

For discussion
on 10.1.2000

**Legislative Council Panel on Health Services
Meeting to be held on 10 January 2000**

Patient Complaint System

Purpose

This paper sets out a comparison of different redress mechanisms among different professional bodies, and the essential factors that have to be considered in reviewing the existing patient complaint system.

Background

2. At the last meeting of this Panel held on 13 December 1999, representatives from various medical professions and community organizations presented their views on the existing and future mechanisms for handling patient complaints. As requested by Members, we have selected a few professions and compared their complaint handling mechanisms with that of the medical profession. The non-medical professions selected are accountants, architects, barristers and solicitors. A comparison table is at *Annex*.

Complaint handling mechanism of other professions

3. Under the adopted principle of professional self-regulation, the complaint handling mechanisms of these professions are often operated under the auspices of the respective councils which are responsible for overseeing

the professional conduct of their members. In the case of the seven professions at the Annex, statutory disciplinary tribunal or committees are set up to conduct inquiry into complaints. Some of the inquiries are open to public. In many cases, the findings of the inquiry and the judgement or orders made by the disciplinary tribunal or committee are open for public inspection.

Proposed improvement measures by the Hong Kong Medical Council (HKMC)

4. At the last Panel meeting, the HKMC suggested various improvement measures to the existing redress mechanism with a view to enhancing its transparency and user-friendliness. These measures include -

- (a) to increase the number of lay members of the Council from four to six;
- (b) to make available a pamphlet, in both English and Chinese, to provide guidelines on the lodging of complaints, clarify remit of the HKMC and help complainants organize the relevant evidence in a more coherent manner;
- (c) to provide more detailed explanations to rejected complaints; and
- (d) to establish a Committee on Professional Performance to hear complaints relating to sub-standard performance.

5. We fully support the initiatives taken by the HKMC in improving its existing complaint mechanism, and are looking forward to hearing the final decision from the HKMC. We believe that these proposed measures,

when implemented, will enhance the transparency and user-friendliness of the existing patient complaint system.

The Medical Ombudsman

6. At the last Panel meeting, some deputations have expressed their support for the establishment of a medical Ombudsman. We have looked into the Ombudsman models of other countries to better understand the way they operate. We note that while an ombudsman system possesses merits in terms of impartiality and accountability, it also has limitations which impose restriction on the role and function of an ombudsman. For instance, in countries choosing to use an ombudsman to mediate and investigate patient complaints, the scope or jurisdiction of such an office is often limited to administrative complaints only. An ombudsman office, being an outside body, may lack the required expertise and knowledge to deliver a judgement involving professional standard or conduct. Most ombudsmen also do not have the power to enforce their judgement.

Key attributes of an effective redress mechanism

7. In contemplating any changes to the complaint system, we will have to ensure the presence of the following key elements in our future redress mechanism:-

- (a) The system should be accessible and user-friendly. The community must be assured that there are established inquiry and complaints channels, which are easily accessible to those who want to make use of them. The complaints procedure should be simple and easy to understand.

- (b) The process should be as transparent as possible. Both the medical profession and the complainant would require to know how the conclusions and judgements are reached. A transparent process will convince the community that the decisions are fair.
- (c) The system must be credible. Both the medical profession and the complainant must be persuaded by the way that the system operates that every complaint will be fairly handled without prejudice and biases, and that neither the practitioners nor the patients will be unfairly treated.

8. We will continue to examine carefully the pros and cons of an ombudsman system and explore the feasibility of other viable options, bearing in the mind the above key attributes and having full regard to views expressed by different parties concerned.

Health and Welfare Bureau
January 2000

Table summary of comparison of complaint mechanisms of different professions

	Professional Accountants	Architects	Barristers	Solicitors	Dentists	Nurses	Medical Practitioners
Complaint mechanism and procedures governed by legislation	✓	✓	✓	✓	✓	✓	✓
Appointment of lay members to inquiry body	✓	✗	✓	✓	✓	✓	✓
The inquiry body has investigation and disciplinary powers	✓	✓	✓	✓	✓	✓	✓
Inquiry may be open to public and the press	✓	✓	✗ [△]	✗ [△]	✓	✓	✓
Legal representation in proceedings	✓	✓	✓	✓	✓	✓	✓
Appeals made to Court of Appeal	✓	✓	✓	✓	✓	✓	✓

△ Inquiry is held in camera