

## **What happens at a Disciplinary Committee Hearing?**

In our disciplinary procedures which can be accessed on the website, the process how complaints are dealt with is described. This includes setting up an investigating panel to look at any allegations against a member.

A Disciplinary Committee hearing is only held if the members of the Investigating Panel think that it is possible that the member has breached the Code of Ethics. Under those circumstances they inform the Chair of the Ethics committee who then appoints a Disciplinary Committee, made up of three members of the Ethics Committee who have not taken part in any consideration of the complaint so far. This normally includes two lay members of the Ethics committee and one child psychotherapist member of the committee

### **The Arrangements Meeting**

There is then (within approximately a month) a meeting between the members of the Disciplinary Committee, the members of the Investigating Panel and the member and/or his/her representative. This meeting is only in order to organise procedural arrangements for the Disciplinary Hearing. This arrangements meeting is an administrative matter and does not form part of the Disciplinary Hearing.

Its purpose will be to enable the Investigating Panel and the member complained against to give an initial indication of the amount of documentation which they intend to present, the number of witness whom they propose to call, whether they propose to be represented and if so by whom, the estimated duration of the hearing, the fixing of dates for the hearing, and any other procedural or administrative matters necessary. Sometimes it is not necessary to have a face-to-face meeting and these matters can be arranged by email or other means. The investigating panel produce a Preliminary bundle of documents to be submitted to the Disciplinary panel and this is made available to the member complained about. If, in the view of the Chair of the Ethics Committee, the case is an unusually serious or complex one he or she may invite a member of the ACP Legal Members' Panel to sit as a member of the Disciplinary Committee in addition to the three members already appointed. The members of the Disciplinary Committee shall not include the members of the Investigating Panel or the Chair of the Ethics Committee

### **Documentation**

Not less than 15 working days before the start of the hearing, the member being complained about makes available copies of any documents ('the Member's Bundle') which s/he wishes to place before the Disciplinary Committee.

Using the Preliminary Bundle as prepared by the Investigating Panel and the Members Bundle (if any) along with any other relevant documents, the members of the Investigating Panel make up a paginated set of papers for the purposes of the hearing ('the Hearing Bundle'). Copies of the Hearing Bundle will be sent to the members of the Disciplinary Committee and to the member complained about not less than 10 working days before the start of the hearing.

Very occasionally the Investigating Panel or the member complained about may at the hearing seek the permission of the Disciplinary Committee to produce documents which have not been included in the Hearing Bundle. In these unusual circumstances the Disciplinary Committee will decide whether or not to make use of them.

## **Representation**

The member complained about has the right to be represented by any one person of his/her choice, including a union representative or a practising solicitor or barrister. However under certain specific circumstances, the chosen representative may at any stage be excluded from the proceedings.

Hearings are held in private. The Investigating Panel, and the member complained about and his/her representative can be present throughout the hearing but witnesses, including the complainant, are entitled to be present only while giving evidence.

**Witnesses** including the complainant, are not usually represented, but if, for example, they need support, they can, with the agreement of the Chair of the Disciplinary Committee be accompanied. However the person accompanying a witness should do so on the understanding that s/he is not a representative and may not participate in the proceedings and must before the start of the meeting undertake in writing to maintain confidentiality about the proceedings as a condition of attendance. Witnesses are called to help establish facts that are relevant to the conduct being considered and its impact, and, if a breach of the Code is established, the extent to which the member complained of acted out of character or for specific reasons. In all cases the Disciplinary Committee shall consider what arrangements can be made to ensure any witnesses to be called will not be discouraged from giving evidence and adequately supported when they do (for example, through provision of a person other than a Committee member who has had no involvement in the investigation to explain the process, facilitating the attendance of a friend or other supporter, designating separate waiting areas for witnesses and the member, using screens to protect vulnerable witnesses giving evidence or, exceptionally, requiring a member representing themselves, or any representative, to put questions through the Chair of the Disciplinary Committee).

The Investigating Panel may take the view that the original complainant does not need to attend as they have already expressed their complaints to the Investigating Panel who are now taking over the presentation of the case.

While it is expected that all those involved will attend the Disciplinary Committee may adjourn or postpone the hearing or any part of it and may proceed in the absence of any person

## **Procedure at the hearing**

The members of the Disciplinary Committee shall arrange for a note (not a transcript) to be made of the hearing, a copy of which will be made available after the conclusion of the hearing on request to the member and, subject to duties of confidentiality to third parties, to any complainant. Such note will be made or approved by the Chair of the Disciplinary Committee. The Chair may also make a tape or digital recording of the hearing, provided they first obtain the consent of those present.

A member of the Investigating Panel will begin with a presentation of the case against the member. The presentation will usually include a summary of the allegations, the investigation, and the documentary evidence.

The presenting member of the Investigating Panel may then call witnesses. Each witness will be questioned by an Investigating Panel member, then by the member or his/her representative, then by the members of the Disciplinary Committee.

The member complained against or his/her representative may address the members of the Disciplinary Committee before calling evidence. The member is then free to put his/her own case, and invite witnesses who may speak about their knowledge of the member's professional conduct.

Instead of, or in addition to, calling witnesses, either side may present a written statement or Affidavit by or on behalf of a witness who is unable to attend the hearing. However the members of the Disciplinary Committee may choose not to receive this.

The rules of evidence that would be applied in Court do not apply at the hearing. Accordingly, the Disciplinary Committee may, at its discretion, accept an adult third party's account of the evidence of a child, or a child's written account, whether or not signed or sworn, or a video or tape recording of a child giving evidence.

After completion of the evidence, the member or his/her representative will be invited to make a closing submission. The Investigating Panel will then be invited to make a closing submission. At the conclusion of the closing submissions the Disciplinary Committee will withdraw to consider its decision.

Where the member has admitted a breach of the Association's Code of Professional Conduct and Ethics, evidence and submissions at the hearing may be directed to the question of the severity of any penalty to be imposed.

### **The decision**

The members of the Disciplinary Committee do not give their decision orally or immediately. They prepare a written decision, setting out their findings of fact, with reasons. Where the member has admitted a breach of the Association's Code of Professional Conduct and Ethics, or where a breach has been found, the decision also states any penalty to be imposed, with reasons.

Provided the Disciplinary Committee has given the member, complainant or other party notice and a reasonable opportunity to respond before preparing its decision, it may identify in a supplementary document or letter, or at an informal meeting, any evidence-based concerns it has about matters beyond the complaint and make recommendations of action that may be taken to address those concerns. However, any concerns recorded in supplementary document or letter, or expressed at such a meeting are not disciplinary findings and any recommendations made are not binding on the person or organisation to whom they are addressed.

The Chair of the Disciplinary Committee will send the written decision to the member, to the complainant and to the Chair of the Ethics Committee within a few weeks.

A member can appeal the decision.

Once it is clear that such an appeal is not being made, or (if relevant) once such an appeal has been unsuccessfully made and dismissed, The Chair of the Disciplinary Committee produces a concise note for posting on the ACP website which identifies the allegation made and the nature of the breach of the Code found, the name of the member and any penalty applied. This does not happen where the breach was related to health issues. The information stays on the website for 18 months, but any sanctions which refer to a restriction on practice remain posted for the period of the restriction or 18 months, whichever is the longer. Suspension of membership remains posted for 18 months or six months after it has have lapsed, whichever is the longer and expulsion remains posted for 10 years.

The Chair of the Ethics Committee may write to any employer of the Member identifying the Member and supplying the information contained in the concise note once it is published on the ACP website.