

# BRITISH/ PSYCHOANALYTIC /COUNCIL

## Warnings Policy & Guidance

### 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. The purpose of this document is to provide guidance to the Screening Committee when determining when it is appropriate to issue a Warning against a Registrant. This guidance will also encourage consistent and appropriate decision making.
5. This document will also be of assistance to Registrants, Complainants, MI's, and members of the public wishing to understand further information regarding the BPC's procedures.
6. This document should be read in conjunction with the Fitness to Practise Procedure and the Screening Committee Guidance for further information regarding Warnings.
7. The BPC will regularly review this document to ensure that it remains consistent with other BPC associated guidance documents.

## When to impose a Warning

8. The Screening Committee will consider whether to impose a Warning against a Registrant's registration when they are satisfied that the Registrant's conduct or performance fails to meet the realistic prospect test for referral to the Fitness to Practise Committee however, there is evidence to suggest that the Registrant's conduct or performance has fallen below the required standard to the extent that a formal response from the BPC is required.
9. Such examples could include, but are not limited to, where:
  - The allegation would, if proved, illustrate a failure to follow the BPC's Code of Ethics but where a restriction on the Registrant's registration by the Fitness to Practise Committee is not deemed necessary;
  - The allegation, if proved, would not amount to impairment of the Registrant's Fitness to Practise however if the action/conduct were repeated, it may do so;
  - The Registrant accepts that their standards of practice have fallen below the required level and/or that they have acted inappropriately but can demonstrate (through insight or documentary evidence) that it is unlikely to happen again, or they have since remediated their practice or behaviour.
10. Therefore, a Warning is likely to be suitable where there is no dispute of facts and/or where the Registrant admits the conduct alleged.
11. A Warning should only be issued by the Screening Committee where there is some tangible evidence in support of the factual allegations e.g. documentary evidence. If the allegations are disputed, the Screening Committee should explicitly identify why they have preferred the evidence of one party over the other and how, and why they have reached this conclusion.
12. As a means of example, for illustrative purposes only, and where there is a dispute regarding what a patient said during an appointment, the Registrant may be able to rely on subsequent email correspondence, an audio recording, or witness statement from a third person who was present at the time.
13. A Warning is unlikely to be suitable where:
  - There is a dispute regarding the facts of the case, and no tangible evidence, as the Screening Committee are not tasked to resolve conflicts of evidence. This is the role of the Fitness to Practise Committee;
  - The breach is so significant that it ought to be referred to the Fitness to Practise Committee, as a matter of public interest or public safety;
  - The evidence, if proved, suggests an on-going risk of harm to the patient or other patients;
  - The Registrant's ill health is a concern and a risk to patient safety.

14. The Screening Committee will consider each case on its own factual particulars and note that they are not prevented from referring a case to the Fitness to Practice Committee where the Registrant accepts that they have acted inappropriately or below the required standard. The Screening Committee must also have regard to the public interest.

### **Purpose of a Warning**

15. The purpose of a Warning is to indicate to the Registrant that whilst not requiring a referral to the Fitness to Practise Committee, their conduct, practice, or behaviour demonstrates a departure from the BPC's Code of Ethics and should not be repeated. A Warning should be seen as a formal and serious response from the BPC and should, make the Registrant reconsider their current mode of practice or conduct.
16. A Warning also enables the BPC to monitor any patterns of behaviour that may be exhibited by the Registrant as time progresses. The BPC, as a voluntary accredited regulator, has a duty to protect the public, uphold the standards of the profession, maintain public confidence in the profession and act in the public interest.

### **Process**

17. When the Screening Committee decide to impose a Warning against a Registrant, they must detail why they believe a Warning to be appropriate, a summary of the facts and particular concerns which led to the Warning and formulate the wording of the proposed Warning.
18. The Registrant will be notified of the reason(s) and the proposed wording of the Warning and will be given 14 days to make further written representations. The Screening Committee must consider the representations provided to them and decide whether or not to give the proposed Warning with regard to all of the relevant circumstances.
19. Where the Registrant fails to respond within the 14-day period or at all, the Screening Committee can still decide whether to impose a Warning or not.
20. The decision as to whether to issue a Warning or not is at the discretion of the Screening Committee and can be imposed even if the Registrant objects.
21. Where the Screening Committee determine to issue a Warning, having considered the Registrant's representations, the Registrant will be formally notified of the Warning in writing. The accompanying decision will explain why the Warning has been imposed with reference to the relevant factual circumstances.
22. The letter may also include advice from the Screening Committee as to future conduct, training, or standards of performance. This advice is simply advice however and has no formal weight.

## **Reasoning**

23. The Screening Committee must give written reasons for their decision to either impose a Warning or deciding against imposing a Warning.
24. The Screening Committee should clearly explain what the Registrant has done wrong and/or why their conduct, behaviour or practice has been found wanting so the Registrant can take the necessary action to improve and address the identifiable deficiencies. The Screening Committee may wish to refer to the Code of Ethics or any other associated BPC guidance in doing so.
25. In doing so, the Registrant can understand why the Screening Committee have reached their decision and the reasons why the imposition of a Warning, where relevant, is justified, appropriate and proportionate.

## **Duration and Publication**

26. Warnings will not be published on the BPC's website, nor will their existence be disclosed to anyone making enquiries of the Registrant's Fitness to Practise history. The fact that a Warning has been imposed however will be confirmed to the complainant who raised the complaint/concern to the BPC.
27. A Warning forms part of a Registrant's Fitness to Practise history with the BPC and will stay on the Registrant's formal record for 2 years. A Warning may be considered by the BPC or Screening Committee within those 2 years should a complaint/concern of a similar nature be received by the BPC in the future.
28. Where the Registrant receives another complaint/concern of a similar nature within 2 years of the Warning, the BPC will take the original complaint/concern into account in determining what action, if any, to take in respect of the new complaint/concern. The registrant will be invited to provide representations on the relevance of the earlier warning in the context of the new complaint.
29. When considering a new allegation alongside the circumstances of an earlier Warning, it is open to the BPC/Screening Committee to review the decision not to refer the earlier complaint to the Fitness to Practise Committee. Again, this is a matter in which the Registrant will be given the opportunity to make representations.
30. Once the Warning has expired, the BPC will not be entitled to consider its previous existence.