MHCC MENTAL HEALTH COMPLAINTS COMMISSIONER

THE ROLE OF COMPLAINTS IN SYSTEM OVERSIGHT

Being clear about the Mental Health Complaints Commissioner's role in system oversight and how the new Mental Health and Wellbeing Commission will strengthen the impact.

We acknowledge the First Nations People of Victoria as the Traditional Owners/Custodians of the land on which we conduct our business. We recognise their continuing connection to land, water and community and that sovereignty was never ceded. We pay our respect to Elders past, present and the emerging leaders of the future.

We acknowledge people with lived experiences of mental and emotional distress as consumers, family members and carers, including those who have gone before us or are no longer with us. It is only by being informed and driven by the voices, collective experience and wisdom of those with lived experience that we can create meaningful change.

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This Paper contains content that may be triggering or distressing for some people.

ABSTRACT

The Mental Health Complaints Commissioner (MHCC) has taken a range of approaches to safeguard and promote people's rights and drive improvements in public mental health services. This paper details the role of complaints in system oversight, as well as the role of compliance actions, including investigations, in raising the standards of practice. An example of an investigation carried out by the MHCC is shared in detail, from making the complaint, to the systemic issues identified and recommendations proposed as a result of the investigation.

Additionally, this paper highlights what was learned from the MHCC's 2022 stakeholder survey, particularly regarding the disparate perceptions of systemic change resulting from making complaints between those making complaints (consumers, carers and families) and service providers. Finally, this paper concludes by arguing that some of the limitations the MHCC faces in system oversight will be mitigated given the strengthened powers and reach of the new Mental Health and Wellbeing Commission.

Listed below are a few of the key points from this paper:

- A complaint represents an opportunity for a person to raise concerns about an environment, practice, policy or conduct that has resulted in a negative experience, and to seek a redress in relation to that experience.
- Through complaints resolution the MHCC focuses on ways to restore effective communication, rebalance power differentials between consumers, carers, and services, and, where possible, establish trust so that the consumer can continue to receive treatment if needed, and take a lead role in their own treatment and recovery.
- During the course of a complaint, the MHCC may identify areas, based on the rights and principles contained in the Mental Health Act 2014 (the Act), where the service could improve their practice.
- The MHCC lacks powers to initiate an inquiry into issues that may be systemic in nature beyond the context of individual complaints.
- While the MHCC does not have powers to initiate systemic reviews, where systemic factors may be identified through complaint themes, the MHCC raises these with the Office of the Chief Psychiatrist (OCP) or the Department of Health for further review and practice guidance to services by those entities. The MHCC has, thus far, formally investigated 14 complaints and of those 12 have been finalised.
- The investigation detailed in this paper led the service to implement all of the recommendations and took a range of remedial actions, including new escalation procedures when treatment includes the use of prolonged restraints, and revised transfer procedures when patients with complex issues are transferred from the mental health inpatient unit to another part of the hospital.
- Responses from complainants to the MHCC's Stakeholder Survey indicate less confidence than respondents from services that complaints lead to changes.
- The Mental Health and Wellbeing Commission (MHWC) will have a range of powers which will fill many of the gaps in oversight which have limited the MHCC in relation to systemic change
- The MHWC will have the ability to hold government to account for the performance, quality, and safety of the mental health system. As a result, complaints and investigations will still be an important process for individual redress, but the MHWC will have stronger oversight in whole of system performance monitoring.

OVERVIEW

This paper details the approaches taken by the MHCC to drive improvements in public mental health services (services), including the range of approaches taken to improve quality and safety, and promote the rights and principles contained within the current Act and Charter.

The MHCC promotes human rights, broader system improvements and services' compliance to the Act and Charter through a range of actions.

There are limitations on the MHCC to routinely undertake broad service or system-wide reviews, and these were addressed by the Royal Commission into Victoria's Mental Health system, which made significant recommendations relating to the powers and reach of the new MHWC.

The most limiting factor on system oversight has been that no single independent entity has sole responsibility for measuring and monitoring the performance of the whole Victorian public mental health system. The MHCC was developed to provide a robust complaints resolution function (complaints were previously received by the Office of the Chief Psychiatrist and the Health Complaints Commissioner) and from these complaints, draw out opportunities for service or system improvements. Additionally, the MHCC can investigate, make recommendations, accept undertakings, and hold a service to account.

Specifically, the MHCC lacks powers to initiate an inquiry into issues that may be systemic in nature. Generally, there is a requirement for an open complaint to be in progress in order for action to be taken and corrective or improvement activities to be monitored by the MHCC. This can be challenging if the complainant wishes to discontinue or can't participate. The MHCC has no power to wholly and formally review either a single service or multiple services on their performance where complaint themes raise concerns of compliance beyond the context of the individual complaint. Nevertheless, the MHCC has undertaken projects that help guide the sector and raise concerns with certain aspects of system performance, such as our report on sexual safety in March 2018 and we have also run campaigns specifically aimed at improving awareness about consumer's rights.

To provide clarity of the MHCC's role in system oversight, this paper will first discuss the role of complaints in system oversight, as well as the ways in which the MHCC has worked in the complaints space to support consumers in reaching a resolution. In the second section, this paper presents other compliance actions the MHCC takes to make recommendations aimed at improving the mental health system, while noting that these actions need to occur in the context of a complaint. In this section, the role of investigations is discussed. In turn, the third section provides an example of an investigation carried out by the MHCC, providing a detailed account of the investigation from the complaint being made to the recommendations to the service and the outcomes. Fourth, the following section discusses the finding from the MHCC's most recent stakeholder survey conducted in 2022. The purpose of this section is to show what we've learned about the MHCC's role in creating system change as a result of its actions. Finally, the conclusion highlights the ways in which the MHWC will differ from the MHCC in its scope and powers for system oversight and influencing system change.

COMPLAINTS

A complaint represents an opportunity for a person to raise concerns about an environment, practice, policy or conduct that has resulted in a negative experience, and to seek a redress in relation to that experience, and where possible also influence system changes, either for themselves or for others.

In line with the intention of the Act and the appropriate use of statutory powers, the general approach of the MHCC has been to focus on efficient individual complaint resolution using a range of formal and informal practices appropriate to the circumstances; remain impartial and fair and afford due process; and, in order to address complainants' desire for system improvement, encourage a continuous improvement mind-set within services, particularly through the use of making recommendations as part of complaint resolution.

The MHCC and public mental health services are required to act compatibly with the rights in the *Charter of Human Rights and Responsibilities Act 2006*, to give proper consideration to Charter rights in making decisions, and to interpret powers compatibly with human rights consistently with their purpose. It is for this reason that when deciding on a course of action, the MHCC assesses complaints in relation to the rights in the Act and the rights in the Charter.

The Royal Commission into Victoria's Mental Health system highlighted the complex problems of a poor system, and these problems manifest themselves directly and indirectly through complaints.

For example, problems with communication are key drivers of complaints to the MHCC, arguably in some circumstances, this reflects a system under pressure where clinical staff lack any combination of time, opportunity, resources, and infrastructure to think and act differently.

The imbalance of power and knowledge between clinical staff and consumer is vast. The MHCC focuses on ways to restore effective communication, rebalance power differentials and, where possible, re-establish trust so the consumer can continue to receive treatment if needed, and take a lead role in their own treatment and recovery.

These kinds of actions go to elevating the importance of a consumer's right to autonomy and go beyond clinical staff meeting a minimum standard of engagement with the consumer about their treatment options. We assess the appropriate steps to take in response to complaints having regard to a range of factors, such as the complainant's views, whether the complaint raises issues of rights, safety, risk, or quality or if we think other people might be affected by similar issues. Qualitative factors can relate to a range of concerns and often involve the MHCC providing an avenue for the consumer to be heard and acknowledged, where they otherwise feel they have not been.

Nevertheless, many complaints received by the MHCC are not within our jurisdiction and in those cases, we continue to support the complainant by trying to refer them to the correct body to assist them.

In the previous four financial years' data reported by the MHCC (2018/2019 – 2021/2022), of complaints that were identified as in-scope and closed **(6502)**, about two thirds of these complaints were discontinued or dealt with informally.

On average **25%** of in-scope complaints were referred to the service for local resolution. However, we do not refer matters containing serious safeguarding issues back to the service.

We make several attempts to contact consumers/complainants and obtain suitable information before we decide to discontinue a complaint.

Of the complaints handled during this period, 2261 were progressed by the MHCC. **78%** of these were partially or fully resolved and 22% were closed without full agreement.

Formal undertakings were made by services in **9** matters (complaints).

So far the MHCC has made **489** recommendations (462 at 30 June 2022) 21% of those were from formal investigations and 79% were made by MHCC in relation to non-investigated complaints.

Note* the years 2017-18 and prior have been excluded from this example because referrals, closures and outcomes were presented differently in those reporting periods as the MHCC migrated to a different case management system during 2017-18.

COMPLIANCE ACTIONS AND RAISING STANDARDS OF PRACTICE

The Act sets out a range of strict parameters, such as when a person can be given compulsory mental health treatment, and includes mandatory requirements in relation to detention, treatment, and the use of restraint and seclusion.

The Act also includes rights for consumers, including to be supported to make or participate in decisions, and to appeal a compulsory treatment order to the Mental Health Tribunal.

The MHCC will consider if a complaint includes possible breaches to these rights and requirements and during the course of a complaint, the MHCC may also identify areas where the service could improve their practice. In these instances, the MHCC has identified areas where the rights and principles contained in the Act intends for the service to have better practices or procedures in place.

While the MHCC does not have powers to initiate systemic reviews, where systemic factors may be identified through complaint themes, the MHCC raises these with the Office of the Chief Psychiatrist (OCP) or the Department of Health for further review and practice guidance to services by those entities. Non-compliance is interpreted broadly as a practice that appears to contravene the Act or the Charter or does not appear to uphold the mental health principles or other relevant standards, such as the OCP guidelines. The focus of the MHCC is not to be the primary body responsible for system-wide improvement, rather it is to be a complaints resolution body that in the course of that work, also identifies opportunities for improvements. The Act provides some additional powers which strengthen the effectiveness and impact of our work. The current Act provides the MHCC with the powers to enforce actions in certain circumstances via the ability to escalate that action to the issuing of a compliance notice.

As noted, sometimes complaints raise issues that may indicate non-compliance with these rights and mandatory requirements by the service. The MHCC takes a risk-based approach in these circumstances and considers consumer preferences, complainant/consumer engagement, and being trauma informed, along with preliminary evidence, and any service-related context before deciding on what course of action is appropriate. The approach is to use our own, and services' resources sensibly and work within the framework of the Act which encourages the least formal approach to achieve complaint resolution and changes required by the service to be compliant, if compliance is a concern.

During certain stages of Covid outbreaks and lockdowns, services were compromised, and additional restrictions placed on consumers, however we continued to assess complaints in relation to rights issues and expected services to remain balanced in their approach to consumers' rights even though several strict protocols that impacted consumer's rights had been introduced.

The stepped approach to complaint resolution produces various outcomes as stated. Sometimes services make a formal undertaking under the Act to develop a range of actions to correct possible or acknowledged breaches. Undertakings show an increasing maturity and an improved motivational posture within services to self-regulate and self-correct.

The MHCC sees this as an intrinsic part of broad system-wide change and is encouraged by this approach. The MHCC has the further option of issuing a compliance notice if the actions contained within a service's undertaking have not been executed to the satisfaction of the MHCC.

These provisions in the current Act place the focus of the MHCC on complaint resolution and developing improvements that can effect change quickly. A service acknowledging a mistake or breach and conducting a range of actions to prevent a repetition is generally a more efficient and appropriate method of resolving a matter and delivering on a system improvement than a lengthy investigation.

Our aim is to be targeted, keep the needs of people at the centre of our efforts and focus on areas where we can have the most impact. Therefore, we developed a streamlined way of monitoring compliance with the Act when mechanical restraint is raised in a complaint. This new process was accompanied by a letter to CEOs and Clinical Directors to serve as a notice that the MHCC is particularly focused on this as an area of compliance. The MHCC is now undertaking a review of this process and, depending on the findings of that review, may be used by the MHWC when considering systemic issues.

It is not suitable to conduct an investigation into every complaint, however the investigations conducted by the MHCC have involved very complex issues that raised serious questions about the person's treatment that could not be satisfactorily resolved through alternative pathways. Before conducting an investigation, we consider what other options might achieve an appropriate outcome, including conducting a detailed review of the issues raised by reviewing clinical records and whether to seek an undertaking from a service.

We make recommendations at the conclusion of the investigation which we monitor for implementation before closing the matter. A breach of the Act may be identified; however, recommendations can relate to a range of opportunities for improvements, and there is an expectation by the MHCC that corrective actions are to be taken to all recommendations made. More specifically, if actions recommended by the MHCC relating to breaches are not acted upon, the MHCC can issue a compliance notice to the service. This process remains in the new Mental Health and Wellbeing Act (MHWA).

Not everyone gets it right every time, however the MHCC has found no clear evidence of wilful disregard for the Act throughout its investigations to date. The MHCC has generally found an appetite for change and an advancing culture of compliance in mental health inpatient settings. We remain responsive to the attitudes displayed by services and will escalate our actions in accordance with these attitudes.

We also respect that some consumers, families, and carers may not share this view and may remain frustrated that their experiences over the years have not positively advanced, or that some commitments by services have not been sustained. The MHWC will have more powers to create change.

While we monitor services for implementation of recommendations, the MHCC often relies on complainants returning to the MHCC to alert us to the possibility of unsustained changes. We welcome the stronger oversight capabilities of the MHWC that have been provided for in the new MHWA which will improve the overall impact of the complaints process.

The MHCC has, thus far, formally investigated 14 complaints and of those 12 have been finalised. There have been three complaints investigated which have been referred for conciliation. The MHCC may recommend to the parties that a complaint be conciliated to explore complaint resolution options, which may include a financial settlement.

Investigations have concluded involving the following services: Grampians Health (formerly Ballarat Health Services), Eastern Health, Melbourne Health, Monash Health, Latrobe Regional Hospital and St Vincent's Hospital.

The following section details the investigation process at the MHCC by providing an example of a complaint made to the MHCC that resulted in an investigation.

AN INVESTIGATION CONDUCTED BY THE MHCC

The Mental Health Complaints Commissioner (MHCC) supports consumers, carers and their families with complaints that can often be complex and distressing.

Due to the confidential nature of MHCC complaints, where the privacy of consumers, carers and their families is critical, it can be difficult to share how our complaints process often leads to system improvements.

The following story is a summary of a complaint that led to the MHCC conducting a formal investigation and it highlights the challenges of navigating a complex system, the importance of authentic communication and partnership with consumers and/or their family or carers, and how a complaint can bring about system change.

The consumer and family have graciously agreed for their story to be deidentified and shared. We have included direct quotes from the family member who made the complaint, during an interview we conducted to obtain their feedback about making a complaint with the MHCC.

The names and identifying details have been changed to protect the identity of those involved.

Background

Jade contacted the MHCC due to her concerns in relation to the experience of her sister, Alicia, during an inpatient admission in a public mental health service in Victoria (the hospital).

Alicia had a complex and serious medical history. She was a compulsory patient on an Inpatient Temporary Treatment Order and subsequently the Mental Health Tribunal (the Tribunal) made an Inpatient Treatment Order. The Tribunal authorised several courses of Electro Convulsive Treatments (ECT) on Alicia. The Tribunal can authorise ECT if it is satisfied the patient does not have capacity to give informed consent and there is no less restrictive way for the patient to be treated.

During the admission Alicia was transferred to the intensive care unit (ICU). She was intubated, ventilated, and sedated, given multiple ECT treatments, and mechanically restrained for extended periods.

Mechanical restraint is a highly intrusive practice that can only lawfully be used in the strictly limited circumstances set out in the Act, and subject to the statutory safeguards and protections. The Act is clear that a person must immediately be released from mechanical restraint when it is no longer necessary to prevent imminent and serious harm or to administer treatment.

Jade's perspective as a family member

As Alicia's sister, Jade spoke about how challenging it was for Alicia and her family when her condition deteriorated.

"As a family member of someone with lived experience of mental illness, I have witnessed their torment when severe illness takes hold. At times, unfortunately, compulsory treatment has been required in order to keep them safe. When compulsory treatment is ordered, the person is wrenched from our care and protection. Authority as next of kin, or designated medical decision-maker, is absent in the context of mental health treatment," said Jade.

Being a health professional herself, Jade raised several concerns about the treatment and care of her sister, including those about the decision to intubate and mechanically ventilate Alicia, and the decision to administer ECT while Alicia was in a state of 'induced coma' and when her mental state could not be re-assessed between ECT treatments.

"In our scenario, the admission to a mental health ward for compulsory treatment proceeded to the patient being placed on life support in ICU," said Jade.

"This was not due to a life-threatening medical indication but as the result of a planned intervention by the treating team in order to administer ECT. We were shocked and horrified [when informed of this] via a late-night phone call from an ICU Nurse."

Jade also raised concerns about the physical and psychological outcomes for her sister, and the communication with her and Alicia's husband, Brad, by the treating teams.

"We just weren't getting the appropriate communication from Alicia's treating team. The reason I contacted the MHCC in the first place was because I just wanted help. Initially I was just ringing up [the MHCC] to discuss the issues around my sister's treatment and our experiences at the service."

Making the complaint

Talking about what it means to complain, Jade recalls,

"It was only after my contact with the MHCC that it occurred to me that I had to frame my concerns as a complaint, to achieve the outcomes I was seeking. In my initial contact with the service, I wasn't trying to make a complaint, rather it was a request for communication to answer questions that I had about Alicia's treatment. And that was a real stumbling block all along – in trying to get the appropriate doctor to talk to me and to answer the specific questions that I had. It was in my quest for answers and not getting them that the event ended up as a complaint."

When contacting the MHCC, Jade said,

"By then I was feeling helpless and angry. I guess I felt like I'm just one person and here's a whole organisation that's meant to protect the rights of people who are receiving compulsory mental health treatment. I really needed the support at that time."

When asked if she felt like she was being heard when she contacted the MHCC, Jade replied,

"I would say a 100% [I felt supported]. I contacted the MHCC as the very last resort. From the very first phone call, I felt like finally there was someone in the system that was going to protect my sister's rights as someone under a compulsory order. The Resolutions Officer [assigned to my case] was outstanding, and I felt like I finally had an ally."

In response to Jade's complaint, the MHCC decided to conduct a formal investigation. As part of the investigation, the MHCC obtained independent, external opinions from experts in clinical and legal disciplines.

There were several systemic issues raised by the investigation

Based on the expert clinical opinion, the investigation found that Alicia's clinical presentation was extremely complex due to the gravity of her symptoms of mental illness and treatment challenges.

The investigation made several findings about the systemic issues raised, including those about significant clinical, legal and bioethical questions raised by administering ECT when a person is sedated.

The independent clinician concluded that Alicia's treatment and care needs were 'well beyond the bounds of regular practice' and that these types of scenarios are not covered by existing guidelines. The independent legal expert formed a similar view that Alicia's treatment and care needs were 'distinctly towards the outlier range of severity' and commented that: 'It is in such instances that the ability of clinical and legal protections to deliver as intended is truly tested.'

Recommendations and service changes

Once the final investigation report was complete, the MHCC wrote to the service, as well as to the Secretary of the Department of Health and the Chief Psychiatrist, providing a copy of the investigation report, summarising the systemic issues raised by the investigation, and making several recommendations.

The MHCC recommended that ***'the Secretary and the Chief Psychiatrist consider the findings of this investigation and ways to address the gaps in safeguarding and oversight of decision-making in cases [like Alicia's] which sit outside existing clinical guidelines, standard practices and the statutory protections in the Act.'***

In response, the Chief Psychiatrist has set up a Complex Consultations Expert Panel for ECT consisting of a group of ECT directors, coordinators, and people with Lived Experience under the leadership of the Deputy Chief Psychiatrist. This panel's role is to advise the Chief Psychiatrist in situations that are at the extreme end of clinical complexity or that raise challenging ethical-legal considerations with respect to the administration of ECT. All designated mental health services are required to raise such complex clinical or ethical-legal matters with the Chief Psychiatrist.

The MHCC also made a number of recommendations to the service, including in relation to the use of mechanical restraint in the ICU on compulsory patients, overall governance of clinical decision-making in respect of mental health patients in ICU, and engagement with families and carers, especially prior to significant clinical decisions.

The service agreed to implement all of the MHCC's recommendations and took a range of remedial actions, including new escalation procedures when treatment includes the use of prolonged restraints, and revised transfer procedures when patients with complex issues are transferred from the mental health inpatient unit to another part of the hospital.

The service also assisted Alicia in making an Advance Statement.

Outcomes

Jade said the experience of complaining to the MHCC helped address their concerns with the service.

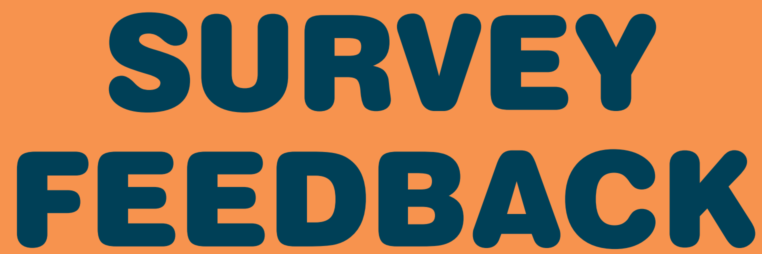
"Prior to the MHCC involvement the mental health service was unwilling to acknowledge any shortcomings and therefore would not undertake a meaningful review or look at ways to ensure that the situation couldn't be repeated in the future. In contrast, the MHCC complaint forced the service to address each of the concerns raised and commit to some changes in policy and practice," said Jade.

Jade explained that due to the chronic nature of Alicia's condition, she requires treatment and care from the same service; however, she has seen several positive changes.

"During the few inpatient admissions that she [Alicia] had after, it was very evident that the service was taking a different approach to communication. They have been very proactive in their communication with us."

Jade further explained, *"they also follow Alicia's Advance Statement. It's really quite a harmonious relationship now. I would say that there definitely has been a positive outcome because of making the complaint."*

Jade said that the complaints process allowed their family's side of the story to be represented fairly when dealing with the service. *"The MHCC investigation and outcome was not a panacea for all of the wrongs that had taken place, but it did enable our side of the story to be represented fairly in the dispute resolution process, and it compelled the service to be accountable. It provided a platform for consumer and carer to be on an equal footing with service provider in the process. It gave us the rare opportunity to operate in a space where the power differential inherent between service and consumer was effectively neutralised. It meant that our voices had to be listened to, instead of falling upon deaf ears."*



In 2022 the MHCC conducted a stakeholder survey to obtain feedback about their experiences engaging with the MHCC. The stakeholder groups surveyed included consumers and carers, and services.

Complainants (consumers and carers) survey

Among the 38 respondents in 2022, 55% of those who contacted the MHCC did so about their own experience as consumers, and 16% about their own experience as carers. The remaining 29% contacted the MHCC on behalf of someone else.

Importantly, over **70%** of respondents felt they had been asked respectful questions, listened to, heard, and valued.

Over **60%** of respondents felt their individual needs were recognised and felt safe engaging with the MHCC.

Meanwhile, when it came to having a voice and choice and been given options, around **55%** of respondents felt this had been the case.

These figures did not vary significantly from the previous survey conducted in 2020.

Contacting the MHCC was overall a positive experience for consumers and carers as they felt heard and felt that MHCC staff were empathetic. Suggestions received by consumers and carers included more follow up with services about the outcomes of their complaint and increasing the potential for systemic changes.

When asked how they felt about their complaint influencing positive change only 24% of consumers felt it had influenced positive change for them and 26% felt that it had influenced positive change for others. Among the reasons highlighted for these low perceptions of positive change were that they had not received the expected follow up and that they had not observed changes in their treatment.

Service provider survey

Overall, the 44 respondents from services felt very positively about their experiences engaging with the MHCC. The respondents of the survey carried out a range of different roles in services including program managers, complaint or feedback officers, area managers, and lived experience staff. Lived experience staff made up 7% of the respondents to the survey, a notable improvement from 0% in 2020. Over 50% of those who responded have been engaging with the MHCC for 5 years or more and only 18% of respondents have done so for less than a year.

Among those who completed the survey, 82% have engaged with the MHCC about individual complaints. 30% of respondents have engaged with the MHCC's education activities and 34% with other MHCC activities including projects, visits, and consultations.

A strong majority of service providers felt that, in their interactions with the MHCC, staff worked with them respectfully and understood their perspective, they did what they said they would, they were flexible in how they worked with them, and that decisions were made in fair and transparent ways.

Regarding complaints resolution, 100% of service providers who responded to the survey felt that the impact the experience had on the consumer or carer was conveyed (by the MHCC) in a respectful way and that the views and preferences of the consumer guided the process in working to resolve a complaint.

62% of respondents agreed that the MHCC influenced positive change for the individual consumer and carer, slightly higher than 48% in 2020.

Meanwhile, 57% considered that the MHCC influenced a positive change for the service and 54% felt that the MHCC assisted them to improve their complaint management process.

What we learned

The MHCC staff continue to be perceived as fair, attentive, empathetic and respectful in their interactions with both complainants and services. Complainants are less confident than respondents from services that complaints lead to changes. One possible explanation for this could be that the MHCC is not clear to consumers about how their complaints might have contributed to a service improvement.

Although complainants are informed about service improvements where they form part of the complaint resolution, and the MHCC reports annually on service improvements that are developed from complaints, there is a perception among 37% of the sample surveyed that these improvements were not significant or enduring for others.

Over the past 4 years (to June 30, 2022) of the complaints (including investigations) that were dealt with, 462 improvements were identified and monitored. This is a ratio of approximately one recommendation for every five in-scope complaints progressed by the MHCC.

Action 1: In discussion with the MHCC LE advisory council it was decided to look at producing information in a range of formats, including for inpatient environments, that highlight the improvements made as an outcome of complaints. These resources will promote accountability, including encouraging consumers, families, and carers to speak up if they believe these improvements have not endured. This can also be considered in the new MHWC.

Action 2: The MHCC will introduce a range of process improvements which better track and monitor the way we maintain contact with complainants and services, particularly surrounding the closure of complaints. The MHWC will be able to adopt this process.

CONCLUSION

The MHWC will have a range of powers which will fill many of the gaps of oversight in which the MHCC is currently limited.

While the functions of the MHCC to investigate and resolve complaints will fold into the MHWC in September, the new Commission will have the ability to hold government to account for the performance, quality, and safety of the mental health system.

As a result, complaints and investigations will still be an important process for individual redress, but the MHWC will have stronger oversight in whole of system performance monitoring.

Contrary to the MHCC, the MHWC will have the ability to begin inquiries into issues that may be systemic, even when there is no specific complaint regarding that issue in progress. Inquiries will be able to be initiated into any matter that is related to its functions. The MHWC will also be able to monitor and publicly report on the mental health and wellbeing system and service delivery by having substantial powers to obtain and share data across the system.

Beyond these powers, the MHWC will also be an important driver of cultural change by supporting people with lived experience of mental illness or psychological distress, families, and carers to actively lead and participate in the system's reform. A key role of the MHWC will be to monitor the implementation of the Royal Commission's recommendations, including taking action to address and reduce stigma related to mental health.

In line with the Mental Health and Wellbeing Act 2022, the powers listed will enable the MHWC to provide oversight far beyond the reach of the MHCC. Importantly this will grow the impact of recommendations that are made as a consequence of complaints and allow the new Commission to follow-up on areas that indicate potentially system-wide issues relating to quality and safety. The new Commission will also generate reports that highlight changes to quality and safety because of those actions.

Based on the feedback from consumers about their complaint having an impact on their circumstances and in systemic change, while the MHCC has had sound results in achieving outcomes and redress for complainants, it is the powers of the MHWC that will ensure the connection between complaints and systemic change is both fundamental and well understood.

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