

PROTOCOL ON TIMESCALES FOR MAKING COMPLAINTS

BACP has set timescales for making a complaint in the interest of fairness to the parties.

Clause 1.5 of the Professional Conduct Procedure 2013 refers to the issue of the timescales within which complaints must be lodged.

Complaints can be lodged either:

- a) within three years of the ending of the professional relationship; *or*
- b) within three years of the date when the Complainant reasonably became aware of the alleged professional misconduct. The Complainant must provide a written explanation as to when/how they became aware and this will be considered by the Pre-Hearing Assessment Panel which will decide if the explanation given is good and/or sufficient; *or*
- c) within a reasonable time of the alleged professional misconduct.

Where a complaint is lodged under 1.5c, the Pre-Hearing Assessment Panel has to consider what 'within a reasonable time' is, in the circumstances of the particular case. The Complainant must detail when the alleged professional misconduct took place and give reasons as to why a complaint has not been made earlier. This explanation should be in writing and included as part of the complaint submission together with any documentation that is relevant. (An example of where it may be relevant is where the substance matter of a complaint has been subject to the jurisdiction of the court for over three years and it was not possible to submit the complaint without interfering in the court process.)

Where a complaint is submitted under 1.5a, the complaint must be submitted within three years of the ending of the professional relationship. Details of the specific dates of the ending of the professional relationship should be included in the complaint.

Where a complaint is submitted under 1.5b, the Complainant must provide a written explanation and demonstrative evidence as to precisely when they first became aware of the alleged professional misconduct by the Member/Registrant and under what circumstances. This should include any details and reasons as to why the Complainant was not previously aware of the Member's/Registrant's alleged professional misconduct.

Any written explanation will be considered by the Pre-Hearing Assessment Panel as to whether it is good and/or sufficient. What constitutes 'good and/or sufficient' shall be solely at the discretion of the Chair of the Pre-Hearing Assessment Panel who may take advice from the Registrar, from the Association's solicitor or such other relevant person as may be deemed appropriate.

All written explanations will form part of the complaint submission and will be available to the Member/Registrant Complained Against.

Reviewed September 2013