

Risk of harm and risk of serious harm

The Board's principal purpose under the Health Practitioners Competence Assurance Act 2003 (HPCA ACT) is to protect the health and safety of members of the public by providing for mechanisms to ensure that psychotherapists are competent and fit to practise their profession.

From time to time, the Board may receive notifications from practitioners, the public or third-party agencies relating to a practitioner's health, conduct and/or competence. When a notice of this kind is received, the Board must take swift steps to assess the level of risk the practitioner may pose to the public in relation to the concerns raised and to take action in accordance with that level of risk.

Definitions

For the purpose of assessing the level of risk associated with a notification, the Board has adopted the following definitions of risk of harm and risk of serious harm.

Risk of harm may be indicated by:

- a pattern of practice over a period of time that suggests the psychotherapist's practice of psychotherapy may not meet the required standard of competence
- a single incident that demonstrates a significant departure from accepted standards of medical practice
- recognised poor performance where local interventions have failed – this does not exclude:
- notification of serious concerns where internal review
- audit is inaccessible or unavailable to the person with the concern; or
- criminal offending
- professional isolation with declining standards that become apparent.

Risk of serious harm may be indicated when:

- an individual client may be seriously harmed by the psychotherapist
- the psychotherapist may pose a continued threat to more than one client 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 psychotherapist poses a risk of serious harm to one or more members of the public.

Action on risk of harm

In all instances where a risk of harm or risk of serious harm are identified, action should be taken.

In all instances where a risk of harm has been identified, the Board must notify the following persons of the circumstances that have given rise to the belief that the practitioner may pose a risk of harm (HPCA ACT section 35):

- Accident Compensation Corporation
- Director-General of Health
- Health and Disability Commissioner
- Any person who, to the knowledge of the Board, is the employer of the practitioner.

The Board may also notify any person who works in association with the psychotherapist, for example, their supervisor or professional body (subject to Privacy Act requirements).

In the case of a risk of serious harm, the Board may also consider:

- interim suspension of the practitioner's annual practising certificate
- imposing interim conditions on the practitioner's scope of practice
- publishing a notice, pursuant to HPCA ACT section 157, setting out the effect of any order it has made or a summary of any finding under the HPCA ACT in respect of a practitioner, for example, referral to a Professional Conduct Committee for investigation, referral for a competence review, interim suspension etc. This notice can be published wherever the Board determines.

Such actions shall be taken in accordance with the practitioner's right to be informed on what grounds action is being taken and given an opportunity to be heard prior to action being taken under the HPCA ACT.

<i>Approved by: The Board</i>	<i>Policy in effect from: February 2011</i>
<i>Previous review dates: November 2020</i>	<i>Date to be reviewed: November 2022</i>