

Consultation form

This form will assist you to make a submission to the National Health Practitioner Ombudsman (the Ombudsman) regarding her own motion investigation into delay and procedural safeguards for health practitioners subject to immediate action.

Completing this form

We have designed this form to be accessible for as many people as possible. Where the form offers a choice between multiple options, indicate your selection with an 'x'.

Space is provided to respond to the questions listed.

Please return your completed form by 5.00pm on Monday 31 March 2025 via email or post to:

Email: <submission@nhpo.gov.au>

Mail: National Health Practitioner Ombudsman, GPO Box 2630, Melbourne, VIC 3001

You can also contact us by phone if you have any questions or to make a verbal submission: 1300 795 265 (interpreter services: 131 450).

How will information I provide in this form be used?

Your submission will help the Ombudsman's investigation to understand more about how immediate action-related processes are working, and whether improvements are needed.

We will not disclose your personal information without your consent, except where required to do so by law. Your submission will not be published, and we will not share your submission with the Australian Health Practitioner Regulation Agency (Ahpra) or the National Boards.

You are not required to provide any personal information in order to make a submission to the Ombudsman. Where you choose to provide personal information, we may use it to seek clarification on your submission, or to request your consent to reproduce information contained in your submission as part of the Ombudsman's final report.

If you provide your contact details, we will provide an update when the investigation's report is published (based on your communication preferences) and if relevant, at other key progress points.

Our office is dedicated to ensuring appropriate protection of personal information. For more information about how we collect and handle personal information please review our [privacy policy](https://www.nhpo.gov.au/privacy-and-confidentiality) on our website: <www.nhpo.gov.au/privacy-and-confidentiality>.

If you have a question regarding the submissions process or your privacy, or if you would like to request alternative arrangements to provide a submission, please contact us using the details outlined above.

About you

Do you wish to remain anonymous?

You can make a submission anonymously. However, this means that we will not be able to contact you about your submission. Please note that if you choose to make your submission by email, we may be able to identify you from your email address. To remain anonymous, please post your submission.

Yes		No	✓
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If **Yes**, please go to [‘Your submission’](#).

If **No**, please continue below.

Are you making a submission on behalf of an organisation/someone else?

I am making a submission on behalf of an organisation	✓
I am making a submission on behalf of another person	

If you selected one of these options, please continue below.

If none of these are applicable to you, please go to [‘Your contact details’](#).

Please fill out the details of the organisation or person on whose behalf you are making a submission

Organisation/Individual's name	Australian and New Zealand College of Anaesthetists (ANZCA)
Please provide their contact details (if relevant)	ceo@anzca.edu.au +61395106299

If you are making a submission on behalf of an individual, what is the nature of the relationship between you?

Please specify	
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Your contact details

This section is for your own contact details.

What is your full name?

Dr Leona Wilson

How would you prefer us to contact you?

Phone		Email	✓	Post		Other	
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Please provide your contact details based on your preference/s for communication (for example, your email address and/or phone number).	lwilson@anzca.org.nz
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Are you, or have you been, a registered health practitioner?

Please select 'N/A' if you are making a submission on behalf of an organisation or individual.

Yes		No		Prefer not to say		N/A	✓
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If you selected 'Yes', please continue below.

If you selected an option other than 'Yes', please go to ['Your submission'](#).

Have you ever been subject to immediate action?

Yes		No	X
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Your submission

The Ombudsman welcomes submissions from all individuals and organisations. In particular, the Ombudsman seeks to understand how immediate action-related processes are working in practice, and your experience or knowledge about:

- timeliness in the management of matters following immediate action being taken
- safeguards to ensure practitioners are treated fairly when immediate action is in place.

Where possible, please include relevant examples or data in your responses.

Please provide your responses to the following consultation questions.

1. Do you think Ahpra and the National Boards handle matters where a health practitioner is subject to immediate action in a timely way?

Please explain your answer. You may wish to explain what your expectations for timeliness are, and whether your expectations have been met.

- Immediate action is an important option for regulators to use to protect the public from a potential high risk (for patients and practitioners). The protection of the public has to be balanced against a significant psychological, professional and financial impost on a practitioner that immediate action creates and the fact that its often based on incomplete information.
- ANZCA is aware of a number of these where immediate action was indeed appropriate, such as acute mental health disorders and substance misuse which may be later diagnosed as substance use disorders (given anaesthetists' ready access to drugs of addiction).
- Criminal charges against a health practitioner, which if proven could result in conditions on, or removal of medical registration, are more problematic (potentially unfair) because if the health practitioner is denying the charges then any investigation is delayed by the criminal trial taking precedence over an investigation of the alleged incident.
- Patient complaints and civil litigation raises similar issues to those of criminal charges; that is the problem of making a decision based on limited information and then the prolonged time taken to investigate and finalise any action.
- ANZCA's expectation is that immediate action should occur within one week of the notification reaching Ahpra, and that there then should be a follow-up decision within a month as more information is known. This requires timely triaging and rapid investigation.

2. Are you aware of any barriers to the timely finalisation of a matter where a practitioner is subject to immediate action?

Please explain your answer. If you identify any barriers, please describe whether you think these barriers relate to Ahpra and the National Boards' processes or are outside their control.

Outside Ahpra and the National Boards' processes or controls

A significant barrier to timely finalisation of the matter occurs when the matter is also the subject of criminal charges or other legal processes; and any investigation has to await the outcome of the legal processes. This can take over two years, at times ending with a 'not guilty' verdict and a devastated health practitioner.

Within Ahpra and the National Boards' processes or controls

Immediate action, by definition, has to be timely. However, the subsequent investigation of a complaint that leads to immediate action can take a long time, as can the appeals processes which are complex, costly and slow. The appeals processes may also not be possible during the initial review. The time taken should be regularly monitored with an aim of fast resolution being a KPI for such decisions.

3. Do you think improvements are needed to ensure matters are handled more quickly when a practitioner is subject to immediate action?

Please explain your answer. If you think improvements are needed, please describe the improvements you think would be beneficial.

Those health practitioners subject to immediate action due to impairment or health concerns should be managed by appropriate monitoring of their state of health, and as soon as possible the least restrictive conditions should be applied to their registration (taking into account their practising situation). ANZCA's experience is that this is generally managed in a timely manner.

The other situations, such as those arising from criminal charges, civil litigation or patient complaints take a long time and should be reviewed regularly, possibly monthly, to ensure that the least restrictive conditions are being placed on the health practitioner and there is no undue delay in finalising the health practitioner's registration status.

4. Do you think health practitioners are treated fairly when they are subject to immediate action?

Please explain your answer. You may wish to consider what you think it means to be treated fairly and whether this occurs/occurred.

- Fairness should include:
 - the action is only taken with full and careful consideration of the information available (at the time, noting that this can be incomplete)
 - any action should be designated publicly as "interim" until evidence is assessed
 - procedural fairness requires prompt assessment and determination
- If the outcome is 'exonerated' then there should be a formal publicly available record of such. If it is 'no determination possible' then that should also be considered.
- If 'exonerated' then compensation for financial loss should be considered/provided in some way.
- If a deliberately false or vexatious claim is identified then the complainant should face consequences including a suppression on any further public statements on the matter, registration as a vexatious complainant (which doesn't remove future rights but raises a flag of caution about future complaints) and other possible penalties.
- It is difficult to know how to manage down-escalation of de-registration to 'caution' or 'no findings substantiated' or 'practitioner exonerated'. There are details within this of course such as restriction of practice to certain sites / types.
- If there are no restrictions imposed on the practitioner then there should be some public record of this, possibly with a time limit of five years.

5. Do you think there are sufficient procedural safeguards for health practitioners who have had immediate action taken against them?

Please explain your answer. Existing procedural safeguards include the 'show cause' process and the ability to appeal a decision to take immediate action to a Tribunal. You may wish to consider whether certain procedural safeguards are effective.

ANZCA's main concerns are with the time taken to proceed from 'immediate action' to the finalisation of the health practitioner's registration status. As noted above, appeals processes are time consuming and costly and often lengthy with more weight often being placed as "guilty" before proven "innocent" which can come at a cost when ultimately proven "innocent".

6. Do you think reforms or additional procedural safeguards are needed for practitioners subject to immediate action?

Please explain your answer. If you answered 'Yes', please describe what reforms or additional procedural safeguards you think are necessary and why.

The National Boards and Ahpra should regularly review the cases of health practitioners who have been subject to immediate action with a view to improving the process. Of particular interest should be the time taken for finalisation and whether the immediate action turned out to be justified once full information is known and the matter finalised. This may allow identification of the types of cases in which a different decision would have been made if the full facts were known at the beginning.

If a health practitioner is exonerated, the National Boards and Ahpra should consider how to identify that, as otherwise 'mud sticks' to the practitioner/'no smoke without fire'. This should be done in consultation with the practitioner.

Additional safeguards must include consideration of the impact of an unsubstantiated claim on the wellbeing of the healthcare practitioner. We would advocate that regulatory bodies audit and review the impact of their processes, immediate action and otherwise, on the healthcare practitioners involved in complaints, particularly those that do not result in further action.

The welfare of any practitioner subject to immediate action should be monitored, given the stress immediate action causes to the practitioner.

7. Please share any other information you think would be helpful to the investigation.

These answers were provided from the perspective of the Australian and New Zealand College of Anaesthetists and therefore focus mainly on specialist anaesthetists and specialist pain medicine practitioners.

Thank you for completing this form and your contribution to this investigation.

Access to support services

We recognise that responding to these questions may be challenging, particularly for practitioners who have been the subject of regulatory action. We encourage you to seek support if needed, including from your general practitioner or other relevant health practitioners. Further details for some available support services, including those designed to support health practitioners specifically, are provided below.

Lifeline

Call: 13 11 14 or visit: www.lifeline.org.au

Black Dog Institute

Designed by health professionals, for health professionals, The Essential Network (TEN) makes accessing support quick, easy and confidential.

Visit: www.blackdoginstitute.org.au/the-essential-network/about-ten

Drs4Drs

Drs4Drs has been established by the medical profession for the medical profession. Through a network of health practitioners' health advisory and referral services, independent, free, safe, supportive and confidential services are available across Australia.

Visit: www.drs4drs.com.au

To receive this document in another format phone 1300 795 265, using the National Relay Service 13 36 77 if required, or [email us](mailto:submission@nhpo.gov.au) <submission@nhpo.gov.au>.

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