

HEALTH CARE COMPLAINTS COMMISSION INFORMATION GUIDE



About us

The NSW Health Care Complaints Commission was established by the *Health Care Complaints Act 1993* as an independent body to protect the health and safety of the public by dealing with complaints about health service providers in NSW, including:

- ▶ registered health practitioners such as medical practitioners, nurses and dental practitioners
- ▶ unregistered health practitioners such as naturopaths, massage therapists and alternative health care providers
- ▶ health organisations, such as public and private hospitals, and medical centres.

The Commission:

- ▶ responds to inquiries from health consumers
- ▶ assesses complaints about health service providers
- ▶ assists in the resolution of complaints
- ▶ investigates complaints that raise serious issues of public health and safety
- ▶ takes action in relation to unregistered health practitioners
- ▶ prosecutes serious complaints against registered health practitioners.

In exercising its functions the Commission's main consideration must be the protection of the health and safety of the public.

In addition to these complaint-handling functions, the Commission informs the public and its stakeholders about its work.

Guiding principles

The *Health Care Complaints Act* provides a set of principles that require the Commission to:

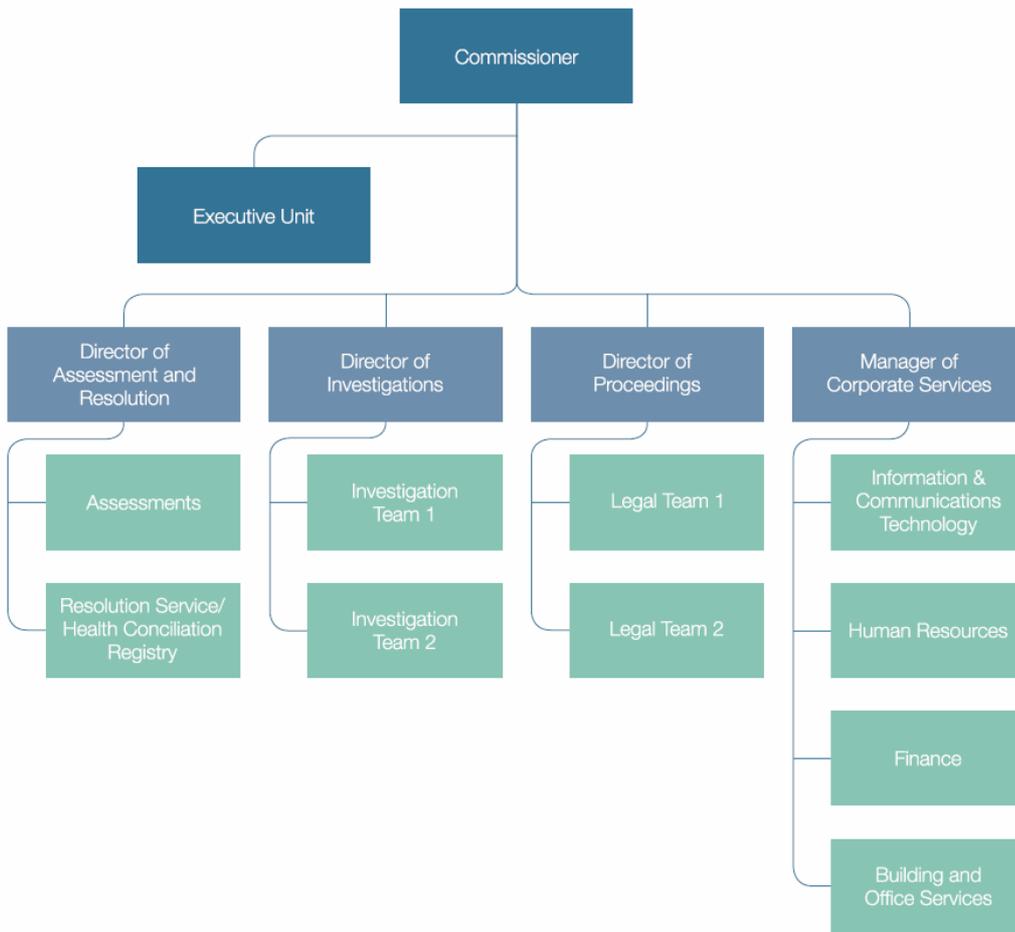
- ▶ be accountable
- ▶ be open and transparent in its decision making
- ▶ maintain an acceptable balance between the rights and interests of clients and health service providers
- ▶ be effective in protecting the public from harm
- ▶ strive to improve efficiency
- ▶ be flexible and responsive.

These principles are reflected in the Commission's Code of Conduct and Code of Practice, both of which are available on the Commission's website.

Organisational Structure

The Health Care Complaints Commission is led by the Commissioner supported by an Executive Unit. There are four operational divisions:

- ▶ Assessment and Resolution
- ▶ Investigations
- ▶ Legal
- ▶ Corporate Services.



Corporate objectives

The Commission's corporate objectives guide the way we operate. These objectives are:

Comprehensive and Responsive Complaint Handling

- ▶ Efficient and timely processing, assessment and resolution of complaints and review processes

Investigate Serious Complaints

- ▶ Ensure a best practice approach for the conduct of all investigations
- ▶ Support improvements to patient care in health care delivery through recommendations arising from investigations

Prosecute Serious Complaints

- ▶ Independent and timely prosecutions
- ▶ Professional and competent prosecutions of serious complaints in the public interest

Accountability

- ▶ Provide timely, accurate and relevant reporting to the Minister and the Parliamentary Joint Committee
- ▶ Promote and publicly report about the work of the Commission

Our Organisation

- ▶ Continue to develop as a learning organisation that embraces a culture of continuous improvement, sharing of knowledge and promotes a productive, safe and satisfying workplace
- ▶ Monitor performance to ensure work quality, organisational development, good governance and effective resource management

Parliamentary Oversight

Under the *Health Care Complaints Act* a Joint Parliamentary Committee on the Health Care Complaints Commission exercises oversight functions, including:

- ▶ Monitoring and reviewing the exercise by the Commission of its functions under the *Health Care Complaints Act* or any other Act
- ▶ reporting to both Houses of Parliament on any matter appertaining to the Commission or the Commission's functions
- ▶ examining each annual and other report made by the Commission, and to report to both Houses of Parliament on any matter arising out of any such report
- ▶ reporting to both Houses of Parliament any change that the Joint Committee considers desirable to the functions, structures and procedures of the Commission

The Joint Parliamentary Committee is not authorised to:

- ▶ re-investigate a particular complaint
- ▶ reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint
- ▶ reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.

Minister for Health

The Commission is subject to the control and direction of the Minister but the Minister cannot direct or control the Commission in relation to its handling of complaints, including:

- ▶ the assessment of a complaint
- ▶ the investigation of a complaint
- ▶ the prosecution of disciplinary action against a person
- ▶ the terms of any recommendation of the Commission
- ▶ the contents of a report of the Commission, including the annual report.

Functions of the Commission that affect the public

The Commission's decision making functions that may affect members of the public are those in relation to the handling of complaints against health providers. Detailed information about how the Commission manages complaints is included in the Commission's Annual Report.

The Commission is responsible for the administration of the *Health Care Complaints Act*. In carrying out its role under the act the Commission has broad powers to assist in the assessment and investigation of a complaint, including the power to obtain information, records or evidence from any person that the Commission believes may assist in the assessment of investigation of a complaint. The Commission may also apply for a warrant to enter, search and seize property or records if it is necessary for the purpose of investigating a complaint. These powers are clearly laid out in the *Health Care Complaints Act*.

The Commission's Senior Executive Management Group makes the

Commission's major management, financial and policy decisions. Membership of the Group is set out in the Commission's Annual Report.

Decisions regarding the functions of the Commission are made at various levels, usually under delegation from the Commissioner.

Decisions regarding the prosecution of registered health practitioners are made by the Commission's Director of Proceedings, who is independent from the direction of the Commissioner in this regard.

Members of the public may be involved in the Commission's investigations into health services. As complainants, health service providers or witnesses, they may be subject to the exercise of statutory powers by the Commission.

Public participation

The community participates in policy formulation through the Commission's Consumer Consultative Committee.

From time to time the Commission will seek public comment to assist in the development of policies. The Commission sought public submissions regarding the development of its Code of Practice in 2008, as required under section 80(1)(j) of the *Health Care Complaints Act*.

The public can participate in the way the Commission exercises its functions through submissions or representations to the Joint Parliamentary Committee. The Committee regularly reviews the Commission's annual reports and holds inquiries into the functions of the Commission. These inquiries are open to public comment and/or submission.

Types of Information held by the Commission

The Commission holds information in relation to the administration of the Commission and its resources, such as, its Corporate Plan, Annual Reports and Strategic Plans. The Commission also has a number of corporate policies that affect the public, including, but not limited to, the Commission's Code of Conduct, Code of Practice, Disability Action Plan and Aboriginal Service Plan.

The Commission publishes various types of information in relation to the handling of complaints. This information is arranged into the most common groups of people that interact with the Commission being; health consumers, health providers, and experts assisting the Commission in its decision-making.

This information is in the form of Information Sheets, Brochures Reports and Posters, and is available on the Commission's website.

Frequently Asked Questions

The Commission has also compiled responses to a list of frequently asked questions about the Commission and how it deals with complaints. These are available on our website.

Audio Visual Information

The Commission has produced eight short information videos explaining what happens with complaints it received. Each video explains a different part of the complaint process. The videos are aimed at enhancing both health consumers' and health providers' understanding of the Commission's role and processes.

To assist people with hearing

impairments the videos are available with English subtitles, and have also been translated into the Australian Sign Language (AUSLAN).

Information in a Foreign Language

Information about the Commission and its services is available in 20 community languages. This includes:

- ▶ Complaint form
- ▶ Concerned about your health care?
- ▶ Resolve concerns about your health care

A number of the Commission publications are also available in ten community languages, including:

- ▶ Code of conduct and notice to display : unregistered health practitioners
- ▶ Assisting you to resolve your complaint
- ▶ Conciliating your complaint

Decisions

The Commission publishes decisions in relation to proven complaints against health practitioners or health organisations in the following categories:

- ▶ Tribunal decisions
- ▶ Professional Standards Committee decisions
- ▶ Relevant court decisions
- ▶ Decisions regarding unregistered health practitioners
- ▶ Public Warnings

Under the *Health Care Complaints Act* the Commission has an obligation to make publicly available a statement of a decision of a tribunal in matters where

the complaint prosecuted has been proven or admitted in whole or in part. The Commission does this by issuing a media release on its website regarding its prosecutions and providing a link to the relevant tribunal decision.

The Commission has the power to impose a prohibition order and/or to issue a public statement in relation to unregistered health practitioners where it finds a breach of the code of conduct for unregistered health practitioners. These public statements made by the Commission are published on the Commission's website.

The Commission can also warn the public about a treatment or health service where it believes that this service poses a risk to public health and safety. Warnings made by the Commission are published on the Commission's website.

Accessing Information held by the Commission

Open access information held by the Commission can be downloaded free of charge via the Commission's website (www.hccc.nsw.gov.au) or by request at the Commission's Office.

Arrangements can be made to obtain or inspect documents available under the *Government Information (Public Access) Act 2009* by contacting the Executive Officer of the Commission.

Information relating to the Commission's complaint handling, investigative, complaints resolution and reporting functions (including any functions exercised by the Health Conciliation Registry) is excluded information for the purposes of the

Government Information (Public Access) Act. Documents relating to these functions are not publicly available and an access application cannot be made for this information under the *Government Information (Public Access) Act.*

Contacting us

Office address

Level 13
323 Castlereagh Street
Sydney NSW 2000

Business hours

Monday – Friday
9.00am – 5.00pm

Postal address

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Strawberry Hills NSW 2012

Document exchange service

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Sydney Downtown NSW

Contact details

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Telephone typewriter: (02) 9219 7555
Email hccc@hccc.nsw.gov.au
Website www.hccc.nsw.gov.au

Open access contact

Executive Officer
Telephone: (02) 9219 7444
Email media@hccc.nsw.gov.au

If further information is required reading the Commission's open access obligations, or to request an external review or make a complaint about the Commission's handling of open access applications the public can contact the

Office of the Information Commissioner NSW.

Office of the Information Commissioner NSW

Email ipcinfo@ipc.nsw.gov.au

Phone 1800 472 679

Fax (02) 8114 3756

Post GPO Box 7011, Sydney NSW 2001

In-person Level 11, 1 Castlereagh Street, Sydney

The Office of the Information Commissioner office hours are 9am to 5pm, Monday to Friday.

If you are deaf or have a hearing or speech impairment, call the National Relay Service (NRS) on 133 677 for assistance.

If you need an interpreter, call the Translating and Interpreting Service (TIS) on 131 450 for assistance.