

Guidelines for expert advisors – independent expert opinion

Published: August 2025



OFFICE OF THE
HEALTH
OMBUDSMAN

Contents

Introduction.....	2
1. Health Ombudsman Act 2013	2
1.1 Background.....	2
1.2 Main objects of the Act.....	2
1.3 Jurisdiction	3
1.4 OHO divisions	3
1.4.1 Health Ombudsman’s Office	3
1.4.2 Assessment and Resolution	3
1.4.3 Investigations	3
1.4.4 Legal Services and Director of Proceedings.....	4
1.4.5 Corporate and Strategic Services.....	4
1.5 OHO process.....	4
1.6 Timeframes	4
2. Role of an expert advisor	5
2.1 Nature of advice.....	5
2.2 Conflict of interest	5
2.3 Complaint against expert advisor on unrelated matter.....	6
2.4 Confidentiality.....	6
2.5 Disclosure of name of expert advisor	6
2.6 Protections for advisors.....	7
2.7 Will I be required to give oral evidence?.....	7
2.8 How much will I be paid?	7
3. Expert advisor’s report.....	8
3.1 Relevant principles	8
3.1.1 QCAT Practice Direction No 4 of 2009	8
3.1.2 Standards at the time services were provided	9
3.1.3 The outcome of the care or treatment	9
3.1.4 Findings of fact.....	9
3.2 Style guidelines	9
3.3 Template for independent expert opinion	9
3.4 Supplementary advice.....	10
3.5 Guidance in writing objective expert advice.....	10
3.5.1 Conflicting information.....	10
3.6 Framing your opinion for registered health practitioners.....	10
3.6.1 Registered practitioners and serious risk.....	11
3.6.2 Potential outcomes.....	11
3.7 Framing your opinion for unregistered practitioners.....	11
3.7.1 Potential outcomes.....	12
3.8 Facility systems and policies.....	12
3.8.1 Potential outcomes.....	12
4. Appendix 1	13



Introduction

As an expert advisor, you play an essential role in assisting the Health Ombudsman to ensure that those who provide health services to the public deliver an appropriate standard of care in accordance with:

- the Codes, Guidelines and standards that apply to registered practitioners
- the National [Code of Conduct for Health Care Workers \(Queensland\)](#)
- the [National Safety and Quality Health Service Standards](#)
- the [Australian charter of health care rights](#).

The OHO recognises you are busy and have many demands on your time. The efforts you put in as an advisor are appreciated. The importance of expert involvement in maintaining standards cannot be underestimated, and your assistance is crucial in ensuring public confidence in the delivery of health services in Queensland.

These guidelines give a brief description of the OHO's processes and provide guidance in the writing of an independent expert opinion to support these processes. Please follow the guidelines to ensure that the standard required of reports can be maintained.

1. Health Ombudsman Act 2013

1.1 Background

The OHO was established in 2014 under the *Health Ombudsman Act 2013* (the Act) as an independent statutory body providing a single point of entry for health service complaints, notifications and other matters in Queensland. This includes registered and unregistered health practitioners, health services and facilities. The OHO's purpose is to protect and support the community through responsive complaints processes and regulatory action, driving positive change and confidence in the health system. This is articulated in the [OHO 2023-2027 Strategic Plan](#).

1.2 Main objects of the Act

The main objects of the Act are:

- to protect the health and safety of the public
- to promote:
 - professional, safe and competent practice by health practitioners
 - high standards of service delivery by health service organisations; and
 - to maintain public confidence in the management of complaints and other matters relating to the provision of health services.

The main principle for administering the Act is that the health and safety of the public are paramount.



1.3 Jurisdiction

The OHO began dealing with health service complaints on 1 July 2014. Under the Act and the *Health Practitioner Regulation National Law (Queensland)* (the National Law), the OHO has broad powers to deal with complaints and other matters relating to the health, conduct and performance of registered and unregistered health practitioners and the services provided by health service organisations.

Under Queensland's coregulatory system, the OHO and Ahpra and the National Boards share certain responsibilities related to overseeing and regulating registered health practitioners. The OHO manages a single-entry point for all health service complaints in Queensland, including notifications and information regarding registered health practitioners and students. Complaints and notifications concerning registered health practitioners and students are jointly considered with Ahpra in accordance with Division 2A and 2B of the Act. The OHO also collaborates with Ahpra on approaches to dealing with the range of issues identified in complaints and notifications about registered health practitioners. The OHO applies the [Code of Conduct for Health Care Workers \(Queensland\)](#) when managing complaints about unregistered practitioners; and the [National Safety and Quality Health Service Standards](#) and the [Australian charter of health care rights](#) when dealing with complaints about health service organisations.

1.4 OHO divisions

1.4.1 Health Ombudsman's Office

The division is responsible for the management of the Immediate Action Team, ensuring it achieves the OHO's paramount objective of protecting the health and safety of the public. Under the Act, the main basis upon which the Health Ombudsman may take immediate action is where a reasonable belief is formed that:

- a practitioner's health, conduct or performance poses a serious risk to persons and it is necessary to act to protect public health or safety; or
- because it is otherwise in the public interest.

It involves immediate registration action against a registered health practitioner, or an interim prohibition order against an unregistered health practitioner, or a registered health practitioner practicing in an unregistered capacity.


The division also manages policy and governance, the expert advice function and the executive services of the Health Ombudsman's Office.

1.4.2 Assessment and Resolution

This division is the frontline of the OHO's complaint management and regulatory operations for members of the public, including a dedicated phone service for consumers in prison. In addition to the receipt and triaging of all complaints, enquiries and notifications, this division facilitates the resolution of complaints between complainants and health service providers, assesses sensitive and serious complaints for further action, conducts referrals to Ahpra and other state or commonwealth entities and can facilitate privileged and confidential conciliation of complaints where possible.

1.4.3 Investigations

This division conducts formal investigations into more serious matters, which fall into one of two categories: individual health practitioner investigations and systemic investigations, the latter



including investigations into complaints about health services. The compliance monitoring function is responsible for monitoring a practitioner's compliance against a form of action in order to mitigate the risk to public health and safety.

1.4.4 Legal Services and Director of Proceedings

Legal services — including advice, litigation, prosecution, prohibition orders, right to information and other relevant work—are primarily delivered by the OHO's Legal Services division's in-house lawyers. This provides for consistent and considered advice from lawyers familiar with the OHO's operational and statutory context.

The role of Director of Proceedings is identified in the Act and is responsible for deciding which matters are appropriate for referral to QCAT for professional disciplinary action in respect of registered practitioners.

1.4.5 Corporate and Strategic Services

This division supports all staff to carry out their work and achieve the OHO's strategic objectives by providing financial, human resources, information and communication technology (including information management), communications and engagement, and data and analytics services.

1.5 OHO process

The OHO seeks expert advice when an independent, impartial, expert opinion on a matter is required to inform the decision of how to best deal with the complaint. Expert advice may:

- seek guidance on the nature or level of risk to public health and safety presented by performance or conduct issues
- assist the OHO and the complainant in understanding the issues raised in the complaint
- inform an assessment of, or investigation into a registered practitioner, unregistered practitioner or health service organisation
- inform a decision by the Director of Proceedings to refer to QCAT.

The OHO maintains a panel¹ of appropriately qualified and suitable independent advisors to ensure its decisions are informed by relevant clinical expertise and knowledge about complex issues in a constantly evolving health environment.

It is the role of the Principal Expert Advice Coordinator to source independent advisors to support the Health Ombudsman to perform their functions under the Act. All correspondence regarding expert advice must be sent to: ExpertAdvice@oho.qld.gov.au or by phone on 07 3158 1340.

1.6 Timeframes

The OHO's usual timeframe for advice to be completed is within one month, though it is possible for extensions to be granted. Ideally, advisors will agree to provide advice only if this can be done in a timely manner and will notify the OHO up front if any delays are anticipated or as soon as they arise. If advice is delayed significantly, we may need to seek alternative advice to avoid undue delay in our complaints process.

In circumstances where the Health Ombudsman is considering immediate action, the usual timeframe for the advice to be completed will be within two weeks. Timeframes will be discussed with you upon allocation of an advice request.

¹ s29 Health Ombudsman Act 2013



2. Role of an expert advisor

2.1 Nature of advice

The role of an expert advisor is to provide the OHO with advice on professional and ethical standards and issues. You will be asked to state your opinion as to whether the health services provided to the consumer, or the conduct of a health practitioner were consistent with accepted standards of practice. Your advice may also inform any recommendations made for changes to systems and practices.

When asked to provide your opinion on a specific case, the OHO will usually provide you with copies of clinical records and statements from the parties and any other relevant material obtained and request your advice in writing by way of a report.

In some cases, we may request you to attend a search of a premises or vehicles with authorised officers from the OHO. The purpose of this is to provide advice and guidance to investigators regarding identification and collection of evidence, and advice regarding compliance with standards and codes. At the conclusion of your attendance, you may also be asked to provide a written report.

2.2 Conflict of interest

All assessments, investigations and immediate action processes carried out by the OHO are impartial and independent. It is essential that anyone who provides independent advice to the OHO for the purpose of managing or resolving a complaint is free from any conflicting interests that may create an actual bias or perceived bias.

The test for bias is whether there is any risk, or perceivable risk, that the advisor may unfairly regard with favour or disfavour the case of any party involved in the matter. A perception of bias can be as significant an issue as any actual bias.

The following situations are examples of conflicts of interest, or potential conflicts of interest that may lead to bias or a perception of bias:

- a personal relationship with someone involved in the complaint, or where you are or have a close family member or friend who is involved with a party in one of the capacities below:
 - ownership of, or investment in, an organisation involved in the complaint (e.g. owning shares in a health facility)
 - being an employee, advisor or volunteer in an organisation involved in the complaint.
- membership of a governing or executive body of which parties to the complaint are also members.
- a close working or other close professional relationship with, or knowledge of, a party to the complaint at any time (e.g. you once worked in the same hospital at the same time as the provider, or you have some prior knowledge of the provider or consumer).

Any such situations must be disclosed to the Principal Expert Advice Coordinator when advice is sought. The decision-maker will then determine whether there is a potential conflict of interest that could exclude the advisor. Please do not hesitate to contact the Principal Expert Advice Coordinator to discuss whether a particular connection does require disclosure.

2.3 Complaint against expert advisor on unrelated matter

Occasionally, an expert advisor may be the subject of a complaint about them to the OHO or subject to civil litigation. It may not be appropriate for that advisor to be advising the OHO simultaneously, albeit on a separate matter.

In such cases the decision-maker will consider the circumstances surrounding the complaint and the advice requested and will decide whether to seek a different expert advisor. The policy ensures that the OHO is, and is seen as, impartial and independent, and that an independent advisor does not attract unwarranted criticism. Policy decisions such as this do not imply any element of pre-judgement as to the care provided by or the professional conduct of the advisor.

2.4 Confidentiality

Confidentiality is essential in the complaint assessment process to protect the privacy of the providers and consumers involved. Expert advisors are bound by the confidentiality obligations in Section 272 of the Act and must not disclose confidential information other than in accordance with the Act. In this regard, independent advisors must sign a confidentiality agreement when they agree to be included on the OHO panel of independent advisors. The confidentiality agreement extends to any staff member of the advisor who assists with completing the report. It is the advisor's responsibility to ensure that all assisting staff are fully aware of the importance and extent of the confidentiality agreement. This requirement extends to not acknowledging or confirming that a complaint has been made against a particular provider.

It is, however, acceptable to discuss the issues raised by the complaint with a professional colleague, provided that the colleague has no connection to the case and no identifying details are revealed. Such discussions may be helpful when there is a specific professional issue on which there may be doubt about what is acceptable practice. Where such input forms a basis for your opinion, it should be referenced in your report (including the qualifications of the colleague).

The complaint must never be discussed with any of the parties involved, unless the matter has been filed in QCAT and as an independent witness the practitioner's representatives contact you. If you are unsure or require further information, contact the Principal Expert Advice Coordinator. If you receive a subpoena or other notice compelling you to produce the material provided to you by the OHO to a Court or other entity, we request that you also advise the Principal Expert Advice Coordinator.

Most material is sent electronically to expert advisors using OneDrive. As part of providing advice, this material must be kept confidential and if provided in hard copy or via USB returned to the OHO upon completion of the advice.

If you have concerns about the advice process or the safety of consumers at any time, it is essential that you bring those concerns to OHO's attention in the first instance through the Principal Expert Advice Coordinator.

2.5 Disclosure of name of expert advisor

The OHO will not routinely identify the expert advisor to the complainant. However, there are a number of circumstances where, in the performance of its statutory functions, and only as permitted by the Act, your identity may be disclosed, including:

- where the Health Ombudsman is relying upon your advice as part of a decision to propose/take immediate action or propose/issue a prohibition order

- when seeking a submission from the health practitioner as part of an assessment or investigation process
- when systemic investigation reports are published
- where matters proceed to the Queensland Civil and Administrative Tribunal (QCAT) for disciplinary proceedings
- in response to a request under the *Right to Information Act 2009* or the *Information Privacy Act 2009* or lawful process such as a summons
- where the matter subject of your advice is referred to Ahpra, we will share a copy of your report with Ahpra
- where the report is requested by Queensland Police Service, Coroners Court of Queensland or other government bodies who can request information, however you will be advised of this
- where required by the Queensland Ombudsman or the Crime and Corruption Commission.

2.6 Protections for advisors

The Act provides protections for any person giving information to the OHO (including independent advisors). Independent advisors who honestly and on reasonable grounds, give information to the OHO are not subject to any liability for giving the information and no action, claim or demand may be taken or made of or against the person giving the information². Expert advisors are also protected from any potential act of reprisal³.

The OHO recommends advisors confirm with their insurers that they are otherwise appropriately covered for the terms of their engagement.

2.7 Will I be required to give oral evidence?

If the OHO makes a prohibition order, public statement or takes immediate action, the health practitioner has a right of review to QCAT. If the right of review is exercised it is possible that you could be required as a witness before QCAT.

If the matter proceeds to disciplinary hearing, you may be required to attend QCAT for the purpose of an [expert conclave](#) and/or as a witness at the hearing.

2.8 How much will I be paid?

When requesting advice, the Principal Expert Advice Coordinator will advise a proposed limit on how many hours the advice may take you. If you consider the advice request (review of the material and drafting of the report) will exceed that limit, you must seek prior approval from the Principal Expert Advice Coordinator before proceeding.

Due to Queensland Government procurement guidelines, the OHO will only pay upon receipt of the written advice.

Please include the following information in your invoice and email to ExpertAdvice@oho.qld.gov.au:

- titled "Tax Invoice"
- addressed to the OHO, Level 12, 400 George Street, Brisbane Qld 4000

² s275 and s276 *Health Ombudsman Act 2013*

³ s261 *Health Ombudsman Act 2013*

- case number
- your Australian Business Number (ABN) if you have one
- your name, email address and contact number
- your fee per hour and number of hours spent
- total amount and GST charged
- your bank account details
- terms of payment.

If you are required to travel the OHO (e.g. to assist the OHO with search of premises or vehicles), the OHO will pay for your travel costs, accommodation (if overnight stay required) and reasonable expenses. We refer to the [Directive 01/23 Domestic Travelling and Relieving Expenses](#) and [ATO cents per kilometre method](#) when determining reasonable costs, unless otherwise agreed.

If you are required as an expert witness in a tribunal or court proceeding, the OHO will pay reasonable witness fees and expenses, set by the appropriate court scale for expert review to have to attend a hearing and give evidence. The QCAT allowances are set out [here](#).

3. Expert advisor's report

3.1 Relevant principles

The following principles are relevant when providing advice.

Expert advisors have an overriding duty to assist the OHO impartially on relevant matters within their area of expertise, and they must not be an advocate for any party. Please note the conflict of interest section above and consider whether there are any matters that should be brought to the attention of the OHO.

3.1.1 QCAT Practice Direction No 4 of 2009

As a potential expert witness, ultimately you may be asked to provide your opinion to a tribunal or a court. Such witness must abide by certain rules of conduct so that the court or tribunal can be sure that the opinion is objective and expert.

We draw your attention to [QCAT Practice Direction No 4 of 2009](#), which outlines the duties and responsibilities of an expert when preparing a written report. We request that in preparing your report, you adopt the principles set out in the [Practice Direction](#): state your name, area of expertise and briefly outline your experience. Please also annex a full copy of you CV (if not already in the OHO's possession).

- state the basis on which you have the requisite expertise to provide an opinion in relation to the profession/practitioner with the level of training and experience of the practitioner at the relevant time.
- attach the index of material provided to you as the list of documents considered.
- list any additional documents or information you have considered necessary to take into account in providing your report, including the full title and publication date, and for web-based references include the URL.
- set out your opinion in response to the specific issues identified/questions posed with explanation and justification for that opinion.

- identify any other matters you consider relevant and why, including whether access to additional facts or material would assist you in reaching a conclusion.
- in accordance with the [Practice Direction](#), a declaration by you is required to be included in the report in the terms set out in Paragraph 3 of the annexure ([Uniform Civil Procedure Rules 1999 Rule 428](#)) to the [Practice Direction](#).

3.1.2 Standards at the time services were provided

The care should be assessed against the accepted standard when the services were provided, not the standard that existed at the time of the complaint.

3.1.3 The outcome of the care or treatment

The outcome of the care or treatment is irrelevant in determining whether there was a departure from the accepted standard. However, most complaints involve some adverse outcome, and you must remember that you benefit from hindsight in your analysis.

3.1.4 Findings of fact

You are expected to give an independent, objective opinion on the questions posed by the OHO within your expertise. It is not the role of the advisor to making findings of fact - that is for the decision-maker. You should not judge the witness's credibility. Where there are conflicting versions of events, you should provide your opinion on the alternative versions.

You should give opinions only on matters within your area of expertise (although you may raise with the OHO any concerns about other aspects of the case that, in your opinion, should be considered as part of the assessment, investigation or Director of Proceedings).

3.2 Style guidelines

Where possible, please explain in plain English and where possible avoid technical terms or jargon specific to your expertise.

The use of short sentences usually assists in clarity of reasoning and layout. Headings and sub-headings may also be helpful.

Present factual and clinical data in the past tense, and your opinion in the present tense.


Please avoid:

- vague language
- using terms such as “negligent”, “grossly negligent” or any other legal conclusions with specific meanings
- making personal comments about the health service provider or any of the witnesses
- expressing how the decision-maker should deal with the matter.

3.3 Template for independent expert opinion

On most occasions you will be provided with an independent expert opinion template to aid the focus and structure of your report and give guidance on what should be included in the report.

The template will contain a list of the information supplied. Usually this includes the complaint, the provider's response, and supporting documentation. You may, of course, source further professional information, such as relevant standards and relevant web-based references and research. Please reference all further sources of information reviewed and liaise with the Principal



Expert Advice Coordinator about any factual or evidential material you need that has not been supplied. Any incomplete material can also be noted in your report. It is important that you do not make any contact with witnesses, complainants or providers to obtain further information or access any medical records the OHO has not provided to you.

3.4 Supplementary advice

In cases where the OHO becomes aware of new facts or information, we may ask you to provide a supplementary report. You are required to consider this new information and to advise whether they change the opinions expressed in your original report. This will be done by way of supplementary report and no changes should be made to your original report.

3.5 Guidance in writing objective expert advice

Your report should be objective, fair, and free from bias. Your referral instructions from the OHO will be in a letter or a template. These instructions are vital to provide the purpose and focus of your report. The reader must understand at the outset what questions have been posed, and your answers should cover all relevant information.

3.5.1 Conflicting information

Matters of fact and opinion must be kept separate. Where there are conflicting facts, set them out but do not attempt to resolve the conflict or find one or another version proven. Instead, please give your opinion on each of the differing factual scenarios. Although you should not make a factual finding, you may point to factors that are relevant in determining which scenario is, based on your experience and expertise, likely to be correct, however keep an open mind for the purpose of your opinion.

The letter of instruction or template will set out specific questions asked by the OHO. Please identify and comment on issues where:

- there may be a departure from professional standards;
- there is a discrepancy between the recollection of the patient and the health service provider; or
- there is evidence (such as contemporaneous clinical notes or absence of notes) that may support one version over the other.


Please acknowledge any limitations in your opinion – for example, because the information is lacking or there is conflicting information.

Although you will be asked to respond to OHO-specific questions, you should not feel constrained by them. You should comment on all aspects of care given to the consumer or any other relevant issues unless specifically directed not to do so. For example, it may be appropriate to comment on the quality of the health service providers' records or lack of them. Please do not comment on issues outside your area of expertise.

3.6 Framing your opinion for registered health practitioners

The appropriate standard is what would be reasonably expected of a registered practitioner of an equivalent level of training and experience as the registered practitioner complained about at the time of the relevant event.

If you are of the opinion that the registered practitioner conduct was below what was reasonably expected at the time of the events complained about, you should state the degree to which you



consider it fell below that standard, including whether you consider it was significantly below that standard, or some lesser departure.

If the complaint proceeds to a disciplinary hearing, it is for QCAT to decide whether the practitioner's conduct or performance constitutes 'professional misconduct', 'unprofessional conduct' or 'unsatisfactory professional performance'. These terms are defined by the National Law and included in Appendix 1 for your information. However, you are not to give any opinion on whether particular conduct or practice constitutes one of these defined terms.

3.6.1 Registered practitioners and serious risk

In some cases, you may also be asked to give your opinion on whether or not the conduct, health or performance complained of represents a risk to the health and safety of the public and, if so, the nature of the risk of harm (e.g. delayed diagnoses, complication, injury). Your report may inform the Health Ombudsman's decision of whether immediate registration action pursuant to Section 58 of the Act is necessary because the practitioner poses a serious risk to public health and safety.

The term serious risk is not defined in the Act, the National Law or the *Acts Interpretation Act 1954*. The term therefore takes its ordinary meaning in its statutory context. The word serious is defined in the Macquarie Dictionary as: *"of grave aspect; weighty or important; giving cause for apprehension; critical to be considered as an extreme example of its kind"*.

3.6.2 Potential outcomes

Your advice may be used to assist the decision-maker of the action to take, this may include:

- conducting an investigation under the Act
- referring the matter to Ahpra and the relevant Board
- referral to the Director of Proceedings
- referral to QCAT
- taking immediate registration action
- issuing a public statement
- taking no further action.

3.7 Framing your opinion for unregistered practitioners

The OHO also has a function to investigate complaints against unregistered practitioners where their conduct/health/performance may pose a serious risk to persons, or it is in the public interest.

The public expect safe and ethical health services from health service providers whether they are subject to statutory regulation or self-regulation. In relation to unregistered practitioners any investigation goes to determining whether the practitioner has breached any clauses of the [Code of Conduct for Healthcare Workers \(Queensland\)](#) and further whether the health practitioner poses a risk to public health and safety. In making its determination, experts play a critical role in advising the OHO.

Any breaches of the clauses of the [Code of Conduct for Healthcare Workers \(Queensland\)](#) are largely questions of evidence and fact, you will not be asked to give an opinion on whether the conduct of a practitioner constitutes a breach of the code. This is a matter of law to be determined by the Health Ombudsman.

Instead, you will be asked for your opinion on the practice with reference to the areas of practice identified by the Code. For example, whether practice is safe and ethical; whether the practitioner



is adequately qualified to provide the service in question; whether the practitioner should have referred a consumer elsewhere; whether the practitioner adequately understood the interaction of their therapy with other medications or therapies being used by the consumer.

Where you are critical of the practitioner you will also be asked to give your opinion on whether or not the conduct, health or performance complained of represents a risk to the health and safety of the public and, if so, the nature of the risk of harm, the likelihood of it eventuating and the seriousness of the consequences if the risk eventuates.

The term serious risk is not defined in the Act, the National Law or the *Acts Interpretation Act 1954*. The term therefore takes its ordinary meaning in its statutory context. The word serious is defined in the Macquarie Dictionary as: *“of grave aspect; weighty or important; giving cause for apprehension; critical to be considered as an extreme example of its kind”*.

Your opinion will be important in determining the outcome of the matter. If you do not believe that the practitioner's conduct is wrong or may require some minor improvement, consideration will be given by the Health Ombudsman to alerting the practitioner to these issues and reminding them of their obligations. If there appears to be a breach of the code and there is risk to public health and safety, the Health Ombudsman may issue an interim prohibition order or prohibition order and/or a public statement.

3.7.1 Potential outcomes

Your independent expert opinion may be used to assist the decision-maker of the action to take, this may include:

- conducting an investigation under Part 8 of the Act
- issuing an interim prohibition order
- issuing a prohibition order
- issuing a public statement
- taking no further action
- issuing a warning/reminder of obligations.

3.8 Facility systems and policies

The OHO undertakes systemic investigations⁴ to determine if there are issues relating to the operation of a system, process or practice (rather than the individual actions of a registered or unregistered practitioner) that may impact on the provision or quality of health services. As part of your advice, you may be required to look at facility systems and policies and compare those with published standards. You may also be asked to review the adequacy of remedial measures undertaken by the health service provider and/or to recommend other remedial measures.

If you consider that there has been no departure from accepted practice, it is still worthwhile to cite the relevant literature to emphasise a point for the complainant.

3.8.1 Potential outcomes

The Health Ombudsman may choose to publish a systemic investigation report on the OHO website and make reference to your advice in this report. The OHO will only identify you in a published report if you provide consent for us to do so.

⁴ Includes investigating individual complaints about health service providers

4. Appendix 1

Section 5 of the National Law defines these terms:

Unsatisfactory professional performance means the knowledge, skill or judgement possessed, or care exercised by, the practitioner in the practice of the health profession in which the practitioner is registered is below the standard reasonably expected of a health practitioner of equivalent level of training or experience.

Unprofessional conduct means professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner's professional peers, and includes—

- a contravention by the practitioner of this Law, whether or not the practitioner has been prosecuted for, or convicted of, an offence in relation to the contravention; and
- a contravention by the practitioner of—
 - a condition to which the practitioner's registration was subject; or
 - an undertaking given by the practitioner to the National Board that registers the practitioner; and
- the conviction of the practitioner for an offence under another Act, the nature of which may affect the practitioner's suitability to continue to practise the profession; and
- providing a person with health services of a kind that are excessive, unnecessary or otherwise not reasonably required for the person's well-being; and
- influencing, or attempting to influence, the conduct of another registered health practitioner in a way that may compromise patient care; and
- accepting a benefit as inducement, consideration or reward for referring another person to a health service provider or recommending another person use or consult with a health service provider; and
- offering or giving a person a benefit, consideration or reward in return for the person referring another person to the practitioner or recommending to another person that the person use a health service provided by the practitioner; and
- referring a person to, or recommending that a person use or consult, another health service provider, health service or health product if the practitioner has a pecuniary interest in giving that referral or recommendation, unless the practitioner discloses the nature of that interest to the person before or at the time of giving the referral or recommendation.

Professional misconduct includes:

- unprofessional conduct by the practitioner that amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and
- more than one instance of unprofessional conduct that, when considered together, amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner or an equivalent level of training or experience; and
- conduct of the practitioner, whether occurring in connection with the practice of the health practitioner's profession or not, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession.