

Guideline

Establishing and managing quality assurance committees

Guideline - Establishing and managing quality assurance committees

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1. Purpose

This *Guideline for Establishing and Managing Quality Assurance Committees* (Guideline) is intended to assist entities looking at establishing a QAC, pursuant to Part 6, Division 1 of the *Hospital and Health Boards Act 2011* (HHB Act) and the *Hospital and Health Boards Regulation 2012* (HHB Regulation). It also aims to explain the functions, obligations, responsibilities and protections associated with membership of a QAC.

2. Scope

This Guideline is relevant to entities authorised to establish a QAC¹, established QACs, members of a QAC², relevant persons³ and a person who performs functions for a patient safety entity⁴.

3. Legislation

HHB Act – (Part 6)

HHB Regulation – (ss.15 to 28)

Right to Information Act 2009 (Schedule 2, Part 1, Item 6⁵)

*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 liability⁸. 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 met⁹.

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 members¹⁰. 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 HHB Regulation requires QACs to make certain information available to the public¹¹.

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

⁹ Section 82(3) of the Act.

¹⁰ However, the HHB Regulation provides information relating to a quorum for a QAC – see section 18.

¹¹ Section 25 of the HHB Regulation

member and/or relevant person for the committee¹².

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 obligations¹³:

(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 QAC must 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 Improvement Service (PSQIS) by emailing: Quality-Assurance-Committee@health.qld.gov.au

Step 3: After meeting with the Executive-Director, Patient Safety and Quality Improvement Service, prepare a memorandum addressed to the Deputy Director, 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. 23 and 24 of the HHB Regulation).

¹² For exceptions to the limitation placed on members and relevant persons disclosing information, see s.84(1) and s.84(2) of the HHB Act.

¹³ 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 Hospital and Health Services, the entity establishing the QAC must comply with the following legislated requirements¹⁴:

- (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 established¹⁵, 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

Every QAC must adopt, by resolution, a written privacy policy. Section 24 of the HHB Regulation legislates the content of the privacy policy. Please refer to Annexure 2, for further information.

8. Documenting QAC 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.

¹⁴ Section 82 of the HHB Act

¹⁵ It is recommended that as part of the notification process, the information in Annexures 2 and 3 is read and considered.

9. Procedures of QACs

These procedures¹⁶ 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 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.

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.

¹⁶ See: Part 5, Division 2 of the HHB Regulation.

9.6 Minutes

A committee must keep the minutes of a meeting of the committee for 10 years after the meeting¹⁷.

9.7 Other procedures of QACs

Pursuant to the HHB Act and HHB Reg, a committee must conduct its business, including its meetings, pursuant to the procedures above. Notwithstanding the HHB Act and HHB Reg, 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.

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 person¹⁸ 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 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 QAC¹⁹.

10.3 Members and relevant persons' confidentiality obligations

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

¹⁷ This requirement does not apply to the extent that the minutes are a public record under the *Public Records Act 2002*,

¹⁸ For the definition of a relevant person, see Schedule 2 of the HHB Act.

¹⁹ See section 88(3) 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 entity²⁰
- 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 conduct²¹
- 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 Act²²
- under a regulation made under s.91 of the HHB Act.

The penalty for breach of these confidentiality provisions is a fine of up to \$13,345 (100 penalty units, at \$133.45 per penalty unit, current as at May 2021).

Also, 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 Act²³.

The penalty for breach of these confidentiality provisions is a fine of up to \$13,345 (100 penalty units, at \$133.45 per penalty unit, current as at May 2021).

11. Disclosing information

11.1 Disclosure by QACs

A QAC may give a copy of a report or other document to a prescribed patient safety entity²⁴ for an authorised purpose for the entity. The PSQIS 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
- must not 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

²⁰ See section 85 of the HHB Act

²¹ See definition of 'public risk notifiable conduct' under Schedule 2 of the HHB Act. See also section 36, *Health Ombudsman Act 2013*.

²² If the requirement relates to an offence under Part 6, Division 1 of the HHB Act

²³ If the requirement relates to an offence under Part 6, Division 1 of the HHB Act.

²⁴ See: section 85 of the HHB Act and section 28 of the HHB Regulation

- must not 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.

The penalty for breach of these provisions is a fine of up to \$13,345 (100 penalty units, at \$133.45 per penalty unit, current as at May 2021).

11.2 Disclosure of information between QACs

11.2.1 Can statewide QACs (First QAC) share RCA reports they receive from PSQIS and/or from an HHS with another state-wide QAC (Second QAC)?

Where the First QAC proposes to disclose an RCA report or information contained in that report to the Second QAC, if the RCA report or information contained in that report is relevant to the functions of 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 of information from the report to ensure that the information is relevant to the functions of the Second QAC.

The protections²⁵ 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 evidence²⁶.

11.2.2 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 QAC²⁷.

11.2.3 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.

²⁵ Section 87 (Protection for documents and information – QAC information) and section 119 (Protection for documents and information) of the HHB Act.

²⁶ (other than in a proceeding for an offence under Part 6, Division 1 or Part 6, Division 2 of the HHB Act).

²⁷ in accordance with section 84(1)(b) of the HHB Act.

11.2 Disclosure by the Department of Health and Hospital and Health Services to QACs

Root cause analysis reports

The PSQIS 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 QAC²⁸.

A report undertaken by a clinical reviewer

For a review undertaken by a clinical reviewer²⁹ (a clinical reviewer is a person appointed under Part 6, Division 3 of the HHB Act), the Director-General, through the PSQIS and/or the Chief Executive of an HHS can disclose recommendations in the report, not the full report. Furthermore, the recommendations must be relevant to the functions of the QAC.³⁰

Other clinical analysis reports

The PSQIS can disclose other types of clinical analysis reports to a QAC provided the report is relevant to the QAC's functions³¹.

12. QAC reporting obligations

12.1 Annual activity statement

Every year, a QAC must prepare an annual activity statement³² (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:

²⁸ See: section 112(5) of the HHB Act for disclosure by the Department of Health

²⁹ See: Part 6, Division 3 of the HHB Act

³⁰ See: section 153 of the HHB Act

³¹ See: section 153 of the HHB Act

³² See section 27 of the HHB Regulation

- the entity that established the QAC
- the Director-General, Queensland Health (via PSQIS):
Email annual activity statements to: Quality-Assurance-Committee@health.qld.gov.au

12.2 Triennial report

Within three (3) years after establishing, QACs must make available to both the entity that established it and to the public, the following information relating to the period since the QAC was established:³³

- 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 functions
- a summary of the QAC's privacy policy.

Triennial reports may be made in any form the QAC considers appropriate.

Where the Director-General, Queensland Health is the establishing entity, it is the responsibility of the relevant QAC to submit a Director-General briefing note (via PSQIS) to accompany the triennial report.

A QAC must also carry out a review of its functions³⁴ at least every three (3) years from the date of its establishment (additional reviews of the QACs functions can occur at any time). As soon as practicable following such a review, the QAC must give the report to:

- the entity that established the QAC
- the Director-General, Queensland Health (via PSQIS):
Email: Quality-Assurance-Committee@health.qld.gov.au

12.3 Mandatory reporting to the Health Ombudsman

If you are a registered health practitioner and a member of a QAC, mandatory reporting requirements under s 141 of the *Health Practitioner Regulation National Law (Queensland)* and Section 84(1)(d) of the HHB Act apply to you. This requires registered health practitioners who are also a member of a QAC to notify the Office of the Health Ombudsman 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:

³³ See section 25 of the HHB Regulations.

³⁴ See section 26 of the HHB Regulations.

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. Excluded notifiable conduct means:

- practising the practitioner's profession while intoxicated by alcohol or drugs; or
- practising 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
- engaging in sexual misconduct in connection with the practice of the practitioner's profession.³⁵

12.3.1 Practitioners with an impairment

During your assessment and evaluation of health matters as a member of a QAC and as a practitioner, if you form 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 an impairment, you are obligated to notify the Office of the Health Ombudsman.

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

During your assessment and evaluation of health matters as a member of a QAC and as a practitioner, if you form 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 Office of the Health Ombudsman.

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.

³⁵ See section 86 and Schedule 2 of the HHB Act and section 141(4)(d) of the Health Practitioners Regulation National Law (Queensland)

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 information (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?

- After a mandatory notification has been made, 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 the 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. QAC - operational framework

13.1 Compliance framework

The Director-General's role (this role is undertaken by the Patient Safety and Quality Improvement Service (PSQIS), Department of Health)

- 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 (s.27 of the HHB Act)
- approve reports and other information disclosed by the QAC and subcommittees of the QAC.
- approve local triennial reports (prior to disclosing the reports publicly) (s.25 of the HHB Act).

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

- 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 the Patient Safety and Quality Improvement Service

PSQIS 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 broadly³⁶ (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

³⁶ See section 84(1) of the HHB Act

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.

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 Service³⁷]
- was jointly established with another entity,³⁸ [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 policy³⁹ [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.

³⁷ See: s.82(1) of the HHB Act

³⁸ See: s.82(2) of the HHB Act

³⁹ See: ss.23 and 24 of the *Hospital and Health Boards Regulation 2012*

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

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 Guideline.

Annexure 2

Privacy policy

The function of a 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 24 of the HHB Act):

- (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 assistance in developing a privacy policy is required, please contact your local privacy officer.

Annexure 3

Documenting QAC procedures and processes

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

As a guide only, the document should contain (but may not be limited to) the following:

- Name of the QAC.
- Description of the purpose of the QAC.
- Functions of the QAC.
- The scope of the quality assurance committee.
- The minimum reporting requirements of the quality assurance committee:
 - Pursuant to s.27 of the *Hospital and Health Boards Regulation 2012*, the Committee will give to the Executive Director, Patient Safety and Quality Improvement Service, 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.26 of the *Hospital and Health Boards Regulation 2012*, 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). A copy of this review must be given to the commissioning authority and the Executive Director, Patient Safety and Quality Improvement Service, Clinical Excellence Queensland, Department of Health.
 - Pursuant to s.25 of the *Hospital and Health Boards Regulation 2012*, the Committee will give a triennial report to the Executive Director, Patient Safety and Quality Improvement Service, 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 relevant persons⁴⁰ and how the involvement of relevant persons can be terminated.
- Reference to a privacy policy⁴¹
- Procedures of the QAC⁴² - refer to Item 9 of the Guideline (above):
 - times and places of meetings
 - a meeting quorum
 - presiding at meetings
 - conduct of meetings
 - minutes and other procedures.

⁴⁰ See further the definition of relevant persons in Schedule 2 (p254) of the HHB Act..

⁴¹ Pursuant to s.23 of the HHB Regulation, the QAC must adopt, by resolution a written privacy policy.

⁴² Refer to Part 5 Division 2 of the HHB Regulations.

- Details concerning the QAC minimum reporting obligations – see Item 12 of the Guideline (above).

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