



Incorporating 26 March 2010

**Health  
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Young

Mr Mel Keenan  
Parliament of New South Wales  
Committee on the Health Care Complaints Commission

Via email: [chccc@parliament.nsw.gov.au](mailto:chccc@parliament.nsw.gov.au)

Dear Mr Keenan

**Re: Inquiry into the operation of the *Health Care Complaints Act 1993*. File ref: HCC165**

Thank you for your recent correspondence in which you invited our written response to the questions arising from the submissions to this inquiry. Please see our responses listed under each of the questions below.

1. *Could you please explain to the Committee the role, if any, which the Area Health Service had in the development of the national scheme? What is your view of the effectiveness of the consultation process and the proposed model?*

Greater Southern Area Health Service does not have any comments to provide in relation to the development of the national scheme, however is supportive of the proposed model.

2. *What do you consider to be the key elements of the scheme in terms of its impact on the operation of the GSAHS Service, and its interaction with the HCCC?*

The scheme will benefit GSAHS from being able to obtain information on clinicians from other states. The ability to access this information is an important step in identifying and managing potential risks to patient safety and ensuring a robust checking process is in place during the recruitment process.

3. *The GSAHS submission suggests that the Commission does not have a mechanism in place to keep an Area Health Service informed about the progress of an investigation. It notes while the Commission might be bound by privacy obligations, a monthly update of an investigation's progress would be useful, particularly where the matter has been referred by the Area Health Service itself.*

*On page 26 of the Health Care Complaints Commission's submission it is noted that Area Health Services remain under the misconception that they can refer difficult matters to the Commission for 'independent review'. However, the Commission's powers can only be exercised on receipt of a complaint –*



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*the Commission has no power to conduct 'reviews' of referred matters. Moreover, in cases where the Commission has requested an Area Health Service to make the referral a 'complaint', the response has been that the Area Health Service does not wish to make a complaint against itself.*

*Was GSAHS aware of this limitation under the Health Care Complaints Act? How would you wish to respond to the suggestion that an Area Health Service does not wish to complain against itself?*

GSAHS is aware of the limitations under the Health Care Complaints Act in relation to the capacity to provide reviews only at the request of the complainant. GSAHS does provide information on the role of the HCCC to complainants so that they are aware of the opportunity to have their concerns assessed by an independent body. The ability to provide information on the role of the HCCC assists in maintaining a transparent and open process in the investigation and management of complaints.

GSAHS continues in the view that a monthly update with respect to investigations being undertaken by the HCCC, would be useful.

4. *A number of Area Health Services raised the issue of notification being given by the Commission to an Area Health Service, leading the Committee to note in its Discussion Paper the possibility that the Health Care Complaints Act be amended to provide that where a person is named as an individual respondent to a complaint, and that person is employed by, or contracted to work for, an Area Health Service, that Area Health Service be notified by the Commission that the complaint has been made.*

*In response the HCCC has noted that it is bound by the Act to only notify individual respondents, and not their employers, unless and until the complaint is made the subject of an investigation; but that it has no objection to notifying the employers of individual respondents of all complaints.*

*Do you have any views on this response, and to what extent – if at all – has it been an issue for your Area Health Service?*

GSAHS would appreciate the HCCC to provide notification of complaints about individual clinicians who are employed by GSAHS.

In order to be aware of any risks to patient safety which may be identified through a complaint, the health service requires the details of complaints made about individual staff so that appropriate risk management strategies can be implemented.

A number of staff recently identified that they had no knowledge of a complaint prior to receipt from the HCCC and felt that the process could also include



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notification to line to ensure relevant supports could be put in place and assistance provided as needed.

5. *In response to the submission from Hunter New England Area Health Service, the Committee's Discussion Paper raised the possibility that, on requesting a response from an Area Health Service to an individual complaint against a practitioner employed by, or contracted to work for, that Area Health Service, the Health Care Complaints Commission specifically request from the Area Health Service information on any other complaints or practice-based concerns in respect of that practitioner.*

*What is your opinion on this proposal? Has uncertainty as to what information is appropriate to provide to the Commission been an issue for GSAHS?*

GSAHS is supportive of this proposal. The ability to provide information on other complaints or practice-based concerns will assist in ensuring a comprehensive and informed assessment can be attended.

6. *The Commission is of the view that, as the Health Records and Information Privacy Act 2002 (HRIPA) applies to organisations that are health service providers – and therefore to Area Health Services – the health privacy principles set out in Schedule 1 of the HRIPA apply so that an Area Health Service can disclose confidential health information to the Commission if they believe that the disclosure is reasonably necessary for the Commission to discharge its functions.*

*Has this been the practice at GSAHS?*

This has been the practice at GSAHS.

7. *The GSAHS submission notes that there does not appear to be any guidelines as to what constitutes a matter which is appropriate for resolution, conciliation, or discontinuation. However, the Committee did note at page 14 of its Discussion Paper that the types of complaints which the Commission will assess as suitable for conciliation are likely to meet at least one of a number of set criteria.*

*In response, the Commission notes that the very broad range of complaints that can be made about health service providers, and the differing levels of seriousness in complaints, would make the criteria for assessment in any guidelines so broad as to be virtually meaningless. The Commission also suggests that its notices to complainants and health service providers about its assessment decisions provide reasons for the Commission's decisions in relation to particular complaints.*



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*Does this response conform with the experience of GSAHS; and are you aware of the experience of any other Area Health Services?*

The response does not conform with the general experience of GSAHS. It has been the experience of GSAHS that complaints are routinely referred to resolution or conciliation without discussion or input from the health service or the complainant. GSAHS has not received any written explanations about the decision to refer a complaint for resolution or conciliation, however would be appreciative of this provision in future.

8. *Are there any other comments that you would like to make with respect to the Inquiry's Terms of Reference, especially with respect to the lines of communication between the HCCC and your Area Health Service?*

GSAHS considers that lines of communication between the HCCC and the area health service may be better facilitated in the forum of a three monthly meeting in which the progress of complaints, investigations conducted by the HCCC and other relevant matters could be discussed.

9. *Does GSAHS have anything to suggest which would assist the Committee in exercise of its oversight role?*

GSAHS has no further comments to provide to the submission and thanks you for the opportunity to respond the questions arising during the course of your inquiry. If you have any comments or questions in relation to this response, please contact Ms Zandra Corey, Complaints Manager on (02) 6124 9821 or 0409 744 731.

Yours sincerely

**Dr Maggie Jamieson**  
**Acting Chief Executive**  
**Greater Southern Area Health Service**

Ref:Q10/3030, GEN10/0443