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Professional Conduct Procedure

Member FAQs:

What happens if a complaint is made against you?

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Guidance for BACP Members

Information and support for BACP members who are subject to a complaint.

The British Association for Counselling and Psychotherapy (BACP) is a professional membership organisation which holds a voluntary register for counsellors and psychotherapists. We're committed to raising professional standards and ensuring protection of the public. We take complaints from the public seriously.

The Professional Conduct Procedure (PCP) is the main process we use for considering complaints about members. Recently, we made some changes to the procedure. As a result, it is well-rounded, with clear and transparent decision-making that is fair to both members and complainants.

This guide aims to provide an overview of the complaints procedure and explains how we handle complaints from start to finish. You can also see the full version of the PCP and more detailed information about how we handle complaints at: www.bacp.co.uk/about-us/protecting-the-public/professional-conduct. If you would prefer a paper copy, please let us know.

The following FAQs may answer some of the questions you may have if a complaint is made against you

What sort of complaints does BACP deal with?

We deal with complaints that are about a therapeutic service provided to the complainant. A therapeutic service includes counselling and psychotherapy.

Sometimes we can consider concerns that are not about a therapeutic service, for example if you have been convicted of a crime, or where the complainant has concerns about your conduct which aren't about the therapeutic service. In this case, we may bring a complaint ourselves under the PCP if it is in the public interest to do so.

We also have a separate procedure called 'Article 12.6'. We might use this if we receive information that raises questions about whether a member should continue in membership with us. You can access further information about this process on the website.

Who can make a complaint?

Under our PCP, a complaint can be made by:

- someone who received a therapeutic service from a member (i.e. they were a client).
- someone representing a client, where the client has received a therapeutic service from a member (for example a support person or a legal representative).

- a parent or guardian representing a child under the age of 16, where the child has received a therapeutic service from a member.

The different stages of the complaint

There are various stages within the complaints procedure and the following may provide answers about what happens when a complaint is first received up to the final stages.

What happens when a complaint is received?

When a complaint is received, it is passed to the complaint's assistant and assessor (the assessor), who will check whether the complaint falls under the PCP. Once the assessor is satisfied, it is passed to a case manager.

The case manager may call you to advise you a complaint has been made. At this stage they may also request further information from you or the complainant. You may be invited to make a preliminary response to the complaint.

After this, they will apply the threshold test to the complaint.

What is a threshold test?

A case manager will assess the complaint using a threshold test. This will check if the complaint, if proved, would mean that there was a failure to meet professional standards. It also checks that the complaint is not vexatious or frivolous – i.e. made to cause annoyance and with no serious purpose or value.

What happens if the threshold test is not met?

If the threshold test is not met, the complaint will be closed, and you will be advised of this in writing. Whilst there is no appeal against the decision, if we receive new evidence from the complainant, the Registrar may review the decision.

What happens if the threshold test is met?

The case manager will write to you and the complainant, advising you both that the test has been met. If any further information is needed, the case manager will request this. You will also be invited to make a preliminary response to the complaint if you haven't made one already.

What happens once the case manager has received the preliminary response?

The complaint may be dealt with in different ways, ranging from a letter of advice to a formal Professional Conduct Hearing.

What is a letter of advice?

A letter of advice is used to resolve complaints that relate to minor or technical allegations of misconduct. This would be used where you accept that you have breached professional standards.

A letter of advice is not a finding of misconduct and will not be published. However, it will be kept on your record for a period of three years.

How is a letter of advice issued?

The case manager will write to you and suggest that the complaint may be suitable for a letter of advice and may request a preliminary response to the complaint if you have not already provided one. You will be asked to confirm:

- that you accept a breach of the professional standards has occurred;
- any steps you may have taken to remedy the breach (including where appropriate an apology); and
- that you accept the resolution of the complaint by a letter of advice.

The Registrar will make the final decision as to whether a letter of advice should be issued to you.

There is no right of review or appeal for you or the complainant if the complaint is dealt with by a letter of advice.

What happens if a letter of advice is not issued?

If the Registrar decides that a letter of advice is not suitable, or the complaint does not meet the criteria, the next stage requires the complaint to be referred to the Investigation and Assessment Committee (IAC).

What is the role of the Investigation and Assessment Committee (IAC)?

The IAC's role is to assess the complaint. They may ask for further information to help them with their decision-making and can make the following decisions:

- deal with the complaint by means of consensual disposal;
- suspend membership through an interim suspension order;
- refer the complaint to a disciplinary proceeding hearing or a practice review hearing; or
- dismiss the complaint.

If the IAC dismisses the complaint, the complainant can request a review of the decision by an independent reviewer (a reviewer independent of BACP). Where no review is requested, the complaint will be closed.

What happens if a complainant asks for a review of the decision of the IAC?

The independent reviewer may either confirm the decision of the IAC or refer the case back to a freshly constituted IAC for reconsideration. In both cases, the reviewer will provide reasons.

What happens if the independent reviewer refers the complaint back to an IAC?

The newly constituted IAC will consider the complaint afresh. If the IAC decides to accept the complaint it will draft formal allegations and may invite you to enter into a consensual disposal.

If the IAC does not invite a consensual disposal, it will decide which hearing track to refer the matter to. Please see below for more information on the hearing tracks.

There is no further right of review for the complainant at this stage.

What is a consensual disposal agreement?

Consensual disposal is where there is an agreement between you and BACP to resolve a complaint without going to a Professional Conduct Hearing.

Although there is no formal hearing of the complaint, a consensual disposal agreement is deemed to be a disciplinary decision and will be published in line with BACP's publication policy.

If the terms of the consensual disposal agreement are breached, this may result in termination of your membership.

When the complaint is dealt with by a consensual disposal agreement, there is no right of a review or appeal for either you or the complainant.

For further information, please contact your case manager.

What is an interim suspension order?

Before a hearing, the IAC may decide to suspend a member from membership. This can be for up to 18 months. The IAC will do this if it considers it necessary for the protection of the public or it is in the public interest. This may happen where the allegations in the complaint are very serious.

Allocation to a hearing

There are two types of hearings that can take place; the disciplinary proceedings track (DPT) or the practice review track (PRT). If the IAC decides a complaint should proceed to a hearing, it will decide under which hearing process the complaint will be heard.

What is a disciplinary proceedings track (DPT) hearing?

DPT is a procedure reserved for serious allegations of a professional misconduct where there is a possibility of withdrawal or suspension from membership.

The IAC will decide whether to refer a case to a DPT. These hearings will generally be held in private unless the Panel, who will be hearing the case, decides it should be in public. If a complaint is referred to a DPT this does not automatically mean that if allegations are upheld, the Panel will withdraw or suspend membership, but rather that the Panel should have access to all available sanctions.

Cases heard under this procedure will always be presented to the Panel by a Presenting Officer on behalf of BACP. You will be required to attend the hearing. The complainant will also be invited to attend however, they will attend as a witness. The Panel's role is to listen to the case, consider the evidence and make a decision about the complaint.

BACP may decide to bring a complaint where the Registrar considers it is in the public interest for the complaint to be heard before a Professional Conduct Panel. In such circumstances, the complaint will automatically be allocated to a DPT hearing.

What is a practice review track (PRT) hearing?

This is a less formal hearing process and is suitable for complaints which are more to do with the professional service that the complainant received from you. It aims to achieve a result that is acceptable to both you and the complainant and gives you both an opportunity to be heard.

The aim of a PRT hearing is to recognise and correct practice that has fallen below the professional standards expected. Where findings are made against you, the Panel may impose a sanction. However, the Panel cannot withdraw or suspend your BACP membership in this type of hearing.

We hold PRT hearings in private, which means members of the public cannot attend. At these hearings, the Panel's role is to explore the complaint. This means it can ask questions about the complaint.

We believe it is important that parties feel they can contribute and feel valued during this process so both you and the complainant can suggest questions for the Panel to ask, but you don't have to. You will not have to answer questions directly from the complainant, as the questions will be asked by the Panel which makes the process less stressful.

What sanction might be imposed?

Whichever hearing the case is heard under, if the Panel decides against you, they may decide to impose a sanction on you. You will be given an opportunity to address the Panel before they decide what sanction is appropriate. You can refer to Protocol PR14 for more information on sanctions.

Can I bring someone to help me?

You can bring a friend, relative or representative to support you during the practice review or disciplinary proceeding hearings.

Where can I find more information?

If you would like to know more about the professional conduct procedure, see the guidance documents: https://www.bacp.co.uk/about-us/protecting-the-public/professional-conduct/professional-conduct-procedure/

Decisions and appeals

Who makes the decision at a hearing?

Both disciplinary proceeding and practice review hearings are heard by a Professional Conduct Panel (the Panel). The Panel is made up of three independent people, which will always include a BACP Member and a lay person.

Can I appeal if I am unhappy with a decision?

The decision of the Professional Conduct Panel can be appealed as follows:

- practice review hearing: both you and the complainant can appeal the decision of a practice review hearing

- disciplinary proceedings hearing: both you and BACP can appeal the decision of the Panel.

What happens if the Panel dismisses the allegations?

If none of the allegations against you are upheld and no appeal is requested, the case will be closed. If an appeal is requested, then the case will be assessed by an independent reviewer. The independent reviewer will determine if the appeal grounds are met.

What is the outcome if the appeal grounds are not met?

The decision of the Professional Conduct Panel will stand.

What is the outcome if the appeal grounds are met?

If the independent reviewer decides the appeal grounds are met, an Appeal Panel will review the decision at a new hearing.

Will you publish details of the complaint?

If a complaint is upheld in full, partially upheld or has been resolved through consensual disposal, we will publish the outcome on our website.

Our starting point is that we will publish determinations in full and may make redactions where necessary to protect the complainant or comply with legal obligations.

If it is appropriate, then we may prevent identification of complainants or witnesses.

We publish our professional conduct decisions to:

- provide information to the public to inform their decision when choosing a professional;

- help our members understand the standards expected of them;

- ensure that we are transparent and accountable for our decisions.

You can find more information about our publication policy at:
Protecting the Public/Professional conduct notice publication policy

What support is available to me?

We recognise that having a complaint made against you and going through BACP's conduct procedure can be difficult. If you need to speak to someone about the personal or professional impact of the complaint, or for support, there is an independent Member Support service. Please email scheduling@bacp.co.uk if you would like to arrange a support session with a Member Supporter.

We will send you guidance documents that provide a detailed explanation of our process.

Our case managers can also talk you through the conduct process and explain what it involves. They can answer any questions about how the complaint is being dealt with and will keep you updated regarding the complaint at appropriate stages.

If a complaint is made about you, you may wish to speak to your supervisor. They may be a good source of guidance and support.

You can also speak to your indemnity insurer. They will often have a helpline that can assist with any legal queries you may have, or they may put you in contact with a legal representative if you feel you need one.