

BACP Professional Conduct Procedure (PCP) 2018

July 2019

Objectives

1. To update you on some of the main changes to the PCP
2. To help you understand why we've made these changes
3. Hints and Tips
4. Q & A



The Previous Procedure

- Previous procedure in place since 2013 (as amended)
- We've taken on board feedback and learning
- It was agreed it was time to change and develop the procedure

Drawbacks of the Previous Procedure

- We didn't get your views until after a complaint was already accepted by a panel
- If a complaint was rejected we had very little contact with you at all
- **It was an all or nothing procedure:**
 - No means to resolve matter early
 - Disproportionate action for low level breaches
 - Even if admitted, had to go to a hearing
 - Time consuming and onerous
 - Low evidential test prior to a hearing
 - Inflexible

Modernisation of the PCP

The key objectives of the new procedure are:

- Public Interest
- To protect the public/clients
- To help members identify improvements in their practice

Benefits of Change

- ✓ Timely
- ✓ Clear and transparent
- ✓ Proportionate outcomes for Members
- ✓ Focus time and resource to high risk matters
- ✓ Fairness

The New Procedure

1. A Threshold Test
2. Two new complaint resolution tools
3. The Investigation and Assessment Committee (IAC)
4. A more robust Evidential Test
5. Interim Suspension Order
6. Ability for BACP to prosecute a complaint
7. Two types of Hearings

Initial Review

1. The Complaints Assistant and Assessor will first look at any complaint and consider whether it meets the requirements of the PCP
2. If the complaint does meet these requirements it will be allocated to a Case Manager.
3. The Case Manager will gather further information
4. The Case Manager will then apply the Threshold test

Case Manager's Review

1. The Case Manager will contact you by phone to discuss the complaint and to explain the procedure.
2. Further information may be requested from the Complainant and the Member, including the member's initial comments.
3. The Case Manager will ensure the complaint meets the threshold test.
4. Options are considered to resolve the complaint.

Complaint Resolutions

Two new complaint tools have been introduced;

1. Letter of Advice; and
2. Consensual Disposal.

What is a Letter of Advice ?

- A letter which informs the Member about a potential failure to meet the Professional Standards
- Deals effectively with low level breaches
- Addresses any failings at an early stage
- Enables timely remediation
- It is not a formal finding
- The decision is recordable
- It can be taken into account if future complaints are made of same/similar nature



When is a Letter of Advice appropriate ?

- Where there is evidence or an admission there has been a breach
- The breach is minor
- The breach has had low impact
- There is low likelihood of repetition
- Not proportionate to pursue through formal complaints procedure

What is a Consensual Disposal?

- An agreement between the Member and the Association
- Freely entered into by the Member
- An opportunity for a Member to admit breaches of professional standards
- Enables a proportionate outcome
- Reflects the Association's role of Public Protection

When is a Consensual Disposal Appropriate ?

- Where there are admissions from the Member to formal allegations
- There is evidence of remorse and learning
- The Public Interest does not require allegations to proceed to a hearing
- The member agrees to accept any sanction imposed by the Investigation and Assessment Committee

Key Points of Consensual Disposal

- It will be deemed to be a disciplinary decision and therefore published
- The terms of the 'Agreement' will be monitored by a Sanction Panel
- Any material breach of an 'Agreement' may result in termination of membership

Investigation and Assessment Committee (IAC)

- Consider any requests for a Consensual Disposal
- Assess whether a complaint has a **realistic prospect** of succeeding
- Draft formal allegations the Member must answer
- Decide based, on the seriousness of the allegations, which of the two hearing tracks the case will be allocated to.



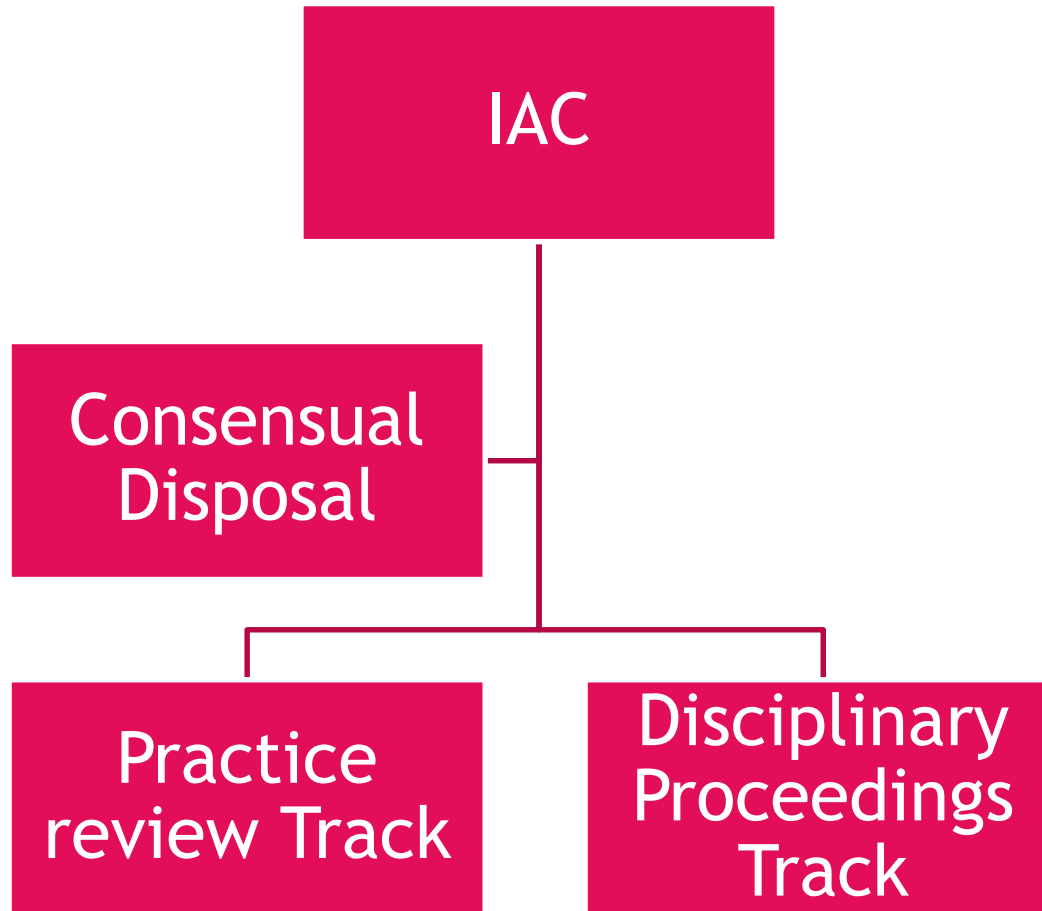
The Realistic Prospect of Success Test

Complaints will now be assessed by the IAC using the **Realistic Prospect of Success** test.

A realistic prospect of finding misconduct is an objective test:

“An impartial and reasonable Panel hearing the case, properly directed is more likely than not to make a finding of misconduct against the Member”.

Hearing Tracks



Disciplinary Proceedings Track

The Disciplinary Proceedings Track (DPT) is reserved for serious complaints where the allegations could amount to Professional Misconduct.

“a failure to meet professional standards which is of sufficient seriousness that a period of suspension of rights of membership/registration and/or withdrawal of membership/registration of the Association may be warranted”

Disciplinary Proceedings Track

The new procedure allows for the Association to prepare and present a complaint under the DPT.

Therefore the Association can now;

- (i) bring a complaint of its own volition; and
- (ii) matters which are allocated to a Disciplinary Hearing will be presented by the BACP to the Professional Conduct Panel.

Practice Review Process

The Practice Review Process (PRP) is intended to:

- Include Complainant participation
- Be structured but less formal
- Be less intimidating
- Be less adversarial

Key Features of Practice Review

- Primary focus is the quality of service provision
- Outcomes which are fair and just for both parties
- More inquisitorial process
- Increase likelihood of reconciliation

Publication

1. Part of our duty to public protection
2. Helps maintain public confidence
3. Allows the public to make informed choices
4. Promotes a more detailed understanding of the standards expected of our members
5. Ensures that we are transparent and accountable for our decisions
6. Ensure you can trust your fellow members are held to the same standards
7. The Professional Standards Authority require it

Publication

- We publish unless there are compelling reasons why we should not
- We only publish where allegations have been upheld and breaches of the Professional Standards have been found
- We remove publications after a suitable period of time
- Our detailed publication policy can be found on our website

Hints and Tips

At the outset...

- Take the time to read and always refresh your memory of the Ethical framework
- Set expectations with your client
- Set limitations with your client

Hints and Tips

When things go wrong...

- Don't bury your head in the sand
- Where appropriate, apologise and try to resolve it
- Seek advice early on
- Its never too early to reflect and learn



Thank you

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