

# HEALTH CARE COMPLAINTS COMMISSION CODE OF PRACTICE



## About the Commission

The Health Care Complaints Commission was established in 1994 as an independent body to deal with complaints about health service providers in NSW.

The scope of our work is governed by the *Health Care Complaints Act 1993* (the Act). We strictly comply with the provisions of the Act.

## Why have a Code of Practice

The Code of Practice provides practical guidance on the way we carry out our functions. The Code of Practice has been developed through consultation with representatives from consumer organisations, health services, employees of health employers and other government agencies.

The Code of Practice does not replace the provisions of the Act nor any other current legislation.

The Code of Practice will be modified periodically to reflect changes in experience and public interest.

## To whom the code applies

The Code of Practice applies to all staff of the Commission, including the Commissioner, the Directors and Managers, the Health Conciliation Registrar and the Director of Proceedings.

The Code of Practice also applies to all consultants engaged by the Commission.

## Objective

The Commission independently deals with complaints about health service providers in NSW by assessing and resolving complaints when possible. We also investigate and prosecute serious complaints.

We consult closely with the health professional councils in NSW when handling complaints to ensure the best possible protection of the public health and safety.

In exercising our functions as an independent body, our primary objective is the protection of the health and safety of the public.

## The services of the Commission

### Responding to inquiries

We respond to inquiries by people concerned about health service provision by an individual health practitioner or health service organisation.

Our Inquiry Service provides information to potential complainants and discusses strategies on how to resolve their concerns without the need to lodge a formal complaint.

The Inquiry Service may suggest more appropriate avenues to address concerns.

The Inquiry Service may assist a person to lodge a complaint with the Commission.

# HEALTH CARE COMPLAINTS COMMISSION CODE OF PRACTICE

## Assessing complaints

We assess complaints about health service provision in order to determine the most appropriate way to deal with the concerns.

During the assessment, we obtain all information needed to determine the most appropriate action, if any, to take in order to deal with the complaint.

## Resolving complaints

We aim to resolve those complaints that do not raise significant issues of public health and safety that would warrant investigation.

We may be able to resolve complaints during the assessment phase by providing the response of the health service provider to the complainant and thus satisfy their need for clarification.

We may also refer complaints for resolution with the assistance of one of the Commission's Resolution Officers, which may involve formal conciliation.

## Investigating complaints

The Commission must investigate complaints that raise significant issues of public health and safety or significant questions about the care provided.

In relation to registered practitioners, we must investigate complaints that, if substantiated, would provide grounds for disciplinary action or involve gross negligence.

The Commission also investigates health practitioners who are not required to be registered, when evidence suggests that they have breached the Code of Conduct for unregistered health practitioners and are a risk to the public health or safety.

When we investigate serious complaints against health organisations, we may

finalise the investigation by making recommendations to the provider. Recommendations are aimed to instigate long-term improvements in health services. In such cases, the critical issue is of systemic nature and not the conduct of an individual practitioner.

Investigations are conducted in a timely, independent, impartial manner. We respect the rules of procedural fairness and provide a fair opportunity to respond to any proposed adverse outcomes.

## Reviewing complaints

We respect the right of complainants to request a review of the Commission's decision regarding their complaint.

We review our assessment of a complaint while dealing with it.

We may also review and amend both the issues raised in a complaint and the persons involved in a complaint, whenever this is supported by new relevant facts.

## Prosecuting serious complaints

The Commission prosecutes complaints against individual practitioners where the Director of Proceedings has made an independent determination in accordance with statutory criteria that a complaint should be prosecuted before a disciplinary body.

The Director of Proceedings determines the most appropriate forum for disciplinary proceedings taking into account

- ▶ the evidence gathered during the investigation
- ▶ the nature of the complaint
- ▶ the likely outcomes.

In conducting all prosecutions and other

# HEALTH CARE COMPLAINTS COMMISSION CODE OF PRACTICE

legal proceedings, the Commission acts with complete propriety, fairness and in accordance with the highest professional standards.

## Our Values

We acknowledge that the trust and confidence of the public are essential to our role. We therefore set for ourselves a high standard of professionalism and place ethical conduct at the core of our operations.

Our work is based on the following core values adopting the principles set out in section 3A (5B) of the Act. The Commission strives to be:

### Independent

The Commission acts independently by handling complaints without direction from any person or body.

### Accountable

We are accountable for our work.

We report to the general public about our work and trends in complaints in our Annual Report.

We regularly report to the Minister for Health, the Joint Parliamentary Committee on the Health Care Complaints Commission, and professional and key consumer bodies.

The Joint Parliamentary Committee on the Health Care Complaints Commission oversees the management of our processes. The Commissioner is responsible to the Minister for Health for the management of the Commission.

### Accessible, flexible and responsive

People from all parts of the community should feel confident that they have a complaints body that is accessible, impartial and available. We ensure the

accessibility of our services to everyone, and will act with flexibility in order to accommodate special needs. This includes:

- ▶ Assisting people with disabilities (accessibility of the building, TTY access).
- ▶ Providing information about the Commission in 20 community languages for people from non-English speaking backgrounds, and arranging interpreting and translation services when required.
- ▶ Helping people to lodge a complaint, when required.

We aim to be responsive to changes in the health care system.

### Open, clear and understandable

We deal with everyone without bias and in a fair, co-operative and respectful manner.

We handle complaints impartially, considering the rights and interests of both clients and health service providers. In the process of determining the most appropriate action in dealing with a complaint, we act on all relevant evidence.

### Timely and effective

We thoroughly assess complaints to be effective in protecting the public from harm.

We perform our work in a timely manner and respect the statutory timeframes set out in the Act.

### Confidential

We observe and respect the privacy of parties to complaints and others and act strictly within the framework of relevant legislation.

# HEALTH CARE COMPLAINTS COMMISSION CODE OF PRACTICE

## Comments on our service

We encourage comments on our services from those involved in a complaint process.

We also invite you to provide your general feedback, by sending your compliments or complaints to [hccc@hccc.nsw.gov.au](mailto:hccc@hccc.nsw.gov.au) or LMB 18, STRAWBERRY HILLS NSW 2012.

You can also call us on 9219 7444 or toll free on 1800 043 159. You can also use the online feedback form available at [www.hccc.nsw.gov.au](http://www.hccc.nsw.gov.au).

## If you are dissatisfied with the outcome of your complaint

As a complainant, you may request in writing a review of the Commission's assessment decision on your complaint. The request should be made within 28 days of receiving the letter notifying you of the assessment decision. Please address your request for review to the Director of Assessment or the Commissioner.

If your complaint was investigated and you are dissatisfied with the outcome of the investigation into an individual health practitioner, you may request a review of the Commission's decision. Please address your request for review to the Director of Investigation or the Commissioner.

## If you are dissatisfied with the Commission or its staff

Please write your complaint to the Commissioner, if you:

- ▶ are dissatisfied with way the Commission handled your complaint
- ▶ are dissatisfied with the conduct of a Commission staff member
- ▶ believe that this Code of Practice has been breached.

We will properly investigate your complaint and take appropriate action. If we cannot satisfy your concerns, we will advise you of other ways to pursue your complaint.