



The Hon Jillian Skinner MP
Minister for Health
Minister for Medical Research

D14/04944
LAC12/093



Ms Ronda Miller
Office of the Clerk of the Legislative Assembly
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Miller

**Report No. 2/55 of the Committee on the Health Care Complaints Commission –
Inquiry into Health Care Complaints and Complaint Handling in NSW**

Thank you for the invitation to provide a response to Report No. 2/55 of the Committee on the Health Care Complaints Commission – Inquiry into Health Care Complaints and Complaint Handling in NSW.

NSW Health's response to the Report's recommendations is attached.

Should you wish to discuss this matter further, please contact Mr Ian Willock, Principal External Relations Officer, Strategic Relations and Communications Branch, on 9391 9565.

Yours sincerely

Jillian Skinner MP

NSW Health Response

Report No. 2/55 of the Legislative Committee on the Health Care Complaints Commission – Inquiry into Health Care Complaints and Complaints Handling in NSW

Overview

NSW Health is committed to providing high quality, safe health care for the NSW community. Suggestions, complaints and compliments provide unique feedback on the quality of health care from the perspective of patients, families and carers with individual and collective views highly valued to support improvements in care.

The NSW public health system supports all aspects of health care from promotion of healthy lifestyles to individual treatment for acute/chronic disease or end of life care. The framework for resolution of complaints or concerns about health care provided by the public health system is comprehensive. Accreditation mechanisms, including standards on complaints management, support this framework. Recording and reporting systems along with specific performance measures monitored at a state and local level are also critical elements.

Every NSW hospital has a contact point for complaints with at least one patient representative available in each local health district to support patients, families and carers who seek information about their care or wish to make a complaint. Where a serious adverse event occurs, the local hospital establishes a team to review what happened and to begin the process of open disclosure, where clinicians are able to apologise and update the patient and family on actions being taken to review and investigate the event.

When a complaint is made it is registered into the state wide Incident Information Management System. This system provides a comprehensive mechanism to enable incidents to be notified, with complaints reviewed locally to ensure that any lessons for future care are actioned.

Should a complaint not be able to be managed by the local health service, escalation is available at the local health district or state level. If escalated, local health districts (LHDs) investigate and attempt to resolve the complaint to the satisfaction of the complainant and the health service involved. The local health district also ensures that any complaints requiring referral to the HCCC or other statutory organisations have been undertaken. Where complaints involve serious adverse events relating to clinical care, clinical governance units in each local health district are available to support these processes as part of the state-wide Patient Safety and Clinical Quality Program.

In local health districts, improvement to complaints handling is supported through review of performance by local clinical councils and district quality committees. There is also strong community input through local health advisory councils, who are involved in the development of Community and Consumer Participation Frameworks which also assist in reducing complaints.

There are a number of state level NSW Health organisations supporting improved consumer feedback and complaint management processes:

The NSW Clinical Excellence Commission works closely with local health districts/networks to promote and support improvements in patient safety and clinical quality. Concerns on serious adverse events relating to clinical care are reviewed by the Clinical Excellence Commission (CEC) through their State Clinical Risk Review Committee structures. If the CEC receives complaints about individuals, or organisations, these are

referred to the appropriate local health district, other NSW Health services or the Ministry of Health for investigation.

The Clinical Excellence Commission Patient Based Care Challenge includes a specific strategy for local health districts to encourage the use of patient feedback to drive improvement. This Program promotes the use of patient feedback from a range of sources to gauge service quality. It encourages services to implement real-time feedback to staff to enable patient issues to be addressed during care with the aim of improving care experience and preventing complaints. NSW local health districts sign up to the Challenge as a strategic first step towards a long term commitment to transforming patient based care.

The Bureau of Health Information provides independent reports on the performance of the NSW public health system, including safety and quality, effectiveness, efficiency, cost and responsiveness of the system to the health needs of the people of NSW. The Bureau administers the NSW Patient Survey Program which gathers information from patients across NSW about their experience with services in hospitals and other healthcare facilities. The survey results are used to highlight the aspects of care that are important to the community, to identify where individual hospitals are doing well and where improvements could be made.

The Health Education and Training Institute has developed online learning modules which assist health staff in handling complaints at hospital and District level. Units that are available online include: conflict resolution and skills to conduct critical conversations; communicating with patients and families around difficult situations; understanding privacy issues and obligations in relation to the collection and security of personal health information.

The NSW Ministry of Health: Patients and families/carers can submit comment direct to the Director General or Minister for Health on any concern. Written and verbal feedback is facilitated through the NSW Health website with all Ministerial correspondence logged and responded to within agreed timelines. Complaints are assessed for local or state investigation with referrals to the HCCC; relevant health professional councils; Workcover; Ombudsman; Privacy Commissioner or the Independent Commission against Corruption as necessary.

The Ministry responds to requests for information that may arise from any HCCC investigation and assists in the implementation of recommendations made by the HCCC where these are supported. In addition, as part of the Service Agreement with each NSW Health local health district, the Ministry monitors performance on complaints handling process through key performance indicators.

NSW Health Professional Councils manage concerns about the performance, conduct and health of individual health professionals registered under national health practitioner registration laws. This includes receiving complaints, administering impairment and performance programs, publishing policies and other resources related to conduct, standards and regulations. The Councils work with the HCCC in a NSW based co-regulatory system that operates within the national law framework, but in accordance with NSW standards and processes.

The Health Care Complaints Commission acts to protect public health and safety by investigating complaints about health service providers in NSW. The HCCC plays an important role in maintaining, promoting and improving health standards and the quality of health care services in New South Wales. The HCCC also undertakes education of health staff to support better management of patient complaints locally and this action is highly valued by the health system.

The system for managing feedback across all NSW Health organisations reflects a consumer-focused health service where the flow of information serves to identify areas for improvement and any system failures or practitioner issues that require attention.

The principle of early intervention in the complaint process not only supports patients and their families/carers in providing appropriate and immediate resolution to concerns, but assists in ensuring the type of complaint referred to the HCCC, or other public organisation, is appropriate for that level of investigation.

Report No. 2/55 of the Legislative Committee on the Health Care Complaints Commission – Inquiry into Health Care Complaints and Complaints Handling in NSW – Response to Recommendations

Recommendation One

That a best practice model for the handling of complaints be devised by the Ministry of Health for adoption by each of the Local health districts. Although the Committee recognises that particular policies could be retained that are unique to the needs of each District, a core standard should be devised to ensure a measure of consistency for the handling of complaints at a hospital and District level.

NSW Health Response:

NSW Health has a comprehensive complaints handling framework that encompasses roles and responsibilities for health services; state wide policies and guidelines that govern processes and procedures for complaints management; training and accreditation mechanisms, and performance measures to ensure accountability.

A focus across NSW Health organisations has been to encourage complaints to be addressed at the point of care with the relevant clinician or health care service involved. This immediacy is preferred by consumers and is supported through NSW Health policies, including those dealing with requirements for open disclosure and apology following serious adverse events.

At present, a core national standard currently exists for managing complaints and incidents: *Standard 1: Governance for Safety and Quality in Health Service Organisations* includes the criterion *Incident and Complaint Management* which refers to the management of complaints in acute health services. In this criterion, Action 1.15 states: *Implementing a complaints management system that includes partnership with patients and carers*. Health services continue to work to meet these standards with all NSW acute health services being assessed against Standard 1 by the end of 2014.

All acute health services are required to undergo assessment against the standards by an independent accreditation organisation. It is mandatory for all acute health services in NSW (public and licensed private facilities) to achieve national accreditation by meeting the National Safety and Quality Health Service Standards. As part of accreditation, services are required to demonstrate: establishment of complaints processes; systems to analyse complaints; feedback to staff; and the highest level of governance for reviewing patient feedback, including complaints.

A suite of policy directives and guidelines also govern processes and procedures for complaints management across all health services:

- *Your Health Rights and Responsibilities PD2011_022* provides advice for patients, families, carers and visitors to comment on health care and have any concerns dealt with properly and promptly.
- *Complaints Management Policy PD2006_073* outlines broad staff responsibilities and processes for handling complaints.
- *Complaint or Concern about a Clinician - Management Guidelines GL2006_002* outlines the responsibilities of local health districts (LHDs) when dealing with a complaint or concern about an individual clinician.
- *Incident Management Policy PD2006_030* outlines processes for timely and effective management of health care incidents, including incidents covered by legislation.
- *Open Disclosure Policy PD2006_069* establishes a standard, direct approach in communicating with patients, families/carers and other stakeholders after incidents involving potential injury, damage, loss or other harm to patients.

All local health districts have Patient Representatives and/or Patient Liaison Officers in place to handle local hospital patient complaints. If resolution is not able to be achieved, the person is referred for mediation with District officers and/or the Health Care Complaints Commission for assessment under the Health Care Complaints Act.

Recommendation Two

That the Commissioner identify and report any apparent trend or disparity with respect to the nature or quantity of complaints lodged by regional health consumers when compared with metropolitan health consumers.

NSW Health Response:

The Health Care Complaints Commission will consider including information on trends in complaints, with respect to rural/regional and metropolitan health consumers, in its Annual Report 2013-14. The Commission can provide the Committee with a detailed report on request.

Recommendation Three

That the Commission, or NSW Health through the Bureau of Health Information, undertake a survey to gauge regional consumer approaches to complaints, including seeking responses in regard to fears of retribution and lack of alternative health practitioners, to determine whether complaints from regional health consumers have been inhibited by these concerns.

NSW Health response:

Every effort is made to encourage feedback from patients and consumers and there are a range of mechanisms in place to support the lodgement of formal complaints. However, people may choose not to use these mechanisms at the time they receive care for many and varied reasons.

While the Commission advises that its complaint statistics do not indicate that there are major differences in willingness to complain between metropolitan and regional consumers, NSW Health supports research to determine if the rate of complaints from regional consumers is impacted by fear of retribution or lack of alternate health practitioners.

In 2010, the NSW Population Health Survey included extra questions for people who rated the service they had attended as fair or poor. The questions asked were *“Did you report your concerns to: the provider directly, the management of the facility, an area health service, the Health Care Complaints Commission, friends and family, a lawyer, someone else, or no one and if not “Why didn’t you report your concerns: Was it: not aware of complaint mechanism/body; fear of negative impact on future health service delivery; uncertain whether a complaint would be justified, or other?”*

The survey results showed no difference in responses between rural/regional and metropolitan LHDs. The majority of people who had accessed services in the previous 12 months and assessed them as fair or poor, did not report their concerns^{1,2}. In those who did not report their concerns the main reasons for not doing so included uncertainty whether a complaint would be justified; and I am *“not one to complain”*.

¹ (36.0% public hospital; 62.3% emergency departments; 67.6% general practice; 76.7% public dental services; 63.4% community health services, and 68.6% specialist consultations)

² The survey was a population health survey of respondents who had accessed services in the previous 12 months and assessed them as fair or poor. As numbers were generally low, caution is recommended in reliability of results.

The NSW Bureau of Health Information administers the state-wide Patient Survey Program. The program includes specific surveys for adults admitted to public hospitals, patients attending emergency departments, outpatients and children and young people admitted to public hospitals. The survey is mailed to a sample of patients receiving these services. Further detail is provided at the response to Recommendation Seven below.

The BHI will review how future surveys could include a question to ascertain whether a person lodged a complaint, or wanted to lodge a complaint, but did not and the reasons why they did not. The responses to such a question would enable assessment of any differences in views of rural/regional and metropolitan health consumers.

Recommendation Four

That the Commissioner collect, retain and compile data on the origin of health consumers who lodge consumer satisfaction surveys, and publish the results either in the Annual Report or Quarterly Report, or both. To ensure the identity and privacy of a complainant is maintained, the Committee recommends that the data pertaining to the origin of health consumers who lodge a complaint be limited to discrete categories of 'regional' or 'metropolitan'.

NSW Health response:

The HCCC advises that since July 2012, the Commission has used its case file references to enable a link of customer service feedback to the relevant complaint. As a result, the Commission will investigate options for the possibility of reporting the results of its client feedback by rural/regional and metropolitan responses in its Annual Report 2013-14.

Recommendation Five

That the Commissioner formulates a protocol to deal with complaints made as a result of extraordinary circumstances, such as a fatality, that investigation of that complaint be expedited as a matter of priority, and that there be an increased engagement with the affected parties.

NSW Health response:

The HCCC advises that the Commission has detailed procedure manuals that guide staff through the correct process for managing complaints.

However, following the recommendations of the Joint Standing Committee, the Commission amended its procedure manuals to provide for increased engagement and communication with affected parties in extraordinary circumstances; including for matters to be expedited if necessary.

Recommendation Six

That the Commission continue its training and outreach activities, and continue to undertake activities that bring Local health districts within the Commissioner's ambit.

NSW Health response:

The Commission is independent of local health districts and has both the private and public health sectors in its purview. To support improvement in the public health sector, the Commission conducted information and training days for over 200 complaint-handling staff from LHDs across NSW during 2012. The Commission is currently engaged in a further round of visits to each of the local health districts, meeting with executive staff and providing workshop/training for front line complaint handling staff. The Commission is also organising webinar sessions to offer further engagement across LHDs.

In addition to the Commission's activities, the Health Education and Training Institute has developed online learning modules which support Health staff in handling complaints at hospital and District level. Units available online include:

- Conflict Resolution - encourages and supports effective workplaces where Health staff feels empowered to address minor conflict in a productive and respectful way.
- Critical Conversations - skills covered include the ability to understand the characteristics of a critical conversation; prepare an opening statement for a critical conversation; prepare Health staff for the conversation to take place and develop an action plan for managing expectations; defining the risk factors, and identifying the critical conversation.
- Foundations: Communicating with challenging patients, families and peers – supports health professionals in effectively managing situations involving difficult communication with patients, family members or colleagues.
- Foundations: Expressing Opinions Competently and conflict resolution - introduces health professionals who are new to NSW Health facilities to the Expressing Opinions Competently and Conflict Resolution Program. It covers skills to build and maintain healthy workplace relationships and identify situations likely to lead to disagreements and conflict and have strategies to prevent or resolve them.
- Privacy – Know your boundaries – available to all staff who work, study or volunteer within NSW Health to help set boundaries in the sharing of personal information.
- Privacy – Handling personal health information - provides an awareness of privacy obligations in relation to the collection and security of personal health information.

Recommendation Seven

That in its rollout of new surveys the Bureau of Health Information collect data on consumer satisfaction with complaint management processes within the systems offered by NSW Health, and aggregate the data by Local health district.

NSW Health response:

NSW Health has already made a large investment in collecting, monitoring and managing consumer feedback. Every LHD Service Agreement with the Ministry of Health includes a benchmark for complaints management – a minimum of 80% of complaints resolved within 35 days. Generally performance of LHDs exceeds this benchmark. Performance against this target is reviewed monthly with the Clinical Excellence Commission following up any *below benchmark* performance. General performance on meeting consumer and patient satisfaction with complaint systems is also assessed with all health services required to meet National Safety and Quality Health Standards (*refer response to Recommendation One*).

Research has demonstrated that it is best to address patient concerns at the point of care, rather than after any event that causes concern.³ The most effective way to ensure concerns are addressed at the point of care is to encourage and support patient and consumer feedback in real time. National and international health systems are considering how best to achieve this and there is movement toward both real time feedback and Patient Reported Outcome Measures (PROMs).⁴

Both of these approaches are being progressed in NSW with patient feedback and patient informed decision making included as key elements of the NSW Health model of integrated

³ Mello M et al. Communication and Resolution Programs: The Challenges and Lessons Learned from Six Early Adopters. *Health Affairs*, 33, no 1 (2104) 20-29. <http://content.healthaffairs.org/content/33/1/20.full.html>

⁴ <http://www.nhs.uk/NHSEngland/thenhs/records/proms/Pages/aboutproms.aspx>

care and the expansion of PROMS for key patient procedures being explored through the Agency for Clinical Innovation.

The Bureau of Health Information administers the state-wide Patient Survey Program, which gathers information from a sample of patients across NSW about their experience with hospitals and other healthcare facilities. The results are used to highlight aspects of care that are important to the community, to identify where individual hospitals are doing well and where improvements could be made.

The surveys are mailed to a random selection of patients, within three months of admission to hospital (or presentation to an emergency department, or other healthcare interaction, depending on the survey). The two surveys currently being undertaken by the Bureau of Health Information are the [Adult Admitted Patient Survey](#) and the [Emergency Department Survey](#). Other surveys are also currently under development.

Survey questions cover access and timeliness, physical environment and comfort, communication and information, respect and dignity, engagement and participation, comprehensive and person-centred care, coordination and continuity, assistance and responsiveness, safety and hygiene, and trust and confidence.

The survey also invites comments from respondents on both the best part of their care, and areas for improvement. This complements the existing complaints management process and provides an opportunity to assess any issues that are reported by respondents on a regular basis.

The survey also includes the following question: *“While in hospital, did you receive, or see, any information about your rights as a patient, including how to comment or complain?”*

As noted under Recommendation 3 above, the Bureau is currently considering the introduction of an additional question to explore any reluctance from patients to complain.

Recommendation Eight

That the Bureau of Health Information, Ministry of Health, or other relevant body, develop a pro forma survey for distribution to Local health districts that specifies questions with respect to the consumer satisfaction with complaint management processes. The Committee recommends that the results of these surveys be published and widely distributed.

NSW Health response:

Every LHD Service Agreement with the Ministry of Health includes the benchmark for complaints management – a minimum of 80% of complaints resolved within 35 days. Generally performance of LHDs exceeds this benchmark. Performance against this target is reviewed monthly with the Clinical Excellence Commission following up any *below benchmark* performance (*refer response to Recommendation Seven*). General performance on meeting consumer and patient satisfaction with complaint systems is also assessed with all health services required to meet National Safety and Quality Health Standards (*refer response to Recommendation One*).

The BHI already publishes its reports regularly and these are widely available. Survey results are used by Ministry of Health and local health districts to identify areas for improvement. The BHI engages the community in discussion on results through state and local media channels. As noted in Recommendation Three, the BHI is considering the inclusion of an additional question in relation to complaints management.

Recommendation Nine

That that the Commission continues to review and refine content on its website to ensure it remains current, user-friendly, and helpful.

NSW Health response:

The HCCC advise that their website is continually reviewed and improved. The Commission made available on its website the privacy statement which has been translated into the 20 of the most commonly spoken community languages as well as recordings of the webinar sessions for health consumers and health providers. Recently the Commission amended its brochures, fact sheets and the complaint form, all of which are accessible on its website. The Commission also ensures that all media releases can be accessed on its website and that they are updated when required.

Recommendation Ten

That the Your Rights and Responsibilities brochure be made mandatory for inclusion with the admission and discharge papers of each patient, that a directive be issued to ensure that it is placed in easy and accessible places within clinical services offered by Local health districts, and that further information pertaining to the complaints contact in each Local health district be provided with the brochure.

NSW Health response:

The *Your Rights and Responsibilities Policy* outlines how the seven basic rights summarised in the Australian Charter of Healthcare Rights are achieved in NSW. The policy directive (PD2011_022) requires all Chief Executives in each local health district to ensure that information about patients' rights and responsibilities is provided to health professionals and stakeholder agencies concerned with treatment and healthcare provision, and; that associated documents are displayed and available to consumers, carers, visitors and healthcare professionals.

While LHDs have incorporated this information into wall posters and placed pamphlets in waiting rooms for people to read and take away, the Ministry will remind LHDs of their responsibility in relation to this policy directive. NSW Health will also assess the feasibility of including advice on rights and responsibilities in discharge summaries.

Recommendation Eleven

That the Commission will further its outreach to culturally and linguistically diverse communities. This includes translating its privacy policy in the most commonly used community languages, engaging with community organisations and community language media to promote its services, and more prominently displaying on its website options for information in a community language.

NSW Health's response:

The Commission will continue to raise awareness about its role and services for Culturally and Linguistically Diverse (CaLD) communities. As noted previously, the Commission has translated its privacy statement into the 20 most commonly spoken community languages which is available: <http://www.hccc.nsw.gov.au/Complaints/Your-Privacy>

The Commission's work on outreach to people from CaLD Communities includes presentations to various groups and the provision of work based material. Presentations on the role of the Commission are organised through Migrant Resource Centres to a number of communities, including Arabic, Chinese and Spanish groups where interpreter support is provided.

The Commission has presented to the Ethnic Communities Council, which included a group of approximately 20 different ethnic communities. The Commission also promotes its Audio-visual information released with Arabic and Chinese titles through Arabic and Chinese newspapers.

Recommendation Twelve

That NSW Health considers creating positions of patient advocates to act on behalf of patients in complaints before the Commission and within internal complaint handling systems.

NSW Health response:

NSW Health understands that this recommendation was based on the proposal put forward by the Public Interest Advocacy Centre (PIAC), for an independent body based on the New Zealand Health and Disability Advocacy Service Model.

While this recommendation does not adopt the PIAC proposal, it proposes that NSW Health establish advocacy positions within hospitals. NSW Health does not support this recommendation for the following reasons:

- NSW Health agencies already offer a range of patient support and complaint/consumer advocate positions which are locally based and provide patients information about their rights and complaints processes.
- All local health districts have Patient Representatives and/or Patient Liaison Officers in place to handle local hospital patient complaints. If resolution is not able to be achieved, the person is referred for mediation with District officers and/or the Health Care Complaints Commission for assessment under the Health Care Complaints Act.
- The issues raised by PIAC are much broader than Health, and it is noted PIACs preferred model is one that covers both health and disability issues.

Recommendation Thirteen

That the Ministry of Health give consideration toward devising policies that encourage a language shift away from 'complaints' and towards 'feedback', and that it be reflected in the terminology used by agencies within the Ministry of Health.

NSW Health response:

NSW Health is supportive of using the term feedback, comprising suggestions, compliments, concerns and complaints, in policy, processes and language. However, where people make a complaint to the HCCC under the *Health Care Complaints Act*, Commission correspondence and related information material (eg fact sheets about decisions regarding complaints) will need to continue to refer to complaints to reflect the terminology of the legislation. It is anticipated that, in general, consumers who have a complaint referred to the HCCC will understand the need for complaint terminology to be retained, consistent with the legislation.

The Ministry of Health in conjunction with key stakeholders, including Health Consumers NSW, is developing a Consumer and Community Engagement Framework (the Framework), to provide guidance and support to NSW Health agencies to embed a culture of consumer and community engagement. In the Framework the term 'feedback' is used instead of 'complaints'. This approach is being promoted as an important component of health system design and service delivery at all levels to best meet consumer and community needs, expectations and enhance health outcomes overall. The final Framework will include examples of best practice for methods to gain consumer feedback.

In addition, the Clinical Excellence Commission Patient Based Care Challenge includes a specific strategy for local health districts to encourage the use of patient feedback to drive improvement. This Program promotes the *“use of patient feedback from a range of sources (surveys, focus groups, anonymous shoppers) to gauge service quality and inform all staff”* and encourages services to *“implement real-time feedback to staff to enable patient issues to be addressed during care (e.g. ‘patient friend’ models and bedside electronic systems)”* with the aim of improving care experience and prevent complaints. NSW local health districts sign up to the Challenge as a strategic first step towards a long term commitment to transforming patient based care.