



Naming Policy

Refers to the following key legislation:

- Health Practitioners Competence Assurance Act 2003
- Privacy Act 1993
- Official Information Act 1982
- Defamation Act 1992
- The New Zealand Bill of Rights Act 1990

And relates to the following information on the Occupational Therapy Board website (www.otboard.org.nz):

- Competencies for Registration and continuing practice
- Code of Ethics
- Decisions by the Health Practitioners Disciplinary Tribunal (*link on OTBNZ website*)

Policy statement

The Occupational Therapy Board of New Zealand (OTBNZ) exists to protect public safety. As the regulator it oversees professional standards in occupational therapy. The OTBNZ makes sure occupational therapists meet and maintain professional standards of education, conduct and performance, so that occupational therapists deliver high quality healthcare throughout their careers. The OTBNZ will hold occupational therapists to account if their conduct falls short of these standards.

This naming policy will enhance public confidence and transparency in occupational therapy as a profession by allowing clients to make an informed choice about the occupational therapist they engage with. It allows the OTBNZ to publish information about an occupational therapist where that occupational therapist has fallen short of professional standards or is otherwise the subject of an order or direction¹.

The naming policy was developed in accordance with section 157B of the Health Practitioners Competence Assurance Act 2003 (HPCAA), which states that the purpose of the naming policy is to:

- enhance public confidence in occupational therapists by providing transparency about the OTBNZ's disciplinary procedures and decision-making processes; and
- ensure that occupational therapists whose conduct has not met expected standards may be named where it is in the public interest to do so; and
- improve the safety and quality of health care.

1 Health practitioners for whom the naming policy applies

a. This naming policy applies to:

- I. Any occupational therapist registered with the OTBNZ, regardless of practising certificate status; or

¹ An order or direction is made by the Board of the OTBNZ. For example: Suspension, inclusion of conditions or change in permitted health services when a practitioner does not satisfy the requirements of a competence or recertification programme under section 43(1) of the HPCA Act.

- II. Any occupational therapist who has previously been registered with the OTBNZ.
- b. In Aotearoa New Zealand, occupational therapists are registered health practitioners who practise within the occupational therapy Scope of Practice, as prescribed by the OTBNZ under section 11 of the HPCAA.

2 Circumstances in which an occupational therapist may be named

- a. The OTBNZ may publish in any publication the name of an occupational therapist who is the subject of an order or direction made by the OTBNZ under the HPCAA.
- b. Publication of occupational therapist's name shall only occur following the completion of any OTBNZ process, and not while any investigation or deliberations are ongoing.
- c. Notwithstanding section 2b above, the OTBNZ may decide to name an occupational therapist who is the subject of an interim suspension order, or has interim change to or conditions imposed on his or her scope of practice, under sections 38, 39(1), 43, 48 or 69 of the HPCAA.
- d. The OTBNZ will not routinely publish the names and details where occupational therapists were investigated but are not the subject of any orders or direction, except for:
 - I. Occupational therapists who have been exonerated during any investigation, who may ask the OTBNZ to publish their name and the details of that exoneration in order to clear their name.
 - II. Occupational therapists who are the subject of confusion where their name is the same as or very similar to that of another occupational therapist or health practitioner named in an order, who may ask the OTBNZ to publish their name with clarification to avoid confusion.
- e. This policy does not affect the requirement/s for the Occupational OTBNZ to share information about a practitioner under section 35, 138 or 156A(2)(a) of the HPCAA.

3 General principles that will guide the OTBNZ's naming decisions

- a. In making a decision about the publication of information relating to an occupational therapist, the OTBNZ will maintain a focus on protecting public safety.

- b. When deciding what information is published, the OTBNZ must weigh the public interest in making the information available against the consequences for the occupational therapist of being named, including the likely harm to the occupational therapist's reputation.

4 Criteria that the OTBNZ must apply when making a naming decision

When assessing whether to publish the name of an occupational therapist in a notice issued under section 157(1) of the HPCAA the OTBNZ must consider the Privacy Act, natural justice rights and any other relevant matters.

The OTBNZ will apply the following criteria:

- a. Public safety - ensuring the safety and quality of health care and the competence of occupational therapists. Non-disclosure in a particular case may run the risk of harm to future clients. Disclosure may elicit other complaints or concerns about a practitioner's competence.
- b. Public choice - The right of existing and potential clients to know the disciplinary history of a particular occupational therapist so as to be able to make an informed choice whether to engage their services in the future.
- c. Accountability - occupational therapists are accustomed to being held to account for the standard of care or service they provide. Information may need to be disclosed if serious accountability or health and safety concerns are raised, including non-compliance with an existing order.
- d. Nature of the concerns - does the concern raise serious safety or competence concerns, does non-disclosure raise a risk of harm to future clients? Concerns of a serious nature will raise stronger public interest considerations in favour of disclosure.
- e. Whether the investigation is ongoing - disclosing the details of an allegation during an ongoing investigation may unfairly suggest that there is substance to the allegation.
- f. Action taken in respect of the outcome of an investigation – the public interest in disclosure will be higher, and an occupational therapist's legitimate expectation of privacy will be reduced, where a concern has been investigated and found to be

substantiated. It will often be in the public interest to know the remedial actions or consequences imposed on the occupational therapist.

- g. Extent to which information is already in the public domain - the privacy interest may be diminished by prior knowledge or public availability of the information. If information about the concern is already in the public domain, this may increase the public interest in disclosure of a summary about the outcome of any investigation. The purpose of such disclosure would be to demonstrate that appropriate action has been taken to investigate the concern and institute any protective measures or remedial action.
- h. Likelihood of harm to the occupational therapist arising from disclosure - there may be factors that heighten the risk of personal or professional harm arising from disclosure, for example the physical or mental health of the occupational therapist, or the size of the community in which they practise.

5 Information the authority may disclose when naming an occupational therapist

- a. Where the OTBNZ has elected to publish information about an occupational therapist, it will release a summary of the information with appropriate context.
- b. Publications instigated by the OTBNZ may include the name of the occupational therapist, a short context of the concern and citation of the relevant section of the HPCAA.
- c. Where the order relates to the health of an occupational therapist, additional consideration is needed with regards to the impact any disclosure may have on the occupational therapist.

6 Means by which an occupational therapist may be named

- a. Publication will be made via posting on the relevant section of the OTBNZ website; and may also be by inclusion in the OTBNZ's electronic newsletter or other suitable media.
- b. In addition, the OTBNZ may also annotate the occupational therapist's entry on the Register to include a reference to the order or direction.

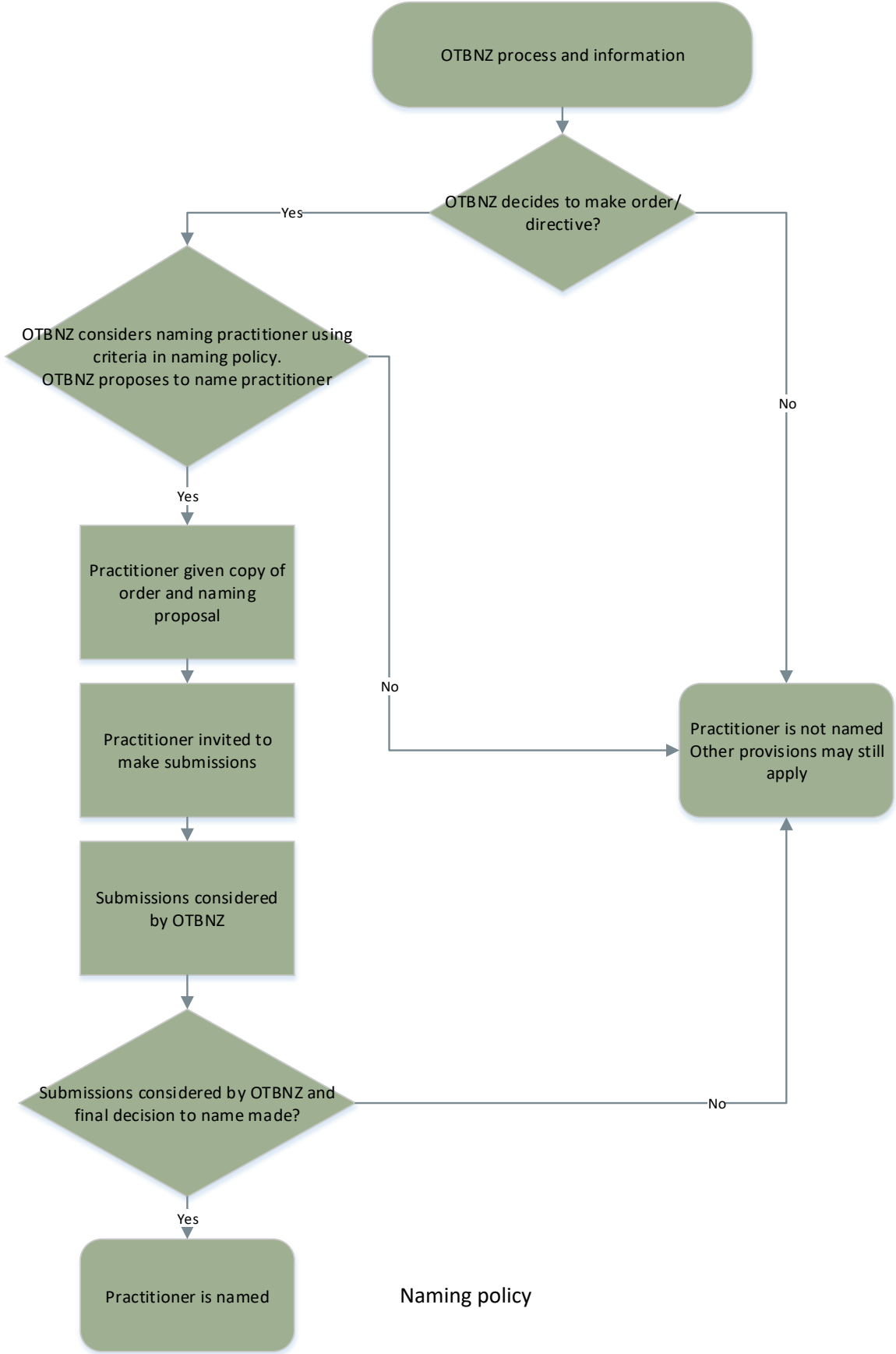
- c. Information published on the OTBNZ’s website will be reviewed periodically at an interval of not more than 2 years.
- d. The OTBNZ may elect to share the information with other health regulators in New Zealand, or equivalent regulatory bodies overseas.

7 Procedures that OTBNZ must follow when making a naming decision

- a. Where the OTBNZ proposes to publish information about an occupational therapist, having considered the factors in section four (4) of this policy, it will be required to make the occupational therapist aware of this proposal and the proposed content twenty (20) business days in advance of the anticipated publication.
- b. Sending the information in section 7a above to the occupational therapist’s last known email address will be sufficient for this purpose.
- c. The advance notice timing in section 7a above provides the occupational therapist with an opportunity to:
 - I. consider the content and make any submissions to the OTBNZ within Ten (10) business days of receiving the notice; and
 - II. Make their employer or any practice partners aware of the publication.
- d. Where the occupational therapist provides submissions to the OTBNZ in accordance with section 7cI, the OTBNZ must consider those submissions before making a final decision whether or not to make the publication and the content and scope of any publication.
- e. Where a publication relates to a specific event or concern, irrespective of whether that identifies a client or their whanau, the OTBNZ must also provide the intended publication content to that client in advance of publication.

Document ID: NAMEP	Version: 1.1
Facilitated by: Policy & Risk Advisor	Issue date: 1 March 2020
Approved by: Occupational Therapy Board	Review date: End March 2022

Overview of Process for naming practitioners subject to order/directive



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