



Complaints in Massage Therapy

Our problem – our solution

ethical scope of practice nurture safety
best practice effective positive values commitment
responsible accountable professional
consumers care excellence in practice transparency
education awareness protection proactive solution
integrity quality assurance massage therapy professional
health and wellbeing respectful communication
ethical scope of practice nurture safety
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transparent education awareness protection



The Australian Association of Massage Therapists (AAMT) is the peak representative body for Massage Therapists in Australia formed in 2003 following the amalgamation of five major Massage Associations across Australia.

AAMT provides public service by maintaining a register of qualified member practitioners for referral and for responding to enquiries and complaints from the public.

It is the Association's strong commitment to protecting the public and members that has led the Association and its members to high levels of recognition in the massage industry.

Complaints in Massage Therapy

Our problem – our solution

"The inaugural *Complaints in Massage Therapy* document on ethical behaviour is an important initiative instigated by the AAMT on behalf of the massage therapy industry. It is an invaluable reference point for massage therapists and sets the benchmark for future complaints processes. We support and encourage the AAMT in initiatives that maintain the integrity of their profession whilst increasing awareness of the complaints process for consumers."

Dr Wendy Morrow, Executive Director, Complementary Healthcare Council of Australia

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Introduction

The Australian Association of Massage Therapists (AAMT) and its members are proud of their commitment towards being responsible and accountable to the general public when dealing with ethical matters. We recognise that the interaction between a therapist and client is one of the key drivers of positive treatment results. If trust is breached or a respectful relationship challenged, either through poor communication or practice, this can have significant, long term effects on the client and the profession as a whole.

Massage therapy can contribute to the many facets of a person's health and wellbeing. To maintain the integrity of the profession it is important that the Association has an effective and transparent method of managing complaints. This report is the result of data collection since 2003 of ethical complaints against AAMT members, as part of our commitment to support excellence in practice. The data is now being used to develop member education, influence training in the tertiary sector and increase awareness of the complaints process with consumers.

The AAMT and its members are committed through the adoption of policies to the education, ethical treatment and protection of consumers on all aspects of the practice of massage therapy. This includes ensuring quality assurance in the training and delivery of industry specific qualifications and recognising that

Garry Lavis
President



when problems arise the Association has a responsibility to assist in finding solutions. This report has been produced to highlight the proactive role that the AAMT and members take in pursuing best practice within the massage profession.

Executive Summary

The AAMT and its membership are committed to the education, ethical treatment and protection of consumers on all facets of massage therapy practice.

As part of this commitment to maintain high industry standards, members support the Association's development of a process for managing any complaint that is received against an AAMT member.

Since 2003 member complaints data has been documented by the AAMT, including the nature of the complaint and the resolution of the issue. This Ethics Report has been developed utilising the data to educate the industry and provide further information on the complaints process and what is considered ethically as best practice for AAMT members.

Complaints within the report have been categorised according to the Australian Health Practitioners Regulation Agency Codes and Guidelines.

The three main complaints categories are:

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

Key findings from the study of AAMT complaints data dated from 2003-2011 has highlighted areas where complaints have clustered; these included inadequate draping and poor communication by therapists.

The majority of complaints cases were managed through the AAMT complaints process, however, some cases required the involvement of police or the court system.

Complaints about non members from the public are referred to the appropriate body.

Further details of AAMT complaints data can be found within the results section on page 12 of this report.

By reporting this data it is hoped that the information will help to develop and influence training in the tertiary sector regarding ethical conduct. The Ethics Report also highlights the role of the AAMT National Ethics Committee, the five principles of the AAMT Code of Ethics and the AAMT Complaints Process to assist both practitioner and consumer awareness in complaints handling and ethical practice.

AAMT and the National Ethics Committee

Upon joining the AAMT, members undertake a commitment to observe and practice with the highest standards of ethics, probity and professional conduct. Ethical behaviour is not simply compliance with legal requirements; it extends to honesty, equity, integrity and social responsibility in all dealings. It is behaviour that holds up to disclosure and to public scrutiny.

The National Ethics Committee was established by the AAMT and comprises of suitably qualified and experienced committee members elected to protect member commitment towards ethical practice. The committee ensures that the AAMT Code of Ethics and Standards of Practice are upheld, and that complaints against any AAMT member are heard in a consistent manner.

The AAMT continually seeks training for ethics committee members in the management of cases and further seeks expert opinion to ensure that determinations are informed and fair.

The tasks of the National Ethics Committee include:

- Reviewing the information and education provided to members with respect to the Code of Ethics and the Standards of Practice, and to participate in the development of best practice models.
- Monitoring ethical matters as they appear on the Ethics Register in order to provide advice on amendments to training and information materials.
- Providing a report to the AAMT Board, to be included in the Annual Report, reflecting matters addressed by the National Ethics Committee during the year 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 impose sanctions under the Constitution on practitioner members found to have breached the AAMT Code of Ethics, including suspending or revoking membership.

AAMT and the National Ethics Committee

At the time this report was published, the National Ethics Committee has five key members:



Karen Nichol

Non-executive Director, Chairperson,
London Chamber of Commerce Diploma Private Secretaryship, Certificate of Fitness, Vic Fit,
Diploma of Health Massage, Certificate in Tactile Therapies, Diploma of Remedial Massage

Karen Nichol practised as an executive secretary for six years. She has over 15 years experience as a remedial massage therapist and is a past secretary of AAMT. She is actively involved in fundraising for Lions House, Yogananda and the Olivia Newton John Foundation.



Geoff Waldron

Non-executive Director,
Diploma of Teaching (Primary), Diploma of Arts (Fabric Printing), Diploma of Remedial Massage

Geoff Waldron has practised as a massage therapist for 18 years and a primary teacher for 37 years. He has also worked as a teacher of massage at a private massage school. Geoff has been involved with massage associations for 15 years and has held senior positions within those associations for 11 years. Geoff appears as an expert witness in court for AAMT and non-member complaints.



Narelle James

Non-executive Director,
Diploma of Remedial Massage, Bachelor of Social Science, Certificate III in Community Service (Early Childhood)

Narelle James has worked as a massage therapist for eight years and has 13 years experience as a welfare officer and counsellor. She has held positions within the AAMT for six years and is currently vice president of the AAMT.



Pamela Claxton

Non-executive Director,
Diploma of Remedial Massage, Registered Nurse, Bachelor of Health Administration, Master of Clinical Nursing, Studying Certificate IV in Bowen Therapy

Pamela Claxton has five years experience running her own massage practice and is concurrently practicing as a nurse specialising in child and family health. She has been a member of AAMT since 2006.



Colin Thornby

Non-executive Director,
Diploma of Training and Assessment, Diploma of Management, Diploma of Professional Counselling, Mental Health First Aid (Adult), Doctor of Philosophy (sociology), Bachelor of Nursing, Master of Theology, Master of Spiritual Direction

Dr Colin Thornby is experienced in the health-care, education, faith community and not-for profit sectors and has been on the AAMT Board since 2011. He has competencies in counselling, higher education, training and assessment, health care (nursing and health administration), human resources and change management.

AAMT Code of Ethics

AAMT advocates high standards of professional practice

The AAMT advocates high standards of professional practice. All ordinary members of the AAMT are accredited massage therapists and have completed appropriate training and formal qualifications as defined by the Australian National Training Quality Framework and supported by the Health Training Package.

AAMT operates under a Code of Ethics and Standards of Practice

AAMT members are committed to upholding the Code of Ethics and the Standards of Practice as provided by the Association. The AAMT is not a regulator, however it currently self regulates members. The Code of Ethics is a statement about appropriate and expected standards of professional conduct of AAMT members to preserve and enhance their professional reputation as well as the reputation of the massage industry in Australia. As such the Code of Ethics reflects the values of the Association.

The Code of Ethics was developed to inform and guide the decisions and behaviour of all therapists involved in the provisions of the Association. The code provides for critical reflection and some assistance with the resolution of moral and ethical dilemmas that may arise in the workplace.

The Code of Ethics also seeks to protect and inform the general public.

Please refer to **www.aamt.com.au** to download the *AAMT Code of Ethics and Standards of Practice* statement.

Adherence to the Code of Ethics involves a commitment to five principles:

1. The primary factor in all treatment decisions is the client/patient's well-being.
2. Maintain client/patient/therapist confidentiality.
3. Treat the client/patient according to competent application of accepted techniques and principles.
4. Maintain a commitment to the development of the industry/profession.
5. Maintain a supportive professional attitude to colleagues and the industry.

These principles require members' commitment to ethical practice in relation to propriety, competence, responsibility, therapist/client relationships, professional conduct, professional development, employee/employer relationships, consulting premises and advertising.

The Standards of Practice were developed from core values of the AAMT and are aimed at assisting professional massage therapists to evaluate and adapt performance. These standards require members' commitment to ethical practice for clients/patients, colleagues, and the general public and for themselves as professionals.

Other supporting documents include:

- *Guide to the Prevention and Management of Sexual Misconduct*
- *Breast Massage*: position statement and practice guideline
- *Myofascial Dry Needling*: position statement and practice guidelines
- *Draping & Positioning*: position statement and practice guidelines
- *Informed Consent*: position statement and practice guidelines
- *Referral of Appropriate Complaints to Police*: policy

Please refer to **www.aamt.com.au** to download these documents.

The Complaint Process

Complaints procedure and guidelines explained

The AAMT has developed a comprehensive process to manage the resolution of complaints received against a member. Upon joining, members have agreed to abide by AAMT policy and the complaints processes in the interest of best practice.

The complaints process supports the aims of the AAMT and its members by encouraging public confidence in the standard of therapist accepted for membership within the Association. This standard is defined in the Code of Ethics and applies to all members.

The National Ethics Committee (NEC), under the authority of the AAMT Board, manage and address any complaint made against an AAMT member.

Under Clause 6.11, 6.12, and 6.13 of the AAMT's Constitution, the AAMT Board may provide discipline if the Code of Ethics and Standards of Practice are breached by a member, or if a member is otherwise engaged in unbecoming conduct.

If a person wishes to lodge a formal complaint against an AAMT member they are required to do so by following the process outlined in the Complaints Handling Procedure. Refer to **www.aamt.com.au** to download this document.

The Complaints Handling Procedure document is a guideline of what to expect throughout the complaint process. It outlines the policies governing the process and how a complaint is to be made. It also provides a timeline of each stage of the process and details possible resolutions and determinations that are within the jurisdiction of the Association.

How to make a complaint

To enable the AAMT to address and resolve a complaint effectively, complaints or dispute notifications are to be made in writing using the Formal Complaint Form (found on page 10 of the Complaints Handling Procedure document), and addressed to the Chief Executive Officer.

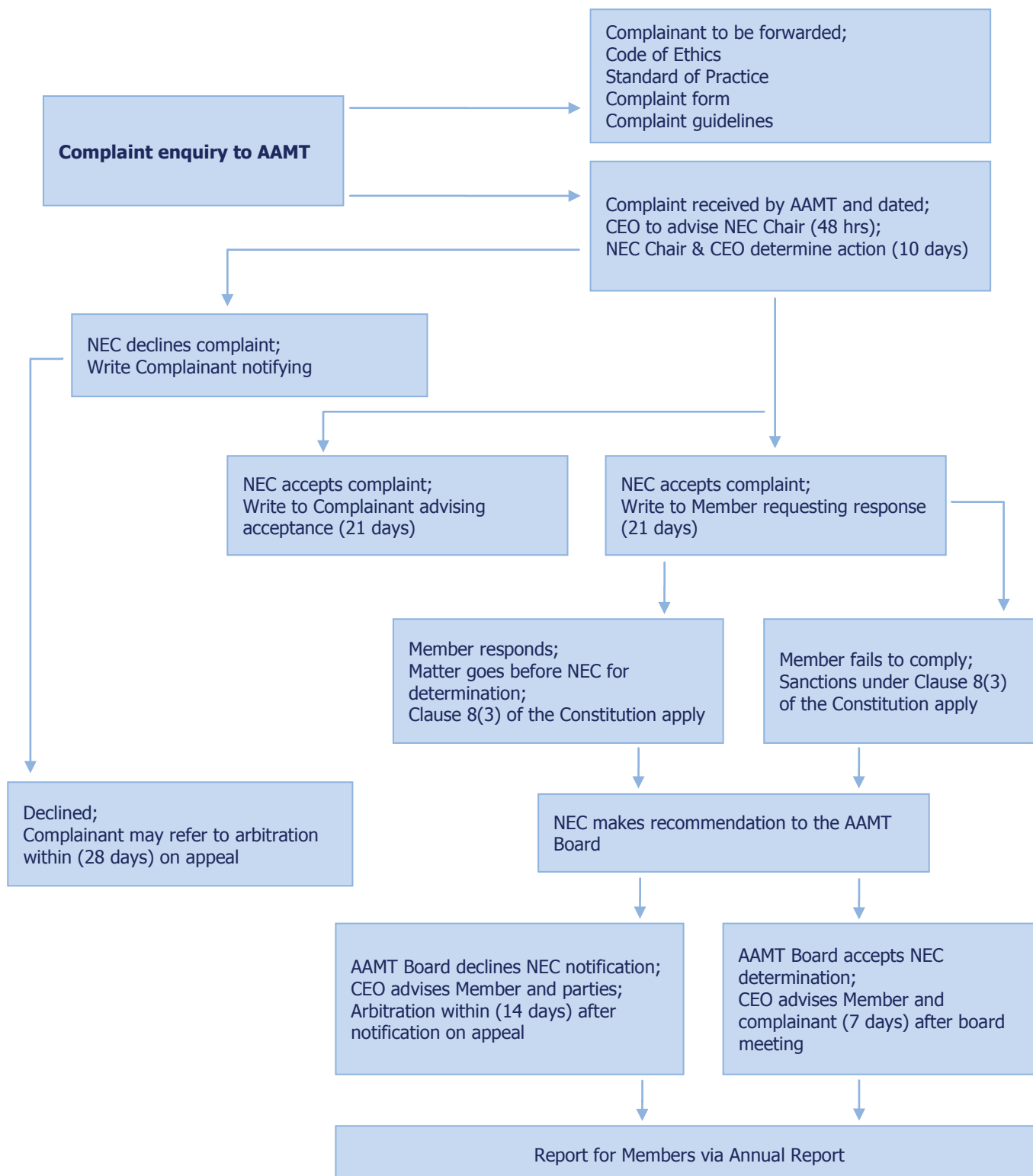
If the complaint or dispute raises significant issues of interest to AAMT members the NEC will be advised. The NEC will then determine whether to accept the complaint for investigation, hearing and determination, or to decline it. If accepted, all such parties as the NEC deem necessary are notified and the investigation will commence. Each stage in the complaints process abides by a strict timeline that must be adhered to by all required parties. For more details refer to the Complaint Enquiry Process chart on page 9 of the Complaints Handling Procedure document.

The AAMT Board may where appropriate, refer to the police any serious complaints made against any member involved in criminal conduct. Complaints that are hearsay, frivolous, vexatious or are outside the jurisdiction of AAMT, cannot be handled.

The Complaint Process

What happens when a complaint is made

The following diagram displays the stages and timeline of the complaint process.



Complaint Categories

Collection of Complaint Data

The AAMT has documented all complaints received against its members since October 2003. This has included the nature of the complaint and its resolution by the Association. Since 2003 and up until December 2011, the AAMT has managed 53 formal complaints relating to member conduct. All cases have been addressed and closed.

A further 13 cases were managed by police or the court system.

The AAMT was also called as an 'expert witness' in numerous non AAMT member cases that were dealt with in the court system. Please note however, these are not included as part of this report.

AHPRA Codes and Guidelines

The AAMT has recently classified its complaints data to adhere to categories as 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 include:

Unprofessional Conduct

Unprofessional conduct includes:

1. breach of the National Law
2. breach of a registration condition or undertaking
3. conviction for an offence that may affect suitability to continue practice
4. providing health services that are excessive, unnecessary or not reasonably required
5. influencing, or attempting to influence, the conduct of another registered health practitioner that may compromise patient care
6. accepting a benefit as inducement, consideration or reward, for referrals or recommendations to use a health service provider
7. offering or giving a person a benefit, consideration or reward, in return for providing referrals or recommendations to use a health service provider
8. referring a person to, or recommending another health service provider, health service or health product, if there is a financial interest, unless the interest is disclosed

Professional Misconduct

Professional misconduct includes:

1. conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience
2. more than one instance of unprofessional conduct
3. conduct that is not consistent with being a fit and proper person to hold registration in the profession

Notifiable Conduct

Practitioners, employers and education providers are all mandated by law to report certain notifiable conduct relating to a practitioner or student. Registered practitioners who fail to report notifiable conduct may face disciplinary action by their National Board.

Such conduct includes:

1. intoxication by alcohol or drugs while practicing or training in the profession
2. engagement in sexual misconduct in connection with the practice or training of the profession
3. an impairment that places the public at risk of substantial harm
4. a significant departure from accepted professional standards that places the public at risk of harm

¹ <http://www.ahpra.gov.au/Notifications-and-Outcomes/Conduct-Health-and-Performance/Conduct.aspx>

Results

Important Note: the data that follows is based on complaints that have been received by the AAMT within the collection period. The data is presented to explore issues raised and the nature of the complaints that have been lodged with the AAMT. The data is presented **as described** by the complainants' perception of events. It is important to note that the data **does not** reflect the members' perception or response to the complaint, the finding of the NEC or the final determination of the AAMT Board.

Complaint Data: Descriptive

Complaints by Year

The first formal complaint lodged to the AAMT was in October 2003. Since then and up until December 2011, there have been 53 formal complaint lodgements. The **number of complaints** per year is represented in **Figure 1** (ie. Financial year 1st July to 30th June).

Figure 1: Number of complaints received by AAMT per financial year

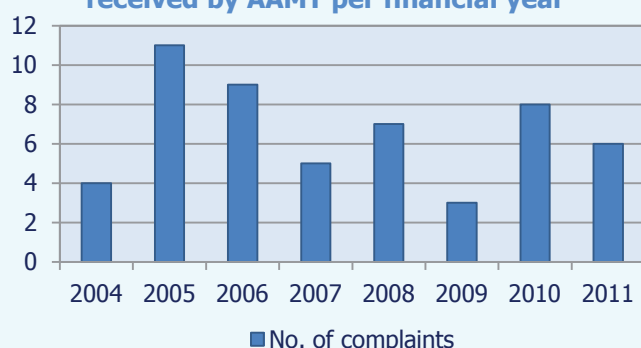


Figure 2 integrates these results with annual total member numbers to create a ratio of complaints per capita.

Figure 2: Total number of members per year and ratio of complaints per year

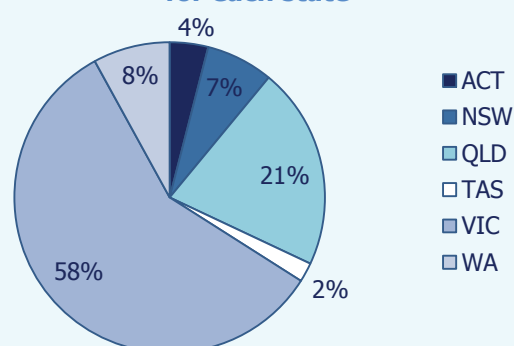
Year (to 30 June)	Total members	Ratio: No. complaints to No. members	Ratio: No. of complaints per capita*
2004	4814	1:1203	1 : 5.32m
2005	5751	1:523	1 : 1.85m
2006	5255	1:583	1 : 2.30m
2007	5922	1:1184	1 : 4.21m
2008	6259	1:894	1 : 3.71m
2009	6972	1:2324	1 : 7.32m
2010	7053	1:881	1 : 3.72m
2011	7375	1:1229	Figure not available

NB: Figures 1 and 2 display numbers per financial year. AAMT was formed in March 2003 and as no complaints were received from 1 March to 30 June 2003, the 2003/04 financial year is not displayed. Likewise as no complaints were received from 1 July to 31 December 2011, the 2011/12 financial year is not displayed. (* Data derived from World Bank, World Development Indicators © 2012)

Complaints by State / Territory

Of all formal complaints 58% were from Victoria (VIC), 21% from Queensland (QLD), 8% from Western Australia (WA), 7% from New South Wales (NSW), 4% from Australian Capital Territory (ACT) and 2% from Tasmania (TAS). There were no formal complaints from Northern Territory or South Australia and so they are not displayed in this report. See **Figure 3**.

Figure 3: Percentage of complaints for each state



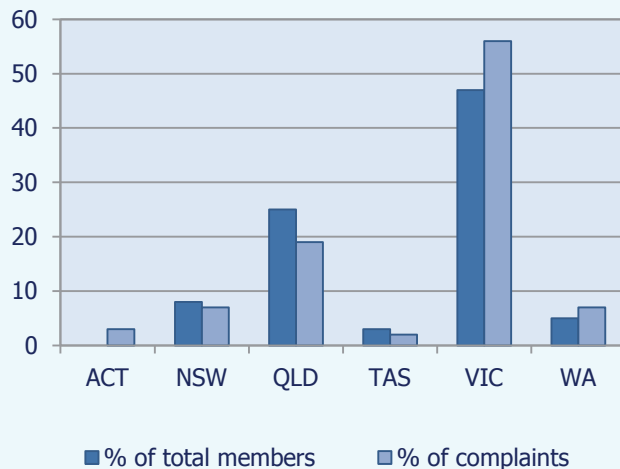
The percentages shown in **Figure 3** are comparable with the percentage of members residing in each state. For instance, VIC which holds almost 50% of the membership, holds a similar proportion of complaints, and ACT which holds less than 1% of the membership, holds a low number of complaints. Encouragingly it can be noted that SA who hold approximately 7% of the total membership had no complaints during the 2003-2011 period.

This works out to an overall average of 1 complaint for every 1102 members per year.

Results

Figure 4 compares the percentage of complaints to the percentage of total members in each state.

Figure 4: Complaints per state compared to total members per state



Reasons for Complaints

Complaint data can be categorised according to the underlying issues raised. **Figure 5** gives a clear indication of the primary issues that have resulted in a formal complaint. It is important to note that consent, draping, and sexual misconduct are recurring issues. It is also relevant to note the number of complaints about injury, and workplace disputes.

Figure 5: Primary issues in complaints to the AAMT

Consent

Unconsented treatment / technique used	2
Unconsented breast massage	3
Unconsented groin massage	1
Unconsented treatment of a minor	1
TOTAL	7

Treatment

Inadequate draping	9
Therapist stayed in room whilst client disrobing	2
Injury to client – bruising	2
Injury to client – back	2
Injury to client – nerve	1
Injury to client – bone	1
Pain after treatment	2
Unsatisfactory treatment	2
Practicing outside scope of practice	2
TOTAL	23

Clinic Room Processes

Unhygienic clinic room	1
TOTAL	1

Payment Dispute

Aggressive reaction from therapist to client during refund request	1
Health fund rebate invalid/declined	2
TOTAL	3

Sexual Misconduct

Sexual relationship with client	5
Inappropriate conversation/comments of sexual nature/topic	4
Inappropriate touching and behaviour	2
Inappropriate touch to groin area	5
Inappropriate touching of genitals	1
Inappropriate touching of breasts	1
Provision of sexual service	1
Inappropriate sale of sexual merchandise	1
TOTAL	20

Workplace

Poaching clients	7
Breaching confidentiality of client records	5
Employee dismissal dispute	2
Final pay dispute	1
Use of another member's health fund provider number (fraud)	1
Workplace bullying	1
TOTAL	17

Other

Unprofessional manner and comments by presenter at event	1
TOTAL	1

Results

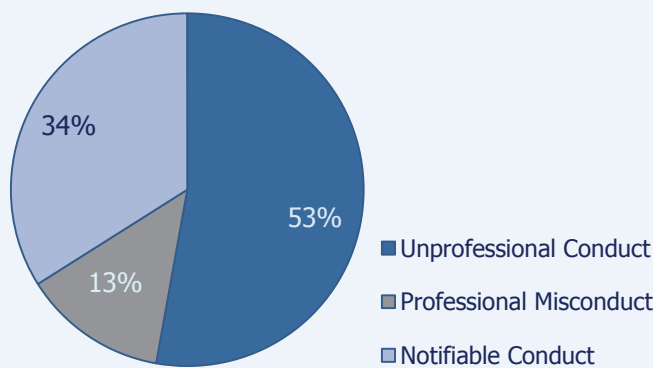
Complaints by Conduct

Complaint data can also be categorised by conduct in accordance to the AHPRA classifications (see page 8). Of the 53 complaints received, the following conduct categories were represented:

- Unprofessional Conduct 28
- Professional Misconduct 7
- Notifiable Conduct 18

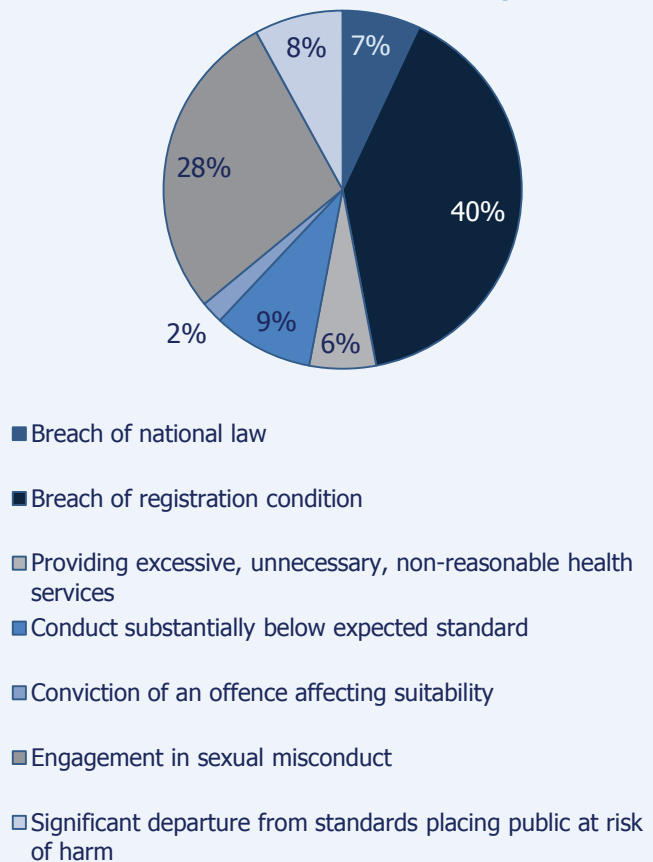
This is represented in **Figure 6**.

Figure 6: Complaints by conduct



Each of these conduct categories contain a number of specific conduct concerns (see page 8). The specific concern as it applied to each complaint was recorded and is shown in **Figure 7**.

Figure 7: Conduct concerns raised in complaints



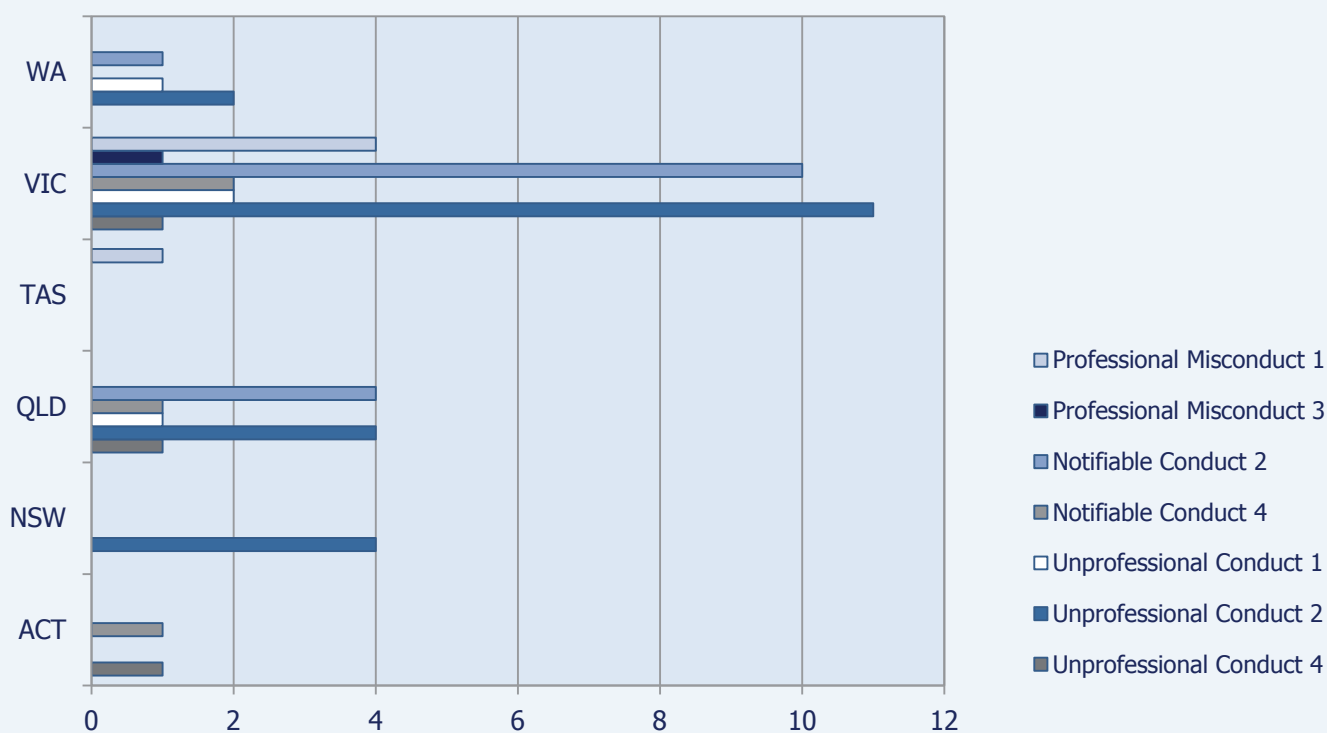
From the data collected the most common conduct complaint (at 40%) is “breach of an AHPRA registration condition or undertaking”. For the purpose of AAMT complaints this applies to a breach of the AAMT’s Code of Ethics. The second most common conduct complaint was alleged sexual misconduct in connection with the practice or training of the profession. This conduct applied to 28% of the complaints. This is discussed further in the *Outcomes and Future Directions* sections (see page 22).

Results

Complaints by Conduct Concerns per State

Overall the data shows similar trends when comparing the most common conduct concerns raised in each state. See **Figure 8**. Once again, a breach of the AAMT Code of Ethics had a reasonably consistent occurrence, as did the overall number of concerns involving alleged sexual misconduct, particularly in VIC and QLD. These are explained in further detail in the *Outcomes and Future Directions* sections (see page 22).

Figure 8: Complaints by conduct concerns per state



Results

Complaints by AAMT Code of Ethics Clauses

The clauses of the AAMT Code of Ethics and Standards of Practice are the self regulatory conditions that have been adopted by all AAMT members. **Figure 9** displays the clauses of the Code of Ethics that the complainant alleged were breached by the member.

Clause 2.2 "Members will honour clients' right to personal privacy and modesty."

Clause 2.3 "Members will maintain professional ethical standards and comply with generally accepted standards of professional behaviour."

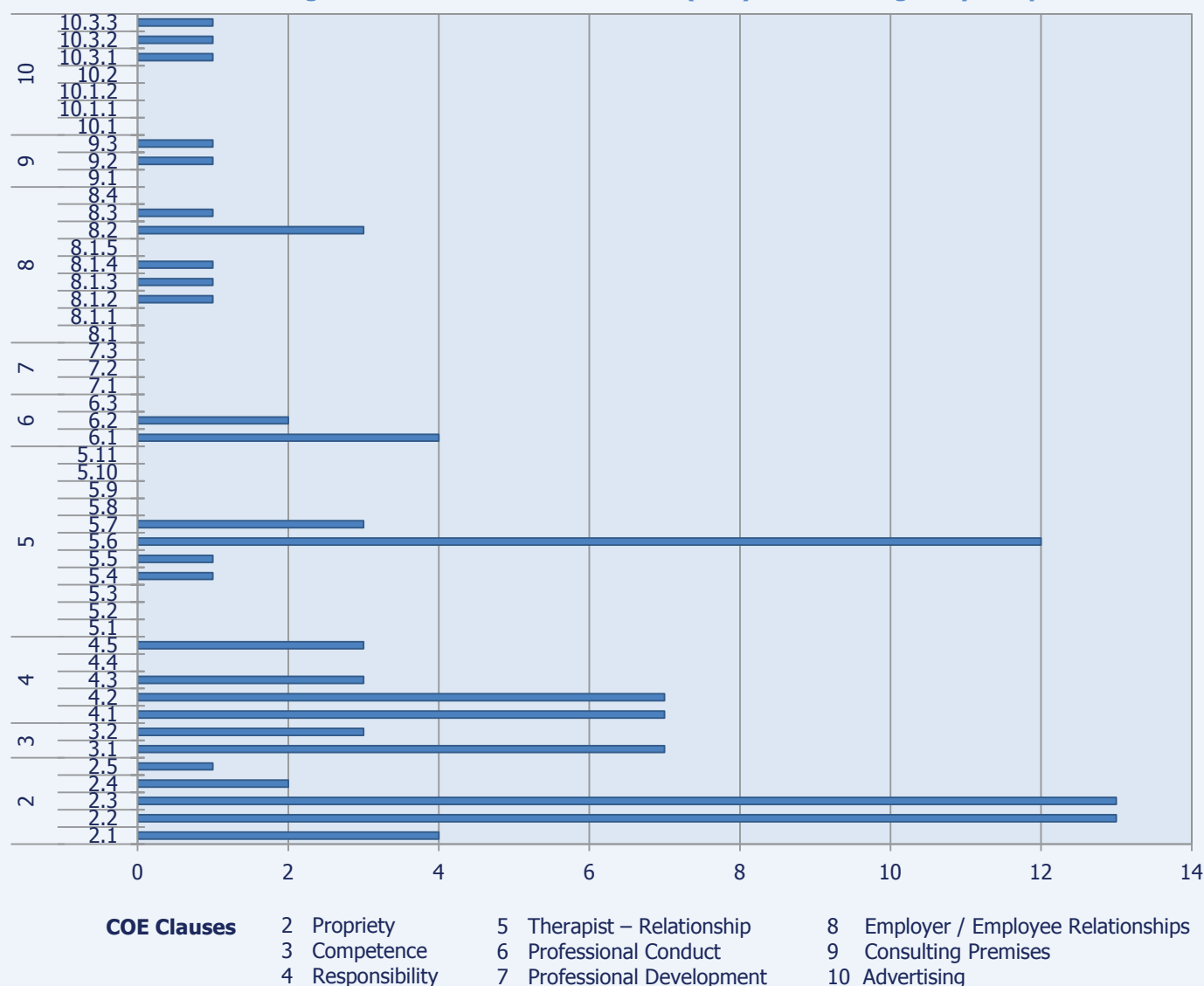
Clause 5.6 "A member shall not engage in sexual misconduct or conduct or practices of a sexual nature or offer services that are sexual in nature with a client/patient."

By their very nature, clauses 2.2 and 2.3 are fundamental principles of ethical practice and are often interchangeable and accumulative with other clauses.

In effect, a breach of Clause 3.1 "Members will demonstrate competent therapeutic decision making and treatments, within the scope of practice and will not misrepresent their qualifications, training or experience" and Clause 4.1 "Members are personally responsible for their professional decisions" and Clause 4.2 "Members must give due consideration to the foreseeable consequences of their actions" are generally related to a breach of either 2.2, 2.3 or both.

Clause 5.6 highlights the issues surrounding actual and perceived sexual misconduct.

Figure 9: Breached Code of Ethics (COE) clauses alleged by complainant



Results

It is clear from the data that significant misunderstandings can occur in a massage therapy environment. Perception, particularly of a sexual nature can easily be influenced by poor draping practice or inadequate communication between client and therapist. The AAMT developed “Guide for the Prevention and Management of Sexual Misconduct” to promote awareness of the issues of Sexual Misconduct and to assist in the management of any potential or real situation.

Sexual Misconduct is treated very seriously and it is openly understood and accepted by the membership that if found to be involved in any sexual conduct the consequences to that member are severe. This is discussed further in the *Outcomes and Future Directions* sections (see page 22).

The data in **Figure 10** indicates that overall, it is more common for male therapists to receive a complaint from a female complainant, and for female therapists it is more common to receive a complaint from a female complainant.

Figure 11 shows that a significant proportion of complaints about male therapists allege code of ethics breaches, injury cases and sexual misconduct. A significant proportion of complaints about female therapists allege workplace related disputes and confidentiality issues.

Complaints by Gender

Figure 10: Gender of complainant versus therapist by state

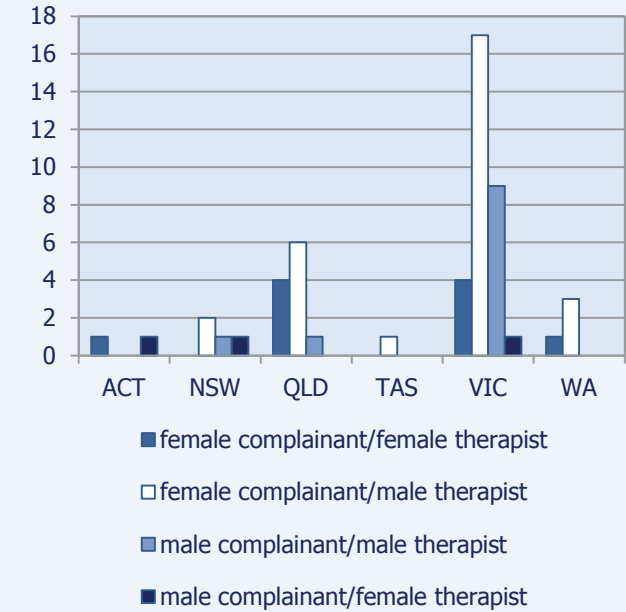
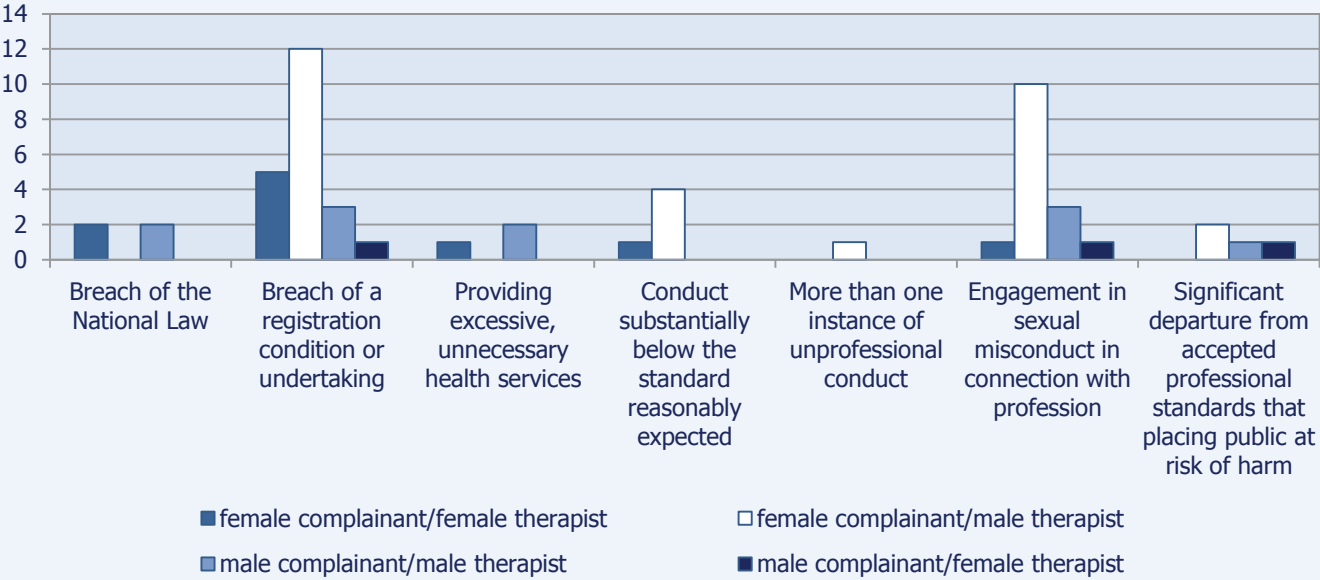


Figure 11: Gender of complainant versus therapist by conduct



Results

NEC Investigation Process Data: Descriptive

Complaints Procedure – stages

Lodgement stage

For the purpose of recording data, the complaint process commences upon receipt of a written formal complaint form. The member is notified and requested to respond to the complaint.

Not all formal complaints progress to the NEC. This was the case for 20 lodged complaints. Complaints may discontinue due to a number of reasons including a lack of evidence, a lack of willingness by either party to abide by due process, or the investigation passes into the hands of another authority. **Figure 12** tables the reason why complaints were not advanced to the NEC.

Of those not progressed to the NEC, recommendations for measures to correct/improve conduct can still be made by the CEO and /or the NEC Chair. This may be the case in complaints where there is not enough evidence to progress but still suggests cause to address the concern, or in cases where the breach is less severe in nature.

Investigation stage

Once all supporting documents/evidence have been received from all parties, the complaint is progressed to the NEC for their investigation, determination and recommendations. This can include requests for more evidence or interviews with either party.

Determination stage

Once a complaint has been investigated by the NEC, a determination and recommendation(s) are made. The determination verifies which (if any) of the alleged Code of Ethics clauses have actually been breached.

Of the 53 complaints lodged, the NEC found there to be a breach of the Code of Ethics in 15 cases; found there was no breach in 18 cases; and the remaining 20 cases did not reach the NEC for the reasons explained previously. This is displayed in **Figure 13**.

**Figure 13: Final determination from NEC:
Proportion of actual breaches**

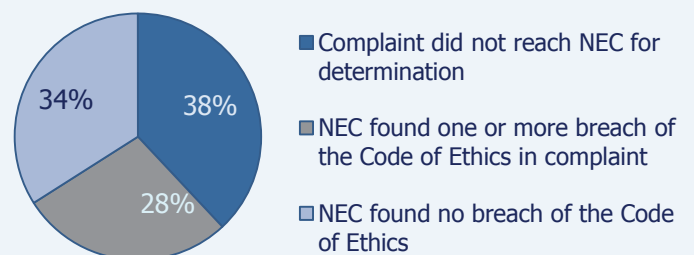


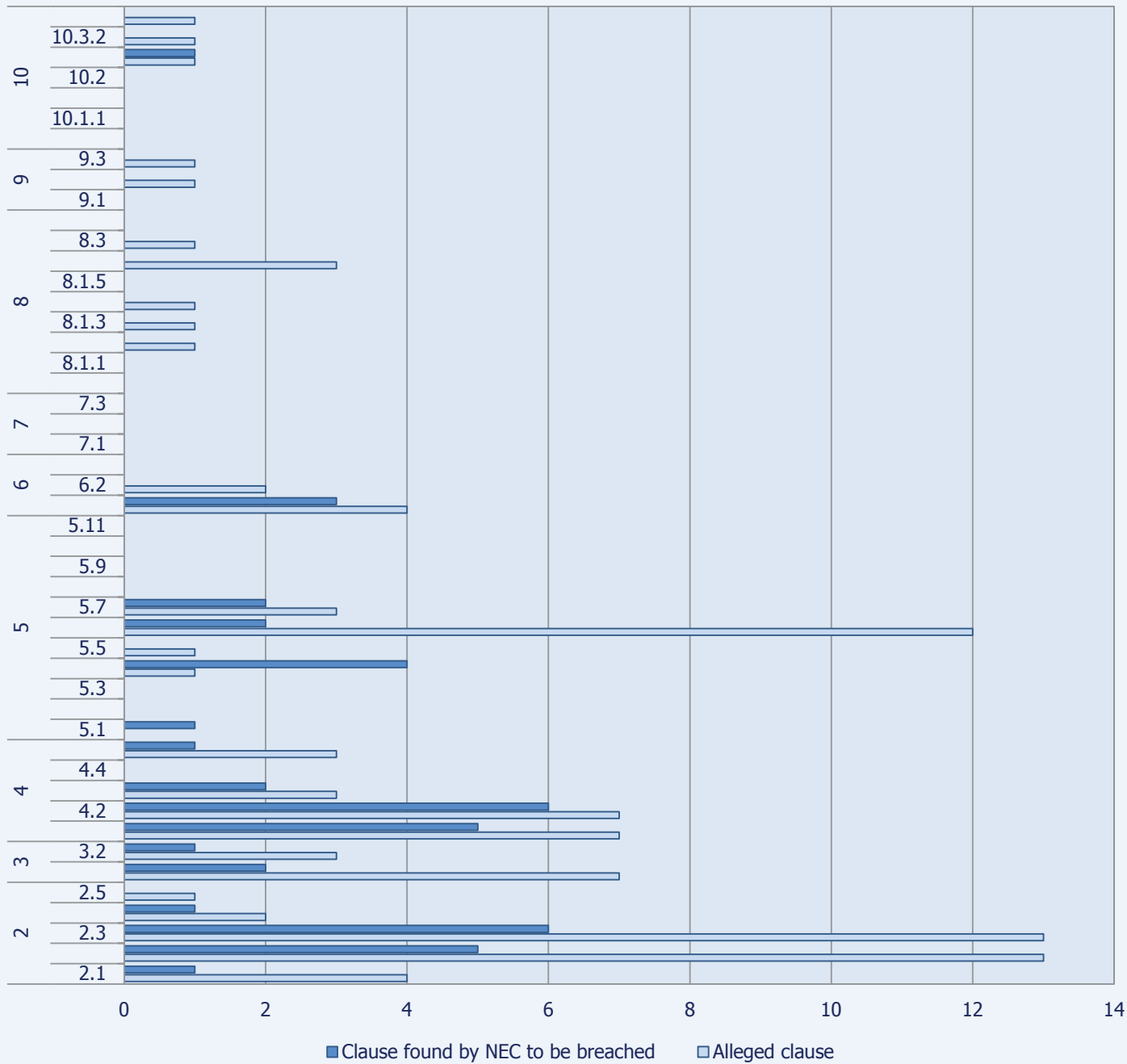
Figure 12: Reasons formal complaints did not reach the NEC for investigation

REASON COMPLAINT NOT ADVANCED TO NEC	Total
Complainant did not wish to be identified so complaint could not proceed	5
Insufficient/incomplete evidence provided by complainant so could not proceed	3
Dispute resolved between complainant and member	2
Member suspended as did not respond to AAMT's letter by due date	1
Member resigned	1
No formal evidence could be drawn from complaint and member's response	3
Health Commission already investigating	1
Human Rights Commission already investigating	1
Outside AAMT jurisdiction as criminal nature so advised to take to appropriate authority	1
Outside AAMT jurisdiction as Employment Law matter	1
Advised to take to Dispute Settlement Centre of Victoria (DSCV)	1
Total complaints not advanced to the NEC	20

Results

Of those cases that progressed to the determination stage, **Figure 14** compares complainants’ alleged breaches to the actual breaches as determined by the NEC. This is important as it displays perception versus reality and how reality can be subjective.

Figure 14: Complainants’ alleged breaches v NEC determined actual breaches



- COE Clauses

2 Propriety

3 Competence

4 Responsibility
- 5 Therapist – Relationship

6 Professional Conduct

7 Professional Development
- 8 Employer / Employee Relationships

9 Consulting Premises

10 Advertising

Results

Recommendation / Sanction stage

When a determination is made, the NEC sets recommendations for the measures the member should take to rectify/improve their conduct and professional practices. Depending on the determination the NEC can recommend sanctions varying from compulsory training/mentoring, reviews of protocols and practices, to membership suspension or termination.

Figure 15 shows the recommendations made per clause breached. It is apparent in this table that the severity of the recommendations reflects the nature of the clause and the severity of its breach.

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

Figure 15: NEC recommendations made per breached COE clause

Recommendation	2.1	2.2	2.3	2.4	3.1	4.1	4.2	4.3	5.1	5.4	5.6	5.7	6.1	7.3	10.1.1	10.2.1	COE Principles
Warning issued	✓	✓	✓	✓	✓		✓		✓								✓
Mentoring by AAMT member for three sessions				✓													
Seek local mentor to discuss practice procedures		✓	✓														
Reassess treatment/assessment protocols							✓		✓								✓
Further skilling in communication strategies		✓	✓				✓		✓								
Reassess disrobing procedures		✓	✓														
Reassess draping procedures		✓	✓														
Redesign marketing material																✓	
Familiarise with Privacy Act 1988, AAMT Code of Ethics and Scope of Practice, Guide for the Prevention & Management of Sexual Misconduct	✓	✓	✓														
Full written client histories/consents/assessments to be taken																	✓
Member required to do an RPL assessment conducted by RTO		✓	✓			✓	✓			✓		✓					✓
Attend sexual assault (or similar) workshops			✓			✓	✓			✓	✓		✓				✓
Put on 12 month notice period resulting in suspension or termination of membership arising from any further complaints by patients		✓	✓		✓	✓		✓			✓	✓	✓				✓
Put on 24 month notice period resulting in suspension or termination of membership arising from any further complaints by patients																	✓
Put on 36 month notice period resulting in suspension or termination of membership arising from any further complaints by patients		✓	✓			✓	✓			✓		✓					✓
Any further breaches may result in suspension or termination of membership arising from any further complaints by patients	✓	✓	✓														
12 month suspension			✓			✓	✓			✓	✓		✓				
Membership terminated											✓		✓	✓	✓		✓

Results

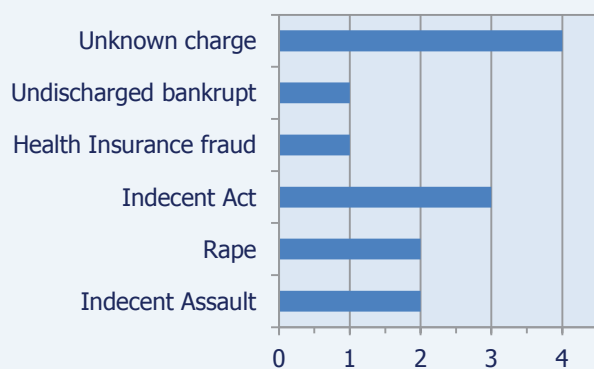
Cases Instigated or Investigated by the Police

Since inception, there have been 13 notifications that an AAMT member is under investigation by the police. The AAMT did not receive formal complaints for these cases but rather were notified either by the alleged victim, the police or indeed from the member themselves.

Upon receiving confirmation from police that a member has been charged for a criminal act, in accordance with the AAMT Constitution clause 6.11, membership is immediately suspended pending the outcome of the legal proceedings. If conviction is the outcome, then upon confirmation and in accordance to the AAMT Constitution clause 6.13, membership is terminated immediately.

Figure 16 shows the types of police charges that the AAMT have been notified of.

Figure 16: AAMT notified police charges



AAMT Jurisdiction Limitations

The AAMT as a company limited by guarantee is confined in its action to the Constitution of the company drawn under the Corporations Act 2001. Whilst the AAMT has membership support towards managing ethical complaints it has no legal jurisdiction and limited investigative powers.

Legal Cases

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, immigration and fraud.

Outcomes

As a result of the data presented to the AAMT during this reporting period, the Association has taken steps to increase the awareness and knowledge of ethical practice among members and the public to minimise the occurrence of situations based on recurring breaches of the Code of Conduct.

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As highlighted previously, the majority of ethical cases were able to be categorised into two areas—poor or inadequate draping of the client and poor verbal communication.

In response to this, the AAMT has developed specific policies and materials to inform and support members of accepted practice and communication particularly in the provision of breast massage and the management of sexual misconduct.

The aim of these policies are to establish a system of consistent information that educates clients, the police, the court process and other health providers in understanding what acceptable treatment and practice involves; whilst supporting the membership towards their commitment to achieve best ethical practice within the massage profession.

A policy dedicated to best practice in draping is being released in 2012, and an Ethics Workbook aimed at students and graduate therapists will also be available during the year as an ongoing professional education tool.

The AAMT supports the National Ethics Committee members with appropriate learning opportunities, building not only personal capability but organisational capability. This includes attendance at forums, seminars, conferences and external training courses.

Future training for court hearings on providing information to courts as an expert witness is being considered with Middletons and the St James Ethics Centre.

Future Directions

The AAMT is committed as a matter of policy to the education, ethical treatment and protection of consumers on all aspects of the practice of massage therapy. This includes ensuring quality assurance in the referral process of massage therapists to the public and private health insurance providers, hearing and resolving complaints in relation to members and informing and educating the public and legal jurisdictions about the practice of massage.

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In 2011 the AAMT submitted to both the Australian Health Ministers' Advisory Council (AHMAC) and SA Health commenting on regulatory options and a Code of Conduct for unregistered health practitioners.

Recommendations for an improved complaints system included:

- That a single national registration system be developed for practitioners of natural medicine that recognises multiple categories of practice.
- That a single national complaints administrative system be established.
- That a co-regulatory arrangement be sought between self regulating professional associations and the government to establish a dynamic, transparent and credible recognition and complaints administration for public safety and interest.

The AAMT will continue to be involved in consultations of this nature to ensure that therapists are represented in the process and that government is aware that the safety of the public remains a priority for the AAMT and its members.

Internally the AAMT remains involved in educating and supporting members about respectful relationships, communication, and best practice.

Where to Go For Help

If you have concerns, or are looking for further information and advice on how to make a complaint, please find below a list of national and state contacts for assistance.

Australian Association of Massage Therapists (AAMT)

Level 6
85 Queen Street, Melbourne VIC 3000
Phone: 1300 138 872 OR (03) 9691 3700
Email: info@aamt.com.au
Web: www.aamt.com.au

Health Commissions/Ombudsman

Victoria:

Health Services Commissioner

Complaints and Information
Phone: 1800 136 066 OR (03) 8601 5200
Website: www.health.vic.gov.au/hsc
Email: hsc@health.vic.gov.au

New South Wales:

Health Care Complaints Commission

Phone: 1800 043 159 (toll free in NSW only)
OR (02) 9219 7444
Website: www.hccc.nsw.gov.au
Email: hccc@hccc.nsw.gov.au

Queensland:

Health Quality and Complaints Commission

Phone: 1800 077 308 (country Queensland toll free)
OR (07) 3120 5999
Website: www.hqcc.qld.gov.au
Email: info@hqcc.qld.gov.au

Northern Territory:

Health and Community Services Complaints Commission (HCSCC)

Phone: 1800 004 474 (toll free NT)
OR (08) 8999 1969
Website: www.hcsc.nt.gov.au
Email: hcsc@nt.gov.au

South Australia:

Health & Community Services Complaints Commissioner (HCSCC)

Phone: 1800 232 007 (toll free in SA only)
OR (08) 8226 8666
Website: www.hcsc.sa.gov.au

Australian Capital Territory:

ACT Human Rights Commission

Community and Health Services Complaints Commissioner

Telephone: (02) 6205 2222
Website: www.hrc.act.gov.au
Email: human.rights@act.gov.au

Tasmania:

Office of the Ombudsman and Health Complaints Commissioner

Phone: 1800 001 170 (Tasmania only), 1300 766 725
OR (03) 6233 6348
Website: www.healthcomplaints.tas.gov.au
Email: health.complaints@ombudsman.tas.gov.au

Western Australia:

Health and Disability Services Complaints Office

Phone: 1800 813 583 (country WA toll free)
OR (08) 6551 7600
Website: www.hadsco.wa.gov.au
Email: mail@hadsco.wa.gov.au

Consumer Affairs

Australian Competition and Consumer Commission (ACCC)

The ACCC information centre is a free service offering advice regarding consumer and business rights and obligations under the legislation and how the ACCC is likely to react to particular business practices.
Phone: 1300 302 502
Electronic complaints and enquiries can be made via an online form at the ACCC website: www.accc.gov.au

Ethi-call

Ethics counseling service (St James Ethics Centre)
Free, confidential and non-judgemental support line helping individuals to reflect on and explore ethical issues, challenges or dilemmas.

Call 1800 672 303 to speak to a trained ethics counsellor.

middletons | *straight talking*

Middletons, a leading Australian commercial law firm, has had a long standing relationship with the Australian Association of Massage Therapists (AAMT) as its legal advisors. During the time we have worked together, Middletons have been involved in advising on the Code of Ethics for AAMT and ensuring that compliance with the ethical requirements and Code of the Association is enshrined in the constitution of the AAMT and binds its members. Middletons also assists AAMT with resolving ethical complaints and issues that arise from day to day as part of the Association's activities. As a law firm, Middletons is also subject to high ethical standards, which we are required to stringently comply with. As a result, we are well placed to advise AAMT on ethical complaints, resolutions, dispute mechanisms, processes and outcomes.

