

- The CAC lays a charge in the Tribunal – if so, the CAC will draw up an appropriate charge and present it to the Tribunal in writing. The Tribunal will consider the charge as soon as possible. If the CAC lays a charge it is recommended you seek legal advice.
- Conciliation – where the complaint is resolved by agreement between the social worker and complainant. The CAC will appoint an independent conciliator to assist. If the complaint is not successfully resolved the CAC must decide if:
 - The CAC should bring a charge against you or
 - Any further steps should be taken
- No further steps should be taken – the CAC will tell you reasons for this and the case will be closed.

How long will the CAC need to make a decision?

Investigations by a CAC can take anywhere from several weeks to several months, depending on the nature and complexity of the case. Timely responses from participants are often the key to a faster outcome. The CAC will keep you updated about its progress during the process, and will let you know the outcome as soon as possible.

How will you find out the outcome?

The CAC will write to you and the Board's Registrar with its decision. They will also write to the complainant if applicable.

Can you appeal the outcome of a CAC?

No. The decisions of the CAC are final and cannot be appealed.

However, decisions of CACs may be reviewed in the High Court via judicial review. The purpose of judicial review is to assess the process that the decision maker used to come to a decision and ensure that the

decision itself is clearly within the confines of the Act and is not clearly unreasonable. The question is whether a fair and reasonable process resulted in a fair and reasonable outcome. If you think that the process of the investigation was unfair, you may want to seek legal advice.

Can you appeal a decision of the Social Workers Complaints and Disciplinary Tribunal?

Yes. You can appeal decisions of the Tribunal. These will be heard in the District Court.

Your rights of appeal are set out in Part 5 of the Act.

Will you incur any costs participating in the CAC?

The Board pays the costs of the CAC. The Board will also pay any travel costs if the CAC asks you to attend a meeting.

What help is available?

The Board recognises that an investigation by a CAC may be stressful. You may wish to talk to a colleague, your supervisor or a lawyer. You may also have access to EAP counselling through your work. If you are a member of ANZASW you may want to contact them.

For more information

If you have further questions about the CAC process in general, please contact the Board office on **FREEPHONE 0508 797 269**.

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What to expect if you are referred to a Complaints Assessment Committee

A GUIDE FOR SOCIAL WORKERS



Social Workers
Registration Board
Kāhui Whakamana Tauwhiro

New Zealand Government

This pamphlet explains the role of a Complaints Assessment Committee (CAC) and what to expect if you are referred to a CAC.

Under the Social Workers Registration Act 2003 (the Act) the role of the Social Workers Registration Board (the Board) is to protect the safety of members of the public by ensuring social workers are competent and fit to practise social work.

The Board and the Social Workers Complaints and Disciplinary Tribunal (the Tribunal) has various powers to address any serious concerns about registered social workers. Under section 66 of the Act the Chairperson of the Tribunal can decide to refer any matter to a CAC if they have concerns about the conduct or safety of the social worker. Any social worker who is convicted of an offence punishable by imprisonment for a term of 3 months or longer must be referred to a CAC.

Employment issues between a social worker and his or her employer that do not involve the social worker's conduct and practice will generally be outside the jurisdiction of the Board.

What is a Complaints Assessment Committee?

A CAC is made up of three people – 2 registered social workers and 1 non-registered social worker – appointed by the Chairperson of the Tribunal to investigate or consider:

- A complaint about a social worker
- A question about the appropriateness of the conduct of the social worker or the social worker's fitness to practice
- A conviction of an offence punishable by 3 months imprisonment (or longer).

Who sits on a Complaints Assessment Committee?

Committee members are selected from a pool of people approved and trained by the Board. The CAC is appointed by the Chairperson of the Tribunal, but is independent and runs its own investigation process under the requirements set out in Part 4 of the Act. The Chairperson must have regard to whether any expertise/ knowledge or cultural group should be on the CAC.

The Chairperson appoints one of the committee members as the presiding member of the CAC, and this person leads the process.

You will be given written notice of the intended membership of the CAC and you can (within 10 days) request changes to the membership stating the reasons for the request. The Chairperson must consider the request and may (or may not) reconstitute the CAC.

Should you get legal advice if referred to a CAC?

You may wish to seek legal advice from earlier on, rather than later on, in the investigation. If you are a member of ANZASW you may have indemnity insurance and you should contact them as soon as possible in this regard.

What will the investigation involve?

The CAC must apply the rules of natural justice (procedural fairness) in everything it does. The CAC may receive evidence either in writing or orally or both from:

- You
- The complainant
- Your employer
- Any other person the CAC believes would assist them in making a determination.

They can also take into account any other investigations carried out by any other body, for example, the Commissioner for Children or the Health and Disability Commission or the employer etc.

The CAC may appoint a legal advisor to advise them on matters of law, procedure or evidence.

It may also appoint a private investigator to make enquires and collect information.

Once the CAC has collected all of the relevant information they will then write a report and make a determination regarding what, if any, further action is necessary.

The CAC will provide you with a copy of the report.

Who will know that you are being investigated by a CAC?

The CAC will only contact the people considered essential to carry out its investigation. All information is treated confidentially.

Will you get a chance to respond?

Yes. If you are investigated by a CAC you will be asked to comment on the complaint or conviction either in writing and/or at a meeting. If you wish to respond in writing, you will be given 28 days to respond.

If you meet with the CAC you can bring one person of your choice with you but if you would like to bring more than one person, you will need to ask the CAC if this is OK.

What are the possible outcomes of the process?

The CAC are able to make a range of determinations and they include:

- The Board should review the fitness to practice or the competence of the social worker (or both)