

**Queensland State Committee
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Research Director
Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
Parliament House
George Street
Brisbane Qld 4000

RE: Inquiry into the performance of the Queensland Health Ombudsman's functions pursuant to section 179 of the Health Ombudsman Act 2013

As the leading advocate for surgical standards, professionalism and surgical education in Australia and New Zealand, the Royal Australasian College of Surgeons (RACS) is committed to taking informed and principled positions on issues of public health at both state and federal level.

Thank you for your consultation for the Inquiry into the performance of the Queensland Health Ombudsman (QHO). The College wishes to acknowledge the very in-depth and well-constructed document which has been provided into the performance of the OHO.

The College has the view that the complaints management processes in Queensland have had major problems for more than a decade. There have been a number of bodies tasked with this responsibility over the past decade – Health Rights Commission, Health Quality and Complaints Commission, Office of the Health Ombudsman, Queensland Medical Board, Health Practitioner Registration Boards, National Boards and AHPRA. These organisations, it would appear from the evidence provided over a number of years, have not been able to efficiently or effectively manage the complaints processes.

The College would like to make further comments on the recommendations provided in this report:

Recommendation 1

The committee recommends that the Queensland Government investigate the merits of amending the *Health Ombudsman Act 2013* to introduce a joint consideration process for health service complaints between the OHO and AHPRA and the National Boards.

In undertaking its investigations, the committee recommends the joint consideration processes in place in NSW, under its co-regulatory approach, and other states and territories under the National Registration and Accreditation Scheme.

The committee also recommends that the Queensland Government consider the practicalities of introducing a joint consideration process, including:

- the potential benefits of merging the current initial decision and further assessment stages to create one assessment stage for complaints
- whether the current statutory timeframes for initial decisions and assessment would need to be amended to facilitate a joint consideration process, including with clinical input (where necessary)
- whether the current statutory 14 day timeframe for health service providers and complainants to make submissions and provide requested information is adequate to ensure decision-makers have sufficient information to make informed decisions, and
- How to ensure appropriate clinical input is available and utilised, where necessary, to inform any joint consideration of complaints.

RACS supports this recommendation. The OHO has an adequate budget and staffing levels when in comparison to the HCCC in NSW. The issue of its poor performance in some areas in comparison to the HCCC must be as a result of inadequate or unsustainable processes. The timeframes need to be adequate and also allow for the practitioner to have the opportunity to provide a comprehensive submission to the complaint notification.

In particular the College has significant concerns (as raised in our submission) that clinical input has only been utilised by the OHO in 7.4% of complaints. The figure specific to surgery is not available but anecdotally we believe it may be lower than 7.4%. There may be a view that the requirement for clinician input could slow the initial process however a considered and learned view from an experienced clinician would allow for the proper assessment of the complaint. This in turn would focus any further actions to be taken and overall the College believes it would speed up the process to resolution and closure. This would be addressed by the recommendation to have the initial decisions and assessment amended to facilitate a joint consideration process with clinical input where necessary.

As mentioned in our initial submission there is a role in the complaints process for the Health Service to perform due process investigation and respond on behalf of the practitioner as is their right as an indemnified employee. The above recommended changes do not appear to build in a clearly defined role for the Health Service in the complaints notification process.

Recommendation 2

The committee recommends that the Queensland Government consider options for ensuring that potentially serious professional misconduct matters, which may also raises issues about a health practitioner's health or performance, are able to be dealt with, as a whole, rather than being split between the OHO and AHPRA and the National Boards.

The College would be supportive of this recommendation as this would benefit the complaints process and protect the public. The College would expect in these circumstances that the OHO and AHPRA and the National Boards or 1 of these bodies should seek the relevant clinician input. The College would consider the National Board to be the appropriate body for this role.

Recommendation 3

The committee recommends that the Office of the Health Ombudsman, AHPRA and the National Boards produce a joint plan, which identifies the information needs of all parties and any barriers to the sharing of information, and sets out an agreed approach for resolving any data issues that prevent the production of nationally-consistent data about health

service complaints.

The committee recommends that the joint plan include agreed implementation dates for the actions identified in the plan.

Evidence based data is critical in determining patterns in relation to practitioner behavior and performance and should form the basis of informing complaints processes. The College was disappointed to read in the report that the data sets around complaints management at a state and national level are not being applied consistently. The Committees recommendation is strongly endorsed by the College.

Recommendation 4

The committee recommends that the Queensland Government consider whether to introduce legislation to make the Health Ombudsman's suggested amendments to the *Health Ombudsman Act 2013* and the *Health Practitioner Regulation National Law Act 2009* (Qld).

These suggested amendments are:

- **Correct potential deficiencies in the HO Act**
- **provide clarity around timeframes and legislative requirements**
- **provide flexibility in dealing with issues from complaints to ensure all relevant parties can be included in the process of local resolution or conciliation, and**
- **remove uncertainty or barriers to the effective sharing of information to ensure that the health and safety of the public are protected.**

The primary objective in complaints management is to protect the public. The processes around providing this protection are important and the College would be supportive of a process that removes barriers to the effective sharing of information between relevant bodies.

Conclusion

The College is supportive of the changes recommended. In particular the College would like to emphasise the importance of:

1. Ensuring a role for the Health Service to be included in the complaints notification processes.
2. That clinician input is sought where ever possible in the complaints process with a substantial interaction increase required at the initial decision and further assessment stages.
3. That consistently applied data sets are used in building a comprehensive evidence base for ascertaining clinician behaviour and performance as it applies to managing complaints and protecting the public.

Yours Sincerely,



Owen Ung
Chair, Queensland State Committee