

FRONTLINE COMPLAINTS HANDLING

*How to deal with complaints
made against you*

This document has been designed to assist all physiotherapists and is relevant for all those in public employment and in private industry.

This document emphasises **Frontline Complaints Handling** but also covers other procedures.

It has been developed by the NSW Physiotherapists Registration Board in consultation with the NSW Health Care Complaints Commission.

WHY IS IT IMPORTANT FOR YOU TO DEVELOP A COMPLAINTS HANDLING PROCEDURE?

- Experience has shown that there is a link between sound procedures for complaints and the ease and success of resolution.
- Complaints handled well at the Frontline are less likely to go to an external process.
- It has been demonstrated that if a complainant knows you have a complaint handling process set up in your practice/department which includes an external resolution process they are less likely to proceed down that path.

ALL PHYSIOTHERAPISTS WILL HAVE PATIENTS WHO MAKE COMPLAINTS

They may be minor:

"You don't have nice chairs to sit in"

or they may be serious:

"You have permanently injured me"

Dealing with complaints appropriately can be a valuable process:

- for the physiotherapist, as it helps you improve your professionalism.
- for the complainant to know that their complaint has been valued and dealt with.

WHAT CAN YOU LEARN WHEN SOMEONE MAKES A COMPLAINT?

- How to improve your standard of service
- How to elevate your professional standing in the community
- How to identify substandard care in your practice
- How to identify problems in the system providing care
- How to assist in maintaining trust in the health care system
- How to assist physiotherapists (inside and outside your practice) to be reminded of their professional responsibilities and ethical obligations

PHYSIOTHERAPISTS CAN AVOID COMPLAINTS BY:

- Maintaining high ethical and clinical standards
- Ensuring good clear communication with patients
- Engaging in ongoing education
- Being accountable for conduct
 - Considering the perspective of the patient and the community - what do they expect?
 - Maintaining good clinical records
 - Consulting with colleagues
 - Avoiding isolation

WHO CAN MAKE A COMPLAINT?

A patient or their nominee

An observer

A person providing health care

A facility

An association

A registration board

WHO CAN A PERSON MAKE A COMPLAINT TO?

The health service provider

The facility administrator: Private Practice

Hospital

Nursing Home

Area Health Service

Registration Board

Health Care Complaints Commission (HCCC)

Professional Association

Health Insurance Commission

Private Health Insurance Ombudsman

Private Health Care Monitoring Branch

Department of Veterans Affairs

Professional Services Review Panel

Pharmaceutical Services Branch

BUT WHY DO PEOPLE MAKE COMPLAINTS?

People complain for a number of different reasons; from seeking redress to a real or perceived deficiency in health care delivery to preventing a recurrence of the same to others. Such complaints may contain the following elements:

Insufficient information about:

- Their health problem
- The treatment options/alternatives
- Possible complications and risks
- Impact of treatment upon their lives and families
- Possible outcomes

- Whether there would be a partial or complete cure or just palliation
- What the financial commitment they and their families may have to make for the treatment

Poor communication:

- Rudeness or insensitivity
- No information
- Incorrect or misleading information
- Ignoring cultural values

Breaching of patient rights:

- A breach of confidentiality
- Discrimination
- Inadequate access to records
- Inadequate consent

Quality of care as it relates to the business practices of the facility:

- Attitudinal issues
- Overservicing
- Poor design of the business system
- Poor value for money
- Inappropriate billing
- Poor system processes

Poor clinical practice

- Failure to acknowledge, respect and act upon poor clinical practice
- Misdiagnosis or incorrect clinical assessment
- Delay in diagnosis
- Incorrect or inadequate treatment
- Failure to review treatment
- Safety of treatment
- Delay in treatment
- Discontinuities of care

Improper conduct, for example:

- Sexual relations
- Assault
- Improper touching

And another Physiotherapist may complain about you regarding:

- Your quality of care
- Confidentiality breaches
- Improper billing
- Sexual harassment
- Unfair dismissal

HOW TO HANDLE A COMPLAINT

It is wise to recognise the different ways of handling complaints. In general, a good complaint system provides three tiers of review.

First tier: **FRONTLINE COMPLAINT HANDLING**

Handling a complaint at the frontline means dealing directly with the complainant at or close to the time of the complaint by frontline staff.

Second tier: **INTERNAL REVIEW OR INVESTIGATION**

If a client is still dissatisfied, his/her complaint is reviewed or investigated by an identified complaint officer or simply more senior staff, and the outcome is reported to the client. If the client remains dissatisfied other options such as conciliation, mediation or further direct negotiation are available.

Third tier: **EXTERNAL REVIEW**

If the complaint cannot be resolved within the organisation the complainant is referred to an outside agency such as the Health Care Complaints Commission or the Physiotherapists Registration Board, or to some alternative dispute resolution procedure or, as a last resort, legal remedy.

FIRST TIER: FRONTLINE COMPLAINT HANDLING

At this level, the complaint is registered and an attempt at resolution is made by 'frontline staff'. The 'frontline staff' may be the staff physiotherapist, clerical staff or at times, the Head of Department/Practice Principal/Practice Manager if the complainant complains directly to him/her. This situation usually happens informally without the complainant lodging a formal written complaint.

The following are some guidelines for you to follow when dealing with a frontline complaint:

- Give your name, greet the complainant courteously and ask in a positive manner how you can help
- Listen to what the client has to say, give an aggrieved client opportunity to vent anger
- Arrange for sign/language interpreter or advocate if required
- Use good listening skills, maintain eye contact and look and stay interested
- Clarify points that are not clear in a non-judgemental way; use open-ended questions to do this starting with how? when? where? who? why?
- Make it clear to the complainant you have understood the complaint by summarising the main points made and asking whether that is correct
- Try to meet any reasonable requests that would resolve the matter
- Ask, "what do you want to happen?" or "what do you want to be done?"
- Formulate response accordingly
- Provide relevant information that will assist the client to better understand the decision or action they are aggrieved about
- Ensure enough time is available to receive the complaint, otherwise arrange time
- Treat complainant respectfully, pleasantly and professionally, show empathy
 - Decide the appropriate course to adopt and if possible gain the agreement of the complainant to this action
 - Offer solutions which can be delivered, then take this action and inform the complainant

- Take responsibility for solving the problem on the spot if possible
- Handle complaints quickly, within established timeframes, and
- Log the complaint and actions taken for later trend analysis
- Follow-up afterwards to ensure outcomes and actions have addressed concerns and feedback is provided on process.

Ways to increase the likelihood of success:

- Give reasons as to why action was taken relating to relevant policies, procedures and legislation of your organisation/practice and provide a copy if necessary.
- Where appropriate, apologise. Even if not warranted, the act of apologising is a good strategy to appease an aggrieved person. In these cases, give an apology that does not accept blame for the organisation.
- If the matter relates to a staff member's performance, inform the complainant you have or will be counselling the staff member with a corrective action to follow.
- Be positive and focus on solving the problem rather than blaming or finding fault.
- Try and defuse the anger before dealing with the problem. A good tactic is to agree with any statements that do not place blame on your practice/organisation. Do not debate the facts or ask questions "why" until the complainant is satisfied.
- Take some particular action to fix the problem eg. providing the service not delivered or undertaking to make sure outstanding action is taken in a defined time period, providing some other remedy or compensation for actions that cannot be undone.
- If you have to refer the matter to another staff member, he/she should be an appropriate person and should be briefed before referral. Being transferred from person to person is perhaps the most frustrating aspect of making a complaint. Complainants do not like to explain everything again.

Almost all complaints should be capable of resolution by frontline staff. When the client is still not satisfied, he/she may be referred to the second-tier of the handling system.

SECOND TIER: INTERNAL REVIEW OR INVESTIGATION

In some matters, complainants will not be satisfied unless their problem has been dealt with by a more senior staff or Head of Department/Practice. The latter can either review or investigate according to the nature of the complaint.

A review is to simply reconsider the original decision or action and take corrective action where appropriate. A decision will have to be made as to the nature of the review, who will conduct it, how and why. The Head of Department/Practice will have a wider delegation to overturn previous decisions and apply remedies.

A *resolution meeting* can be conducted for complaints about personnel, especially relating to rudeness or other improper conduct.

The Head of Department/Practice hears the complainant out, offers a formal apology on the part of the Department/Practice and undertakes corrective action. The aim is to prevent the complaint from escalating into a larger and more time-consuming dispute. An independent patient advocate may be of assistance during this process. The client can be given the name of a HCCC Patient Support Officer if they desire support.

An **investigation** will occur where a more serious problem has arisen. The need for an investigation will be made on a case by case basis. The investigation will usually be undertaken by the Head of Department/Practice followed by a written report.

The stages of an investigative process are assessment, planning, obtaining information (including service standards), analysis, determination of findings and recommendations.

The following guidelines are useful when conducting the investigation:

- Check if there are any previous complaints from this person
- Brief yourself on any relevant legal and administrative background of the complaint

- Prepare a line of questioning for each person interviewed, use single, open, (not leading) questions, and do not express opinions
- A report should be drafted, setting out the evidence obtained, preferably without including the investigator's opinions. This should be circulated for comment to the complainant before finalising the report. The practitioner should be informed of any adverse findings and recommended action, and be provided with an opportunity to respond before finalising the matter.
- The report should include the following:
 - Summary of complaint
 - Methodology undertaken for the investigation
 - Issues identified
 - Analysis of evidence including any policy, practice or performance issues that emerge
 - Findings / recommendations / actions taken or proposed including any broader recommendation for the department/practice or the organisation as a whole.
- You will need to decide who is to receive the report? Complainant? Respondent? Management?

The basic guidelines for frontline complaint handling apply to the above reviews. Time frames can also be relevant to success. A speedy approach will be better received and the complainant more open to resolution. However passage of time may allow tempers to cool, advice to be obtained and alternatives to be investigated and considered.

THIRD TIER: EXTERNAL REVIEW

The complainant may agree to other Alternate Dispute Resolution processes external to your Practice or Department with an independent mediator. You will both need to agree to this process. You may use a local independent Mediator or Arbitrator, a Solicitor, or a Minister of Religion.

Following mediation a complainant may still be dissatisfied with the result and want to take the complaint further. The complainant may decide independently to take the complaint externally to the Physiotherapists Registration Board or to the Health Care Complaints Commission.

It should be noted that more serious disputes; ie. regarding professional misconduct and unsatisfactory professional conduct, will usually be taken by the complainant directly to the Health Care Complaints Commission or NSW Physiotherapists Registration Board. The service provider or the health facility management may also take this course of action. In the instance of serious assault, for example, the complainant may be within their rights to go to the police.

In the case of **public facilities**, there is often some type of Patient Representative or Client Liaison Service where patients can formally complain either verbally or in writing. In these instances the Head of Physiotherapy will be advised of the complaint and will be expected to investigate the matter and provide a report with solutions/recommendations.

OTHER ISSUES TO CONSIDER

- If the patient proceeds with treatment under the care of another treatment provider he/she may be asked by the complainant to assist in the complaint process. This is potentially awkward for both professionals involved.
- If you have received a complaint avoid becoming defensive of your treatment and remember the subsequent care provider does not know all of the details of the situation that led to the complaint.
- It is best if you are the subsequent care provider to remain supportive but to avoid inflaming the dispute.

SEEKING SUPPORT AND ASSISTANCE

Alternative Dispute Resolution Providers

While you are following the above procedures you may find that you need outside help. You may need someone who understands the complaints process to bounce ideas off, to act as a sounding board, or to act in a peer review capacity. You may need more formal assistance, for example someone to act as your counsellor.

Publicly employed physiotherapists can contact their local organisation's complaint handling unit. All registrants can contact the Health Care Complaints Commission for assistance. Registrants can also contact their professional association for assistance.

Community Justice Centres

Tel: 02 9228 7455
www.cjc.nsw.gov.au

Australian Commercial Disputes Centre

Tel: 02 9267 1000

Institute of Arbitrators and Mediators Australia

Tel: 02 9223 8566

TERMS**Alternative dispute resolution**

Any mechanism for resolving complaints other than through the courts.

Arbitration

Where a third party decides what the outcome should be.

Conciliation

Where a trained person facilitates the resolution of a dispute. For more complex disputes where positions have become entrenched.

Requires voluntary involvement.

Consumer complaint

A dispute amenable to resolution through conciliation, mediation or arbitration.

Mediation

The art of helping people with disputes find for themselves a lasting solution to their problems.

Usually voluntary.

Professional misconduct

Means unsatisfactory professional conduct of sufficiently serious nature to justify suspension or cancellation of the physiotherapist's registration.

Unsatisfactory professional conduct

In relation to a registered physiotherapist, includes any of the following:

- (a) any conduct by the physiotherapist that demonstrates a lack of adequate knowledge, skill, judgment or care in the practice of physiotherapy,
- (b) a contravention by the physiotherapist of a provision of this Act or the regulations or of a condition of the physiotherapist's registration,
- (c) a failure without reasonable excuse by the physiotherapist to comply with a direction by the Board to provide information with respect to a complaint under this Part against the physiotherapist,
- (d) a failure by the physiotherapist to comply with an order made or a direction given by the Board or the Tribunal under this Act,
- (e) any other improper or unethical conduct by a physiotherapist in the course of the practice or purported practice of physiotherapy.

FURTHER READING

ADR and the Health Industry
Health Investigator Journal, 2001, 2, 18-23

Better Practice Guidelines for Frontline Complaints Handling
NSW Health, 1998

Conciliation of Health Complaints
HCCC, February 2002

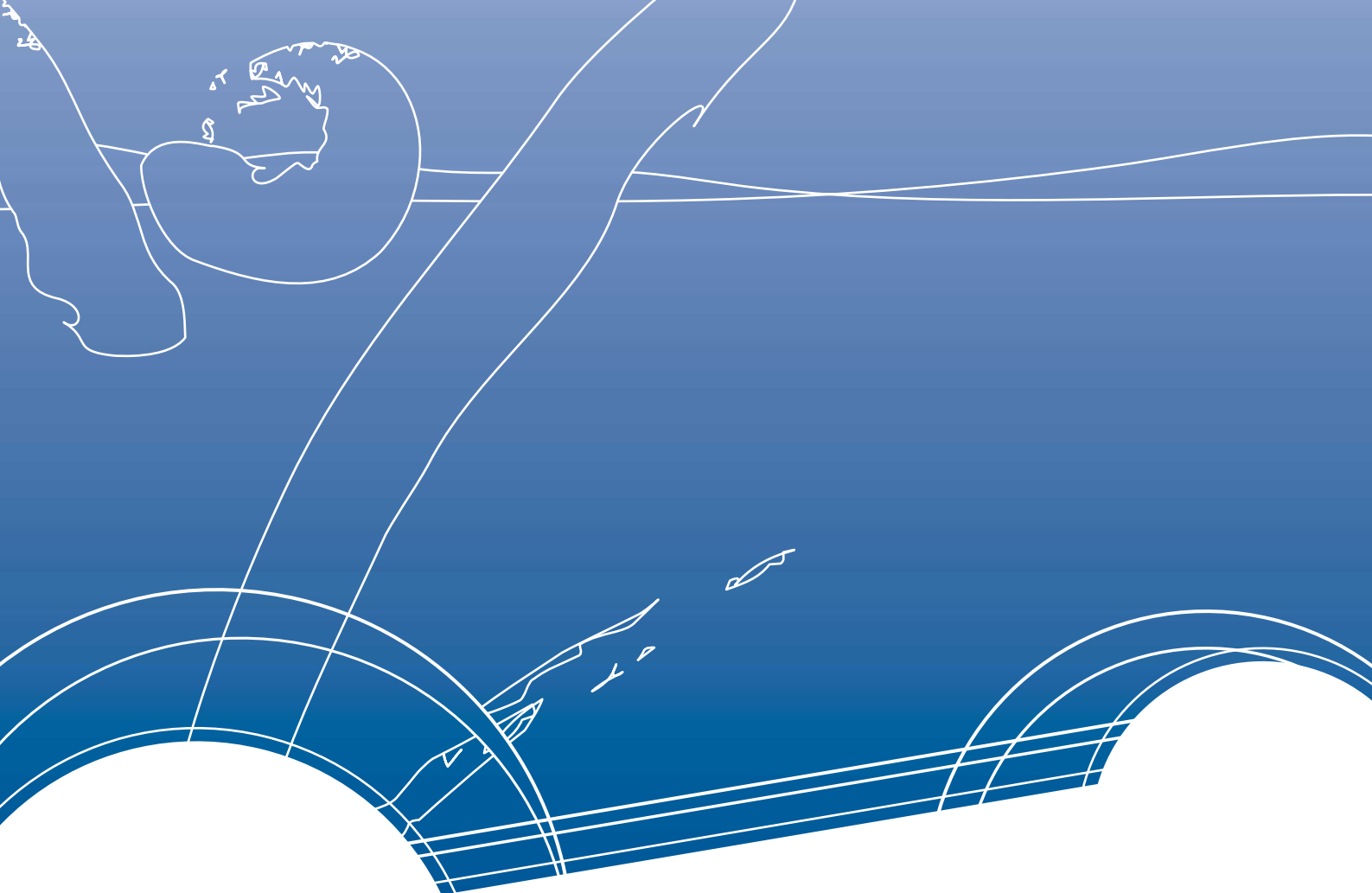
Effective Complaint Handling
NSW Ombudsman, June 2000

Physiotherapy and Quality Health Care
www.adsolv.apa.

Model Policy on the Management of a Complaint or Concern about a Clinician
NSW Health, November 2001

The Complaint Handler's Toolkit
NSW Ombudsman, May 2000

The Complaints Process
HCCC, www.nsw.gov.au/hccc/flowchart.html



**NSW
Physiotherapists
Registration Board**

OFFICE ADDRESS

Level 2, 28-36 Foveaux Street
Surry Hills NSW 2010

POSTAL ADDRESS

PO Box K599
Haymarket NSW 1238

Phone: (02) 9219 0255
Facsimile: (02) 9281 2030

www.physioreg.health.nsw.gov.au