



5 February 2013

Mr Jason Arditi  
Inquiry Manager  
Parliament of New South Wales  
Committee on the Health Care Complaints Commission  
By email: [chccc@parliament.nsw.gov.au](mailto:chccc@parliament.nsw.gov.au)

Dear Mr Arditi,

### **Inquiry into Health Care Complaints and Complaints Handling in NSW**

We refer to your letter of 21 January 2013 and provide the following responses to the questions you have raised.

1. We advise our members that participating in the HCCC's Resolution Service (formerly known as "Assisted Resolution") is voluntary and that it can give rise to further complaints being made against them, or the subject complaint being re-assessed.

As our role is to protect members of our Association, we need to inform them that this is a potential outcome of participating in the process. If they do not participate in the process then the matter is closed and they are generally not at risk of the matter progressing. For our members, *not* participating provides them with a more certain outcome.

In addition to this, it needs to be reiterated that complaints that are referred to the Resolution Service are referred because the HCCC has not been able to substantiate any concerns or allegations regarding the professional conduct of the member. In many circumstances such complaints are vexatious or are as a result of a miscommunication with a patient or family member of a patient.

Where a member of ours has already been subjected to the assessment process (something that is daunting for most health practitioners), we believe that it is not fair that they be subjected to further scrutiny by the complainant or have to try and communicate their position to someone who may not understand their position, scope of practice or policies that bind their actions.

In most circumstances, our members do not feel safe to attend the Resolution Service. They have had concerns that range from being identified by name in the



media to fears of physical violence from a complainant. The Resolution Service gives a complainant the opportunity to find out their full name and to visually identify them.

This Association has not raised the above issues with the HCCC as it is a voluntary process which is a legislated part of their operations. Generally it does not affect our members, because they do not participate.

We have written to the HCCC in relation to the concerns around the change to their publication of the Resolution Service brochure. In the new brochure, the voluntary nature of the process was not clearly communicated. The Commissioner, Kieran Pehm, has since written to this Association and informed us that this has now been rectified.

This Association has not conducted any research into the Resolution Service as this would not be a reasonable use of our resources. We receive between 200 – 300 inquiries per year from members who have been contacted by the HCCC in relation to a complaint. In the last 3 years, we have been made aware of less than 5 members who have participated in the resolution process.

2. We believe that the HCCC has a responsibility to clearly communicate to all complainants the process of assessment, investigation and prosecution. Many complainants have the expectation that if someone was rude to them (or similar behaviour) that the health practitioner will be “struck off”. Whilst we understand that it may be difficult for some complainants to grasp concepts such as scope of practice, unsatisfactory professional conduct and professional misconduct, it is necessary for the HCCC to communicate to complainants that the likelihood of that occurring is rare.

Our officers have also observed that the language used by the officers of the HCCC is often legislation-heavy and can be challenging to interpret. We believe that the HCCC should make an effort to ensure that any correspondence sent to complainants and respondents should be clear and easy to understand.

Should you require any further information, please contact Linda Alexander on 8595 2125.

Yours sincerely



**BRETT HOLMES**  
General Secretar