

# Dental Council Consultation

Proposal for:

Updates to the Council's naming policy for technical and legal clarifications

Issued: Thursday, 16 November 2023

Submissions close: 5pm, Friday 15 December 2023

## 1. Consultation purpose

The Council is proposing minor technical and legal changes to the Councils naming policy following a routine review. The Naming policy is what guides Council when considering whether to publish a notice naming a practitioner.

### What do the proposed changes mean for practitioners?

The amendments are technical and minor in nature, focused on improving clarity and transparency in the current policy.

## 2. Background

The Health Practitioners Competence Assurance Act 2003 (the Act) requires the Council to have a naming policy outlining Council's decision-making process around releasing a practitioner's name, a summary of Council's findings and the effect of an order or direction under section 157 of the Act

The purpose of a naming policy is to;

- enhance public confidence in health professions and procedures (which the Council is responsible for) by providing transparency around decision-making processes;
- ensure that when it is in the public's best interest, the Council are able to name health practitioners which have not met expected standards; and
- improve the safety and quality of health care.

## 3. Review of the naming policy

The Council, as required under the Act, has completed its three yearly review of the Naming policy.

In summary the review found only minor improvements required, which provide technical and legal clarification.

### Proposed amendments

Amendment	Reason
Update of the section on 'Privacy Act Principles' to refer to the Privacy Act 2020 <i>Paragraphs 24-26</i>	The Privacy Act 2020 has replaced the Privacy Act 1993.
The Council maintain written record of decision-making with respect to publication of an order, including a decision to not publish a notice. <i>New paragraph 28</i>	The Council records all its decision-making, however for greater transparency the Council's decision-making process to name a practitioner will be recorded in a separate naming register.
Amend the 'Criteria to be applied when making a naming decision' to require the Council to consider fairness,	The Council applies right touch regulatory principles in all its decision-

Amendment	Reason
reasonableness, proportionality and rational when making a naming decision. <i>(Paragraph [21(f)])</i>	making, but for transparency these criteria will be added to be applied when making a naming decision, to the Naming policy.
Amend Tables 1 and 2, Appendix 2 to incorporate the fairness, reasonableness, proportionality and rational test as part of the private and public interests to be considered by the Council.	
Amend paragraph 29 to clarify that practitioners reputation includes both personal and professional.	the Act requires the naming policy to have regard to “ <i>the likely harm to the health practitioner’s reputation</i> ”. (Section 157B(2)(e)). Likely harm to the practitioner is a factor relevant to whether an interim order is fair and proportionate, in respect to their personal and professional reputation.
Strengthen the language in Table 1, Appendix 2 to emphasise the practitioner’s reputation as a key consideration.	
Amend Tables 1 and 2, Appendix 2 to refer to “publication” rather than “disclosure”, and to clarify a publication should focus on whether the information raises a risk of imminent harm to the public.  Delete reference to ‘ <i>no current relevance/ minimal relevance</i> ’, as relates to whether information ought to be disclosed (rather than published).	The Naming Policy refers to ‘disclosure’ rather than ‘publication’ which is the intent of section 157.
Remove reference to revocation of suspension under S67A	Drafting error.

The proposed amendments are recorded as ‘tracked changes’ in the attached revised Naming Policy.

[Have your say](#)

Section 157F(2) and section 157C of the Act requires the Council to consult on the proposed amendments to the naming policy.

Please provide your feedback on the proposed amendments to the Naming Policy. Where possible please give reasons for your feedback.

The proposed revised policy can be found [here](#). The current policy can be found [here](#).

The consultation process provides oral health practitioners and other interested parties (including professional associations and societies, Manatū Hauora - the Ministry of Health, Te Whatu Ora, and educational institutions) with an opportunity to make submissions.

We welcome and value all feedback, but multiple, identical submissions do not carry any more weight than a single submission. All feedback we receive will be considered and will inform our final decision.

## Submissions

Your submissions must reach us **by 5.00 pm 15 December 2023**.

You can submit your response to [consultations@dcnz.org.nz](mailto:consultations@dcnz.org.nz).

Submissions received will be published on our website and will record the submitter's name and profession (for registered oral health practitioners). All other contact details will be removed. We will not publish any submissions containing derogatory or inflammatory content.

As this is a public consultation process, "In confidence" information will only be accepted under special circumstances. Please contact us before submitting material in confidence.

If you have any questions about this consultation, you can contact us by [email](#) or phone 04 499 4820. I look forward to receiving your views on the proposals.

Ngā mihi

Marie MacKay

Chief Executive/Registrar