

INQUIRY INTO OPERATION AND MANAGEMENT OF THE NORTHERN BEACHES HOSPITAL

Organisation: Health Care Complaints Commission

Date Received: 26 July 2019

Hon Greg Donnelly MLC
Portfolio Committee No 2 – Health
Parliament House
Macquarie Street
SYDNEY NSW 2000

Email: Portfoliocommittee2@parliament.nsw.gov.au

Dear Mr Donnelly,

Thank you for the opportunity to provide a submission in relation to the upcoming inquiry into the operation and management of the Northern Beaches Hospital.

The attached submission outlines the role of the Commission and its processes for handling complaints; and addresses item 1(d) of the inquiry's terms of reference as this is the only aspect that relates to the jurisdiction of the Commission. It includes summary information on the number and types of complaints received and the outcomes of those complaints.

The Commission requests this submission be held in confidence and not be published. This is primarily because there are a number of open assessment and resolution matters relating to NBH, and the Commission is in the process of determining what further action may be requested in relation to these matters and on what basis. A number of complainants have also expressly requested that their anonymity be maintained.

If you have concerns or questions on this matter, please contact Mr Antony Whitehouse, Executive Officer, Complaint Operations on [redacted] or at [redacted]

Yours sincerely

Sue Dawson
Commissioner

26/7/19

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PARLIAMENTARY INQUIRY INTO THE OPERATION AND MANAGEMENT OF NORTHERN BEACHES HOSPITAL

**Submission by the
Health Care Complaints Commission**

July 2019

1. INTRODUCTION

The Health Care Complaints Commission ('The Commission') is responding to a request to make a submission to the Inquiry into the Operation and Management of the Northern Beaches Hospital ('the NBH').

In section 2, the submission outlines the role of the Commission and the processes that typically apply to the handling of all complaints.

Section 3 of the submission addresses item 1(d) of the inquiries terms of reference as this is the only aspect that relates to the jurisdiction of the Commission. It provides summary information on the number and types of complaints received and the outcomes of those complaints, noting that it is constrained in its ability to identify individual complainants and practitioners, or to comment in detail on any complaints that are subject to current assessment or investigation processes.

The Commission requests this submission be held in confidence and not be published. This is primarily because there are a number of open assessment and resolution matters relating to NBH, and the Commission is in the process of determining what further action may be requested in relation to these matters and on what basis. A number of complainants have also expressly requested that their anonymity be maintained.

2. THE COMMISSION AND ITS FUNCTIONS

The Health Care Complaints Commission is an independent body established under the *Health Care Complaints Act 1993* ('the Act'). It receives and assesses complaints in NSW relating to registered health practitioners, non-registered health practitioners and (private and public) health organisations.

A complaint can be made by any person, and this may include a patient, a parent, guardian, family member or representative of a patient, an interested third party, a health service provider, the Minister, and a Member of Parliament.

The Commissioner may make an "Own Motion" complaint if there is a serious risk to public health and safety, a significant question regarding the care of an individual patient, or if the matter could ground a finding of unsatisfactory professional conduct, professional misconduct or gross negligence on the part of a health practitioner.

A complaint must be in writing. Once a complaint is lodged the Commission must process it as a complaint.

2.1 Assessment of Complaints

On receipt of a complaint, the Commission will typically seek relevant records and responses from the provider. If the provider is unwilling or tardy in responding, or so requests, under section 21A of the Act the Commission is able to issue a notice requiring that specified information or documents be provided. It is an offence for the provider not to comply with such a notice.

If a complaint names both a health organisation (such as a hospital) and concerns about the care and treatment provided by specific practitioners, both the hospital and the providers will be assessed.

In relation to complaints involving health organisations like the NBH - the standards, policies and systems that the facility has in place for ensuring the safety and quality of health service delivery and their adherence to these are considered in the Commission's assessment process.

In assessing and managing a complaint, there are a number of possible outcomes, which are set out in **Attachment A**. In summary, the outcome of an assessment may be:

- **Discontinue the complaint** if, for example, records or responses gathered do not support the allegations or the complainant does not wish to provide details that are needed to proceed.
- **Discontinue with comments** if the issues raised are minor but corrections to practices or procedures are required.
- **Refer a complaint to the relevant professional council** to consider action to address poor performance or conduct, or an impairment of a registered practitioner.

- **Refer the complaint to another body** that is more suitable to deal with the issues of concern. This may involve referrals to entities such as the Office of the Privacy and Information Commissioner, NSW Police, Fair Trading NSW, Medicare, the Aged Care Quality and Safety Commissioner, the Disability Quality and Safety Commissioner.
- Complaints may be **resolved during assessment**, if the complainant is satisfied that the health service provider has addressed their concerns.
- **Refer for local resolution** where a public health provider is able and willing to work directly with the complainant to address concerns.
- Referral to the Commission's **Resolution Service** provides an option of independent facilitation to bring the provider and complainant to a better understanding and agreement on action.
- **Investigation** of complaints that raise a significant risk to public health or safety or, if substantiated, would provide grounds for disciplinary action.

2.2 Investigation of Complaints

The Commission must refer a complaint about a health service provider for investigation if: it appears that the issues identified raise a significant issue of public health or safety; or, raise a significant question as to the appropriate care or treatment of a client; or, if the matter could ground a finding of unsatisfactory professional conduct, professional misconduct or gross negligence on the part of a health practitioner.

The outcomes of an investigation will depend on the nature of the evidence, the seriousness of any substantiated allegations and/or the classification of the health service provider. In the context of this submission the relevant potential outcomes of an investigation are as summarised below.

- In the case of a **registered practitioner**:
 - If there are significant departures the matter can be **referred to the independent Director of Proceedings**, who determines whether the practitioner should be prosecuted before a disciplinary body. In determining this they must have regard to: the protection of the health and safety of the public; the seriousness of the allegation; the prospects of a successful prosecution; and, any submissions made by the practitioner.
 - In cases where there are departures, but of a less serious nature, the matter may be **referred to a professional council** to address poor performance, conduct or health problems.
 - **Refer the complaint to the independent Director of Public Prosecutions** to consider criminal charges.
 - **Make comments** to practitioners where there have been more minor deficiencies in care or treatment, but not to an extent that there is further risk to public health or safety – and provided there is no justification for prosecution.
 - **Terminate** the complaint and take no further action where the investigation has not found sufficient evidence of inappropriate conduct, care or treatment, or where the risk has already been removed.
- In the case of a **health organisation**:
 - **Make recommendations** where there has been poor health service delivery and systemic improvements are required.
 - **Make comments to a health organisation** where the health care was inadequate, but action has already been taken such that there is no ongoing risk.
 - **Refer the complaint to the Director of Public Prosecutions.**

3. COMPLAINTS RELATING TO NORTHERN BEACHES HOSPITAL

The NBH has 488 beds (with a 60% public and 40% private mix) under a government supported Public Private Partnership (PPP) model. The NBH is therefore a private health facility regulated under the *Privacy Health Facility Act 2007* and a health organisation for the purposes of the *Health Care Complaints Act*.

3.1 How many complaints have been received in relation to NBH?

As at 25 July 2019, the Commission had received 26 complaints in relation to NBH. These 26 complaints have triggered 32 assessments, noting that 6 of the complaints also mentioned the care and treatment provided by individual providers at the Hospital or another health facility, as well as naming NBH.

3.2 Who has complained?

Of the 26 complaints received:

- 19 have been made by a patient or family member
- 5 have been made by NBH staff
- 1 is a mandatory notification by NBH in relation to an individual health practitioner's conduct
- 1 has been made by the Commissioner as an 'Own Motion' complaint.

3.3 What has been complained about?

The complaints received to date raise five broad categories of issues:

- Care & Treatment - a variety of clinical issues have been raised, including one matter associated with a 'Sentinel Event'.
- Poor Discharge Practices and/or Transfer Arrangements - including issues such as limited post-discharge instructions, discharge summaries, and post-discharge follow-up.
- Service Access Delays – including general treatment delays, particularly in the Emergency Department.
- Lower Level Administrative and Facility Issues – examples are staff unable to locate equipment, unavailability of bedside phones, dirty linen, access to computers, behaviour of other patients in shared rooms.
- Clinical Governance and Industrial Issues – typically raised by internal staff in relation to inappropriate skill mix, specialist staffing availability, and general resourcing.

3.4 What is the status of these complaints?

The Commission has finalised 22 of 32 assessment processes to date. There are 10 assessment processes currently open.

Of the 22 assessment processes that have been finalised, the outcomes are summarised below.

NBH Assessment Outcomes as at 23 July 2019	Number
Discontinue	6
Discontinue with Comments	8
Referred for Assisted Resolution**	5
Referred for Local Resolution	1
Resolved during Assessment	1
Referred to Professional Council*	1
Investigation	0
Refer to Another Body or Person	0
Total Assessment Processes Finalised to Date	22
Assessment Processes Currently Open	10

* Relates to an individual registered health practitioner not the NBH.

** 5 matters referred for Assisted Resolution are at varying stages of the resolution process and involve close collaboration with all of the parties to the complaint. This process may deliver full resolution, partial resolution, or no resolution.

