

Our ref: AF1347  
Your ref: LAC12/072  
  
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Mrs Leslie Williams MP  
Chair  
Committee on the Health Care Complaints Commission  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Dear Mrs Williams

**Review of the 2009-10 and 2010-11 Annual Reports of the Health Care Complaints Commission**

I refer to the letter from Mr Jason Arditi, Inquiry Manager regarding the recent public hearing held on Monday 20 February 2012 into the Committee's inquiry into the 2009-10 and 2010-11 Annual Reports of the Health Care Complaints Commission.

The Commission's response to the questions taken on notice is attached.

Also attached are corrections to the proof transcript of the public hearing.

I trust that this information is of assistance to the Committee's inquiry and I would be pleased to elaborate on it at the Committee's convenience.

Yours sincerely

Kieran Pehm  
Commissioner

# Response to Questions taken on Notice during the public hearing of the Committee on the Health Care Complaints Commission: Review of the 2009-10 and 2010-11 Annual Reports of the Health Care Complaints Commission

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## Newcastle/ Wollongong Regional Groupings

1. *In your groupings of regional metropolitan areas you broke out Newcastle and Wollongong and put them into the metropolitan grouping. What was the reason for that – what are the reason for moving Newcastle and Wollongong into the metropolitan group when in the regional grouping there are local government areas such as Kiama and Shellharbour, which are literally next door?*

Response:

As mentioned in our response to the Committee's inquiry into health care complaints and complaints handling in NSW, the Commission faced some difficulty in accessing current information sources that would allow it to map postcode data to a Local Government Area (LGA) and then to a regional/metropolitan area grouping.

The Commission also faced difficulties in sourcing a definitive list from other government agencies of LGAs included in metropolitan and regional groupings. A number of agencies use different classifications for regional and metropolitan groupings.

The Ministry for Health classifies eight Local Health Districts (LHDs) in the metropolitan region and seven LHDs in rural and regional NSW. The metropolitan region includes the areas of Central Coast, Illawarra/Shoalhaven and Nepean/Blue Mountains.

### Metropolitan NSW Local Health Districts

- Central Coast
- Illawarra Shoalhaven
- Nepean Blue Mountains
- Northern Sydney
- South Eastern Sydney
- South Western Sydney
- Sydney
- Western Sydney

### Rural & Regional NSW Local Health Districts

- Far West
- Hunter New England
- Mid North Coast
- Murrumbidgee
- Northern NSW
- Southern NSW
- Western NSW

On the other hand the Office of Local Government in its classification of 'Metropolitan Councils' excludes LGAs from the Illawarra/Shoalhaven area but includes the following:

- Blue Mountains City Council
- Campbelltown City Council
- Gosford City Council
- Hawkesbury City Council
- Wollondilly Shire Council
- Wyong Shire Council

The Commission based its metropolitan area grouping on ABS statistical areas included in ABS's Australian Statistical Geography Standard (ASGS).

In order to provide the Committee with a different perspective, the Commission has re-classified the metropolitan and regional groupings and has re-analysed the data regarding complaints received from regional and metropolitan consumers in the years 2008-09 to 2010-11. The re-classification essentially separates the Sydney Metropolitan area for the rest of NSW, which is classed as regional.

### New Groupings

#### **Regional**

Albury  
 Armidale  
 Bathurst  
 Blue Mountains  
 Bourke - Cobar - Coonamble  
 Broken Hill and Far West  
 Clarence Valley  
 Coffs Harbour  
 Dapto - Port Kembla  
 Dubbo  
 Gosford  
 Goulburn - Yass  
 Great Lakes  
 Griffith - Murrumbidgee (West)  
 Inverell - Tenterfield  
 Kempsey - Nambucca  
 Kiama - Shellharbour  
 Lachlan Valley  
 Lake Macquarie - East  
 Lake Macquarie - West  
 Lithgow - Mudgee  
 Lower Hunter  
 Lower Murray  
 Maitland  
 Moree - Narrabri  
 Newcastle  
 Orange  
 Port Macquarie  
 Port Stephens  
 Queanbeyan  
 Richmond Valley - Coastal  
 Richmond Valley - Hinterland  
 Shoalhaven  
 Snowy Mountains  
 South Coast  
 Southern Highlands  
 Tamworth - Gunnedah  
 Taree - Gloucester  
 Tumut - Tumbarumba  
 Tweed Valley  
 Upper Hunter  
 Upper Murray exc. Albury  
 Wagga Wagga  
 Wollondilly  
 Wollongong  
 Wyong

#### **Metropolitan**

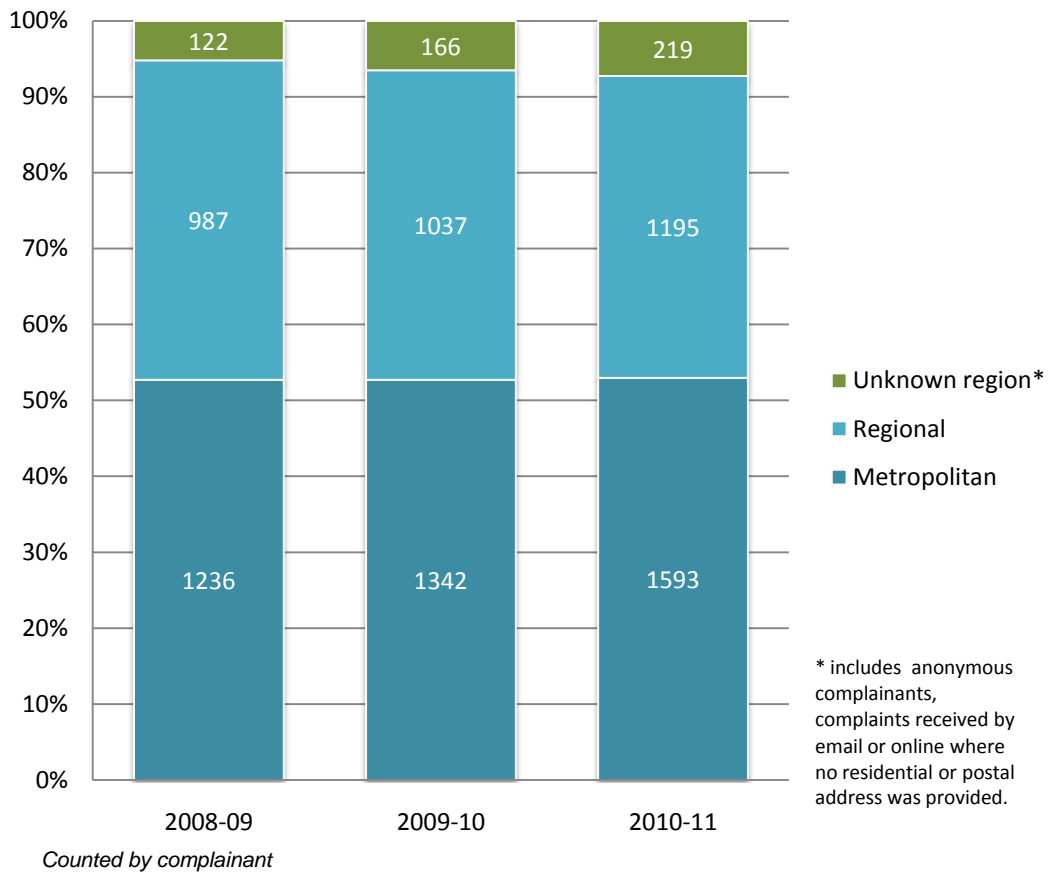
Auburn  
 Bankstown  
 Baulkham Hills  
 Blacktown  
 Blacktown - North  
 Botany  
 Bringelly - Green Valley  
 Camden  
 Campbelltown (NSW)  
 Canada Bay  
 Canterbury  
 Carlingford  
 Chatswood - Lane Cove  
 Cronulla - Miranda - Caringbah  
 Dural - Wisemans Ferry  
 Eastern Suburbs - North  
 Eastern Suburbs - South  
 Fairfield  
 Hawkesbury  
 Hornsby  
 Hurstville  
 Kogarah - Rockdale  
 Ku-ring-gai  
 Leichhardt  
 Liverpool  
 Manly  
 Marrickville - Sydenham - Petersham  
 Merrylands - Guildford  
 Mount Druitt  
 North Sydney - Mosman  
 Parramatta  
 Pennant Hills - Epping  
 Penrith  
 Pittwater  
 Richmond - Windsor  
 Rouse Hill - McGraths Hill  
 Ryde - Hunters Hill  
 St Marys  
 Strathfield - Burwood - Ashfield  
 Sutherland - Menai - Heathcote  
 Sydney Inner City  
 Warringah

## Quantity of complaints received by regional and metropolitan consumers

Given the regrouping the proportion of complaints received over the three years 2008-09 to 2010-11 from regional or metropolitan consumers have been revised and are shown in chart 1. The new proportions are:

- 52.8% of complaints were received from metropolitan consumers
- 40.8% from regional consumers
- In 6.4% of complaints the regional area of the complainant was unknown.

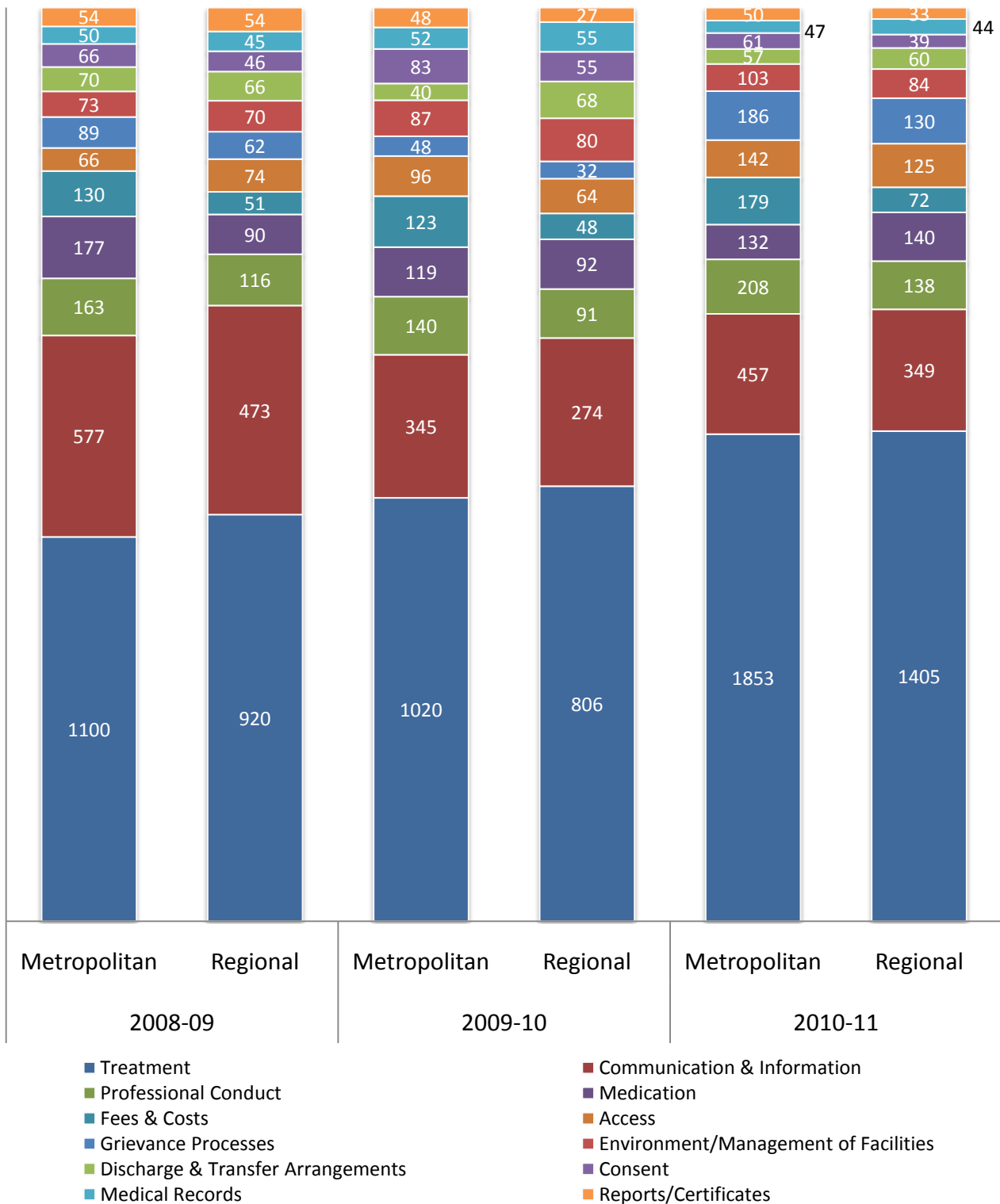
**Chart 1 - Consumer complaints received by region grouping**



Nature of complaints received by regional and metropolitan consumers - Issues

The Commission has also re-analysed the data regarding issues raised in complaints received. Chart 2 shows the revised issues raised in complaints received from regional and metropolitan consumers over the years 2008-09 to 2010-11. Table 1 also shows the same data by proportion.

**Chart 2 - Issues raised in complaints received from regional and metropolitan consumers (2008-09 to 2010-11)**



Counted by complainant

**Table 1 - Issues raised in complaints received from regional and metropolitan consumers (2008-09 to 2010-11)**

Issue category	2008-09			2009-10			2010-11			Grand Total
	Metropolitan	Regional	TOTAL	Metropolitan	Regional	TOTAL	Metropolitan	Regional	TOTAL	
Treatment	42.1%	44.5%	43.1%	46.3%	47.6%	46.9%	53.3%	53.6%	53.5%	48.4%
Communication & Information	22.1%	22.9%	22.4%	15.7%	16.2%	15.9%	13.2%	13.3%	13.2%	16.9%
Professional Conduct	6.2%	5.6%	6.0%	6.4%	5.4%	5.9%	6.0%	5.3%	5.7%	5.8%
Medication	6.8%	4.4%	5.7%	5.4%	5.4%	5.4%	3.8%	5.3%	4.5%	5.1%
Fees & Costs	5.0%	2.5%	3.9%	5.6%	2.8%	4.4%	5.2%	2.7%	4.1%	4.1%
Access	2.5%	3.6%	3.0%	4.4%	3.8%	4.1%	4.1%	4.8%	4.4%	3.9%
Grievance Processes	3.4%	3.0%	3.2%	2.2%	1.9%	2.1%	5.4%	5.0%	5.2%	3.7%
Environment/ Management of Facilities	2.8%	3.4%	3.1%	4.0%	4.7%	4.3%	3.0%	3.2%	3.1%	3.4%
Discharge & Transfer Arrangements	2.7%	3.2%	2.9%	1.8%	4.0%	2.8%	1.6%	2.3%	1.9%	2.5%
Consent	2.5%	2.2%	2.4%	3.8%	3.3%	3.5%	1.8%	1.5%	1.6%	2.4%
Medical Records	1.9%	2.2%	2.0%	2.4%	3.3%	2.7%	1.4%	1.7%	1.5%	2.0%
Reports/ Certificates	2.1%	2.6%	2.3%	2.2%	1.6%	1.9%	1.4%	1.3%	1.4%	1.8%
<b>Grand Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Counted by complainant

There are no distinguishable differences in the re-analysed data presented in Chart 2 and Table 1 in this document with the data presented in the Commission's response to the Committee's inquiry into health care complaints and complaints handling in NSW

### Complaints to the Ombudsman Office

2. *The Ombudsman 2010/11 Annual Report - Appendix G, page 148 – indicates that 12 complaints regarding the commission were assessed by the Ombudsman's office with five complaints undergoing preliminary or informal investigation. Can you provide the Committee with the details of the complaints handled by the Ombudsman?*

Response:

The Ombudsman's Annual Report 2010-11 reports that a total of 17 complaints were made regarding the Health Care Complaints Commission. Of these 12 were declined without any inquiries by the Ombudsman. The Ombudsman Annual Report 2010-11 states that the declined complaints included:

Conduct outside jurisdiction, trivial, remote, insufficient interest, commercial matter, right of appeal or redress, substantive explanation or advice provided, premature — referred to agency, concurrent representation, investigation declined on resource/priority grounds.<sup>1</sup>

The remaining five complaints were finalised after preliminary or informal investigation. The Ombudsman reports that in three cases the complaint was finalised as ‘Advice/explanation provided where no or insufficient evidence of wrong conduct’<sup>2</sup>. One complaint was finalised as ‘Further investigation declined on grounds of resource/priority’<sup>3</sup>. and the remaining complaint was ‘Resolved to Ombudsman’s satisfaction’<sup>4</sup>..

No complaints made to the Ombudsman in 2010-11 regarding the Health Care Complaints Commission were formally investigated.

The Commission is not always made aware of complaints made to the Ombudsman. In order to provide a response to the Committee, the Commission contacted the NSW Ombudsman and requested details of the 17 complaints received by them during 2010-11. Table 2, as supplied by the Ombudsman, provides the details of these complaints.

**Table 2 : Complaints received by the NSW Ombudsman during 2010-11 about the NSW Health Care Complaints Commission (HCCC)**

	Date received	Nature of complaint	Ombudsman Outcome
1.	02/08/10	Complaint about HCCC’s decision in regards to her complaint.	Declined at outset. No evidence of wrong conduct by H CCC.
2.	03/08/10	Complaint that HCCC are pursuing a vexatious complaint.	Declined at outset. Concurrent representations. Complaint still before the HCCC for review.
3.	13/08/10	Complaint about a lack of transparency in the HCCC’s assessment process. Reference made to the fact that the HCCC does not prescribe to a professional standard of care and the absence of criteria against which a clinician’s conduct can be measured. Complaint that advice from Internal Medical Advisors is based on opinion not fact. Complainant no longer wishes to pursue her original complaint against her physician but does want an investigation into the HCCC’s assessment process.	Decline at outset. No evidence of wrong conduct. Explanation provided concerning our role. Professional opinions of IMA noted as providing assistance only in HCCC’s assessment process.
4.	25/08/10	Complaint regarding the Medical Council and HCCC’s handling of her matter. Query as to oversight body of Medical Council and HCCC.	Decline at outset. Explanation of our jurisdiction, referral of complainant to Medical Council’s appeal process if unhappy with their decision and explanation concerning jurisdiction of H CCC, Medical Council and AHPRAS provided.

<sup>1</sup> NSW Ombudsman Annual Report 2010–11, pp 150.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

Date received	Nature of complaint	Ombudsman Outcome
5. 01/09/10	Allegation that the HCCC assessed a submission it received that, according to the complainant's legal advisors, may not have been a "complaint" as the word is defined in the HCCC Act.	Telephone enquiries made to the HCCC to obtain a copy of the letter it sent to the complainant which provided reasons for its decision in this matter. Review of letter. No evidence of wrong conduct. Matter finalised on this basis.
6. 13/10/10	Complaint that the HCCC did not properly assess her complaint.	Declined at outset. Premature. Complainant had not first raised matter with the HCCC, giving it a chance to review its decision.
7. 06/12/10	Complaint about HCCC handling of his complaint.	Declined at outset. Premature. Complainant had not first raised matter with the HCCC, giving it a chance to review its decision. Advice given also as to our role regarding complaints about the HCCC.
8. 20/12/10	Complaint that a nurse and neighbour of the complainant improperly accessed his medical records and discussed those details with their neighbours.	Declined at outset on grounds of resources/utility. HCCC have carried out inquiry into this issue and written to the complainant re its findings. Matters raised in this complaint also canvassed in another complaint concerning Housing NSW and Police.
9. 10/01/11	Complaint about HCCC's conduct before the Medical Tribunal.	Declined at outset as subject of complaint not within our jurisdiction pursuant to Schedule 1 clause 8 of the <i>Ombudsman Act 1974</i> .
10. 28/02/11	Complaint about the HCCC's decision that the conduct he complained about in 1993 was too remote in time to investigate.	Declined at outset. No evidence of wrong conduct. Decision of HCCC permissible under its Act.
11. 08/03/11	Complaint that the HCCC did not investigate his complaint about NCIRS properly.	Declined at outset. No evidence of wrong conduct. Referral of concerns re NCIRS to Federal Department of Health and Aging.
12. 09/03/11	Complaint that the HCCC did not investigate his complaint that a phony doctor had drugged his wife and provided her with medical certificates falsely indicating that he was crazy.	Declined at outset. Complainant advised that complaints about his Doctor and wife are not within our jurisdiction as they are private individuals. Referral to HCCC re allegations of professional misconduct by his medical practitioner.
13. 14/04/11	Complaint that the HCCC did not adequately investigate his complaint.	Declined at outset. Matter is premature. Complainant referred to HCCC for review of its decision.
14. 21/04/11	Complaint about delay by HCCC in assessing her complaint.	Telephone enquiries made with HCCC disclosed reasons for the time taken by its office to review complaint. No evidence of wrong conduct. Matter finalised on this basis.



Date received	Nature of complaint	Ombudsman Outcome
15. 20/05/11	Complaint about the HCCC's decision that there was no evidence that her doctor had injected her with poison and 'mentally abused' her.	Telephone enquiries made with both the complainant and HCCC for further information. Substantial discussions in person with the complainant. No evidence of wrong conduct. Matter declined on this basis. Review request declined as no reasons for a review provided.
16. 31/05/11	Complaint that the HCCC's investigation into her complaint that she was not given adequate pain relief after having her leg amputated was inadequate.	Complainant contacted for copies of correspondence sent to her by the HCCC. Review of submissions. No evidence of wrong conduct. Declined on this basis.
17. 01/06/11	Complaint that the HCCC ignored evidence he submitted and took six months rather than six weeks to assess his complaint.	Declined at outset. No evidence of wrong conduct by HCCC.