

X) while she was at Police College, but nothing came of it. Police resolved this complaint by apologising for their lack of action.

7. On 16 October 2019, Recruit 3 complained to the Authority about his medical. He also questioned whether Police were aware of the concerns about the medicals when they sent him to Dr Z in 2006. We decided to independently investigate this complaint.
8. In November 2020, the Health Practitioners Disciplinary Tribunal determined that Dr Z would not face any sanctions but found he had departed from professional standards during the Police recruit medicals. Dr Z he appealed the findings of the Tribunal. That appeal was successful; a March 2022 judgment of the High Court finding that the evidence before the Tribunal was insufficient to support any of the charges to the required standard. In short, Dr Z was vindicated. We delayed finalising this report pending the outcome of Dr Z's appeal.
9. It is important to make it very clear that it is not the Authority's role to investigate whether there was in fact any offending by Dr Z or to make findings as to his professional conduct, although we note the findings of the High Court that effectively dismissed the complaints made to the Medical Council. We do not have jurisdiction over Police doctors, as they are independent contractors and not Police employees. Our investigation therefore focused on establishing when Police staff became aware of the allegations and examining how they responded.

The Authority's Findings

Issue 1: Did Police respond appropriately when recruits raised concerns about Dr Z before 2017?

Recruits advised Police staff of their concerns about Dr Z's medicals at least seven times from 2002 to 2014/2015.

Police failed to act and, consequently, potentially put recruits at risk by continuing to send them to Dr Z.

Issue 2: Did Police adequately investigate Dr Z after Recruit 1 formally complained in 2017?

The criminal investigation of Dr Z in 2017 was of an acceptable standard.

Issue 3: Did Police adequately investigate whether they knew about the allegations against Dr Z before 2017?

Police should have investigated the first complaint in 2002 and every subsequent complaint received.

When Police became aware of the extent of the complaints in 2017, they should have conducted a full investigation into their earlier failures to respond.

Police failed to act until the Authority received a complaint in 2019. At this point they completed a review, rather than an investigation. This response was inadequate as it led to Police being unable to reach conclusions about how they had dealt with the recruits' concerns.

Issue 4: Did Police provide enough support for the recruits during and after the Police criminal investigation?

The criminal investigators offered appropriate support to the recruits. However, the member of the Police Executive who knew about these allegations failed to acknowledge the concerns raised and to arrange any further support during the Police investigation and Medical Council process. They did not meet their obligations as an employer to the recruits as purported victims who were exposed to alleged sexual offending occasioned only because of their participation in the Police recruitment process.

Analysis of the Issues

ISSUE 1: DID POLICE RESPOND APPROPRIATELY WHEN RECRUITS RAISED CONCERNS ABOUT DR Z BEFORE 2017?

10. The people who raised concerns about Dr Z when Police spoke to them in 2017 were all applicants for Police recruitment at the time of their medicals. For clarity and consistency, they are referred to as ‘recruits’ throughout this report.
11. We note that, due to the time that has passed, many of those we interviewed could not recall specific names or dates and were unclear who they told at the time.

2002

12. During her recruit course, Recruit 1 completed a survey on the recruiting process, and described her medical which took place on 22 July 2002. She says she included in the survey “*certainly enough [detail] that anyone reading it would be concerned*”, but Police did not follow this up with her.
13. Recruit 1 recalls handing the survey response to an inspector at the Police College. When we spoke to the inspector, she had no recollection or record of the information the recruit says she provided. She said that if she were aware of the information, she would have taken some action in response to it. Other staff at the College said they had no knowledge of the concerns Recruit 1 raised in the survey.

2005

14. Two female recruits, whose medicals took place in late 2004 and 2005 respectively, say they raised concerns about their medicals with their Recruitment Officer (Ms X) after they had graduated from Police College.
15. A third female recruit says that within three or four months of being at Police College in 2005, Ms X called her and asked a series of questions which implied there was an investigation into Dr Z’s medicals. Ms X does not recall speaking to this recruit.

16. Recruit 2 says that while still on her recruit course, she received a call from someone in the recruiting office, who was not Ms X. The caller sounded *“quite concerned”* and asked a lot of questions about her medical examination. Ms X later spoke to Recruit 2 during a session in the gym at Police College. Recruit 2 recalls Ms X telling her that Dr Z had *“made one of the guys take his clothes off”* during a medical, and Ms X *“sort of justified it”* as being *“just what he does”*. Ms X does not recall Recruit 2 raising concerns about Dr Z with her.
17. Ms X tells us she first heard about allegations of Dr Z carrying out inappropriate medicals from a female recruit in 2005 (see paragraph 14). Ms X recalls the recruit talking about something Dr Z did in her medical which Ms X *“did not think was necessary”*, and that another female recruit had agreed with her. She denies ever having knowledge of allegations that Dr Z made people remove their clothing or of him touching anyone inappropriately.
18. When Police later questioned Ms X about this, she said she had discussed the issue with the Medical Advisor for recruiting but had no idea what he did with the information. We attempted to locate him through the available resources but were unable to find him.
19. Ms X tells us she was also concerned enough to raise her issues with the Human Resources Manager, who *“wasn’t very helpful”* and nothing was really done. Ms X could not remember who the Human Resources Manager was at that time. We identified him through Police Human Resource records and contacted him, but he has not responded to us. He is no longer a Police employee.
20. Ms X told both Police and the Authority the recruit did not go into much detail about what she alleged had happened. Ms X made the decision to stop referring female recruits to Dr Z and told others in the recruiting office to do the same. (Male recruits continued to be referred to him.) She said she did this *“off [her] own bat”* as it appeared nothing was being done about the concerns she had raised. She did not advise anyone at Police National Headquarters (PNHQ) of her decision.

2007

21. Ms W started working in Police recruiting in 2007. She says Ms X told her not to refer females to Dr Z, because there were allegations of *“inappropriate touching”*. Ms X does not recall speaking to Ms W about this. Ms X left Police in 2007.

2010/2011

22. Officer A, an inspector at PNHQ, recalls that in 2010/2011 the Acting Human Resources Manager told her some female recruits had complained about their medical examinations. Officer A had worked in recruitment for several years and then at the Police College from about 2000-2007 but was not aware of any complaints about Dr Z.

23. She told us that she did not know the details of the allegations, or the doctor involved. She advised that the Acting Human Resources Manager told her that PNHQ would have the relevant records for the medicals, as they were responsible for designating the doctors. She had no further involvement at this time.
24. When interviewed by Police in 2020, the Acting Human Resources Manager told Police he could not recall the conversation with Officer A and said he would have acted on it if he had heard such information.
25. It is not clear what, if anything, happened at this time. However, there was no Police investigation into the allegations against Dr Z and Police continued to refer recruits of both genders to him for their medical examinations.

2014/2015

26. The Wellness and Safety Manager (Mr V) managed health standards for recruits. He says he became aware of the allegations against Dr Z around 2014 or 2015, following feedback from recruits at Police College who were comparing their recruiting experience. He says the issue was raised by a female recruit, who was concerned that her medical with Dr Z seemed to have been more invasive than the medicals of some of her colleagues.
27. Mr V says he raised the matter with the National Recruiting Manager at that time and understood it was reported to district Police to follow up and investigate. Mr V says he also met with the Medical Adviser and a nurse to discuss the issue. He believes an instruction was put out, via the recruitment network, that Dr Z was not to be used for medicals.
28. The National Recruiting Manager says she left Police in 2007 and does not recall this matter. It is therefore unclear who Mr V referred the matter to, if anyone.
29. Again, there is no record of a Police investigation into Dr Z's behaviour at this time, or a formal instruction that Police were not to use Dr Z. Police continued to send recruits of both genders to Dr Z up until 2016.

The Authority's Assessment

30. As soon as any of the recruits raised concerns about Dr Z, the Police staff who received this information should have:
 - a) encouraged and supported the recruits to make a formal complaint;
 - b) fully investigated any complaint received whether formal or informal;
 - c) raised the issue with recruit management and PNHQ; and
 - d) ensured that Police stopped referring anybody to Dr Z until the matter had been fully investigated.

31. Assessing all the evidence we have available for the extended time period; we find that Police failed to appropriately respond to the concerns recruits raised intermittently over a 15-year period.
32. We find it likely Police took no action at all in response to Recruit 1's survey response in 2002.
33. In relation to Ms X's decision in 2005 to stop referring female recruits to Dr Z and telling others working in recruiting to do the same, she acted on her own accord and no formal instruction was put in place to formalise this. She left Police in 2007, and we know that Police subsequently sent at least one female recruit to Dr Z, in 2013.
34. In any event, we think given the circumstances it was wrong for Ms X to conclude that it was still safe to continue sending male recruits to Dr Z. During the Police investigation in 2017, ten males who attended medicals prior to 2006 reported concerning behaviour. These reports could have been prevented and any issues or misunderstandings around Dr Z's conduct addressed if Police had properly investigated the concerns earlier.
35. Ms X says she alerted the recruiting Medical Advisor and the Human Resources Manager about the allegations against Dr Z in 2005. As discussed in paragraph 22, we know concerns were raised by the Acting Human Resources Manager in 2010/2011, and by Mr V in about 2014/2015. However, we have been unable to find any evidence that Police appropriately acted in respect of any of these concerns.
36. We find it unacceptable that Police continued to contract Dr Z for medicals up until 2016, when several recruits had raised concerns about his behaviour over a period of about 15 years. The lack of a formal investigation into any of the concerns resulted in later recruits potentially being put at risk.
37. We acknowledge that none of the recruits made a formal complaint during this time. However, Police did not effectively respond to the recruits who did raise concerns and did not support them to formally complain.
38. It is understandable that recruits were reluctant to complain about Dr Z, given that Police had sent them to him, and they were seeking employment with Police. Some recruits thought Dr Z was only doing what was required during a Police medical, and it was not until they later became aware of other recruits' concerns that they considered they should raise potential issues regarding their own medicals.
39. We note that the process for Police recruit medicals has since changed; they now go to their own doctor rather than one chosen by Police.

FINDINGS ON ISSUE 1

Recruits advised Police staff of their concerns about Dr Z's medicals at least seven times from 2002 to 2014/2015.

Police failed to act and, consequently, potentially put recruits at risk by continuing to send them to Dr Z.

ISSUE 2: DID POLICE ADEQUATELY INVESTIGATE DR Z AFTER RECRUIT 1 FORMALLY COMPLAINED IN 2017?

40. Recruit 1 says she saw something on TV about reporting historic sexual assaults, which prompted her to inquire about her medical with Dr Z and whether Police had taken any action in 2002. She says she spoke to some Police staff, including Officer A, who recalled hearing about a doctor alleged to have conducted inappropriate medicals. However, Police had not investigated Dr Z.
41. On 26 June 2017, Recruit 1 formally complained to Police about her medical with Dr Z in 2002. She said Dr Z inappropriately touched her and required her to strip to her underpants for a flexibility test.
42. Officer B conducted a criminal investigation, with oversight and assistance from his supervisors, Officers C and D. On 29 June 2017, Officer B spoke to Recruit 1, and she provided a recorded statement the next day.
43. On 13 August 2017, Officers C and D spoke to Dr Z, who declined to be interviewed.
44. During the criminal investigation, Police identified 118 recruits who were examined by Dr Z. They contacted 52 of those who had their examinations around the same time as Recruit 1. 14 of them alleged indecent behaviour by Dr Z.
45. On 7 February 2018, Police gave a summary of Recruit 1's complaint and the concerns of the other recruits to Dr Z and requested an interview. Dr Z again declined to be interviewed, saying he would only consider it if full disclosure was made, including the complainant's statement.
46. Police consulted several Police Medical Officers to gauge their practices when conducting Police medical examinations. They considered some of Dr Z's practices to be unnecessary for the purposes of the medical. However, some acknowledged a doctor's 'duty of care' and the discretion to assess wider medical issues that may present during a medical examination. We also recognise that a lack of standardised training or guidelines for Police Medical Officers is likely to have contributed to variances in practice.
47. In mid-2018, following a legal opinion, Police decided not to lay any criminal charges against Dr Z, as they did not believe there was a reasonable chance of conviction. This was because they anticipated Dr Z could reasonably defend the charges by claiming his actions were necessary to conduct a thorough medical examination, thus leaving Police unable to prove criminal intent.
48. The criminal investigation was focused on identifying recruits who had their medical examinations around the same time period as Recruit 1. Given the prevalence of the concerns raised by 14 of the 52 (27%) recruits spoken to by Police, it is possible that if Police had spoken to all of the 118 recruits, further concerns would have been raised about Dr Z's conduct.
49. Despite this, we find the operational decision not to widen the scope of the investigation was reasonable. We accept that if Police had evidence of behaviour that crossed the criminal threshold, they would have broadened their approach.

50. We are also mindful that any contact from the investigators to recruits could have had a detrimental effect on them.

FINDING ON ISSUE 2

The criminal investigation of Dr Z in 2017 was of an acceptable standard.

ISSUE 3: DID POLICE ADEQUATELY INVESTIGATE WHETHER THEY KNEW ABOUT THE ALLEGATIONS AGAINST DR Z BEFORE 2017?

51. During the 2017 criminal investigation into Recruit 1's complaint, the investigators discovered that other recruits had raised concerns about Dr Z's medicals with Police staff much earlier (as set out above in Issue 1).
52. Officer D says that in August 2017 he spoke at length to a senior manager at the Police College and pointed out the risks to Police if they had continued to send recruits to Dr Z while being aware of the allegations. Officer D also briefed his line managers, Officers E and F, numerous times.
53. On 4 December 2017, Officer D emailed Officer E again, raising concerns and requesting that Police undertake a separate inquiry into what they knew of the allegations prior to 2017. On the same day, Officer E forwarded the email on to Officer F.
54. Officer F told us he would regularly update the District Commander about the need for a separate internal investigation to establish the facts of what had occurred and who was involved. He believed the responsibility for conducting one had been passed to PNHQ. Officer F did not follow this up with PNHQ and we have been unable to locate any evidence that an investigation commenced. The District Commander told Police that he recalls the criminal investigation, and his focus was on that aspect.
55. The issue of whether Police knew of the concerns about Dr Z before Recruit 1 made her complaint in 2017 arose again when Recruits 2 and 3 complained to us in 2019 about the Police response to the historic allegations made against Dr Z.
56. As noted above, in her complaint to us, Recruit 2 says she reported her 2005 medical to the Police Welfare Officer and Ms X while still a recruit at the Police College. Her complaint to us centred on her concern that the lack of Police action had resulted in further harm being caused by Dr Z.
57. Her complaint was resolved by Police apologising to her about the lack of action when she first raised her concerns. The apology was delivered in August 2019, by an Assistant Commissioner who first sought background information from Officer D.
58. Officer D provided the Assistant Commissioner with information on the criminal investigation and advised that Recruit 2 was not the only person affected, and his belief that a wider assessment of the concerns from other staff should be undertaken. This did not happen.

59. In his complaint to us, Recruit 3 queried whether Police knew of the risk when they sent him to Dr Z for his medical in September 2006. He says in his complaint:

“Rumours... surfaced that this Doctor was sexually assaulting recruits for many years and Police continued to send recruits there. At some point they stopped sending female recruits to him but still sent males, I was one of those males....”

60. Recruit 3 says he understands the matter had been raised with high-ranking Police officers and “buried”.

61. On 11 December 2019, Police commenced their own review into Recruit 3’s complaint. The National Manager of the Adult Sexual Assault team initially spoke to Recruit 3, and a Police Human Resources Manager, Ms T, was assigned to complete the investigation. She was directed to complete a review (as opposed to a full investigation) to find out what Police staff knew or had been told about the allegations.

62. On 29 July 2020, Ms T reported to the National Manager of Police Professional Conduct, concluding:

- *“There were differing accounts of what was told and to whom in the early 2000s, which is not unexpected given the passage of time.”*
- Ms X was aware in 2005 that at least two female recruits were not comfortable with their medicals, but *“it is reasonable to conclude that she was not fully aware of the extent of the situation as no further enquiries appear to have been undertaken”*.
- Ms X chose not to send female recruits to Dr Z without consulting anyone else.
- While Ms X said she told the Medical Advisor about the recruits’ concerns, Ms T was unable to confirm if any other Police staff were aware at the time:

“Despite several conversations and attempts to find any written records, no other lines of review or enquiry have been able to confirm who else in the early 2000s may have had this reported to them or what if anything was enquired into.”

- Ms T stated: *“It is important to note that we had no concerns raised by any male potential recruits.”* However, she did believe it would be appropriate to apologise to Recruit 3 for the distress caused and to provide him with further support.

63. Because of the direction given to Ms T about what she was required to do, she did not gather sufficient information for Police to be able to fully assess the *“extent of the situation”*. While she considered that Police should apologise to Recruit 3, she also appeared to hold the view that Police could not be blamed for continuing to send males to Dr Z as no male recruits had come forward with concerns. As discussed above, we do not share that view.

64. In our opinion, the interviews were not to the standard required to fully gather and assess the information that was necessary, which would have been expected had a full investigation been

directed. Ms T's notes were brief and did not show any depth of inquiry. We accept this was due to her understanding of what was required of her.

65. Although Ms T's report included the recruits' concerns raised in 2002, 2010/2011 and 2014/2015, it failed to reach any conclusions about how Police dealt with (or failed to deal with) those concerns.
66. In our view, Police did not recognise nor direct Ms T to undertake the appropriate enquiries into the concerns raised by the recruits. They also failed to act in a timely manner.

FINDINGS ON ISSUE 3

Police should have investigated the first complaint in 2002 and every subsequent complaint received.

When Police became aware of the extent of the complaints in 2017, they should have conducted a full investigation into their earlier failures to respond.

Police failed to act until the Authority received a complaint in 2019. At this point they completed a review, rather than an investigation. This response was inadequate as it led to Police being unable to reach conclusions about how they had dealt with the recruits' concerns.

ISSUE 4: DID POLICE PROVIDE ENOUGH SUPPORT FOR THE RECRUITS DURING AND AFTER THE POLICE CRIMINAL INVESTIGATION?

67. As noted above, Recruit 1's complaint to Police resulted in a criminal investigation into Dr Z. At the end of this process Police decided not to lay any charges.
68. Recruit 2 was one of the officers Police identified as having raised concerns about Dr Z in 2005. She was disappointed that Police did not charge Dr Z, and that nothing had been done at the time she raised her concerns. She subsequently complained to the Authority. As discussed above, Recruit 2's complaint was resolved by way of an apology from Police.
69. With respect to Recruit 3's complaint, the Authority conducted its own investigation. The recruits we spoke to were dissatisfied with the lack of support provided, and accountability taken by Police. Although they were generally satisfied with the support offered by the criminal investigators, their concerns were centred on the lack of contact, acknowledgement, and support from the Police Executive, as their employer.
70. We accept that the investigators responsible for the criminal investigation offered support, in the form of EAP counselling, to the recruits.² This type of referral is the expected standard for all victims in alleged sexual assault cases.
71. The Authority is concerned about the failure by the member of the Police Executive to acknowledge the concerns raised about the wider group of recruits and to arrange further support to them throughout the criminal investigation and Medical Council process. The criminal investigators repeatedly raised the risk that Police had been aware of the allegations much

² EAP is a New Zealand based employee assistance programme which provides services to enhance wellness and performance.

earlier than 2017 and failed to act. They should not have been solely responsible for referring the recruits to support services, because Police not only had obligations to the recruits as alleged victims, but also as employees.

72. Additionally, if it were not for the requirements of the recruiting process, they would not have been referred to Dr Z. We accept Police were not aware of the allegations against Dr Z at the time (at least prior to 2002). Critically, Police failed to adequately protect the recruits, did not investigate when they raised concerns, and continued to send male applicants to Dr Z despite Police staff knowing of those concerns.

FINDINGS ON ISSUE 4

The criminal investigators offered appropriate support to the recruits. However, the member of the Police Executive who knew about these allegations failed to acknowledge the concerns raised and to arrange any further support during the Police investigation and Medical Council process. They did not meet their obligations as an employer to the recruits as purported victims who were exposed to alleged sexual offending occasioned only because of their participation in the Police recruitment process.



Judge Kenneth Johnston KC

Chair

Independent Police Conduct Authority

24 May 2023

IPCA: 19-1031

Appendix –Policies

'ADULT SEXUAL ASSAULT INVESTIGATION (ASAI)' POLICY AND PROCEDURES

73. The policy states that the investigation of historical complaints should be approached in the same way as any other complaint.
74. Victims must be offered specialist sexual assault support and be encouraged to have specialist support available to them throughout the investigation. Under the Victims' Rights Act 2002, victims are entitled to receive certain information. Victims must be given regular updates on the progress of the investigation, charges laid or the reasons for not laying charges, and court proceedings.

'WELLNESS' POLICY

75. The support of employees, their development, positive endorsement and the provision of necessary feedback is one of the primary roles of supervisors. Supervisors should also have awareness of individual employees and their circumstances which may cause impact on their work or family life, when appropriate.
76. Welfare officers work with employees and their supervisors to assist in achieving the best possible outcomes for employees and the organisation, if required.

About the Authority

WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Colin Doherty.

Being independent means that the Authority makes its own findings based on the facts and the law. We do not answer to the Police, the Government or anyone else over those findings. In this way, our independence is similar to that of a Court.

The Authority employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

WHAT ARE THE AUTHORITY'S FUNCTIONS?

Under the Independent Police Conduct Authority Act 1988, the Authority receives and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.

THIS REPORT

This report is the result of the work of a multi-disciplinary team of investigators, report writers and managers. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140

Freephone 0800 503 728

www.ipca.govt.nz
