

The Independent Complaints Panel

The Independent Complaints Panel (IP) has the full delegated authority of the Council of the National Counselling Society and of the National Hypnotherapy Society (“the Society”) to take decisions on complaints about its registrants (i.e. counsellors and hypnotherapists) or members. The Society’s Ethics Officer has 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 for a formal hearing where the complaint is a fitness to practise or public safety issue and there is a realistic prospect of a finding that may result in removal or suspension from the register.

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

Terms of Reference

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

Membership

The IP shall be composed of an independent lay chair and two registrants who themselves have not been the subject of the complaints procedure and have no connections with either party to the complaint.

Registrant members of the IP will be appointed from a list of those who have volunteered to serve on the IP. Where issues of therapeutic modality are relevant, the chair shall ensure that one panel member has the relevant expertise in that modality.

Independent Complaint Panel Members’ Interests

A register of the IP members’ conflicts of interests is available upon request.

The Independent Complaints Panel’s procedure

An Independent Complaints Panel hearing will be an oral hearing and held in private, unless the complainant or registrant wishes for the hearing to be held in public. 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 registrant’s ill-health or addiction or other issues not related to misconduct.

Parties present at the hearing

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

2. The IP will appoint a secretary to the proceedings. The chair will ask all parties including the IP members to briefly introduce themselves before the proceedings start. The IP may invite the Professional Standards Authority to the hearing. They may also invite representatives from other professional bodies where there is shared membership.

Evidence

3. The IP 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 Ethics Officer 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.

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

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

1. Charges; Code of Ethics; registrant'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

6. 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.

7. The Ethics Officer will not omit documents other than on grounds of duplication, third party confidentiality (though any documents will be anonymised where possible). The registrant 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.

Witnesses

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

9. 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 IP whether witnesses are free to remain in the room at the conclusion of their evidence.

Length of the Hearing

10. 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 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 IP members are available. It is good practice to try to agree at the hearing the amount of extra time that will be needed and set the date(s). This will avoid further delay.

Conduct of the Hearing

11. 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.

12. All parties remain seated throughout.

13. The secretary should make notes of the proceedings.

14. The charges will be put to the registrant. The registrant can admit or deny the charges. If the registrant denies them, the Ethics Officer will present the evidence in support of the charges and the registrant will be given an opportunity to present evidence in his/her defence.

15. After the charges have been put to the registrant and pleas have been taken, the Ethics Officer will be required to summarise the case unless the IP indicate that this is not necessary because they have read the papers. The Ethics Officer will then call any witnesses.

16. Both the Ethics Officer and the registrant 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 IP may intervene if this is not respected. The IP may ask questions of any party or any witness at any stage of the proceedings.

17. In most cases, it will not be necessary to lead a witness through his/her 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.

18. The Ethics Officer and the registrant will be given the opportunity to make closing remarks.

Findings

19. After hearing all the evidence, the IP will then retire to make a decision as to whether the charges are made out. The IP will consider a) have the facts been proved; b) has there been a breach of the Code of Ethics and c) is the Registrant fit to practise, with or without restrictions/sanctions. The IP may invite the Secretary to join them at any stage of their deliberations.

20. The secretary will usually provide updates and will inform parties if the IP is unlikely to return for a long period. It is rare for an IP 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 IP will return and will normally give full oral reasons for its decisions. In exceptional circumstances, the IP may give its decision but provide a written judgement within seven days.

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

22. If the charges are made out, the IP will then need to decide what sanction should be imposed. Sanctions imposed must be reasonable and proportionate having balanced the interest of the Registrant and the public interest. The IP 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

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

Sanctions and previous findings

23. The Ethics Officer will bring to the hearing copies of reports of any previous findings of professional misconduct or safety to practise. Once any of the charges have been admitted or proved, the Ethics Officer will bring to the IP's attention any previous disciplinary findings against the registrant so that they can be taken into consideration in imposing sanctions.

Suspension pending appeal

24. Any sanction ordered by the IP 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 Independent Panel.

25. If the registrant wishes to appeal the IP's findings, s/he must notify the Ethics Officer in writing using the Appeals form, within 28 days of receiving the IP's findings. An Appeal Committee composed of an independent member and two registrants will be constituted and will review the IP's decision. This will be a paper hearing.. No member of the IP who heard the case at first instance may sit on the Appeal committee.

Publication of findings

26. All findings 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. However, if there is no case to answer, this information will not be published on the website.

FAQs – Independent Panel

1. What is the Independent Complaints Panel (IP) and what powers does it have?

The Independent Complaints Panel is a panel of lay people and registrants that has been given full delegated authority to take decisions on complaints where there is a realistic prospect of a finding that may result in the registrant being suspended or removed from the register. It is made up of two registrants and an independent lay chair. The IP has the power to impose sanctions such as:

- An advisory letter containing Learning Points
- Conditions on Registration (e.g. further training)
- Suspension from Registration
- Removal from the Register

The IP will only consider suspending or removing a registrant in the most serious cases.

2. What happens at an IP paper hearing?

The IP will read all the evidence and comments that the Ethics Officer and the registrant have provided and will decide together whether the charges have been made out. They will then decide what, if any, sanction to impose. The complainant and registrant will be informed of the outcome in writing within seven days of the decision being made.

3. What happens at an IP oral hearing?

At an oral hearing the Ethics Officer presents the evidence to support the charges. The registrant can admit the charges but if the registrant denies them, the registrant will be given an opportunity to present any evidence in defence and may be questioned by the Ethics Officer or IP. The registrant may be represented or accompanied by a friend or legal advisor but must notify the Ethics Officer of the name and status of the representative before the hearing. The friend or legal advisor cannot be the member of, or connected with, another counselling or therapeutic professional association.

The IP will then make a decision as to whether the registrant has breached the Code of Ethics or is unsafe to practise. If it decides that there has been a breach, it will then need to decide what sanction should be imposed, in accordance with the Indicative Sanctions Guidance document.