

Thank you for the opportunity to comment on the proposed naming policy.

The naming provisions under Section 157 have been in place since the HPCA Act was enacted. The Publication of orders is under three areas, notices by an authority and notices relating to tribunals and courts. This policy deals with Section 157 (1) and specifically that the RA must have a published policy which is available for the public. The intention of these provisions is to provide transparency to the public on how and when the RA applies this provision not a direction on how to apply the section. A review of the select committee findings and Hansard did not reveal major dissatisfaction with the way Section 157 has been applied. The Act and RA's were generally seen to be functioning as intended although there were significant changes to some parts of the Act relating to complainants and the feedback to them.

The intention of the section is clear in that it states Council may publish a notice and not will publish a notice relating to various findings and orders. Council has previously applied this provision once when there was an issue with a practitioner that could not be managed by other means available to Council. Reserving the use of the naming policy for only when all other avenues have failed or when there is a risk of serious harm is not indicative of a dereliction of duty by the Council since 2003 but more an understanding of the serious consequences of naming practitioners. While Council has not previously had a written policy it obviously considers Section 157 when considering practitioner issues.

Council should state as policy that competency and fitness to practice concerns about practitioners are managed by the Council by various means such as competency programmes, mentoring, retraining, restrictions on practice and voluntary undertakings to name a few. Council would likely name practitioners under Section 157 (1) in the event of there being serious concerns about public safety such as the unlikely scenarios provided in the consultation document and/or non-compliance with Council orders and undertakings.

Council already has the ability to restrict practice and place annotations on a practicing certificate, available on the Council website, and to require practitioners to display notices and reveal to patients any conditions they may have to practice under. A very effective mechanism to reveal concerns or restrictions relating to a practitioner to patients. Importantly there are no suppression orders that are applied in this situation and patients and other parties are able to freely access and disseminate this information.

New Zealand is a small place, additionally many practitioners work in small towns and communities. It is also true that published notices may have more serious consequences than envisaged. There is a dissemination of salacious information via social and general media channels the extent of which has not been previously seen. Commentators may not necessarily grasp the technical aspects and the extent of any risks attached to any orders or undertakings. Once information has been published it is impossible to retrieve, modify or delete it. Thus naming of practitioners may have unintended consequences that could only be seen as punitive. Furthermore should the case proceed down a disciplinary pathway and the practitioner has already been named there could be an infringement on the practitioner's rights relating to that PCC and HPDT proceedings. I hold grave concerns for the health and wellbeing of practitioners named due to the stress that inevitably comes with such a notification.

Importantly Council must have faith in the balanced way it currently manages concerns relating to practitioners and the rehabilitative and corrective mechanisms employed and that this does not diminish the current application of the Act or patient rights. I submit that practitioners should only

be named when there is a clear risk of harm to patients due to non-compliance with the above Council processes. The presumption to name as set out in the consultation documentation and the reasoning to name is erroneous and I disagree with it.

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