

Professional Conduct Procedure

PR5 - Investigation and Assessment Committee: Terms of Reference

Objective of the IAC

1. To carry out its functions in accordance with the requirements of the Professional Conduct Procedure (PCP) and associated protocols.

Constitution

2. There will be a minimum of three people in the IAC, including at least one lay person.
3. The Registrar will select a Chair from the pool of chairs.
4. The IAC may convene by meeting in person and/or remotely.
5. The quorum for the IAC will be three members.

Decision Making Functions

6. The functions of the IAC are to:
 - determine if the requirements of paragraph 1.4a) of the PCP are satisfied when requested by the Registrar
 - determine under paragraph 1.7 c) of the PCP, whether the time limit for submitting a complaint should be extended
 - decide whether repeated complaints should be reconsidered in line with paragraph 1.8 of the PCP
 - seek further information or clarification from either party to a complaint as it considers appropriate in accordance with paragraph 3.2 a) of the PCP.
 - decide if the proceedings test is met or whether a complaint should be dismissed in line with paragraphs 3.2 d) - f) of the PCP

- set out the formal allegations against the member where it finds that the proceedings test is met, in line with paragraph 3.2 of the PCP; and determine whether allegations are those of professional misconduct; and allocating the case to either the disciplinary proceedings track or the practice review track in line with paragraphs 3.2 h) - i) of the PCP
- decide whether to impose an Interim Suspension on a Member in line with paragraph 3.6 or other requirement of the PCP and the relevant protocol
- review an interim suspension and lift the suspension following review, if appropriate, in line with paragraph 3.6 of the PCP and the relevant protocol
- consider and determine whether a complaint should be disposed of by means of consensual disposal in line with paragraph 3.4 of the PCP
- decide on, and imposing sanctions on, the Member as part of a consensual disposal agreement
- set standard Case Management Directions in line with to paragraph 3.2 j) of the PCP
- stay proceedings in line with paragraph 9.2 and 9.3 of the PCP
- re-allocate a complaint to the Disciplinary Proceedings Track pursuant to paragraph 4.11 of the PCP.

Decision-Making

7. The IAC will consider each case on its individual facts and discuss any issues that are raised. Decisions will be made on a majority basis.
8. The IAC will consider all the facts in line with the Professional Standards that were in effect when the Member was in membership and when the alleged breaches took place.
9. The Chair will sign the IAC's decision, which will be delivered to the Registrar.

Applying the proceedings test

10. In applying the proceedings test, in accordance with paragraph 3.2 d) of the PCP, the IAC will first consider the facts alleged and consider whether those facts, if proved, would amount to a failure to meet the Professional Standards. If the IAC decides that they would not, the proceedings test is not met.
11. Secondly, the IAC will consider whether there is a realistic prospect that facts justifying a finding of such a failure will be proved.

12. The IAC will consider whether there is a 'realistic' as opposed to a 'fanciful' prospect of success.
13. The IAC should consider the explanations and representations of the Member. A realistic prospect of a finding means that the Professional Conduct Panel, properly directed, is more likely than not to make a finding of a failure to meet the Professional Standards against the Member. The IAC should consider whether the available evidence is reliable.
14. The IAC will have regard to the fact that the Professional Conduct Panel is required to determine that the facts underlying an allegation are more likely than not to be true (on the balance of probabilities). The IAC should take into account that the onus is on the prosecutor to prove their case.
15. The IAC should not conduct itself as a hearing panel and should not seek to make findings of fact. It may need to assume that evidence at any hearing will correspond with the information before it.

It is not the role of the IAC to resolve substantial conflicts in the available evidence, such as deciding which of a number of differing versions of events is the correct one.

16. The IAC must consider whether the complaint is to be dealt with by way of the Disciplinary Proceedings track or the Practice Review track, taking account of the wider Public Interest including the protection of the public and the need to maintain public confidence in the counselling professions.
17. The IAC should only put forward allegations that meet the proceedings test.
18. The IAC will be clerked by an appropriate person who may advise on any technical and procedural points that may arise.