

Health and Community Services Committee
Report No. 21 Oversight of the Health Quality and Complaints Commission:
Response by the Minister for Health

In accordance with section 107 of the *Parliament of Queensland Act 2001*, the following response is provided in relation to the Health and Community Services Committee's recommendations and comments included in Report No. 21 *Oversight of the Health Quality and Complaints Commission*.

The Committee has identified the timeliness of complaint management as a key issue in relation to the performance of the Health Quality and Complaints Commission (HQCC). The Chesterman Report and recent media reports have also highlighted fundamental deficiencies in the way that health complaints are managed in Queensland.

On 4 June 2013, the Minister for Health introduced the *Health Ombudsman Bill 2013* (the Bill) into the Queensland Parliament. Subject to the Bill being passed by the Legislative Assembly, this legislation will establish a statutory position of Health Ombudsman, to replace the HQCC.

The Bill aims to:

- protect public health and safety
- promote a high standard of practice and service delivery by healthcare providers, and
- maintain public confidence in Queensland's health service complaints management system.

The Health Ombudsman will have the power to deal with serious complaints against registered health practitioners instead of the National Boards. The Minister will also have strengthened powers to oversee the health complaints management system through the ability to require reports on how complaints are being managed. It is noted that the timeliness of complaints management is a key component of the Bill, which specifies timeframes for assessment, local resolution and investigations, supported by a public performance reporting system.

The HQCC will continue in its current role pending the legislation being passed by the Parliament and the Health Ombudsman being established.

Where it is noted below that the HQCC has committed to measure and report on compliance with the Committee's recommendations in its annual reports, the Office of Health Statutory Agencies in the Department of Health will monitor the HQCC's annual reports for compliance with these requirements.

Recommendation 1

The committee recommends that the Health Quality and Complaints Commission measure and report on the timeliness of conciliation closure as the time between the date a decision is made to conciliate a complaint and the date the conciliation is closed.

Minister's response: recommendation supported.

The HQCC has advised that in future annual reports, it will measure and report on the timeliness of conciliation closure as follows:

- the time between the date of the notice of assessment decision and the date the conciliation is closed; and
- the time between the date the conciliation is allocated to a conciliator and the date the conciliation is closed.

Recommendation 2

The committee recommends that, in light of HQCC's decision not to conciliate claims for damages—elements of which HQCC identified as causes of delay in conciliation, the HQCC:

- review its current performance target of completing 60 per cent of conciliations within 12 months, and
- consider a performance target which aims to close a higher proportion of conciliations within 12 months, or to close conciliations in a period of less than 12 months.

Minister's response: recommendation supported for 2013-14.

The HQCC has advised that the Commission has implemented a new conciliation policy, effective from 29 January 2013.

The key improvements the HQCC reports have been made to the conciliation service include:

- an emphasis on direct involvement by, and cooperation between, the parties to encourage complaint resolution within prescribed directions and timelines;
- resolution outcomes focused on achievable personal outcomes such as apology, explanation, refund and/or fee waiver; and
- compensation (limited to out-of-pocket expenses and/or corrective treatment costs paid).

The HQCC has advised that this policy will enable it to conciliate complaints in most cases within a maximum of six months and focus the conciliation service on improving the quality of health services and reviewing and managing healthcare complaints, as set out in the *Health Quality and Complaints Commission Act 2006* (the Act).

The HQCC has yet to finalise any conciliations accepted under the new policy. Consequently, it reports that the 2012-13 target of 60% of complaints in conciliation closed within 12 months remains unchanged, and performance against this target will be reported in the 2012-13 annual report.

The HQCC has advised that it has revised its 2013-14 conciliation performance targets as follows:

- 70% of complaints in conciliation closed within six months
- 85% of complaints in conciliation closed within nine months
- 100% of complaints in conciliation closed within 12 months.

Performance against these targets will be reported in the 2013-14 annual report.

Committee Comment 1

The committee notes that despite a reduced number of complaints referred for investigation in 2011–12 and more investigators, the time taken to complete investigations increased, contrary to the HQCC's expectations. The committee remains concerned about the length of time taken to complete investigations. The increased period for completion of investigations in 2011–12 is of significant concern to the committee. The committee will continue to monitor the number and type of complaints that are investigated, and the time taken to complete investigations, as the new investigation prioritisation criteria are applied and new processes for management of investigations are implemented.

Minister's response: comment noted.

The HQCC reports that in 2011-12, its efforts were focused on finalising major investigations, particularly those more than 12 months old. The HQCC advised that these investigations involved complex issues, which were resource intensive, with three senior investigators assigned to manage major cases, which were investigated simultaneously, and one of the senior investigators concentrated solely on finalising a long-term multi-jurisdictional major investigation.

The HQCC also advised that investigation resources were required to assist in an internal organisational review and an external KPMG review of the investigation unit. Both reviews considered the timeliness of investigations and how delays could be minimised. Following a recommendation of the KPMG review, the HQCC established a fortnightly Investigations Management Team meeting involving the investigation unit manager, the CEO and the Commissioner, to oversight HQCC investigations.

In 2012-13, the HQCC reports that it has continued to focus on finalising major and long-standing investigations, while managing new investigations as efficiently as possible. The HQCC claims it has significantly reduced the number of investigations open for more than 12 months, and anticipates that most

of these matters will be finalised by the end of July 2013, with other ongoing investigations being under 12 months old.

Two additional temporary investigation officers were appointed in early 2012. The investigation unit also reviewed and commented on Australian Health Practitioner Regulation Agency preliminary investigation reports, and regularly reviewed registration board notifications, assessment cases, complaint reviews and other information as required.

The HQCC reports that due to staff attrition and resource demands across the HQCC, the planned increased allocation of staff for the investigation unit in real terms was never fully realised.

Committee Comment 2

The committee would be concerned if the identification of delays in an HQCC investigation caused by another organisation or individual led to the HQCC reducing its performance target for the timeliness of investigations.

Minister's response: comment noted.

The HQCC claims that it is committed to ensuring that all investigations are managed in a timely way and that investigators have worked hard to finalise complex and lengthy cases while continuing to manage new investigations.

All identified delays that are unable to be resolved are documented and progressed by the unit manager with the Commissioner and CEO at the Investigations Management Team meetings. Actions from the meeting are then implemented by staff.

The HQCC reports that it has implemented investigation prioritisation criteria after reviewing similar models adopted by other complaint agencies, such as the Western Australian and Queensland Ombudsmen. Application of these criteria means that investigations are initially allocated a standard priority. Some standard investigations may be allocated a higher priority level and designated as intermediate. Investigations that meet the criteria for a major investigation are dealt with as high priority.

The HQCC has advised the following target completion times for investigations (Table 1):

Table 1: Investigation prioritisation criteria

Investigation	Priority	Target timeframe
Standard	Standard	0-200 days
Standard	Intermediate	0-300 days
Major	High	0-300+ days

Note 1: Priority lists and timeframes may be amended by the HQCC executive management team as required.

Note 2: The HQCC advises that case complexity may be relevant to the level of priority of an investigation, but it is not necessarily the only determining factor.

The HQCC reports that due to the number and diversity of investigations that can be conducted under Section 86 of the Act, the priority rating is subject to revision and can change according to emerging factors such as:

- new information identified during the investigation
- risk to public safety
- public interest factors
- referring external agency requirements
- resource implications, and
- direction from the Minister for Health under the Act.

The HQCC claims that application of the criteria has resulted in an increase in the number of older investigations being finalised, as well as an increase in the number of investigations being finalised within 12 months.

The Commission has resolved to retain its target of 70% of investigations closed within 12 months for the 2012-13 year. The HQCC reports that continued concentration on investigation cases open for 12 months or more has meant that as at 18 June 2013, it had finalised 35 out of 62 investigations within 12 months.

The HQCC has set its 2013-14 investigation performance targets as follows:

- 40% of investigations closed within nine months
- 70% of investigations closed within 12 months
- 100% of investigations closed within 24 months.

Committee Comment 3

The committee will continue to monitor the number and type of complaints that are devolved to health providers, and the outcomes of those complaints.

Minister's response: comment noted.

The HQCC reports that investigations are devolved where it is determined issues would be best addressed by referring them back to a healthcare facility/healthcare provider to conduct an internal review and report to the HQCC. In making a decision to devolve a matter, the HQCC has advised that the Commission considers the nature and seriousness of the complaint, the public interest, and the capacity of the provider to respond effectively.

The HQCC has advised that the process is managed by an investigation officer, who is also responsible for the monitoring and follow-up of the implementation of recommendations arising from HQCC investigations, outstanding coronial matters, and matters referred to other agencies, such as the Crime and Misconduct Commission and the Department of Health's Ethical Standards Unit.

Management and monitoring of investigations devolved to health providers by the HQCC for internal review and action includes:

- requests for further information and/or recommendations for improvement under section 20 of the Act.
- review of responses to requests for further information, and actions towards implementation of recommendations, to assess provider progress towards fulfilment of section 20 obligations to demonstrate improvement in the quality of health services provided.
- ensuring provider responses and actions are delivered within agreed timeframes, including negotiation of extensions if required.
- (based on provider responses and/or actions) the development of internal recommendations about case progression or closure for management approval.

Committee Recommendation 3

The committee recommends that the HQCC:

- *publish corrected data on issues in complaints for 2010–11 and 2011–12 in its Annual Report for 2012–2013, and*
- *ensure that the data remains comparable over time so that trends in complaint issues can be identified.*

Minister's response: supported.

The HQCC reports that the data presented on complaint issue categories on pages 36-38 of the HQCC's annual report 2011-12 was collected using the same methodology that was used in 2010-11. However, in reviewing this data for the Committee, the HQCC discovered an error in the automated calculations behind the generation of the 2010-11 and 2011-12 data. The corrected data for both years was provided to the

Committee in December 2012 and will be reported, together with 2012-13 data, in the HQCC's 2012-13 annual report to enable comparison and the identification of any trends in complaint issues.

Committee Comment 4

The committee will continue to monitor developments in national safety and quality standards for health services and the standards made by the HQCC, including transition arrangements and HQCC resourcing.

Minister's Response: comment noted.

Primary responsibility for making health care standards and reporting on compliance has been transferred to the Australian Commission for Safety and Quality in Health Care (ACSQHC). As part of the transition to the national safety and quality health service standards and the proposed introduction of a health ombudsman in Queensland, the HQCC will no longer require acute and day hospitals to report on self-assessed compliance with the HQCC's three health care standards.

In the interim, the HQCC will continue to monitor compliance with these standards by:

- monitoring health care complaints;
- monitoring reportable events; and
- conducting random audits of compliance with a specific standard or responsive audits where the HQCC has specific concerns about a health service provider's compliance.

Committee Comment 5

The committee notes the HQCC's expansion of its monitoring of reportable events and suggests that the HQCC include in its Annual Reports the results relevant to safety and quality in health services and the HQCC resources allocated to this work.

Response: comment noted.

The HQCC advises that it will include a report in its 2012-13 annual report on the results of its activities in monitoring reportable events. The HQCC also intends to prepare a public report on reportable events.

Committee Comment 6

In 2011, the HQCC agreed to provide the former Health and Disability Committee (HDC) with six-monthly updates on the engagement strategies implemented and the nature of complaints received from each of the different culturally and linguistically diverse (CALD) communities. Six-monthly reporting will continue for this Committee. Reporting on CALD enquiries and complaints is now also reflected in the HQCC's annual reporting.

Response: comment noted.

The HQCC has advised that it will continue to provide the Committee with six-monthly updates on the engagement strategies implemented and the nature of complaints received from CALD communities. The next update will be provided in the HQCC's 2012-13 annual report.

Committee Comment 7

The committee will continue to monitor client satisfaction with the HQCC's complaint service and the outcomes of the HQCC's improvement action plan.

Response: comment noted.

The HQCC reports that it will continue to use client experience survey information to improve its service, as well as to report publicly on client satisfaction in its annual report and annual health check publications.

Committee Comment 8

The former HDC recommended that the staffing of the HQCC, including staff retention and turnover rates and the proportion of permanent and temporary staff, continue to be monitored. The Committee notes the inconsistency in the reporting of retention and separation data for 2010-11 between annual reports.

Response: comment noted.

The HQCC advises that it has reviewed the workforce retention data in its 2011-12 annual report and identified that the 2010-11 data included in the report is erroneous. Information reported in the 2010-11 annual report is correct. To correct the public record, the HQCC has confirmed that it will report the error in its 2012-13 annual report and include permanent retention rate and permanent separation rate data for the past three financial years.

Committee Comment 9

The Committee commends the HQCC for some improvements to reporting in response to the former HDC's recommendations about the provision of clear, consistent and transparent information about complaints in its annual report. The committee, however, notes that further work is required to ensure that the HQCC's reporting is clear, consistent and transparent. In particular, the Committee considers that more consistent and transparent reporting on the total time for management of complaints to completion (including any time awaiting allocation) and other performance measures is required. Other areas for improvement include the issues raised in complaints, and ensuring this data is comparable over time. The Committee suggests that the HQCC should use the refining of its complaints and investigations case management system as an opportunity to improve the usefulness of the data captured, as well as its presentation. The HQCC should also ensure that its ability to consider data trends over time is not compromised by changes to data capture, making arrangements for historical data to be recategorised if necessary to ensure comparability across years.

Minister's response: comment noted.

The HQCC advises that during 2013 it is refining its complaints and investigations case management system to enable the capture and reporting of more detailed information on complaints management, including case allocation waiting times. The HQCC claims that these changes to the system will enable the comparison of data over time.

Committee Comment 10

The Committee notes that meaningful reporting of performance measures requires improvement, in particular for the conciliation process, and that information on the time taken to manage complaints should be more comprehensive.

Minister's response: comment noted.

The HQCC has advised that future annual reports will include the following information on the timeliness of conciliation processes:

- the time between the date of the notice of assessment decision and the date the conciliation is closed, and
- the time between the date the conciliation is allocated to a conciliator and the date the conciliation is closed.

The HQCC claims that this will enable the Commission to report timeliness in a way that is consistent with a complainant's or respondent's experience of complaint management, as well as to report actual time taken in active complaint management (and increase the transparency of the waiting times for conciliation).

Following improvements to its complaint and investigation case management system, the HQCC has advised that the Commission will be able to report more detailed information on case allocation waiting times in its 2013-14 annual report.