

Title Aged Care Act Spotlight: Navigating aged care complaints

Recorded 26th May 2026

Video Link <https://opan.org.au/video/aged-care-complaints/>

Panellists

- **Craig Gear OAM**
CEO
Older Persons Advocacy Network (OPAN)
- **Treasure Jennings**
Aged Care Complaints Commissioner
Aged Care Quality & Safety Commission
- **Joe Alvaro**
National Older Persons Reference Group member
Older Persons Advocacy Network (OPAN)
- **Joanne Watts**
Team Leader & Advocate
Aged Rights Advocacy Service (OPAN SA Member)

Webinar resources:

OPAN

- Information, tools and resources to help older people speak up
[OPAN Self Advocacy Toolkit](#)
- Explore more information about the new Aged Care Act
[New Aged Care Act information](#)

Aged Care Quality & Safety Commission

- Raising a complaint – General information & resources
agedcarequality.gov.au/making-complaint
- Raising a complaint – Fact sheet
[Raising a concern or complaint – Fact sheet](#)
- Complaints handling policy
[Download policy handbook](#)
- Statement of Rights & Quality Standards
[Statement of Rights – Fact sheet](#)
[Aged Care Quality Standards – Information](#)

Other links

- Services Australia - Complaints & feedback
[Information on how to submit a complaint, suggestion or compliment](#)
- My Aged Care - Raising complaints
[Information, FAQs & resources](#)

[Announcer]

Across Australia, there's a network of independent, not-for-profit organisations giving a voice to older people at every stage of their aged care journey. Nationally, these organisations come together as members of OPAN, the Older Persons Advocacy Network.

Whether you or a person you care for is seeking aged care services or is receiving aged care services at home or living in residential aged care, our network of advocates are here to help you. Understand your rights. Resolve any issues you may be having with your provider. Help you express your needs and concerns. And we can help you access services you are entitled to.

Plus, our support is free and confidential, and we're independent from both government and aged care providers, meaning we're on your side. Nationally, we also raise awareness of aged care issues, taking your voice all the way to government.

To be put through to your local, state or territory aged care advocacy service, call OPAN's National Support Line on 1800 700 600, or for more information, visit open.org.au. OPAN, the Older Persons Advocacy Network.

[Craig Gear]

Hello, my name's Craig Gear, and I'm the CEO of the Older Persons Advocacy Network, also known as OPAN for short, and I'd like to welcome you to this webinar, "Navigating Aged Care Complaints," which is part of our Aged Care Act Spotlight series.

Before we begin, and in the spirit of reconciliation, the Older Persons Advocacy Network acknowledges the traditional custodians of Country throughout Australia and their connections to land, sea, and community, and acknowledge, in this National Reconciliation Week, the Gadigal from the Eora Nation on whose lands we are on today.

We pay our respects to Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples joining us, particularly today on National Sorry Day.

As you get older, your rights around being able to make your own choices, your right to be treated with dignity and respect, and, you know, your right to receive safe and quality services, it doesn't change, and that includes when you're receiving aged care services, be that services that you might be supporting you in your home or services you're receiving in residential aged care.

But what happens when you're receiving those services, and, you know, something just doesn't feel right or that your rights aren't being met? Well, that's what we're talking about today, and, in particular, what's changed when it comes about raising a concern or a complaint under the new Aged Care Act.

Now, you've always had that right to raise concerns and to make a complaint about your care. That hasn't changed at all. What has changed under the new Act is that these rights now include stronger safeguards to make sure you can speak up without fear of punishment, disadvantage, or reprisal.

Now we do hear that when it comes to raising complaints, many older people do feel a bit worried about being seen as, you know, difficult or it damaging the relationships they might have with the staff or affecting the care they receive. Other people, they may simply not know where to start or even whether what they're experiencing is something they can complain about. But please know that raising a concern, it is your right.

Speaking up isn't about blaming or causing trouble. It's about simply, I suppose, saying something isn't working for you or that something could be improved.

Complaints are not just about resolving your concern either. They're also like a really important way for services to improve, to strengthen accountability, and to help really create better outcomes for other people as well. When people speak up, it helps providers to actually understand what's happening on the ground and for them to make meaningful changes.

So, whether you're receiving care at home, or you're living in residential aged care, or you might be a family member supporting a loved one, today's session is designed to help you better understand your rights, the complaints process, what protections exist under the Act, and the options that are actually available to you if something doesn't feel right.

Importantly, we actually want to really build your confidence because, you know, speaking up about your care, it should never come at the cost of your rights or your dignity or, importantly, your wellbeing.

So, to help us unpack all of this, coming up in today's webinar.

First, we'll take a look at that top level of the key changes that are happening under the new Act including changes to the complaints process and the strengthening of your rights and how to identify breaches in those rights.

We'll then go through your options around how to raise a complaint with your provider or formally to the Complaints Commissioner. Then, we'll take a look at mediation, what it is, and when it's likely to be used. And we'll cover the options that you have should you wish to review the outcome of a complaint.

Finally, we'd also like to hear from you as we wrap up with our live Q&A.

Now, to help us navigate all of this, I'd like to introduce today's expert panel.

First up, joining us online is Treasure Jennings, the Aged Care Complaints Commissioner at the Aged Care Quality and Safety Commission.

Welcome, Treasure.

[Treasure Jennings]

Thank you, Craig. I'm coming from the lands of the Wurundjeri people of the Kulin Nation here in Melbourne. Nice to be here.

[Craig Gear]

Thanks. Next up, also joining us in the studio is Joe Alvaro who is a member of OPAN's National Older Persons Reference Group, and Joe brings with him first-hand experience in raising complaints while he was looking after his late mother throughout her aged care journey.

Welcome, Joe.

[Joe Alvaro]

Thanks, Craig.

[Craig Gear]

And representing, on behalf of independent aged care advocates who work across the country in OPAN's nine network members is Joanne Watts. Joanne is a team leader and also an advocate at Aged Rights Advocacy Service, also known as ARAS, which is OPAN's South Australian member. Welcome, Joanne.

[Joanne Watts]

Craig.

[Craig Gear]

And, of course, if you're registered for this webinar, you'll receive a follow-up email with all the resources and the links that are shown during the webinar today.

Finally, if you need any further support or are having any issues with your government-funded aged care services, OPAN's network member advocates, they're here to provide you that free, independent, and confidential support, and you can access them by calling the Aged Care Advocacy Line, and that's 1800 700 600.

Right, let's get into it, starting off with the key changes under the Act for when it comes to complaints.

Now, just on that word complaint, and we're going to use it a lot today. We know it can feel like really heavy or loaded, so please know that when we use that word today, raising a complaint or anything you're concerned about, it doesn't have to be for a major issue.

It could be simply flagging some feedback or flagging something that doesn't feel right. It can be as simple as giving feedback about what's working for you and also what isn't working for you. So it can be big or it can be little, and just remember, as I said before, speaking up is your right. Doing so can resolve your issue, but it has the potential to lead to improvements for others too.

Okay, so let's get started. Treasure, your role, the Aged Care Complaints Commissioner, it's a new independent statutory position that came into effect alongside the new Act on 1 November last year, but before we look at what's changed, can you share with us a bit about your role? How does it differ to kind of what was there before the new Act, and, you know, where are things at six months in?

[Treasure Jennings]

I think the most important thing that's changed about the Complaints Commissioner role is it's now a statutory appointee under the Act. So that means that I was appointed by Minister Rae into my role, and that means that I am able to speak to him directly about the things that I am hearing and seeing in my role.

I think the predominant impact of the change is really to increase the effectiveness of a complaint but also the efficacy for people to complain in the first place.

[Craig Gear]

Yeah, thank you, Treasure.

[Treasure Jennings]

Previously,

[Craig Gear]

Oh, sorry, I was just going, I know that that was something that older people had told us a lot about, that they wanted to have that, you had a direct line, there was a level of independence to it. Yeah, that's great.

[Treasure Jennings]

Yes, that's right because previously it sat within the Commission, and it was part of, as you can see, part of the broader Commission's regulatory action whereas now the complaints are given much more importance under the new Act as being a very important voice of the customer, if you like, but I'm able to speak to specifically, I think the other things, when I

talk about the effectiveness of a complaint as well, it's really to look at those systemic issues that we see in complaints, and often where a regulator is perhaps looking more at the provider level, I'm particularly also looking at the service level and looking for some of those practise and process improvements that can be made at the service level. So we've got the role here outlined, but essentially the Act says that I'm, "an independent, transparent, accountable, accessible, safe, and culturally safe process for complaints about compliance and compatibility with the statement of rights or other feedback." So it's quite a shift.

[Craig Gear]

Yeah, thanks. Again, that sort of independent line is really important as well. Thanks, Treasure.

Joanne, one of the most significant changes that came in with the new Act was the evolution of the Charter of Aged Care Rights into what was more of a, I suppose, a stronger, enforceable Statement of Rights. From your experience, what's different now and particularly when it comes to raising a complaint.

[Joanne Watts]

Yeah, so the Charter of Rights, it wasn't embedded in the Act previously, whereas the Statement of Rights is. So that makes the rights of older people not just a service issue, but a rights issue. Older people are at the centre of the Aged Care Act and the Statement of Rights in the Aged Care Act, and so that does enforce their right to raise a complaint and have their voice heard and also have a support person to support them

through that process as well, whether that's an advocate or, you know, family member, somebody else, yeah.

[Craig Gear]

Right, yeah, and it's good to see that the role of yourself as an independent aged care advocate is now enshrined in legislation, so that information, education, and individual support. It's great to see that in legislation so that everyone can get the sort of support that you provide, Joanne.

[Joanne Watts]

Yeah, so as advocates, now we know we've got that stronger voice as well because it is embedded in the legislation. Yeah.

[Craig Gear]

Yeah. Great. Joe, we might just move on to you, I think, in relation to your experience of complaints. What have you seen in that process?

[Joe Alvaro]

Well, just in relation to that, the rights being embedded in legislation, that's really good to hear. The proof will be in the pudding because when my mother was put in the nursing home for respite care, she was given the original rights, the rights before this set of rights, the new rights we're talking about, and she was asked to sign, she was asked to sign that, and we never got a signed copy back from the provider because it was

supposed to be signed by two people, two parties, and so I'm just hoping these rights will be taken more seriously.

I mean, when you don't get, when you're asked to sign the charter, and it's not given back to you signed by the other party, you just question how seriously is the aged care provider taking these rights?

So we never got a copy back. But in terms of my experience, it hasn't all that been very positive raising complaints with the Aged Care Quality and Safety Commission. One of the problems has been the delay in getting a response, and I brought up a number of issues and only got a response, it took four months, and really not hearing any progress from the Commission except that the complaints had been received.

Now, justice delayed is justice denied, and you're dealing with elderly people who are sick, who are weak, and who have raised issues. One of our concerns was the medication was not being administered according to how the doctor was expecting it, and we discovered that through the medication chart that the nursing home had.

And if you've got to wait months to get a response to that, it's obviously going to be very problematic for the aged care resident.

[Craig Gear]

Yeah, so we might explore that a little bit more as we go through our webinar today, that experience and what might have changed now, and what you touched on there is really important.

We might come back to you, Treasure about what are the obligations on providers under the Act when it comes to complaints? As Joe was talking

about there, that front line need to respond, and it'd be good if you could take us through a bit more detail. What steps are providers now required to take when a complaint is actually raised with them?

[Treasure Jennings]

Thank you. And I think Joe's experience has been a shared one by a number of people in the past, and that's why a lot of these changes have been put in place, and one of the changes that is intended in the new Act and also something that is intended in my role to promote, is that there's a lot stronger response by providers in the first instance.

In the examples that Joe raised, he really should have been able to take those complaints to the provider and should have expected a stronger response, and, you know, ideally not had to come to the complaints commission. So there are requirements on providers that they acknowledge the complaint promptly, that they listen and understand to concerns, that they assess immediate risks to safety and wellbeing, and act promptly on those, and that they take reasonable steps to resolve the complaint, document the complaint, which is very important because they should be using what they're learning through complaints as a way of driving their own continuous improvement in staff training and development.

But I think the most important thing as well is that there should be no victimisation in the process. And I know that that was a feature of feedback around providers and certainly why the Act has strengthened the obligations on providers in this regard is that there was a sense that it wasn't safe to raise a complaint with the provider.

One of the things that the Commission is doing at the moment is a very strong campaign on raising awareness of the rights and the Statement of Rights, and in our campaign, some of you might have heard it, it's on the radio and in some print media at the moment, and we're promoting very heavily that people raise concerns with the provider in the first instance if they're able to do so, and we're obviously providing a lot of support for providers in improving how they respond to complaints, but they do have obligations, and it is part of my role to look into how each provider is meeting their obligations when it comes to handling.

[Craig Gear]

Yeah, And I think we've got a quick sort of summary slide of how-

[Treasure Jennings]

Yeah, so just I think on Joe's point too around how the Commission itself operates complaints. I tend to use the four A's approach, and it's the one that I also promote in providers and the one that I think best fits what people should expect through the complaint process.

They should expect their issues to be acknowledged. They should expect answers for what's gone on. They should understand the action that is going to be taken, and, where it's appropriate, and where things have gone wrong, they should expect an apology. And within that, we have a function called open disclosure, which is also a requirement under the Act that also supports that transparent approach to explaining what's happened and apologising if necessary.

[Craig Gear]

Right, so, thank you, Treasure, and yes, you can raise a complaint with the Commission at any time.

As you heard also, you can raise it with the provider themselves, and we'll cover the process of raising it with the Commission a bit later on. Before we do, I want to spend a moment on understanding your rights and identifying breaches to rights, given, as we heard earlier, this can be a really useful tool for when raising complaints.

Treasure, let's start with the term breach. What does it actually mean when an older person's rights are breached? And does the situation have to formally constitute a breach for someone to be able to raise a complaint?

[Treasure Jennings]

Yeah, I think it, when you're talking about rights, sometimes whether it's been breached or not can be a bit dependent on how you feel about whether it's been breached or not, but it may involve situations where the older person's dignity, autonomy, safety, privacy, cultural identity, independence, or ability to participate in decisions about their care has not been respected.

So some of the examples that I can give you is: not being involved in decisions about their care, and that may include supported decision-making, so we don't see people with dementia as excluded from being able to be involved in their care; unsafe or neglectful care practises; discrimination, whether it's overt or covert; restrictions on communicational visitors; failure to respect cultural, linguistic, gender

and identity; and obviously inadequate nutrition, hygiene, and clinical care. However, a person doesn't need to establish any type of formal legal breach in order to make a complaint.

And our complaint system, as I say, looks at how a person feels about, you know, whether their rights have been respected, and they can also talk to wonderful people such as your advocacy network and get support on raising issues around that,

[Craig Gear]

Absolutely, but, so it's good to see that Statement of Rights. It's kind of underpinning, and is a bit of a bedrock there, but people can still come and raise a complaint with you as well.

Joe, you helped your late mother to raise issues prior to the new Act coming in. Under the new Act, what's your view in relation to the Statement of Rights? Would it be useful in helping you identify a concern or to raise a complaint?

[Joe Alvaro]

Look, I just need to clarify that we actually had raised the complaints, the issues with the provider. We didn't go straight to the Commission. And that was part of our complaints that we were sending emails, that we were asking for meetings, and it wasn't happening. In terms of that right to be heard, the response we got from the Commission wasn't very adequate because I think if people are sending emails and asking for meetings with the provider and they're not, that is a breach of a right, right?

[Craig Gear]

Yeah.

[Joe Alvaro]

So what I'm hoping is that these are going to be taken seriously 'cause, and the response we got, and after a few months we did get the response, there would seem to be no consequence for the provider of not answering those emails because I think the problems can be settled when the provider actually admits that there is a problem, and the reality is that some providers are not coming to the party, if you like.

So in terms of this Charter of Rights, I think it does give people, with this new rights statement, it does give people the opportunity hopefully to say, "Look, I have a right to be heard, "and I have to raise my complaint further," but certainly, in our experience, that was not the case, and I'm just concerned that that might be the experience of a lot of other people.

[Craig Gear]

And it was one of the things that OPAN and other community organisations advocated really strongly for, that those rights and that Statement of Rights, that providers don't just put it up on the wall,

[Joe Alvaro]

Exactly.

[Craig Gear]

But they've actually got an obligation to understand, uphold, and actually enforce those rights, so.

[Joe Alvaro]

Yeah, well it's no use if it's just words on a paper, right? And that's with any law really. I mean, it's got to be enforced.

I think the staff have to be aware of it, and there's got to be professional development for the staff that those rights exist. I also think that the complaints need to be taken seriously and acted upon, and I think there needs to be a culture of safety and that you can raise the complaint.

You actually have a right to raise a complaint and not suffer any adverse consequences...

[Craig Gear]

Absolutely.

[Joe Alvaro]

... that you're able to do that, and that you're not being difficult, and there won't be any consequences.

[Craig Gear]

No. Joanne, for someone watching who wants to understand which rights are most relevant, Joe's touched on a few of them there, but in relation to rights, when they're raising a complaint, what are the ones that you go for in your toolkit when you do advocacy work?

[Joanne Watts]

I think access to information, for example, care plans, that's really important for people to receive that information and know what's in their care plan and be a part of that process. Choice and decision-making.

So individuals making choices as well about their care and their lifestyle and taking personal risks as well to enhance their quality of life. Respect and dignity is an important one, and, you know, often, again, we're bringing it back to that, treating people with dignity and respect, valuing them and supporting them with their identity and culture, spirituality, and diversity.

So, yeah, they apply to the Statement of Rights there on the screen as well. Quality and safe services is also paramount and respect for privacy and information and also access to an advocate or a support person to help them to understand their rights and uphold their rights.

[Craig Gear]

Okay. Thank you. Well, we've heard how understanding your rights and knowing when they may be breached can be useful in raising complaints. Let's now take a look at the step-by-step process on how to raise a complaint.

Joanne, back to you. If someone is receiving aged care services, whether that's at home or residential care, and they're not getting quality services or they're not getting the services they need, or, like I said, their rights are being breached what are the things you recommend that they do?

[Joanne Watts]

Yeah, we encourage people to keep a note of, you know, what the issue is. They can contact OPAN to speak to an advocate, and just we can talk to them about some information about what their rights are or, you know, step through that process as well. We've got tips for raising the complaint here on the screen.

So focusing on the facts as well, that's quite important. Often there's emotions involved in complaints, so it's important to include information, you know, names, et cetera, and be clear about what the outcome is that you want, and you can ask for help if needed. So, you know, an advocate can support you, and there's also a self-advocacy toolkit that provides...

[Craig Gear]

Yeah, and I was just going to refer to that. I mean, one of the things we talked about early on is we want to give people the confidence to do this for themselves.

[Joanne Watts]

Yep, empower.

[Craig Gear]

On the screen now is great way to be empowered is to use the OPAN self-advocacy toolkit, and you can get it at OPAN.org.au.

[Joanne Watts]

Really valuable toolkit that, just again, gives people that information to speak up and uphold their rights.

[Joe Alvaro]

Can I just add, that documentation I think is really important, that if it has become a concern, and perhaps you've had a chat, and you haven't been able to resolve it with the aged care provider, send an email to the manager because then you have it in writing, and it's easier to make the complaint to the Commission, and then you're unlikely to get a response, "It's, you know, it's he says, she says," sort of thing, because you can say, "Well, I've got this documented here in an email." And then you're able to escalate it further when the Commission investigates. You know, the provider may have said, "Well, it didn't happen." You know, like the person saying, "Well, if you've got the email, "you're in a better position."

[Joanne Watts]

It's a good point. Yes. Speak to somebody, but also always follow it up in writing. Yeah.

[Craig Gear]

Keep some records, yeah. And we do hear that older people sometimes feel a bit of a reluctance to speak up, and I think that's a challenge we're all gonna have to work on with the Commission, with providers, with us in the community, to give people the confidence to continue to speak up.

And Joe, as a member of the National Older Persons Reference Group, and you having that experience of raising concerns for your family in this space, what barriers do you actually see other than the reluctance to actually speak up and when people know that something just isn't right?

[Joe Alvaro]

Look, in my lived experience of going to the aged care provider, visiting my mother and speaking to other residents, I would hear a lot of things that I knew weren't right, and I think which the other people knew weren't right, and I would say to them, "Look, you need to raise it." And they would be fearful. There's a lot of fear out there.

The reality is it's hard to get respite care. It's hard to get this long-term accommodation. People fear hospital dumping, which I've heard stories of aged care providers saying, "Look, we're just gonna send you to the hospital "and not have you back here." And family members are scared.

I mean, they're saying, "Well, look, it took me so much effort "to find this provider, "and now, if I make a complaint, "I could actually have to find somewhere else, "and there's nowhere else, right?" So I think there is a lot of fear, and I would be saying to them, "Please speak up."

I think the anonymous avenue is great, but there is a lot of fear out there, and I think the aged care providers have a responsibility as well to be

encouraging family members and residents. "Look, if you have a problem, "we have no problem in you taking it further "and raising this with the Commission "'cause it's your right, it's your right to speak up." And there shouldn't be any fear at all."

[Craig Gear]

Yep, so we might move on to our next question. That's really a good sort of summary when someone's feeling reluctant, and we really want to build trust back into the system. So some really great tips there.

Treasure, we might come back to you. Now, I think at any time you can also raise a complaint directly with you as the complaints commissioner. So if we can take a look at that, how it actually works in practice.

So, Treasure, can you unpack for us a few questions so we can, you know, better understand how it works. Firstly, who could make a complaint to the Commission. Like Joe said, can it be done anonymously? Secondly, if you could touch on a lot of the types of complaints that the Commission can handle, and, importantly, which ones you don't.

[Treasure Jennings]

Mm, thanks, Craig, and Joe's 100% right. If it isn't right, say something. And if you want to, you can say something to me. And I think anyone can make a complaint to the Commission.

So it could be an older person receiving care. It could be a family member. It could be someone who's very interested in, you know, an

interested party. It can be really anybody, a member of the public, a staff member, representatives, advocates, and, of course, carers and kin

I think the important thing to remember is that we also take privacy very, very seriously, and we also try and involve the older person in the complaint if we can if they're not the person making the complaint. But, nevertheless, we will work with whichever pathway it comes to us, and we will try and work with the complainant, and, as I say, involve that older person where we can.

There are different confidentiality options as I know. So privacy is assured, but there is also confidentiality options. So you can tell us and be disclosed through the complaint process. You can keep it confidential or in confidence, as I tend to say, which is where we know who you are so we can stay in contact with you, but we may not, you know, if you prefer us not to, then we won't disclose your identity to the provider. Or you can be completely anonymous.

So, if you wanted to, you could contact us. Sometimes that can be a little tricky in terms of how far we can take a complaint, and obviously it becomes problematic to keep the person involved, but it's whichever you feel the most comfortable with is, you know, we will respond to that accordingly.

I think probably if, as I say, while anonymous is completely okay, and even if you don't want to really make a formal complaint but just give feedback, that's also an option, and then, of course, very extreme cases, we do have whistleblower protections for people who may have something really egregious to share with us. All of those pathways are available.

[Craig Gear]

Yeah, we'll come to that in a sec. I think let's get down to the specifics. How do you actually raise a complaint with the Commission? And specifically what happens after that complaint's actually submitted?

[Treasure Jennings]

Yeah, so generally speaking, you can make a complaint via our phone or through our web form. And thank you, there are the numbers that you can contact, and very easy to get in contact with us. And if we can't take your call at the time, we'll call you straight back or at a time that's convenient to you.

I think there's some important things to recognise, that we do take complaints about Commonwealth-funded aged care services, which is residential aged care, home care and support at home, flexible care services, conduct of providers and workers, quality and safety concerns, fees and service delivery issues, dignity, choice, and rights.

It's probably important to know some of the things we can't take a complaint about, which is employment disputes, purely contractual or commercial disputes, criminal matters requiring police involvement, guardianship, or financial administration issues, and discrimination that better sit with in the human rights jurisdictions or a matter that may be better dealt with by another body. So, sometimes, for example, we may think it might be better to refer the complaint to APRA. However we will take an open-door approach.

[Craig Gear]

Great. Open door approach there, but I think that really covers the complaints that are happening with aged care providers. But Joanne, what about if it's something like a complaint about My Aged Care or Services Australia, or, as we're hearing a lot at the moment, about the Single Assessment System. Where can people go for complaints about those?

[Joanne Watts]

Yeah. So My Aged Care would have their own complaints process as similarly as Service Australia would, and I think we'll be putting those details up shortly. Is that right?

[Craig Gear]

Yes.

[Joanne Watts]

So, with the assessment process, it's very difficult for some people to understand, and there might be delays or issues with that. So advocates with OPAN can support people with that process. With consent, we have access to the My Aged Care portal, so we can have a look in the portal and, you know, gather some of that information. And some people tell us when they phone My Aged Care, they get conflicting information or it's difficult to understand the jargon and you know where things are at for them. So we can have a good look at that and explain it in a way that they'll understand.

And Services Australia, I think, for some people, maybe lodging a hardship application, So again, we have financial advocates that can support people with that process as well.

[Craig Gear]

Great. So you'll find the right pathway in.

[Joanne Watts]

That's right.

[Craig Gear]

Someone waiting for an assessment for too long a time, you'll find a way into My Aged Care...

[Joanne Watts]

Yes.

[Craig Gear]

...through that process as well.

Joe, earlier Treasure touched on being able to raise a complaint anonymously, and you sort of have touched on that, and she also mentioned those whistleblower protections. How important do you think it is to have those sorts of protections in place?

[Joe Alvaro]

Look, I think it's really important because the reality is some people are fearful to speak up, and they have the right to speak up, and some people only do it anonymously, and that's the only way that problems will be exposed, I think, if people don't have to reveal their name for whatever reason they have.

My concern with that, however, is that the confidentiality and the protection being actually in practise happening because reality is you raise a complaint, it's very easy for a small nursing home, for example, to realise, "Oh I know who that is."

[Craig Gear]

Yeah.

[Joe Alvaro]

Does that make sense?

[Craig Gear]

Yes.

[Joe Alvaro]

So I'm not sure how that's going to work in practice, and I think there really needs to be discussion with the person making the complaint of

how that anonymous nature will be maintained. Otherwise, people won't even make those anonymous complaints, and people are already fearful making complaints under their own name.

How is the Commission going to hear about all the problems, right?

[Craig Gear]

Yeah, we'll come to Treasure on that in a minute, but I know that we've done a lot of work in our network with advocates and the Commission has as well and making sure that if people are asking for protection under the whistleblowers protections, there is legal ramifications if a provider breaches those.

[Joe Alvaro]

Yeah, I think that needs to be indicated clearly.

[Craig Gear]

Yeah, we need to get that message out to people. Also that volunteers, if people are concerned about volunteers or visitors, they are covered by the code of conduct as well, so it's important that people know that it's not just the aged care worker or the provider. They've got other protections as well. So please know you are protected.

So we've heard about the key changes and how to submit a complaint. I'd like to now focus on the topic of mediation.

Treasure, the Act introduces mediation as part of the complaints process and what I believe is called Restorative Pathways. Can you explain what mediation is and how it fits into Restorative Pathways in this context? When does it come into play, and what can an older person expect from the process?

[Treasure Jennings]

Yeah, I first off want to say that it's important to probably contextualise restorative practices a little bit, that the point of it is to try and rebuild that trust and that relationship between the older person, their family and supporters and the provider because we know that in most instances the older person continues to need to consume those services from that same provider.

We do know that it is not always easy to change provider. So this is why this concept has been introduced particularly because it is important to rebuild trust. Mediation is, as it sounds, it is generally a process where an independent third party will come in and work between the two parties in dispute and find a way forward. The Commission can offer that service.

Providers can also offer it, some of the large providers. I've probably already looked to establish it. We're in the process of establishing it more formally, and we will have more information on that in the coming weeks and months, but I am, you know, if anyone needed it today, then we would find a way to make it work.

[Joe Alvaro]

Can I add that has not been my experience unfortunately. And we put in the complaints. As I said, we waited months. I've got it written here. We got a response, the Commission's findings if you like. "If the commission doesn't hear by you by this date, "we'll close your complaint," and that was only a few days.

How are people supposed to deal with the determinations in a few days. I mean, I'm working full time. I'm really busy.

I've got to communicate with my mother and let her know what the outcomes was. I just feel that's really inappropriate, and I think in the email it said, "Oh we tried to contact you once, but you didn't answer." And we didn't really even get any communication by phone. So I just feel that it's a really inappropriate way to be dealing with complaints, and I just felt there was a pressure to close it.

[Craig Gear]

Yeah.

[Joe Alvaro]

And I just felt, "Hang on. "My mother wants to be heard here. "She's an non-English-speaking background, and we've raised significant concerns, and I just felt that the person dealing with it, and especially, "By this date, "we will close your complaint," Not even, "If we don't hear from you, we will contact you "and just see what's happening." And it was only a few days. We were not given a lot of time to deal with the findings. So I hope that makes sense in terms of my lived experience.

[Craig Gear]

Yeah, yeah.

[Joe Alvaro]

And not matching up with perhaps what's supposed to happen.

[Craig Gear]

So let's go to what's supposed to happen now under the new Act because there are changes and particularly people were saying that they were waiting a long time.

Treasure, can I come back to you? We did want to come back to just some of those timeframes so that people can understand the expectations. So if you can just step us through what's changed now

[Treasure Jennings]

Yeah.

[Craig Gear]

And so that Joe's experience is gonna be, someone else going through that might be different in the future.

[Treasure Jennings]

Yeah, and I just want to acknowledge Joe's experience. It's not the experience that I want people to have when they're contacting the

Commission, and nor is it the experience that we're working toward. And, you know, I wouldn't want to have that experience either, but if we go back to the slide, and I can kind of step everyone through 'cause we're running, yep, quick.

So, generally speaking, within three business days, we will try and triage the complaint and get some immediate details from people. And obviously there is an escalation process if there is significant risk identified.

The next part of it, and, again, sometimes depending on what the complaint is about, we are trying to sometimes get some level of consent or talk to the older person for clarification too. So we generally try and do that within 10 business days, so a couple of weeks. Our aim is to make sure that you've understood the complaints process. We've probably started gathering some information from the provider. We may have talked to you about going back to the provider and perhaps having another conversation with the provider if that's your preference.

So we try and work out what the preference is going to be, and then, within the Act, we have currently 90 days to resolve the complaint, but if we need longer to resolve it because the issues are more complicated, then we have that option as well. It would certainly not be my intent that complaints are closed without proper notification or at least we feel as if we've exhausted every opportunity to find a resolution, which is often an agreement.

And of course there are formalised ways should you be dissatisfied with the outcome of the complaint. You do have some formalised ways that we've spoken about before, I think. But the object is to try and obtain

agreement, and we do have some legislative requirements when it comes to that as well.

So I think some of the, again, some of those experiences that we're hearing about have been, I would hope, addressed through the Act and also through the changes in processes that I've been implementing.

[Craig Gear]

Thanks for that, Treasure. Now we're about to come to our live Q&A. Thank you to those that have submitted questions so far. Now, before we do, let's head to our last topic is what we were kind of talking about there is what to do if you wish for your complaint to be reviewed.

Treasure, you started to touch on it. What happens if I've raised the complaint with the provider. I've gone through that mediation process. I've raised it with you in the Commission, and I've received a final outcome like Joe was talking about, and I'm still not happy with the outcome. What can someone like Joe do in that situation? Is this where the Commonwealth Ombudsman comes in or the Administrative Review Tribunal? What happens?

[Treasure Jennings]

Yes, they are entities that people can take their complaint to if they're dissatisfied with the services that we have provided and the resolution that we have tried to achieve. However, my suggestion would be that people seek a reconsideration of their complaint which people can do through our processes, and that is done independently of my complaints teams.

So someone within the Commission will look at whether we have followed our own processes and practises and been reasonable in our approach. But, yes, should we not be able to come to an outcome through that process, then there is the Commonwealth Ombudsman and the Australian Review Tribunal which we are in the jurisdiction of.

[Craig Gear]

Great. Joe, last question to you. Is there anything further that you would add in that process? Would that have helped if you had known about there was a reconsideration process?

[Joe Alvaro]

Clearly being informed about that, yes, absolutely, and I am actually in the process of responding to the outcomes and raising the fact that we really weren't involved. It was just an acknowledgement.

I am going to raise this because I think it's important. When it was acknowledged, we did get one response. "I sincerely apologise to you "for the delay in the progression of the complaint "as well as want to express my condolences "to you and your family for your great loss." And my mother had not died. I just feel that, I just want to make the point, behind every complaint, it's a person...

[Craig Gear]

Yes.

[Joe Alvaro]

...with dignity. And I know that the Commission is getting a lot of complaints, and perhaps that needs to be reviewed in terms of how they're being handled, how many staff they have.

I was, just a few days ago, I did come across the article in the Saturday paper, "Exclusive aged care watchdog closes cases without probe. "15,500 bulk closure cases, "cases closed without investigation." That was investigated by Rick Morton. And when I read that, I thought, "Hang on, that was sort of my experience "because I got a cut and paste response there "saying my mother had died, "and I'm still suffering some trauma from that."

[Craig Gear]

Yeah.

[Joe Alvaro]

Because you're making complaints, your mother is already in a weak, vulnerable position, non-English-speaking background. She's got me advocating for her, and you get a... And I just wondered, "Has my mother died?" And I don't know, I mean it's just, it was a terrible experience, but, from my understanding, it's not the only, I'm not the only person who's had that experience.

So, yeah, what was your question? Yeah, that was my last. Well I just wanted to make that last point that behind every complaint,

[Craig Gear]

is a... Yeah.

[Joe Alvaro]

is a person, a carer, and we all know our mothers, each of us have mothers, we've had mothers, and they're really important, or fathers, and it's a person with dignity, and when they've reached a stage where they're in aged care, they're in a really weak position, and they don't have that capacity to speak up. So I think the carers who are speaking up, who are advocating, need to be taken seriously.

[Craig Gear]

Yep. And we need to continually improve the complaints processes so people don't go through that experience. And yeah.

[Treasure Jennings]

Craig, I just wanted to say I'm really sorry about that experience. I don't think that's okay. And the second thing I wanted to say is I have a mother who's in residential aged care, and I have a father-in-law who receives Support at Home services, so I'm very, very close to the experiences that older people are having, and I completely agree that the compassion and sensitivity and the re-traumatizing through the complaints process is not okay.

[Craig Gear]

Yep, thanks, Treasure, and I think we'll all work together on getting a better outcome for people into the future.

Let's move on to our Q&A, and thank you to all of you that have submitted questions. You may have noticed some of those questions are being archived as they come through. It's a big topic, but rest assured that we are receiving them all, and our team is working really hard behind the scenes to collate them and to feed them through to my iPad here. We'll answer as many of them we can in the time we've got remaining.

So, panellists, just if we can keep our responses really succinct as possible 'cause we have had a lot of questions through.

Treasure, I'm gonna start with you. Liam's asked, "If a complaint is urgent, for example, "where there is a risk to a resident, "why does it sometimes take so long, "and how can these cases be prioritised?"

[Treasure Jennings]

Yeah, it shouldn't. Certainly if you believe that your loved one is at risk, you really should be promoting it to the provider straight away. I would hope that they would address the issue with a matter of urgency. If not, come to the Commission, and we have a triage process which does escalate high-risk cases. I hope it's working as well as it should. We're always looking to continuously improve, continue to escalate if that hasn't been the case for you, but our processes should identify high risk.

[Craig Gear]

Thanks, Joanne, Sam asks how best can care finders or advocate support, like really vulnerable clients, particularly those who might not have capacity to advocate for themselves, or they have no families, what what can you do?

[Joanne Watts]

Care finders are specifically funded to step through that process with people. There might be varied reasons why, you know, they're not able to work through that themselves. So, from the very beginning, support people to register, connect with a provider.

Care finders will check in through that process and ensure that they don't fall off the system. And, similarly, advocates can also provide that support, but Care finders will take that extra step. But, yeah, advocates will also work closely with people to ensure that they can connect with a provider and service.

[Craig Gear]

Yeah. Great. Treasure, we touched on it a bit earlier, but just to reinforce, Megan asks, "What are realistic timeframes "for a complaint to be addressed and resolved?" Just yeah, those timeframes.

[Treasure Jennings]

Mm-hmm. I mean it depends on the complaint and how much information we would probably want to achieve or need to get from the provider. So we do take a proportionate risk-based approach. I would like to think that most complaints can be resolved within a month, and I think,

you know, providers are improving their responsiveness to us, and we continue to work with providers on giving us better responses to complaints. So, you know, that's my goal, but obviously we have a statutory obligation to-

[Craig Gear]

To do it within the 90 days. Yeah.

[Treasure Jennings]

To do it within the 90 days. Yeah.

[Craig Gear]

Yeah. Great. Joe and Joanne, I'll get you both to touch on this one. What if there's some red flags, and people want to raise those instead of raising a formal complaint? So what do you think on that?

[Joe Alvaro]

Oh look, I would encourage them to do that.

It is stressful and demanding to go through a complaint process, but red flags perhaps is easier just to raise it.

Look, I think Ronald Reagan said, "Evil is powerless if good men are unafraid." So if we are going to solve these problems, we do need people speaking up and raising a red flag if you don't want to go through that

formal complaints process is better than doing nothing, I think. See something, say something.

[Craig Gear]

Yep. Joanne?

[Joe Alvaro]

Advocate can have a conversation with the person, talk about options and strategies and then from there, you know, might come to a decision about what process to take. Sometimes it's helpful to talk it through depending on what the issue is.

[Craig Gear]

And I know our independent aged care advocates often do go to the commission and say, "We've got some red flags in that."

[Joanne Watts]

Yes.

[Craig Gear]

Treasure, do you want to just touch on the feedback process?

[Treasure Jennings]

Yeah, it's a new process under the Act that we've established where people can give us just feedback, and that's really where the complaints is working quite closely with our regulatory partners, and that provides quite significant intelligence to our regulation people in the Commission who will look at the provider's performance more generally and look at, you know, whether they are, you know, the right people to be providing services.

So it doesn't necessarily go through the complaints process, but it does provide that really significant intelligence, and between myself and our regulatory partners within the Commission, we look at what the best way would be to respond to the issue depending on what's being raised.

[Craig Gear]

Yeah. Treasure, a little bit of a thorny one here, and I'm happy to weigh in as well 'cause I was part of these discussions. Section 24-3 of the new Act states that these rights, the Statement of Rights, are not enforceable in a tribunal or court. Why is this the case, and where can people go to have those rights upheld?

[Treasure Jennings]

Yeah, it is an interesting issue isn't it? I mean I don't know what your view is 'cause I obviously wasn't part of the development of the making of the Act, and I think that's because it's, you know, the courts are possibly not the right places for all of the things under the Statement of Rights because it is quite scalable, but I think some, depending on the issue that was raised, it may well relate to us to one of the rights, but it may well also be a significant issue which might be something that needed to be upheld in a court.

But generally speaking, I would say the objective rights is that they are in the Act to promote a different way of thinking and a different way of doing in providers which puts the older person at the centre of their care and services.

[Craig Gear]

Yeah, and two important things I'd say on it, OPAN will continue to advocate that there should be other pathways, but there are also that people can raise the breach of the Statement of Rights with the provider but also with the Commission, and that there's a pathway there so that people don't have to have those legal costs.

People should also be reassured though that if there's a criminal matter, it still gets handled by the police. So it's not as if it's cutting out those things where there's criminal matters in place.

Joanne, I might go to you on this one from Ali. How can we be assured safety if we raise a complaint when we might not have the option of changing a provider?

[Joanne Watts]

Be assured safety. Again, I'd bring it back to the legislation, what we've spoken about before. It's embedded in the Act, whistleblower protection.

[Craig Gear]

Yeah.

[Joanne Watts]

But also, importantly, safety for the older person if we're talking about an issue related to their care and support, entitled to that quality care and support.

[Craig Gear]

Yeah, and people know those whistleblowers actually have really strong penalties, fines if people breach their obligations under whistleblowers.

Yeah, let me go to another one, Joanne. How do you complain about an assessment agency that consistently is taking over six months for a Support at Home assessment, and My Aged Care refer you back to the same provider? Is six-months wait for an urgent support plan review acceptable in the new Statement of Rights? Your thoughts?

[Joanne Watts]

Well I'd say no, it's not acceptable waiting for six months. I'd be interested to know what the issue is, what's behind that. So, again, I would encourage somebody to speak to an advocate in their state, and again we can have a bit of a look at what's happened there, speak to the provider.

It might be, "Yeah, have they sought a reassessment?" Not quite sure. There could be a lot of issues behind that. So, again, we can have a good look in My Aged Care as an advocate and try to get that speeded up very quickly, 'cause yeah, six months is not acceptable.

[Craig Gear]

Speaking of speeding it up, I'm gonna sort of combine a few questions to you here. Treasure, there's been a few that have come through around the timeframes and those sorts of things for complaints handling. What's happening around that monitoring of that? Does the Commission have enough staff to be actually able to handle the complaints? How are things going, and what's the plan about the timeframe?

[Treasure Jennings]

Yes, there's obviously been some retraction in our services since the beginning of the new Act simply because we had to train our staff on whole new processes including an IT system. So I'm not shying away from that, that there's been some slowing down in order to start to speed up now.

I have quite significant reviews going on at the moment on and around our complaint-handling process. So I can only say that we're working on making sure that we are as efficient and as effective as we possibly can be, and I appreciate that, having been in complaint, leading complaint processes for quite a few decades now, I absolutely appreciate that people want an expedient, fair, and reasonable process when they come to the Commission, and I'm working on it.

[Craig Gear]

Great. And some of that data starts to become publicly available as well. So I think there is that accountability there that will work for us as well.

Great.

So unfortunately we are coming to the end of our webinar for today. And, look, I would like to extend a really big thank you to our guests for joining us and what is a bit of a tough, honest conversation about complaints and some of the experiences people have.

So, Joe, I want to particularly thank you for sharing your experience, and I suppose that's a really good grounding about why we need to do better. Joanne, thank you so much for your experience in the work you do as an advocate. And to you, Treasure, thank you for the work you're doing in improving complaints handling and the continuous improvement journey that we're actually on.

As always, if you've registered to view this webinar, you will receive a follow up email with all the resource links that were mentioned today.

The webinar will also be available on the OPAN website in the coming days, and like if you'd like to find out more about our past webinars or about what's coming up, please sign up for our newsletter.

Our next webinar is coming up on the 23rd of June, and we'll have an expert panel covering the topic of restrictive practises. We'll send out a registration email shortly with more details.

And, of course, if you have any questions, you need assistance, do not hesitate to reach out to one of our network member advocates, and you can see their contact details on the screen now.

Look, it's been a pleasure to be with you. I'm Craig Gear. Stay well; stay safe; stay connected. Look after each other. Thanks for being with us today. Goodbye.

[Announcer]

This webinar is proudly brought to you by the National Network of Free, independent, not-for-profit organisations across Australia, giving a voice to older people at every stage of their aged care journey. OPAN, the Older Person's Advocacy Network.

Transcript and video production by create.love