address the recommendations made by the Select Committee on Birth Trauma, relating to:

- **accessible and trauma-informed support for complainants (Recommendation 40)**
- **the public reporting of complaints data relating to maternity care and birth trauma (Recommendation 43)**

- 2.27 The recent inquiry of the Legislative Council Select Committee on Birth Trauma highlighted the difficulties in navigating the Commission's complaint processes, particularly for people who have experienced significant trauma.
- 2.28 The Select Committee recognised systemic issues within the maternity care system, as well as the difficulties that many individuals have faced in 'obtaining justice' through avenues such as the Commission. The Select Committee tabled its report in May 2024 and made 43 recommendations to address preventable birth trauma.⁷¹
- 2.29 The Birth Trauma report found that the Commission's complaints process was 'intimidating' and that many individuals discontinued their complaints because the process was re-traumatising. On this basis, the report recommended additional support for the Commission to provide 'more accessible and trauma-informed support to complainants' (Recommendation 40).⁷²
- 2.30 The report also raised concerns that the remit of the Commission was 'not suitably sensitive to reviewing, assessing and investigating claims'. To address this, the report recommended that the Chair of the Select Committee on Birth Trauma write to the Chair of this Committee 'to consider the public reporting of complaints data relating to maternity care and birth trauma and its referral processes, including complaints that may have allegations of assault' (Recommendation 43).⁷³
- 2.31 During the hearing for this review, we asked the Commissioner about what is being done to improve support for complainants that have experienced significant trauma, in response to Recommendation 40. The Commissioner told us that trauma-informed practice was a key focus of the Commission's recent all-staff day, and that this is an area in which they are looking to increase their capability and skill in.⁷⁴ We also heard that there are ongoing discussions between the Commission and the Ministry of Health about the implementation

⁷¹ Select Committee on Birth Trauma, [Birth Trauma Report](#), report 1/58, Parliament of New South Wales, May 2024, p viii.

⁷² [Birth Trauma Report](#), May 2024, p 123.

⁷³ [Birth Trauma Report](#), May 2024, p 124.

⁷⁴ Mr Tansey, [Transcript of evidence](#), p 11.

of the actions noted in the Government response to the Select Committee's report.⁷⁵

- 2.32 We note that although the initial action under Recommendation 43 rested with the Chair of the Select Committee on Birth Trauma, the Chair of that Committee wrote to us in May 2024 and the Commission is aware of that recommendation. We also followed up on the status of Recommendation 43 during the hearing and as part of our supplementary questions to the Commission.⁷⁶
- 2.33 During the hearing, we asked about the referral process for birth trauma complaints (a component of Recommendation 43), noting that a small number of submissions to the Birth Trauma inquiry involved serious allegations against practitioners that may amount to assault. The Commissioner told us that if they thought they were dealing with a criminal matter, and that it had stopped being a 'matter of medical or clinical practice', the Commission would refer the matter to the relevant authorities, including NSW Police or the Director of Public Prosecutions.⁷⁷
- 2.34 Although the Commission outlined its referral processes, we note that the Commission has not addressed the substance of Recommendation 43 insofar as it relates to the public reporting of complaints data relating to maternity care and birth trauma.
- 2.35 Noting that the Commissioner has only been in the role for a short time, the Committee requests an update from the Commission in early 2025 on any additional support it has received and actions it intends to take to address the Select Committee's recommendations that relate to its operations.

Birth trauma complaints at Wagga Wagga Base Hospital

- 2.36 The Select Committee on Birth Trauma report included a case study on Wagga Wagga Base Hospital, noting that the Maternity Consumer Network lodged a complaint in 2022 on behalf of 30 women who endured traumatic birth experiences at that hospital. These concerning reports included 'allegations of disrespectful and abusive treatments', leading to investigations within the local health district and statewide.⁷⁸
- 2.37 We followed up on these reports during our review, as we were concerned to hear that nobody had made contact with those women for 12 months.⁷⁹
- 2.38 The Commissioner noted that there were different views as to whether or not the women had made a formal complaint, in a way that the Commission could investigate, but that he was looking into those matters to 'see what the lessons are'.⁸⁰

⁷⁵ Mr Tansey, [Transcript of evidence](#), p 11; [Answers to supplementary questions](#), p 7.

⁷⁶ Mr Tansey, [Transcript of evidence](#), pp 12 – 13; [Answers to supplementary questions](#), p 7.

⁷⁷ Mr Tansey, [Transcript of evidence](#), p 12.

⁷⁸ [Birth Trauma Report](#), May 2024, p 122.

⁷⁹ Dr Joe McGirr, [Transcript of evidence](#), 27 September 2024, p 12.

⁸⁰ Mr Tansey, [Transcript of evidence](#), p 12.

2.39 The Commission further told us:

While there are some differences of perspective regarding how the matter was managed at the time, there are learnings for the HCCC about the need to be clear with advocacy groups and complainants regarding what is required to formally lodge a complaint, and the importance of keeping complainants regularly informed and updated of the progress of their complaint.⁸¹

2.40 We remain concerned about how the matter was managed by the Commission at the time, and we expect that the Commission will recognise and implement the learnings from these matters, particularly in relation to its interactions with advocacy organisations and complainants.

2.41 This case study continues to highlight the importance of an accessible complaints process, particularly where complainants have experienced significant trauma. As we recommended earlier in this chapter, the Commission should implement accessible, trauma-informed options to support complainants who may not have the capacity to make a complaint in writing.

⁸¹ [Answers to supplementary questions](#), p 7.

Chapter Three – Support for health practitioners

Summary

This chapter will look at:

- the impacts of complaints and investigations on health practitioners
- the factors that contribute to health practitioner distress, including lengthy investigations, infrequent communication, and vexatious and/or unfounded complaints
- what the Health Care Complaints Commission (the **Commission**) is doing to support health practitioners and reduce unnecessary distress for those who are subject to complaint and investigation.

Impacts on health practitioners

Finding 5

Infrequent communication with health practitioners that are subject to complaint and investigation is a cause of significant distress among practitioners, particularly where complaints are unfounded.

Recommendation 6

That the Health Care Complaints Commission improve the frequency of its communication with practitioners that are the subject of complaint, and that it implements targets around the frequency of its communication. Progress against these targets should be included in the annual report for 2024-25, as per Recommendation 2 above.

Recommendation 7

That the Health Care Complaints Commission improve its capacity to recognise and report on unfounded and vexatious complaints, and reports on actions it is taking in this regard.

- 3.1 As part of the Committee's review of the Commission's annual reports, we sought written responses from health sector stakeholders on a range of topics. Although we did not specifically ask about the impacts of complaints on health practitioners, many stakeholders raised concerns about practitioner distress.⁸²

⁸² [Response to written questions](#), NSW Nurses and Midwives' Association (NSWNMA), 16 September, p 1; [Response to written questions](#), Rural Doctors Association of NSW (RDANSW), 23 September 2024, p 1; [Response to written questions](#), NSW Health, 20 September 2024, p 18; [Response to written questions](#), Australian Paramedics Association NSW (APA (NSW)), 20 September 2024, p 1; [Response to written questions](#), Australian and New Zealand

- 3.2 For example, Pharmaceutical Defence Limited (**PDL**) told us that health practitioners that are subject to complaint experience heightened levels of stress, anxiety and shame¹, which can negatively impact on their personal and professional lives.⁸³
- 3.3 A complaint lodged against a health practitioner can also have significant implications for that practitioner, including a potential escalation to investigation, referral to a professional council or referral to the Commission's Resolution Service.⁸⁴
- 3.4 The Medical Indemnity Protection Society (**MIPS**) noted that while protection of the public is a 'paramount regulatory principle', this should be secured 'with as little damage or harm to the practitioner as is consistent with its maintenance'.⁸⁵
- 3.5 Similarly, the Commissioner acknowledged that the Commission cannot remove or absolve a practitioner of anxiety where there are genuine concerns about public safety, but recognised the importance of reducing avoidable distress throughout the complaint assessment and investigation process.⁸⁶
- 3.6 We discuss some of the factors that contribute to health practitioner distress below, including lengthy investigations, infrequent communication and vexatious and/or unfounded complaints.

Lengthy investigations

- 3.7 The Committee heard that practitioner distress is often exacerbated where complaints are referred for investigation because of the protracted nature of investigations.⁸⁷
- 3.8 As we noted in Chapter 1, there was a significant reduction in the timeliness of investigations in 2022-23, and over a quarter of the Commission's investigations took more than 12 months to complete.⁸⁸

College of Anaesthetists (ANZCA), 16 September 2024, pp 1 - 2; [Response to written questions](#), Medical Insurance Group Australia (MIGA), 16 September 2024, p 1; [Response to written questions](#), Pharmaceutical Defence Limited (PDL), 12 September 2024, p 2; [Response to written questions](#), Royal College of Pathologists Australia (RCPA), 20 August 2024, p 1; [Response to written questions](#), Medical Indemnity Protection Society (MIPS), 5 September 2024, pp 1 - 2; [Response to written questions](#), Health Professional Councils Authority (HPCA), 27 September 2024, p 3.

⁸³ [Response to written questions](#), PDL, p 2.

⁸⁴ [Annual Report 2022-23](#), p 5.

⁸⁵ [Response to written questions](#), MIPS, p 2.

⁸⁶ Mr John Tansey PSM, Commissioner, Health Care Complaints Commission, [Transcript of evidence](#), 27 September 2024, pp 9-10.

⁸⁷ [Response to written questions](#), Psychotherapy and Counselling Federation of Australia (PACFA), 23 September 2024, p 1; [Response to written questions](#), RCPA, p 1; [Response to written questions](#), MIPS, p 2; [Response to written questions](#), PDL, p 4; [Response to written questions](#), RDANSW, p 1.

⁸⁸ [Answers to supplementary questions](#), Health Care Complaints Commission, 18 October 2024, p 1; Mr Tim Crakanthorp, [Transcript of evidence](#), p 4.

- 3.9 PDL told us that lengthy investigations can cause uncertainty for practitioners as they are left without finality',⁸⁹ and MIPS noted that some practitioners have been suspended for years while awaiting the outcome of an investigation.⁹⁰
- 3.10 As part of the investigation process, practitioners may also be subject to restrictions on their practice, public warnings, referrals for disciplinary action or legal proceedings.⁹¹
- 3.11 Even when practitioners are exonerated of claims, they are often 'significantly distressed' by the process.⁹² We were particularly concerned to hear that this distress can result in self-harm and suicide.⁹³

Infrequent communication

- 3.12 Health sector stakeholders told the Committee that infrequent communication is a source of distress for health practitioners that are subject to complaint, and that clear and regular communication from the Commission would 'significantly reduce' this distress.⁹⁴
- 3.13 The Commission told us that they endeavour to keep practitioners updated on the progress of matters, but they are 'keenly aware that there might be some resourcing challenges in doing that'.⁹⁵
- 3.14 We note that there are no requirements for the Commission to communicate with practitioners while a complaint is being assessed or investigated. Anecdotally, we have heard that practitioners may go 6 months or longer without receiving an update.⁹⁶
- 3.15 MIPS suggested that, where complaints cannot be assessed within the statutory timeframe, the Commission should clearly and regularly communicate:
- why the timeframe has not been met
 - what further steps or information is required to complete the assessment
 - an estimated timeframe for completion
 - a commitment to communicate with the practitioner again if the assessment cannot be completed within the revised timeframe.⁹⁷
- 3.16 Where a practitioner is being investigated, MIPS suggested it would be appropriate for the Commission to commit to communicating with practitioners

⁸⁹ [Response to written questions](#), PDL, p 4.

⁹⁰ [Response to written questions](#), MIPS, p 2.

⁹¹ Health Care Complaints Commission, [Annual Report 2022-23](#), p 5.

⁹² [Response to written questions](#), ANZCA, p 1.

⁹³ [Response to written questions](#), RDANSW, p 1; Mr Tansey, [Transcript of evidence](#), p 17.

⁹⁴ [Response to written questions](#), MIPS, p 1; [Response to written questions](#), APA (NSW), p 1; [Response to written questions](#), PDL, p 4; [Response to written questions](#), RDANSW, p 1.

⁹⁵ Mr Tansey, [Transcript of evidence](#), p 5.

⁹⁶ Mr Tansey, [Transcript of evidence](#), p 18.

⁹⁷ [Response to written questions](#), MIPS, p 1.

at least once every 3 months so that practitioners can be assured that progress is being made on the investigation.⁹⁸

- 3.17 The Australian Paramedics Association also told us that communication is 'key':
- If an investigation is going to potentially take that long [12 months], it ought to be very clearly and, more importantly, consistently communicated... Letting people know that their case is still under review is better than simply telling them nothing at all'.⁹⁹
- 3.18 Similarly, PDL recommended that the Commission keep practitioners updated on progress throughout the investigation process, with clear timelines provided to those who are subject to investigation.¹⁰⁰
- 3.19 The Committee agrees with stakeholders in this respect. We recommend that the Commission regularly communicates with health practitioners who are subject to complaint or investigation, and that it sets and implements targets for the frequency of its communication, particularly where there are delays to investigation timeframes. We think that a commitment to communicate with practitioners at least once every 3 months would be appropriate.

Vexatious and unfounded complaints

- 3.20 The Committee heard concerning examples from stakeholders about serious allegations and complaints against practitioners that were obviously vexatious or unfounded. In these cases, a prolonged complaint process impacts the practitioner more than any other party.¹⁰¹
- 3.21 For example, the Australian and New Zealand College of Anaesthetists (**ANZCA**) reported that serious allegations and complaints had been made against practitioners 'without any basic fact-checking and due diligence'. These included complaints where a practitioner had never met the patient or had never worked at the location. ANZCA told us that those complaints caused significant distress and that no apology was provided.¹⁰²
- 3.22 In cases like these, involving 'obviously unmeritorious or vexatious complaints', MIPS suggested that the Commission should 'assess the complaint in a much shorter timeframe' and communicate the outcome of the assessment to the practitioner as expeditiously as possible.¹⁰³
- 3.23 The Rural Doctors Association of NSW also suggested the Commission track the number of 'petty complaints' to better understand how many complaints were inappropriately being referred to the Commission.¹⁰⁴

⁹⁸ [Response to written questions](#), MIPS, p 2.

⁹⁹ [Response to written questions](#), APA (NSW), p 1.

¹⁰⁰ [Response to written questions](#), PDL, p 4.

¹⁰¹ [Response to written questions](#), ANZCA, p 1; [Response to written questions](#), MIPS, p 1; [Response to written questions](#), RDANSW, p 1; Mr Michael Kemp, [Transcript of evidence](#), 27 September 2024, p 9.

¹⁰² [Response to written questions](#), ANZCA, p 1.

¹⁰³ [Response to written questions](#), MIPS, p 1.

¹⁰⁴ [Response to written questions](#), RDANSW, p 1.

- 3.24 We note that in 2022-23, 54.8 per cent of complaints were discontinued,¹⁰⁵ and a further 12.1 per cent were discontinued with comments.¹⁰⁶ This suggests that a large number of complaints may have been unfounded, even if not obviously so.
- 3.25 When we raised concerns about vexatious complaints with the Commissioner, he told us that the Commission already has 'risk-based initial assessments of whether or not there is any substance to a complaint'.¹⁰⁷
- 3.26 In relation to whether the Commission's new case management system would help expedite the assessment of unfounded complaints, the Commissioner added 'I would want to stop them before they get deep into the system or our workflows'. He said that the Commission tried 'at the very front door ... not to commence on a journey where there is nothing to pursue and ... therefore nothing to create anxiety' about.¹⁰⁸

Support for health practitioners

Recommendation 8

That the Health Care Complaints Commission develop a program to support health practitioners that are subject to complaint and investigation. This should include the monitoring of, and reporting on, practitioner health and well-being.

- 3.27 When we asked about current mechanisms to monitor and support the well-being of practitioners subject to complaint, the Commission told us that it offers a Safe Practice Presentation to clinicians on how to avoid complaints and how to respond to a complaint if one is received. This 90-minute presentation has been provided to a number of health sector stakeholders, including peak bodies, colleges and hospitals.¹⁰⁹
- 3.28 We also heard that the Commission has done work to review its information and practices through the lens of health practitioner impacts. For example, the Commission's website has been updated to provide practitioners with links to professional groups, including medical defence organisations, and generalist welfare organisations such as Lifeline that they can reach out to:
- It actively encourages them to reach out and seek support and is [an] acknowledgement that this can be an unwelcome event for them. We're making sure that we're messaging it the right way.¹¹⁰
- 3.29 The Commission has also reviewed the content of its communications to ensure that they are sensitive to impacts on health practitioners and they contain appropriate links to support services and organisations.¹¹¹

¹⁰⁵ [Annual Report 2022-23](#), p 103.

¹⁰⁶ [Annual Report 2022-23](#), p 37.

¹⁰⁷ Mr Tansey, [Transcript of evidence](#), p 9.

¹⁰⁸ Mr Tansey, [Transcript of evidence](#), p 15.

¹⁰⁹ [Answers to supplementary questions](#), p 15.

¹¹⁰ Mr Tansey, [Transcript of evidence](#), p 18.

¹¹¹ Mr Tansey, [Transcript of evidence](#), p 18.

- 3.30 We acknowledge the work that the Commission has done to maximise the sensitivity of its communications with health practitioners, and hope that it considers making these communications more frequent to reduce avoidable practitioner distress.
- 3.31 Despite the steps that have already been taken, the Commissioner recognised that there is more to be done in terms of reducing anxiety and distress for practitioners, particularly where that leads to self-harm.¹¹²
- 3.32 To this end, we recommend that the Commission develops a program to improve support for health practitioners that are subject to complaint and investigation. This should include the monitoring of, and reporting on, practitioner health and well-being in future annual reports.

¹¹² Mr Tansey, [Transcript of evidence](#), p 17.

Chapter Four – Stakeholder engagement and outreach

Summary

Chapters 2 and 3 looked at how the Health Care Complaints Commission (the **Commission**) provides support to complainants and health practitioners that are subject to complaint.

This chapter will examine:

- awareness of the Commission and its work among the broader community and among health practitioners who have not been subject to complaint
- the Commission's engagement and outreach with First Nations communities
- the Commission's engagement and outreach with culturally and linguistically diverse communities.

Awareness of the Commission's work

Finding 6

Community and health practitioner awareness of the Commission and its work remains low, particularly in the context of other co-regulators operating in NSW.

Finding 7

The Health Care Complaints Commission has taken steps to review and improve its stakeholder engagement and communications functions.

Recommendation 9

That the Health Care Complaints Commission publish the findings and recommendations of the comprehensive stakeholder engagement review that was commissioned and completed in 2023 to improve transparency.

- 4.1 As part of our review of the Commission's annual reports, we sought written responses from health sector stakeholders on a range of topics, including community awareness of the Commission and its work. Many stakeholder responses indicated that there is a lack of awareness among the broader community, as well as among health practitioners.¹¹³

¹¹³ [Response to written questions](#), NSW Nurses and Midwives' Association (NSWNMA), 16 September 2024, p 2; [Response to written questions](#), Association of Massage Therapists (AMT), 10 September 2024, p 3; [Response to written questions](#), Rural Doctors Association of NSW (RDANSW), 23 September 2024, p 1; [Response to written questions](#), NSW Health, 20 September 2024, p 13; [Response to written questions](#), Australian Paramedics Association (APA (NSW)), 20 September 2024, p 2; [Response to written questions](#), Australasian Birth Trauma

Awareness among the broader community

- 4.2 Health Consumers NSW, the peak organisation and advocacy body for health service users in NSW, stated that it does not believe there is wide and strong community awareness of the role and functions of the Commission.¹¹⁴
- 4.3 The Association of Massage Therapists (**AMT**) also told us that, based on the calls it receives, the level of community awareness of the Commission's role appears to be 'critically low'.¹¹⁵
- 4.4 The response from NSW Health indicated varying levels of awareness among the community, with half of the Local Health District responses indicating strong community awareness. However, some Local Health Districts reported that many community members will actually go straight to the Commission rather than seeking to resolve their complaints locally. They noted that strengthening community education on the complementary roles of Local Health Districts and the Commission could help consumers make more informed decisions about how to escalate their concerns, which may lead to more satisfactory outcomes.¹¹⁶
- 4.5 Many stakeholders specifically reported confusion around the co-regulatory nature of complaints entities.¹¹⁷ Although the Australian Health Practitioner Regulation Agency (**Ahpra**) felt that community understanding of the Commission's role and functions was generally strong, it recognised the need to improve this understanding in the context of other health practitioner regulatory bodies operating in NSW. Ahpra acknowledged that the National Scheme is particularly complex in NSW, where the complaints function is managed differently to other jurisdictions.¹¹⁸
- 4.6 We note that the Commission has been working with Ahpra, the Health Professional Councils Authority (**HPCA**) and Health Consumers NSW to improve communication around the work of the Commission and other co-regulators. Health Consumers NSW told us that it was heartened by the commitment of the co-regulators to improve their engagement with the community, but felt that work was progressing more slowly than they would like.¹¹⁹

Awareness among health practitioners

- 4.7 We heard that awareness of the Commission's role is lacking across a range of health professions. For example:
- The NSW Nurses and Midwives Association told us that most of its members do not have a strong awareness of the Commission's role and functions, and

Association (ABTA), 25 September 2024, p 10; [Response to written questions](#), Health Consumers NSW (HCNSW), 30 September NSW, p 2.

¹¹⁴ [Response to written questions](#), HCNSW, p 2.

¹¹⁵ [Response to written questions](#), AMT, p 3.

¹¹⁶ [Response to written questions](#), NSW Health, pp 13 – 14.

¹¹⁷ [Response to written questions](#), NSWNMA, p 2; [Response to written questions](#), ABTA, p 10; [Response to written questions](#), HCNSW, p 2; [Response to written questions](#), Australian Health Practitioner Regulation Agency (Ahpra), 16 September 2024, p 3.

¹¹⁸ [Response to written questions](#), Ahpra, p 3; [Response to written questions](#), HCNSW, p 3.

¹¹⁹ [Response to written questions](#), HCNSW, p 3.

there is a lack of understanding of the Commission's co-regulatory function with the Nursing and Midwifery Council (**NMC**). They suggested that the Commission provides fact sheets to nurses and midwives that break down their processes and how they intersect with the NMC.¹²⁰

- The Australian Paramedics Association told us that there is a 'deep misunderstanding' among its members of what the Commission actually does, with members confusing the Commission for the Paramedicine Council or the Industrial Relations Commission. They noted that the location of substantial information about the Commission's processes and procedures is not easily accessible on the Commission's website.¹²¹
- The Australian Orthotic Prosthetic Association told us that the functions of the Commission are not well known enough by practitioners. They suggested webinar development and other education events to further promote the Commission's role.¹²²

Stakeholder engagement and communications review

- 4.8 When we asked about community engagement and outreach, the Commissioner told us that the Commission had engaged an independent consultant to conduct a comprehensive review of its stakeholder engagement and communications functions. This review produced a set of key findings and an action plan, with recommended initiatives to be implemented over a two-year period. The review findings were presented to the Commission in June 2023.¹²³
- 4.9 The Commission told us that it has taken a number of steps to strengthen its engagement and communication functions following the review, including:
- establishing a dedicated senior Communication and Stakeholder Engagement position
 - developing Easy Read documents to improve accessibility
 - continuing an extensive outreach program primarily aimed at health organisations and professionals
 - reviewing the usability of its website and forms.¹²⁴
- 4.10 We encourage the Commission to publish the findings and recommendations of this review for greater transparency.

¹²⁰ [Response to written questions](#), NSWNMA, p 2.

¹²¹ [Response to written questions](#), APA (NSW), p 2.

¹²² [Response to written questions](#), Australian Orthotic Prosthetic Association (AOPA), 10 September 2024, p 1.

¹²³ Mr John Tansey PSM, Commissioner, Health Care Complaints Commission, [Transcript of evidence](#), pp 6 – 7; [Answers to supplementary questions](#), Health Care Complaints Commission, 18 October 2024, p 3.

¹²⁴ [Answers to supplementary questions](#), p 3.

Engagement with First Nations communities

Finding 8

Engagement with First Nations communities remains an ongoing challenge.

Recommendation 10

That the Health Care Complaints Commission establish a First Nations advisory group, with membership from Aboriginal Community Controlled Health Organisations and senior community leaders, to improve its engagement with First Nations communities.

- 4.11 Health sector stakeholders reported 'ongoing challenges' in effective engagement with First Nations communities, including a lower level of awareness of the Commission when compared with the broader community.¹²⁵
- 4.12 For example, the President of the Aboriginal and Torres Strait Islander Health Practice Council of NSW told us that, 'from a First Nations perspective and particularly within a rural and regional health context, there is minimal understanding of the role, functions of, and processes' of the Commission.¹²⁶
- 4.13 Additionally, a distrust of the healthcare system due to past experiences of racism may result in a reluctance to access the Commission's services or to make complaints about practitioners.¹²⁷
- 4.14 We recognise that the Commission has made efforts to improve its engagement with First Nations communities, through:
- the development of a Reconciliation Action Plan, which is scheduled to launch in February 2025¹²⁸
 - the introduction of cultural safety training (Respecting the Difference) for new staff¹²⁹
 - strategic partnerships with First Nations stakeholders, including the Aboriginal Women's Consultation Network.¹³⁰
- 4.15 However, we have observed that the 'business-as-usual' (BAU) approach to engagement does not seem to be working with First Nations communities, and an additional advisory body or governance structure may be needed for effective engagement.

¹²⁵ [Response to written questions](#), Ahpra, pp 12 - 13; [Response to written questions](#), NSW Health, pp 11 – 12; [Response to written questions](#), NSWNMA, p 2; [Response to written questions](#), ABTA, p 10.

¹²⁶ [Response to written questions](#), Health Professional Councils Authority (HPCA), p 6.

¹²⁷ [Response to written questions](#), NSWNMA, p 2; [Response to written questions](#), NSW Health, pp 12 – 13.

¹²⁸ [Answers to supplementary questions](#), p 5.

¹²⁹ [Answers to supplementary questions](#), p 4; Health Care Complaints Commission, [Annual Report 2022-23](#), p 23.

¹³⁰ [Response to written questions](#), Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG), 12 September 2024, p 2; [Response to written questions](#), HPCA, p 6; [Annual Report 2022-23](#), p 23.

- 4.16 For example, Ahpra told us that there seems to be more 'brand recognition' and understanding of Ahpra's role among First Nations communities than there is of the Commission's role, particularly when it comes to culturally safe practice. Ahpra attributed this to:
- seven years of organisational strategic, legislative and operational commitment to prioritising cultural safety for First Nations people and eliminating racism in healthcare
 - self-determined, collective governance approaches such as the Aboriginal and Torres Strait Islander Health Strategy Group
 - intentional organisation-wide resourcing, including an Aboriginal and Torres Strait Islander Health Strategy Unit and Aboriginal and Torres Strait Islander Engagement and Support team
 - promotion of services and strategic projects at First Nations-led conferences, local community events, and through communication with First Nations stakeholder groups.¹³¹
- 4.17 Many health sector stakeholders suggested that greater engagement between the Commission, Aboriginal Community Controlled Health Organisations (**ACCHOs**) and senior community leaders would ensure that information and resources are provided in an accessible and culturally appropriate way.¹³²
- 4.18 The President of the Aboriginal and Torres Strait Islander Health Practice Council of NSW noted that partnering with ACCHOs and Aboriginal peak bodies would allow the Commission to leverage existing links to First Nations communities and establish trust, while using its resources more efficiently.¹³³
- 4.19 Stakeholders also noted the importance of a self-determined approach to governance (informed by the guiding principle 'nothing about us without us') and told us that establishing collectives with majority First Nations membership is the key to working safely and respectfully with First Nations communities.¹³⁴
- 4.20 We recommend that the Commission establishes a First Nations advisory group, with membership from ACCHOs and other senior community leaders, to guide the Commission's policies, strategies and operations in a culturally appropriate way.

¹³¹ [Response to written questions](#), Ahpra, p 3.

¹³² [Response to written questions](#), RANZOG, p 2; [Response to written questions](#), HPCA, p 6.

¹³³ [Response to written questions](#), HPCA, p 5.

¹³⁴ [Response to written questions](#), AMT, p 3; [Response to written questions](#), Ahpra, p 3.

Engagement with culturally and linguistically diverse communities

Finding 9

The Health Care Complaints Commission does not have an appropriately resourced standalone engagement and outreach function, which has limited its capacity to effectively engage with culturally and linguistically diverse communities and improve awareness of its role.

Recommendation 11

That the NSW Government consider providing additional funding to the Health Care Complaints Commission for standalone engagement and outreach activities with culturally and linguistically diverse communities.

- 4.21 The NSW Nurses and Midwives Association told us that language barriers may result in a lack of understanding about the Commission and the services it offers. They also told us that prior experiences of racism may lead to a reluctance to access the Commission and its services.¹³⁵
- 4.22 Some stakeholders acknowledged that the Commission provides multicultural health communication resources on its website, with website material available in 81 languages. We also heard that the Commission has developed 12 Easy Read fact sheets on key topics, including 'healthcare fees', 'assessing complaints' and 'investigating complaints'. These documents have been distributed to the NSW Refugee Health Service, the Ethnic Communities Council of NSW, the Multicultural Health Communication Service, and various local multicultural councils.¹³⁶
- 4.23 However, as we noted during the hearing for this review, digital inclusion for many culturally and linguistically diverse communities is very low.¹³⁷ This means that translating website material into different languages has limited value as an engagement strategy for many communities.
- 4.24 During the hearing, the Commissioner acknowledged the importance of meeting with stakeholders face-to-face, but explained the challenges of working with a 'proliferation of communities':
- Where people feel like there might previously have been more natural aggregations of groups, now there's a better and more profound understanding of the properly observed distinctions between groups – which is great, but it also multiplies the engagement task.¹³⁸
- 4.25 The Commissioner also noted the 'finite resources' for engagement and reported that the Commission does not have 'a standalone activity around engagement and outreach that is notably resourced'. Instead, he told us that engagement

¹³⁵ [Response to written questions](#), NSWNMA, p 2.

¹³⁶ [Response to written questions](#), Ahpra, p 4; [Answers to supplementary questions](#), p 5.

¹³⁷ Dr David Saliba, [Transcript of evidence](#), 27 September 2024, p 7.

¹³⁸ Mr Tansey, [Transcript of evidence](#), p 8.

opportunities occur through the Commission's Assisted Resolution Service and as part of its BAU activities.¹³⁹

- 4.26 We are concerned that the current BAU approach to engagement has not led to a substantial recognition of the Commission by culturally and linguistically diverse communities. Our view is that additional funding should be considered to resource the Commission's standalone engagement and outreach activities with these communities. These additional resources could also be used to improve the Commission's engagement with First Nations communities.

¹³⁹ Mr Tansey, [Transcript of evidence](#), pp 7-8.

Chapter Five – Workplace culture and staff wellbeing

Summary

This chapter will look at:

- the People Matter Employee Survey (**PMES**) results for the Health Care Complaints Commission (the **Commission**) during the reporting period
- what the Commission is doing to support staff wellbeing.

PMES results

- 5.1 As part of our review of the Commission's annual reports for 2021-22 and 2022-23, we looked at the Commission's People Matter Employee Survey (**PMES**) results during the reporting period.
- 5.2 The annual survey asks employees about their experiences and perceptions of a range of workplace issues, including management and leadership, employee engagement, and workplace support. The results of the survey help agencies identify areas for improvement.¹⁴⁰
- 5.3 In 2022, 91 Commission staff participated in the survey, which was an 80 per cent response rate.¹⁴¹ This response rate declined in 2023, with only 70 per cent of staff participating.¹⁴²
- 5.4 We acknowledge that the Commission received consistently favourable scores in relation to job purpose (77 per cent), risk and innovation (78 per cent), and flexible working (79 per cent) in 2023, with very minor deviations from the previous year.¹⁴³
- 5.5 However, the results also indicated significant areas for improvement. For example:
- Confidence in the Commission's **recruitment decisions** declined significantly during this period, from 66 per cent in 2022 to 43 per cent in 2023 (just below the public sector average of 45 per cent)¹⁴⁴

¹⁴⁰ NSW Public Service Commission, [PMES 2023](#), viewed 2 December 2024.

¹⁴¹ Health Care Complaints Commission, [Annual Report 2022-23](#), p 66; NSW Public Service Commission, [PMES 2022: 2022 reports - Independent and other agencies – Health Care Complaints Commission](#), p 1.

¹⁴² [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 1.

¹⁴³ [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 4.

¹⁴⁴ [PMES 2022: 2022 reports - Independent and other agencies – Health Care Complaints Commission](#), p 25; [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 25.

- Perceptions of **senior managers** declined significantly, from 60 per cent in 2022 to 49 per cent in 2023 (just below the public sector average of 52 per cent)¹⁴⁵
 - Satisfaction with **learning and development** opportunities declined from 49 per cent in 2022 to 44 per cent in 2023 (well below the public sector average of 56 per cent)¹⁴⁶
 - **Employee engagement** declined from 66 per cent in 2022 to 58 per cent in 2023 (below the public sector average of 64 per cent)¹⁴⁷
 - Perceptions of **grievance handling** improved in 2023 but were still below the public sector average, with only 56 per cent of staff reporting that they would be comfortable raising grievances (up from 44 per cent in 2022)¹⁴⁸
 - Perceptions of **action on survey results** declined significantly between 2022 and 2023, with only 38 per cent of staff in 2023 reporting that they thought the Commission would act on the results of the survey (below the public sector average of 44 per cent).¹⁴⁹
- 5.6 The Commissioner told us that the 2023 PMES results 'obviously highlighted some areas where there's an opportunity to do better', and that engaging with staff has been a key focus since he was appointed to the role of Commissioner in July 2024.¹⁵⁰
- 5.7 The Commissioner also stated that there would be a change in the approach as to how PMES data is collected and reported going forward. Rather than reporting on the Commission as a single unit, the 2024 PMES results will be broken down into specific work groups. This granular reporting will allow senior leaders to identify issues affecting different work groups, in addition to consistent or shared issues across the Commission.¹⁵¹
- 5.8 We note that the results of the 2024 PMES are now available and will be considered as part of our review of the Commission's 2023-24 annual report.

¹⁴⁵ [PMES 2022: 2022 reports - Independent and other agencies – Health Care Complaints Commission](#), p 31; [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 31.

¹⁴⁶ [PMES 2022: 2022 reports - Independent and other agencies – Health Care Complaints Commission](#), p 26; [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 26.

¹⁴⁷ [PMES 2022: 2022 reports - Independent and other agencies – Health Care Complaints Commission](#), p 9; [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 9.

¹⁴⁸ [PMES 2022: 2022 reports - Independent and other agencies – Health Care Complaints Commission](#), p 22; [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 23.

¹⁴⁹ [PMES 2022: 2022 reports - Independent and other agencies – Health Care Complaints Commission](#), p 35; [PMES 2023: 2023 reports - Independent and other agencies – Health Care Complaints Commission](#), p 35.

¹⁵⁰ Mr John Tansey PSM, Commissioner, Health Care Complaints Commission, [Transcript of evidence](#), 27 September 2024, p 3.

¹⁵¹ Mr Tansey, [Transcript of evidence](#), p 3.

Supporting staff wellbeing

- 5.9 The Committee was concerned that employee resignations had more than doubled, from 13 resignations in 2021-22 to 31 resignations in 2022-23.¹⁵² During the hearing, we queried whether this was specifically related to 'turmoil' within the Commission at the time.¹⁵³
- 5.10 The Commissioner told us that although he is aware of the historical trends in staff turnover, there are difficulties in ascertaining the reasons for this turnover, as he was not there at the time and those specific staff have now left.¹⁵⁴
- 5.11 When we asked about areas that he felt required particular attention, the Commissioner explained:
- The bedrock of the organisation will always be the people working in it and how satisfied and engaged they are in their work, so part of my research into the role included looking at previous indications of the level of engagement and operation of the organisation.¹⁵⁵
- 5.12 The Commissioner told us that people have been his 'foremost focus', noting that there were indications that staff 'weren't feeling as engaged or supported' as they deserve to be. He explained that his short-term priorities as Commissioner are around engaging with staff and providing stabilisation for the organisation going forward.¹⁵⁶
- 5.13 Given the challenging nature of handling complaints, we also asked about the systems that the Commission has in place to support the wellbeing of staff. We heard that staff have access to a number of wellbeing initiatives, including:
- the Employee Assistance Program (EAP), which provides free counselling services for staff and their families
 - the Headspace app, which provides breathing exercises, meditation and information on dealing with stress
 - Fitness Passport, which provides access to discounted gym facilities.¹⁵⁷
- 5.14 In addition, the Commission offers the following training:
- Mental Health First Aid training, which was introduced in 2023 to help staff recognise and respond to those experiencing a mental health problem
 - Resilience training, which is mandatory for all new staff members

¹⁵² [Annual Report 2022-23](#), p 56.

¹⁵³ Mr Michael Kemp, [Transcript of evidence](#), 27 September 2024, p 10.

¹⁵⁴ Mr Tansey, [Transcript of evidence](#), p 10.

¹⁵⁵ Mr Tansey, [Transcript of evidence](#), p 3.

¹⁵⁶ Mr Tansey, [Transcript of evidence](#), p 3.

¹⁵⁷ [Answers to supplementary questions](#), Health Care Complaints Commission, 18 October 2024, p 6.

- 'Managing Unreasonable Conduct by Complainants' training, which is designed to support staff impacted by complainant behaviour.¹⁵⁸

- 5.15 We heard that the Commission also undertook a psychosocial safety audit, and that it has created an action plan to address recommendations from that audit.¹⁵⁹
- 5.16 Although we acknowledge that the Commissioner is still relatively new to the role, we were pleased to hear that he has prioritised staff engagement and stabilisation for the organisation going forward.
- 5.17 The Committee looks forward to seeing the impacts of this through future PMES results and will continue to monitor the Commission's performance as part of future annual reviews.

¹⁵⁸ [Answers to supplementary questions](#), p 6.

¹⁵⁹ [Answers to supplementary questions](#), p 6.

Appendix One – Committee's functions

Under the *Health Care Complaints Act 1993*, the Committee is to examine each annual and other report made by the Health Care Complaints Commission and presented to Parliament, under this or any other Act and to report to both Houses of Parliament on any matter appearing in, or arising out of, any such report.

The broader functions of the Committee, set out in section 65 of the Act, are as follows:

(a) to monitor and to review the exercise by the Commission of the Commission's functions under this or any other Act,

(a1) without limiting paragraph (a), to monitor and review the exercise of functions by the Health Conciliation Registry,

(b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of the Commission's functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed,

(c) to examine each annual and other report made by the Commission, and presented to Parliament, under this or any other Act and to report to both Houses of Parliament on any matter appearing in, or arising out of, any such report,

(d) to report to both Houses of Parliament any change that the Joint Committee considers desirable to the functions, structures and procedures of the Commission,

(e) to inquire into any question in connection with the Joint Committee's functions which is referred to it by both Houses of Parliament, and to report to both Houses on that question.

(2) Nothing in this Part authorises the Joint Committee:

(a) to re-investigate a particular complaint, or

(b) to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint, or

(c) to reconsider the findings, recommendations, determinations or other decisions of the Commission, or of any other person, in relation to a particular investigation or complaint.

(3) The functions of the Joint Committee may be exercised in respect of matters occurring before or after the commencement of this section.

Appendix Two – Responses to written questions

Author

Health Consumers NSW (HCNSW)

Health Professional Councils Authority (HCPA)

Australasian Birth Trauma Association (ABTA)

Psychotherapy and Counselling Federation of Australia (PACFA)

Speech Pathology Australia (SPA)

Rural Doctors Association of NSW (RDANSW)

NSW Health

Australian Paramedics Association NSW (APA (NSW))

Australian and New Zealand College of Anaesthetists (ANZCA)

Medical Defence Association of South Australia – Medical Insurance Australia Pty Ltd (MIGA)

NSW Nurses and Midwives Association (NSWNMA)

Australian Health Practitioner Regulation Agency (AHPRA)

Pharmaceutical Defence Limited (PDL)

Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG)

Association of Massage Therapists (AMT)

The Australian Orthotic Prosthetic Association (AOPA)

Medical Indemnity Protection Society (MIPS)

The Royal College of Pathologists Australasia (RCPA)

Appendix Three – Witnesses

27 September 2024

Parliament House, Preston Stanley Room, Sydney, NSW

Witness	Position and Organisation
Mr John Tansey PSM	Commissioner, Health Care Complaints Commission

Appendix Four – Extracts from minutes

MINUTES OF MEETING No. 5

10:02am, 1 December 2023

Room 814 and via videoconference

Members present

Dr McGirr (Chair), Dr Cohn, Mr Donnelly, Mr Kemp

Webex: Mrs Maclaren-Jones, Dr Saliba

Apologies

Ms Kaliyanda (Deputy Chair)

Officers present

Rohan Tyler, Kieran Lewis, Mohini Mehta and Charlotte Hock

1 Confirmation of minutes

Resolved, on the motion of Mr Donnelly: That the minutes of the meeting of 9 November 2023 be confirmed.

2 ***

3 ***

4 Reports from the HCCC

a. Quarterly performance reports

The Committee noted receipt of the HCCC's quarterly performance report for 1 July 2023 to 30 September 2023.

b. 2022-2023 Annual Report

The Committee noted that the HCCC tabled its annual report on 30 November 2023, and that Committee staff had circulated the annual report to Committee members, along with the 2021-2022 Annual Report.

5 Proposed review of the 2021-2022 and 2022-2023 Annual Reports

The Committee noted that, under section 65 of the *Health Care Complaints Act 1993*, the Committee examines each annual report of the HCCC and reports to Parliament on any matter appearing in, or arising out of, any such report.

Resolved, on the motion of Dr Saliba:

1. That the Committee conducts an inquiry to review the 2021-2022 and 2022-2023 annual reports of the Health Care Complaints Commission.
2. That the review be reported to Parliament and published on the Committee's website.

3. That the Committee holds a public hearing or hearings for the review in 2024 on a date or dates to be determined, and invites the Commissioner and senior staff of the HCCC to appear to give evidence.

6 ***

7 Next meeting

The meeting adjourned at 10:51am until January 2024, with a date and time to be confirmed.

MINUTES OF MEETING No. 6

5:02pm, 19 January 2024

Room 814 and via videoconference

Members present

In person: Mr Donnelly

Webex: Dr McGirr (Chair), Ms Kaliyanda (Deputy Chair), Dr Cohn, Mr Kemp, Mrs Maclaren-Jones, Dr Saliba

Officers present

Rohan Tyler, Kayaneh Mouradian, Yann Pearson

4. Confirmation of minutes

Resolved, on the motion of Mr Donnelly, seconded by Ms Kaliyanda: That the minutes of the meeting of 1 December 2023 be confirmed.

5. ***

6. ***

7. Review of the 2021-22 and 2022-23 Annual Reports

The Committee agreed to discuss the timing of the public hearing at its next meeting.

8. ***

9. Next meeting

The meeting adjourned at 5.25pm until late February 2024.

MINUTES OF MEETING No. 7

2:33pm, 19 February 2024

Room 1254 and via videoconference

Members present

In person: Dr Cohn, Mr Donnelly

Webex: Dr McGirr, Mr Kemp, Dr Saliba

Apologies

Ms Kaliyanda (Deputy Chair), Mrs Maclaren-Jones

Officers present

Rohan Tyler, Kayaneh Mouradian, Alex Read, Mohini Mehta

1 Confirmation of minutes

Resolved on the motion of Mr Donnelly, seconded by Dr Saliba: That the minutes of the meeting of 19 January 2024 be confirmed.

2 ***

3 ***

4 ***

5 Review of the 2021-22 and 2022-23 HCCC annual reports

The Committee discussed the date of the public hearing to review the 2021-22 and 2022-23 HCCC annual reports.

Resolved, on the motion of Dr Cohn seconded by Mr Donnelly: That the Committee hold a public hearing within four to eight weeks from the date of the appointment of the Acting Health Care Complaints Commissioner, on a date to be determined by the Committee in consultation with Committee staff.

6 ***

7 Next meeting

The meeting adjourned at 3:07pm until a date to be determined by the Committee.

MINUTES OF MEETING No. 8

1:02pm, 27 March 2024

Room 1136 and via videoconference

Members present

In person: Dr McGirr (Chair), Dr Cohn, Mr Donnelly

Webex: Dr Saliba

Via phone: Ms Kaliyanda (Deputy Chair)

Apologies

Mr Kemp and Mrs Maclaren-Jones

1. Confirmation of minutes

Resolved, on the motion of Mr Donnelly, seconded by Ms Kaliyanda: That the minutes of the meeting of 19 February 2024 be confirmed.

2. ***

3. Review of the 2021-22 and 2022-23 HCCC annual reports

The Committee discussed postponing the public hearing to review the 2021-22 and 2022-23 HCCC annual reports.

Resolved, on the motion of Dr Cohn: That the Committee postpone the public hearing to review the 2021-22 and 2022-23 HCCC annual reports, scheduled for 11 April, to a date to be determined.

4. ***

5. Next meeting

The meeting adjourned at 1:16pm until 11 April 2024.

MINUTES OF MEETING No. 9

11:34am, 11 April 2024

Macquarie room and via videoconference

Members present

In person: Dr McGirr (Chair), Ms Kaliyanda (Deputy Chair), Dr Cohn, Mr Kemp, Mr Donnelly
Webex: Dr Saliba

Apologies

Mrs Maclaren-Jones

1. Confirmation of minutes

Resolved on the motion of Mr Donnelly: That the Minutes of the meeting of 27 March 2024 be confirmed.

2. ***

3. ***

4. Next meeting

The meeting adjourned at 1:20pm until a time and date to be determined.

MINUTES OF MEETING No. 10

1:10pm, 6 June 2024

Room 1254

Members present

Dr McGirr (Chair), Ms Kaliyanda (Deputy Chair), Mr Donnelly, Mr Kemp, Mrs MacDonald and Dr Saliba

Apologies

Dr Cohn

Officers present

Rohan Tyler, Patrick Glynn, Oliver Sinclair, Mohini Mehta

1. Membership change to Committee on the Health Care Complaints Commission

The Committee noted the following resolution of the Legislative Council on 5 June 2024:

Ms Sharpe moved –

(1) That:

(a) ...

(b) *Mrs Maclaren-Jones be discharged from the Committee on the Health Care Complaints Commission and Mrs MacDonald be appointed as a member of the committee.*

(2) *That a message be forwarded to the Legislative Assembly conveying the terms of the resolution agreed to by the House.*

2. Confirmation of minutes

Resolved, on the motion of Mr Donnelly: That the minutes of the meeting of 11 April 2024 be confirmed.

3. ***

4. ***

5. ***

6. ***

7. General business

The Committee discussed the timing of, and approach to, its review of the 2021-22 and 2022-23 annual reports of the HCCC.

8. Next meeting

The meeting adjourned at 1:56pm until a time and date to be determined.

MINUTES OF MEETING No. 11

1:00pm, 17 June 2024

Room 1254 and via videoconference

Members present

In person: Dr McGirr (Chair), Dr Cohn, Mr Donnelly, Mrs MacDonald

Webex: Mr Kemp, Dr Saliba

Apologies

Ms Kaliyanda

Officers present

Rohan Tyler, Patrick Glynn, Oliver Sinclair, Mohini Mehta

1. Confirmation of minutes

Resolved, on the motion of Mr Donnelly: That the minutes of the meeting 6 June 2024 be confirmed.

2. ***

3. Review of the Health Care Complaints Commission's 2021-22 and 2022-23 annual reports

Resolved, on the motion of Dr Cohn: That:

- the Committee conduct a public hearing for its review of the HCCC's 2021-22 and 2022-23 annual reports, to be held after the 2024 winter recess
- as part of the review, the Committee write to stakeholders with targeted questions related to the HCCC's performance, with the stakeholders' responses to form part of the review's evidence base
- Committee staff prepare an analysis of the annual PMES data and circulate it to members as soon as practicable following publication of the results

4. ***

5. Next meeting

The meeting adjourned at 1L26 pm until a time and date to be determined.

MINUTES OF MEETING No. 12

9:30am, 27 September 2024

Preston Stanley room and via videoconference

Members present

In person: Dr McGirr (Chair), Dr Cohn, Mr Crakanthorp, Mr Donnelly, Mr Kemp, Mrs MacDonald

Webex: Dr Saliba

Apologies

Nil.

Officers present

Matthew Johnson, Patrick Glynn, Carly McKenna, Oliver Sinclair, Mohini Mehta, Rhea Maggs

1. Membership changes

The Committee noted the resolution of the Legislative Assembly on 20 June 2024 appointing Mr Tim Crakanthorp MP to the Committee on the HCCC, in place of Ms Charisma Kaliyanda MP.

2. Confirmation of minutes

Resolved, on the motion of Mr Donnelly: That the minutes of the meeting of 17 June 2024 be confirmed.

3. ***

4. ***

5. ***

6. ***

7. Review of the Health Care Complaints Commission's 2021-22 and 2022-23 annual reports

7.1 Written questions to health sector stakeholders

The Committee considered responses it had received to written questions that were issued to health sector stakeholders, in relation to the HCCC's performance and stakeholder engagement.

Resolved, on the motion of Dr Cohn:

- That the Committee publish response 1 and 3-16 in full with standard redactions.
- That response 2 remain confidential to the Committee and not be published.

7.2 Media orders for public hearing

Resolved, on the motion of Mr Kemp: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 27 September 2024, in accordance with the Legislative Assembly's resolution of 9 May 2023, and the Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

7.3 Questions taken on notice and supplementary questions

Resolved, on the motion of Mrs MacDonald: That the Committee adopt the following process in relation to supplementary questions and answers to questions taken on notice:

- Members to email any proposed supplementary questions for the witness to the secretariat by 4pm, Monday 30 September 2024.

- Secretariat to then circulate all proposed supplementary questions to Committee, with members to lodge any objections to the questions by 4pm, Wednesday 2 October 2024.
- Witness to be requested to return answers to questions taken on notice and any supplementary questions within 7 business days of the date on which questions are forwarded to them.

The Chair adjourned the meeting at 9:50am.

8. Public hearing

The witness and the public were admitted. The Chair opened the public hearing at 9:52am and made a short opening statement.

Mr John Tansey, Commissioner, Health Care Complaints Commission, was affirmed and examined. Mr Tansey made an opening statement. The Committee questioned the witness.

The Chair adjourned the hearing at 10:38am.

The Chair resumed the hearing at 10:54am.

The Committee questioned the witness. Evidence concluded and the witness withdrew. The Chair closed the hearing at 12:03pm.

9. Post-hearing deliberative meeting

The Chair resumed the meeting at 12:05pm.

9.1 Publication orders

Resolved on the motion of Mrs MacDonald: That the corrected transcript of public evidence given today be authorised for publication and uploaded to the Committee's webpage.

10. Next meeting

The meeting adjourned at 12:05pm until a time and date to be determined.

MINUTES OF MEETING No. 13

2:02pm, 11 December 2024

Room 1254 and via videoconference

Members present

In person: Dr Cohn, Mr Donnelly, Mrs MacDonald

Webex: Dr McGirr (Chair), Mr Crakanthorp (Deputy Chair), Mr Kemp, Dr Saliba

Officers present

Rohan Tyler, Carly McKenna, Oliver Sinclair, Rhea Maggs

1. Confirmation of minutes

Resolved, on the motion of Dr Saliba: That the minutes of the meeting of 27 September 2024 be confirmed.

2. ***

3. ***

4. ***

5. Review of the Health Care Complaints Commission's 2021-22 and 2022-23 annual reports

5.1 Late responses to written questions

Resolved, on the motion of Mr Crakanthorp: That the Committee accept and publish the following late responses to written questions in full with standard redactions:

- Australasian Birth Trauma Association (No. 17)
- Health Professional Councils Authority (No. 18)
- Health Consumers NSW (No. 19)

5.2 Answers to questions on notice and supplementary questions

Resolved, on the motion of Mr Donnelly: That the Committee accept and publish the Health Care Complaints Commission's answers to questions on notice and supplementary questions, received on 18 October 2024, in full.

5.3 Consideration of the Chair's draft report

The Committee agreed to consider the Chair's draft report *in globo*.

Discussion ensued.

Resolved, on the motion of Mr Donnelly: That the word 'provide' be omitted and replaced with the words 'consider providing', and that the word 'or' be omitted and replaced with the words 'and/or' in Recommendation 4 (at page 10), so that the Recommendation reads:

'That the NSW Government consider providing additional funding for the Health Care Complaints Commission to establish a dedicated First Nations liaison/navigator position to provide a culturally safe and accessible service for Aboriginal people lodging a complaint and/or practitioners subject to a complaint.'

Resolved, on the motion of Mr Donnelly: That the word 'provide' be omitted and replaced with the words 'consider providing' in Recommendation 11 (at page 29), so that the Recommendation reads:

'That the NSW Government consider providing additional funding to the Health Care Complaints Commission for standalone engagement and outreach activities with culturally and linguistically diverse communities.'

Resolved, on the motion of Mrs MacDonald:

- That the draft report, as amended, be the report of the Committee and that it be signed by the Chair and presented to the House.
- That the Chair and Committee staff be permitted to correct stylistic, typographical and grammatical errors.
- That, once tabled, the report be posted on the Committee's webpage.

6. Next meeting

The meeting adjourned at 2:27pm until a time and date to be determined.