



HEALTH CONSUMERS'
COUNCIL
YOUR VOICE ON HEALTH

MAKING A COMPLAINT

**Problem with a Health or
Mental Health care provider?**

(e.g. Hospital, Nurse, Psychiatrist, Chiropractor,
Physio, Dentist, Doctor, Psychologist, etc)

HOW THE HEALTH CONSUMERS' COUNCIL CAN HELP

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

Talking through your issues to define the main problem/s and what outcomes you hope to achieve.

Directing you to the most appropriate place to achieve those outcomes.

Providing resources to assist you to manage your own complaint.

Approaching the service provider to attempt to resolve the complaint directly if you are unable to resolve it.

Contacting providers on the Health Consumers' Council's letterhead if initial attempts at resolving the issue are not successful.

Assisting with **Freedom of Information and Privacy** requests to obtain patient records.

A **Free Monthly Legal Night** where consumers may get a free short (30-45 min) consultation with a lawyer.

Assisting you to complete Complaint forms for Health and Disability Services Complaints Office (HaDSCO) and Australian Health Practitioner Regulation Agency (AHPRA).

Liaising with the different agencies if required.

Attending conciliation meetings as your advocate.

Any other actions mutually agreed upon.

WHAT ARE YOUR COMPLAINT OPTIONS?

There are several options for making a complaint:

- Complain direct to the Service provider.
- Seek a negotiated outcome through the Health and Disability Services Complaint Office (**HaDSCO**).
- Seek disciplinary action against a health practitioner through the Australian Health Practitioner Regulation Authority (**AHPRA**).
- Take legal action (a lengthy and potentially expensive process).
- Other less commonly used agencies for health related complaints include the Department of Commerce (consumer protection), the Ombudsman, the Equal Opportunity Commission and the Aged Care Complaint Scheme.

The Health Consumers' Council can help you prepare your complaint and assist you at every step of the way.

TAKING THE FIRST STEP—COMPLAIN TO THE SERVICE PROVIDER

In most cases as a first step, you should attempt to resolve the issue directly with the 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.

WHEN COMPLAINING TO A SERVICE PROVIDER

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

Private Sector (this includes GP's , 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.
- 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, objective 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.

HaDSCO: INDEPENDENT COMPLAINTS OFFICE

The Health & Disability Services Complaints Office (HaDSCO) is an independent statutory body (established under an Act of Parliament) which investigates complaints against any health or mental health service provider. To contact HaDSCO phone 6551 7600 or 1800 813 583.

WHAT HAPPENS AT HaDSCO?

- You fill out the HaDSCO complaint form (www.hadsco.wa.gov.au/form/index.cfm).
- You have two years from the time of the incident to record your complaint with HaDSCO. This time limit may 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 HaDSCO.
- HaDSCO will contact the provider for a response.
- HaDSCO, with your permission, can obtain copies of your medical records as well as other information such as specialist opinions.
- HaDSCO can help both parties to agree on a resolution through conciliation. Conciliation is a voluntary process. It can only proceed if both parties consent to work towards a resolution.
- If you are contemplating legal action, contact HaDSCO to discuss how they may assist in coming to an out-of-court resolution.
- Conclusion of a complaint can take anywhere from a few months to two years, depending on the complexity of the issue.

Health & Disability Services Complaints Office

GPO Box B61

PERTH WA 6838

Ph: 6551 7600 | Freecall: 1800 813 583

www.hadsco.wa.gov.au

COMPLAINING ABOUT AN INDIVIDUAL PRACTITIONER TO AHPRA

The Australian Health Practitioner Regulation Agency (AHPRA) is responsible for the regulation of qualified health practitioners in WA.

AHPRA can take written complaints about the conduct or performance of registered health practitioners, which includes doctors, nurses and midwives, chiropractors, dentists, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists. AHPRA Complaints Forms can be obtained by phoning 1300 419 495.

- In most circumstances, AHPRA will contact the health practitioner concerned once your complaint is received.
- Based on this information, a preliminary assessment is undertaken to decide whether AHPRA will handle the complaint.
- There is no time limit for complaints to AHPRA. Complaints can take years to be finalised.
- HaDSCO and AHPRA may refer cases between each other as necessary.
- You can lodge a complaint with AHPRA before, during and after the conclusion of a HaDSCO complaint.
- If a decision has been made by AHPRA, HaDSCO may not be able to deal with the complaint.

Australian Health Practitioner Regulation Agency
Level 1, 541 Hay Street, Subiaco WA 6008
GPO Box 9958, Perth WA 6001
Ph: 1300 419 495
www.ahpra.gov.au

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?

If you believe your complaint about 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 WA 6000

PO Box 7370, Cloisters Square, Perth WA 6850

Ph: 9216 3900 | Freecall: 1800 198 149

www.eoc.wa.gov.au

WHAT ABOUT LEGAL PROCEEDINGS?

All treatments involve risk and most negative outcomes, even mistakes, are not the result of negligence. However, health and mental 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 or professional guidelines. Breaches of these codes of conduct do not necessarily warrant legal proceedings. If you are considering legal action, you should seek legal advice about the merits of your case.

The Health Consumers' Council has a list of lawyers who take on medical negligence cases, available on request.

You will probably need an independent medical opinion report to test the merit of the case. This may cost between \$1000 and \$5000 or more.

Except for children who have a longer timeframe, you must commence legal action within 3 years of becoming aware of harm caused by negligence.

It can take up to two years before it is decided whether the case has legal merit.

Proving medical negligence, and that significant damage resulted, is difficult and 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, including having to pay the legal costs of the other side, should they be successful. This may be tens of thousands of dollars, which you will have to pay. Again, this is something you must discuss with a lawyer.

WHAT ARE YOUR 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.
- Assistance from trained interpreters if required.
- Ask questions about any issue relating to your health care - proposed treatments, full disclosure of possible risks, alternative treatment, likely consequences of not treating, 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.
- Be referred to a more senior person if you are not happy with the quality of the service provided.
- Obtain a second opinion (except where this is not possible, e.g. in an emergency).
- Give informed consent before treatment.
- 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 if you are made an involuntary patient under the Mental Health Act. 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 Act 1992 (WA) (Public Health Sector) or the Privacy Act 1988 (Commonwealth) (Private Sector)

WHAT ARE MY CONSUMER RESPONSIBILITIES?

As a health consumer, you should:

- Treat staff with courtesy, consideration and dignity.
- Ask questions about the service and your treatment, and keep asking questions until you understand the issue.
- Give all relevant information about your health status to ensure you get the best possible care.
- Advise staff if you are unable to or do not 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.

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 contained 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 seeking legal advice on matters related to legal action. Seek appropriate professional advice from HaDSCO, AHPRA 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.

ABOUT THE HEALTH CONSUMERS' COUNCIL

The Health Consumers' Council (HCC) is an independent community based organisation representing the consumer's voice in health policy, planning, research and service delivery.



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www.hconc.org.au