

Ethical Framework for Good Practice
in Counselling & Psychotherapy

bacp

British Association for
Counselling & Psychotherapy

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Ethics for counselling and psychotherapy

This statement, Ethics for Counselling and Psychotherapy, unifies and replaces all the earlier codes for counsellors, trainers and supervisors and is also applicable to counselling research, the use of counselling skills and the management of these services within organisations. It is intended to inform the practice of each member of the British Association for Counselling and Psychotherapy.

In this statement the term 'practitioner' is used generically to refer to anyone with responsibility for the provision of counselling or psychotherapy-related services. 'Practitioner' includes anyone undertaking the role(s) of counsellor, psychotherapist, trainer, educator, supervisor, researcher, provider of counselling skills or manager of any of these services. The term 'client' is used as a generic term to refer to the recipient of any of these services. The client may be an individual, couple, family, group, organisation or other specifiable social unit. Alternative names may be substituted for 'practitioner' and 'client' in the practice setting, according to custom and context.

This statement indicates an important development in approach to ethics within the Association. One of the characteristics of contemporary society is the coexistence of different approaches to ethics. This statement reflects this ethical diversity by considering:

- **Values**
- **Principles**
- **Personal moral qualities**

This selection of ways of expressing ethical commitments does not seek to invalidate other approaches. The presentation of different ways of conceiving ethics alongside each other in this statement is intended to draw attention to the limitations of relying too heavily on any single ethical approach. Ethical principles are well suited to examining the justification for particular decisions and actions. However, reliance on principles alone may detract from the importance of the practitioner's personal qualities and their ethical significance in the counselling or therapeutic relationship. The provision of culturally sensitive and appropriate services is also a fundamental ethical concern. Cultural factors are often more easily understood and responded to in terms of values. Therefore, professional values are becoming an increasingly significant way of expressing ethical commitment.

Values of counselling and psychotherapy

The fundamental values of counselling and psychotherapy include a commitment to:

- Respecting human rights and dignity
- Ensuring the integrity of practitioner-client relationships
- Enhancing the quality of professional knowledge and its application
- Alleviating personal distress and suffering
- Fostering a sense of self that is meaningful to the person(s) concerned
- Increasing personal effectiveness
- Enhancing the quality of relationships between people
- Appreciating the variety of human experience and culture
- Striving for the fair and adequate provision of counselling and psychotherapy services

Values inform principles. They represent an important way of expressing a general ethical commitment that becomes more precisely defined and action-orientated when expressed as a principle.

Ethical principles of counselling and psychotherapy

Principles direct attention to important ethical responsibilities. Each principle is described below and is followed by examples of good practice that have been developed in response to that principle.

Ethical decisions that are strongly supported by one or more of these principles without any contradiction from others may be regarded as reasonably well founded. However, practitioners will encounter circumstances in which it is impossible to reconcile all the applicable principles and choosing between principles may be required. A decision or course of action does not necessarily become unethical merely because it is contentious or other practitioners would have reached different conclusions in similar circumstances. A practitioner's obligation is to consider all the relevant circumstances with as much care as is reasonably possible and to be appropriately accountable for decisions made.

Fidelity: honouring the trust placed in the practitioner

Being trustworthy is regarded as fundamental to understanding and resolving ethical issues. Practitioners who adopt this principle: act in accordance with the trust placed in them; regard confidentiality as an obligation arising from the client's trust; restrict any disclosure of confidential information about clients to furthering the purposes for which it was originally disclosed.

Autonomy: respect for the client's right to be self-governing

This principle emphasises the importance of the client's commitment to participating in counselling or psychotherapy, usually on a voluntary basis. Practitioners who respect their clients' autonomy: ensure accuracy in any advertising or information given in advance of services offered; seek freely given and adequately informed consent; engage in explicit contracting in advance of any commitment by the client; protect privacy; protect confidentiality; normally make any disclosures of confidential information conditional on the consent of the person concerned; and inform the client in advance of foreseeable conflicts of interest or as soon as possible after such conflicts become apparent. The principle of autonomy opposes the manipulation of clients against their will, even for beneficial social ends.

Beneficence: a commitment to promoting the client's well-being

The principle of beneficence means acting in the best interests of the client based on professional assessment. It directs attention to working strictly within one's limits of competence and providing services on the basis of adequate training or experience. Ensuring that the client's best interests are achieved requires systematic monitoring of practice and outcomes by the best available means. It is considered important that research and systematic reflection inform practice. There is an obligation to use regular and on-going supervision to enhance the quality of the services provided and to commit to updating practice by continuing professional development. An obligation to act in the best interests of a client may become paramount when working with clients whose capacity for autonomy is diminished because of immaturity, lack of understanding, extreme distress, serious disturbance or other significant personal constraints.

Non-maleficence: a commitment to avoiding harm to the client

Non-maleficence involves: avoiding sexual, financial, emotional or any other form of client exploitation; avoiding incompetence or malpractice; not providing services when unfit to do so due to illness, personal circumstances or intoxication. The practitioner has an ethical responsibility to strive to mitigate any harm caused to a client even when the harm is unavoidable or unintended. Holding appropriate insurance may assist in restitution. Practitioners have a personal responsibility to challenge, where appropriate, the incompetence or malpractice of others; and to contribute to any investigation and/or adjudication concerning professional practice which falls below that of a reasonably competent practitioner and/or risks bringing discredit upon the profession.

Justice: the fair and impartial treatment of all clients and the provision of adequate services

The principle of justice requires being just and fair to all clients and respecting their human rights and dignity. It directs attention to considering conscientiously any legal requirements and obligations, and remaining alert to potential conflicts between legal and ethical obligations. Justice in the distribution of services requires the ability to determine impartially the provision of services for clients and the allocation of services between clients. A commitment to fairness requires the ability to appreciate differences between people and to be committed to equality of opportunity, and avoiding discrimination against people or groups contrary to their legitimate personal or social characteristics. Practitioners have a duty to strive to ensure a fair provision of counselling and psychotherapy services, accessible and appropriate to the needs of potential clients.

Self-respect: fostering the practitioner's self-knowledge and care for self

The principle of self-respect means that the practitioner appropriately applies all the above principles as entitlements for self. This includes seeking counselling or therapy and other opportunities for personal development as required. There is an ethical responsibility to use supervision for appropriate personal and professional support and development, and to seek training and other opportunities for continuing professional development. Guarding against financial liabilities arising from work undertaken usually requires obtaining appropriate insurance. The principle of self-respect encourages active engagement in life-enhancing activities and relationships that are independent of relationships in counselling or psychotherapy.

Personal moral qualities

The practitioner's personal moral qualities are of the utmost importance to clients. Many of the personal qualities considered important in the provision of services have an ethical or moral component and are therefore considered as virtues or good personal qualities. It is inappropriate to prescribe that all practitioners possess these qualities, since it is fundamental that these personal qualities are deeply rooted in the person concerned and developed out of personal commitment rather than the requirement of an external authority. Personal qualities to which counsellors and psychotherapists are strongly encouraged to aspire include:

Empathy:	the ability to communicate understanding of another person's experience from that person's perspective.
Sincerity:	a personal commitment to consistency between what is professed and what is done.
Integrity:	commitment to being moral in dealings with others, personal straightforwardness, honesty and coherence.
Resilience:	the capacity to work with the client's concerns without being personally diminished.
Respect:	showing appropriate esteem to others and their understanding of themselves.
Humility:	the ability to assess accurately and acknowledge one's own strengths and weaknesses.
Competence:	the effective deployment of the skills and knowledge needed to do what is required.
Fairness:	the consistent application of appropriate criteria to inform decisions and actions.
Wisdom:	possession of sound judgement that informs practice.
Courage:	the capacity to act in spite of known fears, risks and uncertainty.

Conclusion

The challenge of working ethically means that practitioners will inevitably encounter situations where there are competing obligations. In such situations it is tempting to retreat from all ethical analysis in order to escape a sense of what may appear to be unresolvable ethical tension. These ethics are intended to be of assistance in such circumstances by directing attention to the variety of ethical factors that may need to be taken into consideration and to alternative ways of approaching ethics that may prove more useful. No statement of ethics can totally alleviate the difficulty of making professional judgements in circumstances that may be constantly changing and full of uncertainties. By accepting this statement of ethics, members of the British Association for Counselling and Psychotherapy are committing themselves to engaging with the challenge of striving to be ethical, even when doing so involves making difficult decisions or acting courageously.

Guidance on good practice in counselling and psychotherapy

The British Association for Counselling and Psychotherapy is committed to sustaining and advancing good practice. This guidance on the essential elements of good practice has been written to take into account the changing circumstances in which counselling and psychotherapy are now being delivered, in particular:

- changes in the range of issues and levels of need presented by clients
- the growth in levels of expertise available from practitioners with the expansion in the availability of training and consultative support/supervision
- the accumulated experience of this Association over nearly three decades.

The diversity of settings within which counselling and psychotherapy services are delivered has also been carefully considered. These services may be provided by the independent practitioner working alone, one or more practitioners working to provide a service within an agency or large organisation, specialists working in multidisciplinary teams, and by specialist teams of counsellors and psychotherapists. Most work is undertaken face to face but there are also a growing number of telephone and online services. Some practitioners are moving between these different settings and modes of delivery during the course of their work and are therefore required to consider what constitutes good practice in different settings. All practitioners encounter the challenge of responding to the diversity of their clients and finding ways

of working effectively with them. This statement therefore responds to the complexity of delivering counselling and psychotherapy services in contemporary society by directing attention to essential issues that practitioners ought to consider and resolve in the specific circumstances of their work.

The term 'practitioner' is used generically to refer to anyone with responsibility for the provision of counselling or psychotherapy-related services. 'Practitioner' includes anyone undertaking the role(s) of counsellor, psychotherapist, trainer, educator, supervisor, researcher, provider of counselling skills or manager of any of these services. The term 'client' is used as a generic term to refer to the recipient of any of these services. The client may be an individual, couple, family, group, organisation or other specifiable social unit. Alternative names may be substituted for 'practitioner' and 'client' in the practice setting as the terminology varies according to custom and context.

Providing a good standard of practice and care

All clients are entitled to good standards of practice and care from their practitioners in counselling and psychotherapy. Good standards of practice and care require professional competence; good relationships with clients and colleagues; and commitment to and observance of professional ethics.

Good quality of care

1. Good quality of care requires competently delivered services that meet the client's needs by practitioners who are appropriately supported and accountable.
2. Practitioners should give careful consideration to the limitations of their training and experience and work within these limits, taking advantage of available professional support. If work with clients requires the provision of additional services operating in parallel with counselling or psychotherapy, the availability of such services ought to be taken into account, as their absence may constitute a significant limitation.
3. Good practice involves clarifying and agreeing the rights and responsibilities of both the practitioner and client at appropriate points in their working relationship.
4. Dual relationships arise when the practitioner has two or more kinds of relationship concurrently with a client, for example client and trainee, acquaintance and client, colleague and supervisee. The existence of a dual relationship with a client is seldom neutral and can have a powerful beneficial or detrimental impact that may not always be easily foreseeable. For these reasons practitioners are required to consider the implications of entering into dual relationships with clients, to avoid entering into relationships that are likely to be detrimental to clients, and to be readily accountable to clients and colleagues for any dual relationships that occur.
5. Practitioners are encouraged to keep appropriate records of their work with clients unless there are adequate reasons for not keeping any records. All records should be accurate, respectful of clients and colleagues and protected from unauthorised disclosure. Practitioners should take into account their responsibilities and their clients' rights under data protection legislation and any other legal requirements.
6. Clients are entitled to competently delivered services that are periodically reviewed by the practitioner. These reviews may be conducted, when appropriate, in consultation with clients, supervisors, managers or other practitioners with relevant expertise.

Maintaining competent practice

7. All counsellors, psychotherapists, trainers and supervisors are required to have regular and on-going formal supervision/consultative support for their work in accordance with professional requirements. Managers, researchers and providers of counselling skills are strongly encouraged to review their need for professional and personal support and to obtain appropriate services for themselves.
8. Regularly monitoring and reviewing one's work is essential to maintaining good practice. It is important to be open to, and conscientious in considering, feedback from colleagues, appraisals and assessments. Responding constructively to feedback helps to advance practice.
9. A commitment to good practice requires practitioners to keep up to date with the latest knowledge and respond to changing circumstances. They should consider carefully their own need for continuing professional development and engage in appropriate educational activities.
10. Practitioners should be aware of and understand any legal requirements concerning their work, consider these conscientiously and be legally accountable for their practice.

Keeping trust

11. The practice of counselling and psychotherapy depends on gaining and honouring the trust of clients. Keeping trust requires:
 - attentiveness to the quality of listening and respect offered to clients
 - culturally appropriate ways of communicating that are courteous and clear

- respect for privacy and dignity
 - careful attention to client consent and confidentiality
12. Clients should be adequately informed about the nature of the services being offered. Practitioners should obtain adequately informed consent from their clients and respect a client's right to choose whether to continue or withdraw.
 13. Practitioners should ensure that services are normally delivered on the basis of the client's explicit consent. Reliance on implicit consent is more vulnerable to misunderstandings and is best avoided unless there are sound reasons for doing so. Overriding a client's known wishes or consent is a serious matter that requires commensurate justification. Practitioners should be prepared to be readily accountable to clients, colleagues and professional body if they override a client's known wishes.
 14. Situations in which clients pose a risk of causing serious harm to themselves or others are particularly challenging for the practitioner. These are situations in which the practitioner should be alert to the possibility of conflicting responsibilities between those concerning their client, other people who may be significantly affected, and society generally. Resolving conflicting responsibilities may require due consideration of the context in which the service is being provided. Consultation with a supervisor or experienced practitioner is strongly recommended, whenever this would not cause undue delay. In all cases, the aim should be to ensure for the client a good quality of care that is as respectful of the client's capacity for self-determination and their trust as circumstances permit.
 15. Working with young people requires specific ethical awareness and competence. The practitioner is required to consider and assess the balance between young people's dependence on adults and carers and their progressive development towards acting independently. Working with children and young people requires careful consideration of issues concerning their capacity to give consent to receiving any service independently of someone with parental responsibilities and the management of confidences disclosed by clients.
 16. Respecting client confidentiality is a fundamental requirement for keeping trust. The professional management of confidentiality concerns the protection of personally identifiable and sensitive information from unauthorised disclosure. Disclosure may be authorised by client consent or the law. Any disclosures should be undertaken in ways that best protect the client's trust. Practitioners should be willing to be accountable to their clients and to their profession for their management of confidentiality in general and particularly for any disclosures made without their client's consent.
 17. Practitioners should normally be willing to respond to their client's requests for information about the way that they are working and any assessment that they may have made. This professional requirement does not apply if it is considered that imparting this information would be detrimental to the client or inconsistent with the counselling or psychotherapeutic approach previously agreed with the client. Clients may have legal rights to this information and these need to be taken into account.
 18. Practitioners must not abuse their client's trust in order to gain sexual, emotional, financial or any other kind of personal advantage. Sexual relations with clients are prohibited. 'Sexual relations' include intercourse, any other type of sexual activity or sexualised behaviour. Practitioners should think carefully about, and exercise considerable caution before, entering into personal or business relationships with former clients and should expect to be professionally accountable if the relationship becomes detrimental to the client or the standing of the profession.
 19. Practitioners should not allow their professional relationships with clients to be prejudiced by any personal views they may hold about lifestyle, gender, age, disability, race, sexual orientation, beliefs or culture.
 20. Practitioners should be clear about any commitment to be available to clients and colleagues and honour these commitments.

Teaching and training

21. All practitioners are encouraged to share their professional knowledge and practice in order to benefit their clients and the public.
22. Practitioners who provide education and training should acquire the skills, attitudes and knowledge required to be competent teachers and facilitators of learning.
23. Practitioners are required to be fair, accurate and honest in their assessments of their students.
24. Prior consent is required from clients if they are to be observed, recorded or if their personally identifiable disclosures are to be used for training purposes.

Supervising and managing

25. Practitioners are responsible for clarifying who holds responsibility for the work with the client.
26. There is a general obligation for all counsellors, psychotherapists, supervisors and trainers to receive supervision/consultative support independently of any managerial relationships.
27. Supervisors and managers have a responsibility to maintain and enhance good practice by practitioners, to protect clients from poor practice and to acquire the attitudes, skills and knowledge required by their role.

Researching

28. The Association is committed to fostering research that will inform and develop practice. All practitioners are encouraged to support research undertaken on behalf of the profession and to participate actively in research work.
29. All research should be undertaken with rigorous attentiveness to the quality and integrity both of the research itself and of the dissemination of the results of the research.
30. The rights of all research participants should be carefully considered and protected. The minimum rights include the right to freely given and informed consent, and the right to withdraw at any point.
31. The research methods used should comply with the standards of good practice in counselling and psychotherapy and must not adversely affect clients.

Fitness to practise

32. Practitioners have a responsibility to monitor and maintain their fitness to practise at a level that enables them to provide an effective service. If their effectiveness becomes impaired for any reason, including health or personal circumstances, they should seek the advice of their supervisor, experienced colleagues or line manager and, if necessary, withdraw from practice until their fitness to practise returns. Suitable arrangements should be made for clients who are adversely affected.

If things go wrong with own clients

33. Practitioners should respond promptly and appropriately to any complaint received from their clients. An appropriate response in agency-based services would take account of any agency policy and procedures.
34. Practitioners should endeavour to remedy any harm they may have caused to their clients and to prevent any further harm. An apology may be the appropriate response.
35. Practitioners should discuss, with their supervisor, manager or other experienced practitioner(s), the circumstances in which they may have harmed a client in order to ensure that the appropriate steps have been taken to mitigate any harm and to prevent any repetition.
36. Practitioners are strongly encouraged to ensure that their work is adequately covered by insurance for professional indemnity and liability.
37. If practitioners consider that they have acted in accordance with good practice but their client is not satisfied that this is the case, they may wish to use independent dispute resolution, for example: seeking a second professional opinion, mediation, or conciliation where this is both appropriate and practical.
38. Clients should be informed about the existence of the Professional Conduct Procedure of this Association and any other applicable complaints or disciplinary procedures. If requested to do so, practitioners should inform their clients about how they may obtain further information concerning these procedures.

Responsibilities to all clients

39. Practitioners have a responsibility to protect clients when they have good reason for believing that other practitioners are placing them at risk of harm.
40. They should raise their concerns with the practitioner concerned in the first instance, unless it is inappropriate to do so. If the matter cannot be resolved, they should review the grounds for their concern and the evidence available to them and, when appropriate, raise their concerns with the practitioner's manager, agency or professional body.
41. If they are uncertain what to do, their concerns should be discussed with an experienced colleague, a supervisor or raised with this Association.
42. All members of this Association share a responsibility to take part in its professional conduct procedures whether as the person complained against or as the provider of relevant information.

Working with colleagues

The increasing availability of counselling and psychotherapy means that most practitioners have other practitioners working in their locality, or may be working closely with colleagues within specialised or multidisciplinary teams. The quality of the interactions between practitioners can enhance or undermine the claim that counselling and psychotherapy enable clients to increase their insight and expertise in personal relationships. This is particularly true for practitioners who work in agencies or teams.

Working in teams

43. Professional relationships should be conducted in a spirit of mutual respect. Practitioners should endeavour to attain good working relationships and systems of communication that enhance services to clients at all times.

44. Practitioners should treat all colleagues fairly and foster equality opportunity.
45. They should not allow their professional relationships with colleagues to be prejudiced by their own personal views about a colleague's lifestyle, gender, age, disability, race, sexual orientation, beliefs or culture. It is unacceptable and unethical to discriminate against colleagues on any of these grounds.
46. Practitioners must not undermine a colleague's relationships with clients by making unjustified or unsustainable comments.
47. All communications between colleagues about clients should be on a professional basis and thus purposeful, respectful and consistent with the management of confidences as declared to clients.

Awareness of context

48. The practitioner is responsible for learning about and taking account of the different protocols, conventions and customs that can pertain to different working contexts and cultures.

Making and receiving referrals

49. All routine referrals to colleagues and other services should be discussed with the client in advance and the client's consent obtained both to making the referral and also to disclosing information to accompany the referral. Reasonable care should be taken to ensure that:
 - the recipient of the referral is able to provide the required service;
 - any confidential information disclosed during the referral process will be adequately protected;
 - the referral will be likely to benefit the client.
50. Prior to accepting a referral the practitioner should give careful consideration to:
 - the appropriateness of the referral;
 - the likelihood that the referral will be beneficial to the client;
 - the adequacy of the client's consent for the referral.

If the referrer is professionally required to retain overall responsibility for the work with the client, it is considered to be professionally appropriate to provide the referrer with brief progress reports. Such reports should be made in consultation with clients and not normally against their explicit wishes.

Probity in professional practice

Ensuring the probity of practice is important both to those who are directly affected but also to the standing of the profession as a whole.

Providing clients with adequate information

51. Practitioners are responsible for clarifying the terms on which their services are being offered in advance of the client incurring any financial obligation or other reasonably foreseeable costs or liabilities.
52. All information about services should be honest, accurate, avoid unjustifiable claims, and be consistent with maintaining the good standing of the profession.
53. Particular care should be taken over the integrity of presenting qualifications, accreditation and professional standing.

Financial arrangements

54. Practitioners are required to be honest, straightforward and accountable in all financial matters concerning their clients and other professional relationships.

Conflicts of interest

55. Conflicts of interest are best avoided, provided they can be reasonably foreseen in the first instance and prevented from arising. In deciding how to respond to conflicts of interest, the protection of the client's interests and maintaining trust in the practitioner should be paramount.

Care of self as a practitioner

Attending to the practitioner's well-being is essential to sustaining good practice.

56. Practitioners have a responsibility to themselves to ensure that their work does not become detrimental to their health or well-being by ensuring that the way that they undertake their work is as safe as possible and that they seek appropriate professional support and services as the need arises.
57. Practitioners are entitled to be treated with proper consideration and respect that is consistent with this Guidance.

Professional Conduct Procedure

It is the responsibility of all Members and Complainants to ensure that they fully understand the Professional Conduct Procedure and the associated protocols. This procedure forms an essential part of BACP's commitment to the protection of the public. Members are required to inform any client who indicates that they have a complaint or grievance about the existence of this procedure and any other applicable complaints or disciplinary procedures. If requested to do so, practitioners should inform their clients about how they may obtain further information concerning these procedures. Further information may be obtained by contacting the Professional Conduct Department at BACP directly; alternatively, all documentation is available on the BACP website at www.bacp.co.uk.

1 Introduction

1.1 Aim

The aim of the Professional Conduct Procedure is to provide complainants with an open and transparent route of remedy where complaints are made against members of this Association. In processing such complaints, the Association aims to protect members of the public, the name and reputation of BACP and the professions of counselling and psychotherapy.

1.2 Bringing a complaint

A complaint can be brought by either:

- a) a member of the public who has sought or received a service provided by a member of the Association; or
- b) a current member of the Association who may bring complaints for services sought or received directly from another member; or who has witnessed poor practice delivered by another member; or on behalf of another where their written permission has been obtained and where that person is unable to bring the complaint on their own behalf (explanation is required in writing as to the nature of the inability); or
- c) a legal guardian or other appropriately authorised adult on behalf of a minor and/or an adult lacking legal capacity for services sought or received; or
- d) a third party who can demonstrate sufficient interest and who has been directly affected by the actions of the practitioner, subject to the protocol on third party complaints.

1.3 Complaints against non-members

The Association cannot deal with complaints against individuals or organisations that were not members of the Association at the time of the alleged misconduct and/or are not current members of the Association.

1.4 Complaints against members

A complaint made against a member and brought within the timescale detailed below, may cover the entirety of the professional relationship in so far as the member concerned was a member of the Association at the time of the alleged professional misconduct.

1.5 Timescale

A complaint must be submitted either:

- a) within three years of the ending of the professional relationship; or
- b) within three years of the date when the Complainant reasonably became aware of the alleged professional misconduct. The Complainant must provide a written explanation as to when/how they became aware and this will be considered by the Pre-Hearing Assessment Panel which will decide if the explanation given is good and/or sufficient; or
- c) within a reasonable time of the alleged professional misconduct.

The Association will not consider any complaints where the substantive matters have previously been considered by the Association under these procedures.

1.6 Records

All records will be kept for a period of seven years. The Association reserves the right to reconsider complaints previously submitted when similar/other complaints subsequently arise that give good reason to suggest that the practitioner's continuing membership should be considered under Article 4.6 of the Memorandum & Articles of Association.

Where the outcome of a complaint has resulted in termination of membership of the Association, all records will be kept unless and/or until such time as the person concerned has successfully re-applied for membership of the Association. Such records will be considered in any re-application for membership of the Association.

1.7 Administration

The administration of the Professional Conduct Procedure will follow the protocols laid down and as amended from time to time by the Association. These will be administered by the Head of Professional Conduct.

There is benefit in furthering the charitable aims of the Association by carrying out audits and/or research into complaints. The data from complaints will be processed for the purposes of research and statistical analysis. Where this work is carried out, either by BACP or a third party, under strict protocols of confidentiality, the confidentiality of the parties concerned will be respected and any published research and/or analysis will not contain any personally identifiable information.

1.8 Expenses

The Association is not responsible for travel or any other expenses incurred either by the Complainant or the Member Complained Against or any support person/representative in connection with any stage of the complaint. The Association cannot order one party in a complaint to pay another party's costs.

However, where a witness is called by the Chair of the Panel, BACP will reimburse reasonable travel expenses upon the production of valid receipts and completion of an expense claim form.

1.9 Dual accountability

The Association may decide to hear a complaint against a member when another organisation is involved in a similar process arising out of the same substantive matters. Where information is received for consideration under the Professional Conduct Procedure and where it is known that the member concerned is also a member of another professional body, the Association reserves the right to formally notify any other organisation of the issues being considered.

1.10 Resolution

Before submitting a complaint to BACP, the Complainant is expected to attempt to resolve the issue with the individual or organisational Member Complained Against and details of any attempt at resolution should be included with the complaint. If local resolution is not possible/feasible or is considered inappropriate in the particular circumstances of the case, the Complainant will be required to provide a written explanation as to why this is the case.

1.11 Complaints and findings

The Association reserves the right to notify other professional bodies and/or agencies about complaints and to distribute any findings upheld against a member, where it considers it right and just to do so in all circumstances.

2 Making A Complaint

2.1 The complaint

The complaint must satisfy the following conditions:

- a) The Complainant must provide a detailed account of the practice giving rise to the complaint, together with details of dates when the event(s) occurred. Reference may be made to the standards of practice outlined in the Ethical Framework for Good Practice in Counselling and Psychotherapy and/or the relevant Codes of Ethics and Practice in force at the time, together with all supporting evidence as appropriate. Reference may also be made to the Ethical guidelines for researching counselling and psychotherapy, as appropriate.
- b) The individual or organisational Member Complained Against is named and is a current member of the Association and was a member of the Association at the time the alleged breach occurred.
- c) It is in writing, dated, signed and received by the Head of Professional Conduct.

A complaint not satisfying the above conditions will not be accepted or processed under these procedures.

2.2 Notification

The Member Complained Against will be notified that a complaint has been received, given a copy of that complaint and details of the procedure to be followed. The Member Complained Against is not required to respond at this stage, but will be given an opportunity at a later stage if the complaint is accepted under the formal Professional Conduct Procedure (as set out in section 3).

2.3 Receipt of a complaint

The complaint will be submitted to a Pre-Hearing Assessment Panel, whereupon the Panel will decide:

- a) whether to accept the complaint to be dealt with at a Professional Conduct Hearing, refer it back for further information/clarification or reject it. The Panel has discretion to interview the Complainant and/or Member Complained Against if deemed appropriate;
- b) if further information/clarification is requested, upon receipt of same, the complaint will be re-submitted to the Pre-Hearing Assessment Panel which will decide whether to accept it or reject it;
- c) once the complaint is accepted, the Complainant and Member Complained Against will be formally notified of this decision in writing. The Head of Professional Conduct will then start the formal Professional Conduct Procedure (as set out in section 3);
- d) if the complaint is not accepted by the Pre-Hearing Assessment Panel, the Complainant and Member Complained Against will be formally notified of this decision in writing.

2.4 Appeal following decision of the Pre-Hearing Assessment Panel

The Complainant may appeal against the decision of the Pre-Hearing Assessment Panel. An appeal must be received by the Head of Professional Conduct within 14 days of notification of the Panel's decision. The Complainant can appeal 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 Pre-Hearing Assessment Panel (subject to the conditions laid down in the relevant protocol).

The intention to appeal must be accompanied by the evidence to support the submission.

The ground(s) of appeal, together with the original submissions and any new evidence considered by the Pre-Hearing Assessment Panel, will be considered by an independent Appeal Assessor. The Appeal Assessor's decision will be final.

3 The Formal Professional Conduct Procedure

3.1 Acceptance of complaint

The Complainant and Member Complained Against will be notified in writing that the complaint will proceed to a Professional Conduct Hearing.

3.2 Responding to a formal complaint

The Member Complained Against will be notified of the acceptance of the complaint and will have 28 days to respond to it, having previously been supplied with a copy of the complaint. The Member Complained Against will also be furnished with any further information submitted by the Complainant and considered by the Pre-Hearing Assessment Panel. Any response to the complaint must be forwarded to the Head of Professional Conduct.

3.3 Evidence

All evidence submitted for the purpose of the Professional Conduct Hearing, by either the Complainant or the Member Complained Against, shall be available to the parties involved in the complaint. The Head of Professional Conduct will distribute to the parties copies of all submissions made.

3.4 Conduct

It is the duty of the parties taking part in the Professional Conduct Procedure to comply with the implementation of the Professional Conduct Procedure. Such persons shall comply with the relevant protocols as laid down by the Association. Any failure to comply may result in the termination of the Professional Conduct Procedure or withdrawal of membership under Article 4.6 of the Memorandum and Articles of Association.

3.5 Lapsed membership

Failure to renew membership by a Member Complained Against during the course of a complaint will not normally terminate the Professional Conduct Procedure.

A member's resignation from membership of the Association will not normally terminate nor invalidate the processing and/or hearing of a complaint by the Association.

4 The Professional Conduct Hearing

4.1 Venue

Professional Conduct Hearings will be held at a neutral venue within the vicinity of the Association's headquarters, other than in exceptional circumstances.

4.2 Professional Conduct Panel

The Head of Professional Conduct will appoint an independently constituted panel of not less than three persons, including lay representation, to hear the complaint.

4.3 Declaration of interest

Members of the Professional Conduct Panel have a duty to declare any interest which may be considered by the Head of Professional Conduct to affect their impartiality, or likely to be thought so to do.

4.4 Purpose

The purpose of the Professional Conduct Hearing is for the Professional Conduct Panel to examine all the written and oral evidence presented by both parties and decide whether the complaint is proved or not. If proved, the Panel will decide whether or not any sanction should be imposed.

4.5 Presence of a representative/support person

When appearing at the Professional Conduct Hearing, the Complainant and Member Complained Against may each be accompanied by a representative who may support and/or speak on behalf of the party concerned. Such details of a representative/support person must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Professional Conduct Hearing.

4.6 Written evidence

Written evidence and/or submissions and witness statements must be submitted in advance by the Complainant and the Member Complained Against. Such papers must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Professional Conduct Hearing. Such papers will be circulated to the Professional Conduct Panel, the Complainant and the Member Complained Against, within a reasonable period prior to the Hearing. The Chair of the Professional Conduct Panel may take advice on these papers and/or procedural matters from the Head of Professional Conduct or such relevant person as may be deemed appropriate.

4.7 New evidence

The Chair of the Professional Conduct Panel will determine whether or not new evidence will be accepted on the day of the Hearing. The decision will be based on the conditions laid down in the relevant protocol. The Chair of the Professional Conduct Panel may take advice on such matters from the Head of Professional Conduct.

4.8 Attendance by witnesses

A witness can only be called if the witness has supplied a written statement contained within the parties' submissions to BACP. Parties wishing to call witnesses must notify the Head of Professional Conduct of the names and details of such witnesses not less than 28 days prior to the date fixed for the Hearing. The Chair of the Panel will only permit the attendance of a witness if the Panel considers their written statement requires further clarification. The Professional Conduct Panel, Complainant and Member Complained Against may call witnesses to attend the Hearing. The Chair of the Panel has discretion to refuse attendance by a witness if it is reasonably believed that such attendance is not relevant and/or will not add any weight to the issue(s) being considered. Witnesses may be questioned by the Panel and by either party connected with the case.

4.9 Failure to attend the Professional Conduct Hearing

Where a Complainant or Member Complained Against fails or refuses to attend a Professional Conduct Hearing, the Chair of the Professional Conduct Panel has the power to decide to either:

- a) proceed with the Hearing in the absence of one or both of the parties; or
- b) adjourn the Hearing to a date not less than 28 days in advance; or
- c) terminate the proceedings; or
- d) refer the matter for consideration under Article 4.6 of the Memorandum & Articles of Association.

4.10 Notification of findings

The decision of the Professional Conduct Panel will be notified in writing to the parties within 28 days of the Professional Conduct Hearing.

The entirety of the decision of the Professional Conduct Panel, together with the details of any sanction, will be published on the Association's website and in its journal.

5 Sanction

5.1 The Professional Conduct Panel, having regard to the findings, may impose one or more of the sanctions detailed in the relevant protocol.

The Head of Professional Conduct will appoint an independently constituted Sanction Panel which will consist of not less than three people, usually two members of the Association and one lay member, to consider any evidence of compliance.

5.2 Lifting of sanction

The Sanction Panel will decide if the requirements of the sanction have been fulfilled and thus, whether the sanction should be lifted.

The Member Complained Against will be notified in writing of any decision made. Where a sanction has been successfully complied with and, thus, lifted, a Sanction Compliance Notice will be published on the Association's website and in its journal.

5.3 Failure or refusal to comply with sanction

Failure or refusal to comply with a sanction may result in membership of the Association being withdrawn immediately. The Chair of the Association will notify the Member Complained Against of any such decision in writing. In such circumstances, a Withdrawal of Membership Notice will be published on the Association's website and in its journal.

6 Formal Appeal Procedure

6.1 The Member Complained Against may appeal on the ground(s) detailed in paragraph 6.5. An appeal against the decision of the Professional Conduct Panel must be submitted in writing by the deadline given (see paragraph 6.6), be accompanied by any supporting documentation and submitted to the Head of Professional Conduct.

6.2 The ground(s) for appeal will be considered by an independent Appeal Assessor who will decide whether the appeal should be accepted to go forward to an Appeal Hearing or not.

6.3 If leave to appeal is accepted under paragraph 6.2, a notice to that effect shall be given to the Head of Professional Conduct and the case will proceed to an Appeal Hearing, where the appeal will be considered by an independent Appeal Panel, as set out in Section 7. The Appellant and the Complainant will be notified of this decision and given details of the procedure to be followed.

6.4 If there is insufficient evidence to satisfy any of the ground(s) for appeal, the leave to appeal will be rejected. The Appellant and the Complainant will be notified in writing of this decision which will be final.

- 6.5** An appeal will be considered on any of the following ground(s):
- a) the facts were found against the weight of evidence;
 - b) the sanction is disproportionate to the findings and decision of the Professional Conduct Panel and is unjust in all the circumstances;
 - c) there is evidence to suggest that a procedural impropriety may have had a material effect on the findings and decision of the Professional Conduct Panel;
 - d) there is new evidence which was not available at the time of the Professional Conduct Hearing, subject to the conditions laid down in the relevant protocol.

6.6 Timescale for appeal

An appeal must be in writing, and must specify which ground(s) it is submitted under and be accompanied by any supporting documentation and served upon the Head of Professional Conduct within 28 days of notification of the findings and decision and/or sanction of the Professional Conduct Panel.

7 Appeal Hearing

7.1 Venue

Appeal hearings will be held at a neutral venue within the vicinity of the Association's headquarters, other than in exceptional circumstances.

7.2 Appeal Panel

The Head of Professional Conduct will appoint an independently constituted panel of not less than three persons, including lay representation, to decide the appeal.

7.3 Declaration of interest

Members of an appeal panel have a duty to declare any interest which may be considered by the Head of Professional Conduct to affect their impartiality, or likely to be thought so to do.

7.4 Purpose

The purpose of an appeal hearing is for an appeal panel to examine all the written and oral evidence presented by both parties to decide whether the appeal is upheld or not.

7.5 Format of the Appeal Hearing

The Appeal Hearing will be by way of a review of the Professional Conduct Panel's decision in light of the evidence put before it. The Appeal Panel will then consider the appeal documentation in its entirety, together with any verbal submissions and mitigating factors before reaching its decision.

7.6 Presence of a representative/support person

When appearing at the Appeal Hearing, both parties may be accompanied by a representative who may support and/or speak on behalf of the party concerned. Such details of a representative/support person must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Appeal Hearing.

7.7 Written evidence

Written evidence and/or submissions and witness statements must be submitted in advance by the Appellant and the Complainant. Such papers must be received by the Head of Professional Conduct not less than 28 days prior to the date fixed for the Appeal Hearing. Such papers will be circulated to the Appeal Panel, the Appellant and the Complainant, within a reasonable period prior to the Hearing. The Chair of the Appeal Panel may take advice on these papers and/or procedural matters from the Head of Professional Conduct, or such relevant person as may be deemed appropriate.

7.8 New evidence

The Chair of the Appeal Panel will determine whether or not new evidence will be accepted on the day of the Appeal Hearing. The decision will be based on the conditions laid down in the relevant protocol. The Chair of the Appeal Panel may take advice on such matters from the Head of Professional Conduct.

7.9 Attendance by witnesses

A witness can only be called if the witness has supplied a written statement contained within the parties' submissions to BACP. Parties wishing to call witnesses must notify the Head of Professional Conduct of the names and details of such witnesses not less than 28 days prior to the date fixed for the Hearing. The Chair of the Appeal Panel will only permit the attendance of a witness if the Panel considers that their written statement requires further clarification. The Appeal Panel, Appellant and Complainant may call witnesses to attend the Hearing. The Chair of the Appeal Panel has discretion to refuse attendance by a witness if it is reasonably believed that such attendance is not relevant and/or will not add any weight to the issue(s) being considered. Witnesses may be questioned by the Panel and by either party connected with the case.

7.10 Failure to attend the Appeal Hearing

Where an Appellant or Complainant fails or refuses to attend an Appeal Hearing, the Chair of the Appeal Panel has the power to decide to either:

- a) proceed with the Hearing in the absence of one or both of the parties; or
- b) adjourn the Hearing to a date not less 28 days in advance; or
- c) refer the matter for consideration under Article 4.6 of the Memorandum & Articles of Association.

7.11 Notification of decision

The decision of the Appeal Panel will be notified to the parties in writing and normally within 14 days of the Appeal Hearing.

Where an Appeal has not been successful, the decision of the Appeal Panel, including details of any sanction, incorporating any amendment(s) made by the Appeal Panel, will be published on the Association's website and in its journal.

If the decision is that the Appellant's membership of the Association should be withdrawn, the Head of Professional Conduct will communicate this decision to the Chair of the Association who, in turn, will formally notify the Appellant in writing and implement the Panel's decision, which will be final.

8 Publication

8.1 The decision of the Professional Conduct and/or Appeal Panel, together with details of any sanction, will be published on the Association's website and in its journal in such detail as deemed appropriate to the findings and at its discretion.

8.2 The withdrawal of membership under the Professional Conduct Procedure will be published on the Association's website, in its journal and elsewhere as it considers appropriate and just to do so, and in the interests of public protection.

8.3 Under these procedures, any notification that the Association is entitled to publish on its website and in its journal may be published elsewhere by the Association at its discretion and in the interests of public protection.

9 Effective Date

This Professional Conduct Procedure 2009 will apply to all complaints received by the Association from 1 January 2009.

Heads of Complaint

The Professional Conduct Panel is responsible for determining whether the ground(s) of the complaint are upheld or not, according to the standards of civil law. If upheld, the Panel has to consider its decision and make a finding under one or more of the following heads of complaint. The decision about the head must ultimately rest upon consideration of all the circumstances in the case. The information that follows is intended to inform the choice between the three heads of complaint available to the Panel. These are:

1. Professional Misconduct
2. Professional Malpractice
3. Bringing the Profession into Disrepute

Professional Misconduct

A finding of professional misconduct signifies that the practitioner has contravened the ethical and behavioural standards that should reasonably be expected of a member of this profession. Misconduct is defined as acting in contravention of the written and unwritten guidance of the profession.

A finding of serious professional misconduct is appropriate if the misconduct is of sufficient seriousness to merit a period of suspension of rights of membership and/or the withdrawal of membership of the Association.

Professional Malpractice

A finding of professional malpractice signifies that the service(s) for which the practitioner is responsible have fallen below the standards that would reasonably be expected of a practitioner exercising reasonable care and skill. Examples of malpractice include, but are not restricted to:

1. Incompetence
2. Negligence
3. Recklessness
4. The provision of inadequate professional services

A finding of serious professional malpractice is appropriate if the malpractice is of sufficient seriousness to merit a period of suspension of rights of membership and/or the withdrawal of membership of the Association.

Bringing the Profession into Disrepute

A finding of bringing the profession into disrepute signifies that the practitioner has acted in such an infamous or disgraceful way that the public's trust in the profession might reasonably be undermined, or might reasonably be undermined if they were accurately informed about all the circumstances of the case.

A finding under this head must amount to 'disgraceful conduct in a professional respect'. This involves consideration of three elements:

Conduct that is regarded as 'disgraceful' need not amount to moral turpitude or be restricted to acts of serious immorality.

The conduct must have had some connection with a professional role in order to be considered as falling 'in a professional respect'. It ought not to be concerned with matters that can reasonably be viewed as solely personal and private.

Conduct 'in a professional respect' is not confined to the pursuit of the profession in question.

What is not considered to be disgraceful to an ordinary person may be considered to be disgraceful to a professional person.

A finding of bringing the profession into disrepute will result in withdrawal of membership.



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