



What to do when you have concerns about another psychologist^{1,2}

The Board's Guidelines

The Health Practitioners Competence Assurance Act (the **HPCA Act**) mandates the New Zealand Psychologists Board (the **Board**) to assure the public of New Zealand that registered psychologists are fit to practise and that they provide high quality and safe services. In order to meet these obligations the Board has adopted the Code of Ethics for Psychologists Working in Aotearoa/New Zealand (the **Code**), 2002 (developed in conjunction with the New Zealand Psychological Society and the New Zealand College of Clinical Psychologists) as a guide to ethical practice, and has developed the Core Competencies to inform about expected competencies. The Code delineates the manner in which psychologists ought to carry out their practice. All other statements of how psychologists should or must conduct their practice must be consistent with the Code and its ethical principles of respect for the dignity of persons, responsible caring, integrity in relationships and responsibility to society. The Core Competencies describe the standard of competence which a registered psychologist is required to uphold. The Code and the Core Competencies together provide frameworks for evaluating an individual psychologist's professional activities and behaviour.

When a psychologist is observed to fail expected ethical, professional conduct or competence standards, this may have negative impacts on clients, their professional colleagues, any employing organisation and the reputation of the psychology profession. Their colleagues who observe such behaviour have legal, moral and professional obligations to act on their concerns to endeavour to address the concerns and where possible to enable the psychologist concerned to achieve constructive resolution of the problematic behaviour. Where resolution is not possible, that concern should be communicated to the Board. The guiding principle to determine any action taken is whatever intervention is necessary to ensure the safety of the public.

Purpose of these guidelines

These guidelines are intended to offer guidance and to raise awareness of what to do when presented with an issue of problem behaviour in a colleague. Specifically the guidelines:

- Inform what actions may be taken when you have concern about a colleague's behaviour.
- Clarify a practitioner's obligations under the HPCA Act.
- Offer thresholds for acting on concerns about a colleague's conduct, performance or health.
- Inform about possible outcomes if a concern is communicated to the Board.
- Reassure the notifier about any potential negative consequences arising.
- Advise what assistance can be sought to discuss concerns.

¹ Our thanks to the Medical Council of New Zealand, whose guideline "what to do when you have concerns about a colleague" informed the early drafts of this document.

² These best practice guidelines were adopted by the Psychologists Board in February 2011. They are due for review in February 2013.

Actions you may take when you have concerns

A psychologist who is concerned about a colleague should, if possible, address those concerns with the individual concerned, acting in accordance with the Code of Ethics. Principles from the Code which are particularly relevant are the Respect for the Dignity of Persons, Responsible Caring and Integrity in Relationships. The Board's "Unprofessional behaviour in the workplace and its management" guidelines may offer guidance on what steps can be taken. Prior to taking this step, however, you are encouraged to discuss your observations with your supervisor and/or a colleague. This may help test your reality against the perceptions of others, gain others' insight and suggestions to round out your own understanding, and to share collective wisdom about possible further action.

Where efforts to intervene directly fail and if there is a shared view between you and respected colleagues that the behaviour raises significant concern, under the Code a psychologist is obliged to take further action, as stated in the Code section 4.4 "Accountability, Standards and Ethical Practice".

Your options are to:

- Consult your professional psychology advisor and seek their assistance to intervene.
- If the concern relates to a psychologist from the same employment organisation, refer the issue to your manager and the HR process.
- Make a complaint to the Health and Disability Commissioner if the poor practice relates to a service provided to a health consumer.
- Complain to the Board if the psychologist concerned has acted in a manner which is against the Code of Ethics, has caused harm to one or more individuals, and if the professional behaviour appears to be misconduct.
- Notify the Board if you hold concerns about the psychologist's level of competence.
- Notify the Board of your belief that the psychologist is unable to perform his or her professional functions because of a mental or physical condition.

Special circumstances apply to intern psychologists

The intern or trainee psychologist is in an especially vulnerable position if they observe concerning behaviour in senior psychologist colleagues within their placement organisation. They may feel conflicted between their professional obligation to uphold standards and their reliance on those same colleagues for a positive report on their internship. Any psychologist who is caught in that bind is encouraged to seek the support and assistance of a senior colleague who is sufficiently removed to not hold a dual relationship in that situation. This may be the supervisor or mentor from the training institution or may be another colleague not directly involved with their supervision.

Psychologists in management positions

Psychologist managers should recognise that psychologists who report to them may perceive barriers to raising concerns such as fear of consequences or backlash. The vulnerability of the psychologist may be heightened if their manager is also their clinical supervisor. Where possible, multiple appropriate reporting procedures should be made known to all staff who may wish to raise concerns.

When a client complains about another psychologist

If a client complains to you about another psychologist, then you should support them and answer any questions they may have but avoid making judgemental comments about the colleague's competence or conduct. If they do not know how to raise concerns constructively then you should ensure that they are informed of their options which may include internal processes within the organisation under which the consultation occurred or raising their concerns with either the Health and Disability Commissioner or to the Board.

If the client is reluctant to take the matter further but you consider their allegations raise serious concerns, then you may consider phoning the Board's Psychology Advisor to discuss your concerns and to identify what options for action the situation offers.

Your obligations under the HPCA Act

Under section 34 of the Act, any health practitioner who has reason to believe that another health practitioner may pose a risk of harm to the public by practising below the required standard of competence may notify the Board in writing by giving the reasons on which that belief is based. A notification may be brief as on receipt of the notification the Board will make initial enquiries to determine whether or not the notification reaches the threshold of concern, and then (where appropriate) will investigate fully with the assistance of a Competence Review Committee.

Under section 34 of the Act, the employer of a psychologist who resigns or is dismissed from his or her employment for reasons relating to competence must promptly notify the Board in writing of the reasons for the resignation or dismissal.

Under section 45 of the Act, a person who is in charge of an organisation that provides health services or is a health practitioner or is an employer of a health practitioner or is a medical officer of health must notify the Board promptly if they have reason to believe that a psychologist is unable to perform the functions required for the practice of his or her profession. The notification must be in writing and give the reasons on which that belief is based.

A complaint to the Board is an option which is discretionary. If a complaint concerns a client of the psychologist, the client's consent should be sought first. A complaint should not be made on hearsay information.

Thresholds for concern

The following questions may help practitioners decide when they should contact the Board to discuss their concerns:

- Is the concern an employment matter which should initially be directed to the Human Resources section of the employing organisation or does it relate more to professional competence and/or conduct issues best addressed by the Board?
- Is your belief genuine (not fanciful) and based on adequate information and reasonable grounds?
- Can you be satisfied that the risk of harm is more than the acceptable risk of the psychologist simply practising the profession?
- Has an event occurred that may demonstrate a significant departure from accepted standards?
- Is there a pattern of conduct over a period of time that suggests the psychologist's practice may be below the required standard of competence?
- Is there evidence of criminal offending?
- Is there evidence of significantly declining standards?
- Has poor performance been recognised and has local intervention failed to improve that performance to the required standard?
- Are you concerned about the mental or physical health of a colleague to the extent that you consider their ability to function as a psychologist may be impaired?

The Board's Psychology Advisor or Registrar (contact details below) can discuss your concerns with you to determine whether a formal notification should be made.

Notifications may be stressful

The Board recognises that any notification under the Act is stressful for both the notifier and the psychologist who is the subject of the notification. The processes which have been

developed by the Board in accordance with the Act are designed to be fair, respectful, to preserve professional dignity and to maintain professional standards. Although the Board and its delegated Committee tries to reduce strain by being transparent about what to expect during the processing of any complaint, it is inevitable that any individual may still experience significant distress about being caught up in these processes. In that circumstance any psychologist, whether the notifier or the recipient of the notification, are encouraged to seek peer and/or supervisor support.

Possible outcomes if you inform the Board

If the behaviour in question raises competency concerns, the Board is obligated to make initial enquiries and may choose to appoint a two-person Competence Review Committee (CRC) to independently evaluate the psychologist's competence. A Competence Review, and any remedial programme arising, has an evaluative and rehabilitative focus. It is not a disciplinary process.

If the psychologist is deemed to be unable to perform their professional functions due to being mentally or physically unfit, the Board may temporarily suspend the practitioner's APC and order an independent medical assessment. The fitness assessment informs the Board regarding whether or not the psychologist is able to perform the functions of a psychologist and often also offers suggestions for remedial action. The suspension will remain in place until the Board is satisfied that the psychologist has returned to fitness. Communication with the psychologist who is the subject of the notification is undertaken confidentially and with sensitivity. Where possible the suspension and fitness assessment, and any remedial action arising, is organised with the cooperation of the psychologist concerned.

If the Board receives a complaint, it will be processed through the same procedure regardless of whether the complainant is another psychologist, health practitioner or member of the public. In the first instance the Act requires all complaints to be forwarded to the Health and Disability Commissioner (HDC) who may choose to investigate the complaint and/or refer the complaint to the Director of Proceedings for prosecution through the Health Practitioners Disciplinary Tribunal. Usually the HDC returns the complaint to the Board which then considers the complaint to decide if it reaches the threshold for further investigation. If that threshold is reached, the Board appoints a Professional Conduct Committee which conducts an independent investigation. The Board's process is designed to be fair, legitimate and efficient.

What repercussions may arise for the notifier

Under section 34, the Act explicitly states that no civil or disciplinary proceedings lie against any person who makes a competence notification, unless that person has acted in bad faith.

Any person, whether a health practitioner or member of the public, is entitled to make a complaint when they hold a concern about a psychologist's practice. The complaints screening and investigation processes sift out any complaint which is assessed to be vexatious or trivial. No repercussions arise for a complainant, regardless of a complaint being deemed to be substantial or below the threshold for further investigation. However there have been occasions when a complaint from one health practitioner has spawned a counter-complaint from the accused psychologist. The Board acts impartially in such circumstances and will consider each complaint on its merits.

There are no repercussions for any psychologist or other health practitioner who notifies the Board of a fitness concern if they are acting in good faith. The Board will always make initial enquiries to establish the grounds for that belief arising and then will act accordingly to ensure the safety of the public is upheld.

Further advice

The Board's Psychology Advisor and Registrar are available to discuss any queries or concerns in confidence. The Board will not take any action unless informed in writing.

Steve Osborne

Chief Executive and Registrar

Phone (04) 471 4586

Email: steve.osborne@nzpb.org.nz

or **Anne Goodhead**

Psychology Advisor

Phone (04) 471 4584

Email: anne.goodhead@nzpb.org.nz