HEALTH AND ENVIRONMENT COMMITTEE

Members present:
Mr AD Harper MP—Chair
Mr SSJ Andrew MP
Mr DJ Brown MP
Ms AB King MP
Mr R Molhoek MP
Dr MA Robinson MP

Staff present:
Ms M Salisbury—Acting Committee Secretary
Ms A Groth—Assistant Committee Secretary

PUBLIC BRIEFING—OVERSIGHT OF THE HEALTH OMBUDSMAN AND THE HEALTH SERVICES COMPLAINTS MANAGEMENT SYSTEM

TRANSCRIPT OF PROCEEDINGS

MONDAY, 15 NOVEMBER 2021

Brisbane

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The committee met at 10.00 am.

CHAIR: I declare open this public briefing of the Health and Environment Committee. I respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing living cultures in Aboriginal and Torres Strait Islander people whose lands, winds and waters we all now share.

I would like to introduce the members of the committee. I am Aaron Harper, the member for Thuringowa and chair of the committee. Mr Rob Molhoek, the member for Southport, is the deputy chair. Other committee members present are Mr Stephen Andrew, the member for Mirani; Ms Ali King, the member for Pumicestone; Dr Mark Robinson, the member for Oodgeroo; and with us today is also Mr Don Brown, the member for Capalaba. Welcome, Don.

The purpose of today's briefing with the Office of the Health Ombudsman is to assist the committee's discharge of responsibilities on behalf of the parliament for its oversight of the Health Ombudsman and the health services complaints management system. The committee appreciates the regular correspondence and reports provided by the Office of the Health Ombudsman and the committee finds those very useful.

The briefing today is a formal proceedings of the parliament and is subject to the Legislative Assembly's standing rules and orders. I ask that mobile phones or other devices be turned off or switched to silent. Hansard will record the proceedings and you will be provided with a copy of the transcript. The hearing is being recorded and broadcast live on the parliament's website. I now welcome Mr Andrew Brown.

BROWN, Mr Andrew, Health Ombudsman

CHAIR: Mr Brown, I welcome you for your final public briefing in your role as Health Ombudsman. I start by acknowledging the significant work the Office of the Health Ombudsman and your entire staff have been able to achieve in the past couple of years under your leadership. You have literally turned a ship around in terms of managing health complaints in Queensland. On behalf of the committee, I thank you and acknowledge your entire team and your stewardship for what you have been able to achieve. We are looking forward to today's briefing and update on health complaints management in Queensland. Would you like to start with an opening statement?

Mr Brown: Thank you for those kind words and thank you again for the opportunity to discuss the important work of the Office of the Health Ombudsman. I thought I would use my opening address to largely focus on the performance of the office during the last financial year. I understand the OHO's annual report has not yet been tabled, so the committee may not have an up-to-date picture of the office's performance and achievements in the last financial year.

I am pleased to report that during 2020-21 the OHO has maintained its strong operational performance, ensuring that it is well positioned to deliver on its paramount objective of protecting the health and safety of the public. Before providing you with some performance data in relation to that period, I thought I should note that last financial year, for the first time since the OHO commenced operations, the number of contacts and complaints made to the office actually fell slightly. Compared with the previous financial year, contacts received were down four per cent and complaints were down three per cent. As the committee is no doubt aware, the OHO has been accustomed to dealing with significant growth in contacts and complaints year on year, so this plateauing of growth in work coming in the past financial year was a welcome development. However, this slowdown appears to have been short lived with the first quarter of this financial year being one of the biggest single quarters so far. If that trend continues throughout the year, the office will be on track to receive over 10,000 complaints, which will be a first for the office.

In 2020-21, the OHO performed strongly against the majority of its legislated time frames and SDS measures. Some examples of those include that 95 per cent of intake decisions were made within the seven-day time period, which is the same result as last financial year and above the 90 per cent target—that result has actually increased to 98 per cent in the first quarter of this financial year;

91 per cent of assessments were finalised within legislated time frames, which were similar to the 92 per cent result of the year before and above the target of 90; and 94 per cent of local resolution matters were finalised within legislated time frames, which was the same result as last year, notwithstanding a five per cent increase in the number of local resolutions completed. What that performance data shows is that, when it comes to triaging and assessing complaints and notifications when they are received by the OHO, we are able to consistently do that quickly and ensure that matters that pose risk are identified and actioned in a timely way.

I turn now to investigations. We did not perform as strongly as the year before in relation to the measurement of investigations completed within 12 months, with only 59 per cent of investigations completed in 12 months compared to 64 per cent the year before. However, there are still some encouraging signs. During 2020-21, the OHO finalised seven per cent more investigations than it received and when that occurs there is no chance of a backlog accumulating. Importantly, the OHO has been able to finalise a number of aged investigations, finishing the year with only 13 active matters that were open for more than 12 months out of a total of 127 cases. That is the lowest number of active aged investigations the OHO has ever finished a financial year with and it is a far cry from the position we found ourselves in on 30 June 2017 when there were 394 open investigation cases with 168 active investigations older than 12 months.

One of the big challenges in relation to meeting this SDS—that is, completing investigations within 12 months—is that at any given point in time about 40 per cent of our investigation workload is on pause. As the committee is aware, that is when there are criminal proceedings and we cannot finalise the matter until the court process is finished. That does make it impossible to finalise a proportion of our cases within the 12 months. However, as I have just indicated, notwithstanding that, we have been quite successful in reducing our open aged investigation cases.

The committee may be aware that a key focus of mine over the past few years has been to work closely with the OHO's Director of Proceedings to ensure the more timely progression of practitioner matters through the office and into QCAT. That has involved overseeing a significant reduction in the number of practitioner matters that are waiting a decision by the DoP. As of 30 June 2021, it was pleasing to see that there were only 28 open matters awaiting a decision by the DoP, which was down from 42 matters in June 2020 and 88 matters in June 2019. To really illustrate how far the DoP's office has come in the last few years, during the 2018-19 financial year, at the high watermark, the DoP had 174 open cases to action and the average age that year of cases was over 12 months in that office. As of today, there are 30 active matters awaiting a DoP decision, with an average age of just five months. Those results underline the journey the office has been on over the past few years and demonstrates that it is substantially more responsive to the community.

As you are aware, I made a decision earlier this year not to seek another full term and I finish in the role in mid-January. I have greatly appreciated the opportunity to lead the OHO and oversee its transformation into an organisation that I truly believe is more productive, more efficient and, importantly, more effective. Over the past four years great strides have been made to move backlogs through the system, improve the office's performance against key legislative time frames and increase the effectiveness of outcomes. I must recognise that none of that would have been possible without the commitment, dedication and hard work of the OHO staff. I have said to the committee previously that they undertake a very challenging job and they do it well.

Notwithstanding what we have achieved, there are still some challenges that the organisation faces ahead. The joint consideration process commences next month. While beneficial for the system as a whole, the sheer volume of matters that will be subject to joint consideration and the strict time frames that apply will place a strain on the intake function of the office, particularly in the early stages of implementation.

Sadly, the staff survey results from the recently undertaken Working for Queensland survey show that staff satisfaction and engagement have fallen, in some areas significantly. Addressing those cultural issues going forward will continue to pose some challenge. As I have said before, complaint growth in the first quarter of this year has returned. It looks like the office will again have to deal with increasing workloads. I do not consider any of those challenges are insurmountable by any means and I am confident that the new Health Ombudsman, with new energy and some new ideas, will be able to continue to effectively lead the organisation to further success. Thank you.

CHAIR: Thank you very much, Mr Brown. I make the general comment that I think the new Health Ombudsman has some pretty big shoes to fill. You have certainly set a high bar. We commend the office for the work that they have undertaken.

Mr Brown: Thank you.

CHAIR: I note before I move to questions that during the last year there has been an increase of some 82 per cent in complaints around medical centres. Some of the data that we were able to look at shows that was up almost 82 per cent on 131 in the fourth quarter of 2019-20. There is also an increase with mental health services. We have had the Mental Health Commissioner talk to us about the impacts of COVID, so it is not surprising given where we have been for the past two years. I want to get a general view on why we might be seeing an increase in the medical centre health complaints. Do you have any thoughts or comments on that?

Mr Brown: I could only make some educated guesses. I think you read out a number of 131 complaints, which is 131 out of about 9,000 complaints a year. Small changes in this small number can equate to a much more significant figure. I would note that probably the actual growth, while large as a proportion, would remain low as an overall percentage of the complaints that we get.

COVID may have had an impact on those medical centres around access and infection control. Some of the COVID complaints we get are people saying, 'The doctor didn't wear a mask,' conversely, 'The doctor made me wear a mask when I was in there,' or 'The doctor wouldn't let my partner come in.' That could be contributing to it. I am happy to unpack that and take that on notice to provide you with a more comprehensive answer.

CHAIR: Putting it into perspective, in that quarter there were 238 issues, which was up from 131, which is approximately 100 more.

Mr Brown: In one quarter, yes.

CHAIR: That is the information I have on this brief. I am happy for you to look into that.

Mr Brown: Okay. I will do that.

CHAIR: I will open up to questions and start with the deputy chair.

Mr MOLHOEK: Andrew, I should add my thanks to those of the chair and congratulations on the job that you have done. I have visited the centre and what you do is pretty impressive. I am sure that none of the matters are straightforward or simple. It is the sort of work that obviously requires a lot of attention to detail. I echo the chair's comments that you are to be commended for the turnaround there.

Mr Brown: Thank you.

Mr MOLHOEK: I am not all that educated around the nature of some of the complaints. In the briefing document you talk about complaints raised related to nurses, dental practitioners and psychologists. I know you cannot talk specifically about any case, but can you tell us a little about the nature of some of those complaints?

Mr Brown: Certainly. The 9,000-ish complaints we get a year are largely split between two key categories: one about individual practitioners and the other about organisations. About 60 per cent, give or take, relate to organisations. They will be about hospitals, public and private; mental health facilities; prisons; medical centres. It is anything that involves a complaint not about a practitioner. The remaining 40 per cent are about individual practitioners: 95 per cent of those are about registered practitioners—so doctors, nurses, psychologists, dentists—and five per cent are about unregistered practitioners. Quite commonly that is massage therapists, assistants in nursing. The complaints across that spectrum that we receive, as you can imagine, are incredibly varied.

Starting with the unregistered practitioners, sadly, a very small proportion—but it is a large proportion of the work we do—relates to, for example, massage therapists where it is alleged that they have assaulted a patient or sexually assaulted a patient during a consultation. They are very serious allegations for which I may put an interim prohibition order on them for that period or limit the gender of patient they deal with. With registered practitioners it really varies right from the very serious—including, for example, at its worst, some sort of assault—through to communication issues or patients who say, 'I didn't get the medication that I wanted,' or 'The doctor was rude to me.'

The bulk of registered practitioner complaints go to Ahpra to be dealt with. Of the nearly 4,000 complaints, at the end of the day we retain less than a thousand and we investigate only a couple of hundred of those in any given year. It could be complications from a surgery. A common one is ill-fitting dentures or that someone was not particularly happy with the results of a procedure that was performed on them. We get complaints about billing inquiries and complaints about access to records. It really varies.

Mr MOLHOEK: What would complaints about psychologists relate to?

Mr Brown: At the serious end—and I have to say these are the ones that come across my desk personally; I see them because I am the only person that can take action—they might include boundary violations with patients. That would be pursuing patients either socially or romantically

outside of work, which is something that is considered to be very serious. That would result potentially in a gender restriction being placed on them. I do not see most of the other psychology complaints, but it could be a range such as billing: 'They charged me more than I was expecting,' or 'They said they'd do a report for me and it has been X amount of time and I still don't have the report that they said they'd draw up.' It would really be a range.

Mr MOLHOEK: In respect of mental health services, is it complaints from families or is it complaints from patients themselves around care? I am assuming that some of those would be challenging, dealing with people who have mental health issues.

Mr Brown: Certainly. It would be both. Ones that I recall are again access related complaints, so family members say they thought their son or daughter was psychotic or suicidal and should have been admitted to a mental health facility, but the facility would not admit them or they were discharged prematurely. They are often more family related complaints than individuals. It could also range from how they were treated in a facility, from the quality of food to potentially restrictions placed on them.

Ms KING: Mr Brown, thank you for the work you have done. It has been a real privilege, from when I was initially employed in the health minister's office to now, to see the transition in the performance of the Health Ombudsman's office over that time. My question is around access to GP services. It is something that is raised time and time again in my community, and I know that that is repeated for many members in their own communities. Do you receive many complaints, queries, inquiries from members of the public who are concerned or distressed about seeking to make an appointment at a GP and being told there is a very long wait time to get an appointment or they are unable to get on to the books of a GP in their community?

Mr Brown: I do not have any personal knowledge of complaints of that nature. I would not necessarily see those personally. We could certainly do a little unpacking—

Ms KING: I was referring to the access.

Mr Brown: Yes, access because there are not enough GP appointments available; that is a very specific issue.

CHAIR: Could you take that one on notice?

Mr Brown: Most certainly. We can look into that.

CHAIR: That is in addition to the earlier question I had on medical centres.

Mr ANDREW: Mr Brown, thank you for your service to Queensland and all the best in your future endeavours. As a professional, what have you seen as a trend in the last 12 months that you consider would be an ongoing trend that would affect the health system, from your point of view?

Mr Brown: That is a very good question that I do not think I have a very good answer for. The problem with the trends that we normally see over time is there is nothing particularly consistent. There was a time when complaints against Corrective Services facilities were going up significantly and that stood out as a trend. I noticed before I came this morning that they are actually down on the year before. Complaints about mental health facilities can be up and then they can be down. I cannot pinpoint a single trend, although I will say the biggest trend over the years of the existence of the Health Ombudsman has just been the sheer increase in complaints generally. We started off in the first year or two with about 4,000 complaints a year and within six years it is 9,000. We did have the slight downturn last year, but that is back. The biggest trend is that more people are complaining about health services.

To understand why that is I think is a very complicated question. It is to do with consumer expectation. Across the board, whether it be in health or government generally, that is increasing and that is quite proper. People just expect more. As technologies improve and treatments improve, people expect more of the services that are being delivered. I think that is a contributing factor.

I think the accessibility of the system in Queensland in a way contributes to that. We have probably been a victim of our success to a degree. Unlike most jurisdictions, with the exception of New South Wales, the Office of the Health Ombudsman is the one-stop shop for health service complaints. It does not matter if you are complaining about a registered practitioner or an unregistered health provider or a public or private hospital, we are the front door for that system. A lot of our work is then referring those complaints to the right place. In other jurisdictions, other than New South Wales, it is a bit more fragmented. You go to Ahpra if you have a complaint about a registered practitioner potentially. You go to your commissioner if—they do share complaints, but here it is quite simple. It is the one place. I think that drives it.

Mr BROWN: In terms of the increase in the number of complaints in this calendar year, have you seen a trend in complaints against GPs who are refusing requests for exemptions around the COVID vaccine for patients?

Mr Brown: I cannot tell you whether there is a statistically significant increase. I can say anecdotally I am aware of a few such cases. We are talking about one or two cases that come to my attention. I am not able to say whether that is increasing. One would assume it would have to increase because—

Mr BROWN: It is the first—

Mr Brown: That is right; we are in new territory here.

Mr BROWN: I meant feeding into that increase.

Mr Brown: I think there would have to be an increase, particularly as vaccination becomes more mandatory in various settings. A year ago we did not have that challenge. I think we will see an increase, but to my knowledge we are talking about very small numbers.

Ms KING: I am thinking about something that you mentioned earlier in our private briefing. Particularly with the more complex matters that you have looked at—I am thinking about your comments around increasing expectations of healthcare services and the healthcare system—would you say that increasingly, where there has been an adverse outcome, say, of surgery, consumers assume that there has been wrongdoing or a mistake as opposed to an understanding that sometimes things do not go well?

Mr Brown: I think so. Again, this is theorising a little bit based on what we see. Yes, there is a proportion—and I cannot tell you what that would be and it would not be the easiest data to extract—of complaints we receive about poor treatment outcomes, whether that is surgical or otherwise, but particularly surgical. There is a fair bit of work that we do in assessing known complications. Certainly it is my view that we cannot become an office of second opinion. You cannot think, 'That surgery did not go very well for me. I'm going to go to the OHO and they'll get an independent clinical opinion about the outcomes.' If we were to do that in every case, our budget would probably have to be doubled. It is challenging to work out when we do have to go for an independent clinical opinion. Often those sorts of cases may go to Ahpra because a one-off terrible outcome from, say, a surgeon is not evidence of malpractice or significant historical problems. A lot of those will go to Ahpra. They have professional officers who may also look at it.

One of the things we have been doing more recently—and it has been a challenge for a long time—is trying to build our internal capacity to deal with some of those clinical matters. We get a lot of independent clinical advice and often you need that. Because medicine is so specialised, you cannot employ someone who is going to know everything about everything. Our general approach is if you have someone who had ear, nose and throat surgery complications then we would go to an ENT to get clinical advice. We are starting to build some capacity internally with people with health experience and experience of the system so we can respond.

To return to your question, and again it is just theorising, I think it is about people's expectations about outcomes. I would think that as medicine progresses complication rates probably improve and people would expect good outcomes. Most people get good outcomes, but a small proportion get complications and a portion of those people will come to us and say, 'I wasn't happy with what happened.'

Dr ROBINSON: I also add my thanks for your service over this time and give you my well wishes for the future. In terms of potential complaints to your office around the current issues involving the Mackay and Caboolture hospitals, could you give us an understanding of the nature of any complaints you may be receiving and also whether they are about the potential practice of individuals or the entity itself? Could you give us some understanding, if you are receiving complaints?

Mr Brown: Certainly. Before I turn to the specifics of that question, I will give some general information about how we are responding to both of those hospitals. We are aware that both hospitals have commissioned their own reviews involving external parties. As much as possible we try not to duplicate effort when things like that are put in place and do our own piece of work. We actually have a section in our act where we can refer complaints to health services and they have to report back to us. They are lawfully obliged to do so. In both of those cases we have referred those matters into that process. We have asked for reports back and we will scrutinise the review reports and any other information we receive about those complaints when they are back. I think the Caboolture Hospital report has come back only recently, so we are working through that. I do not believe the Mackay report has been finalised; I have not seen it.

That is the way we are responding to those issues. We have received a small number of complaints about both of those facilities. I believe some of them are about surgical outcomes. Whether they are specifically about individuals or the hospital at large, I am not completely sure. I am

not across the fine detail of those. I just know we have them, we have referred them through that process and we will be reviewing them when they come back in. Then we will have to decide what we do, whether we think that the health service review has adequately addressed the issues that were raised in the complaint or whether there is further work for us to do in relation to those complaints. However, those decisions have not been made as yet.

Dr ROBINSON: What capacity will there be for you to assess those reports once those reports come to you? You said one has just arrived. What capacity is there for you to comment on those reports to this committee and even publicly via a public session with this committee? Is there opportunity for you to do that?

Mr Brown: If the committee wants a report back, we would certainly be able to do that. What we start with is an analysis. We will have a team of our staff go through that material and cross-reference it. There will be a decision made as to whether we need to do more work ourselves. That could involve, for example, external clinical opinion; it may not. We may simply require more information from the health service to answer our queries or we may have to commence our own investigation. It depends on those responses as to how much time that will take. It will probably be a couple of months if it is just cross-referencing everything and we are happy with it. It could be six months or more if it was an investigation. It really depends. We have not really reached a position on either of those at this stage. I have not been briefed as yet, but I will be receiving a briefing.

CHAIR: Thank, Mr Brown. Of course, the committee will resolve any future briefings as a whole. I will put my final question in context. This committee did a large body of work in the aged-care space and made some 77 recommendations around that. Our report was tabled in March 2020. I wonder whether you might be able to provide the committee—on notice, of course—with information about the number of complaints the office would receive around private residential aged-care facilities? That is simply to get a view after the work we were able to conduct. I think there are some 456 private residential aged-care facilities in Queensland. Could we get a view on that, please?

Mr Brown: Certainly. Is that a before and after or is it since the report?

CHAIR: Since the report in 2020 is fine. Would the office have received any complaints around Home Care Packages? Can you take that one on notice as well? Our work looked at that as well. We would appreciate that.

Mr Brown: Will do.

CHAIR: Thank you very much, Mr Brown. There are no supplementary questions. Again, we thank you for the exceptional work you have been able to achieve since taking over in 2017. Good luck with your next venture and, please, have a break over Christmas. You have done a fantastic job. I now declare this briefing closed.

The committee adjourned at 10.32 am.