



Consultation on the proposed Naming Policy for the Psychologists Board

February 2020

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1. Consultation document for Naming Policy

The Psychologists Board (the Board) is the regulator of psychologists in Aotearoa New Zealand, was established under the Health Practitioners Competence Assurance Act 2003 (HPCAA). The Board's role is to protect the health and safety of the public by ensuring that Psychologists are fit and competent to practise.

1.1 Why is the Board developing a naming policy?

The Board is required by recent changes to the HPCAA to develop a naming policy which describes the circumstances under which a Psychologist who is the subject of an order or determination may be publicly named. This policy must be in place by 11 April 2020.

The purposes of this policy as defined in section 157B(2) of the HPCAA are to:

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

1.2 What has the Board done to develop this naming policy so far?

The Board has worked collaboratively with other health regulators to understand the requirements and intentions of the new HPCAA amendments. The naming policy was drafted and then subjected to review by a legal firm to ensure alignment with the requirements of section 157B of the HPCAA.

The draft will also be reviewed by the Privacy Commissioner, the Health and Disability Commissioner and the Director-General of Health as required by section 157C of the HPCAA.

1.3 What is the current situation?

The Board have had the powers to name Psychologists who are the subject of competence, health and conduct orders under section 157(1) since the inception of the HPCAA in 2003.

The naming policy defines the circumstances under which the Board would consider naming a Psychologist, along with the method of naming and information that may be included.

Currently, under other sections in the HPCAA, the Board must share information regarding Psychologists who are subject to orders.

This includes:

- noting on the Psychologist's entry on the public register where the Psychologist is suspended or has conditions on their practice (s138)
- mandatory notifications to Accident Compensation Corporation, Health and Disability Commissioner, employers and other related parties where a Psychologist may have posed a risk of harm to the public (s35(1), s35(2))
- the naming policy does not change these requirements.

1.4 Who will the naming policy apply to?

The policy will apply to all registered Psychologists who are the subject of an order or directive, regardless of their practising certificate status. The policy will also apply to Psychologists who have previously been registered with the Board.

1.5 What will the Board consider when making a decision whether to name a Psychologist?

The primary purpose of naming any Psychologist under this policy will be to protect the public. The decision to name will not be done to punish the Psychologist.

The Board will consider the risk posed to the public, along with the existing levels of transparency that occur under other sections of the HPCAA. The Board will also consider the effect of naming on the Psychologist, particularly where there may be sensitive information such as health issues.

The affected Psychologist will always be advised of the intent to name, and their feedback will be taken into consideration before a final decision to name is made. The Board will also consider the potential for other people to be identified in any published information.

1.6 Privacy

The Board is required under the Privacy Act 1993 to protect the privacy of all individuals whose personal information it holds. When considering naming a Psychologist the Board will give due consideration to this requirement and the effect naming could have on the

practitioner and others who could be identified as a result of the naming decision. Particular consideration will be given to orders/directives that are made as a result of a health condition.

1.7 Transparency

The Board operates under a cross cutting principle of transparency. The processes the Board uses when making a decision are shared with the Psychologist. Information the Board uses to make an order or directive will be shared with the Psychologist wherever possible. This principle also applies to the public, where the Board aims for transparency in its decision-making process and outcomes. Information about action that the Board has taken forms part of this process.

1.8 Natural justice

When considering naming the affected Psychologist will be given a copy of the proposed content and publication form of the notice. The Psychologist will be given an opportunity to make submissions about the proposal which will be considered by the Board prior to making a final decision on naming.

1.9 What kind of information could be shared?

The Board may, on a case by case basis, name a Psychologist who is the subject of an order or determination, along with a summary of the issue and action/s taken by the Board.

1.10 Where will the information be published?

The method of sharing information will be decided on a case by case basis. Options include the Board website, Board newsletters or any other publication that would fulfil the requirement to protect the public.

1.11 Why are we contacting you?

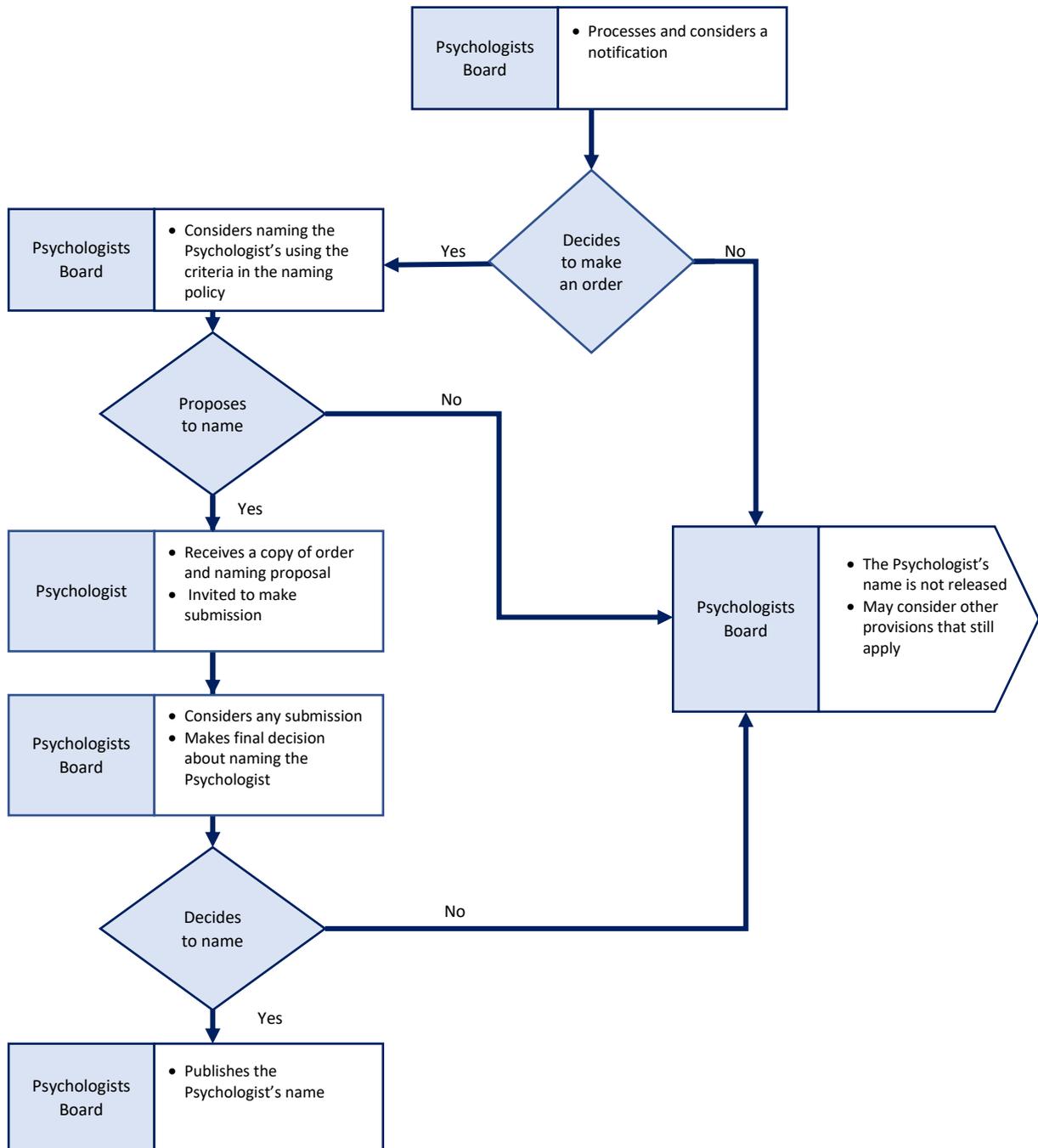
The Board is now seeking comments from you on:

- the draft Naming Policy
- circumstances under which a Psychologist may be named
- the principles and criteria the Board will use when making a naming decision
- the information to be disclosed and the means of information publication

- the procedures to be used by the Board when considering naming a practitioner.

Please provide your feedback to us by **1 April 2020**. Feedback can be made by via the SurveyMonkey link provided with this document.

Appendix 1: Overview of the process for naming Psychologists subject to an order or directive*



An order or direction is made by the Psychologists Board. For example: Suspension, inclusion of conditions or change in permitted health services when a practitioner does not satisfy the requirements of a competence or recertification programme under section 43(1) of the HPCAA.

*

Appendix 2: Relevant section of the HPCAA

157B Authorities to issue naming policies

- (1) Each authority must issue a naming policy not later than 12 months after this section comes into force.
- (2) The purpose of the naming policy is to—
 - (a) enhance public confidence in the health professions for which the authority is responsible and their disciplinary procedures by providing transparency about their decision-making processes; and
 - (b) ensure that health practitioners whose conduct has not met expected standards may be named where it is in the public interest to do so; and
 - (c) improve the safety and quality of health care.
- (3) A naming policy must set out—
 - (a) the class or classes of health practitioners in respect of whom the naming policy applies; and
 - (b) the circumstances in which a health practitioner may be named; and
 - (c) the general principles that will guide the authority's naming decisions; and
 - (d) the criteria that the authority must apply when making a naming decision; and
 - (e) the requirement to have regard to the consequences for the health practitioner of being named, including the likely harm to the health practitioner's reputation; and
 - (f) the procedures that the authority must follow when making a naming decision; and
 - (g) the information the authority may disclose when naming a health practitioner; and
 - (h) the means by which a health practitioner may be named.

Section 157B:inserted, on 12 April 2019, by [section 46](#) of the Health Practitioners Competence Assurance Amendment Act 2019 (2019 No 11).

Appendix 3: Timeline for Naming policy development and publication

February 2020	Consultation on Naming Policy sent to <ul style="list-style-type: none">• Stakeholders (practitioners, others etc.)• Health and Disability commissioner• Office of the Privacy Commissioner
Late March 2020	Consultation closes
April 2020	Review consultation feedback, revise draft and submit to the board for consideration and approval. Policy published online to meet 11 April 2020