

Setting things right

Improving the consumer experience of AHPRA including the joint notification process between AHPRA and OHSC

FINAL REPORT prepared by the Health Issues Centre Inc.

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EXECUTIVE SUMMARY

The aim of this project is to provide recommendations to the Australian Health Practitioner Regulation Agency (AHPRA) on potential actions to increase public confidence in the organisation and, specifically, to improve the experience of consumers as notifiers. One important aspect of this project is to increase openness and communication about the organisation's processes. The willingness of members of the community to bring concerns about health practitioners to bodies like AHPRA is important so public confidence in the process is critical. Given the current legislative arrangements, this project focuses on practical proposals for improving consumer experiences of AHPRA and in the context of the joint consideration process between AHPRA and the Office of the Health Services Commissioner (OHSC). A range of parties notify AHPRA about concerns with health practitioners - other health practitioners, employers and organisations, as well as consumers. This report focuses on the experience of consumer notifiers. Feedback from consumers suggests that their experience as a notifier when their complaint is dealt with by health practitioner boards is not well understood and often unsatisfactory.

The Community Reference Group identified the following issues:

- ☐ There needs to be more work on the communication with consumers about the outcomes of the notification process. Communication needs to be more informative and less bureaucratic in its language. There needs to be more consideration of what information is given to consumers about the reason for the decisions.
- ☐ The value of face to face, more personal and human contact
- ☐ The process can have a very bureaucratic feel.
- ☐ The value of simple and quick resolution.
- ☐ It would be valuable for consumers to have continuity of AHPRA staff and where appropriate a single caseworker

A review of relevant literature points to the following considerations:

- ☐ While it is tempting to focus on the management of complainant expectations, this is necessary but insufficient.
- ☐ The challenge is to reach an understanding of the range of complex factors in what complainants are seeking, even when the outcome for the health practitioner is at its most serious.
- ☐ The notion of "service recovery" may be useful and is reflected in the literature on open disclosure, both recovery in the person's sense of well-being and recovery of trust and other such factors. While AHPRA itself cannot achieve service recovery, the issue is how AHPRA processes play a role in restoring a sense of well-being and trust for consumer notifiers.
- ☐ How do consumer preferences for dialogue play out in the management of complaints and notifications?
- ☐ "I don't want it to happen to any-one else" – a public interest motivation – how do consumer complaints to the OHSC and AHPRA in their joint consideration inform system and practice improvement?

In establishing the issues, the methods were as follows:

- ☐ A targeted literature review
- ☐ A review of correspondence from approximately 90 Victorian consumers who complained during 2013 about their experience of being a notifier with AHPRA and one of the 14 the health practitioner boards.
- ☐ Focus groups with key stakeholders
- ☐ Selected interviews
- ☐ A stakeholder workshop to develop agreement and work on proposals for improvement

1 Resolution Resource Network and Health Issues Centre, Bringing in the Consumer Perspective (Consumer Perspective), October 2004

- ☐ Lack of responsiveness
- ☐ Communication – not clear and timely
- ☐ Perceived lack of impartiality
- ☐ One quarter did not understand the reason for outcome
- ☐ Three-quarters did not agree with the outcome or think it reasonable
- ☐ The role of ‘notifier’ as experienced by consumers was not well understood and unsatisfactory for consumers

A review of consumer complaints to AHPRA from 2013 about their experience with AHPRA identified the following key themes:

- ☐ Communication
- ☐ Length of time the process took
- ☐ Impartiality of process
- ☐ Fairness of process
- ☐ People were unhappy with the decision and did not understand the reasons
- ☐ People didn’t feeling their concerns were properly heard

It should be noted that nearly all of those who complained to AHPRA about the process were also unhappy with the outcome of the decision. The majority received a ‘No Further Action’ outcome at some stage (most after a preliminary assessment). This may be the bias of our sample; other research has highlighted that consumers who agree with the decision may also be unhappy with the process. Our assessment of the complaints found that there were other significant factors besides the decision that impacted on the level of satisfaction of consumers.

The key themes that emerged from focus groups and interviews undertaken were:

- ☐ Being in the 'right place' – importance of the complaint being handled by the right agency (AHPRA or OHSC) based on the aim of the consumer and the nature of the complaint, including the risk to the public
- ☐ Scope – clear understanding of what the health practitioner boards and AHPRA are able to do and the criteria for their decision making
- ☐ The role of the notifier in AHPRA and health professional board processes
- ☐ Themes identified by consumers were also highlighted, in particular, issues around communication and timeliness

There is large degree of consensus across all sources of information about the consolidated themes of most concern, which form the basis of possible solutions.

☐ Communication and information

☐ Timeliness

☐ Impartiality and fairness of process

☐ Consumers do not understand the reasons for AHPRA decisions

☐ Consumers do not feel their concerns are properly heard

☐ Being in the 'right place' – importance of the complaint being handled by the right agency (AHPRA or OHSC) based on the aim of the consumer and the nature of the complaint

☐ A clear understanding of what AHPRA is able to do and the criteria for its decision making

☐ The role of the complainant as notifier

Concerns about impartiality were raised by consumers but not the other groups we spoke with, suggesting that impartiality – and the perception of impartiality, is a particular issue for consumers and affects their confidence in decisions.

The role of the consumer as notifier is a key structural issue for consumers and there was broad consensus that this was problematic. This goes to the reasons consumers feel 'I haven't had a chance to tell my story and give you all the information' and 'this isn't the type of process I was looking for'. AHPRA staff found it difficult to explain the role in a way consumers understood.

In focus groups and interviews, questions were asked about possible solutions. These are outlined in the report and became the basis for a workshop of the key stakeholder groups, with further input from the Project Reference Group, which developed the outline of a set of recommendations.

There is already very good collaboration between OHSC and the Victorian office of AHPRA that will address some of the issues identified. Our brief was to take a consumer perspective and we have sought to do that, while respecting the perspectives of other parties. Some of these recommendations can be acted on in the short term. Others will take some time and have a degree of difficulty. The issue of the role of the consumer as notifier is the most challenging of the issues and would require the most change. Some of the recommendations here relating to information, communication and process improvement will ameliorate this, but not necessarily

solve it. If the spell check in Microsoft does not recognize the word 'notifier', then many consumers also have trouble with it.

In articulating a consumer perspective, we try to start with the consumer, not the legislation as a principle of design, acknowledging the health practitioner perspective in this as well. Our expectation is that health practitioner organisations would agree with many of the issues we found. The legislation creates the context, the possibilities and the boundaries, but there are various ways of approaching the organisational and process design. This is not to discount the importance of the enabling legislation, and issues did arise in the project that relate to enabling legislative change.

The first contact with the notifier is the most important and influential, so getting the first contact right will address a number of issues, including listening to the consumer story and setting expectations. Being in the 'right place' is a key factor in having the consumer's issues addressed. The process redesign work being undertaken between OHSC and AHPRA will assist this and the project team strongly endorses the direction of this work, which should improve consumers' experiences through more timely management and being in the most appropriate place to have one's concerns addressed. However, this process redesign would be further enhanced by incorporating consumers in a co-design approach.

The following set of principles, based on research, the findings of the project and the group discussions have been used to frame the recommendations. A statement of the experience of the consumer with AHPRA and its health practitioner boards might look like this:

'The agency understood, heard me, believed me, responded ("took me seriously"), acted, kept me informed, explained reasons, I dealt with the same staff, who communicated with me in a personal way.'

AHPRA:

- ☑ values and respects the role of all notifiers, including consumer notifiers, and conveys this to them, recognising that without notifiers, including consumer notifiers, AHPRA and the boards cannot protect the public
- ☑ designs systems that consider the wellbeing of notifiers as well as being fair to all parties
- ☑ seeks to actively engage notifiers throughout the process to the extent they wish to be engaged
- ☑ creates a seamless pathway between the OHSC or other health complaints entities and AHPRA to limit disruption and confusion to the notifier
- ☑ designs processes within and across the two organisations based on the 'consumer journey' and seeks to ensure that the full range of issues in the consumer's complaint are addressed in the most timely and complete manner
- ☑ uses plain English in communication with consumers, paying attention to their level of understanding and information needs, as well as language requirements
- ☑ feeds back information from complaints to improve the health system and ensures that notifiers are aware of these improvements

A wealth of ideas for improvement arose from all these conversations, some for the Victorian office of AHPRA and some for the national office. These are outlined in detail in the report and cluster around the following headings.

- ▣ Provide better information on the website, using professionals with skills in health communication with consumers in consultation with a consumer panel
- ▣ Develop more meaningful communication with consumers throughout the notification process
- ▣ Improve the initial contact and invest in skills and expertise at this first point of contact
- ▣ Build on current collaboration between AHPRA and the OHSC to develop seamless complaint management and resolution across the two organisations. This should be based on the 'consumer journey' and seeking to address the full range of issues in the consumer's complaint in the most timely and complete manner.
- ▣ Use process redesign and lean principles to explore options for swifter resolution and more timely management of notifications.
- ▣ Reconsider the role of the consumer as a notifier in the 'model of practice'
- ▣ Ensure that complaints and notifications contribute to systems change and that is demonstrated to the community and to health practitioners
- ▣ Consider measures to increase AHPRA's engagement with consumers and the community

The Health Issues Centre team wishes to acknowledge and thank AHPRA who commissioned the project and all those from AHPRA, the health practitioner boards, the Community Reference Group and the Acting Commissioner and staff from the OHSC who contributed so generously to the project as well as the expertise brought to the Project Reference Group. This report is a product of all their efforts and good will. There are some challenges here for AHPRA in particular. We fully acknowledge the challenges AHPRA and its staff face: to be a national body answerable to a group of Ministers and to be locally relevant and responsive; to develop better national consistency of approach and not to create bureaucratic bottlenecks in doing so; to uphold the public interest in protecting consumers and to be responsive to consumers who find themselves in a type of administrative legal process they don't expect or understand; to walk the line of fairness and responsiveness.

Recommendation 1: Provide better information on the website, using professionals with skills in health communication with consumers working with a consumer panel

The website provides an opportunity to convey information to consumers about AHPRA and what it does, to set reasonable expectations about what AHPRA can do, what the process will be like, to point consumers in the right direction for their concerns and support those who proceed to a complaint/notification.

- ▣ Provide clearer information about the notifications process on both AHPRA and OHSC's websites, including what to expect and when and give consumers a simple and clear idea of what the process is, what it is not and what AHPRA's thresholds for decisions about practitioner conduct are – clear statements about the scope of AHPRA and OHSC and the best avenue for their complaint
- ▣ Use accessible plain English, richer content, avoiding acronyms, providing case examples (written and video), flowcharts, diagrams, and video stories of consumer experiences on YouTube and podcasts)
- ▣ Use an audience-based approach to the content and language, using communication specialists fully conversant with the health system. The website of the New Zealand Health and Disability Commissioner provides a good example of this approach <http://www.hdc.org.nz/>
- ▣ Address the information needs of people from culturally and linguistically diverse communities, using listening and written formats
- ▣ Redesign the notification form to make it more 'consumer friendly' using a consumer panel for input
- ▣ Consider the following extensions:
 - o Develop a simple, clearly-written checklist consumers can use before they approach AHPRA or OHSC with a notification/complaint
 - o Consider developing consumer and health practitioner portals. This will help to develop appropriate information for the particular audience. It would also allow AHPRA to develop a way for notifiers to see the progress of their complaint.
 - o Using social media (e.g. twitter page, Facebook) but also paper-based resources for communities without good internet access
- ▣ Promote community awareness of AHPRA through means such as:
 - o Improve search term optimisation so consumers can find AHPRA's website, including information about health practitioners

o Based on the consumer friendly web-based Information about AHPRA and OHSC, develop brochures in partnership with a consumer panel that can be placed in waiting rooms (at community level). This could include the options for local receptivity to complaints.

Recommendation 2: Develop more meaningful communication with consumers throughout the notification process

- ☑ Engage professionals with skills in health communication with consumers to redevelop correspondence templates and work with a panel of consumers to advise on readability of letters and information using principles of plain English, while addressing communication needs across our diverse community
- ☑ Develop and work to a schedule of regular correspondence with consumers, informing them throughout the process not only at key stages
- ☑ Suggested ways of improving communication include:
 - o Staff training to support provision of more consumer focused information
 - o Embed a series of required questions into early interviews or correspondence which will help staff to understand consumer hopes and expectations and use this to personalise communication
 - o Ask the consumer how they like to be communicated with and addressed.

Recommendation 3: Improve the initial contact and invest in skills and expertise at this first point of contact.

The first contact with the notifier is the most important and influential, so getting the first contact right will address a number of issues, including listening to the consumer story and setting expectations. Being in the 'right place' is a key factor in having the consumer's issues addressed. The process redesign work being undertaken between OHSC and AHPRA will assist this and the project team strongly endorses the direction of this work, which should improve consumer's experience through more timely management and being in the most appropriate place to have one's concerns addressed. Consideration could be given to AHPRA and OHSC exploring the feasibility of establishing 'one door' for lodging all consumer complaints and notifications.

- ☑ The person who picks up the notifier's call should have appropriate skills and expertise to advise early in the process whether the complaint should stay with AHPRA or be referred to OHSC. Expertise would include advanced communication skills, empathy and skills in engaging the consumer.
- ☑ As far as possible, noting that some public interest matters will prevail, consumers should be involved in the decision about which organisation will manage their complaint.
- ☑ Develop an agreed transfer/referral framework between the two agencies to guide consistent decision making and advice to callers (currently under development between the two agencies)
- ☑ Develop examples of sample notifications that result in NFA for use by OHSC in advising callers and available to consumers on the website.
- ☑ Establish an effective initial triage based on:
 - o smooth liaison between agencies if not best resolved by AHPRA
 - o fast track processes in both organisations
 - o exploring options for early resolution where appropriate
- ☑ Suggested ways of improving the first contact include:
- ☑ Revised scripts for first conversation including:

- a ‘thank you’ to value consumer contribution
 - Providing a “reality check” regarding process and timeframes, making consumers aware of diagrams and information about timeframes and process
 - clarity regarding what will happen once a notification is received
- ☑ Treat the first contact as ‘no wrong door’ and be proactive if referring, eg caller grants AHPRA permission to pass his/her contact details onto OHSC, OHSC calls consumer. Alternatively, AHPRA staff decides at first conversation to transfer the call straight away to OHSC.
- ☑ AHPRA and OHSC consider exploring the feasibility of establishing ‘one door’ for lodging all consumer complaints and notifications.

Recommendation 4: Build on current collaboration between AHPRA and the OHSC to develop seamless complaint management and resolution across the two organisations. This should be based on the ‘consumer journey’ and seeking to address the full range of issues in the consumer’s complaint in the most timely and complete manner

- ☑ Closer collaboration between AHPRA and OHSC to manage resolution issues simultaneously to improve delays and manage the consumer’s outcomes. There were a range of considered views about the extent to which parallel and sequential management of a complaint was possible. The barriers were considered to be legislative and practice-based. The principle ought to be the best interests of the consumer (and often the shared interest of the health practitioner) within the boundaries of a just process. Research on complaints suggests that swift resolution is a key issue for a satisfactory consumer experience and is generally a key to ‘seizing the fertile moments for resolution’ for both parties. The principle should be to seek to manage both public safety and consumer needs.
- ☑ Investigate legislative barriers to joint handling to avoid delays and seek to address these.
- ☑ In the context of the current collaboration between OHSC and AHPRA, consider protocols and forms of communication to consumers and health practitioners that emphasis the complementary roles of the two agencies in managing a complaint.
- ☑ Suggested ways of improving collaboration between the two agencies which could be further explored include:
- o Virtual but also real sharing between AHPRA and OHSC – staff coming together in person at the assessment stage at least to decide who and how notifications/complaints should be addressed, including consumer wishes as far as possible.
 - o Each organisation might wish to consider the value of locating a staff member in the other organisation to facilitate collaboration and sharing of expertise.
 - o Provide a consistent contact point for the consumer across the process to limit the number of AHPRA staff with whom consumers need to engage.
 - o AHPRA and OHSC explore better information sharing so things don’t fall through the cracks eg. single database with protocols that allows for information sharing while respecting privacy (discussion between AHPRA and OHSC currently underway)

- o As in the previous recommendation, explore the feasibility of one agency being the point for lodging all consumer complaints with joint assignment and, as far as possible, informed consumer decision making.

Recommendation 5: Use process redesign and lean principle to explore options for swifter resolution and more timely management of notifications.

This would assist issues raised in Recommendations 3 and 4 and pick up on the redesign work at OHSC. An even better approach would be 'end to end' process mapping across the two organisations, mapping the consumer process across OHSC and AHPRA, but thinking also of starting at the point where the complaint originated.

Recommendation 6: Reconsider the role of the consumer as a notifier in the 'model of practice'

This requires an element of culture change and probably legislative change. This would recognize that the notifier has a central role in the process, not merely as a witness. There is an inherent issue here whatever the organizational arrangements are around complaint and regulatory functions.

Short to medium term

- ☑ Invest in training staff to understand the perspective of the notifier – to hear what they are saying, validate their perspective and value their contribution.
- ☑ Provide more meaningful feedback regarding outcomes, noting that this will require legislative change in relation to cautions, but also exploring what can be done with the consent of the practitioner
- ☑ Get regular feedback at the conclusion of a notification about consumers' experiences of AHPRA – the questions for this would need to be developed based on what matters to consumers
- ☑ Express this through providing support for the notifier. Suggestions for doing this include:
 - o One case manager per notifier to address continuity issues
 - o Support for consumers to navigate and understand the process ("valued notifier") – e.g. notifier advocate, support worker, case manager, network
 - o Dedicated advocacy resource for the notifier (e.g. notifier advocacy officer)

Longer term

- ☑ In the context of the national review of AHPRA and its legislation, there was support for elements of the previous Victorian reforms, in particular:
 - o After an NFA, provide an opportunity for review/appeal, not only of the process but also of the Board's decision. This addresses confidence in the impartiality of decisions.
 - o Allow the capacity for a component of alternative dispute resolution in appropriate circumstances and settlement by consent.

Recommendation 7: Ensure that complaints and notification contribute to systems change and that is demonstrated to the community and to health practitioners

Research is clear that a key component of why consumers go to the effort of making complaints is that their experience doesn't happen to others. Finding way of using individual and aggregated data to improve health care should be a key element of the roles of AHPRA and OHSC and this should be demonstrated to the community.

Short term

- ☑ Undertake greater trend analysis to identify patterns of risk, including cases where the outcome was an NFA.
- ☑ Explore the opportunity for AHPRA and OHSC to work together on trend analysis and reporting back to health professionals and the community.
- ☑ In relation to NFAs, particularly where there are issues but they do not reach the AHPRA threshold, create an opportunity for notifiers to contribute to the collective patient voice and lead to improvements down the track, translating cumulative issues into recommendations for improvement. So while an individual complaint may not have a result for the particular consumer, it contributes along with other complaints to improving the system.
- ☑ Ask the notifier as part of the intake what they would like to see changed from their notification for safer health care for others
- ☑ Circulate detailed case studies to provide an opportunity for learning; – when the state-based boards did this, it was regarded as valuable.

Long term

- ☑ Improve the ability to share outcomes and information regarding health practitioners cautions with notifiers, noting that will require legislative change
- ☑ Provide better public information regarding patterns and trends. Consider a Victorian annual report that outlines to the community in a meaningful way what has changed as a result of the work of AHPRA in the last 12 months. This would include information about disciplinary actions against practitioners, and also the development of professional standards, input into practitioner education, better information and consent etc. All the principles about audience oriented communication outlined in earlier recommendations should apply.
- ☑ Provide more publically available and easily accessible information about individual health practitioners.

Recommendations 8: Consider measures to increase AHPRA's engagement with consumer and the community

This partnership project provides an opportunity to consider ways to build a stronger consumer voice and engagement into AHPRA and build on the role of the Community Reference Group whose important role we acknowledge in shaping and informing this project. This will assist in developing more understanding of consumer perspective on issues in the same way that the perspectives of health practitioners are understood and negotiated through necessary dealings with practitioner organisations.

☐ Consider the range of ways in which the principle of partnering with consumers can be built into the way AHPRA operates, learns and improves. There are a number of recommendations here that could be undertaken on a partnership basis.

☐ The Community Reference Group to advise on how consumer panels can be established to provide input on the web-site and communication templates, whether these are drawn from the Community Reference Groups itself, or more broadly.. The Community Reference Group will need to consider how much work is involved.

☐ Community board members are another potential source of consumer and community input and a key factor in establishing both community perception and the reality of impartiality. Many consumers are not aware of their role, so it is useful to highlight this in community information about how the health practitioner boards operate.

☐ Build the capacity of the community board members to come together to share their experiences and knowledge and express common perspectives and concerns to AHPRA.

☐ Develop a better understanding of the contemporary experience of consumers as notifiers to continue to inform improvements. This is an endemic issue, independent of the organisational arrangements. This project was informed by research with consumers undertaken in 2004. Further confirmation of whether the findings from 2004 remain broadly relevant in 2014 should be answered by current research in NSW.

☐ To further understand the experience of consumer notifiers, we recommend that a project be undertaken to develop narratives about consumer experiences as notifiers to identify what make a good experience with AHPRA as well as a bad experience.