

Consensual Disposal Guidance for Complainants and Members

Some complaints under the Professional Conduct Procedure can be resolved by way of consensual disposal. This document will explain what this means and what using this option involves.

Overview

What is consensual disposal?

Consensual disposal is where the Member and BACP come to an agreement to resolve a complaint without going to a Professional Conduct Hearing. This allows complaints to be resolved in a quicker timeframe and avoids the anxiety and inconvenience of attending a hearing. Although there is no formal hearing of the complaint, a consensual disposal agreement is deemed to be a disciplinary decision and will be published in line with BACP's publication policy. If the Member breaches the terms of the consensual disposal agreement, this may result in the termination of their membership, which will also be published.

The Complainant is not involved in negotiating this agreement, however they may contact BACP to communicate their point of view. This may be taken into consideration by the Investigation and Assessment Committee (IAC). As consensual disposal requires the Member to make admissions and take responsibility for their actions, we hope Complainant's will be satisfied with the final agreement.

For a consensual disposal to be available, the Member must make admissions of misconduct and agree to comply with any sanction imposed on them by the IAC. There must also be evidence of remorse, insight and genuine learning from the Member and a consensual disposal will only be considered if it is in the public interest to do so.

Consensual Disposal will only be allowed if the proposal is agreed by BACP and accepted by the IAC. The IAC's decision to resolve a matter by Consensual Disposal, and the terms of that disposal is final and there is no right of appeal for either the Complainant or Member.

The process

A member may request a Consensual Disposal, or the IAC, on considering the complaint, may invite the member to enter into a Consensual Disposal. The process for this is detailed in the Consensual Disposal Protocol.

The main stages of the process will generally be as follows:

1. The Member will make a request or will be invited to resolve the complaint by Consensual Disposal

2. The Member will correspond with the Case Manager to set out their admissions and make their request.
3. The request for a Consensual Disposal will be submitted to the IAC, in addition to any comments from the Member
4. The Investigation and Assessment Committee will decide whether to accept the request.

Proposal accepted

5. If the IAC accept the request, it will draft the Consensual Disposal Proposal which will include the sanction the IAC considers appropriate in the circumstances.

The Consensual Disposal could include any of the sanctions set out at paragraph 5.12 (a)(i-vii) which are as follows:

- i) A requirement to send a written apology to a relevant recipient of therapeutic services provided by the Member (whether or not that recipient is the Complainant) by a specific date;
 - ii) A requirement to demonstrate specific change/improvement in practice by a specific date;
 - iii) A requirement to undertake specific training by a specific date;
 - iv) Suspension of membership for a specific period or until specified conditions have been met;
 - v) Withdrawal of membership.
6. The Consensual Disposal Proposal will be sent to the member. The member will have 28 days to review the proposal and accept it. Once returned from the member, the Consensual Disposal Agreement will be signed by the Chair of the IAC and will take effect from that date.
 7. The Member and Complainant will be contacted to inform them that the complaint has been resolved.
 8. The Consensual Disposal Decision will be published on the BACP website and Therapy Today. The decision will:
 - Be in writing;
 - Be agreed by the BACP and the Member;
 - State the relevant facts as admitted;
 - Identify any admitted failings;
 - Include any mitigation accepted by the IAC;
 - Confirm the sanction imposed; and
 - Be signed and dated by BACP and the Member.

9. Where a sanction has been imposed by the IAC as part of the Consensual Disposal, it will be monitored by a sanction panel.

Proposal rejected

10. If the IAC rejects the Consensual Disposal Proposal, a Professional Conduct Hearing will be arranged. Proposals may be rejected where the IAC deems the public interest requires any of the allegations to proceed to a hearing.

Guidance for Members

What should I include in my request for a consensual disposal?

There is a template request available on our website which may assist you in making your request for a Consensual Disposal. You can also request a copy of this from your Case Manager. When making your request you should ensure the following points are included:

- A detailed summary of the complaint and the relevant facts/allegations that you admit to;
- The allegations made against you that you admit to;
- Any mitigation for the IAC to consider, this may include any training or work you have already completed to address the concerns raised in the complaint. You may also wish to include any training or work you intend to complete in the near future to remedy the breach of professional standards identified.
- Any representations you may have as to what sanction, if any, you consider appropriate in the circumstances of the complaint.

Can I request Consensual Disposal without admitting any fault?

No, one of the conditions of Consensual Disposal is that you take responsibility for any wrongdoing and agree to ways you can improve your practice. If you disagree that you committed the alleged misconduct this option is not suitable for you.

What if I make admissions to some of the complaint but do not accept all of the allegations?

A Consensual Disposal should not be used as a way to trade off one allegation for another. If you make a request, admitting to some allegations but not others, the IAC will still consider your request.

The IAC would then consider whether it is in the public interest to accept the request in your case. Where the IAC considers it is not in the public interest for the unadmitted allegation to proceed to a hearing, they may accept your request for a Consensual Disposal.

What happens if I breach the terms of the Consensual Disposal?

A breach may occur where the you deny the admissions you made in the agreement, which undermines the process altogether. A breach may also be where you fail to comply with a sanction imposed.

Any material breach of the terms of the consensual disposal agreement will be considered by a Sanction Panel and may result in termination of your membership. Such a decision will be published in accordance with our publication policy.

Guidance for Complainants

What can I do if I don't want my complaint to be resolved by Consensual Disposal?

If you don't want your complaint to be resolved by consensual disposal and you'd prefer the matter to be considered by a Professional Conduct Panel, you can write to the Case Manager dealing with your complaint to inform us and the IAC of this. However, the IAC is under no obligation to follow your request and may, or may not, take your views into account. This is because BACP must consider the most appropriate and proportionate action to resolve the complaint.

What can I do if I'm not happy with the Consensual Disposal Decision?

If you're unhappy with the agreement, you can write to the Case Manager dealing with your complaint and explain why you are dissatisfied with the result. We always welcome feedback and would like to hear your thoughts. However, unfortunately, this will not change the outcome or reverse the agreement.