

**Article 12.3 Guidance**

**Making disclosures on applications for membership**

If you apply to become a member of BACP, you’ll be asked if you have any disclosures to make. Sections 4 and 5 of the application form asks the following questions:

* Have you ever been refused/expelled from membership of any professional body/register on the grounds of professional misconduct?
* Do you have a conviction which is not spent under the Rehabilitation of Offenders Act 1974?
* Have you ever been the subject of any civil claim brought against you, other disciplinary action, investigation, proceeding or enquiry?
* Are you currently or likely to be the subject of any disciplinary action, investigation, proceeding or enquiry?
* Is your fitness to practise impaired for any reason including health or personal circumstances?
* Are there any other factors which could call into question your suitability for membership?

**What happens if I make a disclosure?**

If you answer yes to any of the questions above, at the time you submit your application form you should also provide a full and detailed statement about the disclosure, including your learning from the experience and any mitigating factors.

The Membership department will pass your application form, and any information you have provided, to the Professional Conduct department where it will be allocated to a Case Manager for review under the Article 12.3 Procedure. In order to carry out a full assessment of your disclosure, the Case Manager may ask you to provide further information at this point.

**What is Article 12.3?**

Under article 12.3 of BACP’s Articles of Association, BACP can decline “*any application for membership, registration or admittance to grades of membership*”. It does not need to provide reasons for its decision, but the Article 12.3 Procedure gives examples as to why a person may not be suitable for membership, for example, where their membership might:

* bring the reputation of BACP into disrepute; or
* bring the reputations of counselling and/or psychotherapy into disrepute.

If BACP receives information that raises concerns as to whether the applicant is suitable for BACP membership, it will be referred to the Professional Conduct department and may be considered by an Article 12.3 Panel.

**Why am I being asked for this information?**

BACP has an overarching duty to protect the public and the reputation of both BACP and the professions of counselling and psychotherapy. In order to do this, it needs to ensure that applicants and members are safe to work with clients and are able to adhere to the Ethical Framework for the Counselling Professions.

Where BACP is in receipt of information that suggests an applicant is not suitable for BACP membership, an application may be rejected under the Article 12.3 procedure.

It’s important that BACP makes sufficient enquiries with an applicant who makes a disclosure, so that it can make a fully informed decision.

**I don’t know if I need to make a disclosure, what should I do?**

If you’re unsure whether you need to make a disclosure to BACP, you should disclose it on your application so that BACP can review the disclosure and decide whether it’s something that warrants further enquiries.

If information comes to light once you’re in membership that you should have disclosed on application, but didn’t, it may result in action being taken and your membership withdrawn.

**Conviction disclosures**

BACP can only consider convictions or cautions which are not “spent” as defined by the Rehabilitation of Offenders Act (1974), as amended by the Legal Aid and Sentencing Punishment Act.

BACP can’t provide you with any legal advice as to whether your conviction is spent or unspent, and you should make enquires before you make a disclosure to BACP. Organisations such as NACRO or CAB may be able to assist you, but BACP doesn’t endorse any organisation.

If you disclose a conviction which appears to be spent, BACP will ask you to make further enquiries to confirm the status of that conviction.

**Fitness to practise disclosures**

BACP has a duty to ensure that all applicants and members can provide a safe and effective service to their clients and to adhere to the Ethical Framework for the Counselling Professions. An applicant for membership is required to tell BACP if their fitness to practise is impaired for any reason including health, disability or personal circumstances.

Where a disclosure is made that an applicant has an impairment relating to physical or psychological health, BACP will make further enquiries with that applicant to make sure they are fit to practise.

**What information will I be asked for?**

You should have already submitted a comprehensive statement about the disclosure along with your application. However, we may ask you for more information if we aren’t satisfied that we have enough to carry out a full assessment. We would encourage you to be as open as possible and to take the opportunity to provide information to allow BACP to assess your application.

As well as providing your written statement to BACP, you may be asked for a letter or reference from your supervisor or tutor, or an independent person who is aware of your disclosure and can comment on your suitability for membership.

If your disclosure relates to health or disability you may also be asked to provide a letter from your GP or healthcare professional, if appropriate.

If you have disclosed a dismissal or were disciplined or expelled from a membership organisation or by an employer, you may be asked to provide a letter confirming the reasons for your dismissal.

BACP may undertake an online search in relation to information about you that is available in the public domain, if appropriate.

The information that BACP requests will depend on what you have disclosed.

**What if I cannot obtain the information BACP has requested?**

It’s important that you provide BACP with the information it requires so that your application can be fully assessed. If key information is missing or unclear, your application may be put on hold or terminated by a Case Manager or rejected by a Panel.

If you no longer have relevant letters and paperwork, you’ll be asked to take steps to obtain copies, or provide evidence of your attempts. However, please note if the requested information is confidential, you may need to seek permission to disclose it to BACP.

If your application is terminated because you are unable to provide the necessary information, or you decide to withdraw your application, you can re-apply for membership at a future date and if so you’ll need to make appropriate disclosure at that time and provide all the necessary information.

**What happens once BACP has all the information?**

A Case Manager in the Professional Conduct department will review the information to assess whether:

1. your disclosure doesn’t require further consideration; or
2. your disclosure needs to be referred to an Article 12.3 Panel.

**What happens if my application is referred to a 12.3 Panel?**

You’ll be told if your application needs to be referred to an Article 12.3 Panel, along with brief reasons why. The Panel will be provided with copies of your application and disclosure and any other relevant information.

**Can a Case Manager reject my application?**

No, only an Article 12.3 Panel can reject an application. However, if you fail to respond to BACP’s requests for information, your application may be terminated. You can reapply for membership at a later date, but if you do so, you’ll need to re-submit the information required in support of your application, as BACP won’t retain information previously supplied for more than 6 months.

**What options does the Article 12.3 Panel have?**

The Article 12.3 Panel can:

* request further information from you;
* interview you;
* accept your application for membership;
* accept your application for membership with conditions;
* reject your application for membership.

**On what grounds could my application be rejected by the 12.3 Panel?**

The purpose of the Panel as set out in Article 12.3 is to consider whether there is anything within the disclosure which makes an applicant unsuitable for membership and whether there is anything that is likely to pose a risk to the safety of clients or the reputation of BACP and the counselling profession.

An application may be declined by the Panel where there is information to suggest that allowing an applicant into membership could:

* Bring the reputation of BACP into disrepute;
* Bring the reputations of counselling and/or psychotherapy into disrepute;
* Result in BACP’s private business being brought into the public domain;
* Impede the legitimate activities of the organisation;
* Give good reason to believe an applicant could or has misrepresented his/her/the organisation’s membership status;
* Give good reason to believe the applicant has not or will not work to BACP’s Ethical Framework.

**Can I appeal if the Panel rejects my application?**

If a panel rejects your application for membership, you have the right to appeal within 28 days of being notified of the decision. You’ll be expected to attend an appeal hearing and tell the 12.3 Appeal Panel why the decision to reject was unjust and unfair in all the circumstances.

The Appeal Panel can accept your appeal and allow you into membership or agree with the original panel’s decision to reject your application.

**How does a Case Manager decide whether my application should be referred to a panel?**

The Case Manager will make an assessment based on the three overarching assessment questions set out below:

1. Is there anything within the disclosure, which is so serious it could bring BACP into disrepute or leads you to believe the applicant cannot work to the Ethical Framework?
2. Is there anything in this disclosure which suggests the applicant is not able to practise safely or ethically with clients?
3. Is there a possibility the Panel may reject this applicant having taken into account the objective and subjective evidence available, or impose a condition?

If the answer to any of these questions is ‘Yes’, it is probable a referral to a panel will be made.

**Further Guidance**

If you have any questions in relation to the Article 12.3 Procedure, please contact the Professional Conduct department.