

# Fact sheet - complainant

## What happens if you make a complaint?



Council of New South Wales

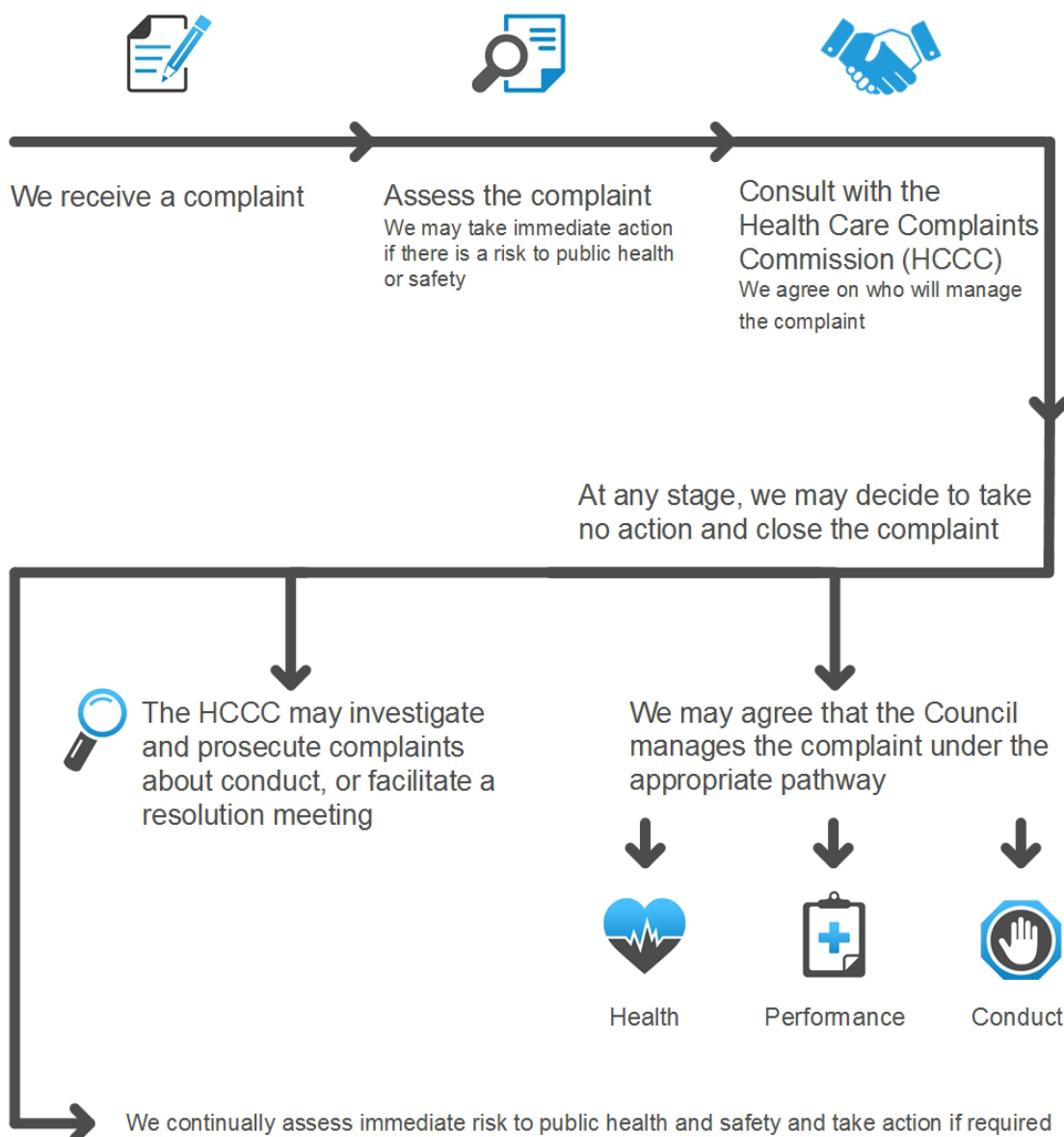
### Summary

The Council works with the Australian Health Practitioner Regulation Agency (AHPRA) and the Health Care Complaints Commission (HCCC) when dealing with complaints. This fact sheet gives you information about the assessment process we follow including possible outcomes. Our powers come from the *Health Practitioner Regulation National Law (NSW)*, which we refer to in this fact sheet as the *National Law (NSW)*.

This fact sheet includes:

- a summary of the assessment process
- further details about our legal powers, and your rights

### The assessment process



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### We receive a complaint

The practitioner will be told about the complaint by either the HCCC or us, and asked to respond.

Our main purpose is to minimise any risk of harm in order to protect public health and safety. Our role is not to punish the practitioner, but to ensure that they are able to practise safely and competently.

Assessing a complaint and reaching an outcome usually takes months, and sometimes, years for complex matters. You will be informed about the progress of the complaint every 3-4 months.



### We assess the risk to public safety

We assess the seriousness of the alleged conduct or behaviour, any information received and the risk of recurrence. At any stage we may hold an urgent hearing to consider suspending or imposing restrictions on the practitioner's registration.



### We consult with the HCCC and agree on who will manage the complaint

We jointly decide which agency will manage the complaint. Each agency has different legal powers and the decision will reflect which agency is more suitable. You will be told about this decision.



### When the HCCC manages the complaint

The HCCC may investigate and prosecute serious complaints, or facilitate a resolution meeting. More information about the HCCC's process can be found at:

[www.hccc.nsw.gov.au/Complaints/Complaint-Process](http://www.hccc.nsw.gov.au/Complaints/Complaint-Process)



### When we manage the complaint

We manage complaints under our health, performance or conduct pathways. The processes used by us are fair, proportionate and provide an opportunity for the practitioner to respond to the complaint/s and the assessments carried out for us.

We may:

- collect information from relevant parties, in writing or via an interview. You may be asked to provide additional information.
- require the practitioner to attend a health and/or performance assessment
- hold a panel or committee meeting to decide whether or not we need to restrict or monitor the practitioner's practice.
- direct the practitioner to attend counselling about professional standards
- advise AHPRA of our decisions so it can update the national register of health practitioners
- monitor the practitioner's compliance with any orders or conditions on their registration.



### How we assess the complaint

We consider:

- the complaint, the practitioner's individual circumstances, their response to the complaint, and any other relevant information (including information from other parties and previous complaints)
- the seriousness of the incident and the likelihood of it happening again
- the practitioner's ability to reflect and demonstrate their understanding of the expected standards for professional behaviour
- the impact of personal health on the practitioner's practice
- what the practitioner has done to ensure that a similar incident does not recur.



### Outcome of the complaint

At any stage we may close the complaint. We do this when we consider there is minimal risk of the incident occurring again.

We will tell you the outcome and if there are conditions or orders on the practitioner's registration. We must tell the practitioner's employer if conditions or orders are applied.

You will be told that the complaint is closed, and why. If you are dissatisfied you may request that the HCCC review the decision.

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## Further details

### Our legal powers and obligations

#### We may share information

We must inform the practitioner about the details of your complaint.

We may only share information with others for the purposes of managing a complaint.

#### Confidentiality

The complaints process is confidential. We can only share confidential information if required for the purpose of exercising functions within the *National Law (NSW)*.

We routinely provide copies of your correspondence to the practitioner.

We must release information under the *Government Information (Public Access) Act 2009*.

### Your rights

You have the right to:

#### Be treated with respect

We expect communication between staff and complainants to be respectful.

#### Be kept informed

We will tell you:

- who will be managing the complaint
- the progress of the complaint at regular intervals
- about actions taken that affect the practitioner's registration
- the outcome of the complaint.

#### Provide additional information

- you may be asked to provide additional information. You can send us any information you think is appropriate.
- if we decide to hold a hearing, we may invite you to attend as a witness

#### Provide feedback to us

We are happy to hear your concerns about our processes, via phone or email.

You may also make a complaint about policies, procedures, member conduct, communication, access to information or quality of service using the form on our website.

#### Under the National Law (NSW) you do not have the right to:

- seek compensation
- ask that the practitioner is punished.

Our 'About the Council' fact sheet has more information about other organisations that manage complaints.