

# Ngā tukanga o te kōmiti whanonga tūngaio:

## Whiunga: ā-ture rānei, ā-whanonga rānei

# Overview of the professional conduct committee process: Court convictions or conduct matters

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## Introduction

Te Kaunihera Manapou Paramedic Council (Te Kaunihera) is a regulatory authority which is governed by the Health Practitioners Competence Assurance Act 2003 (HPCA Act).

The HPCA Act sets out several functions concerning the registration, continuing competence, and fitness to practise of paramedics. [Part 4 of the HPCA Act](#) sets out Te Kaunihera's requirements when a paramedic receives a court conviction or if there is information that raises questions about the appropriateness of the conduct of safety of the practise of a paramedic.

For convictions, the HPCA Act requires Te Kaunihera to either:

- refer the notice of conviction to a Professional Conduct Committee (PCC) to consider what action, if any, should be taken in response to the referral, or
- order the paramedic to undergo specified health examination, treatment, counselling, or therapy before deciding whether to refer the matter to a PCC.

Where there is information that raises questions about the appropriateness of the conduct of safety of the practise of a paramedic, Te Kaunihera has the ability to refer the matter to a PCC.

Refer to **Appendix A** for a flowchart showing the options available to Te Kaunihera.

### **Interim suspension or conditions**

If a paramedic is alleged to have engaged in conduct which has led to a pending criminal proceeding, or an investigation by the Health and Disability Commissioner (HDC) or a PCC, and if Te Kaunihera believes this casts doubt on their professional capacity, Te Kaunihera may suspend their practising certificate or include conditions on their scope of practice.

The paramedic will be given the opportunity to make oral and written submissions before this occurs.

### **Notice of conviction from the Courts**

The HPCA Act requires Court Registrars to send a notice of conviction to Te Kaunihera where a paramedic has been convicted of an offence punishable by imprisonment for a term of three months or longer, or an offence against the following Acts:

- Births, Deaths, and Marriages Registration Act 1995
- Burial and Cremation Act 1964
- Contraception, Sterilisation, and Abortion Act 1977
- Coroners Act 2006
- Health Act 1956
- Health and Disability Services (Safety) Act 2001
- Human Tissue Act 2008
- Injury Prevention, Rehabilitation, and Compensation Act 2001
- Medicines Act 1981
- Mental Health (Compulsory Assessment and Treatment) Act 1992
- Misuse of Drugs Act 1975
- Radiation Safety Act 2016

### **Health examination for paramedics with convictions**

Te Kaunihera will generally only refer the paramedic for a health examination and/or treatment, counselling, or therapy if the conviction or sentencing notes indicate that the paramedic may have a health condition.

If Te Kaunihera decides that a health examination, treatment, counselling, or therapy is appropriate, before it can make the relevant order, it must obtain the paramedic's consent to their recommendation and the provision of a report on the outcome.

After receiving the report on the relevant health intervention, Te Kaunihera may:

- take no further action in relation to the conviction.
- order that conditions be included in the paramedic's scope of practice
- refer the notice of conviction to a PCC

### **The role of a PCC**

The PCC's role in considering a referral of conviction is to decide whether the conviction meets a certain level of seriousness which may reflect adversely on a paramedic's fitness to practise.

The PCC will consider all information provided and will meet with the parties involved to see if there is anything further which should be considered. The PCC must make recommendations and/or determinations in relation to the referral within 14 days of completing the investigation.

The PCC will also consider whether the conviction should be dealt with through other processes available under the HPCA Act, such as a competence review or consideration as a health matter.

The PCC must give written notice of any recommendations or its determination, and the reasons for it, to the Registrar and the paramedic.

### **Membership of the PCC and legal advisor**

A PCC comprises of two paramedics and a lay member. If there is a conflict of interest, Te Kaunihera may appoint another PCC member.

Once a paramedic's conviction has been referred to a PCC, the paramedic and any complainant will be informed in writing of the referral and given the names of the proposed PCC members and the PCC legal advisor.

The paramedic and/or complainant may make a written request for changes to the membership of the PCC, and outline their reasons for the request. The request must be made within five working days of being informed of the intended PCC membership. Te Kaunihera must consider the request but are not obligated to comply with it.

The paramedic may choose, and is encouraged, to seek the representation or support of a legal representative or support person through this process. Paramedics who wish to have representation are strongly recommended to contact that person or their professional organisation to ensure they are involved in the process.

### **Appointment of legal advisor and investigator**

The PCC has a legal advisor appointed to provide legal advice to the PCC on matters of law, procedure, or evidence. They may attend any hui/meetings to advise the PCC but they are not present during the PCC's deliberations.

If requested, the PCC can also appoint an investigator to gather additional information the PCC requires for its consideration.

### **Interim suspension during an investigation**

If, during the investigation, the PCC believes the paramedic's practice poses a risk of serious harm to the public, it must notify Te Kaunihera and provide reasons for this belief.

If a PCC believes these reasons justify the paramedic's suspension of practice, it may recommend that Te Kaunihera take appropriate action.

The paramedic will be given an opportunity to make written and/or oral submissions to Te Kaunihera before it decides whether to suspend the paramedic from practice or include conditions in their scope of practice.

### **PCC Meeting/Hui**

The PCC must give the paramedic who is the subject of the PCC's investigation a reasonable opportunity to be heard.

Hui/meetings with the PCC and paramedic are generally held electronically where possible. However, if a Kanohi ki te kanohi/face-to-face hui is needed, this will be at a place that suits everyone involved and will also consider any cultural needs for the paramedic.

The paramedic will be informed well in advance of any proposed hui date.

### **Information considered by the PCC**

The information that is considered by the PCC in the case of a conviction usually consists of:

- a certified copy of the conviction
- the police summary of facts
- the sentencing notes of the judge.

If the conviction was not the result of a guilty plea, the police summary of facts may not always be included.

Where the paramedic is referred to a PCC not because of a conviction, but because of another matter, the information that is considered will depend on the circumstances, but will typically be the same information that was used by Te Kaunihera when deciding to refer the paramedic to a PCC.

The PCC and the paramedic receive the same information.

### **Natural justice**

The process must comply with the rules of natural justice. This means that, to protect the interests of people who may be adversely affected by a decision, those people must be given the opportunity to respond to the information gathered by the PCC.

### **PCC recommendations**

The PCC may recommend that Te Kaunihera does one or more of the following:

- review the competence of the paramedic
- review the paramedic's fitness to practise (health)
- review the paramedic's scope of practice
- refer the subject matter of the investigation to the police
- counsel the paramedic.

Any recommendations are referred to Te Kaunihera to decide what action it will take. Te Kaunihera must consider the recommendations promptly but does not need to follow them.

#### *Review of competence*

Information about the competence review process is available on Te Kaunihera's [website](#). Under this process, the paramedic will be asked to provide information about their practice and any professional development that has been completed and may be requested to complete a competence assessment.

#### *Referral to the Health Committee*

Information about the health process is also available on the Te Kaunihera's [website](#). Under this process, the paramedic may be asked to have a medical examination (paid for by Te Kaunihera) and meet with a Health Committee. The Health Committee may include conditions in a paramedic's scope of practice or suspend a paramedic if they are unable to practise because of a mental or physical condition.

### *Letter of counsel*

A recommendation that Te Kaunihera counsels a paramedic generally means a letter is sent to the paramedic recommending an improvement in the paramedic's practice or behaviour.

### *Review of scope of practice*

A PCC may also recommend that Te Kaunihera includes a condition on the paramedic's scope of practice, such as practising under supervision. If such a recommendation is made, the paramedic is given the opportunity to make a written and/or oral submission before Te Kaunihera reviews their scope of practice.

### **PCC determinations**

A PCC may also determine that:

- no further steps be taken
- a charge be brought against the paramedic before the Health Practitioners Disciplinary Tribunal (the Tribunal).

### **Health Practitioners Disciplinary Tribunal**

The HPCA Act establishes an independent disciplinary tribunal, which is separate from Te Kaunihera, to hear charges laid against all health practitioners. When considering charges against a paramedic, the Tribunal will comprise a chair, who is a lawyer, three paramedics and a layperson.

The hearings are in public unless there are compelling reasons for a private hearing.

The Tribunal will decide whether the conviction reflects adversely on the paramedic's fitness to practise and whether to impose a penalty.

Information about the Tribunal and its processes is available from its website at [www.hpdt.org.nz](http://www.hpdt.org.nz).

### **Appeals**

The decisions of PCCs are not subject to appeal. However, a PCC or the paramedic may appeal decisions of the Tribunal in the High Court.

The purpose of a judicial review is to review the process that the decision maker used to come to a decision and ensure a fair and reasonable process resulted in a fair and reasonable outcome.

### **Enquiries**

Any enquiries about the court conviction process should be addressed to the Registrar of Te Kaunihera – [registrar@paramediccouncil.org.nz](mailto:registrar@paramediccouncil.org.nz).

## Appendix A - Referral to a professional conduct committee (PCC)

Te Kaunihera has information that raises one or more questions about the appropriateness of the conduct or the safety of the practice of a paramedic, including complaints referred by the Health and Disability Commissioner. *Section 68*

Discretionary referral

A notice of conviction relating to a paramedic is received. *Section 67A*

Mandatory choice  
*Section 67A(2)(a) or*

Health pathway

Do conditions need to be placed or should the paramedic's APC be suspended?

If yes

Are there doubts on the appropriateness of the paramedic's conduct? *Section 69*

If yes

Paramedic notified and provided a reasonable opportunity to make submissions.

Order made.

Order revoked once investigation completed, and Te Kaunihera is satisfied that the paramedic will not be charged because of the investigation.

Is there a risk of serious harm to the public? *Section 69A*

If yes

Order made.

Paramedic notified and provided a reasonable opportunity to make submissions.

Refer to a PCC

Te Kaunihera may propose making an order under section 67A(2)(b) requiring the paramedic to:

- undergo a medical examination and treatment or
- undergo a psychological or psychiatric examination, counselling, or therapy or
- attend any specified course of treatment or therapy for alcohol or drug abuse.

This proposal is subject to the paramedic's consent.

Paramedic refuses

Paramedic consents

Order made as proposed (or with any alterations approved by Te Kaunihera). The order includes disclosure requirements under section 156A to the paramedic's employer and any person who works in partnership or association with the paramedic

Treatment provider **must** report to Te Kaunihera on the outcome of the treatment pathway. Report sent to paramedic and considered by Te Kaunihera. Te Kaunihera may decide under section 67A(6)(a), (b) or (c):

Choice

Place conditions on paramedic's scope

Take no further action