Health Ombudsman Bill 2013
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health quality and complaints commission

Level 17 53 Albert Street Brisbane Qld 4000
Mail GPO Box 3089 Brisbane Qld 4001
Phone (07) 3120 5999
Free call 1800 077 308 (outside Brisbane)
Fax (07) 3120 5998 **Email** info@hqcc.qld.gov.au
www.hqcc.qld.gov.au

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24 June 2013

Mr Trevor Ruthenburg MP
Chair, Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Ruthenburg

Health Ombudsman Bill 2013

Thank you for the opportunity to make a submission on the *Health Ombudsman Bill 2013* (the Bill). The Health Quality and Complaints Commission (HQCC) submission is attached.

As Queensland's independent health watchdog and quality champion, the HQCC supports the strengthening of the health complaints management system in Queensland. However, the HQCC has significant concerns about three areas critical to the effective operation of the Health Ombudsman:

1. **Ensuring public accountability**
   - Enshrining the independence of the Health Ombudsman in the legislation.
   - Ensuring consumer and clinical advice and input at all levels of the Health Ombudsman's governance and operations.

2. **Measuring and managing healthcare risks**
   - Maintaining the legislated duty of all healthcare providers in Queensland to improve the quality of health services as the cornerstone of the legislation.
   - Empowering the Health Ombudsman to proactively monitor patterns of healthcare provider practice, complaint trends and other healthcare performance data to identify health service safety and quality issues early and prevent another health system failure such as the one that occurred in Bundaberg in 2005.

3. **Safeguarding service levels**
   - Ensuring complaint management service standards and continuity in the transition from the HQCC to the Health Ombudsman.
   - Maintaining a skilled and experienced complaint management and investigation workforce.

To mitigate the inherent risks in the Bill and achieve the Bill's objects, the HQCC makes the following key recommendations:

Recommendation 1
Amend the Bill to ensure the independence of the Health Ombudsman by having the Health Ombudsman report directly to a Parliamentary Committee.

Recommendation 2
Amend the Bill to ensure consumer and clinical advice and input at all levels of the Health Ombudsman's governance and operations, including mandating the establishment of a Health Ombudsman advisory committee, with both consumer and clinical (industry) membership (as is the case with the Queensland Energy and Water Ombudsman, whose advisory committee has both consumer and industry representation).

Recommendation 3
Expand the main objects of the Bill to include oversight and review of, and improvement in, the quality of health services, as is currently in the *Health Quality and Complaints Commission Act 2006* (HQCC Act). This includes maintaining the legislated duty of all healthcare providers in Queensland to improve the quality of health services (section 20, HQCC Act), and empowering the Health Ombudsman to proactively gather information and monitor patterns of healthcare provider practice, complaint trends and other healthcare performance data (such as reportable events) to identify health service safety and quality issues early and prevent another health system failure such as the one that occurred in Bundaberg in 2005.

To enable the Health Ombudsman to achieve this object, the HQCC recommends the inclusion of an additional part addressing the quality of health services (see Appendix 1, Part 1 Preliminary,
Section 3 Main objects).

Recommendation 4
Review the transition arrangements outlined in the Bill to mitigate the risk of the loss of a skilled and experienced complaint management and investigation workforce and ensure service standards and continuity are maintained during the transition period.

The HQCC requests an opportunity to expand on its submission at the public hearing on the Bill (to be held in the week beginning 8 July 2013). In particular, the HQCC would like the opportunity to address the committee on the three critical areas of concern and the HQCC's key recommendations to achieve the objects of the Bill.

Yours sincerely

[redacted]

Adjunct Professor Russell Stitz
Commissioner

health quality and complaints commission

Submission on the *Health Ombudsman Bill 2013*

Prepared for the

Health and Community Services Committee

24 June 2013

Report author	Health Quality and Complaints Commission Level 17 53 Albert Street Brisbane Qld 4000 GPO Box 3089 Brisbane Qld 4001 Tel (07) 3120 5999 | Fax (07) 3120 5998 Email info@hqcc.qld.gov.au | Web www.hqcc.qld.gov.au
Date of report	24 June 2013

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Introduction

This submission has been prepared for the Health and Community Services Committee in response to the *Health Ombudsman Bill 2013*.

About the HQCC

The Health Quality and Complaints Commission (HQCC) is an independent statutory body dedicated to improving the safety and quality of healthcare in Queensland. The HQCC regulates health services under the *Health Quality and Complaints Commission Act 2006* (HQCC Act).

The HQCC works with healthcare providers, consumers and other organisations to prevent patient harm and improve service quality. To achieve its vision of quality healthcare for Queenslanders, the HQCC:

- manages complaints about health services
- investigates serious and systemic issues and recommends quality improvement
- monitors, reviews and reports on healthcare quality
- identifies healthcare risks and recommends action
- shares information about healthcare safety and quality, and
- promotes healthcare rights.

The HQCC reports to Parliament and the Queensland community through the Minister for Health and the Health and Community Services Committee of State Parliament.

Executive summary

The HQCC welcomes the opportunity to make a submission on the *Health Ombudsman Bill 2013.*

Through the Bill, the Queensland Government aims to:

- protect the health and safety of the public
- promote high standards of practice and service delivery by health service providers, and
- maintain public confidence in the State's health service complaints management system.

While the HQCC supports moves to strengthen Queensland's health complaints management system, in its current form, the Bill does not provide an effective mechanism to achieve these aims. The HQCC has major concerns about three areas critical to the effective operation of the Health Ombudsman:

1. Ensuring public accountability

- Enshrining the independence of the Health Ombudsman in the legislation.
- Ensuring consumer and clinical advice and input at all levels of the Health Ombudsman's governance and operations.

Public accountability is at the core of an effective healthcare complaints management system. An independent and impartial Health Ombudsman is the cornerstone of an external health system governance framework. There is a potential and perceived risk and conflict of interest inherent in the Health Ombudsman reporting to the Minister for Health, the Minister responsible for Queensland's largest healthcare provider.

The Bill as written contains conflicting provisions about the independence of the Health Ombudsman and the role of the Minister. For example, the Minister's role to oversee the performance of the Health Ombudsman (section 18) is contrary to sections 27 and 28, which provide that the Health Ombudsman must act independently and impartially. Further, section 28 provides that the Health Ombudsman is not subject to direction by anyone about the performance of the ombudsman's functions and limits the direction the Minister may give to the Health Ombudsman.

Recommendation 1

Amend the Bill to ensure the independence of the Health Ombudsman by having the Health Ombudsman report directly to a Parliamentary Committee.

Consumer-centred care is essential to high quality health services, and there is strong evidence that consumer-centred care can improve health outcomes by increasing safety, cost effectiveness and consumer, family and healthcare provider satisfaction.

Consumer complaints about health services offer an important opportunity for healthcare providers to reflect on and improve their services at the individual practitioner, organisation and systemic levels.

In the HQCC's experience, consumer advice and input into the governance and operations of a health complaints entity ensures high quality services.

The HQCC also recognises the importance of clinical advice and input to ensuring effective and fair decision-making on healthcare complaints and identification of potential healthcare improvements. Modern healthcare is complex and changing rapidly with the introduction of new clinical services, procedures and technologies. Expert clinical advice on the management of complaints and investigations is critical if the Health Ombudsman is to achieve the objects of the Bill.

While the Bill as written allows for the establishment of advisory committees and panels (section 29), it does not mandate these committees and panels, and little guidance is given on their role and functions. In the HQCC's view, legislated mechanisms for consumer and clinical advice, input and engagement are essential to achieve the Government's aims and ensure the Health Ombudsman operates effectively.

Recommendation 2

Amend the Bill to ensure consumer and clinical advice and input at all levels of the Health Ombudsman's governance and operations, including mandating the establishment of a Health Ombudsman advisory committee, with both consumer and clinical (industry) membership (as is the case with the Queensland Energy and Water Ombudsman, whose advisory committee has both consumer and industry representation).

2. Measuring and managing healthcare risks

- Maintaining the legislated duty of all healthcare providers in Queensland to improve the quality of health services as the cornerstone of the legislation.
- Empowering the Health Ombudsman to proactively monitor patterns of healthcare provider practice, complaint trends and other healthcare performance data to identify health service safety and quality issues early and prevent another health system failure such as the one that occurred in Bundaberg in 2005.

The transition from the former Health Rights Commission to the HQCC following the events at Bundaberg in 2005 and the two major health system reviews that followed, focused on health practitioner and health system failures. By contrast, the Bill focuses on practitioner complaints and a disciplinary approach, rather than the three key elements of effective complaint management:

1. Resolution for the complainant and healthcare provider, where achievable
2. Health service improvement at the individual health practitioner, health service organisation and/or health system levels, where identified
3. Disciplinary action against the health service provider, where appropriate.

One of the outcomes of the Forster review was for mechanisms to be built into the HQCC Act to prevent another systems failure such as the events at Bundaberg. Those mechanisms have not been included in the Bill and, in its current form, patterns of healthcare provider practice will be considered only retrospectively. Focusing on disciplinary action against health practitioners as a way of achieving the main objects of the Bill, without including robust quality improvement processes for all health service providers presents a significant risk to the Queensland community.

Currently, while awaiting the outcome of disciplinary action or where serious, systemic health service issues arise, the HQCC can require immediate remedial action through a quality improvement action plan under section 20 of the HQCC Act, which requires all Queensland healthcare providers to establish, maintain and implement reasonable processes to improve the quality of their health services. Under the Bill, should disciplinary steps be unsuccessful, the result may be that 'no action is taken' to improve health services at a practitioner, health service organisation or systemic level.

The HQCC sees the removal of the legislated duty of a healthcare provider to improve their services as a major retrograde step for Queensland. Any move back to a reactive complaint management model, with a focus on individual practitioners rather than investigating systemic failures again puts the community at greater risk of another health system failure such as the one that occurred in Bundaberg in 2005.

Recommendation 3

Expand the main objects of the Bill to include oversight and review of, and improvement in, the quality of health services, as is currently in the HQCC Act.

This includes maintaining the legislated duty of all healthcare providers in Queensland to improve the quality of health services (section 20, HQCC Act), and empowering the Health Ombudsman to proactively gather information and monitor patterns of healthcare provider practice, complaint trends and other healthcare performance data (such as reportable events) to identify health service safety and quality issues early and prevent another health system failure such as the one that occurred in Bundaberg in 2005.

To enable the Health Ombudsman to achieve this object, the HQCC recommends the inclusion of an additional part addressing the quality of health services (see Appendix 1, Part 1 Preliminary, Section 3 Main objects).

3. Safeguarding service levels

- Ensuring complaint management service standards and continuity in the transition from the HQCC to the Health Ombudsman.
- Maintaining a skilled and experienced complaint management and investigation workforce.

The transition to a co-regulatory jurisdiction primarily involves two existing agencies, the HQCC (Queensland's health complaints entity) and the Australian Health Practitioner Regulation Agency (AHPRA, which supports the national boards responsible for regulating 14 health professions).

Ensuring complaint management service standards and continuity in the transition from the existing agencies to the Health Ombudsman is vital.

While the Bill stipulates that the Health Ombudsman is the legal successor of the HQCC, the Bill makes no provision for the transition of the staff of the HQCC to the Health Ombudsman. Rather, the HQCC has been advised that the Health Ombudsman will decide the staffing of the new organisation at a yet to be determined time.

This presents the HQCC with considerable challenges in terms of maintaining a skilled and experienced complaint and investigation management workforce when there is no job certainty for staff. The HQCC has lost four key personnel since the Health Ombudsman was announced, with more staff signalling their intention to seek permanent positions outside the organisation due to lack of staff transition arrangements.

The implications for service standards and continuity are significant, with the risk that the HQCC will no longer be able to meet community demand for its services or legislated and strategic targets for the effective and efficient management of complaints and investigations. There are clear risks to public safety if the HQCC is not adequately resourced to deliver its legislated functions.

The loss of specialist staff expertise will also have a major impact on the Health Ombudsman when it comes time to recruit to the new organisation.

Recommendation 4

Review the transition arrangements outlined in the Bill to mitigate the risk of the loss of a skilled and experienced complaint management and investigation workforce and ensure service standards and continuity are maintained during the transition period.

Key recommendations

Below are the HQCC's key recommendations to improve the *Health Ombudsman Bill 2013*.

The HQCC's submissions on particular sections of the Bill are detailed in Appendix 1.

Recommendation 1

Amend the Bill to ensure the independence of the Health Ombudsman by having the Health Ombudsman report directly to a Parliamentary Committee.

Recommendation 2

Amend the Bill to ensure consumer and clinical advice and input at all levels of the Health Ombudsman's governance and operations, including mandating the establishment of a Health Ombudsman advisory committee, with both consumer and clinical (industry) membership (as is the case with the Queensland Energy and Water Ombudsman, whose advisory committee has both consumer and industry representation).

Recommendation 3

Expand the main objects of the Bill to include oversight and review of, and improvement in, the quality of health services, as is currently in the HQCC Act.

This includes maintaining the legislated duty of all healthcare providers in Queensland to improve the quality of health services (section 20, HQCC Act), and empowering the Health Ombudsman to proactively gather information and monitor patterns of healthcare provider practice, complaint trends and other healthcare performance data (such as reportable events) to identify health service safety and quality issues early and prevent another health system failure such as the one that occurred in Bundaberg in 2005.

To enable the Health Ombudsman to achieve this object, the HQCC recommends the inclusion of an additional part addressing the quality of health services (see Appendix 1, Part 1 Preliminary, Section 3 Main objects).

Recommendation 4

Review the transition arrangements outlined in the Bill to mitigate the risk of the loss of a skilled and experienced complaint management and investigation workforce and ensure service standards and continuity are maintained during the transition period.

Appendix 1
HQCC response to *Health Ombudsman Bill 2013*

Part 1 Preliminary

Section 3 Main objects

ISSUE
Achieving the main objects of the Bill.

SOLUTION
The HQCC strongly recommends the main objects listed in Section 3(1) be expanded to include a third part, namely *section 3(1)(b)(iii) oversight and review of, and improvement in, the quality of health services,* as is currently in the HQCC Act.

It is the HQCC's view that focusing on legal disciplinary action as a way of achieving the main objects without including robust quality improvement processes would result in significant risk for the Queensland community.

Currently, the HQCC can require immediate remedial action through a quality improvement action plan under section 20 of the HQCC Act, which requires all Queensland health providers to establish, maintain and implement reasonable processes to improve the quality of their health services. Under the Bill, when disciplinary steps are unsuccessful, the result may be that 'no action is taken' to improve health services at a practitioner, health service organisation or systemic level.

The HQCC strongly recommends the inclusion of an additional part in the Bill, as follows:

Part X Quality of health services

Section A Duty of provider

(1) A provider must establish, maintain and implement reasonable processes to improve the quality of health services provided by or for the provider, including processes—

(a) to monitor the quality of the health services; and

(b) to protect the health and well being of users of the health services.

Section B Health Ombudsman may ask provider for information

(1) The Health Ombudsman may ask a provider for reports, records or other information relating to the quality of health services provided by or for the provider.

(2) This section does not limit the use of coercive powers under part 15, division 5 to obtain information from a provider relating to the quality of health services provided by or for the provider.

Section C Consideration of provider's compliance with section A

(1) For deciding whether a provider is complying with section A, the Health Ombudsman may have regard to—

(a) a National Safety and Quality Health Service Standard; or

(b) whether the provider has been accredited for a relevant purpose by an entity the Health Ombudsman considers is competent to give the accreditation.

(2) Subsection (1) does not limit the matters the Health Ombudsman may have regard to.

Section D Action by Health Ombudsman for contravention of section A

(1) If the Health Ombudsman believes a provider has contravened section A it may do any of the following—

(a) advise the provider of the contravention and recommend ways for the provider to comply with the subsection;

(b) take relevant action to deal with the contravention under this Act;

(c) prepare a report about the contravention for the purpose of giving it to an entity mentioned in subsection (2);

(d) if the Health Ombudsman considers the contravention should be investigated or otherwise dealt with by an entity that has a function or power under another Act or a Commonwealth Act to investigate or otherwise deal with the contravention or a matter related to the contravention—refer it to the entity.

(2) The Health Ombudsman may give a report prepared under subsection (1)(b) to all or any of the following—

(a) the provider;

(b) an employer of the provider;

(c) an entity on whose behalf the provider is providing health services;

(d) a registration board;

(e) a professional association or other entity of which the provider is, or is eligible to be, a member;

(f) the Minister;

(g) the chief health officer;

(h) the State Coroner;

(i) an entity that has a function or power to take action on matters raised in the report.

Section E Show cause notice

(1) The Health Ombudsman must not finalise a report under section D(1)(b) relating to a contravention of section A by a provider unless the Health Ombudsman first gives the provider a notice (a show cause notice) stating the following—

(a) that the Health Ombudsman believes the provider has contravened, or is contravening, section A;

(b) an outline of the facts and circumstances forming the basis for the Health Ombudsman's belief;

(c) that the Health Ombudsman is finalising a report about the contravention (the proposed action);

(d) an invitation to the provider to show within a stated period (the show cause period) why the proposed action should not be taken.

(2) The show cause period must be a period ending at least 14 days after the show cause notice is given to the provider.

Section F Representations about show cause notice

(1) The provider may make written representations about the show cause notice to the Health Ombudsman in the show cause period.

(2) The Health Ombudsman must consider all written representations (the accepted representations) made under subsection (1).

Section G Ending show cause process without further action

If, after considering the accepted representations for the show cause notice, the Health Ombudsman no longer believes the provider contravened section A, the Health Ombudsman—

(a) must not take further action about the show cause notice; and

(b) must, as soon as practicable, give notice to the provider that no further action is to be taken about the show cause notice.

Section H Finalising report under section D(1)(b)

(1) This section applies if, after considering the accepted representations for the show cause notice, the Health Ombudsman—

(a) still believes the provider contravened section A; and

(b) believes the proposed action is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The Health Ombudsman may finalise a report under section D(1)(b) about the contravention.

(4) The Health Ombudsman must not include in the report any adverse comment about the provider unless the provider has been given a copy of the comment and given a reasonable period of at least 28 days to make a submission about it.

(5) If a provider makes a submission under subsection (4) the Health Ombudsman –

(a) must have regard to the submission before finalising the investigation report; and

(b) must not include the relevant comment in the report unless the Health Ombudsman also includes the provider's submission or a fair summary of it in the report.

Section I Finalising report under section D(1)(b) without giving show cause notice

Despite section E, the Health Ombudsman may finalise a report under section D(1)(b) about a contravention of section A by a provider without first giving the provider a show cause notice if the commission believes—

(a) the provider poses a serious potential risk to the life, or the physical or psychological health, safety or welfare, of users of the provider's services or another person, including the provider; and

(b) finalising the report and acting under section D(2) may protect the users or person.

Section J When Minister must table report

(1) This section applies if the Minister is given a report under section D(2) and, when giving the report, the Health Ombudsman asks the Minister to table it in the Legislative Assembly.

(2) The Minister must table the report in the Legislative Assembly within 14 days of receiving it.

Section 7 Meaning of health service

ISSUE
The meaning of health service.

SOLUTION
The HQCC recommends the addition of dictionary definitions for complementary medicine and alternative medicine (subsection 4(b)).

Section 7(3) states a health service includes a support service. The Dictionary in Schedule 1 defines a support service to include human resource management and information and communication technology support. Further clarification or examples as to how these services could be considered in a health service complaint is recommended.

Section 18 Ministerial role

ISSUE
The independence of the Health Ombudsman.

SOLUTION
The Minister's role to oversee the performance of the Health Ombudsman as set out in section 18 is contrary to sections 27 and 28 which provide that the Health Ombudsman must act independently and impartially. In addition, section 28 provides that the Health Ombudsman is not subject to direction by anyone about how the Health Ombudsman performs the Health Ombudsman's functions and limits the direction the Minister may give to the Health Ombudsman. These sections may cause confusion and affect public confidence in the independence of the Health Ombudsman.

In addition to its Key recommendation 1, the HQCC recommends review of sections 18, 27, 28 and 176 for consistency of approach and to ensure the independence of the Health Ombudsman.

Part 2 Health Ombudsman

Section 25 Functions

ISSUE
Public reporting on health service quality.

SOLUTION
Section 25(e) enables the Health Ombudsman to provide information to the public, health practitioners and health service organisations about providing health services in a way that minimises health service complaints, as well as resolving health service complaints.

The HQCC recommends the inclusion of an additional provision to report on health service quality and improvements, in particular improvements resulting from complaints and investigations. This would enable the Health Ombudsman to share the outcomes of its work and promote community confidence in the health complaints management system.

Part 3 Health service complaints

Section 34 Complainant may be asked to confirm complaint or give further information

ISSUE
Confirming oral complaints.

SOLUTION
Section 34(1) provides that the Health Ombudsman *may* ask the complainant to confirm the complaint in writing. The HQCC recommends that the section be revised in line with section 46 of the HQCC Act, which requires oral complaints to be confirmed in writing unless the commission is satisfied there is good reason not to. This legislative requirement is common to a number of other state health complaint entities. It enables the health complaint entity to exercise its discretion and, for example, take immediate action based on an oral complaint where there is a risk to public safety.

While the HQCC's preference is for complaints to be confirmed in writing, to ensure complaint services are accessible to everyone in the community, the HQCC does assist some people to confirm their complaints in writing and it is recommended the requirement to provide this assistance is added to the Bill. In NSW, section 9 of the *Health Care Complaints Act 1993* requires complaints be made in writing and that staff help a person to write the complaint if requested.

There are inherent risks in the Health Ombudsman acting on *all* oral complaints. For example, if incorrect or inadequate information about the complaint is recorded by the Health Ombudsman and the details are not confirmed by the complainant, this may result in an inaccurate complaint being presented to the named provider for a response. This scenario could lead to the Health Ombudsman inadvertently damaging patient/provider relationships and escalating complaint issues unnecessarily.

In the HQCC's experience, the process of putting concerns in writing assists complainants to identify the issues and the resolution outcomes they are seeking. It also enables providers to receive the complainant's concerns first-hand and assists providers to respond and resolve complaints.

Part 5 Assessment of complaints and Part 6 Local resolution of complaints

Section 48 Power to require information [assessment] and Section 54 Power to require information [local resolution]

ISSUE
Timeframes for information to be provided.

SOLUTION
Section 48 provides a power to require information in assessment within a maximum 14 day time period. Section 54 provides a power to require information in local resolution within a maximum 14 day time period. In the HQCC's experience, the 14 day time period for the giving of information will not be sufficient for many health service providers. This is particularly the case when dealing with Hospital and Health Services, as the information request is sent to a central email address and then may be subject to legal and records scrutiny before being released. Records are generally required to be obtained from the particular facility/hospital, which can delay the process. Delays also occur when medical records are voluminous. Further review may also be necessary for the purposes of the facility/hospital providing a submission in relation to the matter.

Section 49 Period for completing assessment

ISSUE
Timeframe for complaint assessment.

SOLUTION
The HQCC recommends that the statutory timeframe for completing assessment reflect that currently in the HQCC Act; 60 days for assessment with the possibility of a 30 day extension. Based upon current practice and experience, the HQCC considers a 60 day maximum assessment period will not be sufficient to properly complete an assessment, especially in complex matters.

Part 11 Conciliation

Section 140 When conciliation may happen

ISSUE
Compensation in conciliation.

SOLUTION
Section 140(4) refers to the Health Ombudsman conciliating a complaint while the National Agency is dealing with a matter under Part 9. The HQCC suggests it may be prudent to continue with conciliation only if compensation is to be pursued and the health service provider has agreed (as per section 138(3)(a)).

Section 140(6)(a) references financial settlements or other compensation in the context of conciliation conducted by the Health Ombudsman's office. It is presumed this reference demonstrates an intention to allow parties to negotiate monetary claims for damages within conciliation. This is contrary to current HQCC policy, which outlines that compensation outcomes are limited to out-of-pocket expenses and/or corrective treatment costs. These measures were implemented upon the basis that conciliation for the purpose of compensation is not a primary function of the HQCC. A damages claim in negligence generally requires consideration of legally complex issues relating to liability and quantum and are more appropriately dealt with by the courts in accordance with the applicable laws.

ISSUE
Timeframe for complaint conciliation.

SOLUTION
The Bill does not prescribe a timeframe for the completion of conciliations under the Bill. It is recommended, as per the current HQCC policy, parties are required to strictly adhere to prescribed directions and timelines with respect to progressing and completing conciliation, preferably within 12 months. In the HQCC's experience, without a timeframe and a requirement to comply with direction, conciliation matters, particularly those involving monetary claims for damages, can remain open for a number of years.

Part 14 Parliamentary Committee's role

Section 176 Committee's functions

ISSUE
The independence of the Health Ombudsman.

SOLUTION
Section 176(c) provides that the committee's functions include monitoring and reviewing the performance by the Health Ombudsman of the Health Ombudsman's functions. This provision is contrary to sections 27 and 28, which provide that the ombudsman must act independently and impartially.

In addition, section 28 provides that the Health Ombudsman is not subject to direction by anyone about how the Health Ombudsman performs the ombudsman's functions and limits the direction the Minister may give to the Health Ombudsman. Refer also to section 85(8) which provides that the committee may review the Health Ombudsman's performance of functions in relation to an investigation that has not been completed within two years after the decision to carry it out. The HQCC perceives the possibility for confusion about the independence of the Health Ombudsman as well as the potential risk of a community view that there is unilateral decision making by the Health Ombudsman without any governance oversight, as is presently provided by the Commission at the HQCC.

Part 21 Transitional

Repeal and transitional provisions in relation to the HQCC Act - other transitional provisions

Officers of former commission

ISSUE
Maintaining a skilled and experienced complaint and investigation workforce during the transition and ensuring service standards and continuity.

SOLUTION
Given the transition to a co-regulatory jurisdiction, the HQCC recommends the review of the transition arrangements outlined in the Bill to mitigate the risk of the loss of a skilled and experienced complaint management and investigation workforce and ensure service standards and continuity are maintained during the transition period.

Schedule 1 – Amendment of other acts

ISSUE
Monitoring reportable events.

SOLUTION
There are transitional provisions which amend the *Hospitals and Health Boards Act 2011* and the *Ambulance Service Act 1991* to require public and private health service facilities and the Queensland Ambulance Service to provide Root Cause Analysis (RCA) reports to the Health Ombudsman. However, it is not clear how these provisions in themselves, will benefit the Health Ombudsman in carrying out its functions.

The use of a RCA report as a review methodology for reportable events is in rapid decline. The HQCC is aware that RCA reports account for less than half of all reportable events which occur in Queensland. Reportable events are serious incidents of preventable patient harm which occur during the provision of a health service, including patient death, permanent injury or other serious harm (as defined in section 29 of the *Hospital and Health Boards Regulation 2012* and section 36A of the *Ambulance Service Act 1991).*

Since 1 July 2012, in accordance with section 21 of the HQCC Act, the HQCC has required public sector health service facilities, private health facilities and the Queensland Ambulance Service to report on all reportable events, not just those for which a RCA has been completed. Without a provision similar to section 21 of the HQCC Act in the Bill it will be impossible for the Health Ombudsman to effectively use or monitor RCA/reportable event information.

Accordingly, it is recommended provision be made in the Bill which provides the Health Ombudsman with power to request information about all reportable events, not just those events for which a particular review methodology has been selected.

In the event the Health Ombudsman does not receive RCA or reportable events reports in future, there would be no independent entity reviewing the reports and overseeing this risk across the whole health system, as there is currently. In the HQCC's experience, there is much to be gained in terms of systemic issue identification and health service improvement by monitoring and reporting on reportable events across the public and private health system.

Other matters for consideration by the Committee

Consumer and clinician engagement strategies

ISSUE
Engaging consumers and clinicians.

SOLUTION
Engagement of healthcare consumers and providers is critically important to ensure the community is aware of the role and outcomes achieved by the Health Ombudsman.

A parliamentary committee reviewed the HQCC after its first year of operation and made 37 recommendations, of which 22 related to stakeholder engagement. Consumer and clinician engagement is particularly important during the transition to a new health complaints management system. The HQCC recommends that the Bill provide for healthcare consumer and provider engagement strategies, along the lines of the *Hospital and Health Boards Act 2011*.