REPORT ON PROCEEDINGS BEFORE

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

REVIEW OF THE HEALTH CARE COMPLAINTS COMMISSION'S 2021-22 AND 2022-23 ANNUAL REPORTS

At Preston Stanley Room, Parliament House, Sydney, on Friday 27 September 2024

The Committee met at 9:50.

PRESENT

Dr Joe McGirr (Chair)

Legislative Council	**Legislative Assembly**
Dr Amanda Cohn	Mr Tim Crakanthorp (Deputy Chair)
The Hon. Greg Donnelly	Mr Michael Kemp
The Hon. Aileen MacDonald	

PRESENT VIA VIDEOCONFERENCE

Dr David Saliba

The CHAIR: Good morning to everyone and good morning, Commissioner. Welcome to the public hearing of the Committee on the Health Care Complaints Commission of the Parliament of New South Wales. Before we start I'd like to acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting here in Sydney. I also pay my respects to Elders, past and present, and extend that respect to other Aboriginal and Torres Strait Islander people who are either present here or viewing the proceedings online. Welcome to the Committee's first public hearing for its review of the Health Care Complaints Commission's 2021-22 and 2022-23 annual reports.

I'd like to thank the commissioner for appearing before the Committee today to give evidence. The Committee appreciates your input into its review. I declare the hearing open. Please note that the Committee staff will be taking photos during the hearing. The photos and videos will be used for social media purposes on the New South Wales Assembly social media pages. Please inform the Committee staff if you object to having photos and videos taken.

Commissioner JOHN TANSEY, PSM, Commissioner, Health Care Complaints Commission, affirmed and examined

The CHAIR: Mr Tansey, can you please confirm that you've been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

JOHN TANSEY: Yes, thank you, Chair, I have.

The CHAIR: Do you have any questions about this information?

JOHN TANSEY: No, I don't, thanks.

The CHAIR: Would you like to make a short opening statement before we begin questions?

JOHN TANSEY: Yes, I would, just very briefly. First of all, I thank the Committee for the invitation to appear today. I'd also like to pass my thanks to all the team back at the HCCC who, over the last 12 weeks, have welcomed me and helped me settle into the commission and in the role, and have been very patient and tolerant of the new commissioner with a thousand and one questions. I'm honoured and excited to have been appointed to this important role in this important organisation and, as the Committee is aware, I'm currently in week 12 in the role. I've been undertaking and enjoying an intensive period of learning about and coming to grips with the role and the functions of the HCCC itself, and in the context of the large and complex health system and professions.

I look forward to deepening my learning and understanding, and my contribution to the HCCC in my time in the role. I'm aware, obviously, that formally the Committee is convened today to examine the annual reports of the HCCC for the years 2021-22 and 2022-23. As the Committee appreciates, I didn't have firsthand experience of what was happening during those times as it predates my appointment by 12 to 36 months, so I may be somewhat constrained in what extra detail or colour and movement I can add to what's in the reports. I'm pleased and delighted to be here to represent the HCCC past, present and into the future. I will do my darnedest to assist the Committee to understand the annual reports. Of course, if it's useful to the Committee, I'm happy to take other matters on notice as they come up, if that's the way to best assist your deliberations.

The CHAIR: Thanks very much, Commissioner. We have also sought feedback on a number of questions from stakeholders in relation to this hearing. Some of our questions will relate to that feedback, as well as items that previous Committee hearings and reports have highlighted—for example, in relation to engagement with the cosmetic services industry. A range of matters will be covered. We've got the questions in a number of what I call "theme" areas, but I'll start off with a general question. Commissioner, you've highlighted that you've been in the role for 12 weeks. I appreciate that and thank you for appearing. I wonder if you could outline to the Committee your priorities in both the short and medium term, now that you've been in the role for 12 weeks?

JOHN TANSEY: In the short term, in all seriousness, the priorities have been to come to grips with really deeply understanding what the HCCC is about; engaging with all the staff and engaging with stakeholders; and, as I said in my opening remarks, undertaking a serious and intensive period of learning and absorption. Obviously, I had the opportunity to meet some members of the Committee as part of the process into the role. I might have said then, and I repeat it today, it's one thing to do all your due diligence and research in approaching, applying for and coming into an organisation, but it's vastly more meaningful and intensive once you've got your feet under the desk and you're really trying to understand the role of the organisation and what can be your particular contribution to it.

My immediate priorities have been to listen and learn, and engage with both the staff of the commission and—really, an aggressive schedule of meetings with all and every partner, stakeholder and obviously the co-regulators, as the Committee would well understand. We operate in a reasonably sophisticated co-regulatory regime in New South Wales as part of the national system. I've been undertaking meetings with all partners and stakeholders to inform my understanding. That has also been part of settling into the role, not only for myself but for the organisation. There has obviously been a little period of transition since my predecessor, the former commissioner, left the role, and then through the safe hands of a couple of acting commissioners in the interim. It has been a really pleasant and necessary part of my initial priority setting to simply provide that stability and leadership of having a substantive commissioner appointed to the role as well.

At a very machinery level, I obviously arrived at the end of the financial year, so there has been a very necessary focus on closing out the accounts for the year, as well as preparing for the annual report that we'll provide to the Minister and Committee in coming months. I've been engaging with others to really understand how others see or understand the priorities of the commission. As I said, it's not purely about what we ourselves

would think need to be the priorities. Understanding and engaging with others to understand what they think are the priorities has been a very important part.

So familiarisation, stabilisation and then into the near term, obviously after a period of transition, I want to go through a process both with partners and, very importantly, with the team back at the commission of reflecting on the existing strategic plan of the commission, which actually runs into next calendar year and gives us an opportunity to think about strategic planning for the out years from there, so as to set the commission up not only in its enduring and ongoing role but starting to think about, too, whether there are new opportunities and new challenges that are coming through the health system and will show up in the work and the functions of the commission. I believe there are, so I wouldn't want to overstate how firm or intensive is my thinking about short-term priorities because, really, in these 12 weeks it's been very much learning, settling in and—

The CHAIR: I appreciate that. Were you able to reflect on any areas that needed particular attention within the organisation when you came into it? I accept that in terms of medium priorities, you're going to do a piece of work around strategy. I would hope that some of the questions and our feedback will inform that. But were there any areas that really needed some particular attention in terms of performance, culture or morale when you arrived?

JOHN TANSEY: Yes, there are. 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. I think I have alluded to some members of the Committee in previous meetings, too, that, for example, looking into the recent PMES—the People Matter Employee Survey—of the commission over the last few years, in particular last year's PMES survey, that obviously highlighted some areas where there's an opportunity to do better in working with and engaging with the staff. That very deliberate engagement with staff, and understanding their interests and any concerns they might have about how the commission is operating, has been absolutely a focus.

People have been probably my foremost focus, in many respects—not only, as I said, because I have a lot to learn from them but, yes, I was aware that there were some indications that they weren't feeling as engaged or supported as they might be and as they deserve to be, as indicated by PMES results. There's been a deliberate focus on that. I've gone about that through seeking to meet with, engage with and listen to each and every staff member, whether it's in larger settings from town halls—which we do monthly, the first of which was on my second day in the role; it was a great opportunity to introduce myself to the staff—through individual team meetings, through branch meetings, through meeting with individual members of the staff team and through more formal engagements.

One of the particular focuses and priorities of our activity was to plan and then hold, just on Tuesday of this week, an all-commission day. For the first time possibly ever, but certainly in a long time and certainly post-COVID life, we had all of the staff of the commission together offsite for a day that allowed us to get together, engage and have some keynote speakers to provide insights and motivation to the team, as well as doing some light-touch collaborative planning about the priorities in the organisation and also provide an opportunity for the entire staff body to get together and formulate and ask questions, both of me as commissioner but of the entire acting executive team with me. That was a really big and important activity and focus and, I think, a real intentional milestone in trying to engage with staff and trying to refresh our efforts in working together.

The other particular focus we've had to align to the PMES was it was fortuitous for me that coming into the role, the PMES survey—which, as you would all appreciate, is run out public service wide—rolled out of Premier's Department and the Public Service Commission. That happened to start on 19 August and ran until 13 September. That was fairly closely after my coming into the role. That was a golden opportunity then to get fresh perspectives and input from people in the commission. We also used that opportunity to take a different approach to the survey than has been done in past years. Tell me if this too much minutiae, but in the past the survey has been done as a single unit across the commission, so there is one survey and way of doing input and it then generates one holistic report in response to the commission. This time, I advocated to staff, and I was delighted to get their overwhelming support, to taking a slightly different approach. It's always an option of the way the survey is conducted and reported that you can do it into smaller work groups, and that's what we elected to do this time.

It's still of course within the complete confidentiality of the survey, but we set it up so that people were able to identify which larger work team of the different work groups in the commission they work in. Then that allows us when the report is generated and for any group where there are 10 or more responses received—so that's a threshold that's set to suitably anonymise results so people can do it with fully frank confidence in the confidentiality—we'll then get a report that allows us to distinguish between the different work groups of the commission. We do that hoping that that slightly more granular reporting might help us to identify not only where

there are consistent or shared issues across the commission but if there are different elements in different work groups like the experience or the engagement or the things that are going well, or indeed the things they think we could do better, we can deal with that and distinguish it in different groups.

The CHAIR: That's great. We'll probably come back to this as we go through the questions. Certainly culture is an important consideration. But if it's okay, I might move on. We'll start with the Deputy Chair and we'll start looking at some of the information about timeliness and assessments.

Mr TIM CRAKANTHORP: Commissioner, the percentage of complaints assessed within 60 days has dropped more than 10 per cent from 79 per cent in 2021-22 to 68.9 per cent in 2022-23. You attribute that to workload pressures and workforce disruption. How do you intend to address this?

JOHN TANSEY: You're referring to?

Mr TIM CRAKANTHORP: Pages 22 and 23, and page 35—your comments.

JOHN TANSEY: Of the 2022-23 report you're referring to?

Mr TIM CRAKANTHORP: That would be it, I believe.

The CHAIR: Yes, between 2021-22 and 2022-23 there was a 10 per cent decline in the complaints assessed within 60 days.

JOHN TANSEY: I'll just get to my handy notes. I might say for the first time—and I'll try and avoid saying it numerous times—this is one area where I honestly have a little challenge seeing backwards into the crystal ball of what was happening at the time. I can theorise about it, but I won't profess to deeply understand or be able to explain the changes. When you look at the broad trend of the periods of the reports we're looking at, you're clearly looking at a period in 2021-22 where you're still dealing with some of the COVID life cycle and, perhaps more so, the hangover of the COVID life cycle and into stabilisation after that. I think for the 2022-23 period and after that, you're seeing a little bit of a more return to a recognisable trend in the performance of the organisation and statistics. But I think there was an atypical lumpiness in the statistics that you see from both the preceding years of the previous reports and the previous evidence you've had through 2021-22 and 2022-23 where it's hard to assess performance as if it were a neat trendline and you can easily look into a deviation from the norm and a reversion back to the norm.

Mr TIM CRAKANTHORP: How do you intend to address it moving forward? There are examples from stakeholders that there are obviously vexatious complaints that could be dealt with very quickly and they seem to go on, and also complaints from people who've never seen the practitioner as well, which seems unusual.

JOHN TANSEY: There clearly needs to be a focus, if we're to get this back within target KPIs, on making sure that the matters that come to the commission and rightfully get the attention of the commission are the right and proper matters. If I can generalise from my broader experience, I think it's a challenge that faces any regulatory and quasi-regulatory body—and I consider the commission to be a regulatory body in some respects—of making sure that risk assessment and risk targeting of what you're doing make sure that you're using the powers that the Parliament gives you most usefully and on the most necessary things. If I can go with your observation, I think it's right to observe that, even while we would want to see an increasing recognition of the commission and people increasingly rightfully accessing the commission—so we would expect to create some demand challenges for ourselves in being useful and serving our function.

I've already had some chats with some of my colleagues, in understanding the functions, about whether and what are some of the things that we can do to better receive, consider, assess, triage the matters that are coming to us. As a proposition, if I can take the implication from your question, I think it's right that we need to have a clear focus on whether there are matters coming to us that do not represent a risk to public health and safety and the integrity of the health care system, and either are not a matter for us to prioritise or perhaps not a matter that is properly within the remit of the commission and may not have another home or may have another home amongst another regulator.

I have already had some very preliminary—I wouldn't want to overstate it—discussions with colleagues about doing some work to think about that so that we can make sure that, at first instance, we don't use finite resources in looking to things that will not turn out to be a good use of our time—and doing that with some moderation—but, as you say, entirely so that the things that rightly deserve our attention, because of the nature or the risk of them, can get our focus, with the hope then that that concerted effort will allow us to deal with those within the statutory KPIs.

Mr TIM CRAKANTHORP: And those that do take more than 60 days—do you notify them if it's going to be an ongoing, long issue? Can you keep people abreast of how long that may take?

JOHN TANSEY: We endeavour to keep people abreast of the progress of matters. I would observe that it's probably one of the—how should I say it? It's probably one of the snowballing challenges: If workload increases and people are feeling under increasing pressure to work through that workload, then the feeling of having time to try and keep complainants and/or practitioners advised of the progress of matters can also become under pressure. So it's a "we endeavour to" but we're keenly aware that there might be some resourcing challenges in doing that as well.

Mr TIM CRAKANTHORP: In 2021-22 the percentage of investigations that took more than 12 months to complete was 14.8. That went up to 25.3 in 2022-23. What do you think the reasons are for that trend? You did refer to COVID and the effect of that. What other reasons may there be?

JOHN TANSEY: If I can respond, this probably goes generally to issues that affect the timeliness of investigations. I'll come back to some of this over time. The investigations, of course, are deeply reliant on the engagement of other parties. While we have strong powers to require the provision of information and the engagement of others with the investigations, we're still, to some extent, reasonably dependent on the timeliness with which people will provide records as I'm sure you can imagine. When we get a complaint and we go out to affected practitioners, ask for response, that in and of itself can take time. The availability of witnesses can significantly affect a matter. I'd emphasise within that that, while particularly in investigation mode and while there may be a complainant with a single-factor complaint coming into a matter, in the commission an individual complainant's matter might be adding to already on-hand complaints, for example, about a practitioner or an organisation. You can start to get multi-party complexity in trying to investigate and explore a matter.

Mr TIM CRAKANTHORP: Why do you think it has increased over that year by nearly 10 per cent?

JOHN TANSEY: There is undoubtedly—to use a non-technical term—lumpiness. It may not be the first time I use that word in the hearing today. What I would observe with reasonably fresh eyes coming into it is that there is a lumpiness in the way that matters go over time. You will see ups and downs in inquiries and ups and downs in complaints and variations in the nature of those matters. Do they go to local resolution or our assisted resolution? Are they going to investigations? Are they going straight through to legal matters or back to other medical councils?

The CHAIR: I think that's right and I think we accept the nature of the stats and the lumpiness in that. The concern here is that these appear to be quite significant changes outside normal lumpiness, if you like, and normal variation. You might want to take this on notice or reflect back on it. Our concern is that this may have been a period of significant turmoil in the organisation. Whether that impacted on the results is something that's of concern to the Committee. I wonder if you might take that on notice, because you are fairly new to the role.

JOHN TANSEY: Yes.

The CHAIR: What we're interested in is has there been a factor that this data is reflecting, not just a normal variation but a deterioration in performance.

JOHN TANSEY: Chair, I'm happy to assist you in any way I can. Just to be candid, I think there is an inherent challenge in trying to look back 12 or 36 months into figures—some of these most regular ones are only a bit more than 12 months ago—and understand whether or not there were interpersonal dynamics in the organisation that affected them. I'll be honest, I would always expect human relations to affect how we all work together, for good or for bad. I accept the proposition that it could be, but I honestly think it would be hard to interrogate the data and understand from that whether or not there were other human factors in it.

The CHAIR: But you might put the data together with your observations and discussions with staff and look at the organisation and form a view about it. I don't expect you to do that now.

Mr TIM CRAKANTHORP: If you could take that one on notice, I'll get onto KPIs and previous annual reports contained in an appendix summarising performance against key indicators. That appears to be discontinued in the last two reporting periods. Why is this? Will you resume reporting performance key indicators into future annual reports?

JOHN TANSEY: I have had my attention drawn to that, so I've had the benefit of going back to those other annual reports and having a look at those KPIs. Again, I'm not aware of what were the decisions made about having done those in the past and discontinuing them. I would note, they're fairly extensive and go to a pretty broad range of activities of the organisation. Obviously, we're duty-bound to keep observing and reporting on the statutory KPIs. I think the second part of your question was would I look at doing those again. It's not immediately attractive to me, I would say, for a couple of reasons. 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. I certainly haven't had a chance to reflect

on that yet. What I have observed very early in my time and have certainly talked about a little bit with my leadership group is that I would like us to get to some form of a dashboard for the organisation which, at a high level, gives us really useful, meaningful and actionable indications about what's happening. Hand on heart, I don't know what those would be at the moment.

Mr TIM CRAKANTHORP: You could go to the commission's corporate goals—excellent complaints management, protecting the public, influencing and leading, our people and capability. There's a few of those that you could—

JOHN TANSEY: I haven't formed a view on whether or not any from that list are in fact useful. I have no assessment or view on that. What I would agree with you on is that I'm very keen for us to have a truly meaningful, high-level dashboard. Part of the reason I say that—it goes back to the highly technical term of "lumpiness" that I used before—is that my fresh-eyed observation is that I can't yet divine what is the trajectory of statistics that we should look for and, more importantly, what is a useful, meaningful correlation between stats, either on a longer trendline or over time, that tells us whether there's something that we're fundamentally doing better or not in the commission or something that the complaints are telling us that is fundamentally changing about the health system and health practitioners. I would share your interest in getting that right. I'll go out on a limb and say I don't think that the plethora of KPIs you have here is that. It's lots and lots of information. Whether or not it is a critical line of useful information, my view at this stage would probably be not necessarily.

The CHAIR: It'd be fair to say that the Committee would be very interested in a dashboard of key indicators. I look forward to your work on that. I accept that you've just started in the role. We are going to take a break shortly, but at this point we'll go to Mr Saliba to start some questioning around community outreach and raising awareness of the role of the commission.

Dr DAVID SALIBA: Commissioner, thanks so much for the work that you do. I'm glad to have you on board and to see the awesome things you'll do with the HCCC moving forward. In terms of community outreach, we've got First Nations people, we've got culturally and linguistically diverse groups and we've also got people in rural and regional areas. From the HCCC's perspective, in each of those subsets, can you outline the work that the HCCC will be doing to engage with them to ensure that they're aware of the services and also any of the specific concerns that these groups have relayed back to the commission pertaining to that?

JOHN TANSEY: The issue of engagement—acknowledging, as you said, segmenting to different communities and sectors of stakeholders—has been a major focus for the commission and absolutely remains one for me, consistent with what I said to the Chair earlier about my priorities coming in. Personally reaching out and engaging has been an absolute priority for me—to use my time to do that as far and as wide as I can—intentionally looking, as you said, at what is the nature of our engagement past, present and future with First Nations communities, with multicultural communities and particularly in rural and regional communities. In terms of a coming-in focus, that has been very large for me. It has been a real focus of my discussion with not only external stakeholders to get their feedback on that but also my own team within the commission to understand everything that has been done.

It is probably also worth emphasising, because, I suspect, in the time between hearings of the Committee you might not have been aware—and this predates me, so I can't claim the credit for having initiated this—that the commission did commission a significant piece of work around a stakeholder engagement framework in the middle of last year to review all of the capability, the focus and the priorities for engagement, and also the communication functions of the commission.

That review entailed looking at all the relevant strategies and priorities, and the recommendations specifically of this Committee over time; looking at comparator agencies in Canada, the UK, New Zealand; interviews with HCCC staff as well as peer organisations around Australia, including the national body AHPRA but also our peer organisations in Queensland, particularly the Office of the Health Ombudsman there, and our peer organisation in South Australia as well. That—and this probably mirrors some of the elements in your question, Mr Saliba—was looking at the awareness of the HCCC, how it's set up as an engaging organisation, the nature of building and sustaining stakeholder relationships, and also the culture of the organisation around feedback and complaints to and about the organisation.

That culminated in some activities—again, I'd have to acknowledge it was before I arrived into the role—which included establishing an additional strategic engagement and communications role to contribute to that; promoting and running webinars that outline the commission's roles and functions, and that's for working with peak groups and health services practitioners; particularly looking at simplifying some of our material and making it more accessible than it had been in the past, and that particularly included changes to website text, but additional resources which members of the Committee may or may not have happened upon on the website. We've now got a wealth of easy-read text material on the website. That's still predominantly in English language, but that's been

done to try to improve accessibility for people with lower proficiency in any language in any community. If I can make an aside, that is something that we want to do further work on—looking at can we adapt that into various multicultural community languages. Also, we'll do some work on how we might use that to target and reach out to First Nations communities.

We also did some usability assessment of the website and some of the forms. Some of the improvements that came out of that will crystalise when we launch our new case management system, which I imagine we might want to talk about as well through today. Then, really importantly, I want to emphasise that a significant part of it has been investing in commission staff. With the agreement of the Ministry of Health we accessed and leveraged their Respecting the Difference package. I would hope that goes to work with First Nations communities. As part of the ongoing training of staff capability, all of the staff of the commission now are offered and undertake cultural safety training as part of their induction into the organisation. I emphasise that report because I think it gave a really holistic and pretty wideranging framework for thinking about what we do and how we can improve it.

Dr DAVID SALIBA: Looking at those mechanisms there, the concern that I have, just with some of the HCCC measures that you've put out, is, yes, the translation of material to languages that affect the relevant stakeholders, but the issue is that, for a lot of these stakeholders, digital inclusion is very low. If the HCCC strategy is just the website—

JOHN TANSEY: Can I add to that, because you're right. What we do behind the web is one thing and what we do for resources, which I would argue are necessary but not sufficient, you're absolutely right. They're there because they need to be there for people for whom they're useful. Far more significant and potentially impactful is all the work we do to get up away from the website, out of the office and go to communities and engage with communities. That's a particular focus and an area where the commission has a really strong practice and history. I think particularly around reaching out with rural and regional communities and also trying to work out with First Nations communities—and can I park for a moment multicultural because I think that's a different area that we should talk about a little bit differently—the commitment to going out to community is really strong.

That happens in the commission—not exclusively, but a very significant part of it comes—as a partner activity of our resolution service. As members of the Committee would probably understand, we have a particular team who run the assisted resolution function. By its nature, that involves us getting up and going out to health services, going out into LHDs and working with complainants, with families and with the health providers to try to resolve complaints that aren't otherwise subject to other assessments, referrals or investigations.

As an absolutely built-in part of that activity, efforts are made whenever those visits are being done to maximise the ripple effect of going. While we might go for one matter involving one complainant and family and a health service, we will use those visits to engage with a range of other providers and other communities. We will actively look for opportunities to meet with other health service organisations, health practitioner groups and other community groups that assist complainants and are part of the broader infrastructure of the health system. We will also very specifically do that with First Nations communities when we're out there. We try to maximise, every time we get up and get out, the opportunity for engagement.

If I can come back, though, to multicultural communities, Mr Saliba, I think that's an area where we want and need to do more. To that end, one of my priorities in setting up meetings was engaging with the Ethnic Communities' Council. I was able to meet with the chair and the CEO in recent weeks around that because I really wanted to hear from that peak group about what they think are some of the inherent challenges of engaging with that group, but also any particular challenges when you're dealing with it in a complaints-based mode and you're dealing with all the sensitivities around the health service.

Dr DAVID SALIBA: The engagement level is important. I haven't seen the heat map in terms of the level of engagement with respect to healthcare groups. But when you look at religious groups, community groups, DV support groups, school community hubs, schools themselves through P&C committees et cetera, or even MPs, has the HCCC considering working with the 93 MPs in the Parliament to host joint events where we can educate—because it's our most vulnerable people who probably need it but probably don't know it exists—by having face-to-face meetings with stakeholders outside the medical profession or healthcare sector?

JOHN TANSEY: I would welcome any insights into how to engage with and really get an appropriate entree into those communities. One of the most interesting and useful elements for me, in talking with the Ethnic Communities' Council, was getting some insights even into what they—and I don't want to be seen to be speaking for them or putting words in their mouth. The message I took from our meeting was some of the real challenges—and this includes a post-COVID impact—of the proliferation of communities, if I can put it that way, and the extent to which people are identifying in more and more unique groups, and that leading to a proliferation of groups. 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.

Looking at ways where we can tap into that—including with you, Mr Saliba, and the Committee and the Parliament—we would absolutely do. It would be remiss of me not to note, too, that of course there are finite resources in the commission for doing this. We really maximise leveraging the existing staff and capability we have. As I said, we do this as a really intentional and powerful add-on when we are doing our must-do functions. We don't have a standalone activity around engagement and outreach that is notably resourced. We do have to do it where it is part and parcel of all of our BAU activities. But I think you're right: Trying to find new ways to tap in and connect with communities, particularly in the multicultural area, is an area where we can and will be keen to do more and do better.

The CHAIR: We will take a break, but I will just finish off this section, Mr Tansey. It would be useful for the Committee to see that work done on that framework. Can I just also make the observation that what you've described in terms of using your resolution service and the ripple effect, I've heard similar things before with the previous commissioner, and I think that's a business as usual approach. I don't think that's going to get engagement with First Nations communities. There's some interesting information in the replies we got from AHPRA about what they've done. They've clearly been on a journey with First Nations communities that's taken years to do it, but it does involve, I think, an advisory body or a governance structure that engages at a high level.

I take your point about the multiple nature of different communities, but some sort of in-built process in terms of the governance and perhaps some additional resourcing I think is going to be needed because I don't think the business as usual approach so far has led to a substantial recognition by CALD communities, First Nations communities and indeed some rural areas, and it remains a concern of the Committee. Can we have a look at that framework and could you take it as a point that does need work? I take your point about resources. I accept that; but, on the other hand, I'm not sure that the current approach and what you've outlined is going to see the sort of uplift that we expect. I'll take that as feedback. I'm going to suggest we take a break at this point, if that's okay, Dr Saliba, and we'll reconvene in probably 15 minutes time.

(Short adjournment)

The CHAIR: Welcome back everyone to continuation of the hearing of the Committee on the Health Care Complaints Commission.

Mr MICHAEL KEMP: Commissioner, I'd like to focus on culture and staff. Acknowledging that you started three months ago, my initial thought was what was your first impression of the culture and the feeling of the staff of the HCCC that you walked into?

JOHN TANSEY: If it was one word, it would be "passionate". I feel like people don't find themselves working at the HCCC by accident, so when I joined up what I saw and felt from staff and heard from staff was their passion, broadly, for the health system and health services, and that includes many people of the staff, or some of whom are former practitioners, or current skilled practitioners. The commitment then to the actual role of the commission—they are very passionate about the role we have in helping people to get response and some measure of redress or resolution to their complaints, whether that's through some of the formal assessment investigation or legal processes or it's through our very powerful resolution services.

They are very committed to how we go about our role, so it's not just the fact of the role but a keen awareness of the delicacy and the sensitivity and the trauma experience of many of the people that come to us as complainants but also balanced with a very sensitive view of the impact on practitioners and health services when they are the subject of a complaint. You sense that; it's palpable, that commitment. And then, like any organisation I have worked in, you do that in the context of humans all trying to get along and do their best, which on a good day is great and on any day that one of us is not having a great day it can be more difficult.

I think it's true that I came in knowing that there might have been some frustrations or some challenges in everybody feeling like they were supported or able to do their best work. But I guess my philosophy is that where you have that level of passion and commitment, if, as a leader and as a group, you can refresh culture and understand how we do want to work together and how we don't want to work together, we can absolutely work that forward. I would say one of the most thrilling things coming in is I feel like people are totally up for that. As I said, we had the all-commission day on Tuesday, which was quite novel for the organisation, and it was just a great day and I have had a lot of really positive feedback from people. They have the passion and commitment. If as a leader and as an executive group we can help them reset culture so it does the best to support that, then we are on a good path.

Mr MICHAEL KEMP: I think that leads quite well into saying there was a general feeling amongst this Committee that there was a possibility of maybe a bit of a lack of awareness of the difficulties of the HCCC under the previous commissioner. What would you change to give this Committee better oversight of how the HCCC is pursuing its work and specifically the culture within?

JOHN TANSEY: What would I do differently and give the Committee?

Mr MICHAEL KEMP: What will you change? What will you do?

JOHN TANSEY: I guess part of the reason I was really interested in coming into the role and, yes, doing that with some knowledge that there was some background concern around culture or issues with culture—is to bring to it the experience that I have had in working with other organisations, or parts of organisations—I have not been the leader of an organisation before—where you need to just embrace and engage with people's issues and concerns and deal with them openly and transparently, and give people confidence and capability to work in a place where they can and will contribute and speak up, and know that if there are difficult things to talk about we can and should be talking about them. You do that, yes, by having systems but also by setting and talking about and modelling a culture where that could happen. I would like to think I have started that from day one, and doing it on the commission day the other day, I think, was an important stepping stone in that.

As I said, we had one session on that day where I, together with the rest of the leadership group, got to the front of a room after a session—all of the team at the commission had a session to focus on things that they thought we should stop doing, start doing, continue doing. At the brilliant initiative, or suggestion or question, of one of our staff members, the executive group elected to leave the room while the rest of the commission staff did that as a way of trying to demonstrate that we were interested in people being able to provide full and frank feedback without feeling like the leadership were leaning over their shoulder. We asked the team to tell us, when they had those results, whether they wanted to give them to us out of session or wanted us to come back and hear them.

I think it was a fabulous indication that they said, "No, come back in, we'd like to talk to you about them and use those as a platform for questions." So we did that. Then we had a pretty open session after that just hearing from people from the floor, taking questions, answering them. Consistent with the commitment I've given people before, every question that was asked we provided an answer, including where it was things where I said, "Look, that's not something that is properly talked about in a forum like this, so I shouldn't answer it." But I think we're all absolutely up for that exercise in making the culture the best that we would all want it to be. You do that by demonstrating it and acting in alignment with that every day.

Mr MICHAEL KEMP: Commissioner, I think there is also an aspect there that you may be able to bring information through in your annual reports that we were talking about previously. Some way that may be a little bit more identifiable that we can assess whether or not—not just the work of the commission but also the culture within. I'd like to transition to a previous answer that you've stated. When we were talking about time limits, you talked about vexatious complaints that aren't going to end up in a threat to the health system. You further stated that it is difficult to keep abreast of the communications if your staff are feeling under pressure. As a practitioner, a prolonged complaint process impacts the practitioner under complaint more than any other party, especially when it's not founded. Is there a way that you can have a threshold to communicate not only more frequently and with more time limits to those cases that are over 60 days but also with more haste to those that may be unfounded?

JOHN TANSEY: If I can take that in parts—so it's already part of our process that we have framed and risk-based initial assessments of whether or not there is any substance to a complaint. If there is nothing in a matter that is either within our proper jurisdiction or is of a character or at a risk level where we can see it posing any risk to the public or any threat to the integrity of the health system, we will already discontinue that. Some of those matters would come through as inquiries to us, where people talking to people might help redirect or properly manage them either to other bodies that can help them or help them manage their expectations if there may not be something really substantive that we can help them with because, I'd hasten to add, I also don't want to refer them on to other bodies when there is no purpose for them going there. We do that at the front door.

We will also have matters which, if it gets to a level of being sort of—where we discontinue. As you would be aware, we can also discontinue matters with comments, which is where we won't take it any further but we might provide information to the practitioner that might simply help them, might inform them of resources around good practice. We certainly try at the very front door, for our good and the good of the practitioner, not to commence on a journey where there is nothing to pursue and, as your question goes, therefore nothing to create anxiety to a practitioner about. I would acknowledge that, if that ends up in a comment to them, it may be that the first they know about it is us saying, "We've had a complaint about you but we're not taking it any further because we think it has no grounds."

However, if you cross that threshold into matters that we necessarily are dealing with because we do perceive there is a concern, we can try to do that in a way that is as sensitive as possible to the anxiety or even the distress it's going to cause the practitioner, but we can't remove or absolve them of that. We acknowledge that you are typically dealing with practitioners that are deeply professionally invested in their training and experience to get to this point and their lifelong journey so they are going to take it seriously. I would emphasise it is something that was brought to my attention pretty much from day one coming into the organisation from different elements of the organisation about how significant this perspective on practitioner distress or distress for complainants and distress for practitioners is—

Mr MICHAEL KEMP: It was a common theme throughout the feedback that we received as well. It deserves a highlight on it from your team. I want to keep rolling. I only have a limited time with you. The last one from me in this focus is that, between the end of year 2022 and the end of year 2023, there was a more than 100 per cent jump in employee resignations. Have you been able to determine whether that was specifically related to the turmoil that the commission was in at the time?

JOHN TANSEY: Mr Kemp, I think I'd go back to my earlier comments. I'm aware of that. Historical trends in staff turnover and exit interview data is something that routinely comes to the executive. We had an executive meeting yesterday and the latest stats come to us, so it is something that the organisation institutionally has an interest in and looks at. I really can't speculate on why people were making those decisions in the past. I don't disagree with your thesis that if there was any level of turmoil, as you termed it, or dissatisfaction or disengagement and people were voting with their feet, I would agree that's a completely plausible interpretation of it. But I wasn't there.

The people that left, I don't know who they are. I wouldn't be able to ask them. Obviously, the most senior levels of leadership of the organisation aren't there. In coming into the role, I don't have the opportunity that I might otherwise have to say to people who were there at a senior level a while ago, "Tell me what was happening and how you feel about it." I do with other staff members and those that are there now, but I really can't tap into it and I don't want to speculate.

The CHAIR: I think that's fair enough.

The Hon. GREG DONNELLY: Thanks very much for coming along today, Commissioner. It's very pleasing to see that you've got yourself well and truly behind the desk and are getting your teeth into a number of things. Thanks for that work you've started to lay out in terms of improving the whole culture and sense of importance of working for such an important body. For us, we are very keen to continue to encourage you to do that. It was something that came through time and time again. To the extent that that's improving—and I'm sure that it will under your leadership—that's a very pleasing thing to hear.

Looking back with your past experience and roles—and I know you've only been in the role for a relatively limited period of time—would you be able to comment in any way on what you see as the respective strengths and weaknesses in the structure of the HCCC's annual reports? We've obviously got previous annual reports, and I'm sure you've had a look at them. But beyond that level of having a look at them, I was wondering whether your mind started to turn to—and this is in light of your earlier comment that producing the next annual report is in the tunnel now—any thoughts around the basic structure, its content and how it could be improved? Like with all the questions, you're welcome to take it on notice as well.

JOHN TANSEY: I do have thoughts. The first thing I can tell you is that the next one that we need to generate will probably largely follow the model of the ones that are there because I've come in with very little time to rewrite it. We'll try and replicate. As you'd appreciate, too, some of the bones of annual reports are actually set by the requirements of the Act as well. As much as there are headings or key components, we're obliged to report under some of those.

I can probably offer observations. There's a lot of material in annual reports. As a sweeping generalisation, and as you drew on my previous experience, annual reports of larger organisations—the cluster model that we've got has turned them into weighty tomes, but they're probably not as expressive as this one is. You really read and learn a lot about the HCCC from its annual reports because there's a lot in there. Like any good author, my question would be who reads it. I'd be keen to know whether or not we could have less volume and more useful content. What do the readers want? I won't pretend to understand what readers of an annual report might want.

There is also a lot of data and statistics. One of my questions for myself is, for the way that data is in there, is that the most useful way to display it, report it or whatever for people? Are there ways that we could use it that provide more potent insights? Having said that, and as I think I said to somebody in the break, it is a goldmine. Reading through reports and trying to understand what's gone on, I think there's a lot of data there. One

of the challenges I'll admit to facing is there's almost too much of it to make sense of initially. I would be happy to receive suggestions around ways we could change it, as I said, meeting the statutory requirements that we must do. But if there are suggestions about ways we could make it more useful, more readable, more of a page-turner, I'd be happy to hear them. For me, I think the first one I will get to do as if it's my own baby is not the one that will come soon, but the one in about a year's time, so I'll be able to put my fingerprints on that one a little bit more.

The Hon. GREG DONNELLY: Apropos of the quarterly performance reports, I suppose you've had a chance to look at those and develop some primary thoughts around those as well. I'm sure in due course you'll inject some of your own thinking into those.

JOHN TANSEY: My observation is most of that information, including the quarterly report we provide to yourselves and to the Minister, are short-term trend. What I'm formulating thoughts around is, is there material we could produce that provides more meaningful longer term trends—so it goes back to some of the questions the Committee has already asked. Is there a way we could do it so we would know whether a blip or my lumpiness, as I referred to it, is just a point-in-time quirk or a more significant deviation, because I think that's the stuff that would help all of us to know whether or not there is something fundamentally changing in the numbers.

The CHAIR: I think you mentioned the strategic plan is due to be renewed next year. Is that correct?

JOHN TANSEY: Correct.

The CHAIR: I would think that reporting on that plan might be helpful for the Committee. The Committee has clearly got some views about what should be in there, for example, in relation to community engagement, and reporting back on the strategies around that could be a useful incorporation in the report. I agree with you about the need for longer term. Can I just also say sometimes we get explanations for why data shifts one year to the other. There's not really a deep analysis of critical, underlying data. Those are a couple of comments.

Dr AMANDA COHN: Good morning, Commissioner. As I'm sure you're already aware, the Legislative Council recently conducted an inquiry into birth trauma, which I was a member of, and the committee received a really significant volume of quite distressing evidence about people's experience in birthing services in New South Wales. Some of those issues were obviously systemic issues that that committee considered in great detail, but some of that evidence did include allegations of really serious malpractice and comments from individuals that making complaints through the HCCC processes were intimidating or too hard—people who had, for example, discontinued their complaints. What's the support that's currently provided to someone as they go through that complaints process, particularly if it relates to significant trauma?

JOHN TANSEY: As I was saying to you in the break, I've read that report and tried to understand it as well. I said to you it's a profound read, and I acknowledge that one of the most noted or notable things about it is the appendix listing the witnesses. I've read a lot of parliamentary reports over my time, and I honestly don't recall one that had a list of witnesses talking about personal experience as extensive as that. I'd just like to acknowledge that. And, of course, the report culminated, I think, in a recommendation. I can't dredge up the number—40?

The CHAIR: Yes.

JOHN TANSEY: Recommendation 40, which was around whether something more can be done to—I can't remember if it uses the term—support HCCC having trauma-informed practice around working with people. That is an issue that we are really cognisant of and working on. In fact, one of the presentations we had on our commission day on Tuesday was from a consultant psychologist talking to us all about the fundamentals of trauma-informed process. It is an area we are committed to increasing our capability and skill in. Of course, that is a focus and a way of doing our work that would affect anybody and everybody, regardless of the ease or the difficulty they have with us in making the complaint.

Your question went back to trying to support people when they're dealing particularly with birth trauma. We are aware of that. We already try to support that through our process. One way we will do that is that we do have qualified nurse-midwives on our team and involved in those assessment and intake processes. Where we recognise that we're dealing with somebody who has experienced trauma, we will try to bring both that knowledge and expertise to it. But it is undoubtedly an area where we will need to keep practising and improving how we can support complainants.

Birth trauma is one instance. With any form of trauma or source of trauma, we want and need to get better at dealing with it, of course balancing that with the statutory requirements on us for how we receive complaints and then process them. Some of our processes will be necessarily anchored in rigorous process and process that might end up in legal processes. But I would like to think, notwithstanding those sometimes more

rigorous requirements, that we can deal with both the complainant and the practitioner with sensitivity and in a way that doesn't add to any trauma they've experienced.

Dr AMANDA COHN: There was a very small number of submissions that included very serious allegations about practitioners—for example, behaviour that might even be criminal, like assault or sexual assault. What are the processes for the HCCC if the complaint received is alleging criminal behaviour? What is the referral process?

JOHN TANSEY: The short answer is that if we think we're dealing with criminal matters, we would refer them to other authorities. Depending on where it has got to in our own process, we would be referring it to police or liaising with the DPP around matters if we thought it had stopped being a matter of medical or clinical practice and was looking at criminal matters.

Dr AMANDA COHN: Moving a bit more broadly than birth trauma—

The CHAIR: Before you go off birth trauma, can I ask a specific question?

Dr AMANDA COHN: Sure.

The CHAIR: I had a personal interest in this because the original complaints that led to the inquiry came out of a cluster of complaints to the Wagga Wagga Base Hospital in which 30 women raised concerns. As part of that process, it went to the HCCC, and no-one made contact back with those women for 12 months. That's my understanding. You obviously weren't there at the time, but it seems to me that goes to the heart of some of the concerns around how that was being handled. Can I just flag that with you? That was of deep concern to me and, frankly, a bit shocking. I wasn't quite sure what process meant that there couldn't be a follow-up to say, "We've referred this issue to here, and this is being handled." But I was informed that for those 30 complaints, there was no follow-up for 12 months, which just simply isn't acceptable. That's the information that I received. I just wanted to flag that.

JOHN TANSEY: Can I make a point too? As I said, I made it my business to read the birth trauma report and, obviously, what popped up to me was that particular matter. In my security-blanket folder here, I have actually made it my business to go back and look at those original matters. I've gone back to the MCN advocacy group papers and the complaints that they brought forward on behalf of a number of women, and how that tracked through the inquiry and back to the base hospital that it related to. As recently as this week, we got an update from the hospital about their steps in implementing the recommendations they took on from CEC work.

I'm aware, Dr McGirr, of those issues. I won't try to explain them—and I know you didn't ask me to—but I am keenly aware of the views that went into that matter about what were those women's experiences of whether or not they had made a complaint and whether or not the form of the complaint under the MCN advocacy had come to us in a way where we could investigate it. I'm aware that there might be differences of views around whether or not we thought, or the relevant women understood, that they had received an invitation to provide more specific information if they wanted to lodge a personal complaint that we could take forward. Also, as you say, we are aware of the time span between how those matters came to us and whether and how they were then unpackaged. I don't have answers, but I've made it my business to look into that and see what the lessons are.

The CHAIR: I appreciate that. Dr Cohn, I interrupted your questioning.

Dr AMANDA COHN: It wasn't that my question is not about birth trauma, but rather that it is slightly broader than that in terms of dealing with complaints from people who have a particularly traumatic or marginalised experience. Some of the feedback from the people who I spoke to through the inquiry into mental health that the Legislative Council committee conducted last year, as well as the feedback that this Committee received from stakeholders, was about that initial process of a complainant contacting the HCCC and the provision that complaints must be in writing. It's the preference of a significant number of people to be able to make a verbal complaint, particularly people with lower literacy levels and some First Nations people. Is that something that the commission is looking at or could explore?

JOHN TANSEY: It's certainly something that I'd be happy to look into. You're right that there's a part of the law that says complaints to us must be in writing. Without disregarding the intent of the Parliament, there's still an open question about who puts it in writing or how it comes to be in writing, so I'd be happy to take away and do some thinking about how we support people who are, for whatever reason, limited in being able to provide their own complaint in writing. I would add, though, that it's certainly my understanding today that we do elements of that now in practice. We have an inquiry service, which is really one of the telephone front doors. We deal with a lot of inquiries from people.

Some of that is where we send them in other directions if we're not the proper body to help them. That is also one way that we can hear people out and say, "We think you might have grounds for a complaint. Let's talk

about lodging a complaint." We can do some work towards assisting people to lodge those complaints, but we certainly don't have existing resources for people to sit online extensively and talk people through all complaints. I'm not sure I can give you a crisp enough explanation of what we can and can't do at the moment, so I'm very happy to take on the view of how else we might do it. It's an opportunity for me to better understand, too, what we're able to do today.

Dr AMANDA COHN: Thanks for taking that on board. I have one last question. You mentioned recommendation 40 of the select committee. I'm really pleased to hear that you're across its recommendations. Recommendation 40 was the specific recommendation about more accessible and trauma-informed support to complainants. Can I clarify specifically what your intention is in terms of implementing that recommendation?

JOHN TANSEY: We are still to have detailed discussions about that with our colleagues in the Ministry of Health. I know that prior to the release of the Government response to the report—again, this predates me—there was some discussion between the commission and ministry at that stage around both our experiences and some of the data around birth trauma. As an aside, I would note that's not one of the ways we specifically categorise complaints, using that language, but we've looked at where we could find signifiers for that likely kind of experience. I'm probably going on a bit. There simply needs to be more discussions between us and the Ministry of Health about how we might do that.

Dr AMANDA COHN: I look forward to following that up next time.

The CHAIR: The Committee is required to reply to the inquiry that has been forwarded to us, so we will need to follow up with you on information so that we can, in turn, reply to that recommendation.

JOHN TANSEY: Yes. Was it recommendation 43, which was the last recommendation about exchange of letters?

Dr AMANDA COHN: Recommendation 40 was for the commission and 43 was for us as this Committee.

The CHAIR: The Committee is required to reply to recommendation 43.

The Hon. AILEEN MacDONALD: You've got a case management system. In previous reports, it was said that it's by far the most important major project being undertaken by the commission, and that it was expected to be implemented by June 2024. Are you able to provide an update on whether it's fully operational yet?

JOHN TANSEY: It's not fully operational. Our current targeted go-live date for the system is the end of November. Yes, I'm aware there have been a couple of dates set for go-live. And I acknowledge that, despite saying I was still in my settling-in period and listening, planning and trying not to take too many serious actions, one of the decisions I did take, together with the leadership group in a pretty short time after I commenced in the role, was to countenance and then agree to make a change. The system might have gone live, in fact, on Monday of this week, 23 September. That had been an identified go-live date, but back in July-August there was general agreement that we weren't yet in the best place to make the success we wanted to. It is coming, but it's not there yet and we are now—the team talk about a launch, so we're T-minus nine weeks. I should know exactly what the number is.

We are absolutely in the phase now of stabilising the build of the system. We've kicked off periods of intensive engagement across all the divisions of the team to start familiarising themselves and starting to test the new system. We have scheduled intensive periods through end of October, end of November, of all-staff training in the new system, as I said, to set ourselves up as best we can for a successful go-live in late November. It's certainly still there, consistent with previous reports, that we're hopeful that it will make a very constructive, meaningful change over time to the consistency and the timeliness of our practice because it will bring all divisions of the commission into a single environment that will allow all the different divisions and types of activities to be supported and have a flow. We're hoping it will have significant improvements to our records management and also our data management. Yes, it's a big undertaking and, yes, we're still very hopeful that it's going to land well.

The Hon. AILEEN MacDONALD: It sounds like you've got some milestones in place to that launch date. How will you measure the success of the new system? Have you got specific performance metrics—for example, would it be reduced complaint resolution times, increased staff productivity? What will you have in place?

JOHN TANSEY: The honest answer is can I bring to mind KPIs for the performance of the system? No. But, yes, we have aspirations along all those lines. We are hoping it will make us more productive. We're obviously hoping that staff, after an understandable period of adjustment, find it a more supportive and productive environment to work in. Yes, we would hope if we're more productive that it's also supporting all the timeliness KPIs in the system. We would also hope it would give us benefits where matters being contained in a single

environment case management system can't go off track and that it would support the end-to-end efficiency of the work of the commission.

Also, going back to Mr Donnelly's questions about annual reporting, although the system itself will not fundamentally change the data in it, it is undoubtedly going to improve the ingestion of data and the containment of data across all of our work. We're hoping that will support us then in extracting and using data with being able, potentially, to do some smarter stuff about it. I'm looking forward to it supporting some of the key data points that we might have. I think the Committee has asked about it, over time, actually being part and parcel of the system. It will ask questions and ingest the data straight into the system in a way that hasn't been possible in the past where you had a case management system as one environment, an online web form as another environment, and you need to curate the data from one to the other. From now, it's a single pipe, so we're hoping there will be some improvements out of that as well.

The Hon. AILEEN MacDONALD: I'll probably follow up on that, but I also wanted to ask, when you're implementing the system, what plans are in place to gather feedback from the staff so that the feedback is used to refine the systems and so that it does work the way you want it to work?

JOHN TANSEY: That is literally what we've been doing in the last couple of weeks. We've done, as you would imagine, a lot of work on development, design and some re-engineering of work processes and workflows so that you can build those into a newer, better system, and staff have been involved over time in that. But that has been a fairly small, discrete cohort of staff over time with relevant expertise. What we've started in the last two weeks is exposing the system to all of the staff, based on their different responsibilities or their functional responsibilities, and starting to get familiarity. That will include taking feedback from staff initially.

I'm sure you understand, though, where we're really at now is getting to a point where the build has to stop, so the system is built and it's static and it's known and knowable, and then on that basis we can then start creating all the knowledge articles and all the guidance that people will need to then be trained in it and use it. We're in a fairly tight system now of last-minute refinements to stop refinements because we need to have a static product and build and train people on that. But we've also got in the release schedule—as I said, if, fingers crossed, everything works and we launch at the end of November—to already look for a period after the end-of-year break, so in the new year, where we'll have space for smaller releases. If there are nip and tucks we need to do, including on initial experience or feedback, we're planning to put some of those in there. But then like any system, of course, we will need to have life-cycle evolutions and drops and refinements over time.

The Hon. AILEEN MacDONALD: Can you customise the system to accommodate different types of complaints? If it's registered versus non-registered practitioners, or organisational complaints, I'm sure that will be built into it.

JOHN TANSEY: Yes. Although it started with a product that is an off-the-shelf product, it has been customised as part of the development, exactly as you're saying, to properly reflect our practice and the way the law distinguishes between the different parties or actors and complainants. So, yes, we're trying to pick that up.

The Hon. AILEEN MacDONALD: Knowing that the HCCC frequently collaborates with other regulatory bodies, how will the system facilitate sharing of information between those different bodies, bearing in mind data privacy and also compliance?

JOHN TANSEY: You're right. Not only are our nearest and dearest co-regulators at AHPRA and the HPCA also in their own process of updating and overhauling their own IT systems—so we're all looking over the fence at each other's and looking what we can learn. We're not all operating in the same environment with the same platform. But there is absolutely active discussion about how we can set up, for example, APIs or something where we can not only share data where it might be of conceptual interest but, where our shared work needs us to share data, how can we do that—including now, where we're in the bounds of "we're all in the same business".

Privacy is a different concern because we are all dealing with the same matter and have the same right of access to some of the information—distinct from other areas, where we might want to use the data for different purposes not related to complaints, where, of course, a whole different lens of privacy needs to be put over it. But at the heart of it is, yes, we're all talking about how we can both transmit data for our day-to-day work but also how else we can use it for more exploratory use.

The Hon. AILEEN MacDONALD: Are there mechanisms in place to ensure that, say, high-risk complaints are flagged and prioritised in real time. Like we were talking about before, people are waiting 60 days and sometimes beyond. Will this system streamline that?

JOHN TANSEY: Yes. As part of our assessment, we attach assessments of priority and urgency to it. It is almost like, in naturally rigorously doing our job, that's how we assess and decide how to do things. Yes, the

system will support that. I think the other thing that might go to your question is the system will be configured so that individual officers and/or teams can set up dashboards, which they don't have—some of the cleverer-than-me team members might be able to do that for themselves at the moment. But the system will have built-in capacity to set up dashboards so that team leaders, managers, individual officers can make themselves aware of or be confronted on—each morning log-on, each week for planning—what are the matters running close to time or out of time or overtime. It will absolutely mechanise us being aware right in front of us of the timeliness of matters.

The Hon. AILEEN MacDONALD: Once it is live, would you be able to give us a briefing? Sorry, I shouldn't ask that. I should bring that to the Chair.

The CHAIR: It is a relevant point because I think the commission has been doing some work on the complaints process itself and its operations. I'm just wondering, to pick up on that, how this system will interact with that work. Again, I'm interested in your comments, as Mrs MacDonald has highlighted. Given the concerns that have been raised here about the timeliness of responding to complaints that aren't necessarily serious—whether the dashboard will flag that early on in the complaints process and how it interacts with your redesigned complaints process. You might want to take that on notice, but I think it's an interesting point.

JOHN TANSEY: If I can be clear, though, where we're talking about matters that we don't want to entertain—the Act talks about "entertaining a complaint"—I think it is a different issue. Where we have matters that we don't want to take in, we'd be wanting to either not enter them into the system as a complaint or deal with them very early at the front and go out. Then the matters that get over that threshold and are there that are important and more urgent are going through the system and, as we said, can be monitored and flagged so we don't take our eye off that ball. Sorry, Dr McGirr, I feel like there was another element you were asking about.

The CHAIR: Yes, I'm then talking about a situation where, as we raised earlier, you might have a vexatious complaint or a complaint where, in fact, the practitioner actually never saw the client. Somehow that tends to drag on. You've got that 60-day time frame for assessment.

JOHN TANSEY: Again, I think that would all go back to my aspiration that we get better and better at weeding out matters that shouldn't be taken in and progressed so we're not dealing with, from first instance, matters that shouldn't get into the system and then belabour all of us with "What is happening? Why is it happening?"—so we've got either vexatious complaints, as you say, or other matters with no substance. I would want to stop them before they get deep into the system or our workflows.

The CHAIR: I can see that a dashboard might help with that. One of the other pieces of feedback we got from some local health districts was that they would get a complaint and get a turnaround time of two weeks to meet the 60-day target. Clearly, it had been with the commission for four weeks or five weeks at that point. I'm not asking you to answer that, but I would imagine that a dashboard would allow you to monitor, once a complaint is received, how long it is taking for it to work through the system.

JOHN TANSEY: Correct. Anything that can help flag for us "This thing needs to move" will help us do that job better, but, going back to the questions that have been asked, keep us keenly focused on what are all the reasons that we are or aren't meeting KPIs as we'd like to.

The CHAIR: I think a briefing on how that is operating at some point would be quite useful. It might be a situation where the Committee has actually got to—

JOHN TANSEY: Happy to do a great reveal at some point for you all.

The Hon. AILEEN MacDONALD: I have a question to do with the new telehealth guidelines. With the introduction of the new national guidelines for telehealth consultations, how is the HCCC ensuring that practitioners comply with the standards, especially in rural and remote areas?

JOHN TANSEY: I don't think I have an answer to that today.

The Hon. AILEEN MacDONALD: Maybe take that on notice.

JOHN TANSEY: I won't pretend to understand all the intricacies of the new guidelines yet. I can say to you I'm already aware from all of the information-sharing colleagues have had with me that telehealth, of course, has shown up in matters and there is nothing now stopping people lodging a complaint about a telehealth service as there would be about a face-to-face service and raising the same things about communication or satisfaction with treatment or time limits or whatever. At the face, if that is part of this question, I would fully expect those, as telehealth gets used more and more, to become part and parcel of the nature of complaints we get. But I can't give you an informed view on all the intricacies and guidelines today.

The CHAIR: It does actually raise an interesting point, though. I appreciate you raising it, Ms MacDonald. In fact, that is an example of a situation where something emerges in your external environment—

new standards around telehealth—and, when it comes to the annual report, whether there is a capacity for the HCCC to say, "That has been a change. Have we see a change in our complaint structure?" And just ask that question. It does a little bit more thinking about the data. It may not be a change that you see, but it's just thinking about those external factors. Speaking of which, I would like to ask about the cosmetic industry.

JOHN TANSEY: I thought you might go there.

The CHAIR: That has come up several times in the past. There has been considerable activity at the Commonwealth level and there are new standards for medical practitioners. I think there is an enforcement unit that has been set up and a lot of publicity. It doesn't appear as though you are getting a lot more complaints in relation to cosmetic surgery. Please, let me know if that is not right. When we have spoken about this before, the concern of the Committee was that people know that they can complain about cosmetic surgery to the HCCC and the idea was that the HCCC would take some action to improve awareness of that. I understand there are reasons why people may not complain about cosmetic surgery—both personal reasons and financial reasons—and there are often interactions with the provider, who quickly acts to address concerns for business reasons, let's say. But I am interested in any changes that you observed in that and what work you may be doing with the Commonwealth and AHPRA on monitoring those standards.

JOHN TANSEY: You are right. Between now and when you last met with my predecessor and were talking about these issues, there have been lots of advancements, not only in information. You are right. Yes, I would absolutely acknowledge that colleagues at AHPRA have done some great work around resources, which we leverage, and there have been structural responses, including by Ministers in specific areas like moving around some certain reservations of title around the term "surgeon" as well. Between the medical board and council—I won't get all the parties right—there has been progress of work around having areas of endorsement and enhanced accreditation of training as well.

Some of those big structural elements seem to have shifted before my time and certainly since you last heard evidence from us. My observation from my time there, though—I think you are right, Chair—is we are not seeing notable big increases in complaints. Having read previous testimony, I think you are right: Some of those things have been discussed and recognised, whether it's people thinking of these as almost commercial services and not medical services, and are there any privacy or, dare I say, vanity issues about what people do or don't complain about. I'm sure they are still all at play.

What I would share from my brief time in the chair, though, is that we are very focused on it. I think the distinction I would make, which reflects a really important part of the HCCC's function, too, is that it is probably in the unregulated sector that we are tending to be most active and do see complaints or have things coming forward. What I mean by that is not where you have got qualified practitioners where some of this will be within their expertise or scope of practice, even where some of them might be pushing the boundaries of scope of practice, but rather where you have—I tend to use the term my former colleague the building commissioner used to use—the wild west, where we are seeing unregulated premises and unregulated practitioners providing injectables and fillers and what have you.

Even in my short time in the role, we've had cause to issue prohibitions and warnings about that happening by deregistered medical practitioners setting up under false names in the City of Sydney. I won't go into too much because they're still under active consideration. I'd say I think it's still there. Yes, I acknowledge all of the institutional framing work that's progressed since you last met with my predecessor. For us, it's still a focus but my sense at this stage is it's more from the unregulated sector where we're seeing it and acting on it, and we'll get disclosures and tip-offs, frankly, from aggrieved complainants. That's probably more our focus and where I'm aware of complaints than within the regulated professions.

The CHAIR: Can I just clarify? If you get a tip-off like that, does that get registered as a complaint?

JOHN TANSEY: Yes. We can take it and if we can get bona fides to it, one of the powers that I have under the Act is to initiate an own motion complaint. I can be the complainant.

The CHAIR: From what you're saying—that even though perhaps there hasn't been an increase in complaints in relation to this—it sounds like the commissioner has had a bit of an increase in activity in relation to unregulated—

JOHN TANSEY: I would credit it to all my teams in the investigation—that it's something that they've seen as a challenge and jumped on. Going back again to priorities, when you think about what can we do, we are the only regulator of the unregulated sector. So it's one of the unique contributions, I would argue, we could make. Within our entire resource bag, we're pretty keen to jump on those. Sorry, going back to your question, Chair, yes, we will get people who will tip-off. We can try to engage with them to the extent to say, "Would you like to become a complainant? Would you like to provide more material such as we can take it as a complaint?" We can,

and do, do that. But in these instances and others where we get facts enough to satisfy ourselves that there's an important public health interest and we've got enough bona fides to make sure it's a legitimate issue, not a confected issue, we can consider own-motion complaints if we need to.

The CHAIR: It sounds like it's been an area of some activity, interest and focus. That's encouraging to hear.

JOHN TANSEY: Yes. There are warnings and prohibitions on our website now that have been initiated since I arrived on 8 July.

The Hon. GREG DONNELLY: In answering another question, you made mention of new challenges on the horizon. It was a general statement. I'm just wondering if you'd be able, in the time you've had there, to elucidate on anything that you have identified that you've put into that category of challenges that will need to be faced up to and worked through?

JOHN TANSEY: Yes, if I can name a few without attribution to who or how they've come up because people have certainly put things to me. As I said, when you're meeting with everyone and opening up and saying, "Tell me what I don't know", people are very generous. They would include changes to the regulation of vaping and how that affects, for example, pharmacies. Voluntary assisted dying has come up as one where people would expect, as it works through practitioners and, obviously, given it's such an inherently finely calibrated and emotional issue, that that might end up with complaints. Can I get the terminology right, small dosing or microdosing of psychotropics, drugs anyway, psychedelic drugs—I'll use terms the men on the street might say—including in some mental health treatments has been raised as a potentially emerging issue. Medicinal cannabis would be another one. Those, for me, are just blips on the radar that we've either seen or had mentioned to me. I greatly welcome those because people trying to plant that seed so you know to start looking out for those things is very constructive.

The Hon. GREG DONNELLY: I suppose the other question which follows up from that, which is perhaps more of a statement than a question, is with respect to your equivalents from around Australia, such as they are—different legislation, different jurisdictions—in terms of how they are termed and function. Is there a meeting of minds, so to speak—of course, these days it's done remotely—where you do engage at a national level and talk about things like, for example, emerging trends or issues, or ways to enhance and improve the operation without telling people how to suck eggs et cetera? Is that undertaken?

JOHN TANSEY: Absolutely, yes. I have already participated. It operates at different levels. I've already participated, for example, in co-regulatory forums of ourselves, Health and stakeholders with a New South Wales focus—so internal to the borders. Similarly, there are fora that operate with the regulators and stakeholders at the national level—the co-regulatory framework—plus the commissioners. The acronym that gets used for us, I have learnt, is health complaints entities, or HCEs. You're right that we're similar, but no two are alike in remit or scope. I have already met with most, but not all, of my counterparts as part of my bedding in process.

The Hon. GREG DONNELLY: Did they wish you well?

JOHN TANSEY: They did wish me well. They were all very generous. There is a date in diaries in November—I can't think of the exact date—where nationally we will get together. I think at this stage it's proposed to be face to face. As you say, it's to collaborate and share war stories and learnings. I'm very much looking forward to it. That's going to be an incredibly useful seminar for me.

The CHAIR: I have got another area that I'll finish up with a question on. One issue that has come up—and we've touched on it already—is the impact on practitioners who are complained about. In particular, what has been raised with me has been suicide rates amongst people who are complained about. Comments have been made to me in relation to AHPRA that the length of time or the processes and the way the processes are conducted have a negative impact on people. Is that something that has come to your attention? How does the HCCC monitor the health and wellbeing of people that are complained about? Is there more we should do in that space?

JOHN TANSEY: I would say that there is more we should do to the extent that any anxiety or stress, including leading, as you said, to self-harm, is something we would want to be working on and dealing with the best we can. You mentioned AHPRA. I would tip my hat. I think they're leading the work in this practice area that I've seen in trying to do my research. They have got a very focused effort and are providing some great resources, which we also leverage. It's a credit to them on that. We do have our own work undertaken, and we'll continue to look at areas where we can improve.

The commission has already done work—again, I think most of this predates me, although it is ongoing now—on rethinking and re-looking at our information, our practice and some of our collateral, specifically with the lens of what is the anxiety or the impact on the practitioner. Website materials were updated to particularly try

to provide information recognising the sensitivity of a practitioner receiving a complaint, which includes providing them direction and links to both the professional groups—whether that be the medical defence organisations or other stakeholder and advocacy organisations—and generalist welfare, whether it be the fabulous work of Lifeline or others, that they can and should reach out to. It actively encourages them to reach out and seek support and is acknowledgement that this can be an unwelcome event for them. We're making sure that we're messaging it the right way.

We have also been through a process of reviewing all of the letters that we send to complainants to try to maximise their sensitivity in those—again, making sure that they too, after they have sensitively delivered the message, know that they're the subject of a complaint and what happens from here. We're advocating for them and providing them linkages to the support organisations that we say they can and should reach out to. Part of your question was how do we re-engage. We will try to keep in touch with practitioners over that time, sensitive to the drain it can be on them. I can't say to you, though, that that anxiety-inducing element in and of itself drives our interest to get the matters progressing. We do that regardless. We're aware that drag can be an extra disbenefit of us going through our necessary work, but I think a lot of it is our sensitivity, our orientation and our actual capability to engage with the practitioner the subject of a complaint in a way that fully understands the impact on them, separate and distinct from the complainant side.

The Hon. GREG DONNELLY: This is a small anecdote. I concur strongly with that comment by Dr McGirr, and others have made the same point. This is just a small example of its significance to drive the point home. I'm providing some assistance at the moment to a psychologist. The complaint started with AHPRA last year—an anonymous complaint from a person expressing an opinion about some treatment that she was giving to a person. AHPRA passed the matter on relatively quickly to the HCCC here in New South Wales. The HCCC turned it around relatively quickly and referred the matter from there to her professional body. The professional body undertook its procedures in terms of engagement on it.

I have to say, as an outsider looking in and not having any particular knowledge at all about how they conduct what is essentially a review—and this is a woman of over 35 years experience, a top-of-the-game university academic at the University of Sydney in her day. She ended up going along with a solicitor that had been appointed from her medical indemnity company. Without reflection on the individual advocate or the medical indemnity company, I thought the underpreparedness was quite shocking in terms of what was at stake for her. This was in March this year. She ended up before a committee. She explained to me that there were about four or five on the review panel. I wasn't there, and she is a person who speaks strongly and firmly about things, but it really struck me as a bit of a Star Chamber exercise whereby she was really put through the mill. She's a pretty tough cookie, I've got to say; she doesn't take a backward step.

I've been in contact with her on a regular basis to see how she's going since then. We're now into September. She said, "I was told that within a month or two I should hear the outcome of the deliberation." I just spoke to her the other day. I rang her up and asked, "How are you going? What have you heard?" She said, "Nothing. I haven't heard anything." This is another six months down the track, and I have to say she's in a pretty bad way. Her whole profession is at stake on that razor's edge. It must be terribly difficult for a highly trained health professional to find themselves in that circumstance. That's a small anecdote from personal experience. I don't deal in the area, but it just drove home to me how much is at stake for these highly trained and dedicated individuals. Whatever can be done to provide and facilitate a timely progress and gatekeeping of matters moving one way or the other is obviously to be welcomed. Sorry, that was a statement.

JOHN TANSEY: I'm happy to respond, Mr Donnelly, just to confirm your view. I can tell you, not only from my own team that have come to me from day one or day two about the significance of this issue and the work we're doing internally to do it, but also from meeting with sector stakeholders and industry groups—whether it's dentistry, pharmacy or medical—they would, I think, concur with what you're saying. While most practitioners probably over a long career will end up getting a complaint about them, nonetheless, the fact of one can be so significant.

I've been told of at least one case as recently as yesterday when meeting with a stakeholder. They just said, "That's it. I'm out. I'm out on the basis of this, because the process of enduring it, to me at this stage of my career, looks like too much of a drain. I would rather opt out." I've clearly heard from stakeholders of the potentially profound effect of one matter of one very long-giving, long-serving practitioner. I think that validates what you're saying about one can be enough. Given that we can and must look into these matters in the interests of public safety as well as the profession, making sure that we can do it so that it does as little additional harm as possible will remain a focus.

The Hon. GREG DONNELLY: It's just wonderful you made the point. It just goes to show your diligence that with respect to even the tone and the framing of the letters from you to the individual, in terms of the referral, I thought they were quite well framed. But, obviously, you're looking for ways to improve that.

The CHAIR: No-one is suggesting that there shouldn't be accountability of practitioners at all.

The Hon. GREG DONNELLY: No.

The CHAIR: This applies to all health practitioners. The process of a complaint is a big deal. I don't think we need to unnecessarily make that worse for practitioners. I appreciate the fact that you've had a focus on it and that the commission is looking at its work in that regard, so thank you for that. Thank you for appearing before the Committee today, Commissioner. You'll be provided with a copy of the transcript of today's proceedings for corrections. The Committee staff will also email any questions taken on notice from today and any supplementary questions from the Committee. We ask that you return answers to questions taken on notice or to supplementary questions within seven business days of receiving them. Thank you very much for appearing. I thank the Committee. I also thank the secretariat and the support staff, who have been wonderful. That concludes today's public hearing. I thank the Committee members and staff and the staff of the Department of Parliamentary Services for the conduct of the hearing. I wish everybody the very best for the rest of the day.

(The witness withdrew.)

The Committee adjourned at 12:05.