

BACP Register

BACP Decision Making Framework

Background

1. BACP protects the public by regulating counsellors and individuals who provide counselling. We set the professional standards necessary to ensure clients receive a good service and that practitioners comply with our ethical framework.
2. As a part of this we need to decide on complaints raised against a Member as well as making a number of other decisions that can impact on Members and the public. This note explains how we make our decisions and the criteria we use to do so

Our Aims and Objectives

3. We understand that our decisions may have consequences for both individual Members and their clients and the public at large. We aim to ensure our decisions are:

Transparent by providing information on our processes and outcomes

Accountable by ensuring quality assurance and a right of appeal

Proportionate by ensuring the outcomes reflect the seriousness of the decisions

Consistent by following clear processes and criteria in our decision making

Fair by ensuring decisions are evidence based and follow objective criteria

Legal and Regulatory Framework

4. Our procedure for dealing with complaints is set out in the Professional Conduct Procedure (PCP) taking into account the relevant Ethical Framework for Counselling. These are referred to as the “Professional Standards”. Which are *the standards that should reasonably be expected of a Member having regard to the Ethical Framework and any other code or rules issued for the purpose of the Professional Conduct Procedure*”
5. In addition, we will comply with all relevant law, legislation and best practice in our decision making. Two pieces of legislation are particularly relevant here.

The European Convention on Human Rights (ECHR)

6. The ECHR was implemented by the Human Rights Act 1998. It contains a number of rights that may be engaged in our decision making, including:
 - a. **Article 1 (protocol 1)** - the right to peaceful enjoyment of possessions, which can include an individual’s right to practise their profession or run a business;
 - b. **Article 6** - the right to a fair trial when determining an individual’s civil rights
 - c. **Article 8** - this provides protection for an individual’s right to a private and family life, home and correspondence.
7. We will comply where possible but the rights in the ECHR are qualified rights, that means there is no breach if we act in accordance with the law and our actions are proportionate in pursuit of our legitimate aim to protect the public.

The Equalities Act 2010

8. This Act brings together a number of separate pieces of legislation on discrimination to protect individuals from unfair treatment. We aim to strike a fair balance between the interest of the public and the individual’s rights and to show we are acting fairly and without unlawful discrimination.

Making reasonable adjustments

9. We understand that involvement with the BACP conduct process can be very stressful to complainants, witnesses and members. We will always take into account the health and capacity of those we deal with during our work, and make reasonable adjustments where appropriate.

What are our decision-making criteria?

10. Our decision making is based on the five criteria set out above. The following notes explain in more detail how we meet these criteria.

a. Fairness and consistency

We understand the importance of being fair and consistent in all our decision making. We do this by:

- setting out the relevant standards and practice in our Professional Standards so Members and the public know what to expect
- ensuring we comply with the common law principles of natural justice and other relevant legislation;
- ensuring the information available to the decision-maker is relevant and sufficient to enable a full and fair decision to be made. Where a decision maker considers more information is required, we will request it and if necessary, can use the powers we have to obtain it.
- ensuring any person affected by a decision has:
 - enough information to understand the nature of the decision and what the decision-maker is basing their decision on; and
 - the opportunity to make representations before the decision is taken, which must be considered.

On occasions we may as part of our investigations receive information that is highly sensitive and confidential. In such cases we may have to make some decisions without disclosing all or part of this information. These situations will be exceptional and, where possible, the person involved will be informed that there is non-disclosure and why.

b. Proportionately

In making our decisions we must balance the public interest with those of the individual Member or Organisation whose conduct or behaviour has been called into question. This means

- ensuring that the action we take is necessary to achieve the desired effect and is no more serious than is required to address any misconduct or risk identified
- our decision makers are clear about our overarching requirement to protect the public in their decision making and why the decision reached is required to meet it.

c. Transparency

It's important that we are transparent about the way in which we reach decisions. We also want to give Complainants, the public and Members the information they need to make informed choices and to maintain public confidence in the provision of therapeutically based services including counselling and psychotherapy. We do this by:

- publishing our criteria and guidelines on our website
- publishing those decisions in which we impose sanctions or other restrictions on practice [Publication Policy](#),
- ensuring our decisions, and the supporting information, are:
 - properly recorded
 - promptly notified to those affected
 - sufficiently reasoned so that it is clear what decision was reached and why.

d. Impartiality

Decisions are made on the information available and without unlawful discrimination or bias. Our decision makers will have no actual personal or financial interest in the decision being made and will also take care to avoid any perception of bias from the point of view of a reasonable fair-minded and informed observer. To do this we require our decision makers to:

- declare any conflict of interest and remove themselves from cases in which they have any personal relationship, or a financial or other interest.
- consider each case on its merits, on an objective analysis of the facts, and in accordance with our published policies, guidance and protocols.

e. Accountability

We understand that we are accountable for our decisions to Members, clients, the public and all our stakeholders. We ensure accountability by:

- publishing details of our decision (where possible), our processes and criteria,
- ensuring decisions are only taken by appropriate decision makers who
 - are authorised to do so as outlined in the Professional Conduct Procedure and Associated Protocols
 - have had the appropriate training to meet the technical and behavioural competencies required to make decisions at each level.
- providing a right of appeal at appropriate stages of the decision making
- promoting quality assurance by
 - subjecting our decisions, and the criteria on which they are based, to review to ensure the quality, fairness and consistency of our decisions
 - reviewing the efficiency and effectiveness of the procedures put in place to support decision-making, including our criteria and guidance

Further Information

11. If you require any more information about our decision-making criteria or our procedures, please contact Professional Conduct: professional_conduct@bacp.co.uk