



# AP COMPLAINTS AND DISCIPLINARY PROCEDURES

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## 1 INTRODUCTION

1.1 AP takes complaints made about its Practitioner Members seriously as a way of protecting the public and maintaining high standards across the addiction field.

1.2 A complaint must relate to an alleged breach of a specific clause or clauses of the relevant Standards of Conduct and Ethics by a Practitioner Member/ Advanced Practitioner Member or concerns over a member's conduct which is not related to a service, for example if the practitioner has been convicted of a crime or behaves inappropriately. These procedures do not apply to premium CPD Members.

1.3 A complaint may be brought by a) a member of the public seeking or using a service provided by the member concerned, b) a client's representative, a parent or guardian representing a child under 16 or a representative for an adult who lacks mental capacity. If you are making a complaint on behalf of someone else, we may need their consent to consider the complaint. We may bring complaints against members ourselves if we receive information that makes us question a member's conduct or whether they should remain in membership.

1.4 Complaints may only be brought against practitioners who are individual members of AP - and the person complained against must have been a member at the time of the alleged breach. [NB - If a member being complained against resigns or allows their membership/certification to lapse after a complaint is made the complaint will still be dealt with as though the person remained a member].

1.5 A complaint must relate to an alleged breach taking place within the past three years.

1.6 The complainant should usually make a complaint to the AP member via the complaints procedure of their business/ employer. For complaints regarding organisation members, the complainant should go through the organisation's complaint procedures.

1.7 To be considered by AP, a complaint must be made in writing to the Chair of AP's Council of Management. The Complainant must:

- a. Submit the complaint signed and in writing to AP's Council of Management.
- b. Confirm that the complaint relates to a service as defined in point 1.2 above.
- c. Identify clearly the individual
- d. Where a complaint is about more than one member, submit a separate complaint in respect of each relevant member.
  - e. Provide a detailed account of the facts giving rise to the complaint(s) together with the dates when the event(s) occurred.
  - f. Where possible refer to sections of the Standards of Conduct and Ethics.
  - g. Provide any witness statement/s (signed by the witness) which are relied upon.
  - h. Confirm that resolution has been attempted (or explain why not).
  - i. Explicitly consent to the use of the complainant's personal information for the purpose of operating these procedures (and where necessary provide evidence of consent by any

relevant third parties to the use of their personal information for the purpose of operating these procedures).

1.8 A complaint not satisfying the above conditions will not usually be accepted or processed under these procedures. Where it is not possible for a person to put a complaint in writing AP will make reasonable attempts to accommodate this wish, such as making verbal contact with the person and taking a statement by phone and sending it to them to check, sign and return.

## 2 INITIAL CONSIDERATION

2.1 A complaint will be reviewed in the first instance by the Chair of AP's Council of Management.

2.2 Any complaint not satisfying the requirements set out in 1.7 above will not be taken further.

2.3 The complainant will be notified of the outcome of the initial consideration and will receive details of any further procedures to be followed.

2.4 Where the complaint merits further investigation the AP's Council of Management will ascertain whether the member is also responsible to a primary regulating body or a significant employer. This is necessary because AP is an organisation where membership is voluntary. Even when a member is an AP accredited practitioner, to be sanctioned by AP, or even to be removed from membership, may not necessarily prevent the practitioner from practicing. For professional groups, such as nursing, applied psychology, medicine and various therapies, there are primary regulating bodies including the Health and Care Professions Council, Social Work England, the Nursing and Midwifery Council, and the General Medical Council. If the member is regulated by one of these bodies then that should be the first recourse for any complaint, and AP will advise the complainant to make their complaint to the appropriate body first. AP will ask the relevant body and the complainant to keep them informed of any outcome. A complainant may be referred to a significant employer because the employer will have both the resource and procedures in place to undertake an investigation, and also have access to information which AP does not, but which would likely impact the possibility of reaching an informed and balanced outcome. A significant employer is defined as an organisation that holds a contract of employment with the member, has a complaints procedure already in place and is responsible for a significant number of employees such as in the NHS. Once the primary regulator or significant employer has considered the matter and reached a conclusion, then AP will take this into account in its own consideration of the complaint. If the regulator or employer exonerates the AP member, the Assessment Panel may still consider whether the member has breached the AP Standards of Conduct and Ethics. If the regulator or employer sanctions or removes the AP member, this will be considered in determining whether the member should also be sanctioned or removed by AP.

2.6 Where a complainant institutes civil or criminal proceedings against a member the Assessment Panel will wait until those proceedings have drawn to a conclusion. Once the outcome of those civil or criminal proceedings is known the Assessment Panel will take the outcome of these proceedings into account.

2.7 Where a complaint has been accepted for further consideration and the AP member is not a member of a primary regulating body or a significant employer, or once the outcome of an investigation by such a body is known, or when the outcomes of any civil or criminal proceedings are known, AP requires the member to provide details of the findings of that primary regulating body or civil or criminal proceedings. The member complained against will be given a copy of the complaint, together with the complainant's name (but not their contact details) and will be notified of the procedures to be followed.

### 3 PRELIMINARY INVESTIGATION

3.1 An AP Case Manager will be assigned to assess the complaint. The Case Manager may request further information from the complainant and/ or member to assist them in assessing the complaint. Any information requested should be submitted within the time limit specified by the Case Manager.

c. The Case Manager may also give the member the opportunity to submit a preliminary response with their observations within 21 days of the written notice being provided to the member.

d. If the member does not respond promptly, or at all, to a request for information without a reasonable explanation, this may be taken into account by the Assessment Panel and/ or the Review Panel should the complaint be referred to it.

3.2 Having assessed the complaint and any further information or preliminary response submitted the Case Manager will consider whether:

a. the facts alleged and evidenced by the complainant could, if proved, amount to a failure by the member to meet the Standards of Conduct and Ethics and professional standards; and

b. is not vexatious and/or frivolous

3.3 Where the Case Manager considers that a complaint does not meet the requirements as specified in 3.1 they will inform the complainant and the member, and the complaint will be closed.

3.4 Where the Case Manager considers that a complaint meets the requirements as specified in 3.1, they will consider whether an Advisory Letter is the appropriate outcome and recommend to the Chair of AP's Council of Management that the complaint should be disposed of by way of an Advisory Letter (see Appendix 1) or refer the matter to the Assessment Panel. We aim for this process to take no more than 6 weeks. The complainant will also be advised of the outcome if an Advisory Letter is the outcome.

3.5 There is no appeal against a Case Manager's decision, however, Chair of AP's Council of Management may reconsider a Case Manager's decision and substitute their own decision where there is compelling new evidence which was not available earlier.

3.6 If the complainant has an idea of what they would like to resolve the complaint to achieve an early resolution (e.g. a refund, an apology etc.) then the Case Manager may communicate with the complainant and the member informally to see if such a resolution can be achieved to the complainant's satisfaction. If it can, this will be communicated to the Assessment Panel. However, even if early resolution is achieved, the Assessment Panel can still take the view that further action needs to be taken against the member for the sake of public protection.

3.7 A request for an early resolution may must be communicated to the Case Manager no later than 7 days before the complaint documents are issued to the Assessment Panel and the complainant will be notified of this cut-off date as part of the process.

## 4 SUSPENDING A MEMBER

4.1 AP's Chair of Council and/ or the Case Manager may, on the basis of the evidence provided and in the interest of public protection, issue a temporary and interim suspension order to the member if they feel that this is warranted. This order will suspend the member's membership and will be reflected on AP's website. Suspension may also occur where there is evidence of criminality.

4.2 The Case Manager/ Chair of AP's Council of Management must immediately refer their decision together with the evidence upon which the decision was made to the Assessment Panel for ratification. If the decision is ratified, the suspension remains in place throughout the complaint's proceedings, until the complaints process comes to an end. If the decision is not ratified, the member's suspension is lifted.

4.3 The member will be advised of the suspension order after the decision to suspend has been made. A suspended member may apply in writing for their suspension to be reviewed where the circumstances, since the suspension was imposed or last reviewed, have materially changed.

## 5 ASSESSMENT PANEL

5.1 An Assessment Panel will comprise 3 members, one of whom may be the Chair. If the Assessment Panel decides there is a realistic prospect of a finding under the civil standard of proof (balance of probabilities) that could result in the member being removed or suspended from the register, the complaint will be referred to a Review Panel. The complaint may be referred back to the case manager with instructions or sanctions if the Assessment Panel decides there is no realisation prospect of a finding that could result in the suspension or expulsion of the member.

5.2 The Case Manager will follow the instructions of the Assessment Panel and the sanction(s) they impose on the member. Details of the sanctions that can be imposed by the Assessment Panel can be found in appendix 1. If a lack of evidence prevents full review and appropriate action, the Assessment Panel can request the Case Manager to gather more evidence before making a decision.

5.3 The Assessment Panel can also decide that there is no further action to be taken due to insufficient evidence being provided or due to a change in circumstances which would preclude an appropriate decision being made on the best way to deal with the complaint.

5.4 The complainant and the member will receive a copy of the Assessment Panel's decision as to whether the complaint is referred back to the case manager or onwards to the Review Panel. The decision will also be shared with the member.

5.5 If any new evidence comes to light that may influence the decision made by the Assessment Panel within 28 days AP reserves the right to refer the original complaint and any new evidence back to the Assessment Panel for further consideration.

5.6 If the Assessment Panel decides that there is a case to answer and the complaint is to be referred to a Review Panel, it may be possible for the complaint to be resolved by either consensual disposal or voluntary removal.

5.7 Once the complainant and member has been notified of the decision to refer the complaint onto the Review Panel, the member will have 14 days in which to lodge a request to either have the case resolved by either consensual disposal or voluntary removal (see Appendix 1).

5.8 Consensual disposal would mean the Assessment Panel accepting a written statement from the member applying to have the complaint disposed of by consensual agreement, where the member accepts responsibility for the issue with the client and accepting a sanction as laid down by the Assessment Panel.

5.9 Voluntary removal would involve the Assessment Panel accepting an application from the member where the member accepts full responsibility for what went wrong with the client, and would then be removed from AP membership.

5.10 In both cases, the outcome would be published, but there would be no need for an assessment with the Review Panel.

## 6 NON-COMPLIANCE WITH SANCTIONS ISSUED BY THE ASSESSMENT PANEL

6.1 If sanctions are issued by the Assessment Panel and the member does not comply with the sanctions, the Case Manager will refer the case to the Review Panel which has powers to suspend or terminate the member for not complying with the sanctions. The Review Panel will conduct a paper review of the evidence submitted by the Case Manager and the complainant will not be asked to contribute to this review. This is not a formal panel hearing and only occurs where sanctions are not followed by the member.

6.2 A member has the right to make written representation to the Review Panel regarding the decision to suspend or remove them from membership and this will be fully considered prior to either action taking place.

## 7 APPEAL FOLLOWING DECISION OF ASSESSMENT PANEL

7.1 The complainant and the member may appeal against the decision of the Assessment Panel. The appeal must be received by the Appeals Panel within 14 days of the notification of the Assessment Panel's decision and the appeal can be made on the following grounds:

- a. the decision was made against the weight of evidence
- b. There is new evidence that was not available at the time of the Assessment Panel review of the complaint

7.2 The grounds of appeal, together with details of the original complaint and any further supporting evidence, will be considered by an appeals panel and their role will be to decide whether the appeal is upheld or not. The decision of the appeals panel is final.

## 8 REVIEW PANEL

8.1 The Review Panel will hold a formal hearing to examine the complaint, decide whether it is proved or not, and if it is proved, determine what sanction (if any) should be imposed. The Review Panel will comprise three members, normally drawn from AP's Council of Management (but excluding the Chair themselves). [Potential panel members have a duty to declare an interest which may affect their impartiality, or be perceived as doing so]. It may meet by teleconference, face-to-face or use methods such as e-mail exchange where confidentiality of information can be assured. The Review Panel will discuss the case and determine the appropriate course of action to take on behalf of AP.

8.2 From the date of notification that Formal Review proceedings have been commenced, the member concerned shall have 28 days to respond to the complaint in writing (indicating whether or not they intend to contest the complaint). A copy of the member's response will be made available to the complainant.

8.3 The Review Panel may request such further information or make such further investigations as it considers appropriate, including interviewing the complainant and/or the member.

8.4 The Review Panel will invite both the complainant and the member to make such written representation as it considers is required to ensure a fair consideration of the complaint, at least 14 days before the Panel hearing is held. Copies of the written submissions provided by each party will be made available to the other parties involved in the complaint.

8.5 Both the complainant and the member being complained against may be required to attend the Review Panel hearing. If this is held face-to-face they may each be accompanied by a representative for support but who will not to speak on behalf of the party concerned.

8.6 New evidence, not covered in the parties' written submissions, will be accepted on the day of the hearing only with the agreement of the Review Panel.



8.7 The hearing is an opportunity for the Review Panel to consider evidence presented and to seek clarification from either party of the written evidence they have provided.

8.8 In the event that the complainant has been invited to attend and is unable to attend to give evidence, unless this has been agreed prior to the hearing, the Review Panel Chair may decide that no further action can be taken in complaint and it may not be upheld. If the complainant is asked to provide additional information for the hearing and does not do so the Review Panel Chair may decide that no further action can be taken in complaint and it may not be upheld.

8.9 After it has heard all the evidence, the panel will make a decision in private about the complaint. If it is satisfied that the facts of the allegation have been proved, it will decide which sanctions to impose.

8.10 The Chair of AP's Council of Management will notify each party of the outcome of the review, including details of any sanctions imposed, within 28 days of the Review hearing.

## 9 SUSPENSION FOLLOWING APPEAL

9.1 Any sanction ordered by the Review Panel may be suspended pending appeal to the appeal committee. However, where it is deemed necessary for public protection, sanctions may remain in place pending the appeal period. This decision will be made by the Chair of the Review Panel.

## 10 APPEAL

10.1 If the member wishes to appeal the Review Panel's findings, s/he must notify the AP Chair of Management in writing within 28 days of receiving the Review Panel's findings. An Appeal Committee composed of an independent member and two members will be constituted and will review the Review Panel's decision. This will be a paper hearing. No member of the Review who heard the case at first instance may sit on the Appeal Committee.

10.2 A member may ask for an appeal on the following grounds:

- a) the facts were found against the weight of evidence presented to the Review Panel
- b) the sanction/s imposed were disproportionate to the findings of the Review Panel and was/were unjust in all the circumstances
- c) there is evidence of a breach of procedure in dealing with the complaint which might reasonably have been expected to have had a material effect on the findings of the Review Panel
- d) there is evidence now available, which was not available at the time of the Review Panel hearing, which had it been available to the Review Panel might reasonably have been expected to have had a material effect on its findings.

10.3 Any appeal not satisfying the requirements set out above will be rejected and will not be taken further.

10.4 The appellant will be informed of the outcome of this initial consideration and will receive details of any further procedures to be followed.

10.5 Where an appeal has been accepted for further consideration, the original complainant will be given details of the appeal, and will be notified of the procedures to be followed; and the Chair of AP's Council of Management will appoint a panel to review the complaint (the Appeal Panel).

10.6 The Appeal Panel will comprise three members, normally drawn from AP's Council of Management and Patrons (but excluding the Chair themselves and anyone involved in the initial Review Panel). [Potential panel members have a duty to declare an interest which may affect their impartiality, or be perceived as doing so].

10.7 The procedures for reviewing appeals are the same as those for the Review Panel.

10.8 Appeal Panel decisions are final and are not open to further appeal.

## 11 PUBLICATION OF FINDINGS

10.1 All findings are a matter of public record and are published on the AP website for as long as the AP considers it appropriate and proportionate, in accordance with the Publications Guidance and once the deadline for appeal has passed. However, if there is no case to answer, this information will not be published on the website. Please see Appendix 2 for the publication policy.

## 12 REPEATED COMPLAINTS

12.1 AP will not consider any complaints where the conduct complained of has previously been substantially considered by AP the Complaints and Disciplinary procedures, or suitability for membership procedures, unless there is substantial and sufficient new evidence, which was not reasonably available to the complainant at the time of the previous complaint or the Assessment Panel consider that it is reasonable and in the public interest that the case should be reconsidered.

12.2 The Assessment Panel has the right to ratify the decision of another professional regulatory body, and to duplicate the sanctions imposed by that without further recourse to AP's complaints process. This decision cannot be appealed.

## 13 EVIDENCE OF CRIMINALITY

13.1 If a client contacts AP about a complaint that appears to be a criminal offence they will be advised to contact the police and in relevant circumstances, AP may also do so.

13.2 Where there is evidence of criminality, AP's Safeguarding Lead will seek immediate advice from the Assessment Panel as to how to proceed. If there are any concerns around public safety the member will be suspended or removed from the register. AP recognises that practitioners may be working with vulnerable adults and public safety will be our primary concern.

13.3 A member has the right to make representation regarding the decision to suspend and this will be fully considered prior to either the suspension remaining in place or being lifted.

## Appendix 1 INDICATIVE SANCTIONS

This table provides information regarding the sanctions that may be imposed by AP as a result of a complaint

<b>Sanction</b>	<b>Reason</b>
Suspension during investigation	Serious breach of Standards of Conduct and Ethics Issue of public safety or misconduct Ongoing Criminal investigation Where AP considers that other sanctions are insufficient to deal with the risk to public safety The conduct of the member is unacceptable Public confidence in the AP demands this sanction Fitness to practise is impaired and remedial action is required
Verbal or written apology/Mediation	All parties agree to the outcome (where the issue is not one of public safety or fitness to practise) Misconduct or level of performance is not serious, no risk to public safety and fitness to practise is not impaired No serious breach of the Standards of Conduct and Ethics
Advisory letter	Where the issue is not one of public safety or fitness to practise Misconduct or level of performance is not serious, no risk to public safety and fitness to practise is not impaired No serious breach of the Standards of Conduct and Ethics
Outcome of consensual disposal sanctions	Application accepted from the member to have the case disposed of by consensual agreement. The member accepts responsibility for what went wrong and agrees to an appropriate and proportionate sanction
Voluntary removal	Where the issue is of fitness to practise/ public safety and the member has acknowledged the complaint and has asked to be removed from AP membership.
Conditions regarding membership: Requirement to write a report and/or give an oral statement of learning	Where the member has shown a lack of subject understanding Inadequate understanding of the client/member relationship No continuing risk to clients or the public but public acknowledgement that conduct was unacceptable Likelihood of repetition of the conduct is felt to be very low
Conditions regarding membership: Undergo further training in a specified area	Where the member has not met minimum requirements for CPD Where the member has shown a lack of subject understanding Where there is evidence of poor performance or shortcomings in the members practice
Conditions regarding membership: A requirement for further supervision for a specific time period	Where the member has not met minimum requirements for supervision Inadequate understanding of the client/member relationship Where conduct or behaviour fell below acceptable standards Where fitness to practise is not impaired, and there is no ongoing risk to public safety, but the member has not shown insight into learnings

No case to answer/unable to hear case	Insufficient evidence: case closed
Expulsion	Reserved for most serious conduct Members behaviour is fundamentally incompatible with being an AP member Clear risk to public safety Criminal conviction outcome Fitness to practise is severely impaired Expulsion may be permanent in the most serious cases
Member cleared of any wrongdoing	When no breach has been considered to have occurred.

## Appendix 2 PUBLICATION POLICY

- 1 Sanctions issued by either the Assessment Panel for minor breaches of the Standards of Conduct and Ethics or by the Review Panel following a formal complaints hearing will be published on the AP website.
- 2 The publication of such decisions provides information about the standards expected of members; assists clients to make informed choices and helps to maintain public confidence in AP.
- 3 We aim to strike a balance and consider the rights of both clients and members and take account of the risk of any harm that may arise from the disclosure or non-disclosure of information. If a sanction is not fulfilled, then that information will be published on the AP website.
- 4 If there is no sanction then no information will be published on the AP website.
- 5 When the sanction has been fulfilled this information will be published on AP's website and recorded on the member's file.
- 6 In cases where a member is removed from the register, the published decision will remain on the website for as long as AP deems necessary, usually 5 years.