

CASE SUMMARY

COMPLAINT AGAINST THE HOSPITAL AUTHORITY (HA) FOR IMPROPRIETY IN HANDLING A COMPLAINT AGAINST THE SERVICE OF A SPECIALIST CLINIC

Mr A lodged a complaint in November 1994 to HA against the working attitude of the staff of a specialistic clinic (the clinic), its patient registration and dispensary systems and the lack of channels for receiving complaints from members of the public there.

2. Mr A's complaint was handled by the HA and finally considered by its Public Complaints Committee (PCC) of its Headquarters. The complaint was concluded to be unsubstantiated and a substantive reply was sent to Mr A. Mr A was both disappointed with the result of the investigation and dissatisfied with the way in which HA had handled his complaint. Mr A claimed that he was misled by the Public Complaints Officer (PCO) of HA, as he was not told beforehand that his statements made during an interview with the PCO would be presented to the PCC as evidence. Had he been told of this, he would not have disclosed his personal matters during the interview. He was not given a chance to participate in the hearing of the PCC to state his case. Feeling aggrieved, Mr A lodged this complaint with COMAC.

3. Investigation by this Office revealed the following -

- (a) The HA had promulgated a set of public complaints procedures covering the handling of complaints and appeals at hospital and headquarters levels. For administrative convenience, all repeated complaints after the initial substantive written reply had been given on behalf of or under the signature of the Hospital Chief Executive (HCE) and the CE of the HA would be treated as appeal cases for submission to the PCC for consideration.
- (b) Mr A's complaint against the clinic was first handled by a public hospital (the hospital) to which the clinic was attached. The HCE of the hospital was also responsible for investigating Mr A's appeal and submitting his findings to the PCC for consideration. The PCO or the PCC did not conduct their own investigations but draw their conclusions based on the findings and the recommendations of the HCE.
- (c) Miss B, HA's Committee Secretary, had briefly explained to Mr A over the telephone in December 1994 the PCC's operations and the way it processed appeal cases. In addition, the PCO had informed Mr A of HA's complaint and appeal procedures and the function and composition of the PCC during an interview in January 1995.

- (d) HA sent a letter in January 1995 to Mr A, summarizing the complaint points he raised during that interview. HA wrote to him again in February 1995, stressing that his agreement to the complaint points and investigation by the PCC would be assumed if he did not respond within five days. Mr A had not responded to both letters.
- (e) There was no proper HA record to show that Mr A had been unequivocally and manifestly informed that his statements given at the interview with the PCO would be presented to the PCC as evidence. HA's letters sent to Mr A did mention that the investigation of his complaint by the PCC was to commence and that the case would be presented to the PCC for a final decision.
- (f) HA had merely presented the known facts relevant to the complaint to the PCC in connection with Mr A's case and it appears that no personal information irrelevant to the complaint had been forwarded to the PCC.
- (g) There was some inconsistency in the information provided by HA regarding the hearing of the PCC. In July 1995 HA informed this Office that the PCC would decide whether or not to conduct a hearing subject to the merits of individual cases and that the complainant would normally be invited to attend such a hearing. In September 1995, HA informed this Office that normally the PCC would not conduct any hearing for complaint cases and hence, there was no question of informing Mr A about the PCC not conducting a hearing on his case.

4. This Office is of the view that HA had generally followed its public complaints procedures in handling Mr A's complaint but had not dealt with his request to attend the PCC's hearing properly. Before HA sent its substantive reply to Mr A, there had not been any attempt on record to explain the situation to him. Furthermore, the criteria for the PCC to conduct a hearing or otherwise were not exactly clear. Had the criteria been defined more clearly and explained to Mr A, he would not have any grounds for complaint on this point. On the other hand, Mr A could have stated his position more clearly and precisely and thereby avoided some unnecessary misunderstanding if he had responded to the letters HA sent him in January and February 1995. Therefore, on balance, this Office finds this complaint **partially substantiated**.

5. In connection with this complaint, this Office recommends that HA should strengthen the PCC as an independent and impartial appeal channel for complaints, consider appropriate means to increase its transparency and define more clearly and

precisely the criteria for conducting PCC hearings.

6. HA did not agree to the conclusion of this complaint. It contended that Mr A only raised his wish to attend the PCC to state his case if there was to be a hearing, but he was never informed that there would be one for his case. Mr A was told at least five times during the interview (although not recorded in the notes) that PCC was the final authority within HA to consider complaints. As regards the hearing of the PCC, HA explained that while it was true that PCC would not normally conduct hearings on complaint cases, PCC would consider conducting quasi-hearings in exceptional circumstances, basing on the merit of the case. Concerning impartiality and fairness of the investigations conducted, HA pointed out that the PCO was responsible for investigation of complaints which would include vetting of information/comments from the HCE, etc. The views of the hospital would not in any way compromise the judgement of the PCO or PCC as all relevant information would be carefully weighed before the investigation of the complaint was concluded. The PCC was established by the HA Board to consider and decide independently on all complaints and appeal cases referred to it and all its members were non-executives and were not employees of HA. Because of their independent status, all complaints had been handled fairly and impartially.

7. This Office has carefully considered HA's views but maintains that the conclusion and recommendations of this complaint should not be changed. The major considerations are as follows-

- (a) Since Mr A had categorically raised his wish to attend PCC's hearing, HA, should, at least as a matter of courtesy, inform him that there would not be any hearing in connection with his case.
- (b) The fact that such a crucial point (to the complainant at least) that the PCC was the final authority within HA to consider the complaint, which had to be repeated at least five times to the complainant during the interview but not recorded in the notes of the interview did reflect on the incompleteness of records and a deficiency in HA's complaint handling procedures.
- (c) The explanation given by HA regarding the inconsistency on the question of hearings of the PCC is unconvincing. This Office had not been informed of HA's practice of conducting "quasi-hearings" in exceptional circumstances, based on individual merit of the case. Apparently, Mr A had also not been informed of such an avenue and the criteria under which this may be conducted.
- (d) A complaint handling system should not only be fair and impartial but also to be seen to be fair and impartial. As a matter of fact, members of

the PCC are members of HA or persons co-opted by HA, and the complaints and appeals are conducted by HA staff. Judging from the number of complaints lodged with this Office in respect of HA's complaint handling system and procedures, the system does warrant a thorough review and, if necessary, overhauling as recommended by this Office.

8. Whilst appreciating that the HA is considering distributing information sheets on the function and composition of the PCC to complainants/appellants when acknowledging their complaints, this Office still maintains that the HA should seriously consider implementing the other recommendations made in connection with this complaint.

Office of the Commissioner for Administrative Complaints
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