

ORDERS IN COUNCIL

Health Complaints Act 2016

COMPLAINTS HANDLING STANDARDS 2020

Order in Council

The Governor in Council, under section 133 of the **Health Complaints Act 2016**, orders that the Complaints Handling Standards 2020 be made.

This Order comes into effect on the date it is published in the Government Gazette.

Dated 26 May 2020

Responsible Minister:

JENNY MIKAKOS MP

Minister for Health

CLAIRE CHISHOLM
Clerk of the Executive Council

Health Complaints Act 2016 COMPLAINT HANDLING STANDARDS

Why complaints are important

Complaints help to improve the quality and safety of health services in Victoria. They are a vital form of feedback to all health service providers.

Complaint Handling Standards

These standards aim to strengthen and improve complaint handling systems across the Victorian health sector. They will provide a common benchmark that all health service providers will meet, offering consistency for consumers, complainants, health service providers and other stakeholders. Each standard includes guiding principles for implementation that aim to provide direction for the design of effective complaint handling processes in all health service providers. Health service providers should develop their own performance indicators to measure success. Some standards have performance indicators in them, for example within three working days, and others do not and will need to be developed by the health service provider.

These complaint handling standards complement existing standards, reinforcing the importance of consumer feedback and person-centered care in all health services.

These standards form part of, and have been developed in accordance with, sections 132 to 137 of the **Health Complaints Act 2016 (the Act)**. The Act also provides that consumers can make a complaint to the Health Complaints Commissioner (**HCC**) about the way a complaint is handled by a health service provider.

Making a complaint about how a complaint was handled

In the first instance complaints about the way a complaint is handled should be raised with the health service provider.

If the complainant remains dissatisfied with the health service provider's response, they may contact the HCC. The HCC responds to complaints about health services and the handling of health information in Victoria. The HCC's service is free, confidential and impartial.

Complainants can lodge a complaint with the HCC by:

- filling out a complaint form online at hcc.vic.gov.au or
- telephoning 1300 582 113 between 9 am and 5 pm, Monday to Friday to discuss the complaint.

STANDARD 1

The health service provider fosters an open and receptive culture to feedback and complaints that leads to continuous improvement of the quality of their health service.¹

Guiding principles for implementation

- 1.1 The health service provider uses feedback mechanisms and complaint information to continuously improve the quality of their health service.
- 1.2 The health service provider's complaint handling outcomes are transparent and accountable.
- 1.3 The health service provider's complaint handling is effective.
- 1.4 Health service providers have systems for aggregating complaints data and addressing issues as part of their continuous improvement.
- 1.5 To prevent the issues that gave rise to the complaint from recurring, the health service provider's investigation of the complaint aims to methodically identify, and where required, correct the issues that caused it.
 - 1.5.1 Where issues that gave rise to the complaint are identified and corrected, those corrections are linked to the health service provider's quality improvement systems and risk management framework.

¹ Source Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, September 2016.

- 1.6 There are a range of ways that complaints can be made to the health service provider.
- 1.7 The staff dealing with complaints are skilled in customer service and complaint handling, and have access to best practice resources, training and support.
- 1.8 All staff are able to respond to feedback and complaints at the point of care.
- 1.9 The health service provider regularly reviews and evaluates its complaint handling to meet the needs of people who use their health service.
- 1.10 The health service provider's complaint handling is consistent with these Complaint Handling Standards.

STANDARD 2

All reasonable steps are taken to support a person to make a complaint about a health service provided to, or sought by, a person, or an offer of a health service to a person.

Guiding principles for implementation

- 2.1 Information about how to make a complaint is available and easily accessible to everyone, including information on websites.
- 2.2 Responsive methods and supports are in place for any person to make a complaint, including measures for people who have special needs or are vulnerable.
- 2.3 Complaints are accepted from third parties including carers, guardians, friends, family members, or an advocate.²
- 2.4 Complaints can be made anonymously.
 - 2.4.1 Complainants who make an anonymous complaint are made aware of the limitations of making an anonymous complaint.
- 2.5 Staff dealing with complaints are able to manage complainants who present with challenging behaviours and/or unreasonable demands.
- 2.6 Complaints made through social media are, where possible, directed to the health service provider's complaint handling processes.

STANDARD 3

No person shall experience reprisals because of providing feedback or making a complaint to a health service provider.

Guiding principles for implementation

- 3.1 Complainants or consumers must not be treated unfairly or be subject to reprisals or detriment as a result of making a complaint or providing feedback.
- 3.2 The health service provider supports people who want to make a complaint.
- 3.3 Complainants must be treated with respect.

STANDARD 4

The complaint is acknowledged by the health service provider to the complainant as soon as practicable or within three working days. Where applicable, the complaint is remedied at the time it is made.

Guiding principles for implementation

- 4.1 All staff are able to resolve complaints at the time it is made to that staff member or as soon as possible thereafter.

² For the purposes of these Complaint Handling Standards these groups are also called the complainant.

- 4.2 Where complaints cannot be resolved at the time they are made or as soon as possible by the staff member who receives the complaint, that staff member must refer the matter to an appropriate staff member responsible for complaints handling or a more senior staff member as soon as possible.
- 4.3 For all complaints not capable of being dealt with immediately at the time they are made, the complainant and the health service provider will discuss the complaint and the process for dealing with it.
- 4.4 As a minimum, the following issues must be acknowledged and discussed with the complainant and the health service provider must offer to confirm these issues in writing if the complainant wishes.
- 4.4.1 The complainant is made aware:
- 4.4.1.1 of the complaint process and expected timelines
 - 4.4.1.2 of any personal or health information required and where consents may be needed
 - 4.4.1.3 of issues of privacy and confidentiality, including the health service provider's Privacy Collection Statement and the need to act in good faith
 - 4.4.1.4 of the person who is managing the complaint and their contact details
 - 4.4.1.5 of the agreed frequency and method of ongoing communication with the person handling their complaint
 - 4.4.1.6 that their complaint is handled and stored separately to their health records
 - 4.4.1.7 of these Complaint Handling Standards.
- 4.4.2 The health service provider is aware of:
- 4.4.2.1 the circumstances of the complaint including outcome(s) sought by the complainant
 - 4.4.2.2 the agreed frequency and method of ongoing communication with the complainant and any specific needs they may have, including use of translators
 - 4.4.2.3 the level of involvement the complainant wants to have in the complaint handling process.

STANDARD 5

The complainant and the health service provider must mutually agree on a method and frequency of communication throughout the complaint handling process.

Guiding principles for implementation

- 5.1 The complainant and health service provider agree on a method and frequency of communication throughout the complaint handling process that is reasonable.
- 5.2 The complainant is able to make reasonable contact with the person handling their complaint.
- 5.3 Delays or changes to the complaint handling process are communicated to the complainant.

STANDARD 6

The health service provider aims to give the complainant a clear and timely response to the complaint within 30 working days of receiving it. Where this cannot be achieved the reason for this and the expected timeframe for responding to the complaint is communicated to the complainant as soon as possible.

Guiding principles for implementation

- 6.1 The health service provider handles the complaint in a manner that aims to resolve the issues as quickly as practicable.
- 6.2 Delays in responding to the complaint are communicated to the complainant and, if appropriate, the complaint is escalated to senior management.

STANDARD 7

A response to the complainant includes information about how to make a complaint to the Health Complaints Commissioner.

Guiding principles for implementation

- 7.1 A response to the complainant includes:
 - 7.1.1 an explanation of what happened and why
 - 7.1.2 the reason(s) for any decisions
 - 7.1.3 any remedy or resolution
 - 7.1.4 where appropriate, an apology
 - 7.1.5 the action(s) taken by the health service provider in response to the complaint
 - 7.1.6 how the complainant can provide feedback about the health service provider's complaint handling process and the avenues for a review of the decision including how the complainant can contact the Health Complaints Commissioner.

STANDARD 8

The personal information, collected from a complaint, must be kept confidential in accordance with the **Health Records Act 2001**, the **Privacy and Data Protection Act 2014**, the **Privacy Act 1988 (Cth)**, the **My Health Records Act 2012 (Cth)** and, where applicable, the **Health Services Act 1988**.

Guiding principles for implementation

- 8.1 Personal information is kept confidential.
- 8.2 As soon as practicable after a complaint is made, the complainant is made aware of the health service provider's Privacy Collection Statement.
- 8.3 The complainant understands the health service provider's need to access health information and the need for privacy and confidentiality.
- 8.4 Where required, consents are obtained to access health information.

STANDARD 9

Records of complaint handling must be kept separate from a person's health information.

Guiding principles for implementation

- 9.1 The complaint handling records are stored separately from a person's health information.
- 9.2 Access to the records of the complaint or the complaint handling system must be limited to those staff handling the complaint and such other staff responsible for complaints handling and/or quality improvement.

STANDARD 10

Where possible, the staff dealing with a complaint must identify, declare and manage any conflicts of interest when handling the complaint.

Guiding principles for implementation

- 10.1 Conflicts of interest in the complaint handling are avoided where possible but, when identified, are declared and managed.

STANDARD 11

The health service provider's complaint records form part of continuous quality improvement and must be managed in accordance with all relevant legislation and regulations and policies issued with respect to complaint records as amended from time to time, including these Complaint Handling Standards.

Guiding principles for implementation

- 11.1 Complaints are monitored through the health service provider's complaint handling process.
 - 11.2 Records of the initial complaint, all correspondence (including telephone calls), the outcome and action taken are:
 - 11.2.1 managed in accordance with the relevant disposal and retention schedule established by the Public Records Office of Victoria (PROV); or
 - 11.2.2 identified, gathered, classified, maintained, stored, analysed, reported and disposed of consistent with PROV requirements.
 - 11.3 Reports about the health service provider's complaints, complaint handling processes and any trends identified are reported to management on a regular basis.
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