

British Psychoanalytic Council Complaints Procedure

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British Psychoanalytic Council

Complaints procedure

I. Introduction

- 1.1. The British Psychoanalytic Council (BPC) represents the profession of psychoanalytic psychotherapy. We are an association of member organisations that are training institutions and professional associations. We publish a register every year listing those professionals who we consider are fit to practice. This means that they have the health and character, as well as the necessary skills and knowledge to do their job safely and effectively. The psychoanalytic psychotherapists listed are known as ‘registrants’ and are members of one of our member organisations. These are listed on our website, and in our annual register and in the booklet *What is Psychoanalytic Psychotherapy?* Please contact the BPC office (see front cover for details) if you require a hard copy of the list of member organisations.
- 1.2. We and our member organisations ensure that high standards of proficiency, performance and ethical conduct are maintained by our registrants. Our ethical standards are set out in our Code of Ethics. Our over-riding concern is to protect the public and maintain public confidence in the profession we regulate.
- 1.3. BPC is a voluntary regulator; none of our decisions, findings or sanctions has the force of law. Making a formal complaint against a registrant does not affect the right of an individual to take appropriate legal proceedings should they wish to do so. Equally, the complaints procedure is a formal process; it does not have the function of a disputes resolution or mediation process. If someone wishes to attempt to resolve a difficulty other than by means of a formal complaint, then this may best be done through the registrant’s member organisation. BPC is happy to discuss this with the party concerned.
- 1.4. However, anyone informing BPC or one of its member organisations of a grievance or any concern about a registrant shall be informed of the Complaints Procedure and their right to make a complaint to BPC. Any concern expressed to a member organisation will be automatically reported to BPC and, if the concerns are sufficiently serious, we may decide to pursue the matter even without a complaint (see 1.8 and 2.18).
- 1.5. This document sets out what happens when someone makes a complaint or allegation against a psychoanalytic psychotherapist or trainee psychoanalytic psychotherapist who is on our register. We can only consider complaints if they relate to the fitness to practice of someone who is on our register.
- 1.6. There is no time limit on when a complaint can be made. However, we advise someone who wishes to make a complaint (a “complainant”) to do so as soon as possible, so that the details of the incident are more clearly remembered.

- 1.7. This procedure is designed to address any issue which raises concern about a registrant's fitness to practice in a safe, effective and appropriate manner. Normally a complaint will fall into one (or more) of the following categories:
- Misconduct — a breach of the Code of Ethics
 - Malpractice — incompetence, negligence, recklessness, inadequate professional services
 - Impairment of ability to practice by reason of physical or mental ill health
 - A decision made by a regulatory body, either in the United Kingdom or in any jurisdiction recognised by the United Kingdom, which may be adverse to the professional standing of the registrant
 - A criminal conviction by the courts either in the United Kingdom or in any jurisdiction recognised by the United Kingdom.
- 1.8. This procedure may also be used where no complaint has been made but where a concern about a registrant has been drawn to BPC's attention (see 2.18). This may include a registrant themselves admitting to inappropriate behaviour.
- 1.9. Psychoanalytic psychotherapy depends on a high level of trust as well as on strict confidentiality between the psychotherapist and the patient. In order to protect the complainant, other members of the public concerned in the complaint, and other patients of the registrant, the proceedings set out here are carried out in private. However, the results of a finding are made public (see Section 7).
- 1.10. Consideration of the complaint will be undertaken as quickly as possible whilst ensuring that the process is thorough and fair.

2. Dealing with a complaint – the first stage

- 2.1. A complaint must be put in writing to the Fitness to Practice (FtP) Administrator at the following address:
- British Psychoanalytic Council
West Hill House
6 Swains Lane
London N6 6QS.
- 2.2. The letter must be signed by the person bringing the complaint. E-mail correspondence will not be accepted. Complainants should provide:
- their full name and address
 - as much detail as they can about what happened (such as names, dates and places)
 - supporting information and/or documents that are relevant to the complaint
 - the name and place of work of the registrant.

- 2.3. We will not normally take action in respect of complaints that have been made anonymously (that is a person whose identity is unknown to BPC rather than a person who has asked BPC not to disclose their identity). However, because of our over-riding concern for public safety, if there are circumstances in which an anonymous complaint relates to serious and credible concerns about a registrant's fitness to practice we will consider whether it is appropriate to take further action. In these circumstances, the provisions of 2.18 will apply.
- 2.4. Details of the complaint will be sent to the registrant complained against by recorded delivery post. It will be taken to have been received the day after posting. The registrant complained against will have 30 days from the day after posting to respond to the complaint.
- 2.5. The complaint will be considered by the Investigating Committee (see Annex 1, Section 2). This committee consists of six individuals appointed by BPC's Council and includes:
 - three lay members (not psychotherapists)
 - three BPC registrants, the majority of whom will have at least 10 years experience.
- 2.6. A meeting of the Investigating Committee will be held to consider the complaint as soon as possible but normally no later than 42 days after BPC's receipt of the complaint.
- 2.7. The quorum for the Investigating Committee is three including at least one lay member.
- 2.8. If the impartiality of a Committee member may be brought into question by virtue of their knowledge or connection with any person or organisation concerned in a complaint then they will withdraw from considering that complaint. In the event that the Investigating Committee cannot provide a quorum to consider a complaint, then the Chair will select a member of the Professional Conduct Panellists' Group (see 4.1) to stand in for the purposes of considering that complaint.
- 2.9. After considering the information relating to the complaint, the Investigating Committee will decide one of three things:
 - to dismiss the complaint if it finds that there is no case to answer
 - that further information or clarification is needed in relation to the complaint
 - to refer the case to a Professional Conduct Panel if it finds there is a case to answer in relation to the complaint.

- 2.10. If the Investigating Committee decides to dismiss the complaint, the FtP Administrator will notify the complainant and the registrant complained against of the decision and the reason(s) for that decision. If the Investigating Committee considers it appropriate, it may indicate to the parties that it appears to the Investigating Committee to be a disagreement or misunderstanding which may benefit from mediation. This mediation may be offered by the registrant's member organisation; BPC will provide further information to the complainant about this possibility.
- 2.11. If the Investigating Committee decides that it needs further information or clarification, the FtP administrator will notify the complainant and the registrant complained against of the information being requested. They will be asked to respond within 30 days.
- 2.12. The Investigating Committee will normally consider written evidence only. However, in certain circumstances, as part of seeking further information or clarification, the Committee may decide to interview the complainant and/or the registrant complained against and/or a third party. The interview would be conducted by two members of the Investigating Committee together. Notes would be taken and written up and sent by recorded delivery post to the person interviewed for checking and verification. It will be taken to have been received the day after posting. The verification or any disagreements with the notes as an accurate record should be returned within 14 days of the taken date of receipt. If not returned in that time, then the Committee would take the notes to be an accurate record of the interview.
- 2.13. Following the obtaining of further information, this will be sent to the complainant and/or registrant complained against by recorded delivery post. It will be taken to have been received the day after posting. The parties or parties will have 30 days from the day after posting to respond to the additional information.
- 2.14. The Investigating Committee shall reconvene to reconsider the complaint as soon as possible but normally no later than 28 days of the responses being received. It will then decide whether to dismiss the complaint or refer the complaint to a Professional Conduct Panel.
- 2.15. Where the Investigating Committee decides that there is a case to answer, the committee will draw up a formal complaint for consideration by a Professional Conduct Panel.
- 2.16. The FtP Administrator will inform the complainant and the registrant complained against of the decision either to dismiss the complaint or to refer the complaint to the Professional Conduct Panel.
- 2.17. If, at any time, after receipt of the complaint and prior to a complaint being referred to the Professional Conduct Panel the complainant does not wish to proceed with the complaint, the Investigating Committee may refer the matter to the Chair of BPC.

- 2.18. Where the complainant does not wish to pursue the complaint (as in 2.17) or where a concern has been brought to the attention of BPC which raises serious and credible concerns about the registrant's fitness to practice and there is no complaint (as in 1.8), or there is an anonymous complaint (as in 2.3) then the Chair or Honorary Secretary of BPC may decide to pursue the complaint in the interest of the public or the profession. The Chair or Honorary Secretary of BPC shall then be treated as the complainant for the purpose of the complaints procedure. The registrant complained against shall be notified by the FtP Administrator of any such change of complainant.
- 2.19. Decisions of the Investigating Committee shall be taken by a simple majority. No member may abstain from voting.

3. Interim suspension of registration

- 3.1. If at any stage of its dealing with a complaint the Investigating Committee is of the view that the complaint is so serious that it may be necessary for the registrant's membership of the BPC to be suspended, on an interim basis, for the protection of the public or the protection of the registrant, it may decide to impose an interim suspension of registration.
- 3.2. As this is an interim decision, additional information will not normally be sought and the complainant and/or registrant complained against will not normally be asked to appear. However, if the Investigating Committee decides it needs further information or clarification or to interview the complainant and/or registrant complained against it will seek this within a timescale determined by the Committee.
- 3.3. If the Investigating Committee decides to impose an interim suspension, the FtP Administrator will inform the complainant and the registrant of this decision and the specified reason for the decision by recorded delivery post. BPC will publish the fact of the suspension on its website as soon as possible but no later than 5 days after the posting of this information to the complainant and the registrant.
- 3.4. If an interim suspension is imposed the BPC will inform the registrant's member organisation of the decision and the specified reason for the decision.
- 3.5. The registrant complained against will be asked to discuss with their member organisation the appropriate action to take in respect of their existing patients, including informing those patients of the interim suspension.
- 3.6. If an interim suspension is imposed the BPC will also inform other regulatory bodies of which the registrant is known to be a member and the registrant's employer (if the Investigating Committee deems it appropriate) of the decision and the specified reason for the decision.

- 3.7. The interim suspension will be reviewed by the Investigating Committee after 6 months in the event that the process of determining a complaint becomes prolonged. The registrant who has been suspended can also apply for a review if new information comes to light which may indicate that the interim suspension is no longer appropriate.
- 3.8. The request for a review of interim suspension must be put in writing to the FtP Administrator at the following address:
British Psychoanalytic Council
West Hill House
6 Swains Lane
London N6 6QS.
- 3.9. The Investigating Committee will meet to consider the request for a review within 42 days of receiving the request.

4. Dealing with a complaint – the second stage

- 4.1. The second stage of the complaints procedure is dealt with by a Professional Conduct Panel ("the Panel"). This is a panel of three members drawn from a pool of highly experienced and respected panellists – the Professional Conduct Panellists' Group ("the Group"). The Chair of the Group will appoint three members of the Group who will meet as the Panel to consider and determine a particular complaint at a hearing and will also appoint the Chair of that Panel. At least one of the three Panel members will be a lay member (not a psychotherapist).
- 4.2. If at any stage of its dealing with a complaint the Panel is of the view that the complaint is so serious that it may be necessary for the registrant's membership of the BPC to be suspended, on an interim basis, for the protection of the public or the protection of the registrant, it may decide to impose an interim suspension of registration. In this event, the provisions of 3.2 to 3.9 will apply (except that it will be the Professional Conduct Panel rather than the Investigating Committee taking the respective decisions under these provisions).
- 4.3. If the impartiality of a Panel member may be brought into question by virtue of their knowledge or connection with any person or organisation concerned in a complaint then they will withdraw from that Panel and the Chair of the Group will appoint another member.
- 4.4. At this stage, the normal procedure would be to convene the hearing without further written evidence being sought. However, where members of the Panel consider that further written information is required, then the FtP Administrator will notify the complainant and the registrant complained against of the information being requested. It will be sent by recorded delivery post and will be taken to have been received the day after posting. The recipients of the request will be asked to respond within 30 days of the day after posting of the request.

- 4.5. Following the seeking of further information, any such information received will be sent to the complainant and/or registrant complained against so both parties have an opportunity to consider it. It will be sent by recorded delivery post and will be taken to have been received the day after posting. A response to any additional information obtained may be submitted by either party within a period of 30 days from the day after the date of posting of the additional information to that party.
- 4.6. If the Panel concludes that it is appropriate for it to make a decision on the basis of the written evidence then the Panel will agree a date when it will meet and consider the evidence and make a decision in accordance with Section 5 below.
- 4.7. If the Panel decides that it is appropriate to make a decision on the written evidence, then the FtP Administrator will inform the complainant and registrant complained against of this decision and enclose a copy of the formal allegations by recorded delivery post. These will be taken to have been received the day after posting. The complainant will be asked to make a final submission within 21 days of the day after posting. When received this will be sent to the registrant complained against by recorded delivery post and will be taken to have been received the day after posting. The registrant will be asked to respond to the complainant's final submission within 21 days of the day after posting the submission. The respective submissions would be made in the knowledge that the complaint is being considered by a Panel who could impose a termination of the registrant's registration and that this will be the last opportunity for them to produce evidence which will be considered by the Panel.
- 4.8. If the Panel decides that it is not appropriate for it to make a decision on the written evidence a date for the hearing will be agreed. The FtP Administrator will inform the complainant and the registrant complained against of the date in a letter sent by recorded delivery post containing the formal allegations and all previously gathered information, at least 49 days before the hearing and will be taken to have been received the day after posting.
- 4.9. The parties must submit any additional information they wish the Panel to consider at the hearing and/or the names of any witnesses the party proposes to call, together with an indication of the nature of the witness's evidence, to the FtP Administrator by recorded delivery post at least 35 days before the hearing. This additional information and/or the names of proposed witnesses and the indication of the nature of the witness' evidence will be copied by the FtP Administrator and sent to the other party or parties by recorded delivery post at least 28 days before the hearing.
- 4.10. Any party may make a request to the FtP Administrator that the writer of any statement attend the hearing as a witness. The request must be received no later than 21 days before the hearing. If the author of a written statement who has been asked to attend does not attend the hearing, then the party seeking to rely upon the written statement can be asked by the Panel to explain why the written statement should be accepted into evidence.

- 4.11. All witnesses will be given at least 14 days notice of the hearing. If a witness is unable to attend either party has a right to apply to the Chair of the Panel, through the FtP Administrator, in advance of the hearing for the hearing to be postponed. The Chair has an absolute discretion to postpone the hearing in these circumstances. A new hearing date will then be agreed and the above procedure from 4.8 to 4.11 will apply to arrangements for the hearing.
- 4.12. Both the complainant and the registrant complained against may bring with them to the hearing someone to support and/or advise them. However, this person may not be a member of the legal profession. This is to ensure that the process is kept simple and not prohibitively expensive. The hearing does not affect any rights the parties may have to pursue matters through the courts.
- 4.13. If either the complainant, or the registrant complained against or any of the witnesses feel that they will be unable to present their account or evidence effectively in the presence of the other party, then they should notify the FtP Administrator of this fact. The complainant and the registrant complained against should do this at least 35 days before the hearing and witnesses at least 10 days before the hearing (see 4.19 and 4.21 for the arrangements that could be made).
- 4.14. If either the complainant or registrant notifies the FtP Administrator of a reason that they are unable to attend the hearing the Professional Conduct Panel may, in its absolute discretion, postpone the hearing.
- 4.15. The Panel or the Chair of the Panel may hold a preliminary meeting in private with the parties, their representatives and any other person they consider appropriate if such a meeting would, in their opinion, assist the Panel to perform its functions.
- 4.16. If either party fails to appear at the hearing the Panel, if satisfied that the party was duly notified as provided for in 4.8, may proceed to hear and determine the complaint in their absence.
- 4.17. The hearing will be held in private (for the reasons given in 1.9).
- 4.18. At the start of the hearing the Panel and the parties will be advised of the formal allegation. The complainant will then be asked to open and present their complaint and the evidence for it. This may involve the testimony of witnesses. The registrant complained against will then be asked to respond to the complaint by opening and presenting whatever evidence the registrant has. This may also involve the testimony of witnesses. Either the complainant or the registrant can, if they wish, choose to have the person supporting and/or advising them give a presentation on their behalf.

- 4.19. Where a complainant, registrant complained against or a witness has notified the FtP Administrator that they will be unable to present their account or evidence effectively in the presence of the other party (as in 4.13), the Panel may adopt any of a variety of measures to hear the presentations and evidence, including but not limited to:
- Use of video links
 - Use of pre-recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for questioning by the Panel
 - Use of interpreters (including signers and translators) or intermediaries
 - Use of screens, separate rooms or such other measures to prevent access to the complainant, registrant complained against, or witness by the other party.
- 4.20. The Panel may ask questions of the complainant, the registrant complained against or any of the witnesses.
- 4.21. Either party will have the opportunity to respond to any statement made by the other party or by any of the witnesses. Where special measures have been adopted under 4.19 then the Panel will also adopt measures in order that either party will have access to all statements made, including but not limited to:
- Use of video links
 - Use of written transcripts.
- 4.22. Following the opening presentations, the questioning of the witnesses and the Panel's questioning of any of the parties, then the complainant and the registrant complained against will be asked to make any closing remarks if they wish to do so. Either the complainant or the registrant can, if they wish, choose to have the person supporting and/or advising them give the closing remarks on their behalf.
- 4.23. At the end of the hearing the parties will be asked to leave. Normally, the Panel will seek to arrive at a finding on the same day following the above proceedings. However, the Panel will have the discretion to convene another meeting if it is unable to reach a finding on the same day. They will make reasonable endeavours to meet again at the earliest opportunity.
- 4.24. If the Panel considers that further information is needed or further witnesses need to be called then the Panel will have the right to adjourn and re-convene the hearing. In this event the provisions of 4.4 to 4.17 will apply in respect of the re-convened hearing. Provisions 4.18 to 4.33 will also apply subject to any modification that the Panel, in its absolute discretion, decides is appropriate in the particular circumstances.
- 4.25. With the agreement of the relevant party, the Panel may reduce the period of time provided to that party to comply with the above provisions.
- 4.26. At any time, the Panel may decide to adjourn its proceedings
- 4.27. At any stage in its proceedings, the Panel may deliberate in private, including out of the presence of the parties, any persons accompanying those parties and any witness(es).

- 4.28. The Panel may be provided with any evidence, in any form, provided it appears to the Panel to be relevant to the complaint it is considering.
- 4.29. The Panel may hear and determine complaints against two registrants, or more than one complaint against one registrant, at the same hearing. The Committee can take into account matters such as protection of the public, expedition and resource and convenience issues, for example in relation to the attendance of witnesses.
- 4.30. The Chair of the Panel may agree to an extension of time for any party to comply with any of the above provisions.
- 4.31. The Panel may amend the formal allegation at any time before making a final finding of the complaint provided that the parties are given an opportunity to make submissions on any proposed amendment and the proposed amendment, or the circumstances of it, is not determined by the Panel to cause unfairness to a party to the complaint.
- 4.32. Documentation produced by a party or a witness at the hearing and not disclosed in advance of the hearing to the other party or the parties, and/or to the Panel in accordance with the requirements of this complaints procedure may only be used with the agreement of the Panel.
- 4.33. Subject to the above provisions and principles of general fairness the Panel may decide its own procedures.
- 4.34. The discretion of the Panel to act in the manner detailed in 4.25 to 4.33 above is absolute.
- 4.35. Shorthand notes or a tape recording of the proceedings will be taken and a transcript made of the hearing. The transcript of the hearing can be made available for inspection to the complainant and/or the registrant complained against only, at BPC's offices in the presence of a BPC officer. If either party lives at a distance from BPC's offices, then arrangements will be made to make the transcript available at one of the offices of a BPC member organisation closer to where the party lives. Notes can be taken but only on specific terms that the transcript is a private document and that any of its contents are not to be publicised and that the individual may be subject to legal proceedings if any of the contents of the document are published in any way.
- 4.36. Decisions of the Professional Conduct Panel shall be taken by a simple majority. No member may abstain from voting.

5. Deciding on the complaint and sanction

- 5.1. The Professional Conduct Panel will apply the civil court standard of proof, the balance of probability, in its finding of a complaint.
- 5.2. The Panel will make its finding in respect of one or more of the factors set out in 1.7. If the complaint relates to alleged misconduct, then the finding will indicate the relevant section or sections of the Code of Ethics considered.
- 5.3. The Panel will specify reasons for its finding in relation to the complaint.
- 5.4. The Panel may conclude that the complaint is not substantiated, and no sanction is to be imposed.
- 5.5. The Panel may conclude that the complaint is substantiated, either in whole or in part. It shall then consider what sanction should be imposed on the registrant. It may meet in private, without the attendance of the parties or any other persons to do this.
- 5.6. The Panel may impose one or more of the following sanctions:
 - An admonishment without further conditions for a period of time determined by the Panel (not usually longer than 3 years)
 - An admonishment with specified conditions to be met within a specified time. This may include, for example, medical or psychiatric assessment, further supervision and/or personal psychoanalytic psychotherapy
 - Suspension of registration with BPC until certain specified conditions have been met
 - Suspension or removal of the registrant from membership of any committee, sub committee, working party, panel or other body of the BPC or of a BPC member organisation for a period of time determined by the Panel
 - The requirement for the registrant to stop training, supervising or any other activity carried out on behalf of the BPC or its member organisations, for a specified period or until such time as conditions specified by the Panel have been met
 - Termination of registration with the BPC and removal of the registrant's name from BPC's Register.
- 5.7. Prior to reaching a decision on sanction the Panel will be made aware of material issues, findings, decisions and sanctions imposed in relation to previous complaints considered by the BPC, its member organisations or other regulatory bodies.
- 5.8. The Panel will specify its reasons for the sanction.

5.9. The FtP Administrator will write to the complainant and the registrant complained against informing them of the finding and sanction, if any, and the specified reasons given by the Panel normally no later than five days after a full finding in relation to the complaint and sanction has been made. The letter will be sent by recorded delivery post and will be taken to have been received the day after posting.

6. The appeals process

6.1. An appeal may be made by either the complainant or the registrant complained against on one or more of the following grounds:

- that failure to follow the complaints procedure properly may have had a material effect on the finding and/or the sanction
- that a piece of evidence that was not reasonably available at the time of the hearing and which may have had a material effect on the finding on the complaint was not considered
- that the sanction is not proportionate to the finding of the Professional Conduct Panel and is unjust in all the circumstances.

6.2. An appeal must be made within 35 days of the posting of the letter confirming the finding of the Panel (as in 5.9).

6.3. The appeal must be put in writing to the FtP Administrator at the following address:

British Psychoanalytic Council
West Hill House
6 Swains Lane
London N6 6QS.

6.4. The letter must be signed by the person making the appeal. E-mail correspondence will not be accepted. The person making the appeal should provide:

- their full name and address
- the specific grounds for the appeal and the arguments for those grounds
- supporting information and/or documents that are relevant to the appeal.

6.5. Details of the appeal will be sent to the other party by recorded delivery post. It will be taken to have been received the day after posting. The response to the appeal must be sent to the FtP Administrator no later than 35 days after the posting of the details of the appeal.

- 6.6. The Chair of the Professional Conduct Panellists' Group will appoint and convene an Appeal Panel consisting of three members of the Panellists' group. and appoint one of the three the Chair of the Appeal Panel. If the impartiality of a member may be brought into question by virtue of their knowledge or connection with any person or organisation concerned in a complaint then they will withdraw from considering the appeal, and the Chair of the Group will appoint another member. Members selected for the Appeal Panel will not be members of the Investigating Committee and will not have been members of the Professional Conduct Panel which considered the complaint. At least one of the three members will be a lay member (not a psychotherapist).
- 6.7. The Appeal Panel will meet within 42 days of receipt of the appeal. The FtP Administrator will send a copy of the following to the Appeal Panel:
- the appeal documentation
 - the response to the appeal by the other party
 - a copy of the finding, the specified reason for the finding, the sanction and the specified reason for the sanction.
- 6.8. Appeal Panel members will be able to request copies of any or all of the documents considered by the hearing.
- 6.9. The Appeal Panel will decide whether or not it accepts the grounds for appeal. The decision will be made in almost all cases with reference to any or all of the documents referred to in 6.7 and 6.8. Exceptionally, the Appeal Panel may, at its discretion, decide to invite both the complainant and the registrant complained against to attend in person to present the grounds for appeal and to invite the other party to respond. In this case, the copy of the appeal documentation will be sent to the other party by recorded delivery post and both parties asked to attend a hearing. These steps will be taken by the FtP Administrator at least 30 days prior to the date of the hearing.
- 6.10. If either the complainant, or the registrant complained against or any of the witnesses feel that they will be unable to give their presentation effectively in the presence of the other party, then they should notify the FtP Administrator of this fact at least 15 days before the hearing.
- 6.11. In the event of a hearing, both the complainant and the registrant complained against may bring with them to the hearing someone to support and/or advise them. However, this person may not be a member of the legal profession.
- 6.12. If either the complainant or registrant notifies the FtP Administrator of a reason that they are unable to attend the hearing the Appeal Panel may, in its absolute discretion, postpone the hearing.
- 6.13. If either party fails to appear at the hearing of the Appeal Panel, if satisfied that the party was duly notified as provided for in 6.9, may proceed to determine the appeal in their absence.
- 6.14. The hearing will be held in private.

- 6.15. At the hearing, the party making the appeal will be asked to open and present their complaint and the grounds for it. The other party will then be asked to respond to the appeal.
- 6.16. Where either party has notified the FtP Administrator that they will be unable to give their presentation effectively in the presence of the other party (as in 6.10), the Appeal Panel may adopt any of a variety of measures to hear the presentations and evidence, including but not limited to:
- Use of video links
 - Use of interpreters (including signers and translators) or intermediaries
 - Use of screens, separate rooms or such other measures to prevent access to the complainant or registrant complained against.
- 6.17. Where special measures have been adopted under 6.16 then the Appeal Panel will also adopt measures in order that either party will have access to all statements made, including but not limited to:
- Use of video links
 - Use of written transcripts.
- 6.18. At the end of the hearing the parties will be asked to leave. Normally, the Appeal Panel will seek to arrive at a decision on the same day following the above proceedings. However, the Appeal Panel will have the discretion to convene another meeting if it is unable to reach a finding on the same day. They will make reasonable endeavours to meet again at the earliest opportunity.
- 6.19. At any time, the Appeal Panel may decide to adjourn its proceedings
- 6.20. The Appeal Panel may be provided with any evidence, in any form, provided it appears to the Panel to be relevant to the complaint it is considering.
- 6.21. Subject to the above provisions and principles of general fairness the Appeal Panel may decide its own procedures.
- 6.22. The discretion of the Appeal Panel to act in the manner detailed in 6.19 to 6.21 above is absolute.
- 6.23. If the Appeal Panel decides there are no grounds for appeal, then the FtP Secretary will write to the complainant and the registrant complained against informing them of the decision, which is final. The letter will be sent by recorded delivery post and be taken to be received the day after posting.

- 6.24. If the Appeal Panel decides that a ground or grounds of appeal have been made out to its satisfaction, then the Panel, depending on the nature of the successful ground(s), will:
- Either, request the Chair of the original Professional Conduct Panel to reconvene the Panel to reconsider the finding of the complaint and/or sanction.
 - Or, request the Chair of the Professional Conduct Panellists' Group to appoint a new Professional Conduct Panel ("the new Panel") to review or reconsider the complaint. None of the members of the new Panel may have been involved in any previous consideration of the same complaint.
- 6.25. Decisions of the Appeal Panel shall be taken by a simple majority. No member may abstain from voting.
- 6.26. The new Panel which reviews or reconsiders the complaint has complete discretion:
- Whether to review only those aspects of the evidence or procedure which it considers were unsatisfactorily dealt with, or to re-examine and re-consider the complaint more widely, or reconsider the complaint in its entirety.
 - Whether to proceed on the basis of written material only or to organise another hearing. In the event that the Panel decide to organise another hearing then the provisions of 4.4 to 4.15 regarding preparation for the hearing will apply.
- 6.27. If the appeal has been granted on the ground that a piece of evidence that was not reasonably available at the time of the hearing and which may have had a material effect on the finding on the complaint was not considered, at the hearing the complainant or registrant (as appropriate) will be given an opportunity to present the additional piece of evidence and make submissions regarding the effect of the new evidence on the consideration of the complaint. This may involve the testimony of witnesses. The other party will be given an opportunity to respond to the additional piece of evidence, by making submissions regarding the effect of it on the consideration of the complaint and presenting evidence in relation to it. This may also involve the testimony of witnesses. The registrant will always be given the opportunity to make the final submission at the hearing.
- 6.28. The provisions of 4.16 to 4.36, 5.1 to 5.3, 5.7 and 5.8, modified as deemed appropriate by the Panel, will apply at any review, reconsideration or re-hearing of a complaint by a new Panel following a ground of appeal being made out to the satisfaction of the Appeal Panel.
- 6.29. The new Panel will decide one of four things, and this decision will be final:
- To uphold the original finding and the original sanction, if any.
 - To uphold the original finding but to substitute a new sanction.
 - To amend the original finding and impose such sanction as the Committee determines is appropriate.
 - To reverse the original finding and rescind or revise the original sanction.

- 6.30. The FtP Administrator will write to the complainant and the registrant complained against informing them of any change in the original finding and/or sanction imposed. The letter will be sent by recorded delivery post.
- 6.31. The BPC will inform the registrant's member organisation of any change in the original finding and/or sanction imposed.
- 6.32. BPC will also inform other regulatory bodies and employers that it considers relevant of the any change in the new original finding and/or sanction imposed.

7. Publication of the finding and sanction

- 7.1. In the event of a finding against a registrant, the FtP Administrator will inform the Chair of the registrant's member organisation in confidence of the finding of the Professional Conduct Panel, the specified reason for the finding (e.g. which section of BPC's Code of Ethics has been breached), the sanction and the specified reason for the sanction immediately after the finding has been made.
- 7.2. In the event of a finding against a registrant, BPC will publish the finding, the specified reason for the finding, the sanction and the specified reason for the sanction on its website (or in other publications as it sees fit) at one of the following points in the procedure:
- Immediately following 35 days of the posting of the letter confirming the finding of the Professional Conduct Panel (see 5.9 and 6.2) if no appeal has been received
 - Immediately following a decision by an Appeal Panel that there are no grounds for appeal (as in 6.23) where an appeal has been made under the provisions 6.1 to 6.4
 - Normally 3 days after the posting of the letter informing the complainant and the registrant complained against of the final decision of the new Professional Conduct Panel (see 6.29 and 6.30) where an appeal has been granted but where the new Panel upholds the finding (amended or otherwise) against the registrant and either upholds the original sanction, or revises the original sanction or imposes a new sanction.
- 7.3. However, the Professional Conduct Panel will also need to take a view on the balance between the interests of public protection (including those of the patients still under the care of the registrant), and those of protecting the registrant's reputation prior to appeal. Where, in the view of the Professional Conduct Panel, there is an issue of public protection, the Panel has absolute discretion to authorise publication of the finding, the specified reason for the finding, the sanction and the specified reason for the sanction on its website (or in other publications as it sees fit) 3 days after the posting of the letter informing the complainant and the registrant complained against of the decision of the Professional Conduct Panel (as in 5.9). Where there is any doubt, the protection of the public will take precedence over protecting the registrant's reputation prior to appeal.

- 7.4. BPC will inform the registrant's member organisation of the finding, the specified reason for the finding, the sanction and the specified reason for the sanction.
- 7.5. The registrant complained against will be asked to discuss with their member organisation the appropriate action to take in respect of their existing patients, including informing those patients of the finding and the sanction.
- 7.6. BPC will also inform other regulatory bodies and employers that it considers relevant of the finding, the specific reason for the finding and the sanction.

8. Review of sanctions

- 8.1. Where certain sanctions require a review, for example where specified conditions need to be met by the registrant, then this will normally be undertaken by the Investigating Committee.
- 8.2. Where specified conditions need to have been met, the registrant will submit a written report to the FtP Administrator at the following address:
British Psychoanalytic Council
West Hill House
6 Swains Lane
London N6 6QS.
- 8.3. The Investigating Committee will consider the report as soon as possible but normally no later than 42 days after receiving the report.
- 8.4. If the Investigating Committee considers that more detailed scrutiny is required the Chair of the Committee may convene a meeting of either the Professional Conduct Panel that originally imposed the sanction or a new Professional Conduct Panel.
- 8.5. The Committee or the Panel will decide whether it needs further written information, and/or to interview the registrant, and/or other witnesses to make its decision.
- 8.6. Following the decision of the Committee or the Panel, the FtP Administrator will write to the registrant informing them of the decision. BPC will also revise accordingly the information published on the website about the finding and sanction.

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Annex I

Appointment of relevant committees and panels

1. Ethics Committee

1.1. BPC's Council will appoint the members of an Ethics Committee. The function of the Ethics Committee will be to oversee and evaluate the effectiveness of the Code of Ethics, the Complaints Procedure and all aspects of BPC's fitness to practice policies.

2. Investigating Committee

2.1. BPC's Council will appoint the members of the Investigating Committee who will serve for a period of three years. After this period, the individual member would stand down or be re-appointed by Council for a further period of three years. No member can serve for a period of longer than six years, except under the provisions of 2.2.

2.2. BPC's Council will appoint a Chair of the Investigating Committee and a Deputy Chair to act in the event of the Chair's non-availability. The Chair and Deputy Chair will each serve for a period of 3 years. Periods as a member of the Investigating Committee will not be included in the term of office as Chair or Deputy Chair. Periods as Deputy Chair will not be included in the term of office as Chair.

3. The Professional Conduct Panellists' Group

3.1. BPC's Council will appoint the members of the Professional Conduct Panellists' Group who will provide the members of Professional Conduct Panels. The Group will consist of between 12 – 20 members, one third of which will be lay members.

3.2. Members of the Professional Conduct Panellists' Group will serve for a period of three years. After this period, the individual would stand down or be re-appointed by Council for a further period of three years. No member can serve for a period of longer than six years, except under the provisions of 3.3.

3.3. BPC's Council will appoint a Chair of the Group and a Deputy Chair to act in the event of the Chair's non-availability. The Chair and Deputy Chair will each serve for a period of 3 years. Periods as a member of the Group will not be included in the term of office as Chair or Deputy Chair. Periods as Deputy Chair will not be included in the term of office as Chair.

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