

Disability service providers and the Disability Services Commissioner

The establishment of the Disability Services Commissioner (the Commissioner) is contained within the *Disability Act 2006* which commenced on 1 July 2007 and aims to improve services for people with a disability in Victoria. The primary role of the Disability Services Commissioner is to resolve complaints about the provision of disability services.

Under the legislation, complaints about the provision of disability services can be made directly to the service provider and to the Commissioner. Where practical, the complainant (the person making the complaint) will be encouraged to firstly attempt to resolve the complaint directly with the service provider involved.

1. Under the legislation, what do service providers have to do?

As part of the *Disability Act 2006*, all disability service providers must:

- Have a complaints management system in place with a clear process to receive and resolve complaints about their disability services. The Commissioner can assist service providers develop this process and ensure it meets the legislative requirements;
- Take all reasonable steps to ensure that a person with a disability is not adversely affected because a complaint has been made by them, or on their behalf;
- Report every year to the Commissioner about the number of complaints they received and how they were resolved;
- Ensure that people with a disability in receipt of services are aware of the Commissioner and his role in assisting with complaints resolution.

2. Who is the Commissioner?

Mr Laurie Harkin is the Disability Services Commissioner. The position of Commissioner is established under the *Disability Act 2006*, and is independent of government, the Department of Human Services and disability service providers.

3. Who can make a complaint to the Commissioner?

Any person can make a complaint about disability services to the Commissioner. This includes people with a disability, their families and carers, staff working in disability services and any other person who wishes to make a complaint.

4. What types of issues can a complaint be about?

A complaint can be made about the provision of a disability service or where a person believes that a disability service provider has not properly investigated, or taken action on, a complaint which has been made to the disability service provider.

5. How do people make a complaint to the Commissioner?

A person can make a complaint to the Commissioner by writing, telephoning, sending an email or fax, submitting the complaints form via the website or by other means which are appropriate for their circumstances. If a person contacts the Commissioner's office by phone, in most circumstances they will be asked to confirm the complaint in writing. The Commissioner will assist people if they need help to write down details of the complaint. A person can withdraw a complaint at any time by notifying the Commissioner in writing.

6. Does a person need to give their name and other identifying information?

In most cases, complainants will need to give their name and proof of identity. The complaint is confidential and protected by privacy legislation and these details will only be used by the Commissioner for the purposes of addressing the complaint.

7. What other information will they need to provide?

Complainants will be asked to provide general information about the complaint; who is involved, what happened, where it happened and when it happened. They will also be asked to outline any steps they have taken to resolve the complaint with the service provider involved.

8. What happens once the complaint has been lodged with the Commissioner?

The Commissioner or a representative will assess the complaint within 28 days. During this time, he may contact the complainant or service provider for further information to assist with his assessment. The assessment will result in one of the following:

- The Commissioner or a representative may informally work with the complainant and the service provider involved to resolve the complaint;
- The Commissioner or a representative may facilitate discussions (conciliation) with the complainant and the service provider to resolve the complaint;
- The Commissioner or a representative may undertake an investigation into the complaint to determine the best course of action to resolve the complaint; or
- In some situations, the Commissioner may assess the complaint to be outside his area of responsibility or power of authority. Where possible, the Commissioner will refer complainants to other bodies that may be able to help resolve the complaint.

9. What action can the Commissioner take?

After investigating the complaint, the Commissioner will decide what action should be taken to remedy the complaint. In determining the action to be taken, the Commissioner will consider the impact on the service provider and any other person accessing the services of the provider who may be affected.

The Commissioner will give notice of his decision and specify any action to be taken. This will be sent to both the complainant and the service provider within 14 days of deciding. The service provider is required to report in writing to the Commissioner within 45 days of receiving the notice to outline the action taken on the complaint. Further to this, the Commissioner may conduct an enquiry or request that the service provider produce additional information in writing to outline the action taken on the complaint.

10. What benefits will the work of the Commissioner have for service providers?

The Commissioner's work can assist service providers by:

- Ensuring complaints referred to the Commissioner are managed in an independent way;
- Sharing research and trends analysis in complaints management;
- Developing complaints management processes;
- Providing information about the Commissioner and the complaints resolution process to assist them in telling their staff and people with a disability about the Commissioner.

11. How can disability service providers get more information in accessible formats?

Please contact the Commissioner's office.