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3 August 2007



Mr Peter Lawlor MP  
Chair  
Health Quality and Complaints Commission Select Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Email: [Sheridan.Groth@parliament.qld.gov.au](mailto:Sheridan.Groth@parliament.qld.gov.au)

Dear Mr Lawlor

**REVIEW OF THE PERFORMANCE OF THE HEALTH QUALITY AND COMPLAINTS COMMISSION AND THE  
HEALTH QUALITY AND COMPLAINTS COMMISSION ACT 2006**

I refer to your letter dated 10 July 2007 in which you invited a submission relating to the review by the Health Quality and Complaints Commission Select Committee (the Committee), of the operations of the Health Quality and Complaints Commission (HQCC).

I note the Committee has been ordered to review and report on:

- a) The performance of the HQCC and the operation of the *Health Quality and Complaints Commission Act 2006* (the HQCC Act), including:
- b) Whether the HQCC has made satisfactory progress toward implementation of:
  - Policies, procedures and systems to resolve complaints in a timely and responsible manner;
  - Systems to monitor and report on the quality of health services;
  - Consumer engagement strategies about consumer rights and quality improvement in health services;
  - Strategies to proactively engage providers and other entities about the quality of health services, including the making of standards and quality improvement processes;
  - State-wide access to the HQCC's services for consumers and providers; and
- c) Whether the current functions and powers of the HQCC can be improved and whether any changes are required to the HQCC Act.

***Role of the Queensland Ombudsman***

The Ombudsman is an officer of the Parliament empowered to deal with complaints about the administrative actions of Queensland government departments, public authorities and local governments. My jurisdiction includes the HQCC and also public sector health service providers such as Queensland Health and the Queensland Ambulance Service. I do not have jurisdiction concerning private health service providers.

Under the *Ombudsman Act 2001*, I have authority to:

- investigate maladministration by public sector agencies in response to complaints or on the Ombudsman's own initiative;
- make recommendations to an agency being investigated about ways of rectifying the effects of its maladministration and improving its practices and procedures;
- consider the administrative practices of agencies generally and make recommendations, or provide information or other assistance, to improve practices and procedures.

If I consider that an agency's actions involve maladministration, I may provide a formal report to the principal officer of the agency. In my report, I may make recommendations to rectify the specific maladministration or to improve the agency's policies, practices or procedures with a view to minimising the prospect of problems recurring.

I may cause a report to be tabled in Parliament if:

- the issues investigated are of significant public interest; or
- my recommendations to the agency's principal officer are not implemented.

### ***Health Quality and Complaints Commission***

The HQCC has powers and functions relating to:

- monitoring, reviewing and reporting on the quality of health services;
- recommending action to improve the quality of health services;
- receiving and managing complaints about health services;
- helping users and providers to resolve health service complaints; and
- preserving and promoting health rights.

Therefore, it can be seen that my own role overlaps with the role of the HQCC, particularly in relation to the complaints function. My submission focuses mainly on this function.

The HQCC advises that it undertakes the following activities in discharge of its complaint functions:

- Receive, assess, manage and resolve health service complaints received by the HQCC in a reasonable timeframe.
- Conciliate or investigate health service complaints, and assist health service providers to develop procedures to effectively resolve complaints.
- Undertake research to inform the HQCC's other functions.

### **Resolution of complaints in a timely and responsible manner**

Chapter 5 of the HQCC Act provides a framework for the receipt, assessment and resolution of health service complaints and health quality complaints.

### ***Policies and Procedures for Resolution of Complaints***

I understand that the HQCC has prepared draft policies and procedures relating to the resolution of complaints about health service providers but has not finalised those policies and procedures. These documents are not publicly accessible through the HQCC's website.

### ***Complaints Information Systems***

We are aware that the HQCC is considering the implementation of a new information system to better manage and report on its complaints resolution activities. We understand the HQCC has

decided to use a product that is also used by my Office and we have provided assistance to HQCC based on our own use of this product.

### ***Complaints about the HQCC***

During the 2006-2007 financial year, my Office received 52 complaints about the HQCC and finalised 47 of those complaints. It should be noted, however, that a proportion of those complaints were, in fact, about decisions made by the former Health Rights Commission.

We have the discretion to decide whether to investigate a complaint or not. In 2006-2007, we declined or discontinued investigations concerning 35 complaints made against HQCC. Our primary reason for declining to investigate or discontinuing an investigation was that complainants contacted us without first having attempted to resolve their issue directly with the HQCC (19 complaints). In these cases, we referred the complainants to the HQCC so that it could internally review the decision objected to.

In relation to eight other complaints, we declined to investigate because the HQCC was still considering its decision.

None of the complaints we investigated revealed any maladministration on the part of the HQCC.

The number of complaints where the complainant was referred back to HQCC (19) suggests that people who make complaints to the HQCC and who are dissatisfied with the outcome of HQCC's handling of their complaint may not be aware that they can ask the HQCC to review its decision.

My officers held discussions with HQCC officers following its establishment and recommended to those officers that the HQCC should implement procedures for the internal review of decisions where a complainant is dissatisfied with the HQCC's initial decision. Since that time, where my Office is contacted by a complainant, who has not already asked HQCC to review its decision, we refer the complainant back to the HQCC with a request that the matter be internally reviewed. To my knowledge, the HQCC has been willing to review those decisions, though I do not know whether the complainants were satisfied with the outcome of the reviews.

I understand that the HQCC has not yet documented its internal system for reviewing complaints about its own decisions and that the HQCC's website does not provide any guidance for people who wish to make a complaint about the HQCC.

The Office of Public Service Commissioner's Directive 13/03 *Complaints Management System* requires all agencies to implement and maintain a system or systems for complaints management and for that system to be supported by written policies and/or procedures. The Directive was issued on 10 November 2006 and must be complied with within 12 months.

Public sector agencies, which do not already have a complaints management system, are working to develop and implement systems. Other agencies are reviewing their systems to ensure they comply with the OPSC's Directive by November 2007.

As part of our commitment to assist agencies to comply with the Directive, we have held workshops for State government agencies (commencing in June 2007). HQCC staff attended one of these workshops.

### ***Coordinating Investigations with Other Agencies***

In my submission to the Bundaberg Hospital Commission of Inquiry, I discussed a case investigated by my Office which demonstrated the potential for investigations of a single incident to be fragmented among a number of agencies including the then Health Rights Commission, the State Coroner, the relevant registration Boards, the health service provider and, in some cases, the CMC as well as my Office. In proposing an amended health complaints system, I suggested that a

new Health Commission should provide complainants with a "one stop shop" and that it should have jurisdiction to deal with all aspects of complaints in relation to both registered and non-registered providers in both the public and private sectors and that the Commission should be able to initiate disciplinary proceedings.

The legislation creating the HQCC did not go so far as to enable the Commission to initiate disciplinary proceedings against registered health practitioners, and these matters continue to be referred to the various registration boards. Therefore, there is an ongoing need to minimise duplication of investigative effort and the perception that complaints are being shuttled between agencies.

I am therefore pleased to note that the HQCC initiated consultation with a number of agencies with jurisdiction for health complaints (including my Office) and has drafted a Memorandum of Understanding, which I have signed. I anticipate that this document, when signed by all participating agencies, will facilitate appropriate referral of matters between agencies and productive working arrangements including the sharing of information. This will help to avoid duplication of investigative activity as well as confusion among complainants about which agency will deal with their complaint.

### **Engaging providers and other entities about the quality of health services**

#### ***Complaints Systems for Health Service Providers***

In my submission to the Bundaberg Hospital Commission of Inquiry, I suggested that both private and public sector health service providers should adopt complaint resolution processes based on the Australian Standard for Complaints Handling and that this should be made a condition of registration or licensing for each health service provider.

Section 22 of the HQCC Act provides that the HQCC may make standards about the processes a provider may adopt to comply with section 20 of the Act. Section 20 of the Act creates an obligation on providers to establish, maintain and implement reasonable processes to improve the quality of health services.

The HQCC has developed and released a Complaints Management Standard (the Standard). It has also released a *Standards Manual* designed to provide guidelines for the implementation of several Standards.

The Standard requires that health service providers implement (among other things) the Australian Council for Safety and Quality in Health Care's *Better Practice Guidelines on Complaints Management for Health Care Services*.

The *Standards Manual* indicates that the HQCC has undertaken an extensive consultation process in preparing the Standard.

I note that *Appendix 1 List of Consultations* of the *Standards Manual* mentions the Ombudsman's Office as an organisation that was either consulted or interviewed in the preparation of the Manual. My Office has no record of having been consulted in relation to the Standards in general or the Complaints Management Standard in particular and I understand that the reference to my Office was made in error. Therefore, I have not previously commented on the Standards.

In relation to the Complaints Management Standard, I make the following comments:

- Public sector health service providers, such as Queensland Health and the Queensland Ambulance Service (by way of the Department of Emergency Services) are subject to both the HQCC Standard and the Public Service Commissioner's *Directive 13/06 Complaints Management Systems*.

- The Directive specifies the minimum standards required of a complaints management system, namely:
  - Visibility and Access
  - Responsiveness
  - Assessment and Action
  - Feedback
  - Monitoring Effectiveness.
- The HQCC Complaints Management Standard outlines Process Principles which are based on the *Better Practice Guidelines* and are generally consistent with the standards in the Directive.

**Conclusion**

Should the Committee require further information or clarification of the views stated above, please do not hesitate to contact me on 3005 7002 or Assistant Ombudsman, Greg Woodbury, on 3005 7012.

Yours faithfully

David Bevan  
Queensland Ombudsman