



23 February 2017

Ms Jeanette Radcliffe
Committee Secretariat
Senate Standing Committees on Community Affairs
Inquiry into the complaints mechanism administered under the
Health Practitioner Regulation National Law

Via email: community.affairs.sen@aph.gov.au

Dear Ms Radcliffe

**Senate Inquiry into the complaints mechanism administered
under the Health Practitioner Regulation National Law**

The Australian Nursing and Midwifery Federation (ANMF) did not initially make comment to the Senate Community Affairs Reference Committee *Inquiry into the medical complaints process in Australia*. This was because the focus of the Inquiry was on the medical profession and not the nursing and midwifery professions. We do not consider that 'medical complaints' encompasses nurses and midwives. With the change during the Inquiry to the terms of reference, to include nursing and midwifery, the ANMF elected to forward a brief submission.

On perusal of the terms of reference for this current Senate *Inquiry into the complaints mechanism administered under the Health Practitioner Regulation National Law*, we again find the emphasis is on the 'medical profession' and 'medical complaints'. Having been invited to submit to this new Inquiry the ANMF must reiterate that nursing and midwifery are not part of the Australian medical profession.

However, the ANMF does have a clear interest in the process of complaints and outcomes, for our members. We need therefore to restate pertinent points from our previous submission, and the subsequent evidence given by myself at the Inquiry hearing held on 22 November 2016, in order to reinforce our position.

With regard to the process for managing complaints of bullying, the ANMF maintains the first level for raising a complaint of bullying is within the workplace. In our policy statement: *Bullying in the workplace* we encourage nurses and midwives to "...report to management any work-related bullying hazard or incident as soon as they become aware of it in order to enable preventative measures to be implemented".¹ Our policy clearly places responsibility on employers to provide a working environment that is safe and free from the risk of bullying. Where bullying does occur in the workplace it is the responsibility of the internal managers of the facility to undertake

¹ Australian Nursing and Midwifery Federation. 2015. ANMF Policy statement: *Bullying in the workplace*. Available from the ANMF website at: http://anmf.org.au/documents/policies/bullying_in_the_workplaceFINAL.pdf

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performance management and disciplinary activities. Our Branches provide support to our members throughout this process.

It is also the responsibility of the organisation to identify and effectively manage the underlying cause of workplace bullying. It is our experience that this is often systemically driven by, for example, insufficient staff numbers, inappropriate staff skills mix for the acuity of the people being cared for, inadequate funding arrangements limiting available resources (material and human) for care provision, and unacceptably high workloads. It is outside the scope of the Australian Health Practitioner Regulation Agency (AHPRA) to deal with these organisational issues, and the ANMF does not use AHPRA as the mechanism for dealing with workplace bullying.

When the internal or first level of making a bullying related complaint in the workplace fails, then there are further options for the nurse or midwife to report the perpetrator of bullying. As outlined in our original submission these include a range of state or territory based authorities such as: Occupational Health and Safety Regulators (such as WorkSafe Victoria, SafeWork NSW, WorkSafe Queensland or SafeWork SA), the Fair Work Commission, and the Equal Opportunity Commissioner.

As the professional regulatory body, AHPRA regulates health practitioners, including nurses and midwives, for the protection of the public. That is their mandate and the ANMF contends that it is not the role of AHPRA to performance manage staff. That is a function for health facilities to deal with internally, or where this fails, there are other facilities and authorities (as outlined above) that are best placed to deal with issues of workplace bullying.

With a primary function of protection of the public, the only conceivable role for AHPRA in relation to bullying in the workplace should be where a direct link can be made to the bullying actions placing the public at risk. Professional misconduct of this nature would give nurses and midwives the grounds for making a mandatory notification to AHPRA regarding conduct that is deemed to be “notifiable conduct” under section 140 of the National Law^{2, 3}.

Should you require further information on this matter, please contact Julianne Bryce, Senior Federal Professional Officer, ANMF Federal Office, Melbourne on 03 96028500 or julianne@anmf.org.au.

Yours sincerely



Lee Thomas
Federal Secretary

² Nursing and Midwifery Board of Australia. *Guidelines for Mandatory Notifications*. Available from the NMBA website at: <http://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Codes-Guidelines/Guidelines-for-mandatory-notifications.aspx>

³ Australian Health Practitioner Regulation Agency. *A guide for practitioners: Notifications in the National Scheme*. Available from the AHPRA website at: <http://www.ahpra.gov.au/Search.aspx?q=Guides>