

Role Description



Executive Director, Legal Services and Director of Proceedings

Role Description Fields	Details
Department/Agency	Health Care Complaints Commission
Division/Branch/Unit	Legal Services
Role number	50087888
Classification/Grade/Band	PSSE Band 2
Senior executive work level standards	Work Contribution Stream: Professional/Specialist
OSCA Code	121131
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Agency Website	www.hccc.nsw.gov.au

Agency overview

The Health Care Complaints Commission (HCCC) is an independent statutory body set up under the Health Care Complaints Act 1993. The work of the Health Care Complaints Commission (HCCC) contributes to ensuring the community is safe and confident in the standard and quality of health services in NSW.

The Commission protects the health and safety of the NSW community through independent, accessible, and effective management of health care complaints and regulatory action.

The Commission deals with complaints about all types of health services and providers in NSW including:

- Health organisations such as public and private hospitals, medical centres, cosmetic clinics, correction and detention facilities, pharmacies, and community health services,
- All registered health practitioners, such as medical practitioners, nurses and midwives, dentists and pharmacists, and
- All non-registered health practitioners, such as counsellors, speech therapists, naturopaths, massage therapists and alternative health care providers.

The Commission aims to provide a system of complaints handling which is customer-focused, accessible, responsive, transparent and accountable.

The Commission is committed to engaging with health consumers and health providers to ensure that our role as an independent regulator is understood, that our services are accessible, and that we are supporting effective complaints management and patient-centred care.

Primary purpose of the role

The Executive Director of Legal Services and Director of Proceedings is a member of the Commission Executive and has four major areas of responsibility:

- Setting the strategic direction and priorities for legal services in the Commission, having regard to the need to respond to the changing nature and breadth of health services, and ensuring that all legal functions are performed in an efficient and effective manner.
- Fulfilling all functions of the independent Director of Proceedings under Part 6A of the Health Care Complaints Act, including determining whether complaints referred from an investigation should be prosecuted before a disciplinary body having regard to sections 90B and 90C of the Health Care Complaints Act.
- Providing advice and support to the Commissioner regarding significant legal issues, and required legislative and policy reform, and negotiating arrangements for information-sharing and operational partnerships with relevant national bodies and state agencies.
- Fulfilling the role of Chief Audit Executive for the Commission consistent with the Enterprise Risk Framework and in collaboration with the Audit & Risk Committee.

Key accountabilities

- Active participation in the Executive Leadership Group to influence the strategic direction of the Commission as a whole and as a champion and sponsor in selected major projects and actions.
- Make independent determinations as to whether complaints referred to the Director of Proceedings by the Commission should be prosecuted, and if so, in what forum. These determinations require consultation with the relevant health professional council and are to be completed in a fair and timely manner and having regard to the criteria set out at section 90C of the Health Care Complaints Act.
- To be an expert contributor on the health regulatory framework, including on opportunities and options for utilising and further developing regulatory powers.
- Establish and maintain strong partnerships with external stakeholders at state and national levels, to influence regulatory direction and principles to address the full spectrum of health service delivery and focus on current and emerging risks to public health and safety.
- Set prosecution and legal services priorities and practices that align with the Commission's strategic direction, captured in a Divisional Business Plan. Ensuring the quality, accuracy and timeliness of all legal work undertaken by the Legal Services Division so that it achieves its performance goals and is cost-effective, and in-house legal capability is developed and sustained.
- To maintain a focus on collaboration and integration with all Divisions, especially including the Assessment and Investigation Division so that investigations which are likely to result in prosecution are conducted in a robust way and that there are effective and efficient processes for the transfer of completed investigations to legal officers.
- Management of any regulatory action that is occurring in parallel with other civil or criminal action, including in relation to protection of documents, so that prosecutions are not compromised.
- Leading the whole-of-Commission enterprise risk management approach, structures and activities to embed good governance and risk management into strategic and business planning, and all aspects of day-to-day operations and activities, and align the internal audit program with business risks and opportunities to ensure compliance with statutory and government policies and legislation.

Key challenges

- The health service system is constantly evolving and the regulatory and legal challenges and risks change accordingly. This gives rise to frequent changes and challenges to the scope and application of the Commission's powers and regulatory actions generally. Effective prosecution strategy and management techniques and processes are essential.

- The Director of Proceedings is an independent decision maker, with ultimate responsibility for determining whether disciplinary action will occur, in a context where there is a very high volume of matters referred for consideration and significant public scrutiny and commentary on these decisions.
- There are significant and somewhat unpredictable legal matters to manage, including the need to brief out complex matters to Senior and /or Junior Counsel with effective cost-management. Legal costs should be managed in line with the Commission budget and there is a need to ensure legal costs are recovered and manage the potential for adverse cost orders in unsuccessful proceedings.

Key relationships

Internal

Who	Why
Commissioner	• Provide regular updates on key priorities, issues and projects. • Escalate issues, keep informed and receive guidance. • Provide timely, accurate, authoritative and professional advice on performance and risks which influence planning and evidence-based decision making.
Executive	• Provide advice on a range of legal matters. • Provide performance reports to support monitoring of corporate performance. • Partner with the executive team in determining the Commission's strategic direction, development of the Commission plans, policies and processes. • Collaborate with the Executive to maintain appropriate and efficient management and operational connections across the Commission in particular to ensure the smooth and seamless transfer of matters that are referred for prosecution and to avoid duplication of effort. • Building agility and capability in management of legal aspects of complaints across the Commission. • Ensure overarching service delivery, funding and resourcing is consistent with strategic plans and priorities.
Direct Reports	• Inspire and motivate teams, provide direction, manage performance and facilitate ongoing professional development. • Coach and mentor to continually improve knowledge, build capability, and improve consistency and service quality. • Provide an escalation point for issues or complex decision-making.
Executive Officer to the Commissioner	• Ensure accurate and timely provision of information to support corporate reporting obligations and the generation of ministerial advice. • Liaising with Executive Officer to provide timely responses to media inquiries and requests. • Participate in monitoring, reviewing and auditing processes.
Audit and Risk Committee	• Provide strategic direction and be accountable for the Internal Audit function. • Provision of secretarial support. • Provide timely and accurate advice on the corporate operations and associated risks.

Who	Why
	Working alongside the Director of Corporate Services and Chief Financial Officer and the Executive Officer to the Commissioner to provide the Annual Report including the audited financial statements for Annual Reporting purposes.

External

Who	Why
All parties to complaints including complainants, respondents and their legal representatives	For successful prosecutions close and constructive connection with witnesses and experts needs to be maintained throughout each prosecution, noting that the Commission is a model litigant and adherence to appropriate litigation practices is imperative.
Health Professional Councils; HPCA, AHPRA, professional associations and stakeholders	- In the case of complaints about registered practitioners all decisions must be made in consultation with the relevant professional council. There are currently 15 professional councils with different practices and processes across the councils. - Working with the HPCA to ensure that the interpretation and application of the law is consistent across cases and to resolve any differences in interpretation of functions and powers. - Developing and maintaining strong and constructive relationships with: coregulators including the Health Professional Council Authority (HPCA) and Councils, and the Australian Health Practitioner Registration Authority (AHPRA); peak organisations for the professions, and medical and other professional defence organisations.
External counsel	To brief and engage with external counsel who understand and are highly proficient in HCCC's jurisdiction.
NSW Civil and Administrative Tribunal Liaison Group	- To ensure efficient processes for bringing matters before the Tribunal or a professional standards committee. - The Executive Director also serves on the NSW Civil and Administrative Tribunal Liaison Group, noting that there are many factors which impact on the time taken to conduct and finalise prosecutions, including the availability of hearing time which is particularly challenging in complex matters.
Outsourced internal audit provider	- Build and maintain relationships with the outsourced provider to maximise performance, communication and focus on strategic risk areas. - Oversee and manage the contract deliverables, audit plans and issues, performance and reporting requirements together with the Governance and Risk lead.

Ministerial

Who	Why
NSW Ministry	The Executive Director identifies and advises on proposals for change to the health regulation framework in support of the Commissioner and collaboration with the Ministry (who leads legislative reform) is essential.

Role dimensions

Decision making

- The incumbent must thoughtfully and continuously manage and balance the key dimensions of the role:
 - the Executive Director of Legal Services is the primary source of in-house legal advice to the Commission, and;
 - The Director of Proceedings has statutory independence from the Commissioner, with sole responsibility for all decisions about whether a complaint should be prosecuted and if it is to be prosecuted, the manner in which the complaint is to be prosecuted.
- The Director of Proceedings is responsible for consulting with the relevant health professional councils in relation to each complaint, including in the case of determinations to prosecute.
- The Director of Proceedings is responsible for framing of the complaint that is to be lodged before the tribunal or Professional Standards Committee and for providing instructions in relation to the ongoing conduct of the matter – including decisions to terminate or alter the terms of the prosecution.
- The role is fully accountable for the efficiency, effectiveness, consistency and quality of work conducted by the Legal Division.
- The role leads planning and management of the Legal Services Division and oversees the review and updating of procedures and the monitoring of performance in the Division.

Reporting line

The role reports directly to the Commissioner in relation to the management of the Legal Services Division.

Direct reports

Director of Proceedings:

- Legal Manager (Grade 11/12) x2

Executive Director Legal Services:

- Legal Operation Manager (Grade 11/12) x1
- Senior Legal Counsel (LO V) x1
- Governance and Risk Lead (Grade 9/10) x1

Budget/Expenditure

As per HCCC financial delegations.

Essential requirements

- The Executive Director of Legal Services and Director of Proceedings must be a lawyer eligible for an unrestricted practicing certificate in NSW.
- The role requires extensive legal experience, including in the conduct of legal proceedings (preferably in a prosecutions area) and legal policy development, and leading corporate legal functions. Previous experience in governance and risk is desirable.
- The role requires demonstrated Executive Leadership capabilities (set out below).

Capabilities for the role

The [NSW public sector capability framework](#) describes the capabilities (knowledge, skills and abilities) needed to perform a role. There are four main groups of capabilities: personal attributes, relationships, results and business enablers, with a fifth people management group of capabilities for roles with managerial responsibilities. These groups, combined with capabilities drawn from

occupation-specific capability sets where relevant, work together to provide an understanding of the capabilities needed for the role.

The capabilities are separated into **focus capabilities** and **complementary capabilities**.

Focus capabilities

Focus capabilities are the capabilities considered the most important for effective performance of the role. These capabilities will be assessed at recruitment.

The focus capabilities for this role are shown below with a brief explanation of what each capability covers and the indicators describing the types of behaviours expected at each level.

Capability group/sets	Capability name	Behavioural indicators	Level
 Personal Attributes	Act with Integrity Be ethical and professional, and uphold and promote the public sector values	- Champion and model the highest standards of ethical and professional behaviour - Lead a culture of integrity and professionalism within your organisation and when dealing with other government agencies, jurisdictions and external organisations - Set, communicate, evaluate and reinforce the use of ethical practices, standards and systems - Create and promote an organisational culture in which staff feel able to report apparent breaches of legislation, policies and guidelines and respond promptly to reports - Act promptly and visibly to prevent and respond to unethical behaviour	Highly Advanced
 Relationships	Communicate Effectively Communicate clearly, pay attention to others and respond with understanding and respect	- Articulate complex concepts and put forward compelling arguments and rationales to all levels and types of audiences - Communicate in a highly articulate and influential way - Communicate the facts and explain their implications for your organisation and key stakeholders - Promote your organisation's position with credibility across government, other jurisdictions and external organisations - Anticipate and address key areas of interest for your audience and adapt under pressure	Highly Advanced
 Relationships	Work Collaboratively Collaborate with others and value their contribution	- Create an organisational culture and supporting systems that help communicate and share information and learning across the sector - Publicly celebrate when collaboration leads to successful outcomes	Highly Advanced

Capability group/sets	Capability name	Behavioural indicators	Level
		- Seek out and facilitate opportunities to collaborate with stakeholders across your organisation, government and other jurisdictions to develop solutions - Identify and address challenges to collaborating with internal and external stakeholders - Champion cultural capability and inclusivity as cornerstones of collaborative working	
 Relationships	Influence and Negotiate Gain consensus and commitment from others, and resolve issues and conflicts	- Use evidence, expert advice and feedback to shape your negotiation strategy and reach effective solutions - Influence outcomes with sound arguments, strong evidence, quality data and expert opinion - Determine and communicate your organisation's position and bargaining strategy - Represent your organisation in critical and challenging negotiations, including those that are cross-jurisdictional - Achieve effective solutions when dealing with unclear or conflicting positions - Anticipate and minimise conflict across organisations and with senior internal and external stakeholders - Identify contentious issues, facilitate discussion and debate, and steer parties towards an effective resolution	Highly Advanced
 Results	Plan and Prioritise Plan to achieve priority outcomes and respond flexibly to changing circumstances	- Understand the links between the business unit, your organisation and the whole-of-government agenda - Ensure business plan goals are clear and appropriate and include contingency provisions - Monitor how initiatives are progressing and adjust them as needed - Anticipate, assess and respond appropriately to the impact of changes, including government policy and economic conditions, on business plans and initiatives - Consider the implications of a wide range of complex issues and shift business priorities when necessary - Support and lead your organisation through change, and evaluate processes and outcomes to inform future planning	Advanced

Capability group/sets	Capability name	Behavioural indicators	Level
 Results	Think and Solve Problems Think, analyse and consider the broader context to develop practical solutions	• Establish and promote a data-literate culture that focuses on using reliable data to inform decisions, innovate and continuously improve • Engage in high-level critical analysis of a wide range of complex information and formulate effective responses to critical policy issues • Identify and evaluate organisation-wide implications when considering proposed solutions to issues • Think laterally to develop innovative solutions that have a long-lasting, organisation-wide impact • Ensure effective governance systems are in place to guarantee quality analysis, research and reform	Highly Advanced
 Results	Demonstrate Accountability Be proactive and responsible for your actions, and follow legislation, policy and guidelines	• Direct the development of effective systems for establishing and measuring accountabilities and evaluate ongoing effectiveness of systems that set and measure accountability • Promote participatory approaches to ensure a culture of accountability and cultural safety with clear links to government goals • Set standards and exercise due diligence to ensure work health and safety risks are addressed • Inspire an organisational culture that respects the obligation to manage public money and other resources responsibly and with the highest standards of probity • Ensure that legislative and regulatory frameworks are applied consistently and effectively across your organisation • Direct the development of short- and long-term risk management frameworks to ensure government aims and objectives are achieved • Promote data risk compliance in your organisation • Anticipate changes to the operating environment and make sustainable choices that lead to long-term success	Highly Advanced
	Finance Understand and apply financial processes to achieve value for money and minimise financial risk	• Understand core financial terminology, policies and processes, including relevant recurrent and capital financial measures	Adept

Capability group/sets	Capability name	Behavioural indicators	Level
Business Enablers		- Understand how business planning and budgets are affected by the funding allocated to your organisation - Identify discrepancies or variances in financial and budget reports, and take corrective action - Know when to seek specialist advice and support and establish relevant relationships to access the appropriate support when needed - Consider financial implications when you make decisions or prepare business cases	
 People Management	Manage and Develop People Engage with and motivate staff, and develop their capability and potential	- Ensure performance development frameworks are in place to manage staff performance, drive the development of organisational capability and undertake succession planning - Lead the development of executive capability and ensure effective succession management practices - Implement effective approaches to identify and develop talent across your organisation - Encourage a culture of continuous learning and leadership that values constructive feedback and new experiences - Drive a culture of high performance and ensure performance issues are addressed as a priority - Set an example to others and encourage teams to build an organisational culture of care, belonging and trust - Monitor and evaluate cultural capability as a central part of development efforts - Set an example by regularly giving and asking for constructive feedback and participating in new experiences	Highly Advanced
 People Management	Inspire Direction and Purpose Communicate goals, priorities and vision, and recognise achievements	- Help others to understand the links between government policy, organisational goals and public value - Present information in an engaging way to build a shared sense of direction, clarify priorities and goals, and inspire and prepare others to achieve them - Work with others to translate strategic direction into operational goals and build a shared understanding of the link between	Advanced

Capability group/sets	Capability name	Behavioural indicators	Level
		your organisation's goals and core business outcomes • Create opportunities for recognising and celebrating high performance at the individual and team level • Inspire confidence and cultivate an attitude of openness and curiosity when tackling future challenges	

Complementary capabilities

Complementary capabilities are also identified from the Capability Framework and relevant occupation-specific capability sets. They are important to identify performance required for the role and development opportunities.

Note: capabilities listed as 'not essential' for this role are not relevant for recruitment purposes, however, may be relevant for future career development.

Capability group/sets	Capability name	Description	Level
 Personal Attributes	Display Resilience and Courage	Be open and honest, prepared to express your views, and willing to accept and commit to change	Advanced
 Personal Attributes	Manage Self	Be persistent, self-reflect and commit to learning	Advanced
 Personal Attributes	Value Diversity and Inclusion	Be inclusive and respect diverse backgrounds, experiences and perspectives	Advanced
 Relationships	Commit to Customer Service	Provide customer-focused services in line with public sector and organisational objectives	Advanced

Capability group/sets	Capability name	Description	Level
 Results	Deliver Results	Achieve results by using resources efficiently and committing to quality outcomes	Advanced
 Business Enablers	Technology	Understand and use available technology to maximise efficiencies and effectiveness	Intermediate
 Business Enablers	Procurement and Contract Management	Understand and use procurement processes to ensure effective purchasing and contract performance	Intermediate
 Business Enablers	Project Management	Understand and use effective ways to plan, coordinate and control projects	Adept
 People Management	Optimise Business Outcomes	Manage people and resources effectively to achieve public value	Adept
 People Management	Manage Reform and Change	Support and champion change, and help others to engage with change	Advanced

Occupation specific capability set	Behavioural indicators	Level
 Legal	Statutory Interpretation	Interpret legislation, subordinate legislation and instruments in accordance with legislation and accepted legal principles

Occupation specific capability set	Behavioural indicators	Level
	Legal Advice	Provide quality independent legal advice and explanation of legal issues
	Legal drafting	Prepare legal documents to achieve client outcomes
	Litigation and Dispute Resolution	Litigate and resolve disputes effectively in relevant forums and jurisdictions
	Prosecution	Prosecute offences in accordance with the relevant law, conduct rules and prosecutorial standards