

GUIDANCE ON CONFIDENTIALITY AND THE PROFESSIONAL CONDUCT PROCEDURE

Both parties have a duty of confidentiality under the Professional Conduct Procedure.

It may be difficult to separate out the content of counselling from its process and it is, therefore, prudent to regard both as confidential. In the process of making or responding to a complaint, it may be necessary to disclose information that would otherwise remain confidential. However, in doing so, the information must be relevant and pertinent to the issues to be adjudged bearing in mind that the Member/Registrant Complained Against has a right to defend him or herself.

Issues for consideration:

- a) Be fully aware of the implications of disclosure for self, the other party concerned and third parties;
- b) Disclosure of only part of the content or process of the counselling may result in more extensive disclosure as the Professional Conduct Procedure proceeds;
- c) BACP seeks to ensure that persons considering lodging a complaint understand the implications of disclosure and can, therefore, make an informed decision;
- d) BACP is bound to respect the limits on disclosure subject to the Professional Conduct Procedure;
- e) In dealing with a complaint, the information provided by both parties will be treated as “disclosed in confidence”. However, both parties must only submit information/evidence which they are at liberty so to do.

The aim of a Professional Conduct Hearing is to ensure that both parties receive a fair hearing. Thus, it may be necessary for either party to obtain statements/evidence from third parties. In doing so, the substance of the complaint must be communicated only to those who are in a position to assist in this regard.

A preliminary discussion with staff in the Professional Conduct Department may be of assistance to either party in order to understand the implications of disclosure, the effects of non-disclosure and the limits of confidentiality.

Confidentiality binds BACP officials, assessors, adjudicators and members of appeal panels involved in the Professional Conduct Procedure.

Those acting on behalf of BACP are obliged:

- i) to take personal and collective responsibility for the security and eventual destruction of the confidential documentation relating to complaints;
- ii) not to communicate the substance of complaints to persons who have no direct involvement in the case, unless in the process of seeking professional advice as provided for by the Procedure.



The Complainant and Member/Registrant Complained Against have a responsibility not to communicate libellous (written) or slanderous (spoken) statements about the other respective party; or statements which may prejudice the outcome of the Professional Conduct Procedure. This does not prevent the Complainant or Member/Registrant Complained Against from discussing the complaint in confidence with a support person or adviser, nor does it restrict either party's right to take legal action or to make a complaint to some other professional body to which the person(s) or organisation is affiliated.

It is the responsibility of either party to inform the Registrar if legal proceedings are initiated in connection with the substance of the complaint.

Both parties have a responsibility to ensure that documentation relating to the complaint is stored securely and that it is only passed on to others in confidence and for the purpose of briefing a support person, a professional adviser or a potential witness.

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