

Review of the Health Services (Conciliation and Review) Act 1987

Response form

Written submissions are invited addressing the questions raised in the discussion paper:

General (page 26 of discussion paper)

- Q1. What should be the key features of Victoria's future health complaints system?
- Q2. What features of the current system should be kept or enhanced?

Improving every Victorian's healthcare experience (pages 26–31 of discussion paper)

- Q3. How can the Act better protect healthcare users?
- Q4. What controls should be placed on the powers of the Commissioner to protect healthcare users?

Making the complaints process more responsive to people's needs (pages 31–35 of discussion paper)

- Q5. How can the Act provide a more accessible, efficient and effective complaints handling process?

Assisting people to better manage their own health needs (pages 35–36 of discussion paper)

- Q6. How can the Act best support healthcare users and providers to understand and navigate the health complaints system?

Continuous quality improvement (pages 37–38 of discussion paper)

- Q7. How can the Act best support continuous quality improvement across the health system?

Increasing accountability and transparency (pages 38–40 of discussion paper)

- Q8. What are the most appropriate governance and accountability arrangements for the Commissioner?

Other issues (page 40 of discussion paper)

- Q9. Are there issues not covered in the discussion paper which should be addressed?

How to make a submission

Copies of the discussion paper and this optional response form can be downloaded from the Department of Health's website at <www.health.vic.gov.au/hscrareview>. This form can be completed and submitted in either electronic or hard copy.

The closing date for submissions is Friday 3 August 2012. To make a submission, please email or send your submission to:

Expert Review Panel
Review of the Health Services (Conciliation and Review) Act
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Department of Health
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Website: www.health.vic.gov.au/hscrareview

If you have any questions regarding the review or require assistance in making your submission, please contact us.

Instructions for completing this form: click in the grey-shaded area to start typing

Your details

Name / principal contact: Cindy Higgins	
Position (if applicable): Branch Manager Vic/Tas	
Organisation (if applicable): Australian Physiotherapy Association	
Are you submitting a response on behalf of this organisation? (Please select) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Street address: Level 1, 1175 Toorak Road	
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Have you ever participated in the Health Services Commissioner complaints process? (Please select)	
<input type="checkbox"/> Yes	
<input type="checkbox"/> As a complainant	
<input type="checkbox"/> Other (please specify):	
<input checked="" type="checkbox"/> No	

Submissions will be treated as public documents and placed on the Department of Health’s website:
www.health.vic.gov.au/hscrareview

For submissions received from individuals, all your personal details other than your name (such as address, phone and fax number) will be removed before it is published on the website, to protect your privacy.

If you do not want your submission to appear on the website, or if you want to remain anonymous, please indicate below.

- Please do **not** publish any part of my submission on the website
- Please publish my submission on the website anonymously
- Sections of my submission are confidential and clearly marked as such. Please do **not** publish these sections on the website.

Please note: notwithstanding this, your correspondence and submission may be the subject of a request for access under the *Freedom of Information Act 1982*. The Department of Health will notify you if a request is made and if it may be required to disclose your submission.

Instructions: click in the grey-shaded area to start typing your response to each question

Q1. What should be the key features of Victoria's future health complaints system?

APA agree with the general feel of the review – ie that the process involved in making, investigating and resolving complaints needs to be responsive and accessible. There needs to be a careful balance between the protection of the consumer and health practitioners in this process. In particular legal tenets (for example innocent until proven guilty) must be upheld, without impeding the timely investigation of complaints.

APA believes that Victoria's future health complaints system should be responsive, accessible, transparent, with processes that encourage timely flow of action and feedback into quality of health care and on public health issues. It should deliver an easy, timely, effective and flexible system for managing complaints.

The health complaints system should consistently utilise all findings to improve the quality of care and /or efficiency of the health care system.

Communication should be in plain English, readily accessible and in a form that invites those affected to take action (ie clear recommendations for implementing change).

The health practitioner should be informed of the complaint, involved in the process as soon as possible and provided with practical help with regard to the process and where to access assistance. The legal principle, innocent until proven guilty must be upheld, without impeding the timely investigation of complaints.

Q2. What features of the current system should be kept or enhanced?

Within the current system APA supports the continued development of local issue resolution - keeping issues small and facilitating early local communication to resolve complaints. Reporting of locally resolved complaints to track trends and identify emerging issues would be of value.

The Commissioner should have the ability to act in the public interest in clinical areas as well as other aspects of the health system including administrative processes and procedures.

If the Commissioner becomes aware of an issue that warrants an investigation or inquiry, the Commissioner should be able to initiate an enquiry independently and regardless of whether a complaint has been made, particularly in relation to issues involving public safety. If the Commissioner requires stronger powers to issue public warnings in the interest of public safety, these should be built into the Act.

Q3. How can the Act better protect healthcare users?

The APA believes that improving every Victorian's healthcare experience should be paramount. Ensuring that complaints are dealt with in a timely manner and lessons to be learnt are communicated to safeguard the public is essential. This should be a central theme in reviewing the Act.

The title 'health services commissioner' does not immediately suggest this is the contact person to make a complaint. A title that more clearly reflects the nature of the role may make the commission more obvious to the public for example, 'Health Services Complaints Commissioner'.

The Commissioner should be given wider powers to deal with health providers operating outside of the regulatory/ legal framework and unregistered health practitioners. Where a code of practitioner conduct is inadequate or does not exist, the Commissioner should be given the authority to develop a code and enforce compliance.

Where there is evidence of criminal activity or a significant risk to public health, the Commissioner should be mandated to disclose this information to relevant authorities.

Q4. What controls should be placed on the powers of the Commissioner to protect healthcare users?

Controls placed on the Commissioner should ensure confidentiality for both practitioner and complainant, whilst allowing a flexible suite of options that give rise to the simplest and quickest resolution of complaints.

Timeframes written into the legislation should not hinder the resolution process.

Q5. How can the Act provide a more accessible, efficient and effective complaints handling process?

In the first instance, inclusion of the word 'complaints' in the name of the Act and the Commissioner would more clearly reflect purpose.

The methods available for lodging a complaint should be expanded to include electronic options.

Early resolution options that have worked in other jurisdictions should be adopted, particularly inclusion and support for conciliators.

The Commissioner should have appropriate powers to enforce resolutions.

Response times specified within the legislation should not hinder the resolution process.

Q6. How can the Act best support healthcare users and providers to understand and navigate the health complaints system?

Information about the complaints process should be widely available in plain language. The website should include an operational guide for those making a complaint and for those involved in the complaint process.

The type and breadth of practitioners who can be complained about under this legislation should be clearly identified. Directions as to where to address complaints beyond the jurisdiction of the Commissioner could also be made available (ie: Victorian Ombudsman for TAC / WorkSafe complaints).

Q7. How can the Act best support continuous quality improvement across the health system?

The Act should allow for the dissemination of de-identified data to users, including professional associations, hospitals and health consumer groups. By providing practitioners/ professional associations with data about complaints, including what is complained about, why, demographic information etc, practitioners as a group can be more aware of areas that require improvement. Positive change should be based on accurate feedback. The dissemination of information via well-established channels available through professional bodies is encouraged.

Where issues pose a health or safety risk to the community are identified, the Commissioner should have the power to enforce implementation of required change to ameliorate or eliminate the risk.

Q8. What are the most appropriate governance and accountability arrangements for the Commissioner?

The public perception of the Commissioner needs to be as an independent operating within a fair and transparent framework. The governance structure needs to ensure the Commission can be viewed in this light. Annual reporting direct to the parliament would allow public scrutiny of the activities of the Commission.

Robust checks need to be in place to ensure innocent practitioners are not named (ie in Parliament).

Q9. Are there issues not covered in the discussion paper which should be addressed?

The commissioner should be empowered to regulate the activities of unregistered health practitioners, including those in the fitness industry. An agreed definition of 'health practitioner' needs to be adopted.

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