

Mental Health Complaints Partnership Agreement

Between

Health And Disability Services Complaints Office

And

Department Of Health

And

Council of Official Visitors

And

Office of the Chief Psychiatrist

And

Mental Health Commission

Partners

“ Effectively managing
mental health complaints ”



Health and Disability Services
Complaints Office



Government of **Western Australia**
Department of Health



Government of **Western Australia**
Mental Health Commission

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Acknowledgement

Thank you to members of the Mental Health Partnership Agreement Committee for guiding the development of this collaborative initiative, and for their future leadership to implement initiatives arising from the Partnership Agreement. Thanks are also extended to all other stakeholders for providing detailed and helpful feedback during the consultation period.

Section 1: Context / Legislative Framework

When services are not provided to the level of satisfaction that is expected, it is important for community members to be able to make a complaint. Complaints are typically made directly to the public/private/non-government agency that provided the service. Where this process is not successful, or the outcome is not satisfactory, other options must be made available to the community. Each of the agencies that are a party to this Agreement have shared role to manage complaints and/or to develop transparent policy and standards of care in mental health. Consultations that occurred in 2014 indicated that patients, consumers, carers and service providers have experienced difficulty 'navigating' and understanding the mental health complaints process. It is important for agencies that have a legislated and/or central government role to work collaboratively to determine an agreed process to ensure that complaints are managed well.

It is in this context that this Partnership Agreement has been developed. The Partnership Agreement is a 'principles-based' document that is expected to remain current, thereby minimising the need for short-term change.

The Partnership Agreement is complemented by an Addendum that aims to:

- document areas that are more likely to change (the Addendum will be updated more frequently than the Agreement). This will ensure that the Partnership Agreement and the Addendum will maintain currency and relevance; and
- ensure that the principles of the Partnership Agreement transfer into relevant and meaningful operational initiatives that will improve mental health services and the complaints process (as summarised in Section 4 of this Agreement).

The Partnership Agreement aims to support the effective implementation of the Mental Health Act 2014 (the Act) which is anticipated to commence on 30 November 2015. Although some roles and responsibilities will change when the Act commences, the Partnership Agreement will nonetheless commence from 12 August 2015, coinciding with a Ministerial launch. Legislative changes will subsequently be reflected when the Addendum is updated towards the end of 2015/16.

Part 19 of the Act specifies the Health and Disability Services Complaints Office (HaDSCO) as the agency responsible for managing mental health complaints, requiring HaDSCO to carry out two main functions:

- manage individual complaints through negotiated settlement, conciliation and/or investigation; and
- identify systemic issues and trends regarding mental health complaints and work collaboratively with providers to improve service delivery.

The parties to this Agreement evolved from an initial consultation process that determined that HaDSCO, the Council of Official Visitors, the Department of Health (including the Office of the Chief Psychiatrist) and the Mental Health Commission were initially best placed to address difficulties that people had experienced when trying to navigate the mental health complaints process. These parties were identified due to their:

- statutory role in managing or responding to complaints; and/or
- their 'central' State government oversight responsibilities in mental health, including standards of care, sector-wide policy, funding and/or service provision.

There are many other government, non-government, community and private sector stakeholders that play an important role in mental health complaint resolution (for example, but not limited to the Australian Health Practitioner Regulation Agency; the Health Consumer Council; other advocacy agencies; peak bodies; legal entities; Mental Health Review Board). Whilst these stakeholders all have a crucial role across the mental health sector, their scope is outside of the above criteria. Although other stakeholders are not parties to this Partnership Agreement, their support for the Partnership Agreement, as well as their input into initiatives that are planned to

improve mental health services, is critical. The work of the Partnership Agreement will continue for many years, and the scope of parties to this Agreement is intended to expand. In the interim, the engagement and involvement of all stakeholders, whether parties to the current Partnership Agreement or not, will guide the success of initiatives that are being committed to as part of this Partnership Agreement (refer Section 4 of this Agreement).

Section 2: Purpose / Statement of Intent

The purpose of this Partnership Agreement and the Addendum is to:

1. clarify the respective roles and inter-relationships of key government agencies that are involved in managing mental health complaints.
2. outline principles to guide effective complaint resolution.
3. develop a mechanism for State government agencies to work collaboratively to resolve complex mental health complaints, particularly where the standard process is not suitable.

It is also intended that the Partnership Agreement will encourage inter-agency initiatives that build upon the rights of patients, consumers and carers, and ongoing service improvements.

Section 3: Principles

When resolving complaints, the agencies included in this Partnership Agreement agree that they have a shared and individual responsibility to the following principles, and these will be used as a guide to effectively manage complaints alongside relevant legislation, Charters, Standards and policies:

- In consultation with stakeholders, including consumer groups, complaint management processes must be designed to be clear, easy to navigate, transparent and accessible for all people (including, but not limited to, patients, consumers, carers, personal supports, guardians, advocates and service providers). All stakeholders must be kept informed of progress and outcomes at all stages of a complaint resolution process. Complaint management should be 'outcomes focused', not 'process focused', with options being made clear upfront.
- When complex complaints involve multiple government agencies, a mechanism must be established to identify a lead agency and a resolution process.
- Mental health services must be accountable, committed to continuous improvement and open to solving problems in partnership with all people involved.
- Most mental health complaints are best resolved early, informally and at a service level, conditional to natural justice and legislative obligations not being compromised and clear options being available if a complaint needs to be escalated. Advocacy support is an essential element to effectively manage and prevent complaints.
- Where relevant, advocacy agencies should be engaged to avoid unnecessarily escalating complaints, and preventing future complaints. Natural justice principles and other 'fairness' considerations include:
 - Reviews of complaints are undertaken by independent, objective and impartial officers via a transparent process.
 - Power imbalances are recognised and addressed.

- All parties have equal rights (except in instances where these rights are legally restricted) and should be treated with mutual respect, courtesy and dignity throughout the complaint process. Complaint outcomes can be appealed and/or reviewed independent of the original decision maker.
- Complainants have a right to make a complaint without recrimination, and guarantees of this should be explicitly provided. Any change in service, including perceived withdrawal or loss of quality following a complaint may be considered prejudicial conduct.
- All parties must have an opportunity to present evidence relating to a complaint.
- Where complaints involving alleged significant harm occur (for example, physical, sexual or emotional abuse, maltreatment or neglect), a formal, immediate and coordinated response must be taken to minimise the potential of further risk, particularly where complaints involve children and adolescents.
- Confidentiality of information must be in line with relevant legislation.
- Where relevant, the statutory independence of government agencies must be maintained.
- Where a person is being detained against their will, timeframes to address their complaint should be significantly shorter, and advocacy support offered as a priority. Complaints Management Standards should be developed to clearly articulate timeframes for prompt management and resolution.
- Depending on evidence and the substance of the complaint, parties to this Agreement are responsible to accept, reject or refer anonymous complaints.
- Patients, consumers and carers will be supported through the complaint process, and given information about relevant support services, including the right to be supported by a relative, a support person, or a carer.
- Special needs of people will be taken into account including, but not limited to, culturally and linguistically diverse people, Aboriginal and Torres Strait Islanders, people in rural/remote communities, people with specific belief and faith systems, youth and adolescents, and people who are being legally detained.

Section 4: Action plan to ‘operationalise’ the Partnership Agreement

To ensure that the principles of the Partnership Agreement are transferable and have direct relevance to patients, consumers, carers and service providers, an Action Plan has been developed. The broad initiatives of the Action Plan are documented in Section 6 of the Addendum to this Agreement. The Action Plan will be reviewed annually, and updated as agreed by the parties to this Agreement.

Section 5: Costs

Although some initiatives in Section 4 may incur costs, this agreement does not bind any participating agency to contribute to the costs. As a general principle, however, any additional costs are to be jointly shared by the parties to this Agreement. Where relevant, a full costing of each initiative will be undertaken, including a consultation process with each agency. Each agency will have an opportunity to negotiate proportionate responsibility, which will include each agency’s budget capacity to meet the additional costs.

Section 6: Awareness Raising

Raising staff awareness of this Partnership Agreement is an individual agency responsibility.

Section 7: Performance Monitoring and Review

An annual review of the effectiveness of this Agreement will be undertaken by the agencies that are party to the Agreement.

Section 8: Term of Agreement

The term of the Partnership Agreement is initially for 1 year allowing for further progress of the Mental Health Act 2014. Future terms of the Agreement are anticipated to be for a three-year duration, unless an earlier review is required. The Addendum to the Partnership Agreement will be reviewed annually.

Section 9: Dispute Resolution and Key Contacts

This Partnership Agreement aims to provide a process that enables mental health complaints to be effectively resolved. There will be occasions, however, where this may not occur, or an alternative process may need to be negotiated where the standard process is not suitable. In these circumstances, the following contacts will assume a leadership role to enable complaint resolution to be achieved.

Organisation	Dispute Resolution
Health and Disability Services Complaints Office	Assistant Director, Complaints and Systemic Improvement; (08) 6551 7606
Mental Health Commission:	Assistant Director, Mental Health Bill Implementation; (08) 6272 1286
Council of Official Visitors:	Head of Council or Manager; 1800 999 057; (08) 6234 6300
Department of Health (Office of Mental Health)	Executive Director, Office of Mental Health; (08) 9222 2171
Department of Health (Office of the Chief Psychiatrist)	Manager, Office of the Chief Psychiatrist; (08) 9222 4462
Department of Health (Corporate Governance)	Manager, Ethical Standards - Integrity Services, Department of Health; (08) 9222 4042
Department of Health (Licensing and Accreditation Regulatory Unit; Patient Safety and Clinical Quality)	Director, Licensing and Accreditation Regulatory Unit; (08) 9222-4023

Section 10: Authorisation

Name / Signature	Agency	Date
<hr/> Name:	Director, Health and Disability Services Complaints Office	
<hr/> Name:	Director General, Department of Health	
<hr/> Name:	Commissioner, Mental Health Commission	
<hr/> Name:	Head, Council of Official Visitors	
<hr/> Name:	Chief Psychiatrist	

Section 11: Stakeholder Support

The following stakeholders play an important role in resolving mental health complaints, and have indicated their support for the overall intent of the Mental Health Complaints Partnership Agreement.

Name	Representing Agency/Entity	Signature
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