



# British Psychoanalytic Council

# Complaints Procedure

## 2016

The British Psychoanalytic Council (BPC) is a national regulator whose register is accredited by the Professional Standards Authority. It exists to promote excellence in psychoanalytic and psychodynamic thinking, safeguard the public, promote training and research and make psychoanalysis, Jungian analysis, psychodynamic therapy and counselling accessible to all in society.

As part of our regulatory role in safeguarding the public, the BPC processes complaints about its Registrants. The BPC's Council of Member Institutions agreed to the introduction of a centralised Complaints Procedure in 2007, which gave to the BPC the responsibility for considering complaints against its Registrants.

The Complaints Procedure is routinely reviewed and updated in response to changes in the legal and professional contexts within which the BPC operates. This document is the 2016 version which supersedes all previous versions.

## About this Complaints Procedure

This document describes the structure of the BPC Complaints Procedure and the process of complaints through the initial presentation to the BPC, the preliminary consideration by the Screening Committee, and then through either a Practice Review or a Complaints Hearing. It also includes the Appeals Process, Health Review Panels, the management of sanctions, and governance structure for ethics and complaints. These procedures are kept under review by the BPC, subject to the advice of the Ethics Committee, and any revisions will be published on the BPC website.

It is a central tenet of the BPC that the public is best protected by maintaining high standards in both clinical practice and in the training of psychotherapists. All BPC Registrants who have trained at, and/or practise as members of, one of the **BPC's Member Institutions (MIs)**, are expected to

conform with the requirements and expectations of the BPC Code of Ethics and Ethical Guidelines. The public are best protected by ensuring the fitness to practise of all BPC Registrants. **Fitness to practise** is established and maintained by training, supervision and continuing professional development (CPD) and by a robust, responsive and fair procedure for dealing with complaints.

The structure and content of the BPC Code of Ethics, Ethical Guidelines and the Complaints Procedure are the responsibility of the **Executive of the BPC**, subject to the BPC Council, which is supported by the advice and guidance of the **BPC Ethics Committee**. The oversight of the Complaints Procedure is the responsibility of the **Complaints Management Committee**.

Although reference should be made to the detailed provisions, under this Complaints Procedure a number of committees and Panels have a role. In summary, the **Screening Committee** considers whether a complaint should be considered by a **Hearing Panel**. An appeal from a decision of the Hearing Panel is considered by an **Appeals Panel**. A Registrant may be required to be the subject of a review process in relation to ongoing practice and this is undertaken by a **Review Panel**. By agreement an alternative procedure exists to resolve complaints in appropriate cases called the **Practice Review procedure** and this is carried out by a **Practice Review Panel**. Where the mental or physical health of a Registrant have to be considered in connection with fitness to practise this is done by a **Health Review Panel**.

All Registrants of the BPC are required to read and undertake to abide by the **BPC Code of Ethics and Ethical Guidelines** and these Procedures. All trainees of BPC MIs must undertake to read and abide by the BPC Code of Ethics and Ethical Guidelines before taking their first training patient.

Trainees are not BPC Registrants and are not subject to these Procedures. All complaints against BPC MI trainees should be directed to the trainee's MI.

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## 1 Introduction

1.1 The British Psychoanalytic Council (BPC) Complaints Procedure (CP) applies to all BPC-registered members (Registrants) of the Member Institutions (MIs).

1.2 All Registrants of the BPC must read and undertake to abide by the BPC Code of Ethics, Ethical Guidelines and Complaints Procedure, and sign an undertaking to this effect at each annual presentation of CPD. These will also be available to members of the public and potential Complainants, through the BPC website and by request from the BPC office.

1.3 Trainees are not subject to this Complaints Procedure as they are not BPC Registrants, but they are bound by the BPC Code of Ethics which is administered by their MI. Complaints about trainees should be made to the relevant MI. Where the trainee is a BPC Registrant by virtue of their existing membership of another MI, the BPC must be informed. The procedure to be followed will be in accordance with whichever governance applies to the particular case or patient.

1.4. Complaints can only be considered under the BPC CP if they concern a Registrant of the BPC.

1.4.1 Complaints cannot be considered under the BPC CP against Registrants who have died.

1.4.2 Complaints cannot be considered against Registrants who have retired or resigned unless a complaint has been received by an MI or the BPC before retirement or resignation; in which event membership will continue until all processes arising from the complaint including any appeal or reconsideration have been finally concluded.

1.4.3 Anyone informing the BPC, or one of its MIs, of any concern about a Registrant's Fitness to Practise shall be informed of the BPC CP, and of their right to make a complaint to the BPC.

1.4.4 Concerns about a BPC Registrant's Fitness to Practise brought to the attention of an MI will be reported to the BPC Chair of Ethics and/or Fitness to Practise Officer. The BPC reserves the right to pursue the matter even without a formal complaint being made (see 1.9).

1.4.5 If it is brought to the attention of the BPC, when a complaint has been made against a Registrant, that the Registrant is also subject to a formal complaint in another membership or regulatory organisation about the same or a related matter, then the BPC will liaise with the other organisation or regulator and consider whether it would be appropriate to stay the BPC proceedings until the proceedings of the other organisation are complete.

1.5 Making a complaint against a BPC Registrant under the CP does not affect the right of the Complainant to take his/her own legal proceedings in the courts.

1.6 The BPC will not consider a complaint that has previously been determined by an MI prior to the introduction of the BPC's CP; or where the substantive issues have been previously determined by the BPC unless:

- a) there is either compelling new evidence and/or
- b) the BPC considers that the original decision may have been unlawful.

1.7 The BPC will not normally deal with complaints made more than 5 years after the events giving rise to them. Exceptions will be made where, in the judgement of the Screening Committee or BPC Chair of Ethics, the allegation is sufficiently serious, or where it would be in the public interest to consider the complaint. It is recommended that complaints be made within a time when details of the events which constitute the basis of the complaint may be more clearly recalled. The Screening Committee may

dismiss a complaint on the basis that it has not been made promptly in the circumstances.

1.8 The BPC CP will consider any complaints or expressed concerns about a BPC Registrant's fitness to practise. This will include all or any of the following, namely impairment of fitness to practise by reason of:

- 1.8.1 Professional Misconduct
- 1.8.2 Deficient Professional Performance
- 1.8.3 Adverse physical or mental health
- 1.8.4 An adverse determination against the Registrant by any other professional regulatory body either in the United Kingdom or elsewhere
- 1.8.5 A criminal conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England or Wales, would constitute a criminal offence

1.9 The BPC CP may also be engaged where no complaint has been made but where concern about a Registrant's fitness to practise has been drawn to the attention of the BPC. This may include information from Registrants, other professional colleagues, members of the public, the media, patients or patients' representatives. This may also include a case where a Registrant draws the attention of the BPC to relevant information such as their own professional failings, a criminal conviction or decision of another regulatory body. In all these cases, the BPC Chair of Ethics, following legal advice, will present the complaint for consideration by the BPC Screening Committee (SC) (See 2.1-9). The SC will decide whether to proceed with the complaint, and, depending on the nature of the complaint, which of the procedures set out below to recommend.

## 2 Making a complaint to the BPC

2.1 A complaint to the BPC about a Registrant should be made in writing and submitted by post addressed to the Fitness to Practise Officer (FtPO) at the following address:

British Psychoanalytic Council  
Suite 7  
19-23 Wedmore Street  
London N19 4RU

Complainants who are unable to submit a complaint in writing should notify the FtPO to this effect and submit their complaint by email. The FtPO will then send, by email, a form which requests them to confirm their postal contact details and signature by return. Complainants who do not send a written or signed complaint should consult the FtPO, outlining the reasons for this. The FtPO, in consultation with the BPC Chair of Ethics, will decide if an exception to the normal requirements can be made.

2.2 The letter of complaint should provide the Complainant's full name and postal address for correspondence, the substance of the complaint (including as much detail as possible, such as names, dates and places), supporting information, documents relevant to the complaint and, the name and (if known) place of work of the Registrant.

2.3 The FtPO will post a copy of the letter of complaint to the Registrant complained against normally within 5 days of receipt. The FtPO will also notify the Chair of the Ethics Committee of the Registrant's MI of the BPC's receipt of the complaint.

2.4 When a complaint is made by, or the concern being considered relates to, a patient, the Registrant is released from the obligation of confidentiality to that patient (Code of Ethics 2) to the extent reasonably required to enable the Registrant to respond fully to the complaint under the CP. Where the complaint is made by the patient the Complainant will be assumed to have agreed to a modification of any legal duty of confidentiality to the same extent. Where the Complainant is the BPC

Chair of Ethics or a third party the BPC may obtain the patient's written confirmation of consent to the provision of any confidential information necessary.

2.5 Anonymous complaints will not be accepted unless there are serious and credible grounds and/or corroborating information from another source, in which case the procedure outlined in 1.9 will be followed.

2.6 The FtPO may in his/her discretion seek further information from the Complainant or Registrant.

2.7 The FtPO will send the documented complaint and all further relevant documents to the BPC Screening Committee normally within 5 days of receipt. This will include details of any formal warnings or letters of advice issued to the Registrant by the BPC following any previous BPC Panel consideration or Practice Review. The Screening Committee will consider the complaint in accordance with these Procedures.

2.8 The FtPO will promptly notify the Registrant and the Complainant in writing of the referral to the Screening Committee and will provide the Registrant and Complainant with:

2.8.1 a copy of the papers provided to the Screening Committee and

2.8.2 information on both the terms of the Practice Review procedure and the Hearing Panel procedure.

2.9 Prior to the decision of the Screening Committee, either the Complainant or the Registrant may make a request for the BPC Practice Review procedure to be followed. If such a request is made, the FtPO will ask the Registrant or the Complainant (as the case may be, depending on who has made the request) if they agree to the Practice Review procedure being adopted (although it should be noted that the decision as to whether in fact to adopt the Practice Review procedure is that of the Screening Committee). Any such request and related documents will then be sent to the Screening Committee.

### 3 Screening and preliminary investigation

3.1 The Screening Committee will meet to undertake an initial consideration of the complaint as soon as is reasonably possible, but normally not later than 30 calendar days after the BPC FtPO received the complaint. In the event of delay, both the Complainant and the Registrant will be informed. The Screening Committee (SC) is quorate with three members, including at least one lay member and one current or retired registrant, and decisions may be taken unanimously or by a simple majority. No member may abstain.

3.2 The SC may at this stage decide to dismiss the complaint if it considers that the complaint raises no concerns about the Registrant's fitness to practise. Alternatively, the SC may at this stage make further preliminary enquiries, in which case it will ask the FtPO to request further information, clarification or documentation from the Complainant and/or the Registrant (or on occasion from a third party), to be sent to the FtPO within a stipulated time (and in any event usually no later than 21 days) of the request.

3.3 If the SC becomes aware, at any stage of their deliberations, of a formal complaint being made in relation to the same matter, or based on the same or similar facts as the complaint to the BPC, to another regulatory body, or as part of civil or criminal court proceedings, then the SC has the discretion to impose a stay on the BPC's consideration of the matter for as long, and under such conditions, as the SC may determine, if it considers that such a stay is in the public interest.

3.4 The SC will only consider written evidence unless exceptionally, and in the absolute discretion of the SC, a fair procedure is only possible by permitting oral evidence or representations.

3.5 The SC may come to a decision as to how to proceed, on the basis of the documented complaint alone. Otherwise, unless it has decided to dismiss the complaint (see 3.2 above), it will send the Registrant any further or related documentation

or information. The Registrant will have 21 days to respond to that further information. The Registrant's response will then be sent to the Complainant and the Complainant invited to make any comment on that response within 21 days. In the event of any further documentation being sent to either the Registrant or Complainant for comment, they will be expected to respond within 21 days. Where either party fails to respond within the specified time, the SC may determine whether to proceed without that response, and advise both parties of this intention.

3.6 The SC will then meet to consider the complaint as soon as possible, but normally no later than 28 days from responses being received from both the Registrant and the Complainant.

3.7 The SC, taking into account all the information available to it, including the severity of the complaint, and, where requested, the responses of the Registrant and the Complainant, will decide how to proceed, and make a report to the BPC, as follows:

- 3.7.1 To dismiss the complaint, if the SC considers that:
- (i) there is no realistic prospect of the Complainant's account of the Registrant's alleged conduct being substantiated, or the alleged facts being proved
  - (ii) and/or there is no realistic prospect of the alleged conduct, if substantiated or the alleged facts, if proved, being found to impair the registrant's fitness to practise;
  - (iii) there is either no agreement to, nor public interest in, the complaint being resolved by the Practice Review procedure

Or

- 3.7.2 To refer the matter for the Practice Review Procedure to be adopted if: the SC considers that the seriousness of the potential findings does not make it contrary to the public interest for the Practice Review procedure to be adopted.

Or

- 3.7.3 To refer the matter to a Hearing Panel, if the SC considers that:
- (i) there is a realistic prospect of the Registrant's alleged conduct being substantiated or the alleged facts being proved and there is a realistic prospect of those facts being found to impair the Registrant's fitness to practise; and
  - (ii) the SC is of the view that it would not be in the public interest, because of the seriousness of the allegations or for any other reason, for the matter to be resolved other than by way of the Hearing Panel process;

Or

- 3.7.4 To refer the Registrant to a Health Review Panel.

3.8 If the SC dismisses the complaint, the FtPO will notify the Registrant and the Complainant of the SC's decision and the reason for that decision.

3.9 If the SC decides that the Practice Review procedure should be followed, the FtPO will inform the Registrant and Complainant and notify the Complaints Management Committee. The FtPO will then initiate the Practice Review procedure, sending information to both the Registrant and the Complainant, and will request the necessary letters of undertaking from them (see below, para 4.1)

3.10 The SC may at any stage adjourn its consideration of a matter for further information or documents to be obtained. This might include, for example, an adjournment for statements to be taken from the Complainant and/or other relevant witnesses. Any further documents or material obtained will be sent to the Registrant for his/her comments. The SC may also invite the FtPO to draft, with the assistance of legal advisers, formal particulars of allegations for their consideration.

## Interim measures

3.11 If at any stage during its consideration of a complaint, the SC (or the Practice Review Panel, Hearing Panel or Health Review Panel as the case may be [referred to below as the “Interim Measures Panel”, comprising the same Panel or Committee membership but holding interim measures powers], depending on the stage the complaint has reached) forms the view that it is (a) necessary for the protection of the public or (b) is otherwise in the public interest or (c) is in the interests of the Registrant, for his/her registration to be suspended or made subject to conditions pending determination of the complaint, it may decide to implement interim measures, namely an interim suspension of registration or interim conditions on registration.

3.12 The Interim Measures Panel must give the Registrant notice that it is considering the imposition of interim measures and give the Registrant an opportunity to make written representations as to whether such measures should be implemented. The Registrant must respond within 7 days of notification. If no response is received by the FtPO by this deadline then the Interim Measures Panel will be informed immediately and may at its discretion decide whether to extend this deadline or to proceed with its consideration of the imposition of interim measures without a response from the Registrant.

3.13 Any interim measure must be reviewed at such intervals (not exceeding six months) as the Interim Measures Panel may direct. The Registrant shall be entitled to make written representations with regards to the review. One or more periodic reviews may be waived with the written consent of the Registrant.

3.14 The Interim Measures Panel may hold a review at any time where they consider it appropriate to do so and will consider holding a review where:

- (i) the BPC or the Registrant request that a review takes place;
- (ii) where the terms of the interim measure are alleged to have been breached; or
- (iii) where the Registrant’s circumstances have materially changed.

3.15 The Interim Measures Panel will not, save in exceptional circumstances, keep interim measures in place for a continuous period of more than 12 months.

3.16 Reviews will be carried out by the Interim Measures Panel unless and until a Hearing or Appeal Panel decides to assume responsibility for interim measures and provides written notice to that effect to the FtPO.

3.17 In the event of any breach by the Registrant of any requirements of any interim measures, the Interim Measures Panel may deal with such breach on the same basis as if it were an additional complaint and give such directions in relation to that complaint as it shall consider appropriate.

## 4 Practice Review Procedure

4.1 If the SC has decided that the complaint is to be resolved by means of the Practice Review Procedure, the FtPO will initiate this procedure by requesting that the Registrant and Complainant sign formal letters agreeing to the use of this procedure. The Registrant will be advised that a consequence of agreeing to the Practice Review Procedure is that it is formally recorded by the BPC and is part of a disciplinary record. The letters of agreement must be returned to the FtPO within 21 days of receipt. (See 4.3 below.)

4.2 The Practice Review Procedure will only take place on the understanding that both parties consent. If the Registrant, having agreed to participate in the Practice Review Procedure, fails to do so, such failure may be considered by the SC as an issue of potential professional misconduct and the SC has the discretion to consider whether to refer the failure, together with the original complaint, to a Hearing Panel.

4.3 If either or both the Registrant or Complainant does not agree to sign the letter of agreement to participate in the Procedure, then the matter will be reconsidered by the SC as to which of the other options available to it would be most appropriate. (See 3.7)

4.4 Once the Registrant and the Complainant have both signed and returned the letters of agreement to participate in the Practice Review Panel, the FtPO, in consultation with the Complaints Management Committee, will select a Chair and two other members of the committee for the Practice Review Panel. The Panel will include at least one lay member and at least one current or retired registrant. The FtPO will then send the Practice Review Panel copies of the complaint, the accompanying documentation and copies of the letters of agreement. This should normally be completed within 21 days of the FtPO having received the signed letters of agreement from the Registrant and Complainant.

4.5 The Practice Review Panel will together (either at an initial meeting in person or by telephone, email or other communication to which they are all party) review the complaint documents and decide how to proceed, namely either:

4.6.1 with the agreement of both the Registrant and Complainant, on the basis of the papers, without the attendance of either Registrant or Complainant; or

4.6.2 at a meeting with the Registrant and Complainant being invited to be present.

The Practice Review Panel may come to a decision on the way in which to proceed unanimously or by a majority vote, with no abstentions.

4.6 If the Practice Review Panel decides to proceed on the basis of the papers, and both the Registrant and the Complainant agree to the Panel proceeding on this basis, then the Panel will meet, either by continuation of the initial meeting or at a subsequent meeting, to review the documents, and to come to a decision about the outcome and any associated recommendations.

4.7 If the Practice Review Panel, at its initial consideration, decides to initiate a meeting with both the Registrant and Complainant being invited to attend, or if one or both of the Registrant or Complainant request such a meeting, then the FtPO will, in consultation with the Panel, set a date for the Practice Review meeting, within 28 days of the Panel's decision to proceed by way of a meeting; or within 28 days of the request by the Complainant or Registrant to proceed in this way, whichever is the later. The FtPO will then inform the Registrant and Complainant of the date of the Practice Review meeting.

4.8 Either party, with prior notice to the FtPO and the Chair of the Practice Review Panel, is permitted to bring a supporter, who may be legally qualified, to the Practice Review, on the understanding that the supporter does not address, or take an active part in, the Practice Review Meeting. If either party wishes to consult their supporter in the course of the Meeting,

then they may ask permission from the Chair for a brief adjournment.

4.9 If the Practice Review Panel having decided to proceed on the basis of a meeting with the Registrant and Complainant being invited to attend and either the Registrant or Complainant fails to attend, then the Panel, having regard to any reasons for that failure to attend and to the public interest, will decide whether to proceed in his/her absence or to set a new date for the Practice Review meeting.

4.10 A Practice Review Meeting at which the Complainant and/or Registrant attends will be held in private, and will not be recorded. The Panel may adopt such procedures as it considers fair, proportionate and in the public interest, always having regard to the need for both the Complainant and Registrant to have an opportunity to present their case to the Panel.

4.11 Should new evidence come to light during a Practice Review Meeting or on consideration of the papers, the Practice Review Panel may decide whether to refer the matter back to the SC accompanied by the new information.

4.12 The Practice Review Panel may consider the outcome of the meeting in private, without the Registrant and/or Complainant being present. The Practice Review Panel may:

- (i) give a formal written Warning to the Registrant
- (ii) give a Letter of Advice to the Registrant.
- (iii) decide to dismiss the complaint.

4.13 All Letters of Advice and Warnings to the Registrant will be copied to the Chair of the MI Ethics Committee and the Chair of Ethics of the BPC.

4.14 The Panel will give its decision and reasons in writing, in a Notification of Decision. A Legal Assessor may be appointed to advise the Panel in drafting the Notification. The Notification will be sent by the FtPO, within 7 days of the date of the Panel's Decision, to the Registrant, the Complainant, the Chair of the MI Ethics Committee and the BPC Chair of Ethics.

4.15 If either party wishes to contest the Panel's decision, they must notify the FtPO within 21 days of receipt of the Notice of Decision. The Complaints Management Committee will appoint a member of the Panellists' Group to independently review the decision. The independent reviewer may decide to (a) uphold or (b) overturn the Panel's decision. In the event that the decision is overturned, the matter will be referred back to the SC for reconsideration.

4.16 The Practice Review meeting is private and confidential, and the Notification of the Practice Review is not made public by the BPC.

## 5 Cases referred to a Hearing Panel

5.1 The Hearing Panel is made up of a Panel of three members drawn from a pool of Panellists – the Panellists’ Group. The Panel will include at least one lay member and at least one current or retired registrant. The Hearing Panel Members and the Chair for the Hearing will be appointed from the Panellist’s Group by the Complaints Management Committee.

5.2 If a member of the Hearing Panel (or of any other Panel convened under this CP) has a conflict of interest or considers that there may be an appearance of bias by virtue of their knowledge or connection with any person or organisation concerned (or for any other reason), they will, where appropriate, seek advice from the Legal Assessor and then (if appropriate) declare the same to the FtPO, the other Panellists (unless to do so might lead to a potential conflict on their part), the Registrant and the Presenting Officer and, where appropriate, withdraw from that Panel. The Complaints Management Committee will appoint a replacement from the Panellists’ Group.

5.3 Where the Hearing Panel considers there to be an issue of impairment of fitness to practise by reason of physical or mental health, it has the discretion to implement alternative procedures as detailed in Section 10, Health Review Panels.

5.4 If at any stage of its dealing with a complaint, the Hearing Panel forms the view that interim measures should be considered, the provisions of 3.11 to 3.17 above will apply.

5.5 The FtPO on behalf of the BPC shall appoint a suitably qualified independent lawyer to act as the Presenting Officer of the complaint.

The FtPO will send to the Presenting Officer the material considered by the SC.

Either the SC at the time of referring the matter to the HP, or at any time the FtPO or the Presenting Officer, may consider that further information or material should be obtained in relation to the complaint, in

which case that further material should if possible be obtained. Once all such material has been obtained it will be passed to the Presenting Officer.

5.6 After the Presenting Officer has considered the papers (including any further material requested), he/she will draft particulars of allegation. The following shall then be sent by the Presenting Officer to the FtPO and the Registrant complained against:

- (i) The Particulars of Allegation;
- (ii) Evidence on which the Presenting Officer intends to rely at the Hearing;
- (iii) Evidence or other material on which the Presenting Officer does not propose to rely, but which appears to the Presenting Officer to be (a) relevant to the complaint and (b) reasonably capable of undermining the case against the Registrant and/or assisting the Registrant’s case.

5.7 A date for the Hearing Panel to meet for the Hearing will then be agreed by the Panel Members and the FtPO. Before the date is confirmed, the FtPO will consult the Presenting Officer, the Registrant (or his/her representatives) and any witnesses (including, where appropriate, the original Complainant) with regards to their availability to attend. The Hearing Panel is not obliged to accommodate every request made by the Presenting Officer, the Registrant or any other interested party with regards to dates for Hearing, but should endeavour to do so when reasonably possible. The FtPO will then inform the Presenting Officer and the Registrant (or his/her representatives) of the agreed date in a Notification letter sent by post containing the formal allegations. Save where the Registrant agrees otherwise, the Hearing shall not take place earlier than 35 days after service of this Notification. The Notification will be taken to have been received the day after posting. The FtPO will also notify any BPC witnesses (including, where relevant, the original Complainant) of the date of the Hearing.

5.8 Prior to the date of the Hearing, the Hearing Panel, with assistance of the FtPO, will appoint a suitably qualified lawyer to act as its legal adviser during proceedings (“the Legal Assessor”). The role of the Legal Assessor is to provide the Hearing Panel with independent advice in relation to the relevant law and procedure.

5.9 At least 28 days before the Hearing, the Presenting Officer and the Registrant must send by post (and also, whenever possible, electronically) both to the FtPO and to the other party the following:

- (i) any material or other information they wish the Hearing Panel to consider at the Hearing; and
- (ii) the names of any witnesses (including, where appropriate the Complainant) they propose to call, together with an indication of the nature of the witness’ evidence, in the form of a signed and dated witness statement,

5.9.1 The documents in 5.9(i) and (ii) should be clearly paginated and labelled and/or indexed

5.9.2 Any document or material which has not been sent to the other party or the FtPO in compliance with this paragraph, or any witness whose witness statement has not been sent in compliance with this paragraph, may only be considered or heard by the Hearing Panel if that Panel gives leave for that evidence to be so considered, having had regard to any reasons for the failure to comply with this paragraph, the nature of the material or evidence, its relevance to the Hearing and the interests of justice in allowing it to be considered.

5.9.3 The above provisions of this paragraph shall not apply to evidence which is relevant only to the character of the Registrant. Such evidence should be sent to the FtPO and the Presenting Officer within a reasonable time before the Hearing.

5.10 Either party may make a request to the other party for the author of any statement relied upon by that other party to attend the Hearing as a witness. The request must be received no later than 21 days before the Hearing. If the author of a written statement fails to or is unable to attend the Hearing, the Hearing Panel may nonetheless decide to admit that statement into evidence. Where one party objects to the Hearing Panel admitting into evidence a document relied upon by the other party, it must notify any such objection to the other party and the FtPO no later than 21 days before the Hearing.

5.11 No later than 14 days before the Hearing, the FtPO will forward copies of the material provided pursuant to 5.9 above to members of the Hearing Panel and the Legal Assessor. At the same time the FtPO will notify the Hearing Panel and Legal Assessor of any objections which may have been raised to any of the material and will inform them which witnesses have been required to attend. If a party has specifically asked for a document not to be sent to the Hearing Panel at this stage, because objection is taken to its admissibility, it will be removed from the papers from the Panel, but not from those for the Legal Assessor.

5.12 Having heard the representations of both parties, the Legal Assessor shall advise the Hearing Panel on the admissibility of any absent witness’s evidence or other document to which objection is taken. The Hearing Panel shall then consider whether, in the interests of justice, the absent witness’s evidence or other document shall be admissible. The amount of weight to be given by the Hearing Panel to a statement or document will be a matter for that Panel to decide after considering all the circumstances.

5.13 The Hearing may be adjourned at any stage, either on the application of either party or by the Chair or Panel of its own motion. Any application to postpone the Hearing prior to the Hearing itself should be made to the Chair through the FtPO, giving notice to the other party. The Chair has an absolute discretion (exercised reasonably and, where

appropriate, with advice of the Legal Assessor, and where also appropriate in consultation with the other Panellists) to postpone or to refuse postponement of the Hearing in these or in any other circumstances. In the event of a postponement, a new Hearing date will be decided by the Chair.

5.14 The Complainant, if attending as a witness, and the Registrant may bring with them to the Hearing someone to support them. The identity of the supporter should be notified 21 days in advance to the FtPO.

5.15 The Registrant may be legally represented during the Hearing, by a solicitor and/or counsel.

5.16 If the Registrant or any of the witnesses (including the Complainant) consider that they will be unable or unwilling to present their account or evidence effectively in the presence of another party, they should notify the FtPO of this fact. A Complainant or Registrant complained against should do this at least 35 days before the Hearing; any other witness at least 10 days before the Hearing (see 5.29 for the arrangements that might be possible).

5.17 The Hearing Panel or the Chair of the Hearing Panel may hold a preliminary meeting. At a preliminary meeting, the Chair or Panel, as the case may be, may give directions or make findings on preliminary applications or matters. Such a meeting may include the Legal Assessor, the Registrant, his/her representatives, the Presenting Officer and any other person they consider appropriate. The Presenting Officer and Registrant or his/her representatives may also request a meeting (whether in person, by telephone or otherwise) with the Legal Assessor prior to the Hearing in order to deal with any legal or procedural matters.

5.18 If the Registrant fails to appear at the Hearing, the Hearing Panel may, if satisfied that (a) the Registrant was duly notified of the Hearing and (b) it is in the interests of justice to do so, proceed to hear and determine the complaint in his/her absence.

## The Hearing

5.19 The Hearing will be held in private.

5.20 Shorthand notes, a transcript or other suitable recording of the proceedings will be taken. The transcript will be made available to the Registrant and the Presenting Officer on request, allowing for a reasonable time for such a transcript to be prepared.

5.21 The Hearing Panel shall have regard to the procedural table set out in Appendix 3.

5.22 At the start of the Hearing, if the Registrant is present, the Chair (or other person delegated by the Chair, such as the Legal Assessor) shall ask the Registrant to indicate whether he/she admits or denies each particular of allegation.

5.23 The Presenting Officer may then make an opening speech. Where any or all of the particulars are not admitted, the Presenting Officer may present evidence to the Hearing Panel with regards to the alleged facts. This may include documentary evidence and/or oral witness testimony.

5.24 After each witness called by the Presenting Officer has presented his/her evidence, the Registrant or, where represented, his/her legal representative may question the witness. A Registrant may not question in person a Complainant in a case involving a sexual allegation, or in any case where the Hearing Panel (on advice from the Legal Assessor) considers that it would be inappropriate for a Registrant to question a Complainant in person. The Presenting Officer may ask questions to clarify anything that has arisen out of the registrant's questions.

5.25 Once the Presenting Officer has presented his/her case, the Registrant or his/her representative may then present his/her evidence as to the alleged facts. This may include documentary evidence and/or oral witness testimony.

5.26 After each of the Registrant's witnesses has given evidence in chief (including, where appropriate, the Registrant), the Presenting Officer may question the witness. The registrant or his/her representatives may ask questions to clarify anything that has arisen out of the Presenting Officer's questions (save that a registrant may not question in person a complainant in the circumstances set out in 5.24).

5.27 The time allowed to the Presenting Officer and the Registrant or his/her representative for presenting their respective cases shall be that which is reasonably required, having regard to the interests of all relevant individuals and the interests of justice generally, to be determined by the Hearing Panel at its discretion, with the assistance of the Legal Assessor.

5.28 Save where the Hearing Panel so directs, a witness's written statement shall stand as his/her evidence in chief. The party calling the witness may, however, ask questions to elicit evidence to add to that evidence in chief.

5.29 Where the Registrant or a witness (including the Complainant) has notified the FtPO that they consider that they are unable to present their account or evidence effectively in the presence of the other party, or where there are concerns that special measures may be appropriate for a witness, the Hearing Panel may (after Hearing representations and taking advice from the Legal Assessor as appropriate) adopt any measures to hear the presentations and evidence as they consider appropriate, including but not limited to the use of:

- video links
- pre-recorded evidence as the evidence-in-chief of a witness
- interpreters (including signers and translators) or other intermediaries
- screens or other similar measures.

5.30 The Hearing Panel may ask questions of the Presenting Officer, the Registrant, the Registrant's legal representative or any of the witnesses.

5.31 Following the presentation of the Registrant's evidence as to the alleged facts, the Presenting Officer and the Registrant or his/her representative may make closing remarks, if they wish to do so. The Registrant shall be entitled to make his/her closing remarks after those of the Presenting Officer.

## Findings

5.32 The Hearing Panel will apply the standard of proof applicable to civil proceedings, namely the balance of probabilities, in its finding of the facts of a complaint. The burden of proof lies with the Presenting Officer.

5.33 The Hearing Panel shall then deliberate in private with regards to the alleged facts (for the avoidance of doubt, the Legal Assessor shall remain, but shall take no part in those deliberations save to clarify any points of law or procedure). The Hearing Panel will seek to arrive at a finding as soon as possible, preferably on the same day following the above proceedings. The Hearing Panel has the discretion, however, to convene another meeting if it is unable to reach a finding on the same day, making all reasonable endeavours to meet again at the earliest opportunity.

5.34 The Hearing Panel will specify reasons for its finding.

5.35 If the Hearing Panel finds any part of the Registrant's alleged conduct to be substantiated or any of the alleged facts proved, it will go on to consider (during private deliberations) whether it is satisfied that the Registrant's fitness to practise is impaired as alleged in the particulars of allegation. Before doing so, the Presenting Officer and the Registrant may call further evidence and make further submissions with regards to whether the Registrant's fitness to practise is impaired as alleged.

## Sanctions

5.36 If the Hearing Panel decides that the Registrant's fitness to practise is impaired, it shall consider (during private deliberations) what, if any, sanction should be imposed on the Registrant. Before it does so, the Presenting Officer may refer the Hearing Panel to any previous findings against the Registrant; and the Registrant may present mitigation.

5.37 Following a finding of impairment, the Hearing Panel may impose one or more of the following sanctions:

- An admonishment (with or without conditions)
- Specific conditions to be met within a specified time (with or without an admonishment). This may include a requirement to undergo either, or both:
  - (i) Supervision, to a maximum of 10 sessions in 12 months from the sending of the Notice of Determination, this to be reviewed on the completion of the sanction (or, if the sanction has not been complied with, after 12 months from the sending of the Notice of Determination), by the Hearing Panel, following a written report from both the supervisor and the Registrant (where there has been compliance with the sanction), and to be renewed for a maximum of 5 further sessions in 6 months from the date of the review, if the Panel so require.
  - (ii) Continuing professional development, or further training, in areas of theory or clinical practice indicated by the Panel, this to be completed within 12 months of the date of the Notice of Determination, and to be reviewed by the Hearing Panel by means of a written report from the Registrant, accompanied, as necessary, by supporting documents, and subject to renewal with further conditions, for a further 6 months from the date of the review if the Hearing Panel require it.
- Removal of the Registrant from membership of a committee, sub-committee, working group, party, Panel or any other body of either the BPC or a BPC MI for a period of time determined by the Panel, to a maximum of 3 years, with suitable provision then for the condition to be reviewed and lifted or renewed, on the completion of the specified period of time.
- A requirement for the Registrant to stop training, teaching, supervising or carrying out any other activity on behalf of the BPC or its MIs for a specified period of time, to a maximum of 3 years, with suitable provision then for the condition to be reviewed and lifted, or renewed, on the completion of the specified period of time.
- Termination of registration with the BPC and removal of the Registrant's name from BPC's Register.

5.37.1 The costs of complying with any sanction imposed by the Hearing Panel shall be borne by the Registrant, unless otherwise specified by the Hearing Panel. The Hearing Panel may at the time of imposing a sanction indicate that it requires a review Hearing to take place at the end of the period specified for conditions or suspension to take effect.

5.37.2 See Section 8 below generally regarding Reviews.

At a Review Hearing, the Hearing Panel will consider whether the conditions have been complied with, together with any further relevant information arising regarding the Registrant since the original findings against him/her. The Hearing Panel may, having considered these matters, impose any of the above sanctions, may continue with the same or different conditions or may take no further action. The Presenting Officer and the Registrant shall be entitled to attend, call evidence and make submissions at the Review Hearing and the Registrant may be legally represented.

5.38 The Hearing Panel will give written reasons for the sanction.

## General provisions

5.39 If at any stage, the Hearing Panel considers that further information is needed or further witnesses need to be called, then the Hearing Panel may adjourn and re-convene the Hearing, giving an indication of the reasons for that adjournment. The provisions of this Section 5 will apply in respect of any reconvened Hearing.

5.40 With the agreement of the relevant party, the Hearing Panel may reduce the period of time provided to that party to comply with the provisions in this Complaints Procedure.

5.41 At any time, the Hearing Panel may decide to adjourn its proceedings.

5.42 At any stage in its proceedings, the Hearing Panel may deliberate in private, namely with no party present other than the Legal Assessor.

5.43 A Hearing Panel, or any other Committee or Panel, may request independent medical or psychiatric assessment or other reports with regards to the Registrant. These will be commissioned by the BPC on behalf of the Panel. The Panel will give directions as to the information and instructions to be provided in relation to any such assessment or report. The Presenting Officer (if any), the FtPO and the Registrant will be provided with a copy of the instructions for such a report and a copy of the report when it is produced. The Presenting Officer and the Registrant may obtain and submit their own medical or psychiatric report to the Panel and the other party in accordance with directions given by the Panel.

5.44 The Hearing Panel may be provided with any evidence, in any form, provided it appears to the Panel to be relevant to the complaint it is considering and it is in the interests of justice to consider it.

5.45 The Hearing Panel may hear and determine complaints against two or more Registrants at one Hearing; and/or more than one complaint against one Registrant, at one Hearing. The Panel may take into account matters such as protection of the public, expedition, resource and convenience (for example in relation to the attendance of witnesses) when considering whether to hear complaints jointly.

5.46 The Chair of the Hearing Panel, or the Panel itself, may agree to an extension of time for any party to comply with any of the provisions in this Complaints Procedure.

5.47 Upon the application of the Presenting Officer, or of its own volition, the Hearing Panel may amend the particulars of allegation at any time before making a final finding regarding the complaint, provided that the amendment can be made without unfairness.

5.48 Subject to the above provisions and principles of general fairness, the Hearing Panel may decide its own procedures.

5.49 Decisions of the Hearing Panel may be taken unanimously or by a simple majority. No member may abstain from voting. The Panel must reach a decision and may call on the Legal Assessor for advice on law or procedure to enable it to do so.

5.50 Following the Hearing, the FtPO will write to the Complainant and the Registrant complained against informing them of the finding and, any, sanction, and the specified reasons given by the Panel. All reasonable endeavours will be made to ensure that this is done as soon as possible after the Hearing, normally no later than five days after the final determination in relation to the complaint has been made by the Hearing Panel. The letter will be sent by post and will be taken to have been received 3 days after posting.

## 6 The Appeals Process

6.1 An appeal may be made by either the Presenting Officer on behalf of the BPC or the Registrant complained against on one or more of the following grounds. The original Complainant may also request that the BPC consider lodging an appeal on one or more of these same grounds:

- 6.1.1 That a defect in the procedure in the proceedings before the Hearing Panel may have had a material effect on the finding and/or the sanction
- 6.1.2 That a piece of evidence which could not have been adduced at the time of the Hearing and which may have had a material effect on the finding and/or sanction is now available;
- 6.1.3 That the sanction is not proportionate to the finding of the Hearing Panel and/or is unjust in all the circumstances.

6.2 If the Presenting Officer or the Registrant believes that an oral appeal hearing is necessary, he or she should state this when making the appeal.

6.3 Notification of an appeal must be made within 35 days of the posting of the letter confirming the finding of the Panel (as in 5.50). The appeal must be put in writing to the FtPO at the following address:

British Psychoanalytic Council  
Suite 7  
19-23 Wedmore Street  
London N19 4RU

6.4 The letter giving notice of the appeal must be signed by the person making the appeal (“the Appellant”). If they are not able to send a written or signed notice of appeal, the Appellant should consult the FtPO, outlining the reasons for this. The FtPO, in consultation with the Complaints Management Committee, will decide if an exception to the normal requirements can be made. The person making the appeal must provide:

- Their full name and address

- The specific ground for the appeal (as set out in 6.1 above) and the arguments in support of those grounds
- Supporting informing and/or documents relevant to the appeal

6.5 Details of the appeal will be sent to the other party by post. This will be taken to have been received the day after posting. Any response from the other party to the appeal must be sent to the FtP Officer no later than 35 days after the posting of the details of the appeal.

6.6 The Complaints Management Committee will appoint an Appeals Panel comprising three members from the Panellists’ Group: at least one lay member and at least one current or retired registrant. Members selected for the Appeal Panel will not be members of the Screening Committee and will not have been members of the Hearing Panel which considered the complaint.

6.7 The Legal Assessor will provide the Appeal Panel with legal advice in relation to the law and procedure to be adopted at the appeal. The Legal Assessor to the Appeal Panel usually should not be the same as the one who advised the Hearing Panel in the case under appeal.

6.8 The Appeal Panel and its Legal Assessor will meet as soon as reasonably possible, normally no later than 35 days from receipt of the Appeal. Should it be later than 35 days, the Appellant will be informed by the FtPO. The FtPO will send a copy of the following to the Appeal Panel:

- A copy of the first finding, the specified reason for the finding, the sanction, if any has been imposed, and the specified reason for the sanction.
- The documentation submitted with the appeal
- Any response to the appeal by the other party

6.9 Appeal Panel members may request copies of any or all of the documents considered by the Hearing Panel and/or a transcript of the original Hearing.

6.10 The Appeal Panel will decide whether or not it accepts the grounds of appeal. The decision will be made in almost all cases on the basis of the relevant papers alone. Exceptionally, the Appeal Panel, after having considered all relevant material presented to it in accordance with paragraph 6.8, may, if it considers it to be in the interests of justice and at its discretion, decide to invite the parties to attend in person to present the grounds for appeal. If the Appeal Panel invites the parties to attend in person, 6.11 to 6.19 shall apply to the Hearing.

6.11 Where, exceptionally, an oral appeal Hearing has been directed by the Appeal Panel, both parties will be asked at least 28 days prior to the date of the Hearing by the FtPO to attend the Hearing.

6.12 If either the Presenting Officer or Registrant notifies the FtPO of a reason that they are unable to attend the Hearing, the Appeal Panel may, in its absolute discretion, postpone the Hearing.

6.13 If either party fails to appear at the Hearing of the Appeal Panel, if satisfied that the party was duly notified as provided for in 6.11, and that it is in the interests of justice, the Panel may proceed to determine the appeal in their absence.

6.14 The appeal Hearing will be held in private.

6.16 Shorthand notes, a transcript or other suitable recording of the proceedings will be taken. The transcript of the Hearing will be made available to the Registrant and the Presenting Officer on request, allowing for a reasonable time for such a transcript to be prepared.

6.15 At an oral appeal Hearing, the party making the appeal, i.e. the Presenting Officer on behalf of the BPC, the Registrant or the Registrant's representative (as the case may be), will be asked to open and present their appeal and the grounds for it. The other party, i.e. the Presenting Officer, the Registrant or the Registrant's representative (as the case may be) will then be asked to respond to the appeal.

6.16 At the end of the Hearing, the Appeal Panel shall deliberate in private (for the avoidance of doubt, the Legal Assessor shall remain, but shall take no part in those deliberations save as to clarify points of law or procedure). The Appeal Panel will seek to arrive at a decision on the same day following the above proceedings. However, the Appeal Panel will have the discretion to convene another meeting if it is unable to reach a finding on the same day, making reasonable endeavours to meet again at the earliest opportunity.

6.17 At any time, the Appeal Panel may decide to adjourn its proceedings.

6.18 The Appeal Panel may be provided with any evidence, in any form, provided it appears to the Panel to be relevant to the appeal it is considering.

6.19 Subject to the above provisions and principles of general fairness, the Appeal Panel may decide its own procedures.

6.20 If the Appeal Panel decides not to uphold the appeal, the FtPO will write to the Appellant and the Registrant informing them of the decision. The letter will be sent by post and be taken to be received the following day after posting.

6.21 If the Appeal Panel decides that a ground or grounds of appeal have been made out to its satisfaction, then the Appeal Panel may decide the appeal as follows:

6.26.1 in the case of an appeal under 6.1.1 and 6.1.2, overturn the decision of the Hearing Panel and order that the complaint be heard again before a newly constituted Hearing Panel ("Second Hearing Panel"); or

6.26.2 in the case of an appeal brought under 6.1.3, overturn the decision of the Hearing Panel and impose an alternative sanction that the Appeal Panel considers proportionate and just in all the circumstances of the case.

6.22 Decisions of the Appeal Panel may be taken unanimously or by a simple majority. No member may abstain from voting. The Appeal Panel must make a decision and may call on further procedural or legal expert advice to enable them to reach a decision.

6.23 If the Appeal Panel orders the complaint to be heard again by a Second Hearing Panel, the Second Hearing Panel shall:

6.23.1 follow the procedure set down in section 5 of this Complaints Procedure;

6.23.2 not comprise any members of the Hearing Panel that heard the complaint initially.

6.24 If the Appeal Panel imposes a different sanction, it shall have regard to the provisions of 5.36 to 5.38 above.

6.25 The FtPO will write to the Appellant, the original Complainant and the Registrant (if not the Appellant) complained against informing them of any change to the original finding and/or sanction imposed. The letter will be sent by post.

6.26 The FtPO will inform the Registrant's Member Institution of any change in the original finding and/or sanction imposed.

6.27 The FtPO will also inform other regulatory bodies and employers that it considers relevant of any change in the new original finding and/or sanction imposed.

## 7 Publication of the finding and sanction

7.1 Immediately after the finding has been made, the FtPO will inform the Chair of the Registrant's Member Institution in confidence of the finding of the Hearing Panel, the specified reason for the finding (e.g. which section of BPC's Code of Ethics has been breached), the sanction, if any imposed, and the specified reason for the sanction.

7.2 Once a decision has been made under the terms of this procedure, the BPC will publish on its website (and in other publications as it sees fit) the finding, the specified reason for the finding, the sanction and the specific reason for the sanction in accordance with the BPC's publication policy. Publication will not take place until the conclusion of the proceedings, including any appeal. Publication will be as follows:

- If no appeal notice has been received, immediately following 35 days of posting of the letter confirming the finding of the Hearing Panel (see 5.8 and 6.2)
- If an appeal is dismissed by the Appeal Panel or withdrawn by the Appellant, immediately following that decision by the Appeal Panel or withdrawal by the Appellant;
- If an appeal notice is received, and a new sanction is imposed, immediately following the decision by the Appeal Panel;
- If an appeal notice is received, and the matter is referred to a Second Hearing Panel, immediately following 35 days of posting of the letter confirming the finding of the Second Hearing Panel (see 5.8 and 6.2), if no appeal notice has been received.

7.3 The FtPO will inform the Chair of the Ethics Committee of the Registrant's Member Institution of the finding, the specified reason for the finding, the sanction and the specified reason for the sanction.

7.4 The Registrant will co-operate and consult with their Member Institution as to the appropriate action to take in respect of his/her existing patients, including informing those patients of the finding and the sanction.

7.5 The Registrant shall inform the FtPO of any other relevant regulatory/professional bodies and employers of which they are a member, Registrant or employee. The FtPO will inform these bodies of the finding, the specific reason for the finding and the sanction.

## 8 Review of sanctions

8.1 Where a Hearing Panel, a Second Hearing Panel or an Appeal Panel imposes a sanction which it directs is subject to the Review Procedure, this procedure shall apply.

8.2 The Panel imposing the relevant sanction shall constitute the Review Panel unless and until the Complaints Management Committee direct otherwise in writing. Under any variation of Panel membership The Panel will include at least one lay member and at least one current or retired registrant.

8.3 The Review Panel will consider, at the point in time specified by the original Panel for a review to take place, whether any specified conditions have been complied with, together with any further relevant information arising regarding the Registrant since the original findings against him/her.

8.4 The Registrant's Member Institution will provide a written report to the Review Panel and the Registrant as to the Registrant's compliance with the sanction or any other matter relevant to the Registrant's fitness to practise in accordance with the directions of the Review Panel. (See Appendix, The Management of Sanctions.)

8.5 If a Review Panel considers that a Registrant may have failed to comply with the sanction or has concerns as to a Registrant's fitness to practise it may:

8.5.1 Direct the FtPO to write to the Registrant setting out its concerns and seeking the Registrant's proposals for compliance or addressing any concerns; or

8.5.2 Direct the FtPO to refer the matter to BPC Chair of Ethics with a view to a complaint being made arising from such non-compliance or concerns; or

8.5.3 Refer the Registrant to a Health Review Panel; or

- 8.5.4 Direct the FtPO to arrange a Review Panel Meeting and give notice to the Registrant that the Review Panel will consider varying the sanction.
- 8.6 The FtPO will promptly give the Registrant written notice:
- 8.6.1 of a decision to hold a Review Panel Meeting;
  - 8.6.2 of brief written particulars of any alleged failures to comply with the sanction or concerns as to the Registrant's fitness to practise; and
  - 8.6.3 of the time, date and place of the Review Panel Meeting.
- 8.7 The Registrant will have 21 days (or such other period as the Review Panel may direct) to provide written representations and give written notice that he wishes to attend the Review Panel Meeting.
- 8.8 The Review Panel may instruct the FtPO to obtain reports, evidence or documents it considers relevant to its consideration.
- 8.9 The Review Panel may conduct the Review Panel meeting in such manner as it considers fair and appropriate and may allow oral representations from any person it considers appropriate.
- 8.10 The Review Panel may permit the Registrant to attend none, some or all of the Review Panel meeting.
- 8.11 Following the Review Panel meeting the Review Panel may vary the sanction applying to the Registrant or take any of the other steps referred to in paragraph 8.5. The Review Panel, if varying the sanction, may impose one of the sanctions set out in paragraph 5.37.
- 8.12 The Review Panel will provide the FtPO with a written statement of its decision, with reasons, including a statement of any sanction as varied. The FtPO will provide a copy of the same to the Registrant and the MI.
- 8.13 In the event of a complaint being made by the BPC Chair of Ethics in relation to non-compliance with the sanction or fitness to practise, neither the Screening Committee nor any Hearing or Appeal Panel shall include members of the Registrant's Review Panel.

## 9 Restoration of registration

9.1 A Registrant whose BPC registration has been terminated under these procedures may apply in writing to the FtPO for that registration to be restored.

9.2 An application for restoration may not be made within five years of the date of the relevant Notice of Decision or such shorter period as may be specified in the relevant Notice.

9.3 On receipt at either the MI or the BPC of a formal request for restoration, the request will be passed to the FtPO who will inform both the Chair of Ethics of the MI and the BPC Chair of Ethics.

9.4 The FtPO shall arrange for the Complaints Management Committee to appoint a Panel to consider the application, consisting of a representative of the relevant MI's Ethics Committee and a member of the BPC Panellists' Group. This Panel will consider the written application and make a recommendation about whether to proceed or not to a Restoration Review Panel. The Panel's decision will be notified by the FtPO to the applicant and to the Chair of the MI's Ethics Committee and BPC Chair of Ethics.

9.5 If the Panel rejects the application, there is no right of appeal and any further application would not be looked at for at least three years.

9.6 If the Panel decide that the application should be further considered, the FtPO will arrange for the Complaints Management Committee to appoint a Restoration Review Panel, comprising a representative of the MI and two members of the Panellists' Group including one lay member, to make the final decision about re-instatement.

9.7 Prior to a meeting with the Restoration Review Panel, the Complaints Management Committee will endeavour to arrange two interviews with the applicant:

9.7.1 An initial assessment in the form of an analytic consultation with a senior BPC Registrant unknown to the applicant, to examine the applicant's motivation for the present application, and their insight into the originating events that led to the Registrant being removed from the Register.

9.7.2 A second interview with a different senior BPC Registrant, also unknown to the applicant, to consider the applicant's professional and personal activities since the removal from the Register.

9.8 The Restoration Review Panel will be sent the reports of these two interviews. or will be informed of any failure by the applicant to cooperate with arrangements for interviews or reports. Any costs involved with regards to the interviews and/or reports arranged as part of the restoration process will be borne by the Applicant.

9.9 The Restoration Review Panel may, with agreement of the applicant,

9.9.1 decide the application on the basis of written material alone; and in so doing may give directions for written or oral representations or evidence to be submitted; or it may

9.9.2 give directions for an oral hearing, including the appointment of a Presenting Officer and/or a Legal Assessor and for the submission of written representations and evidence.

9.10 Having considered the application, the Restoration Review Panel may:

9.10.1 direct that the Registrant be restored to the Register, (with any specified conditions as it deems appropriate, together with a specified period for review of any such conditions); and/or

9.10.2 refuse the application.

9.11 The Restoration Review Panel will give written reasons for any decision to restore the applicant or refuse the application. The Panel in its Notice of Determination may stipulate conditions to be attached to restoration, such as (but not limited to) the time period for the reinstatement process; supervision requirements; continuing professional development; limitations on type of patient to be seen by the applicant in the future; and/or any need for further treatment.

9.12 In deciding whether or not to restore the applicant to the Register the Restoration Review Panel will consider the applicant's fitness to practise at the time of its consideration and the public interest in maintaining confidence in these procedures and sanctions.

9.13 If the Restoration Review Panel directs that the applicant should be restored, the restoration process will initially be provisional, for a period to be specified by the Panel (save that the period will not be less than one year). In determining the period to be specified, the Panel will be guided by the two assessment reports.

9.14 At the end of the minimum period for provisional restoration decided by the Restoration Review Panel, the Panel will ask for reports from any relevant party (including, for example, the applicant's supervisor) and will meet to consider the progress of the applicant. If the Panel are satisfied with the applicant's progress, the applicant may apply to be fully restored to the Register at a time chosen by the Panel, subject to continuing conditions as the Panel consider appropriate, or be required to continue to be provisionally restored for a further period of at least one year, at the end of which period the process described in this paragraph shall be repeated, until such time as the Panel is satisfied that the applicant may be fully restored.

9.15 If the Panel rejects the application, there is no right of appeal, and a further application will not be considered for at least three years.

9.16 Where the application for restoration is successful, (whether provisionally or in full) the Professional Standards Committee will be sent a copy of the Notice of Determination for consideration in conjunction with the Continuing Professional Development Statement of Intent that is required for re-entry to the Register.

## 10 Health Review Panels

10.1 A case may be referred to a Health Review Panel by the Screening Committee, a Hearing or Second Hearing Panel, an Appeals Panel or the Review Panel where that Committee or Panel considers that there may be an issue of impairment of fitness to practise by reason of physical or mental health. The referring Committee or Panel may stay its own proceedings in relation to some or all aspects of the complaint for such period and under such conditions as it considers appropriate.

10.2 The Complaints Management Committee will appoint a Health Review Panel by the same procedures as in 5.1 except that one of the three Panellists must, wherever possible, be medically qualified, unless this would result in undue delay.

10.3 If at any stage of its dealing with a health concern a Health Review Panel is of the view that the matter is so serious that it may be necessary for the Registrant's membership of the BPC to be subject to interim measures, it may decide to impose an interim suspension of or interim conditions on registration. In this event, the provisions of 3.12 to 3.18 will apply.

10.4 The procedure for a Health Review Panel shall be the same as for a Hearing Panel, save that a Health Review Panel may not impose a sanction of termination (as opposed to suspension) of registration with the BPC or removal (as opposed to suspension) of the Registrant's name from BPC's Register.

10.5 If at any time during the course of its consideration of a matter, the Health Review Panel is of the view that allegations against the Registrant (other than the allegation that the Registrant is unfit to practise by reason of ill-health) are so serious that a sanction of termination of registration with the BPC or removal of the Registrant's name from BPC's Register may be appropriate, the Health Review Panel may refer the matter to a Hearing Panel.

10.6 Further, if a Hearing Panel considering a matter is of the view that the matter is more

appropriately dealt with by a Health Review Panel and that the allegations are not so serious that a sanction of termination of registration with the BPC or removal of the Registrant's name from BPC's Register will be appropriate, the Hearing Panel may refer the matter to the Health Review Panel.

### Review of conditions required by the Health Review Panel

10.7 In cases of impairment of health including interim measures on health grounds, the Health Review Panel will make its decision regarding a review as in Section 8 above.

10.8 The Panel may decide that the Registrant is deemed fit to return to practise but that ongoing supervision or other arrangements may be required, in which case they may invite the Registrant to comply with conditions, to be continued for a stated time frame.

10.9 The Registrant will be requested to confirm their agreement in writing with the specified conditions, which will continue to be monitored by the Registrant's MI's Ethics Committee. The latter will inform the BPC Chair of Ethics and Complaints Management Committee via the FtPO whether these have been satisfactorily concluded. If they have not been, the matter will be referred back to the Hearing Panel to reconsider the allegations in the light of non-compliance with the specified conditions.

10.10 At any time the Chair of the MI's Ethics Committee may seek guidance with regards to monitoring conditions from the original Hearing Panel and if this is not possible from the BPC Chair of Ethics.

10.11 When a decision has been made that a registrant in relation to whom conditions have previously been imposed, is fit to practise, the BPC Chair of Ethics will write to the Registrant, and to any professional regulatory or employing bodies that is deemed appropriate, to inform them of the outcome.

## Appendix 1

### Appointment of relevant committees and panels

#### 1 Ethics Committee

This Committee convenes at least three times per year to discuss general ethical concerns, and to determine ethics policy, changes to the Codes and procedures and make recommendations to the BPC Executive and Council. Its membership is decided by application to the BPC Executive and will include some members and/or chairs of MI Ethics Committees, Registrants with a special interest and at least one lay member. It is chaired by the BPC Chair/ Deputy Chair of Ethics.

#### 2 Complaints Management Committee

This functions as the executive committee of the Ethics Committee. It manages and makes decisions about the administration of complaints from presentation of the complaint through to the hearing and the notice of determination. The committee is chaired by the BPC Chair/Deputy Chair of Ethics and members include the FtPO, the Convenor/Deputy Convenor of the Panellists' Group, one or two other Registrants, and one lay person.

#### 3 Screening Committee

3.1 BPC's Council will appoint the members of the Screening Committee, to serve for a period of three years, with an additional three-year term to follow should they wish to continue. No member may serve for a period of longer than six years, except under the provisions of 3.2.

3.2 The Screening Committee shall comprise seven members, both lay and professional, with the Chair to be a lay member. The Screening Committee (SC) is quorate with three members, including at least one lay member and one current or retired registrant, and decisions may be taken unanimously

or by a simple majority. No member may abstain unless they have recused themselves from a specific complaint because of conflict of interest.

3.2 BPC's Council will appoint a lay Chair of the Screening Committee and a Deputy Chair to act in the event of the Chair's non-availability. The Chair and Deputy Chair will each serve for a period of three years, with an additional three-year term to follow should they wish to continue. Periods as a member of the Screening Committee will not be included in the term of office as Chair or Deputy Chair. Periods as Deputy Chair will not be included in the term of office as Chair.

#### 4 The Panellists' Group

4.1 BPC's Council will appoint the members of the Panellists' Group who will provide the members of Hearing Panels. The Group will consist of up to 50 members, one third of which will be lay members.

4.2 Members of the Panellists' Group will serve for a period of three years, with an additional three-year term to follow should they wish to continue. No member may serve for a period of longer than six years.

4.3 One member of the Panellists' Group will be appointed as the Convenor, and a second member, preferably a lay person, will be appointed as a Deputy Convenor. Their responsibility will be to take part in the Complaints Management Committee, to assist in the appointment of new members, to offer general support and guidance to the members of the Panels, and to devise and help set up and run training.

## Appendix 2

### The management of sanctions

#### Introduction

Under section 5.37 of the Complaints Procedure, Registrants can be made subject to a sanction of supervision. These guidelines lay out the necessary structures for managing this sanction and the separate responsibilities of the BPC, the MI, the supervisee under sanction and the supervisor. Finally these guidelines lay out action to be taken in the event of the failure of the sanction.

#### 1 The BPC

The BPC administers the Complaints Procedure and will ensure that, as far as possible, the Practice Review procedure and the Complaints Hearings are fair and impartial. The Ethics Committee has overall responsibility for the structure and contents of the CP. The Complaints Management Committee has day-to-day administrative oversight, and general administrative responsibility for the process is held by the Fitness to Practise Officer (FtPO) of the BPC.

Following a Notice of Determination which has set a sanction of supervision, the FtPO will notify the Registrant of their responsibility to engage immediately with the process, and also inform the BPC Chair of Ethics and the MI Chair of Ethics. The FtPO and the Complaints Management Committee will be able to offer advice and administrative support as requested to the Registrant, the MI or the Hearing Panel, but the Registrant will be expected to request help and advice, as needed, from the Chair of Ethics of their own MI.

The FtPO and the Complaints Management Committee must be informed by the supervisor and/or the supervisee immediately if the supervision breaks down, and, if it does not break down, at the point when the original sanction is completed. A review by the Hearing [Review] Panel will then be arranged, and if the sanction is renewed for a second

period, then the same process will be followed. In the event that the supervision breaks down, or if the Registrant does not comply, then the FtPO will notify the Hearing Panel, who will set in motion a Review Hearing, at which the Panel will consider whether any other sanction should be imposed (see below, 5).

#### 2 The Member Institution (MI)

Each MI will nominate supervisors from their membership who are willing to undertake the supervision of Registrants who are subject to a sanction. Each MI will nominate a number of supervisors, proportionate to the size of membership of the MI. The process will be coordinated by the Complaints Management Committee, but the responsibility for nominating and approving the list of individual supervisors lies with the Chair of Ethics of each MI.

The detailed criteria for choosing supervisors will lie with each MI, with the only expectation from the BPC being that the registrants nominated by the MI will be experienced senior registrants with at least five years' experience of supervision. Supervisors should be willing to supervise Registrants under sanction from MIs other than their own. This may be essential for the smaller MIs. Each Registrant who is under a sanction for supervision should be able, within reason, to choose a supervisor from their own MI, unless they need to go to another MI, for example from small MIs. They should also expect to have a supervisor who is from the same or compatible analytic orientation.

The Chair of Ethics of the MI will have been informed of the initial complaint and of the Notice of Determination of the Complaints Hearing and should be available to help and advise the Registrant, as required, to find a suitable supervisor from the BPC list. Registrants should, if possible, not choose a supervisor with whom they have worked before. The Chair of Ethics of the MI and/or of the Panel who determined the sanction may refuse the Registrant's choice of supervisor, within reason, and must explain their grounds for doing so.

### **3 The supervisee under sanction**

If a sanction of supervision is decided by the Hearing Panel, then, once the Notice of Determination is issued, the Registrant has the responsibility of finding and entering into an arrangement for supervision. They should request a copy of the list of available and suitable supervisors from the Chair of Ethics of their MI, and they may ask for advice and help from their MI Chair of Ethics and/or from the Complaints Management Committee of the BPC. Any undue delay in entering into supervision, without good reason, will be regarded unfavourably by the Panel at the review.

The Registrant against whom a finding of unfitness to practise (other than by virtue of ill-health) has been made by a Hearing Panel will be expected to take this seriously and to work hard in supervision, particularly in those areas where the Hearing Panel has identified any failings. The Registrant is responsible for payment for supervision.

At completion of the number of supervision sessions directed by the Hearing Panel the supervision sanction is reviewed by the Hearing or Review Panel. Both the supervisor and the Registrant should submit, at this point, reports of their work to the Hearing or Review Panel, who will make a decision about closure or further supervision. If the supervision sanction is renewed, then the same process takes place at the end of the extended period of supervision. The Complaints Management Committee will request the reports and the Registrant should, in their own interest, reply promptly. The report to the Hearing or Review Panel review should be open and frank, and reflect upon the findings of the CP about the Registrant's failings, and about their attempts to address them in supervision.

The sanction may be renewed by the Panel at the first review, if they feel, on the basis of the two reports, that the Registrant has not made sufficient progress by that time.

The Registrant is encouraged, at the point of review, or at the end of the sanction, to consider further

supervision, with the same or another supervisor, but this is not required, only recommended, by the BPC.

### **4 The supervisor**

The supervisor assists the BPC's regulatory work, in the public interest, by maintaining the Fitness to Practise of Registrants. The supervisor should initially concentrate the supervision on any difficulties identified in the Complaints Process. The supervision which may be required as part of a sanction are subject to a maximum number of 10 sessions over 12 months, renewable at review for a further maximum of 5 sessions over 6 months.

At the end of the original period of supervision directed, the Complaints Management Committee will ask both the supervisor and the Registrant to write a report on the supervision, and the Hearing Panel will make a decision to either close the sanction, or renew it for a further period, on the basis of the two reports. The reports should concentrate on the areas of perceived weakness in practice and the Registrant's ability to learn in supervision.

The supervisor should be in contact with the Chair of Ethics of their MI, and can at any point ask for guidance or advice from the MI or from the FtPO and the Complaints Management Committee.

### **5 Breakdown or failure of the sanction of supervision**

If the Registrant refuses to agree to a supervision sanction, or to cooperate, or creates undue delay, or the supervision relationship breaks down in the course of the work, then the supervisor and the Chair of the MI Ethics Committee should discuss the options open to them with the FtPO. They may consider suggesting to the Chair of the Hearing Panel a change of supervisor, an agreed period of deferment of the sanction (which must still fall, overall, within the set period) or an early review of the sanction with the Hearing or Review Panel.

## Appendix 3

### Procedural timetable for Hearings

	Panel	Presenting Officer	Registrant complained against
1	Opening and Introduction from the Chair		
<b>Allegations and admissions</b>			
2	Allegations read out (chair)		
3			Registrant asked if any admissions are made
<b>Special measures for witnesses</b>			
4		Any submissions as to the measure to be taken for witnesses under paragraph 5.29 of the complaints procedure to be made	
5			Any submissions as to the measure to be taken for witnesses under paragraph 5.29 of the complaints procedure to be made
6	Chair to seek legal advice, as required.		
7		Presenting Officer given the opportunity to comment on legal advice, if so advised.	
8			Registrant given the opportunity to comment on legal advice, if so advised.
9	Chair to give the Panel's decision on special measures.		

<b>Stage 1: Facts</b>			
10		Presenting Officer may make opening statement.	
11		Complainant called to give evidence (if he/she is a witness to be called by the Presenting Officer) .Statement stands as evidence in chief  Questions may be asked by the Presenting Officer, at the discretion of the Chair.	
12		Presenting Officer may ask questions to clarify anything arising out of cross-examination	Complainant may be cross examined by Registrant or his/ her representative (save for caveat regarding registrant in person and complaints of a sexual nature etc.).
13	Questions to the Complainant from the Panel.		
14		Any further witnesses called on behalf of the Presenting Officer and cross examined, re-examined and questioned by the panel, as per complainant above. Statements stand as evidence in chief.	
<b>Registrant's case</b>			
15			Registrant called to give evidence, if he/she chooses to do so. Statement may stand as evidence in chief.  Questions may be asked by his/her representative, at the discretion of the Chair.
16		Registrant may be cross examined by the Presenting Officer.	
17			Registrant may be re-examined by his/her representative

17	Questions to the Registrant from the Panel.		
19			Any further witnesses called on behalf of the Registrant and cross examined re-examined and questioned by the Panel, as above.
<b>Closing remarks</b>			
20		Closing remarks on behalf of the Presenting Officer.	
21			Closing remarks on behalf of the Registrant.
22	Legal advice given by Legal Assessor.		
23		Presenting Officer to, if he or she wishes, comment on legal advice given.	
24			Registrant and/or representatives, if they wish, to comment on legal advice given.
25	Panel to retire to reach its determination on the facts.		
26	Chair gives Panel's finding on the facts.  If some or all of the facts are proved, the Panel will go on to consider ...		

## Stage 2: Impairment of fitness to practise and sanction

NB: after consultation with the parties and on hearing advice from the Legal Assessor, these stages may be considered separately – e.g. misconduct/deficient professional performance, impaired fitness to practise and sanction

27		Presenting Officer may give evidence and/or make submissions on whether the facts proven amount to misconduct or deficient professional performance etc., and/or whether fitness to practise is impaired.	
28			Registrant may give evidence and/or call evidence and/or make submissions on whether the facts proven amount to misconduct or deficient professional performance etc., and/or whether fitness to practise is impaired.
29	Legal advice given by Legal Assessor.		
30		Presenting Officer given the opportunity to comment on legal advice.	
31			Registrant given the opportunity to comment on legal advice.
32	Panel to retire to reach its determination on whether the facts proven amount to misconduct or deficient professional performance etc., and/or whether fitness to practise is impaired.		
33	Chair gives Panel's decision on whether the facts proven amount to misconduct or deficient professional performance etc., and/or whether fitness to practise is impaired. If so:		
34		Presenting Officer may refer Panel to any previous findings against the Registrant in relation to sanction.	
35			Registrant may present mitigation in relation to sanction.

36	Legal advice given by Legal Assessor.		
37		Presenting Officer given the opportunity to comment on legal advice.	
38			Registrant given the opportunity to comment on legal advice.
39	Panel to retire to reach its determination on sanction.		
40	Chair gives Panel's decision on sanction.		



**The British Psychoanalytic Council** is a professional association and voluntary regulator of the psychoanalytic psychotherapy profession, publishing a Register of practitioners who are required to follow our ethical code and meet our fitness to practise standards. We promote excellence in psychoanalytic thinking and psychotherapy; safeguard the public; promote the highest standards of training and research; and work to make psychoanalytic psychotherapy accessible to all.

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