

The Psychotherapists Board  
of Aotearoa New Zealand

*Te Poari o nga Kaihaumanu Hinengaro o Aotearoa*

# Competence Review & Competence Programme Guidelines for Psychotherapists

Sections 34-44 of the Health Practitioners  
Competence Assurance Act 2003

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# Table of contents

<b>Introduction to competence reviews and competence programmes.....</b>	<b>3</b>
<b>Part 1 – Competence reviews .....</b>	<b>3</b>
When competence issues arise .....	3
The competence review process .....	4
<b>Part 2 – Competence programmes .....</b>	<b>8</b>
What the HPCAA says about competence programmes .....	8
Competence programmes arising from a competence review .....	8

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# Introduction to competence reviews and competence programmes

The Psychotherapists Board of Aotearoa New Zealand (the Board) is legally required to oversee a system for conducting competence reviews and competence programmes for psychotherapists. We encourage anyone required to undergo a competence review or programme to review the detailed information about competence in Part 3 the Health Practitioners Competence Assurance Act 2003 (the HPCAA).

Please note: Competence reviews and competence programmes are not disciplinary in nature. A review is conducted to assess a psychotherapist's competence, and it is therefore meant to be evaluative and educational in nature. A competence programme arising from a review is remedial in nature. The Board prefers that reviews and programmes be conducted in as collaborative and supportive a manner as possible.

## Part 1 – Competence reviews

### When competence issues arise

The following section explains how competence matters tend to arise and describes the Board's processes for addressing them.

#### **Who might ask for a psychotherapist's competence to be reviewed?**

- Professional colleagues, other health practitioners;
- Employers (e.g. DHBS, ACC, CYFS, Department of Corrections), especially if the psychotherapist resigns or is dismissed for reasons relating to competence;
- The Board itself, whether or not there is reason to believe that a psychotherapist's competence may be deficient [refer to section 36(4) of the HPCA Act];
- The Health and Disability Commissioner or the Director of Proceedings under the Health and Disability Commissioner Act 1994;
- A Professional Conduct Committee which has investigated a complaint against a psychotherapist.

#### **How can someone request a competence review?**

By written referral to the Board. This written notice must set out the reasons why it is believed that the psychotherapist may pose a risk of harm to the public by practising below the required standard of competence.

### **How does the Board initially screen a request for a review?**

The Board recognises that a review is likely to be a significant and anxiety-provoking intrusion into the professional life of a psychotherapist. A review is not carried out if the notification is considered frivolous, vexatious, or if inadequate information is received. The decision to proceed with a review is made after careful consideration of all of the information made available to the Board.

Generally speaking, the following factors increase the probability of underlying competence concerns, and therefore the Board deciding to proceed with a review:

- a pattern of poor standards of care or competence – several instances, or one instance over a sustained period or one serious incident;
- the magnitude of the mistakes, including the size of the suspected deficit, and the possible degree of serious departure from normal safe and accepted standards of practice.

It is also recognised that incompetent practice may be the result of gradually evolving illness or disability.

The following factors decrease the likelihood of the Board deciding to proceed with a review:

- if the matter would be more appropriately dealt with by other agents, such as the Privacy Commissioner or the Courts, or does not directly relate to professional or clinical competence;
- if the matter may be more appropriately referred to a Professional Conduct Committee, Conciliation, or to the Health and Disability Commissioner.

## **The competence review process**

### **Who conducts the review?**

A Competence Review Committee (CRC) appointed by the Board conducts the review. The membership of the Committee will be sent to the psychotherapist by the Board. CRCs usually consist of one layperson and two psychotherapists – preferably one of whom is practising in the same modality and/or scope as the psychotherapist undergoing the review. The CRC may co-opt others for specific expertise or advice (e.g. where cultural issues are the source of the concern, the CRC will include cultural expertise).

CRC professional members are practitioners who are considered professionally competent, have good interpersonal skills, and have some knowledge of performance and educational assessment. CRC laypeople will have relevant experience in the health sector and will represent the public perspective.

The psychotherapist undergoing the review may object to the CRC's membership if they perceive a serious conflict of interest or believe that the committee lacks the necessary expertise to review the competence matters outlined in the terms of reference. They will need to raise any such concerns within 5 working days of receiving the notice from the Board. This should be done in writing and should include a detailed explanation of the reasons why they are requesting any change. Objections received will be carefully considered, but the Board is not obliged to act on them.

## **How will the Review proceed from this point on, and what does the psychotherapist need to do now?**

The Board has issued the psychotherapist with the following:

- the substance of the concerns, and the grounds (if any) on which the Board has decided to carry out the review;
- the terms of reference for the review. This sets out the scope of what the review will focus on;
- CRC membership.

The psychotherapist is entitled to make written submissions to the Board and to be heard regarding the form of the review, either personally or through a representative. Any submissions must be received by the Board by the date specified.

The activities included in the review will be decided by the CRC. The review may include, but is not limited to, review of clinical files, requests for information, discussion of hypothetical cases or scenarios, interviewing the psychotherapist's supervisor or colleagues, and discussion of professional issues. A visit to the psychotherapist's practice room/s may also form part of the review.

## **What happens after the Board has considered submissions?**

Once the deadline for initial submissions has passed and the Board has confirmed membership of the CRC, any submissions made will be forwarded to the CRC. The CRC will meet and will begin by determining the activities that will constitute the review. Once the specific review activities are finalised, the CRC Convener will notify the psychotherapist of these, and arrangements to find a suitable time and place will be made with them and any other necessary parties. Initially, many of these practical arrangements may be negotiated over the phone. These discussions will be followed by written letters confirming the arrangements made.

The practical component of the review may take up to half a day (3 or 4 hours). Depending on the breadth of the review, the CRC may need to meet with the psychotherapist more than once.

The CRC has the right to inspect any or all of a psychotherapist's clinical records, and therefore, these must be made available to the CRC [refer to s42 of the HPCAA].

The psychotherapist is entitled to make oral submissions in the presence of a support person, or have a representative make submissions on their behalf [refer s37(1)(c)]. The CRC Convenor will establish before the review, whether the psychotherapist intends to bring a support person or representative. If there is to be a support person present, this person will need to sign a confidentiality form. Please note that the support person should not be present if a client is being discussed, and that all clinical material discussed in the support person's presence must be made anonymous.

If any other competence issues (which would normally be serious enough to warrant concern) are identified during the course of the review, the HPCAA requires that the CRC notify the Board. If other matters that pose a risk to client safety are discovered during the course of the review – even if outside of the terms of reference – these must also be addressed.

### **What decisions can the Committee make?**

As soon as practicable following the review, the CRC must write a report to the Board with a finding that the psychotherapist either:

- meets the required standard of competence for a registered psychotherapist; or
- does not meet the required standard of competence for a registered psychotherapist.

If the psychotherapist does not meet the required standard, the CRC may make suggestions to the Board regarding Orders (see below).

### **What decisions can the Board make?**

The Board will consider the CRC's report. If the CRC has determined that the psychotherapist **does not** meet the required standard of competence, then the Board must make one or more of the following orders:

- that they undertake a competence programme;
- that one or more conditions be included in their scope of practice;
- that they sit a specified examination or assessment;
- that they be counselled or assisted by one or more nominated persons.

### **What are the confidentiality requirements of the CRC?**

CRC members sign a confidentiality agreement in which they undertake not to reveal or release any personal or health information obtained about the psychotherapist or their clients, except as legally required during the course of the review. In addition, where specific cases are included in the report or discussed with the Board, no client identifying information is included. If client consultations are observed, the client will be asked to sign a consent form prior to the consultation.

### **Who knows that a competence review is taking place?**

If the psychotherapist is employed it may be necessary to inform the relevant person of the review. Aspects of the review such as reviewing client records and interviewing colleagues often requires others in the workplace to be aware of the review. That said, excepting those who must be notified of a review (see item 11 below), the Board does not release information about a psychotherapist undergoing a competence review without the permission of that psychotherapist. Circumstances of *risk* or *harm* may however override confidentiality.

### **Who knows the outcome of the competence review?**

If the review determines that the psychotherapist does not meet the required standard of competence, the HPCA Act states that a copy of the orders made under s38(1) must be given to:

- the psychotherapist;
- their employer(s);
- any person who works in association or partnership with the psychotherapist.

### **What if the psychotherapist declines to take part in the review?**

If the Board is unable to conduct or complete a Review because the psychotherapist fails to respond adequately to the Notice, the HPCAA states that the Board then has reason to believe that they fail to meet the required standard of competence and may make one or more orders under section 38(1) of the HPCAA.

**What information does the person who made the initial referral get?**

The person who made the referral is given information about the review process, advised that it is not a disciplinary process, and told that the psychotherapist's competence may be reviewed. They are informed that *if* problems are identified, the psychotherapist to whom the referral relates *may* be required to undergo a Competence Programme.

**What kind of conditions can be put in place pending a review?**

The Board may order interim suspension of a psychotherapist's practising certificate or alter their scope of practice while they undergo a review. This can be ordered where there are reasonable grounds to believe that they pose a risk of serious harm to the public by practising below the required standard of competence.

**Should the psychotherapist have formal representation during the review?**

As part of the psychotherapist's right to be heard on the matters involved in the review, they can choose to have a representative attend with them or act on their behalf.

**What if the psychotherapist wants a support person with them during the review?**

The psychotherapist is entitled to have a support person (or persons) present during the review. A confidentiality declaration will need to be signed by them, and this will be organised by the CRC at the time.

If the psychotherapist chooses to have someone attend the review with them, they will need to notify the CRC whether the person attending is their support person or representative. Ordinarily, a support person will not speak during a review. However, the CRC Convenor may invite comment from the support person.

**Should the psychotherapist's supervisor be part of the review?**

It is possible that the CRC may find it helpful to talk with, or meet, any professional supervisor the psychotherapist has. If so, the CRC will include this in the list of activities that will form the practical component of the review. It is also possible that the psychotherapist may want their supervisor to contribute to any submissions they make.

**Is this a disciplinary process?**

No. Reviews are not disciplinary in nature – they are intended to be evaluative and educational, with the goal of working with the psychotherapist to identify possible problems to be remedied. The Board believes that reviews should be as supportive of the psychotherapist as possible. It is expected that direct dialogue with the psychotherapist concerned is likely to facilitate such support and collaboration.

## Part 2 – Competence programmes

### What the HPCAA says about competence programmes

Competence programmes are provided for under section 40 of the Act. For the purpose of maintaining, examining, or improving the competence of a psychotherapist to practise psychotherapy, the Board may set or recognise competence programmes in respect of psychotherapists who hold or apply for practising certificates.

A competence programme may require a psychotherapist to do any one or more of the following, within a period, or at intervals, prescribed in the programme:

- pass any examination or assessment, or both;
- complete a period of practical training;
- complete a period of practical experience;
- undertake a course of instruction;
- permit another health practitioner specified by the Board to examine the clinical records of the psychotherapist in relation to his or her clients;
- undertake a period of supervised practice with a Board-approved supervisor.

The Board may specify a period within which the psychotherapist must comply with the requirements of the programme. In certain circumstances, the Board may exempt a psychotherapist from all or any of the requirements of a competence programme.

### Competence programmes arising from a competence review

#### How is a competence programme developed following a review?

If and when appropriate, a programme will be:

- designed to fill gaps in knowledge, skills and understanding as described in the review report;
- developed to include specific objectives and educational activities and an agreed process of reporting or reassessment at the end of the process;
- developed to ensure that the Programme is feasible.

When necessary, this may include the appointment of a supervisor to guide the psychotherapist through the educational, clinical, or practical activities required.

The Board drafts the requirements for the programme based on the CRC's report, input from the CRC Convener, discussions with any other appropriate educational providers, and any programme supervisor.



### **What is included in a competence programme?**

A programme may include the following:

- specific measurable objectives;
- details of educational activities the psychotherapist should participate in to meet these objectives, (e.g. specified courses, audits, individual study, practice enhancement activities);
- the specific skills required of and tasks to be performed by any programme supervisor when it is considered that the programme is sufficiently extensive or complex to warrant such an appointment;
- the method for assessing whether the objectives have been met. Assessment may vary from simple reporting (e.g. that a specified educational activity has been completed along with a description of the learning that occurred and how that has been implemented in practice) to supervisor's reports followed by a repeat review;
- the date by which the programme should be completed.

The Board intends to work collaboratively with the psychotherapist to ensure that the programme is feasible. The Board then approves the programme and an order containing the details of the programme is issued to the psychotherapist (and to the competence programme supervisor where one is appointed) within 20 working days of the approval. If a further review is required at the completion of the programme, whenever possible, one or more of the original CRC members carries out the review. The supervisor is not normally part of the review team. The Board covers the cost of any additional review.

### **Who may become a competence programme supervisor?**

The person appointed as a programme supervisor should (whenever possible):

- be a peer working in the same scope or modality as the psychotherapist;
- possess good facilitation and interpersonal skills;
- have had significant experience as a psychotherapist educator or supervisor;
- be competent and have recognised experience in the area of concern;
- be acceptable to the psychotherapist.

The Board appoints a supervisor after discussions with the psychotherapist, other relevant education providers or professional organisations, and cultural advisors where necessary.

### **Who pays for the costs of completing a Competence Programme?**

The psychotherapist undergoing the programme is responsible for payment of its costs. Any supervisor is paid directly by the psychotherapist undertaking the programme.