



Fitness to Practise Procedure

BRITISH/ PSYCHOANALYTIC /COUNCIL

About Us

1. The British Psychoanalytic Council (BPC) is the UK's leading professional association and accredited public register for psychoanalytic psychotherapy. The BPC is a voluntary accredited register; registering psychoanalytic psychotherapists and psychodynamic psychotherapists and is accredited by the Professional Standards Authority (PSA).
2. The core functions of the BPC are to:
 - Set and maintain standards of practice and conduct;
 - Maintain a register of qualified psychoanalytic and psychodynamic psychotherapists ('Registrants');
 - Assure the quality of education and training provided to Registrants by their Member Institutions;
 - Require Registrants to keep their skills up to date through continuing professional development;
 - Consider and investigate complaints and concerns of a Fitness to Practise nature raised against Registrants and issue sanctions, where appropriate to protect the public, act in the public interest and uphold the standards of the profession and maintain public confidence in the profession.
3. The BPC's Council of Member Institutions ('MI') agreed to the introduction of a centralised Complaints Procedure in 2007 and conferred the responsibility for considering complaints raised against Registrants to the BPC.

Purpose of this document

4. This document sets out the process the British Psychoanalytic Council (BPC) will follow when receiving, and investigating a complaint or concern raised in connection with a BPC Registrant.
5. The terms 'Complainant', 'Registrant', 'Complaint' and 'Concern' are used throughout this document and their meanings are as follows:

Complainant – A person who makes a complaint or raises a concern about a Registrant.

Registrant – The BPC Registrant against whom a complaint or concern has been raised.

Complaint – A complaint received from a patient regarding the treatment provided to them by the Registrant or in connection with the Registrant's conduct before, during and after appointments.

Concern – Any concerns of a Fitness to Practise nature received in connection with a BPC Registrant. Concerns could include information received from an employer or MI, self-declarations from Registrants or any information which has been brought to the BPC's attention as means of example.

6. This document will assist Complainants and Registrants to understand the Fitness to Practise process and manage their expectations accordingly.
7. This document will also be of use to MI's, employers and third parties who seek further information regarding the BPC's Fitness to Practise process and those persons who might be considering whether to make a complaint or raise a concern against a Registrant.
8. The BPC will regularly review this document to ensure that it remains consistent with other BPC associated guidance documents.

Fitness to Practise

9. Fitness to Practise essentially means that a Registrant has the requisite skill, qualification, knowledge, experience, health, and good character to complete their job effectively and safely.
10. Fitness to Practise may involve issues outside of the professional or clinical sphere. A Registrant's conduct outside of work may call into question his/her Fitness to Practise if they engage in conduct which is likely to undermine public confidence in the profession and/or affect protection of the public.
11. By quality assuring the Fitness to Practise of our Registrants, the BPC upholds the standards of the profession, maintains the public confidence in the profession and ensures public safety.

Raising a complaint/concern

12. Anybody can raise a concern about a Registrant's Fitness to Practise. This includes members of the public, patients, employers, third parties, MI's, and other Healthcare professionals. The BPC cannot however process anonymous complaints.
13. The BPC will consider concerns raised in connection with a Registrant's conduct, performance, physical or mental health, and character. With reference to the term 'character', this includes any criminal convictions, cautions or adverse determinations made against a Registrant by another regulatory body.

Stage 1 – Complaints and concerns received

14. When a complaint or concern is received by the BPC, the BPC will consider whether to formally accept the complaint/concern for investigation in accordance with the BPC's Acceptance Criteria (**Appendix 1**).
15. The BPC will assess the complaint/concern received within 10 working days from receipt. Should the BPC decide to accept the complaint/concern for investigation, the BPC will notify the Complainant in writing.
16. Where the BPC decides not to accept the complaint/concern for investigation, as the Acceptance Criteria has not been met, the BPC will write to formally notify the complainant of the outcome. The BPC will also notify the Complainant of their right to appeal this decision. Appeals at the acceptance stage will be determined by the BPC's Chair of Ethics and/or the BPC's Deputy Chair of Ethics.
17. Where a complaint/concern has been accepted for investigation, the BPC will formally notify the Registrant of the complaint/concern received, in writing by email or letter, and enclose a copy of the complaint or concerning information. This letter or email of notification will provide the Registrant with information regarding the next stages of the process and suggest that the Registrant notify their Insurance Company and employer, where appropriate.
18. When a complaint/concern has been accepted for investigation, the BPC will notify the Registrant's MI Ethics Chair that a complaint/concern has been received. The only information provided to the MI will be the name of the registrant concerned and the fact that a complaint or a concern has been raised against them.
19. The BPC will only contact the MI Ethics Chair of the Registrant's primary MI. If a Registrant belongs to more than one MI, the Registrant will need to notify any subsequent MI's that a complaint or concern has been raised against them by the BPC.

Stage 2 – Investigation

20. Once a complaint/concern has been formally accepted for investigation, the BPC will begin investigating the information received. This investigation will include obtaining all the relevant information which may include:
 1. Taking a Witness Statement from the patient or third party;
 2. Obtaining documentary evidence from a patient, third party, MI, or another Registrant;
 3. Obtaining a copy of the Memorandum of Conviction/Certificate of Conviction from the Court in connection with criminal matters.
21. The BPC will investigate the complaint/concern received as expeditiously as possible so as not to cause detriment to the Registrant concerned. The BPC will balance the Registrant's interests along with the requirement to fully investigate the concerns/complaint received so as to protect the public and act in the public interest.

22. Where a Registrant is subject to a criminal investigation or an investigation by another regulator, the BPC will await the outcome of those investigation(s) prior to continuing with the investigation. Should it become known to the BPC that another regulator is investigating a concern/complaint based on the same set of factual particulars, the BPC will liaise with the other regulator and decide which regulator is best suited to continue with the investigation to avoid a parallel investigation. If another regulator is best suited, the BPC will consider the outcome reached and decide whether to accept the case on the basis of the decision reached by the other regulator.
23. Once the BPC has obtained all of the required and relevant information, the BPC will then draft allegations with specific reference to the relevant paragraphs of the Code of Ethics allegedly breached.
24. The draft allegations and pertaining investigatory information will then be sent to the Registrant, within a bundle, for a formal response. The Registrant will have 28 days within which to formally submit a response to the BPC in writing.
25. The Registrant is automatically released from the obligation of patient confidentiality when responding to the BPC in connection with a complaint or concern.
26. If the Registrant requires an extension, the Registrant and/or Registrant's legal representative must set this request out in writing and explain the reason(s) for requesting additional time. Requests for an extension are discretionary.
27. On receipt of the Registrant's response, a copy will be provided to the Complainant bar any mitigation documentation e.g. testimonials, CPD etc for any comments they wish to make. The Complainant will then have 14 days to provide comments and if the complainant requires an extension, the Complainant must set this out in writing and explain the reason(s) for requesting additional time. Requests for an extension are discretionary.
28. Once the Complainant's comments are received, they will be sent to the Registrant for their reference only. The Registrant does not have an automatic right to respond to the comments and the Registrant will only be invited to make a further response should the BPC ask the Registrant to do so. The BPC envisages that this will occur in limited circumstances such as where new information comes to light which has a direct bearing on the allegations alleged.
29. The Complainant's comments, the Registrant's response, and the bundle of documentation provided to the Registrant ('relevant case information') will then be sent to the Screening Committee for a decision.

Stage 3 – Screening Committee consideration

30. On receipt of the relevant case information, the Screening Committee will consider the information and decide how best to dispose of the case. The disposal options available to the Screening Committee are as follows:
 1. Adjourn consideration of the case where further information is required;
 2. Close the case with no further action;

3. Close the case and issue a Letter of Advice to the Registrant;
 4. Issue a Warning to the Registrant;
 5. Refer the case to a Fitness to Practise Hearing before a Fitness to Practise Committee or Health Committee.
31. In determining how best to dispose of the case, the Screening Committee will apply the 'realistic prospect' test to each of the allegations alleged. The realistic prospect test is as follows:
- 1) *Is there a realistic prospect of being able to prove the allegations alleged against the registrant if referred to a Fitness to Practise Hearing; and*
 - 2) *If the alleged facts were found proven, are they so significant as to indicate that the registrant's fitness to practise is or may be impaired to a degree that justifies action being taken against their registration.*
32. In essence, the above-stated test aims to establish whether there is a realistic prospect e.g. is there a genuine, not a remote or fanciful possibility of the facts alleged being found proven and the Registrant being found impaired at a Fitness to Practise Hearing.
33. The Screening Committee is assisted by 'Screening Committee guidance' a copy of which is appended as **Appendix 2**.
34. The Screening Committee will deliberate in private and provide a written decision within 3 weeks of receiving the relevant case information. The Screening Committee's decision will then be communicated to the Registrant and Complainant, in writing by letter and/or email.
35. Where the Screening Committee decides to issue a Warning to the Registrant, the Registrant will be provided with the opportunity to make submissions on the proposed Warning within 14 days. For further information regarding the imposition of Warnings and the associated process, please see 'Warnings Policy & Guidance' at **Appendix 3**.
36. Where the Registrant, BPC or Complainant disagrees with the Screening Committee's decision, namely the application of the realistic prospect test, they can request a review of the decision made. For further information regarding the decision review process, please see the 'Decision Review' policy document at **Appendix 4**.
37. Where the case is closed at the Screening Committee stage and/or a Warning is imposed, the BPC will write to the Registrant's MI by email or letter and confirm the outcome.

Interim Orders

38. At any point between receiving the complaint/concern and Screening Committee consideration, the BPC or the Screening Committee can make a referral to the Interim Orders Committee if:

1. It is necessary for the protection of the public;
2. It is necessary in the public interest;
3. It is in the Registrant's own interests

for the Registrant's registration to be made subject to interim conditions or an interim suspension until the investigation has been concluded.

39. Interim Orders will be imposed for a maximum of 18 months and will be reviewed every 6 months or earlier, should new information come to light.
40. Interim Order Hearings will be considered by the Interim Orders Committee; either sitting in person or remotely or on papers alone. For further information on Interim Orders and the Interim Order process, please review the 'Interim Orders Guidance' at **Appendix 5**.

Stage 4 – Post-Screening Committee

41. Following a case being referred to the Fitness to Practise Committee, the BPC will begin preparing the case for Hearing. This may include taking witness statements, obtaining further documentary evidence, or procuring an expert report as means of example. The BPC will then draft formal allegations (also known as 'charges') setting out the BPC's case.
42. Once the case is ready for a Hearing, the BPC will disclose the documents they intend to rely on to the Registrant along with any unused material. This unused material will consist of, where available, material the BPC does not seek to rely on but may assist the Registrant to prepare their case for Hearing.
43. The BPC will also provide the Registrant with an estimated time frame for the Hearing and a listing window. This is a period in time in which the Hearing may take place. The BPC will ask the Registrant to confirm their dates to avoid and will take the Registrant's availability into consideration, providing reasonable in all the circumstances when listing the Hearing. The BPC will also ask the Registrant to confirm whether any admissions will be made in advance of the Hearing and whether they plan on relying on live witness evidence at the Hearing and an estimate of how much time the witness(es) will take. The Registrant should provide the BPC with their witnesses dates to avoid at this time, where relevant.
44. Once dates to avoid have been obtained, the BPC will list the case for a Hearing and a formal Notice of Hearing will be sent to the Registrant by Special Delivery at least 28 days before the Hearing date. Where the Registrant consents and/or the Registrant is legally represented, the BPC may agree to send the Notice of Hearing by email alone and/or waive the 28-day Notice period where both parties consent.
45. Where the Registrant wishes to rely on factual evidence, copies of witness statements or documentary evidence must be served on the BPC at least 4 weeks before the Hearing. Where the Registrant wishes to rely on evidence of mitigation, this should be provided to the BPC as soon as is reasonably practicable.

46. All Hearing bundles will be sent to the Fitness to Practise Committee one week before the Hearing. Any documents submitted after the above-stated time periods will be received by the Committee at their discretion and on application.

Stage 5 – Hearing

47. Hearings will be held in private and can take place in person or remotely via Microsoft Teams, subject to agreement by both the BPC and Registrant. Currently, and owing to COVID-19, all Hearings are being held remotely via Microsoft Teams.

48. Where the Registrant agrees the facts and admits current Impairment, the BPC will contact the Registrant and canvass their position regarding Agreed Panel Disposal. If the Registrant agrees, the Agreed Panel Disposal process will be adopted. For further information, please see the 'Agreed Panel Disposal' policy document at **Appendix 6**.

49. The Fitness to Practise Committee (the Committee) will consist of three members, one of whom is a lay member and one of whom is a BPC Registrant or former BPC Registrant. The Committee is assisted throughout the Hearing by a Legal Adviser; a Solicitor or Barrister, who provides independent legal advice to the Panel. The Hearing is also logged by a Transcriber (also known as a Logger) should a transcript be required.

50. The process and procedure to be adopted by the Committee is set out within the Fitness to Practise Rules at **Appendix 7** and the Committee will be assisted by the Indicative Sanctions Guidance at **Appendix 8**.

51. The Committee will take the Hearing in three stages:

1. Facts;
2. Impairment; and
3. Sanction

52. The burden of proof to be applied during the Hearing is the civil standard e.g. on the balance of probabilities. This means it is more likely than not that the alleged conduct took place.

53. The sanctions available to the Committee are:

1. Reprimand;
2. Conditions, to be met within a specific time;
3. Suspension for up to 12 months;
4. Termination of Registration;

54. In addition to the above, and where relevant, the Committee can also direct the following action be taken against a Registrant:

1. Removal of the Registrant from the membership of a committee, sub-committee, working group, party or any other body of the BPC or a BPC MI for a period to be determined by the Committee but for no longer than 3 years.

2. Require the Registrant to stop training, teaching, supervising, or carrying out any other activity on behalf of the BPC or the MI for a specific period of time but for no longer than 3 years.
55. Where Conditions are imposed, the Committee may request the Registrant's MI assist the Registrant to meet the conditions. For further information regarding the MI's role in implementing sanctions, please see 'Member Institutions role in the implementation of Sanctions' at **Appendix 9**.
56. The Committee can also direct that a review Hearing take place before the end of the order to consider whether the Registrant is still impaired.
57. The Committee will produce a written determination and a copy of this determination will be placed on the BPC's website as soon as practicable post-Hearing, with the necessary redactions, in accordance with the BPC's Publication Policy.
58. The BPC will write to the Registrant post-Hearing, by Special Delivery, confirming the outcome and provide the Registrant with details regarding their right of appeal. Where the Registrant consents and/or the Registrant is legally represented, the BPC may agree to send the decision by email alone.
59. The BPC will also write to the Registrant's MI and confirm the Hearing outcome.

Health Hearings

60. Hearings concerning a Registrant's health will be held in private and considered by the Health Committee. The Panel will have the same constitution as the Committee.
61. The process and procedure adopted at a Committee Hearing will also apply to Health Committee Hearings (**Appendix 7**). The only difference being that a Registrant's registration cannot be terminated on health grounds at a Health Committee Hearing.
62. The Health Committee's determination will be published on the BPC's website; as detailed above, subject to the necessary redactions being applied.
63. The BPC will write to the Registrant post-Hearing, by Special Delivery, confirming the outcome and providing them with details of their right to appeal. Where the Registrant consents and/or the Registrant is legally represented, the BPC may agree to send the decision by email alone.
64. The BPC will also write to the Registrant's MI and confirm the Hearing outcome.
65. Where Conditions are imposed, the Committee may request the Registrant's MI assists the Registrant to meet said conditions. For further information regarding the MI's role in implementing sanctions, please see 'Member Institutions role in the implementation of Sanctions' at **Appendix 9**.

Stage 6 – Review Hearings

66. Where the Committee directs that a review Hearing take place before the end of the suspension or conditions order, the BPC will ascertain the Registrant's dates to avoid and list the Hearing. The BPC will take the Registrant's availability into consideration, providing reasonable in all the circumstances, and ask the Registrant to confirm their position in connection with the forthcoming Hearing.
67. The BPC will send a formal Notice of Hearing to the Registrant by Special Delivery within 28 days of the Hearing date. Where the Registrant consents and/or the Registrant is legally represented, the BPC may agree to send the Notice of Hearing by email alone and/or waive the 28-day Notice period where both parties consent.
68. The BPC will produce a joint bundle with the Registrant which will be provided to the Committee one week before the Hearing. The joint bundle will contain any documentary evidence the Registrant wishes to submit as well as the BPC's documents illustrating the Registrant's compliance with the order.
69. The BPC will produce the joint bundle and send it to the Registrant for agreement and any additional enclosures at least three weeks prior to the Hearing date. The agreed bundle will be sent to the Committee at least one week prior to the Hearing date. Any documents submitted after the above-stated time periods will be received by the Committee at their discretion and on application.
70. Review Hearings can take place in person or remotely via Microsoft Teams or they can be dealt with on papers, providing the Registrant agrees. The BPC will canvass the Registrant's position prior to listing the Hearing and will be dependent on the factual particulars of the case.
71. The process and procedure adopted at a Committee Hearing will also apply during a Review Hearing (**Appendix 7**). Where appropriate, the Committee can decide to terminate the order, replace the order or extend the order for an additional period of time.
72. The BPC will write to the Registrant post-Hearing, by Special Delivery, confirming the outcome and providing them with details of their right to appeal. Where the Registrant consents and/or the Registrant is legally represented, the BPC may agree to send the decision by email alone.
73. The BPC will also write to the Registrant's MI and confirm the Hearing outcome.

Stage 7 – Appeals

74. An appeal can be made by either the BPC or Registrant in connection with the Committee's decision.
75. Notification of the appeal must be made by the appellant within 28 days of the outcome letter being sent to the Registrant and can be made in writing, either via post or email or both.

76. Notification of appeal must set out the specific grounds for appeal and include all relevant documentation.
77. The specific grounds for appeal are as follows:
1. A defect in the Hearing procedure may have had a material effect on the finding(s) or sanction;
 2. Evidence which was not able to be adduced at the time of the Hearing has now emerged which may have a material effect on the finding(s) or sanction made;
 3. The sanction is disproportionate to the findings made by the Committee and/or is unjust in all the circumstances;
 4. The Committee's findings are disproportionate to the gravity of the conduct and should be reviewed to maintain public confidence in the profession.
78. Where the appellant fails to specify the grounds upon which they are bringing the appeal and/or provide the accompanying information within the 28-day timeframe, the appeal will be dismissed automatically.
79. The appeal can either take place in person, remotely via Microsoft Teams or on papers. Within the Notification of Appeal, the relevant party should state whether they want a Hearing in person, a remote Hearing or for the Committee to consider the appeal on papers. Where there is disagreement between the parties regarding the Appeal taking place in person or on papers, that cannot be resolved between the parties, the Chair of the Appeal Committee will make the final decision administratively prior to any Hearing taking place.
80. On receipt of the appeal, a copy will be sent to the other party (the respondent) and the respondent will have 28 days to formally respond to the appeal in writing.
81. Once the respondent's response has been received, an Appeal Committee will be convened, and the Appeal Committee will consist of at least one lay panellist and one BPC Registrant or former BPC Registrant. None of the panellists sitting on the Appeal Committee would have been previously involved in the case. The Appeal Committee will be assisted by a Legal Adviser.
82. The Appeal will be listed for a Hearing date; whether taking place in person, remotely or on papers, and the Registrant's availability will be taken into consideration, providing reasonable in all the circumstances.
83. Where an Appeal Hearing takes place in person or remotely, a logger will attend to log the Hearing should a transcript be required. The Appeal Hearing will take place in private, and the appellant will set out their position followed by the other party. The Appeal Committee are able to ask questions should they wish to do so.
84. The Appeal Committee will then adjourn into private session to reach a decision, based on the majority, with no Committee member abstaining, and draft their decision. The Appeal Committee have the following options available to them:

1. Dismiss the appeal; or
 2. Uphold the appeal, whether in part or full
85. If the appeal is upheld, the Committee can:
1. Overturn the decision and direct that the case be heard again by a newly constituted Committee;
 2. Overturn the decision and impose an alternative sanction, where appropriate and just in all the circumstances;
 3. Direct another measure, as requested by the parties, which the Appeal Committee deems just and appropriate in all the circumstances.
86. The Appeal Committee will announce their decision that day or continue to sit and provide their decision, in writing, a few days after the Hearing date.
87. The decision of the Appeal Committee will be sent to the Registrant post-Hearing, by Special Delivery, confirming the outcome. Where the Registrant consents and/or the Registrant is legally represented, the BPC may agree to send the decision by email alone.
88. The BPC will also write to the Registrant's MI and confirm the Hearing outcome.
89. There is no further right of appeal.

Stage 8 – Restoration Hearing

90. A former registrant whose BPC registration has been terminated, can only apply to be restored to the BPC register after a period of 5 years has passed since the date of the Hearing that resulted in the termination of their registration.
91. On receipt of an application for restoration, the BPC will ask the former registrant to confirm their dates to avoid for a Restoration Hearing. The BPC will take the former registrant's availability into consideration, providing reasonable in all the circumstances.
92. Once a suitable date for a Restoration Hearing has been confirmed, the BPC will send the Notice of Hearing to the former registrant by Special Delivery within 28 days of the Hearing date. Where the former registrant consents and/or the registrant is legally represented, the BPC may agree to send the Notice of Hearing by email alone.
93. Where the former registrant wishes to place documents before the Restoration Committee, the former registrant should collate a bundle of their documents and send this to the BPC at least four weeks before the Hearing. Where the BPC wishes to rely on any documents, they will also provide copies to the Registrant at least three weeks before the Hearing.

94. All documents will be sent to the Restoration Committee at least one week before the Hearing and any documents submitted after the above-stated time periods will be received by the Committee at their discretion and on application.
95. The process and procedure adopted at a Committee Hearing will also apply at a Restoration Hearing (**Appendix 7**). The Restoration Hearing will take place in private, and a logger will attend to log the Hearing should a transcript be required.
96. The Restoration Committee will consist of three panellists, one of whom must be a lay person and one a BPC Registrant or a former BPC Registrant. No Panellists sitting on the Restoration Committee will have previously been involved in the case and/or sat on the original Hearing Panel which terminated the former registrant's registration.
97. Once the Restoration Committee has heard from both parties, the Restoration Committee will adjourn into private session to reach a decision, and draft said decision. The Restoration Committee will announce their decision that day or continue to sit and provide their decision, in writing, a few days after the Hearing date
98. The Restoration Committee can decide to:
1. Direct that the Registrant be restored to the register;
 2. Direct that the Registrant be restored to the register subject to stipulated conditions;
 3. Refuse the application
99. The decision of the Restoration Committee will be sent to the former registrant post-Hearing, by Special Delivery, confirming the outcome. Where the former registrant consents and/or the former registrant is legally represented, the BPC may agree to send the decision by email alone.
100. Where the Committee refuses the application, there is no further appeal mechanism and the former registrant will have to wait a further 3 three years to apply again for restoration to the BPC's register.