

Management of complaints relating to accreditation functions under the National Law – a guidance document

1. Background

1.1 Purpose

The purpose of this document is to clarify the roles, responsibilities and processes of Accreditation Authorities in the management of complaints in relation to accreditation functions and how they relate to the National Boards and the Australian Health Practitioner Regulation Agency (AHPRA).

Accreditation Authorities, National Boards and AHPRA publish information about complaints processes that apply to their respective functions. Individuals or organisations making a complaint about an accreditation process or outcome may not always identify this information or direct their complaint to the relevant organisation.

Under the *Quality Framework for the Accreditation Function (Quality Framework)*, an Accreditation Authority is required to have a published complaints process for managing issues about the work of the Authority. This process needs to be rigorous, fair and responsive. The Accreditation Authority is also required to report to the relevant National Board on any complaints, reviews and appeals.

Accreditation Authorities are open to receiving complaints, acknowledging that effective complaints management fosters an environment of safety and continuous quality improvement and promotes accountability and transparency. Accreditation Authorities recognise that complaints can highlight systemic weaknesses in program, policy or service delivery and that an effective management process strengthens program administration and accountability, as well as improve relationships with the community.

Accreditation Authorities are committed to working cooperatively with all stakeholders to manage and resolve complaints in an impartial and confidential environment.

1.2 The monitoring function under the National Law

Section 50(1) of the *Health Practitioner Regulation National Law* as in force in each state and territory (*National Law*) requires the Accreditation Authority to monitor programs of study approved by the National Board to ensure that the program and the education provider continue to meet the approved accreditation standards.

The Explanatory Notes relating to this section clearly outline the intent of monitoring which is to provide:

An opportunity for early intervention if concerns are raised about the approved program of study, to maximise the likelihood that students who are undertaking study in that approved program can complete their studies and graduate with a qualification that will be recognised for the purposes of registration in the health profession¹.

¹ Accessed at: <http://www.ahpra.gov.au/Legislation-and-Publications/Legislation.aspx>.

One of the ways that an Accreditation Authority may become aware that accreditation standards are not continuing to be met by an approved program or an education provider is through the receipt of a complaint about the conduct of the program or the education provider. Consequently, an Accreditation Authority must be able to receive and manage complaints about approved programs and their education providers.

1.3 Types of accreditation complaints

In broad terms, complaints fall into one of two categories.

- A personal complaint, in which the complainant seeks to have a matter investigated and addressed so as to bring about a change to their personal situation. This would include, for example, matters such as selection, recognition of prior learning/experience, training post allocation, assessment outcomes, or dismissal from training.
- A systemic complaint, which may evidence some systemic matter that could signify a failure of a program or provider to meet accreditation standards.

These guidelines address systemic complaints only. Accreditation Authorities do not have a role in resolving personal complaints which are dealt with by those responsible for administering a program. But in assessing and accrediting health professions programs and their providers, they do consider whether education providers have an effective process in place to handle such complaints.

1.4 Sources of complaints

The Accreditation Authority may receive complaints about approved programs and education providers from staff, students, graduates, health services, individual health professionals and members of the community.

The Accreditation Authority may also receive complaints from anonymous sources or from sources that request anonymity, acknowledging it can be difficult to undertake a full investigation of a complaint without knowing or sharing the identity of a complainant.

2. Complaints relating to accreditation functions and information sharing with the National Board and other organisations

2.1 Complaints to Accreditation Authorities

From time to time, an individual or organisation may wish to make a complaint about an accreditation process. These complaints should be addressed to the Accreditation Authority. As noted in section 1.1, under the *Quality Framework*, an Accreditation Authority is required to have a published complaints process for managing issues about the work of the Accreditation Authority. This process needs to be rigorous, fair and responsive. The Accreditation Authority is required to report to the relevant National Board on any complaints, reviews and appeals in accordance with the agreed framework.

From time to time, an individual or organisation may wish to make a complaint about an accredited program of study. For example, a student or employer may complain about an accredited program of study or an education provider may complain about an accreditation process.

Where a complaint is received by an Accreditation Authority, the Accreditation Authority will consider whether the complaint:

1. directly relates to an accreditation function under the *National Law*
2. is an issue that should be considered in the accreditation entity's monitoring processes under Section 50 of the *National Law*.
3. relates to compliance with the *Quality Framework*.

If the complaint relates to one or more of the above issues, the Accreditation Authority will consider the complaint and respond to the complainant.

2.2 Referral of complaints

Where a complaint is made to a National Board or AHPRA about an accreditation process, the complaint will be referred to the Accreditation Authority and managed through its complaints, review and appeals processes as relevant to the nature of the complaint. Accreditation Authorities are required to report annually to their National Boards on complaints received.

If a National Board or AHPRA receives a complaint about an approved program of study or education provider that delivers an approved program of study, it will refer the complaint to the relevant Accreditation Authority.

If a complaint does not raise issues about the program or education provider continuing to meet the approved accreditation standard for the profession, the Accreditation Authority will write to the complainant advising that they are not the appropriate body to consider the complaint, and recommending that the issue be raised with the education provider.

The Accreditation Authority may consider referring the complaint directly to the education provider or a relevant agency with the complainant's consent and/or if the nature of the complaint indicates referral, for example, under legislation or a Memorandum of Understanding with provisions relating to the sharing of information. (Also refer to *Working with other regulatory agencies in the management of complaints*).

2.3 Sharing information between the National Board and the Accreditation Authority

When the Accreditation Authority receives a complaint about an approved program or provider that raises an issue identified as potentially generating a high or extreme risk to the safety of the community, early notice and sharing of any relevant information between the Accreditation Authority and the National Board is critical and may ensure that any risks to the community are averted or minimised. A high or extreme risk to the safety of the community is one that could / is reasonably likely to result in the registration of graduates from an approved program who do not possess the knowledge, skills and professional attributes to practise the profession in Australia.

The powers under the National Law are considerable and require that the National Board and the Accreditation Authority share information related to the monitoring of accredited programs of study and education providers as a matter of course.

Complaints that raise concerns about accredited education programs continuing to meet the accreditation standards are generally managed using the monitoring powers under the National Law and may warrant the imposition of conditions or the revocation of accreditation. If there is an obvious serious breach, an Accreditation Authority will act quickly to investigate and introduce conditions, and to share such information with the National Board. This is in line with the document, *Communication between Accreditation Authorities and National Boards about accreditation and program approval decisions and changes to accreditation standards* in which Accreditation Authorities and National Boards have agreed that an Accreditation Authority will highlight to the National Board any conditions placed on the accreditation as a result of serious concerns about the whether the program and the education provider provide graduates with the knowledge, skills and professional attributes necessary to practise the profession in Australia.

Generally the Accreditation Authority will manage complaints that do not raise serious concerns about the continued meeting of accreditation standards as part of its monitoring processes, and such complaints are not likely to generate the need for conditions on the accreditation or revocation of accreditation.

Attachment 1 - Request for information between AHPRA/National Board and Accreditation Authority Form provides a suggested template for sharing information between an Accreditation Authority and a National Board.

2.4 Working with other regulatory organisations in the management of complaints

As the Accreditation Authority works with other regulatory organisations in managing complaints, it must consider how best to manage the relationships to support appropriate cooperation, sharing of information while respecting regulatory responsibilities, and the division of functions with such organisations.

Other regulatory organisations with potential common interests and related roles and functions that may be relevant to the Accreditation Authority include:

- Tertiary Education Quality and Standards Agency (TEQSA) for matters relating to higher education providers.
- Australian Standards and Quality Authority (ASQA) for issues arising in the vocational education and training (VET) sector (or the relevant VET regulator in Victoria in Western Australia), and
- other agencies with responsibilities in relation to the education of international students.

To facilitate effective resolution of complaints the Accreditation Authority should consider developing standardised procedures for referring complaints (or complainants) between organisations.

The complaints management process for each organisation should be transparent with the sharing of appropriate information (within a framework of confidentiality) to ensure staff managing the complaint are fully informed of the context of the complaint within each agency.

3. Complaints management principles and processes

3.1 Principles for complaints management by the Accreditation Authority

The first objective of the *National Law* is to:

- *Provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered².*

The complaints management principles and processes adopted by the Accreditation Authority aims first and foremost to ensure the protection of the public.

The complaints management processes of the Accreditation Authority will clearly reflect the following elements:

1. Protection of the community.
2. The approved program or education provider meets and continues to meet the accreditation standards during the accreditation period. When the program or education provider does not meet the standards, conditions are applied to the accreditation.
3. Natural justice – fair and proper procedures are used in decision-making.
4. Evidence-informed decision-making – decisions are founded on reliable, relevant and appropriate evidence.
5. Effective communication – clear articulation of the roles and responsibilities of all entities involved.
6. The system processes and decision-making responsibilities are:
 - transparent
 - fair
 - timely

² Ibid

- clearly articulated, and
 - in line with the *National Law*.
7. Active assessment, management and resolution of a complaint using a valid methodology to determine any real and potential risks to providing high quality education for health professionals and to the registration or endorsement of health practitioners by the National Board, against approved accreditation standards.
 8. An 'immediate action' response system for complaints that indicate a potential high risk to public safety.
 9. A standardised process for referring complaints between organisations and for sharing appropriate information (within a framework of confidentiality) with other organisations.
 10. A clear strategy for the management of anonymous complaints.

3.2 Steps in the complaints management process

A clear process for managing complaints is essential for the Accreditation Authority. Complaints management must be based on sound processes that embody the *Principles for complaints management by the Accreditation Authority*, described above. The aim is for all stakeholders to have confidence in the process.

The *Better Practice Guide to Complaint Handling*, published by the Commonwealth Ombudsman describes seven steps involved in an effective complaints management process. **Attachment 2 – Steps in the complaints management process** provides a modified version and detailed description of these steps.

The Accreditation Authority will have a process to assess and manage the risk of potential and actual breaches of accreditation standards. One such method may be a risk assessment and management framework.

The nature of complaints differs widely, and early assessment of a complaint is essential for effective complaints management. The subject of a complaint might be apparent from the information a complainant provides, or a thorough investigation might be needed to clarify aspects of the complaint. Regular contact with the complainant should be maintained throughout the process. It is especially important to keep the complainant informed if the complaint is taking longer to resolve than first advised.

4. References

Commonwealth Ombudsman (2009) *Better Practice Guide to Complaint Handling*, Better Practice Guide 1, Commonwealth of Australia, Canberra, April. Accessed: 12 July 2013 at: <http://www.ombudsman.gov.au/docs/better-practice-guides/onlineBetterPracticeGuide.pdf>.

Forum of Australian Health Professions Councils and Australian Health Practitioner Regulation Agency (2012) *Accreditation under the Health Practitioner Regulation National Law Act (the National Law)*. Accessed 18 July 2013 at: <http://www.ahpra.gov.au/Legislation-and-Publications/AHPRA-Publications.aspx#accreditation>.

Forum of Australian Health Professions Councils and Australian Health Practitioner Regulation Agency (2012) *Quality Framework for the Accreditation Function*. Accessed 18 July 2013 at: <http://www.ahpra.gov.au/Legislation-and-Publications/AHPRA-Publications.aspx#accreditation>.

Health Practitioner Regulation National Law Act as enacted in each State and Territory, available at: <http://www.ahpra.gov.au/Legislation-and-Publications/Legislation.aspx>.

Attachments

Attachment 1 – Request for information between AHPRA/National Board and Accreditation Authority

Attachment 2 – Steps in the complaints management process

Attachment 1 - Request for information between AHPRA/National Board and Accreditation Authority

BACKGROUND ISSUE	•
DETAILS OF SPECIFIC ISSUE	•
ACTION REQUIRED	•
PROPOSED ACTION	•
FORMAL BRIEFING BETWEEN AGENCIES REQUIRED	•
DUE DATE FOR RESPONSE	•
AHPRA CONTACT PERSON (WITH CONTACT DETAILS)	•
ACCREDITATION AUTHORITY PERSON (WITH CONTACT DETAILS)	•
DATE OF REQUEST	•

Attachment 2 – Steps in the complaints management process

A complaints management process includes the following steps:

- 1 The Accreditation Authority will acknowledge the receipt of the complaint and provide the complainant with information regarding the Accreditation Authority's processes. If not already identified the Accreditation Authority will ask the complainant what outcome they are seeking, acknowledging that sometimes expectations can be met and sometimes not. The Accreditation Authority will make a record of the complaint in a confidential and secure manner.
- 2 The Accreditation Authority will assess whether the complaint is relevant to the Authority, the urgency of the complaint, and decide who should address the complaint given the matters raised. If the issue identified is potentially generating a high or extreme risk to the safety of the community, the Accreditation Authority will provide early notice of the issue to the National Board in accordance with the monitoring requirements of the National Law.
- 3 Depending on the complexity of the complaint, the Accreditation Authority will plan the investigation including: identifying what is to be investigated; who will co-ordinate the investigation; and note any special considerations.
- 4 The Accreditation Authority will investigate the complaint using the principles of transparency, fairness, accessibility, responsiveness, and evidence-informed decision-making.
- 5 The Accreditation Authority will provide a response to the complainant upon completion of the investigation. This may include the particulars of the investigation, any findings and the decision reached. On occasion, it may not be possible for the Accreditation Authority to resolve each disputed matter as the evidence available after investigation might be scant, inconclusive or unevenly balanced, and this may be explained to the complainant.
- 6 The Accreditation Authority will actively seek feedback on complaints management to ensure transparency and stakeholder confidence in the process.
- 7 The Accreditation Authority will consider any systemic issues identified in the investigation of the complaint and make a recommendation if any remedy or action is indicated, including referral to another agency. This may be done during the management of the complaint.

