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| Review of the Health Complaints  Act 2016 |
| Terms of Reference  TRIM HHSD/20/211265 |

# Background

The *Health Complaints Act 2016* (the Act) came into operation on 1 February 2017 and repealed the *Health* *Services (Conciliation and Review) Act 1987*.

The Act was developed following a review of the previous legislation by an Expert Review Panel which made recommendations for legislative and/or practice change against these eight themes:

* + promote local resolution
  + expand and clarify the scope of the Act
  + provide effective and responsive complaints resolution
  + improve support for complainants
  + streamline the interface with other agencies
  + safeguard the public through regulating and prohibiting the provision of health service providers
  + contribute to learning and quality improvement through continuous improvement of the health services system
  + enhance accountability and transparency[[1]](#footnote-2).

The intent of the Act was to address the recommendations of the Expert Review Panel, to streamline and modernise Victoria’s health complaints scheme to allow for more effective resolution of health complaints and improve the quality and safety of health services.

The Act introduced a new regulatory regime that requires general health services providers—those not regulated by the Australian Health Practitioner Regulation Agency or registered providers operating outside their area of registration—to comply with a mandatory code of conduct and gives the Health Complaints Commissioner powers to investigate breaches of the code and prohibit providers from providing services.

The Act includes a requirement for the Minister to review the first three years of the operation of the Act.

# Purpose

The review will examine the operation of the Act since it came into effect in February 2017.

The review will examine the significant new powers to understand if the Act is working as intended so that complaints can be handled and resolved locally where possible and the Health Complaints Commissioner can monitor and enforce health service provider compliance with standards and regulations, as well as identify and act on systemic issues.

# Guiding principles

The review will identify whether the Act is meeting the objectives identified by the Expert Review Panel to:

* + provide effective and responsive complaints resolution that promotes primacy of local resolution
  + improve support for complainants
  + streamline the interface with other agencies and legislation
  + safeguard the public through regulation of health service providers
  + contribute to learning and quality improvement through continuous improvement of the health services system
  + enhance accountability and transparency.

The review will have contextual regard for the broader system in which the Health Complaints Commissioner operates, as appropriate.

# Scope

The review will consider relevant data sources and undertake consultations with the Health Complaints Commissioner and other key stakeholders including, consumers, health service providers, general health service providers and peak bodies, to consider the elements that the Act created or amended to achieve the above objectives including:

* + the current and evolving health services landscape and profile in Victoria and other jurisdictions, as relevant
  + regulatory and complaints handling, investigations and resolution best practice
  + the operation of the complaint handling and resolution provisions (and consider any need to propose legislative amendments to the Act)
  + the operation of the regulatory and oversight provisions (and consider any need to propose legislative amendments to the Act)
  + the concurrent operation of the complaint handling and resolution functions with the regulatory and oversight functions.

# Reporting

The review project team will prepare and deliver to the Minister for Health a final report documenting its methodology, research and data sources, analysis and any recommendations, including any recommendations for legislative amendments, no later than 1 February 2021.

The Minister will table the review’s final report in both houses of Parliament.

1. Expert Review Panel (January 2013), *Final report on the review of the Health Services (Conciliation and Review) Act 1987*, pp. 8-9. [↑](#footnote-ref-2)