



# What to expect if your complaint is referred to a professional conduct committee

Medical Council of New Zealand

Protecting the public, promoting good medical practice

Te tiaki i te iwi whānui me te whakatairanga pai i te mahi e pā ana ki te taha rongoā

# What to expect if your complaint is referred to a professional conduct committee

This pamphlet explains the role of a professional conduct committee and what to expect if your complaint about a doctor is referred to a professional conduct committee.

Under the Health Practitioners Competence Assurance Act 2003 (HPCAA), the role of the Medical Council of New Zealand (the Council) is to protect the health and safety of the public by ensuring that doctors are competent and fit to practise medicine.

The Council has various powers to address any serious concerns about doctors. Under section 68(3) of the HPCAA, the Council can decide to refer any matter to a professional conduct committee if it has concerns about the conduct or safety of the doctor.

## What is a professional conduct committee?

A professional conduct committee consists of three people – two doctors and one layperson – appointed by the Council to investigate or consider:

- a complaint about a doctor
- a question about the appropriateness of a doctor's conduct or safety to practise
- a conviction against a doctor for an offence punishable by three months imprisonment (or longer) or one of the offences listed under section 67(b) of the HPCAA.

## Who sits on a professional conduct committee?

Committee members are selected from a pool of people approved and trained by the Council. The professional conduct committee is appointed by the Council, but is independent and runs its own investigation process under the requirements set out in Part 4 of the HPCAA.

The Council appoints one of the committee members as convener of the professional conduct committee, and this person leads the process.

## What will the investigation involve?

The professional conduct committee must apply the rules of natural justice (or procedural fairness) in everything it does.

The professional conduct committee may hear evidence in person or receive written statements and submissions from some or all of the following people:

- you
- the doctor concerned
- the doctor's employer
- any person that the doctor practises with
- clinical experts.

The professional conduct committee may appoint a legal adviser to advise it on matters of law, procedure, or evidence. It may also appoint a private investigator to make enquiries and collect information.

Once the professional conduct committee has considered all relevant information, it will write a report and make a decision and/or recommendation about what further action, if any, is necessary. The committee will then provide you with a copy of its report.

### **Who will know that the complaint is being investigated by a professional conduct committee?**

The Chief Medical Officer of the doctor's local district health board and his/her supervisor (if applicable) will be notified that the doctor has been referred to a professional conduct committee.

Apart from the above, the professional conduct committee will contact only the people considered essential for its investigation. All information received is treated confidentially.

### **Will you get a chance to comment?**

As the person who has raised a concern or made a complaint, you will be asked to provide the professional conduct committee with any additional comments or background on your complaint. The professional conduct committee may wish to receive your comments either in writing or at a meeting.

### **Can you bring a support person to meetings with the professional conduct committee?**

You may bring a support person of your choice with you to any meetings you have with the professional conduct committee. Your support person might be a family member, a friend, or an advocate. If the committee agrees, they can speak at the meeting.

Making a complaint and participating in this process can be stressful. You may need to seek support from a counsellor or another doctor.

### **What are the possible outcomes of the process?**

The professional conduct committee may recommend that the Council:

- reviews the doctor's competence
- reviews the doctor's scope of practice
- reviews the doctor's fitness to practise medicine
- refers the subject matter of the investigation to the police
- counsels the doctor.

Alternatively the professional conduct committee may make one of the following decisions;

- to take no further steps on the complaint or conviction. If so, the committee will tell you the reasons and the case will be closed.
- To bring a charge against the doctor before the Health Practitioners Disciplinary Tribunal. If so, the professional conduct committee will draw up an appropriate charge and present it to the Tribunal in writing. The Tribunal will consider the charge as soon as possible. Information about the role of the Tribunal and its processes will be available at the time or can be found at [www.hpdt.org.nz](http://www.hpdt.org.nz).
- To refer the complaint to conciliation. The committee will appoint an independent conciliator to help resolve the complaint by agreement. If the complaint is not successfully resolved, the committee must decide:
  - whether it should bring a charge against the doctor before the Health Practitioners Disciplinary Tribunal
  - whether to make any recommendations to the Council about the doctor
  - if any further steps should be taken about the complaint.

### **How long will the professional conduct committee need to make a decision?**

Investigations by a professional conduct committee can take anywhere from several weeks to several months, depending on the nature and complexity of the case.

The professional conduct committee will keep you updated about its progress during the process, and will let you know the outcome as soon as possible.

## **How will you find out the outcome?**

The professional conduct committee will write to you, the doctor, and the Council's registrar with its decision or recommendations. The Council must then consider any recommendation/s and any action that may be appropriate.

## **Can you appeal the outcome of a professional conduct committee?**

No. The decisions and recommendations of the professional conduct committee are final and cannot be appealed.

## **Can you appeal a decision of the Health Practitioners Disciplinary Tribunal?**

No, as the complainant, you cannot appeal a decision of the Tribunal. The professional conduct committee and the doctor concerned are the only parties that may appeal a Tribunal decision.

If the professional conduct committee wishes to appeal the Tribunal decision, it will consult you before a final decision is made on lodging an appeal. You may be required to participate in the appeal process.

## **Will you incur any costs participating in the professional conduct committee process?**

The Council pays the costs of a professional conduct committee. The Council will also pay your travel costs if the committee asks you to attend a meeting.

## **For more information**

If you have further questions about the professional conduct committee process in general, please contact the Council office on 0800 286 801. Alternatively, if you have questions about a professional conduct committee that is already investigating a complaint you have made, please contact the committee convenor directly.



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