

# ***OHSC 2018 CONSULTATIVE WORKSHOP - GAUTENG PROVINCE***

## ***ENFORCEMENT***

***30 OCTOBER 2018***



Office of Health Standards Compliance  
Ensuring quality and safety in health care

# Outline

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# ***Legislative Mandate***

*S 78 of the National Health Act (NHA) defines the OHSC mandate as follows:*

*To protect and promote the health and safety of users of health services by –*

- ***Monitoring and enforcing*** *compliance by health establishments with norms and standards prescribed by the Minister in relation to the national health system;*
- *Ensuring consideration, investigation and disposal of complaints relating to non-compliance with prescribed norms and standards in a procedurally fair, economical and expeditious manner.*

# ***What is a Health Establishment?***

- ***Health establishment means -***  
***“the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services”***
- ***The OHSC does not regulate persons, users or health professionals.***

# ***OHSC Enforcement Approach***

- *The OHSC is required by the procedural regulations to have an **Enforcement Policy** outlining the approach to be followed by the Office in the exercise of its enforcement powers.*
- *The OHSC's enforcement approach is progressive.*

# *Principles adopted by the OHSC*

Accountability	<ul style="list-style-type: none"><li>• The Office shall be accountable for its decisions.</li><li>• Health establishments / persons in charge shall be held accountable for breaches of norms and standards.</li></ul>
Targeting	<ul style="list-style-type: none"><li>• Enforcement shall target HEs that poses a high risk to users as well as persistent non-compliance.</li></ul>
Proportionality	<ul style="list-style-type: none"><li>• The enforcement action taken against a HE shall be proportionate to the risk. (i.e. Warning for a minor breach)</li></ul>
Transparency	<ul style="list-style-type: none"><li>• The Office shall be transparent in executing legislative mandate (i.e. Publication of decisions)</li><li>• Allow the public to attend in hearings / appeals.</li></ul>
Consistency	<ul style="list-style-type: none"><li>• Enforcement process shall be consistent with reliable and fair decisions.</li><li>• Similar action for similar breaches.</li></ul>

# ***Monitoring Compliance***

- *The OHSC shall monitor compliance with the norms and standards through inspections and investigations;*
- *The OHSC shall also receive incident notifications and complaints;*
- *Early Warning System.*

# ***Inspections***

- *Inspections are vital for compliance and enforcement purposes;*
- *The inspections shall be done in accordance with the powers outlined in the Act as well as the Inspection Strategy (e.g. questioning, requesting documents).*

## ***Inspections Cont.....***

- *Where there is identified breach of norms and standards, inspector shall immediately issue a **Compliance Notice** to the person in charge of a health establishment;*
- *Inspection results will determine the status of a health establishment (whether to issue a certificate of compliance or enforce compliance)*

# ***What is the purpose of a Compliance Notice?***

- *The purpose of the **Compliance Notice** contemplated in Section 82A is to inform the health establishment of their transgressions and give them an opportunity to comply;*
- *A Compliance Notice, when issued, must set out the following -*
  - *The particulars of the health establishment;*
  - *Prescribed norms and standards that have not been complied with;*
  - *Details of the nature and extent of non-compliance;*
  - *Any steps that are required to be taken and the period over which such steps must be taken;*
  - *Penalties that may be imposed in the event of non compliance.*

# ***Why Enforced Compliance?***

- To protect health care users from harm and risk of harm;*
- To ensure that health care users receive health care services of a suitable standard;*
- To hold a health establishment, the person in charge or any responsible person accountable for any breach of the prescribed norms and standards.*

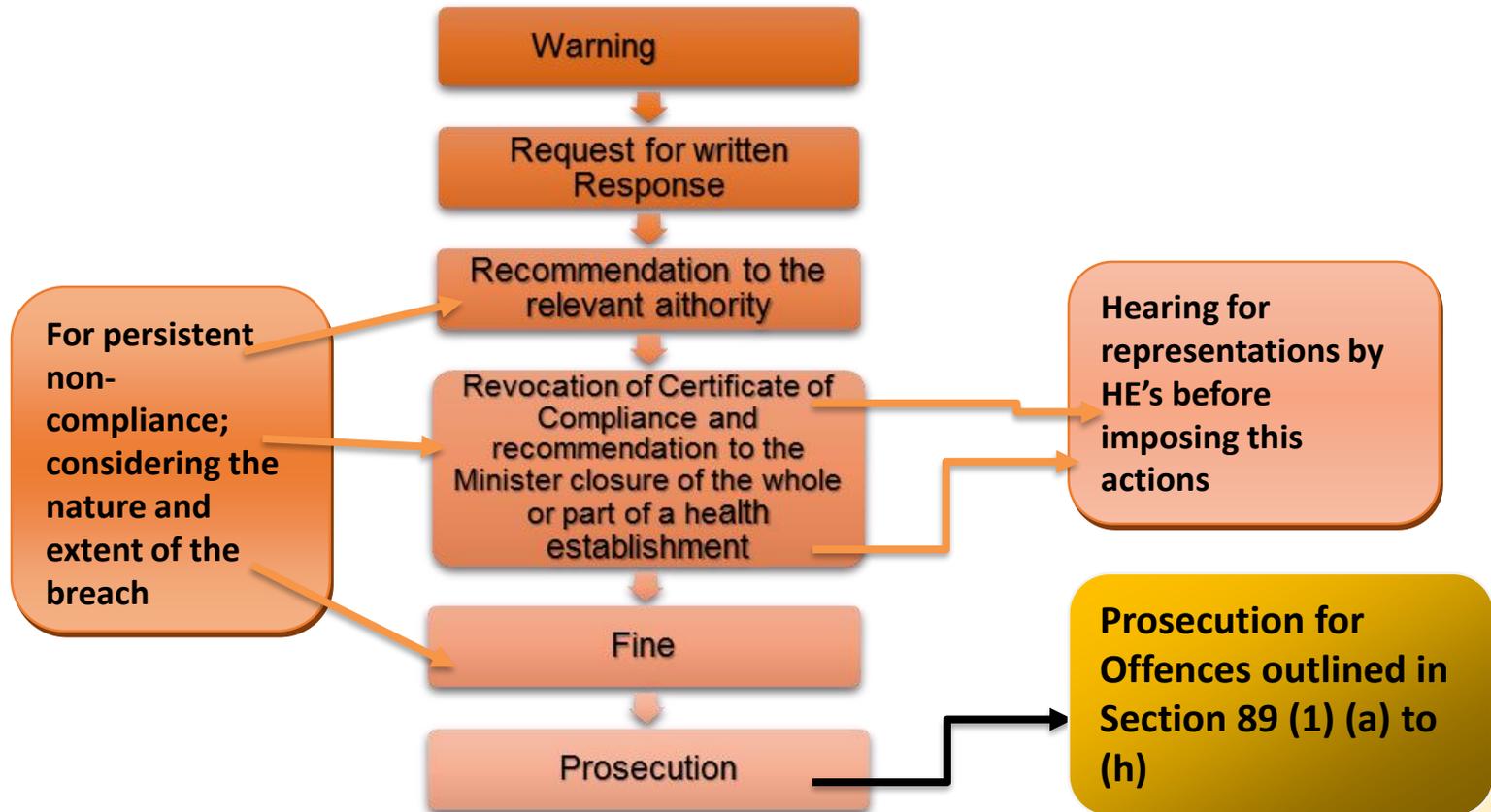
# ***Criteria for Enforcement***

***The following criteria shall be used in deciding the appropriate action to be taken:***

- The adverse effect / the extent of the risk, the seriousness of the breach and the actual or potential consequences;***
- The extent to which the person in charge / employees of a HE contributed to the breach;***
- Compliance history of a HE;***
- Any mitigating / aggravating factors;***
- Whether the breach is imminent.***

# Enforcement Actions

- The following enforcement actions are prescribed by the Act:



# ***Appeal***

- *Any person aggrieved by the decision of the OHSC has the right to appeal the decision within 30 days from the date of gaining knowledge of the decision;*
- *The appeal must be lodged to the Minister in the prescribed format (form OHSC 9 in the Regulations);*
- *The procedure and conduct of the appeal must be determined by the ad hoc tribunal.*
- *There is no right of appeal to the Minister against a conviction for an offence if prosecuted.*

# ***Publication of Decisions and Sanctions***

- *OHSC shall publish the decisions of the ad hoc tribunal in the Gazette within 25 days from the date of the decision;*
- *All other decisions / sanctions shall be published on the OHSC's website for the public as well as interested parties.*

*“Our goal is to set the goal standard  
when it comes to Compliance”. Cathy  
Engelbert*

***THANK YOU***