Ref: INQ24/15

Dr Joe McGirr MP
Chair
Committee on the Health Care Complaints Commission
Member for Wagga Wagga
Parliament House, Macquarie Street
Sydney NSW 2000

Request for stakeholder input - Review of the HCCC's 2021-22 and 2022-23 annual reports

Dear Dr McGirr

I write in response to the Committee on the Health Care Complaints Commission's invitation to health sector stakeholders for input on some of the HCCC's performance measures and public engagement objectives.

NSW Health appreciates the important role that the HCCC provides in supporting patients and their families to raise concerns about the healthcare they receive from NSW Health services. Our districts and networks place a high priority on ensuring the best possible care and on continually improving services through the feedback provided by patients, whether through a formal complaints process or other feedback mechanisms.

For the convenience of the Committee, NSW Health has requested and collated responses from our local health districts and speciality health networks. The consolidated response is attached for the consideration of the Committee.

Thank you for the opportunity to contribute to this review.

Thank you again for writing. For more information, please contact Michelle Vaughan, Executive Director, Executive and Ministerial Services at [redacted] or on [redacted]

Yours sincerely

[redacted]

Committee on the Health Care Complaints Commission Review of the Commission's 2021-22 and 2022-23 annual reports

NSW Health

Consolidated Local Health District and Specialty Health Network Responses to Committee questions on HCCC performance measures and public engagement objectives.

Benchmarks and performance measures 1. Under section 22 (a) of the *Health Care Complaints Act 1993*, the HCCC must carry out its assessment of complaints **within 60 days** after receiving the complaint.	
Is 60 days an appropriate timeframe for assessing complaints?	
Summary of District/Network responses (Please note Local Health Districts and Specialty Health Networks have been collectively referred to as Districts for simplicity)	10 of the Districts that responded to this question agreed that 60 days was an appropriate timeframe, particularly for non-complex complaints. Three Districts indicated the timeframe was not appropriate. Both Districts who indicated that the 60 days was appropriate, and those who disagreed, made comments that indicated it would be preferrable for HCCC to process complaints through to the Districts faster. This was better from a patient perspective as it could allow more immediate action, but also for the Districts as it allowed sufficient time to comprehensively investigate and respond to the complaint. One District provided no comment to this question.
Detailed comments	For noncomplex complaints a 60 day timeframe is reasonable. However, higher acuity complaints requiring complex responses (ie; require SAER or high level clinical review) need a longer timeframe. Timeframes for response required from LHDs are often unrealistic, due to delays in initial assessment process at HCCC. On occasion the District has received a complaint 30 days after initial receipt by HCCC and subsequently are given a short turnaround time (2 weeks) which does not allow for LHD review, investigation and response. Noting LHD complaint KPI resolution timeframe is 35 days.

	60 days is an appropriate timeframe if the HCCC promptly process the complaint to the LHD. This directly impacts on the investigation time the LHD is provided, particularly regarding complex matters.
	The 60-day total timeframe is appropriate. The Client Liaison Officer (CLO) is given 2-3 weeks to provide a response from the HCCC, which is manageable most of the time. At times the CLO will request a 1–2-week extension if the complaint is complex and requires investigation from multiple teams.
	60 days is entirely appropriate from a consumer point of view. The 60 day timeframe however translates to a request from the HCCC to the District to provide a response and records within either 7 or 14 days. This is often very difficult in complex matters and almost impossible where there is staff leave.
	This is dependent on the complexities of the complaint but generally agree it is appropriate. If the patient is in current care a shorter turnaround time to assess the complaint may be required. The opportunity to negotiate depending on risk, complexity and the interaction that has already occurred with the LHD to inform assessment would be welcomed.
	The LHD expectation for local complaint management includes acknowledgment within five (5) days and resolution within 35 days. We know early assessment and management of complaints is more likely to support resolution. It is not unusual for the LHD to receive a HCCC request for a response two (2) to four (4) weeks after it was received by the HCCC. If the complainant has sent their complaint locally and to the Ministry of Health and the HCCC, the local LHD complaint management and Ministry of Health response is underway before the HCCC sends a request for a response to the LHD. We recommend the HCCC request the complainant advise if they have submitted their complaint to the LHD or other organisation at the same time. We recommend the HCCC advise complainants that they continue to be

	engaged with the LHD to resolve their concerns and resubmit their complaint to the HCCC if the complainant is not satisfied with the management of their complaint after 35 days. Please note HCCC administration includes sending LHDs letters to advise the HCCC has closed a complaint due to a lack of information. This HCCC correspondence adds no value to LHD feedback. We recommend this information not be sent to the LHD. For complaints only submitted to the HCCC, we recommend the HCCC consider reducing the complaint assessment time to be less than 60 days.
	This is an appropriate timeframe for assessment however, not for complainants. The long timeframe often means that complainants write to the District, write to minister and local MPs and the District is then required to provide three responses. We have a District KPI of 35 days and respond to all complaints within 35 days.
	The 60-day timeframe set by the HCCC for assessing complaints is a reasonable standard, ensuring that complaints are addressed in a timely manner. However, this timeline must be balanced with the need for a thorough and fair assessment, particularly in complex cases.
	Overall, the 60 days' timeframe is an appropriate for assessing complaints. However, it has been observed that there are: 1. (in some instances) delays in receiving a complaint from the HCCC for the District to manage, and the date the complainant wrote to the HCCC. 2. delays in communicating with the HCCC on a complaint. 3. no guideline/matrix on the decision making process as to what determines a HCCC complaint is either Local Resolution vs HCCC Review. In relation to point 1, there are occasions when a complainant has written to the facility and the HCCC simultaneously. In most instances, the facility has managed the matter locally per NSW Health's policy directive, *Complaints Management* (PD2020_013) and the policy's timeframe of finalising the complaint within 35 days, before the same complaint is issued to NSLHD by the HCCC. In relation to point 3, further guidance would be

	welcome to understand the rationale and decision making process when a complaint is deemed HCCC review or Local Resolution. At times, matters that have been allocated to the LHD as Local Resolution are more complex than a matter that has been issued as HCCC review.
	The LHDs are provided with 21 days out of the total 60 days to complete their portion of the complaint assessment. The District advises this is not sufficient time to allocate, investigate and draft a comprehensive response and as such, at times does not meet the allocated timeframe. This is especially the case when investigating complex complaints.

In your experience, has the HCCC consistently assessed complaints within its 60-day timeframe?	
Summary	Seven Districts indicated that the HCCC met the 60-day timeframe. Five Districts indicated that the HCCC did not consistently meet the 60-day timeframe. It was noted that those complaints where the timeframe was not met generally involved more complex cases. Three District indicated they were not in a position to respond to this question.
Detailed comments	Suggestion for improvement of assessment times: Noted inconsistent assessment decisions for matters deemed suitable for local resolution (dependent on individual resolution officer).
	Recently, we have noticed that the HCCC has not been meeting the 60 day timeframe for assessment. Our District submits 100% of responses by the requested timeframe and a recent conversation with Manager of HCCC Assessment team highlighted that there has been a 28% increase in HCCC complaints, which has resulted in decreased ability to process all complaints within timeframes.
	While the HCCC generally aims to meet the 60-day assessment timeframe, the requirement for the district to respond within approximately three weeks (around 21 days) poses significant challenges. This limited timeframe often does not allow for the thorough review necessary to provide a comprehensive and honest response,

	especially in complex cases. The pressure to meet this deadline can leave the District vulnerable, as it may compromise the quality of the review and, consequently, the integrity of the response. Extending the response time for districts would allow for a more detailed and accurate review, ultimately leading to better outcomes for complainants and the health care system.
	In most instances, the HCCC has assessed the complaint within the 60-day timeframe. There are occasions when the timeframe has not been met due to complainant expectations, the matter is complex, or resourcing.

2. The HCCC aims to complete reviews of assessment decisions **within 60 days.**	
Is 60 days an appropriate timeframe for completing reviews of assessment decisions?	
Summary	Eleven Districts indicated that the 60-day timeframe was appropriate. Two Districts indicated that the 60-day timeframe was not appropriate. Two District indicated they were not in a position to respond to this question.
	There is lack of consistency between assessors assigned to complaints.
	The LHD does not have a visual on the time frame for reviews of assessment decisions. Would recommend a shorter time frame than 60 days for completing reviews because an assessment has already been completed.
	This is an appropriate timeframe but could be reduced, however given HCCC workload constraints, this would be challenging for HCCC to achieve.
	This aligns with similar serious incident review KPIs expected of the LHDs to other government bodies.

	Some variance may be needed depending on complexity to extent of complaint
	Overall, the 60 days timeframe is appropriate. However, the review of assessment decisions is ambiguous. The District asks if there is an opportunity to clarify what the HCCC is reviewing – is it the decision to commence an investigation, action or close a complaint, or review the investigation outcome?

In your experience, has the HCCC consistently completed reviews of assessment decisions within its 60-day timeframe?	
Summary	Eight Districts indicated that the HCCC met the 60-day timeframe. Two Districts indicated that the HCCC did not consistently meet the 60-day timeframe. One of these Districts suggested that they were given a lower priority due to the complaint coming from a rural and remote area. Five Districts indicated they were not in a position to respond to this question.
Detailed comments	It is not uncommon for the LHD to follow up with the HCCC on the assessment decision outside the 60 Days.
	No, we have been advised previously by an assessor that a complaint was not at the top of their priority list. Due to complaint coming from a small rural and remote area, this further escalated the community due to lack of communication and feeling forgotten about.
	It is hard to comment as we are not always notified of a review of an assessment decision.
	The LHD does not have a visual on timeframe for reviews of assessment decisions.
	The HCCC has generally adhered to the 60-day timeframe for completing reviews; however, the challenge remains with the district's constrained timeline for responding and we would expect this delay would contribute/compound to potential delays for HCCC to finalise assessments.

3. Complaints are referred for investigation by the HCCC in situations where an initial assessment raises a potentially significant issue of public health or safety; significant departures from clinical treatment and professional conduct standards; and/or where there may be grounds for disciplinary action. The HCCC aims to complete all investigations **within 12 months**.	
Is 12 months an appropriate timeframe for completing of investigations?	
Summary	Nine Districts indicated that the timeframe was appropriate. Three Districts indicated that the timeframe was not appropriate. Some Districts from both groups noted that the 12 month period may be considered too long for the complainants and their families. Two Districts provided neutral comments, noting that complexity of the issues of the case would be a factor. One response noted that ensuring a thorough investigation and implementation of corrective actions to ensure public safety should take precedence over adherence to a timeframe. One District indicated they were not in a position to respond to this question.
Detailed comments	Yes unless it is something particularly complicated involving multiple clinicians
	It is reasonable for the investigation to be completed within 12 months.
	This would be dependent on the issue at hand.
	No, although understand this isn't always in their control due to third party organisations (AHPRA, Nursing and Midwifery Council).

	Yes, a timely resolution for families who are in dispute is always preferable.
	Yes, although it is acknowledged for the complainant this could be a long period.
	These investigations require the LHD to support the HCCC investigation by providing an extensive and detailed response. Twelve (12) months seems reasonable.
	This is not an appropriate time for an investigation. It would be beneficial for the HCCC to hold an immediate case conference with all parties/LHDs/employers involved and gather required information. The current process makes it hard to manage sporadic requests for information over a long period of time and if involving a staff member who is currently working requires the LHD to provide considerable support to that employee and is a further risk to public safety if issue is substantiated.
	While the 12-month timeframe for completing investigations allows for thorough and comprehensive reviews, it may be worth considering whether this duration is perceived as too lengthy by some complainants, particularly in cases involving significant public health or safety concerns. A reduced timeframe, such as six months, coupled with regular progress updates, could be considered as a way to help mitigate potential frustration and maintain trust in the investigation process. This adjustment could ensure that the process remains rigorous while also being responsive to the needs and expectations of those involved.
	It is a long time for a determination. Shorter would be better if necessary quality, fairness and due diligence can be maintained.
	Any serious public safety concerns and situations where public safety is at risk, a thorough investigation including completing the report, advising stakeholders, and to undertake system changes, must take precedence over adherence to a fixed timeframe. Ensuring that all necessary actions to mitigate risk/s should be the priority.

In your experience, has the HCCC consistently completed investigations within its 12-month timeframe?	
Summary	Five Districts indicated that the HCCC met the timeframe. Nine Districts indicated they were not in a position to respond to this question. Most Districts did not have enough cases to make a judgement on this question. One District indicated that the HCCC did not meet the timeframe, however this was from a single case example.

4. In its 2020-21 annual report, the HCCC assessed its performance against a number of key indicators.[1] Some examples of indicators and targets listed in the report are contained in the box below.

Should the HCCC report on additional performance measures? If so, what additional performance indicators are important to capture?

District and Network suggested additional performance measures:

Process related

- Performance on completions within timeframe, including demonstrating improvements to timeframes over reporting years.
- Timeliness of feedback regarding decisions to hospitals and clinicians,
- Recommend removing from "average time taken to assess a complaint" any complaints that cannot be followed up due to the lack of information or cooperation provided by the complainant.
- Data captured on complaints by organization and individual.
- Is the complaint made against a primary care provider or clinician working within a government led facility.

Consumer Experience

- The measurable outcome from the consumer
- Consumer engagement satisfaction and/or experience indicators

[1] The use of key indicators was discontinued in the reports of 2021-22 and 2022-23.

- Stakeholder engagement metric to gauge feedback/satisfaction from healthcare providers, professional councils, and other key stakeholders

Investigation outcomes

- Complaints discontinued upfront
- Complaints referred for local resolution
- Numbers of clinicians referred to NCAT or to the relevant professional Council for further action
- Track the percentage of cases where the HCCC's recommendations led to changes in policies, procedures, or practices within the healthcare system.

Stakeholder engagement

The HCCC reports that it is developing resources and expanding outreach to improve accessibility and awareness of its functions, in particular among First Nations and culturally and linguistically diverse (CALD) communities.

5. Is the HCCC and the services it provides accessible to the community, including First Nations and CALD communities?

Summary	Response to this question were mixed, with equal numbers (5) of Districts providing positive and negative comments. Two Districts provided neutral comments and 3 provided no comment. Comments generally indicated the HCCC had made positive changes, but continued improvements and engagement was required. Several comments noted that there was a lack of public awareness of the scope of the HCCC role in terms of managing complainant expectations.
Detailed comments	The HCCC website has a strong preference for complaints to be submitted in writing. It also does not appear that the complaint form on the website is in languages other than English. It is not clear from the HCCC website if it is possible to make a complaint over the telephone. It is also not clear if interpreter available to assist people make a complaint.

	These factors could be a barrier to people making a complaint especially where English might not be their first language or where the person has a preference for making a verbal complaint over a written one.
	The HCCC is accessible to the community however there is a lack of awareness and understanding of their scope.
	The HCCC number is available on the phone line and promoted via staff and on the electronic tablets. The requirement to receive and complete a written form can reduce accessibility in correctional centres for inmates to easily make a complaint. The service and outcomes provided by the HCCC could be more visible. In 2022-2023, less than 20% of all complaints made to Justice Health NSW were from Aboriginal people which indicates the need for more promotion of how to make a complaint, and building trust that change will occur from making a complaint.
	HCCC services appear to be accessible to the community, including First Nations and CALD communities. Within Western NSW LHD approx. 40% of all the HCCC requests for responses between 2021 and 2023 are from Dubbo and Northern Sector regional, rural, and remote communities.
	There is little awareness of what the HCCCC does and how to access it from Aboriginal and Torres Strait Islander community perspective.
	Accessibility of the HCCC's services to First Nations and CALD communities has improved, but further efforts are needed to ensure these services are fully accessible and culturally appropriate. The development of targeted resources is positive, but ongoing evaluation and adaptation of these resources are necessary to meet the evolving needs of these communities effectively.
	The HCCC website is available in 81 languages and has an acknowledgement to country. The HCCC has a strong governance framework for complaint management. However, there is a risk that First Nations or

	CALD communities' voices may not be fully heard or that they may be discouraged from pursuing complaints due to having to articulate their experiences of trauma, navigating the complexity of the healthcare system, along with previous experiences and mistrust with healthcare services. The HCCC may like to consider: • reducing the bureaucratic barriers and make it more accessible for First Nations and CALD communities. • providing cultural competency training or dedicated positions within the assessment team. • promoting trauma-informed practices that acknowledge the impact of trauma and how people who identity as First Nation or CALD communities engage with services.

6. Do you believe there is wide and strong community awareness of the role and functions of the Commission?	
Summary	Seven Districts indicated there was strong community awareness of the role and functions of the HCCC. Five Districts indicated there was not strong community awareness of the role and functions of the HCCC. Two Districts provided neutral responses, and one District did not respond to this question. There were similarities in comments to Question 5 in terms of community understanding of the scope or limits on the role and functions of the HCCC.
Detailed comments	It is clear from some complaints that the complainant has unrealistic expectations, so while they may understand the role and function, they don't necessarily understand the limits of what that role and function is
	There could be more work done with people in prison including CALD and Aboriginal & Torres Strait Islander populations to raise awareness of the role and functions of the HCCC.

	No, however the website is helpful and locally we provide the HCCC's contact details and a description of what they do to facilitate consumers who wish to raise a concern.
	The District receives many community calls via the HCCC hotline number.
	There is a broad and growing awareness within the community of the Health Care Complaints Commission (HCCC) as a vital channel for escalating complaints, particularly for consumers who feel dissatisfied with their experience or care. This awareness serves an important function, offering an independent pathway for individuals who may not have found resolution through local health district processes. However, it is also observed that when consumers choose to bypass the local health district's complaint handling process in favour of directly approaching the HCCC, it can often signify a stronger stance on their dissatisfaction and a desire for more immediate or authoritative action. While this approach can be effective in certain cases, it is important to ensure that consumers are also aware of the benefits of engaging with the local health district first. The local process often allows for more direct and tailored responses, and in many cases, it may resolve issues more swiftly and with greater sensitivity to local contexts. Strengthening community education on the complementary roles of both the local health district and the HCCC could help consumers make more informed decisions about how to escalate their concerns, potentially leading to more satisfactory outcomes overall.
	The consumers within our LHD are very much aware of the HCCC, however, there seems to be a lack of understanding regarding assessment outcomes and time to assess a complaint. Many consumers go to the HCCC thinking that it will be a faster process than engaging with a local District process (35 days).
	To some extent some members of the community are aware of the HCCC role and functions. However, there is an opportunity for the HCCC to improve community awareness of their roles/responsibilities and pathways for patients/loved ones to submit a complaint. The HCCC may want to consider: • awareness campaign within local health districts • targeted engagement with community groups

	• public education strategy
	Awareness appears to vary significantly – some are very aware of the HCCC whilst others are unaware. It is suggested this may be an area of focus.

7. How can the HCCC improve engagement with, and provision of services to, First Nations and CALD communities?	
Detailed comments/suggestions	• Enhanced promotion of services/support available for specific cultural or functional development needs. • Suggestion for further consultation with community groups to obtain feedback on accessibility.
	• Improve engagement with all sectors of the community. There is a lack of awareness, understanding and what the HCCC can assist with. • Review HCCC internal processes regarding cultural awareness, sensitivity, humility, and safety to ensure staff are equipped to safely engage with First Nation people and CALD communities. This would apply to all sectors of the community e.g. LGBTQIA+, visually impaired, intellectual disability etc
	• Engaging with cultural groups in prison health settings via visits and speaking face-to-face. Visiting prison health settings with CALD staff, interpreters and Aboriginal staff to promote the role and function of the HCCC and show them how to make a complaint. • Developing resources with considerations of literacy, readability and language. • Developing video and graphic resources that can be published on the Justice Health Information Portal which is accessed on the electronic tablets, with consideration of representation by different cultural groups and Aboriginal & Torres Strait Islander people. • Phoneline options for people to make a complaint in their language.

	• The HCCC needs to promote that a First Nations or CALD person is available to speak to on request.
	• Potentially hold education sessions for the public with a translator or produce resources in culturally appropriate formats.
	• Increased engagement with Aboriginal Liaison Officers. The HCCC reached out to the District in December 2023 and were introduced to the Director Aboriginal Health for ongoing engagement.

	• In 2022-23 Annual Report "First Nations Engagement and Connection Strategy" it refers to the HCCC actively seeking to strengthen connections with frontline staff including Aboriginal Liaison Officers." We recommend the HCCC be aware of the additional barriers and challenges Aboriginal Health Workers may face, such as;
	  ◦ 'Walking between two worlds,' i.e., Aboriginal worldview and Western worldview
	  ◦ Cross-cultural communication (health, social, cultural, workplace, etc.), for instance the ability to explain to a clinician why a family is reluctant to engage with the health service, despite understanding the importance of doing so.
	  ◦ They may have their own lack of trust in government and health services.
	  ◦ They may have faced institutional and personal racism from non-Aboriginal health colleagues and patients.
	  ◦ Learning how to follow NSW Health policies and guidelines (when they may conflict with their personal/cultural beliefs).
	  ◦ Cultural load from expectations from non-Aboriginal staff to represent all Aboriginal peoples.
	  ◦ Advocacy fatigue.
	• We recommend the HCCC explore how they can codesign meaningful engagement with Aboriginal and CALD people at the point of contact with their service and by reaching out to NSW Aboriginal community groups.
	• HCCC Resolution Officer meeting pre-planning with the complainant includes asking complainants, who identify as being from CALD or Aboriginal communities, about whether they would like an

	Aboriginal Health Worker or an interpreter and advising the LHD of their preference before making meeting arrangements.
	• Consult directly with the Aboriginal and Torres Strait Islander community, employ Aboriginal and Torres Strait Islander staff, have Aboriginal specific resources and have our community as a priority for the organisation.
	• Enhance HCCC engagement with First Nations and CALD communities by working closely with local leaders and organisations that already have established relationships within these communities. Co-designing communication strategies and culturally appropriate resources will help ensure that the services are understood and trusted. Additionally, employing staff with cultural and linguistic expertise and providing regular training in cultural competence for all HCCC staff will further improve the effectiveness of the HCCC's outreach and service provision.
	• Connect with Aboriginal Medical Services and Refugee Clinics to provide education and information (in multiple languages) on patients' rights when accessing care and treatment and pathways for contacting the HCCC through community organisations that can provide tailored support and advocacy for a safe process of feedback and improvement.
	• Cultural competency training and cultural sensitivity training for staff. • Build community partnerships with CALD communities and First Nations. • Targeted outreach and education campaigns with CALD communities and First Nations to be a mechanism to provide feedback to the HCCC. Supportive networks can advocate on behalf of their community members in a safe space. This will then build trust over time. • Accessible and culturally appropriate communication resources.
	• Consider reaching out through existing networks such as LHD community advisory groups, NSW Primary Health Networks, NSW Health Aboriginal Health Directorates.

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Additional comments
• Two Districts noted concerns with the HCCC directly approaching employees (either via work or personal emails) requesting responses to complaints without also notifying the employing District. The Districts noted that this causes significant distress for the staff involved and does not allow the District to offer timely support to their staff for managing the complaint. This impacts the employee and the District negatively, raising unnecessary psychological risks for the District to manage. The Districts recommend that the HCCC either ensure a copy of the request to the employee is sent to the District, or that the request encourages the employee to contact their manager to request support. • One District noted an increase in low level complaints received via the HCCC that are more appropriately managed by the LHD. It may be better managed if the HCCC ascertain from complainants if they have tried to resolve the complaint with the LHD and if not request the complainant do that first. • One District also noted demands of the HCCC appear to be increasing regarding the requirement for the clinical record to be required, incident searches, records of any performance management of individuals etc. etc. This is incredibly time consuming and labour intensive – there is an industry being created around meeting the demands of the HCCC. The LHD needs to be able to manage their own staff and complaints in the first instance etc. and then resort to the HCCC is they are not satisfied with the response/outcome.