

Submission

No 41

INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

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The Hon Helen Westwood MLC
Chair
Committee on the Health Care Complaints Commission
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

cc: *Mr Mel Keenan, Manager, Committee on the Health Care Complaints Commission*
Ms Robin Banks, CEO, Public Interest Advocacy Centre

Dear Ms Westwood

Inquiry into the operation of the *Health Care Complaints Act 1993*

NCOSS welcomes the opportunity to comment on the Discussion Paper, *Operation of the Health Care Complaints Act 1993* prepared by the NSW Parliamentary Joint Standing Committee on the Health Care Complaints Commission.

NCOSS would like to recognise the expertise of the Public Interest Advocacy Centre (PIAC) in this area and supports the general position outlined in their submission¹ to the Committee. In addition, NCOSS has made comments on a small number of additional issues.

About NCOSS

The Council of Social Service of NSW (NCOSS) is the peak body for the social and community services sector in New South Wales. NCOSS works with its members on behalf of disadvantaged people and communities towards achieving social justice in NSW.

It was established in 1935 and is part of a national network of Councils of Social Service, which operate in each State and Territory and at the Commonwealth level. NCOSS provides an independent voice on welfare policy issues and social and economic reforms. It is the major coordinator for non-government social and community services in NSW.

Overall Comments

Any changes to the operation of the Act should be made in consideration of the overarching purpose of the health care complaints system to protect the health and safety of the public².

For consumers, health professionals and the community to have faith in a complaints process it must be transparent, fair and accountable. NCOSS supports the principles for the health care complaints system outlined by the Committee in Section 1.10. These principles should also underpin any decisions to amend the Act.

¹ Peter Dodd, *Still Supporting a Rights Based Approach*, PIAC, October 2009.

² Section 3(2) *Health Care Complaints Act 1993*.

Specific Comments

In addition to the submission made by PIAC³, NCOSS would draw your attention to the following points:

Issues 1-3

NCOSS supports the principle that the *Australian Charter of Healthcare Rights* be considered when assessing a complaint. NCOSS does not have a position on how this should be implemented through the Act (either by direct reference in s3 or as a Schedule) and believes this issue is most appropriately determined by parliamentary drafters.

Issue 5

NCOSS supports this recommendation as due process and provision of information are key elements to ensuring a fair, open and transparent system for both the complainant and respondent.

Issue 6

NCOSS welcomes the positive changes by the Health Care Complaints Commission (HCCC) to improve the accessibility of information available to the public as noted by the Commission. Both the provision of information in alternative formats and facilitating alternative methods for making complaints (see *Issue 11*) are important mechanisms to ensure the system is open and accessible to all consumers, particularly those people from non-English speaking backgrounds, Aboriginal people, and people with a disability.

Issues 7 & 8

NCOSS agrees with the need to develop consistent regulations and procedures. NCOSS notes that PIAC recommends the creation of one unified Board and unified legislation in keeping with the Productivity Commission (2005) recommendations on *Australia's Health Workforce*. NCOSS supports this position and agrees that it would improve consistency and encourage uniformity across the State. However, we note that the proposed National Registration and Accreditation Scheme will retain separate Boards. The relative benefits of achieving consistency within the NSW system compared to the benefits of aligning to the national system should be evaluated once the nation scheme has commenced operation.

Issues 9-10

NCOSS supports PIAC's position and agrees that expanding the remit of the existing Standing Committee would be more efficient than establishing a new Committee.

Issue 11

As noted in *Issue 6*, NCOSS strongly supports PIAC's recommendation that the HCCC facilitate verbal complaints in order to address some of the barriers to accessing the complaints system for people from disadvantaged groups, particularly people with limited written language skills and people with a disability.

Issue 14

NCOSS supports PIAC's position on this issue for the reasons outlined above in *Issue 5*.

Issue 15

NCOSS supports this recommendation as proposed in the Discussion paper.

Issue 16

Given that the Discussion Paper notes that, "...a considerable number of submissions expressed dissatisfaction with the timeliness of the Commission's processes." NCOSS does not support amending the Act to codify extensions of the complaints process. NCOSS

³ Peter Dodd, *Still Supporting a Rights Based Approach*, PIAC, October 2009

submits that the HCCC should retain the discretion to determine where exceptional circumstances do require additional time for investigation, and apply the principles underlying the Act of procedural fairness and due process to inform the complainant and the respondent of the delay and the reasons for it, and to finalise the matter expediently.

Issue 18

NCOSS supports this recommendation for the reasons outlined above in *Issue 5*. Where there is not already a requirement under the Act to provide the reasons for Commission's decision in writing (e.g. Section 45(1)), then it should be made mandatory in the Act.

Issue 19

NCOSS supports PIAC's position on this issue as we believe that internal review processes are a key mechanism to ensure a fair, efficient, and accountable system.

Issue 21

NCOSS supports PIAC's position on this issue.

Issue 23

NCOSS supports PIAC's position on this issue.

Issue 25

NCOSS supports PIAC's position on this issue.

Issue 27

NCOSS does not support this proposal. The same processes should apply to all complainants (and respondents) equally. NCOSS can not see any significant benefit in the Area Health Service being kept informed of progress on a monthly basis that would negate this principle.

Conclusion

Thank you for the opportunity to provide this submission and for the additional time allowed to submit our response. If you require any further information or assistance, please contact Solange Frost, Senior Policy Officer (Health) on 02 9211 2599 ext. 130 or solange@ncoss.org.au.

Yours sincerely



Alison Peters
Director