



## DRAFT Naming Policy for Consultation

Refers to the following key legislation:

- Health Practitioners Competence Assurance Act 2003
- Privacy Act 1993
- Official Information Act 1982
- Defamation Act 1992
- The New Zealand Bill of Rights Act 1990

And refers to the following related information on the Psychologists Board website:

- Code of Ethics for Psychologists working in Aotearoa/New Zealand
- Core Competencies for the Practice of Psychology in Aotearoa New Zealand
- Cultural Competencies for Psychologists Registered Under the Health Practitioners Competence Assurance Act
- Decisions by the Health Practitioners Disciplinary Tribunal
- Suspended Practitioners
- Newsletters

Version: 1.0 (DRAFT for Consultation)	
Approved by: Psychologists Board	
Approved Date:	Review date:

### **Policy statement**

The Psychologists Board (the Board) exists to protect public safety. As New Zealand's regulator of Psychologists it oversees professional standards in psychology. The Board makes sure Psychologists meet and maintain professional standards of education, conduct and performance, so that Psychologists deliver high quality healthcare throughout their careers. The Board will hold Psychologists to account if their conduct falls short of these standards.

This naming policy will enhance public confidence in psychology as a profession by allowing the public to make an informed choice about the psychologist they engage with. It allows the Board to publish information about a Psychologist where that Psychologist has fallen short of professional expectations or is otherwise the subject of an order or direction.

The naming policy was developed in accordance with section 157B of the Health Practitioners Competence Assurance Act 2003 (HPCAA), which states that the purpose of the naming policy is to:

- enhance public confidence in Psychologists by providing transparency about the Board's disciplinary procedures and decision-making processes; and
- ensure that Psychologists whose conduct has not met expected standards may be named where it is in the public interest to do so; and
- improve the safety and quality of health care.

### **1 Health practitioners for whom the naming policy applies**

a. This naming policy applies to:

- I. Any Psychologist registered with the Board; or
- II. Any Psychologist who has previously held registration with the Board.

b. In New Zealand, Psychologists are registered health practitioners who practise within any of the scopes of practice prescribed by the Board under section 11 of the HPCAA.

### **2 Circumstances in which a Psychologist may be named**

a. The Board may publish in any publication the name of a psychologist who is the subject of an order or direction made by the Board under the HPCAA.

- b. Publication of Psychologist's name shall only occur following the completion of any Board process, and not while any investigation or deliberations are ongoing.
- c. Notwithstanding section 2b above, the Board may decide to name a Psychologist who is the subject of an interim suspension order; or has interim change to or conditions imposed on his or her scope of practice, under sections 38, 39(1), 43, 48 or 69 of the HPCAA.
- d. The Board will not routinely publish the names and details where Psychologists were investigated but are not the subject of any orders or direction, except for:
  - I. Psychologists who have been exonerated during any investigation, who may ask the Board to publish their name and the details of that exoneration in order to clear their name.
  - II. Psychologists who are the subject of confusion where their name is the same as or very similar to that of another psychologist or health practitioner named in an order, who may ask the Board to publish their name with clarification to avoid confusion.
- e. This policy does not affect the existing requirement/s for the Board to share information about a practitioner under sections 35, 138 or 156A(2)(a) of the HPCAA.

### **3 General principles that will guide the Board's naming decisions**

- a. In deciding about the publication of information relating to a Psychologist, the Board will maintain a focus on protecting public safety.
- b. When deciding what information is published, the Board must weigh the public interest in making the information available against the consequences for the psychologist of being named, including the likely harm to the psychologist's reputation.

### **4 Criteria that the Board must apply when making a naming decision**

When assessing whether to publish the name of a psychologist in a notice issued under section 157(1) of the HPCAA the Board must consider the Privacy Act 1993, natural justice rights and any other relevant matters. The Board will apply the following criteria:

- a. Public safety - ensuring the safety and quality of health care and the competence of psychologists. Non-disclosure in a particular case may run the risk of harm to women and their whānau in the future. Disclosure may elicit other complaints or concerns about a practitioner's competence.

- b. Public choice - The right of the public, existing and potential clients of psychologists to know the disciplinary history of a particular psychologist so as to be able to make an informed choice whether to engage their services in the future.
- c. Accountability - Psychologists are accustomed to being held to account for the standard of care or service they provide. They should expect that some information may need to be disclosed if serious accountability or health and safety concerns are raised, including non-compliance with an existing order.
- d. Nature of the concerns - does the concern raise serious safety or competence concerns, does non-disclosure raise a risk of harm to women and their whānau in the future? Concerns of a serious nature will raise stronger public interest considerations in favour of disclosure.
- e. Whether the investigation is ongoing - disclosing the details of an allegation during an ongoing investigation may unfairly suggest that there is substance to the allegation.
- f. Action taken in respect of the outcome of an investigation – the public interest in disclosure will be higher, and a psychologist’s legitimate expectation of privacy will be reduced, where a concern has been investigated and found to be substantiated. It will often be in the public interest to know the remedial actions or consequences imposed on the psychologist.
- g. Extent to which information is already in the public domain - the privacy interest may be diminished by prior knowledge or public availability of the information. If information about the concern is already in the public domain, this may increase the public interest in disclosure of a summary about the outcome of any investigation. The purpose of such disclosure would be to demonstrate that appropriate action has been taken to investigate the concern and institute any protective measures or remedial action.
- h. Likelihood of harm to the psychologist arising from disclosure - there may be factors that heighten the risk of personal or professional harm arising from disclosure, for example the physical or mental health of the psychologist, or the size of the community in which they practise.

## 5 Information the authority may disclose when naming a psychologist

- a. Where the Board has elected to publish information about a Psychologist, it will release a summary of the information with appropriate context.
- b. Publications instigated by the Board may include the name of the Psychologist, a short context of the concern and citation of the relevant section of the HPCAA.

- c. Where the order relates to the health of a psychologist, additional consideration is needed with regards to the impact any disclosure may have on the psychologist.

## **6 Means by which a psychologist may be named**

- a. Publication will be made via posting on the relevant section of the Board website; and may also be by inclusion in the Board's electronic newsletter or other suitable media.
- b. In addition, the Board may also annotate the psychologist's entry on the Register to include a reference to the order or direction.
- c. Information published on the Board's website will be reviewed periodically at an interval of not more than two (2) years.
- d. The Board may elect to share the information with other health regulators in New Zealand, or equivalent regulatory bodies overseas.

## **7 Procedures that Board must follow when making a naming decision**

- a. Where the Board proposes to publish information about a psychologist, having considered the factors in section four (4) of this policy, it will be required to make the psychologist aware of this proposal and the proposed content twenty (20) business days in advance of the anticipated publication.
- b. Sending the information in section 7a to the psychologist's last known email address will be sufficient for this purpose.
- c. The advance notice timing in section 7a above provides the psychologist with an opportunity to:
  - I. consider the content and make any submissions to the Board within ten (10) business days of receiving the notice; and
  - II. make their employer or any practice partners aware of the publication.
- d. Where the psychologist provides submissions to Board in accordance with section 7c of this policy, the Board must consider those submissions before making a final decision whether or not to make the publication and the content and scope of any publication.
- e. Where a publication relates to a specific event or concern, irrespective of whether that clearly identifies any person or whānau, the Board must also provide the intended publication content to that person in advance of publication.
  - I. The person or whānau will be given an opportunity to consider the content and make a submission to the Board within ten (10) business days of receiving the notice.