

Annual report 2020–21



**Office of the Health Ombudsman
Annual report 2020–21**

ISSN 2206-0634 (electronic)
ISSN 2206-0986 (printed)

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2 September 2021

The Honourable Yvette D'Ath MP
Minister for Health and
Ambulance Services
GPO Box 48
BRISBANE QLD 4001

Dear Minister,

I am pleased to present the Office of the Health Ombudsman Annual report 2020–21 and financial statements for the Office of the Health Ombudsman.

I certify that this annual report complies with:

- the prescribed requirements of the *Financial Accountability Act 2009* and the *Financial and Performance Management Standard 2019*
- the detailed requirements set out in the Annual report requirements for Queensland Government agencies for the 2020–21 reporting period.

A checklist outlining the annual reporting requirements can be found at page 67 of this report.

Yours sincerely



Andrew Brown
Health Ombudsman

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Year in review

I am pleased to report that, during 2020–21, the Office of the Health Ombudsman (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. This has occurred in what has been a very challenging year as Queensland, and the rest of the world, continued to battle the COVID-19 pandemic.

Having made a decision not to seek a further full term as Health Ombudsman, this will be my final annual report in the role. I have greatly appreciated the opportunity to lead the OHO and oversee its transformation into an organisation that is more productive, more efficient and, importantly, more effective. Over the past 3 and a half years, great strides have been made moving backlogs through the system, improving the office's performance against key legislative timeframes, and increasing the effectiveness of outcomes. This has ensured that the OHO is more responsive and better placed to discharge its important functions.

I must recognise that none of this would have been possible without the commitment, dedication and hard work of the OHO staff, who undertake a very challenging job and do it well. Thank you very much for your support.

Complaints data

In 2020–21, for the first time since the OHO commenced operations, the number of contacts and complaints made to the organisation actually fell. Compared with the previous financial year, contacts received were down 4 per cent and complaints were down 3 per cent.

While these falls were marginal, what makes the shift in 2020–21 more significant is that the OHO has been accustomed to dealing with significant growth in contacts and complaints year on year. In the first 6 years of the OHO's operation, complaint numbers more than

doubled. This ever-increasing demand on the OHO's service has posed significant challenges for the organisation, which has consistently stepped up to meet the increased workload and maintained strong performance regardless.

Therefore, this plateauing of growth in incoming work in 2020–21 is a welcome development. However, notwithstanding this slight contraction, it is worth noting that the amount of work received in OHO's front door was still substantial and represents the second highest year for contacts and complaints received.

Operational performance

In 2020–21, the OHO performed strongly against the majority of its legislated timeframes. For example, 95 per cent of intake decisions were made within the 7 day timeframe (which was the same result as last financial year, and above the target of 90 per cent), 91 per cent of assessments were finalised within legislated timeframes (which was similar to the 92 per cent result last financial year, and above the target of 90 per cent), and 94 per cent of local resolution matters were finalised within legislated timeframes (which was the same result as last financial year, despite a 12 per cent increase in local resolutions commenced and a 5 per cent increased in local resolutions completed). In this context the OHO has maintained its solid operational performance.

While the percentage of investigations finalised within 12 months fell from 64 per cent in 2019–20 to 59 per cent in 2020–21, the OHO finished the year with a record low number of open investigations (127 open compared with 135 open as at 30 June 2020, and substantially down from a high of 394 investigations open as at 30 June 2017). During 2020–21 the OHO finalised 7 per cent more investigations than it commenced in the year; importantly, the OHO was able to finalise a number of aged investigations, finishing the year with only 13

active matters that were open more than 12 months.¹ This is the lowest number of aged investigations the OHO has ever finished a financial year with and a far cry from the position the OHO was in on 30 June 2017 when it had 168 open active investigations open more than 12 months (almost 50 per cent of its entire case load). These results underline the journey the office has taken over the past few years and demonstrates that it is a substantially more responsive organisation, offering a much timelier service to the community.

Another key focus of mine over the past few years has been to work closely with the OHO's Director of Proceedings to oversee a reduction in the number of practitioner matters awaiting a decision by the Director of Proceedings, and to ensure the progress of practitioner disciplinary matters into the Queensland Civil and Administrative Tribunal (QCAT). As at 30 June 2021, it was pleasing to see that there were only 28 matters awaiting action by the Director of Proceedings, down from 42 matters awaiting action as at 30 June 2020 and 88 matters awaiting action as at 30 June 2019.

The coregulatory environment

In Queensland, the responsibility for managing complaints and notifications about registered health practitioners is shared between the OHO and the Australian Health Practitioner Regulation Agency (Ahpra) and the 15 health practitioner National Boards. For the system to work effectively, a close working relationship between all coregulatory partners is essential. I am pleased to report that 2020–21 saw another year of a strong and collaborative relationship between the OHO, Ahpra and the National Boards.

2020–21 saw the operationalisation of some key legislative amendments that came into effect at the end of the previous financial year, some of which directly enhanced the coregulatory model, making it more efficient. Prior to the amendments, the Health Ombudsman was prohibited from referring any matter to Ahpra and the relevant National Board where the registered practitioner may have behaved in a way that constituted professional misconduct, irrespective of how serious the matter was or whether it may have been connected to a health impairment. As Ahpra and the National Boards are responsible for managing health impairment (not the OHO), allegations against a practitioner that involved both professional misconduct and health had to be split, with the OHO managing the professional misconduct and Ahpra and the relevant National Board managing the health impairment. The amendments now allow Ahpra and the National Boards to deal with certain professional misconduct matters, enabling them to deal with the matter as a whole and providing more flexibility in the coregulatory system.

In 2020–21, the OHO and Ahpra also worked closely together at both the strategic and operational levels to prepare for the commencement of a joint consideration process which will commence on 6 December 2021. Joint consideration will provide Ahpra and the National Boards with input into decisions that the OHO makes in relation to complaints and notifications received about registered practitioners, further improving the efficiency of the coregulatory system in Queensland.

The future

The OHO's preliminary focus for 2021–22 will be on overseeing the smooth rollout of the aforementioned joint consideration model of complaints management for registered practitioners.

This involves no small undertaking in building the underlying information technology (IT) infrastructure and work practices to support the exchange of information and decision-

¹ While open, an investigation will be either active or paused—the latter being where the OHO halts an investigation to allow a criminal matter to be progressed through the criminal justice system without interference or duplication of work. There were 24 paused matters aged 12 months or greater as at 30 June 2021.

making in relation to thousands of practitioner complaints and notifications each year. While much of the groundwork has been laid in 2020–21, the next few months are a critical phase of the project.

The OHO has an ongoing commitment to further strengthen relationships, not just with Ahpra and the National Boards, but with all key stakeholders. This includes many state and federal government and other entities, as well as working with community groups and individuals to improve accessibility and eliminate barriers to engagement, particularly for those vulnerable or disadvantaged in the health sector, such as Aboriginal and Torres Strait Islander peoples, children and young people, and victims of sexual assault.

In 2021–22 the OHO will build on existing continuous improvement to organisational processes, with a focus on operational changes to the office’s complaints intake function and enabling a greater multidisciplinary approach to investigations. This work will be undertaken with a view to improving client service; more effectively resourcing complex practitioner and systemic investigations to further enhance effectiveness and timeliness; and ultimately continuing to meet or exceed legislative timeframes for key measures.

Finally, as my term at the OHO draws to a close, I wish the incoming Health Ombudsman all the best in taking up the helm. The next year for the OHO will no doubt see the ripples of change that follow any major leadership transition, but I am confident that the OHO will continue to positively evolve as a critical and indispensable part of the health regulations and complaints management landscape.

Andrew Brown
Health Ombudsman

About

The OHO is Queensland's health service complaints management agency. It is an independent statutory body and provides a single point of contact for all health service complaints and notifications across the state.

Vision and objectives

The OHO's vision is 'safe, competent and ethical health services that are responsive to consumer complaints'.²

This vision is aligned to the OHO's purpose, which is to 'protect the health and safety of consumers; promote high standards in health service delivery; and facilitate responsive complaint management'. The OHO strives to deliver this through:

- taking proportionate and timely action in response to serious complaints and notifications about health practitioners
- identifying and analysing systemic issues impacting on the delivery of health services, the regulation of health practitioners and management of health complaints
- facilitating the effective and efficient management and resolution of health service complaints
- operating an accountable and performance driven organisation.

The OHO measures its performance against these strategic objectives in line with the service standards published in the annual Service Delivery Statements for Queensland Health (refer [page 10](#) and [page 31](#)).

The OHO's purpose is also directly aligned to the Queensland Government's objectives for the community, *Unite and Recover—Queensland's Economic Recovery Plan*. By protecting the health and safety of consumers and promoting high standards in health service delivery, the OHO contributes to the Government objective to **safeguard Queenslanders' health**.

² The OHO's vision, purpose, objectives and values are as published in the *Office of the Health Ombudsman 2019–23 Strategic Plan*, available at www.oho.qld.gov.au/about-us/strategic-plan.

Values

The OHO's guiding principle, as defined in legislation, is that the health and safety of the public are paramount.³ This principle—together with the Queensland Government's public sector values—underlies the OHO's governing values, which are expounded below.⁴

People and relationships

We are a people-focused organisation that recognises people are at the centre of everything we do. We respect others, value diversity and recognise that meaningful relationships are critical to our success.

Getting it right

We are focused on quality outcomes and we value professionalism, diligence and thoroughness. We acknowledge the decisions we make have a significant impact on people.

Fairness for all

We act ethically, impartially, objectively and with integrity. We do not take sides.

Continuous improvement

We recognise the challenge of sustainability in the face of increasing demand for our services. We encourage new ideas and embrace new ways of working.

Jurisdiction

The OHO, established under the *Health Ombudsman Act 2013* (the Act), commenced dealing with health complaints on 1 July 2014.⁵ Under the Act and the *Health Practitioner Regulation National Law (Queensland)* (the National Law), the OHO has broad powers to deal with complaints and other matters relating to the health, conduct and performance of both registered and unregistered health practitioners and the services provided by health service organisations.

³ Section 4 of the Act.

⁴ The Queensland public service values are customers first, ideas into action, unleash potential, be courageous, and empower people.

⁵ The OHO was established to replace the Health Quality and Complaints Commission.

In handling complaints about registered practitioners in Queensland, the OHO shares regulatory responsibility with Ahpra and the 15 health practitioner National Boards under the National Law. The OHO applies the *National Code of Conduct for Health Care Workers (Queensland)* when managing complaints about unregistered practitioners in Queensland.

The OHO supports the Health Ombudsman, which is a statutory position with responsibility for acting independently, impartially and in the public interest. The current Health Ombudsman is Mr Andrew Brown, who was appointed to the position in May 2018.

Under the Act, the Health Ombudsman has power to do all things necessary or convenient to perform key functions, which include to:

- receive and investigate complaints and notifications about health services and health service providers, including registered and unregistered health practitioners
- take relevant action in relation to those complaints and, in certain instances, take immediate action where necessary to protect the health and safety of the public or where it is in the public interest
- investigate and report on systemic issues in order to identify and recommend opportunities for improvement
- monitor the functions of Ahpra and the National Boards as they relate to registered practitioners in Queensland
- provide information about minimising and resolving health service complaints
- report publicly on the performance of the OHO's functions.

The Health Ombudsman is an independent, impartial decision maker. Under the Act and the National Law, certain decisions by the Health Ombudsman are reviewable by QCAT.⁶

The Health Ombudsman is also required to report on specific matters to the responsible parliamentary committee and the Minister for Health and Ambulance Services (the Minister), who may direct the Health Ombudsman to investigate certain matters, conduct inquiries or provide information or reports.⁷

Working with Ahpra

Ahpra is a national agency with offices in each state and territory that works with the National Boards to implement the National Registration and Accreditation Scheme. Ahpra manages the registration and accreditation of all registered health practitioners in Australia.

In Queensland, the OHO and Ahpra work as coregulatory partners to oversee and regulate registered health practitioners in relation to matters concerning their health, conduct and performance. The OHO is the entry point for all health service complaints, including notifications about registered practitioners. These complaints and notifications are received, triaged, managed and, where appropriate or required, referred to Ahpra and the National Boards.

The 15 health practitioner National Boards are an important part of the coregulatory framework, and have additional powers under the National Law. These include conducting health and performance assessments and monitoring and enforcing professional standards. These processes are critical for managing concerns about registered health practitioners and for managing risks to the health and safety of the public.

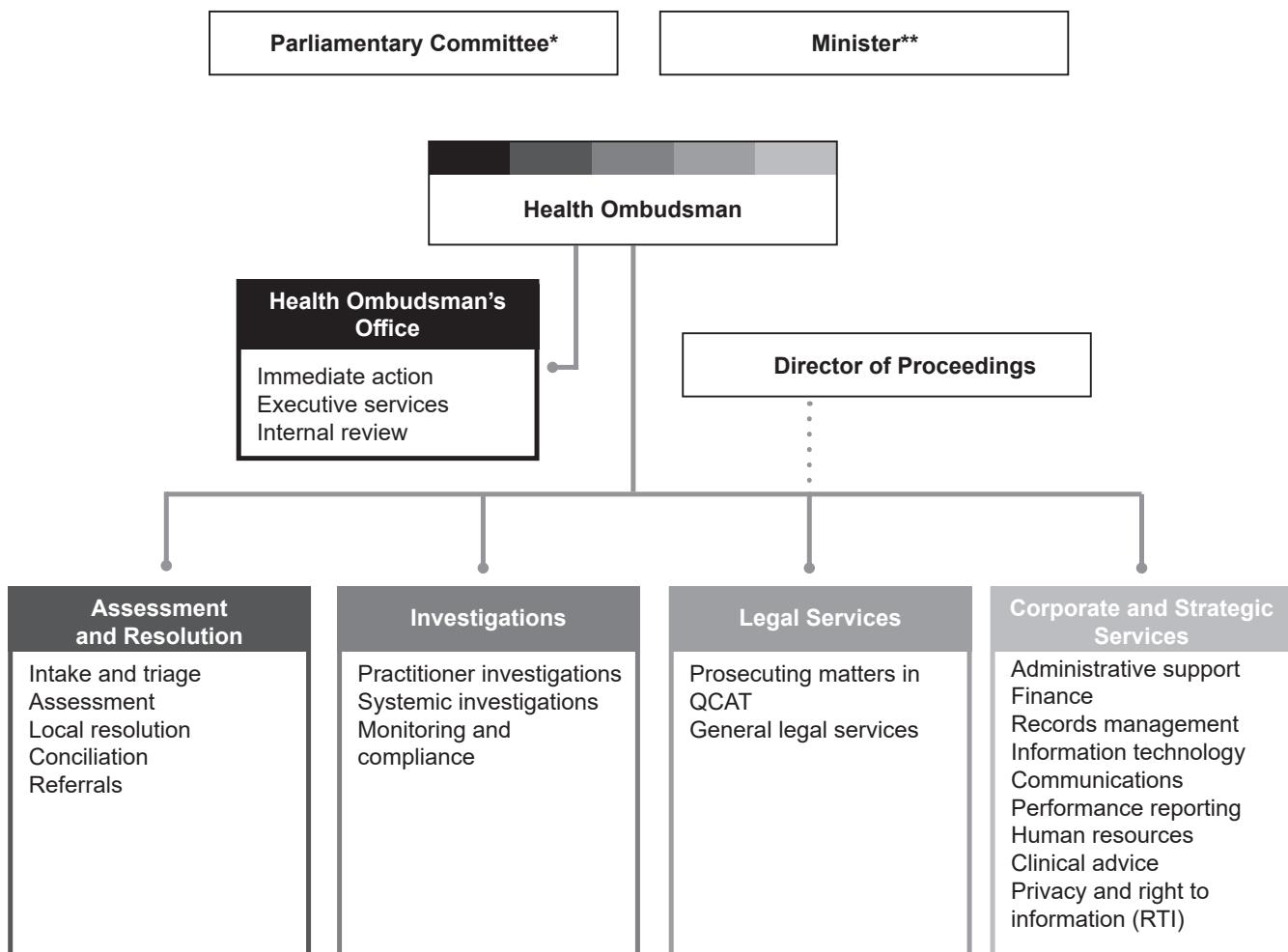
See pages 18–19 for more detail on matters referred between the OHO and Ahpra.

⁶ Section 94 of the Act.

⁷ Sections 81, 152 and 171 of the Act.

Organisational structure

Figure 1 Organisational structure of the Office of the Health Ombudsman as at 30 June 2021



*Health and Environment Committee

**Minister for Health and Ambulance Services

Health service complaints

Types of complaints

Complaints

Complaints can be made by a health consumer, or on behalf of a health consumer, about any aspect of a health service. Health services are defined under the Act as a service that is, or purports to be, a service for maintaining, improving, restoring or managing people's health and wellbeing.⁸ Complaints may be about:

- individual registered health practitioners
Any practitioner registered by one of the 15 National Boards, namely Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, chiropractors, dentists, doctors, medical radiation practitioners, midwives, nurses, occupational therapists, optometrists, osteopaths, paramedics, pharmacists, physiotherapists, podiatrists, psychologists, and students in these fields.⁹
- individual unregistered health practitioners
Any person outside of the registered professions above who delivers a health service, as defined in the Act.
- health service organisations
A facility or entity that delivers health services whether in a public or private capacity.
- health support services.
Any service which directly supports health service delivery (e.g. clinic reception).

Notifications

Mandatory notifications

Under the National Law, registered practitioners, employers and education providers are required to notify the OHO if

⁸ Section 7 of the Act.

⁹ This includes students enrolled in a program of study or clinical training for a registered health profession.

they believe another practitioner has behaved in a way that constitutes notifiable conduct. These complaints are referred to as mandatory notifications and may be about a health practitioner's health, conduct and/or performance in relation to:

- practising while intoxicated by alcohol or drugs
- engaging in sexual misconduct with a patient
- having a health impairment that places patients or the public at risk of substantial harm
- placing the public at risk by practising the profession in a way that deviates significantly from accepted professional standards.

Voluntary notifications

Anyone can make a voluntary notification to the OHO about a registered health practitioner for matters relating to their health, conduct or performance, such as:

- poor professional conduct
- sub-standard knowledge, skill, judgement or care
- not being considered a fit and proper person to hold registration
- having an impairment
- contravening the National Law
- contravening a condition of their registration or an undertaking given to a National Board
- improperly obtaining registration.

Typically, voluntary notifications made by health service consumers are dealt with as complaints under the Act.

Matters received from other organisations

The OHO may also receive notifications and complaints from other organisations, such as Queensland Health's Medicines Compliance and Human Tissue Unit, where

they have concerns with the provision of health care. Matters may also be referred (either administratively or under legislative powers) from agencies such as Ahpra, the Queensland Police Service, the Coroners Court of Queensland, the Queensland Human Rights Commission, and the Queensland Ombudsman.

Self-notifications

Registered practitioners may make a notification to the OHO about their own health, conduct and/or performance. Additionally, practitioners have 7 days to self-notify relevant events to the appropriate National Board—events relating to criminal charges and convictions, rights to practise, insurance, billing privileges and other matters as outlined in the legislation. The National Law also requires students in these fields to self-notify relevant events to the appropriate National Board—events relating to criminal charges and convictions. Where these types of notifications amount to a serious matter they are referred to the OHO.

The complaints process

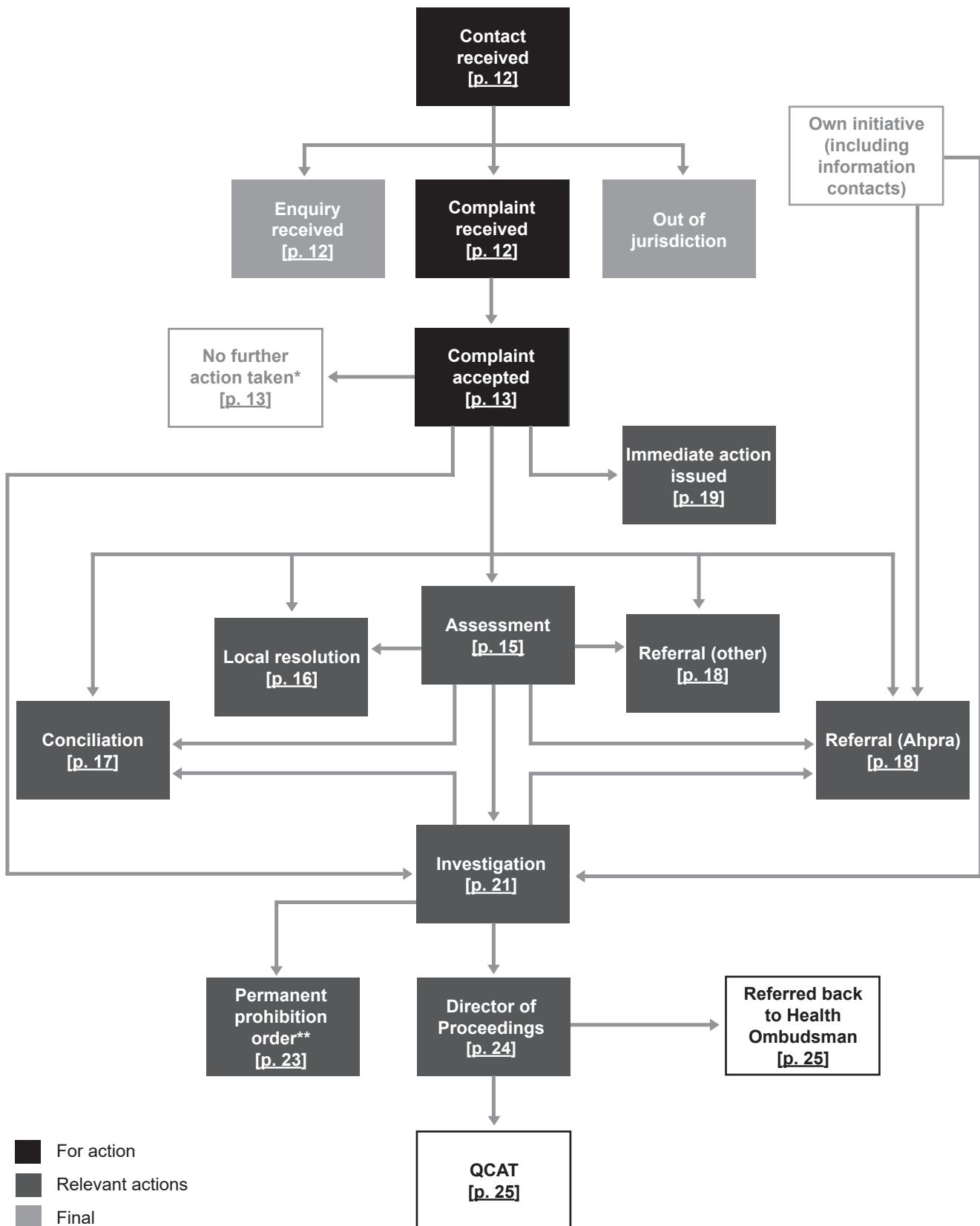
The OHO is guided by the Act's main objects, which include protecting public health and safety and maintaining confidence in the health regulation and complaints system.¹⁰ To facilitate this, the complaints process is dynamic, allowing flexibility for complaints to move between different stages of the process as necessary. Many complaints do not necessarily follow a linear workflow; figure 2 gives a general overview of the interaction between the stages of the complaints process.

Complaints are progressed via relevant actions, which are specific actions defined in the Act.¹¹ A complaint or parts of a complaint may progress simultaneously to different relevant actions and move between relevant actions throughout the process. This report provides detail on each of the relevant actions.

¹⁰ Section 3 of the Act.

¹¹ Section 38 of the Act.

Figure 2 Office of the Health Ombudsman complaints management pathways



*A final decision of no further action can be taken at any stage in the complaints process.

**It should be noted that the Act refers to such orders as 'prohibition orders' under part 8A. However, for the purposes of this report and to distinguish them from interim prohibition orders, they are referred to as permanent prohibition orders. It should also be noted that not all permanent prohibition orders are necessarily 'permanent', as they can be for a stated period of time.

Performance

The Act empowers the OHO to receive and accept complaints; collect information and evidence to inform actions and decisions; take action against health practitioners and service providers; refer matters to other relevant agencies; bring disciplinary proceedings before QCAT; and facilitate resolution in different ways.

The following pages detail the OHO's performance across these key functions during the 2020–21 financial year.

Service delivery statements

Service area objective: To provide a transparent, accountable and fair system for effectively dealing with complaints and other healthcare matters in Queensland in a timely manner.

The service standards detailed below (table 1) are reported in the Service Delivery Statements as part of the Queensland Government's annual budget process. The table sets out the end of year position for all the OHO's service standards, published as part of the 2020–21 Service Delivery Statement for Queensland Health.*

Table 1 The Office of the Health Ombudsman Service standards

Service area	Notes	2020–21 target/estimate	2020–21 actual
<i>Effectiveness measures</i> Percentage of complaints received and accepted within 7 days	1	90%	95%
Percentage of complaints assessed within timeframes	2	90%	91%
Percentage of complaints resolved within timeframes	3	100%	94%
Percentage of investigations finalised within 12 months	4	75%	59%
Percentage of clients satisfied with the complaint management process	5	80%	64%
Percentage of disciplinary matters in which Queensland Civil and Administrative Tribunal (QCAT) decides there is a case to answer	6	90%	98%
Percentage of immediate action decisions upheld by QCAT at review hearings	7	90%	50%
<i>Efficiency measures</i> Not identified			

Notes:

1. This is a measure of timeliness of services provided. The 2020–21 target was achieved, reflecting that the 7-day timeframe for intake decisions is mandated in the Act. The high volume of contacts impacts the OHO's ability to process all matters within the 7-calendar day timeframe.
2. This is a measure of the timeliness of services provided. The 2020–21 target was achieved, reflecting that the 30- to 60-day timeframe for assessment decisions is mandated in the Act. For 2021–22 this measure has been renamed

'Percentage of assessments finalised within timeframes' to more accurately reflect the relevant action that is measured; there will be no change to what is actually measured.

3. This measure is related to local resolution services provided within the legislated timeframe. The result achieved is on par with the 94 per cent achieved in 2019–20, notwithstanding a 12 per cent increase in local resolutions commenced and a 5 per cent increase in local resolutions completed in 2020–21. For 2021–22 this measure has been

* <https://www.treasury.qld.gov.au/resource/state-budget-2020-21/>

renamed ‘Percentage of local resolution matters finalised within timeframes’ to more accurately reflect the relevant action that is measured; there will be no change to what is actually measured.

4. This measure reports the percentage of investigations that are effectively managed and finalised within a 12-month period. The variance between the 2020–21 target and 2020–21 actual is due to a range of factors, including (but not limited to) the number of complex matters requiring increased resourcing. The OHO’s ability to complete all investigations within 12 months is also significantly impacted by paused investigations, that is, where a matter is on hold to allow criminal proceedings to take place, ensuring the OHO’s investigations do not impede on the processes of another agency (such as the Queensland Police Service). The length of time another agency takes to finalise its investigation is outside the control of the OHO. Paused matters make up 41 per cent of open investigation matters.
5. This service standard reports the level of client satisfaction for the complaint management service, as captured through a client satisfaction survey. The result achieved for 2020–21 is a decrease from the 74 per cent achieved in 2019–20. Results achieved for this measure are dependent on the number of clients who engage with the survey; the level of engagement with the survey is low and, as such, it is not a robust reflection of client satisfaction levels across the office. This measure has therefore been discontinued for 2021–22.
6. This is a measure of the effectiveness of OHO investigations and prosecutions in bringing disciplinary proceedings before QCAT. This includes the sufficiency of evidence and that public interest factors are appropriately considered. Matters are referred to the Director of Proceedings following an investigation; the Director of Proceedings must then decide whether to refer the matter to QCAT for it to hear and decide the matter. To clarify this service standard, a ‘case to answer’ means that QCAT has upheld all or part of the case against the practitioner.
7. The variance between the 2020–21 target/estimate and 2020–21 actual is a result of QCAT handing down 2 decisions during the 2020–21 financial year specifically about whether to uphold, amend or overturn immediate action: in one matter the entire immediate action was set aside by QCAT; in the other, it was amended

from a suspension to a gender restriction, but the original suspension was later upheld by the Court of Appeal. In 2020–21, a further two QCAT matters touched on immediate action but fell outside this measure: in one the Health Ombudsman repealed the immediate action prior to the hearing; in the other, the immediate action was set aside as part of the determination of a permanent prohibition order referral conducted by the Director of Proceedings.

For details of the OHO’s staffing levels as published in the Service Delivery Statements, see [page 31](#).

Complaints intake and triage

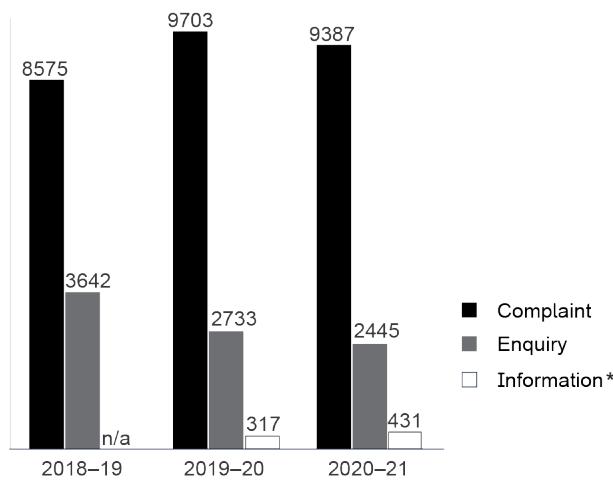
Members of the public, health service providers and other agencies can contact the OHO through multiple methods; each contact is categorised as either a complaint, enquiry or information. Where a matter is identified as a complaint (including notifications and referrals received from other agencies), it is then subject to a triage process and risk assessment, during which there are 7 days to decide whether to accept the matter and what action to take.¹²

During 2020–21 the OHO received a total of 12,278 contacts, a decrease of 4 per cent on the 12,760 contacts received in 2019–20.

Of the 12,278 received contacts, 76 per cent (9,387) were complaints and 20 per cent (2,445) were enquiries, with 4 per cent (431) relating to information (see figure 3).¹³

The 9,387 complaints received this year represents a 3 per cent decrease on the 9,703 complaints received in 2019–20.

Figure 3 Number of contacts received



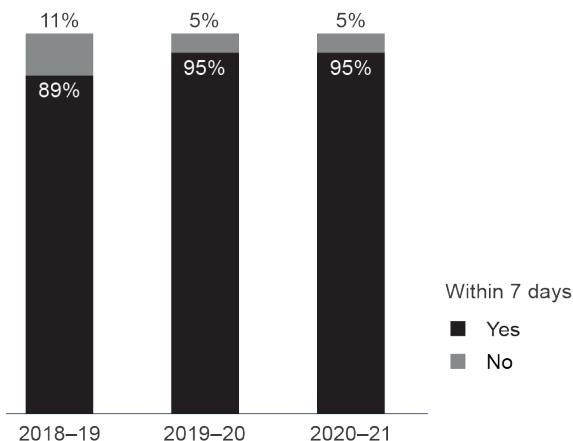
*The introduction of improved business processes in August 2019 resulted in the addition of 'information' as a new contact category. The OHO may receive information from other government entities relating to health service practitioners. These matters previously would have been classified as either a complaint or enquiry depending on whether further action was required by the OHO, but are now captured as information.

¹²This timeframe is mandated under section 35 of the Act.

¹³As at 30 June 2021, 15 matters were unclassified.

During 2020–21, 95 per cent of intake decisions were made within the 7-day legislative timeframe, on par with 95 per cent in 2019–20 and up from 89 per cent in 2018–19 (see figure 4).

Figure 4 Percentage of decisions made within 7 days



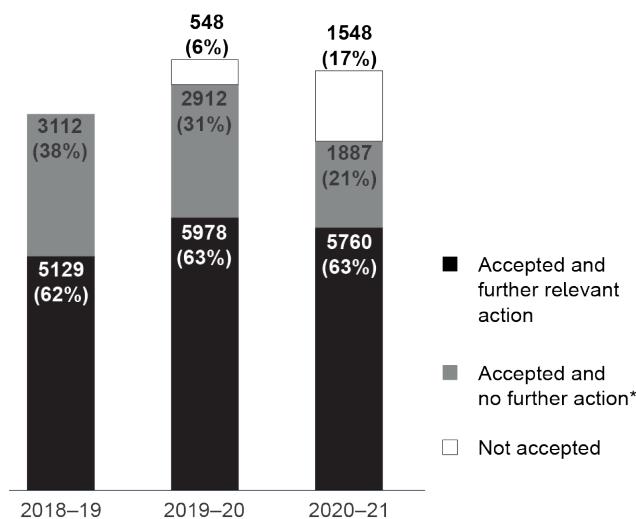
On 1 March 2020 a legislative amendment to the Act commenced that provides for a decision to be made not to accept a complaint if:

- the complaint would be more appropriately dealt with by an entity other than the OHO, or
- the complainant has not first sought a resolution of the complaint with the health service provider and it is reasonable in the circumstances for them to do so.¹⁴

In 2020–21, 17 per cent (1,548) of all intake decisions were decisions to 'not accept' pursuant to this provision (see figure 5).

The number of complaints accepted with a decision to take relevant action decreased overall by 4 per cent in 2020–21, in line with the decrease in overall contacts and overall complaints received in the year.

Figure 5 Number of complaints accepted vs not accepted



In addition to making decisions not to accept a complaint if it would be more appropriately dealt with by another entity, the OHO continues to identify matters suitable for referral early in the process. Of the matters referred at the intake stage, 30 per cent were referred to Ahpra and 23 per cent were referred to other government entities. More detail on all matters referred during 2020–21 can be found on [pages 18–19](#).

Other key outcomes of accepted matters in 2020–21 include decisions to facilitate local resolution (25 per cent) and decisions to undertake further assessment (21 per cent). A complete breakdown of accepted matter outcomes is shown in table 2.

Table 2 Outcomes of accepted complaints, where further action was taken

Number of decisions made	2020–21	
	Number	%
Referred to Ahpra and the National Boards	1,773	30
Local resolution	1,497	25
Referred to another entity	1,386	23
Assessment	1,274	21
Investigation	35	<1
Conciliation	1	<1
Total	5,966	100

No further action

At any time, a decision can be made to take no further action in relation to a health service complaint.¹⁶ As this decision may be reached following or during any stage of the complaints process, it is not reflective of the amount of work and resources invested in reaching that decision.

Under the Act, a decision to take no further action may include situations where the complaint:

- has been withdrawn (and it is appropriate to take no further action)
- is being adequately dealt with by another appropriate entity
- has been resolved or otherwise appropriately finalised by the Health Ombudsman or another appropriate entity
- is deemed frivolous, vexatious or not made in good faith
- is misconceived or lacking in substance
- cannot be resolved despite reasonable efforts by the Health Ombudsman or another appropriate entity.

¹⁵ Section 35A of the Act.

¹⁶ Section 44 of the Act

Spotlight on complaints intake

Of the 9,387 complaints received:

- 89 per cent were health service complaints
- 7 per cent were voluntary notifications
- 4 per cent were mandatory notifications
- Less than one per cent were self-notifications
- Less than one per cent were referrals from other organisations.

Where complaints related to individual practitioners, 92 per cent concerned registered practitioners and 4 per cent were about unregistered practitioners (it was not possible to identify the practitioner in the remaining 4 per cent of complaints).

Of the registered practitioners identified:

- 62 per cent were medical practitioners
- 15 per cent were nurses
- 9 per cent were dentists
- 6 per cent were psychologists
- 2 per cent were pharmacists
- with the remaining 6 per cent relating to other registered professions.

Of the issues raised about practitioners:

- 34 per cent concerned professional performance
- 22 per cent concerned professional conduct
- 11 per cent concerned communication and information
- 9 per cent concerned medication
- with the remaining 24 per cent concerning other issues.

Of the organisations identified in complaints:

- 31 per cent were public hospitals
- 24 per cent were correctional facilities
- 11 per cent were medical centres
- 7 per cent were mental health services
- 4 per cent were dental services
- with the remaining 23 per cent identifying other health service organisation categories.

Of the issues raised about health service organisations:

- 33 per cent concerned professional performance
- 17 per cent concerned access
- 11 per cent concerned communication and information
- 10 per cent concerned medication
- 8 per cent concerned the environment and management of the facility
- with the remaining 22 per cent concerning other issues.

Relevant actions

As depicted in the complaints process flowchart (refer figure 2 on page 9), once a complaint is accepted, the Act empowers the Health Ombudsman to take one or more relevant actions, these being:

- undertaking an assessment
- facilitating local resolution
- taking immediate action
- investigating the matter
- issuing a permanent prohibition order
- referring the complaint to Ahpra, where the practitioner is registered
- referring the complaint to another government entity in Queensland, or another state or Commonwealth agency
- referring the complaint to the Director of Proceedings
- conciliating the complaint
- carrying out an inquiry into the matter.

If multiple practitioners and/or complaint issues are identified within the one complaint, the complaint may be split to allow for different relevant actions.¹⁷ A completed relevant action may be followed by a decision to take further relevant actions.

A detailed analysis of the OHO's 2020–21 performance relative to specific relevant actions, including performance against timeframes mandated in the Act, is outlined below.

Assessment

The assessment process provides an opportunity to request and carefully consider detailed information from all relevant parties. A complaint may be referred for assessment if further information and analysis is required to establish the full scope of the matter, identify key facts, obtain records or expert clinical opinion, conduct a detailed risk assessment, and determine what actions, if any, need

to be taken to manage the complaint. The assessment may be broad or may be limited to clarifying a confined issue or obtaining a key piece of information.

If it is decided to assess a complaint, that process must be carried out and completed within 30 days, or 60 days with an approved extension.¹⁸

Assessments completed

There were 1,430 assessments completed in 2020–21 (compared to 1,777 assessments completed in 2019–20), of which 91 per cent were completed within legislative timeframes (compared to 92 per cent in 2019–20) (see figures 6 and 7).

A number of factors potentially contributed to the decrease in number of assessments completed this financial year when compared to 2019–20; most significantly, fewer assessments were commenced in 2020–21 (1,422) compared to 2019–20 (1,742). Factors that potentially impacted on the reduction in commenced assessments include:

- a decrease of 3 per cent in the total number of complaints received in the year compared to 2019–20
- key legislative amendments which came into operation on 1 March 2020 which resulted in:
 - decisions to accept fewer complaints on the basis that:
 - the complaint would be more appropriately dealt with by an entity other than the OHO, or
 - the complainant has not first sought a resolution of the complaint with the health service provider and it is reasonable in the circumstances for them to do so;¹⁹
 - the ability of the Health Ombudsman to refer more serious matters to Ahpra.²⁰

¹⁸ Section 49(2) of the Act provides grounds for the Health Ombudsman to extend the assessment period for an additional 30 days in certain circumstances.

¹⁹ Section 35A of the Act.

²⁰ Section 91C of the Act.

¹⁷ Section 41 of the Act.

Figure 6 Number of assessments

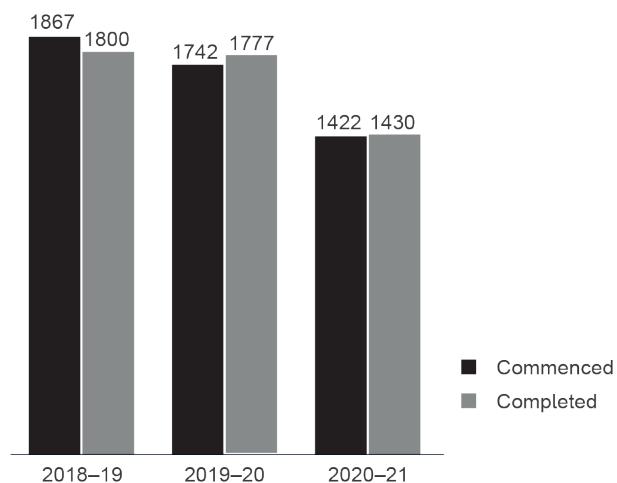
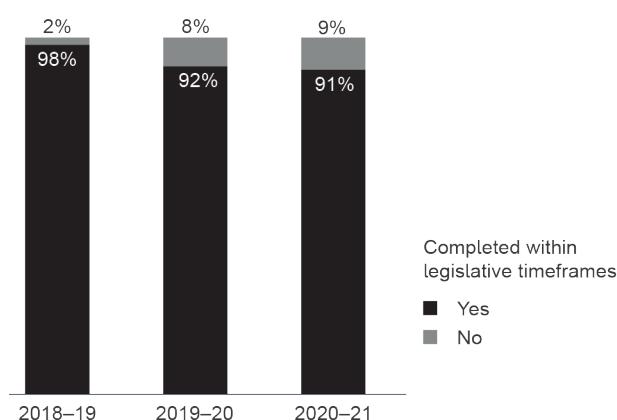


Figure 7 Percentage of assessments completed within legislative timeframes



Assessment outcomes

In 2020–21, after assessment it was decided no further action was necessary for 58 per cent of matters. Often, through the assessment process it is established that the actions of the provider were appropriate and an explanation is provided to the complainant when no further action is taken.

Decisions were made after assessment to refer 20 per cent of matters to Ahpra, and 13 per cent of matters to another entity (additional assessment outcomes are detailed in table 3).

Table 3 Assessment outcomes

Number of decisions made	2020–21	
	Number	%
No further action	873	58
Referred to Ahpra and the National Boards	297	20
Referred to another entity	192	13
Investigation	86	6
Conciliation	58	4
Local resolution	1	<1
Referred to Director of Proceedings	1	<1
Total	1,508	100

Local resolution

Local resolution is a voluntary, informal and impartial process for resolving matters between complainants and health service providers as quickly as possible and with minimal intervention by the OHO. Local resolution is most effective where there is an obvious practical outcome that can be achieved—or when, by negotiating impartially between the health service consumer and the provider, the OHO can help support continuation of care and rebuild people's trust and confidence in the healthcare system. As such, matters identified for local resolution typically concern less complex clinical issues, breakdowns in basic systems or processes, or matters that result from a misunderstanding or failed communication between parties.

Facilitating a resolution may involve:

- analysing information provided with the complaint
- considering submissions from complainants and health service providers
- analysing information obtained through formal notice
- facilitating meetings and other communications between parties

- facilitating agreement on a course of action between parties.

In accordance with the Act, once a decision is made to attempt local resolution, resolution must be attempted within the next 30 days, or 60 days with an approved extension.²¹

In 2020–21 the OHO finalised 1,479 local resolutions, with 94 per cent of these finalised within legislative timeframes. This is on par with the 94 per cent of matters finalised within legislative timeframes achieved in 2019–20, notwithstanding the increase in local resolutions commenced (1,553 up from 1,383 in 2019–20) and in local resolutions completed (1,479 up from 1,406 in 2019–20).

Figure 8 Number of local resolutions

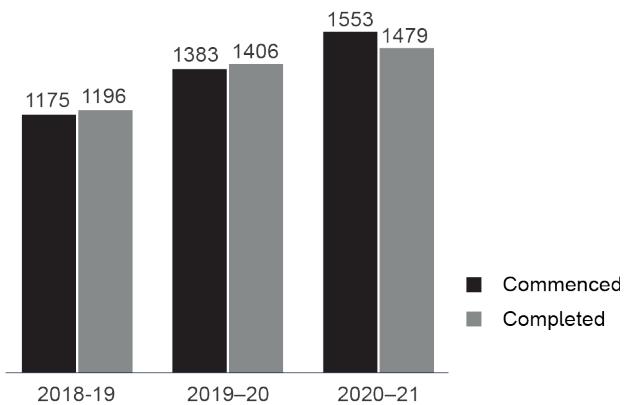
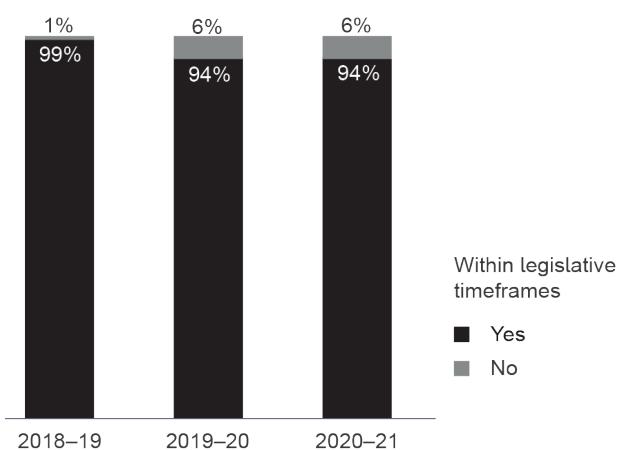


Figure 9 Percentage of local resolutions completed within legislative timeframes



²¹ Under section 55 of the Act, the Health Ombudsman may extend the timeframe by an additional 30 days under certain circumstances.

As local resolution is a voluntary process, the outcomes that can be achieved are varied and are tailored to the circumstances of each complaint. Potential outcomes include an apology, policy or process improvements, and/or refunds for out-of-pocket expenses or corrective costs. Often the health consumer may require ongoing healthcare, making the local resolution process an important step in rebuilding trust and confidence in the relationship. This may be achieved by sharing information regarding the care received, improving the understanding of clinical treatment or administration procedures, and developing communication protocols for the future.

During 2020–21, 80 per cent of matters were finalised as being resolved.

Table 4 Outcomes of local resolution

Local resolution outcomes	2020–21	
	Number	%
Resolved	1,190	80
Not resolved	147	10
Complaint withdrawn	108	7
Local resolution did not commence*	34	2
Total	1,479	100

*As local resolution is a voluntary process, it cannot commence unless both parties agree to participate in the process.

Conciliation

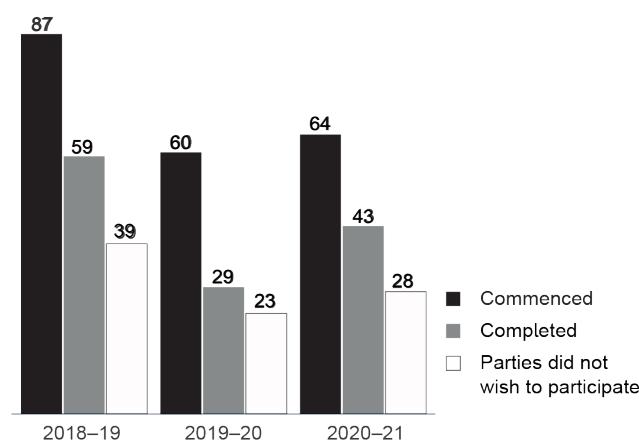
Conciliation is a voluntary process for resolving complex or sensitive complaints that require detailed explanations or confidential complaint resolution. The process is facilitated by skilled conciliators who use their independence and specialist dispute resolution and negotiation skills to assist all parties to be heard, identify issues for discussion and negotiate outcomes between the parties. Information disclosed during a conciliation process—including details relating to any agreements or negotiations—is confidential and privileged, meaning it cannot

be discussed outside the process or admitted as evidence in a proceeding before a court, tribunal or disciplinary body. Whether parties agree to undertake conciliation can therefore depend on the likelihood of them wishing to take other action, such as legal action.

In 2019–20, the OHO saw a direct impact on conciliation work due to COVID-19. This year has seen a residual effect on the resumption of conciliations, however numbers are slowly increasing as health service providers are more readily available to engage in the conciliation process.

During 2020–21, 64 conciliations were commenced (up from 60 in 2019–20) and 71 were closed (up from 52 in 2019–20). Of the 71 conciliation matters closed, 43 were closed due to the completion of conciliation, and 28 due to parties declining to participate in conciliation (see figure 10).

Figure 10 Number of conciliations



There are no legislated timeframes that apply to conciliation however, the OHO aims to facilitate the process as quickly and efficiently as possible. Of the 43 matters which underwent conciliation during the year, 53 per cent were completed within six months, with 16 per cent open for more than 12 months. There were 27 open conciliations as at 30 June 2021, compared with 34 open conciliations as at 30 June 2020.

Referrals

The Health Ombudsman has powers under the Act to refer a matter to Ahpra, another government entity in Queensland, or another state or federal agency as the more appropriate entity to manage the complaint.²²

In practice, the range of government entities that the OHO refers matters to is diverse and stakeholder consultation is relied on to ensure the process and information sharing is streamlined. With a single entry point for health service complaints, effective referral coordination is critical to the efficient operation of Queensland's health complaints management system.

The OHO has always had jurisdiction to refer matters concerning registered health practitioners to Ahpra and the National Boards. However, on 1 March 2020, amendments to the Act commenced granting the Health Ombudsman discretionary power to refer to Ahpra matters that are more serious (namely certain matters that may amount to professional misconduct). Further, the amendments have the effect of compelling the Health Ombudsman to refer to Ahpra any matters indicating a health practitioner has, or may have, an impairment, legislating what has been a longstanding practice.²³

In 2020–21 the OHO referred 2,585 registered practitioner matters to Ahpra and the National Boards, a decrease from 2,707 matters in 2019–20. This minor decrease is consistent with the decrease in complaints received in 2020–21.

Matters may be considered for referral at any stage in the complaints management process and the OHO must consult on any proposed referrals.²⁴ The OHO seeks to consult with Ahpra as early as possible on any matters being considered for referral. Most referrals to Ahpra are proposed at the initial intake

²² Section 38 and Part 9 of the Act.

²³ Section 91C of the Act (for serious matters) and section 91B of the Act (for matters indicating impairment).

²⁴ Section 30 of the Act.

and triage stage (80 per cent in 2020–21); the breakdown of the remaining proposed referrals can be found in table 5.

Table 5 Source of proposed referral to Ahpra

Source	2020–21	
	Number	%
Intake and triage	2,119	80
Assessment	478	18
Investigations	39	1
Local resolution	17	<1
Director of Proceedings	7	<1
Internal review	5	<1
Total	2,665	100

During 2020–21 the OHO referred 1,673 complaints to other appropriate government agencies (state or Commonwealth) to deal with, down from 1,704 in 2019–20.²⁵ Most referrals to government entities (86 per cent in 2020–21) occur at the intake and triage stage (refer table 6). The sources of referrals to other appropriate government entities are detailed in table 6.

Under the legislative amendments that commenced on 1 March 2020 (as detailed on page 12), if the OHO receives a complaint that would be more appropriately dealt with by an entity other than the OHO, where appropriate, the OHO can also make a decision to not accept the complaint on these grounds, rather than, as in previous years, first accept the complaint and then refer the matter.²⁶

Table 6 Source of proposed referrals to government entities

Source	2020–21	
	Number	%
Intake and triage	1,447	86
Assessment	202	12
Investigations	23	1
Local resolution	1	<1
Total	1,673	100

The OHO is also a referral entity under the *Human Rights Act 2019* (Human Rights Act), which means the OHO may, with the complainant's consent, refer matters to the Human Rights Commissioner where the OHO receives a health service complaint relating to human rights.²⁷ See page 35 for more detail on matters relating to the Human Rights Act.

Immediate action

In the most serious cases, it may be necessary for the Health Ombudsman to take immediate action against a health practitioner. Under the Act, the Health Ombudsman can take immediate action where a reasonable belief is formed that:

- a practitioner's health, conduct or performance poses a serious risk to people, and where it is necessary to act to protect public health or safety, or
- it is otherwise in the public interest.²⁸

Immediate action is an interim measure taken on an urgent basis by way of immediate registration action against a registered health practitioner, or interim prohibition order issued to an unregistered health practitioner (or a registered health practitioner practising in an unregistered capacity). Under the Act, immediate registration actions may, and

²⁵ Section 30 of the Act.

²⁶ Section 35A of the Act.

²⁷ Section 66(2)(b) of the Human Rights Act.

²⁸ Part 7 of the Act.

interim prohibition orders must, be published on the OHO's website. Publication of these decisions ensures the public is sufficiently informed about registered practitioners who are suspended or subject to conditions, and unregistered practitioners who are prohibited or subject to restrictions.

Show cause notices

Except in the most serious cases, when immediate action is proposed, the Health Ombudsman must first give the practitioner an opportunity to show cause as to why the immediate action should not be taken. The responding submission from the practitioner, together with any other evidence provided by the practitioner, is considered by the Health Ombudsman before any decision to take immediate action is made.

The show cause process is important in terms of affording the practitioner procedural fairness, particularly given immediate action may impact the practitioner's ability to earn a living. It also enables the Health Ombudsman to be better informed in relation to the context and substance of the allegations.

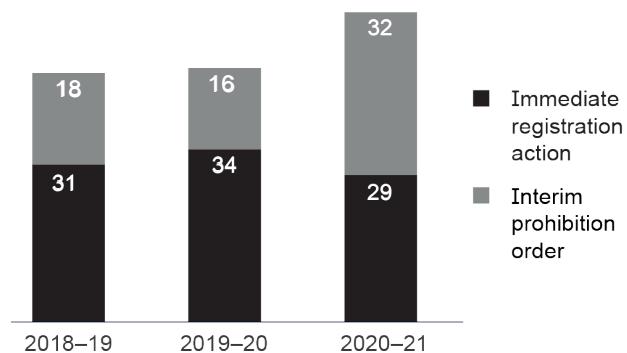
In the most serious cases, where there is a need to immediately mitigate risk and ensure the health and safety of an individual or the public, the Health Ombudsman may take immediate action without issuing a show cause notice.

The Health Ombudsman issued 39 show cause notices to practitioners in 2020–21.

Immediate actions taken

In 2020–21 the Health Ombudsman took immediate action against 55 practitioners by way of 29 immediate registration actions and 32 interim prohibition orders (61 immediate actions). See figure 11.

Figure 11 Number of immediate actions taken by the Health Ombudsman



After taking immediate action, the Health Ombudsman must either investigate the matter, refer the matter to Ahpra or another external organisation, or refer the matter to the Director of Proceedings. The vast majority of matters where immediate action is taken are investigated. Where an investigation establishes that an unregistered practitioner poses a serious risk to persons, the Health Ombudsman may issue a permanent prohibition order against the practitioner (see page 23).²⁹

Immediate action reviews

Practitioners have the right to seek review of the Health Ombudsman's decision to take immediate action by making an application to QCAT.³⁰ Practitioners are informed of this right in the notice of decision to take immediate action issued by the Health Ombudsman.

During 2020–21, one practitioner filed an application in QCAT for review of an immediate action, and 2 immediate action reviews were finalised. Of those reviews finalised:

- one immediate action decision was amended from a suspension to a gender restriction, but the original suspension was later confirmed on appeal
- one immediate action decision was set aside by QCAT.

In 2020–21 a further 2 QCAT matters touched on immediate action, but were not specifically heard as a review of an immediate action.

²⁹ Part 8A of the Act.

³⁰ Sections 63 and 74 of the Act.

Of these:

- in one matter, the Health Ombudsman repealed the immediate action decision prior to the hearing
- in the other matter, the immediate action was set aside as part of the determination of a permanent prohibition order referral conducted by the Director of Proceedings.³¹

Investigation

The OHO conducts formal investigations for more serious matters, which fall into one of two categories: individual health practitioner investigations or systemic investigations.

Generally, investigations are to be completed within 12 months, although this may be extended due to the size, nature or complexity of a matter. Under the Act, all investigations open for more than 12 months must be published in a register on the OHO's website.³² The Act also requires that the responsible parliamentary committee and Minister are advised of any investigations that have been open for more than two years.³³

This year the OHO commenced 173 investigations, compared with 199 investigations commenced in 2019–20, which represents a decrease of 13 per cent.

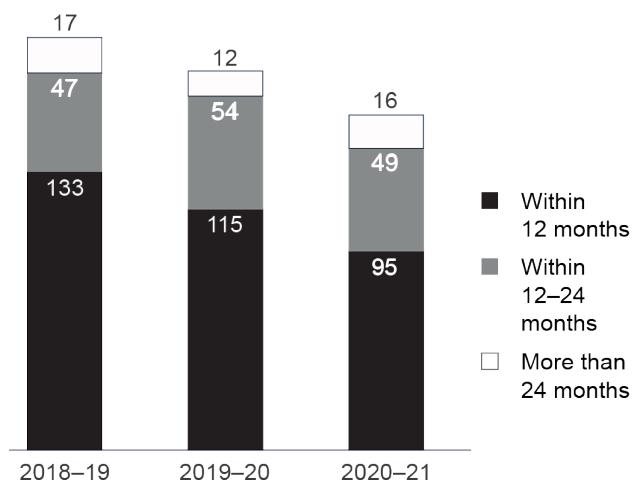
Two identified factors likely contributed to the decrease in investigations commenced this financial year. First, in 2020–21 the OHO experienced a 3 per cent decline in the total number of complaints which identified at least one registered practitioner (3,659 matters down from 3,756 matters in 2019–20). Second, as discussed earlier, legislative amendments that commenced on 1 March 2020 permit the Health Ombudsman to refer to Ahpra more serious matters (namely certain conduct or performance matters that may constitute professional misconduct or may

provide another ground for the suspension or cancellation of a practitioner's registration), allowing the coregulatory model to operate more effectively and efficiently.³⁴ Prior to the amendments, the OHO would have had to retain and investigate more matters in relation to registered practitioners.

In 2020–21 the OHO finalised 160 investigations. However, 23 of the 173 investigations commenced were subsequently joined with an existing investigation (amalgamated), leaving a total of 150.³⁵ Therefore, the OHO finalised 7 per cent more investigations than it commenced this year.

Of the investigations finalised, 59 per cent (95) were completed within 12 months; a further 31 per cent (49) were finalised in 12 to 24 months, with the remaining 10 per cent (16) finalised after more than two years (refer figure 12).

Figure 12 Number of investigations completed within timeframes



While open, an investigation will be either active or paused—the latter being where the OHO halts an investigation to allow the prosecution of a related matter to be progressed through the criminal justice system without interference or duplication of

³¹ These proceedings were commenced with QCAT prior to the aforementioned legislative amendments taking effect on 1 March 2020.

³² Section 85(4) of the Act.

³³ Section 85(8)(a) of the Act.

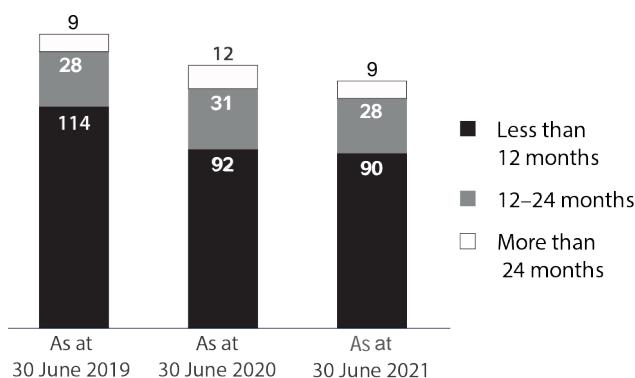
³⁴ Sections 91A and 91C of the Act.

³⁵ Complaints from different sources about the same issue and the same health service provider can be amalgamated into one investigation pursuant to section 40(2) of the Act.

work (e.g. an investigation being undertaken by the Queensland Police Service into the practitioner). Despite being unable to progress paused investigations, they are still considered open investigations and are resumed once criminal proceedings have been finalised. Paused investigations significantly impact on the OHO's ability to complete all investigations within 12 months.

As at 30 June 2021, 127 investigations remained open (down from 135 investigations open last year), of which 28 (22 per cent) were aged between 12 and 24 months and 9 (7 per cent) were more than 24 months old (see figure 13). Of these 127 open investigations, 52 (41 per cent) were paused matters and 75 (59 per cent) were active matters. Open active investigations have decreased by 21 per cent (75 matters down from 95 matters open as at 30 June 2020); of these open active investigations, 83 per cent (62) were open less than 12 months compared with 74 per cent (70) open less than 12 months as at 30 June 2020. This reduction in open investigations and, in particular, reduction in older open investigations, is a significant achievement for this financial year, and reflects the OHO's effort to finalise aged matters, which will continue into 2021–22.

Figure 13 Timeframes for open investigations



Practitioner investigations

In relation to individual registered health practitioners, an investigation seeks to determine whether their conduct or performance may constitute professional misconduct, or whether another ground exists to suspend their registration. Investigations

relating to individual unregistered practitioners seek to determine whether they may pose a serious risk to persons, due to their health, conduct and/or performance.

Of the 160 investigations completed in 2020–21, 155 related to individual health practitioners. In relation to practitioner investigations, 79 per cent concerned registered practitioners and 21 per cent concerned unregistered practitioners.

At the conclusion of a registered practitioner investigation, the Health Ombudsman will decide whether the matter should be referred to the Director of Proceedings for potential disciplinary action in QCAT.

Where an investigation establishes that an unregistered practitioner poses a serious risk to persons, the Health Ombudsman may issue a permanent prohibition order against the practitioner.³⁶ Practitioners can apply to QCAT to review a decision to issue a permanent prohibition order.

An investigation may also identify that there is insufficient evidence to substantiate the allegations against a practitioner. In such cases, no further action is likely to be taken in relation to the matter. In other cases, the investigation may establish that a matter does not meet the threshold of seriousness that warrants the OHO retaining the matter and, in the case of a registered practitioner, it may be referred to Ahpra and the relevant National Board to manage.

An investigation may result in multiple outcomes. In 2020–21, half of investigation outcomes (130 or 50 per cent) was to refer the matter to the Director of Proceedings, with no further action being the outcome for 48 matters (18 per cent of investigation outcomes).³⁷

³⁶ Part 8A of the Act.

³⁷ Total investigation outcomes may not equal the total number of investigations completed, as a single investigation may result in multiple outcomes. In certain circumstances it may also be appropriate for the OHO to take action prior to the investigation being completed (e.g. a matter of criminal conduct identified in the course of an investigation being referred to the Queensland Police Service).

Investigation outcomes are detailed further in table 7.

Table 7 Outcomes of investigations

Investigation outcomes	2020–21	
	Number	%
Matters recommended for referral to the Director of Proceedings	130	50
No further action	48	18
Referred to Ahpra	40	15
Recommended that the Health Ombudsman issue a permanent prohibition order	21	8
Referred to another agency	21	8
Total	260	100

Systemic investigations

The OHO undertakes systemic investigations to determine if there are issues relating to the operation of a system, process or practice (rather than the individual actions of a person or practitioner) that may impact on the provision or quality of health services. These investigations may result from a complaint or notification, or may be initiated by the Health Ombudsman where there is an apparent emergence of a systemic issue.

The OHO's ability to investigate systemic matters allows for a more strategic and proactive approach to protecting the health and safety of the public. These investigations provide an independent and impartial perspective to establish whether systemic issues exist and make associated recommendations to address them.

In 2020–21, 2 systemic investigations were commenced and 5 were finalised. As at 30 June 2021, one systemic investigation remained open.

Where the OHO makes improvement recommendations, monitoring plans may be developed to guide implementation. This work

requires careful coordination and constructive engagement with key stakeholders. Their participation and commitment are encouraged to ensure the development and implementation of effective and contextually appropriate recommendations.

There were 3 new monitoring cases commenced for systemic investigations in 2020–21, with 2 monitoring cases finalised and 2 cases remaining open as at 30 June 2021.

Permanent prohibition order

On 1 March 2020, amendments to the Act commenced which empower the Health Ombudsman to issue a permanent prohibition order to an unregistered practitioner, where an investigation has been completed and the Health Ombudsman is satisfied that, because of the practitioner's health, conduct or performance, the practitioner poses a serious risk to persons. Prior to 1 March 2020, only QCAT had the power to issue such a prohibition order.

In 2020–21, the Health Ombudsman issued 11 permanent prohibition orders, compared with one order issued between 1 March and 30 June 2020. Details of permanent prohibition orders must be published on the OHO website.³⁸

When a permanent prohibition order is proposed, the Health Ombudsman must first give the practitioner an opportunity to show cause as to why the immediate action should not be taken.³⁹ The responding submission from the practitioner, together with any other evidence provided by the practitioner, is considered by the Health Ombudsman before any decision is made to issue a permanent prohibition order.

The show cause process is important in terms of affording the practitioner procedural fairness, particularly given a permanent prohibition order may impact the practitioner's ability to earn a living. It also enables the Health Ombudsman

³⁸ Section 90Q of the Act.

³⁹ Section 90D of the Act.

to be better informed in relation to the context and substance of the allegations.

Practitioners also have the right to apply to QCAT to review a permanent prohibition order issued by the Health Ombudsman.⁴⁰ Practitioners are informed of this right in the notice of decision to issue the prohibition order.

During 2020–21, no practitioners filed applications in QCAT for review of a permanent prohibition order.

Inquiry

Under the Act, where it is considered in the public interest to do so, the Health Ombudsman has the power to conduct an inquiry into:

- a matter relating to a health service complaint
- a systemic issue relating to the provision of a health service
- another matter the Health Ombudsman considers relevant to achieving the objectives of the Act.⁴¹

The Health Ombudsman may initiate an inquiry, or may be directed by the Minister to conduct an inquiry.

To date, the Health Ombudsman has not conducted an inquiry into any matter.

Director of Proceedings

Under the Act, the Director of Proceedings is an independent position that has the power to determine whether a matter is appropriate for referral to QCAT for professional disciplinary action. In making a decision, the Director of Proceedings must consider:

- the paramount guiding principle of the Act
- the seriousness of the matter
- the likelihood of proving relevant matters before QCAT
- the orders QCAT might make

⁴⁰ Section 90N of the Act.

⁴¹ Part 12 of the Act.

- anything else considered relevant.⁴²

Factors which inform the seriousness of a matter may include:

- the nature and extent of the conduct and/or performance
- whether there were any breaches of relevant codes, standards or guidelines
- whether the practitioner has shown remorse or insight.

After making a decision to refer a matter to QCAT, the Director of Proceedings prosecutes the matter on behalf of the Health Ombudsman.

If the Director of Proceedings decides not to refer a matter to QCAT, the matter must be referred back to the Health Ombudsman and the Director of Proceedings may recommend an alternative action, such as to:

- refer the matter to Ahpra
- undertake further investigation
- take no further action.

Figure 14 demonstrates the pathway a matter takes from the conclusion of an investigation to filing in QCAT or, alternatively, referral back to the Health Ombudsman for an alternative relevant action.⁴³

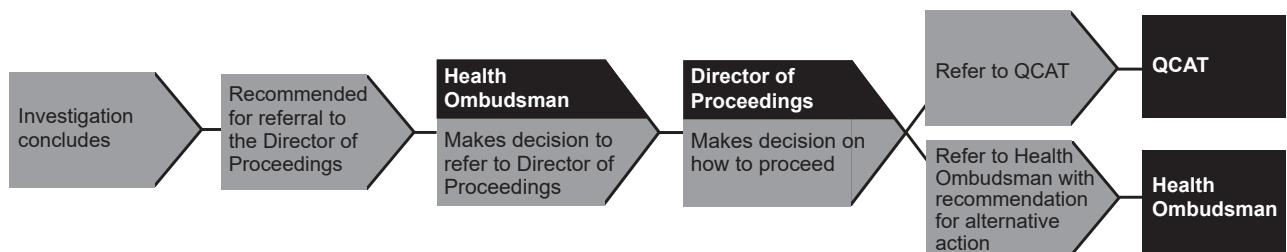
The diagram also highlights the distinct and independent decision-making powers held by the Health Ombudsman and the Director of Proceedings respectively, as granted under the Act.

In all matters relating to the OHO's litigation and general legal services, the Health Ombudsman and the Director of Proceedings are supported by the Legal Services division.

⁴² Section 103(3) of the Act dictates what the Director of Proceedings must consider in making a decision. In relation to the likelihood of proving a matter before QCAT, the standard of proof required under the Act is the civil threshold on the balance of probabilities, applying the 'Briginshaw standard' as established in *Briginshaw v Briginshaw* [1938] 60 CLR 336.

⁴³ For the Health Ombudsman to deal with the matter under section 105 of the Act.

Figure 14 Legislative pathway for referring a matter to QCAT



Decisions by the Director of Proceedings

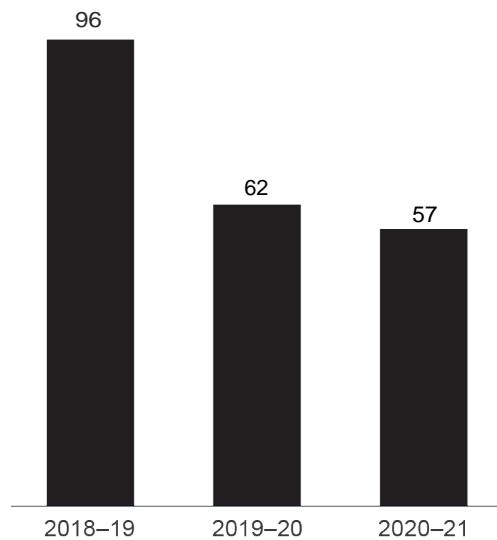
As at 30 June 2021, there were 28 matters awaiting action by the Director of Proceedings, down from 42 matters awaiting action as at 30 June 2020, and 88 matters awaiting action as at 30 June 2019.

In 2020–21, the Director of Proceedings received 89 matters from the Health Ombudsman for consideration for referral to QCAT, which was up from 85 matters in 2019–20.

During the year, the Director of Proceedings referred 41 matters back to the Health Ombudsman, and filed 57 matters in QCAT (see figure 15). The 57 matters filed in QCAT in 2020–21 concerned issues such as:

- fraud
- inappropriate prescribing
- poor clinical performance
- possession of child exploitation material
- boundary violations
- drug offences
- sexual assault.

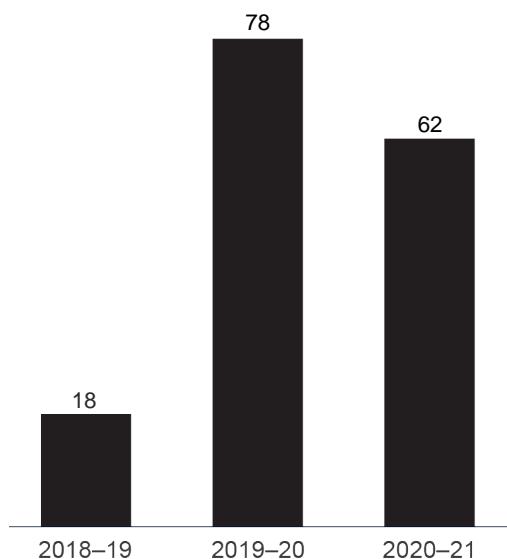
Figure 15 Matters filed in QCAT



In 2020–21, 66 QCAT matters were finalised. QCAT handed down 62 decisions on matters filed by the Director of Proceedings on behalf of the Health Ombudsman (see figure 16) and 4 matters were withdrawn.

The decisions of QCAT are available from the Supreme Court Library Queensland website at www.sclqld.org.au/caselaw/QCAT.

Figure 16 Decisions handed down by QCAT



In the 62 decisions handed down by QCAT:

- 19 practitioners were reprimanded/cautioned
- 14 practitioners had their registration cancelled and/or were disqualified from applying for registration
- 10 practitioners were issued with prohibition orders
- 9 practitioners were fined (with fines ranging from \$2,000 to \$25,000)
- 5 practitioners had conditions imposed on their registration
- 4 practitioners had their registration suspended
- one matter was finalised with no order made against the practitioner.

As at 30 June 2021 there were 104 OHO matters open with QCAT (102 registered practitioner matters and 2 unregistered

practitioner matters), compared with 113 matters as at 30 June 2020.⁴⁴

This data does not include matters heard in QCAT relating to a health practitioner's application to the tribunal to review the Health Ombudsman's decision to take immediate action (see [pages 19–21](#)) or issue a permanent prohibition order (see [page 23](#)) against them. These matters are not undertaken as a function of the Director of Proceedings.

⁴⁴ As a result of the legislative amendments that commenced on 1 March 2020 empowering the Health Ombudsman to issue a permanent prohibition order to unregistered practitioners, the Health Ombudsman no longer refers matters relating to unregistered practitioners to the Director of Proceedings to consider a referral to QCAT.

Support services

The OHO's performance of its functions and achievement of its strategic objectives is supported by several support services.

Compliance monitoring

Where action is taken against a health practitioner in the form of:

- an immediate action
- permanent prohibition order
- QCAT order in relation to an unregistered practitioner

the practitioner's compliance with the action is monitored to mitigate the risk to public health and safety.

In 2020–21 the OHO commenced 64 new practitioner monitoring cases and closed 38. A single practitioner may be monitored for different issues or orders. As at 30 June 2021, there were 168 open cases (refer table 8) relating to 160 practitioners, of which 74 were registered practitioners and 86 were unregistered (see figure 17).

Figure 17 Number of practitioners under monitoring

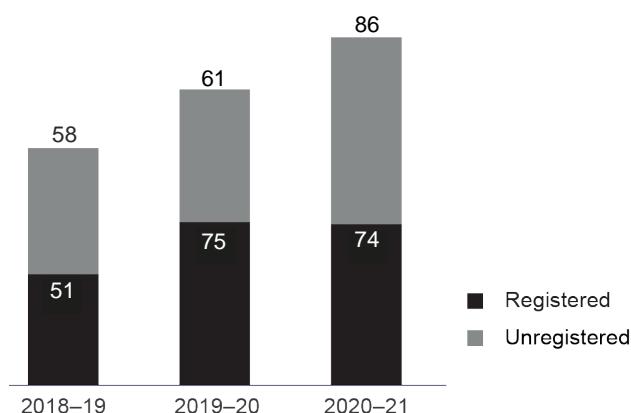


Table 8 Open monitoring cases by action type

Open monitoring cases by action type	2020–21	
	Number	%
Immediate registration action—conditions	54	32
Interim prohibition order—prohibited	31	18
QCAT issued conditions or prohibition	27	16
Interim prohibition order—restrictions	24	14
Immediate registration action—suspension	19	11
Permanent prohibition order*	12	7
QCAT interim decision	1	<1
Total	168	100

*In the OHO's 2019–20 annual report, this data was identified as 'Health Ombudsman issued final prohibition order'.

A practitioner's suspected or identified noncompliance with immediate action may result in further investigation, which can lead to appropriate action. For registered practitioners, a breach of an immediate registration action order may constitute professional misconduct, whereas for unregistered practitioners a breach of their interim prohibition order is an offence which may be prosecuted.⁴⁵

Where there is evidence of a breach of the Act, the Executive Director, Legal Services considers whether prosecution is appropriate. In 2020–21 no matters were referred for summary prosecution.

⁴⁵ Section 78 of the Act.

Legal services

Legal services—encompassing advice, litigation and other relevant work—are primarily delivered by the OHO’s in-house lawyers within the Legal Services division. This provides for consistent and considered advice from lawyers familiar with the OHO’s operational and statutory context.

Legal assistance can be requested by OHO staff at any stage of the complaints process or through any other operational activities undertaken by the OHO, such as right to information requests, privacy and confidentiality issues or contract matters. OHO lawyers provide advice and services in respect of health regulation, administrative and public law issues—including interpretation of the Act, the National Law, and other relevant legislation—to ensure decisions are legally sound. The legal team divides its work across providing legal services and supporting the Director of Proceedings.

On occasion, legal services are also sought from external providers such as Crown Law, private law firms, or barristers at the private Bar.

Clinical advice

The OHO seeks clinical advice when an independent, impartial, expert opinion on a clinical matter is required to inform the decision of how best to deal with a complaint. Clinical advice may:

- seek guidance on the level of risk to public health and safety presented by performance or conduct issues
- advise on potential mitigation of risk by proposed immediate action
- assist the OHO and the complainant in understanding the issues raised in the complaint
- inform an assessment of, or investigation into, potential serious professional misconduct.

When selecting an expert to provide clinical advice, the OHO considers:

- the substance and context of the complaint
- appropriate qualifications, and similar (or greater) expertise and experience in the professional specialty of the practitioner who provided the health service complained about
- lack of any conflicts of interest with the matter or parties to the matter.

Generally, parties to a matter are informed of the names of clinical advisors, the area/s of practice for which the advice is sought, the questions that were asked, and the content of the advice.

Using expert, independent clinical advice where appropriate and building a network of suitable clinical advisors has helped the OHO enhance its knowledge in relation to complex issues in a constantly evolving health environment.

In 2020–21 there were 65 clinical advice reports requested. Of the 65 requests, 49 per cent were made in the initial stages of the complaints management process: intake, triage and assessment. The remaining requests were sought during investigations (40 per cent), during legal review (9 per cent), or when considering or taking immediate action (2 per cent).

Internal review

Where the Health Ombudsman decides not to accept a complaint or to take no further action, parties to the matter may request an internal review of that administrative decision. The internal review process provides important opportunities for quality assurance and process improvement within the OHO.

The internal review process is not mandated in the Act; however, the OHO has developed a policy to guide the process and establish reasonable operational timeframes.⁴⁶

⁴⁶ While there is no express power in the Act to vary or change decisions made under the Act, section 24AA of the *Acts Interpretation Act 1954* provides a source of power to amend or repeal decisions. The power to amend or repeal a decision can be exercised in the same way and subject to the same conditions as the power to make the decision.

This policy is publicly available on the OHO website.

This year, the OHO received a total of 168 review requests and finalised 163. Of the matters finalised, 148 (91 per cent) had a review conducted.

Of the 148 reviews conducted, the majority (139, or 94 per cent) resulted in the original decision being upheld.

There were 9 reviews which resulted in the original decision being repealed. Of these, 8 matters were repealed with a new decision to take further relevant action. For one matter, the original decision was repealed, but no further action was taken.

For the 15 requests which were finalised without conducting a review, either no grounds were identified for review, the request did not relate to a reviewable decision, the review request was withdrawn, or the review request was made out of time.⁴⁷

Community engagement

The shape of the OHO's stakeholder engagement has continued to evolve throughout 2020–21, with the COVID-19 pandemic encouraging a renewed focus on how the OHO can better support health consumers and providers remotely, through digital and other channels.

The OHO remains committed to building cultural competence and creating safe access to OHO services for Aboriginal and Torres Strait Islander peoples. The OHO's policy and plan for this commitment—drafted in 2019–20—was published and launched this year, with an internal committee charged with driving action. Face-to-face engagement with Aboriginal and Torres Strait Islander communities has been limited due to ongoing COVID-19 restrictions across Queensland,

however the OHO has continued to reach out to First Nations individuals, Elders, and community groups via digital channels. This work builds on previous conversations with Aboriginal and Torres Strait Islander peoples about their experiences with Queensland's health sector, as the OHO seeks to learn from these stories and embed cultural competence within the complaints process. As part of this, the OHO has commenced work on introducing a person-to-person 'warm handover' process as a complaint moves between functions of the OHO or where a complaint is referred to an external agency. This handover process, to be rolled out in 2021–22, will be utilised for complainants who identify as Aboriginal and/or Torres Strait Islander, and other individuals who are disadvantaged or vulnerable in Queensland's health system, such as children, people with disability, or victims of sexual assault.

One key channel for the OHO to communicate remotely with stakeholders—particularly individuals—is its website.⁴⁸ In 2020–21, the OHO focused on improving this channel to better support and inform parties to the complaints process and improve accessibility to the OHO's services. This has included a redevelopment of the OHO public website, which launched in December 2020. The new website has streamlined information relating to what an individual should do if they have a health service complaint; how to raise a health service complaint with the OHO; and where to find information about health service providers, their registration or practising status, and any orders or actions taken against them.

Information systems and recordkeeping

The OHO is committed to maintaining an effective and accessible recordkeeping system in compliance with the *Public Records Act 2002* and other relevant information standards.

The OHO has a dedicated Information Management Officer to manage organisational compliance with corporate recordkeeping

⁴⁷ Under the OHO's internal review policy, requests for internal review must be made within 28 calendar days of receipt of the notice of the decision, but may be accepted outside of this timeframe if there is a satisfactory explanation for the delay.

⁴⁸ www.oho.qld.gov.au.

responsibilities. The OHO also has a Senior Release of Information Officer to manage information requests under the *Right to Information Act 2009*, information privacy requests under the *Information Privacy Act 2009*, and any requests for information regarding a complaint about the OHO made to the Queensland Ombudsman (see [page 35](#)).

Physical records are held both onsite at the OHO's premises in restricted access areas and with Zircodata, an external storage provider. There have been no security breaches to these areas.

Digital corporate records are managed in an electronic document and records management system, Microfocus Content Manager, and complaint records are managed in a case management system, Resolve, which synchronises with Microfocus Content Manager. Both systems are critical to the OHO's operations and regular staff training is conducted both online and face-to-face. All staff undergo mandatory information privacy training.

In 2020–21 the OHO introduced a new business classification scheme for electronic documents and records management in Microfocus Content Manager. The OHO adopts a dynamic approach to complaints management, which necessitates evolving technological processes that change in line with improved business process and legislative amendments. The new business classification scheme aligns with these changed processes and procedures and with the updated retention and disposal schedule for corporate records, and therefore better meets the OHO's recordkeeping and information management needs and responsibilities.

Work has also been done in 2020–21 to maintain Resolve, the OHO's case management system. The primary focus has been on developing the technological infrastructure to support the forthcoming OHO and Ahpra joint consideration model of registered practitioner complaints management, scheduled to roll out on

6 December 2021.⁴⁹ Other ongoing maintenance and improvement work for Resolve will be progressed after this time.

The joint consideration process will rely on automated data transfer between the OHO and Ahpra. This automation will seek to maximise efficiencies, reducing the double-handling of data and the time associated with manual data entry.

⁴⁹ The legislative amendments that provide for joint consideration were passed in Parliament on 28 November 2019 but have not yet been proclaimed to commence. They are expected to come into force on 6 December 2021.

Organisational governance

Workforce profile

At the end of the financial year, the OHO had 128.84 full-time equivalent (FTE) employees, a decrease from 130.69 FTEs the year prior.⁵⁰

Table 9 The Office of the Health Ombudsman service standards—staffing

Staffing ¹	Notes	2020-21 target/estimate	2020-21 actual
The Office of the Health Ombudsman	2	138	128.84

Notes:

1. MOHRI FTE data for fortnight ending 18 June 2021.
2. This varies from the estimated 138 FTEs as published in the 2021–22 Service Delivery Statement, due to holding a small number of vacancies to make savings according to the Queensland Government savings and debt plan, and to fund significant IT projects, including migrating systems to the cloud and developing the joint consideration technology solution. Work had commenced prior to 30 June 2021 to recruit to vacant positions.

The OHO's workforce is primarily permanent with 89.68 per cent of FTEs employed in permanent roles (up from 83 per cent the previous year), 6.44 per cent of FTEs employed on a temporary basis (down from 13.08 per cent the previous year), and the remaining 3.88 per cent in contracted roles (on par with the previous year). In September 2020 the Queensland Public Service Commission passed a new directive regarding converting staff employment status from long-term temporary to permanent.⁵¹ In 2020–21, a number of long-term temporary OHO staff were converted to permanent OHO employees under this directive.

All staff have access to a range of flexible working arrangements in line with the Queensland Government's policies. As at June 2021, 11.94 per cent of staff worked part-time, an increase from 7.35 per cent in 2019–20 due to a number of OHO staff opting for part-time work arrangements upon returning from

parental leave. The majority of staff access flexible working arrangements which include compressed hours, flexible start and finish times, and working remotely. All OHO staff have the capability to work remotely and the OHO is able to support entirely remote working while maintaining all operations. Throughout 2020–21 the OHO has seamlessly enabled remote working for the entire OHO workforce in response to lockdowns in the Brisbane area, as a result of the pandemic.

Women make up 67.88 per cent of all OHO employees, and hold 58.14 per cent of all managerial positions (at or above AO7 level).⁵² As at June 2021, 9.49 per cent of office employees identify as being from a non-English speaking background, 2.92 per cent identify as having a disability and 2.19 per cent identify as Aboriginal and/or Torres Strait Islander.

The permanent separation rate for 2020–21 was 8.52 per cent. No redundancy, early retirement or retrenchment packages were paid in 2020–21.

Workforce planning

The importance of building a skilled and capable workforce through strategic workforce planning is recognised at the OHO.

In 2020–21 the OHO began developing a strategic workforce plan; the plan will support the organisation in identifying the skills and capabilities required to meet organisational objectives and legislative requirements now and into the future, and ensure that the OHO's recruitment, development and retention programs support this.

OHO employees are engaged under the current enterprise bargaining agreement *Queensland Public Health Sector Certified Agreement (No. 10) 2019*. Union delegates within the OHO meet with Human Resources and the Executive Leadership Team as part of the Joint

⁵⁰ Data reported in this section are MOHRI FTE data accurate for fortnight ending 18 June 2021.

⁵¹ Directive 09/20 Fixed term temporary employment.

⁵² In the 2019–20 reporting period, women held 64 per cent of managerial positions (at or above AO7 level), not 35 per cent as reported in the OHO Annual Report 2019–20.

Consultative Committee process to raise and discuss relevant industrial relations matters.

New employees undergo a formal induction—including orientation and safety briefing—and take part in cultural capability training as part of their mandatory training requirements. With remote working increasingly becoming the norm, the OHO is developing a digital induction program. This will be accessible online and is to be supplemented with a personalised face-to-face induction from immediate supervisors in the office as soon as possible. The OHO utilises a comprehensive online learning management platform, introduced in 2019–20, which provides staff with efficient access to the majority of the OHO’s mandatory training, whether working remotely or in the office.

The OHO aims to have a Performance and Development Plan in place for all employees within one month of their commencement, to be reviewed twice annually. This process sets performance expectations for employees and provides them with the opportunity to identify learning and development opportunities.

In 2020–21 the OHO launched an organisation-wide framework that links learning and development opportunities systematically with business needs; supports staff in any upskilling to achieve the OHO’s strategic goals; and establishes priorities and plans for training activities and resources. The framework outlines the OHO’s approach for staff development in line with the 70:20:10 model, with work-based learning accounting for 70 per cent, collaborative learning accounting for 20 per cent, and structured learning accounting for the remaining 10 per cent.

The OHO’s online learning platform enables the OHO to offer more personalised, effective, targeted training for staff; the platform offers over 100 optional training packages that employees can access to update their skills in line with their identified development goals. In addition to this, all employees are advised of other ad hoc training opportunities on a month-by-month basis, which includes leadership development options offered to staff in management positions to develop their leadership capability.

Internal accountability

Executive Leadership Committee

Positions held as at 30 June 2021:

Health Ombudsman (statutory position)— Andrew Brown

The Health Ombudsman is appointed under the Act by the Governor in Council on the recommendation of the Minister. The Minister must advertise for suitably qualified candidates, consult with the parliamentary committee, and be satisfied the person has the skills and knowledge to perform the Health Ombudsman’s functions effectively and efficiently. The Health Ombudsman’s term of appointment is for no more than four years and the person may be reappointed. The Health Ombudsman’s powers and functions under the Act are detailed on pages 4–5.

Andrew has more than 25 years’ experience in the public sector, primarily in the areas of legal services, regulatory oversight and complaints management. He commenced as Health Ombudsman in an Acting capacity in November 2017, and was formally appointed to the role in May 2018. Andrew has extensive experience in public administration and designing and implementing effective and efficient regulatory and complaints management processes. Previously, Andrew was employed as the Deputy Ombudsman at the Queensland Ombudsman’s Office. He has also worked at Queensland Corrective Services in numerous roles including the Chief Inspector of Prisons.

Director of Proceedings (statutory position) and Executive Director, Legal Services— Scott McLean

The Director of Proceedings is a statutory role appointed under the Act and must be an employee who is legally and otherwise appropriately qualified. The Health Ombudsman may refer a matter to the Director of Proceedings who then has the power to decide if a matter should be referred to QCAT; the Director of Proceedings maintains independence from the Health Ombudsman in this.

The Executive Director, Legal Services oversees the Legal Services division, which provides a range of legal services to the OHO and prosecutes matters that the Director of Proceedings refers to QCAT.

Scott is a lawyer with over 30 years' experience in private and government practice focusing on criminal prosecutions, professional regulation and discipline. Scott joined the OHO in August 2015 as Director, Legal Services and later commenced as Director of Proceedings and Executive Director, Legal Services in March 2018.

Executive Director, Assessment and Resolution—Jess Wellard

The Assessment and Resolution division delivers the OHO's complaints intake, assessment, referral, local resolution and conciliation functions.

Jess is a lawyer and investigator with experience in public administration and investigation of systemic concerns. Having worked previously at both the OHO as the inaugural Director of Investigations and as Assistant Ombudsman at the Queensland Ombudsman, she re-joined the OHO in March 2020 as Executive Director, Assessment and Resolution.

Executive Director, Investigations—Kelly Gleeson

The Investigations division is responsible for undertaking investigations in line with the Act and monitoring compliance with recommendations arising from investigations.

Kelly has more than 20 years' experience in law enforcement, investigations and government regulatory fields. Kelly joined the OHO as the Executive Director, Investigations in July 2019.

Executive Director, Corporate and Strategic Services—Lisa Pritchard

Corporate and Strategic Services provides the OHO with support services including human resource management, performance reporting,

communications and media management, stakeholder engagement, finance and asset management, information technology, information privacy and right to information, clinical advice coordination and records management.

Lisa has 30 years' experience in regulation and complaints management in the United Kingdom and Australia. Her expertise includes policy and legislation development, and leading operational service delivery in regulatory environments. She joined the OHO in May 2014 and previously held the role of Executive Director, Assessment and Resolution.

Risk and Audit Committee

The OHO's Risk and Audit Committee (the Committee) is responsible for providing independent assurance and assistance to the Health Ombudsman on the OHO's risk management framework, control environment and financial reporting process. The Committee does not replace established management responsibilities and delegations, the responsibilities of other executive management groups within the OHO, or the reporting lines of external audit functions. The Committee's membership is comprised of external and internal appointments.

Will Sadler was appointed as Chair and an external member of the Committee on 4 July 2019. He is an experienced risk professional and is currently employed as Head of Group Risk at QSuper. Will is also a Chartered Accountant and member of the Chartered Accountants Australia and New Zealand.

Terry Campbell was appointed as Deputy Chair and an external member of the Committee on 4 July 2019. Terry is the Director of ARC Consultancy, an audit and risk focused company. In addition to her position on the Committee, Terry is also Chair of another government audit and risk committee. She has over 20 years' government audit and risk experience and previously held senior positions with the Queensland Audit Office.

Internal appointees for 2020–21 were:

- Ms Jess Wellard, Executive Director, Assessment and Resolution (1 July 2020 to 30 June 2021, ongoing)
- Ms Kelly Gleeson, Executive Director, Investigations (1 July 2020 to 10 June 2021)
- Mr Scott McLean, Executive Director, Legal Services (1 July 2020 to 10 June 2021)
- Ms Elizabeth Foulger, Director, Office of the Health Ombudsman (1 July 2020 to 4 November 2020)
- Mr Jordan Welke, Director, Office of the Health Ombudsman (1 February 2021 to 10 June 2021).

Only external appointees who are not public servants are eligible to receive remuneration. In 2020–21, Will received \$6,000 and Terry received \$4,500 for their service on the Committee.

The Committee convened for 5 formal meetings throughout 2020–21.

The OHO is not currently required to have an internal audit function however, the Committee is responsible for providing advice and assistance as necessary to progress any internal audits the Health Ombudsman considers appropriate. There were no internal audits planned, commenced or completed in 2020–21.

Service delivery complaints

In 2020–21, there were 13 service delivery complaints recorded about the OHO, and 13 service delivery complaints finalised.

Of these, further action was taken in relation to 2 complaints in which opportunities for improvement were identified.

Where a complainant is dissatisfied with the outcome of their service delivery complaint, there is opportunity for them to seek an internal review. Where a complainant remains dissatisfied following an internal review of their

service delivery complaint, they are entitled to make a complaint to the Queensland Ombudsman.⁵³

External accountability

Minister

Under the Act, the Minister oversees the administration of the health service complaints management system and the performance of the Health Ombudsman, as well as the performance of Ahpra and the National Boards in relation to registered health practitioners in Queensland. The Minister keeps the Queensland Parliament and the community informed of these matters.⁵³

As at 30 June 2021 the Honourable Yvette D'Ath was the appointed Minister for Health and Ambulance Services.

Parliamentary Committee

The Act provides for statutory oversight over the OHO's operations by parliamentary committee.⁵⁴ As at 30 June 2021, the Health and Environment Committee was the committee responsible for Health and Ambulance Services. This committee was established on 26 November 2020. Prior to this, the parliamentary committee with oversight of the OHO's operations was the former Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee.

The Health Ombudsman meets with the parliamentary committee at regular intervals throughout the year. As at 30 June 2021, the parliamentary committee members were:

- Mr Aaron Harper MP, Member for Thuringowa (Chair)
- Mr Robert (Rob) Molhoek MP, Member for Southport (Deputy Chair)
- Mr Stephen (Steve) Andrew MP, Member for Mirani
- Ms Ali King MP, Member for Pumicestone

⁵³ Part 13 of the Act.

⁵⁴ Part 14 of the Act.

- Ms Joan Pease MP, Member for Lytton
- Dr Mark Robinson MP, Member for Oodgeroo.

Queensland Ombudsman

Where a person is dissatisfied with the OHO's decisions or actions, they may choose to make a complaint to the Queensland Ombudsman.

In 2020–21 the Queensland Ombudsman received 82 and closed 84 complaints about the OHO. Of these 84 complaints, 41 were identified as warranting further investigation, with 4 of these investigations resulting in a rectification outcome.⁵⁵ None of the investigations resulted in formal findings of maladministration.

Public Sector Ethics Act

The OHO is also governed by the *Public Sector Ethics Act 1994*, which outlines four underlying ethics principles:

- integrity and impartiality
- promoting the public good
- commitment to the system of government
- accountability and transparency.

The OHO is committed to upholding these principles and has adopted the *Code of Conduct for the Queensland Public Service* (the Code of Conduct). During 2020–21 all Code of Conduct training, both for new employees and annual refresher training for existing employees, was delivered via the OHO's consolidated online training platform. The Code of Conduct and all procedures relating to unethical conduct, breaches of the code, and public interest disclosures are readily accessible to staff through the OHO's intranet.

Human Rights Act

The OHO is both a public entity and a referral entity with regard to the Human Rights Act.

⁵⁵ Data supplied by the Queensland Ombudsman.

As a public entity, in 2020–21 the OHO received one complaint about its decision making that engaged at least one human rights issue, which was finalised with a decision to take no further action as it was not substantiated.

As a referral entity, the OHO is empowered to deal with human rights complaints relating to health services. Where this occurs, the matter is managed as a health service complaint pursuant to the *Health Ombudsman Act 2013*.⁵⁶ Throughout 2020–21 the OHO received 18 health service complaints that were also noted to have potentially engaged at least one human rights issue. Decisions for these matters were made at the intake stage to:

- assess 10 of the complaints
- consult and refer 4 complaints to another government entity to deal with
- take no further action for 2 complaints
- consult and refer one complaint to Ahpra and another government entity
- undertake local resolution for one complaint.

In 2020–21 the OHO did not refer any matters to the Human Rights Commissioner under the Human Rights Act.⁵⁷

In line with furthering the objects of the Human Rights Act, all new staff complete mandatory human rights training, and a human rights assessment is incorporated into the OHO's complaints decision-making procedures.

A rolling review of organisational policies and procedures takes into account human rights considerations and additional training and support has been provided to front line staff to identify human rights issues in health service complaints.

⁵⁶ Section 66(2)(a) of the Human Rights Act.

⁵⁷ Section 66(2)(b) of the Human Rights Act.

Financial summary

Overview

The operating result for the OHO for the 2020–21 financial year was \$335,000, of which \$315,000 is committed to existing IT projects and legal costs, which will be finalised and invoiced in 2021–22. The operating result reflects a similar pattern of expenditure to the previous financial year involving legal fees, and critical IT infrastructure and project costs.

Full details are provided in the audited financial statements in [appendix 3](#).

Financial position

The financial position provides an indication of the OHO's underlying financial health as at 30 June 2021. The OHO's assets and liabilities resulted in a total equity of \$825,000 as at 30 June 2021.

Assets

The OHO's total assets were valued at \$1.799 million as at 30 June 2021. Current assets were valued at \$1.771 million and were available to meet current liabilities.

Liabilities

Total liabilities for the OHO as at 30 June 2021 were \$974,000, with the largest single liability being \$526,000 for accrued employee benefits. Remaining liabilities related to payables.

Financial performance

The income statement shows the total income for 2020–21 as \$22.567 million, an increase of \$265,000 from the 2019–20 financial year. Total expenses were \$22.232 million, providing the operating result of \$335,000, of which \$315,000 is committed and will be carried forward to 2021–22.

Income

In 2020–21 the OHO derived the majority of its income from Queensland Health⁵⁸ with funding of \$22.330 million. Income in the form of interest and other revenue totalled \$237,000.

Expenses

Total operating expenses for 2020–21 were \$22.232 million. The largest expense category was for employee expenses (\$17.976 million), which accounted for 81 per cent of expenses. The second largest category was supplies and services (\$4.074 million), which accounted for 18 per cent of expenses.

⁵⁸ Part of the funding administered by Queensland Health to the OHO comes from a recurrent grant from Queensland Treasury and a contribution that Ahpra make pursuant to s26A of the Health Practitioner Regulation National Law (Queensland).

Appendix 1—Abbreviations and acronyms

Abbreviation	Full definition
Act	<i>Health Ombudsman Act 2013</i>
Ahpra	Australian Health Practitioner Regulation Agency
Human Rights Act	<i>Human Rights Act 2019</i>
IT	Information technology
Minister	Minister for Health and Ambulance Services
National Boards	The 15 national health practitioner boards, one each for: <ul style="list-style-type: none">▪ Aboriginal and Torres Strait Islander health practice▪ Chinese medicine▪ chiropractic▪ dental▪ medical▪ medical radiation practice▪ nursing and midwifery▪ occupational therapy▪ optometry▪ osteopathy▪ paramedicine▪ pharmacy▪ physiotherapy▪ podiatry▪ psychology.
National Law	<i>Health Practitioner Regulation National Law (Queensland)</i>
OHO	Office of the Health Ombudsman
Parliamentary committee	Health and Environment Committee
QCAT	Queensland Civil and Administrative Tribunal

Appendix 2—Glossary

Term	Definition
Boundary violation	The crossing of a standard professional, clinical boundary, or deviation from standard therapeutic activity, that is potentially harmful to or exploitative of the patient. Boundary violations can be either sexual or nonsexual.
Conditions	Limitations placed on a registered practitioner's registration either by the Health Ombudsman when taking immediate registration action, or by QCAT as a sanction.
Consumer	For the purposes of this report, any individual who receives a health service.
Contact	An individual engagement with the OHO through any communication method, including post, phone or email (and previously, in person), for the purposes of making a complaint (including notifications) or enquiry, or providing information.
Coregulation	In the context of this report, coregulation refers to the regulatory powers shared by the OHO and AHPRA and the National Boards in the management of complaints about registered health practitioners.
Correctional facility/centre	A place of incarceration run by government officials.
COVID-19	Coronavirus disease, specifically that which was first identified in Wuhan City, China in December 2019, caused by the SARS-CoV-2 virus.
Disciplinary proceedings (or disciplinary matters)	For the purposes of this report, a proceeding whereby the Director of Proceedings refers a registered health practitioner to QCAT for a finding about characterisation of the practitioner's health, performance or conduct, and to consider the appropriate sanctions.
Education provider	In the context of this report, an education provider is a university, other tertiary education institution, specialist medical or other health profession college that provides a program of study or clinical training for a health professional registered under the National Registration and Accreditation Scheme.
Enquiry	A matter raised with the OHO that does not constitute a health service complaint or notification.
Impairment	Physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect a registered health practitioner's capacity to safely practise the profession or a student's capacity to undertake clinical training.
Legislative timeframe	A timeframe mandated by legislation, such as the Act or National Law, in which a specific action or decision must be taken.

Term	Definition
Parliamentary committee	Committees assist the Queensland Parliament to operate more effectively. They investigate specific issues and report back to the Parliament. Some committees also have continuing roles to monitor and review public sector organisations or keep areas of the law or activity under review. The OHO operates with statutory oversight by the Health and Environment Committee.
Permanent prohibition order	In the context of this report, a prohibition order issued under part 8A of the Act. For the purposes of this report and to distinguish them from interim prohibition orders issued under part 7 of the Act, these orders are referred to as permanent prohibition orders, though it should be noted that not all such orders are necessarily permanent, as they may be for a stated period of time.
Professional conduct	Conduct that is of a standard which might reasonably be expected of the health practitioner by the public or the practitioner's professional peers. Each profession has a set of standards and guidelines which clarify the acceptable standard of professional conduct.
Professional misconduct	Conduct by a registered health practitioner as defined by the National Law as being substantially below the standard reasonably expected for a practitioner of that profession and level of experience, or is inconsistent with the practitioner being a fit and proper person to hold registration in that profession.
Public hospital	A hospital operated and managed by the State of Queensland.
Registered (health) practitioner	A person registered to practise one of the 15 health professions regulated under the National Law, other than as a student.
Restrictions	Limitations placed on an unregistered practitioner's practice by the Heath Ombudsman as part of an interim prohibition order or a final prohibition order.
Sanction	An official penalty imposed by QCAT on a registered health practitioner. The penalty must be protective of the health and safety of the public.
Student	In the context of this report, a student is a person enrolled in a program of study or undertaking clinical training for a health profession.
Unregistered (health) practitioner	For the purposes of this report, any person who provides a health service and who is not registered in one of the 15 professions regulated under the National Law, or who is registered but is providing a health service other than in their capacity as a registered health practitioner.

Appendix 3—Financial statements



Office of the Health Ombudsman Financial Statements

for the period ended 30 June 2021

Office of the Health Ombudsman

Financial Statements 2020-21

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Office of the Health Ombudsman

Statement of Comprehensive Income for the period ended 30 June 2021

		2021 Actual	2021 Original Budget	2021 Budget Variance*	2020 Actual
	Notes	\$'000	\$'000	\$'000	\$'000
Income					
Grants and other contributions	4	22,330	22,330	-	22,072
Interest		81	70	11	154
Other revenue		156	5	151	76
Total Income		22,567	22,405	162	22,302
Expenses					
Employee expenses	5	17,976	18,714	(738)	18,710
Supplies and services	6	4,074	3,649	425	4,472
Depreciation	10	20	20	-	62
Other expenses	7	162	22	139	25
Total Expenses		22,232	22,405	(174)	23,269
Operating Result		335	-	335	(967)
Total Comprehensive Income		335	-	335	(967)

* An explanation of major variances is included at Note 16 - The accompanying notes form part of these financial statements.

Office of the Health Ombudsman

Statement of Financial Position as at 30 June 2021

		2021 Actual	2020 Actual
	Notes	\$'000	\$'000
Current Assets			
Cash and cash equivalents	8	849	822
Receivables	9	567	351
Prepayments		355	470
Total Current Assets		1,771	1,643
Non Current Assets			
Property, plant and equipment	10	28	48
Total Non Current Assets		28	48
Total Assets		1,799	1,691
Current Liabilities			
Payables	11	448	436
Accrued employee benefits	12	526	765
Total Current Liabilities		974	1,201
Total Liabilities		974	1,201
Net Assets		825	490
Equity			
Contributed equity		1,394	1,394
Accumulated surplus/(deficit)		(569)	(904)
Total Equity		825	490

The accompanying notes form part of these financial statements.

* The Office of the Health Ombudsman was not required to include a budgeted statement of financial position in the original published Service Delivery Statement tabled in Parliament for the 2020-21 financial year.

Office of the Health Ombudsman

Statement of Changes in Equity for the period ended 30 June 2021

	2021	2020
	\$'000	\$'000
Contributed Equity		
Balance as at 1 July	1,394	1,394
Balance as at 30 June	1,394	1,394
Accumulated Surplus		
Balance as at 1 July	(904)	(31)
Operating result from continuing operations	335	(967)
Net effect of changes in accounting policies/prior year adjustments	-	94
Balance as at 30 June	(569)	(904)

The accompanying notes form part of these statements.

Office of the Health Ombudsman

Statement of Cash Flows for the period ended 30 June 2021

	Notes	2021 Actual	2020 Actual
		\$'000	\$'000
Cash flows from operating activities			
<i>Inflows:</i>			
Grants and other contributions		22,330	22,072
GST collected from customers		12	11
GST input tax credits from ATO		403	494
Interest receipts		81	154
Other		156	76
<i>Outflows:</i>			
Employee expenses		(18,393)	(18,524)
Supplies and services		(3,929)	(4,471)
GST paid to suppliers		(460)	(474)
GST remitted to ATO		(11)	(10)
Other		(162)	(25)
Net cash provided by (used in) operating activities		27	(697)
Cash flows from investing activities			
<i>Outflows:</i>			
Payments for plant and equipment		-	(17)
Net cash provided by (used in) investing activities		-	(17)
Net increase (decrease) in cash held		27	(714)
Cash at beginning of financial year		822	1,536
Cash at end of financial year	8	849	822
Reconciliation of Operating Result to Net Cash from Operating Activities			
Operating surplus/(deficit)		335	(967)
Depreciation expense		20	62
Changes in assets and liabilities:			
(Increase)/decrease in receivables		(216)	216
(Increase)/decrease in prepayments		115	(44)
Increase/(decrease) in payables		12	45
Increase/(decrease) in accrued employee benefits		(239)	(9)
Net cash provided by/(used in) operating activities		27	(697)

The accompanying notes form part of these financial statements.

* The Office of the Health Ombudsman was not required to include a budgeted statement of cash flows in the original published Service Delivery Statement tabled in Parliament for the 2020-21 financial year.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

Section 1: How We Operate - Our Agency Objectives and Activities

- Note 1: General Information
- Note 2: Objectives and Principal Activities of the Office of the Health Ombudsman
- Note 3: Basis of Financial Statement Preparation

Section 2: Notes about our Financial Performance

- Note 4: Grants and Other Contributions
- Note 5: Employee Expenses
- Note 6: Supplies and Services
- Note 7: Other Expenses

Section 3: Notes about our Financial Position

- Note 8: Cash and Cash Equivalents
- Note 9: Receivables
- Note 10: Plant and Equipment and Depreciation Expense
- Note 11: Payables
- Note 12: Accrued Employee Benefits

Section 4: Notes about Risk and Other Accounting Uncertainties

- Note 13: Contingencies
- Note 14: Financial Risk Disclosures
- Note 15: Events Occurring after Balance Date

Section 5: Notes on our Performance compared to Budget

- Note 16: Budgetary Reporting Disclosures

Section 6: Other information

- Note 17: Key Management Personnel (KMP) Disclosures
- Note 18: Related Party Transactions
- Note 19: Future Impact of Accounting Standards Not Yet Effective
- Note 20: Climate Risk Disclosure

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

1. General Information

These financial statements cover the Office of the Health Ombudsman.

The Office of the Health Ombudsman (the Office) is Queensland's independent health service complaints management agency, and the single point of entry for all health service complaints.

The Office is controlled by the state of Queensland which is the ultimate parent.

The head office and principal place of business of the Office is:

Level 12, 400 George St
BRISBANE QLD 4000

For information in relation to the Office's financial statements please email info@oho.qld.gov.au.

2. Objectives and Principal Activities of the Office of the Health Ombudsman

The Office of the Health Ombudsman commenced operations on 1 July 2014. The Office is Queensland's independent health service complaints management agency, and the single point of entry for all health service complaints.

The Office is responsible for health complaints functions, including the management of serious matters relating to the health, conduct and performance of registered health practitioners in Queensland. In addition, the Office of the Health Ombudsman has the ability to deal with matters relating to the health, conduct and performance of non-registered health practitioners.

The role of the Office of the Health Ombudsman is to:

- Protect the health and safety of the public;
- Promote professional, safe and competent practice by health practitioners;
- Promote high standards of service delivery by health service organisations; and
- Maintain public confidence in the management of health complaints and other matters relating to the provision of health services.

The Office of the Health Ombudsman performs this role by:

- Receiving and investigating complaints about health services and health service providers, including registered and non-registered health practitioners;
- Deciding what action to take in relation to those complaints and, in certain instances, taking immediate action to protect the safety of the public;
- Monitoring the health, conduct and performance functions of the Australian Health Practitioner Regulation Agency and national health practitioner boards;
- Providing information about minimising and resolving health service complaints; and
- Reporting publicly on the performance of its functions.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

3. Basis of Financial Statement Preparation

Compliance with Prescribed Requirements

The Office of the Health Ombudsman has prepared these financial statements in compliance with section 39 of the *Financial and Performance Management Standard 2019*. The financial statements comply with Queensland Treasury's Minimum Reporting Requirements for reporting periods beginning on or after 1 July 2020.

The Office is a not-for-profit entity and these general purpose financial statements are prepared on an accrual basis (except for the Statement of Cash Flows which is prepared on a cash basis) in accordance with Australian Accounting Standards and Interpretations applicable to not-for-profit entities.

Accounting Standards Applied for the First Time

No Australian Accounting Standards applied for the first time had any material impact on the 2020–21 financial statements.

Accounting standards early adopted

No Australian Accounting Standards have been early adopted for 2020-21.

Presentation

Currency and Rounding

Amounts shown in these financial statements may not add to the correct sub-totals or total due to rounding.

Amounts included in the financial statements are in Australian dollars and rounded to the nearest \$1,000 or, where that amount is \$500 or less, to zero, unless disclosure of the full amount is specifically required.

Comparatives

Comparative information reflects the audited 2019-20 financial statements.

Current/Non-Current Classification

Assets and liabilities are classified as either 'current' or 'non-current' in the Statement of Financial Position and associated notes.

Assets are classified as 'current' where their carrying amount is expected to be realised within 12 months after the reporting date. Liabilities are classified as 'current' when they are due to be settled within 12 months after the reporting date, or the Office does not have an unconditional right to defer settlement to beyond 12 months after the reporting date.

All other assets and liabilities are classified as non-current.

Authorisation of Financial Statements for Issue

The financial statements are authorised for issue by the Health Ombudsman and the Executive Director, Corporate and Strategic Services at the date of signing the Management Certificate.

Basis of Measurement

Historical cost convention is used as the measurement basis in this financial report.

Under historical cost, assets are recorded at the amount of cash or cash equivalents paid or the fair value of the consideration given to acquire assets at the time of their acquisition. Liabilities are recorded at the amount of proceeds received in exchange for the obligation or at the amounts of cash or cash equivalents expected to be paid to satisfy the liability in the normal course of business.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

	2021 \$'000	2020 \$'000
4. Grants and Other Contributions		
Grants from Government	22,330	22,072
Total	22,330	22,072

Accounting policy

Grants and contributions arise from non-exchange transactions where the agency does not directly give approximately equal value to the grantor. The Office's grant from Government is accounted for under AASB 1058 *Income for Not-for-Profit Entities*, whereby revenue is recognised upon receipt of the grant funding.

Where a grant agreement is enforceable and contains sufficiently specific performance obligations to transfer goods or services to a third-party on the grantor's behalf, the transaction is accounted for under AASB 15 *Revenue from Contracts with Customers*. In this case, revenue is initially deferred (as a contract liability) and recognised as or when the performance obligations are satisfied. The Office does not have any enforceable grants.

5. Employee Expenses

Employee Benefits

Wages and salaries	13,519	14,066
Employer superannuation contributions	1,766	1,802
Annual leave levy	1,405	1,461
Long service leave levy	331	320

Employee Related Expenses

Workers' compensation premium	61	68
Payroll tax	816	833
Other employee related expenses	78	160
Total	17,976	18,710

The number of employees as at 30 June 2021, including both full time and part time employees, measured on a full time equivalent basis (reflecting Minimum Obligatory Human Resource Information (MOHRI)).

	2021 No.	2020 No.
Full-Time Equivalent Employees	129	131

Accounting policy

Wages, Salaries and Sick leave

Wages and salaries due but unpaid at reporting date are recognised in the Statement of Financial Position at the current salary rates. As the Office expects such liabilities to be wholly settled within 12 months of reporting date, the liabilities are recognised at undiscounted amounts. As sick leave is non-vesting, an expense is recognised for this leave as it is taken.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

5. Employee Expenses (continued)

Annual Leave and Long Service Leave

Under the Queensland Government's Annual Leave Central Scheme and Long Service Leave Scheme the Office is levied for the cost of employees' annual leave (including leave loading and on-costs) and long service leave (including on-costs). The levies are expensed in the period in which they are payable. Amounts paid to employees for annual leave and long service leave are claimed from the scheme quarterly in arrears.

No provision for annual leave and long service leave is recognised in the Office's financial statements as the liability is held on a whole-of-government basis and reported in those financial statements pursuant to AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Superannuation

Post-employment benefits for superannuation are provided through defined contribution (accumulation) plans or the Queensland Government's QSuper defined benefit plan as determined by the employee's conditions of employment.

Defined Contribution Plans - Contributions are made to eligible complying superannuation funds based on the rates specified in the relevant EBA or other conditions of employment. Contributions are expensed when they are paid or become payable following completion of the employee's service each pay period.

Defined Benefit Plan - The liability for defined benefits is held on a whole-of-government basis and reported in those financial statements pursuant to AASB 1049 *Whole of Government and General Government Sector Financial Reporting*. The amount of contributions for defined benefit plan obligations is based upon the rates determined by the Treasurer on the advice of the State Actuary. Contributions are paid by the Office at the specified rate following completion of the employee's service each pay period. The Office's obligations are limited to those contributions paid.

Workers' Compensation Premiums

The Office pays premiums to WorkCover Queensland in respect of its obligations for employee compensation. Workers' compensation insurance is a consequence of employing employees, but is not counted in an employee's total remuneration package. It is not employee benefits and is recognised separately as employee related expenses.

Key management personnel and remuneration disclosures are detailed in Note 17.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

	2021 \$'000	2020 \$'000
6. Supplies and Services		
Property lease and rental	1,152	1,097
Legal fees	945	967
Information technology	491	597
Consultants and contractors	734	412
Employment agency staff	13	369
QCAT Fees ⁽¹⁾	87	305
Corporate service charges	175	193
Supplies and consumables	135	212
Communications	218	151
Minor plant and equipment	93	147
Sundry expenses	31	21
Total	4,074	4,472

(1) QCAT Fees relate to assessor fees chargeable under s133 of the *Health Ombudsman Act 2013*.

Lease Expense

The Office has an operating lease for office accommodation.

Lease expenses include lease rentals for leases of low value assets and lease rentals for non-specialised commercial office accommodation with the Department of Energy and Public Works (DEPW). Lease payments are recognised in the period they are incurred.

Operating leases are entered into as a means of acquiring access to office accommodation and storage facilities. Lease payments contain fixed rate increases of 3.5 per cent per annum. The 2020-21 lease commitment disclosures are not classified as leases under AASB 16 *Leases*.

The Office of the Health Ombudsman have two current lease arrangements at 400 George Street, Brisbane Qld 4000.

7. Other Expenses

Insurance	4	4
Queensland Audit Office - external audit fees for the audit of financial statements ⁽²⁾	18	20
Special Payments ⁽³⁾	140	-
Total	162	25

(2) Total audit fees quoted by the Queensland Audit Office relating to the 2020-21 financial statements are \$17.5K (2020 \$17.5K). There are no non-audit services included in this amount.

(3) In 2020-21 there were two classes of special payments exceeding \$5000. These related to other QCAT fees and an ex-gratia payment.

8. Cash and Cash Equivalents

Cash at bank	849	822
Total	849	822

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

8. Cash and Cash Equivalents (continued)

Accounting policy

For the purposes of the Statement of Financial Position and the Statement of Cash Flows, cash assets include all cash and cheques receipted but not banked at 30 June.

	2021 \$'000	2020 \$'000
9. Receivables		
Trade debtors	15	4
Sundry Receivable	1	1
	<hr/>	<hr/>
	16	5
GST receivable	168	139
GST payable	(2)	(3)
	<hr/>	<hr/>
	166	136
Long service leave reimbursements	39	18
Annual leave reimbursements	346	192
	<hr/>	<hr/>
Total	567	351

Accounting policy - Receivables

Receivables are measured at amortised cost which approximates their fair value at reporting date.

Trade debtors are recognised at the amounts due at the time of sale or service delivery i.e. the agreed purchase/contract price. Settlement of these amounts is required within 30 days from invoice date.

Accounting policy - Impairment of receivables

The Office's receivables are primarily from Queensland Government agencies or Australian Government agencies. The Office did not incur any impairment loss for receivables as at 30 June 2021. Refer to Note 14 for the Office's credit risk management policies.

Disclosure - Credit risk exposure of receivables

The maximum exposure to credit risk at balance date for receivables is the gross carrying amount of those assets. No collateral is held as security and there are no other credit enhancements relating to the agency's receivables.

The Office uses a provision matrix to measure the expected credit losses on trade and other debtors. The Office measures the expected credit loss based on the individual customer. The Office has assessed there to be no expected credit losses on outstanding receivables.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

10. Plant and Equipment and Depreciation Expense

	2021 \$'000	2020 \$'000
At cost plant and equipment	801	808
Less: Accumulated depreciation plant and equipment	(773)	(760)
Total	28	48

Plant and Equipment and Depreciation Expense Reconciliation

Reconciliations of the carrying amounts for plant and equipment at the beginning and end of the current reporting period.

Carrying amount at 1 July	48	93
Acquisitions	-	17
Depreciation for period	(20)	(62)
Carrying amount at 30 June	28	48

Accounting policy

Cost of Acquisition

Historical cost is used for the initial recording of all property, plant and equipment acquisitions. Historical cost is determined as the value given as consideration and costs incidental to the acquisition (such as architects' fees and engineering design fees), plus all other costs incurred in getting the assets ready for use.

Assets acquired at no cost or for nominal consideration, other than from another Queensland Government entity, are recognised at their fair value at date of acquisition.

Plant and Equipment

Plant and equipment, is measured at historical cost in accordance with Queensland Treasury's Non-Current Asset Policies for the Queensland Public Sector. The carrying amounts for such plant and equipment is not materially different from their fair value.

Items of plant and equipment with a cost or other value equal to or in excess of \$5,000 are recognised in the year of acquisition. Items with a lesser value are expenses in the year of acquisition.

Depreciation Expense

Property, plant and equipment is depreciated on a straight-line basis so as to allocate to the Office the net cost, less any estimated residual value, progressively over its estimated useful life. The estimated useful lives of property, plant and equipment are assessed annually.

Key Judgement: Straight line depreciation is used as that is consistent with the even consumption of service potential of these assets over their useful life to the Office.

Depreciation rates for each class of depreciable asset (including significant identifiable components):

Class	Rate%
Plant and Equipment:	
Office Equipment	25%
Audio visual equipment	25%
Leasehold improvement	20%

Impairment

All non-current physical assets are assessed for indicators of impairment on an annual basis. If an indicator of possible impairment exists, the Office determines the asset's recoverable amount. Any amount by which the asset's carrying amount exceeds the recoverable amount is recorded as an impairment loss.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

	2021 \$'000	2020 \$'000
11. Payables		
Trade and other creditors	390	316
Accrued expenses	58	120
Total	448	436

Accounting policy

Trade creditors are recognised upon receipt of the goods or services ordered and are measured at the nominal amount i.e. agreed purchase/contract price, gross of applicable trade and other discounts. Amounts owing are unsecured.

	2021 \$'000	2020 \$'000
12. Accrued Employee Benefits		
Salary and wages related	33	272
Annual leave levy payable	395	409
Long service leave levy payable	91	71
Superannuation	4	0
Parental leave payable	3	13
Total	526	765

Accounting policy

No provision for annual leave or long service leave is recognised in the Office's financial statements as the liability is held on a whole-of-government basis and reported in those financial statements pursuant to AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

13. Contingencies

	2021 Number of cases	2020 Number of cases
As at 30 June there are:		
Director of Proceeding (DoP) matters which have been heard but are awaiting a decision by Queensland Civil Administrative Tribunal (QCAT).	2	5
Judicial review matter which has been heard but is awaiting a decision by Supreme Court	1	-
Filed in QCAT but not yet heard	104	108
Immediate Action review matters which have been filed in QCAT but not yet heard	1	7
Total	108	120

It is not possible to make a reliable estimate of the final amount payable, if any, in respect of the litigation before the courts at this time.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

14. Financial Risk Disclosures

(a) Financial Instrument Categories

The Office has the following categories of financial assets and financial liabilities:

Financial Assets	Note	2021 \$'000	2020 \$'000
<hr/>			
Financial Assets			
Cash and cash equivalents	8	849	822
Financial assets at amortised cost:			
Receivables	9	567	351
Total Financial Assets		1,416	1,173
<hr/>			
Financial Liabilities			
Financial liabilities at amortised cost:			
Payables	11	448	436
Total Financial Liabilities at amortised cost		448	436
<hr/>			

Accounting Policy

Recognition

Financial assets and financial liabilities are recognised in the Statement of Financial Position when the Office becomes party to the contractual provisions of the financial instrument.

No financial assets and financial liabilities have been offset and presented net in the Statement of Financial Position.

The Office does not enter into transactions for speculative purposes, nor for hedging.

(b) Risks Arising From Financial Instruments

Risk Exposure

The Office's activities expose it to a variety of financial risks - credit risk, liquidity risk and market risk.

Financial risk management is implemented pursuant to Queensland Government and Office policy. These policies provide the principals for overall risk management as well as specific areas, and seek to minimise potential adverse effects on the financial performance of the Office.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

14. Financial Risk Disclosures (continued)

(b) Risks Arising From Financial Instruments (continued)

The Office provides written principles for overall risk management, as well as policies covering specific areas.

The Office's activities expose it to a variety of financial risks as set out in the following table:

Risk Exposure	Definition	Exposure
Credit Risk	Credit risk exposure refers to the situation where the Office may incur financial loss as a result of another party to a financial instrument failing to discharge their obligation.	The Office is exposed to credit risk in respect of its receivables (Note 9). No financial assets are past due or impaired.
Liquidity Risk	The risk that the Office may encounter difficulty in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset.	The Office is exposed to liquidity risk in respect of its payables (Note 11).
Market Risk	<p>The risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risk: currency risk, interest rate risk and other price risk.</p> <p><i>Interest rate risk</i> is the risk that the fair value of future cash flows of a financial instrument will fluctuate because of changes in market interest rates.</p>	<p>The Office does not trade in foreign currency and is not materially exposed to commodity price changes or other market prices.</p> <p>The Office is exposed to interest rate risk on the cash held. Changes in interest rates have a minimal effect on the Office's operating results.</p>

The Office measures risk exposure using a variety of methods as follows:

Risk Exposure	Measurement Method	Risk Management Strategies
Credit risk	Ageing analysis, earnings at risk	The Office proactively pursues the recoverability of monies owed to them. Exposure to credit risk is monitored on an ongoing basis.
Liquidity risk	Sensitivity analysis	The Office reduces exposure to liquidity risk by ensuring the Office has sufficient funds available to meet employee and supplier obligations as they fall due. This is achieved by ensuring that minimum levels of cash are held within the various bank accounts.
Market risk	Interest rate sensitivity analysis	The Office does not undertake any hedging in relation to interest risk. The Office reduces its exposure to market risk by holding cash funds in Australian Financial Institutions.

(c) Credit Risk Disclosures

Credit risk management practices

The Office considers financial assets that are over 30 days past due to have significantly increased in credit risk, and measures the loss allowance of such assets at lifetime expected credit losses instead of 12-month expected credit losses. The exception is trade debtors (Note 9), for which the loss allowance is always measured at lifetime expected credit losses.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

14. Financial Risk Disclosures (continued)

All financial assets with counterparties that have a high credit rating are considered to have a low credit risk. This includes receivables from other Queensland Government agencies and Australian Government agencies. The Office assumes that credit risk has not increased significantly for these low credit risk assets.

The Office typically considers a financial asset to be in default when it becomes 90 days past due. However, a financial asset can be in default before that point if information indicates that the office is unlikely to receive the outstanding amounts in full. The Office's assessment of default does not take into account any collateral or other credit enhancements.

15. Events Occurring after Balance Date

There were no significant events occurring after balance date.

16. Budgetary Reporting Disclosures

Explanation of Major Variances - Statement of Comprehensive Income

(a) Other revenue

The variance of \$151K is a result of unbudgeted fines awarded by the Queensland Civil and Administrative Tribunal (QCAT).

(b) Employee expenses

The variance of \$738K is a result of lower staff numbers throughout the financial year. The equivalent of 4 positions that undertake non statutory functions were held vacant to cover unfunded business critical IT projects (refer to 16(c) below).

(c) Supplies and services

The variance of \$425K relates to: a continuation of higher legal fees and QCAT fees incurred as the Director of Proceedings cleared a backlog of cases; and an increase in information technology (IT) expenses incurred to implement legislative amendments taking effect in December 2021, and to renew ageing business critical IT infrastructure.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

17. Key Management Personnel (KMP) Disclosures

Details of Key Management Personnel

The Office's responsible Minister is identified as part of the Office's KMP, consistent with additional guidance included in the revised version of AASB 124 *Related Party Disclosures*. This Minister is the Minister for Health and Ambulance Services - Yvette D'Ath.

The following details for non-Ministerial KMP reflect those positions that had authority and responsibility for planning, directing and controlling the activities of the Office during 2020-21 and 2019-20. Further information on these positions can be found in the body of the Annual Report under the section relating to Executive Management.

Position	Position Responsibility
Health Ombudsman	The Health Ombudsman oversees the administration and performance of the Office of the Health Ombudsman's functions, including the receipt, assessment, resolution and investigation of health service complaints.
Executive Director, Assessment & Resolution	The Executive Director, Assessment & Resolution manages the triage and assessment unit and the resolution and conciliation unit.
Executive Director, Investigations	The Executive Director, Investigation manages the investigations unit and the audit and compliance unit.
Director of Proceedings (statutory position) and Executive Director, Legal Services ⁽¹⁾	The Director of Proceedings (DoP) is appointed under the <i>Health Ombudsman Act 2013</i> and is independent from the Health Ombudsman. The DoP decides whether a matter should be referred to QCAT. The Executive Director, Legal Services oversees the Legal Services division which provides a range of legal services to the OHO and prosecutes matters referred to QCAT by the Director of Proceedings (DoP).
Director of Proceedings ⁽¹⁾	The Director of Proceedings independently assesses the merits of an investigation and determines when the matter is suitable to be referred to the Queensland Civil and Administrative Tribunal for a determination.
Executive Director, Legal Services ⁽¹⁾	The Executive Director, Legal Services manages the provision of support and advice with regard to internal legal matters and ensures adherence to the legislative procedures outlined in the <i>Health Ombudsman Act 2013</i> .
Executive Director, Corporate and Strategic Services	The Executive Director, Corporate and Strategic Services manages the corporate support services, policy and stakeholder engagement strategy and coordination of the Office.
Director, Corporate and Strategic Services ⁽²⁾	The Director, Corporate and Strategic Services manages the corporate support services of the Office.

(1) In 2019-20 these two positions were occupied by two different lawyers to create capacity for the DoP to manage a backlog of matters. The substantive holder of both positions has now reverted back to holding both positions.

(2) This position was abolished effective from 26 March 2020.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

17. Key Management Personnel (KMP) Disclosures (continued)

KMP remuneration policies

Ministerial remuneration entitlements are outlined in the Legislative Assembly of Queensland's Members' Remuneration Handbook. The Office does not bear any cost of remuneration of Ministers. The majority of Ministerial entitlements are paid by the Legislative Assembly, with the remaining entitlements being provided by Ministerial Services Branch within the Department of the Premier and Cabinet. As all Ministers are reported as KMP of the Queensland Government, aggregate remuneration expenses for all Ministers is disclosed in the Queensland General Government and Whole of Government Consolidated Financial Statements, which are published as part of Queensland Treasury's Report on State Finances.

Remuneration policy for the Office's KMP is set by the Queensland Public Service Commission as provided for under the *Public Service Act 2008*. Individual remuneration and other terms of employment (including motor vehicle entitlements and performance payments if applicable) are specified in employment contracts.

Remuneration expenses for those KMP comprise the following components:

***Short term employee expenses*, including:**

- salaries, allowances and leave entitlements earned and expensed for the entire year, or for that part of the year during which the employee occupied a KMP position;
- performance payments recognised as an expense during the year; and
- non-monetary benefits - consisting of provision of vehicle together with fringe benefits tax applicable to the benefit.

Long term employee expenses include amounts expensed in respect of long service leave entitlements earned.

Post-employment expenses include amounts expensed in respect of employer superannuation obligations.

Termination benefits include payments in lieu of notice on termination and other lump sum separation entitlements (excluding annual and long service leave entitlements) payable on termination of employment or acceptance of an offer of termination of employment.

Performance Payments

No performance payments were made to the key management personnel of the Office.

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

17. Key Management Personnel (KMP) Disclosures (continued)

Remuneration Expenses

The following disclosures focus on the expenses incurred by the Office attributable to non-Ministerial KMP during the respective reporting periods. The amounts disclosed are determined on the same basis as expenses recognised in the statement of comprehensive income.

2020-21

Position	Short Term Employee Expenses		Long Term Employee Expenses \$'000	Post-Employment Expenses \$'000	Termination Benefits \$'000	Total Expenses \$'000
	Monetary Expenses \$'000	Non-Monetary Benefits \$'000				
<i>Health Ombudsman</i>						
Current	398	6	9	48	-	461
<i>Executive Director, Assessment & Resolution</i>						
Current	194	6	5	20	-	225
<i>Executive Director, Investigations</i>						
Current	197	6	7	21	-	231
Relieving	9	-	-	1	-	10
<i>Executive Director, Legal Services & Director of Proceedings</i>						
Current	191	6	4	20	-	221
Relieving	25	-	1	3	-	29
<i>Executive Director, Corporate & Strategic Services</i>						
Current	198	-	5	21	-	224
Total Remuneration	1,212	24	31	134	-	1,401

2019-20

Position	Short Term Employee Expenses		Long Term Employee Expenses \$'000	Post-Employment Expenses \$'000	Termination Benefits \$'000	Total Expenses \$'000
	Monetary Expenses \$'000	Non-Monetary Benefits \$'000				
<i>Health Ombudsman</i>						
Current	384	5	9	49	-	447
Temporary Relieving	30	-	1	3	-	34
<i>Executive Director, Assessment & Resolution</i>						
Current	74	-	2	7	-	83
Former	130	2	3	14	-	149
<i>Executive Director, Investigations</i>						
Current	202	4	5	15	-	226
<i>Director of Proceedings</i>						
Current	198	4	5	22	-	229
<i>Executive Director, Legal Services</i>						
Former	49	-	21	11	-	81
<i>Executive Director, Corporate & Strategic Services</i>						
Current	63	-	2	7	-	72
<i>Director, Corporate and Strategic Services</i>						
Former	106	-	2	12	-	120
Total Remuneration	1,236	15	50	140	-	1,441

Office of the Health Ombudsman

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS 2020-21

18. Related Party Transactions

Transactions with people/entities related to KMP

There were no transactions with people or entities related to our KMP.

Transactions with other Queensland Government-controlled entities

The Office received funding from Queensland Health. The funding provided is predominately for operational requirements and management of complaints against registered and unregistered practitioners (refer Note 4).

The Office transacts with the Department of Energy and Public Works for accommodation services (Queensland Government Accommodation Office) and Qfleet vehicle services (refer Note 6).

The Office has a service level agreement with the Corporate Administration Agency (refer Note 6 - Corporate service charges).

19. Future Impact of Accounting Standards Not Yet Effective

At the date of authorisation of the financial report, all Australian accounting standards and interpretations with future effective dates are either not applicable to the Office's activities or have no material impact on the Office.

20. Climate Risk Disclosure

Current Risk Assessment

The Office has not identified any material climate related risks relevant to the financial report at the reporting date, however constantly monitors the emergence of such risks under the Queensland Government's Climate Transition Strategy.

**Management Certificate
for the Office of the Health Ombudsman**

These general purpose financial statements have been prepared pursuant to section 62(1) of the *Financial Accountability Act 2009* (the Act), section 39 of the *Financial and Performance Management Standard 2019* and other prescribed requirements. In accordance with section 62(1)(b) of the Act we certify that in our opinion:

- (a) the prescribed requirements for establishing and keeping the accounts have been complied with in all material respects; and
- (b) the financial statements have been drawn up to present a true and fair view, in accordance with prescribed accounting standards, of the transactions of the Office of the Health Ombudsman for the financial year ended 30 June 2021 and of the financial position of the agency at the end of that year; and

We acknowledge responsibility under section 7 and section 11 of the *Financial and Performance Management Standard 2019* for the establishment and maintenance, in all material respects, of an appropriate and effective system of internal controls and risk management processes with respect to financial reporting throughout the reporting period.



Name: Andrew Brown
Title: Health Ombudsman

Date: 10/8/2021



Name: Lisa Pritchard
Title: Executive Director, Corporate & Strategic Services

Date: 10 / 8 / 2021

INDEPENDENT AUDITOR'S REPORT

To the Health Ombudsman of Office of the Health Ombudsman

Report on the audit of the financial report

Opinion

I have audited the accompanying financial report of the Office of the Health Ombudsman.

In my opinion, the financial report:

- a) gives a true and fair view of the entity's financial position as at 30 June 2021, and its financial performance and cash flows for the year then ended
- b) complies with the *Financial Accountability Act 2009*, the *Financial and Performance Management Standard 2019* and Australian Accounting Standards.

The financial report comprises the statement of financial position as at 30 June 2021, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, notes to the financial statements including summaries of significant accounting policies and other explanatory information, and the management certificate.

Basis for opinion

I conducted my audit in accordance with the *Auditor-General Auditing Standards*, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of my report.

I am independent of the entity in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to my audit of the financial report in Australia. I have also fulfilled my other ethical responsibilities in accordance with the Code and the *Auditor-General Auditing Standards*.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of the entity for the financial report

The Health Ombudsman is responsible for the preparation of the financial report that gives a true and fair view in accordance with the *Financial Accountability Act 2009*, the *Financial and Performance Management Standard 2019* and Australian Accounting Standards, and for such internal control as the Health Ombudsman determines is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

The Health Ombudsman is also responsible for assessing the entity's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless it is intended to abolish the entity or to otherwise cease operations.

Auditor's responsibilities for the audit of the financial report

My objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances. This is not done for the purpose of expressing an opinion on the effectiveness of the entity's internal controls, but allows me to express an opinion on compliance with prescribed requirements.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the entity.
- Conclude on the appropriateness of the entity's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. I base my conclusions on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Health Ombudsman regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Statement

In accordance with s.40 of the *Auditor-General Act 2009*, for the year ended 30 June 2021:

- a) I received all the information and explanations I required.
- b) I consider that, the prescribed requirements in relation to the establishment and keeping of accounts were complied with in all material respects.

Prescribed requirements scope

The prescribed requirements for the establishment and keeping of accounts are contained in the *Financial Accountability Act 2009*, any other Act and the *Financial and Performance Management Standard 2019*. The applicable requirements include those for keeping financial records that correctly record and explain the entity's transactions and account balances to enable the preparation of a true and fair financial report.



David Toma
as delegate of the Auditor-General

10 August 2021
Queensland Audit Office
Brisbane

Appendix 4—Open data

Introduction

The following information for 2020–21 is available on the Queensland Government Open Data website at www.data.qld.gov.au:

1. consultancies
2. Queensland Language Services Policy.

The OHO incurred no overseas travel expenditure in 2020–21.

Appendix 5—Compliance checklist

Summary of requirement		Basis for requirement	Annual report reference
Letter of compliance	<ul style="list-style-type: none"> ▪ A letter of compliance from the accountable officer or statutory body to the relevant Minister/s 	ARRs – section 7	Page I
Accessibility	<ul style="list-style-type: none"> ▪ Table of contents ▪ Glossary 	ARRs – section 9.1	Page II Pages 38–39
	<ul style="list-style-type: none"> ▪ Public availability 	ARRs – section 9.2	Inside front cover
	<ul style="list-style-type: none"> ▪ Interpreter service statement 	<i>Queensland Government Language Services Policy</i> ARRs – section 9.3	Inside front cover
	<ul style="list-style-type: none"> ▪ Copyright notice 	<i>Copyright Act 1968</i> ARRs – section 9.4	Inside front cover
	<ul style="list-style-type: none"> ▪ Information Licensing 	<i>QGEA – Information Licensing</i> ARRs – section 9.5	Inside front cover
General information	<ul style="list-style-type: none"> ▪ Introductory Information 	ARRs – section 10	Pages 1–5
Non-financial performance	<ul style="list-style-type: none"> ▪ Government's objectives for the community and whole-of-government plans/specific initiatives 	ARRs – section 11.1	Page 4
	<ul style="list-style-type: none"> ▪ Agency objectives and performance indicators 	ARRs – section 11.2	Pages 4 and 10–26
	<ul style="list-style-type: none"> ▪ Agency service areas and service standards 	ARRs – section 11.3	Pages 10–11 and 31
Financial performance	<ul style="list-style-type: none"> ▪ Summary of financial performance 	ARRs – section 12.1	Page 36
Governance – management and structure	<ul style="list-style-type: none"> ▪ Organisational structure 	ARRs – section 13.1	Pages 6 and 32–33
	<ul style="list-style-type: none"> ▪ Executive management 	ARRs – section 13.2	Pages 32–33
	<ul style="list-style-type: none"> ▪ Government bodies (statutory bodies and other entities) 	ARRs – section 13.3	Not applicable
	<ul style="list-style-type: none"> ▪ Public Sector Ethics 	<i>Public Sector Ethics Act 1994</i> ARRs – section 13.4	Page 35
	<ul style="list-style-type: none"> ▪ Human Rights 	<i>Human Rights Act 2019</i> ARRs – section 13.5	Page 35
	<ul style="list-style-type: none"> ▪ Queensland public service values 	ARRs – section 13.6	Page 4
Governance – risk management and accountability	<ul style="list-style-type: none"> ▪ Risk management 	ARRs – section 14.1	Pages 33–34
	<ul style="list-style-type: none"> ▪ Audit committee 	ARRs – section 14.2	Pages 33–34
	<ul style="list-style-type: none"> ▪ Internal audit 	ARRs – section 14.3	Page 34
	<ul style="list-style-type: none"> ▪ External scrutiny 	ARRs – section 14.4	Pages 34–35
	<ul style="list-style-type: none"> ▪ Information systems and recordkeeping 	ARRs – section 14.5	Pages 29–30

Summary of requirement	Basis for requirement	Annual report reference
Governance – risk management and accountability (continued)	▪ Information Security attestation	ARRs – section 14.6
	▪ Strategic workforce planning and performance	ARRs – section 15.1 Pages 31–32
Governance – human resources	▪ Early retirement, redundancy and retrenchment	Directive No.04/18 Early Retirement, Redundancy and Retrenchment ARRs – section 15.2 Page 31
Open Data	▪ Statement advising publication of information	ARRs – section 16 Page 66
	▪ Consultancies	ARRs – section 33.1 www.data.qld.gov.au
	▪ Overseas travel	ARRs – section 33.2 Not applicable
	▪ Queensland Language Services Policy	ARRs – section 33.3 www.data.qld.gov.au
Financial statements	▪ Certification of financial statements	FAA – section 62 FPMS – sections 38, 39 and 46 ARRs – section 17.1 Page 62
	▪ Independent Auditor's Report	FAA – section 62 FPMS – section 46 ARRs – section 17.2 Pages 63–65

