

Acting on information received from any person about oral health practitioners policy

Approved by	Council
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Purpose

The purpose of this policy is to guide the Dental Council (Council) in how it acts on information it receives to:

- ensure a consistent and fair approach; and
- obtain useful, useable information that relates to the practice, conduct, fitness, or competence of oral health practitioners.

Scope

This policy applies to:

- all oral health practitioners
- former health practitioners who were, but are no longer registered with the Council¹
- information provided by any person (including a practitioner), or agency that relates to the practice, conduct, fitness, or competence of oral health practitioners.

Definitions

Competence: is defined in the competence review policy.

Legal context

Section 3(1) of the Health Practitioners Competence Assurance Act 2003 (the Act) sets out:

The principal purpose is to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practise their professions.

A function of the Council provided by section 118(f) of the Act is:

to receive information from any person about the practice, conduct, or competence of health practitioners and, if it is appropriate to do so, act on that information.

¹ In the case of former practitioners, the Council will consider the merits of each case in terms of how to act on the information received.

Right 10 of the Code of Health and Disability Services Consumers' Rights (under the Health and Disability Commissioner Act 1994) provides:

Every consumer has the right to complain about a [health] provider in any form appropriate to the consumer”.

Clause 2 in Schedule 3 of the Act outlines the information that the Council can act on:

Each authority must observe the rules of natural justice but, subject to that requirement, may receive as evidence any statement, document, information, or matter, whether or not it would be admissible in a court of law.

Policy

Information provided to Council about the practice, conduct or competence of oral health practitioners can be from any person, and it can be provided in:

- writing
- an online form; and
- an oral communication.

Factors and principles used to guide how the Council will act on information received

1. This policy sets out general principles to aid the Council's decision making. Each case before it must be considered on its merits. If the Council considers it is appropriate to make an exception in a particular case, it will do so.
2. In deciding how it will act on the information received, Council will have regard to:
 - a) the principal purpose of the Act, where receiving and acting on information is a key means by which the Council assures itself that practitioners are competent and fit to practise (thereby protecting the public)
 - b) relevant legal processes
 - c) relevant Council policies, standards, and regulatory principles; and
 - d) the rules of natural justice.
3. The course of action will depend on the circumstances and the nature of the information provided. Where the Council considers that there are reasonable alternative options open to it, the Council is likely to err on proceeding with the option that best ensures that the public is protected.

Anonymous information

4. If a person (including a practitioner) or agency wants to provide anonymous information, then Council must consider whether the matter can be progressed while observing the rules of natural justice. Council will not usually take any further action, except to retain the information.
5. Council may act on anonymous information where:
 - a) the information that is disclosed is serious; and

- b) there are grounds for protecting the disclosure or the identity of the complainant.

Retaining information

6. Under the Privacy Act 2020, the Council may collect information about an oral health practitioner if it is for a lawful purpose and connected with the function of protecting the health and safety of the public. The Council must not keep that information for longer than is necessary for the purposes for which the information may be lawfully used, however, information that relates to the practice, conduct, or competence is relevant while they are registered and afterwards.
7. Retaining relevant information on an oral health practitioner's file serves two lawful purposes:
 - 7.1. protecting the health and safety of the public by providing a more informed understanding of the risk of harm or risk of serious harm related to competence or conduct; and
 - 7.2. enabling the Council to consider all relevant facts when deciding how to act on information received.
8. If a practitioner is brought to the Council's attention on more than one occasion, relevant information will be considered when deciding whether further action is necessary.

References

1. Competence review policy.
2. Regulatory principles.
3. Standards framework.
4. Health Practitioner's Competence Assurance Act 2003.
5. Privacy Act 2020.
6. Code of Health and Disability Services Consumer Rights.
7. Health and Disability Commissioner Act 1994.