



## **Australian Government**

Australian Government response to the  
Senate Community Affairs References  
Committee report:

Medical complaints process in Australia

October 2017

## Introduction

The Australian Government welcomes the Senate Community Affairs References Committee (the Committee) report on the Medical complaints process in Australia. The Australian Government thanks the Committee members for their efforts in bringing to light the details surrounding workplace bullying and harassment in the medical profession, in particular the medical complaints process in Australia.

The bullying and harassment culture within the health sector must be taken very seriously. The community expects that the care they receive is safe and of high quality, and that the professionals delivering this care work within a respectful team environment.

All stakeholders in the health system must work together and demonstrate leadership to eliminate these negative behaviours.

Employers must ensure they provide a safe workplace, and negative behaviours and cultures must be addressed, in the first instance, in the workplace. In the health system, employers include the state and territory governments, who provide public health services, and providers in the private sector, mostly in private hospital settings. There are various pieces of state and territory legislation that specify employers' responsibilities, including work health and safety legislation. Commonwealth anti-discrimination legislation also protects against discriminatory practices or treatment in the workplace.

The educators of the health workforce, the higher education and vocational education sectors, and medical specialty colleges, also have an important role in growing students to work as part of a cohesive health workforce demonstrating positive behaviours. Teachers and clinical supervisors must model positive behaviours and ensure that there are clear processes in place so that students can be confident that any issues they experience will be fairly and transparently addressed, whether that be at the educational institution or in a health service.

Professional bodies also have a role in developing and setting professional expectations and generally providing guidance to their professions.

The Australian Health Practitioner Regulation Agency (AHPRA) and the national health profession boards (National Boards), as the national regulators of 14 professional groups, have the important role under the *Health Practitioner Regulation National Law Act* (the National Law) of ensuring that only those practitioners who are safe to practise are registered. Individual health practitioners must be held to account if their behaviour is such that patient safety is put at risk. If AHPRA is provided with a notification about a practitioner's behaviour that is impacting on patient safety, they are mandated to investigate this claim and decide whether any regulatory action is required in terms of the practitioner's registration to practise.

The National Law outlines the processes for handling a notification against a health practitioner and has a number of safeguards in place to support this process, including appeal rights for affected practitioners. The National Law also sets out the requirements for mandatory notifications for health professionals.

## **Response to the recommendations**

The Australian Government has considered the six recommendations made in the report and provides the following responses. The Commonwealth Department of Health and the Department of Education and Training are the key portfolios with responsibilities relating to the recommendations.

### **Recommendation 1**

The committee recommends that all parties with responsibility for addressing bullying and harassment in the medical profession, including governments, hospitals, specialty colleges and universities:

- acknowledge that bullying and harassment remains prevalent within the profession, to the detriment of individual practitioners and patients alike;
- recognise that working together and addressing these issues in a collaborative way is the only solution; and
- commit to ongoing and sustained action and resources to eliminate these behaviours.

#### *Australian Government response to recommendation 1:*

The Australian Government supports this recommendation. The submissions and the inquiry hearings provided evidence of significant levels and types of bullying and harassment within health professions, especially in the medical profession. There must be zero tolerance of bullying and harassment in all health professions and systems must be in place to ensure that there are transparent mechanisms to provide avenues for victims to address issues without any fear of reprisal. To be effective, this requires collaborative work between governments, hospitals and health services, specialty colleges, professional associations and universities to prevent and address bullying and harassment in the workplace. Issues concerning bullying and harassment in the medical profession are under consideration and will continue to be addressed by all Health Ministers through the Council of Australian Governments (COAG) Health Council.

### **Recommendation 2**

The committee recommends that all universities adopt a curriculum that incorporates compulsory education on bullying and harassment.

### **Recommendation 3**

The committee recommends that all universities accept responsibility for their students while they are on placement and further adopt a procedure for dealing with complaints of bullying and harassment made by their students while on placement. This procedure should be clearly defined and a written copy provided to students prior to their placement commencing.

#### *Australian Government response to recommendations 2 and 3:*

The Australian Government supports recommendations 2 and 3 and notes that these are actions to be addressed by universities and organisations that provide clinical placements. The Australian Government has established a regulatory framework that requires providers to be responsible for the student experience both on and off campus. The requirement has been further strengthened by the revised Higher Education Standards Framework (the Standards)

2015 which came into effect from 1 January 2017. All registered higher education providers must comply with the Standards to remain registered with the Tertiary Education Quality and Standards Agency. The Standards require that “work-integrated learning, placements, other community-based learning and collaborative research training arrangements are quality assured, including assurance of the quality of supervision of student experiences” (Standard 5.4.1).

The Standards also require that “when a course of study, parts of a course of study, or research training are delivered through arrangements with another party(ies), whether in Australia or overseas, the registered higher education provider remains accountable for the course of study and verifies continuing compliance of the course with the standards in the Higher Education Standards Framework that relate to the specific arrangement” (Standard 5.4.2).

#### **Recommendation 4**

The committee recommends that all hospitals review their codes of conduct to ensure that they contain a provision that specifically states that bullying and harassment in the workplace is strictly not tolerated towards hospital staff, students and volunteers.

*Australian Government response to recommendation 4:*

The Australian Government supports recommendation 4, noting that as the employers, this responsibility sits with state and territory health departments and private hospitals.

#### **Recommendation 5**

The committee recommends that all specialist training colleges publicly release an annual report detailing how many complaints of bullying and harassment their members and trainees have been subject to and how many sanctions the college has imposed as a result of those complaints.

*Australian Government response to recommendation 5:*

The Australian Government notes recommendation 5. This recommendation is a matter for specialist training colleges to consider. Through the COAG Health Council, Health Ministers will continue to receive updates from AHPRA and the Medical Board of Australia on their work to improve transparency of vocational training pathways.

#### **Recommendation 6**

The committee recommends that a new inquiry be established with terms of reference to address the following matters:

- the implementation of the current complaints system under the National Law, including the role of AHPRA and the National Boards;
- whether the existing regulatory framework, established by the National Law, contains adequate provision for addressing medical complaints;
- the roles of AHPRA, the National Boards and professional organisations – such as the various Colleges – in addressing concerns within the medical profession with the complaints process;
- the adequacy of the relationships between those bodies responsible for handling complaints;

- whether amendments to the National Law in relation to the complaints handling process are required; and
- other improvements that could assist in a fairer, quicker and more effective medical complaints process.

*Australian Government response to recommendation 6:*

The Australian Government does not support recommendation 6.

The Scheme has undergone a number of reviews including an Independent Review of the Scheme (the NRAS Review) completed by Mr Kim Snowball in December 2014. In addition, reviews in Queensland (Parliamentary Committee inquiry into the functioning of the Office of the Health Ombudsman), and Victoria (Duckett review) have been undertaken.

The Government believes that a further inquiry is not warranted at this time. Work is currently underway as a result of these reviews, in collaboration with jurisdictions and AHPRA, to make improvements to the Scheme, especially in relation to notifications and complaints processes. This work is expected to address the issues raised in Recommendation 6.