

# The Practice Review Process Guidance for Complainants and BACP Members

## Introduction

This guidance will give you information about what to expect at a Practice Review hearing.

The hearing format and timetable will be decided on a case-by-case basis by the Professional Conduct Panel hearing the complaint. These will be set within the framework of our Professional Conduct Procedure.

One of our Case Managers will take you through each step of the process and will be able to answer any specific questions you might have.

## Meanings

**Member** is the BACP counsellor/psychotherapist who the complaint has been made about

**Complainant** is the person who made the complaint against the Member

**Case Manager** is the member of our staff who has been dealing with the complaint and communicating with the Complainant and the Member throughout the procedure

**Professional Conduct Panel (the Panel)** is made up of three people who will listen to the case and consider the evidence to decide whether the complaint(s) has been proved

**Clerk** is a person who sits in the hearing and may give legal and procedural advice to the panel

**Witness** is someone who has been asked to attend the Hearing to give evidence in person to the Panel

**Expert Witness** is someone with an expertise in a specialist area who has been asked to attend the Hearing to give evidence to the Panel

**Parties** refers to the Complainant and the Member

Sworn in/Oath this is a promise that you will make in the Hearing room that you will give evidence truthfully and respond truthfully to questions

## Aims and overview

The Practice Review Process is a less formal way for resolving complaints which don't raise allegations of professional misconduct.

It adopts a conciliatory approach to resolution and aims to acknowledge and correct practice that has fallen below our Professional Standards. It takes place in an approachable setting that gives both parties a voice.

Where findings are made against the Member, the Panel may impose a sanction. However, the Panel can't withdraw or suspend a Member's BACP Membership in this type of Hearing.

In a Practice Review Hearing, Complainants can explain their complaint in their own words emphasising the issues that matter to them.

The Panel are responsible for asking questions about the complaint(s). The Complainant and Member may suggest questions for the Panel to ask, but there's no obligation to do so. We believe it's important that parties feel they can contribute and feel valued.

Any questions that the other party wish to ask will always be asked by the Panel.

The Practice Review Process balances a party's autonomy with the need to allow each party to be heard.

## Supporter

The Complainant can choose a representative such as a friend or family to support and/or assist them when they present their complaint.

If the Complainant does not have anyone to support them, they can ask the BACP Registrar to provide a Professional Supporter to help them with the Hearing and be there for them on the day. The Professional Supporter won't be able to provide the Complainant with legal advice, but they'll be there for practical and emotional support.

## Before the Hearing

We'll send the Panel, Complainant and Member copies of all papers, including witness statements and evidence, before the Hearing

↓

The Chair introduces the Panel and explains how the Hearing will run.

↓

The Clerk reads out the allegations against the Member to set the scene for the Hearing.



The Complainant (or their representative/supporter) can make an opening statement, explaining the circumstances behind making the complaint.



The Member can make an opening statement to explain what happened from their point of view and, if it's relevant, give details of any remediation action taken.



The Panel asks both parties questions in relation to the allegations to help them make findings of fact and decisions about the complaint(s).



The Panel adjourns to consider the information they've gained from questioning. The Complainant and Member can write down any questions they have for the other party. These will be collected by the Case Manager and given to the Panel.



The Hearing resumes, and the Panel may ask any questions put forward by both parties, that they consider will help to make a decision. The Panel can also ask further questions if needed.



The Panel may call witnesses and allow the Complainant and Member to call witnesses. The Panel can call witnesses at any point during the Hearing. After the Panel has asked the witness questions, the Member and Complainant (or their representative/supporter) can also ask the witness questions.



The Panel asks the Complainant and the Member any final questions.



The Complainant (or their representative/supporter) can make final comments about the complaint.



The Member (or their representative/supporter) can make final comments (closing statement) about the complaint.



The parties leave the hearing room and the Panel stays to deliberate on the case and make a decision.

If, during the hearing, both parties decide that they'd like to discuss an agreed resolution to the complaint, the Panel may suspend the hearing. If both parties can agree on how the complaint can be resolved, they can propose this to the Panel, who will consider whether the complaint can be resolved in this way.

## After the hearing

The Case Manager will write to the parties with the Panel's decision within 28 days of the hearing.

The Panel will decide what (if any) sanction is appropriate. Before deciding, it might invite parties to submit in writing what they consider to be an appropriate sanction.

## Appeals

On the Practice Review Track, the Complainant and the Member have the right to appeal. An Independent Reviewer will decide whether there are satisfactory grounds for appeal.

In some cases, the Independent Reviewer may decide that it is appropriate to decide the appeal on the papers, without the need for a Hearing. If the Independent Reviewer intends to make a decision on the papers, he/she will inform the parties and give them an opportunity to make representations (for example they may wish to give reasons why they think the appeal should be dealt with at a Hearing).

## Guidance for Complainants

### Practice Review Hearing

During a Hearing, you'll be able to have your complaint heard by the Panel. You may also ask questions of the Member (through the Panel if you wish) and ask questions of any witnesses in attendance. Below are some questions that you may have in relation to the process.

#### Can I bring my own complaint?

Yes, this process provides you the opportunity to bring your own complaint about the service you received. You can choose someone, such as a friend or relative or your own representative to support you or we can provide a Professional Supporter to help you with the Hearing and be there for you on the day. The Professional Supporter won't be able to provide you with legal advice, but they'll be there for practical and emotional support.

Your representative or supporter can make opening and closing statement on your behalf but can't answer questions for you if you're a witness in relation to the events which are relevant to the complaint.

#### What should I say during my statements?

You can choose what to say in your opening statement. The Panel can only make a decision in relation to the allegations, so focus your statement around the written allegations. You can use your opening statement to outline why you brought the

complaint and what you want from the complaints process. You can also make comment on the Member's formal written response.

In your closing statement, you can repeat what you expect from the process and whether this has changed since the hearing began.

### **What types of questions can I ask?**

You can suggest any question to be asked of the Member by the Panel, however the Panel will only ask questions where they feel the answer to that question will help the Panel to reach a decision. Questions should be appropriate and relevant to the complaint. Try to ask questions that are related to the allegations and keep them short and simple. It's fine if you don't want to suggest any questions and there's no pressure to do so.

If you and the Member agree, you can ask questions of each other directly.

You can use the following table to help you in drafting questions. It includes some examples to help you understand what questions might be asked by the Panel. You may think of questions in advance of the Hearing or during the allocated time at the Hearing, or both.

Allegation	Question	Folio Page (where relevant)
In relation to allegation 2...	...can the Member explain his reasons for writing the letter...	...which is provided on page 14?
In relation to allegation 1...	...does the Member understand how I, the Complainant, could have found her actions hurtful?	

### **Will I be questioned by the Member?**

The Member will not question you directly if you are not comfortable with this, however you may be asked questions that the Member has suggested, and those questions will be asked by the Panel.

### **Can I bring a support person with me?**

Yes, you can bring a support person with you to the Hearing. The support person can sit next to you during the Hearing and speak for you when make opening and closing statements. Your support person can't answer questions on your behalf and any questions asked by the Panel must be answered by you.

If you need some advice from your support person during the hearing, you can ask the Chair for a break.

### **How will the Panel make its decision?**

The Panel will come to a decision based on the paper evidence and what you and the Member have said at the Hearing, together with what has been said by any

witness. It's important that you provide as much written evidence as possible. If you submit text messages, emails or social media posts as evidence, be clear who wrote the information, and when, if this is possible. If you submit personal statements from third parties or witnesses, they need to be signed and dated. All evidence should be submitted to the Case Manager before the Hearing.

### Speak to a Case Manager

For more information about what happens at a Practice Review hearing, or the Professional Conduct Procedure, email your Case Manager at [professional\\_conduct@bacp.co.uk](mailto:professional_conduct@bacp.co.uk).

## Guidance for Members

### Practice Review Hearing

During a hearing, you'll be given the opportunity to be heard by the Panel. You may ask questions of the Complainant (usually through the Panel). You may also ask questions directly of any witnesses in attendance. Below are some questions that you may have in relation to the process.

#### What should I say during my statements?

You can choose what to say in your opening statement. The Panel can only make decisions in relation to the allegations, so focus your statement on the written allegations. Explain any defence you may have or make any admissions and provide details of any remediation that you have taken in response to the complaint, where relevant.

In your final statement, you make any comment you choose in relation to the complaint. We encourage you to say whether you plan to take part any remediation after the hearing.

#### What types of questions can I ask?

You can suggest any question to be asked of the Complainant, however the Panel will only ask questions where they feel the answer to that question will help the Panel reach a decision. Questions should be appropriate and relevant to the complaint. Try to ask questions that are related to the allegations and keep them short and simple. If you don't want to suggest any questions, there's no pressure to do so.

If you and the Complainant agree, you can ask questions of each other directly.

You can use the following table to help you in drafting questions. It includes some examples to help you understand what questions might be asked by the Panel. You may think of questions in advance of the Hearing, during the allocated time at the Hearing, or both.

Allegation	Question	Folio Page (where relevant)
------------	----------	-----------------------------

In relation to allegation 3...	... why did the Complainant send the email...	...which is included on page 6?
In relation to allegation 5...	...does the Complainant accept that there is no written evidence to support his claim?	

### **Will I be cross-examined by the Complainant?**

Any questions the Complainant may have will usually be asked by the Panel.

### **Can I bring a support person with me?**

Yes, you can bring a support person or representative with you to the Hearing. They can sit next to you during the hearing and can speak and make opening and closing statements for you. However, your support person cannot answer questions on your behalf. If you need to take a break at any time to seek advice from your support person, all you need to do is ask the Chair.

### **How will the Panel make its decision?**

The Panel will come to a decision based on the paper evidence and from what you and the Complainant have said at the hearing together with what has been said by any witness. Therefore, it's important to provide evidence to support your case.

### **Speak to a Case Manager**

For more information about what happens at a Practice Review hearing, or the Professional Conduct Procedure, email your case manager at [professional\\_conduct@bacp.co.uk](mailto:professional_conduct@bacp.co.uk).