

## Competence review policy

Approved by	Council
Date approved	September 2021

### Purpose

The purpose of this document is to ensure competence reviews and programmes are conducted in a consistent and fair manner and meet the requirements of the Health Practitioners Competence Assurance Act 2003 ('the Act').

### Scope

This policy applies to all registered oral health practitioners holding a current practising certificate.

### Definitions

**Competence:** A competent practitioner is one who applies knowledge, skills, attitudes, communication and judgement consistently to the delivery of appropriate oral health care in accordance with the scope of practice within which they are registered.

**Performance:** Performance is the output, and its measurement assesses how well a practitioner is actually working.

**Risk of serious harm:** A risk of serious harm may be indicated when:

- A patient may be seriously harmed
- The practitioner may pose a threat to more than one patient and as such the harm is collectively considered 'serious'
- There is sufficient evidence to suggest that the alleged criminal offending is of such a nature that the practitioner poses a risk of serious harm to one or more members of the public.

**Risk of harm:** A risk of harm is indicated by:

- a pattern of practice over a period that suggests the practitioner's practice may not meet the required standards of competence
- a one-off incident that demonstrated a significant departure from accepted standards
- recognised poor performance where local interventions have failed – this does not exclude notifications of serious concerns where internal review or audit is inaccessible or unavailable to the person with the concern
- professional isolation with declining standards that become apparent.

## Legal context

1. The Dental Council (Council) has the legal authority to review the competence of any oral health practitioner holding a current annual practising certificate. It:
  - (a) may carry out a review regardless of whether or not there is a reason to believe that the practitioner's competence may be deficient.
  - (b) must make inquiries into and may review the competence of the practitioner if it receives notice that a practitioner's practice falls below the required standard of competence (section 36 of the Health Practitioners Competence Assurance Act 2003).
2. The Council can order an interim suspension of a practitioner's annual practising certificate, place conditions on the practitioner's scope of practice, or change any health services that the practitioner is permitted to perform while the practitioner is undergoing a competence review, if:
  - (a) there are reasonable grounds to believe the practitioner poses a risk of serious harm to the public through practising below the required standard of competence, and
  - (b) the Council has first informed the practitioner why it is considering making the order and given the practitioner a reasonable opportunity to make written submissions and be heard on the matter, either personally or by his or her representative.
3. An order ceases to have effect on the later of:
  - (a) the completion of the review; or
  - (b) the attainment of a pass in any examination or assessment ordered by the Council.
4. If, because of the competence review, the Council decides that the practitioner does not meet the required standard of competence, then the Council must make one or more of the following orders, that:
  - (a) the practitioner undertakes a competence programme
  - (b) one or more conditions be included in the practitioner's scope of practice
  - (c) the practitioner sits a specified examination or assessment; and/or
  - (d) the practitioner be counselled or assisted by one or more nominated persons.
5. If the Council is unable to conduct or complete a review because of the practitioner's failure to respond adequately to a notice that they are to be reviewed, then the Council has reason to believe the practitioner fails to meet the required standard of competence and will make one or more orders specified above.
6. Where the Council believes the practitioner's practice may pose a risk of harm to the public, it is legally required to give written notice to the following parties of the circumstances that have given rise to that belief. The permission of the practitioner is not required:
  - (a) The Accident Compensation Corporation (ACC)
  - (b) The Director-General of Health
  - (c) The Health and Disability Commissioner, and/or

(d) The employer of the practitioner.

The Council may also notify any person who works in partnership or in association with the practitioner.

7. Practitioners who are subject to an order or direction of the Council can be named as set out in the Council's Naming policy (section 157B of the Act refers).

## Policy

8. The aim of the competence review is to assess whether the practitioner meets the required standard of competence as defined by the competences within their scope of practice and set out in the Standards Framework.
9. If a competence review is initiated, the form of the competence review is at the discretion of the Dental Council but will include the processes required under the Act.
10. The competence review will assess whether the practitioner's *'practice of the profession meets the required standard of competence'*.

## Scope and methods

11. The Council has agreed that the scope of any competence review will be limited to the area of concern prompting the competence review unless there are indications of a general competence problem or concerns are identified during the competence review.
12. Wherever possible, the competence review will use assessment tools that would normally be understood and accepted as methods by which to assess knowledge, skills/aptitudes, and attitudes, and have been developed for this purpose.
13. The practitioner will be given information and guidance material to:
  - enable their fair participation in the competence review process
  - ensure that the Council abides by the principles of natural justice throughout the competence review process
  - ensure that the Council acts with transparency and consistency.

## Costs

14. The Council will meet the costs of a competence review. The practitioner will meet the costs of any competence programme, conditions, examinations/assessments, counselling/assistance, and other action required following the review.

## References

1. Dealing with complaints and concerns policy.
2. Threshold for notification of risk of harm to another organisation policy.
3. Naming practitioners who are the subject of an order or direction made by Council (Naming policy)