

Complaints, resolutions and investigations

This section should be read alongside the final Annual Report of the Mental Health Complaints Commissioner (which covers the period from 1 July – 31 August 2023) to understand the full financial year of public mental health service complaints, resolutions and investigations registered in the 23-24 reporting period.

Taking and resolving complaints

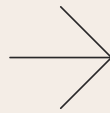
The Commission can take complaints relating to any matter arising out of the provision, or failure to provide, a publicly funded mental health and wellbeing service by a mental health and publicly funded wellbeing service provider.

This includes such things as:

- failure to make all reasonable efforts to comply with the mental health and wellbeing principles and other principles and duties in the Act;
- communication including to nominated families or carers; or
- the way a service provider handled a complaint it received.

These complaints can come from consumers, from other people on behalf of consumers, or from carers, family members or supporters about their own experiences.

The Commission deals with complaints about the experience of consumers, carers or families, as defined in the Act. The Act also specifies the Commission must resolve complaints using the least formal action that is appropriate in the circumstances (section 451(2)).



Our Lived Experience Team works closely with the Resolutions Team at the Commission to ensure our complaints and resolutions processes are sensitive, trauma-informed, inclusive and clear.

Most importantly, it works to ensure complaints lead to meaningful and positive change. We regularly review our practice guidance through a lived experience lens to support continuous improvement.

We take a person-centred approach to complaint resolution. This includes keeping the complainant informed at every step of our process and seeking their views before closing a complaint on the basis that the resolution must comply with the principles of the Act.

Disclosure and information sharing

Complaints made to the Commission are confidential and no identifying details are made public. That said, the Commission shares non-identifying details, usually in an aggregated format, for the purposes of transparency about our work and service or system performance.

There are specific parts of the Act that restrict the type of information the Commission can make public or share.

We are not allowed to disclose any information obtained during an investigation, a complaint data review, or a complaint resolution process, or during a conciliation.

Disclosure is only permitted in very limited circumstances, for example where there is written consent from the person to whom the information relates, or if it is necessary to avoid a serious risk to the life, health, safety or welfare of a person. It is also permitted – except in relation to conciliation – if it is necessary for the performance of the Commission’s functions.

Who contacted us

Between 1 September 2023 and 30 June 2024, the Commission received **2,195** new enquiries, complaints and referrals (including referrals from the Australian Health Practitioner Regulation Agency).

Of the **1,719** complaints received, **1,339** (approx. 78%) were assessed to be in-jurisdiction to be progressed by the Commission through the different resolution pathways.

In-jurisdiction complaints are made by people about their experiences in Victorian public mental health and wellbeing services. Complaints are received either verbally through our phone line or in writing through e-mails and our web form (a very small fraction is received via letters).

When the Commission receives complaints that are out of jurisdiction (including those that are about services that are not Victorian public mental health and wellbeing services), our team continues to support people to contact the most appropriate body to help them with their complaints, where appropriate/relevant.

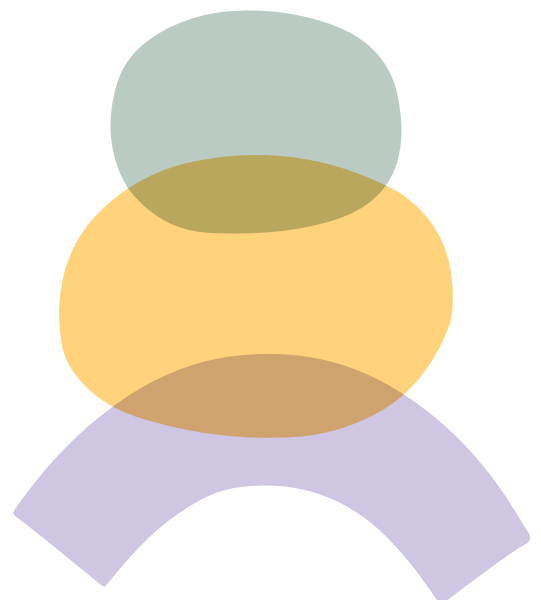
Over the reporting period, the Commission received 380 complaints that were assessed to be out of jurisdiction. These complaints were most frequently in reference to general health services, private mental health practitioners, or mental health services in other jurisdictions. The Commission assists people to reach the relevant complaints bodies and/or support services to assist with any complaints not within our jurisdiction.

Complainants

Over the reporting period, the Commission received **987 (73.7%)** in-jurisdiction complaints from people accessing services themselves (consumers).

303 (22.6%) in-jurisdiction complaints were made by family members and carers. Complaints from carers can be made on behalf of a consumer or about their own experiences with the services.

49 (3.7%) in-jurisdiction complaints were made by others, including advocates, lawyers and service staff.



Mental health and wellbeing services

1,278 (95%) of the in-jurisdiction complaints received by the Commission were made about designated mental health and wellbeing services (DMHWS), including hospital-based, community, residential, specialist and forensic services.

A lower proportion of complaints were received about mental health and wellbeing community support services (MHWCSS) and the newly established local services (the Locals). Only **12 (less than 1%)** complaints received were about these services. This could be attributed to the lower number of people who access these services.

49 (9%) of in-jurisdiction complaints received by the Commission did not identify a service provider. This can occur in situations where the Commission is unable to contact the complainant for further information, either because the complainant does not wish to disclose this information, or because the complainant chooses not to progress their complaint.

Approximately **79%** of complaints (where the service was known) were made about designated **metropolitan** mental health and wellbeing services and about **21%** were made about **regional** designated mental health and wellbeing services.

Figure 2: Distribution of complaints about designated mental health and wellbeing services across metropolitan and regional areas in Victoria

Service	Number of complaints
Metro mental health services	
Alfred Health	86
Austin Health	54
Eastern Health	161
Forensicare	108
Melbourne Health	73
Northern Health	122
Mercy Public Hospitals Incorporated	68
Monash Health	138
Peninsula Health	52
Royal Children's Hospital	11
South West Health Care	20
St Vincent's Hospital	45
Western Health	59
Orygen Health & Orygen Specialist Program	16
Total Metro	1013
Regional mental health services	
Albury Wodonga	24
Grampians Health Services (Ballarat Health)	40
Barwon Health	58
Bendigo Health	59
Goulburn Valley Health	20
Latrobe Regional Hospital	50
Mildura Base Hospital	11
Total Regional	262
Total DMHS*	1275
Unknown	57

This data reflects the status of a complaint at a specific point in time. Figures vary slightly over time as the status of a complaint changes in the system. For this reason, the number of complaints reported in the table below will not align with the overall figures reported above.

A calculation of the percentage of complaints about an individual service provider, per 1,000 consumers that access each service, was not possible to provide for this reporting period due to it being less than 12 months.

* This figure excludes services with low numbers of complaints to avoid the identification of individuals.

Complaints received

Complaints made to the Commission often involve more than one issue. In this annual report, the number and percentage of complaints about each issue are recorded for all in-jurisdiction complaints received.

The Commission uses a three-level system to classify the issues raised in complaints. This classification of issues broadly aligns with the Victorian Health Incident Management System (VHIMS) issues categories. Each level has an increasing specificity to describe what the complaint was about.

- level 1 issues capture the broad themes behind complaints
- level 2 breaks these issues down into more specific groups
- level 3 issues provide more detailed information about the complaint

See figures 3 and 4 – three-level system of classification, complaint classification.

- **Level 1 issues:** treatment, communication, conduct and behaviour, medication, access, diagnosis, facilities, complaint management and records

- **Level 2 issues:** break down Level 1 issues into more specific categories. E.g. the Level 1 category Medication includes the following Level 2 issue: Disagreement with medication
- **Level 3 issues:** further breakdown Level 2 issues. E.g. Level 2 category of Disagreement with medication includes the Level 3 issue: Dissatisfaction with the prescribed medication

Figure 3: The Commission's three-level system to classify issues raised in complaints

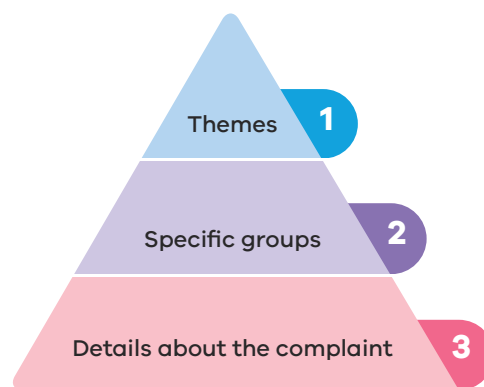
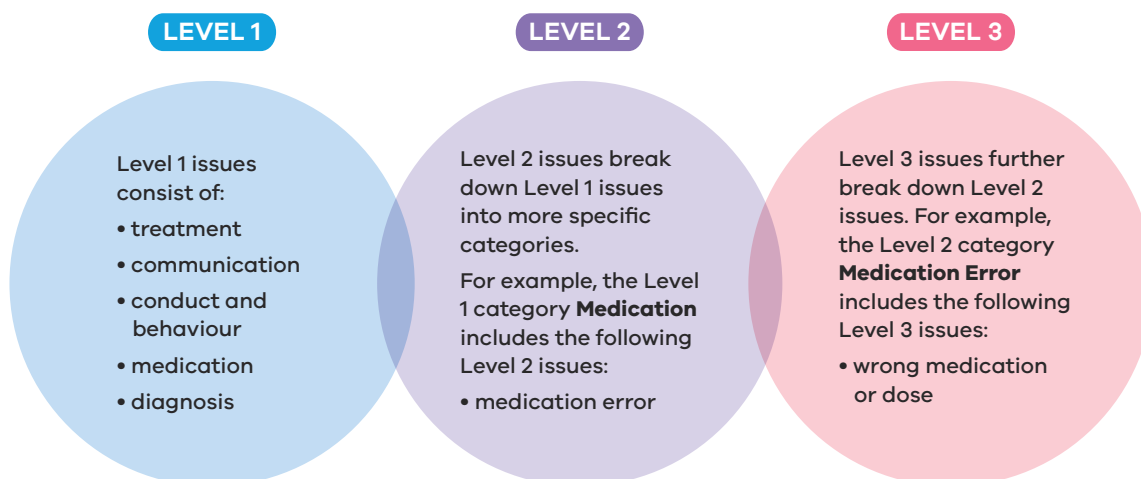


Figure 4: Complaint classification



Frequently raised issues in complaints

- percentages for Level 1 and Level 3 issues are calculated based on the number of occurrences of the issue in in-jurisdiction complaints during the reporting period
- complainants usually raise more than one issue in a complaint that is made to the Commission
- The top two Level 2 issues for the top five Level 1 issues as received in in-jurisdiction complaints made to the Commission
- The top Level 3 issues are calculated as a percentage of the total number of Level 1 issues category they fall under.

Figure 5: Issues raised in complaints

Level 1 Issues	Level 2 Issues (top2)	Level 3 Issues- top 1st	Level 3 Issues – top 2nd
Treatment (51%)	Suboptimal Treatment Responsiveness of Staff	Lack of care or attention (e.g. people feeling listened to or believed) (15%)	Disagreement with the treatment order (13%)
Communication (31%)	Inadequate communication with consumers/carers and other providers	Incomplete or confusing information provided to consumer (34%)	Incomplete or confusing information provided to carer, family member or nominated person (15%)
Medication (23%)	Disagreement with medication Oversedation & side effects	Dissatisfaction with prescribed medication (39%)	Side effects from medication (22%)
Conduct & behaviour (18%)	Rudeness/lack of empathy Alleged threats, bullying or harassment by staff	Rudeness, lack of respect or discourtesy (25%)	Threats/intimidation or bullying by staff – clinical (5%)
Access (11%)	Refusal to access or treat Insufficient access	Refusal to admit or treat (32%)	Lack or insufficient access to service (26%)
Diagnosis (10%)			
Facilities (6.5%)			
Complaint management (3.5%)			
Records (3%)			

Closure of complaints

During the reporting period, **1,305** complaints were closed by the Commission that were within its jurisdiction.

Of the complaints that were closed, **626** were either **fully or partially resolved** to the satisfaction of the complainant; **60** were **not resolved**, and **619** did not have a resolution applicable/reported.

For those complaints with no resolution reported, this was typically in instances where we were unable to contact the complainant after initial contact, where we could not obtain the consumer's consent to access further information necessary to progress the complaint or where resolution was not required to be reported to the Commission by the service.

Over **90%** of complaints where outcomes were reported to the Commission were resolved to a level of satisfaction (either fully or partially) for the complainant.

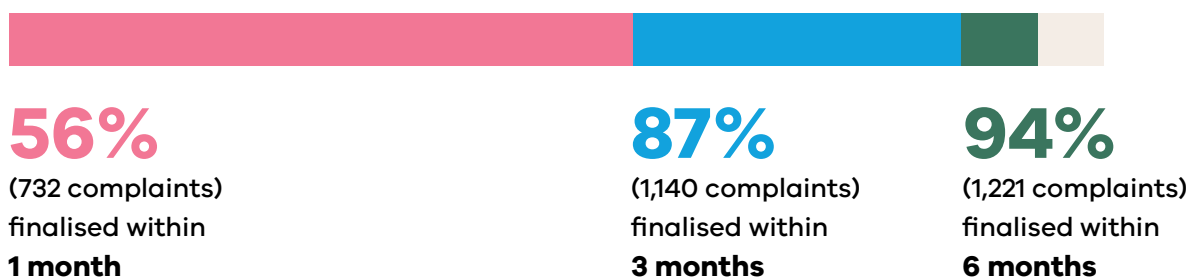
The Commission continues to implement an assisted referral process where suitable and with agreement from the complainant. This is when the matter may be referred to the service for resolution directly with the complainant.

We assist the complainant to know their rights and what to expect through the process, noting a complainant may return to the Commission if they remain dissatisfied. In some cases, our assessment means referring to a more appropriate entity, such as the Health Complaints Commissioner or the Victorian Equal Opportunity and Human Rights Commission.

Over this reporting period, almost **49%** of the closed in-jurisdiction complaints were progressed through the assisted referral process with a high percentage or resolution reported back to the Commission. This has highlighted better and faster outcomes for complainants than previously reported.

The Commission complaints process has resulted in **56%** of the complaints that were closed during that period to be finalised within the first month of receipt (**732 complaints**); **87%** were finalised within three months of receipt (**1,140 complaints**); and **94%** were finalised within six months of receipt (**1,221 complaints**).

Figure 6: How long it took to finalise complaints (within 1 month, within 3 months, within 6 months)



Outcomes from complaints

When resolving complaints, the Commission seeks to deliver outcomes that broadly result in achieving at least one of the following:

- Acknowledgement,
- Action,
- Answer, and
- Apology.

This is referred to as the 4 As of complaint resolution.

The Commission acknowledges every complaint that we receive and supports consumers, families, carers and supporters to raise concerns with services and achieve meaningful outcomes, guided by the 4 As model.

Not all complaints outcomes are reported to the Commission, however the most common outcomes reported by mental health service providers were:

- Acknowledgement of the concerns raised – 770 complaints.
- Actions addressing concerns raised – 491 complaints.
- Answers and explanations to concerns raised – 331 complaints.
- Apologies – 129 complaints.

The most common actions taken by services to address individual concerns were addressing communication issues between the complainant and the service, responding to the complaint directly, offering and/or providing a service, making changes in the service provided to the consumer and providing feedback to the relevant staff at the service.

Service improvements

Over the reporting period, complaints received by the Commission resulted in **100 recommendations**. All of these recommendations were made in the process of resolving individual complaints. Recommendations made by the Commission are based on information obtained during the complaints resolution process and are not indicative of findings of non-compliance of the Act.

Services reported **255 service improvements** back to us that were made in response to complaints; some of these improvements were a result of recommendations made by the Commission.

Recommendations and service improvements often focused on:

- changes to policies, procedures and practices of service provision;
- training and providing feedback to staff.

Themes of service improvements were predominantly about reducing the use of restrictive interventions including the use of seclusion, bodily restraint or chemical restraint as well as changes in clinical governance and enhancing communication about treatment, care and support.

Figure 7: Service improvements themes*

a. Communication	50
b. Clinical governance	55
c. Restrictive intervention	75
d. Alleged staff misconduct	24
e. Risk assessment and management	29
f. Safety	24

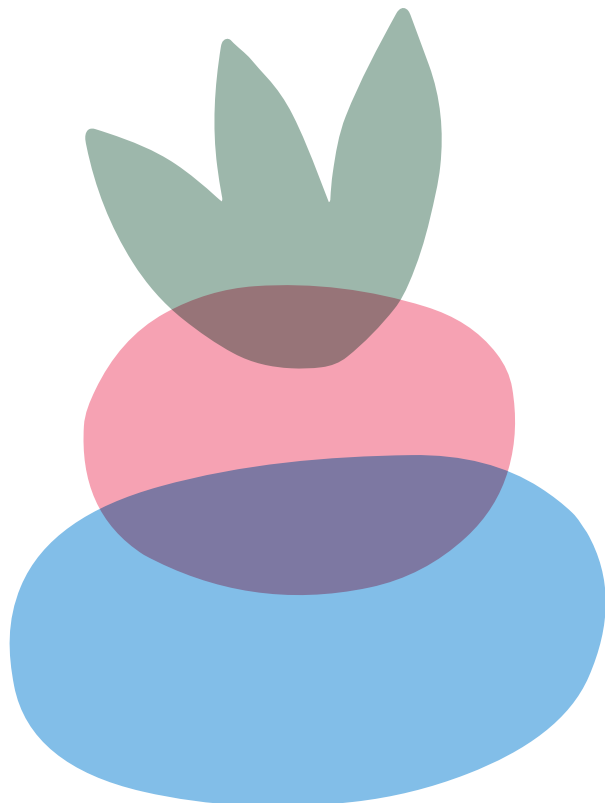
Figure 8: Service improvements actions by services

a. Policy/procedure/practice	159
b. Training/input to staff	88
c. Undertake an audit/investigation	4
d. Other systemic change	1
e. Improvements to infrastructure	2
f. Other systemic change	1



“Complaints are the backbone of the work of the Commission. The voices of people who contact us represent a lived experience of the people who use and interact with mental health and wellbeing services. It’s only through hearing these experiences that we can really use our powers to shape change and drive reform. I thank each person who has contacted the Commission to share their experiences.”

Treasure Jennings, Chair Commissioner



* Multiple service improvements can be reported through a single complaint and/or for more than one theme. This is why the number of themes exceeds the number of service improvements reported by services.

Resolving complaints

The Commission takes a trauma-informed and person-centred approach to complaint resolution and considers the perspectives of those with living and lived experience. This means that we adjust our process to meet an individual where they are at, and we adopt a resolution approach that is led by the complainant, considering their expectations and preferences.

In addition to this, the Commission must consider the mental health and wellbeing principles and make sure our decision-making processes are transparent and appropriate.

When taking complaints, the Commission must abide by the guiding principles in section 430 of the Act, which require us to:

- act in a fair, impartial and independent manner;
- seek to improve the quality and safety of mental health and wellbeing services;
- seek to protect the rights under this Act of persons seeking or receiving services from mental health and wellbeing service providers; and
- act in an efficient, effective and flexible manner that avoids unnecessary formality.

The Act says the Commission may attempt early resolution of a complaint in any manner and using any means it considers appropriate. When we deal with a complaint, we can use any appropriate method to resolve the complaint, including informal dispute resolution, conciliation or conducting an investigation.

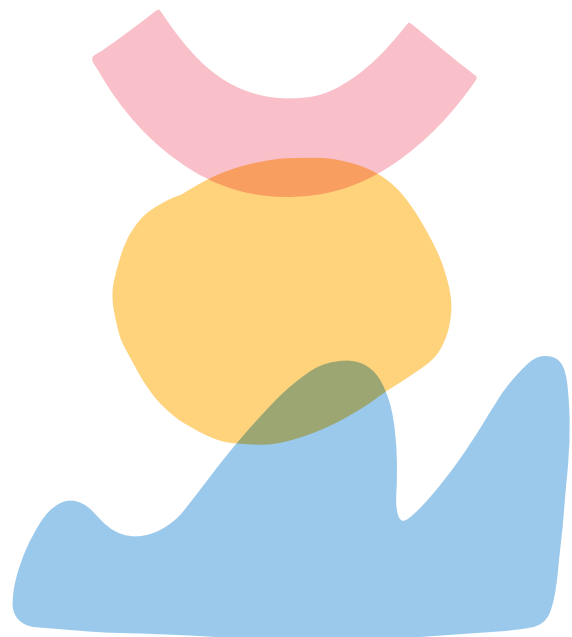
Our staff work with the complainant to determine the best approach to progress the complaint. Where possible we encourage the service to resolve the issues directly with the complainant and focus on rebuilding trust and communication. We also support services to implement service-led improvements based on the experience of consumers, carers, families and supporters.

Local Complaints Reporting

Under the Act, all public mental health and wellbeing services in Victoria are required to share their data about complaints made directly to them (local complaints) with the Commission. The Commission uses these data, together with data about complaints received by the Commission, to create an overall assessment and provide advice to services on areas where they can improve, where they are doing well and how to progress further improvements.

The Commission is developing a new approach to ensure these data are used to support individual service learning and shine a light on systemic matters across the sector.

Individual Service Provider reports for the 2022-23 period, which were collected and developed under the *Victorian Mental Health Act 2014*, are now published on the Commission's website, in addition to a state wide report on complaints and compliments that includes comparative data charts and narratives.



Investigations

Our approach to complaint resolution is consistent with the Act which is to act in an efficient, effective and flexible manner that avoids unnecessary formality. Formal Investigations are only conducted for serious or systemic rights, safety or risk issues raised through complaints, where other complaint resolution pathways or mechanisms are ineffective or inappropriate.

Investigations are a formal process (section 476 of the Act) undertaken when we believe that the full extent of the issues can only be confirmed, and a conclusion reached, through formal investigation.

In instances where an investigation arises out of an individual complaint as it is part of the individual complaint resolution process, our staff work with the complainant to determine the best approach to progress a complaint.

The Commission can also launch own initiative investigations or investigate a matter referred to it by the Minister, which do not require an individual consumer or complainant to be involved, only that the investigation be in relation to any matter that a person can make a complaint about under Sections 431-433 of the Act. The Commission did not open an own initiative investigation in this reporting year. However, our annual planning process will identify issues for which it may be appropriate for the Commission to initiate own initiative investigations. The Minister has not referred any matters to the Commission for investigation.

Our staff work with the complainant to determine the best approach to progress a complaint taking into consideration the least formal way to resolve the complaint. Over this reporting period, we opened one new investigation and progressed two existing investigations opened by the former Mental Health and Wellbeing Commissioner. Of these investigations, two concern the use of restrictive interventions and practices and one concerns the making of compulsory treatment orders.

Inquiries

The Commission has the authority to conduct inquiries in relation to any matter relating to our objectives and functions on our own initiative or as referred by a House of Parliament, a Parliamentary Committee, a Minister, the Health Secretary or the Chief Officer.

We will conduct inquiries when a structured approach is required to explore a systemic issue. Inquiries are a significant undertaking, which may include conducting public hearings. We estimate that any inquiry would take between 12 and 18 months to complete.

We have not initiated any inquiries since September 1, 2023; however, we have developed our guide to, 'Exploring issues through inquiries and systemic reviews', which sets out our approach to undertaking an inquiry.

This will be something that will form part of our annual planning cycle. The annual planning cycle identifies potential issues for exploration by incorporating a broad range of perspectives, prioritising the issues that matter to people with mental illness and psychological distress and their carers, families, supporters and kin.

Reports

The Commission has not published any reports in its first ten months of operation, these will be an important output of the Commission.

We have written a report, on 'The Use of Restrictive Interventions in Designated Mental Health Services', which we look forward to sharing in 2024. This report looks at processes and data collection for complaints concerning the use of bodily restraint in designated mental health services. It particularly evaluates the use of a questionnaire as part of this complaint resolution process. The report also looks to identify trends and insights about the use of restrictive intervention practices in services and considers how the Commission can better oversee and reduce the use of these harmful practices.