

Professional Conduct Procedure

PR 14 - Guidance on Sanctions

This Protocol will guide the Investigation Assessment Committee (IAC), the Panel and the Appeal Panel (collectively referred to within this protocol as “the Decision Maker”), when sanctioning members, because of a complaint, or part of a complaint, being upheld. This applies to a consensual disposal or following a Panel or Appeal Panel finding.

When setting sanctions, the Decision Maker must ensure the sanction is fair and proportionate to the allegations found proved or admitted.

Failure to follow professional standards does not automatically mean a sanction will be imposed. The professional standards set out the principles of good practice, not thresholds which determine whether a practitioner is unsafe to work. It is the benchmark that practitioners are expected to meet subject to any mitigating or aggravating factors.

Paragraph 5.12 of the Professional Conduct Procedure (PCP) states that the Decision Maker may impose one or more of the following sanctions:

- i) A requirement to send a written apology to a relevant recipient of therapeutic services provided by the Member (whether or not that recipient is the Complainant) by a specific date;
- ii) A requirement to demonstrate specific change/improvement in practice by a specific date;
- iii) A requirement to undertake specific training by a specific date;
- iv) Suspension of membership for a specified period, not exceeding 18 months, or until specified conditions have been met.
- v) Withdrawal of membership of the Association

The PCP states that the Decision Maker may decide that no sanction should be imposed even if the allegation(s) is found proved.

When setting a sanction, the Decision Maker must provide written reasons for imposing that sanction to the Member. The Decision Maker must explain why the sanction is appropriate and proportionate to the complaint.

Purpose of imposing sanctions

In making their decisions on sanction, the Decision Maker must have regard to the overarching objective of protecting the public and safeguarding the public interest.

Consideration should also be given to:

- protecting the health, safety and wellbeing of the complainant;
- maintaining public confidence in the profession; and
- promoting and maintaining proper professional standards and conduct for members of the profession.

Sanctions are not imposed to punish a practitioner, but they may have a punitive effect.

Any sanction imposed must be intended to address one or more of the above factors.

Factors to consider when imposing a sanction

When considering what sanction, if any, to impose, the Decision Maker must consider the reasons why a sanction should be imposed as outlined in this Protocol.

If a sanction is considered necessary to protect public safety then it must be imposed, regardless of the impact on the Member.

When deciding whether a sanction is appropriate and proportionate, the decision maker will decide which of the below, non-exhaustive, factors to consider and how much weight to attach to them.

- whether the Member has admitted to, and apologised for, the behaviour which led to the complaint;
- whether the Member has shown insight into their own behaviour or practice and taken steps to address any deficiencies through appropriate training, coaching or similar;
- what steps, if any, the Member took to remedy their practice or behaviour which is the subject of the complaint;
- the Member's previous professional history;
- any relevant personal or professional issues raised by the Member or the Complainant;
- the time since the incident took place;

- Whether the Member knew, or reasonably should have known, that their actions or omissions did or could have caused harm to the Complainant;
- the seriousness of the harm suffered by the Complainant and the extent to which that was caused by the Member's actions or omissions;
- whether the behaviour complained about was sexual in nature;
- whether the Member's behaviour discriminated against the Complainant, on the basis of race, gender, religion, sexual orientation, gender reassignment, marital status, age, disability or any other characteristic protected by law;
- any other circumstances which could reasonably be mitigating factors; and
- any other circumstances which could reasonably be seen as aggravating factors

The Decision Maker has discretion to make no order and take no further action. It is expected that such instances will be highly unusual. The Decision Maker must explain why this is necessary and proportionate and what exceptional circumstances have caused them to make no order.

The Decision Maker must give written reasons to the Member and the Complainant for its decision. This includes a decision not to impose a sanction.

Training requirement

When deciding to order the member to undertake training, the decision maker may consider the following:

- the specific training needs of the Member and whether appropriate training is readily available;
- whether the training will help prevent the Member from committing the same act or omission in the future;
- the training the member has already undertaken; and
- the timing and cost of the training

The Decision Maker must make clear how the training will address the areas of concern about the Member and how it will protect the public.

Withdrawal or suspension of BACP Membership

When the decision maker finds professional misconduct, they may decide that withdrawal or suspension of membership is appropriate.

Withdrawal or suspension of membership may be appropriate to maintain public confidence in the profession, even if the member does not present a risk to public safety.

The following factors or behaviours may indicate that withdrawal of membership is an appropriate sanction:

- where the Member has knowingly and deliberately behaved in a way to cause harm to the Complainant or other members of the public;
- where the Member has been dishonest or lacked integrity;
- where the complaint involves sexual misconduct;
- where the Member has shown a blatant disregard for professional standards;
- where the Member has abused their position or another's trust;
- where the harm to the Complainant is particularly severe;
- where the Member has shown a complete lack of insight into, or remorse for, their behaviour; and
- any other factors the Decision Maker considers warrant withdrawal of membership.

Where a sanction of withdrawal of membership is imposed the Association will not accept any reapplication for membership for five years from the date that membership was terminated.

The withdrawal of membership will be published on the Association's website and in the Association's journal *Therapy Today*. The Association reserves the right to publish the outcome of complaints elsewhere, as it deems appropriate.

Appeals

Where an appeal is lodged, the sanction will be suspended while the appeal procedure is in process.

If the appeal is refused, the sanction is automatically effective from the date of refusal. The Panel's finding and sanction will be published on the Association's website and in the next available edition of the Association's journal, *Therapy Today*.

If an appeal is allowed in full and no allegations remain upheld, the sanction will be withdrawn, and the case closed. Information about the case will not be published.