SESLHD PROCEDURE COVER SHEET

NAME OF DOCUMENT	Managing Complaints and Concerns about Clinicians (MCCC)
TYPE OF DOCUMENT	Procedure
DOCUMENT NUMBER	SESLHDPR/640
DATE OF PUBLICATION	November 2020
RISK RATING	Low
LEVEL OF EVIDENCE	National Safety and Quality Health Service Standard 1 – Clinical Governance The Ministry of Health has had MCCC policy and guidelines in place since 2009.
REVIEW DATE	November 2025
FORMER REFERENCE(S)	N/A
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AUTHOR	Executive Officer, People and Culture
POSITION RESPONSIBLE FOR THE DOCUMENT	Director People and Culture
KEY TERMS	Complaint, clinician, concerns, management
SUMMARY	This procedure provides a standard approach for the management of serious complaints and concerns about clinicians working in South Eastern Sydney Local Health District. This procedure must be read in conjunction with the NSW Health Policy Directive PD2018_032.

Feedback about this document can be sent to seslhd-executiveservices@health.nsw.gov.au

Managing Complaints and Concerns about Clinicians (MCCC)

SESLHDPR/640

1. POLICY STATEMENT

South Eastern Sydney Local Health District (SESLHD) is committed to providing and maintaining a workplace that reflects the ongoing safety of our patients, clients and staff.

This procedure outlines the Local Health District's processes for the implementation of NSW Health Policy Directive PD2018_032 – Managing Complaints and Concerns about Clinicians. The principles set out in PD2018_032 are adopted.

This procedure applies to all SESLHD health practitioners or health service providers whether they are employed, contracted, paid under a fee for service arrangement, on an honorary appointment, engaged under some other arrangement, or as a student on placement.

There is further guidance in managing complaints and concerns in non-mandatory Information Sheets, including flowcharts, checklists and templates available on the NSW Health intranet Conduct and Performance site.

2. BACKGROUND

Complaints and concerns about clinicians must be managed in accordance with the relevant NSW Health Policy Directive and associated local procedures. This procedure sets out the mandatory requirements for managing serious complaints and concerns involving clinicians working in SESLHD.

This procedure is only applicable to those complaints and concerns that are assessed as alleged misconduct or alleged unsatisfactory performance requiring:

- Administrative action against a clinician to manage risks to patient or staff safety pending any findings in relation to the complaint or concern and/or
- Notifications to external agencies and/or
- A disciplinary response if substantiated.

This includes cases where the clinician has resigned or stopped working in NSW Health.

Complaints or concerns requiring action under this procedure include:

- Performance related issues (including an incident or incidents of significant substandard clinical care, poor or adverse clinical outcomes, including higher than expected complication rates, higher than expected mortality rates, a single catastrophic clinical error or a series of significant clinical errors, or other competency concerns or conduct that suggests the knowledge, skills or judgement of the clinician are significantly below the standard expected of a person in their position)

- Misconduct issues as defined in the NSW Health Policy Directive 2018_031 managing misconduct (this also includes operating outside of their agreed scope of practice or other local protocols).

This procedure **does not apply** to complaints and concerns which are of less serious matters such as low level conduct, behaviour, grievances or performance issues. This includes complaints or concerns where the identified risks do not require administrative action to manage patient or staff safety, where no external notifications are required and/or there is unlikely to be disciplinary action. Less serious matters are to be managed by the clinician's manager or supervisor in line with local performance, conduct or grievance management arrangements, or other local alternative dispute resolution arrangements as applicable.

Where a complaint or concern is related **only** to alleged or suspected physical or mental impairment, disability, condition or disorder including where self-disclosed by the clinician, it must be managed under the NSW Public Service Commission's (PSC) policies for managing non-work related injuries and illnesses, alcohol and other drugs. These policies are available on the NSW Public Service Commission website.

In all cases, the ongoing safety of patients is the paramount consideration. Any risks arising from an alleged impairment are required to be assessed and managed. **These matters must also be notified to the MCCC Committee.** At any stage where there is a reasonable belief that the clinician is placing the public at risk of substantial harm in the practice of their profession because the clinician has an impairment, a notification must be made to AHPRA.

2.1 Key Definitions

AHPRA is the Australian Health Practitioner Regulation Agency. AHPRA is responsible for the National Registration and Accreditation Scheme across Australia.

Clinician refers to any health practitioner or health service provider (whether or not the person is registered or required to be registered) under the Health Practitioner Regulation National Law (NSW) working in NSW Health, whether employed, contracted, paid under a fee for service arrangement, on an honorary appointment, or engaged under some other arrangement, including as a student.

Complaint includes any expression of dissatisfaction by a complainant that may have one or more associated issues.

Concern includes feedback regarding any aspect of a service where the person does not make a complaint, but that identifies issues requiring investigation.

Health Services is as defined under the Health Care Complaints Act 1993

Impairment is defined under the Health Practitioner Regulation National Law (NSW) as a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect the clinician's capacity to practice their profession or for a student, their capacity to undertake clinical training as part of the approved program of study in which the student is enrolled or arranged by an education provider.

Incident is any unplanned event resulting in, or with the potential for, injury, damage or loss; this includes a near miss. Any incident may be 'corporate' or 'clinical' and includes events or alleged conduct outside of the workplace, where the alleged event or conduct is relevant to the role of the clinician and there is an associated potential for, or risk of, loss, damage or harm within the workplace.

Line manager includes the manager to whom the individual reports to.

MCCC Panel includes a management group who meet regularly to assist and advise the Director of Clinical Governance in discharging the responsibilities set out in PD2018_032, regarding the oversight of the process of managing complaints and concerns about clinicians. The panel membership includes SESLHD Director Medical Services, Director Nursing and Midwifery, Director People and Culture, Director Allied Health, Director Clinical Governance and a representative from the Corporate and Legal Directorate.

MCCC Register includes a list of clinicians reported to the Director Clinical Governance in accordance with PD2018_032.

MDAAC is the Medical and Dental Appointments Advisory Committee established under District By-Laws to advise the Chief Executive on the appointment of Senior Medical and Dental staff to the District.

Patient Safety Incident is any unplanned or unintended event or circumstance which could have resulted, or did result in harm to a patient. This includes harm from an outcome of an illness or its treatment that did not meet the patient's or the clinician's expectation for improvement or cure.

Performance is knowledge and skills possessed and applied by the clinician in the course of their duties. Performance is also influenced by experience, application and attitude.

SAC Severity Assessment Code rating must be decided to determine the prioritisation of the clinical incident investigation. The scale runs from 1 - 4, with 1 being the most serious.

3. RESPONSIBILITIES

Effective management of complaints or concerns about a clinician may require the involvement of a number of different areas of the District depending on the clinical discipline and complexity of the case under consideration.

Chief Executive (CE)

The Chief Executive has statutory responsibility under the Health Services Act to report to relevant authorities any clinician whom the CE has reasonable grounds to believe is guilty of professional misconduct or unsatisfactory professional conduct.

Director Clinical Governance and Medical Services (DCG&MS)

The Director of Clinical Governance and Medical Services is responsible for providing professional advice to the Chief Executive as required to exercise their statutory responsibility regarding clinicians of concerns and to ensure the systems for managing complaints or concerns about a clinician function effectively in accordance with this SESLHD Managing Complaints and Concerns about a Clinician procedure. The Director of Clinical Governance and Medical Services is also required to liaise with relevant registration authorities and provide advice to relevant facility Directors and General Managers. The Director also has a specific responsibility in chairing the Credentials Subcommittee of the MDAAC and in providing advice on credentialing matters.

Director People and Culture Services (DP&C)

The Director of People and Culture is required to ensure that the systems, practices and processes, for managing Complaints or Concerns about a clinician, adhere to effectively in accordance with this SESLHD Managing Complaints and Concerns about a Clinician procedure. The Director of People and Culture is also responsible for providing technical employment support and advice, as well as industrial advice and management as required.

Medical and Dental Appointments Advisory Committee (MDAAC)

MDAAC makes recommendations regarding the granting of privileges and defining scope of practice of Senior Medical Staff within the District. The MDAAC has the responsibility to recommend changes to privileges and / or scope of practice to the Chief Executive of any senior clinician whose practice is of concern. The MDAAC is an advisory committee to the Chief Executive and as such has no operational role in the management of complaints and concerns regarding Senior Medical and Dental Staff.

District Director Nursing and Midwifery (DDNM)

The Director of Nursing and Midwifery is responsible for providing professional advice to the Chief Executive as required to exercise their statutory responsibility regarding clinicians of concern. The District Director of Nursing and Midwifery is also required to liaise with relevant registration authorities and provide advice to relevant facility Directors and General Managers.

Director Allied Health (DAH)

The Director of Allied Health is responsible for providing professional advice to the Chief Executive as required to exercise their statutory responsibility regarding clinicians of concern. The Director of Allied Health is also required to liaise with relevant registration authorities and provide advice to relevant Service Directors and General Managers.

Director Corporate and Legal Services

The Head of Legal Services, as delegated is responsible for the provision of legal and professional advisory in the context of statutory and professional obligations.

General Managers (GM) / Service Directors

General Managers and Service Directors have a central role in ensuring appropriate identification, investigation and management of complaints and concerns regarding clinicians. The GM is the contact point for internal communication with the Clinician under concern. The GM is also responsible for ensuring an appropriate response and that a thorough investigation is completed with recommendations, and is conducted within the identified timeframe.

Managing Complaints and Concerns about Clinicians (MCCC) Panel

The MCCC Panel is responsible for overseeing the process of management of complaints and concerns about clinicians. The MCCC panel does not act as an investigating body. The MCCC panel is required to comply with this procedure and ensure all clinicians are managed in accordance with the NSW Health PD2018_032.

4. PROCEDURE

Severity Rating	Severity Description	Action required	Responsibility:
1	Very serious complaint or concern arising from one or more events involving unexpected mortality or serious morbidity, gaps in clinical performance, an external event relevant to performance (such as criminal proceedings / conviction or termination of employment in another facility) or serious concerns by colleagues about the health and safety of patients	1. Complete risk assessment (Refer to Information Sheet 9) 2. Implement the appropriate risk mitigation strategies in accordance to the risk assessment (to be reviewed every 30 days) 3. Notify where appropriate whether notification to registration board and any other relevant authority is required and draft letter from CE 4. Record in the NSW Health service check register (where appropriate) 5. Management and investigation 6. Consider whether variations to clinical privileges are required 7. Notify CE / DCG&MS / DP&C of above through Self-initiated brief.	Manager, General Manager, Service Director (or as delegated)
2	Significant complaint or concern, where there may be one or more events involving unexpected mortality or increasingly serious morbidity (SAC 1 or 2) and there may be a pattern of suboptimal performance or variation in clinical outcomes over a period of time	1. Complete risk assessment (Refer to Information Sheet 9) 2. Implement the appropriate risk mitigation strategies in accordance to the risk assessment (to be reviewed every 30 days) 3. Notify where appropriate whether notification to registration board and	Manager, General Manager, Service Director (or as delegated)

		any other relevant authority is required and draft letter from CE 4. Record in the NSW Health service check register (where appropriate) 5. Management and investigation 6. Consider whether variations to clinical privileges are required 7. Notify CE / DCG&MS / DP&C of above through Self-initiated brief.	
3	Complaint or concern that the performance, practice or clinical outcome achieved by an individual clinician varies from their peers or from expectations, but where there has not been any event involving unexpected mortality or serious morbidity	1. Complete risk assessment (Refer to Information Sheet 9) 2. Implement the appropriate risk mitigation strategies in accordance to the risk assessment (to be reviewed every 30 days) 3. Notify DCG&MS / DP&C / DDNM/DAH 4. Management and investigation 5. Manage outcomes in accordance with relevant policy or award 6. Consider recording in the NSW Health service check register	Manager, General Manager, Service Director (or as delegated)
4	Complaint or concern is frivolous or trivial	1. Management and investigation 2. Continue standard performance monitoring and management 3. Notify DCG&MS / DP&C / DDNM / DAH of any findings and actions	Cost centre manager/General Manager / Service Director

		4. Consider recording in the NSW Health service check register	

5. The principles set out for the management of complaints or concerns about clinicians in PD2018_032 – Managing Complaints and Concerns about Clinicians are to be followed.

   In addition, any adverse findings or decisions regarding **Senior Medical Officers**, or where health and impairment matters are material to the matter under consideration, must be referred to the facility Director Medical Services for discussion with the District Director Medical Services. This is to allow for consideration should be given as to whether Clinical Privileges and Scope of Clinical Practice need to be varied.

6. The table below summarises the responsibilities of staff within SESLHD in relation to the implementation of decisions and finalising the process.

Item Number	Details	Responsible service
6.1	Advising the clinician of the final findings and decisions	General Manager / Service Director or Chief Executive
6.2	Advising other parties of the outcome	General Manager / Service Director or Chief Executive
6.3	Action arising from termination of employment or appointment	Director People and Culture, Director Clinical Governance and Medical Services, Director Nursing and Midwifery, Director Allied Health
6.4	Record keeping requirements	Director People and Culture, Director Clinical Governance and Medical Services, Director Nursing and Midwifery, Director Allied Health
6.5	Finalising the process	Director People and Culture, Director Clinical Governance and Medical Services, Director Nursing and Midwifery, Director Allied Health

5. DOCUMENTATION

Not required

6. AUDIT

Not required

7. REFERENCES

PD2018_032 – Managing Complaints and Concerns about Clinicians
PD2018_031 - Managing Misconduct

8. REVISION AND APPROVAL HISTORY

Date	Revision No.	Approval
10/04/2019	Revision 1	Joy Hiley, Director Workforce Services
22/05/2019	Revision 2	Joy Hiley, Director Workforce Services
May 2019	Draft	Draft for Comment
August 2019	Revision 3	Joy Hiley, Director Workforce Services
Sept 2019	Draft	Draft for Comment
April 2020	Revision 4	Draft for Comment
July 2020	Revision 5	Caroline Skipper, Director People and Culture
October 2020	DRAFT	Discussed at MCCC meeting
October 2020	DRAFT	Processed by Executive Services prior to submission to Executive Council.
November 2020	1	Approved by Executive Council. Published by Executive Services.