

Professional Conduct Procedure

PR15 - Previous Adverse Findings Protocol

Once a complaint against a Member has been upheld, but before deciding on a sanction, the Panel may review previous sanctions or complaints made against the Member.

All complaints are considered on their own merits. The Panel will not have access to previous sanctions or complaints before reaching a decision about the current complaint.

The Panel will only have access to any sanctions or complaints made within the last five years.

When considering an application for consensual disposal, the Investigation and Assessment Committee (IAC) may also consider previous complaints and/or sanctions. This protocol applies equally to the IAC and to the Panel, collectively referred to as 'the Decision Maker').

The Decision Maker may consider the following when deciding whether to consider previous complaints or sanctions:

- whether it is in the interests of public protection
- whether it is in the interest of maintaining public confidence
- whether it is in the interest of upholding proper standards of conduct and competence
- whether there is a current sanction in effect
- whether the previous complaint shows a pattern of conduct or behaviour which has been repeated in the current complaint
- whether it is fair and proportionate to do so

If the Decision Maker chooses to take account of previous complaints or sanctions, the Panel has discretion as to how much weight to attach to it.

The purpose of considering previous complaints and/or sanctions is not to re-address previous failures to meet the Professional Standards. However, previous sanctions may make recent failures to meet Professional Standards more serious or may raise questions of fitness to practise or may suggest that previous sanctions were ineffective.

Where a complaint has previously been upheld against a Member within the past five years, the Member will be notified before the hearing that the Decision Maker may take this into consideration.

Where a Letter of Advice has been issued within the last three years, the Member will be notified that this may be taken into consideration by the Decision Maker if any allegations are upheld.

If the complaint is upheld, the Member can make written submissions to the Decision Maker regarding any issues, including any previous complaints or sanctions, which they would like the Panel to take into account when setting a sanction.

The deadline for written submissions will set by the Decision Maker. If the Decision Maker considers a previously upheld complaint in setting a sanction, it will address its reasons for this in its decision.