Dear Mr Innes

I am writing further to my correspondence to Ms Mary Durkin of 7 March 2016, confirming that our two organisations have agreed to undertake an exchange of letters to formalise our information sharing arrangements. In line with this, I have outlined below my jurisdiction for handling complaints, the process for referring information between our organisations, and other mechanisms for maintaining an ongoing relationship between us.

I hope that the exchange of these letters will encourage information sharing between our staff and ensure that the most appropriate organisation is dealing with an issue. This in turn will ensure that aged care service users are well cared for and protected and may also lead to improved complaints handling for both organisations.

**Jurisdiction**

As the Aged Care Complaints Commissioner (Complaints Commissioner), my office has responsibility for handling complaints about Australian Government funded aged care services. Australian Government funded programmes that are within my office’s jurisdiction include:

- residential aged care services, including permanent care and respite care;
- Home Care Packages delivered on a Consumer Directed Care basis;
- flexible care where a person is receiving ‘residential care’ or ‘home care’: this includes services provided through transition care, innovative care or multi-purpose services (MPS);
- Commonwealth Home Support Programme (CHSP); and
- National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP).

My office can resolve complaints only where these relate to an approved provider’s responsibilities under the *Aged Care Act 1997* (the Act) or a service provider’s responsibilities under the Department of Health Standard Funding Agreement (or Department of Social Services Standard Comprehensive Grant Agreement). This does not include handling complaints about individual registered health practitioners or care workers.

I may decide to take no further action on a complaint where the issue(s):

- was not raised in good faith;
- is, or has been, the subject of a legal proceeding;
- is or has already been dealt with by the Complaints Commissioner or the Aged Care Complaints Scheme;

*Disclaimer:* Under the Aged Care Act 1997, the Aged Care Complaints Commissioner can use any information it receives to help perform its regulatory functions. The Aged Care Complaints Commissioner has procedures in place to ensure that personal information is protected against misuse and is not unlawfully disclosed.
relates to an event that occurred more than 1 year ago and is not ongoing; 
is subject to a coronial inquiry; or 
is better dealt with by another organisation.

I may also decide not to proceed with a complaint if a care recipient named in the complaint does not wish me to consider the complaint.

I have a range of options available to me in dealing with complaints. We take a resolution based approach and the complaints handling options range from working informally with the parties, to conciliation, investigations and/or referrals to the Department for consideration of compliance action or the Australian Aged Care Quality Agency.

As both our organisations deal with elements of the health industry, it is likely there will be some overlap in both our jurisdiction and the nature of the complaints we receive. As such, I invite you to provide me with details on your jurisdiction, including where this intersects with the responsibilities of the Australian Health Practitioner Regulation Agency.

Information sharing
I propose that an informal approach is taken to communication between our organisations. In determining whether information should be referred, or to determine the finer points of jurisdiction, I suggest that officers within our organisations are able to contact each other by telephone or email as necessary on a case by case basis. A low threshold for informal contacts will promote a freer flow of information and will also ensure that referrals are made only where appropriate.

However, where formal referrals are being made, or information that is protected under the Act or other legislation is being released, I suggest this should occur via email to the nominated contact point below. The email should clearly indicate that the information is being shared as part of a referral for consideration of further action.

Contact details:
Director, Complaints Operations NSW/ACT
Aged Care Complaints Commissioner
P: 1800 550 552
E: nsw@agedcarecomplaints.gov.au

Where part of a referral or consultation constitutes sharing of information which is protected information under section 86-1 of my overarching legislation, the Act, I note that there are restrictions on the use of that information. These restrictions mean that a person may be guilty of an offence under section 86-5 of the Act if they make a record of, disclose or otherwise use protected information disclosed to them under section 86-3(2) or 86-4 of the Act and the purpose for which the person records, discloses or uses the protected information is not the purpose for which the information was disclosed.

I trust that when protected information is released to your office that appropriate procedures are in place to ensure that this information is protected against misuse and is not unlawfully disclosed. I undertake that any personal or sensitive information that your office provides to me will be protected against misuse and will not be unlawfully disclosed.

On-going relationship
I am eager that our organisations build upon the relationship established under the former Aged Care Complaints Scheme and the longstanding collegial relationship I have had over many years with Australia's state and territory health complaints entities. Annual visits between our offices would provide an opportunity for a staff refresh about what each of us do, and talk about lessons learned over the past year. It will also provide an opportunity for
us to provide more information about the educative function of my position and to learn and understand more about your role and work.

I welcome any other thoughts that you may have regarding the relationship between our two organisations. I look forward to your response.

Yours sincerely

Rad Lamb
Aged Care Complaints Commissioner
14 April 2016