

NCPS Complaints Process (Member version)

Introduction

As a Society member, you've joined us on the condition that you will abide by our Code of Ethics and cooperate with our complaints process should any complaint arise about your conduct or practice.

Our role, once a complaint is received, is to act fairly and impartially on the basis of the evidence. As you'll see below, we carefully consider all incoming complaints and screen them to see if they are within our remit, and merit investigation. Our purpose in hearing complaints is one of public assurance. This means we want the public to be confident that our members are safe, competent and ethical to practice, and so they can use our Register with confidence.

We focus on complaints regarding your client work because we believe that is our primary role as the holder of an Accredited Register. This means that we are unlikely to investigate a complaint that has no client impact, unless it falls under something called 'bringing the profession into disrepute'. What we mean by this is the sort of behaviour which would lead a reasonable member of the public to lose confidence in the counselling profession.

We also safeguard our members' freedom of speech so that we don't take forward complaints which are about, for example, online arguments – unless a high threshold is reached.

It's important to understand that a member's freedom of speech does not extend to language which is directly discriminatory, or which could violate the Code of Ethics in other ways. A member could exercise their rights to free speech but nonetheless speak unethically or in a manner not appropriate for a professional therapist and which brings the profession into disrepute.

We have decades of experience in looking at member complaints and we endeavour to treat you fairly and transparently.

We've also implemented a system of 'consensual disposal'. What this means is that, in most cases, if a complaint is made against you, you won't have to go to a formal Panel hearing with all the time and stress that entails. Instead, if our Assessment Panel believes that our Code of Ethics has been breached, you are



likely to receive the opportunity to admit the breach and accept the sanctions the Assessment Panel offers. It's still your right to decline the Panel offer and have a formal hearing.

Our complaints are handled by one of our Professional Conduct Managers (PCM).

The steps we take before contacting you.

Normally you will first become aware of a complaint after we've already undertaken several steps with the complainant, and only after following those steps are we then ready to send you the complaint and ask for your response. When sending a complaint to you and asking for your response, you'll also be sent a copy of the Complaints Process followed with the complainant, so you'll be able to understand the steps which the PCM may have gone through prior to contacting you. Generally, they will have followed the two steps below before you're contacted:

Step 1- Exploration

Step 2- Screening

Step 1 is where the PCM explores the complaint and determines whether you're a member (or, in some cases, a past member). They'll determine a timeframe for the issues complained about and record some basic complaint details. They'll also ask the complainant how they want to proceed. At this step, some complaints may be declined by the PCM. For example, the complaint could be too old for there to be a reasonable prospect of gathering evidence.

Step 2 is where the PCM conducts a thorough screening of the complaint. This will involve evidence gathering, and some serious questions such as whether a criminal offence has been committed. The PCM will decide whether another process should be followed first. For example, if the complaint is about your work as an employee, the PCM may decide that your employer should first hear the complaint.

Step 2 is also about determining whether the complaint is within our scope and remit. If it's not about client work, tests must be met before we accept it. We can also exclude certain categories of complaint such as disputes about client refunds.

Screening and your social media posts.

The Society recognises that social media is a valuable tool for discussion and debate, and that disagreements on social media about a range of issues are

common. It is also recognised that said disagreements can become contentious and problematic.

The Society's Code of Ethics protects your rights to free speech, while recognising that nonetheless our members should be responsible in the exercise of those rights. The Society's complaints process should not be used as a way of settling or being used for online disputes, and we do not have the resources to do so. That said, we will of course examine our members' social media posts where these are brought to our attention according to the discretionary process below:

Where the Society receives a complaint about a member's social media posts, we will on a case-by-case basis and at our sole discretion:

- Verify that the posts were made by a member of the Society and establish a timeframe.
- Determine whether the member was exercising their reasonable rights to free speech.
- Determine whether the complainant has taken any action to remove the posts. For example, by contacting the social media platform or, if appropriate, the relevant authorities including the police, and take into account whether they have done so.
- Share the posts with you and invite you to discuss the matter with us, including helping us establish the context of the posts.
- Establish whether the posts were made as part of your private life or whether they were made in your professional capacity.
- Establish whether you wish to remove the posts or mitigate your actions in any way, if relevant.
- Issue an informal Letter of Advice to you, if relevant.
- Make a decision as to whether the complaint should proceed to Step 3 E based upon an assessment of whether (a) there has been a potential substantive breach of the Code of Ethics likely to bring the profession into disrepute and (b) this is supported evidentially by verifiable actions taken by both relevant social media platforms and relevant statutory authorities against you.

Informal Resolution and Suspension

Two important issues for members regarding Step 2 are:

- Informal Resolution and
- Suspension

Informal Resolution is where a complainant is happy to resolve their complaint without going through a full process. The PCM will ask them what they'd like to achieve, and you'll be asked whether you agree. If you do, the complaint is resolved. If you don't agree, you can make a one-time only counterproposal which the complainant can either accept or reject. If they accept it, the complaint is resolved, but if not, then the informal resolution stops.

An example of this may be where a complainant feels let down because you cancelled appointments at short notice. They just want a full refund, you offer them half, and they accept. The Society doesn't need to get further involved at this point. Sometimes, even if a client wants informal resolution, the PCM may decide that it's not appropriate. An example of this could be where a counsellor was inappropriate with a client. The client just wants an apology, but the PCM feels that the Code of Ethics was breached and so Informal Resolution wouldn't be the right route.

If your complaint is suitable for Informal Resolution, the PCM will tell you when informing you of the complaint.

Suspension could happen where a PCM receives evidence that there could have been a serious breach of the Code of Ethics and/or there is a risk of public harm. If you're suspended, the PCM will inform you of this. Being suspended does not mean that you have been found guilty of anything. It is a precautionary measure to protect the public and the Society's Register whilst an investigation is taking place.

The Society has no powers or right to stop you practising. However, if you are suspended and carry on in practice regardless, this can affect your membership as we could consider this to be unethical practice.

Suspension due to continued communication with or about the complainant or about the complaint

It's important to respect the complaints process by refraining from communicating with the complainant (whether privately or in an online space) and refraining from public comment about the process while it is ongoing. You could be suspended for this.

Step 3 is where we contact you and will be the first you hear about the complaint from the Society. Let's explore how this will work:

Step 3: Contacting You

- A.** A PCM will contact you and disclose details of the complaint. You'll be required to provide us with a written response, even if the complaint is appropriate for Informal Resolution. This is because if the informal resolution isn't successful, your response will be included in further steps of the process. You will normally be asked to respond within 21 days. You should inform your professional insurer when you receive our complaints communication and should consider whether it is appropriate to take legal advice.
- B.** The PCM will normally ask for evidence that your practice is compliant with the Society's Terms & Conditions, by asking for proof of insurance, supervision and an updated CPD log. Your practice may be fully audited as part of this process.
- C.** You'll be asked if you wish to attempt an informal resolution, if the complainant has already agreed to this, and the PCM determines that informal resolution may be appropriate.
- D.** If neither party agrees to an informal resolution, or if one is not appropriate, then the complaint will proceed to step 3 E below.

Step 3 D: Informal Resolution

You will be sent the complaint and request for informal resolution and must respond in writing.

You may accept the offer of informal resolution, in which case the process will come to an end and your case will be finalised.

Alternatively, you may make a once and once only counterproposal to the offer of informal resolution. If the complainant accepts this, the process comes to an end. If they do not, then informal resolution has not succeeded, and your complaint will proceed.

Neither party can revisit informal resolution if ended by the Society.

Informal resolution decisions are not subject to review and the Society's decision is final.

A record of informal resolution will remain on your member file for up to one year, but this will not be accessible to the public.

Refunds

The Society can make no determination as to whether a refund is appropriate or suggest an appropriate level of refund. We advise complainants seeking a refund that they must exercise their consumer rights independently of the Society.

E. Pre-Panel Review:

At this stage, in the absence of informal resolution, the PCM will review the information they've received from you and the complainant to determine whether all, or part of the complaint can proceed to an Assessment Panel. They will now have both your response and the original complaint to take into consideration. The PCM will decide whether the evidence demonstrates that there may have been potential breaches of the Code of Ethics such that a Panel should consider the case.

The PCM may examine issues such as, but not limited to:

- Whether the complaint reflects an experience of counselling / psychotherapy which did not satisfy the client but was not ethically or professionally unsound. For example, because the practitioner was not 'the right fit' for the client or because there was a rupture in the therapeutic process which would not be reasonable to expect the member to be able to resolve.
- Whether all or parts of the complaint are relevant matters for the Panel.
- Whether all or parts of the complaint could clearly indicate a breach of the Code of Ethics if upheld.
- Any other relevant issues which could affect the reliability or suitability of the case proceeding to an Assessment Panel.
- Whether there was a minor and technical breach of the Code best handled by a Letter of Advice rather than a Panel hearing.
- Whether previous sanctions or a previous Letter of Advice are still on your file.
- Whether you were exercising, or attempting to exercise, your right to end the therapeutic relationship and did so to the best of your abilities given the context (for example, when the client did not want to end the relationship).

Letter of Advice

For minor potential breaches of the Code of Ethics, the PCM may write to you advising you on how to improve your practice. This is known as a Letter of Advice. If you have already received a Letter of Advice about a similar issue, then the PCM will refer the matter to an Assessment Panel.

If you accept the Letter of Advice, the letter will be kept on record for three years and can be taken into account if further similar complaints are submitted. The case will then be closed. Letters of Advice are not available to the public.

If you choose not to accept a Letter of Advice, then your case will be sent to an Assessment Panel.

Reviewing Step 3

No reviews are possible for Step 3 by the complainant or member. This is because any reviewable actions by the Professional Conduct Manager will have already triggered an internal review as part of the process. For example, if the PCM issues a Letter of Advice your case will already have been reviewed by a manager to ensure that this is a fair and proportionate course of action.

Step 4: Assessment Panel

What is an Assessment Panel?

The Society's Assessment Panel usually consists of three people. They weren't previously aware of your complaint, and they have no connection with you or the complainant.

The Chair of the Panel is normally a very experienced counsellor or psychotherapist, and there will usually be at least one 'lay member' of the Panel – someone who isn't a practising professional therapist and so who can bring a different perspective.

It's the role of the Panel to examine what both you and the complainant have said about the case, and to examine any evidence either of you has submitted. They can then make a decision as to whether they believe that you have breached our Code of Ethics, and if so, offer a solution.

The Assessment Panel process allows us to address concerns and complaints as quickly as possible, minimising the impact on both you and the complainant.

The Panel assesses the evidence 'on the balance of probabilities' and makes a decision. Neither you nor the complainant attend an Assessment Panel hearing which is usually conducted online between the Panel members.

Unlike a more formal Independent Complaints Panel hearing, there is no 'cross examination' of each other's evidence or live hearing where either side could, for example, bring legal representation. In using an Assessment Panel system, the Society hopes to be able to bring many complaints to a successful conclusion more quickly and so prevent prolonged stress for both parties.

The way this works is as follows:

A. The Professional Conduct Manager may wish to conduct an audit of your practice.

As part of the way in which the Society maintains our Accredited Register, from time to time we conduct random audits to confirm that a member is meeting our standards. Auditing is a way of assuring ourselves that our members are abiding by their Terms & Conditions of membership.

When a complaint goes before an Assessment Panel, the Professional Conduct Manager may audit your practice to check whether you are meeting our terms of registration or membership. This can provide valuable insight for the Panel and can go beyond the simple request for proof of insurance, CPD and supervision arrangements.

There is a threshold test for whether the Professional Conduct Manager will audit you. The test is whether an audit would assist a Panel in understanding any public assurance risk in your practice, given the nature of your complaint.

For example, if your complaint states that you didn't seem to understand the complainant's particular issues during therapy, an audit may help us decide whether you were properly trained and supervised to deal with your client's particular concerns, or whether you should have referred your client to another therapist. If the PCM does conduct an audit, this may delay the Assessment Panel process while we wait for your response.

B. The Professional Conduct Manager will send the complaint and your response to the Panel, together with any supporting evidence.

The Panel will then consider both sides very carefully. The complainant won't see your response to their complaint. This is because, if they wished to reply to that response, you may wish to reply further and so the complaint could last an unreasonable amount of time with each party wanting to respond to the last thing

which was written by the other side. (Should your complaint progress to a full formal hearing, both sides will have further opportunities to respond.)

Where you have previously received sanctions or a Letter of Advice, the PCM shall disclose this to the Panel immediately after their decision as to breaches of the Code, but this information shall not be available to the Panel before this decision.

C. The Panel may ask for further information or clarification or may seek an expert opinion.

After reading your case file, the Panel may decide to ask either you, the complainant or both, for more information before they can reach a decision. In addition, they may delay proceedings while asking for an expert report – for example, on whether you had the expertise to treat your client's condition.

D. The Panel will then make its decision, which can be one of the following outcomes:

i. Letter of Advice

The Panel may decide that there were potential breaches of the Code of Ethics or concerns about your practice, but these were of a minor nature and, as such, it would be appropriate to offer a Letter of Advice rather than sanctioning you. In such circumstances, you must accept the advice and that, if relevant, you breached the Code of Ethics. The Letter of Advice will not be published or shared but will remain on your file for up to two years.

ii. Complaint Upheld: Consensual Disposal

The Assessment Panel often seeks to reach a decision by using something called Consensual Disposal. This is where a Panel finds that you did breach our Code of Ethics, sets out what these breaches are, and applies sanctions.

Sanctions are consequences for breaching our Code of Ethics and can range from removal or suspension from our Register to things like being instructed to do some retraining or undertake more supervision. The Panel asks you to admit that you breached the Code, and accept the sanctions offered. (A full explanation of sanctions can be found in our Indicative Sanctions Policy.)

The highest sanction an Assessment Panel can offer under Consensual Disposal is 'Voluntary Removal'. This is where the Panel offers you the chance to admit your

breach of the Code of Ethics and be removed from membership of the Society. Voluntary Removal is reserved for the most serious breaches of the Code of Ethics. Consensual Disposal is not like a 'plea bargain' where, if you admit to something, you get a 'lesser sentence'. The job of the Assessment Panel is to ask the question, 'what would the outcome be if this went to a full ICP (Independent Complaint Panel) hearing and the ICP Panel found that you had breached the Code of Ethics in this way?' They then offer what they believe to be the same outcome, but without the necessity of a full formal process.

You cannot ask the Assessment Panel to only accept part of their offer of Consensual Disposal or amend it. You can only accept the offer in full if you wish to accept it.

You may reject the Panel's offer of Consensual Disposal, in which case your case will be referred to full Independent Complaints Panel (ICP) hearing. A Panel may uphold all, or only part, of your complaint in making an offer of Consensual Disposal.

iii. Complaint Not Upheld

The Assessment Panel may decide, having looked at both sides, that the complaint should be declined. This is because they believe that you did not breach the Code of Ethics. They will give their reasons for this. A Panel may not uphold all, or just part, of your complaint.

iv. Membership Terms Breached

The Panel may find that you were not meeting the terms of membership (for example, not being adequately supervised) and may impose appropriate sanctions. This can happen whether all or part of your complaint is upheld.

v. Referral to a Full Independent Complaints Panel Hearing

Disclosure at Step 4

After the Assessment Panel has concluded their findings and you the full documentation unless the complaint progresses further.

The Assessment Panel may decide that they cannot reach a firm decision over your case, or that your case for other reasons requires a full ICP hearing, at their sole discretion.

Reviewing Step 4

If the Assessment Panel writes a Letter of Advice or offer of Consensual Disposal which you accept; or finds that terms of membership have been breached and you accept this; or refers the matter to a full Independent Complaints Panel hearing; there is no right to request a review of their decision which shall be final. If the Assessment Panel rejects the complaint entirely, the complainant may request a review of this decision by a Case Review Manager, whose decision shall be final. If the Case Review Manager disagrees with the Assessment Panel decision, then a fresh Assessment Panel hearing will be convened to reassess your complaint. Its decision shall be final and not subject to further review. The complainant must request a review within seven days of their receipt of notification of the Assessment Panel's decision, and you will be informed if there is a review.

Concluding Step 4

In the absence of a review, Step 4 will conclude with either the complaints process ending, or referral to an Independent Complaints Panel.

If, after accepting an offer of Consensual Disposal, you do not complete the agreed sanctions, you will be in breach of our Terms & Conditions of membership, and your membership will be terminated.

Step 5: The Independent Complaints Panel

What is the ICP?

The Independent Complaints Panel (ICP) exists to hear complaints via a formal process, in cases where informal resolution or consensual disposal have not been successful – for example if you appeal the findings of the Assessment Panel.

Full details of how the ICP works will be sent to you if your case progresses to an ICP. This is a headline summary of what to expect.

The Panel normally consists of a 'Lay Chair' – i.e. someone who is not a counsellor or psychotherapist, but who usually has other expertise, for example, a legal background – and two other Panel members, usually experienced therapists. The Panel cannot have any previous connection with your case.

The Panel can hold different types of hearing, as follows:

- A Professional Practice Review (PPR). This is a hearing that you don't attend and is held where there is no prospect of you being suspended or removed from membership.

- A Professional Conduct Hearing (PCH). This is a formal, in-person hearing where you are entitled to attend and give evidence. It's held where your case could lead to you being suspended or removed from membership.
- A Member Welfare Hearing (MWH). This is a hearing where there are concerns about your ability to practice because of your mental or physical health. You don't attend this kind of hearing.

In an ICP, the Society presents the case regarding your conduct and the complainant's role is as a witness.

Disclosure at Step 5

If your complaint proceeds to an ICP, your submission to the Society will be disclosed to the complainant in full and they will be invited to respond. You have the right to see any updated submission from the complainant and to respond further to it.

An exception to this may be during a Member Welfare Hearing, where you have become unwell and it would be inappropriate to discuss your medical situation with a complainant.

The ICP proceeds in the following way:

A. The Professional Conduct Manager will review and prepare the evidence. As part of this step, your response to the complaint will be disclosed to the complainant alongside any other evidence you have provided. The complainant may respond to your evidence and their response may be disclosed to you.

The Professional Conduct Manager will then create a case file for the ICP. The Manager will apply some rules of evidence; for example, they may withhold evidence from the Panel which breaches third party confidentiality, or which is repetitive. This work will also involve laying out which sections of the Code of Ethics may have been breached.

B. The Professional Conduct Manager will advise you what kind of hearing the ICP will hold. Only if this is to be a Professional Conduct Hearing where you risk suspension or removal from the Register, will you be asked to attend.

C. The ICP reviews the case file. This is usually done initially by the ICP Chair, who will check everything before discussing the case with the wider Panel. They may ask either you, the complainant, or both, for additional information, or ask either party to clarify anything you have submitted. The

Chair will then inform the Professional Conduct Manager they are ready for the hearing.

D. The ICP holds its hearing. Full guidance as to what to expect can be found [here](#).

E. The ICP will make its decision, which can be one of the following outcomes:

i. Complaint Upheld. The Panel finds that you have breached the Code of Ethics for either part of, or the whole of the complaint. If the complaint is upheld, the Panel will impose sanctions on you which could range from removal from the Register to 'action points' such as making different supervision arrangements. Where an Assessment Panel has previously made a ruling, the ICP may decide to uphold that decision, in which case the original offer of Consensual Disposal will become mandatory sanctions. (For a full explanation of sanctions, please refer to our Indicative Sanctions Policy.)

ii. Complaint Not Upheld. The Panel may not uphold all, or just part, of the complaint, in which case, no further action will be taken against you in regard to aspects of the complaint which are not upheld.

iii. Membership Terms Breached the Panel may find that you were not meeting the terms of membership (for example, not being adequately supervised) and may impose appropriate sanctions. This can happen whether all or part of the complaint is upheld.

Appealing Step 5

Both the Society and you can appeal the ICP decision.

You must inform the PCM within 7 days if you wish to appeal, and the Society must inform you within 7 days if it is intending to appeal.

Once you've notified the PCM of your wish to appeal, you should submit your appeal within 21 days of the date you received the ICP Panel findings. The Society must do the same.

The Society has the right to appeal the ICP's decision and will take the complainant's views into account when deciding whether to exercise its right to appeal.

The Professional Conduct Manager will ask for the complainant's views as to the outcome of the hearing after it has taken place. The complainant may be asked for these views in writing.

The Society can appeal on the following grounds:

1. Sanctions Insufficient

The Society can appeal the sanctions that have been offered to the member, if it feels they are inappropriate or insufficient. For example, the Panel may have offered the member the opportunity to do some retraining as a sanction, but the Society believes that the member should be removed from the Register and has taken into account the complainant's views on the matter.

2. Complaint Not Upheld

The Society can appeal any part of your complaint which the ICP didn't uphold. For example, the Panel found that the member didn't do anything wrong, but the Society disagrees.

3. Terms & Conditions of Membership

The Society can appeal the Panel's decision where the Panel rules that Terms & Conditions of membership have not been breached, but the Society believes that they have.

You may appeal the ICP decision on the following grounds:

1. Sanctions are too harsh

You can appeal all of part of the sanctions imposed by the ICP if you feel the sanctions are disproportionate, harsh or unreasonable. For example, the Panel may have decided to remove you from the Society's Register, but you believe that you should have been offered a lesser sanction such as retraining.

2. Complaint Upheld

You may appeal any part of your complaint which the ICP upheld. For example, the Panel found that you breached the Code of Ethics, but you believe that this is not the case.

3. Terms & Conditions of Membership

If you believe you did not breach the Terms & Conditions of membership, but the Panel rules that you did, you may appeal this decision.

If there is no appeal

If neither side appeals, your case comes to a conclusion at Step 5. Any appeals are heard under Step 6. If you do not complete sanctions imposed by the ICP, and you have not exercised your right of appeal of said sanctions, you will be removed from membership.

Step 6: Appeals

If the Society or you appeal the ICP decision, your case will be heard at an appeal. If you or the Society wish to appeal a Professional Practice Hearing (where the case does not concern potential suspension or removal of membership) then the appeal shall be heard by an **Appeals Officer**. This is an appointed professional who has no previous connection with the case.

If you or the Society wish to appeal a Professional Conduct Hearing (where the case does concern potential suspension or removal) then the appeal shall be heard by an Appeals Panel. The Panel is composed of an independent Chair and two suitable professionals with no previous connection with the case.

Disclosure at Step 6

You will be informed if an appeal is taking place but will not otherwise be involved directly other than in the submission of your appeal documents. You will be informed of the outcome of the appeal once it is concluded.

The Society can only appeal an ICP decision where it believes it was too lenient, and you can only appeal the decision where you believe it was too harsh.

You will not normally be involved in this part of the process, unless the Appeals Officer or Appeals Panel feels that hearing from you further is important.

How to Appeal

A. An Intention to Appeal notice must be lodged within 7 days of receiving the Panel's decision by either, or both, sides.

B. The appeal should be received by the Appeals Panel within 21 days of the ICP's decision. The Society will set out why it believes the sanctions imposed by the ICP were too lenient, or it believes your complaint should have been upheld if it wasn't. The member will set out why they believe the sanctions were too harsh, or why they believe the complaint should not have been upheld. The Society or member can include further evidence if relevant, but if this should have been submitted earlier, it may not be taken into account by the Appeals Panel.

C. The Society's appeals submission will be shared with you, and you may respond, and/or your submission may be shared with the Society which may respond. Each side will normally be given 14 days to do this.

D. An Appeals Officer or Appeals Panel will examine the appeal. They will carefully consider the decision of the ICP and try to reach a decision within 28 days. They may ask either party or the PCM for additional information if required and may also commission an independent expert report if necessary. The Panel will reach a paper decision and there is no need for a further hearing.

E. The Appeals Panel will make a decision. The following outcomes are possible:

i. Appeal upheld. Amended Outcome and/or amended Sanctions The Appeals Panel may uphold all or part of the appeal. For example, they may decide that the sanctions imposed by the ICP were too lenient or too harsh; or that the ICP did not make a correct decision when upholding (or declining) the complaint. It will then make a new, final ruling with a new outcome and new sanctions, if appropriate.

ii. Appeal not upheld. The Appeals Panel may decide to not uphold all or part of an appeal. For example, they may decide that the ICP imposed the correct sanctions, or that that the ICP was correct when they did not find there was a breach of the Code of Ethics.

What happens after an Appeals Panel or Appeals Officer Decision?

The decision of the Appeals Panel or Officer is final and binding on both the Society and the member, and this concludes the complaints process for all parties. You will be informed of the Appeal Panel's decision.

In cases where you do not complete sanctions required by the Appeals Panel or Officer, you will be removed from membership.