Submission

No 6

# INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993


**Organisation**: Greater Southern Area Health Service

**Name**: Ms Heather Gray

**Position**: Chief Executive

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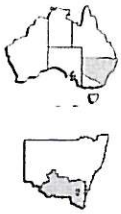
**Date Received**: 26/11/2008



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November 25, 2008

The Hon. Helen Westwood
Chair
Committee on the Heath Care Complaints Commission
Parliament of New South Wales
c/- chccc@parliament.nsw.gov.au

Dear Ms Westwood,

I refer to your correspondence of November 6, 2008 in which you advised the Greater Southern Area Health Service (GSAHS) of the Parliamentary Joint Standing Committee's decision to conduct an inquiry into the Health Care Complaints Act 1993.

Firstly, I would like to thank you for the opportunity to put forward a submission to the Inquiry.

Before I make some comments I would like to indicate that Greater Southern Area Health Service (GSAHS) has a good working relationship with the Health Care Complaints Commission (HCCC) and the comments below are not meant as a criticism of the Commission per se but are an attempt to improve their processes and transparency. GSAHS supports the HCCC and appreciates the assistance it has provided in the past.

I note the three aspects the committee refer to and I would like to make the following comments in relation to numbers 2 & 3.

**2) The appropriateness of the current assessment and investigative powers of the Health Care Complaints Commission**

I make the following comments regarding the assessment process:

Currently complaints are assessed by the assessment directorate of the Health Care Complaints Commission (HCCC) and a decision is made to investigate, refer to resolution, refer to conciliation or discontinue. The GSAHS has not been provided with any information on what matters constitute resolution and what matters constitute conciliation and also when a matter is determined suitable for discontinuation. There does not appear to be a set process/guideline regarding this. Establishing transparent guidelines would be of assistance to health services, practitioners and complainants.

Furthermore, the assessment process does not appear to take into consideration the severity of the incident/complaint and management of the issue does not change in accordance with the severity of the matter.

All NSW Health agencies operate under a Severity Assessment Code (SAC). This code is allocated to all incidents and complaints and identifies how serious the incident is. For example a SAC 1 (highest) incident/complaint will revolve around an incident that caused major permanent loss of function or death unrelated to the natural cause of their illness. A SAC 4 (lowest) incident will most likely relate to an incident that resulted in no injury or increased stay.



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As far as GSAHS is aware, the HCCC do not operate under this assessment code and again do not treat SAC 1 complaints differently to SAC 4 complaints. NSW Health agencies and GSAHS do not deploy the same level of resources to all levels of complaints. This enables the efficient use of scarce resources. Again a transparent system of applying resources to the various types of complaints would be beneficial to all concerned.

Furthermore, the type of contact and needs of a family or complainant relating to a SAC 1 incident is very different to the needs of a SAC 4 complainant. I believe this also needs to be taken into consideration as part of the assessment process.

Finally I also comment that the Area Health Service is required to respond to HCCC complaints within a 21 day timeframe, however in accordance with NSW Health policy, Areas have 35 days to respond to complaints.

I make the following comments regarding the investigative process:

The HCCC does not have a mechanism to inform the Area Health Service of the progress of an investigation. Whilst I appreciate the Commission is bound by privacy legislation that may restrict them to provide the Area with details about the investigation, it would be helpful if the Area knew the basic information about where the investigation is up to. There may be long periods of time when there is no communication with GSAHS as to the status of the complaint. A monthly update of matters would be appreciated, particularly for those matters referred to the Commission by the Health Service.

In addition, there does not appear to be set guidelines for the time taken to investigate a matter. Some matters are investigated relatively quickly, while others can take up to 12 months to be finalised. This poses significant problems for the GSAHS as often GSAHS employees are suspended on full pay (for nurses) and the Health Service has no way of knowing how long the investigation (and therefore suspension) will take. Furthermore, doctors are suspended on no pay and again, with no timeframe for investigation this poses as a significant problem for them. It is not always appropriate for the AHS to undertake a separate investigation and is therefore reliant, in the first instance, on the outcomes of the HCCC investigation.

**3) The effectiveness of information sharing between the Health Care Complaints Commission and the Area Health Services and Registration Authorities in New South Wales.**

As you would appreciate I am unable to comment on communication between the HCCC and registration authorities however I would like to comment on information sharing between the Area Health Service and HCCC.

GSAHS has significant concern that the Health Service is not notified when a decision to investigate a doctor's practice is made. Often this relates to the work of the doctor outside their work for the Area Health Service and therefore the Area is not notified; however as the current employer of the doctor the Area Health Service believes it should be informed if there is significant concern about a doctor's practice. There needs to be a balance between the need to maintain confidentiality and the principles of natural justice with the need to protect the public.



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Moulamein
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The GSAHS recently had a situation where a doctor's practice was being investigated following a complaint regarding their work in one of GSAHS' hospitals. The Health Service was aware that the matter was sent to investigation, however received no further information until the Health Service was advised that the information regarding the doctor was being forwarded to the prosecutions section of the HCCC. As the Area had not heard anything further, the doctor in question was doing locum work at another district hospital in the area. Details surrounding the issues with the doctor have still not been forwarded to the Area Health Service.

I would also like to raise an important issue regarding communication with doctors. There have been a number of times when a GSAHS doctor has received a letter from the HCCC advising them that they are subject to an investigation. On numerous occasions doctors have rung the GSAHS Clinical Governance Unit advising that they are resigning or withdrawing services due to their distress over the HCCC correspondence. A considerable amount of resources goes to supporting doctors during this time. I believe that HCCC could strongly consider the way in which they deliver their information and in cases where doctors are being investigated, perhaps prior contact via telephone advising them of what to expect would be advantageous. Appropriate support services should also be offered to the doctor in this contact.

Finally, all NSW Health agencies are now required to operate under the principles outlined in the Open Disclosure Policy Directive (PD2007_040). Complying with the principles of open disclosure is thought to be best practice by many. It is equally applicable to serious complaints as it is to serious incidents. It appears that the HCCC does not follow the principles of open disclosure in giving feedback to complainants about their complaints. The provision of a report does may not meet the needs of the complainant following a serious complaint and further interaction and support is required to adequately address the complainant's concerns. Again a system of SACing the complaints would assist in knowing which complaint to apply prospective open disclosure processes. I believe open disclosure and complaints management have significant links and should be considered as part of all family/patient contact.

I trust the above information is helpful to the Inquiry and thank you once again for the opportunity to comment on the above aspects.

Please contact Dr Paul Curtis, Director Clinical Governance, Greater Southern Area Health Service on 02 6933 9189 if you would like to discuss this matter further.

Yours Sincerely

Heather Gray
**Chief Executive**
**Greater Southern Area Health Service**
GSAHS Ref: Q08/6790

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**Better Health for Rural Australia**

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