

# It's OK to complain!

Disability Services Commissioner  
Annual Report 2008





Published by the Victorian Government Office  
of the Disability Services Commissioner,  
Melbourne, Victoria, Australia.

September 2008

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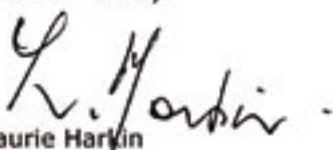
24 September 2008

The Hon. Lisa Neville, MP  
Minister for Community Services,  
Level 22, 50 Lonsdale Street  
MELBOURNE VIC 3000

Dear Minister,

In accordance with s. 19 of the *Disability Act* 2006 I am pleased to submit to you the Disability Services Commissioner's report for the year ended 30 June 2008.

Yours sincerely



Laurie Harkin

**Disability Services Commissioner**

Level 30, 570 Bourke Street Melbourne Vic 3000

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# From the Disability Services Commissioner



I was appointed as Victoria's first Disability Services Commissioner by the Governor in Council in April 2007. The Office of the Disability Services Commissioner (**DSC**) commenced operation on 1 July 2007 in accordance with provisions of the *Disability Act 2006*.

DSC promotes and protects the rights of people receiving disability services in Victoria. It provides an independent and accessible means for people with a disability to make complaints about the services they receive, and works with disability service providers<sup>1</sup> to improve the ways that complaints are responded to at the local level.

In fulfilling our functions, we have committed ourselves to a clear set of values and principles. Our values affirm the rights of people with a disability, treat all people with respect, and ensure that our processes are fair. In accordance with our principles, we seek to be accessible, responsive and accountable, achieving excellence and adhering to the principles of person centredness in our work.

Our message is clear: *It's OK to complain!* Individuals receiving disability services must feel empowered to make complaints so that their concerns can be heard and resolved. Disability service providers need to value complaints as a vital element in improving service outcomes for their clients.

Our message, *It's OK to complain!* informs every aspect of our approach. While anyone can make a complaint to DSC, our processes are always focused on the people receiving disability services and how their issues can be addressed. Throughout assessment, conciliation and investigation of complaints, we encourage service providers to reflect on how the causes of issues raised in complaints can be removed or, at least, minimised.

As well as resolving individual complaints, DSC has a range of other important functions. These include conducting education, training and research to improve complaints systems within disability services. Where complaints are not resolved at the local level, providers may be offered advice to consider ways of improving their complaints systems.

When DSC began operation, we conducted a series of regional forums for disability service providers across Victoria. These forums were attended by more than 500 representatives who offered valuable insights into how service providers manage complaints. Those discussions have guided us in providing advice and assistance to service providers throughout the year and assisting staff at all levels adopt a positive complaints culture.

DSC aims to provide an independent voice for people with a disability. We have delivered the message that *It's OK to complain!* to people with a disability at a wide range of forums and events<sup>2</sup> with service users, including the annual 'Having a Say' Conference.

We have also represented the interests of people with a disability through our participation in legislative forums, and in the strong working relationships we have established with other statutory authorities. These include the Ombudsman Victoria, Victorian Human Rights and Equal Opportunities Commission, Office of the Public Advocate, Child Safety Commissioner, Privacy Commissioner and the Health Services Commissioner.

DSC has made submissions to a range of inquiries and reviews, including:

- the Parliamentary Inquiry into Alternative Dispute Resolution;
- the Review of the Victorian Equal Opportunity Act, and;
- the Parliamentary Inquiry into Vexatious Litigants.

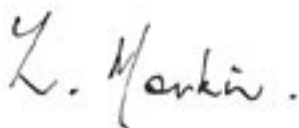
I would like to thank the Disability Services Board for their expertise and commitment to working collaboratively with DSC. We have provided advice to the Board, and have referred issues to the Board for advice. The Act provides us with the scope to conduct inquiries into matters referred to us by the Board, and into broader issues concerning services for persons with a disability arising out of complaints received. We look forward to continuing to work closely with the Board to improve the disability services system.

I also take this opportunity to thank the the Hon. Lisa Neville, Minister for Community Services, for her ongoing support and commitment to the work of this office. I also offer my thanks to the former Minister for Community Services, the Hon. Gavin Jennings, who ushered in the new Act and established the mandate of DSC.

Finally, I would like to acknowledge the contributions made by my staff throughout the year. I appreciate the remarkable commitment and enthusiasm they have demonstrated in the performance of their duties and establishment of the office.

At the end of our first year, this annual report shares some reflections on our achievements and the challenges we have faced so far. As well as information about DSC's work, the report presents data submitted by registered service providers across Victoria on complaints they have received and how those complaints were resolved. These data offer valuable insights into the concerns of people with a disability using disability services and the current status of complaints systems within the Victorian disability services sector.

We anticipate that the information contained in this report will be helpful as we work to consolidate our priorities and objectives for the future, and as we continue to strive for a service system which lets people with a disability know that *It's OK to complain!*



Laurie Harkin

**Disability Services Commissioner**

**‘When people not  
used to speaking out  
are heard by people  
not used to listening  
then real change  
can be made.’**

John O’Brien, International  
commentator and author on person  
centred approaches

1. The term ‘disability service providers’ is used to refer to both the Department of Human Services disability services and registered disability service providers.

2. For a list of services, conferences and forums the DSC has presented to in 2007-08 see Appendix 2



# Disability Services Board: President's Report



The Disability Services Board was established this year under provisions of the Disability Act that came into effect on 1 July 2007. Our first meeting was convened by the Hon. Lisa Neville, Minister for Community Services, and held at Parliament House on 4 October 2007.

The Board consists of 11 people appointed by the Minister, and includes people with experience as disability service providers, people with a disability able to express the interests of disability service users and people independent of the disability services system with expertise of relevance to the work of the Board. The Board also includes members representing the interests of children with a disability, the Health Services Commissioner and the Secretary of the Department of Human Services. The membership of the Board is listed below.

The role of the Board is essentially two-fold: firstly, to advise the Minister on the disability complaints system and the operations of the Disability Services Commissioner and secondly, to provide expertise, guidance and advice to the Commissioner, Laurie Harkin.

Board members spent our first meetings by way of orientation, exploring how we would perform our role and conduct the business of the Board. I am grateful to Robyn Schwarz, President of the Health Services Review Council who assisted the Board with her presentation on the work of the Council and to the Health Services Commissioner Beth Wilson, for her guidance. The Board established a task group to pull together our discussions on the governance framework and produce guidelines which will assist our work into the future. My thanks go to Jenni Sewell and Liz Kelly for their work on this.

From the outset, the Board has worked closely with the Disability Services Commissioner and sought to build a cooperative and productive relationship. Laurie and I have met on a number of occasions to exchange ideas and learnings, which has contributed to a sense that we are working towards the same goals, which benefit people with disabilities in Victoria. I would like to thank Laurie for his reports to Board and the series of presentations made on the emerging work of the Commissioner's Office. This has afforded

Board members an opportunity to provide advice and comment on the development of strategic directions. Thanks to Liz Kelly and Kevin Murphitt for their time and commitment in attending the DSC Planning Workshop and the contributions they made.

The Board was asked to provide advice on the Annual Complaints Data Report which registered disability services are required to submit to the Commissioner on the number and outcome of complaints received in the form prescribed. A task group was established, chaired by Scott Sheppard, which included disability service providers who had nominated at the Regional Forums held by the Commissioner. The task group provided some initial advice on the 2007-2008 annual complaints report templates. It will also consider how useful this data is in identifying trends and contributing to the improvement of the disability service system.

It has been a year of major reform for disability services more generally, with the implementation of new legislative provisions and a significant increase in resources allocated by the Victorian government. The Disability Services Board is pleased to play a productive role in ensuring the disability service system continues to develop and improve in responding to the rights and entitlements, the needs and aspirations of people with a disability using disability services.

After the first year of feeling our way, we need to consolidate our learnings to see whether the legislation is meeting the needs of people with disabilities, so that we can appropriately advise the Minister. We need to ensure that the momentum is maintained so that the needs of the most vulnerable in our community are met. In the next 12 months, we intend to continue to work with the Commissioner and his staff, and to listen to other stakeholders to assist in this process.



Patricia Malowney  
**President Disability Services Board**



## The Board

Under the Disability Act the Disability Services Board has the following functions:

1. Advise the Minister on the disability complaints system and the operations of the Disability Services Commissioner under this Act.
2. Advise the Disability Services Commissioner on issues referred to the Disability Services Board by the Disability Services Commissioner.
3. Provide expertise, guidance and advice to the Disability Services Commissioner.
4. Promote the Disability Services Commissioner and the operations of the Disability Services Commissioner.
5. Subject to the approval of the Minister, refer matters relating to disability services complaints to the Disability Services Commissioner for inquiry.

## Membership

Board members are representatives of disability service providers, disability service users and independent people with relevant expertise in relation to the disability services system. The Board includes representatives of the Health Services Commissioner and of the Secretary, Department of Human Services, and a member who can represent the interests of children with a disability.

Details of the current membership follows.





## **President, Disability Services Board**

**Ms Patricia Malowney** has extensive experience working within both government and community service organisations. Tricia holds a Bachelor of Arts degree. Tricia is Chair of the Board of the Victorian Women with Disabilities Network and is a member of a number of Victorian Government Committees including the Disability Act Disability Advisory Group, Victorian Road Based Public Transport Advisory Committee, the Victorian Disability Advisory Council and the Public Transport Access Committee. Tricia is also co-chair of the Victorian Equal Opportunity and Human Rights Disability Reference Group, and is a representative on the Statewide Family Violence Steering Committee and the Statewide Steering Committee to Prevent Sexual Assault. Tricia has membership of a number of non-Government bodies in Victoria.



**Mr Scott Sheppard** – Scott Sheppard is the Chief Executive Officer, Wallara Australia Ltd. Scott has experience in business and human resource management, health, information technology and other disability and community development and has a Diploma of Business (Community Services and Health Management). Scott was awarded 'Disability Professional of the Year' and recognised for his innovative leadership and creating a vision that inspires and motivates both management and staff to enhance and protect the rights and dignity of the people they support. Scott also has experience of and can represent the interests of children with a disability.



**Ms Elizabeth Anne Bishop** – Ms Bishop is the Chief Executive Officer, St John of God ACCORD. Liz is also a member of a number of Victorian Boards and Committees including National Disability Services State & National, Disability Workforce Advisory Committee & RMIT Course Advisory Committee. Liz has a Graduate Diploma in Business Management - Health and Mental Retardation Nursing qualifications and has skills in business management, health and human resource management. This year, Liz was the recipient of the Harvard Club of Victoria Scholarship, a highly regarded six-day course in 'Strategic Perspectives in Nonprofit Management' at the Harvard Business School, Boston.



**Ms Jennifer Sewell** – Jenni Sewell was the Chief Executive Officer, Pinarc Support Services, St John of God Services Victoria until 9 May 2008, and is now Chief Executive Officer of the John Curtin Memorial Hostel, an aged care facility. Jenni has skills in business management and health and has a formal qualification of Diploma of Management, Advanced Diploma Business (Human Resource Management) and a Diploma of Psychiatric Nursing. Jenni also has experience of and can represent the interests of children with a disability.



**Mr Christian Astourian** – Mr Astourian has been a Diversity and Disability Policy and Communication Officer for 3.5 years which is part of the Migrant Resource Centre North West. Christian has been a Board member of Scope since 2003, is on the City of Melbourne Disability Advisory Council Board. During his 5 years of presidency with the Cerebral Palsy Support Network, Christian created Melbourne's Longest Cake, which is now part of the Food and Wine Festival. Christian is also a diversity consultant and an active public speaker. Christian holds a Bachelor in Computer Science from the University of Melbourne. He is passionate about people and supporting them to achieve their full potential. Christian also speaks Italian, Greek and French fluently.



**Dr Kevin Murfitt** – Dr Murfitt is a lecturer at Deakin University, an expert panel member for the Department of Planning and Community Development ‘Inclusion Action Plan’ and a Committee of Management member for Disability Sports Victoria. Kevin is also the Chair, Vision Australia, Australia’s largest blindness and low vision service, and Chair, World Blind Union, Oceania-Pacific sub region. Kevin has skills in psychology and in disability services provision, and is a Doctor of Philosophy.



**Ms Liz Kelly** – Liz Kelly is currently employed as a consultant at Adult Multicultural Education Services, an independent statutory body that provides education, job network and settlement services. Liz has skills in the areas of human resources, mediation and accounting and has a Bachelor of Business (Accounting), is a Certified Practising Accountant and has a Graduate Certificate in Organisational Psychology. Liz has experience of and can represent the interests of children with a disability. Liz currently holds the position of Treasurer, St Paul’s Parents and Friends and is a member of the Association for Children with a Disability Inc.



**Ms Aileen McFadzean** – Ms McFadzean is currently employed by the Building Commission as a member of the Building Appeals Board. Aileen worked for 12 years as the National Advocate at Blind Citizens Australia. Aileen has a Bachelor of Arts and a Bachelor of Law and has skills in disability law and policy and mediation.



**Dr Chad Bennett** – Dr Chad Bennett is a Consultant Psychiatrist and Clinical Director of the Victorian Dual Disability Service. Chad has qualifications in Medicine and a Bachelor of Science degree. Chad is a member of the Department of Human Services Medical Committee on Client Mortality and is a member of the Management Committee for the Victorian Dual Disability Service.



#### **Representative of the Secretary, Department of Human Services**

**Arthur Rogers** is Executive Director, Disability Services, Department of Human Services and is appointed as representative of the Secretary. Arthur was appointed Executive Director, Disability Services in September 2001. In this role, Arthur has responsibility for leading the ongoing development of a support system for people with a disability, which enhances their independence, choice and community inclusion. Prior to his appointment as Executive Director, Arthur was Assistant Director of the Division. He also has extensive experience as a Regional Director of the Department. Prior to joining the Department, Arthur was the Chief Executive of a Community Health and Aged Care Service.



#### **Representative of the Health Services Commissioner**

**Beth Wilson** is the current and longest serving Health Services Commissioner. Beth has skills in administrative law, mental health law, health law, disability, health and public health. Beth is also a member on an extensive list of Victorian non government bodies. This year, Beth was inducted onto the 2008 Victorian Honour Roll of Women and recognised for her tireless work for improving the quality of health services for all people and her role as an advocate for women’s health issues, both within Australia and Internationally.

# Establishing the Office of the Disability Services Commissioner

The Disability Services Commissioner provides an independent voice for people with a disability using disability services in Victoria. Laurie Harkin was appointed as Victoria's first Disability Services Commissioner on 4 April 2007, by order of the Governor in Council.

The establishment of DSC is part of major reforms enshrined in provisions of the Disability Act, providing for a stronger whole-of-government, whole-of-community response to the rights and needs of people with a disability, and a framework for the provision of high quality disability services and supports.

The Disability Act provides the Commissioner with powers and functions to consider and resolve complaints made about disability service providers. The Commissioner works with people with a disability, and their representatives, to resolve complaints about disability service providers, and assists disability service providers to improve services and service outcomes for people with a disability through better complaints handling systems. The Commissioner commenced his statutory role on 1 July 2007, when the Disability Act came into effect.

DSC was initially based in interim accommodation located at Level 3, 456 Lonsdale Street, Melbourne. When the doors opened on 1 July 2007, Assessment and Conciliation staff had been appointed and operations commenced. The disability services complaints line was established on 1800 677 342 and TTY 1300 726 563. The DSC accessible website was launched at [www.odsc.vic.gov.au](http://www.odsc.vic.gov.au).

In the early period of operation, the Commissioner conducted a series of regional forums with disability service providers across Victoria. At the same time, meetings were held with service users, peak bodies, advocacy networks and self advocacy groups. Posters and brochures were designed and distributed, advising people with a disability using disability services that *It's OK to complain!*

By September 2007, the Capacity Development team was meeting with disability service providers and began exploring ways to improve complaints handling and develop a positive complaints culture.

Office space reserved for DSC became available at Level 30, 570 Bourke Street, Melbourne and the Conciliation team and Capacity Development team were relocated at the end of September, making use of reception, conciliation and meeting room facilities that are shared with the Health Services Commissioner and other statutory boards and panels.

It has been an eventful beginning. This, the Commissioner's first Annual Report, presents information on the year's achievements and some of the challenges faced in that period.

# The Legislative Mandate

The Disability Act aims to improve the quality of service provision for people with a disability. The Act establishes both internal and independent complaints and review processes by:

- establishing an independent Disability Services Commissioner to investigate and conciliate complaints relating to disability services;
- ensuring disability service providers have a system for effectively managing complaints made by people with a disability and their representatives;
- providing additional mechanisms for review by the Victorian Civil and Administrative Tribunal.

## Functions of the Disability Services Commissioner

Under the Disability Act, the Disability Services Commissioner must fulfil the following functions:

1. Investigate complaints relating to disability services.
2. Review and identify the causes of complaints and to suggest ways of removing and minimising those causes.
3. Provide advice or inquire into matters referred by the Minister for Community Services or the Secretary of the Department of Human Services.
4. Conciliate complaints that have been made in relation to registered disability service providers.
5. Take steps to publish and make available in an accessible manner details of complaints procedures.
6. Maintain a record of all complaints received by the Disability Services Commissioner.
7. Publish at prescribed intervals information about complaints.
8. Consider ways of improving disability services complaints systems.
9. Provide advice to the Disability Services Board.
10. Refer issues to the Disability Services Board for advice.
11. Develop programs for persons in the handling of complaints.
12. Determine what action should be taken by a disability service provider where a complaint has been found to be justified.
13. Subject to the approval of the Minister, initiate inquiries into—

- i. matters referred by the Disability Services Board; and
  - ii. broader issues concerning services for persons with a disability arising out of complaints received.
14. Provide education and information about complaints relating to disability services.
  15. Provide training about the prevention and resolution of complaints relating to disability services.
  16. Conduct research into complaints relating to disability services and mechanisms for resolving complaints relating to disability services.
  17. Perform any other functions specified in this Act.

## Complaints Framework

All disability service providers have responsibility under the Act for complaints arising out of the provision of a disability service.

The Act requires that disability service providers:

- develop and operate an internal process for managing complaints about the services;
- report annually to the Disability Services Commissioner about the number of complaints they receive and how these complaints were dealt with;
- take all reasonable steps to ensure that a person using their service is not adversely affected by making a complaint;
- ensure that people using their service know how a complaint can be made about the service provided.

The Act also requires that the Commissioner produce an annual report that includes information about the number and type of complaints and the outcome of complaints, as well as any other information requested by the Minister.

The annual report may also name a disability service provider who has unreasonably failed to take action to remedy a complaint after receiving notice from the Disability Services Commissioner. Before naming a disability service provider, the Commissioner must give notice to the disability service provider to provide an opportunity for the disability service provider to object.

The annual report of the Disability Services Commissioner is submitted to the Minister for Community Services and tabled in Parliament.



# Office of the Disability Services Commissioner

## What we seek to achieve

The Disability Services Commissioner seeks:

- To provide opportunities for people with a disability to have their concerns about disability service providers heard and resolved.
- To promote a quality culture within the Victorian disability services sector, which listens to people with a disability and delivers better service outcomes.

## Our Values

We believe that complaints provide people with a disability and disability service providers with an important opportunity to improve the quality of disability services.

The following values guide the way we approach our work:

### Rights

We uphold the right of people with a disability to complain about the disability services they receive because they are entitled to receive quality services that support their quality of life.

### Respect

We take all complaints seriously and treat all parties to a complaint with dignity, sensitivity and courtesy.

### Fairness

We seek to resolve complaints by having a fair process. All staff will communicate openly and honestly and listen carefully to what all parties have to say about the complaints that are made to DSC. We will remain objective and unbiased in our approach, making sure that we have no conflict of interests.

## Our Principles

The following principles guide our work in a way that is consistent with the values of DSC, the principles contained within the Disability Act, the State Disability Plan 2002–2012, the *Charter of Human Rights and Responsibilities Act* 2006 and UN Convention on the Rights of Persons with Disabilities 2006.

### Accessible

We will be accessible to people with a disability and other key stakeholders through clear and effective communication methods. The information that we provide clearly articulates the right to complain, how complaints can be made, who they can be made to, and how complaints to DSC will be handled.

### Person centred

We will respect and value the knowledge, abilities and experiences of people with a disability and will respond to their complaint in a way that suits their particular needs, wishes and circumstances. In fulfilling our role, we will try to achieve the best possible outcomes for people with a disability.

### Responsive

We will provide timely assistance to people who contact DSC and we will keep all parties informed of the progress of complaints. Our responses will focus on addressing the issues raised in complaints, and not on assigning blame.

### Accountable

We will achieve our objectives in a transparent manner, accepting responsibility for our decisions, being open to appropriate levels of scrutiny and ensuring that any conflicts of interest are disclosed and acted upon. We will report on the operation of our complaints process against documented performance standards and ensure that disability service providers are also accountable in this way. We will provide clear recommendations for any action that may be required to resolve complaints.

### Excellence

We will strive to do our best and continually seek ways to improve how we do things. In doing this we will seek to promote a learning culture within disability service organisations, with the aim of ensuring that complaints are seen as vital to an organisation committed to continuous improvement.



## Our Team Functions

### Conciliation team

The Conciliation team is responsible for assessing, conciliating and investigating complaints made to the Disability Services Commissioner. Assessment Officers receive all enquiries from the public, assess all complaints and, where possible, assist in informally resolving complaints. When a complaint is considered out of scope (not within jurisdiction), information and referrals are provided to assist the person. If an in scope complaint remains unresolved, the Commissioner decides if it should be referred to conciliation or investigation. Conciliation Officers facilitate discussions and exchange of information between the person with a disability and the service provider, in an effort to resolve the issues raised in the complaint. Complaints that cannot be resolved by conciliation may be referred to investigation.

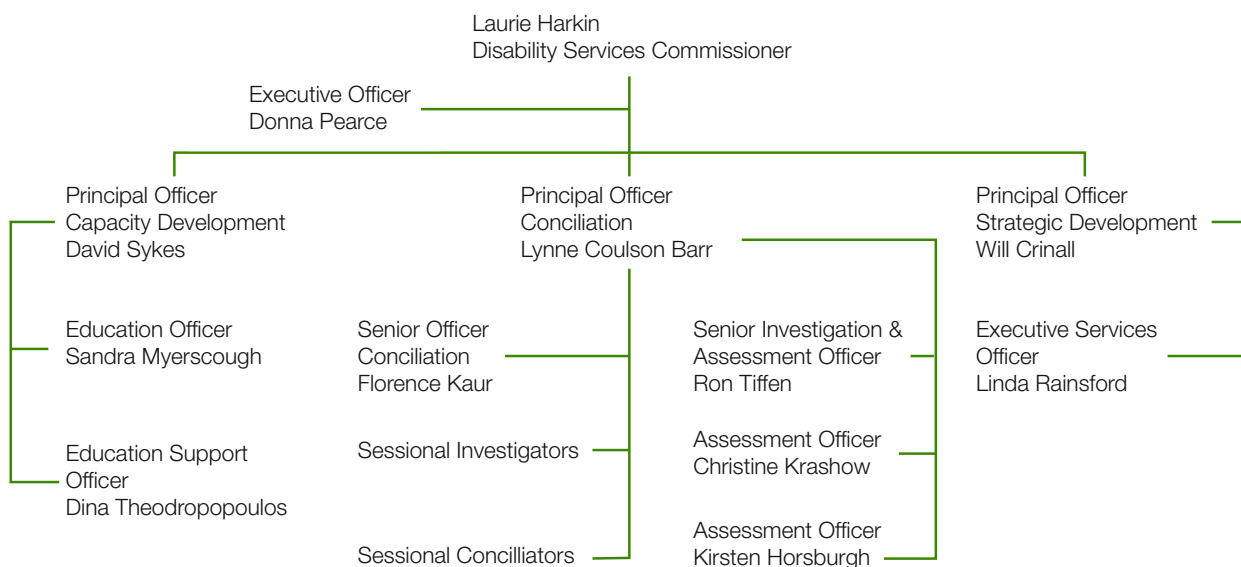
### Capacity Development team

The Capacity Development team is responsible for providing information, education and training about the role of the Disability Services Commissioner. The team also designs and distributes publications, and maintains the DSC website. The other main function of the team is supporting disability service providers to implement effective complaints handling procedures which, in turn, create a culture within their organisations where It's OK to complain!.

### Strategic Development team

The Strategic Development team assists the Commissioner to manage the business processes and other organisational systems required to run the Office effectively, including financial, information technology and people management practices. The team is responsible for the promotion, coordination and support of research and development for the Commissioner and assists in preparation of reports and submissions to Government, Parliament and Departmental reviews. The team also provides executive services to the Disability Services Board.

## Disability Services Commissioner Organisation Chart



The Disability Services Commissioner is supported by eleven staff and a panel of seven sessional conciliators/investigators.

FTE = 10 As at 30 June 2008



# Achievements

This chapter of the report presents an overview of key achievements of the DSC in 2007 – 2008:

- Promoting the message *It's OK to complain!*
- Resolving complaints
- Promoting a positive complaints culture
- Identifying causes of complaints
- Towards a learning organisation
- Advice to government

## It's OK to Complain!

Our message *It's OK to complain!* has been at the forefront of our efforts in 2007-2008. This simple message has been well received by service users and disability service providers alike, including those who participated in a wide range of forums with a total audience close to 1,800 people. The message has served to highlight that service users have not always felt that they have the right to complain about the quality of services they receive, and that in some instances service users have been quite fearful of the perceived consequences of making complaints.

## Resolving complaints

From its first day of operation, DSC has received a steady stream of enquiries and complaints about various issues arising from disability service provision. In total, 311 enquiries and complaints were received in 2007-08. Of these, the proportion of complaints made by people with a disability increased from 8% in the first three months to 21% in the last three months of the year. Enquiries and complaints were also made by a wide range of people on behalf of service users, including parents and other family members (representing 57% of all complaints), lawyers, advocates, staff members, neighbours and friends. Comments from people contacting the office indicated that the message *It's OK to complain!* was being received positively by service users.

The Conciliation team communicated information about making complaints, and referred issues which were outside the scope of the Commissioner's role to other agencies as appropriate. In dealing with people's complaints about disability service providers, the team facilitated the resolution of many issues.

In seeking responses from service providers, DSC assisted providers to focus on what steps could be taken to resolve the issues raised in complaints, and what actions could lead to improved service outcomes for service users. Common factors in the resolution of complaints were:

- Helping the complainant to feel they had been heard and their concerns had been acknowledged
- Facilitating improved communication and agreement on actions.

In order to promote accessibility and effectiveness, the Conciliation team has developed flexible and person centred approaches to the assessment, conciliation and investigation of complaints received by DSC. The team is committed to seeking feedback, and to further developing effective ways of resolving complaints which reflect the values and principles of DSC.

## Promoting a positive complaints culture within the disability service sector

The Commissioner has placed priority on assisting disability service providers to develop or maintain a culture where:

- Service users feel that *It's OK to complain!*
- Staff feel empowered to respond to these complaints
- Management and boards see complaints as vital to improving the quality of the service and ensuring that it is responsive to the needs of service users.

From initial discussions with providers through a series of regional forums we were able to gain an understanding of current approaches to complaint handling in the sector. These forums, together with our ongoing consultation with disability service providers, have enabled us to develop a range of resources to assist the sector to develop and maintain a culture where complaints are viewed positively. We have, for example, developed a guide, self-audit tool and various training packages for disability service provider, which will be launched within the next 12 months.

DSC promotes a person centred approach to complaints handling that is consistent with current trends in disability service delivery worldwide.



## Identifying the causes of complaints

One of the Commissioner's functions is to review and identify the causes of complaints and suggest ways of removing and minimising those causes. The annual report provides an opportunity to review the complaints received by DSC and to identify trends in the complaints reports submitted by registered disability service providers across Victoria.

Complaints made by people receiving disability services tell us about the need to improve certain aspects of the disability service system, especially those factors that restrict the rights and affect the health and wellbeing of people using disability services.

To assist in this work, DSC is establishing a database to analyse annual complaints reports and to identify trends in complaints handling.

In 2007-2008, DSC was also pleased to be approached by several disability service providers seeking assistance to review their complaint handling systems.

## Towards a learning organisation

From the outset, DSC has taken measures to establish itself as a learning organisation which:

- Supports staff development
- Safeguards their well-being
- Promotes reflective practice, team learning and systems thinking to continuously improve our services.

On commencement, our staff receive orientation and induction and are supported to further extend their knowledge, refine their skills and develop their expertise through formal and informal learning opportunities.

In particular, we work to ensure that DSC promotes a person centred approach to complaints handling and capacity development, using person centred thinking tools in all aspects of our work.

## Advice to government

The Commissioner made submissions to the Parliamentary Inquiry into Alternative Dispute Resolution, the Parliamentary Inquiry into Vexatious Litigants, and the review of the Equal Opportunity legislation.

Given the Commissioner's role in promoting the rights of people with a disability, our submissions to the review of the Equal Opportunity legislation argued that people with a disability are often disadvantaged in other areas of their lives as a result of discriminatory attitudes, behaviours and practices. Consequently the review was seen as an important opportunity to strengthen legislation that will promote a fairer and more equal Victoria.

In giving evidence to the Parliamentary Inquiry into Alternative Dispute Resolution, the Commissioner commended the Committee for examining ways of increasing the accessibility of the justice system and non-adversarial options for resolving disputes. The Commissioner highlighted the need for Alternative Dispute Resolution processes to be flexible and adapted to respond to the individual needs and capacity of people with a disability.

# Listening to people with a disability

## It's OK to complain!

The message *It's OK to complain!* has been well received by both service users and disability service providers. It makes it clear that service users have the right to receive a quality service and they have the right to complain if their expectations are not being met. DSC has conducted a number of forums focused on service users, held by VALID<sup>3</sup> and other advocacy groups, as well as disability service providers.

Service user forums have focused on three key messages:

- What is a complaint?
- How do you make a complaint?
- Who can you complain to?

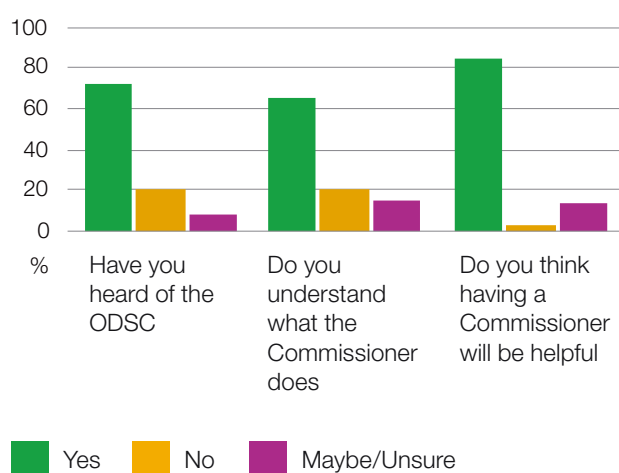
These forums provided an important opportunity for service users to share their own experiences of complaining about a service with which they were unhappy. Unfortunately some participants indicated that they remain too afraid to make a complaint. Their reluctance was often associated with fear of upsetting others or even losing access to the service. Others indicated that in the past, when they had complained they felt no one had listened to their concerns. The message of *It's OK to complain!* can be difficult to convey to those who have been afraid to complain or those whose voices have previously not been heard.

It is, nonetheless, apparent that in some services the message *It's OK to complain!* is part of the organisational culture.

Participants in forums were invited to provide feedback via easy English feedback forms. Feedback from two of these forums is outlined below, however results should be viewed with the following in mind:

- Participants may not have fully understood the questions
- Some participants may have given the answer they thought we wanted rather than the one they actually felt.
- The responses of some participants may have been unintentionally influenced by the fact they received assistance from workers and others

Figure 1: Feedback to service user forums



|                                    |    |
|------------------------------------|----|
| Number of forms completed          | 39 |
| Number of people attended (approx) | 52 |

Participants were encouraged to talk broadly, not just in relation to disability services. Some of the stories people have shared include:

- A young woman who was being bathed by a male carer made a complaint. The disability service provider agreed it was more appropriate to have female carers complete that personal task.
- A person in respite who had his femur broken whilst being lifted took a very long time to be able to trust carers again.
- A person was able to point out to staff that they were placed in the wrong activity and that they wanted to be somewhere else.
- Being refused service in a restaurant because of their disability and because of this not returning to the restaurant.
- Complaining about taxis that were either very late or did not arrive at all.
- Being bullied or abused by the people they live or work with.

Not all participants achieved the outcome that they wanted in making a complaint, but their stories highlighted that they are prepared to stand up for their rights.



Capacity Development team

There were many stories where people had raised a concern but were ignored. In one case a young man said that he did not like to complain because it made him feel sad that no one listened to him when he did.

There was also a strong sense that some people were afraid to complain. Various reasons were given for this, including a fear of losing the service, fear of upsetting their support worker, fear of being seen as a trouble-maker, or fear of some form of retribution. While participants generally viewed the creation of DSC as positive, the likelihood of them complaining to either their service provider or directly to DSC was limited because of these fears.

There is significant work to be done by both service providers and DSC to build a level of trust and confidence among service users that *It's OK to complain!* We are also exploring further ways to involve people with a disability in spreading the message that *It's OK to complain!*

The ways DSC has sought to spread the message that *It's OK to complain!* include talks, publications and our website.

### Talks

- Addressing forums, conferences, annual general meetings, groups of service users, advocates, staff, residents and families at house meetings, with a total combined audience of 1,785.
- We have also participated in *Raising Our Voices* on Radio 3CR, a program run by and for people with a disability.

**Figure 2: Types of Attendees at DSC Talks**

| Audience type   | Audience number | %    |
|---|-----------------|------|
| Service Providers   | 1,272           | 72%  |
| Service Users<br>(includes people with a disability, family and carers) | 513             | 29%  |
| Total   | 1,785           | 100% |

### Publications

- 14,334 publications were distributed to a wide range of service users, disability service providers, advocacy groups and families.

**Figure 3: Publication distribution**

|  |        |
|--|--------|
| <i>It's OK to Complain</i> - Brochures     | 10,998 |
| <i>It's OK to Complain</i> – Plain English | 3,336  |

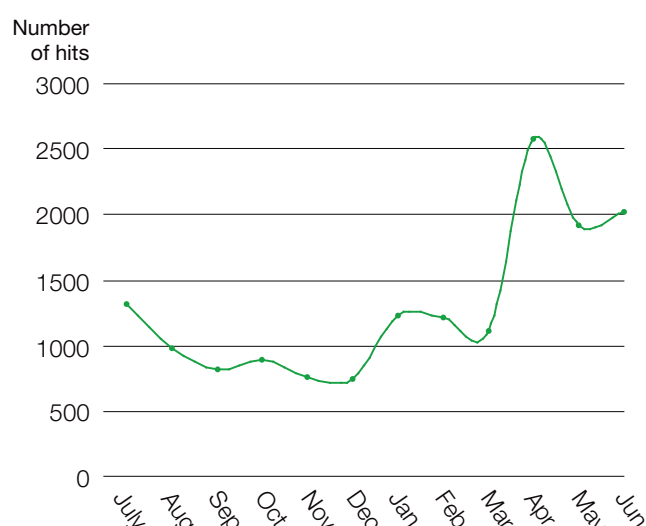
### Website

- The website received a total of 15,575 visits<sup>4</sup> since it commenced operation on 1 July 2007.
- Visits to the website have steadily increased, peaking in April with 2573 visits to the website that month.

See Figure 4: Visits to website.

We will continue to spread the message that *It's OK to complain!*, and look at ways of getting the message to those who may not have heard of DSC or understand their right to complain.

**Figure 4: Visits to website**



3. VALID stands for Victorian Advocacy League for Individuals with Disability Inc. It is an advocacy group for adults with intellectual disabilities and their families.

4. **Definition of a website visit:** A group of transactions between an IP address and the web server. The default visit expires after 15 minutes of inactivity.

# Promoting service improvement and a complaints culture

## Regional forums

As part of the establishment of DSC, regional forums for service providers were held between August and October 2007. Over 500 staff from disability services across the state participated, providing an important opportunity to:

- Introduce the role and functions of DSC to disability service providers
- Provide information about the DSC complaints process
- Develop an understanding of current approaches to complaints handling by disability service providers
- Seek comment on what complaints information would be useful to report to the Commissioner
- Seek comments on how DSC can promote and support improved complaints handling by disability service providers

DSC encourages organisations to reflect on what they are doing well and how this can be applied in their approach to complaints. Through case studies and small group discussion participants shared ideas about effective approaches to complaints handling and identified key elements of a good complaints process:

- Effective communication
- Sound information gathering
- Empowering approach
- Fair, accessible and timely process
- Adequately resourced
- Positive culture

While not all complaints have implications for service improvement, it is encouraging that some providers have been able to make service improvements as a result of receiving a complaint. Comments included:

- Making the process for making complaints more transparent and open
- Empowering all staff to be responsive to complaints through ongoing education, training and support
- Maintaining a culture of opportunity for improvement rather than blame
- As a result of listening to client feedback ended up relocating the service to a more accessible location

Participants identified a range of ways the Commissioner could assist them to improve their approach to handling complaints:

- Providing information and examples of good approaches to complaints handling
- Reporting to the sector on emerging trends arising from complaints handled by both disability service providers and DSC

The forums explored issues related to education and training of disability services staff. A key focus of our work with service providers is to assist them to build a culture where complaints are valued as being a positive and critical component in the ongoing sustainability of disability services.

In summary, the forums helped DSC to understand that disability service providers are at different stages in their approach to complaints, and that training needs to be tailored to suit the specific requirements of an organisation. Some of these insights have informed the development of resources to promote service improvements across the sector.

## Working with disability services to review and improve their complaints handling systems

Complaints system reviews are an important aspect of DSC's work. DSC was pleased to be approached by several disability service providers seeking assistance to review their complaint handling systems. An audit tool developed by the Ombudsman Victoria was initially used to guide reviews, however a sector-specific guide and audit tool is now being developed by DSC and piloted by those organisations who sought assistance. In developing these instruments, in addition to feedback from providers involved in the pilot, DSC has drawn extensively on:

- The experience of a wide range of complaint and review bodies at state and national level
- Input from advocacy groups, peak bodies and the Department of Human Services
- The knowledge of organisations applying a person centred approach.

The reviews undertaken have highlighted that good



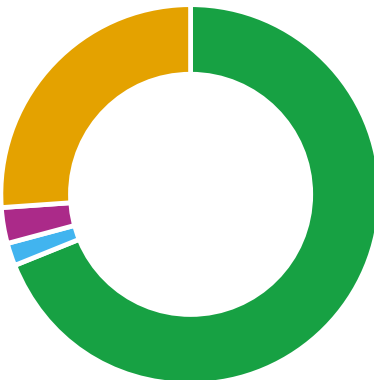


policies and procedures are not necessarily reflected in practice. Equally, services may have a good practice record which is not supported by a good policy framework. The reviews found that an effective complaints system depends to a large extent on level of support and commitment at senior management level, and the perspective that complaints should be welcomed as an opportunity to improve the service.



## Training resources to improve providers' understanding of effective approaches to complaints handling

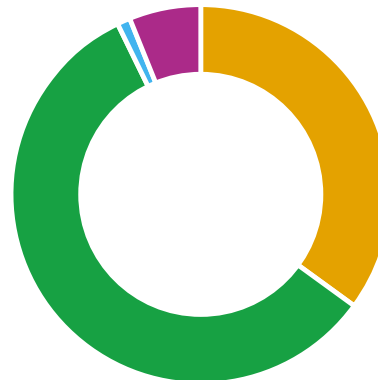
We are developing a series of person centred training modules, designed to assist disability service providers to develop or enhance knowledge and skills to handle complaints effectively. It is planned to offer these programs to service providers in 2008-2009. Tailored programs will be offered as an important way to promote an organisation wide positive complaints culture.



**Figure 5: Summary of feedback to regional forums**

69% Satisfied  
2% Not satisfied  
3% No response  
26% Very satisfied  
0% Not at all satisfied

Number of forms completed 260  
Number of people attended (approx) 500



**Figure 6: Disability Service Providers satisfaction with training**

58% Satisfied  
1% Not satisfied  
6% No response  
35% Very satisfied  
0% Not at all satisfied

Number of forms completed 49  
Number of people attended (approx) 70

# How complaints are managed

The Conciliation team deals with complaints made to the Commissioner. The team assists people wanting to make a complaint, assesses complaints, and works with complainants and service providers to resolve the complaints.

## Receiving complaints

Any person can make a complaint about registered disability services. Most complaints come from people with a disability, their families and carers, advocates or staff working in disability services.

When an enquiry or complaint is first made to the Commissioner, an Assessment Officer will explore whether it is in scope. The Commissioner is only able to consider complaints that are about:

- the provision of a disability service by a registered disability service provider; or
- the way a disability service provider has managed a complaint about a disability service.

If a complaint is out of scope for the Commissioner, the Assessment Officer takes the time to provide information and referrals to assist the person contacting the office to find an avenue to have their concerns addressed.

## Assisting people who make a complaint

The following steps are taken to assist people who make a complaint to the Commissioner:

**Step one** – Checking the complainant's needs and whether a complaint has been made to the service provider

People making complaints are asked if they have raised their concerns with the disability service provider involved. The Assessment Officers explore any difficulties people may have in taking this step, and facilitate contact with the service provider if needed. The Assessment Officers also consider if there are any concerns about the health, safety and welfare of the service user which may affect what steps could be reasonably taken to try to resolve the complaint.

**Step two** – Clarifying issues and outcomes

The Assessment Officers assist complainants to clarify the issues they wish to raise with a service provider

and the outcomes they are seeking. This can involve assistance with putting a complaint in writing, which is one of the requirements of the Disability Act. Some complainants have a clear idea of the issues in their complaint and what they want, while some people are not exactly sure how to express what they want. Part of the Assessment Officer's role is to help complainants to identify the desired outcome. We have found that in general terms, people who complain usually want four things, which we refer to as the four A's:

1. Answer- why has something happened or why was a certain decision made?
2. Acknowledgement- people want to be heard and they want DSC and the disability service provider to understand why something has upset them.
3. Action- people will have in mind a particular change they want to see happen, and that is usually what is written on the complaint form.
4. Apology – People usually want to get on with things and put the past behind them. An apology can assist them to get closure, feel heard and get moving to a better future.

**Step three** – Seeking a response from the service provider and exploring steps to resolve the issues.

Usually the service provider is given the written complaint and requested to provide a response to the Commissioner within 14 days. The main focus of assessment is to see whether the issues can be informally resolved. An informal resolution is where the actions to resolve the complaint are agreed by the complainant and service provider. The Assessment Officers ensure that the complainant and service provider are informed of their respective views then explores steps that might resolve the issues. The Assessment Officers assist the process by helping to identify what is important to and for the person with a disability and ways in which service outcomes could be improved to better meet their needs.

Some complaints can be resolved within 28 days through the provision of the service provider's response. It is more likely that the assessment process takes a longer period of up to 90 days depending on the complexity of the issues.





Conciliation team

## Making decisions on complaints

If a complaint cannot be resolved informally, a decision must be made as to whether the complaint should be formally considered or not. A decision to decline to consider a complaint is made with reference to the circumstances listed in the Disability Act. This includes issues that have already been dealt with by another body, issues that the Commissioner does not have authority to deal with, and issues that are assessed as not warranting any further action or investigation by the Office. A decision to formally consider a complaint means that it will be referred to conciliation or investigation.

## Conciliation of complaints

Conciliators facilitate discussions and exchange of information between the person who made the complaint and the disability service provider with the aim of resolving the issues. The conciliators use a flexible and person centred approach to conciliation which aims to meet the varying needs and capacities of participants. During the conciliation process, the conciliators assist the complainant and service provider to put forward their concerns, listen to each other, discuss the issues in dispute, and explore options to resolve issues and to make decisions in a way that is mutually acceptable and workable for the future.

## Investigation of complaints

Complaints are only referred to an investigation in circumstances where the complaint is assessed as not suitable for conciliation or where conciliation has failed. An investigator collects and assesses information on the issues raised in the complaint, in order to make findings which will assist the Commissioner to determine whether or not a complaint is justified. If the Commissioner decides that the complaint is justified, he must make a decision as to what actions should be taken to remedy the complaint. If at any time during the investigation, it appears that the complaint could be resolved through conciliation, the Commissioner must refer the complaint to conciliation. Throughout the investigation the investigator will consider potential opportunities for the service provider and the complainant to resolve the complaint and discuss these.

## Resolution of complaints

The Conciliation team encourages service providers to continue to work on ways to resolve issues in complaints, through all stages of assessment through to investigation. The Commissioner must stop dealing with complaints that are resolved between the complainant and service provider or if the Commissioner considers that no further action is needed.

# Complaints to the Commissioner

## Enquiries and complaints

This chapter of the report examines complaint trends and themes based on analysis of enquiries and complaints received in the period 1 July 2007–30 June 2008.

Throughout the chapter, case examples are used to illustrate the types of complaints received and actions taken. Details have been altered to protect the privacy and confidentiality of complainants.

### Overview

DSC received a total of 311 enquiries and complaints during its first year of operation, of which 133 proceeded as formal written complaints, while 178 enquiries did not proceed to a complaint being lodged. Enquiries and complaints were made through phone calls, emails, letters, faxes and completed complaint forms. See Figure 7: Breakdown of enquiries and complaints.

Much of the work of the Conciliation team involves responding to calls from people expressing concerns about disability service provision and seeking information and advice as to how these issues can be addressed. Providing an accessible and effective response to an enquiry may take several contacts and/or a meeting with the person making the enquiry. Taking this time is often necessary for the Assessment Officer to get a clear picture of the person's concerns and to explore options for addressing these. The enquiries and complaints received by the Office most often involve a number of issues, a long history and are characterised by an ongoing relationship between the person and service provider, rather than being focussed on a single incident or issue. These characteristics of complaints, thus require an intensity of work that may differ from other bodies dealing with complaints.

### Scope

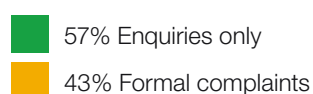
Approximately 20% of the enquiries and complaints were about matters outside the scope of the Commissioner. Under the Disability Act, the Commissioner can only consider complaints about disability services which are either provided directly by the Department of Human Services (the Department) or registered disability service providers. The most common reason for a complaint being out of scope is when the service is not one that is provided by a registered disability service provider. Examples of out of scope enquiries include people seeking assistance about disability related services such as:

- Home and Community Care (HACC) services
- Specialist support within education
- Companion Card
- Disability Employment Services.

DSC appreciates the difficulty people with a disability can have in finding the right door to have their issues addressed, and therefore considers that it has an important role in assisting these callers with appropriate information and referrals.



**Figure 7: Breakdown of enquiries and complaints**

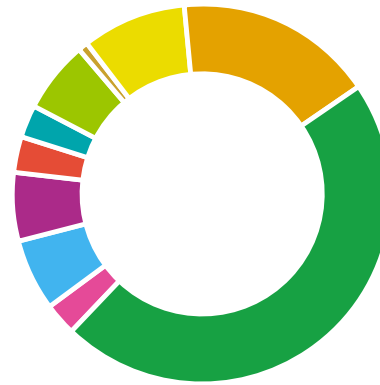




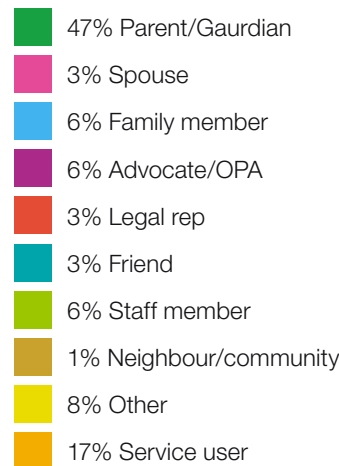
## Who made enquiries and complaints?

The Disability Act states that any person can make a complaint to the Commissioner. Not surprisingly, DSC received enquiries and complaints from a wide range of sources, with almost half being made by parents or guardians. When parents were grouped with other relatives, family members represented over half of all complainants at 56% indicating the significant role family members play in advocating for people with a disability. See Figure 8: Sources of enquiries and complaints.

The second highest source of enquiries and complaints were people with a disability raising issues about their services, accounting for 17% of the total number of enquiries and complaints. DSC is pleased that the proportion of enquiries and complaints being made by service users increased throughout the first year of operation, starting at 8% in the first 3 months and increasing to 21% in the last three months of the year. The DSC aims to increase the accessibility of its service and therefore the proportion of enquiries and complaints being made directly by people with a disability who wish to raise issues about the services they are receiving.



**Figure 8: Sources of enquiries and complaints**




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A father contacted DSC with regard to his concerns about the medical care for his son who is living in a Community Residential Unit. It was a very complex case and multiple parties were involved. There was a long history of the father's quest to gain the best care for his son. The father did not wish to make a formal complaint about the service provider as he was more concerned about medical practitioners involved in diagnosing and managing his son's behaviour. The Assessment Officer was able to provide information and advice regarding the functions of the Health Services Commissioner and the Office of the Senior Practitioner.

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## Characteristics of service users

Enquiries and complaints made to the Commissioner are sometimes made about service provision to more than one service user, such as in the case of siblings or couples. Therefore while a total of 311 enquiries and complaints were received, these involved in total 324 service users. Information on service users is recorded if volunteered by the complainant, and additional information is only sought as required to deal with the complaint.

Almost two-thirds of the service users were male, while 38 % were female. See Figure 9: Gender of service users.

The majority of service users ranged from 16 to 60 years, with similar numbers of enquiries and complaints being made in respect of the three main groups of 16-25 years, 26-30 years and 31-60 years. Only 8% of enquiries and complaints were made in respect of services for children aged 10 years and under. See Figure 10: Age of service users.

Issues relating to the transition from school and child focused services to adult services featured in a number of enquiries and complaints relating to service users in the 16 to 25 year age group.

Almost half of all enquiries and complaints were about services provided to people with an intellectual disability. Many service users were identified as having more than one disability or impairment, such as intellectual disability with autism or a mental illness. While these disabilities are not included in the definition of disability under the Disability Act, these conditions can impact on a person's access to services or the nature of service that they require. Figure 11 shows the proportion of service users being identified as having a particular disability, with some service users being included more than once due to multiple disabilities.

13% of service users had a physical impairment, and 11% having autism, usually in association with an intellectual disability. Smaller proportions of service users were identified as having a neurological impairment (5%), sensory impairment (2%) or an acquired brain injury (3%). See Figure 11: Types of Disability.



Figure 9: Gender of service users

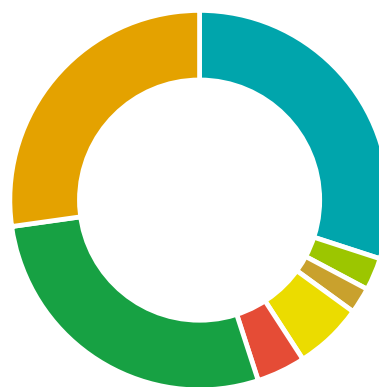
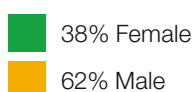


Figure 10: Age of service users





A complaint was received by DSC from a parent who was supporting her son in the process of transition from school to a day service. Much distress and frustration had been experienced by the young person and his family in the application and intake phase of the move to the day service. The complaint focussed on planning, communication and decision making by the service. The service provider was able to respond to the issues and improve communication with the family. DSC suggested that the service provider could learn from this complaint and potentially improve their service so that similar experiences are avoided in the future.

## Types of services and issues

Enquiries and complaints were received about disability services provided by the Department as well as those provided by Community Service Organisations (CSOs). 77% of enquiries and complaints were about these disability services. The remainder of enquiries and complaints were about other service providers outside the scope of the Commissioner. Enquiries and complaints were received about service providers located in each of the regions across Victoria. See Figure 12: Region of enquiries and complaints.

People making enquiries and complaints were concerned about issues arising from a range of different types and combinations of services. Issues arising from services provided to residents in shared supported accommodation or community residential units were the most common subject of enquiries and complaints, representing 27%, followed by concerns about case management, respite, day programs, attendant care and planning. See figure 13: Types of disability service.

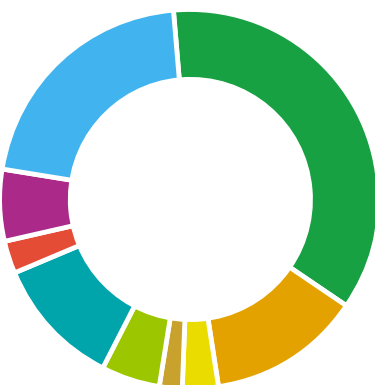


Figure 11: Types of Disability

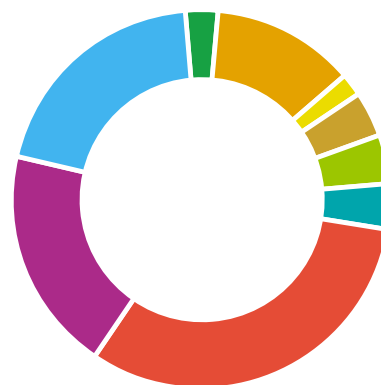
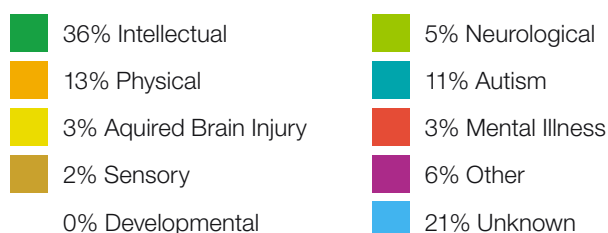
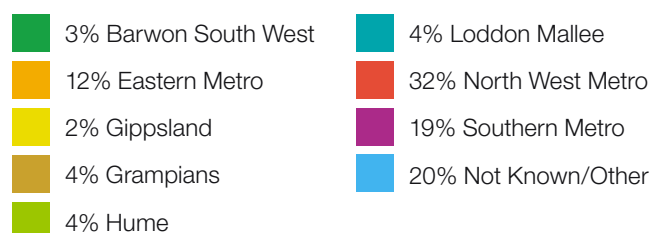


Figure 12: Region of enquiries and complaints



While each enquiry and complaint involves unique circumstances and concerns, types of issues can broadly be grouped in eight key areas:

- Communication
- Human Resources
- Legislation
- Privacy/Breach of Confidentiality
- Relationships
- Service Access
- Service Provision
- Service Quality.

A common theme underlying most enquiries and complaints concerned communication. Communication issues ranged from misunderstandings or unclear information about services through to communication breakdown and serious conflicts between the service user or family and the service provider. 19% of enquiries and complaints identified communication issues as part of the complaint, although such issues were often a component of complaints about various aspects of service provision and service quality.

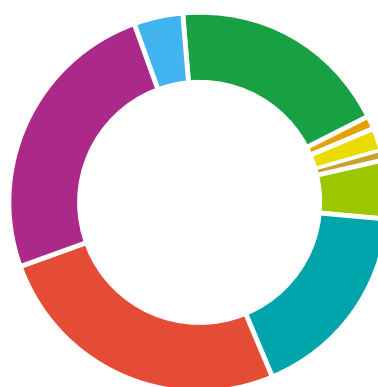
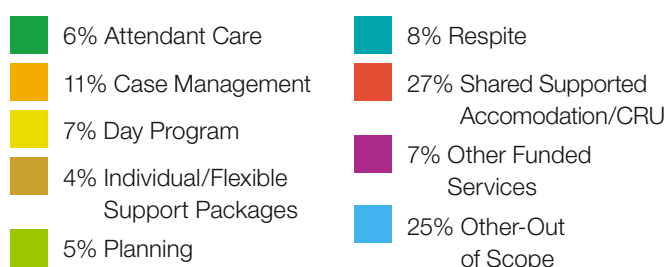
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A woman contacted DSC to express her dissatisfaction regarding case management for her daughter and availability of services. She wanted more flexible ways to utilise her daughter's Individualised Support Package and more culturally sensitive support services. Through the assessment phase an alternative provider was identified and selected by the family. The Assessment Officer assisted by working with the family and the service provider. Alternative ways of managing the allocation of hours and payments were negotiated. Together they found a way to access services that were acceptable to the family and funding requirements. The family was able to change to this service and continue to access services which enabled their daughter to live at home.

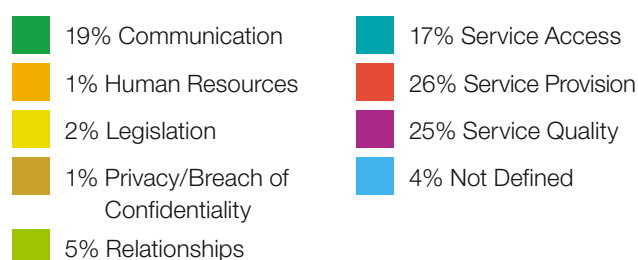
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**Figure 13: Types of disability service**



**Figure 14: Types of issues in enquiries and complaints**







Complaints about service provision (26%) and service quality (25%) were wide ranging and included issues relating to:

- Reliability and quality of attendant care
- Administration of medication
- Assessment of needs and planning
- Managing competing needs of residents in shared supported accommodation.

Concerns about service access featured in 17% of enquiries and complaints, with complaints about access to shared supported accommodation and respite being the most common. The Commissioner does not have jurisdiction in relation to decisions about access to services or allocation of resources such as places in community residential units or respite facilities. The assessment of these complaints can however consider related matters such as assessment of needs and planning, review of current supports, and issues of communication between complainants and disability service provider on these matters.

Complaint issues grouped under legislation included:

- Application of the residential provisions of the Disability Act
- Decisions as to whether a person has a disability under the Act
- Assessment processes for determining whether a person should be subject to a Supervised Treatment Order under the Act.

Complaints about human resources included concerns about staff ratios, competencies and training, whilst complaints about privacy and confidentiality dealt with specific incidents of alleged breaches. Relationship issues included concerns about the way in which the service provider handled relationships with the service users and their families or relationships between service users. See Figure 14: Types of issues in enquiries and complaints.

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‘Julia’ is a young woman with a mild intellectual disability who asked an advocacy service to assist her make a complaint to DSC as she was very dissatisfied with the attendant care she was receiving. She said that the carers would often not arrive or would be very late, and that there were too many changes in the carers. There were several other things that she was unhappy about. In discussion between Julia, the DSC Assessment Officer and the advocate, it was decided that Julia would contact the service provider to make a complaint directly. This was a huge challenge to Julia as she appreciated the assistance the agency had provided her over the years and she had a strong fear that she might be punished or excluded by the agency. Julia lacked confidence and was confused by the provider’s complaint processes.

Julia said she would feel much better if DSC was supporting her, and a strategy was agreed as to how that would happen. The Assessment Officer gave Julia the choice whether to make the complaint directly to DSC, or the preferred option of Julia taking the issues to the agency with the assistance of the advocate and the support and guidance of DSC. Julia found the agency manager to be most helpful and responsive. The action of making the complaint and getting an outcome through her own initiative was a powerful experience for Julia.

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## Outcomes

In dealing with enquiries and complaints, the Assessment Officer's focus is on how the issues impact on the person with a disability and on ways in which these issues could be addressed and resolved. The Assessment Officer's role often involves facilitating ways in which communication can be improved, identifying information required to resolve issues and exploring actions that could be taken to address complainants' concerns. Complainants often indicate a need for their concerns to be heard and acknowledged by service providers.

### Outcomes for enquiries only:

Almost a half of the 178 enquiries received about disability service providers were addressed through the provision of information and assistance in clarifying concerns and steps that could be taken. Assessment Officers often assist people to feel more confident to raise their concerns with their service provider. Where appropriate, the Assessment Officer will directly assist people to make their complaint to the service provider, which occurred in 7% of enquiries. Over a third of enquiries were about issues that were out of scope of the Commissioner and involved the provision of information and appropriate referrals. See Figure 15: Outcomes for enquiries only.

### Outcomes for complaints received:

Of the 133 formal complaints made to the Commissioner, 20 were informally resolved during the assessment process, with the complainant being satisfied that their issues had been addressed by the service provider. Thirty complaints were formally considered, whilst decisions were made to stop dealing with a further 22 complaints due to either changes of circumstances, the issues being substantially addressed or the complaint being withdrawn. Decisions were made to not consider 39 of the complaints, for a range of reasons discussed below. See Figure 16: Outcomes for complaints received.

An advocate contacted DSC to ask for a complaint to be addressed with regard to a history of unresolved issues between a Service Provider and the mother of a man in his 30's, who attends a recreation service in Victoria. As a result of the complaint the mother received an apology and gained information about Privacy Victoria and how she could pursue the issues that were outside the scope of DSC.

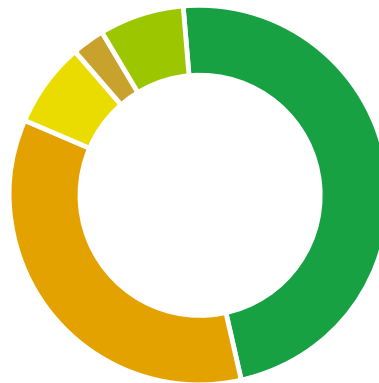


Figure 15: Outcomes for enquiries only

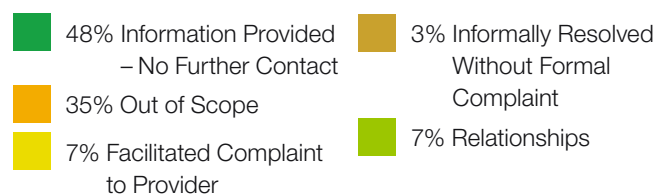


Figure 16: Outcomes for complaints received





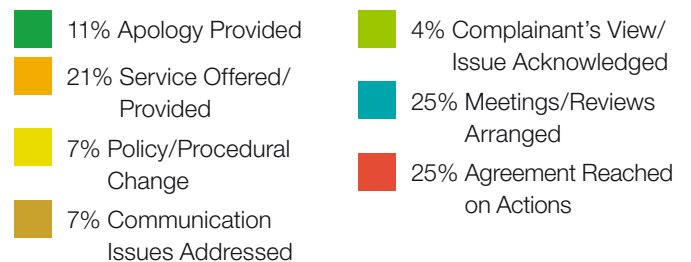
### Informal resolution of complaints

In attempting to informally resolve complaints, Assessment Officers assist service providers to identify what steps could be taken to resolve the issues raised in complaints, and what actions could lead to improved service outcomes for service users. Helping the complainant to feel heard and their concerns acknowledged, facilitating improved communication and agreements on actions are common factors in the resolution of complaints.

Informal resolution of complaints often involves a combination of factors, the most common being agreements reached on actions and arrangements made for meetings or reviews on the matters in dispute. The provision of a particular type of service assisted the resolution on 21% of complaints, while provision of an apology and acknowledgement was a key factor in 11% of complaints. Assessment Officers use a range of skills to identify the key and underlying issues in a complaint and ways in which a complaint may be informally resolved. See Figure 17: Factors in informal resolution of complaints.



**Figure 17: Factors in informal resolution of complaints**



A father made a complaint to DSC about a service provider's decision to reduce the number of support worker hours his daughter would receive to attend weekly medical treatment appointments. The father was not happy with the decision as he stated his daughter was incapable of travelling to and from the medical centre unaccompanied and needed support whilst undergoing treatment as she became anxious and upset.

The service provider advised the Assessment Officer that the decision was based on funding availability and the view that, with training and perhaps engaging a volunteer, the service user could become sufficiently independent to obtain her treatment without paid support.

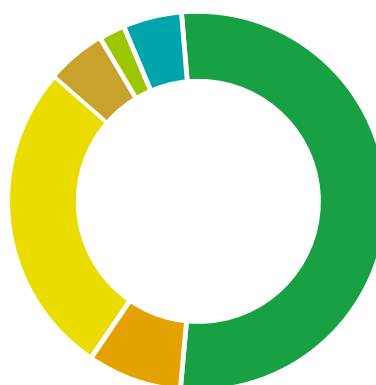
The service provider was asked to consider supporting documentation provided by the father, which included assessments of his daughter's needs. DSC negotiated with both the complainant and the service provider to obtain a fair and workable solution. The service provider agreed with the need to continue to provide support with a plan to review this need annually. The parties agreed to work together on ways to develop the woman's independence and coping skills. The father was happy with the way DSC informally resolved his complaint.

### Complaints not considered

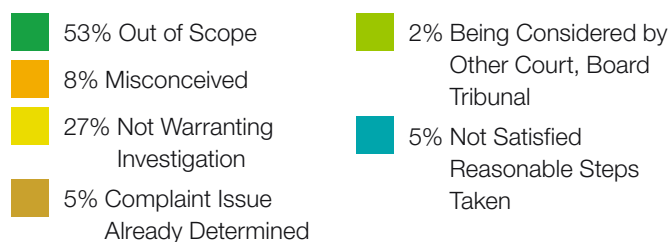
Thirty nine (29%) complaints could not be informally resolved and decisions were made to decline to consider them.

- More than half of these complaints were assessed as being out of scope for the Commissioner.
- Twelve (27%) were assessed as not warranting investigation or further action by the Office. Many issues raised had been substantially addressed by the service provider but the complainant remained concerned about some matters and full resolution could not be reached.
- Some complaints were assessed as misconceived, with issues arising from mismatched expectations and misunderstandings rather than from actual service provision.

Prior to closing these cases, efforts were made to address any misconceptions and to explore ways in which issues between the service provider and complainant could be resolved. See Figure 18: Reasons why complaints not considered.

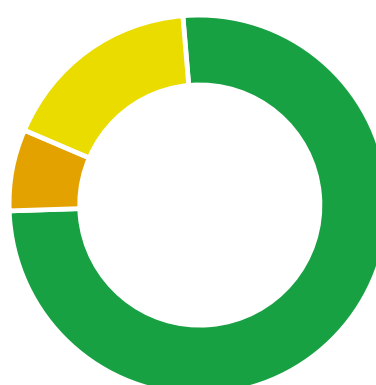


**Figure 18: Reasons why complaints not considered**

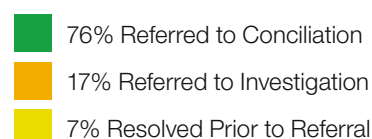


### Complaints referred to conciliation and investigation

Thirty complaints were formally considered by the Commissioner<sup>6</sup>. The majority of these matters, a total of 23, were referred to conciliation. Five complaints lodged by co-residents in two facilities were assessed as raising issues about the service users' safety and wellbeing, and required an investigative approach to ascertain the facts and identify options for and potential barriers to resolution. Two matters were resolved through actions by the service provider and did not proceed to either conciliation or investigation. See Figure 19: Outcomes of complaints considered.



**Figure 19: Outcomes of complaints considered**



<sup>6</sup> Of the 30 complaints which were formally considered, three separate complaints by one person were referred to conciliation, whilst another four complaints lodged by four co-complainants were referred to a multi-party conciliation.



## Conciliation

Complaints referred to conciliation often involve a history of unresolved issues and a breakdown in communication between complainant and disability service provider, creating barriers to resolving issues and finding a way forward. The DSC approach to conciliation recognises the ongoing relationship which usually exists between complainant and service provider, and the benefits of trying to resolve complaints in a way that will create a better foundation for dealing with issues that may arise in the future.

Most matters referred to conciliation in the first year have involved preliminary meetings to clarify issues and options for resolution, exchange of information and more than one conciliation conference. Conciliators have used a range of approaches to respond to the individual needs and capacities of participants and to address the complexity of issues referred to conciliation. In some matters, submissions and proposals have been sought from the disability service provider, shuttle negotiations offered, and actions agreed between conciliation conferences. More than half of the conciliation matters had either been deferred or not completed as at 30 June 2008. Case examples are provided to illustrate the types of issues addressed through conciliation and the ways in which agreements have been reached.

## Investigations

DSC investigations are conducted in accordance with detailed guidelines which were developed with the assistance of the Victorian Government Solicitor's Office.

These guidelines reflect the statutory requirements for investigations under the Disability Act and the values and principles of DSC.

Investigations take into account the relationships between service users and service providers, and consider points at which part or all of the complaint could be referred to conciliation.

Two investigations were commenced prior to 30 June 2008, addressed issues raised in 5 complaints made by co-residents in 2 different facilities.

Whilst these matters had not been concluded at 30 June 2008, the experience to date has indicated that an investigative approach may assist in identifying both potential remedies for complaints and ways in which matters can become suitable for conciliation.

---

The parents of a young woman with intellectual disability complained about the placement of a new resident in the Community Residential Unit (CRU) where their daughter resides. They were concerned that their daughter's safety was compromised by the new resident's behaviours of concern. The parents were also concerned about inconsistent information provided by the varying levels of management within the service and the distress this had caused them. The parents wanted the new resident to be relocated.

In conciliation, the service provider gave an apology and detailed explanations about:

- (a) their processes for managing vacancies in CRUs and placement of new residents in a CRU;
- (b) strategies which the disability service provider took in managing the behaviours of concern and the next steps; and
- (c) roles and responsibilities of their staff.

The parents and service provider then worked together on strategies to ensure the safety of the young woman and to improve accuracy and consistency of their communication. This included a process for the parents to provide feedback to the service provider about their observations of the dynamics between the residents.

The parents accepted the explanations and apology from the service provider and felt more assured of their daughter's safety.

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# Complaints Reporting Data Analysis

This chapter presents complaints data submitted by disability service providers across Victoria. These data offer valuable insights into the concerns of people with a disability using disability services and the current status of complaints systems within the Victorian disability services sector.

## Overview

In accordance with section 105 of the Disability Act, disability service providers must report annually to the Disability Services Commissioner in the form required, specifying the number of complaints they have received and how those complaints were resolved.

Section 19 of the Act requires that the Commissioner produce an annual report which includes information about the number and type of complaints and the outcome of complaints.

The disability complaints reporting process is new in Victoria. DSC has worked closely with the Disability Services Board and service providers to develop an approach which will meet legislative requirements and assist the sector in making improvements.

Following consultation with the sector, DSC developed an annual complaints report template. For the first year of operation, disability service providers were asked to report in their own formats for complaints handled between the 1st July 2007 and 31st December 2007, and then to use the newly developed DSC template to record complaints from the 1st January 2008.

The annual complaints report template was referred to the Disability Services Board for advice. The Board established an annual complaints report task group to:

- propose strategies to address issues arising from distribution of the DSC annual report
- propose a relevant methodology for the collection, analysis and reporting of annual complaints data
- make recommendations for improvement of instrument design.

Having considered the Disability Services Board's initial recommendations, DSC prepared instructions for disability service providers on which fields of the complaints data template to complete in their Annual Disability Services Complaints Report for 2007-2008:

1. Disability service providers **are required** to report the name of the disability service provider; the number of complaints received; and the complaint outcome.
2. Disability services providers **are requested** to report the name of the region; service type; source of complaint; subject age range; subject gender; type of disability; issue; complaint description; outcome sought; date complaint received; date complaint resolved; time taken.
3. Disability service providers **are neither required nor requested** to provide the complaint file number; service outlet; local government area; name; address; complainant contact; cultural identity; subject name; complexity; important to factors; important for factors.

DSC wishes to thank those disability services providers who submitted their complaints reports as required, and in particular those who invested effort in submitting the broader complaints data set that was requested. This is emerging work which we will continue in consultation with the sector. We will continue to adapt and improve the template to ensure that complaints data collected is relevant, and contributes to achieving better outcomes for complainants and improvements in the disability service system.

In addition to the complaints data, we also asked disability service providers to identify organisational processes and practices that have been improved as a result of a complaint, and those that have worked well in resolving complaints.

While we can only include a few examples here in our inaugural annual report, we propose to share additional examples of good practice with the sector through our newsletter, website, forums and other communications.





Strategic Development team

## Required Data

Disability service providers were required to report the name of the disability service provider, number and types of complaints received, and the complaint outcome.

In 2007-2008 the Disability Services Commissioner received data from 196 Community Service Organisations (CSOs) and from the Department of Human Services (DHS).

### Number of complaints reported

83 disability services reported that "Nil" complaints were received for the period 1 July 2007 to 30 June 2008.

113 disability service providers reported a total of 992<sup>7</sup> complaints received across Victoria.

### Outcomes reported

The following is based on the data required on the outcomes of complaints received.

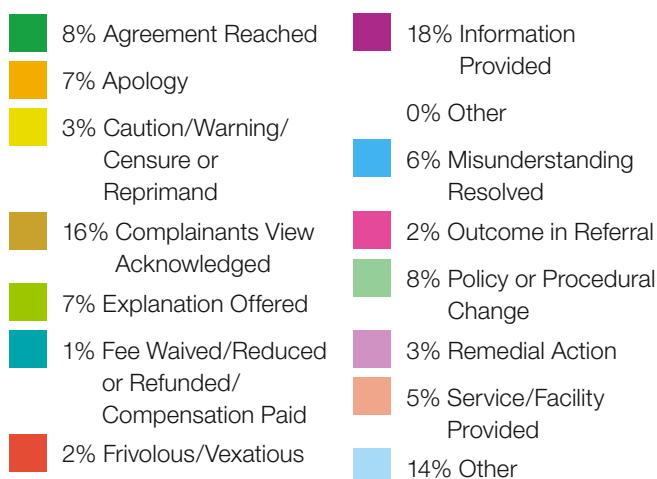
<sup>7</sup> The data reported above is for all data received by 14 August 2008.

Figure 20: Outcomes of complaints received

| Outcomes                               | Total      | Percent       |
|--|------------|---------------|
| Agreement reached                      | 64         | 6.5%          |
| Allowed to lapse by complainant        | 2          | 0.2%          |
| Apology                                | 56         | 5.6%          |
| Caution or warning                     | 21         | 2.1%          |
| Censure or reprimand                   | 8          | 0.8%          |
| Compensation Paid                      | 2          | 0.2%          |
| Complainants view acknowledged         | 136        | 13.7%         |
| Complaint not upheld                   | 19         | 1.9%          |
| Explanation offered                    | 58         | 5.8%          |
| Fee refunded                           | 2          | 0.2%          |
| Fee waived or reduced                  | 1          | 0.1%          |
| Frivolous/Vexatious                    | 13         | 1.3%          |
| Information Provided                   | 158        | 15.9%         |
| Insufficient detail                    | 8          | 0.8%          |
| Legislative/regulatory change proposed | 1          | 0.1%          |
| Misunderstanding resolved              | 49         | 4.9%          |
| No action possible                     | 7          | 0.7%          |
| No further action required             | 28         | 2.8%          |
| Not confirmed                          | 1          | 0.1%          |
| Outcome in Referral                    | 15         | 1.5%          |
| Policy change                          | 1          | 0.1%          |
| Procedural change                      | 67         | 6.8%          |
| Remedial action                        | 22         | 2.2%          |
| Service/facility provided              | 45         | 4.5%          |
| Unsubstantiated                        | 13         | 1.3%          |
| Withdrawn by user                      | 5          | 0.5%          |
| Other outcome                          | 36         | 3.6%          |
| Data not provided                      | 11         | 1.1%          |
| Blanks                                 | 6          | 0.6%          |
| Still open                             | 137        | 13.8%         |
| <b>Total</b>                           | <b>992</b> | <b>100.0%</b> |



**Figure 20: Outcomes**



Some of the information in the chart above has been grouped to give a clearer graphical representation of the data.

Reported complaints that are still open or where results were not provided have not been included.

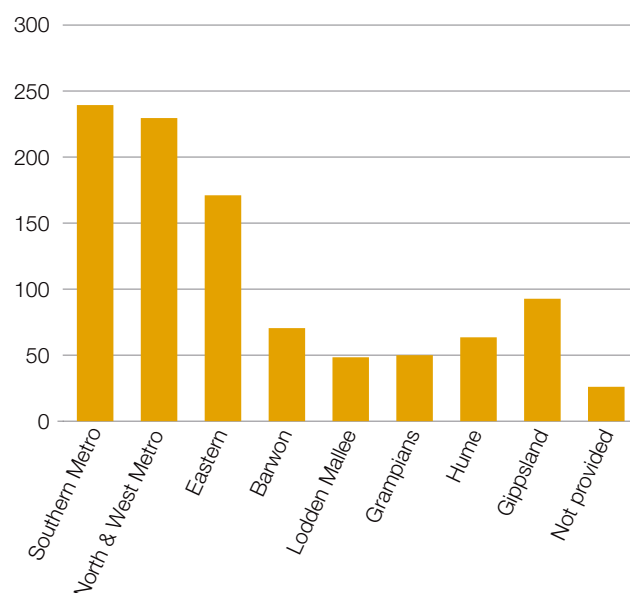
*'Interchange Outer East received a complaint regarding the response time from a new referral being made to the meeting for registration. What was identified through the investigation was there were several contributing factors...'*  
Interchange Outer East

## Requested Data

Disability services providers were requested to report the name of the region; service type; source of complaint; subject age range; subject gender; type of disability; issue; complaint description; outcome sought; date complaint received; date complaint resolved; time taken.

Some service providers also reported on their Quarterly Service Improvements (January – June 2008), describing a practice approach or process innovation that has worked well in resolving complaints and/or an organisational practice identified in their complaints handling that would benefit from improvement.. Some of the responses are extracted below.

**Figure 21: Number of Complaints by Region**

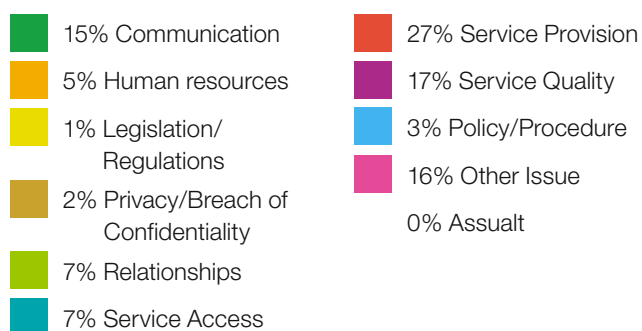


The number of reported complaints received from all regions totalled 992. As is to be expected, the highest numbers of complaints were reported by metropolitan regions, where there is greater population and density of service providers (Eastern Metropolitan Region 17%, North & Western Metropolitan 23%, Southern Metropolitan Region 24%).





**Figure 22: Type of Complaints**



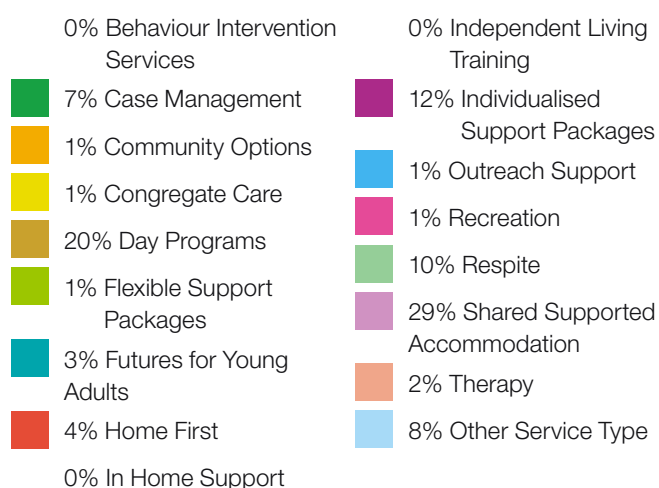
Reported complaints covered a diverse range of issues.

Major categories were:

- Service provision 27%
- Service quality 17%
- Communication 15%.



**Figure 23: Service Type**



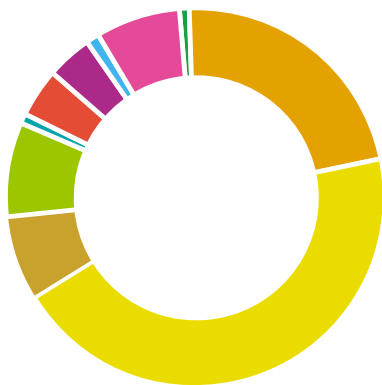
The types of services that reported the greatest numbers of complaints were also the major service providers in the sector:

- Shared supported accommodation 29%
- Day care programs 20%
- Individualised support packages 12%

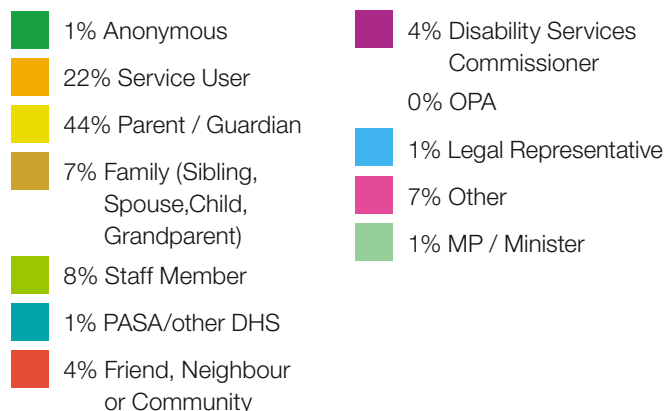
Remaining service types each registered less than 10%, in aggregate 39% of total complaints reported.

*'Introduction of this new reporting tool and associated internal training has seen a marked increase in the active registration of complaints and resolution within the organisation.'*

Australian Home Care Services



**Figure 24: Source of Complaint**



- 44% of complaints to service providers were made by the parent or guardian of the service user.
- 22% were made by service users themselves.
- Of the remainder, 8% were staff members, 6% family members, others 5%, friends or neighbours 3%.



**Figure 25: Age Range**



The data shows a relatively even spread of complaints across age groups, reflecting overall age profile of service users:

- 48% of services users in 31 to 60 years age range (interval of 30 years)
- At 30%, the next largest age range of 16 to 25 years (interval of 10 years)
- 11% of complainants were in the 26 to 30 year age range (interval of 5 years).

*'DASSI has a Quality Management Review Committee which is appointed to analyse and respond to audits, policy and practice issues. Given that the complaints register has the capacity to identify trends and issues, the opportunity for improvement would be for the committee to include this as a standard agenda item in its meetings. This will improve DASSI's responsiveness to complaints at an organisational and program level.'*

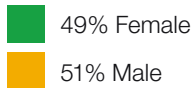
Disability Attendant Support Service Inc.

*'Staff training in complaints handling further raised organisational awareness of support provider requirements under the Disability Act. The training focused on how to foster environments in which people with a disability feel safe to raise issues of concern to them. Scope also updated the Complaints Procedure in February 2008 to take account of the full complement of recent legislative and policy changes. These changes have resulted in a more skilled workforce with a well-informed approach to complaint resolution.'*

Scope



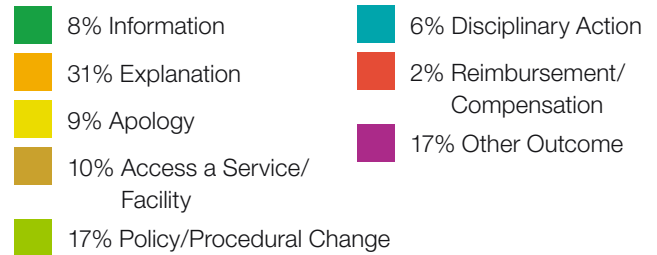
**Figure 26: Gender**



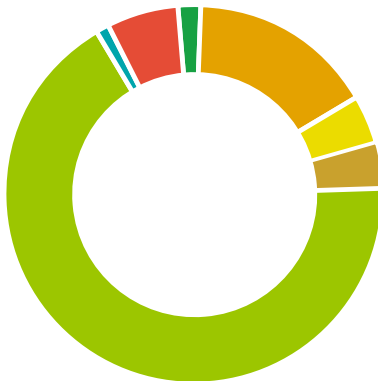
Data indicate a relatively even gender balance in complaints received by disability service providers.



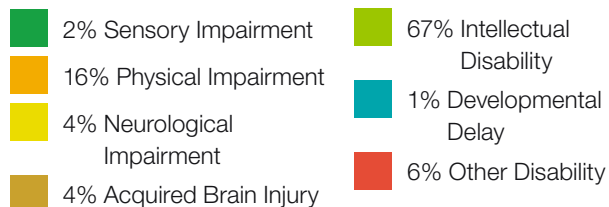
**Figure 28: Outcomes Sought**



The outcomes sought by person's registering their complaints with service providers have been grouped into eight categories. The outcomes sought by complainants may not have been realised.

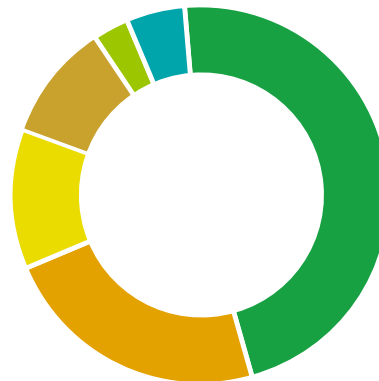


**Figure 27: Type of Disability**



- 67% of complaints concerned service users with an intellectual disability
- Physical impairment 16%
- Neurological impairment 4%
- Sensory impairment 2%
- Acquired brain injury 4%
- Developmental delay 1%

Other disabilities constituted 6% of the data.



**Figure 29: Time taken to resolve or close complaint**



- Service providers indicated that almost half of all complaints (47%) were resolved within 7 days of receiving the complaint.
- 5% took over 90 days to resolve.

At the time of reporting, disability service providers indicated that there were 137 cases still open. These have not been included here but are noted in Appendix 1.

For further complaints data, please see tables at Appendix 1.

# Finances

## Financial Statement for the year ended 2008

The Department of Human Services provides financial services to the Office. The financial operations of the Disability Services Commissioner are consolidated into those of the department and are audited by the Auditor-General. Full financial reports are therefore not provided as part of this annual report. A financial summary of revenue and expenditure for 2007–08 is provided below.

The source of revenue for the Disability Services Commissioner was the allocation of \$1.466 million provided through the Department of Human Services.

Figure 30: Operating Statement for the year ended 30 June 2008

|  | Notes | 2008               |
|--|-------|--------------------|
| <b>Revenues from continuing operations</b> | 1     |                    |
| Government appropriation                   |       | \$1,466,140        |
| <b>Total Revenue:</b>                      |       | <b>\$1,466,140</b> |
| <b>Expenses from continuing activities</b> |       |                    |
| Salaries                                   |       | \$ 852,549         |
| Salary oncosts                             |       | \$ 125,881         |
| Supplies & consumables - admin             |       | \$ 285,875         |
| Indirect Expenses                          | 2     | \$ 106,250         |
| <b>Total Expenses:</b>                     |       | <b>\$1,370,555</b> |
| <b>Net result for the year</b>             |       | <b>\$ 95,585</b>   |

### Notes:

1. Operations commenced 1 July 2007
2. Indirect expenses include depreciation and long service leave

# Compliance and Accountability

## Whistleblowers Protection Act 2001

Section 104 of the *Whistleblowers Protection Act 2001* requires public bodies to prepare an annual report of operations including a copy of current procedures for dealing with disclosures under the Act.

For the year under review the DSC reports that no disclosures of any type were made to the Office (see Appendix 3).

## Information Privacy Act 2000

The DSC is an organisation covered under section 9 of the *Information Privacy Act 2000*. We comply with the Information Privacy Act in its collection and handling of personal information.

## Freedom of Information Act 1982

The *Freedom of Information Act 1982* requires that certain information held by DSC be accessible to the public for the purposes of inspection or purchase, and to facilitate correction of any inaccuracies.

There were no Freedom of Information applications received by DSC for the year 2007 – 2008.

## Charter of Human Rights and Responsibilities Act 2006

The *Charter of Human Rights and Responsibilities Act 2006* clearly sets out individuals' rights and freedoms, and the responsibilities that go with them. The Charter provides additional strength to provisions of the Disability Act by explicitly stating key rights and freedoms for people with a disability using disability services.

The Charter focuses on civil and political rights, and includes well known democratic rights such as the right to vote and freedom of expression. Other rights protected by the Charter include:

- Protection from inhuman or degrading treatment
- Freedom of movement including the freedom to choose where to live
- Taking part in public life
- Right to liberty and security of person
- Humane treatment when deprived of liberty
- Right to privacy and reputation

In fulfilling our various functions, DSC seeks to promote the human rights of all individuals. The Commissioner gives consideration to human rights when dealing with complaints. As part of the guide and self audit tool for disability service providers, specific attention is given to ensuring disability service providers comply with the Charter in responding to complaints.

# Appendix 1

## Annual complaints data reported by service providers

| Service Type                    | Total      | % of Total    |
|---------------------------------|------------|---------------|
| Behaviour Intervention Services | 2          | 0.2%          |
| Case Management                 | 64         | 6.5%          |
| Community Options               | 6          | 0.6%          |
| Congregate Care                 | 9          | 0.9%          |
| Day Programs                    | 190        | 19.2%         |
| Flexible Support Packages       | 10         | 1.0%          |
| Futures for Young Adults        | 31         | 3.1%          |
| Home First                      | 40         | 4.0%          |
| In Home support                 | 1          | 0.1%          |
| Independent Living Training     | 3          | 0.3%          |
| Individualised Support Packages | 119        | 12.0%         |
| Outreach Support                | 13         | 1.3%          |
| Recreation                      | 7          | 0.7%          |
| Respite                         | 96         | 9.7%          |
| Shared Supported Accommodation  | 278        | 28.0%         |
| Therapy                         | 17         | 1.7%          |
| Other service type              | 75         | 7.6%          |
| Data not provided               | 31         | 3.1%          |
| <b>Total</b>                    | <b>992</b> | <b>100.0%</b> |

| Issue                             | Total      | % of Total    |
|-----------------------------------|------------|---------------|
| Communication                     | 133        | 13.4%         |
| Human resources                   | 46         | 4.6%          |
| Legislation/ Regulations          | 11         | 1.1%          |
| Privacy/Breach of Confidentiality | 18         | 1.8%          |
| Relationships                     | 58         | 5.8%          |
| Service Access                    | 66         | 6.7%          |
| Service Provision                 | 231        | 23.3%         |
| Service Quality                   | 152        | 15.3%         |
| Policy/Procedure                  | 24         | 2.4%          |
| Other Issue                       | 141        | 14.2%         |
| Assault                           | 2          | 0.2%          |
| Data not provided                 | 110        | 11.1%         |
| <b>Total</b>                      | <b>992</b> | <b>100.0%</b> |

| Type of Disability      | Total      | % of Total    |
|-------------------------|------------|---------------|
| Sensory impairment      | 18         | 1.8%          |
| Physical impairment     | 114        | 11.5%         |
| Neurological impairment | 26         | 2.6%          |
| Acquired brain injury   | 29         | 2.9%          |
| Intellectual disability | 488        | 49.2%         |
| Developmental delay     | 9          | 0.9%          |
| Other disability        | 41         | 4.1%          |
| Data not provided       | 267        | 26.9%         |
| <b>Total</b>            | <b>992</b> | <b>100.0%</b> |

| Age Range         | Total      | % of Total    |
|-------------------|------------|---------------|
| < 4 yrs           | 6          | 0.6%          |
| 5 – 10 yrs        | 13         | 1.3%          |
| 11 – 15 yrs       | 23         | 2.3%          |
| 16 – 25 yrs       | 213        | 21.5%         |
| 26 – 30 yrs       | 76         | 7.7%          |
| 31 – 60 yrs       | 354        | 35.7%         |
| 61 – 90 yrs       | 33         | 3.3%          |
| Data not provided | 274        | 27.6%         |
| <b>Total</b>      | <b>992</b> | <b>100.0%</b> |

| Outcome Sought              | Total      | % of Total  |
|-----------------------------|------------|-------------|
| Information                 | 71         | 7%          |
| Explanation                 | 269        | 27%         |
| Apology                     | 75         | 8%          |
| Access a Service/facility   | 87         | 9%          |
| Policy/procedural change    | 143        | 14%         |
| Disciplinary action         | 48         | 5%          |
| Re-imburement /Compensation | 13         | 1%          |
| Other outcome               | 141        | 14%         |
| Data not provided           | 145        | 15%         |
| <b>Total</b>                | <b>992</b> | <b>100%</b> |



| Satisfaction             | Total      | % of Total    |
|--------------------------|------------|---------------|
| Satisfied                | 498        | 50.2%         |
| Referred internal review | 38         | 3.8%          |
| Referred to DSC          | 22         | 2.2%          |
| Referred to DHS          | 1          | 0.1%          |
| Data not provided        | 302        | 30.4%         |
| Complaint still open     | 131        | 13.2%         |
| <b>Total</b>             | <b>992</b> | <b>100.0%</b> |

| Source of complaint                          | Total      | % of Total    |
|--|------------|---------------|
| Anonymous                                    | 8          | 0.8%          |
| Service User                                 | 200        | 20.2%         |
| Parent / Guardian                            | 399        | 40.2%         |
| Family (Sibling, Spouse, Child, Grandparent) | 62         | 6.3%          |
| Staff Member                                 | 67         | 6.8%          |
| PASA/other DHS                               | 13         | 1.3%          |
| Friend, Neighbour or Community               | 35         | 3.5%          |
| Disability Services Commissioner             | 34         | 3.4%          |
| OPA  | 3          | 0.3%          |
| Legal Representative                         | 6          | 0.6%          |
| MP /Minister                                 | 5          | 5.9%          |
| Other  | 59         | 0.5%          |
| Data not provided                            | 101        | 10.2%         |
| <b>Total</b>                                 | <b>992</b> | <b>100.0%</b> |

| Time taken        | Total      | % of Total    |
|-------------------|------------|---------------|
| < 7 days          | 319        | 32.2%         |
| 8 - 20 days       | 158        | 15.9%         |
| 21 - 31 days      | 78         | 7.9%          |
| 32 - 62 days      | 65         | 6.6%          |
| 63 - 90 days      | 19         | 1.9%          |
| > 90 days         | 34         | 3.4%          |
| Still open        | 137        | 13.8%         |
| Data not provided | 182        | 18.3%         |
| <b>Total</b>      | <b>992</b> | <b>100.0%</b> |

| Gender            | Total      | % of Total    |
|-------------------|------------|---------------|
| Female            | 386        | 38.9%         |
| Male              | 398        | 40.1%         |
| Data not provided | 208        | 21.0%         |
| <b>Total</b>      | <b>992</b> | <b>100.0%</b> |

|                                  |            |
|----------------------------------|------------|
| <b>Total complaints reported</b> | <b>992</b> |
|----------------------------------|------------|

# Appendix 2

## List of Services, Networks, Conferences and Forums the DSC has presented to in 2007 – 08

|   |   |
|---|---|
| AMIDA AGM   | Law Institute session   |
| Association for Children with a Disability  | LG Pro Conference   |
| Corporate Integrity, Information and Resolutions Unit (CIIRu) Network Seminar   | McGregor House AGM  |
| Disability Advocacy Resource Unit   | MOIRA AGM   |
| DHS – Barwon  | North and West CSO forum  |
| DHS - Central - Disability Advisory Group   | Victorian Disability Advocacy Network   |
| Disability Opportunities Victoria staff meeting   | 3CR – Raising our voices 3CR  |
| Disability Resource Centre  | Regional Information and Advocacy AGM   |
| Disability Professionals Victoria AGM   | SkillsConnection - SouthWest Disability Network Conference  |
| Early Intervention Managers Network   | Victorian Advocacy League for Individuals with Disability (VALID) - Metropolitan Regional Networks (2 in total) |
| EW Tipping Accommodation Houses (3 in total)  | Victorian Advocacy League for Individuals with Disability (VALID) – Having a Say Conference                     |
| EW Tipping AGM  | Western Region Disability Network   |
| Alpha Austism Autism, Aspergers & Adulthood – Planning for a future with Infinite possibilities – Getting Started Forum | Westernport Speaking Out  |
| Responding to abuse against people with a disability forum  | Yooralla  |
| Kyeema  | Youth Disability Advocacy Service   |

# Appendix 3

## Whistleblowers Protection Act 2001

The *Whistleblowers Protection Act 2001* was enacted to facilitate the making of disclosures about improper conduct by public bodies and public officials and provide a number of protections for those who come forward with a disclosure (whistleblowers). It also provides for the investigation of disclosures that meet the statutory definition of 'public interest disclosure'. The following report is provided in accordance with s. 104 of the Whistleblowers Protection Act.

### (a) Reporting procedure guidelines

#### Statement of support

The Disability Services Commissioner has adopted guidelines in accordance with the requirements of the Whistleblowers Protection Act. The Office of the Disability Services Commissioner does not tolerate improper conduct by its employees or officers or the taking of reprisals against those who come forward to disclose such conduct under the Whistleblowers Protection Act. The Disability Services Commissioner recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or a substantial risk to public health and safety or the environment. The alleged conduct must be serious enough to constitute, if proven, a criminal offence or reasonable grounds for dismissal to satisfy the Act.

#### Availability of procedures

The Disability Services Commissioner's guidelines are available for perusal by all employees of the Disability Services Commissioner. All members of the public may view these guidelines free of charge during normal business hours at the Disability Services Commissioner, Level 30, 570 Bourke Street, Melbourne.

## Corrupt conduct

Corrupt conduct means:

- conduct that adversely affects the honest performance of functions
- the dishonest performance of functions or performance with inappropriate partiality
- conduct that amounts to a breach of public trust
- conduct that amounts to the misuse of information/material acquired in the course of one's duties
- a conspiracy or attempt to engage in the above conduct.

## The reporting system

Disclosures of improper conduct or detrimental action by the Disability Services Commissioner or its employees may be made directly to the Protected Disclosure Co-ordinator:

Ms Linda Rainsford

Executive Services Officer  
Telephone (03) 9603 8336  
Facsimile (03) 9603 8310  
Level 30, 570 Bourke Street,  
Melbourne 3000

Where a person is contemplating making a disclosure and is concerned about confidentiality, he or she can call the Protected Disclosure Coordinator and request a meeting in a discreet location away from the workplace.

# Appendix 3 (cont.)

## Alternative contact person

A disclosure about improper conduct or detrimental action by the Disability Services Commissioner or its employees may also be made directly to the Ombudsman:

The Ombudsman Victoria  
Level 22, 459 Collins Street  
Melbourne Victoria 3000  
(DX 210174)  
Internet [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)  
Email [ombudvic@ombudsman.vic.gov.au](mailto:ombudvic@ombudsman.vic.gov.au)  
Telephone (03) 9613 6222  
Toll free 1800 806 314

## Employees

Employees are encouraged to report known or suspected incidences of improper conduct, corrupt conduct or detrimental action in accordance with these procedures. All employees of the Disability Services Commissioner also have an important role to play in supporting those who have made a legitimate disclosure by protecting and maintaining the complainant's confidentiality and refraining from any activity that is or could be perceived to be victimisation or harassment of a person who makes a disclosure.

## Confidentiality

The Disability Services Commissioner will take all reasonable steps to protect the identity of the whistleblower to ensure that reprisals are not made against them and to ensure that staff involved in the handling or investigation of a disclosure understand and apply the principles of the Act about the confidentiality of information. The Disability Services Commissioner will also put in place appropriate systems to secure all material related to whistleblower matters.

For the year under review the DSC reports:

- a. Number of Disclosures:** No disclosures of any type were made to the Office.
- b. Public Interest Disclosures Referred to the Ombudsman:** No disclosures of any type were referred by the Office to the Ombudsman for determination as to whether they were public interest disclosures.
- c. Disclosures Referred to the Office:**  
No disclosures of any type were referred to the Office by the Ombudsman.
- d. Disclosures of Any Nature Referred to the Ombudsman:** No disclosures of any type were referred by the Office to the Ombudsman for determination as to whether they were public interest disclosures.
- e. Investigations Taken Over by Ombudsman:**  
No investigations of disclosed matters of any type were taken over from the Office by the Ombudsman.
- f. Requests Under Section 74:** No requests were made under section 74 to the Ombudsman to investigate disclosed matters.
- g. Disclosed Matters declined to be investigated:**  
There were no disclosed matters of any type that the Office declined to investigate.
- h. Disclosed Matters Substantiated on Investigation:** No disclosed matters of any type were investigated, or substantiated on investigation.
- i. Recommendations by Ombudsman:**  
No recommendations were made by the Ombudsman under the Whistleblowers Protection Act relating to the Office.



**Disability Services Commissioner**

Level 30, 570 Bourke Street

Melbourne Victoria 3000

Telephone (61 3) 1300 728 187

Fax (61 3) 8608 5765