



Results of consultation on Naming Policy

The Board would like to thank all stakeholders who provided feedback on its draft Naming Policy. The consultation process has been extremely valuable, and we believe has resulted in a better policy overall. The Board considered all feedback and has made several changes to the policy to address areas of particular concern, or where clarity was sought.

The final Policy is now published on the Board's website, effectively immediately.

Key concerns raised, and actions taken by the Board to address them were:

Feedback	Policy update
Questions about the value of this policy, and how naming of other professions is handled.	No change. the Board has always had the power, under section 157 of the HPCAA to publish orders that it makes. The Board (and all other responsible authorities that regulate a health profession under the HPCAA) is now legally required to produce a Naming Policy in accordance with section 157A to 157I of the HPCAA, which will guide its decision-making when it is considering exercising its powers under section 157. The new requirement for a policy was introduced with the amendments to the HPCAA in April 2019.
Lack of clarity about what an order or direction is – and therefore when the Board might consider naming a psychologist;	Amended. The Board has added an appendix to the policy with a full list of all orders and directions that the Board can make (approx. 30).
References to protecting “women and whanau” as opposed to all members of the public – many considered this to be inappropriate and some were offended.	Amended. The Board agrees that this is not appropriate language for its policy. This was an editing error as a result of adapting material developed by the Midwifery Council (where the language used is appropriate). This error has been amended. The Board apologises to any stakeholders who were offended.
Clarity required as to whether the full Board will make these decisions, or delegate them to a committee.	Amended. The policy has been updated to be clear that, given the high stakes nature of this decision, it will be made by the full Board; however, a proposal to name (after which submissions will be sought from the practitioner before a decision is made) may be made by the Board’s Competence, Conduct and Fitness (CCF) Committee.

<p>Insufficient focus on the psychologist's right to privacy.</p>	<p>Amended. The Board considers that its policy is clear that it must balance privacy interests against the public interest and public safety. An individual psychologist has an opportunity to make submissions on the possible impact of naming them. However, the Board has added a list of considerations it will take into account (Appendix 2 of the policy), which sets out more detail as to the complexity of balancing a psychologist's privacy interests against the public interest.</p>
<p>Regard for the psychologist's wellbeing is not sufficiently considered in the policy.</p>	<p>No change. As above, the Board will consider every case on an individual basis. A psychologist will have an opportunity to make submissions on any proposal to name them, including the potential effect on their wellbeing.</p>
<p>Regard for the interests of family and whanau of the psychologist, who may be adversely impacted by naming, is not addressed (e.g., partner's career or children subjected to teasing by other children).</p>	<p>No change. As above, the Board will consider every case on an individual basis. A psychologist will have an opportunity to make submissions on any proposal to name them, including the potential impact on their family and whanau.</p>
<p>The Board should consider the cultural implications of naming.</p>	<p>No change. As above, the Board will consider every case on an individual basis. A psychologist will have an opportunity to make submissions on any proposal to name them, including any cultural considerations that they would like the Board to take into account.</p>
<p>The proposed period to allow a psychologist to make submissions (20 <u>working</u> days) is insufficient to allow the psychologist to get appropriate advice.</p>	<p>No change. In almost all cases, the Board will already be dealing with the psychologist and a proposal to name them will not come out of the blue. The Board needs to balance allowing a reasonable opportunity to make submissions against the driver for making the proposal – which is public protection.</p>
<p>The Board should establish thresholds for publication in media other than on its website, as broader publication puts the information more firmly in the public domain.</p>	<p>No change. The Board does not want policy to limit its options should it need the help of external publications to ensure the public is aware of a risk that is relevant to them. The Board considers that it needs to be able to access any media in a way that is appropriate to reach the relevant community or communities that are at risk.</p>
<p>Clarification is needed on the duration of a naming period, and how this will be managed.</p>	<p>Amended. The Board has added information to clarify that the duration of a naming period will vary from case to case and will cease when the risk has been addressed. The Board has amended the policy to be clear that information about a named psychologist will – in all but exceptional cases - only be available through a link on the Board's website. When the naming period ends, the Board will remove the link which</p>

	will break it in any media where it has been shared.
Psychologists working in areas at high risk of attracting complaints (e.g. family court report writers) are already practising defensively for fear of complaints. Fear of being named may lead to unwillingness to continue in those roles, which are already under-resourced. This has wider implications for public safety in terms of creating delays in the Family Court which may put children at risk;	No change. The Board is conscious that there are areas of practice that are at higher risk of attracting complaints. The Board considers that its policy provides it with the flexibility to consider the individual circumstances of each case before deciding whether to name.
Confusion about whether a psychologist who has been found not to meet required standards of competence will be named.	Amended. The addition of an appendix of all orders and directions that the Board may make clarifies the circumstances in which the Board will turn its mind to naming. It does not necessarily follow that all psychologists found not to meet the required standards will be named.
Concerns about practitioners who have a fitness to practise issue being named.	Amended. As set out in the Board's draft Fitness to Practise policy, the Board will deal sensitively with psychologists who are dealing with fitness issues. This has been clarified in the policy. While the Board does not wish to limit its options in its policy, it is likely that a psychologist with a health condition would generally only be named in circumstances where they were non-compliant with Board orders or directions put in place to protect the public. These sorts of cases are very rare, but they do occur, and the Board must have tools to protect the public where that is necessary.
Views that practitioners should not be named while inquiries or investigations are still being made.	No change. There are a number of provisions in the HPCAA that allow the Board to intervene on the basis of risk – this includes interim action to protect the public while further information is gathered to ascertain the scale of the risk – whether that relates to a psychologist's conduct, competence or fitness.

The Board appreciates that the Naming Policy and consultation around it may have caused some anxiety and concerns among psychologists. That is understandable. However, please remember that the Board has always had the power to name. The new requirement of section 157 to 157I of the HPCA Act is that each responsible authority must have a policy on use of that power. We believe this is a useful step, as it will increase transparency and provide the Board with guidance on how to exercise this power responsibly, fairly and consistently

In light of the concerns raised about the policy, the Board will keep a watching brief on naming decisions made amongst other regulators, and will have a low threshold for

reviewing its policy earlier than the three year requirement, if it considers there are improvements that can be made.

John Bushnell

Chair

8 April 2020