



Submission on the strategic review of the Office of the Queensland Ombudsman

Prepared for the Legal Affairs and Community Safety Committee

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Introduction

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* (the Act).

To achieve its goal of quality healthcare for Queenslanders, the HQCC:

- manages complaints about health services
- investigates serious and systemic issues and recommend 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.

The HQCC was established as an independent and impartial agency on 1 July 2006 following the 2005 Queensland Health Systems Review (the Forster Review). The Act provides for:

- (a) Oversight and review of, and improvement in, the quality of health services; and
- (b) Independent review and management of health complaints.

The HQCC's independent review and management of health complaints is conducted in accordance with the Act and the following standards and guidelines:

- International and Australian Standard AS ISO 10002-2006 Customer Satisfaction – Guidelines for complaints handling in organisations, issued by Standards Australia in April 2006
- Better Practice Guidelines on Complaints Management for Health Care Services: Australian Council for Safety and Quality in Health Care 2004
- Australian Government Investigations Standard.

The HQCC's submission on review recommendations

Recommendation 1

The current role of the Ombudsman in the overall accountability processes of Government, including the increasing role of the Ombudsman in administrative improvement as it relates to good decision making and complaints management practices in agencies is endorsed.

The HQCC supports the current role of the Ombudsman.

Like the Office of the Ombudsman, the HQCC receives a significant proportion of enquiries that are outside of its jurisdiction.

The HQCC has partnered with the Queensland Ombudsman and its fellow complaint agencies to promote the *'It's OK to complain'* message. In addition, the HQCC promotes its specialist health complaint resolution, management, investigation and quality monitoring and improvement services to healthcare consumers, healthcare providers and the broader community.

Despite these promotional efforts, clients are not always sure which agency to approach with their concerns. Effective and efficient referral processes between agencies are essential to support clients in raising their concerns with the right agency.

Recommendation 6

The Ombudsman should ensure that any audits of complaint management systems in agencies include an examination of the effectiveness of complainant appeal processes.

The HQCC supports fair and open decision-making. Clients may apply for a decision the HQCC has made about a complaint to be reviewed.

As set out in the HQCC's *Internal review of decisions policy*, clients may request a review on the basis of new and relevant information being provided (i.e. information not available or provided at the time of the original decision) and/or on the basis of concerns about the validity, fairness, or impartiality of the original decision and assessment outcome. If a review request does not meet one of these criteria, the review is not conducted.

Clients who remain dissatisfied following the HQCC's internal review may appeal a review decision through the Queensland Ombudsman. The HQCC's policy and procedures are made available to enable the Ombudsman to independently review the HQCC's administrative decisions.

Recommendation 9

The Ombudsman should continue to explore with the heads of other agencies co-located with the Ombudsman, opportunities for a small shared call centre type facility for receipt of 'contacts' and complaints.

Recommendation 11

Consideration might also be given by the appropriate Government agencies to the setting up of a central facility for receipt of complaints generally from individuals who feel they have been adversely affected by the way a Government service is delivered to them or affected by an administrative decision of an agency.

Enquiries and complaints received by the HQCC are about healthcare, healthcare services or healthcare practitioners. Clients are often upset or grieving as a result of healthcare-related harm to themselves or a family member. The HQCC employs a dedicated team of expert triage officers, some with clinical experience, who efficiently and effectively deal with the specialist types of complaints and contacts received.

It should also be noted that unlike the Ombudsman, clients may complain to the HQCC without having previously complained to the healthcare provider. This provision ensures clients who fear retribution or feel uncomfortable about approaching a healthcare provider directly can benefit from the HQCC's expert healthcare complaint resolution and management services.

The HQCC does not support a shared call centre model as proposed on page 34 of the *Strategic Review of the Office of the Queensland Ombudsman* report (options 2, 3 and 4).

Firstly, people contacting the HQCC expect to discuss their often complex healthcare issues with staff who have the clinical understanding and complaint triage skills to appropriately respond to their complaint. It is the HQCC's view that a shared call centre facility is unlikely to be cost-effective or provide the level of specialist service needed. It is likely to result in duplication of services, delays in complaint processing and may serve to increase confusion among clients attempting to distinguish between complaint agencies.

Secondly, the HQCC is of the view that the shared call centre model does not support the independence of the Ombudsman in reviewing government agency administrative decisions.

Consider the following scenario. A client makes a healthcare complaint to the HQCC via the shared call centre. The complaint is assessed by the HQCC and closed. The client appeals the HQCC's decision. The appeal is reviewed by the HQCC and the original decision is upheld. The client wishes to complain to the Ombudsman and is then advised to telephone the same number they called originally to contact the HQCC. The client could be forgiven for questioning the independence and administrative separation of the Ombudsman when it shares a contact centre with an agency it oversees.

Independence is essential to the integrity of oversight agency complaint management. The HQCC is concerned that a combined call centre would impact the independence of the Ombudsman to oversee government complaint agencies with which the Ombudsman operates the call centre.

It is also important to note that the HQCC's independent oversight of health services extends well beyond the services of government agencies. Section 8 of the Act defines 'health service' as 'a service provided to an individual for, or purportedly for, the benefit of human health'. The HQCC regulates all health services in Queensland, including public and private organisations and registered and unregistered practitioners. A significant proportion of the complaints we receive, review, assess and investigate come from non-government areas in the form of private hospitals, private practitioners and alternative practitioners.

As they relate to the HQCC, recommendations 9 and 11 would not be practical or viable.

Recommendation 12

Consideration be given to amending the Ombudsman Act 2001 to provide the necessary power and authority for the Ombudsman to develop and set appropriate complaint management standards governing complaint management systems and for the monitoring thereof.

Recommendation 13

Consideration also be given to establishing a Complaints Standards Authority within the Office of the Ombudsman to develop, implement and monitor the standards set.

The HQCC observes the following complaint management standards:

- International and Australian Standard AS ISO 10002-2006 Customer Satisfaction – Guidelines for complaints handling in organisations, issued by Standards Australia in April 2006
- Better Practice Guidelines on Complaints Management for Health Care Services: Australian Council for Safety and Quality in Health Care 2004
- Australian Government Investigations Standard.

In addition, the HQCC's *Internal Complaints and Complaint Management Policy* aligns with:

- Directive 13/06 Complaints Management Systems, issued by the Public Service Commission, Queensland, in November 2006;
- Effective Complaints Management: Guide to developing effective complaints management policies and procedures, published by the Office of the Queensland Ombudsman in December 2006.

The HQCC is itself an independent standard setting body, having developed, implemented and monitored nine healthcare standards since its establishment in 2006. The HQCC's healthcare standards are applicable to all Queensland public and licensed private hospitals and day hospitals and also apply to individuals working in and/or for hospitals.

One of the HQCC standards covers complaints management. Since July 2007, all Queensland hospitals have been required to regularly report on their compliance with the standard. In the most recent data (submitted by hospitals in September 2011 for the period 1 July 2010 to 30 June 2011), Queensland hospital self-assessed compliance with the HQCC's *Complaints management standard* was 96%.

While the HQCC is a strong supporter of standards in driving improvement, the HQCC questions the need for additional standards, when complaints management standards already exist. The Ombudsman should carefully consider the regulatory and reporting burden the development, implementation and monitoring of standards would create in an environment of scarce resources for a system already adequately governed.

The HQCC's submission on proposed legislative amendments

Section 16(2)(b)

Make the necessary amendments to clarify that the Ombudsman has jurisdiction to investigate administrative actions of a legal adviser to the State, except where the legal adviser is acting for the State in a legal proceeding.

The legislation as it currently stands is clear and the HQCC queries the need for the proposed amendment, particularly in light of the powers afforded under s45 of the Ombudsman Act.

Amend/clarify s45(1) and/or (2) to provide that if the Ombudsman considers that there are compelling public interest reasons favouring disclosure, the Ombudsman may disclose privileged material when reporting on the results of an investigation.

The Ombudsman already receives a concession under s45 by being able to obtain otherwise privileged legal advice. Although the Ombudsman may be hampered in his reporting function by not being able to discuss legal advice relied upon by an agency, it is in the interests of good governance and the public interest that agencies are able to obtain frank and fearless legal advice, free from the possibility of that advice being published for public consumption.

Insert new s14A

Insert a new provision, similar to s14A of the South Australian Ombudsman Act 1972 that gives the Ombudsman jurisdiction to conduct a review of the administrative practices and procedures of an agency, if the Ombudsman considers it in the public interest to do so.

Insert new s23A

Insert a new provision, similar to s19A of the South Australian Ombudsman Act that gives the Ombudsman authority to direct an agency to refrain from performing an administrative act for a specified period.

The HQCC supports audit processes for quality improvement.

Oversight of the HQCC is already provided by a bi-partisan parliamentary committee, the Health and Community Services Committee, which has responsibility for monitoring and reviewing the performance of our agency, as well as the Family Responsibilities Commission and the Commission for Children and Young People and Child Guardian.

Making and publishing standards

Insert a new provision giving the Ombudsman power to make and publish complaint-handling standards for the public sector.

See the HQCC's comments about Recommendations 12 and 13.