



CODE OF ETHICS REPORT 2016-2019

Complaints in Massage Therapy

Our Problem – Our Solution



This Report was prepared by Massage & Myotherapy Australia (Australian Association of Massage Therapists Ltd) based on data collected and recorded from 2016 to 2019 inclusive.

NOTE: In the absence of a legal title of practice and scope encompassed by legislation, for the purpose and ease of interpretation of this document the term 'massage' and/or 'massage therapies' is used synonymously for other terms such as myotherapy, musculoskeletal therapy or bodywork. Therapies that extend beyond hands-on, direct physical contact and that combine the use of devices or supplementary techniques that are the modalities, for example acupuncture, are excluded.

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Glossary of Terms

- Massage & Myotherapy Australia (The Association)
- Australian Association of Massage Therapists Ltd (AAMT)
- Code of Ethics, Standards of Practice and National Code of Conduct (CoE, The Code)
- National Ethics Committee (NEC).

Foreword

It has never been clearer that massage therapists, remedial massage therapists and myotherapists provide an important health service. There is a place in the health industry for massage therapy and myotherapy and that therapists are responsible not only for the health of their clients whilst they are in their care but also their own health.

The Association contributed significantly to the development of the first National Code of Conduct for Health Workers that was passed by COAG Health Ministers in 2015. The National Code of Conduct was the basis for the update of the Association Code of Ethics and is vital in ensuring that complaints against any Association member are heard in a consistent and fair manner.

It is important to note that we are all capable of making mistakes or having a lapse in judgement or becoming complacent. Reviewing this report is important for all therapists, to remind them of the importance of their own standards of practice.

Collectively we are all responsible for addressing these complaints and it is the Associations' responsibility to review and analyse these complaints and provide initiatives and pathways that directly address the concerns and issues that arise. The Association is committed to increasing awareness and the overall recognition and professionalism of the industry.

As per the previous two editions, this report looks back over a four-year period 2016-2019 and it is encouraging to see that the number of complaints has reduced.

It is important to acknowledge the role of the Massage & Myotherapy Australia National Ethics Committee in upholding the Code of Ethics, Standards and National Code of Conduct and ensuring that complaints against any association member are heard in a consistent, fair manner without prejudice. The Ethics Committee members are volunteers and their duties are imperative to the Association and position in the health sector.

On behalf of Massage & Myotherapy Australia, I am pleased to commit the *Code of Ethics Report 2016-2019* to examination and review by health regulators, the judiciary and legislature, consumers, Association members and the wider massage and myotherapy profession.



Andrew Gallagher

PRESIDENT

Massage & Myotherapy Australia

A brand of the Australian Association of Massage Therapists Ltd.

1. Overview

Massage & Myotherapy Australia is committed to the future growth and development of the massage and myotherapy industry by providing a system that supports consumers through education, ethical treatment and protection.

The Association achieves this by providing members with the necessary tools to support their growth, knowledge and awareness as a healthcare worker. This includes ensuring quality assurance in the referral of massage therapists to the public and private health insurance providers, hearing and resolving complaints in relation to members, and informing the public and legal jurisdictions about the practice of massage.

The Massage & Myotherapy Code of Ethics, Standards of Practice and National Code of Conduct (CoE) Report (the Report) is inclusive of data collected between 2016 and 2019 concerning ethical complaints about members of Massage & Myotherapy Australia. The report details the Association's work in administering and managing complaints, pursuing best practice and maintaining the integrity of the massage profession.

The complaints detailed in the report are categorised according to the Australian Health Practitioners Regulation Agency (AHPRA) Codes and Guidelines, involving three main complaints categories:

- 1. Unprofessional Conduct**
- 2. Professional Misconduct**
- 3. Notifiable Conduct.**

As such, the data can be compared to the complaints data of other health professions.

The complaints data documented by Massage & Myotherapy Australia, includes the number, nature and resolution of complaints.

Being a company limited by guarantee, Massage & Myotherapy Australia actions are confined to the Constitution of the company drawn under the Corporations Act 2001.

Whilst Massage & Myotherapy Australia has the support of its members to manage ethical complaints it has no legal jurisdiction and limited investigative powers. Given this, the incidents and effects of serious misconduct on the victims of such crimes are of vital importance to the legislature, executive, and judiciary when dealing with regulatory and punitive matters concerning these issues.

Complaints data collected by the Association also contributes to member education and training, tertiary education, assists health regulators and stakeholders, and helps to increase consumer awareness of the complaints process.

The data and information collected has contributed to the development of the National Code of Conduct for Health Workers and can assist state jurisdictions in developing supporting legislation.

2. Executive summary

During the four year period of this report there have been a number of changes that have effected the reporting such as the inclusion of the National Code of Conduct for Healthcare Workers and the change in the Association's Code of Ethics and Standards of Practice which reflected the changes in legislation. Overall, there has been a reduction in the number of fraud, informal and formal complaints, which is encouraging and a positive step forwards. It's important we continue to monitor numbers to provide a greater understand of complaints and trends.

Objective: Massage & Myotherapy Australia has prepared this *Code of Ethics Report, Complaints in Massage Therapy: Our Problem – Our Solution* to provide information in several critical areas. It is designed to be used by Registered Training Organisations to inform their curriculum; by Health Ombudsmen to in some way assist in the management of complaints; by domestic and sexual assault support groups to inform their workers and also to be used as a framework for other associations to collect their own data.

3. National Ethics Committee

Massage & Myotherapy Australia established the National Ethics Committee (NEC) to uphold the Association's Code of Ethics, Standards of Practice and National Code of Conduct and ensures complaints against Association members are heard in a consistent and expeditious manner. Under the authority of the Board of Directors, the Committee manages and addresses any complaint made against a member.

The NEC also plays a vital role in assisting practitioners and consumers, by building awareness, and ensuring that in practice, Massage & Myotherapy Australia's complaints handling processes function effectively, fairly and ethically. Ethical practice is behaviour that holds up to disclosure and to public scrutiny reflecting the core values of the Massage & Myotherapy Australia; consistency, effectiveness, integrity, proactivity and respect.

The Association seeks training continually for Ethics Committee members in the management of cases. Additionally, the Association seeks additional expert opinion as required to ensure that determinations are informed and fair

The tasks of the Ethics Committee include:

- Reviewing the information and education provided to members about the Code of Ethics, Standards of Practice and National Code of Conduct; and to participate in the development of best practice models.
- Monitoring ethical matters as they appear on the Ethics Register and providing accordant advice on amendments to training and information materials.
- Providing reports to the Association Board, to be included in the Annual Report, summarising matters addressed by the Ethics Committee and any steps taken to address trends.
- Referring matters for investigation, such as criminal offences, to authorised bodies.
- Acting as a disciplinary instrument with powers to conduct hearings and, under the Constitution, imposing sanctions on members found to have breached the Massage & Myotherapy Australia Code of Ethics, including the suspension or revocation of membership.

Committee Members

The NEC comprises suitably qualified and experienced members, elected to preserve Association members' commitments towards ethical practice.



Rebecca Byrne - Chair

Diploma in Remedial Massage, Diploma of Vocational Education and Training, Dip Training Design and Development, Certificate in Small Business, Certificate IV in Governance.

Rebecca spent five years as an executive Director and six years as a Massage & Myotherapy Australia Board Member. She has been employed in the TAFE sector since 2006, is the Program Co-ordinator of remedial massage and lectures in musculoskeletal anatomy, communications health assessment and Legal and ethical requirements. She has also performed project management for the Challenger Centre for Leadership and Development. Rebecca has been in professional practice as a therapist since 1999.



Lisa Casanelia

Master of Public Health (Clinical Research); Graduate Certificate Tertiary Education; Bachelor of Health Science Musculoskeletal Therapy; Bachelor of Social Science; Diploma of Massage Therapy (Canada).

Author of a seminal massage therapy text in Australia, Foundations of Massage, Lisa is passionate about education standards and practice within Australia and has been involved in education and training for 20 years. Lisa was a key researcher in a clinical trial on acute care post cardiac patients in a public hospital, the largest clinical trial in Australia to use massage as an intervention for management of pain, anxiety and stress. Lisa now manages a postgraduate public health program and continues to stay connected to the massage industry.



James Flaxman

Company Director, Diploma of Remedial Massage, Diploma of Soft Tissue Manipulation, Certificate of Reflexology, Certificate IV in Governance, Certificate IV Workplace Training and Assessment.

James has been working as a massage therapist since 1990 and has consistently engaged with industry bodies, at state and national level, as a director, company secretary or committee member. He has been a Board Member of Massage & Myotherapy Australia Ltd since 2014, sat on their Governance Committee and was appointed by the Board to the National Ethics Committee in January 2018.



Sigrid Kramp

Diploma of Remedial Massage, Diploma of Building Design, Certificate IV Small Business Management, Certificate III Leadership Development, Trades Certificate: Cabinetmaker.

Sigrid worked for ten years as a cabinetmaker in Germany and in Australia. Since 2007 she has been practising as a self-employed Remedial Massage Therapist. In recent years she has also worked as a fitness instructor for women and teaches German to children. Sigrid has been a member of the Ethics Committee since 2018.



Kevin Skillen

Advanced Diploma of Myotherapy, Diploma of Remedial Massage, Diploma of Vocational Education & Training Practice, Bachelor of Business.

Kevin Skillen has held senior positions with Victoria University, including Head of Sports and Science, Strategy Leader Health, Sport and Youth and Student Discipline Committee. Kevin is currently the Graduate Liaison Officer for Massage & Myotherapy Australia and has been in private practice as a practitioner since 2001.

4. Code of Ethics, Standards and National Code of Conduct

Massage & Myotherapy Australia members commit and must comply to upholding the Code of Ethics, Standards of Practice and National Code of Conduct provided by the Association.

All ordinary members of the Association are qualified massage therapists who have completed appropriate training with formal qualifications as defined by the Australian National Training Quality Framework, supported by the Health Training Package.

The Code of Ethics (Code) is a statement about appropriate and expected conduct of members of Massage & Myotherapy Australia and as such reflects the values of the Association. The Code describes the professional conduct expected of members to preserve and enhance their professional reputation as well as the general reputation of the massage and myotherapy industry in Australia, with regard to best practice models and requirements. The Code has been developed, updated and implemented to inform and guide the decisions and behaviour of Association members.

Massage & Myotherapy Australia is not an industry regulator, however, it currently self-regulates members. Adherence to the Codes involves a commitment to following principles:

1. Professional Standards
2. Professional Care
3. Professional Behaviour

The principles require members to commit to ethical practice in relation to:

- Compliance
- Confidentiality and Privacy
- Employment Arrangements
- Premises
- Business and Therapist Promotion
- Competence
- Responsibility
- Treating vulnerable Persons
- Misconduct
- Therapist and Client Relationship.

These standards require members' commitment to ethical practice for clients/patients, colleagues, the public and for themselves as professionals. Other supporting documents include:

- Anterior and Lateral Chest Massage Guidelines
- Clinical Settings Guidelines
- Disciplinary Dispute Resolution Procedure
- Essentials of Draping Policy
- Guide to the Prevention and Management of Sexual Misconduct
- Member Bullying and Harassment Policy
- Myofascial Dry Needling Practice Guidelines
- Pregnancy Massage Guidelines
- Privacy Statement Policy
- Referral of Ethical Complaints
- Social Media Policy
- Treatment of Minors Practice Guideline

Please refer to www.massagemyotherapy.com.au to download documents.

5. Complaints process and categories

The complaints process

All members agree to abide by Massage & Myotherapy Australia policy and complaints processes in the interest of best practice through the signing of a Statutory Declaration. To remain eligible for membership, current members must recommit to this principle each year.

The Association developed a comprehensive process in collaboration with their legal advisors K&L Gates, to manage the resolution of complaints received against members.

The Massage & Myotherapy Australia complaints process supports the aims of the Association, and members, by encouraging public confidence in the standard of therapist accepted for membership within the Association. This Standard is defined in the Code and applies to all members.

Under Clause 6.11, 6.12 and 6.13 of the Australian Association of Massage Therapists (AAMT) Constitution, the Massage & Myotherapy Australia Board of Directors may provide discipline should a member breach the Code, or if a member is otherwise engaged in conduct that may bring the Association into disrepute.

If a person wishes to lodge a formal complaint against an Association member, they are required to do so following the process outlined in the Complaints Handling Procedure.

Within the jurisdiction of the Association the Complaint Summary document provides the following:

- A guideline of what to expect throughout the complaint process
- An outline of the policies governing the process for making a complaint
- How to lodge a formal complaint
- A timeline of each stage of the process
- Health Ombudsmen contact details

A copy of the complaint summary document can be found on the Association website.

The Association complaint management process provides for the management of complaints; however, some cases require the involvement of a healthcare commission, police or the court system.

Additionally, complaints about non-members from the public are referred to the appropriate body. Conversely, the Association accepts referred complaints that fall under the jurisdiction of the Association.

For more information on the complaints processes as well as the complaints handling procedures and summary, please visit the Massage & Myotherapy Australia website for details.

Initiatives

Massage & Myotherapy Australia was built on a commitment to support and service members and the public. The Association is increasing awareness of ethical practice and providing the public with guides to illustrate the relationship between client and therapist.

Many complaints the Association receives centre around payment disputes, alleged sexual misconduct and a significant departure from standards of practice placing public at risk. In response, the Association has developed specific policies and material to inform and support members about accepted practice. These have included the introduction of a mandatory online learning module, 'Ethics in Practice'. The strategic plan includes the use of technology for members benefit, HALO is the Association's Online Learning Platform hosting short courses including: Profession and Professionals, Understanding Privacy, Law in Practice, Professional Conduct and Best Practice Draping Techniques (available in three languages). An additional module 'Clinical Record Keeping' is in development. Ongoing professional education will remain as a benchmark for professionalism and best practice in the massage and myotherapy sector.

The Association has employed a Marketing Administrator to assist with effective marketing of important information and education to further support the Association's goal of increasing awareness of ethical practice.

Based on members feedback on social media and surveys, the Association is using video to educate members, therapists in the community and consumers. The Association produces an ongoing video series 'Massage & Myotherapy Connect' which provides with interviews with industry leaders, reflections on ethics and marketing tools. Animated explainer videos are an important resource for the Association to provide succinct and easily absorbable information, these can be found on the Association website and the Associations social media.

Online Learning Modules, regularly reviewed policies and procedures establishes a system of consistent information that educates clients, the police, judiciary and other health providers in understanding what acceptable treatment and practice involves.

To ensure integrity of the National Ethics Committee, Massage & Myotherapy Australia supports Committee Members with appropriate learning opportunities to build the personal capability alongside the capabilities of the organisation. Prior to participation on the NEC, Committee Members are vetted to ensure suitability for the role including experience in the appropriate handling of individuals making complaints.

For more information visit massagemyotherapy.com.au.

Collection of complaints data

Massage & Myotherapy Australia classifies its complaints data in accordance with the categories used by the Australian Health Practitioners Regulation Agency (AHPRA).¹ This allows data to be presented using consistent and recognised definitions. The categories of conduct are: Unprofessional Conduct, Professional Misconduct and Notifiable Conduct. This is in accordance with the Associations Collection Statement and Privacy Policy, found on the Association website.

Formal complaints

Formal complaints are those complaints that progress to the National Ethics Committee for further investigation and determination.

The data presented in this report is compiled from the records of complaints received by the Association within the collection period 2016-2019 inclusive.

The Association records complaints against the clauses defined in the Code as described by the complainants' perception of events. The data does not reflect the members' perception or response to the complaint, the finding of the NEC or the final determination of the Massage & Myotherapy Australia Board.

The data collected assists in the examination of issues raised and the nature of the complaints lodged with the Association.

Refer to page 12 for results.

Informal complaints

The Association registers a complaint as informal when a complainant does not wish to complete the formal complaints process provides sufficient information. Informal complaints are recorded but do not progress to the NEC for further investigation.

Complaints may discontinue due to several reasons including a lack of evidence, a lack of willingness by either party to abide by due process, fear of retribution from therapist or the investigation passes into the hands of another authority appropriate to the complaint. Reasons why a complainant may not wish to complete the formal process include:

- Complainant did not wish to be identified so complaint could not proceed
- Insufficient/incomplete evidence provided by complainant so could not proceed
- Dispute resolved between complainant and member
- Member suspended as they did not respond to a letter by due date
- Member resigned
- No formal evidence could be drawn from complaint and member's response
- Health Care Commission already investigating
- Human Rights Commission already investigating
- Police already investigating
- Outside the Association's jurisdiction as the complaint is of a criminal nature and so advised to take to appropriate authority
- Outside the Association's jurisdiction as Employment Law matter
- Advised to take to mediator.

In some cases, either the CEO and/or the NEC Chair may require the therapist to take corrective measures concerning informal complaints. This may involve measures to assist members improve their understanding of the Code, or ethical practice, in cases where the limited evidence suggests further education or practice adjustments may be required or where the breach of the Code is less severe in nature.

Refer to page 17 for results.

Alleged fraudulent activity

The data presents complaints about fraudulent activities lodged with Massage & Myotherapy Australia about Association members.

Fraudulent complaints are processed and assessed by the Association under obligations and contractual arrangements regarding member Approved Provider Status with Private Health Funds. Massage & Myotherapy Australia members must adhere to these obligations in order to maintain Approved Provider Status.

Private Health Fund/Insurance fraud covers a range of issues but is effectively a form of theft by deception. Regardless of whether the fraud is committed on a one-off basis or a series of frauds, it is still considered at law to be a serious offence which can result in penalties such as monetary fines or imprisonment. This may involve incorrect or deceptive receipting or deceptive receipting on an Electronic Claiming Terminal.

On receiving a complaint alleging fraud, the Association will request explanations and evidence from all parties involved before making a determination. Members found to be in breach of the Code concerning fraud may have their membership revoked or suspended from Approved Provider eligibility and may be required to undertake some form of corrective action such as retraining.

Refer to page 21 for results.

6. Results: Formal complaints

Determination of formal complaints

For the purpose of recording data, the formal complaint process commences upon receipt of a written formal complaint form. The member involved is notified at this time and asked to respond against the allegations. Investigations can also include requests for more evidence or interviews with either party or third parties.

When the Association receives all supporting documents/evidence from all parties, the complaint is progressed to the NEC for their investigation, determination and recommendations to the Massage & Myotherapy Australia Board.

The NEC makes a determination and recommendation(s) when investigations are completed. The determination verifies which (if any) of the alleged Code clauses were breached.

Once the NEC has made a determination, recommendations for corrective or punitive measures are made to rectify/improve the conduct and professional practices of the member. Depending on the determination, the NEC can recommend sanctions varying from compulsory training/mentoring, reviews of protocols and practices, to membership suspension or termination.

It is important to note that even in cases where no breaches were found, recommendations of best practice are often still made to the member to help minimise the risk of similar complaints recurring and to improve the quality of their overall standards, practices and awareness.

Formal Complaints recorded against the AHPRA categories

Within each of the AHPRA single complaints categories, a notification may breach several areas of the Code. Of the 14 complaints recorded against the AHPRA categories during 2019, Massage & Myotherapy Australia received the following:

- **Unprofessional Conduct** 13
- **Professional Misconduct** 0
- **Notifiable Conduct** 1

As illustrated in Figure 1, there has been a sharp decline in complaints against the AHPRA categories of Professional Misconduct.

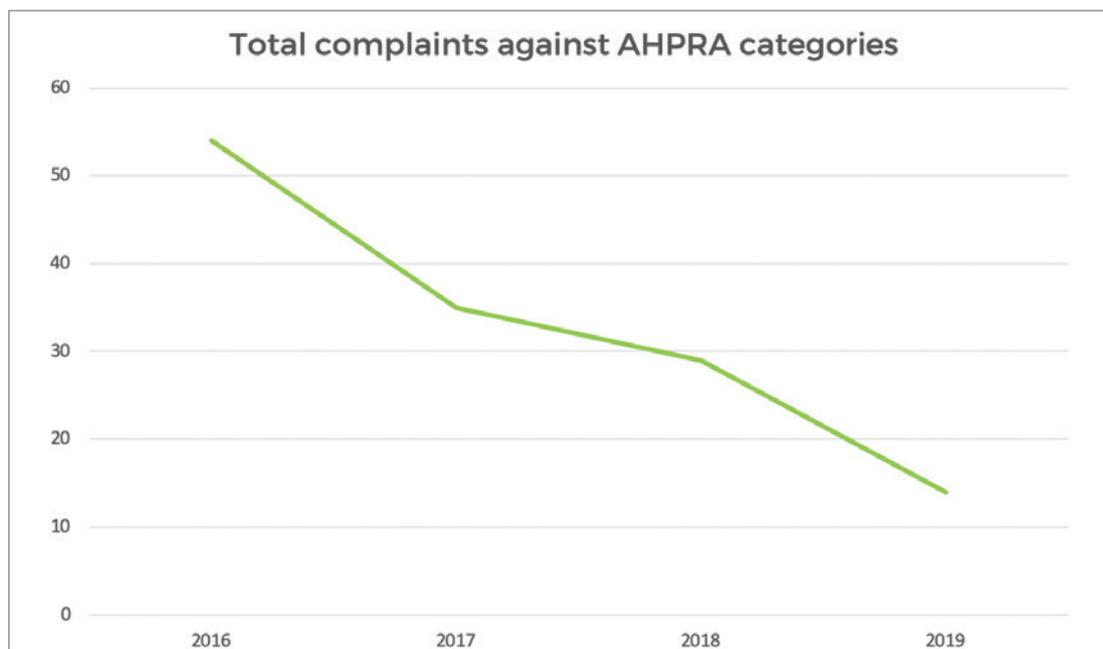


Figure 1 - Total complaints against the AHPRA categories

Compared to previous periods, overall there has been a decline in each category.

Total Trends against AHPRA Categories				
AHPRA Category	2016	2017	2018	2019
Professional Misconduct	14	5	7	13
Unprofessional Conduct	9	7	6	-
Notifiable Conduct	31	23	16	1
Total	54	35	29	14

There has been a steady decline in Professional Misconduct particularly Notifiable Conduct, which can involve criminal activity such as alleged sexual engagement, intoxication while practicing, an impairment placing the public at risk or a significant departure from standards accepted as professional.

There is some concern over the increase in Unprofessional Conduct, after an initial decline in 2017 and 2018. Unprofessional Conduct may include a breach of Massage & Myotherapy Australia guidelines, fraud or meeting the Association's registration requirements.

Complaints recorded against the Code of Ethics

In July 2018, Massage & Myotherapy Australia updated the Code of Ethics to reflect the changing environment and the introduction of the National Code of Conduct for Unregulated Healthcare Workers. This makes comparison between the previous editions of this document.

It's important to note the increase in formal complaints of alleged Fraud as well as therapist and client relationship, which may include an allegation of a sexual relationship or assault.

For further details related to the Code of Ethics categories, please review the Code of Ethics, Standards and National Code of Conduct.

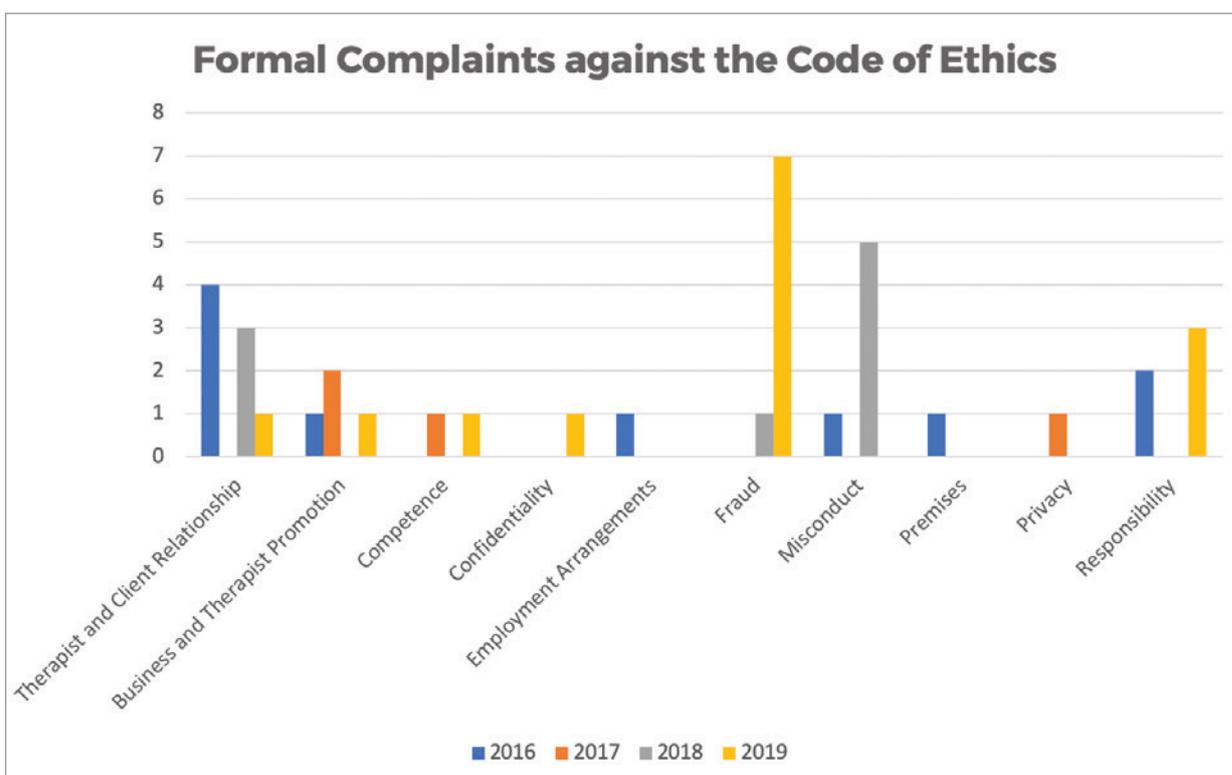


Figure 2 - Formal Complaints against the Code of Ethics

Most Common types of formal complaints

The most common areas of complaint were:

- Alleged Fraud - use of another members health fund provider number
- Workplace
- Client Confidentiality
- Practicing outside of scope of practice.



Figure 3. Most common areas of complaint 2016-2019

Types of Complaints against the Code of Ethics

Formal complaints are often multilayers and may include one or more complaints, the following categories are assigned based on the allegations.

Professional Standards		Professional Care		Professional Behaviour	
Compliance	0	Competence	2	Misconduct	6
Confidentiality and Privacy	2	Responsibility	5	Therapist & Client Relationships	8
Employment Arrangements	1	Vulnerable persons	0	Fraud	7
Premises	1	Subtotal	7	Subtotal	22
Business & Therapist Promotion	4				
Subtotal	8				

Sources – formal complaints by gender

The data indicates the trend remaining largely unchanged. During 2019, the highest number of formal complaints lodged were by females about female therapists.

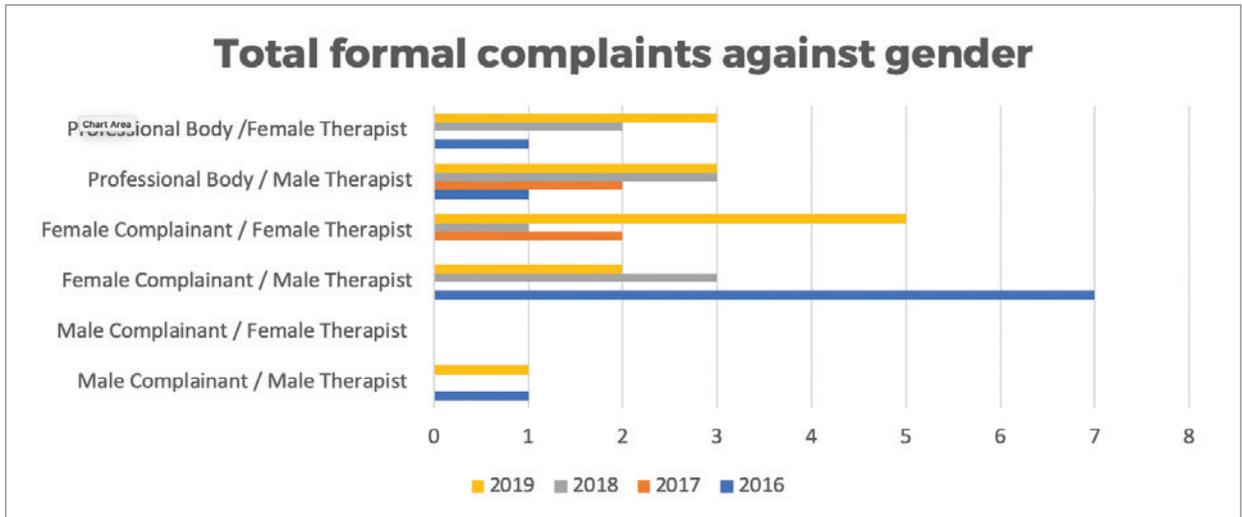


Figure 4 - Total formal complaints against gender

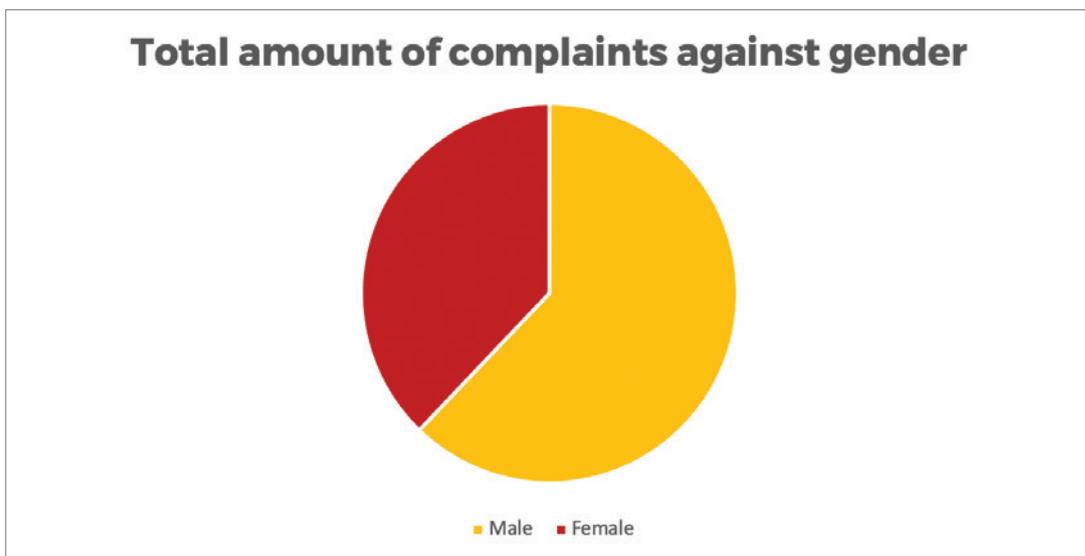


Figure 5 - Total amount of complaints against gender

COMPLAINTS IN MASSAGE THERAPY

OUR PROBLEM - OUR SOLUTION

Sources: formal complaints by state

In 2019, of all formal complaints, 45% were from Victoria, followed by 22% from Queensland. The percentages of complaints generally correlate with the percentage of members operating in each state. Comparing previous years, there has been a significant rise in formal complaints in Western Australia.

- Victoria - 39.38% of membership compared to 45.71% of complaints
- Queensland - 25.64% of membership compared to 22.86% of complaints
- New South Wales - 25.64% of membership compared to 5.71% of complaints
- South Australia - 8.52% of membership compared to 5.71% of complaints

ACT	2.86%
NT	2.86%
NSW	5.71%
SA	5.71%
WA	14.29%
QLD	22.86%
VIC	45.71%

Overall, the amounts of formal complaints have decreased regarding members operating in Victoria and Queensland during this period.

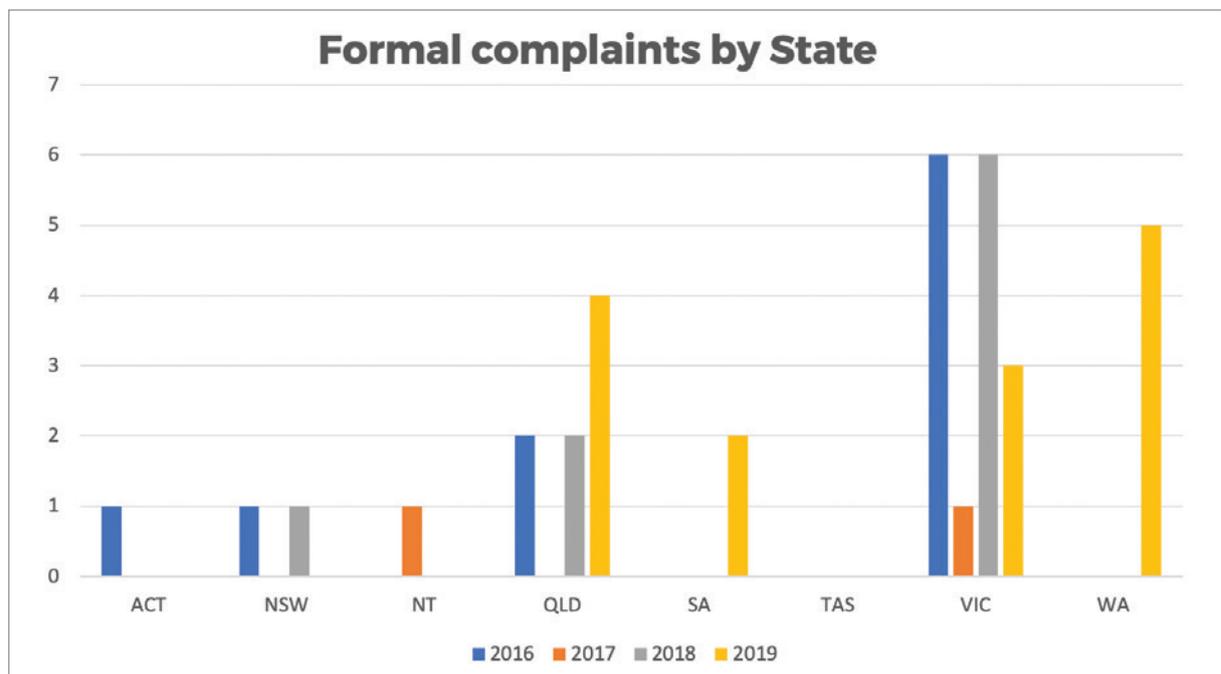


Figure 6 - Formal complaints by State

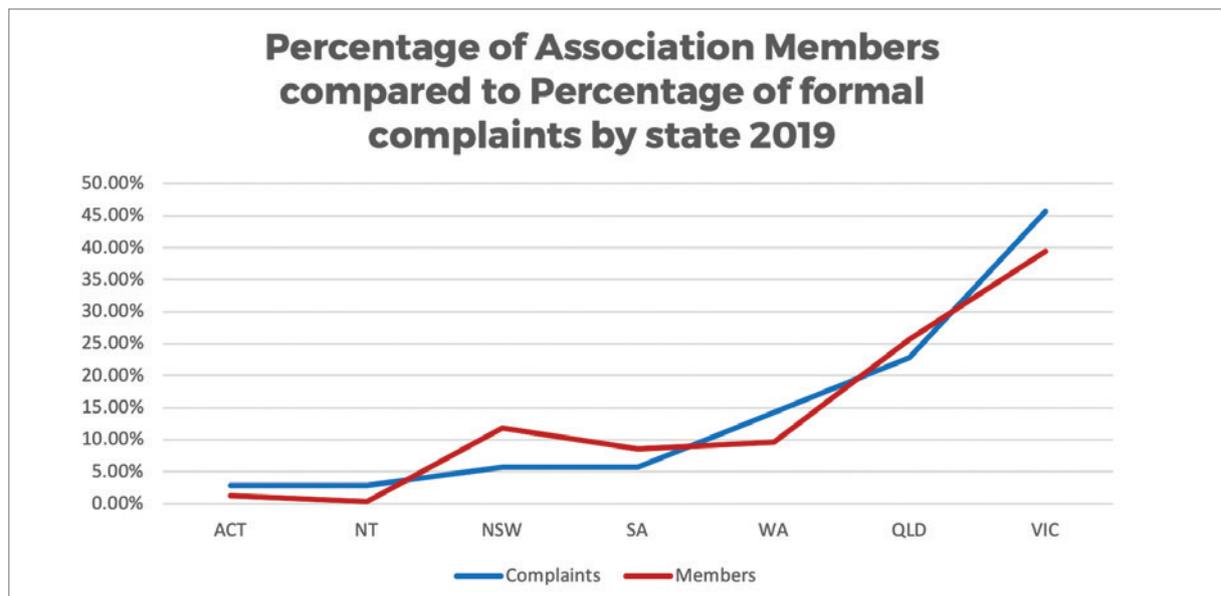


Figure 7 - Percentage of Members compared to formal complaints by state 2019

7. Results: Informal complaints

Definition

Massage & Myotherapy Australia registers a complaint as informal when a complainant does not wish to complete the formal complaints process. Informal complaints are recorded but do not progress to the NEC for further investigation. Complaints may discontinue due to several reasons including a lack of evidence, a lack of willingness by either party to abide by due process, fear of retribution from therapist or if the investigation passes into the hands of another authority appropriate to the complaint.

Recorded informal complaints

Comparing the previous year, there was a steady increase until the peak of 2016 with 61 Informal Complaints recorded, however, since 2016 there was a steady decrease until 2019 which recorded a low of 3 Informal Complaints

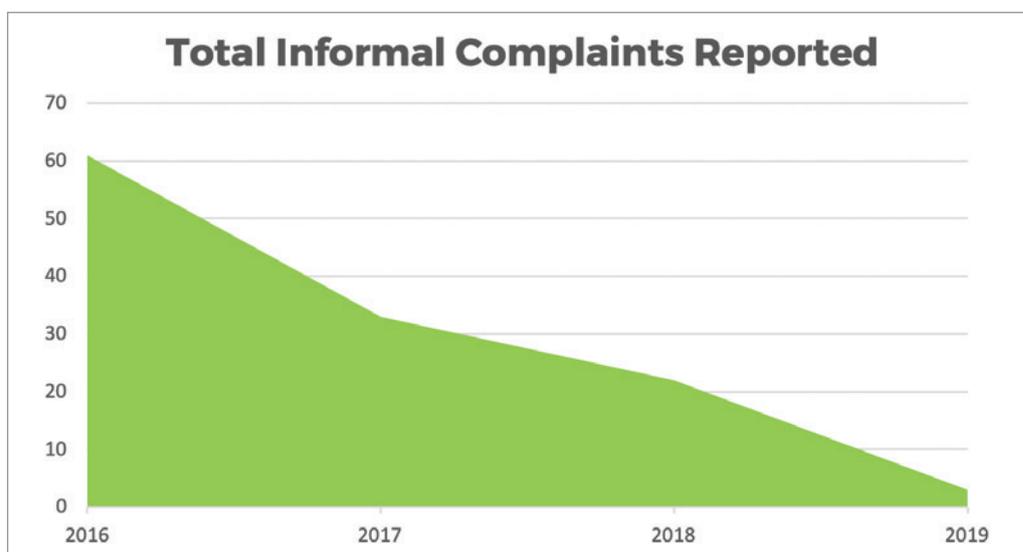


Figure 8 - Total informal complaints reported

Main areas of increase in informal complaints

Comparing data from previous years, there has been a decrease in Notifiable Conduct.

This is a positive step forward as Notifiable Conduct includes:

- Intoxication by alcohol or drugs while practicing or training in the profession; an impairment that places the public at risk of substantial harm
- Engagement in sexual misconduct in connection with the practice or training in the profession;
- A significant departure from accepted professional standards that places the public at risk of harm.

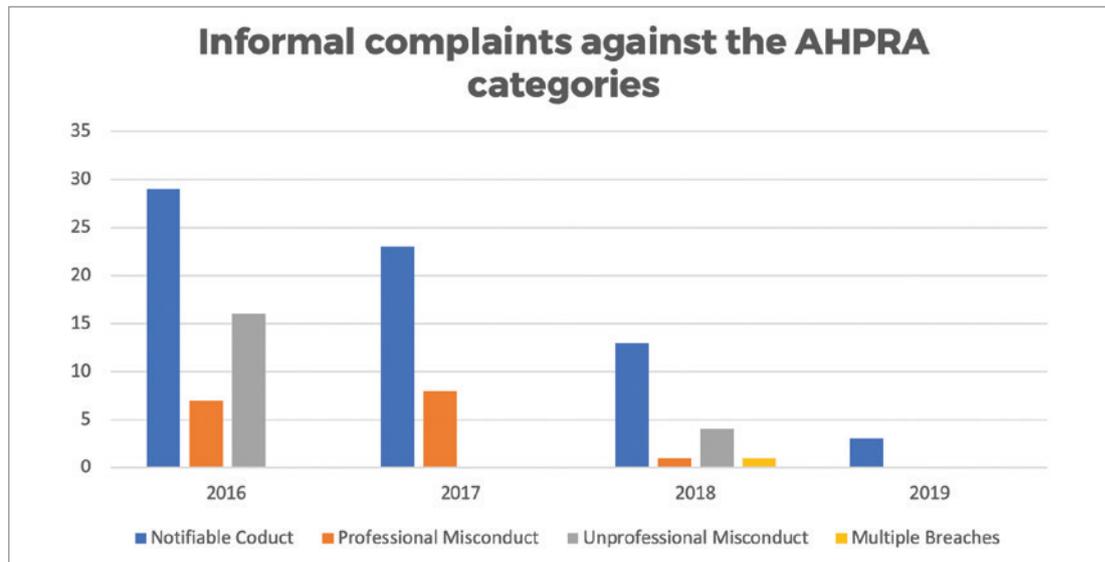


Figure 9 - Informal complaints against the AHPRA categories

Sources of informal complaints by state

During this period, the highest total number of informal complaints has come from Queensland and Victoria. This is a similar proportion to the higher number of members operating in Queensland and Victoria. However, New South Wales has had a significant increase in informal complaints compared to previous years).

Comparing each state based on previous entries. Complaints have shifted from being very high, in one particular state.

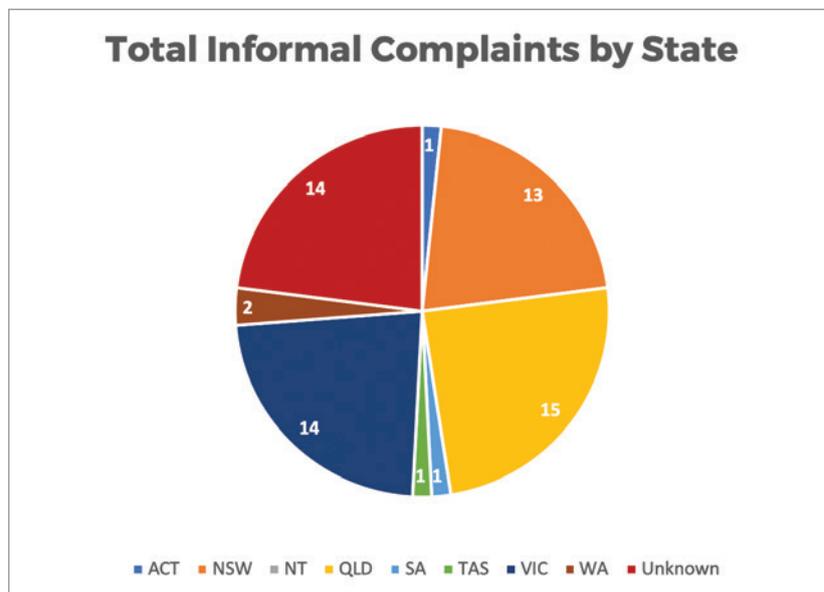


Figure 10 - Total informal complaints by state

Comparing each state based on previous entries. Complaints have shifted from being very high, in one particular state.

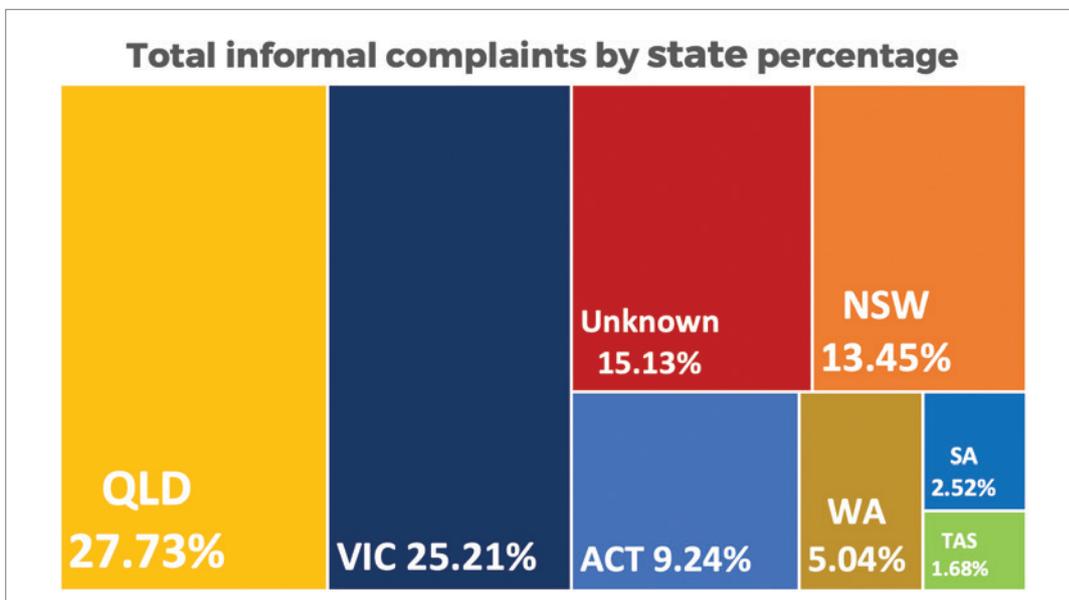


Figure 11 - Total informal complaints by state

Other sources of informal complaints

Massage & Myotherapy Australia receives complaints from individuals and Organisations with various details provided. Organisations include, Police, Government Ombudsmen, Health Care Agencies and Private Health Funds.

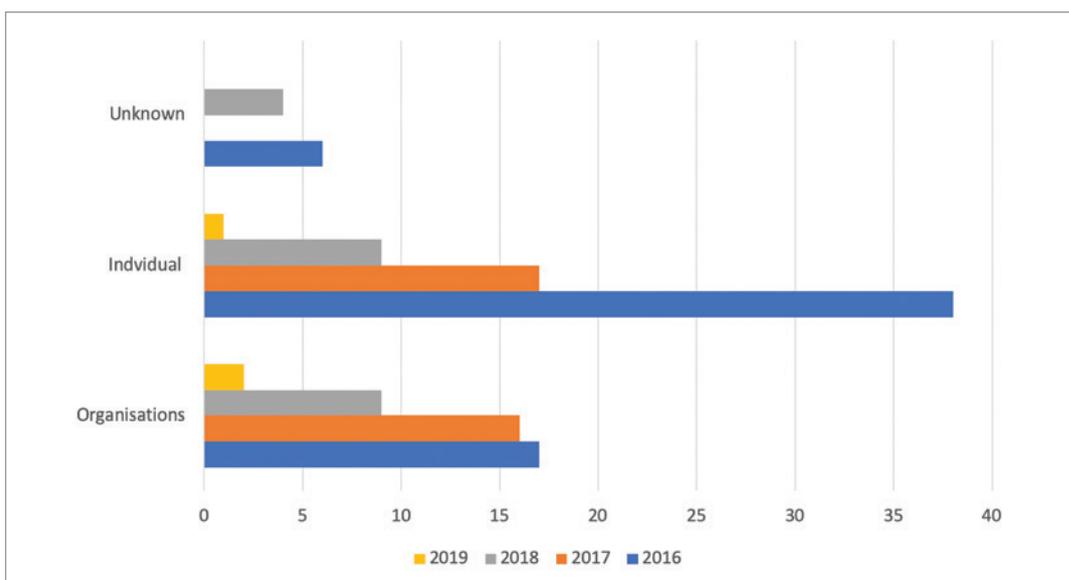


Figure 12 - Sources of informal complaints

Collated formal and informal complaints

These complaints occurred in a self-regulatory environment that saw the introduction of more rigorous regulations through the National Code of Conduct for Healthcare Workers, and the passing of supporting legislation in several states. In some states, some of the legislation workings and administration processes are yet to be implemented. Against the AHPRA Codes, total formal and informal complaints dropped after an initial surge between 2015 to 2016.

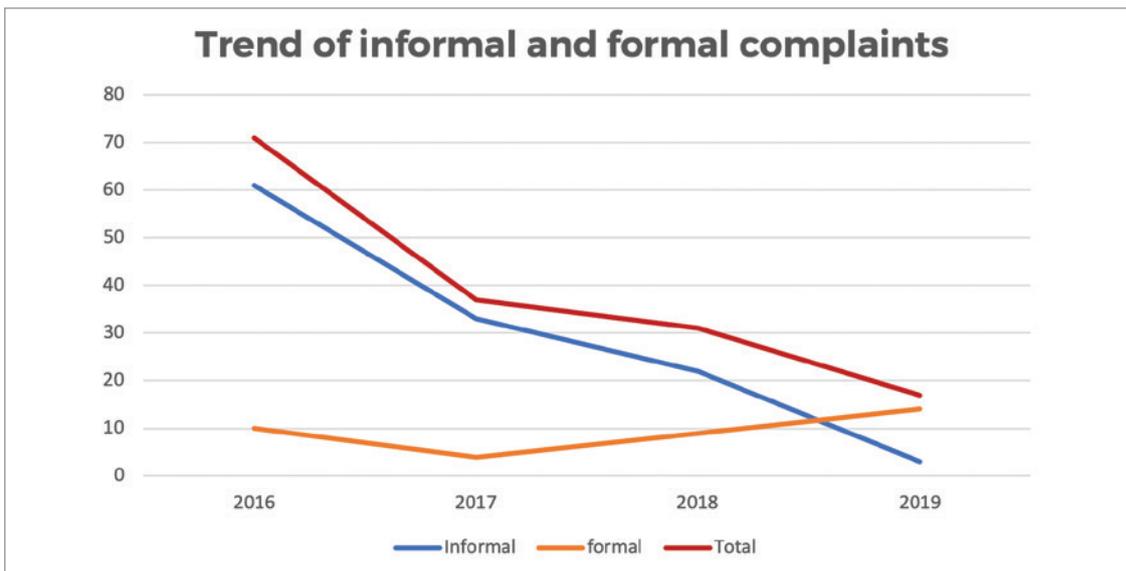


Figure 13 - Trend of informal and formal complaints

8. Fraud

Alleged fraudulent activity

Insurance fraud covers a range of issues but is effectively a form of theft by deception. Regardless of whether the fraud is committed on a one-off basis or a series of frauds it is still considered at law to be a serious offence which can result in penalties such as monetary fines or imprisonment. In the private health insurance space, false claims are the most common form of fraud but the list of dishonest acts to obtain a benefit by deception can also include:

- Charging for services not provided
- Over-servicing/providing treatment when not needed
- Using a code for a longer service than provided
- Additional services used in the one treatment e.g. acupuncture during massage
- Providing receipts in another client's name e.g. family member or friend of client
- Providing product and billing for treatment
- Using a provider number that does not belong to the therapist
- Selling receipts to another provider

Frequent types of fraud include:

- Misuse of a provider number: non-registered providers billing under the provider details of a registered provider
- Up coding of item numbers: claiming for services that pay a higher benefit than that which was provided
- Maximising family membership limits by services being claimed against family members who did not receive any treatment

Claims leakage:

- Claiming a benefit for services that haven't occurred by swiping cards multiple times
- Providing invoices for payment under provider X's provider number, when it was provider Y, who does not have a provider number, who performed the service
- Loading invoices with other services such as acupuncture and billing these as remedial massage
- Providing invoices under a provider number not even associated with the practice

Waste and abuse:

- Billing the fund for services they have supposedly provided to themselves
- Billing the fund for services provided to family members – against their fund provider rules.

Complaints about alleged fraudulent activity

Massage & Myotherapy Australia assesses and processes fraud complaints under the Association's contractual obligations and commitments to administering members' Private Health Fund approved provider status.

The most common type of fraud is the fraudulent use of provider numbers, usually by the Private Health Funds, which may involve the improper use and distribution of provider numbers within a clinic.

Most common type of fraud complaints

Private Health Funds were the highest source of complainant followed by billing procedures and failing to disclose information. Billing procedures can include altering prices based on a Private Health Funds or failing to receipt correctly (or at all). Failing to disclose information can refer from failing to disclose disciplinary proceedings with other Associations or Private Health Funds.

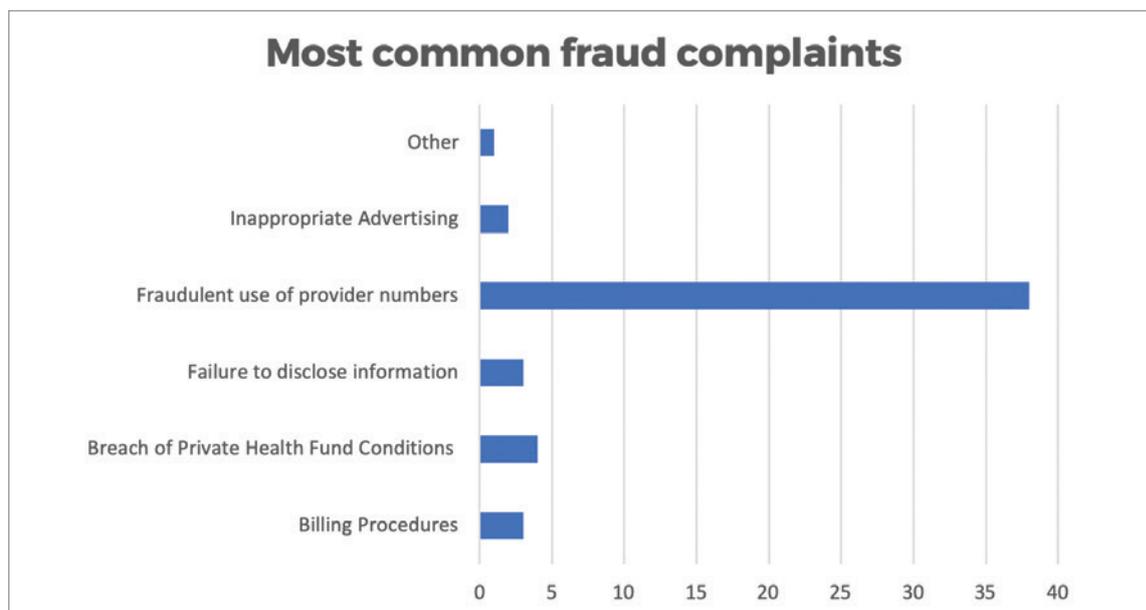


Figure 14 - Most common fraud complaints

Sources of fraud complaints

Compared to previous years, Private Health Funds remain the highest source of fraud complaints, followed closely individuals, which are often clients or colleagues.



Figure 15 - Sources of fraud complaints

Recorded fraud complaints by state

Fraud complaints by state and year have a similar proportion to the higher number of members operating in Queensland and Victoria, as demonstrated in figure 16. Across all states and territories fraud complaints have reduced in number.

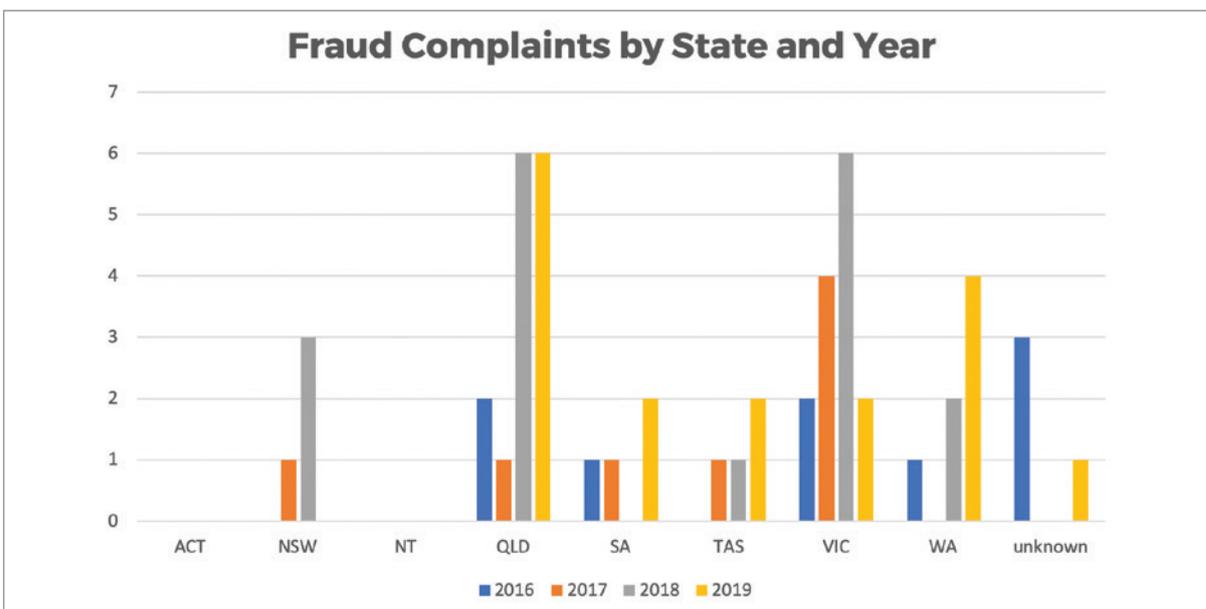


Figure 16 - Fraud complaints by state and year.

9. Involvement of the police and the judiciary

Massage & Myotherapy Australia referrals to the police

Massage & Myotherapy Australia considers that the referral of a serious complaint to the police is a step not taken lightly. Such referral occurs in accordance with the policies and procedures in existence at the time and only when it is reasonably believed to be the appropriate action.

The legal cases highlighting poor professional conduct are varied. Many cases can be cited for the purpose of validating inappropriate behaviour that covers a wide criminal scope of rape, illegal immigration, human trafficking and fraud. Closed access to information held by the courts around individual cases can sometimes hamper the aims of the Association's commitment to quality assurance and public safety.

If the Association reasonably believes a complaint is notifiable, the Association will refer the complaint to the police. The actions of the Association and NEC are guided by policies and procedures concerning complaints of this nature.

These include:

- Massage & Myotherapy Australia Position Statement – Referral of Ethical Complaints to Police
- Massage & Myotherapy Australia Guidelines – Criminal Activity
- Massage & Myotherapy Australia Position Statement – Referral of Ethical Complaints.

Cases instigated or investigated by the police

Massage & Myotherapy Australia assists the police and other authorities such as the Office of Public Prosecutions involved in investigating Notifiable Complaints. In some cases, the Association and NEC are not involved, as aggrieved parties will go directly to the police. The Association assists the Office of Public Prosecutions by referring them to specialist expert witnesses and also assists with cases involving therapists from other Associations that are not members of Massage & Myotherapy Australia.

There have been a number of notifications concerning Association members who were under investigation by the police and the courts. The Association did not receive complaints for these cases but were notified either by the alleged victim, the police or the member themselves.

On receiving confirmation from police that a member has been charged for a criminal act, in accordance with the AAMT Constitution, membership is immediately suspended pending the outcome of the legal proceedings. If conviction is the outcome, upon confirmation and in accordance with the AAMT Constitution, membership is terminated immediately.

10. Initiatives and public education

While there are possible explanations for emerging trends or changes in the nature and volume of complaints, more detailed data analysis from a range of sources is required in order to test the validity of these explanations. Massage & Myotherapy Australia's response to emerging trends is also included in Association publications with possible policy and regulatory solutions.

The decrease in complaints can be argued as a result of awareness, education of the public on what constitutes sexual assault and the encouragement of people to come forward and report sexual assault.

The number of offences, may also be the result of improvements in complaints handling. In addition to the development and introduction of the National Code of Conduct for Health Care Workers, a number of highly public and widely discussed investigations concerning offences of a sexual or violent nature have occurred. These include: The Royal Commission into Institutional Responses to Child Sexual Abuse; various states investigating domestic violence against women including the Victorian Royal Commission into Violence Against Women, the NSW, SA, and QLD government instigating improved access and streamlining of formal complaints handling to dedicated authorities.

The Association's Code of Ethics, Standards and National Code of Conduct was updated in 2018. The Code was expanded upon and saw the introduction of a number of different categories in line with the National Code that included Premise and Vulnerable Persons.

The Association's complaints handling process is, by design, widely accessible to the public, members, and their clients, with the NEC process completed consistently within six weeks of the lodging of a formal complaint. Additionally, Massage & Myotherapy Australia responded to the results of the second 2015 report (Complaints in Massage Therapy – Our Problem – Our Solution) by increasing education and support programs for members, designed to improve awareness and understanding of these important issues.

The combined impact of these developments may have led to:

- A greater general awareness/concern about crimes of a sexual nature
- People being generally more alert to the nature of a sexual offence
- A greater level of understanding of where and how to lodge complaints
- A greater deterrent to would-be offenders
- Male therapists being more aware of their responsibilities under the Code
- Inclusion of Social Media to widely publish policies.

Relevant Massage & Myotherapy Australia publications include:

- Code of Ethics, Standard and National Code of Conduct
- Guide to the Prevention and Management of Sexual Misconduct
- Referral of Ethical Complaints
- Disciplinary Dispute Resolution Procedure
- Member Bullying and Harassment Policy
- The Essentials of Draping – Policy and HALO module
- Informed Consent and Clinical Record Keeping Proforma
- Pregnancy Massage Position Statement and Guidelines
- Myofascial Dry Needling: Position Statement & Practice Guidelines
- Anterior and Lateral Chest Massage: Position Statement & Practice Guidelines
- Clinical Settings Guidelines
- Treatment of Minors Practice Guidelines
- Regular information through the quarterly *Massage Therapists Journal* and the monthly *eNews*.

Please refer to massagemyotherapy.com.au to download copies of all the above mentioned policies and documentation.

COMPLAINTS IN MASSAGE THERAPY
OUR PROBLEM - OUR SOLUTION



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