

**CONSUMER COUNCIL  
SUBMISSION TO LEGISLATIVE COUNCIL PANEL ON HEALTH SERVICES  
HEALTH SERVICES COMPLAINT HANDLING MECHANISM**

1. The Consumer Council is pleased to provide this submission to the Panel on Health Services on complaint handling mechanisms.
2. The test to determine whether any scheme that provides services to consumers is effective or not is how responsive it is to complaints about the service provided.
3. The key elements of an effective redress mechanism are:
  - Low cost and easy access;
  - A fair hearing for both sides;
  - Impartiality by those that sit in judgement; and
  - A certainty that judgements will be enforced.
4. Having regard to the above, there are three important issues for the Panel to consider in relation to this matter. They are
  - How to gauge the effectiveness of complaints handling schemes;
  - What is the most efficient and equitable means to handle complaints; and
  - What health service areas should the mechanism serve.

**Gauging the effectiveness of complaints handling schemes**

5. The Council acknowledges that Hong Kong does currently have various avenues for consumer redress in the provision of healthcare. The Medical Council has the responsibility of examining complaints of professional negligence of all registered doctors in both public and private sectors. The Hospital Authority has Hospital Patients Relations Officers and the Public Complaints Committee that handle and review complaints of public hospitals. The Hong Kong Medical Association's Enhancement of Doctor/Patient Relationship Committee handles complaints against its members.
6. The Medical Council has appointed lay persons as members in its complaint mechanisms, and the Consumer Council's representatives are

members of the Medical Association's Committee. The Hospital Authority's public complaints committee is chaired by its non medical professional member.

7. However, findings from the Harvard Report suggest that these redress systems may not be ideal in resolving complaints in a satisfactory manner. Figures in the Harvard Report revealed that only 44 of 190 complaints received in 1997 were dealt with by the Medical Council, of which only 10 cases were heard by its disciplinary committee.

8. The success of the current redress systems is difficult to gauge as there is no clear accountability framework. Whilst each of these organisations have separate reporting systems, there is no systematic method in place to monitor the number, substance or outcome of all healthcare complaints.

9. As a result, there is no central data base that aggregates the number of complaints with a view to identifying trends and potential problem areas across the spectrum of redress mechanisms for healthcare services. Furthermore the absence of a centralised complaint framework may hinder efficient enforcement measures because lessons learned in one complaints system might not be shared with another. Moreover, consumers could understandably feel frustrated if, in addition to there not being a central point for making complaints, their problem is seen as an isolated occurrence, when in fact there may be similar problems emerging elsewhere.

10. The Council considers the lack of information on the effectiveness of redress mechanisms, which could substantiate or clarify whether problems exist across the spectrum of existing redress mechanisms, should be seen as a major concern. The Council sees the need of establishing a centralised database (with a systematic procedure for recording the number, the nature, and the outcome of health service complaints) to give an overview of the quality of health care services provided to consumers.

### **Effective means of handling complaints**

#### *Information*

11. An effective complaints handling scheme begins with the provision of accessible and comprehensive information on the scheme.

12. Full and accurate information as to how and where to lodge complaints, or to seek assistance, should be made available to assist patients to make use of the complaints handling mechanism. This should

include written material such as brochures and posters, made available for perusal and prominently displayed in areas and offices where health services are made. Dissemination of health care information should also be made of appropriate technology, such as the Internet.

#### *The problem of enforcement*

13. A difficulty also arises with complaints against private practitioners, which are not direct allegations of negligence but raise similar issues. Compliance and enforcement of rules in this regard are not totally adequate. The Hong Kong Medical Association for example, cannot compel compliance with its decisions, and neither can it award compensation or ask members to provide other effective remedies.

#### *A neutral third party*

14. The complaint procedures in the Medical Council have been criticized for being physician dominated. In the case of public hospitals, the Harvard Team also found that the Public Complaints Committee of the Hospital Authority settled most complaints and appeals as 'unsubstantiated'.

15. Understandably, complainants do not always have the requisite degree of medical knowledge to assess the medical information presented and they require expert and impartial support. From the patient's perspective, it could appear therefore that seeking redress presents an insurmountable problem for them in terms of time, cost and the pain of going through the process.

16. Investigators should be independent. In some cases, the fact that an Ombudsman has investigated a complaint from a patient could lessen the instances of complaints being referred onward to more formal redress mechanisms, such as the court.

17. Accordingly, the Council supports the creation of an Ombudsman Office. In the long run, the operation of a 'neutral third party' would enhance credibility of the overall redress system, and lessen the use of more formal action. Moreover, it would remove both fragmentation by centralizing the complaint handling schemes and duplication of the work process. Logically, the Ombudsman should be tasked with the responsibility of establishing the proposed centralized database in relation to complaints on healthcare services.

## **Coverage areas of the complaint mechanism**

18. The focus to date has been in relation to complaints about medical practitioners. However, the function of a complaints handling mechanism, whether it be an Ombudsman, or otherwise, should not be limited to complaints simply against medical practitioners. There are a range of services that are provided in the course of illness or injury, that can affect patient's interests. These include a wider category of healthcare service providers, such as radiographers, nurses, dentists, pharmacists and health insurance companies.

19. The jurisdiction of the complaints mechanism should therefore also extend to include practices that have a detrimental effect on consumer interests by healthcare service providers, and institutions in general.

Consumer Council  
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