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**Article 12.3 Disclosure of Conviction**

**Protocol**

# **Statement of Purpose**

The protection of the public is of paramount importance to BACP, as is the reputation and standing of counselling and psychotherapy. Accordingly, BACP seeks to ensure, as far as it is reasonably possible, that potential members will be safe to work with, and accountable to, their clients and BACP and, in doing so, protect the reputation and proper functioning of BACP.

Under Article 12.3**,** the Association reserves the right to assess applications for membership and to satisfy itself that an applicant can work in accordance with the Ethical Framework for the Counselling Professions and is fit for membership of the Association.

BACP may decline an application for membership, where the information disclosed raises questions about an applicant’s suitability for membership. This may be because the nature of the information disclosed suggests that permitting membership could:

1. bring the reputation of BACP into disrepute;
2. bring the reputations of counselling and/or psychotherapy into disrepute;
3. result in BACP’s private business being brought into the public domain;
4. impede the legitimate activities of the organisation;
5. give good reason to believe an applicant could misrepresent, or has already misrepresented, his/her/the organisation’s membership status;
6. give good reason to believe there could have been a serious breach of BACP’s Codes of Ethics & Practice/Ethical Framework if the applicant had been a member of the Association at that time and/or the Association’s Professional Conduct Procedure could not be used at that time;
7. give good reason to believe the applicant has not or will not work to BACP’s Ethical Frameworks for the Counselling Professions and Research respectively.

Any applicant applying for membership of BACP will be asked if they have any convictions which are unspent under the Rehabilitation of Offenders Act 1974. BACP will rely on the applicant to make full disclosure, but if information comes to light later that should have been disclosed at the time but wasn’t, action may be taken against the applicant under the Professional Conduct Procedure and membership could be withdrawn.

Not every disclosure will cause an application to be rejected and each application will be considered on its merits. However, to ensure consistency in its decision making and to ensure the proper protection of the public, BACP has drawn up criteria for considering applications under the Article 12.3 procedure, which are set out below.

# **Criteria**

If any of the following apply to you, BACP **may refuse** your application for membership, unless the Article 12.3 Panel considers there are **exceptional circumstances:**

* You have an unspent conviction for which you have been sentenced to imprisonment for life;
* You have an unspent conviction for which you have received a sentence of preventive detention;
* You have an unspent conviction for which you have received a sentence of detention during Her Majesty’s Pleasure or for life;
* You have an unspent conviction for which you have received a sentence of custody for life;
* You have an unspent conviction for which you have received a public protection sentence/s (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders).
* You have an unspent conviction for which you have been sentenced to imprisonment, youth custody, detention in a young offender institution or corrective training of over four years;
* You are subject to a Restriction Order under S.41 of the Mental Health Act 1983, whether this was imposed after a conviction or under any other circumstances.
* You have an unspent conviction which resulted in you being placed on the Sex Offenders’ Register and /or are subject to the notification requirements under S.80, S.81 and S.82 of the Sexual Offences Act 2003, or any subsequent act.
* You are subject of an ongoing Hospital Order or guardianship order under S.37 of the Mental Health Act 1983, whether this was imposed after a conviction or under any other circumstances.
* You have received a custodial sentence of more than 30 months up to and including 48 months.

If any of the above applies to you, your application is highly likely to be placed before an Article 12.3 Panel for consideration. You’ll be invited to provide a full statement regarding the disclosure and how any risk to the public or the Association can be mitigated or removed.

The Panel will consider the seriousness of the disclosure, together with any information available from the applicant in making its decision and will balance the interests of the applicant with the public interest in deciding whether you are suitable for membership. The Panel may refuse your application unless there are exceptional circumstances.

**Any conviction which is not spent under the Rehabilitation of Offenders Act, must be disclosed to BACP and is likely to be forwarded to an Article 12.3 Panel for consideration. The above information is for guidance only. If you’re unsure as to whether you should disclose a previous conviction, you should take legal advice.**