

Information Requests

The Health and Community Services Complaints Commissioner (HCSCC) has multiple powers under the Health and Community Services Complaints Act 2004 (SA) to request information relating to a complaint. This fact sheet is designed to assist service providers when responding to requests for information from the HCSCC.

Section 30 Information Requests

Section 30 of Health and Community Services Complaints Act 2004 (SA) (the Act) allows the HCSCC to request information in relation to a complaint for the purpose of assessing a complaint and determining the best method of complaint management. This is referred to as a 'section 29 determination'.

The types of information we may request under section 30 include:

- The name, profession and the Australian Health Practitioner Regulation Agency (AHPRA) registration number of any registered health practitioners involved in the complaint;
- A summary of services provided to the complainant;
- A response to issues raised in the complaint; and
- Any other information we believe is necessary and relevant to the complaint.

On receipt of this information we will assess what, if any action will be taken on the complaint under the Act. The Act allows the HCSCC to enforce penalties for non-compliance with a request for information under section 30.

Exception to the obligation to comply

Section 30(6) sets out that a person is not required to comply with a section 30 request for information if to do so might incriminate the person or make the person liable to a criminal penalty. If an information request is declined on this basis, the HCSCC requires you advise us of this in writing.

Section 47(2) Information Requests

In circumstances where the Commissioner has made a determination to investigate a complaint under Part 6 of the Act, section 47(2) authorises the HCSCC to request information relevant to the investigation. Section 47(3) of the Act specifies that this information request must specify the time period in which this information is to be provided. The outlines penalties for non-compliance with a request for information under section 47(2).

Exception to the obligation to comply

Section 53(1) sets out that a person is not required to comply with a section 47(2) request for information if to do so might incriminate the person or make the person liable to a criminal penalty. If an information request is declined on

this basis, the HCSCC requires you to advise us of this in writing. Section 53(2) stipulates a person is not obliged to provide information that is privileged on the ground of legal professional privilege. If an information request is declined on this basis, the HCSCC requires you to advise us of this in writing.

Part 7 Relationship between the Commissioner and registration authorities, such as AHPRA

When a complaint involves a registered service provider, Part 7 of the Act requires the HCSCC to consult with the relevant registration authority about the management of the complaint, unless the Commissioner has made a determination to take no further action on the complaint.

To facilitate this consultation process, the HCSCC will request the name, profession and AHPRA registration number of any registered health practitioner involved in the issues of a complaint.

The HCSCC will then consult with AHPRA to determine both the best method of managing the complaint, and which agency is best placed to manage the complaint to completion. The possible outcomes of a consultation between AHPRA and the HCSCC are:

- HCSCC retains the complaint in full to manage via a process of facilitated direct resolution.
- HCSCC retains the complaint in full to manage via a process of conciliation.
- The complaint is split between the two agencies, and AHPRA will manage the component of the complaint that relates to the performance of an individual health practitioner.
- The complaint is referred in full to AHPRA and the HCSCC takes no further action.
- Neither body takes any further action in relation to the complaint.

In situations where the HCSCC retains the complaint in full, no further action in relation to the registered health practitioner is taken by AHPRA. It is important to understand the consultation process between the HCSCC and AHPRA is simply to determine the best method of complaint management. This is a legal requirement.

