

Western Cape, South Africa

Western Cape Independent Health Complaints Committee Act, 2014

## Western Cape Independent Health Complaints Committee Regulations, 2014

Provincial Notice 304 of 2014

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## Western Cape Independent Health Complaints Committee Regulations, 2014

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# Western Cape South Africa

## Western Cape Independent Health Complaints Committee Act, 2014

### Western Cape Independent Health Complaints Committee Regulations, 2014 Provincial Notice 304 of 2014

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**Commenced on 21 November 2014**

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The Provincial Minister of Health in the Western Cape, under section 20 of the Western Cape Independent Health Complaints Committee Act, 2014 ([Act 2 of 2014](#)), has made the regulations set out in the Schedule.

#### 1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act retains that meaning and, unless the context indicates otherwise—

"**action plan**" means the plan compiled by the Committee in terms of regulation 2(2);

"**Head of Department**" means the head of the department responsible for health services in the Province;

"**manager**" means a person who is the head of a health-care establishment;

"**the Act**" means the Western Cape Independent Health Complaints Committee Act, 2014 ([Act 2 of 2014](#)).

#### 2. Consideration of complaints

- (1) The Committee must, within five days of receipt of a complaint referred to it in terms of section 10(a) of the Act, hold a planning meeting and assess the complaint in order to compile an action plan and to determine—
  - (a) whether it needs to meet with any of the parties involved in the complaint to obtain additional information that may assist in the consideration of the complaint;
  - (b) whether a visit to the relevant health-care establishment is required to verify information provided to the Committee or to obtain additional information from the relevant health-care establishment that may assist in the consideration of the complaint;
  - (c) whether additional documents or information are required from the Department or the complainant that may assist in the consideration of the complaint; and
  - (d) whether the evaluation of the complaint requires expertise and knowledge that none of the members has in a particular subject field.
- (2) The action plan must—
  - (a) set out the manner in which the Committee intends to deal with the complaint; and
  - (b) include a reasonable period, which may not exceed 20 days from the date of the planning meeting, by which the implementation of the action plan must be completed.

- (3) The Committee must, within five days of the completion of the implementation of the action plan, meet to evaluate the complaint.
- (4) When evaluating the complaint, the Committee must—
  - (a) assess all the relevant documents and information available;
  - (b) ensure that the information required by section 13(3) of the Act is contained in the report to be rendered to the Minister or the Head of Department, as the case may be; and
  - (c) decide on the recommendation to be made to the Minister or the Head of Department, as the case may be.
- (5) Subject to subregulations (7) and (8)(b), the Committee must, within five days of evaluating the complaint as contemplated in subregulation (4), compile and render its report to the Minister or the Head of Department, as the case may be, in accordance with section 13(3) of the Act.
- (6) If the Committee, under section 13(2) of the Act, decides during its meeting contemplated in subregulation (3) to request an extension of the period referred to in subregulation (5), it must do so in writing and immediately submit the request to the Minister or Head of Department, as the case may be, stating the reasons for the request and a proposed date for rendering the report.
- (7) The Minister or Head of Department, as the case may be, may—
  - (a) grant an extension of the period and accept the proposed date;
  - (b) grant an extension of the period and propose a different date; or
  - (c) refuse the request for an extension and immediately notify the Committee of his or her refusal.
- (8)
  - (a) If the Minister or Head of Department, as the case may be, refused an extension of the period within which to render the report, the Committee must render the report in terms of subregulation (5).
  - (b) For purposes of this subregulation, the five-day period referred to in subregulation (5) commences on the date on which the Committee receives notification of the refusal.

### **3. Requesting meetings with parties to complaints**

- (1) If the Committee needs to meet with the complainant or any other person involved in the complaint other than the persons referred to in subregulation (2), the Committee must submit a written notice by hand, electronic mail or facsimile to the complainant or such other person, as the case may be, requesting a meeting.
- (2) If the Committee needs to meet with an official of the Department or a member of staff of a health-care establishment, the Committee must submit a written notice by hand, electronic mail or facsimile to the Head of Department or the manager of the health-care establishment, as the case may be, requesting a meeting.
- (3) The written notice referred to in subregulations (1) and (2) must contain the following:
  - (a) a request to meet with the Committee;
  - (b) the proposed date, time and place of the meeting;
  - (c) the purpose of the meeting;
  - (d) a request to provide the documents or information referred to in the notice, if applicable; and
  - (e) if it is the complainant who is requested to meet with the Committee, a brief explanation of what is to be discussed at the meeting.

- (4) If an official of the Department, or a member of staff of a health-care establishment, who was requested to meet with the Committee fails, refuses or neglects to attend the requested meeting, the Committee may—
  - (a) in the case of an official of the Department, submit a notice to the Head of Department containing a copy of the notice contemplated in subregulation (2) and requesting him or her to ensure the attendance of that person at a new meeting on a new date and time specified by the Committee; or
  - (b) in the case of a member of staff of a health-care establishment, submit a notice to the manager containing a copy of the notice contemplated in subregulation (2) and requesting him or her to ensure the attendance of that person on a new date and time specified by the Committee for the meeting.
- (5) If an official of the Department, or a member of staff of a health-care establishment, who was requested as contemplated in subregulation (3)(d) fails, refuses or neglects to provide documents or information at a meeting with the Committee, the Committee may—
  - (a) in the case of an official of the Department, request the Head of Department to submit the requested documents or information on a date agreed on by the Head of Department and the Chairperson; or
  - (b) in the case of a member of staff of a health-care establishment, request the manager to submit the requested documents or information to the Committee.

#### **4. Visits to health-care establishments**

- (1) If a visit to a health-care establishment is required, the Committee must submit a written notice by hand, electronic mail or facsimile to the manager at least seven days before the intended visit.
- (2) The written notice must set out the following:
  - (a) the date, time and place of the intended visit;
  - (b) the purpose of the visit;
  - (c) who is requested to be available to meet with the members;
  - (d) the documents or information to be made available for inspection by the members; and
  - (e) the names of the members who will be conducting the visit.
- (3) The Committee may not remove any original documents from a health-care establishment without the consent of the manager.
- (4) The manager may authorise that the documents or information requested by the Committee be copied and given to the members either during their visit or on a date agreed on by the manager and the members.
- (5) If the manager fails, refuses or neglects to provide the documents or information requested by the Committee in terms of subregulation (2)(d), either during the visit or on the agreed date contemplated in subregulation (4), the Chairperson may request the Head of Department to obtain the documents or information.
- (6) If the manager fails, refuses or neglects to give the members referred to in subregulation (2)(e) access to the health-care establishment, the Chairperson may request the Head of Department to grant access to the health-care establishment on a date agreed on by the Head of Department and the Chairperson.

## 5. Requesting additional documents and information

- (1) If the Committee determines that it requires additional documents or information that may assist it in the consideration of a complaint, the Committee must submit a written notice by hand, electronic mail or facsimile to the complainant, the manager or the relevant official from the Department, as the case may be, requesting the additional documents or information.
- (2) The written notice must contain the following:
  - (a) the purpose of the request;
  - (b) the documents or information requested by the Committee; and
  - (c) the date by which the documents or information must be submitted to the Committee.
- (3) The complainant, manager or relevant official of the Department, as the case may be, must submit the requested documents or information to the Committee by hand, electronic mail or facsimile by the date stated in the notice.
- (4) If the manager or relevant official of the Department fails, refuses or neglects to submit the requested documents or information as contemplated in subregulations (2)(b) and (c), the Head of Department must submit the documents or information to the Committee on a date agreed on by the Head of Department and the Chairperson.

## 6. Requests for advisory assistance

- (1) If the evaluation of a complaint requires expertise and knowledge that none of the members has in a particular subject field, the Committee may, in terms of section 12(6) of the Act, in writing, request the approval of the Minister to have a person with the requisite expertise and knowledge participate in a meeting of the Committee to advise the Committee.
- (2) The request must be submitted to the Minister by hand, electronic mail or facsimile and must include—
  - (a) the reasons for which the advisory assistance is required; and
  - (b) the expertise and knowledge required to assist the Committee in its consideration of the complaint.
- (3) The Minister may—
  - (a) grant the request; or
  - (b) on providing reasonable grounds, refuse the request.
- (4) If the Department appoints an expert for whom approval to appoint has been obtained as contemplated in subregulation (3), the Department must—
  - (a) appoint the expert in accordance with the accepted departmental procedures; and
  - (b) remunerate the expert appointed in accordance with the instructions and regulations prescribed by National Treasury.
- (5) An expert who is an employee of the State may not be remunerated in terms of subregulation (4)(b).

## 7. Short title

These regulations are called the Western Cape Independent Health Complaints Committee Regulations, 2014.