



# A Guide for Complainants: What to expect if your complaint is referred to a Professional Conduct Committee

TE KAUNIHHERA RATA O AOTEAROA  
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

This pamphlet explains the role of a Professional Conduct Committee (**PCC**) and what to expect if your complaint about a doctor is referred to a PCC.

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

The Medical Council has various powers to address concerns about doctors. The Medical Council can decide to refer any matter to a PCC if it has concerns about the conduct or safety of the doctor's practice.<sup>1</sup> A conviction against a doctor for an offence that is punishable by three months' imprisonment or longer, or one of the offences listed under section 67(b) of the HPCAA, must automatically be referred to a PCC.<sup>2</sup>

## What is a PCC?

The HPCAA requires the Medical Council to appoint a PCC that consists of three people – two doctors and one layperson – to investigate concern(s) about the appropriateness of a doctor's conduct or the safety of the doctor's practice.<sup>3</sup>

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<sup>1</sup> HPCAA, s68(3)

<sup>2</sup> HPCAA, s68

<sup>3</sup> HPCAA, s71

## Who sits on a PCC?

The PCC is appointed by the Medical Council, but it is independent and runs its own investigation process.<sup>4</sup> PCC members are selected from a pool of people approved and trained by the Medical Council. The Medical Council appoints one PCC member as convenor of the PCC, and that person facilitates the PCC process.

## What will the investigation involve?

The PCC must apply the rules of natural justice in everything it does. That means that the PCC's process must be fair and transparent.

The PCC may hear evidence in person or receive written statements from people, including you, the doctor concerned, the doctor's employer, the doctor's colleagues, and an expert adviser.<sup>5</sup> The PCC will contact other people it identifies as relevant to its investigation.

The PCC may appoint a legal adviser, approved by the Medical Council, to advise it on matters of law, procedure, or evidence.<sup>6</sup>

Within 14 working days of completing its investigation, the PCC must make a determination and/or recommendation about what further action, if any, is necessary. The PCC will provide you with its decision.<sup>7</sup>

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<sup>4</sup> HPCAA, s72

<sup>5</sup> HPCAA, s76

<sup>6</sup> HPCAA, s73

<sup>7</sup> HPCAA, s80

## Will you get a chance to comment?

As the person who has raised a concern or made a complaint, you will be invited to provide the PCC with any additional comments/submissions and to attend a meeting with the PCC.

## Can you bring a support person to meetings with the PCC?

You may bring a support person of your choice with you to any meetings you have with the PCC. Your support person might be a family member, a friend, or an advocate.

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

## What are the possible outcomes of the process?

The PCC may recommend that the Medical 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; and/or
- counsels the doctor.

The PCC may also, or alternatively, make one of the following determinations:

- Take no further steps.

- Bring a charge against the doctor before the Health Practitioners Disciplinary Tribunal (**HPDT**). The PCC will draft the charge and present it to the HPDT in writing. Information about the role of the HPDT and its processes is available at [www.hpdt.org.nz](http://www.hpdt.org.nz).
- Refer the complaint to an independent conciliator to help resolve the complaint by agreement. If the complaint is not successfully resolved, the PCC must promptly decide whether to:
  - Bring a charge against the doctor before the HPDT.
  - Make any recommendations to the Medical Council.
  - Take no further action in relation to the complaint.

## How long will the PCC need to make a decision?

A PCC aims to complete any investigation within 8 to 12 months from the date the PCC is established (not the date when the complaint is received), depending on the nature and complexity of the case.

The PCC will keep you updated about its progress every 6 – 8 weeks, and will let you know the outcome within 14 working days after the investigation is concluded.

## How will you find out the outcome?

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

## **Can you appeal the outcome of a PCC?**

No. The decisions and recommendations of the PCC 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 PCC and the doctor concerned are the only parties that may appeal an HPDT decision.

If the PCC wishes to appeal the HPDT 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 PCC process?**

The Medical Council pays the costs of a PCC. The Medical Council will also pay your travel costs if the PCC asks you to attend a meeting.

## **For more information**

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



## Contact Details

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