

# Legal Requirement on Complaints Management

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Assessment**

**on behalf of Dr D. Jacobs, Executive Manager:  
Complaints Management & Ombud**

**Prepared for OHSC Consultative  
Workshop with General Practitioners**



Ihhovisi Lokulandela Amaqophelo Ezempilo  
Office of the Health Ombud  
Kantoro ya Mosekaseki wa Maphelo



# PROGRAMME OUTLINE

- Purpose of presentation
- Introduction
- Design of the Programme
- Complaints Management Process
- Functions of the Ombud aligned to Procedural Regulations
- Independence, Impartiality & Accountability of the Ombud
- Appeals against the Ombud decisions
- Offences and Penalties
- Last words



# PURPOSE

- **This presentation is intended to create awareness of the OHSC/OHO legal requirements on complaints**
- **Increase levels of responsiveness and cooperation from the mining health sector**





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# INTRODUCTION...

- NHA, 2003, reaffirms the constitutional rights of users to access health services and just administrative action. As a result, S18 allows any user of health services to lay a complaint about a manner in which he or she was treated at a health establishment.
- Various methods are used to solicit community and user monitoring of health services
  - **Complaints management system**
    - Assess the standards and the quality of health services rendered
- The existence of the OHSC/OHO is to protect and promote the health and safety of users of health services through the consider, investigation and disposal of complaints is thus critical (S 78 (b), 79 (1) (c) and S 81A).



# DESIGN OF THE COMPLAINTS MANAGEMENT UNIT

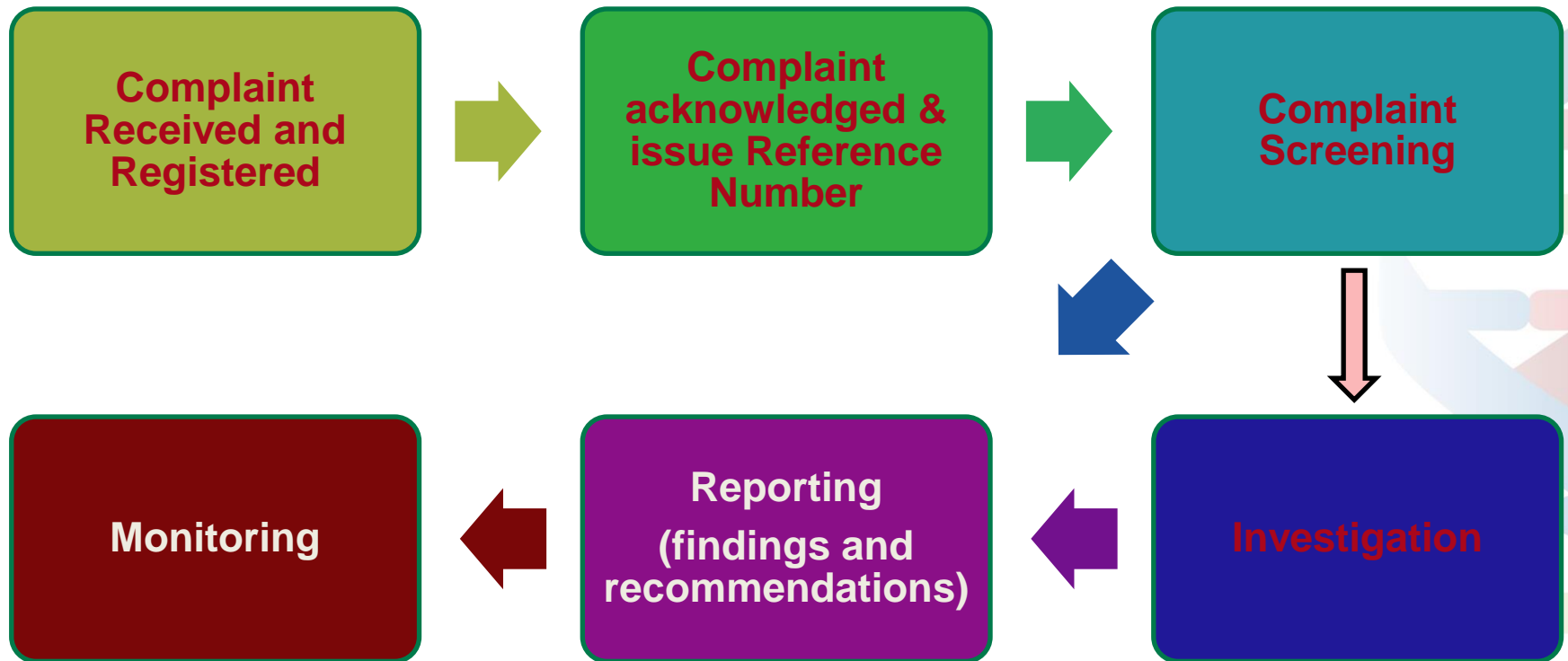
Health  
Ombud

Investigation

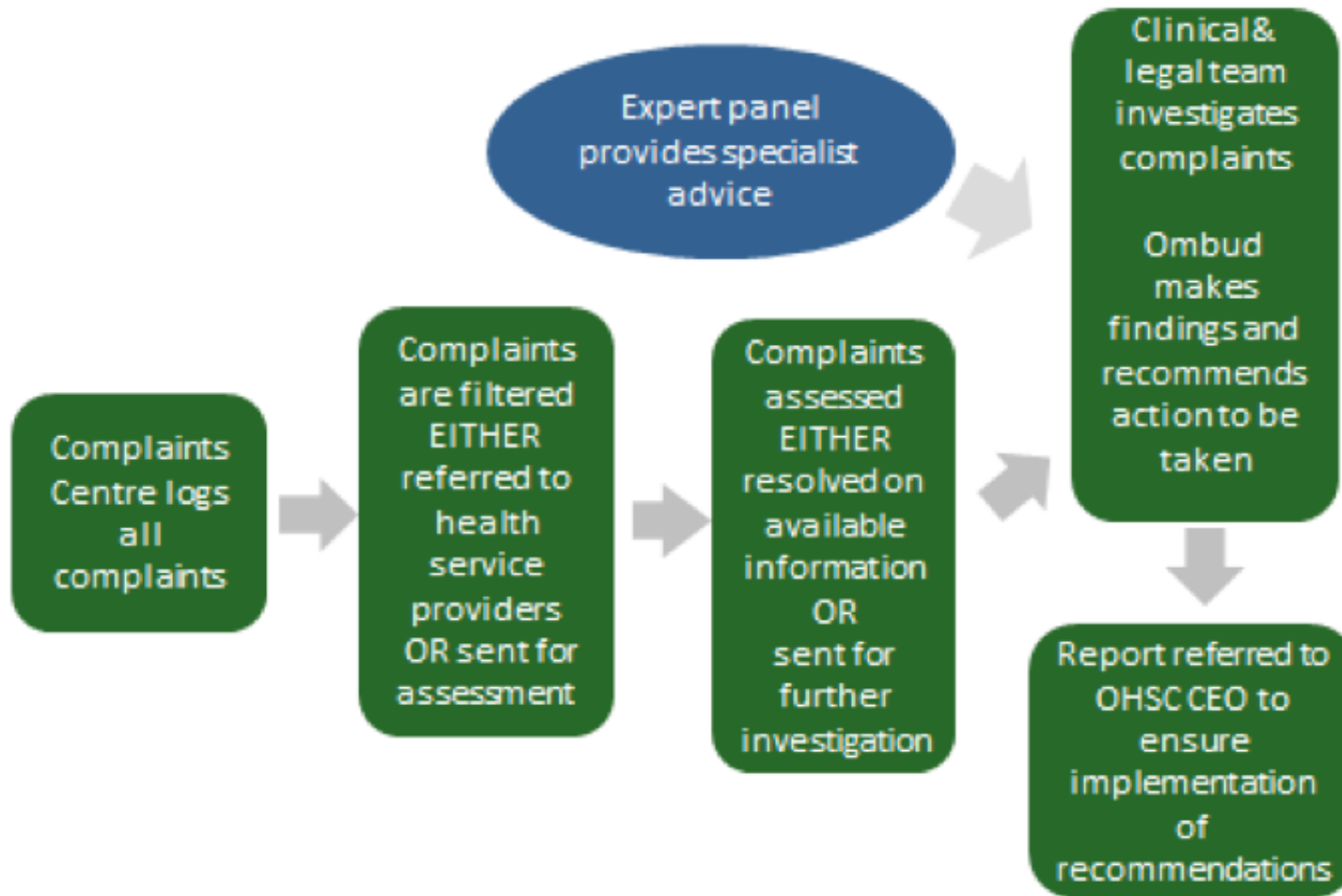
Complaints Centre  
& Assessment



# BASIC COMPLAINTS MANAGEMENT PROCESS



## Complaints Management Unit & Ombud





# 81A FUNCTIONS OF OMBUD

- (1) The Ombud may, on receipt of a written or verbal complaint relating to norms and standards, or on his or her own initiative, consider, investigate and dispose of the complaint in a fair, economical and expeditious manner.
- (2) A complaint referred to in subsection (1) may involve an act or omission by a person in charge of or employed by a health establishment or any facility or place providing a health service.



# 81A FUNCTIONS OF OMBUD ...

- (3) In conducting an investigation, the Ombud may, subject to subsection (8) –
- (a) be assisted by any person contemplated in section 81(3)(c);
- (b) (i) obtain an affidavit or a declaration from any person;
- (ii) direct any person to appear before him or her;



# 81A FUNCTIONS OF OMBUD ...

- (iii) direct any person to give evidence or produce any document in his or her possession or under his or her control which has a bearing on the matter under consideration or being investigated; and
- (iv) interrogate such person;
- (c) request an explanation from any person whom he or she reasonably suspects of having information which has a bearing on a matter under consideration or which is being or to be investigated; and



# SUBMISSIONS REGARDING COMPLAINTS (R36)

- (1) The Ombud may give notice to the complainant or the relevant health establishment, inviting submissions regarding a complaint, to be provided to the Ombud within a stated period.
- (2) The period for providing submissions must be reasonable but may not be more than 20 working days from the date of notice.
- (3) The Ombud must consider each submission received within the period referred to in regulation 36(1).



# EXAMPLE OF A NOTICE



Dr S. Mkhwalo,  
Head of Department  
Mpumalanga Department of Health  
Private Bag X11285  
Nelspruit  
1200

Our Reference: 3488

Dear Dr Mkhwalo,

**RE: ALLEGATIONS OF INADEQUATE EMERGENCY MEDICAL CARE OF A CRITICALLY ILL PATIENT BY LYDENBURG HOSPITAL**

The above matter refers.

The Office of Health Standards Compliance, ("the Office") has received a complaint against your health establishment. The complainant, Ms. [REDACTED] alleges that the death of her mother, Ms. [REDACTED] with ID No. [REDACTED], was due to being sent home without adequate emergency care in the said health establishment. Copy of complaint is attached.

The object of the Office in terms of Section 78 of the National Health Act, 2003 is to protect and promote the health and safety of users of health services.

It is against this background that the Office kindly request that the health establishment should provide the Office with a report relating to this complaint within **fourteen (14) working days** from the date of receipt of this letter.

Furthermore, please be advised that an investigator from the Office may be deployed to investigate this matter. The health establishment management as well as employees are requested to cooperate and give access to the required information which may be necessary to finalise the investigation.

Since the matter is being investigated by the Office, we advise that **there should be no further contacts/engagements by the health establishment with the complainant, unless permission is granted by the Office.**

We trust that the above is in order

Yours faithfully

DR S. MINDAWENI  
CHIEF EXECUTIVE OFFICER: OFFICE OF HEALTH STANDARDS COMPLIANCE  
DATE:

1<sup>st</sup> Corner [REDACTED] Rose and Theodore Hove Street,  
2<sup>nd</sup> Floor Medical Research Council (MRC) Building  
[REDACTED]  
PRETORIA,  
SOUTH AFRICA.



Ibhovis  
Office of  
Kantor

# COMMUNICATION VIA NHD

Email Preview

Io: kmabasa@ohsc.org.za

Cc:

Bcc:

Subject: Re: Allegations of incorrect information given to the family regarding the death of their daughter - Request Update

Attached:

Calibri 14

Send

Don't Send

Good day

Kindly receive the attached notice of complaint for your attention and response.

Regards  
Ms. Joyce Mabasa  
ASD: Complaints Assessment  
Tel: 012 339 8678

**Please reply to this e-mail to respond.**

Thank you.

OHSC Complaints Management Programme

This e-mail, its content and any files transmitted with it are intended solely for the addressee(s) and may be legally privileged and/or confidential. Access by any other party is unauthorised without the express written permission of the sender. If you have received this e-mail in error you may not copy, forward or use the contents, attachments or information in any way. Although any attachments to this e-mail have been virus checked, the sender cannot accept liability in respect of any virus which has not been detected.



# 81A FUNCTIONS OF OMBUD ...

- (5) If it appears to the Ombud that any person is being implicated in the matter being investigated, the Ombud must afford such person an opportunity to be heard in connection therewith by way of the giving of evidence, and such person is entitled, through the Ombud, to question other witnesses, determined by the Ombud, who have appeared before the Ombud in terms of this section.



# 81A FUNCTIONS OF OMBUD ...

- (6) The Ombud may, when considering or investigating a complaint in terms of this section, require the assistance of or refer the complaint to any other authority established in terms of legislation or any other appropriate and suitable body or entity to investigate similar complaints.





# 81A FUNCTIONS OF OMBUD ...

- (7) The authority, body or entity, as the case maybe, contemplated in subsection (6) must provide—
- (a) the Ombud with the assistance required;  
and
- (b) report to the Ombud on the progress made in relation to complaints referred to it.



# 81A FUNCTIONS OF OMBUD ...

- (11) The Ombud must, after the conclusion of an investigation, inform the complainant or the respondent or both, as the case may be, of his or her findings and recommendations.



# 81B INDEPENDENCE, IMPARTIALITY AND ACCOUNTABILITY OF OMBUD...

- 2 (b) must perform his or her functions in good faith and without fear, favour, bias or prejudice.
- (3) The Minister, national department and Office must afford the Ombud such assistance and support as may be reasonably necessary for the Ombud to perform his or her functions effectively and efficiently.



# 88A APPEALS AGAINST DECISIONS OF THE OFFICE OR OMBUD

- (1) Any person aggrieved by any decision of the Office or any finding and recommendation of the Ombud in relation to a matter regulated by this Act, or a person acting on his or her behalf, may within 30 days of him or her gaining knowledge of that decision, lodge a written appeal with the Minister.

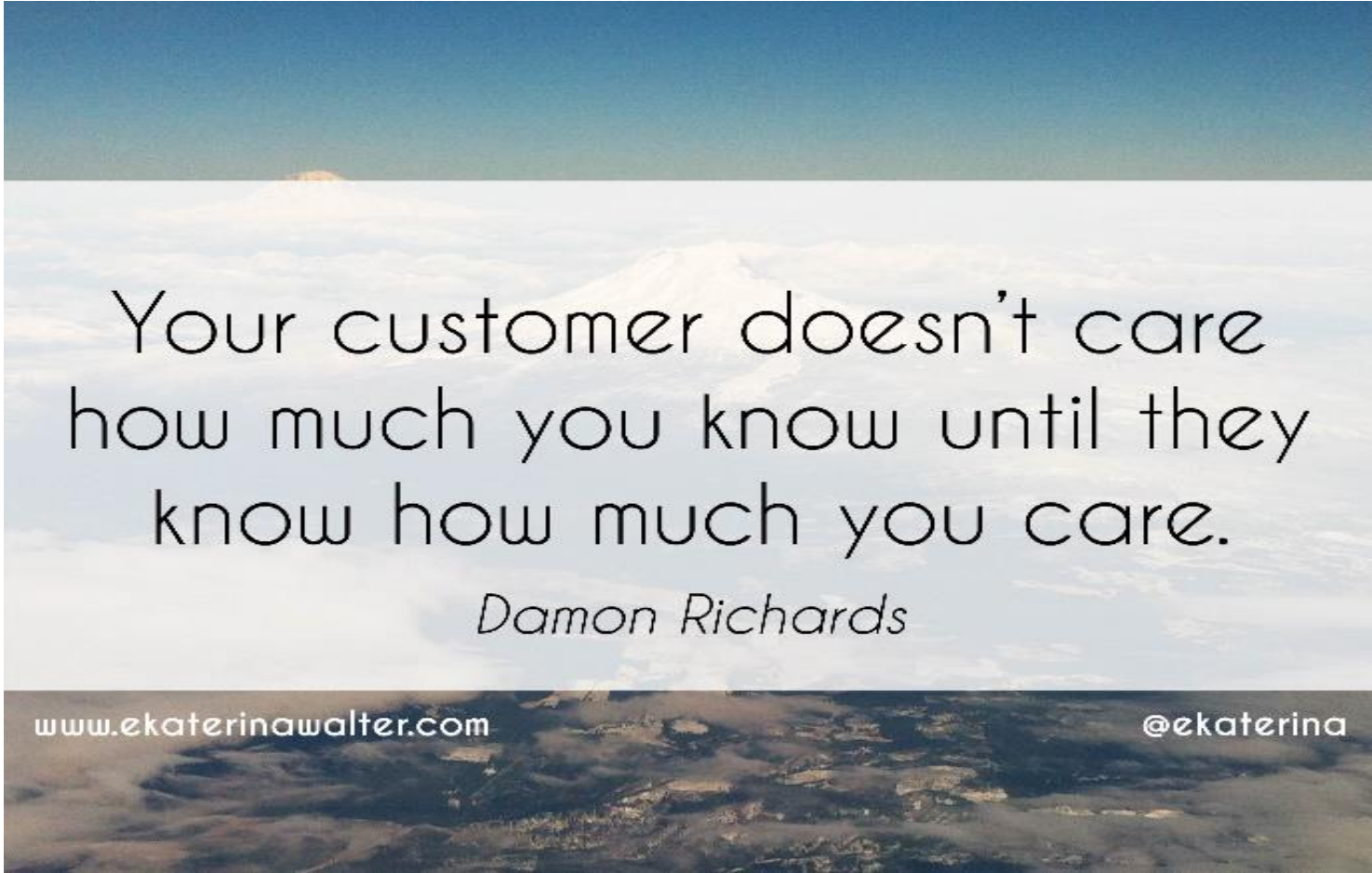


# 89 OFFENCES AND PENALTIES

- (1) A person is guilty of an offence if he or she—
- (h) interferes with, hinders or obstructs the Ombud or any other person rendering assistance or support to the Ombud when he or she is performing or exercising a function or power under this Act.
  - Failure to cooperate with the notice
  - Giving false/ misleading information



# FINAL WORDS



Your customer doesn't care  
how much you know until they  
know how much you care.

*Damon Richards*

[www.ekaterinawalter.com](http://www.ekaterinawalter.com)

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Ihhovisi Lokulandela Amaqophelo Ezempilo  
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Thank  
You



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