

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: Australian Human Rights Commission

Question No. SBE16/019

Senator Fawcett asked the following question at the hearing on 18 October 2016:

Senator FAWCETT: When a complaint is received by the commission, what process do you apply to do the initial investigation?

Prof. Triggs: Perhaps I could begin by saying that under our statute, when we receive a written allegation of a violation of human rights or antidiscrimination law, for all practical purposes we must accept that complaint. Once we have received it there will be an attempt to talk through the matter with the complainant to investigate the facts and, as it evolves, to engage the respondent in an attempt, ultimately, to conciliate a matter. It can be a lengthy process or it can be resolved within a few weeks; it really depends on the complexity of the matter. But, in essence, once we receive that written complaint or query, we will then investigate and, ultimately, attempt to conciliate.

...

Senator FAWCETT: If you are the person who is responsible for taking the initial steps of handling a complaint, can you tell me how many complaints are resolved or terminated at the initial investigation stage?

Prof. Triggs: I think about a third. Perhaps I should take this on notice to be precise, but my understanding is that about a third have no jurisdictional base, are frivolous or vexatious, or the complainant withdraws, as quite frequently happens. Much further down the track, we—or I, ultimately, as president—will decide to terminate a matter if it is not possible to achieve a conciliation. That then enables the respective parties to go to the Federal Court if they choose to do so.

The answer to the honourable senator's question is as follows:

In the 2015-2016 reporting year the Commission received 2013 complaints. In that reporting period, 47% of all complaints received were finalised within three months of receipt and 82% of complaints were finalised within 6 months of receipt. The average time from receipt to finalisation of a complaint was 3.8 months. (The average time from receipt to finalisation of a complaint in the 2014-2015 reporting year was 3.7 months).

Of all the complaints finalised in the 2015-2016 reporting year 52% were conciliated, 19% were terminated under section 46PH of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA), 17% were withdrawn and 9% were discontinued (where the complainant does not respond to the Commission's attempts to contact them including after the Commission has provided them with an initial assessment of the complaint). Of complaints where the Commission attempted resolution through a conciliation process, 76% of complaints were resolved – this is the highest resolution rate on record.