

The Independent Complaints Panel

The Independent Complaints Panel (ICP) has the full delegated authority of the Council of the National Counselling & Psychotherapy Society (“NCPS”) (“the Society”) to take decisions on complaints about its Registrants and non-Registrant Members. The Society’s Professional Conduct Managers have the power to decide whether a complaint is suitable for referral to the Assessment Panel, who may in turn decide to refer the complaint to the Independent Complaints Panel. In addition, members of the Society may have the right to appeal a decision of an Assessment Panel and request a hearing from the ICP.

On an annual basis, Professional Conduct Managers’ decisions are reviewed by the Society’s Independent Assessor. The Independent Assessor is not otherwise part of our complaints process.

Terms of Reference

- To consider concerns about the conduct or safety to practise of Members of the Society, including those who were Members at the time to which allegations made against them refer, but who are no longer Members
- To undertake such other tasks as the Society Council may require
- To report to the Society Council on its work as and when required

Types of Hearing

The ICP may hold three kinds of hearing:

- A Professional Practice Review (PPR)
- A Professional Conduct Hearing (PCH)
- A Member Welfare Hearing (MWH)

A Professional Practice Review is held where the matter before the ICP is a less serious matter which has not passed the threshold for suspension or removal from membership and/or from the Society’s Accredited Register. Generally, a Professional Practice Review is held where a member rejects the findings of an Assessment Panel and wishes to appeal the decision on a matter which does not involve suspension or removal.

A Professional Practice Review shall take the form of a paper review based on the Panel’s assessment of the evidence provided to them by both parties. The Panel may ask either party for additional information or evidence and may ask either party further questions to help them make a decision. Neither party to the complaint attends a Professional Practice Review. The ICP will normally hold an online meeting to discuss the case and assess the evidence before it.

A Professional Conduct Hearing is held where the matter before the ICP involves suspension or removal from the Society’s register. This is a formal, in person (or

sometimes, online) hearing where the parties to the complaint are invited to give evidence and may be questioned by the Panel directly.

Where the matter before a Professional Conduct Hearing is regarding a member's fitness to practice based not upon misconduct but upon their welfare (for example, issues of ill health or addiction) this will be referred to as a Member Welfare Hearing.

Membership of the Panel

For a Professional Practice Review, the ICP shall be composed of a Panel of three individuals, of whom one is normally, if possible, a lay member who shall be the Chair. The Panel should consist of at least one, and preferably two people who are experienced professionals who themselves have not been subject to the Society's complaints process.

For a Professional Conduct Hearing, the ICP shall be composed of an independent lay chair and two professionals who themselves have not been the subject of the complaints procedure.

Professional members of the ICP will be appointed from a list of those who have volunteered to serve on the ICP. Where issues of therapeutic modality are relevant, the Chair shall ensure that one panel member has the relevant expertise in that modality, or alternatively, appoint an independent expert to assist the Panel.

No Panel Member may have any connection with the parties to the complaint.

Independent Complaint Panel Members' Interests

The ICP members must declare any conflict of interest and provide the Society with a register of interests on request.

The Independent Complaints Panel's procedure

A Professional Practice Review will be a review of the evidence presented to the ICP, usually by way of an online meeting held in private by the Panel. There is no attendance of the parties to the complaint at this meeting.

A Professional Conduct Hearing will be an oral hearing held in private. All parties will be invited to attend and are likely to be present during representation. The venue for this hearing will probably be the Society's headquarters in Worthing, West Sussex.

The standard of proof will be the civil standard (balance of probabilities) for most issues relating to alleged breaches of the Society's Code of Ethics and for allegations about fitness to practise relating to, for example, a member's ill-health or addiction or other issues not related to misconduct.

Parties Present at a Professional Practice Review

The parties present shall be the Panel; a Professional Conduct Manager if requested by the Panel; and any secretary appointed by the Panel Chair to the meeting, together with any expert required.

Evidence for a Professional Practice Review

The ICP may admit any evidence it considers relevant to allow it to make a judgement. The material will be presented to all parties in advance of the Hearing, usually no later than 14 days before the hearing date. In the unusual event of new and significant evidence then emerging on the day of the hearing, the Professional Conduct Manager would provide the Panel with a copy of the evidence to give them the opportunity to accept it or not. If appropriate, the hearing would be adjourned to allow all parties the opportunity to consider and prepare a response.

The Society presents its case via a bundle of documents. This should include all the evidence that has been gathered in the case.

The standard format for presenting bundles is to present them in sections denoted by numbered divider tabs as follows:

1. Charges; Code of Ethics; member's details including date of registration
2. Complaint form or letter
3. Documentary evidence to support the case (in chronological order of the events)
4. Witness statements
5. Procedural/routine/and all other complaint correspondence
6. List of omitted documents

The ordinary rules of evidence do not apply; documents that may not be admissible in civil or criminal proceedings can be included in the bundle.

The Professional Conduct Manager will not normally omit documents other than on grounds of duplication, third party confidentiality (though any documents will be anonymised where possible) or safeguarding. The member and complainant may object to the Panel about omitted documents before the hearing. The Panel has the right to request their inclusion but, in a case, where the Society's legal advice is that they should not be included, this advice shall be pre-eminent.

Witnesses

No witnesses are present at a Professional Practice Review.

Length of the Hearing

The length of a hearing is at the discretion of the Panel Chair.

Conduct of the Hearing

The Panel Chair will call the meeting to order and will guide the Panel through a pre-prepared meeting agenda. The Panel will examine in turn:

- The original complaint and response
- Supporting evidence and documentation
- The Assessment Panel's decision and sanctions
- The member's grounds for appeal against the sanctions
- It will then make a decision based on the evidence in front of it

Parties present at a Professional Conduct Hearing

The member may be accompanied by a friend/colleague, a union representative or legal counsel and may be represented. The name and status of any representative must be provided to the Professional Conduct Manager at least seven days in advance of the hearing. The accompanying person or representative for the member or complainant cannot be a member of, employed by or otherwise connected with another counselling or therapeutic professional association.

The ICP will appoint a secretary to the proceedings. The Chair will ask all parties including the ICP members to briefly introduce themselves before the proceedings start. The ICP may invite the Professional Standards Authority to the hearing. They may also invite experts, witnesses, legal representatives and any other appropriate parties.

Evidence for a Professional Conduct Hearing

The ICP may admit any evidence it considers relevant whether oral or written, in person or by other means, to allow it to make a judgement. The material will be presented to all parties in advance of the Hearing, usually no later than 14 days before the hearing date. In the unusual event of new and significant evidence then emerging on the day of the hearing, the Professional Conduct Manager would provide the Panel with a copy of the evidence to give them the opportunity to accept it or not. If appropriate, the hearing would be adjourned to allow all parties the opportunity to consider and prepare a response.

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The Professional Conduct Manager will not normally omit documents other than on grounds of duplication, third party confidentiality (though any documents will be anonymised where possible) or safeguarding. The member and complainant may object to the Panel about omitted documents at the start of proceedings before the formal hearing commences. The Panel has the right to request their inclusion but in a case where the Society's legal advice is that they should not be included, this advice shall be pre-eminent.

Witnesses

The Society has no power to compel witnesses to provide evidence or attend hearings.

Witnesses will give evidence, waiting outside the hearing room until such time as they are called. It is a matter for the Chair of the ICP whether witnesses are free to remain in the room at the conclusion of their evidence.

Length of the Hearing

A time estimate should have been given in advance of the hearing but hearings sometimes over-run. In general, a day will be needed to allow the following to be heard:

- Introductions
- Charges stated
- Evidence supporting charges
- Evidence supporting defence
- Witnesses supporting charges
- Witnesses supporting defence
- Other questioning
- Deliberation by Panel
- Outcome

Usually, a half day is enough to cover proceedings, however, it is difficult to give a generic timeframe due to the individual nature of each complaint. If proceedings are not progressing in a timely manner, the Chair of the Independent Panel has the power to ask for a conclusion at a suitable point.

If it is not possible to conclude the hearing within the allocated time, the hearing can go part-heard, and it will be adjourned until another date when all the parties and the ICP members are available. It is good practice to try to agree at the hearing on the amount of extra time that will be needed and set the date(s). This will avoid further delay.

Conduct of the Hearing

The proceedings are relatively informal. The strict rules of civil and criminal evidence do not apply. On the whole, the manner in which the proceedings are run is a matter for the Chair.

All parties remain seated throughout.

The Secretary should make notes of the proceedings.

The charges will be put to the member. The member can admit or deny the charges. If the member denies them, the Professional Conduct Manager will present the evidence on behalf of the Society in support of the charges and the member will be given an opportunity to present evidence in defence.

After the charges have been put to the member and pleas have been taken, the Professional Conduct Manager will be required to summarise the case unless the ICP indicate that this is not necessary. The Professional Conduct Manager will then call any witnesses beginning with the complainant if relevant or present.

Both the Professional Conduct Manager and the member may call witnesses to give evidence. Witnesses called by one party may be questioned by the other party. All questions must be relevant and asked appropriately. The ICP may intervene if this is not respected. The ICP may ask questions of any party or any witness at any stage of the proceedings.

In most cases, it will not be necessary to lead a witness through their evidence and it will be sufficient to ask that the witness statement/letter is accepted as evidence and, apart from asking the standard identification questions, it will be sufficient to state that the witness is available for questioning.

The Professional Conduct Manager and the member will be given the opportunity to make closing remarks.

Findings – Professional Practice Hearing

After reviewing the evidence of both parties and the decision of the Assessment Panel, the ICP will consider and make a ruling on its findings. The Chair of the ICP will communicate these findings to the Professional Conduct Manager for distribution to both parties in the complaint in accordance with the process for the time being in force.

Findings – Professional Conduct Hearing

After hearing all the evidence, the ICP will then retire to make a decision as to whether the charges are made out. The ICP will consider a) have the facts been proved, b) has there been a breach of the Code of Ethics and c) is the member fit to practise, with or

without restrictions/sanctions. The ICP may invite the Secretary to join them at any stage of their deliberations.

The Secretary will usually provide updates and will inform parties if the ICP is unlikely to return for a long period. It is rare for an ICP not to make a decision on the same day even if this requires sitting late. When it has made its findings on the charges, the ICP will communicate its findings via the Professional Conduct Manager in accordance with the process for the time being in force.

The ICP must be satisfied to the civil standard of proof (i.e. balance of probabilities) that the member has breached the Code of Ethics. The civil standard of proof will also be applied when the issue before them is the member's safety to practise due to, for example, ill health, addiction or any other reason.

If the charges are made out, the ICP will then need to decide what sanction should be imposed. Sanctions imposed must be reasonable and proportionate having balanced the interest of the member and the public interest. The ICP has the power to impose a number of sanctions of which the following are an example:

- An advisory letter containing Learning Points
- Conditions on Registration (e.g. further training)
- Suspension from Registration
- Removal from the Register and/or Membership of the Society

Full details of the sanctions available to the ICP can be found in the Indicative Sanctions Guidance document.

Sanctions and previous findings

The Professional Conduct Manager will bring to the hearing copies of reports of any previous findings of professional misconduct or safety to practice. These can be from the Society, other organisations, or any relevant authority. Once any of the charges have been admitted or proven, the Professional Conduct Manager will bring to the ICP's attention any previous disciplinary findings against the member so that they can be taken into consideration in imposing sanctions.

Suspension pending appeal

Any sanction ordered by the ICP may be suspended pending appeal. However, where it is deemed necessary for public protection, sanctions may remain in place pending the appeal period including suspension of registration or membership. This decision will be made by the Chair of the Independent Panel, whose decision is final.

Appeals

If the member wishes to appeal the ICP's findings, they must notify the Professional Conduct Manager in writing using the Appeals form, within 28 days of receiving the ICP's findings.

A Professional Practice Review Appeal is heard by an Appeals Officer who has no previous connection with the case. The Appeal will be a paper hearing in accordance with the Society's current policies and procedures.

A Professional Conduct Hearing Appeal is heard by an Appeals Panel composed of an Independent Chair and two professional members which will be constituted and will review the ICP's decision. The Appeal will be a paper hearing in accordance with the Society's current policies and procedures.

Publication of findings

All findings and sanctions are a matter of public record and are published on the Society website for as long as the Society considers it appropriate and proportionate, in accordance with the Publications Guidance and once the deadline for appeal has passed.

This does not apply to findings where the member has no case to answer or has been exonerated of the charges brought.