

Office of Health Ombudsman – early impact

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Sydney ▲ Melbourne ▲ Brisbane ▲ Canberra ▲ Newcastle ▲ Perth

Health Ombudsman Act 2013 (Qld) MORAY&AGNEW LAWYERS

- ▲ Passed 20 August 2013
- ▲ Office of Health Ombudsman ('OHO') commenced operations on 1 July 2014

Criticisms of the old system

- ▲ Length of timeframes for investigating complaints
- ▲ Lack of consistency in disciplinary outcomes for registrants
- ▲ Inconsistency in reporting back to complainants and health service providers
- ▲ Duplication and multiple handling of complaints between agencies.

Key features

- ▲ The OHO is to be the single agency for receipt of 'health service complaints' (notifications)
- ▲ Shorter time frames for a number of processes and investigations
- ▲ The ability for the HO to exercise immediate action power unilaterally where it is '*necessary to do so to ensure the health and safety of an individual or the public*'
- ▲ OHO retains and manages 'serious matters' (other matters may be referred to AHPRA)
- ▲ Director of Proceedings responsible for determining which matters are to be referred to QCAT for disciplinary action

Broad objectives

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- ▲ Transparency
- ▲ Accountability
- ▲ Efficiency
- ▲ Consistency

OHO Performance

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Two months into the OHO's operation:

Do the above objectives look likely to be met?

Have the concerns identified by stakeholders (before implementation) eventuated?

OHO Performance

- ▲ OHO monthly performance reports available at:
 - ▲ <http://www.oho.qld.gov.au/about-us/our-performance/monthly-performance-data/>
- ▲ OHO did not start with a clean slate:
 - ▲ On 1 July 2014 it assumed responsibility for 289 HQCC matters (in varying stages of being managed)
 - ▲ On 29 July 2014 it received a report of current AHPRA matters for audit with a view to identifying 'serious matters' and those to be transitioned to OHO

Acceptance of health service complaints

- ▲ Within 7 days the HO is to decide to accept a complaint and take 'relevant action' or take no further action (s 35)

Number of decisions made

Number of decisions made	Number (July)	Number (Aug)	Percentage
Accepted	232	329	79
Not accepted	12	13	4
Decision pending	74	48	17
Total	319	390	100

Compliance with timeframes for accepting complaints

Decisions made within seven days

Decision made within seven days of receiving a complaint	Number (July)	Number (Aug)	Percentage
Yes	229	201	75
No	15	128	25
Total	244	329	100

Assessment of complaints

- ▲ Assessments are to be completed within 30 days – s 49(1)
- ▲ May be extended a further 30 days if certain conditions are met – s 49(2)

Completed assessment timeframes

Assessment timeframes	Number (July)	Number (Aug)	Percentage
Completed within 30 days	16	280	91
Completed within 60 days	0	31	9
Total	16	311	100

Assessment decisions (relevant action)



Assessment decisions (relevant action)

Type of relevant action	Number (July)	Number (Aug)	Percentage
Local resolution	7	119	37
Conciliation	0	10	3
Investigation	8	13	6
Referred to AHPRA and the National Boards	1	109	33
Referral to another entity	0	0	0
Immediate action	0	0	0
No further action	0	70	21
Total	16	321	100

Local resolution



- ▲ Local resolution to be completed within 30 days – s 55(1)
- ▲ May be extended by 30 days if certain conditions are met – s 55(2)

Local resolutions started and completed

Local resolution	Number (July)	Number (Aug)
Local resolutions started	7	117
Local resolutions completed	3	19

Completed local resolution timeframes

Local resolution timeframes	Number (July)	Number (Aug)	Percentage
Completed within 30 days	3	19	100
Completed within 60 days	0	0	0
Total	3	19	100

Conciliation and timeframes

Conciliations started and closed

Conciliations this month	Number (July)	Number (Aug)
Conciliations open at the start of the month	31	30
Conciliations started	0	9
Conciliations closed	1	1

- ▲ All conciliations open at 1 July 2014 were transitioned from the HOCC. Of those not closed:
 - ▲ 10 had been open less than 3 months
 - ▲ 13 open for 3-6 months
 - ▲ 1 open for 9-12 months
 - ▲ 6 open for more than 12 months

Investigations

- ▲ Are to be concluded as quickly as possible but < 1 year (+3 monthly extensions permitted for up to 1 year but extension must be recorded on a public register) – s 85

Investigations started and completed

Investigations this month	Number (July)	Number (Aug)
Investigations open at the start of month	12	20
Investigations started	10	45
Investigations completed	0	0

Open investigation timeframes

Investigations open	Number (July)	Number (Aug)	Percentage (Aug)
Less than 3 months	13	26	40
3-6 months	7	7	11
6-9 months	0	18	28
9-12 months	2	13	20
More than 12 months	0	1	1
Total	22	65	100

Investigations register

Matter being investigated	Date commenced	Original agency	Date OHO received the matter	Current due date for completion	Reason for extension beyond 12-months
Notification of alleged professional misconduct by registered medical practitioner in relation to the consumption of alcohol while working, performing surgical procedures outside the scope of practice and inappropriate behaviour with a patient.	15 May 2013	Australian Health Practitioner Regulation Agency	15 August 2014	15 November 2014	File transferred to the Office of the Health Ombudsman at 406 days and further assessment is required.
Complaint alleging a registered nurse has engaged in professional misconduct by having a sexual relationship and/or inappropriate relationship with a patient.	6 September 2013	Australian Health Practitioner Regulation Agency	15 August 2014	15 November 2014	File transferred to the Office of the Health Ombudsman at 343 days and further investigation is required.
Complaint alleging a registered nurse has engaged in professional misconduct by misappropriating prescriptions and fraudulently obtaining medication.	6 September 2013	Australian Health Practitioner Regulation Agency	15 August 2014	30 November 2014	File transferred to the Office of the Health Ombudsman at 343 days and further assessment is required.

Immediate action

- ▲ Prior to exercising immediate action power the HO must give notice of the proposed action and allow practitioner 7+ days to respond (s59)
- ▲ Exception: immediate action maybe taken without show cause where it is necessary to do so to ensure the health and safety of an individual or the public (s59(4))
- ▲ Only one show cause notice issued under s59 in July and August 2014.

Problems?

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- ▲ Statutory time frames are simply too short
 - ▲ Adequacy of resources and funding
 - ▲ Is the balance right between protecting the public and ensuring fairness for practitioners?
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Short term problems

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- ▲ Uncertainty about existing AHPRA claims
 - ▲ Lodgment of "fresh" complaints with OHO
 - ▲ Hiding unfavourable statistics (eg investigations) by leaving long tailed matters with AHPRA
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Thank you