

CODE OF ETHICS REPORT 2012-2015

# Complaints in Massage Therapy

*Our Problem – Our Solution*



**MASSAGE &  
MYOTHERAPY**  
AUSTRALIA

A brand of Australian Association  
of Massage Therapists Ltd

This Report was prepared by the Australian Association of Massage Therapists Ltd (from 1 September 2016 rebranded as Massage and Myotherapy Australia) based on data collected and recorded from 2012 to 2015 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.

*Massage & Myotherapy Australia gratefully acknowledges Glenn Schaube, GRS Communications, for his valuable contribution of the original structure and comments on which this report is based.*

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# Contents

Foreword	3
1. Overview	4
2. Executive Summary	4
3. National Ethics Committee	5
4. Code of Ethics and Standards of Practice	7
5. Complaints process and categories	8
6. Results: Formal complaints	11
7. Results: Informal complaints	17
8. Fraud	21
9. Involvement of the police and the judiciary	24
10. Initiatives and public education	25



# Foreword

Central to achieving a high level of positive rapport between clients and therapists is trust and respect built on high standards of client communication and massage and myotherapy practice.

As a touch-based therapy, the quality of interaction between therapists and clients is vital for the client's wellbeing. In effect, the quality of this interaction shows how clients feel about, and benefit from, the treatment they receive and that the experience is a positive one.

The Australian Association of Massage Therapists Ltd (AAMT), now branded as 'Massage & Myotherapy Australia' is steadfast in upholding the integrity of the profession and protecting the wellbeing of clients through an effective and transparent method of managing complaints.

AAMT contributed significantly to the development of the first National Code of Conduct for Health Workers, which COAG Health Ministers passed during 2015. AAMT also made a submission to the 2014 AHPRA Review of the National Registration and Accreditation Scheme, arguing the importance of including massage into the national scheme or, at minimum, a single register of therapists that the public and health care Commissions can view as professional therapists. AAMT continues to pursue standards and quality assurance for the Australian public through our submissions and education of government.

AAMT has policies regarding education standards and levels, ethical treatment and protection of consumers in all aspects of massage therapy. These policies involve quality assurance in the training and delivery of industry specific qualifications, and participating actively in finding appropriate solutions to issues as they arise.

AAMT Standards and Policies underpin prescribed processes for managing any complaint received about an AAMT member.

It is important to acknowledge the vital role of the AAMT National Ethics Committee in upholding the AAMT Code of Ethics and Standards of Practice, and ensuring that complaints against any AAMT member are heard in a consistent and fair manner.

On behalf of the AAMT, I am pleased to commit the Code of Ethics Report 2012-2015 to examination and review by health regulators, the judiciary and legislature, consumers, AAMT members and the wider massage and myotherapy profession.

***Please note: from 1 September 2016, AAMT will be rebranded as 'Massage & Myotherapy Australia', a brand of the Australian Association of Massage Therapists Ltd. As data in this report was collected before this date, the report refers to AAMT throughout.***

**Paul McCann**

**PRESIDENT**

Massage & Myotherapy Australia

A brand of the Australian Association of Massage Therapists Ltd.

# 1. Overview

As a matter of priority, Massage & Myotherapy Australia is committed to the education, ethical treatment, and protection of consumers in all aspects of the practice of massage and myotherapy.

This includes ensuring quality assurance in the referral of therapists to the public and to private health insurance providers, hearing and resolving complaints in relation to members, and informing the public and legal jurisdictions about the practice of massage.

This Code of Ethics Report is inclusive of data collected from 2012 to 2015 inclusive concerning ethical complaints about members. The report details AAMT's work in managing complaints, pursuing best practice and maintaining the integrity of the profession.

The complaints detailed in the Report are categorised according to the Australian Health Practitioners Regulation Agency (AHPRA) Codes and Guidelines, involving three main complaint 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 includes the number, nature and resolution of complaints.

Being a company limited by guarantee, the AAMT's actions are confined to the Constitution of the Company drawn under the Corporations Act 2001.

While the AAMT has the support of its members to manage ethical complaints, it has no legal jurisdiction and has 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.

It is important to note that we provide expert advice and witnesses for both state and territory police and Departments of Public Prosecution in cases of members and therapists within other professional associations and individual operating with no qualifications.

Complaints data collected also contributes to member education and training, and to tertiary education. The data also assists health regulators and stakeholders and helps to increase consumer awareness of the complaints process. The Report also provides opportunity for the tertiary education sector to adjust and align ethical conduct training to industry practice.

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

## 2. Executive summary

The data gathered during 2014/15 represents the fifth year of detailed reporting of the complaints received by the Association.

Between 2011 and 2012 AAMT revised recording formats for formal complaints initiated in 2003, therefore all formal and informal complaints are reported for the collection periods 2012 to 2015 January to December.

The report includes the outcomes of the registration and determination process, and remedial action, for both formal and informal complaints. Informal complaints are complaints that do not progress to the National Ethics Committee.

A complaint against an AAMT member or non-member can involve several breaches of the Code of Ethics (CoE) but despite this, the total number of breaches in the CoE logged from formal and informal complaints received by AAMT remained relatively low.

**Objective: the AAMT 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

AAMT established the National Ethics Committee (NEC) to uphold the AAMT CoE and Standards of Practice and ensure complaints against AAMT members are heard in a consistent and expeditious manner. Under the authority of the AAMT Board, the Committee manages and addresses any complaint made against an AAMT member.

The NEC also plays a vital role in assisting practitioners and consumers, by building awareness, and ensuring that in practice, AAMT's complaints handling processes function effectively, fairly and ethically.

Ethical practice is behaviour that stands up to disclosure and to public scrutiny.

**Five principles determine the AAMT's CoE:**

- 1. honesty**
- 2. equity**
- 3. integrity**
- 4. legality and**
- 5. social responsibility in all dealings.**

The AAMT continuously seeks training for NEC members in the management of cases. Additionally, AAMT seeks additional expert opinion as required to ensure that determinations are informed and fair.

The tasks of the NEC include:

- reviewing the information and education provided to members about the CoE and the Standards of Practice; and participating 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 AAMT Board, to be included in the AAMT Annual Report, summarising matters addressed by the NEC 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 AAMT CoE, including the suspension or revocation of membership.

To ensure the integrity of the NEC the AAMT supports the Committee members with appropriate learning opportunities to build 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.

## Committee Members

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



### Rebecca Byrne – Chair

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

Rebecca is in her initial term as a Director. She has been employed in the TAFE sector since 2006 as a lecturer in Remedial Massage and Communication and is a Student Support Counsellor. She has also performed project management for the Challenger Centre for Leadership and Development. Rebecca has been in professional practice as a therapist since 2009.



### Pamela Claxton

*Diploma of Remedial Massage, Registered Nurse, Bachelor of Health Administration, Master of Clinical Nursing, Certificate IV in Bowen Therapy, Certificate IV in Governance.*

With ten years' experience in her own massage practice, Pamela is concurrently practicing as a Registered Nurse specialising in Pain Management/Massage in Aged Care. A member of AAMT since 2006, Pamela served three terms as a Director of AAMT. She has served on the Ethics Committee for three terms. Pamela is a member of the Australian Lymphology Association, Oncology Massage Training and the Australian Nursing and Midwifery Federation.



### Narelle James

*Diploma of Remedial Massage, Bachelor of Social Science, Certificate III in Community Service (Early Childhood), Certificate IV in Governance.*

Narelle James has a background as a Welfare worker/counsellor and has been a Massage Therapist for 11 years. Narelle has previously served two terms as a Director of AAMT and has held a position on the Ethics Committee since 2009, including Immediate Past Chairperson. Narelle frequently authors articles for AAMT concerning professional and ethical practice and provides advice to AAMT management.



### Graham Schodde

*Diploma of Remedial Massage, Diploma of Pregnancy Massage, Bachelor of Business, Certificate IV – Investigations (Statutory Law).*

Graham has been in practice for more than ten years, and has been involved with several professional bodies in the areas of sports, church, and accounting, and brings a broad base of skills to the Committee. Graham is a nominated AAMT expert witness for Courts and is currently studying for his Justice of the Peace Nominals.



### 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 AAMT, a member of the AAMT Education Committee, and has been in private practice as a practitioner since 2001.



## 4. Code of Ethics and Standards of Practice

» *Code of Ethics*

» *Standards of Practice*

### Code of Ethics

AAMT members commit to upholding the CoE and the Standards of Practice provided by the Association.

All ordinary members of AAMT are accredited massage therapists. They have completed appropriate training and have formal qualifications as defined by the Australian National Training Quality Framework, supported by the Health Training Package, or hold a relevant baccalaureate.

The CoE is a statement about appropriate and expected standards of professional conduct for AAMT members. The CoE reflects the values of the Association and seeks to:

- protect and inform the public, clients and the therapist
- preserve and enhance members' professional reputation
- enhance the reputation and credibility of the massage and myotherapy profession in Australia.

The AAMT is not a regulator with jurisdictional power, however, it currently self-regulates members. AAMT developed the CoE to inform and guide the decisions and the behaviour of all therapists involved in the Association.

The CoE also provides for critical reflection and when needed, assistance with the resolution of moral and ethical dilemmas that may arise in the workplace.

Adherence to the CoE involves a commitment to the following five principles:

1. the primary consideration in all treatment decisions is client/patient wellbeing
2. maintain client/therapist confidentiality
3. treat the client/therapist in accordance with the 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.

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

- propriety
- competence
- responsibility
- client/therapist relationship
- professional conduct
- professional development
- employee/employer relationships
- consulting premises and
- advertising.

## Standards of Practice

Developed from the core values of the AAMT, the Standards of Practice aims to assist professional therapists to evaluate and adapt performance.

These standards require members' commitment to ethical practice for clients, colleagues, the public and for themselves as professionals.

Other supporting documents include:

- The CoE and Standards of Practice
- Guide to the Prevention & Management of Sexual Misconduct
- Anterior and Lateral Chest Massage: Position Statement & Practice Guidelines
- Myofascial Dry Needling: Position Statement & Practice Guidelines
- Draping & Positioning: Position Statement & Practice Guidelines
- Informed Consent: Position Statement & Practice Guidelines
- Referral of Ethical Complaints: Position Statement
- Treatment of Minors: Practice Guidelines
- Criminal Activity: Guidelines
- Clinical Settings
- Member Bullying & Harassment: Position Statement
- Referral of Complaints to Police
- Disciplinary & Dispute Resolution Procedure
- Regular information through the quarterly *Journal* and the monthly *eNews*.

Please refer to [www.aamt.com.au](http://www.aamt.com.au) to download copies of the CoE and Standards of Practice statement.

# 5. Complaints process and categories

- » *The complaints process*
- » *Initiatives*
- » *Collection of complaints data*
- » *Formal complaints*
- » *Informal complaints*
- » *Alleged fraudulent activity*

## The complaints process

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

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

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

Under AAMT's Constitution of the company, the Board may provide discipline should a member breach the CoE and Standards of Practice, or if a member is otherwise engaged in unbecoming conduct.

If a person wishes to lodge a formal complaint against an AAMT member, he or she is required to do so following the process outlined in the Complaints Handling Procedure.

Within the jurisdiction of the Association, AAMT's Complaints Handling Procedure document provides:

- a guideline of what to expect throughout the complaint process
- an outline of the policies governing the process for making a complaint
- a timeline of each stage of the process and
- details of possible resolutions and determinations.

The AAMT complaint process provides for the management of the majority of complaints cases; however, some cases require the involvement of a Health Services Commissioners and Ombudsman, police or the court system.

Additionally, complaints about non-members from the public are referred to the appropriate body. Conversely, AAMT accepts referred complaints that fall under the jurisdictions of the Health Care Complaints Commission.

A copy of AAMT's Complaints Handling Procedure manual details the complaints process, and outlines ethical, best practice for AAMT members. It is available free, from the AAMT website.

## Initiatives

The AAMT has taken steps to increase the awareness and knowledge of ethical practice among members and the public in order to minimise the occurrence of situations based on recurring breaches of the CoE.

The majority of ethical cases fall into two main areas – poor or inadequate draping of the client including poor verbal communication, and fraudulent and unethical business activity.

In response, the AAMT developed specific policies and materials to inform and support members about accepted practice. These include communication, particularly in the practice of draping, the management and awareness of sexual misconduct, ethical business process, and adherence to billing practices required by health funds to mitigate fraud. A suite of six Ethics in Practice online courses, of which two are mandatory for members to maintain eligibility for membership, have been created as a direct result of the complaints AAMT received.

There has been increased auditing of AAMT members since 2013 in the aspects of practice management. During 2016 there will be additional auditing of therapists for aspects of appropriate business practices such as receipting, billing and appropriate clinical notation. Ongoing professional education will remain as a benchmark for professionalism and best practice in the massage and myotherapy sector.

These policies and procedures established a system of consistent information that educates clients, the police, judiciary processes, and other health providers in understanding what acceptable treatment and practice involves. Please visit [aamt.com.au/about-aamt/code-of-ethics/](http://aamt.com.au/about-aamt/code-of-ethics/).

## Collection of complaints data

The AAMT classifies its complaints data in accordance with the categories used by the Australian Health Practitioners Regulation Agency (AHPRA). This allows data to be presented using consistent and recognised definitions. The categories of conduct are: Unprofessional Conduct, Professional Misconduct and Notifiable Conduct.

## Formal complaints

Formal complaints are those complaints that progress to the NEC for further investigation and determination.

The data presented in this report is compiled from the records of complaints received by the AAMT within the collection period – 2012-2015 calendar year.

AAMT records complaints against the clauses defined in the AAMT CoE 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 AAMT Board.

The data collected assists in the examination of issues raised and the nature of the complaints lodged with AAMT. The complaints are then categorised according to the three AHPRA conduct definitions (Unprofessional Conduct, Professional Misconduct and Notifiable Conduct) and recorded.

**Note: For complete data tables refer to pages 11-16.**

## Informal complaints

AAMT 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 a number of reasons including:

- A lack of evidence
- A lack of willingness by either party to abide by due process
- Fear of retribution from the therapist
- Investigation passes into the hands of another authority appropriate to the complaint.
- 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 due to a lack of adherence to process
- 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 AAMT jurisdiction as of a criminal nature and so advised to take to appropriate authority
- Outside AAMT's jurisdiction as Employment Law matter.

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 to improve their understanding of the CoE in cases where the limited evidence suggests further education or practice adjustments may be required, or where the breach of the CoE is less severe in nature.

**Note:** For complete data tables refer to pages 17-20.

## Alleged fraudulent activity

The data presents complaints about fraudulent activities lodged with AAMT about members.

Fraud complaints are processed and assessed by AAMT under AAMT's obligations and contractual arrangements in regards to member provider status with private health insurers. AAMT members must adhere to these obligations in order to maintain provider status.

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.

On receiving a complaint alleging fraud, AAMT seeks explanations and evidence from all parties involved before making a determination. Members found to be in breach of the CoE concerning fraud may have their AAMT membership revoked or suspended from provider eligibility. They will then be required to undertake some form of remedial action such as retraining.

**Note:** For complete data tables refer to pages 21-23.

## 6. Results: formal complaints

- » *Determination of formal complaints*
- » *Complaints recorded against the AHPRA categories*
- » *Types of formal complaints*
- » *Sources: formal complaints by gender*
- » *Sources: formal complaints by state*

### Determination of formal complaints

For the purpose of recording data, the formal complaint process commences upon receipt of a written formal complaint form.

At this time the member involved is notified, and asked to respond against the allegations. Investigations can also include requests for more evidence or interviews with either party or third parties.

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

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

### Complaints recorded against the AHPRA categories

Within each of the AHPRA single complaints categories, a notification may breach several areas of the CoE. Of the 18 complaints recorded against the AHPRA categories during 2015, AAMT received the following:

- Unprofessional Conduct     7
- Professional Misconduct    8
- Notifiable Conduct         3

As illustrated in Figure 1, this is in stark contrast to a decline or generally low level of complaints concerning conduct during the previous two periods.

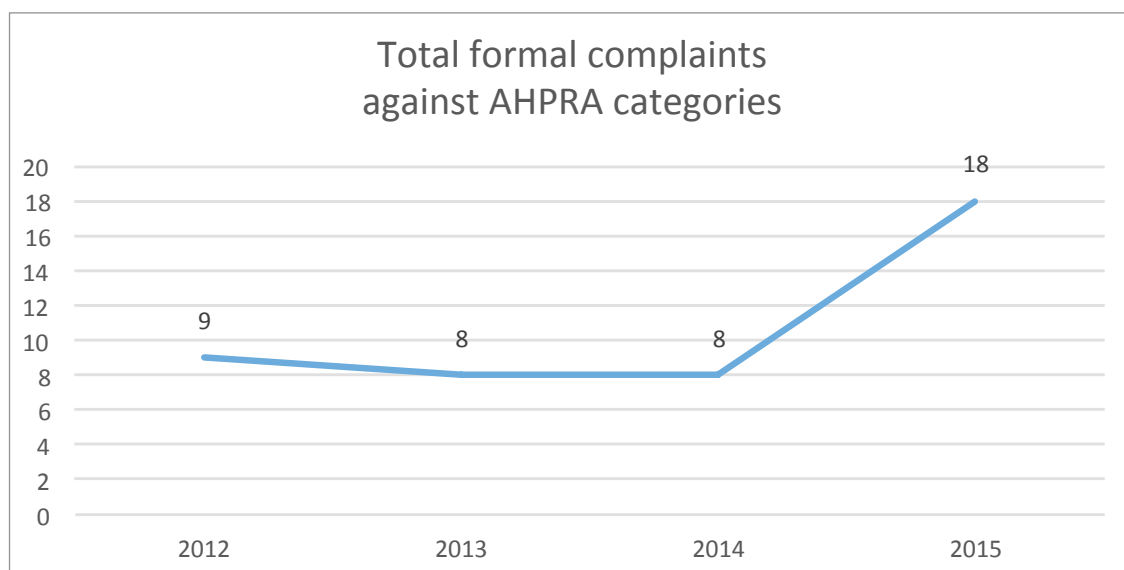


Figure 1. Total formal complaints against AHPRA categories

While total complaints are low relative to the membership of around 7800 during 2014/15 June to July period, there are marked increases since 2012 in each category (refer to Table 1).

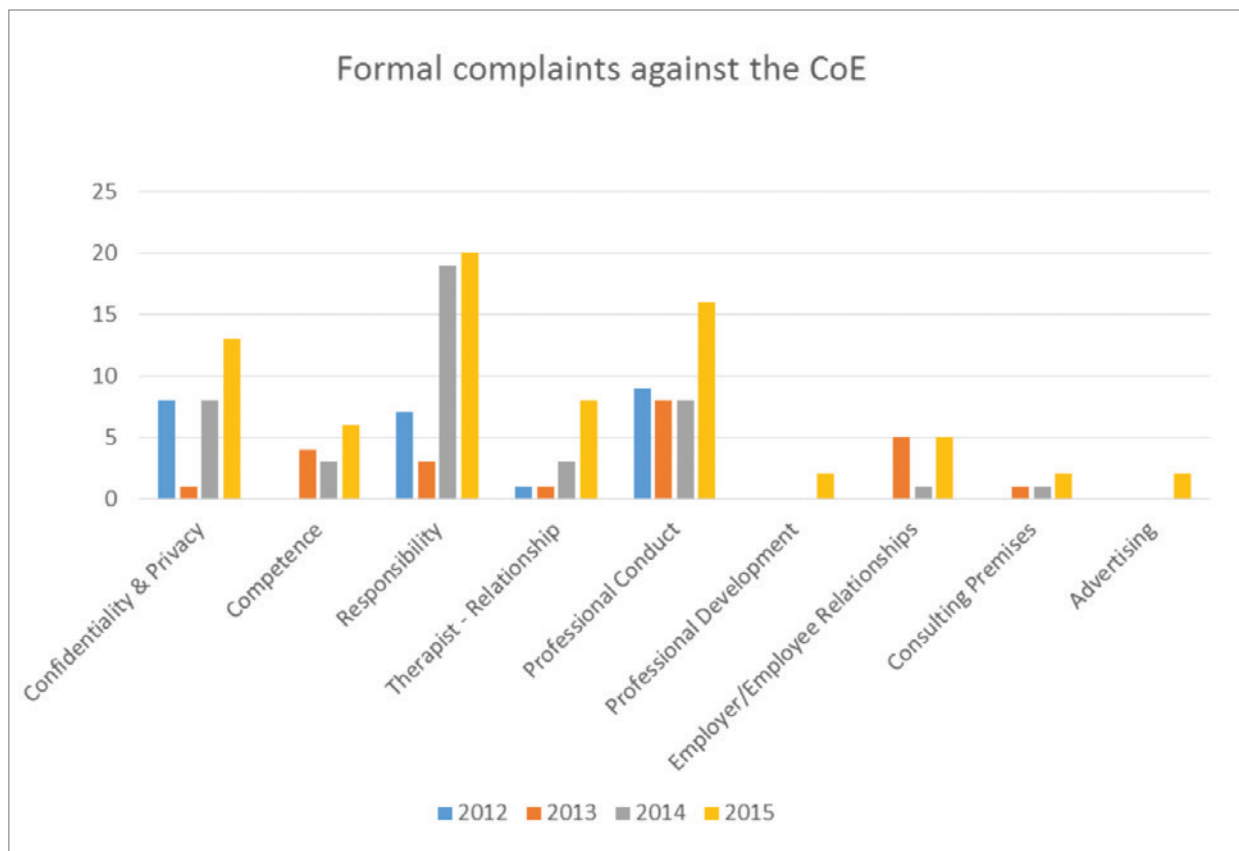
Change in complaints recorded against the AHPRA Categories				
AHPRA Category	2012	2013	2014	2015
Professional Misconduct	6	3	5	8
Unprofessional Conduct	3	4	3	7
Notifiable Conduct	0	1	0	3
<b>Total</b>	<b>9</b>	<b>8</b>	<b>8</b>	<b>18</b>

**Table 1. Change in complaints recorded against the AHPRA Categories**

Of concern is 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. In these cases AAMT recommends all such complaints be made to the appropriate agency.

During 2014/15, the highest increases occurred in the AAMT CoE categories of Confidentiality and privacy (8-13), Client/Therapist relationships (3-8), and Professional conduct (8-16).

Professional development and advertising breaches recorded increases and the areas of the CoE around responsibility and professionalism remains high. Also importantly, breaches in confidentiality and privacy show an upward trend.



**Figure 2. Formal complaints against the CoE**



## Types of formal complaints

The most common areas of complaint were:

- inappropriate draping (6)
- inadequate communications (6)
- inappropriate conversations of a sexual nature (5)
- soliciting clients (9)
- use of another member's health fund provider number (fraud) (6)
- incorrect receipting (fraud) (5).

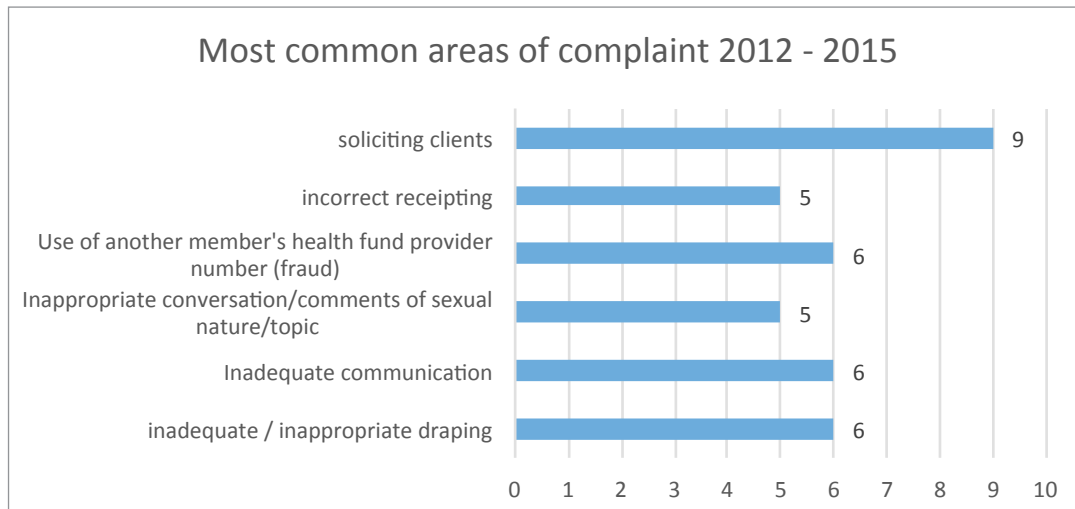


Figure 3. Most common areas of complaint 2012-2015

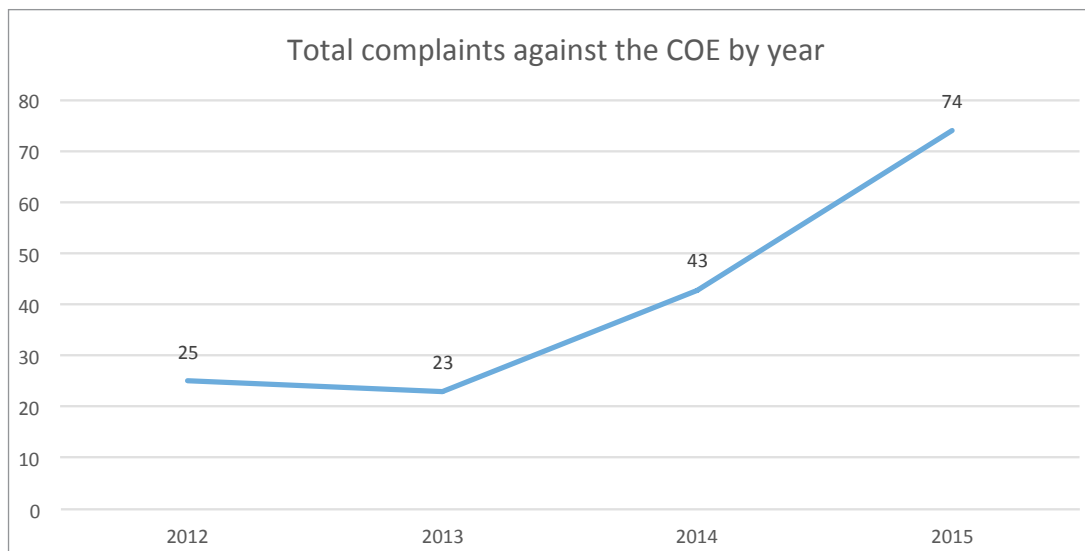


Figure 4. Total complaints against the CoE by year

## Primary issues in formal complaints

The data is categorised according to the underlying issues raised that have resulted in a formal complaint (Table 2).

Treatment		Sexual Misconduct	
Alleged injury – frozen shoulder	1	Sexual relationships with client	1
Alleged injury – causing stroke	1	Inappropriate conversation/comments of sexual nature/topic	5
Injury as a result of treatment	2	Inappropriate touching and behaviour	3
Inappropriate treatment and treatment techniques	3	Inappropriate touch to the groin area	1
Treatment selection worsened condition	1	Inappropriate touching of genitals	3
Manipulation or forceful techniques used	2	Inappropriate touching of breasts	2
Inadequate/inappropriate draping	6	Provision of sexual service	1
Inadequate communication	6	<b>Subtotal</b>	<b>16</b>
Inadequate/no client note taking	4	Clinic Room Processes	
No informed consent	2	Unhygienic clinic room	2
No assessment conducted	2	Inappropriate clinic set up	1
Incorrect receipting	5	<b>Subtotal</b>	<b>3</b>
Failure to refer due to medical condition	2		
<b>Subtotal</b>	<b>37</b>	Other	
Workplace		Misrepresentation of qualification	2
Breach of employment contract	1	False Statutory Declaration	3
Non-payment of wages	2	Client/Therapist boundaries breached	1
Client confidentiality breach	1	Use of another member's health fund provider number (fraud)	6
Soliciting clients	9	Using someone else's identity	2
False advertising	2	Practising while under the influence of drugs or alcohol	1
<b>Subtotal</b>	<b>15</b>	<b>Subtotal</b>	<b>15</b>

Table 2. Breaches of the AAMT CoE 2012-2015

## Primary Issues in Formal Complaints 2012-2015

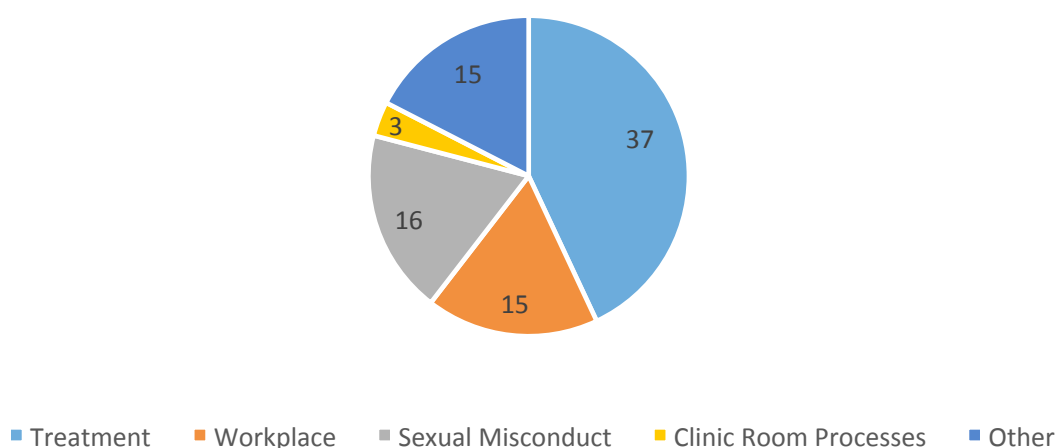


Figure 5. Primary issues in formal complaints 2012-2015

### Sources: formal complaints by gender

The data indicates a complete reversal of trend compared to previous years, when complaints about male therapists by females were consistently higher, and complaints by males about male therapists were consistently lower.

During 2015, the highest number of formal complaints lodged were by females about female therapists (9), followed by males against male therapists (3), with most being workplace complaints about soliciting clients.

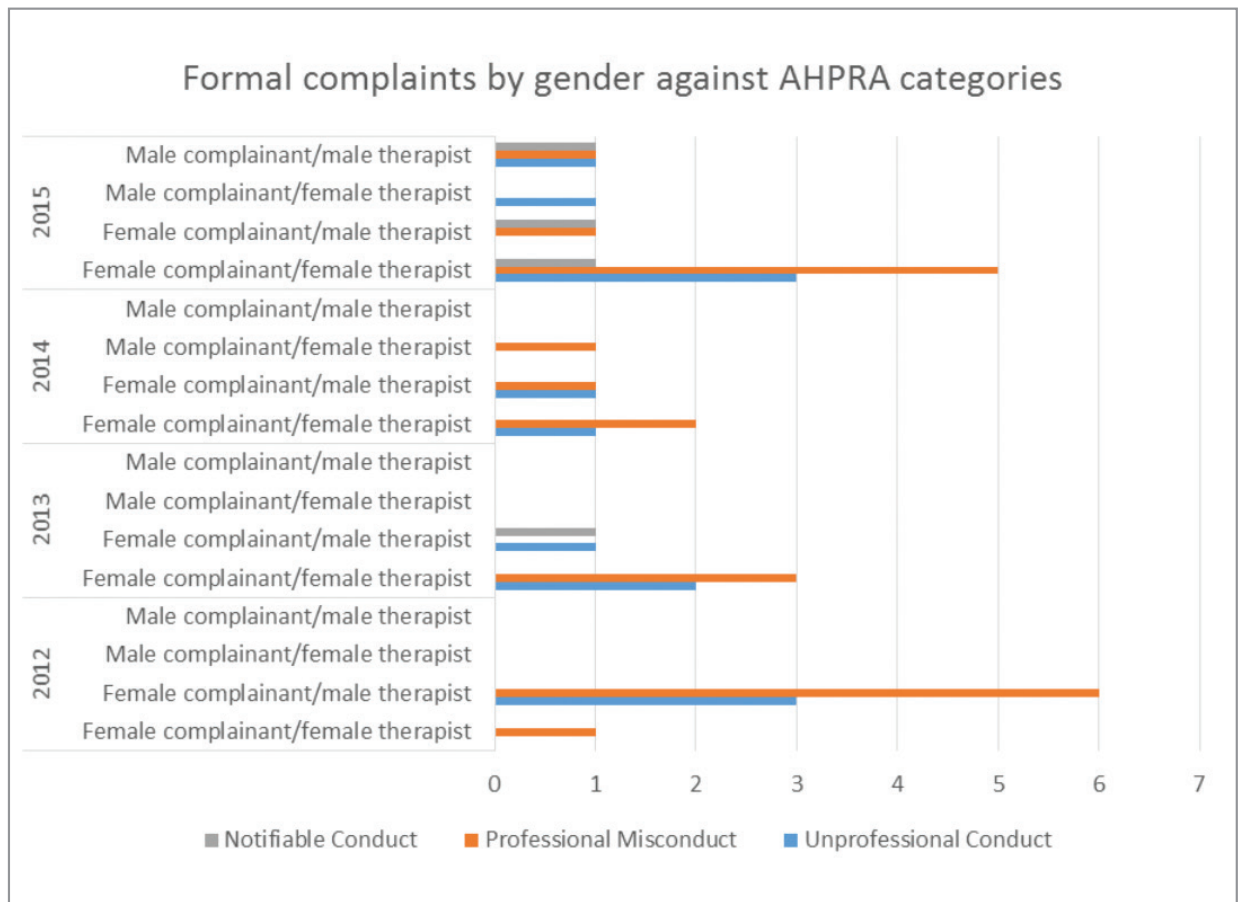


Figure 6. Complainant gender ratios for formal complaints against the AHPRA categories

## Sources: formal complaints by state

Of all formal complaints, 53% were from Victoria, 23% from Queensland, 18% were from NSW/ACT, and 6% from the NT.

With the exception of Victoria and NSW/ACT, the percentages of complaints generally correlate with the percentage of members operating in each state:

- Victoria: 41.31% of membership compared to 53% of complaints
- NSW/ACT: 13% of membership compared to 18% of complaints.

A significant increase in complaints about members operating in Victoria and Queensland also occurred during the period, however, changes to the number of members operating in Victoria and Queensland (0.12% and 0% respectively), are negligible and do not augment the rise in the number of complaints arising from these states.

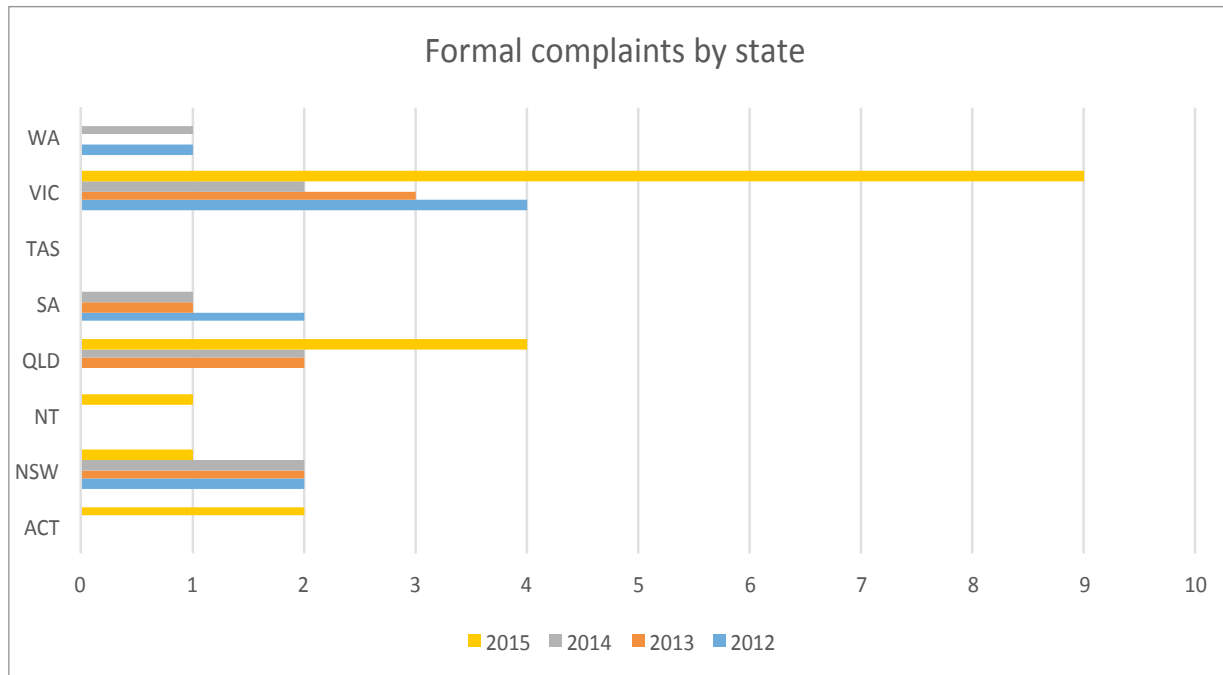


Figure 7. Formal complaints by state

NSW/ACT also recorded an increase in the number of complaints despite an increase of 2.12 per cent in membership during the same period. With the exception of Victoria, the percentages of complaints (Figure 8) generally correlate with the percentage of members operating in each state.

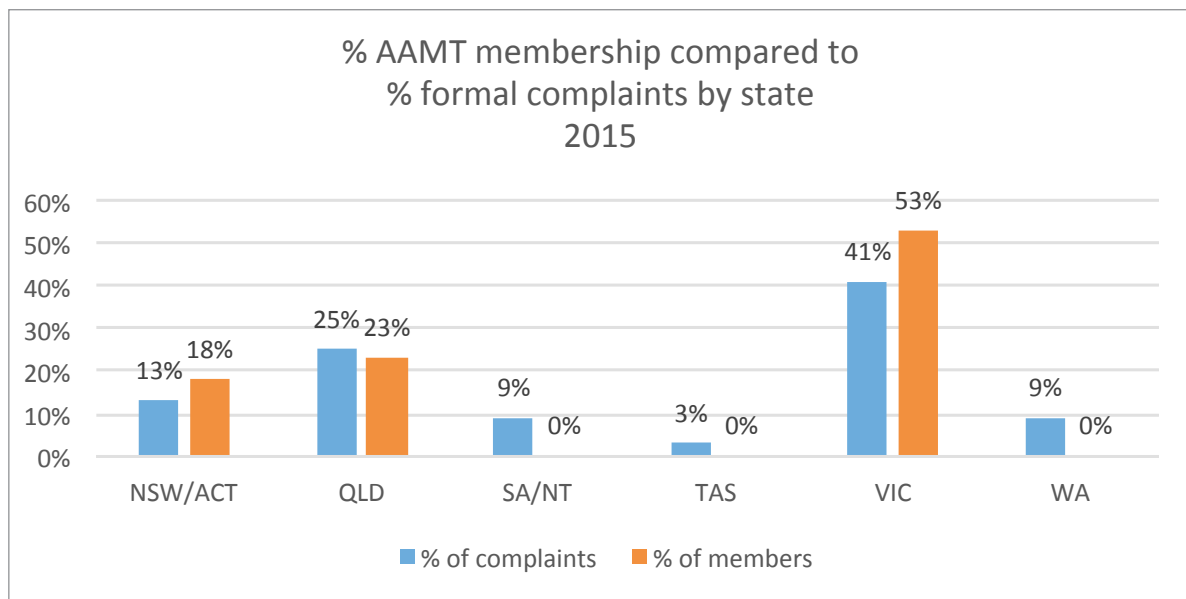


Figure 8. Percentage AAMT membership compared to percentage formal complaints by state 2015

## 7. Results: informal complaints

- » *Definition*
- » *Recorded informal complaints*
- » *Main areas of increase in informal complaints*
- » *Sources of informal complaints by state*
- » *Other sources of informal complaints*
- » *Collated informal and formal complaints*

### Definition

The AAMT 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. During the period 2014/15 AAMT recorded a rise in informal complaints, (21 to 25), continuing the trend of the past three years.

During 2014/15, a significant rise in informal complaints concerning Notifiable Conduct occurred (7 to 15), whereas informal complaints alleging Unprofessional Conduct fell (13 to 8), and Professional Misconduct rose during 2015 (1 to 2).

Informal complaints about negative physical reactions fell during the collection period (4 to 2); whereas informal complaints alleging employment issues rose (4 to 7). Despite a slight decline from 2013 to 2014, complaints concerning employment issues trended upwards.

### Recorded informal complaints

Informal complaints rose from 21 to 25 during 2014/15. This continued the trend over the past three years to 2015 (Figure 9).

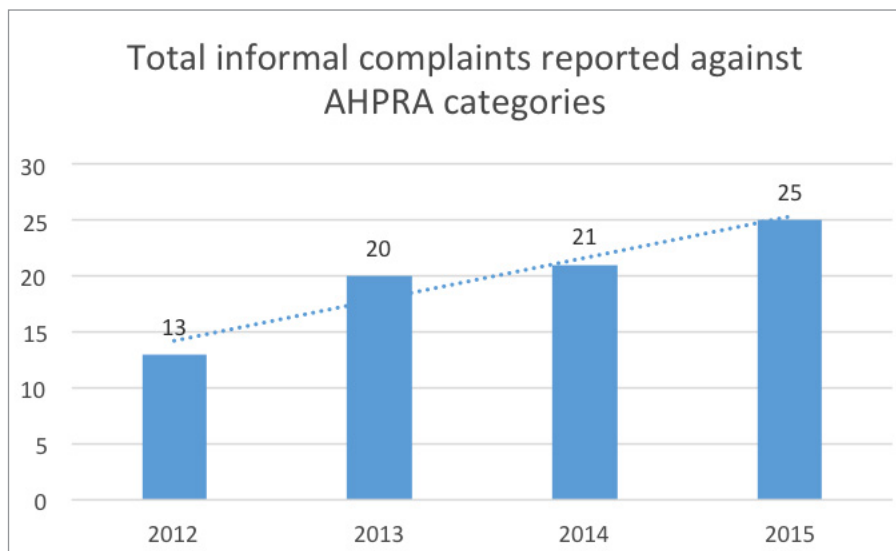


Figure 9. Total informal complaints recorded against AHPRA categories

## Main areas of increase in informal complaints

During the past two years, a rise in Notifiable Conduct occurred (7 to 15).

This is of concern because 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 10).

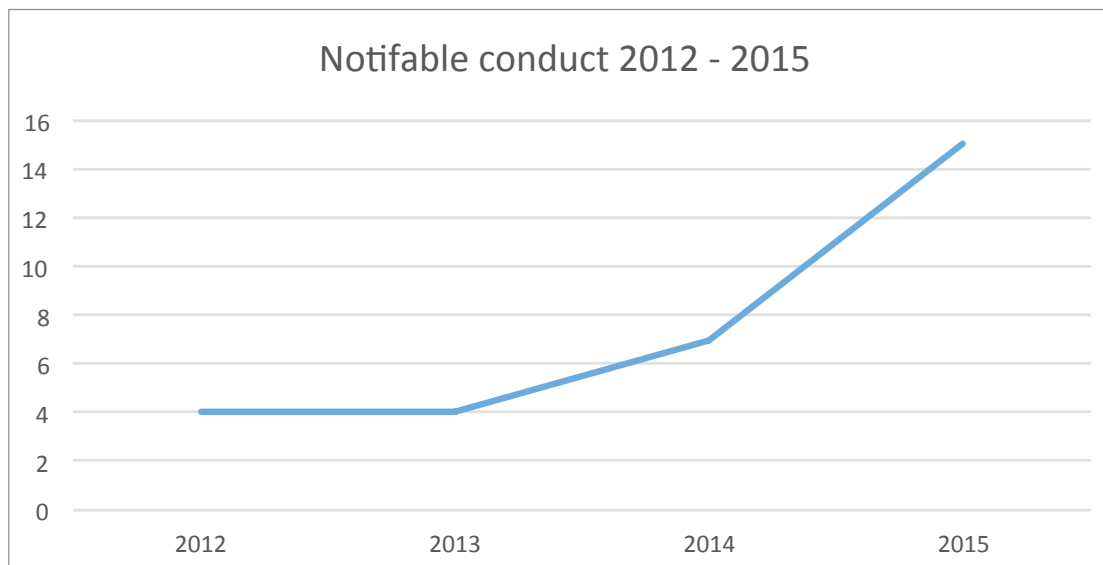


Figure 10. Notifiable conduct 2012-2015

## Sources of informal complaints by state

During 2015 Victoria recorded the highest number of informal complaints (40%) about AAMT members, which is similar in proportion to the higher number of members operating in Victoria than in other states (Figure 11).

### Total informal complaints and percentages by state 2015

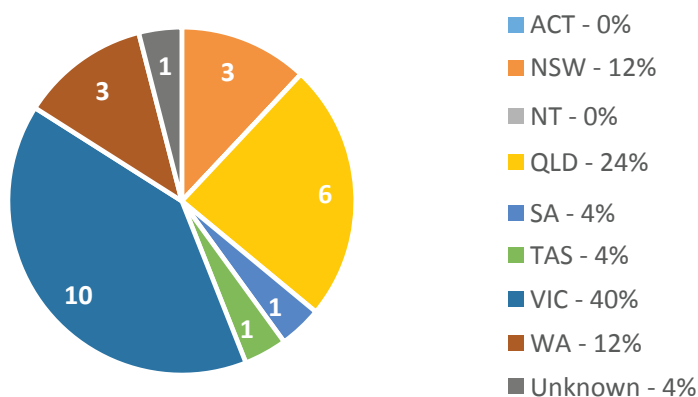


Figure 11. Total informal complaints and percentages by state 2015



During 2015 NSW, Queensland and Victoria recorded significant rises in informal complaints received about AAMT members located in those states. An improvement in data recording is indicated by the significant fall in the complaints of an unknown origin (Figure 12).

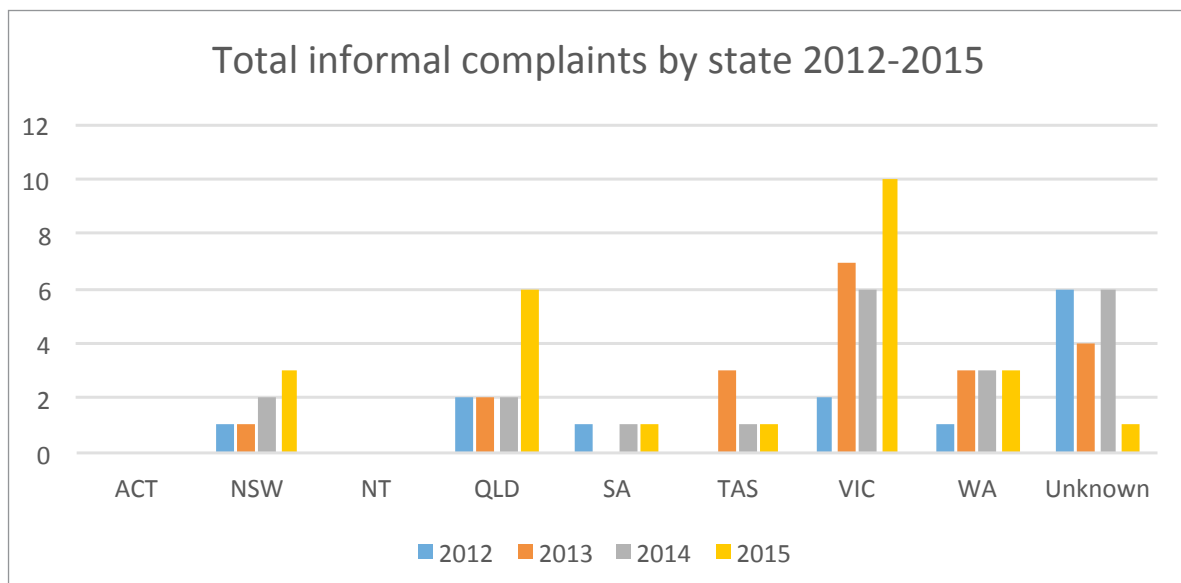


Figure 12. Total informal complaints by state 2012-2015

### Other sources of informal complaints

AAMT receives complaints from member therapists, non-member therapists, clients, other health professionals, health funds, agencies and the public.

Of the 25 informal complaints received during 2015, 11 were made by another therapist.

Public complaints made about AAMT members remained unchanged from 2013.

	2012	2013	2014	2015
Public complaint re an AAMT member	5	7	7	7
Public complaint re non-member	0	2	7	7
Complaint reported by a therapist	2	9	6	11
<b>Totals</b>	<b>7</b>	<b>18</b>	<b>20</b>	<b>25</b>

Table 3. Sources of informal complaints reported against COE 2012-2015

## 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 Health Care Workers, and the passing of supporting legislation in a number of 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 rose over the collection period.

Of the 43 complaints received by the AAMT during 2015, 25 cases were regarded as informal and were not heard by the NEC (Figure 13).

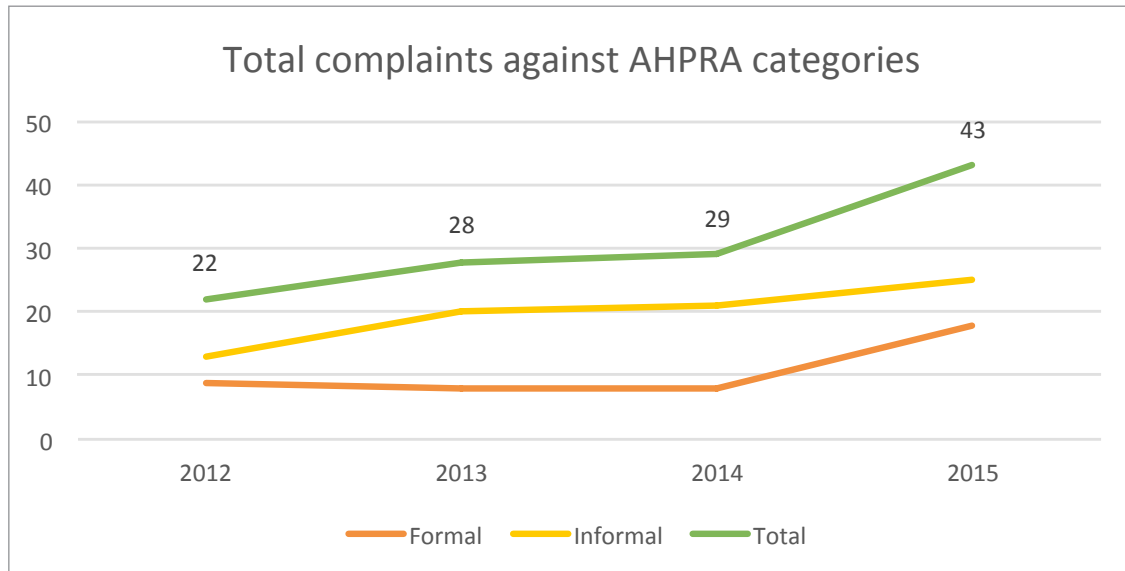


Figure 13. Collated formal and informal complaints

## 8. Fraud

- » *Alleged fraudulent activity*
- » *Complaints about alleged fraudulent activity*
- » *Most common type of fraud complaints*
- » *Sources of fraud complaints*
- » *Recorded fraud complaints by state*

### 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 actually 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 multiple swiping of cards
- Providing invoices for payment under provider X's provider number, when it was provider Y who performed the service but who does not have a provider number
- 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've provided to themselves supposedly
- Billing the fund for services provided to family members – against their fund provider rules.

## Complaints about alleged fraudulent activity

The AAMT assesses and processes fraud complaints under the AAMT's obligations and commitments to contractually administering members' health fund provider status.

The majority of complaints concerning fraud during 2015 involved fraudulent use of provider numbers (23).

Health funds also logged the highest number of complaints (11) concerning the fraudulent use of a provider number, with AAMT members (5), and Clients (6) also logging the highest number of complaints concerning the misuse of provider numbers. Claims not paid because member therapists did not keep client records recorded (3) complaints.

Twelve (12) complaints were lodged about members operating in Queensland, nine (9) operating in Victoria, and five (5) in Western Australia. No complaints regarding fraudulent activity were lodged for the Northern Territory or Tasmania.

## Most common type of fraud complaints

The majority of complaints lodged concerning types of fraud, during 2015 involved fraudulent use of provider numbers (25). Claims not paid because member therapists did not keep client records recorded (3) complaints (Figure 14).

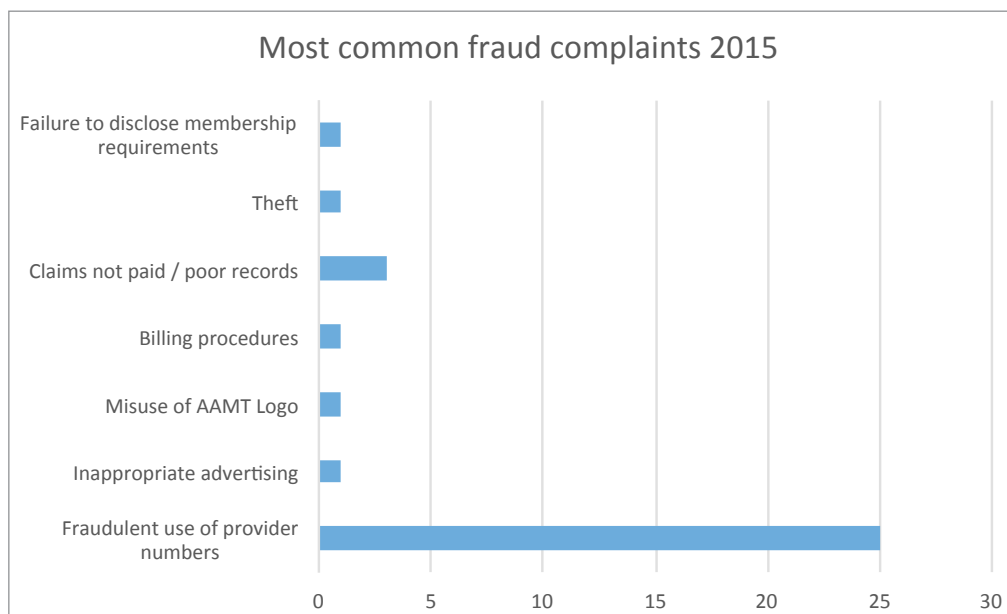


Figure 14. Most common type of fraud complaints

Inappropriate advertising, misuse of the AAMT logo, poor billing procedures and theft, recorded (1) complaint each during 2015. Failure to disclose is a membership requirement, recording (2) complaints, which included a false declaration, and an ex-member who continued to write receipts.

### Sources of fraud complaints

Health funds were the highest source of complainant (16) followed by AAMT members and clients (8 each), which correlates directly with the number of complaints lodged concerning the fraudulent use of provider numbers (Figure 15).

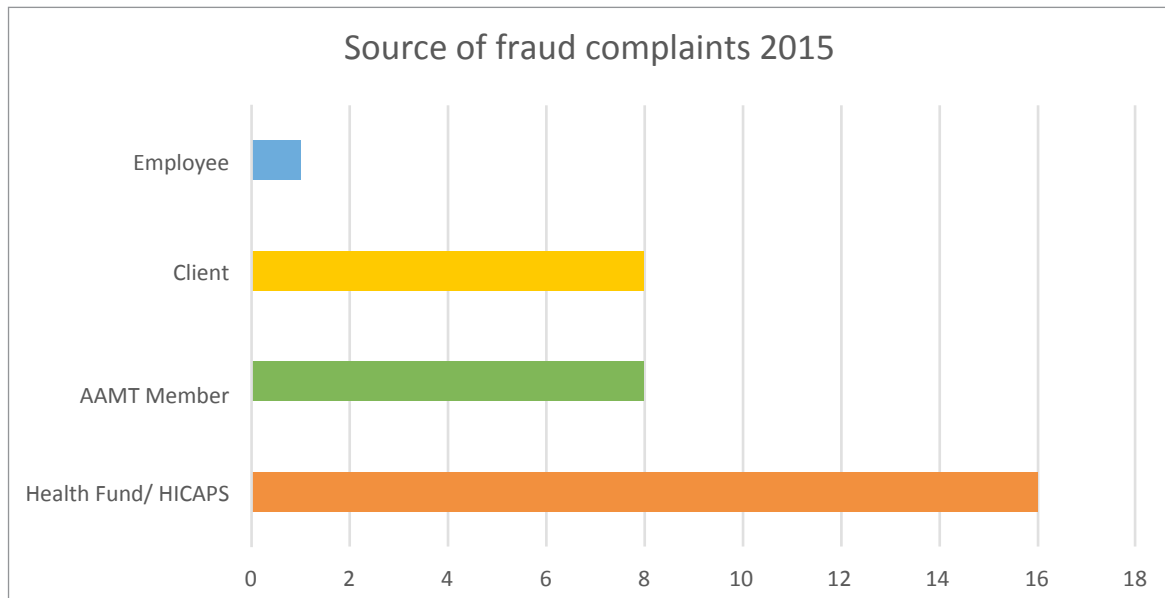


Figure 15. Sources of fraud complaints 2015

### Recorded fraud complaints by state

Twelve (12) complaints were lodged about members operating in Queensland, nine (9) operating in Victoria, and five (5) in Western Australia (Figure 16).

Fraudulent use of provider numbers were the most lodged complaints for each state. No complaints regarding a fraudulent activity were lodged for the Northern Territory or Tasmania.

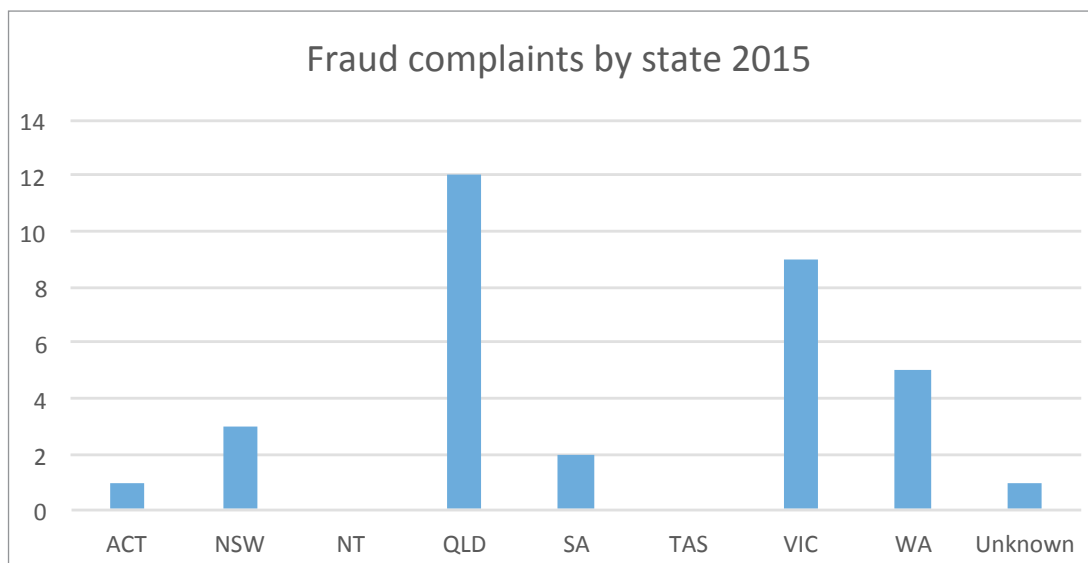


Figure 16. Fraud complaints by state 2015

## 9. Involvement of the police and the judiciary

» *AAMT referrals to the police*

» *Cases instigated or investigated by the police*

### **AAMT referrals to the police**

The AAMT considers that the referral of a serious complaint to the police is a step which is 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 AAMT'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:

- AAMT Position Statement – Referral of Ethical Complaints to Police
- AAMT Guidelines – Criminal Activity
- AAMT Position Statement – Referral of Ethical Complaints.

### **Cases instigated or investigated by the police**

The AAMT assists the police and other authorities such as the Office of Public Prosecutions involved in investigating Notifiable Complaints. In some cases the AAMT and NEC are not involved, as aggrieved parties will go directly to the police. AAMT 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 AAMT.

There have been a number of notifications concerning AAMT members who were under investigation by the police and the Courts. The AAMT 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 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. AAMT's response to emerging trends is also included in Association publications with possible policy and regulatory solutions.

As discussed in the Executive Summary, while the increase in complaints may be interpreted as a rise in the number of offences, it may also be the result of improvements in complaints handling, awareness, and education of the public as to where and how to lodge complaints, hence revealing unreported breaches.

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 VIC Royal Commission into Violence Against Women and the NSW, SA, and QLD governments have instigated improved access and streamlining of formal complaints handling to dedicated authorities.

The AAMT'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, AAMT responded to the results of the first 2012 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 CoE.

## Relevant AAMT publications include:

- The CoE and Standards of Practice
- Guide to the Prevention & Management of Sexual Misconduct
- Anterior and Lateral Chest Massage: Position Statement & Practice Guidelines
- Myofascial Dry Needling: Position Statement & Practice Guidelines
- Draping & Positioning: Position Statement & Practice Guidelines
- Informed Consent: Position Statement & Practice Guidelines
- Referral of Ethical Complaints: Position Statement
- Treatment of Minors: Practice Guidelines
- Criminal Activity: Guidelines
- Clinical Settings
- Member Bullying & Harassment: Position Statement.
- Referral of Complaints to Police
- Disciplinary & Dispute Resolution Procedure
- Regular information through the quarterly *Massage Therapists Journal* and the monthly *eNews*.

Please refer to [www.aamt.com.au](http://www.aamt.com.au) to download copies of the CoE and Standards of Practice statement.



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