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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633

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**Complaint**

The Commissioner received two separate complaints about the delays experienced by two consumers when they complained about aspects of the service they received from a Crown Health Enterprise.

**Case 97HDC4833**

The first complainant complained to the Commissioner about the way in which the Crown Health Enterprise had handled her complaint about its Mental Health Services for the Elderly in February 1997. The complaint is that :

- *[The Crown Health Enterprise] has not contacted [the first complainant] since she received an acknowledgement letter from [the General Manager of the Mental Health and Regional Alcohol and Drug Services] dated 1 April 1997.*

**Case 97HDC6633**

The second complainant complained to the Commissioner that the Services Manager for the Crown Health Enterprise's Mental Health Services for the Elderly had not responded to her repeated complaints about his failure to release information agreed to in a meeting in December 1997. The complaint is that :

- *[The Services Manager] failed to keep [the second complainant] informed of the actions and decisions arising from her complaint to [the Crown Health Enterprise] in December 1997.*
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**Investigation**

The first complainant complained to the Commissioner on 21 March 1997 about the complaint process at the Crown Health Enterprise. The Commissioner received the second complainant's complaint on 16 June 1997. As both complainants had complained about the Crown Health Enterprise's Mental Health Service for the Elderly and were both complaining about the way in which their complaints had been dealt with, the Commissioner commenced an investigation into both complaints concurrently.

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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#### **Investigation *continued***

Information was obtained from the following:

- The first complainant
  - The second complainant
  - The Services Manager - Crown Health Enterprise's Mental Health Services for the Elderly
  - The General Manager - Mental Health & Regional Alcohol & Drug Services
  - The Company Secretary
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#### **Outcome of Investigation**

##### **Complaint 97HDC4833**

##### **Background to the first complainant's complaint**

On 28 October 1996 the first complainant complained to the Crown Health Enterprise about her concerns regarding her husband's diagnosis, care, ongoing support and assessment needs, and that there was a psychiatric file being held at a hospital without either a doctor's referral or her knowledge.

The Crown Health Enterprise acknowledged the complaint on 5 November 1996 and a written response followed on 18 November 1996. The Crown Health Enterprise explained their actions and informed the first complainant and her husband that their files had been reviewed by a doctor ("the reviewing doctor") who concluded the complaint about misdiagnosis and lack of appropriate care could not be upheld. A suggestion was made that their files be referred to an independent doctor for review and opinion.

The Crown Health Enterprise acknowledged there was a file held on the first complainant and stated the reasons why it was appropriate, even though she was not a patient. An offer was made of another assessment for the first complainant's husband within the Crown Health Enterprise's Mental Health Services from one of the Psycho-Geriatricians.

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Outcome of  
Investigation  
*continued***

The first complainant's complaint to the Crown Health Enterprise. In a letter dated February 1997 addressed to the Chief Executive Officer of the Crown Health Enterprise, the first complainant and her husband complained about the way in which the reviewing doctor had conducted his review.

The letter summarised the frustration that the first complainant and her husband experienced when attempting to access mental health services from the Crown Health Enterprise's Mental Health Service for the Elderly. *"I am weary of trying to present my concerns to unlistening ears. I am tired of battling to get my husband the help that he needs. I am distraught by the label that follows me now in my dealings with health professionals. Most of all, I am discouraged and frustrated by my attempted appeal to [the reviewing doctor] for an objective review of our case."*

The Crown Health Enterprise responded to the complaint on 1 April 1997 advising the first complainant that the matter would be investigated and a response would follow. The letter was signed by the General Manager of Mental Health Services. On 12 May 1997 the first complainant informed the Health and Disability Commissioner that apart from the letter dated 1 April 1997 she had heard nothing further from the Crown Health Enterprise. She also sent a copy of her letter to the Commissioner dated 8 May 1997 to the Crown Health Enterprise.

On 3 June 1997 the first complainant informed the Commissioner that her primary concern was the complaints process at the Crown Health Enterprise and that she had still not heard anything further.

In a written response to the Commissioner dated 1 August 1997, the Crown Health Enterprise acknowledged the delays in dealing with the first complainant's complaint. The explanation given was that this was due to pressure of work arising from temporary changes in Mental Health management. An assurance was given that the pressure had reduced, the issues raised in the Commissioner's investigation letter would be addressed, and a report would be submitted by 8 August 1997. When the Commissioner did not receive a response, a follow up request for information was sent on 12 September 1997. In October 1997 the first complainant informed the Commissioner that her husband had died.

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Outcome of  
Investigation  
*continued***

The Commissioner sent a further letter to the Crown Health Enterprise on 15 October 1997. A response was received on 23 October 1997 with assurances that reports on both the complaint from the first complainant and the second complainant would be forwarded by 29 October 1997.

On 29 October 1997 the Services Manager, Mental Health Services, informed the Commissioner that the acknowledgement letter dated 1 April 1997 to the first complainant was filed in error on their clinical file. This letter should have formed the basis for follow up. The Services Manager referred to a letter dated 4 April 1997 from the reviewing doctor to the General Manager of Mental Health Services, which was to form the basis of the Crown Health Enterprise's response to the first complainant. However as this had also been filed in the clinical file, nothing further happened. A copy of this letter was forwarded to the Commissioner on 18 December 1997.

The Services Manager, Mental Health Services, also wrote to the first complainant on 29 October 1997 to explain the error and acknowledge that issues needed resolution but that this would now probably be done through the Commissioner. *"We still need to resolve the issues and this is probably best done through the offices of the Commissioner."*

The first complainant wrote to the Chief Executive Officer of the Crown Health Enterprise on 16 February 1998 to complain that she had not received a reply from him in February 1997, that she did not accept the explanation that the letters were placed on the incorrect file, or the apology from the Services Manager, Mental Health Services.

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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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#### **Outcome of Investigation *continued***

The Services Manager responded in a letter dated 25 February 1998 acknowledging the first complainant's further complaint and gave an assurance that he would personally respond once he had investigated the concerns identified. On the same day a letter also dated 25 February 1998, signed by the Chief Executive Officer, was sent to the first complainant advising her that he had passed the matter on to the General Manager as the most appropriate person. On 1 April 1998 the Commissioner asked the Services Manager whether he had received the review of the first complainant's case and requested a copy of the Crown Health Enterprise's services complaint policy. A follow up request was sent to the Crown Health Enterprise on 30 June 1998 with the Company Secretary forwarding the information requested on 24 July 1998.

#### **Complaint 97HDC6633**

##### **Background to complaint**

The second complainant had ongoing concerns with aspects of the service she and her husband had received since 1995. Following a meeting on 17 December 1996 to address the second complainant's complaint, the Services Manager gave assurances that an independent review would be conducted and the second complainant would be sent the results of that review.

**The second complainant's complaint to the Commissioner.** When the second complainant did not receive the information agreed to in that meeting, followed up with phone calls to the Services Manager, she complained to the Commissioner in June 1997 about the Services Manager's failure to address her complaint.

On 29 October 1997, the Services Manager wrote to the Commissioner acknowledging the outcome of his phone contacts with the second complainant had not been satisfactory. The Services Manager clarified that the original complaint was about an ex-staff member from whom the Crown Health Enterprise had been unable to get a response. The Services Manager explained the lack of communication with the second complainant had been due to pressure of work and other priorities.

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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Outcome of  
Investigation  
*continued***

The Commissioner requested a copy of the review. The Services Manager advised he would send this on 15 January 1998. When the report was not received, follow up letters were sent on 3 February 1998 and 1 April 1998.

**The Crown Health Enterprise's complaint process**

In response to my provisional opinion on 28 July 1998, the Crown Health Enterprise forwarded a copy of their Complaints Policy and Procedure implemented in October 1995 and last reviewed in October 1996. The policy sets out 3 main principles as follows:

- *Consumer satisfaction - to ensure that complaints are resolved in an appropriate and timely way by the person most able to address the concern expressed,*
- *Consistency - to ensure that there is consistency in the way complaints are handled within [the Crown Health Enterprise],*
- *Improvement - to ensure that [the Crown Health Enterprise] uses the complaints from health-users to improve service delivery*

The Crown Health Enterprise advised it employs a Customer Services Officer to co-ordinate and monitor responses to consumer complaints. When a complaint is received at the Crown Health Enterprise, staff notify Customer Services of all written and formal verbal complaints as soon as possible within 12 hours of receipt and forward any written information that accompanies the complaint. The complaint is then logged onto the complaints database and an acknowledgement letter sent within 48 hours of the complaint being made. The complaint is then referred to the appropriate Service Manager using the database control sheet.

The policy states complainants will receive a response detailing the outcome of the investigation within 15 working days. Customer Services are available to assist Service Managers with advice, support, letter writing and whatever help may be necessary for resolution of the problem.

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Outcome of  
Investigation  
continued**

On 24 July 1998 the Company Secretary informed the Commissioner that neither complaint had been brought to the Customer Services Officer's attention, which indicated a weakness in their system. The Company Secretary stated "... *there is a Complaints Policy and Procedure, there is a Complaints Co-ordinator and there is a monitoring system in place which usually works well.*"

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**The Code of  
Health and  
Disability  
Services  
Consumers'  
Rights**

The following Rights are applicable to this investigation:

*RIGHT 10*

*Right to Complain*

- 3) *Every provider must facilitate the fair, simple, speedy, and efficient resolution of complaints.*
  
  - 4) *Every provider must inform a consumer about progress on the consumer's complaint at intervals of not more than 1 month.*
  
  - 6) *Every provider, unless an employee of a provider, must have a complaints procedure that ensures that –*
    - (a) *The complaint is acknowledged in writing within 5 working days of receipt, unless it has been resolved to the satisfaction of the consumer within that period; and*

*The consumer is informed of any relevant internal and external complaints procedures, including the availability of -*

    - i. *Independent advocates provided under the Health and Disability Commissioner Act 1994; and*
    - ii. *The Health and Disability Commissioner; and...*
    - c) *The consumer's complaint and the actions of the provider regarding that complaint are documented; and*
    - d) *The consumer receives all information held by the provider that is or may be relevant to the complaint.*
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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**The Code of  
Health and  
Disability  
Services  
Consumers  
Rights  
continued**

- 7) *Within 10 working days of giving written acknowledgement of a complaint, the provider must, -*
- a) *Decide whether the provider -*
    - i. *Accepts that the complaint is justified; or*
    - ii. *Does not accept that the complaint is justified; or*
  - b) *If it decides that more time is needed to investigate the complaint, -*
    - i. *Determine how much additional time is needed; and**If that additional time is more than 20 working days, inform the consumer of that determination and of the reasons for it.*
- 8) *As soon as practicable after a provider decides whether or not it accepts that a complaint is justified, the provider must inform the consumer of -*
- i. *The reasons for the decision; and*
  - ii. *Any actions the provider proposes to take; and*

### **3 Provider Compliance**

- 1) *A provider is not in breach of this Code if the provider has taken reasonable actions in the circumstances to give effect to the rights, and comply with the duties, in this Code.*
- 2) *The onus is on the provider to prove that it took reasonable actions. For the purposes of this clause, "the circumstances" means all the relevant circumstances, including the consumer's clinical circumstances and the provider's resource constraints.*

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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Opinion:  
Breach** In my opinion the Crown Health Enterprise has breached Rights 10(3), 10(4), 10(6), 10(7) and 10(8) of the Code of Rights as follows:

**Right 10(3)**

The Crown Health Enterprise did not facilitate the fair, simple, speedy and efficient resolution of the first and second complainants' complaints. Both complainants attempted resolution of their complaints directly with the Mental Health Service. The first complainant's husband died before complaints about the service he was receiving could be resolved.

**Right 10(4)**

Following the first complainant's complaint of February 1997, and the acknowledgement letter that followed in May 1997, the first complainant heard nothing further from the Crown Health Enterprise over the next five months. The second complainant complained verbally to the Services Manager of Mental Health Services in December 1997. In spite of repeated telephone contacts with the Services Manager, the Crown Health Enterprise have not kept the second complainant informed of progress on her complaint.

In my opinion the Crown Health Enterprise did not keep the first complainant or the second complainant informed of progress on their respective complaints at monthly intervals. In failing to meet this requirement, the Crown Health Enterprise breached Right 10(4) of the Code of Rights.

**Right 10(6)**

The Crown Health Enterprise have advised me that their complaints process usually works well. Where its policy and procedures do reflect the requirements set out in the Code, the time frames were not adhered to in either the first or the second complainants' case.

Consumers have a right to receive all information held by a provider that is or may be relevant to a complaint. In spite of specific requests for the release of information, neither the first complainant or the second complainant received the information requested. The failure to release this information was a breach of Right 10(6)(d) of the Code of Rights.

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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Opinion:**  
**Breach**  
*continued*

**Right 10(7)**

In my opinion, the Crown Health Enterprise has not meet its obligations under Right 10(7) of the Code. While both complaints were acknowledged, the Code requires that the provider determines within 10 working days of acknowledgement whether the complaint is justified and if more than 20 working days are required to investigate the complaint, the provider must notify the consumer of this. Repeated assurances were given, but due to the Crown Health Enterprise's own process not being followed, neither of these complaints were handled within the time frames set out in the Code.

**Right 10(8)**

The Crown Health Enterprise has an obligation to inform consumers whether or not it accepts that a complaint is justified, of the reasons for the decision, any actions the provider proposes to take and any appeal procedure the provider has in place. This did not occur with either of the complaints investigated, and in my opinion the Crown Health Enterprise has breached Right 10(8) of the Code of Rights.

In August 1997 the Crown Health Enterprise explained that the delays in responding to the complaints arose due to pressures in work load arising from changes in management. However the first complainant's correspondence and acknowledgement letter was found, having been filed in error on her clinical file. The explanation for the delay in addressing the second complainant's complaint was that there were other priorities. In July 1998, after further investigation by the Crown Health Enterprise's staff, it was found that their systems were not followed and both these cases highlighted inefficiencies.

For any procedure to be effective, it needs to work. Both complaints were received by the Crown Health Enterprise during a period of restructure and were not treated as a priority by the staff who received the complaints. Had these complaints been received by the Customer Services Officer, whose specific role it is to co-ordinate complaints through the process and monitor progress, then they may well have been handled effectively.

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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Opinion:  
Breach  
*continued***

Both the Clinical Director and Manager of Mental Health Services were aware of these complaints which not only placed additional stress on the consumers and complainants but also on the Crown Health Enterprise's staff. While recognising the Crown Health Enterprise had systems in place, in my opinion the Crown Health Enterprise's senior managers, both clinical and managerial, did not take reasonable actions to comply with internal systems.

This investigation involved two unrelated complaints within the same service. The Commissioner's correspondence was addressed to the Chief Executive Officer and acknowledgement letters were personally signed by more than one key management staff member. I therefore do not accept the explanation for the delays that occurred on both these complaints as being reasonable in the circumstances.

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**Actions  
Taken**

Following a provisional opinion in July 1998, the General Manager, Mental Health, informed the Commissioner on 11 August 1998 that he had taken over the investigation of both complaints. Contact had been made with both the first complainant and the second complainant and apologies given for the way in which their complaints had been handled.

The Commissioner was advised of the appointment of a project manager to review the implementation of the complaints procedure within the Mental Health Service. On 15 October 1998, the Commissioner was informed that the complaints had both been properly handled, settlement had been achieved with the second complainant, and an obligation given to continue to meet the first complainant's requests, with the conclusion that these complaints had been resolved.

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## Crown Health Enterprise

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### Report on Opinion - Cases 97HDC4833 & 97HDC6633, continued

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**Further  
Actions**

While a resolution has been achieved, this occurred as a result of the Commissioner's investigation. I recommend the following:

- The Chairman of the Crown Health Enterprise, on behalf of the Board, is to apologise in writing to both complainants for the breaches of the Code. The Chairman will also meet both complainants to finalise their issues, including those related to any outstanding information for both complainants and settlement with the first complainant for the inconvenience and stress resulting from the Crown Health Enterprise's inaction.
- The Chief Executive Officer is to review the Crown Health Enterprise's current complaints policy and procedure and report the results of that review to the Board and the Commissioner.
- All staff must receive training on the Code of Rights, including details on how to action complaints within the Crown Health Enterprise's policy.
- The General Manager, Mental Health, is to report the results of the review of the complaints procedure within the Mental Health Service.
- Further investigations commenced by the Commissioner must be sent by the Chief Executive Officer to the Complaints Co-ordinator who will ensure they are actioned in a timely manner.

A copy of this opinion will be sent to the Health Funding Agency and the Crown Company Monitoring Advisory Unit. Additionally a copy of this opinion, with identifying features removed, will be sent to all Crown Health Enterprises as a reminder of their obligations under the Code to comply with Right 10 and to provide an effective complaints process that is useful to the consumer. It will serve to remind that not only is a Complaints Co-ordinator necessary, there must be clear signage in all areas of a hospital and adequate staff training.

**Other  
Comments**

I empathise with the concerns of these complainants. The Commissioner was also treated with discourtesy, a lack of information and unfulfilled promises during the investigation. I recommend that the Board of Directors report directly to me on their overall quality management program. An effective complaints process is an integral part of a quality system and in the health sector is often the tip of the iceberg in terms of consumers' issues regarding performance.

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