Queensland Health

Clinical **Excellence** Queensland

Guide

Establishing and managing quality assurance committees

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Queensland Government

Guide - Establishing and managing quality assurance committees

For more information contact:

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Contents

1. Purpose

The *Establishing and managing quality assurance committees Guide* (Guide) is intended to assist entities looking at establishing a quality assurance committee (QAC), pursuant to Part 6, Division 1 of the *Hospital and Health Boards Act 2011* (HHB Act) and the *Hospital and Health Boards Regulation 2023* (HHB Regulation). It also aims to explain the functions, obligations, responsibilities and protections associated with operating a QAC and membership of a QAC.

2. Scope

This Guide is relevant to entities authorised to establish a QAC[1], established QACs, members of a QAC[2], relevant persons[3] and a person who performs functions for a patient safety entity[4].

3. Legislation

HHB Act – (Part 6)

HHB Regulation – (ss.23 to 36)

Right to Information Act 2009 (Schedule 2, Part 1, Item 6[5])

Health Ombudsman Act 2013[6]

Information Privacy Act 2009[7]

Health Practitioner Regulation National Law (Queensland)

4. Principles

The following principles guide the establishment and management of QACs:

- the purpose of a QAC is to improve the safety and quality of health services
- the role of a QAC must include:
  - assessment and evaluation of the quality of health services
  - reporting and making recommendations concerning those health services
  - monitoring the implementation of its recommendations.

To encourage and facilitate the voluntary participation in healthcare improvement, prospective members of a QAC should be advised of their protection from liability[8]. The protection from liability facilitates a confidential environment where practise, decisions and outcomes can be assessed and evaluated by members of a QAC.

[1] Entities authorised to establish a QAC are identified in s.82 of the HHB Act.
[2] Section 82(3)(c) of the HHB Act.
[3] Refer to the definition of *relevant person* in Schedule 2 and s.84(2) of the HHB Act.
[4] Section 85(2) of the HHB Act.
[5] Provides that the *Right to Information Act* 2009 has no application to a QAC
[6] A function of the Health Ombudsman under the *Health Ombudsman Act* 2013 is to identify and report on systemic issues including issues related to the quality of health services at s.25(c).
[7] Applies to the handling, access and amendment of personal information in the public sector environment.
[8] Sections 88 and 89 of the HHB Act. Protection from liability is conditional upon the QAC member having acted honestly and without negligence.

5. Establishing a QAC

5.1 Who can establish a QAC?

Any of the following may establish a QAC for a matter relating to its functions:

- a Hospital and Health Service (HHS)
- a professional association, society, college or other entity whose functions relate to the provision of health services or to the providers of health services
- the Director-General, Queensland Health for a matter relating to a HHS or the Department
- the licensee of a private health facility for a matter relating to health services provided in its facility.

Two or more of the bodies mentioned above may jointly establish a single QAC. However, an entity must not establish a QAC unless satisfied that certain requirements are met[9].

5.2 QAC membership

The QAC must comprise individuals with appropriate training and experience appropriate to the services to be assessed and evaluated by the QAC. The HHB Act does not specify any minimum or maximum number of members[10]. It's recommended an application to establish a QAC made to one of the entities listed at Item 5.1 above, include a requirement to submit details of each member's qualifications and a summary of their relevant experience.

QACs can authorise individuals (relevant persons) to help the QAC perform its functions, including by providing administrative or secretarial services, advising the QAC about the performance of its functions, or preparing reports and other information for the QAC.

5.3 Does the committee need to be a QAC?

It's important to consider whether a QAC is the most appropriate committee type for the circumstances. It's unnecessary for all committees with a role encompassing safety and quality to be a QAC.

The context of the committee needs to be considered against the strict confidentiality provisions, protections to prevent information from being disclosed in legal proceedings as well as the protections from liability for members of QACs.

QAC members and relevant persons are prohibited from disclosing information acquired as a member and/or relevant person for the committee, except for in the limited circumstances set out in section 84(1) and section 84(2) of the HHB Act[11], or in accordance with a regulation made under the HHB Act[12]. Note also, the HHB Regulation requires QACs to make certain information available

[9] Section 82(3) of the Act.
[10] However, the HHB Regulation provides information relating to a quorum for a QAC – see section 26.
[11] For example, to the Department's prescribed patient safety entity (PSQ) for an authorised purpose under section 85.
[12] See section 91 of the HHB Act.

to the public[13].

The QAC must benefit from the immunities and protections afforded to QACs in sections 87, 88 and 89 of the HHB Act. Some questions to consider in this context could include:

- Will the committee receive information from a person who might need protection against liability for giving the information to the committee?
- Is it likely that members of the committee may require protection against a civil liability for an act done, or omission made, including protection against defamation?
- Will the documents and information the committee creates, or created for the committee, as well as information acquired by a person who is a member of the committee require legal protection?

5.4 The process of establishing a QAC

The Director-General, Queensland Health and the establishment of statewide QACs

Where a QAC will be assessing and evaluating the quality of health services statewide and membership is anticipated to consist largely of expertise sourced from Queensland Health, these types of QACs have traditionally been established by the Director-General, Queensland Health.

The following is the step-by-step process leading to the establishment of a QAC by the Director-General.

Step 1: Consider how the proposed QAC will satisfy the following legislative obligations[14]:

(a) The functions of a QAC include:

- the assessment and evaluation of the quality of health services
- reporting and making recommendations concerning those health services
- monitoring the implementation of its recommendations.

(b) The QAC comprise individuals with training and experience appropriate to the services to be assessed and evaluated by the QAC.

(c) The exercise of the committee's functions would benefit from the immunities and protections afforded by Part 6, Division 1 of the HHB Act.

Please note, there are other requirements listed in s.82 of the HHB Act.

Step 2: Schedule a meeting with the Executive Director, Patient Safety and Quality (PSQ) by emailing: Quality-Assurance-Committee@health.qld.gov.au

Step 3: After meeting with the Executive Director, Patient Safety and Quality, prepare a memorandum addressed to the Deputy Director-General, Clinical Excellence Queensland. The memorandum should include background commentary as well as how it's anticipated the establishment will result in improvements to patient safety and the quality of Queensland's health services. Please attach the following to the memorandum:

- a privacy policy (see: ss. 31 and 32 of the HHB Regulation).

[13] Section 33 of the HHB Regulation.
[14] Section 82(3) of the HHB Act

- terms of reference - including purpose and functions.
- a completed version of Annexure 1 (below).

Establishing a QAC including a statewide QAC not established by the Director-General, Queensland Health

For entities wishing to establish a QAC including HHSs, the entity establishing the QAC must comply with the following legislated requirements[15]:

(a) The functions of a QAC must include:

- the assessment and evaluation of the quality of health services
- reporting and making recommendations concerning those health services
- monitoring the implementation of its recommendations.

(b) The committee must comprise individuals with training and experience appropriate to the services to be assessed and evaluated by the committee.

(c) The exercise of the committee's functions would benefit from the immunities and protections afforded by Part 6, Division 1 of the HHB Act.

Please note, there are other requirements listed in s.82 of the HHB Act.

After establishment

Once a QAC has been established, the Director-General, Queensland Health must be notified. If the Director-General established the QAC, notification is not required.

Please refer to Item 6 directly below, *Notification of establishment*.

6. Notification of establishment

Once a QAC has been established[16], the Director-General, Queensland Health must be notified using Annexure 1 (below). Please send the completed form to the following email addresses:

Email: SDLO@health.qld.gov.au

And:

Email: Quality-Assurance-Committee@health.qld.gov.au

7. Requirement to adopt a privacy policy

Section 31 of the HHB regulation requires that every QAC must adopt, by resolution, a written privacy policy. Section 32 of the HHB Regulation legislates the content of the privacy policy. Please refer to Annexure 2 (below), for further information.

[15] Section 82 of the HHB Act
[16] It is recommended that as part of the notification process, the information in Annexures 2 and 3 is read and considered.

8. Documenting procedures and processes

It is recommended every QAC develop a document, such as terms of reference, to document and guide the procedures, processes and general business of the committee. Please refer to Annexure 3 (below) for further information.

9. Procedures

These procedures[17] are mandatory, pursuant to Part 5, Division 2 of the HHB Regulation.

9.1 Electing a chairperson

A QAC must have a chairperson. The chairperson can be chosen by the entity establishing the QAC at the commencement of the QAC, or by the QAC electing a member to be chairperson at any time. If the chairperson is elected by the QAC, the establishing entity must approve the appointment. There is no limit to the time period a chairperson can sit in the position. If the chairperson role is vacated, the committee may elect a new chairperson.

If a committee was established by an entity other than the Director-General, Queensland Health, as soon as practicable after the chairperson is appointed the committee must give the Director-General, Queensland Health, which is addressed to the Executive Director, PSQ a written notice containing the following information:

- the member's full name
- the date the member was appointed as chairperson.

Email: Quality-Assurance-Committee@health.qld.gov.au

9.2 Times and places of meetings

Committee meetings are to be held at the times and places the chairperson decides. However, the chairperson must call a meeting if asked in writing to do so by at least the number of members forming a quorum for the committee. A committee must hold its first meeting within 3 months after its establishment.

9.3 A quorum at meetings

A quorum for a QAC is the number equal to one-half of the number of its members or, if one-half is not a whole number, the next highest whole number.

9.4 Presiding at meetings

The chairperson is to preside at all meetings of a QAC. If the chairperson is absent from a meeting or the office of chairperson is vacant, a chairperson for the particular meeting can be chosen by the members present.

[17] See: Part 5, Division 2 of the HHB Regulation.

9.5 Conduct of meetings

A question at a QAC meeting is decided by a majority of the votes of the members present. Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

9.6 Minutes

A committee must keep the minutes of a meeting of the committee for 10 years after the meeting[18].

9.7 Other procedures

Pursuant to the HHB Act and HHB Regulation, a committee must conduct its business, including its meetings, pursuant to the procedures above. Notwithstanding the HHB Act and HHB Regulation, the committee must in addition follow the procedures decided for it by the entity that established the committee. Additional procedures can be determined by the committee regarding how it may conduct its business, including its meetings.

As required under section 83(1) of the HHB Act, the QAC must also have regard to the rules of natural justice when undertaking any of their functions.

In addition, for a QAC that is also a public entity (those that are established for a matter relating to the functions of a HHS or the Department) consideration may also need to be given to any decisions they make being compatible with the *Human Rights Act 2019* (Qld).

It is important that the QAC documents the reasons for any decision, including the steps it has taken to afford natural justice as well as any human rights considerations.

10. Protections, immunities and confidentiality

10.1 Protection for QAC documents and information

The protections afforded to QACs apply to reports or other documents created by or for a committee, information contained in a report or other document created by or for a committee and information acquired by a person as a member of the committee or as a relevant person[19] for the committee.

QAC related documents or information cannot be accessed under any order, whether of a judicial or administrative nature, and are not admissible in any proceeding, Further, neither a QAC member nor a relevant person for a committee can be called to produce documents or information or be called to give evidence in any legal proceedings or other legal process about

[18] This requirement does not apply to the extent that the minutes are a public record under the *Public Records Act* 2002,
[19] For the definition of a relevant person, see Schedule 2 of the HHB Act.

information that came to their knowledge as a QAC member or a relevant person for a committee. The only exception to this is when the document, information or evidence relates to a legal proceeding for an offence against the QAC legislation.

10.2 Protection from liability

Neither a QAC member nor a relevant person for a committee can be held civilly liable for their acts or omissions if they have acted honestly and without negligence in their function as a QAC member or a relevant person for a QAC. If the QAC member or relevant person incurs costs in defending such proceedings, the person is to be indemnified (costs paid) by the entity that established the QAC[20].

10.3 Members and relevant persons' confidentiality obligations

Strict confidentiality obligations apply to both QAC members and relevant persons.

Under section 84(1) of the HHB Act, a person who is or was a QAC member is prohibited from disclosing information acquired in the course of their involvement in QAC activities, other than:

- for the purpose of exercising the functions of a member of the QAC
- to members of another QAC if the information is relevant to the functions of the other QAC
- to a prescribed patient safety entity[21]
- to a relevant Chief Executive in relation to health professionals working in the Department or employed in a private health facility to prevent serious risk of harm[22]
- if the person is a registered health practitioner—for notifying the Health Ombudsman about information in relation to a reasonable belief of the person that another registered health practitioner has behaved in a way that constitutes public risk notifiable conduct[23]
- to comply with a requirement of an inspector made of the person under the HHB Act, if the requirement relates to an offence under Part 6, Division 1 of the HHB Act[24]
- under a regulation made under s.91 of the HHB Act.

If prosecuted for a breach of these confidentiality provisions, there is a maximum financial penalty of 100 penalty units.
Also, under section 84(2) of the HHB Act, a person who is or was a relevant person for a QAC must not disclose to someone else information acquired by the person as a relevant person for the QAC, other than:

- for the purpose of helping the QAC to perform its functions
- to comply with a requirement of an inspector made of the person under the HHB Act[25].

[20] See section 88(3) of the HHB Act.
[21] See section 85 of the HHB Act
[22] See Section 85A of the HHB Act; note health professionals working in a HHS, and health executives and senior health service employees appointed by a hospital and health service (including Visiting Medical Officers and Senior Medical Officers) are excluded.
[23] See definition of 'public risk notifiable conduct' under Schedule 2 of the HHB Act. See also section 36, *Health Ombudsman Act* 2013
[24] If the requirement relates to an offence under Part 6, Division 1 of the HHB Act
[25] If the requirement relates to an offence under Part 6, Division 1 of the HHB Act.

If prosecuted for a breach of these confidentiality provisions, there is a maximum financial penalty of 100 penalty units.

At the time of making a disclosure the following written wording should be included:

- that strict statutory confidentiality protections apply to information/documents held by a QAC; and
- the information/documents being disclosed are confidential and have been disclosed in accordance with section 84 of the HHB Act.

Further, the information/documents that are subject to the statutory protections should be clearly identified/described, and the person disclosing the information/documents should be clearly identified as a QAC member or relevant person for the committee.

11. Disclosing information

11.1 Disclosure to a patient safety entity

A QAC may give a copy of a report or other document prepared by the QAC to a prescribed patient safety entity[26] for an authorised purpose for the entity. PSQ is a prescribed patient safety entity.

This type of disclosure by the QAC is protected, in so far as, a person who performs functions for the patient safety entity must not:

- give a copy of the report or other document to anyone else
- disclose any information contained in the copy of the report or other document to anyone else other than for the authorised purpose for which the copy of the report or document was given
- use the copy of the report or document, other than for the authorised purpose for which the copy of the report or document was given.

If a person within the prescribed patient safety entity is prosecuted for a breach of these confidentiality provisions, there is a maximum financial penalty of 100 penalty units.

11.2 Disclosure to prevent serious risk of harm

If a QAC forms a reasonable belief that a health professional poses a serious risk of harm to a person because of the health professional's health, conduct or performance, s.85A of the HHB Act applies and QACs can make the following disclosures:

- To the chief executive of the Department (Director-General) - if the health professional is appointed as a health service employee or public service officer in the **Department** (e.g., Breast Screen Queensland, Pathology Queensland and other services)

[26] See: section 85 of the HHB Act and section 36 of the HHB Regulation

- To the licensee of a private health facility - if the health professional is employed in a **private health facility**[27].

If a health professional is appointed as a health service employee in a Hospital and Health Service, disclosures cannot be made under s.85A of the HHB Act.

Upon identifying the serious risk, QACs must disclose the identity of the health professional, and the information that forms the basis for the reasonable belief to the health professional's Chief Executive.

For a QAC to make a disclosure to the health professional's Chief Executive, it must form a reasonable belief the risk of harm to a person is serious and is attributable to the health professional's health, conduct or performance.

The term 'serious harm' is not defined in the HHB Act, and examples of what this may encompass are not provided in the HHB Act. Determining whether there is a serious risk of harm will always depend on the facts and will need to be assessed on a case-by-case basis. Generally, the term 'serious' may be interpreted to mean something more than 'substantial'.

Item 12.3, below, identifies an additional opportunity/obligation to disclose identifying information to prevent serious risk of harm.

11.3 Disclosure of information between QACs

11.3.1 Can statewide QACs (First QAC) share RCA reports they receive from PSQ and/or from an HHS with another statewide QAC (Second QAC)?

Where the First QAC proposes to disclose an RCA report or information contained in that report to the Second QAC, a member of, or relevant person for the First QAC may disclose the RCA report or information in the RCA report that is relevant to the functions of the Second QAC to the Second QAC. Accordingly, the First QAC must make enquiries with the Second QAC prior to disclosing an RCA report to ensure that the information is relevant to the functions of the Second QAC.

The protections[28] for RCA reports and information will apply to the reports and information received by the Second QAC and provide that the information and reports may not be accessed under any order, are not admissible in any proceeding and may not be produced or given in evidence[29].

[27] Section 85A has limited application; health professionals working in a HHS, and health executives and senior health service employees appointed by a hospital and health service (including Visiting Medical Officers and Senior Medical Officers) are excluded. Further amendments are being considered

[28] Section 87 (Protection for documents and information – QAC information) and section 119 (Protection for documents and information) of the HHB Act.

[29] (other than in a proceeding for an offence under Part 6, Division 1 or Part 6, Division 2 of the HHB Act).

11.3.2 Can statewide QACs share other clinical incident reports they receive from Queensland Health / private sector health services with other state-wide QACs?

If the clinical incident report is relevant to the function of the Second QAC, the First QAC may disclose the report to the Second QAC[30].

11.3.3 Can Statewide QACs discuss the content of RCA reports and other clinical incident reports with other QACs which do not have copies of those RCA reports and clinical incident reports?

As outlined above, where information contained in an RCA report or a clinical incident report is relevant to the function of the Second QAC, the First QAC, may disclose information to the Second QAC. Accordingly, where the content of an RCA report or other clinical incident report is relevant to the functions of the Second QAC, the discussion of that information with the Second QAC is permitted.

11.4 Disclosure by the Department and Hospital and Health Services to QACs

Root cause analysis reports

PSQ and/or an HHS may provide a copy of a root cause analysis report (RCA report) or information contained in an RCA report to a QAC[31].

A report undertaken by a clinical reviewer

For a review undertaken by a clinical reviewer[32] (a clinical reviewer is a person appointed under Part 6, Division 3 of the HHB Act), the Director-General, through PSQ and/or the Chief Executive of an HHS can only disclose recommendations in the report, not the full report[33]. Furthermore, the recommendations must be relevant to the functions of the QAC.

Other clinical analysis reports

The PSQ can disclose other types of clinical analysis reports to a QAC provided the report is relevant to the QAC's functions[34].

[30] in accordance with section 84(1)(b) of the HHB Act.
[31] See: section 112(5) of the HHB Act for disclosure by the Department of Health
[32] See: Part 6, Division 3 of the HHB Act
[33] See: section 135 of the HHB Act
[34] See: section 153 of the HHB Act

12. QAC reporting obligations

12.1 Annual activity statement

Every year, a QAC must prepare an annual activity statement[35] (due every 12 months from the date the QAC commenced) containing the following information:

- the chairperson's full name
- each member's full name
- for any person appointed as a member during the reporting period
  - the person's full name and qualifications
  - the person's office or position
  - a summary of the person's experience that is relevant to the committee's functions
  - the date the person became a member.
- if a person ceased being a member during the reporting period—the date the individual ceased being a member
- the dates of each meeting held by the committee during the reporting period.

Annual activity statements must be forwarded before each anniversary of the day the QAC was established to both:

- the entity that established the QAC
- the Executive Director, Patient Safety and Quality, Department of Health

For the Department of Health, email annual activity statements to:
Quality-Assurance-Committee@health.qld.gov.au

12.2 Triennial report

A QAC must carry out a review of its functions[36] every three (3) years from the date of its establishment (additional reviews of the QACs functions can occur at any time). The review must result in a report.[37]

The report must contain the following information and be made available to the public:[38]

- a statement of the QAC's functions
- for each current committee member:
  - the member's full name and qualifications
  - the member's office or position
  - a summary of the member's experience that is relevant to the committee's functions
- a summary of the activities performed in, and any outcomes of, the exercise of the QAC's

[35] See section 35 of the HHB Regulation
[36] See section 34 of the HHB Regulation.
[37] See section 33 of the HHB Regulation
.

functions

- a summary of the QAC's privacy policy.

The report may be made available to the public in a form the committee considers appropriate. An example of an appropriate form to make the information publicly available is to include it in the annual report of the entity that established the QAC.

A copy of the report must also be given to:

- the entity that established the QAC
- the Executive Director, Patient Safety and Quality

Email a copy of the report to the Department: Quality-Assurance-Committee@health.qld.gov.au

12.3 Mandatory reporting to the Health Ombudsman

If a member of a QAC is a registered health practitioner, mandatory reporting requirements under s.141 of the *National Law Health Practitioner Regulation National Law (Queensland)* and s.84(1)(d) of the HHB Act applies. The health practitioner is required to notify the Office of the Health Ombudsman (OHO) when there is a reasonable belief that another registered health practitioner, the subject of information assessed and evaluated by the QAC, has behaved in a way that constitutes public risk notifiable conduct which means:

1**.** Placing the public at risk of substantial harm in the practitioner's practice of the profession because **the practitioner has an impairment**;

or

2. Placing the public at risk of substantial harm by practising the profession in a way that constitutes **a significant departure from accepted professional standards**.

The difference between a health practitioner's reporting obligation as a member of a QAC, and the usual reporting obligation as a health practitioner is that as a member of a QAC, a health practitioner is obligated to report public risk notifiable conduct, not excluded notifiable conduct.

A registered health practitioner who is a member of a QAC must not disclose information that forms the basis of the reasonable belief that a health practitioner has (excluded notifiable conduct):

- practised the practitioner's profession while intoxicated by alcohol or drugs; or
- practised the practitioner's profession in a way that constitutes a significant departure from accepted professional standards but not in a way that places the public at risk of substantial harm; or
- engaged in sexual misconduct in connection with the practice of the practitioner's profession.[39]

This is excluded notifiable conduct.

[39] See section 86 and Schedule 2 of the HHB Act and section 141(4)(d) of the National Law.

12.3.1 Practitioners with an impairment

A member of a QAC who is also a registered health practitioner, forms a reasonable belief another health practitioner has conducted their practise in a way that constitutes public risk notifiable conduct by placing the public at risk of **substantial harm** because the practitioner has an impairment, the member is obligated to notify OHO.

> **Substantial harm means** in this context the failure to correctly or appropriately diagnose or treat because of the impairment. For example, a practitioner who has an illness which causes cognitive impairment so they cannot practise effectively. However, a practitioner who has a blood-borne virus who practises appropriately and safely in light of their condition and complies with any registration standards or guidelines and professional standards and protocols would not trigger a notification.

12.3.2 Significant departure from accepted professional standards

If a member of a QAC who is also a registered health practitioner forms a reasonable belief another practitioner has conducted their practise in a way that constitutes public risk notifiable conduct by placing the public at risk of substantial harm because the practitioner has departed from accepted professional standards, you are obligated to notify the OHO.

> **Substantial harm means** in this context considerable harm such as a failure to correctly or appropriately diagnose or treat because of the significant departure from accepted professional standards.

12.4 Disclosure of information where improvements to the provision of health care provided by a health practitioner are identified by the QAC

12.4.1 Can a health professional who is a member of a QAC and/or a QAC disclose information (where the mandatory reporting requirement to OHO is not met) about the QAC's evaluation and assessment of an individual health practitioner?

- A health professional who is a member of a QAC may only disclose information or a report (which contains information about the QAC's evaluation or assessment of health services provided by a health practitioner) where the proposed disclosure is for the purpose of exercising the QAC's functions and the evaluation and assessment of health services provided by an individual does not constitute excluded notifiable conduct.
- It is unlikely that the functions of a QAC would be sufficiently broad to permit the disclosure of information and/or a report which assesses and evaluates an individual health practitioner.
- Accordingly, a health professional member of a QAC and/or a QAC may not disclose information about the QAC's evaluation and assessment of health services provided by a health practitioner, to the individual health practitioner or their manager as this would constitute a breach of their confidentiality obligations.
- Where the QAC's evaluation and assessment of health services is focused on patient safety, quality assurance, and identifies system improvements within the HHS, delivery of

such a report to the Chief Executive of the HHS (in their capacity as the person responsible for managing the HHS) is more likely to be for the purposes of exercising a function of the QAC and would be consistent with section 83(3) of the HHB Act which provides that a QAC may disclose a report to a provider to allow them to comment on the report.

12.4.2 Can a health professional who is a member of a QAC and/or a QAC, disclose additional information after a mandatory notification has been made (that does meet the mandatory reporting requirement for public risk notifiable conduct) about the QAC's evaluation and assessment of health services provided by a health practitioner?

- A QAC should not disclose any further information and/or reports which identify the needs for improvement in the provision of health care by the individual health practitioner, as this will now fall within the scope of the investigation of the notification to be undertaken by OHO.

12.4.3 Can a QAC disclose information about the QAC's evaluation and assessment of health services provided by a health service?

- Where the QAC has undertaken an evaluation and assessment of health services provided by a Hospital and Health Service, the QAC may disclose information or a report, that does not identify an individual health practitioner, to the Chief Executive of that HHS for the purposes of affording the HHS with an opportunity to comment on the report, as long as the proposed disclosure is for the purposes of exercising the QAC's functions.

13. Governance roles

13.1 Responsibilities

The Director-General's role (delegated to the Executive Director, Patient Safety and Quality)

- establish statewide QACs
- establish and maintain a publicly available QAC register - the Register is available here: https://www.health.qld.gov.au/psu/qac/docs/qac-committee.pdf
- review QAC annual activity statements
- review QAC triennial reports.

The establishing entities' role

- establish the QAC
- approve annual activity statements[40]
- approve reports and other information disclosed by the QAC and subcommittees of the QAC.
- approve local triennial reports (prior to disclosing the reports publicly)[41]

[40] s.27 of the HHB Act
[41] s.25 of the HHB Act

PSQ's role (on behalf of the Director-General, Queensland Health)

- undertake compliance tracking: triennial reports and annual activity statements
- maintain the publicly available QAC register
- advise the Director-General whether proposed statewide QACs meet the relevant requirements under Section 82(3) of the HHB Act
- acquire and compile annual activity statements and triennial reports on behalf of the Director-General.

13.2 Statewide and local QACs - the role of Patient Safety and Quality

PSQ has an overarching governance and compliance role, acting on behalf of and as a conduit to the Director-General, Queensland Health, for QACs when the Director-General is the establishing entity or a joint establishing entity.

Where the chief executive of a Hospital and Health Service is the establishing entity for a local QAC, the Hospital and Health Service has the responsibility for governance and compliance for the QAC.

Where professional associations, colleges or licensees of private health facilities are the establishing entities for QACs, the establishing entity will have overall governance and responsibility for the QAC.

14. Establishing a sub-committee

Although the HHB Act does not specifically provide for the establishment of a subcommittee within a QAC, there is no legal impediment to such a body being created, although its operations will be limited to assisting in the QAC's functions. Accordingly, the QAC's functions (usually itemised in the QAC's terms of reference) should be sufficiently broad enough to capture the work intended to be undertaken by the subcommittee. A QAC may amend its functions if necessary. However, at a minimum a QAC's functions must include the matters stated in section 82(3) of the HHB Act.

In the absence of rules relating to establishing and maintaining sub-committees in the QACs terms of reference, a QAC could establish a subcommittee by way of resolution. The subcommittee may not make decisions on behalf of the QAC, because ultimately only a QAC has legal recognition under the HHB Act.

14.1 Composition of a subcommittee

To ensure the protections in Part 6, Division 1 of the HHB Act apply, a subcommittee will need to comprise of relevant persons, members of the QAC or a combination of both.

A *relevant person* is defined in Schedule 2, of the HHB Act to mean:

(a) for a quality assurance committee, a person authorised by the committee to help

the committee in the performance of its functions, including by—

(i) providing administrative or secretarial services to the committee; or

(ii) advising the committee about the performance of its functions; or

(iii) preparing reports and other information for the committee; or…

As a relevant person has an adjunct role to facilitate the work of the QAC, they are limited from disclosing information acquired in that capacity unless it is for the purpose of helping the QAC perform its functions, or in order to comply with a requirement of an inspector relating to an offence (s 84(2) of the HHB Act). Accordingly, if a subcommittee is only made up of relevant persons then the role of that subcommittee, by reason of its constituency would be limited to collating data and producing reports relevant to the QAC's functions for consideration by the QAC.

If it is intended that a subcommittee will have greater responsibility such as performing the functions of the QAC in the first instance, then it should be constituted with at least one member of the QAC who is not constrained in the same way as a relevant person.

The benefit to having QAC members within a subcommittee of the QAC is the ability of those persons to disclose information more broadly[42] (but still in accordance with the obligations of confidentiality outlined in section 84(1) of the HHB Act) and for them not to be constrained in their activities to only collating data and producing reports relevant to the QAC's functions. Operationally, if a QAC decided to establish a subcommittee with members of the QAC, it would need to ensure that it could still form a quorum at QAC meetings – being the number equal to one-half of the number of its members (s.18 of the HHB Regulation). This may become problematic if too many of its members are otherwise occupied in subcommittee activities and unable to attend QAC meetings.

14.2 A subcommittee's operation

Despite not being subject to any particular legislative requirements, the QAC should consider how its subcommittee will operate to best assist the QAC in fulfilling its functions. This will include deciding whether the subcommittee:

a. is to be formally structured with a chairperson and other hierarchy, including its constituency as discussed above.
b. will have regular meetings with a particular number of attendees and how those meetings are to be documented and that documentation retained (noting the QAC is required to retain its minutes for 10 years).
c. will have its own terms of reference which fit within the functions of the QAC, so that it is clear what the role of the subcommittee will be.

Consideration should also be given to the process by which the subcommittee is to interact with the QAC for reporting purposes and general business.

[42] See section 84(1) of the HHB Act

Annexure 1

APPROVED FORM

NOTICE
OF THE ESTABLISHMENT OF A
QUALITY ASSURANCE COMMITTEE

Section 82(4) of the *Hospital and Health Boards Act 2011*

The contents of this Form can be adapted to suit your own format.

I [insert full name], [insert position], of [insert entity] establish the [insert name of QAC] Quality Assurance Committee (QAC), in accordance with Section 82 of the *Hospital and Health Boards Act 2011* (HHB Act). The QAC:

- commenced on [the date of this Notice or insert the relevant date]
- was established by [insert the type of entity pursuant to s.82(1) of the HHB Act, for example, Metro North Hospital and Health Service[43]]
- was jointly established with another entity,[44] [if two entities established this committee give the other name – delete this paragraph if not relevant]
- [will adopt/has adopted] by resolution a written privacy policy[45] [and will forward a copy to the Department of Health/and has attached a copy]
- comprises individuals with training and experience appropriate to the services to be assessed and evaluated by the QAC.

The QAC has appointed a Chairperson and the following members:

- [insert the chairperson's full name and title of Chairperson]
- [insert each member's full name]
    - [insert each member's qualifications]
    - [insert each member's office or position]
    - [insert a summary of each member's experience that is relevant to the committee's functions]
    - [insert the date the person became a member].

The QAC was established under a resolution or in accordance with the rules or official procedures of the establishing entity.

The QAC [will adopt/has adopted] by resolution, a document [insert here Terms of Reference or other document adopted] [and will forward a copy/and has attached a copy].

The QAC's functions include the assessment and evaluation of the quality of health services, the reporting and making of recommendations concerning those services and monitoring the implementation of its recommendations.

The exercise of the QAC's functions will benefit from the immunities and protections afforded by Part 6, Division 1 of the HHB Act.

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[43] See: s.82(1) of the HHB Act
[44] See: s.82(2) of the HHB Act
[45] See: s.31 of the *Hospital and Health Boards Regulation 2023*

This Approved Form was first published March 2018. Form 1 version 1.
No changes have been made to it in subsequent publications of this Guide.

Sign here:

_____ _____

Signature Date

_____

Insert full name

_____

Position

Legislation

Hospital and Health Boards Act 2011 – section 82(4)

Acts Interpretation Act 1954 – sections.48 and 48A

Completed forms should be emailed to both of the following email addresses:

- Quality-Assurance-Committee@health.qld.gov.au
- SDLO@health.qld.gov.au

This Approved Form was published first published March 2018. Form 1 version 1.
No changes have been made to it in subsequent publications of this Guide.

Annexure 2

Privacy policy

The function of a privacy policy is to provide a sufficient level of detail to clarify and assist users of the policy to understand their obligations, and the committee's processes.

The QACs privacy policy should provide a sufficient level of information in a practical as well as easy to understand manner, to enable members and relevant persons to be aware of their obligations.

The privacy policy should provide a sufficient level of accurate and easily accessed information (where references to information sources are inserted) about the ways the committee/members, may do the following (see: Clause 32 of the HHB Regulation):

(a) acquire and compile relevant information (mandatory)
(b) securely store relevant information (mandatory)
(c) disclose relevant information (mandatory)
(d) ask an individual for consent to disclose the individual's identity under section 83(2) of the HHB Act (mandatory).

The privacy policy must also state the circumstances under which a record containing relevant information may be copied or destroyed. This must have regard to the policies, standards and guidelines about the making or keeping of public records made by the Queensland State Archivist.

If your QAC was established by the Director-General, Queensland Health, a template privacy policy is available. Please email quality-assurance-committee@health.qld.gov.au

For QACs not established by the Director-General, Queensland Health, please seek legal advice.

Annexure 3

Documenting QAC procedures and processes

It is recommended every QAC develop a 'terms of reference' document, to guide the procedures, processes and general business of the committee.

The following is a guide only of what a terms of reference for a QAC might include:

- Name of the QAC.
- Description of the purpose of the QAC.
- Functions of the QAC.
- The scope of the QAC.
- The minimum reporting requirements of the QAC:
    - Pursuant to s.35 of the *Hospital and Health Boards Regulation 2023*, the Committee will give to the Executive Director, Patient Safety and Quality, Clinical Excellence Queensland, Department of Health an annual activity statement containing data/information about trends in the provision of relevant health services, issues and incidents (this report will be made public).
    - Pursuant to s.34 of the *Hospital and Health Boards Regulation 2023*, the Committee will carry out a review of its functions (on a triennial basis). It must evaluate its own effectiveness in meeting its purpose and functions (for example, timeliness in decision making, attendance at meetings and the number of meetings).
    - Pursuant to s.33 of the *Hospital and Health Boards Regulation 2023*, the Committee will give a triennial report to the Executive Director, Patient Safety and Quality, Clinical Excellence Queensland, Department of Health (the triennial report will be made publicly available).
- Whether sub-committees can be established by the QAC (sub-committees may be established).
- A statement clarifying the QAC will maintain a register of chairs/members and relevant persons[46] and how the participation in these positions can be terminated.
- Reference to the QACs privacy policy[47]
- Procedures of the QAC[48] - refer to Item 9 of the Guide (above):
    - times and places of meetings
    - a meeting quorum
    - presiding at meetings
    - conduct of meetings
    - minutes and other procedures.
- Details concerning the QAC minimum reporting obligations – see Item 12 of the Guide (above).

If assistance in developing a terms of reference and/or other document is required, please contact your local Legal Unit/legal advisor.

[46] See further the definition of relevant persons in Schedule 2 (p254) of the HHB Act.
[47] Pursuant to s.31 of the HHB Regulation, the QAC must adopt, by resolution a written privacy policy.
[48] Refer to Part 5 Division 2 of the HHB Regulations.