

# HCC

## Health Consumers' Council

Your Voice on Health

### **MAKING A COMPLAINT**

#### Information for Health Consumers

This leaflet gives options for what you can do if you are concerned about a health service.



## **MAKING A COMPLAINT**

**As a first step, you can attempt to resolve the issue directly with the health service provider.**

**By writing or speaking to the service provider about the incident, they have an opportunity to address the problem and put things right where possible.**

## **WHAT HELP IS AVAILABLE?**

Public Hospitals: Complaint Co-ordinators (sometimes also called Customer or Patient Liaison Officers) can take your complaint and direct it to the right people in the hospital.

Private Sector (this includes GPs, specialists, allied health workers and dentists):

- Ring the service provider and ask about their complaints process
- If appropriate you can ask to be referred to a senior staff member such as a Unit Manager, Practice Manager or Head of Department.

The Health Consumers' Council can advise on what to say in person or by letter in the private or public sector.

We can assist you at every step of the way.

### **General points to consider**

- Try to remain calm and polite to ensure your complaint is understood.
- Verbal complaints can easily be overlooked, so writing to the service provider is more effective.
- A written complaint needs to be firm, polite and direct (1-2 pages).
- Keep a copy of your complaint letter.
- If you are not happy with the response, you can request a meeting with the CEO of the public hospital or the Manager of the Private Health Service.

## **IS THERE AN INDEPENDENT HEALTH COMPLAINTS OFFICE?**

### **Office of Health Review**

The Office of Health Review (OHR) is an independent statutory body (established under an Act of Parliament) which investigates complaints against any health service provider. Call 9323 0600 or 1800 813 583 and an official OHR form will be posted to you.

### What happens next?

- You fill out the form with as much accurate detail as possible and send it to the OHR.
- You have one year from the time of the incident to record your complaint in the health system, and two years for disability complaints. This can be extended at the discretion of the Director.
- Your complaint is initially assessed to ensure it falls under the Act and can be dealt with by the OHR.
- The OHR will contact the provider for a response.
- The OHR can obtain copies of your medical records with your permission, as well as other information such as specialist opinions.
- The OHR assists both parties to agree on a mutually acceptable solution through conciliation. Conciliation is a voluntary process. It can only proceed if both parties consent to work towards a mutually agreed upon resolution to the complaint.
- If you are contemplating legal action, contact the OHR to discuss how they may assist in coming to an out-of-court resolution.
- Conclusion of a complaint can take anything from one month to two years, depending on the complexity of the issue.

#### Office of Health Review

Level 12, St Martins Tower,  
44 St Georges Terrace, Perth W.A. 6000  
GPO Box B61, Perth W.A. 6838  
Ph: 9323 0600 Freecall: 1800 813 583  
[www.healthreview.wa.gov.au](http://www.healthreview.wa.gov.au)

## WHAT ABOUT THE MEDICAL BOARD OF W.A.?

The Medical Board (MB) is responsible for the registration of qualified medical practitioners in WA. The MB will only take complaints in writing about doctors. MB Complaints Forms can be obtained by calling 9481 1011.

The MB will then determine if the doctor has breached the Medical Act (1894), including gross carelessness or gross incompetence, infamous or improper conduct.

- Once your complaint is received, the MB will contact the medical practitioner concerned.
- Based on this information, a decision is made by the MB whether to proceed to a formal inquiry. They may not access medical notes to assist them in this decision.
- A formal inquiry is similar to a civil court where medical notes, witness accounts etc are taken into consideration.
- There is no time limit for complaints to the MB.
- Complaints can take some time to conclude.

#### Medical Board

Level 8, London House  
216 St Georges Terrace, Perth W.A. 6000  
GPO Box 2754, Perth W.A. 6001  
Ph: 9481 1011  
[www.wa.medicalboard.com.au](http://www.wa.medicalboard.com.au)

**Points to consider:**

- The OHR and the MB will not deal with the same complaint at the same time.
- They may refer cases between each other as necessary.
- You can lodge a complaint with the MB even after the conclusion of an OHR complaint.
- If a decision has already been made by the MB, the OHR cannot deal with the complaint.

## **WHAT ABOUT CRIMINAL MATTERS?**

If your complaint about a health service provider concerns criminal offences such as sexual or physical assault, you should consider going to the police.



## **WHAT ABOUT DISCRIMINATION?**

### **Equal Opportunity Commission**

If you believe your complaint with a provider involves:

- discrimination or harassment on the grounds of race, gender, age marital status, sexual orientation, impairment or disability, religious or political conviction
- sexual harassment

then contact the Equal Opportunity Commission (EOC).

The EOC operates under the Equal Opportunity Act (1984).

- A Commissioner Officer will discuss your concerns relating to your rights under equal opportunity law.
- They will explain the EOC complaints process.

### **Equal Opportunity Commission**

Level 2 Westralia Square  
141 St Georges Tce, Perth W.A. 6000  
PO Box 7370, Cloisters Square, Perth W.A. 6850  
9216 3934 Freecall 1800 198 149  
[www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)

## WHAT ABOUT LEGAL PROCEEDINGS?

If you are considering legal proceedings, you should seek legal advice about the merit of your case.

- The Health Consumers' Council has a list of lawyers who take on medical negligence cases, available on request.
- To minimise costs you can choose a lawyer operating on a "no win, no fee basis".
- You will usually need an independent medical opinion report to test the merit of the case. This may cost between \$500 to \$3,500 or more even if your lawyer works on a no win, no fee basis.
- It can take up to two years before it is decided whether the case has legal merit.
- Proving medical negligence is quite difficult, may take several years and be emotionally harrowing.
- You need to consider the potential negative impact of this on yourself and your family before taking the decision to seek legal action.

Health service providers are legally bound to:

- provide enough information for you to make an informed decision about your treatment
- provide you with competent health care.

These two legal obligations are distinct from codes of conduct, ethical guidelines or professional guidelines.

Breaches of these codes of conduct do not necessarily warrant legal proceedings.

## WHAT ABOUT THE HEALTH CONSUMERS' COUNCIL?

The Health Consumers' Council provides an advocacy service to WA health consumers. The forms of assistance include:

- **listening** to your story
- **talking** through the complaint to define the main issues and what you hope to achieve
- **visiting** you in hospital or at home if necessary
- **directing** you to the most appropriate place to achieve those outcomes
- **providing** resources such as a sample letter of complaint, standard Freedom of Information letters etc to assist you to manage your own complaint
- **assisting** in the initial approach to the service provider to attempt to resolve the complaint directly
- **contacting** providers on the Health Consumer Council's letterhead if initial attempts at resolving the issue are not successful
- **assisting** with Freedom of Information requests
- **assisting** with OHR and MB complaints forms
- **liaising** with these agencies as the complaint progresses
- **attending** conciliation meetings as an independent third party
- **attending** lawyer's appointments
- **any other** actions requested by you.

## WHAT ARE MY CONSUMER RIGHTS?

As a health consumer you are entitled to:

- be treated with care, consideration and dignity
- be given clear information and explanations
- ask questions about the service to make sure you are clear about what it offers, who is eligible, what costs are involved, and what are your responsibilities
- ask questions about any issue relating to your health care – proposed treatments, full disclosure of possible risks, alternative treatment, discharge arrangements etc
- be given time to take in and understand the information provided
- be informed if the proposed treatment is experimental or part of medical research
- assistance from trained interpreters if required
- be referred to a more senior person if you are not happy with the quality of service provided
- obtain a second opinion (except where this is not possible, eg in an emergency)
- give informed consent before treatment begins
- withdraw your consent and refuse further treatment (except in certain circumstances)
- appoint someone on your behalf to make decisions if necessary
- leave the hospital at any time (except in cases of infectious diseases or psychiatric conditions). If you leave the hospital against medical advice you need to sign a waiver that states you are responsible for your illness/injury
- confidentiality of all personal records (except where the law requires that information be given to a person or authority)
- have access to your medical records through Freedom of Information legislation (public health sector) or the Privacy Amendment (Private Sector) Act 2000

## WHAT ARE MY CONSUMER RESPONSIBILITIES?

As a health consumer, you should:

- treat staff with care, consideration and dignity
- ask questions about the service and your treatment, and keep asking questions until you understand the issue
- give all information about your health status to ensure the best possible care
- advise staff if you are unable to or don't intend to follow your prescribed treatment plan
- tell staff about any changes in your health, including any problems about the treatment you are receiving
- keep appointments or let the service know if you are unable to attend

### Finally:

A good quality complaint service will:

- acknowledge receipt of your complaint promptly
- give you the opportunity to tell your story, even if you have written a letter
- provide you with a written list of the issues of complaint for your agreement
- make a time for the next progress report at the end of each contact with you
- advise you of avenues for taking your complaint further if you are not satisfied

*The information in this booklet is intended as a guide only. It is not the role of Health Consumers' Council to give legal advice. You should always consider seeing legal advice on matters related to legal action. Seek appropriate professional advice from the OHR, MB or EOC on your particular circumstances.*

*The information in this brochure was adapted from HEPack, health rights for drug users, published in 2000 by AVIL.*

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[www.hcc-wa.global.net.au](http://www.hcc-wa.global.net.au)

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