

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

Program: Australian Human Rights Commission

Question No. SBE16/020

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?

...

Senator FAWCETT: In the media recently there has been some discussion around the rate of cases that have been dismissed, and I think the period 2001 to 2005 was compared with 2011 to 2015. Are you able to give the committee any figures from your perspective as opposed to what is reported in the media about the percentage of cases that are dismissed?

Prof. Triggs: I will take that on notice but, broadly speaking, matters come to an end for any number of reasons. Sometimes, as I say, they are withdrawn; sometimes we terminate them because there is no reasonable prospect of conciliation. But I am very happy to give you those precise figures on notice.

Senator FAWCETT: The allegation was that, I think, it was three in 10 in that earlier period that were dismissed but that, more recently, only around one in 20 has been dismissed. In broad terms, does that sound correct?

Prof. Triggs: No, it does not sound correct.

Senator FAWCETT: Okay. I would appreciate it if you could come back to us with some details on that

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

The tables below contain the outcome percentages for complaints that have been finalised by the Commission in the periods 2001-2005 and 2011-2015. When complaints are finalised as conciliated, withdrawn or discontinued, the complainant does not receive a termination notice and therefore has no right to lodge an application in court. As there has been a significant increase in the number of complaints that have been conciliated over the past 15 years there has been a consequent decrease in the number of complaints that have been terminated, thereby leading to an accompanying reduction in the number of matters that are able to proceed to Court

	2011-12	2012-13	2013-14	2014-15
Terminated/declined	31%	33%	23%	23%
Conciliated	48%	45%	49%	51%
Withdrawn*	12%	13%	16%	16%

Discontinued**	8%	9%	9%	9%
Referred for reporting (AHRCA only) ***	1%	-	3%	1%

*This category includes where a complainant withdraws due to personal circumstances or where they decide not to proceed after receiving information from the respondent or being provided with information about the law and/or a preliminary assessment of the complaint.

**A complaint may be discontinued where a complainant does not respond to the Commission's attempts to contact them including after being provided with a preliminary assessment of the complaint.

***Complaints in this category could not be conciliated and were transferred from the Commission's Investigation and Conciliation Section to the Legal Section for further inquiry and possible reporting.

	2001-02	2002-03	2003-04	2004-05
Terminated/declined	55%	56%	51%	46%
Conciliated	30%	32%	38%	38%
Withdrawn	14%	11%	10%	16%
Referred for reporting (AHRCA only)	1%	1%	1%	-