

**Supplementary  
Submission**  
**No 12a**

**INQUIRY INTO HEALTH CARE COMPLAINTS AND COMPLAINTS  
HANDLING IN NSW**

**Organisation:** NSW Department of Ageing, Disability and Home Care  
**Name:** Hon Andrew Constance MP  
**Date Received:** 8/02/2012

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**The Hon. Andrew Constance MP**  
Minister for Ageing  
Minister for Disability Services

Ref No. AHI11/3869  
MO11/1488

Ms Leslie Williams MP  
Chair  
Parliamentary Committee on the Health Care Complaints Commission  
Parliament of NSW  
Macquarie Street  
SYDNEY NSW 2000

Dear Ms Williams

Thank you for your correspondence inviting submissions on the Joint Parliamentary Committee Inquiry into Health Care Complaints and Complaints Handling in NSW.

Ageing, Disability and Home Care has prepared a submission for the Committee addressing the specific Terms of Reference which is enclosed for your consideration.

Yours sincerely

Andrew Constance

Encl.

06 FEB 2012

**Submission from the Office of the Senior Practitioner,  
NSW Department of Ageing, Disability and Home Care (DADHC)**

**Parliamentary Joint Standing Committee on the Health Care Complaints Act  
Inquiry into the Operation of the NSW Health Care Complaints Act 1993**

**TERMS OF REFERENCE**

1. The identification and removal of any unnecessary complexities in the New South Wales health care complaints system.
2. The appropriateness of the current assessment and investigative powers of the Health Care Complaints Commission.
3. The effectiveness of information-sharing between the Health Care Complaints Commission and Area Health Services and Registration Authorities in New South Wales.

**Issue**

Section 28(A) requires that:

*"The Commission is to use its best endeavours to give notification of the outcomes of the assessment of a complaint to a client whose treatment is the subject of the complaint...unless the client ...(b) is incapable of understanding the notification."*

However, in the NSW Health Care Complaints Act 1993:

- (a) The term "**best endeavours**" is not defined;
- (b) No criteria or guidelines are proposed against which "**best endeavours**" may be measured; and
- (c) No criteria or guidelines are proposed against which the **capacity** of the client to understand may be assessed.

**Comment**

The NSW Department of Ageing, Disability and Home Care (DADHC) promotes equal access to mental health services for people with an intellectual disability through current approaches to the development of effective partnerships between mental health and disability services.

The New South Wales health care complaints system should be accessible to people with an intellectual disability in accordance with the Principles of the NSW Disability Services Act 1993.

**Discussion**

It is estimated that mental health disorders affect people with an intellectual disability in the order of three to four times greater than the general population. The prevalence of psychiatric disorder in people with an intellectual disability has been estimated to be in the order of 40%, and people with a developmental disability have

been estimated to be at 40-50% greater risk of *developing* a mental illness than the general population. General Practitioners are often the preferred source of psychiatric care in the general population, and have been estimated to manage up to 90% of patients with mental illness in the community.

People with an intellectual disability often have significant communication difficulties and this presents a barrier to the provision of health care generally. The presence of mental health problems is often minimised and attributed to the intellectual disability itself. Information relevant to assessment of mental health is often provided by carers based on their own observation and interpretation of external behaviours, which will vary in its usefulness depending on a range of factors. In addition, the presence of co-morbidities such as epilepsy, physical illness, medication effects, autism, chronic pain, sensory deficits and others further complicates the process of effective diagnosis.

However, there are various techniques and approaches that are used to deliver effective support for people with an intellectual disability and their families and to enhance their quality of life. These approaches are set out clearly in DADHC Policy, work practice and procedural guidelines. We would be happy to provide further information in this regard.

## **BACKGROUND**

### **The Office of the Senior Practitioner**

The Office of the Senior Practitioner (OSP) has been established under the DADHC Stronger Together Plan to provide leadership and coordination of services to clients with complex needs and challenging behaviour.

The Office of the Senior Practitioner:

- Establishes and reviews policy and practice guidelines relating to the provision of support to adults, and children and young people with challenging behaviour.
- Identifies training and professional development requirements for Behaviour Intervention and Criminal Justice practitioners in the sector.
- Ensures appropriate supervision and leadership are provided to psychologists working within DADHC.
- Establishes and reviews policy and develops good practice guidelines for working with people who have patterns of offending behaviour.
- Establishes and monitors the use of restricted practice approval mechanisms by DADHC and the application of such mechanisms across the disability sector.
- Establishes close links and working relationships with stakeholders relevant to the specialist support of challenging behaviour and offending behaviour.

The OSP facilitates and manages relationships with New South Wales Government stakeholders including, Health, Corrective Services, Community Services, Housing, Education, Juvenile Justice, Ombudsman, Public Guardian and Office for Children relevant to specialist challenging behaviour/offending behaviour.

There are four teams within the OSP:

- Statewide Behaviour Intervention Service
- Criminal Justice Program - Case Management and Clinical Services
- Integrated Services Project
- Behaviour Support Unit

The OSP is also responsible for the establishment and coordination of an expert panel for the purchase of specialist and expert advice on psychology, psychiatry, communication, and pharmacology services as and when required, and on a needs basis.