



What to expect if you are 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 you are referred to a professional conduct committee

This pamphlet explains the role of a professional conduct committee and what to expect if you are 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 3 months imprisonment (or longer) or one of the offences listed under section 67(b) of the HPCAA.

The Council will give you details of the information referred to the professional conduct committee for investigation.

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 committee member as convenor of the professional conduct committee, and this person leads the process.

Can you object to the members of the professional conduct committee?

Yes. We will tell you (and the complainant if applicable) the names of the proposed members and you will have an opportunity to object to any member if you have a reason to do so. The Council will consider your objection and will make the final decision on who sits on the committee.

Should you get legal advice if referred to a professional conduct committee?

We recommend you tell your medicolegal indemnity insurer that you have been referred to a professional conduct committee.

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
- your employer
- any person that you practise with
- the complainant (if applicable)
- any 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 you are being investigated by a professional conduct committee?

The Chief Medical Officer of your local district health board and your supervisor (if applicable) will be notified of your referral 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 respond?

If you are investigated by a professional conduct committee, you will be asked to comment on the complaint or conviction, either in writing or at a meeting. You will also have the opportunity to have a support person attend meetings with you, for example, a lawyer, friend, family member or colleague.

What are the possible outcomes of the process?

The professional conduct committee may recommend that the Council:

- reviews your competence
- reviews your scope of practice
- reviews your fitness to practise medicine
- refers the subject matter of the investigation to the police
- counsels you.

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

- To take no further steps on the complaint or the conviction. If so, the committee will tell you the reasons and the case will be closed.
- To bring a charge against you 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.
- In the case of a complaint, the professional conduct committee may decide 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 you before the Health Practitioners Disciplinary Tribunal
 - whether to make any recommendations to the Council about you
 - 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 and the Council's registrar with its decision or recommendations. It will also write to the complainant if applicable. 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?

Yes, you can appeal decisions of the Tribunal. The Tribunal will tell you how to do this when it has made its decision.

Your rights of appeal are set out in section 106 of the HPCAA.

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.

However, if a charge against you goes before the Tribunal and is upheld, the Tribunal could order you to pay some of the costs incurred by the professional conduct committee.

What help is available?

The Council recognises that an investigation by a professional conduct committee is stressful.

You may wish to talk to someone who can give you collegial support. You may also wish to contact:

- the confidential helpline for doctors, jointly run by the Medical Protection Society and Medical Assurance Society. The number is 0800 225 567.
- the Doctors Health Advisory Service. The Service is familiar with the investigation process and doctors are available by telephone for a confidential discussion. You can call them on 0800 471 2654.

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 concern about you, please contact the committee convenor directly.



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