PARLIAMENT OF NEW SOUTH WALES

Report of the COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

7th Meeting on the Annual Report of the Health Care Complaints Commission

June, 2002

ISBN NO. 0 0000 0000 0

TABLE OF CONTENTS

Functions Of The Committee

The Joint Committee on the Health Care Complaints Commission was appointed in 1993. Its functions under Section 65 of the *Health Care Complaints Act 1993* are:

a. to monitor and to review the exercise by the Commission of the Commission's functions under this or any other Act;

b. to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of the Commission's functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;

c. to examine each annual and other report made by the Commission, and presented to Parliament, under this or any other Act and to report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;

d. to report to both Houses of Parliament any change that the Joint Committee considers desirable to the functions, structures and procedures of the Commission;

e. to inquire into any question in connection with the Joint Committee's functions which is referred to it by both Houses of Parliament, and to report to both Houses on that question.

The Joint Committee is not authorised:

a. to re-investigate a particular complaint; or

b. to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint; or

c. to reconsider the findings, recommendations, determinations or other decisions of the Commission, or of any other person, in relation to a particular investigation or complaint.

COMMITTEE MEMBERSHIP

Legislative Assembly

Mr Jeff Hunter MP - Chairman
Ms Marie Andrews MP – Vice-Chairman
Mr Wayne D Smith MP
Mr Peter W Webb MP

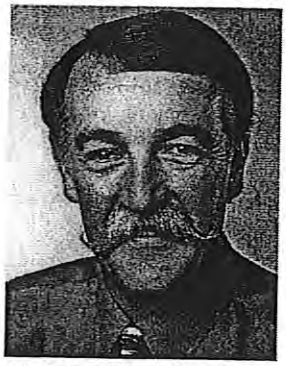
Mr Jeff Hunter MP
Chairman

Ms Marie Andrews MP
Vice-Chairman

Legislative Council

The Hon Dr Brian Pezzutti, RFD, MLC
The Hon Henry Tsang OAM, MLC
The Hon Dr Peter Wong AM, MLC

Mr Wayne D Smith MP



Mr Peter W Webb MP

The Hon Dr Brian Pezzutti
RFD, MLC

The Hon Henry Tsang
OAM, MLC

The Hon Dr Peter Wong
AM, MLC

Secretariat:

Ms Catherine Watson – Committee Manager
Ms. Jackie Ohlin – Project Officer
Mr Keith Ferguson – Committee Officer
Ms Glendora Magno – Asst. Committee Officer

Mr John Chan Sew - Consultant

Terms of Reference of the Review

Terms of Reference for the review of the report include:

(a) whether the Report reflects a true and accurate record of the HCCC's performance over the 2000-2001 financial year;

(b) whether the mechanisms used by the HCCC in the report adequately and appropriately measure the key responsibilities and objectives of the HCCC as prescribed by *the Health Care Complaints Act* 1993 and in the HCCC's Corporate and Business Plans

(c) the extent to which the HCCC has explained disappointing results in the report and how it has proposed these will be addressed in the future (for example, delays in complaints handling);

(d) the extent of user-friendly accessibility of the report, in terms of content matter and distribution mechanisms;

(e) other relevant matters.

CHAIRMAN'S FOREWORD

I am pleased to present this report of the 7th Annual General Meeting with the Commissioner of the Health Care Complaints Commission as required by Section 65(1)(c) of the *Health Care Complaints Act 1993*.

This report marks my fourth annual general meeting as Chairman of the Committee. I note the presence of Ms Julie Kinross, assisting Commissioner Amanda Adrian.

This report highlights key issues raised during the meeting, including delays in dealing with complaints; backlogs in complaints investigations; better communications with parties to investigations; foreshadowed expansion of the Patient Support Officer service; conciliation of complaints; the responsiveness of the HCCC; and public accessibility of the HCCC Annual Report.

This year, for the first time, the Committee's review of the Health Care Complaints Commission's Annual Report called for public submissions on the Report. Committee members felt that although the number of written submissions was small, the exercise did generate significant public interest through the Parliamentary website and through telephone inquiries to Committee members and to the Secretariat. As a result, this is an approach which will be proposed for future reviews.

I note the substantial amount of detail in the Report, but also the Committee's concern that much of the detail is not strictly concerned with performance outcomes, and thus not essential for the purposes of accountability to the stakeholders of the HCCC.

A key concern of the Committee is that the disclosure approach used does not clearly set out what the HCCC hoped to achieve for the 2000-2001 year; what it did achieve during the year; or what it plans to achieve in the forthcoming year. In offering this criticism, the Committee is aware that this has been a common issue among some annual reports produced by agencies within the New South Wales public sector in recent years, and that remedial action is possible.

I note the range of changes already implemented and proposed strategic directions foreshadowed by the Commissioner within the HCCC.

Changes commented on by the Commissioner include improvements in workplace relations; improvements in relationships with other stakeholders; revised practice manuals for investigations and prosecutions; organisational restructure and changed reporting arrangements.

It is also pleasing to note the proposed rollout of Patient Support Officer services to three regional areas.

In the past year, the Commission had a 19% increase in complaints. However, it is noted that there were fewer complaints finalised during the year, contributing to a greater backlog of complaints.

Notwithstanding the Commission's proposed changes to complaint resolution processes and its recent increase in resources, there is a need to dramatically lift performance in this regard. This Committee report suggests some areas identified by the Committee for attention by the HCCC in its next Annual Report.

In conclusion, I would like to thank my fellow Committee members and the Committee Secretariat for their assistance in the preparation of this report. I would particularly like to acknowledge the input of expert consultant to the Public Bodies Review Committee, Mr John Chan Sew, who provided this Committee with advice on accountability and performance reporting aspects of the HCCC 2000-2001 Annual Report.

Jeff Hunter MP
Chairman

Summary of Key Issues

Complaint Handling

The Committee noted that there continues to be a large number of outstanding complaints. While 248 investigations were completed during the year, a total of 863 investigations matters remained opened.

The Committee noted that one of the major concerns about the Commission being expressed during Inquiry processes relates to HCCC delays in dealing with complaints. Committee members are themselves concerned at these delays, at the distress and occasionally escalation of the magnitude of the complaint they cause to parties in the process. This concern is expressed, notwithstanding the increase in the number of complaints received during the year.

Committee members believe that there is a need for demonstrable improvement in complaint handling, and in the benchmarking of complaint handling. It is noted, for example, that the Health Rights Commission in Queensland has identified the need to develop benchmarks for managing complaints and is initiating the process. The need for benchmarking of Health Rights Commission complaints management was recently confirmed by an independent review of that body.

The NSW Health Care Complaints Commissioner indicated that a more active approach to investigations was current, but in responding to a query from the Committee, was unable to provide definitive information on the number of field-based investigations conducted during the year. These would be available for the forthcoming year, and the Committee indicated its wish to see these reported.

The HCCC has recently secured additional resources to, among other things, employ additional staff to address caseloads which had been, according to the Commissioner, "high and paralysing" for many staff.

The Commissioner noted that among the HCCC's proposed strategic directions, were changes which sought to promote a greater role for the Commission in direct resolution of complaints; better referral of complaints and using conciliation more effectively. The Commissioner noted that the intent of this process was to take emphasis off investigations as the key resolution mechanism, stating "investigation is not necessarily the resolution mechanism of choice".

The Committee indicated its concern at the high number of investigation matters open which had been open for more than eighteen months. Information tabled by the Commissioner following the Annual Meeting showed that as at 14 June

2002 there were 328 investigations involving 510 practitioners which had been open for more than eighteen months.

The Committee noted that draft Investigation Timeframes have been developed, and that the proposed standard will be an average of twelve months per investigation.

Committee members were anxious that any proposed strategic directions should not divert the Commission's focus from its statutory functions of receiving and dealing with complaints in a timely manner, either through referral for conciliation or for investigation.

The Committee indicated that lifting performance in this area was of paramount importance, irrespective of other Commission activities. It would be concerned if the investigation matters currently outstanding are not expedited as a result of the Commission's increased resources, and the Committee looks forward to seeing an improvement in performance in this area in the next reporting period.

Types of Complaints

When the HCCC receives and assesses complaints, it categorises them. This year, clinical standards continued to be the category receiving the greater number of complaints, 1,365 or 50.7% of all complaints. The Commissioner indicated that complaints in this category may often be underpinned by communication or provision of information issues.

The number of complaints received about health services increased by 157 or 21% and complaints about private hospitals increased by 97 (24%) during this year. The Commission noted that that although these percentage increases may appear to be significant, the numerical increases do not indicate any particular trend which might be of concern – partly because of the range of individual services on offer across the health sector.

Other categories receiving large numbers of complaints included quality of care (465), business practices (261), prescribing drugs (157) provide/consumer relationship (134), patient rights (114) and impairment (84). The numbers of complaints in this latter category doubled on the previous year.

Better Communication with Parties to Investigations

The Commissioner acknowledged that the HCCC does not "engage well with respondents". There were a number of factors suggested for this, including formal constraints under the Act and the advice provided to practitioners by their medical indemnity organisations.

The Committee noted the HCCC milestone indicating the need to 'receive a response from respondents'. However, Dr Pezutti pointed out that there is nothing precluding the HCCC from taking further action within a benchmarked time, should a respondent exercise their right to remain silent.

The Chairman noted that in the Committee's current Inquiry into Procedures Followed During Investigations and Prosecutions Undertaken by the HCCC, not one of the respondents who contacted the Committee had been interviewed in a face to face situation by an HCCC Investigator. Many respondents told the Committee that matters referred for investigation could have been explicated at an early point in proceedings, and had indicated to the HCCC their desire to have done so. They felt this opportunity was denied by the HCCC.

The Committee noted the Commissioner's comment that some respondents were advised by medical indemnity organisations not to provide the HCCC with advice until the end of the investigation – and that this was having an apparent effect upon the length of time taken to complete an investigation. The Chairman indicated, however, that interstate practice was to "visit the doctor, eyeball the doctor and ask questions".

As indicated above, the Committee was hoping to see an increase in the number of field-based investigations, and the reporting of same.

The Committee noted that the HCCC is proposing to conduct exit surveys of complainants and respondents about whether the complaint is resolved. The Commissioner acknowledged that the lack of exit surveys had been "an omission in the past" and that some of these surveys are under way.

The information obtained should critically inform improvements in complaint handling and dealing with the parties involved. The Committee recognises the potential for bias in the survey process, particularly where those surveyed may be critical of the HCCC. While it may not be practical for the entire exit survey process to be conducted by an independent external agency, there is a need for external scrutiny of survey techniques and analysis. The Committee indicates that these matters should feature in the next annual reporting process.

Patient Support Officers

The important role of Patient Support Officers as an alternative dispute resolution mechanism continues to receive an appropriately high profile in the HCCC Annual Report. The provision of services to clients by Patient Support Officers rose by 30% during the year, with the vast majority of referrals (67.2%) being referred by the HCCC.

The Commissioner has indicated that the expansion of the service will see the placement of Patient Support Officers in the coming year in three regions – Northern Rivers, Macquarie and the Illawarra.

The Annual Report addresses extensively the types of concerns raised by clients of Patient Support Officers, and the types of services offered by PSOs. It notes the 87% uptake rate of the PSO service.

Committee members felt that it would be relevant to include more detailed information on the performance assessment of PSOs, preferably against benchmarked objectives. In truth, the PSOs may perform admirably, but the very 'flexibility' of the model under which they operate can obscure transparency.

Committee members were concerned, for example, to understand the process for dealing with complaints from Area Health Services about the operations of PSOs. The Commissioner outlined the process, which includes contact with the Area Health CEO or general manager of the facility concerned (as appropriate), followed by a meeting to seek information from the PSO.

The Commissioner noted that PSOs are covered by the same Code of Conduct as HCCC staff.

Health Conciliation Registry

The Annual Report noted that 330 complaints, or around 10% of total complaints, were assessed for conciliation during the year, but of these, only 106 consents for conciliation were obtained and referred to the Health Conciliation Registry. The Committee expressed concern at the low number of consents obtained, and queried whether there were ways of improving on the overall figure. The Commissioner indicated that the window of opportunity for achieving consents was narrow, but agreed that it would be possible to improve upon the rate.

The Chairman noted the recent Committee report and recommendations on improving the conciliation of health care complaints in New South Wales. He acknowledged that many of these recommendations are being acted on by the Health Conciliation Registry and by the HCCC, and expressed the hope to see significant improvement in outcomes in the next financial year.

HCCC Organisational Changes

The Commissioner noted that the organisational review commenced in January 2001 was designed to address values and vision, strategic directions, organisational structure and organisational performance measures.

The Commissioner indicated that the process of the review was to establish incremental improvements which would reshape the organisation over the years 2002-2005. According to the Commissioner, the HCCC has already sought and substantiated the need for an increase in resources, primarily to ensure additional skilled staff, more Patient Support Officers and better electronic knowledge management.

The Committee acknowledged the potential benefits of these additional resources, but expressed concern that the nett effect over the 2000-2001 year for the HCCC:

- had not reduced the amount of time taken to complete investigations;
- had left a bigger backlog of complaints to be addressed;
- allowed a perception of a focus on staff relations and building stakeholder relationships to the possible detriment of completing investigations.

The Committee noted that one of its major concerns – the need for a structural separation of the areas of Investigations and Prosecutions - was still represented as functionally linked in the Organisational Chart within the Annual Report. The Commissioner indicated that organisational changes now have the Legal Services Team reporting directly to the Commissioner, while Complaints Resolution and Investigations and Prosecutions are now constituted as separate functional areas.

The Committee is of the view that any foreshadowed organisational change and development must result in improved performance. It recommends this performance within the HCCC must be benchmarked against similar organisations, either within the State or interstate. It is important to indicate that qualitative as well as quantitative benchmarks can be accommodated. Further, a suite of benchmarks might more accurately convey an understanding of complex outcomes within the organisation. However, not to attempt benchmarking at all allows a lack of transparency to bloom which can unfairly bring into disrepute both the organisation and the professionals working within it. The proposed organisational changes and benchmarking must therefore proceed hand in hand.

The Committee noted that, among the new staff, there will be two new positions of Assistant Commissioner.

Report Accessibility and Accountability

Apart from general issues of detail and accountability already mentioned, the Committee's analysis of the report revealed the following issues.

- The Section on "Performance Measures" (pages 8-9) contains a large number of key performance indicators as well as details of completed projects and activities. The Committee's major concerns about performance measures are:
  - The performance indicators are mainly related to the timeliness and quantities of outputs and there is limited reference to the quality and effectiveness aspects of the Commission's performance
  - Details regarding performance targets set for the current year and comparatives for last year have not been given
  - Some of the performance indicators are only presented in the form of percentage changes without being accompanied by actual numbers

- There are no explanations provided for under/over performance or any details regarding actions taken to address performance shortfalls.

- It is not possible to properly assess whether the Commission was successful in implementing the initiatives and projects that it set out to deliver for the 2000-2001 year as the details of the plans for that year have not been provided.

- The "Achievements" Section presents a large amount of low level details regarding completed initiatives, projects and activities, some of which are of a relatively minor nature. Much of the details included, in the Committee's view, are not essential for the assessment of the Commission's performance. Again, this Section has not provided any information on what the Commission set out to achieve for the 2000-2001 year.

- Nearly one-third of the main body of the report (about 30 pages) has been devoted to the presentation of case studies with minute details. In the Committee's opinion, it is more appropriate for such information (which is no doubt of interest to the stakeholders) to be disseminated through other communication mediums (e.g. information brochures and the Commission's website). The report is an accountability document that needs to be written in a succinct and focussed manner. What the Commission could have done is to identify in the report only the major issues highlighted by the case studies together with details of changes in policies and procedures effected as a response to those issues. Useful examples of this approach can be found in the Community Services Commission annual report and in the annual report of the ACT Community and Health Services Complaints Commission

- The Section on "Satisfaction with HCCC" is useful but it is important that the key information be located at the beginning of report. Further, the Committee believes that a clear link needs to be provided between the survey results and the specific actions taken to improve services in the light of the issues identified. Information regarding the methodologies used to conduct the surveys would also be helpful. In order to provide the readers of the report with a better insight into the performance of the Commission, similar details in relation to any internal or external reviews of the Commission conducted during the year also ought to be disclosed.

The Committee finds that the emphasis of the 2000-2001 report does not provide sufficient information to the readers to enable a proper assessment of the extent of the achievement of the Commission's goals and objectives.

In addition to the issues raised above, the Committee believes that the future reports of the Commission could be improved in a number of other ways, including:

- The inclusion of an Executive Summary at the beginning of the report commenting briefly on:

- significant issues and developments for the current year and future directions and outlook for the following year (including both positive and negative factors);

- key performance targets and results achieved together with explanations for the major variances;

- significant projects/initiatives completed against plans as well as projects/initiatives planned for the following year; and

- the financial results for the year as compared to budgets.

- An enhancement of the performance reporting structure of future reports by the inclusion of:

  - detailed analyses and explanations on the trend information relating to key performance results; and

  - a benchmarking comparison with the performance results achieved by similar organisations in other Australian jurisdictions.

- In addition to the existing details, the "Finance" Section of the report should also provide:

  - a five year financial summary together with explanations for the major variations from last year;

  - key financial ratios and aggregates with an explanation of the significance of each; and

  - a narrative preface to the audited annual financial statements in the form of an explanatory discussion and analysis by management.

  The discussion and analysis needs to deal with both financial management and accountability issues as well as providing a commentary on the financial performance and changes to the financial position. The narrative preface is important in establishing a link between the financial statements and the Review of Operations Section of the report.

- The inclusion of a separate Section dealing with "Future Directions and Developments". This particular Section is normally expected to provide pertinent forward-looking information and comments such as:-

  - a discussion of the future outlook for the Commission including issues and events that are likely to have a significant impact on the following year's performance;

- details of expected future changes and trends within the Commission's operating environment; and

- an outline of what the Commission aims to achieve in future years (particularly in the next year) and objective measures of performance.

From the review, the Committee also noted the following prescribed information as required by the Annual Reports (Statutory Bodies) Regulations:

- A Statement on the performance of each executive officer of or above Level 5 holding office at the end of the reporting year (Clause 11 of the Regulations)

- A Statement on the implementation of the goals, objectives and strategies of the NSW Government's Action Plan for Women in so far as they were related to the specific operations of the organisation as well as details of outcomes achieved during the reporting year (Schedule 1 of the Regulations)

- A Statement on the implementation of the Government's Waste Reduction and Purchasing Policy (Schedule 1 of the Regulations)

- An Index at the end of the report, as required by Clause 16(2) of the Regulations, to assist the identification of compliance with the specific reporting requirements.

The Committee noted the Commissioner's comment that feedback on the Report had been sought from the *Ad hoc* Committee and the Consumer Consultative Committee. Committee members were pleased to note the HCCC's intent to survey consumers about the analysis and application of information for their own uses.

In submissions about the HCCC Annual Report, concern was raised about the need to more demonstrably include 'medical practitioners' as Stakeholders of the HCCC (page 6 of the Report). While the intent may be to include medical practitioners under a more generic grouping, the point indicates that as a prime focus of the HCCC's business, communications with this group of stakeholders may need to be highlighted.

Committee members felt that there was also a need to include the charter, meeting dates and names of members of the Consumer Consultative and *Ad hoc* Committees, to provide a higher profile for these groups in respect of the HCCC's activities.

Overall, the Committee was pleased to note the Commissioner's efforts at reform, to improve the performance of the HCCC, and it looks forward to even greater improvements in performance in the forthcoming Annual Report.

REPORT OF PROCEEDINGS BEFORE

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

At Sydney on Thursday, 6 June 2002

The Committee met at 10.00 a.m.

PRESENT

Mr J. Hunter (Chair)

Legislative Council	**Legislative Assembly**
The Hon. Dr B. P. V. Pezzutti	Ms M.arie Andrews
The Hon. H. S. Tsang	Mr W. D. Smith
The Hon. Dr P. Wong	Mr P. W. Webb

AMANDA MARY ADRIAN, Commissioner, Health Care Complaints Commission, 28-36 Foveaux Street, Surry Hills, and

JULIE KINROSS, Assistant Commissioner, Health Care Complaints Commission, 28-36 Foveaux street, Surry Hills, affirmed and examined:

CHAIR: Did you receive a summons issued under my hand to attend before this Committee?

Ms ADRIAN: I did.

CHAIR: Did you receive a summons issued under my hand to attend before the Committee today?

Ms KINROSS: I did.

CHAIR: The submission in a sense is your annual report?

Ms ADRIAN: Indeed.

CHAIR: Commissioner, I believe you would like to make an opening statement before we move to some questions?

Ms ADRIAN: I would, Mr Chair, if I may. Mr Chair and members of the Committee, I welcome the opportunity to make an opening statement today. You will note that there are a number of staff from the Health Care Complaints Commission present, and I have invited them along as I am of the view that it is important that all Commission staff are aware of the various accountability requirements of the work that we do and the level of scrutiny of our work.

The annual report we are discussing today covers a significant period in the Commission's history, in that the reporting period commences from 1 July 2000, three days after I commenced as the second Health Care Complaints Commissioner in New South Wales, until 30 June 2001. This 12 month period, like the 12 month period that is just drawing to a close, has been a time of great transition and change in the Commission. When I became Commissioner I gave this Committee, the staff of the Commissioner, the Minister for Health and a number of the Commission's stakeholders an assurance that I would confront some of the particular challenges confronting the Commission. These included: improving the working relationships with stakeholders; reducing the significant backlog of investigations that had built up over the years; shortening the length of time that investigations take; separating out the investigation, prosecution and advocacy roles of the Commission; improving workplace relations; developing a strong quality improvement framework for the way we conduct our business that is responsive to feedback; how we encourage the health system to provide safer,

higher quality services and maximise our effectiveness in maintaining health provider standards; and, finally, but not exclusively, broadening the range of flexible resolution services to be more responsive to the needs of the parties to complaints.

While I recognise the need for improvement was seen as urgent, I made a commitment to seeking solutions that are sustainable, not a "quick fix". I stand by that commitment and ask the Committee to recognise that building in sustainability requires very close scrutiny into the causes of problems and addressing those before one can hope to reform and effect. It is my view that the Commission is in the second stage of a major transition, that by my estimation we should be seeing some significant rewards, not necessarily dramatically at the end of the 2001-2002 reporting year, but definitely by the end of the 2002-2003 year.

It is my very firm view that performance is more than numbers. It is about more qualitative achievements, including the quality of the work output. I consider that there are some significant improvements in the workplace relations already within the Commission and that relations with other stakeholders in the reporting year are continuing to be developed. Good internal and external relationships are important foundations upon which competence and improvement can be built.

My first year in office was a time of review and incremental improvements, lifting up rocks so to speak, and I wanted to assure myself during that time that, firstly, I understood the business of the Commission, that I knew what resources were available, both in the people of the Commission as well as the financial resources we had, what the internal and external barriers to improvement and change had been in the past.

In early 2001 the "Moving Forward" project began and it evolved out of a strategic management development meeting of the Commission's senior managers in November 2002. This project has been designed to enable a process where the management and staff of the Commission work together to review and update, and where necessary create new values, a vision, strategic directions, organisational performance indicators and a structure and competencies to support these.

A significant body of that work is reflected in the "Strategic Directions" document that I am providing the Committee with today, and I welcome you taking one. I have forwarded most of this material to the Committee previously and my offer remains to brief the Committee more extensively on these and I look forward to the Committee's feedback and endorsement of these initiatives.

Parallel to this work, a complete review and revision of the policies and procedures, practice and performance of all areas of the Commission has been going on. This is still under way. However, the committee saw some of the early fruits of this work in the revised practice manuals for investigations and prosecutions that were forwarded to you with the Commission's submission to the

Committee's inquiry into investigation and prosecution procedures of the HCCC. Even those manuals have continued to evolve and improve since June last year.

I must acknowledge the considerable commitment, hard work and trust of the managers and staff of the Commission in engaging in these procedures and projects. The reality is that these two years have been a very challenging time for us all at the Commission as we have negotiated the considerable changes to the way we conduct our business and how we structure the organisation while, at the same time, somehow wrestling with the increasing service demands from the community and from the health system. There is a wealth of talent and enormous dedication in the people of this organisation that I have drawn on mercilessly in the past two years. I hope they are, as I am, beginning to see the fruits of our labour. I do note that this marked degree of change has occurred without significant industrial issues or mass departures of staff.

There is no doubt that this has all come at short-term cost which understandably may be a source of concern to the Committee, as it is to me. Yes, this review process, conducted as it was within existing resources, has to have an impact upon some of the results that we posted in the 2000-2001 reporting period. I predict that this may also be evident, although not nearly to the same extent, in the coming reporting period. It was a risk to embark upon such a long-term strategy when there would be a hiatus that would undoubtedly create frustration and discomfort, not only within the organisation but also for stakeholders and observers from the outside. However, without an increase in resources to undertake such an initiative, there were few choices other than tinkering around the edge and, in my view, effectively maintaining the status quo.

In relation to resources, I was most keen to undertake the review process and assess the issue of resources from an educated viewpoint before seeking any significant increase in the Commission's resource base. Having done so now I am pleased to report to the Committee that the Commission has sought, substantiated the need for and been granted a significant and substantial increase in the recurrent budget of $1.4 million, which will enable us to invest in the critical areas that we have identified during the review process are in need of major boosts. These include increasing the number of staff undertaking investigation and resolution of complaints (there were just not enough appropriately skilled people to do the work and to manage the caseloads of complaints that the Commission has ben struggling with over the years); increasing the number of patient support officers, particularly in rural areas; increasing the research, education and training, organisational development, data analysis and policy review and development capacity of the Commission; improving the electronic knowledge management and support systems within the Commission; developing the skills and knowledge of existing staff and ensuring that all the roles within the organisation are valued at the appropriate level for the responsibilities that they carry, and increasing the Commission's capacity for support and liaison within the health system to improve

local complaint resolution and inform quality improvement strategies at a local, area and State level.

We began the restructure of the organisation on 1 January this year and, while it is early days yet and not all the staff have been appointed to the newly identified positions, it is my view that we are already seeing some considerable benefits from this new grouping of staff that is designed to improve services.

It is important that I highlight some of the achievements from the projects mentioned in the annual report for the reporting year of 2000-2001 which we are here today to talk about to assure the Committee that, while things might have seemed quiet from the outside, the steam has been building inside the Commission.

The legal services team within the Commission now reports directly to me, and has since February 2001. No investigations into professional conduct have been referred to the legal services team for approximately 18 months.

The complaint resolution teams, which include investigation services, and the patient support service report to me through the assistant commissioner for complaint resolution.

The new structure enables improved links with area health services and other regionally based health services because of regular communication with the same staff. Complaint resolution team managers and patient support officers have been participating in the Commission's complaint investigation and resolution education and training strategy which is being rolled out across the area health services and, in doing so, are meeting with the key complaint coordinators, clinical managers and senior administrators in those health services in the geographic regions they are responsible for. This initiative has been strongly endorsed by the Senior Executive Forum of New South Wales Health. It is also anticipated that this initiative will give the Commission a better knowledge of local issues in particular regions.

The Commission's complaint investigation and resolution education and training strategy, which is covered quite extensively in the report, is proving to be extraordinarily successful and, as you will see from the new organisational chart, the function of education and training has been incorporated into the framework of the organisation over the next three years to support the external health system strategy and improve the internal education and training initiatives.

The investigations and prosecutions policies have been considerably enhanced and continue to actively evolve. These continue to be updated and are readily available to all staff at their desks on the Commission's easy access intranet site that has been developed during the reporting period that we are discussing today.

The investigation, prosecution and consultative resolution practice manuals have been considerably improved, as I mentioned earlier, and are available also through the intranet and were made so during the reporting period in question. Telephone inquiry, database, patient support service and other practice manuals have been or are being reviewed during the course of the next two reporting years.

Planning and review forums have been established to ensure that investigations are reviewed by senior managers and clinical and legal advisers at critical milestones so that the investigation is kept actively moving to reduce the potential for delays.

The Commission now employs internal clinical medical advisers covering four full days a week and we are using other innovative ways of obtaining clinical advice such as convening one-off expert panels.

Draft investigation time frames have been developed and the Commission is working towards achieving these routinely in the longer term.

A staff development program conducted monthly has been implemented since late 2000 designed to increase staff knowledge and skills in key areas.

The workplace agreement has been implemented in the 2000-2001 reporting period.

Commencing in late 2000 the Peer and Expert Review Program has been reviewed and is being radically improved after seeking nominations and commentary from all the professional colleges and associations. There is still much to be done to enhance this important source of clinical advice about contemporary clinical standards.

Relations with the health conciliation registry have improved dramatically. There is much stronger joint commitment to ensure that all complaints suitable for conciliation are assessed appropriately and supported through the process of informing the parties and obtaining consent.

The new database for the Commission that is being developed in partnership with the ACT and Tasmanian health complaint authorities is close to the point where tenders will be called and will replace the current MS dos Paradox dinosaur that we have been limited by over the last few years as it has well and truly passed its use by date. The new system is primarily a case management system that will enable the Commission business to be much more scrupulously monitored from both within and for external reporting. I look forward to providing the Parliament, consumers and health providers with considerably more useful information on a regular and an ad hoc basis than we do currently.

I could go on. However, I am sure the Committee has a number of issues that it wishes to explore in relation to the 2000-2001 annual report of the Health Care Complaints Commission.

In conclusion, I want to highlight just two points. First, I would emphasise that the 2000-2001 report was reviewed by the Commission's consumer consultative committee comprised of representatives of a number of different consumer organisations and the feedback was universally positive.

The Hon. Dr BRIAN PEZZUTTI: Does that include the Medical Board or just consumers?

Ms ADRIAN: Consumers. The Commission has actively engaged the committee in evaluating the annual reports for several years now and has found that their feedback about style and content has been constructive and useful in improving the reports year by year.

On the second point I wish to draw the Committee's attention to the summary performance table (and I want to acknowledge that it was an inadvertent omission from the annual report) on two keys points: The Commission has received and dealt with the highest number of complaints ever, written complaints, matters dealt with by the patient support office and the very important telephone inquiry service. Secondly, the Commission finalised the highest number of complaints ever. Both these achievements have occurred in an environment of considerable change and existing resources such that I have only been able to touch upon in this statement.

Thank you, and I welcome your questions.

CHAIR: Thank you very much, that was a very detailed opening statement and it certainly clarifies a lot of the points that the Committee needed clarifying as part of their current inquiry into investigations and prosecutions. I would ask Committee members to hold off on asking questions relating to the current restructure and changes to the Commission and try and focus on the 2000-2001 annual report from the Commission. The Commissioner will be appearing before the Committee again in two weeks' time. Having said that, I noticed in your opening address that you talked about some of the effects that the planning for restructure had on the operations of the Commission, which partly answers the question I was going to put to you, but I will still put it to you: On page 42 the report refers to a drop in the number of complaints assessed for investigation. Why is that?

Ms ADRIAN: It relates to a number of issues. Essentially, what we have been looking at obviously are the resources involved in investigations. There have been a number of initiatives that have been developing over several years now that mean that investigation is not necessarily the resolution mechanism of choice. For

instance, the performance stream of the Medical Board processes has meant that a number of medical practitioners who had broad issues around their performance are now being referred to that performance stream, and that certainly came on line during that period, and the impairment stream for the Nurses Board and for the Medical Board. I think the Commission and the boards are becoming much more adept in identifying people that really should be dealt with in those streams rather than in the conduct stream.

I think we have been using more usefully the conciliation and direct resolution mechanisms available to us and certainly in the referrals to conciliation we have been assessing many more for conciliation than we have in the past. I think that the strategy in relation to assisting area health services in getting their act together in local investigation and resolution has also given us some confidence in being able to refer back matters that we may have investigated in the past ourselves for them to look at closely and report to us the outcomes of their investigations and we will then review that. So I think that there are a number of different effects that have come into play that have enabled us to reduce the number of investigations in the longer term.

The consultative resolution strategy that we have been using within the investigation framework has enabled us to look at investigations in a different way. Some of those have actually been done within an investigation and others have been referred and dealt with in a direct resolution way where we will actively engage with senior administrative officers and clinical people at an area health service level to broker the recommendations that we feel are appropriate coming out of the complaint.

CHAIR: On page 10 of the report, under the heading "Meeting Criticism Head-On, the HCCC Investigation Improvement Strategy", certainly a number of those points are issues that became of concern to the Committee over the past nine months or so as it has undertaken its inquiry. The first dot point you have on page 10 under that heading is "Emphasising active investigation rather than paper-based investigations". Could you tell me how many field-based investigations were conducted in the year of the annual report?

Ms ADRIAN: That is data that is not readily available. However, the procedures of the Commission in relation to investigation require that staff look always to actively going out and interviewing witnesses, actively finding out information on the ground, having a look for themselves and, while I cannot give you absolute figures, the presumption is now that active engagement with witnesses and with complainants is a key area.

One of the difficulties we face, which I would like to raise, is that we have recognised that one of the areas that we cannot and do not do well is engage with respondents to complaints in investigations easily. One of the difficulties there is that our Act has a formal requirement for seeking respondents' advice. We find

that there are a number of times where respondents' representatives, such as the medical indemnity organisations, recommend that they do not provide us with advice until the end of an investigation, which impedes very strongly our capacity to be able to hear the other side of the story before we go any further. Now one of the planning and review milestones we have established is receipt of response from respondents and we do close investigations at that point where we receive an appropriate response from a respondent. I would actually like the representatives to assist their members to come and actively engage at that point. That would be most useful. It is something that we have been negotiating with UMP particularly to try and improve that because we see that as a block in our investigation process at the moment, but certainly as far as active investigations the presumption is that all investigations should be done in an active way.

CHAIR: I am talking about field-based investigations because it has become evident during our inquiry that none of the doctors who have appeared before the Committee so far have had a face-to-face meeting with an investigator from the Commission. We have travelled interstate to meet with other medical boards and it is common practice that they visit the doctor, eyeball the doctor and ask the questions. I understand you are introducing structural change and you are emphasising field-based investigations, but it would be good if you could take on notice the question just to see, in the year of the annual report, where there may have been a face-to-face meeting with a respondent.

Ms ADRIAN: We certainly are seeking to do that now. As I say, one of the impediments we have is that their legal representatives are urging them not to front-up to the Commission or be part of that process. I think that we are now improving our response rate early on, but we certainly are generally being denied access to the respondents for a direct, face-to-face interview.

The Hon. Dr BRIAN PEZZUTTI: In the matter of Dr Zipser, which has been through the tribunal and found to be a great waste of public money - I think he got costs against the tribunal and the Commission - he did receive a visit to talk about some complaints, but all it was was a subterfuge to look at his rooms. Any wonder people have to question when they are going to have a visit from the Commission if the Commission is going to take underhand tactics like that.

Ms ADRIAN: I take your point, Dr Pezzutti. That particular investigation is not within my sphere of knowledge.

The Hon. Dr BRIAN PEZZUTTI: No, it is before your time, but you can understand, when the Commission uses tricks like that, why insurance companies would advise their members not to cooperate. The other thing I would like to point out is that a person has the right to remain silent.

Ms ADRIAN: Absolutely.

The Hon. Dr BRIAN PEZZUTTI: And, if they use that right, that does not mean that you should not then have a benchmark time to proceed: You have five or six weeks to answer and then we will proceed.

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: I think you should then make a judgment about the complaint one way or the other because at the moment, while the person is remaining silent, they are fretting, worrying, anxious, while you and the Commission go ahead with what you do - God knows what it is sometimes.

Ms ADRIAN: I take your point and we have recently tightened up our procedures in relation to not receiving responses and actually moving on with the investigation

CHAIR: If you would take that on board, it would be interesting to see.

Ms ADRIAN: Certainly, I will.

CHAIR: That could then show a stark change in the operations of the Commission, particularly with investigations, because it is of concern to the Committee and something we will be highlighting when our other inquiry is concluded that there has been in the past a lack of face-to-face contact with doctors.

Ms ADRIAN: I share your discomfort.

The Hon. Dr BRIAN PEZZUTTI: Your presentation was very up-beat and I think we are going to see the results when you table your next annual report. However, just at a glance, it appears to me that, while you received a large number of complaints, 6,638 in the annual report--

Ms ADRIAN: In telephone inquiries?

The Hon. Dr BRIAN PEZZUTTI: Telephone inquiries. You then go to the number of patient support offices in the third table, the number of complaints received, the final number of complaints, which has risen, and then the number of complaints closed has risen as well, but how are they closed? The number actually investigated has dropped dramatically over time, so the workload of the Commission in terms of investigation has dropped dramatically. In other words, you are selecting fewer and fewer for investigation from a larger number. As the number of complaints received has grown from 2,000 to 2,800, the number of investigations has dropped from 450 to 335.

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: That means that there are some complaints out there which you do not investigate which perhaps in the past you would have investigated. Our interest here clearly is protection of the public from poor practices. How does that demonstrate an improvement in protection of the community?

Ms ADRIAN: I would go back to the point I made a little earlier that it is my view that investigation which was used extensively by the Commission in the past is not necessarily the appropriate resolution strategy for many of the complaints we receive and we refer much more into the impairment streams; the performance streams of the Medical Board, which I think is an exemplary area. The patient support office has picked up a very large number of matters that we can deal with in a much more timely and appropriate way and if there are concerns about public health and safety they certainly come back to us as a written complaint and will be referred to investigation.

The conciliation mechanisms, we are referring many more into conciliation and we are working very hard on trying to improve the acceptance rate and consent rate to enable the conciliation process to be used much more, and as I said before, with the health service investigations we are developing a stronger confidence that the quality and safety agenda that is being driven at a local level is starting to enablp-2Xble 2Xea health services to deal with the issues that are local to them much more usefully and effectively, and we seek, in many of those situations, a report back from those area health services and we give them a robust review and there have been a number of those that we have actually then referred into a secondary investigation because we have had outstanding concerns.

The Hon. Dr BRIAN PEZZUTTI: Then go to the next table, which is the number of investigations finalised, and here we have a halving of investigations finalised, in other words the backlog must have grown, or, alternatively, the timeliness of those investigations and the finalisation of the investigation, not to mention the prosecutions and so on, looking at that, that is a very poor performance. You are taking on fewer and you are resolving fewer.

Ms ADRIAN: I take your point, Dr Pezzutti, and I had hoped that I could make the point through the opening statement that one of the challenges and difficulties in looking very closely at what the gaps and barriers the Commission's business has been is around the resource issue and having to pull away resources to look at and be involved in the planning and review of the process. I take your point and I accept your critique.

The Hon. Dr BRIAN PEZZUTTI: You are being given this year $2 million as I understand it more.

Ms ADRIAN: 1.4.

CHAIR: 1.4, but 12 more positions. My only comment on that is that there would want to be an improvement in performance to justify the expenditure of more funds. It may be that you have got to front end load it to get better performance, but with a 30 percent increase in complaints received, a reduction in the number of complaints investigated and a further halving almost of the number of investigations finalised, this is not a good performance this year.

Ms ADRIAN: I think the point is that there are many other ways that we protect the public other than investigation, and I want to reiterate that point, because clearly our business through the patient support office area, our close scrutiny of what is happening at the board level, and at the area health service level, I think that the productivity may not be revealed in those very simplistic tables, and my point earlier was that it is not just the quantity issue that we are looking at in the strategies that we are involved in with the Strategic Direction, it is actually about the quality.

The Hon. Dr BRIAN PEZZUTTI: Just go to the quality. The main aim of the Commission is to resolve complaints?

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: Nothing in this at a glance talks about the number of complaints that are resolved. It talks about the number closed, "We are finished with your matter. Go away". Obviously the rise of complaints by 30 percent could be due to a number of things, such as more frivolous complaints, but you have got to be judged against how many of them have been resolved, not just finalised which you have got here, the third, fourth graph, or investigations completed, resolved?

Ms ADRIAN: The risk is placing too much emphasis upon those very simple tables. There is quite detailed information around resolution in the body of the report. In relation to patient support officer complaints, the telephone inquiry service itself, in which senior officers of the Commission are now involved, and I have the privilege to now do a telephone inquiry session once a month.

The Hon. Dr BRIAN PEZZUTTI: Yourself?

Ms ADRIAN: I do, which is enormously revealing for me, but also very beneficial, because I would say that in a third of the matters that come through to the Commission we are able to support individuals to go back and resolve their own complaint by providing them with information, assistance or referring them to the patient support office.

The Hon. Dr BRIAN PEZZUTTI: But this whole series of tables has "closed", "referred to other bodies", "assessed investigation", "assessed and

declined". There is nothing in here that says "resolved" that I can see easily. Can you point it to me?

Ms ADRIAN: The issue for us is that there are very stringent requirements for us under the Health Care Complaints Act on what we have to report, and it is about what is closed, what is opened, what has come through the door. I take your question on notice, because I think it is something that we are looking at with our surveying of complainants and respondents about resolution after we have finished with the matter and that is certainly one of the key strategies that we have got in train.

The patient support office table on page 28 certainly does go to resolution rather than merely closure, and we hope that over time we will be able to have much more detailed information about all areas of our resolution strategies. On page 41 the health conciliation registry, we have some details about resolution through that.

The Hon. Dr BRIAN PEZZUTTI: Just go back to page 28 which you referred me to. It says "resolved" 33.4 percent, and then there is "pursued by another body", "incomplete resolution", "no contact with a person", "declined", "not resolved", "unable to be resolved". So 33 percent of the patient support ones, which are the lower level ones, are being resolved in some way or another, but the Act is all about the resolution of complaints, is it not?

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: It does not talk about the management, and your opening statement is you "managed" 13,000 inquiries and complaints. Managing is not the same as resolving.

Ms ADRIAN: Not always, no.

The Hon. HENRY TSANG: Dr Pezzutti mentioned about the patient support office. The question is why did the percentage of cases involving PSOs where there was a total resolution of the complaint drop last year? You were saying that the patient support office has been now dealing more effectively. I would imagine that you would be doing more cases. Why did that actually drop last year?

CHAIR: That is in the page 28 chart.

Ms ADRIAN: Yes, I am just looking. I think that one of the challenges that we have had with the patient support office is that, as their service has become more and more known, the call upon that has been increasing much more strongly and their case load has now got to a level where they are not always able to meet all the needs. Certainly, one of our primary commitments is to increase the number

of patient support officers. The areas that we have chosen at this stage, in the first instance, to roll the new patient support officers out to, are northern rivers, Macquarie area Health Service and Illawarra Area Health Service, with the hope to be able to increase the coverage over time even more so. That certainly will free up our centrally located patient support officers to cover the other areas of the rural sector.

The other point that I would like to make is that the patient support office do continue to support complainants after we have "closed" if you like a file. They will be contacted quite often after, and we will continue to provide support and assistance to complainants, even though on our data base the complaint has been finalised.

The Hon. Dr BRIAN PEZZUTTI: You said you sent your report out to consumers for comment.

Ms ADRIAN: Our consumer consultative committee were given it.

The Hon. Dr BRIAN PEZZUTTI: There are other customers that you have, all of the people who work within the system. Everybody looks to you to help them through that, so quality of service would mean that you would provide it to the external customers as well as internal customers. I believe that you should show this report and have discussions about this report with the various health groups, the Nurses Association, the AMA, to see whether or not this is meeting their aims of assisting you and assisting the Minister and various other people to improve the quality of services.

Ms ADRIAN: We do take the report after publication to the ad hoc committee, which is made up of the AMA, the UMP, the Medical Board, the health conciliation registry, the health professional boards of the Department of Health and the area health services. So we do have the discussion at that level. The report certainly goes out to several thousand stakeholders, both professional and community stakeholders.

The community consultative committee is a standing committee of the Commission and has representatives on it from established consumer organisations, and they come to the Commission once every three months and actually sit and go through and review the report in a slightly different way, but certainly we would welcome, in fact our intent is to have a survey form, and we have certainly opened doors to a number of the professional organisations to have discussion around the sort of data and information that they require.

The Hon. Dr BRIAN PEZZUTTI: Do you do any exit surveys on when a complaint is resolved or an investigation is finalised or a complaint is referred to another body for the person about whom the complaint is made, in other words do you do any respondent surveys?

Ms ADRIAN: One of the strategies we have in train is to have a whole framework of surveying of respondents, of complainants, of other parties, because that clearly has been an omission of the Commission's performance review in the past.

The Hon. Dr BRIAN PEZZUTTI: Are you now doing that?

Ms ADRIAN: We will be doing that. We have several already under way and we are piloting several others.

The Hon. Dr BRIAN PEZZUTTI: Who are your legals now within the branch?

Ms ADRIAN: David Swain remains the manager of the legal services branch and he has a number of very talented legal officers working for him.

The Hon. Dr BRIAN PEZZUTTI: Part of the complaints that we have received about this process has been about culture, the culture within the divisions. There have been quite a few remarkable judgments of the Supreme Court concerning the investigations and the prosecutions by the Commission. Has that led you to take a careful and close look at your legal service within your organisation, to judge its accuracy, or have you brought somebody in from outside to take a close look at your legal services?

Ms ADRIAN: We have been looking at the entire organisation, not just the legal services team. We have certainly been giving some very close look at the judgments, and I note that the Supreme Court, the text that came from a particular case, and we certainly take all of those, and the District Court, the text, we certainly have a very stringent review of all of those and look to what those critiques go to. I have every confidence in the staff of the Commission. We have been doing a lot of team development and organisational review together. There is a much stronger performance review framework in place that is going to be increasingly rolled out.

The Hon. Dr BRIAN PEZZUTTI: Have you used the Law Society to do a review of the professionalism and competency of the staff of the Commission?

Ms ADRIAN: I think the Law Society has actually been subject to more criticism than we have.

The Hon. Dr BRIAN PEZZUTTI: They may well have, but given that they are the body, have you referred any of the matters to them to give you advice about the competency of the prosecution and the job being done by the legal people in your organisation, which I have asked for in the past?

Ms ADRIAN: I will take that on notice.

CHAIR: Could I just say, Dr Pezzutti, I indicated earlier that we should try and stick to what is contained within the report because the Commissioner will appear before the Committee again in two weeks time.

The Hon. Dr BRIAN PEZZUTTI: My apologies.

Ms ADRIAN: I would be happy to take some of those questions on notice.

The Hon. Dr BRIAN PEZZUTTI: The other matter is that we will need to see a list of the new peer review, who they are and what criteria you use for choosing them.

Ms ADRIAN: Okay.

The Hon. Dr BRIAN PEZZUTTI: If you could bring those details to the next meeting that would help.

Ms ADRIAN: Yes.

CHAIR: Do you have a question on the actual report? While you are looking at that, I will get Mr Tsang to ask a question.

The Hon. HENRY TSANG: Commissioner, you were talking about patient support office sending out the surveys and you are more efficient so to speak and there are less complaints. How is the performance review of PSOs conducted? How do you review their performance?

Ms ADRIAN: We have a number of strategies. Because they are officers working off site from central office, they actually have probably a more stringent performance review process than even the internal officers because of our concerns and ensuring that they get the support and that we have the capacity to review their work. There is a manager who has fortnightly meetings with every single one of them on their own site. The patient support officers currently survey every single person that they deal with and we have very robust data about them. I think that is why we are able to look at that table on page 28, about the resolution or partial resolution of matters that the patient support office deal with. The patient support officers meet at the Commission once a month where they have case meetings, where they go through matters that they have dealt with that have posed them with challenges and problems. So there is the survey, the supervision, they have peer review processes in train. I certainly meet with each of the CEOs of the area health services and one of the issues that we discuss is the performance of the patient support officers in their area of control.

The Hon. HENRY TSANG: What is the formal process for dealing with complaints from area health services about PSOs and how does the Commission provide the area health service with feedback about the same?

Ms ADRIAN: We respond, when we get a formal complaint about a patient support officer from an area, we immediately contact the area CEO, or the general manager of the particular facility if it has come from a facility manager, and organise a meeting with them to discuss the issue at hand, and we also seek information from the patient support officer about what their view of the situation is. We will meet with the person, the CEO or the hospital manager, and discuss the issue. We have had several complaints and that is how we have handled them.

The Hon. HENRY TSANG: Are PSOs or former PSOs part of the investigation teams?

Ms ADRIAN: We have an ex-patient support officer who has been brought into the Commission under the management of the investigation team in dealing with a situation that arose where a conflict of interest and a breakdown in communication arose and we are monitoring - sorry, are other PSOs members of the investigation team?

The Hon. HENRY TSANG: Are PSOs or former PSOs part of the investigation team?

Ms ADRIAN: PSOs are not members of the investigation team routinely. Obviously, they refer matters, because now the teams are organised geographically, they refer matters from the complaint resolution team to PSOs. So there is a connection there, but that is just for support and advocacy. We have kept the firewall between patient support, because it is a support and advocacy service, there is no doubt about that, and they do not share files, they do not share any of that. Staff move around the Commission all the time.

The Hon. Dr BRIAN PEZZUTTI: I notice that there are far fewer tables and diagrams than in last year's report. I make that observation, but the other thing is that we have in table 5, page 29, breakdown of concerns by location and service sector. What is a concern?

Ms ADRIAN: It is not a formal written complaint.

The Hon. Dr BRIAN PEZZUTTI: Does it include complaints?

Ms ADRIAN: No.

The Hon. Dr BRIAN PEZZUTTI: These are not complaints.

Ms ADRIAN: Issues raised.

The Hon. Dr BRIAN PEZZUTTI: Issues raised, but it does not include complaints as well?

Ms ADRIAN: No.

The Hon. Dr BRIAN PEZZUTTI: Well, how do you compare the 2000-2001 figures with figures from 1998-1999 when I am sure we would not have had concerns in the report.

Ms ADRIAN: I understand that they have always been called "concerns".

The Hon. Dr BRIAN PEZZUTTI: I notice that the country area health services seem to have far fewer concerns. Is that because our country cousins are not as sharp or they complain about different matters or are they getting a better service?

Ms ADRIAN: They are issues that arise that the patient support office deals with.

The Hon. Dr BRIAN PEZZUTTI: Well, that is very interesting because the Hunter has gone from 202 to 274 and now 313. If you add up the population served by mid north coast and northern rivers it is the same as the Hunter or a bit more, but they have received far fewer complaints or concerns. Is that because they do not have a PSO?

Ms ADRIAN: It is partly to do with that.

The Hon. Dr BRIAN PEZZUTTI: So if these are concerns raised with the PSO, since northern rivers and mid north coast do not have a PSO, how can we have a table from 1998-1999 that talks about concerns raised with the PSO, as you have just said, at all and how can we have one in 2000-2001 when there is not one there?

Ms ADRIAN: We do deal with complaints from the rural sector. We have a PSO located in the Commission who does actually deal with regional concerns. Dr Pezzutti, I think you missed my point that one of the places where we are going to place a patient support officer with our increased funding is indeed northern rivers.

The Hon. Dr BRIAN PEZZUTTI: I am just worried about the accuracy of these tables. If you look at the top: "Information, Resolution and Complaints". Then I see the word "concerns" jump out at me. I do not remember ever seeing the word "concerns" in a previous annual report. I may be wrong about that, but I do not remember ever seeing the word "concerns".

Ms ADRIAN: Well, the issue is that often the matters that the patient support officers deal with have not actually escalated to the notion of complaint, if you like, where it would be seen. It is my understanding that the word "concern" has been used around the patient support office service for some time.

The Hon. Dr BRIAN PEZZUTTI: Well, I do not think I have seen it in annual reports before. Separately, what do these concerns mean? Is there a breakdown of what these concerns are all about?

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: It does not seem to be in the report.

Ms ADRIAN: Page 26, table 2.

The Hon. Dr BRIAN PEZZUTTI: Okay, 4,496 of them. Do we add that to the number of telephone inquiries you have and the number of complaints you receive formally to get some idea of the workload of the Commission?

Ms ADRIAN: We do notionally. I mean it is difficult. I think in my foreword I actually added them all together.

The Hon. Dr BRIAN PEZZUTTI: Is that the 13,000 figure you used?

Ms ADRIAN: 13,579, yes.

The Hon. Dr BRIAN PEZZUTTI: That is counting one thing, whether it is a complaint, a concern or a telephone inquiry?

Ms ADRIAN: Matters, yes.

The Hon. Dr BRIAN PEZZUTTI: Why then is there such a difference, in your view, between the number of people who raise concerns in the Hunter versus mid north coast and northern rivers?

Ms ADRIAN: Well, I think there are two issues. There is a patient support office located in the Hunter and I think that does provide close and active engagement with the community, which is one of the reasons why we are keen to roll the patient support office service out into other rural areas. Secondly, I think that there is a density of population in the Hunter that is not necessarily reflected all the way through the spread communities up the coast further, so while we attempt to meet the needs of those communities we do not have patient support offices in at the moment, we recognise the gap for those communities in service provision.

The Hon. Dr BRIAN PEZZUTTI: I do not want to pick on the Hunter, but I just happen to know that mid north coast and northern rivers add up to the Hunter

in population terms. If you go to table 9, the number of serious complaints about public hospitals, you have northern rivers and mid north coast receiving a rising number of complaints but they do not add up to the Hunter. It is getting closer now in 2000-2001. Is there a reason for that and are these complaints in the annual reports of the area health services for the local community - the concerns and the complaints - published to the local people in the annual reports of the various area health services?

Ms ADRIAN: From the Commission's figures?

The Hon. Dr BRIAN PEZZUTTI: No. Well, these would be complaints about the area health service.

Ms ADRIAN: And private sector services.

The Hon. Dr BRIAN PEZZUTTI: No, public hospitals, table 9.

Ms ADRIAN: Sorry, yes.

The Hon. Dr BRIAN PEZZUTTI: The area health services operate these public hospitals. Do they put these complaints in their annual reports so that people can see what the complaints are?

Ms ADRIAN: It is my understanding that it is one of the performance indicators for the CEOs. A number of performance indicators are now published in the annual report and it is my understanding that complaint was identified as one of those. There is a Statewide complaints project on foot so that there is actually data that can be looked at like with like, if you like, in relation to area health services being able to benchmark with each other around complaints and with the Commission that has been going on now for several years.

The Hon. Dr BRIAN PEZZUTTI: What about concerns that are raised that have not reached the level necessarily of complaint? Are those concerns matters that are raised locally that you might not even know about?

Ms ADRIAN: Very often.

The Hon. Dr BRIAN PEZZUTTI: I notice that northern rivers put this out, and I do not necessarily get all of the others because you actually have to be present on the day to get a copy. To get a copy of an area health service annual report is almost like finding gold in a haystack. Having got the northern rivers one, I do notice that they do report - do they do it in the Hunter?

CHAIR: I get a report sent to me every year, but I could not tell you whether they list concerns.

The Hon. Dr BRIAN PEZZUTTI: That could be a way in which the Commission could assist, surely. There are a small number of complaints we are talking about compared to the number of patients that are seen.

Ms ADRIAN: Absolutely.

The Hon. Dr BRIAN PEZZUTTI: Very small, but these are the formal complaints, are they not?

Ms ADRIAN: They are.

The Hon. Dr BRIAN PEZZUTTI: These are not the concerns, which number 313.

Ms ADRIAN: No, that is right.

The Hon. Dr BRIAN PEZZUTTI: These would be different numbers.

Ms ADRIAN: These are formal written complaints we are talking about.

The Hon. Dr BRIAN PEZZUTTI: But the community should know what people are worried about, whether it is just that the tea is too cold or whatever.

CHAIR: And I think it is important to have it in the report because it shows the activity of PSOs in those regions.

Ms ADRIAN: Yes.

CHAIR: They are not dealing just with complaints, but they are helping resolve people's fears or concerns.

Ms ADRIAN: Absolutely.

The Hon. Dr BRIAN PEZZUTTI: Is it possible that you could recommend that these complaints appear in the annual reports of the area health services?

Ms ADRIAN: We can indeed. I would be delighted to take it up with the Director-General.

CHAIR: While we are on the PSO topic, one of the questions we had prepared to ask you was this: Do PSOs have a code of conduct?

Ms ADRIAN: We have a code of conduct for the entire Commission - I have not got a copy here with me, I am sorry - and PSOs certainly are expected to adhere to that code of conduct. We do not have a separate one for each of the divisions of the Commission. If the Committee has concerns that there are

omissions from that code in relation to patient support office needs, I would be happy to hear about those.

CHAIR: I might raise that issue when you appear before the Committee again in two weeks' time with regard to the actual roles of the PSO as compared to the Commission as a whole.

Ms ADRIAN: Sure.

Ms ANDREWS: How many of the 863 investigation matters currently open (table 34 on page 58) have been open for longer than 18 months?

Ms ADRIAN: We actually do not have those statistics with us, but we can provide them to you at the next inquiry.

Ms ANDREWS: All right.

Ms ADRIAN: An embarrassing number, if I may say, and I think I have been quite open about that all along.

Ms ANDREWS: Further to that, what are the current delays in dealing with complaints?

Ms ADRIAN: I think I highlighted some of them in my opening address. Certainly I think that the Commission over time used investigation as its primary resolution strategy and probably took into its investigation portfolio more matters than we need to now because we have further developed other resolution mechanisms that are much more appropriate to deal with the particular issues at hand. I think that there has been a tsunami that has built up over a number of years and I suspect it even came across from the complaints unit days that really we have to look at how we can wrestle down, and that is certainly the challenge that I have and have accepted and am undertaking at the moment. It is my hope that the investigation teams, the complaint resolution teams, within the next 12 months will start to have much more manageable caseloads. The caseloads have been high, they have been paralysing to some extent for many of the staff, and it is my undertaking to get those on an active and manageable level.

The Hon. Dr BRIAN PEZZUTTI: Where is the equivalent table for the length of time taken to complete investigations in 1999-2000 in this report? I simply cannot find it.

Ms ADRIAN: We actually had a criticism about that table from the last annual report and we have actually reported it slightly differently in this report, from memory.

The Hon. Dr BRIAN PEZZUTTI: That is one of the ones missed.

Ms ADRIAN: I do not think it was missed. On page 54, table 30, we actually broke the data down differently from how we had in the past because one of the other things during the course of my review of the Commission's business is that the Commission previously had wrapped the investigations about health practitioners and investigations about health services together, and they are very different creatures. You will note that we have separated that out this time. The actual investigation process is quite different and often involves a very different process, but I give you an undertaking that we will certainly include comparative data in the coming annual report.

Ms ANDREWS: Commissioner, have you got a goal set for the turnover of complaints that are referred to the Health Care Complaints Commission?

Ms ADRIAN: We have. At this stage, we are obviously in a piloting stage because we are trying to get the backlog down, so we can get a realistic viewpoint. We are hoping that we can start looking at an average of 12 months. Our Act and its requirements probably preclude us taking it much lower than that. That is an average of 12 months. There are matters where clearly public health and safety and public interest are served by acting much more quickly, and we have that in mind as well, and certainly where practitioners have been suspended or had conditions placed on their practice, that would be a critical area.

The Hon. Dr BRIAN PEZZUTTI: You have drawn my attention to tables 29, 30 and 31. Again, it is not particularly helpful for me to know that of the complaints that you have investigated that have been finalised 67 percent are against doctors, because it could be that the number that have not been resolved for doctors would be half of the cases against doctors. To put it more succinctly, of the complaints that you have resolved, investigations you have finalised, two thirds were about doctors. 80 per cent of the matters you investigated might have been about doctors. Therefore, there would be no gap, but nurses who have had their investigations finalised might be over represented in that sample.

Ms ADRIAN: I take your point.

The Hon. Dr BRIAN PEZZUTTI: It does not help, because of the matters that you finalised, you could be building up a bigger and bigger case load against doctors and finalise two thirds of the whole sample, but 80 percent of them are against doctors or thereabouts and therefore it is an unrepresentative finalisation.

Ms ADRIAN: That is reflective of the - it is not statistically aberrant from the numbers of complaints that we receive about those individual professions.

The Hon. Dr BRIAN PEZZUTTI: I think a little note about that would be helpful. The other thing is the outcome of investigations finalised about health

practitioners 199-2001. I presume that should be 1998-2001 because the total relates to 1998, 1999 -

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: - and the same goes for a number of these tables.

Ms ADRIAN: My colleague tells me that is the accepted protocol for reporting the financial years.

The Hon. Dr BRIAN PEZZUTTI: It is just that it is headed 1999-2000 in your report, but there are three financial years in a row, 1998-1999, 1999-2000, 2000-2001, but the table heading reflects what is below it.

Ms ADRIAN: Sure.

The Hon. Dr BRIAN PEZZUTTI: It is a stylistic thing. However, substantiated numbers against doctors seem to have risen and then fallen. What is the reason for that? Given that you are now taking on fewer investigations and you are finalising even fewer than that, your success rate seems to have declined.

Ms ADRIAN: We do not actually look at substantiations of complaints as a success measure. Our role is clearly public interest and fair and effective investigation and we do not have success as a means. Fairness is probably the most critical issue for us, and if there is no ground for taking any action, we do not take action.

The Hon. Dr BRIAN PEZZUTTI: I have to say most of the complaints we receive are about fairness from the person who is complained about. That seems to be the biggest number of complaints that we receive. Since you raise that matter here, I flag that that is an issue that I will be coming back to.

Ms ADRIAN: Sorry?

The Hon. Dr BRIAN PEZZUTTI: The issue of the perception of fairness.

Ms ADRIAN: Yes, indeed.

The Hon. Dr BRIAN PEZZUTTI: But the substantiation, looking at this table, doesn't that indicate that few are being referred for Commission investigations and even fewer are finalised. They have to be finalised to end up on this table number 31, do they not?

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: The number who are finalised is a smaller number than the decline. Your finalisation numbers of ones that are substantiated are even fewer.

Ms ADRIAN: I cannot comment on that. It may just reflect the particular pool of complaints that were handled at that time. It is not aberrant from the statistics.

The Hon. Dr BRIAN PEZZUTTI: Every year for doctors it is 1,180 or thereabouts complaints, is it not?

Ms ADRIAN: Yes.

The Hon. Dr BRIAN PEZZUTTI: And we go down through all of the complaints and we find 102 which were substantiated. Does that give us any idea about the nature of complaints or the seriousness of complaints, considering the continuing improvement of the practitioners in the State that are not being complained about, because previously there was 136 and 213?

Ms ADRIAN: No, it is actually about the availability of evidence generally.

The Hon. Dr BRIAN PEZZUTTI: In other words, you still recommend that we need to improve the quality of the investigations?

Ms ADRIAN: I have been unashamedly saying that. I accept that, and we are.

Mr WEBB: Commissioner, how are you keeping parties to the investigation better advised on the progress and any reasons for delays, and how do you measure "better advised"?

Ms ADRIAN: We have made contact with all parties a key performance indicator for complaint resolution officers. I have a very high expectation that there is regular contact, and not just paper contact, picking up the phone and contacting people to let them know what the status of their investigation is, because I think that is a critical issue, and it is certainly something that we get criticism about. The quantum of investigations that we have had in the past have sometimes limited the staff capacity to do that, but we are certainly better than of old.

Mr WEBB: And you are actually tracking that response?

Ms ADRIAN: Yes, there is documentation on every single file.

Mr WEBB: How does the planning and review forum (page 10 of your report) operate? What are the key points of review and how are decisions overseen in management terms?

Ms ADRIAN: The planning and review forum we have identified happens at four mandatory points during an investigation. The first point is at the receipt of the complaint there is a planning session, where with clinical staff, legal staff, senior management of the Commission, and that includes myself, Ms Kinross, Mr Greetham, other managers of the complaint resolution teams, we unpick what the issues raised by the complainants are. So that is done and that gives us a canvass, if you like, to proceed with the investigation and some goals and milestones.

The second mandatory review point is when we receive the response from the respondent, where we actually look at that closely against the complaint and weigh up if there is sufficient rebuttal, if you like, of the issues raised by the respondent to enable us to either close the investigation down, narrow the issues that we have identified down or move on as we had planned. It is at that point we have noted that a number of investigations do actually cease, because the respondent has provided us with an adequate reason why or reasons why things happened. That is the second mandatory review point.

The third mandatory review point is towards the end of an investigation. Before we contact the respondent asking them to respond to the outcome of the investigation, we now have a very robust - and this is an area that we are still working on because we haven't quite got it right yet I don't think, but we are certainly working on it - we look at what the investigation showed up, what needs to be done at that point, and that also involves senior clinical staff, legal staff, we may seek advice, certainly the peer reviews come forward at that point and we then make a decision about how we should propose the action that we plan to take to the respondent.

The fourth point at the moment that we have, a mandatory review point, is that a file or a complaint sits 18 months in an investigation, because clearly we want to stop the longer and longer investigations. So it is a mandatory review point at this time that any complaint if it hits 18 months is reviewed. That said, there is also a discretion for any officer to bring a matter forward that they are stuck on, having difficulty conceiving what they are going to do or do not know how to proceed.

Mr WEBB: So that 18 months is an automatic trigger, is it?

Ms ADRIAN: It is an automatic mandatory review trigger.

Mr SMITH: Commissioner, can I ask you to turn to page 26 of your report please, and focus on table 2, which is about the type of concerns raised by the PSO clients, particularly the first description about clinical standards. I note in the years mentioned, the percentage of complaints or concern that was raised is very steady. It is about 38 percent all the way through from 1998 to 2001. Does that

imply that we in fact are not improving our clinical standards? With such a consistent number of complaints about them, does that mean we are doing something wrong in the big picture?

Ms ADRIAN: Mr Smith, I think what it shows is that consumers are much more discerning about picking up clinical issues than we have often given them credit for and I think that the increase in complaints probably indicates not an increase in concerns about clinical practice. I do not share that at all, I think there is evidence the other way. But I think that it shows that consumers are becoming better educated to mechanisms to resolve complaints, so that figure actually sits with the written complaints data as well. Clinical standards is the highest issue.

However, in my forward I make the point that quite often the issues that people bring forward as clinical issues are often underpinned by communication or provision of information issues, informed consent, things like that. They perceive it as a clinical concern but at the end of the day it is because they did not understand what the practitioner told them, or because they were not given information that they thought they should have, or that they went away and thought afterwards and made a judgment themselves.

Our data base at the moment is limited because we only have one code that we can put into it for the type of complaint. My view would be that almost all those clinical standard issues have an underpinning around communication, information provision as well, but the person complaining to us comes through the door with a clinical concern.

Mr SMITH: So you feel that probably our clinical standards are getting better but -

Ms ADRIAN: I think this data will not help me in discerning that. I do not think it tells me that the standard of clinical care being provided in the health system is declining.

Mr SMITH: Do you think community expectations are greater, we are more attuned to -

Ms ADRIAN: We are certainly working hard to try and ensure that that happens, because I think it is important that the community is much more discerning in their appreciation of the services that are provided to them.

Mr SMITH: Commissioner, do PSOs have a code of conduct?

Ms ADRIAN: We have a Commission code of conduct, Mr Smith, that all staff are expected to abide by. It is a document that is -

CHAIR: We asked that while you were down in the chamber. Conciliation, there were so many matters assessed for conciliation last year, a total of 330, and that is on page 39. Why is the success rate for achieving consents so low? The commission was unable to achieve 175 consents, and that is on page 40. Can the commission improve on this?

Ms ADRIAN: Absolutely. One of the challenges we have had is the time required for seeking the consent is a very limited window and sometimes the timing just pushes it out of the realm. I think probably relevant to this particular reporting period, a number of the medical indemnity organisations and health professional organisations were not supporting their members in going to conciliation, so there would be a failure to obtain consent on one side or other. That is something that I think you are aware that we and the conciliation registry have been working quite hard on changing that.

The other thing that we are now doing is rather than a paper trail, we have started a pilot project to actually contact the parties by phone to actually talk them through the consent and conciliation process prior to the actual letters getting to them about it, so that we are hoping that they will give more appropriate consideration to it, answer any questions that they might have, instead of what happened in the past, when they get a letter saying that we have referred it for conciliation and the particular complainant takes the view that they wanted it to be investigated. So we are trying to work through their understanding of what the different resolution mechanisms are and how we have assessed their complaint, and we are hoping that that pilot will show that we get a higher consent rate.

Mr SMITH: It is a very dense report. Why is it that there is no executive summary in accordance with Treasury guidelines for annual reports?

Ms ADRIAN: Well, I guess I need to take that on notice for the next annual report, Mr Smith. I had hoped to pick up the flavour of the report in my foreword and deal with the broad issues that I believed were the themes going through the report and traditionally the foreword has been used as that. I am happy to rename that next time and make sure that I more appropriately touch on things. The year at a glance page being left out was, as I said earlier, a sad omission and it is something I regret.

Mr SMITH: Who does the Health Care Complaints Commission see as the audience for this report? Does it target any particular groups?

Ms ADRIAN: It is certainly, in the first instance, a report to Parliament. That is the requirement under our Act and we go through carefully the specific provisions of the Act that detail what we have to report. Certainly it is a report to the community more generally and we take strong advice from the consumer consultative committee about that and the style and content of it. The increase in case studies has been a direct request from both professional and consumer

groups in the past because they believe that, as well as the data that we provide, it is in fact the case studies and stories that are told that are important as well. Certainly the professional organisations we see as a key recipient and reviewer and interested group.

Mr SMITH: So do you distribute the reports to specific persons or groups?

Ms ADRIAN: We do, all the professional associations. We have a very large mailing list. I think it is a formal list of over 1,000 that covers consumers, professional groups, community groups and certainly the health service sector generally, all the area health services, divisions of general practice and, of course, the Committee.

Ms ANDREWS: Has the HCCC sought feedback or done research on what readers think of the report and how it could be improved?

Ms ADRIAN: Yes, we specifically sought feedback from the ad hoc committee and the consumer consultative committee. The ad hoc committee, I reiterate, is the AMA, UMP, the health professional registration boards, the Medical Board, which is an independent board and separate from those, the health conciliation registrar and the Commission.

Ms ANDREWS: Have they offered suggestions?

Ms ADRIAN: They have. As I said, the consumer consultative committee asked for more case studies; several of the professional colleges also said that they would appreciate more because they are using them in their education and training of their own professionals, and the AMA certainly gives us advice on what sort of statistics it finds useful.

Ms ANDREWS: Do you consider the report to be consumer friendly?

Ms ADRIAN: I would not dare put myself in the shoes of a consumer. We certainly take seriously the commentary we get back from any parties. We have given an undertaking this year and one of our plans is to actually put a survey into each of the reports so that we can seek overtly much more from anybody who wishes and we plan to do that this year. We had hoped to do that last year, but it was left out at the last minute, but that is our plan for this year.

Ms ANDREWS: I realise the length of time and the amount of effort that goes into preparing these reports, but I am also aware of the fact that, in the report, the Commission received 6,635 telephone inquiries. I think we recognise that people are using the telephone more as a means of communication, but what I would like to see in the report - and forgive me if I have missed it - is a breakdown of those telephone inquiries and also, for everyone's benefit I suppose, looking at the length of time taken to complete investigations, and perhaps it might be

beneficial to know with all those telephone inquiries how expeditiously they are handled. It might just give a better impression of the work of the Commission and it would also give us a better indication of the overall work undertaken.

Ms ADRIAN: That is certainly a component of our new database that we recognise is a key omission from the current one. We have only very limited information that we can pull out on the telephone inquiries, but certainly in the work that I have done on that line I know that we actually deal very competently with a number of matters and assist people and it would be useful to be able to put those with the patient support office figures, the written complaints, yes, I agree, and it is a set of the user specifications that we have established in our new database.

Mr WEBB: I know you have already answered part of the question I have, but I would like you to elaborate on the situation.

Ms ADRIAN: Certainly.

Mr WEBB: The award-winning Community Services Commission annual report has a table of five case study examples which are short, pithy and strategically placed. The contrast with 30-odd pages of examples in your report is quite stark. Of what benefit do you regard the provision of such numerous and detailed case studies in your report?

Ms ADRIAN: It was actually a direct request, as I said, from a number of organisations and bodies and consumer groups that caused us to clump and increase the case studies because certainly the professional organisations we spoke to actually use them for education and training. We use them for education and training with our resolution investigation workshops that we are doing around the State.

Mr WEBB: That is in a de-identified situation for some of them?

Ms ADRIAN: Certainly de-identified in most instances. I think the only matters that we have any capacity to identify are those where a practitioner has gone to a tribunal and it has been a public hearing, a court situation, and that is like a law report almost, I think we are almost obliged to--

Mr WEBB: Was the need to have 30, quite a large number, because of clumping or clustering of complaints into categories?

Ms ADRIAN: Yes, we tried to actually give a flavour across the different resolution strategies that we use under a number of headings. For instance, the ones that come to mind are around the communication- information provision area. The across the boundary issue is a significant one that we see a lot of complaints about and we felt that that needed to have some airing. The issue of supervision of junior medical officers was another area where we wanted to get not just one

complaint, because a complaint does not a system issue raise and it is where we have actually identified system issues. I am sorry Dr Pezzutti is not here, but certainly the area of mental health is an area we get a suite of complaints about, about different things that cause concern. One of the things that we did not want to do was diminish the issue by only putting one case study in. I would be happy if the Committee has got some suggestions as to how we might do it better next time.

CHAIR: On page 90 of your report you talk about inquiries and you talk about the report on mandatory reporting of medical negligence which the Committee handed down. I was just wondering whether there has been any ongoing discussion with UMP with regard to providing the Commission with the de-identified information that was the basis of us starting our report? The Act says that you should report on the frequency, type and nature of allegations. We recommended that de-identified information be given to the Commission. I had the impression from UMP that that could be done quite easily. Of course, identified information was the area of concern and we recommended a pilot project with the Medical Board which may require regulations being put in place by the health minister under the Health Care Liability Act. I think he has the ability to do that to regulate for UMP to give identified information, but has anything happened with providing the Commission with de-identified information?

Ms ADRIAN: There have been ongoing discussions at the ad hoc committee about how that can be done. I think certainly the Medical Board and UMP have been having the discussions and part of the difficulty is having like with like, the identifiable and the non-identifiable data available to both parties. Those discussions are ongoing. We would welcome, as you know, any sort of data in that area because it is something that we would just like to have a look at. Anecdotally there are some similarities around the issues that we both deal with. We know that a number of the matters that we deal with do end up in a litigation process or in a claims resolution process. We certainly are doing everything we can to try and press that button. I suspect that our capacity to press those buttons at the moment is a little limited with the liquidation process that is going on with UMP.

CHAIR: The Prime Minister has assured us that he will solve the issue, so let us hope by the end of the year he has.

Ms ADRIAN: Well, I certainly hope so. I mean there is certainly deep concern amongst the medical profession about those issues at the moment.

CHAIR: Point 2 of the summary of recommendations, which appears on page 90 of your report, is that the District Court consider establishing a professional negligence list in line with that established by the New South Wales Supreme Court. Now do you know whether the New South Wales District Court has established such a list and, seeing that the Supreme Court list has now been established for a few years, there is that opportunity of gathering that information from the Supreme Court. If a list has been established in the District Court you

could list the District Court information in your report and I suppose leave a blank for information coming from UMP and other insurance groups. I am just saying there might be an opportunity to start reporting even if in a partial form.

Ms ADRIAN: Sure. I am unaware if the District Court has set that up. I am happy to take that on notice and report on that in due course.

CHAIR: Also on page 91 you talk about our inquiry into conciliation, which was handed down this year. The report just notes that we were doing that inquiry. One of the recommendations was for the health conciliation registrar to participate in as many forums as possible, and I was just wondering following on from the tabling of our report whether an invitation has been extended to the health conciliation registrar to participate in the Commissioner's six monthly meetings that are held around the country with the Commissioners from other States?

Ms ADRIAN: We have not had a meeting of the Commissioners since the report was tabled. There is a meeting in Alice Springs in September and I will certainly be raising that question with the Commission.

CHAIR: On page 93 of your report under complaints about the Commission, you said you have received 13 complaints about the commission. I am just trying to see whether it states here that this was an increase on previous years or a reduction in the number of complaints you received about the Commission.

Ms ADRIAN: One of the key areas that we are looking at in our performance framework development is making sure that we collect this data in a much more robust way. The difficulty is that sometimes the complaints about the commission come in during the course of other correspondence about a matter that is being resolved in other ways and it is not necessarily picked up as a complaint about the Commission, and that is something that in the last 12 months we have started to alert staff to, that if they in the course of receiving that sort of correspondence receive a critique or feedback about the Commission, positive or negative, that it is brought to my attention. I now have a data collection process set up and it is something that I keep and review, and it is certainly something that we discuss at management meetings and at general staff meetings, and we certainly look at what lessons do we need to learn from that and other things that we need to change.

CHAIR: I think there would be an opportunity to counter some of the criticisms we hear about the Commission, if the Commission was more open and transparent. There is room there for a small chart or graph underneath that.

Ms ADRIAN: Yes, I agree with that.

CHAIR: Where you could show over a number of years the number of complaints that have come in about the Commission. 13 certainly is not a large number, but if you are improving your system of collection, it may actually increase, but people could say, "They are up front. They are even showing in detail the complaints that come in about the Commission". We can show in detail different categories of concern that PSOs look at, but we only have in a written form an area for complaints about the Commission. I know it is extensive, and you go on about highlighting a case, the court comments and so forth, but if it is possible to put it in a chart form it would be very easy for people to read and see year by year.

Ms ADRIAN: Yes. The validity of the data in the past is going to be somewhat difficult because of the rather ad hoc way, but yes, I take your point and certainly it is one of the strategies in my strategic directions.

CHAIR: On page 103 you talk about overseas travel, international liaison. The Committee has met with the Hong Kong Department of Health which is mentioned here. We met with them after your visit. Not now, but in the future I would like to get some feedback about continuing liaison with Hong Kong in their reference to improve their health complaints system, and also there is a mention there about Singapore. So at some later date, but not today, I would like to have a discussion with you about that.

Ms ADRIAN: Yes.

CHAIR: Going to the accounts of the Commission, I am not an accountant, just quickly can you point out what the total budget was for the Commission? I see here $6.674 million, is that correct, for 2001 was actually spent and the budget was $6.265 million? So you overspent on the budget allocation, is that correct? On page 109.

Ms ADRIAN: No.

CHAIR: It says "Budget for 2001 $6,625,000", but the actual expenditure was $6,674,000.

Ms ADRIAN: Yes, I can take you to 111, current appropriation for this financial year is $4,804,000, "Cash flows from Government". That is our appropriation.

CHAIR: I have "Net cash flows from Government", is that what we are talking about, $5 million?

Mr SMITH: $6,769,000, is that right?

Ms ADRIAN: Yes.

CHAIR: So again, there $69,000 more than what was budgeted for, but an increase over the 2000 budget period.

Ms ADRIAN: Yes.

CHAIR: You were given extra money in last year's budget to allow for expansion of PSOs, is that correct?

Ms ADRIAN: That is for a number of issues. One of the primary sources of funds that we were granted last year was we were having difficulty in acquiring our costs from some of the legal matters that we had run and we had to seek an increase from the Minister for that.

CHAIR: I noticed at the beginning of the hearing Ms Kinross referred to herself as Deputy Commissioner?

Ms ADRIAN: Assistant Commissioner.

CHAIR: As part of the restructure, I take it an Assistant Commissioner's position has been established, is that correct?

Ms ADRIAN: We are actually establishing two Assistant Commissioner positions because it is my very strong view that there needs to be strong leadership of the two primary arms of the Commission, and they are the complaint resolution arm, the active operational arm, but also - it is in the blue book - that we need strong oversight, greater than I am able to give it alone and active leadership over those two particular arms, so that we have the appropriate performance review and strategic planning capacity in the organisation. One of my observations was that we certainly had a lack within the strategic side of planning and the picking up of where we needed to go and improve.

CHAIR: So I take it then the positions of assistant commissioner were not established during the period of this annual report?

Ms ADRIAN: No. The restructure formally commenced on 1 January 2002. However, as I remarked in my opening remarks, the removal of the legal services team to report directly to me was actually achieved in late February 2001.

CHAIR: And the positions of Assistant Commissioner, were they advertised externally?

Ms ADRIAN: We are currently going through beginning a job evaluation and job analysis process with Cullen Egan Dell to look at the roles of each of the new positions in the organisation, including the Assistant Commissioner positions, and they will be advertised once that process is complete.

CHAIR: I have raised this with you previously, but I will raise it today on the record, the organisational chart that you use on page 7. You talked just a moment ago about separating the prosecutions and legal sections from the investigations. The Committee is very concerned that there is a clear -

Ms ADRIAN: The representation is indistinct, yes.

CHAIR: That is right, and here on this chart they are both under one line.

Ms ADRIAN: They are, yes.

CHAIR: And we believe that they should be clearly separated, and I point out the case in New Zealand where they both have separate directors and legislatively are separate identities within the one organisation, and I know that under your new structure that will occur. So I suppose we will see this new organisational structure in the coming annual report.

Ms ADRIAN: Indeed, yes, it will be in the coming annual report, but, as I said, structurally, while it may not be well represented on this diagram, the change in the reporting is to occur in February 2001, and the legal team has reported directly to me since that time.

Ms ANDREWS: Commissioner, just referring to page 118, for the information of the Committee members could you explain some of the fees for services? $304,000, could you explain what that entailed for some of the major expenditure there?

Ms ADRIAN: Sorry?

CHAIR: Under B, fees for services, $304,000.

Ms ADRIAN: Sure. We pay token payments indeed, but we certainly remunerate any clinicians who undertake any peer reviews for the Commission. We obviously pay counsel costs in any prosecutions that we undertake where we use counsel. They are probably the two primary routine and recurrent costs that we have all the time.

Ms ANDREWS: And the other thing, the legal fees, $642,000, you have your own legal team?

Ms ADRIAN: Yes.

Ms ANDREWS: Could you explain what that entails and how does it compare with last year?

Ms ADRIAN: We use barristers. We do not have any in-house barristers. We have solicitors who instruct barristers, and they do run cases from time to time, and I am sure the Committee recognises that the counsel costs are high, and we pay the regular rate. We do not have a special fee unfortunately.

Ms ANDREWS: It has increased from last year by about $120,000?

Ms ADRIAN: Yes.

CHAIR: Commissioner, I have noticed that the logo for the commission has changed. It has gone from quite a simple design I think which has been with the Commission since its inception. It is different. I was just wondering why it was changed and how much it cost to have that change implemented, and by that I mean the design costs. I suppose someone was commissioned to do that work, and then the cost of reprinting stationery and business cards and so forth.

Ms ADRIAN: Sure. I do not have the actual figures in front of me but the design costs were about $630, because it was done with a graphic designer that does a lot of our work. My undertaking to the Minister at the time, when I sought his endorsement to change the logo, was that we did not throw out one piece of stationery. Currently, if you are getting correspondence from the Commission, depending where you are getting it from, you might be getting it with the old logo, you might be getting it with the new logo. When we run out, we use the stationery with the new logo. The long-term costs for the Commission are projected to be a considerable saving. Because the colours are tones of the one colour instead of several colours, three colours in fact, we are going to make considerable savings in our printing costs, which was an unexpected and delightful achievement in fact. So the long-term benefits are high.

The change came about because I think there was a strong feeling amongst the staff, and endorsed by the consumer consultative committee, that the changes in the Commission are significant and we needed to underline that by having some changes in, if you like, the front that we have, and we went into quite an extensive consultation process about the logo at the time and that was the chosen design. Consensus was reached about that. I have to say it was not my favourite.

CHAIR: There is a community consultative committee of the Commission?

Ms ADRIAN: Yes.

CHAIR: Does that appear anywhere in the annual report?

Ms ADRIAN: It does indeed. There are several places where we discuss it.

CHAIR: I am just wondering if there is a particular section that talks about its membership and role?

Ms ADRIAN: Yes, on page 21: Consulting with Community Groups. It talks about the meetings that we had, which are held I think quarterly generally, and it talks about the constituency of that consultative committee. On the agenda of every single meeting is representation and the committee has a discussion, because obviously a number of the consumer groups change from time to time and there are new groups that emerge and old ones that disband and they asked for that to go on the agenda as a routine standing item so that we could make sure that our committee did represent a reasonable cross-section of consumer representative organisations.

CHAIR: We were hoping that we might be able to put on notice some questions so that we can get some detailed information. I know you have your new structural chart and the information we have received previously, the moving forward project, but is it possible for us to obtain a structural breakdown of where staff are employed in the organisation, at what levels, and examples of that are investigation teams, prosecutions, strategic partnerships, PSOs, et cetera.

Ms ADRIAN: Certainly.

CHAIR: Also the numbers of those people in the organisation.

Ms ADRIAN: So the current numbers or the numbers over time as well as projected, because, as I said in my opening statement, we have a number of positions that we have now been able to create that we have not yet recruited for.

CHAIR: Maybe the structure as is, at the time you appear before the Committee.

Ms ADRIAN: Okay.

CHAIR: The number of staff in that area - if a position is vacant, you can highlight that - and then if you have a projection of the way areas are going.

Ms ADRIAN: We would be happy to do that.

(The witnesses withdrew)

(The Committee adjourned at 12.35 p.m.)

It is also pleasing to note the proposed rollout of Patient Support Officer services to three regional areas.

In the past year, the Commission had a 19% increase in complaints. However, it is noted that there were fewer complaints finalised during the year, contributing to a greater backlog of complaints.

Notwithstanding the Commission's proposed changes to complaint resolution processes and its recent increase in resources, there is a need to dramatically lift performance in this regard. This Committee report suggests some areas identified by the Committee for attention by the HCCC in its next Annual Report.

In conclusion, I would like to thank my fellow Committee members and the Committee Secretariat for their assistance in the preparation of this report. I would particularly like to acknowledge the input of expert consultant to the Public Bodies Review Committee, Mr John Chan Sew, who provided this Committee with advice on accountability and performance reporting aspects of the HCCC 2000-2001 Annual Report.

Jeff Hunter MP
Chairman