



The Association of Child Psychotherapists

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Disciplinary Procedures

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I. Introduction

- 1.1 The Association of Child Psychotherapists Ltd ('the Association') is established to further the objects set out in clauses 1-3 of its rules. In particular 3.1 which is 'To raise, maintain and regulate professional standards in relation to child psychotherapy in the UK.'
- 1.2 To these ends, the Association has laid down a Code of Professional Conduct and Ethics ('the Code'), and has established the Ethical Practice Group charged with the duties described below at Paragraph 2.2.

The Ethical Practice Group is a sub- group of the Professional Standards Committee and is accountable to the Director of Professional Standards.

The Director of Professional Standards is a member of the Association's Board of Directors ('the Board') and is required to report on a regular basis to the Board about any complaints or any issues relating to Professional Conduct and Ethics.

The Chair/Lead of the Ethical Practice Group attends the Professional Standards Committee meetings. She/he provides feedback on themes and pertinent issues relating to current complaints to the Association and gives advice on conduct and any ethical matters that may arise.

- 1.3 The primary purpose of the present document is to set out a procedure (at Paragraphs 3 to 14 below) whereby complaints of misconduct against Members of the Association, as defined in the Code, may be investigated and dealt with promptly and fairly and with proper regard to the interests of the public, the patient, the complainant, the Member of the Association, and the profession, and to the balances between those interests. Further procedures can be viewed on the Association's website (www.childpsychotherapy.org.uk) under 'Register and Standards'.
- 1.4 This procedure applies in full even if, before exhaustion of this procedure, a member resigns from the Association, fails to renew their registration or comply with the Continuing Professional Development (CPD) requirements. In such a case, the Association will retain all powers which would have been available to it if the former member were still in membership.

2. The Ethical Practice Group

Accountability

- 2.1 The Ethical Practice Group is a sub group of the Professional Standards Committee and accountable to the Director of Professional Standards and through him/her to the Board.

Functions

- 2.2 The functions of the Ethical Practice Group are fourfold:
 - 2.2.1 to investigate and adjudicate upon potential breaches of the Association's Code that are brought to its notice in accordance with the procedure set out below.
 - 2.2.2 to administer the Serious Impairment to Fitness to Practise Procedure (which is documented separately).

2.2.3 to produce a report on an anonymised basis for the Professional Standards Committee as part of the annual report to the membership, identifying the lessons that may be learned from the complaints and other concerns that have been investigated.

2.2.4 to consider, give guidance upon, advise and/or report upon any ethical issue concerning the profession of psychoanalytic child psychotherapy.

Membership of the Ethical Practice Group

2.3 Procedures regarding appointments, membership of and resignation from the Ethical Practice Group are set out in the document '*Functions and Job descriptions for The Ethical Practice Group*' which can be found at <http://www.childpsychotherapy.org.uk/complaints-against-member>.

Conflicts of Interest and Confidentiality

2.4 All members of the Ethical Practice Group are required to comply with the Association's Conflict of Interest and Confidentiality Policies. Members of the Ethical Practice Group shall play no part in investigations of complaints where there is, or could reasonably appear to be a conflict between their own professional or personal interests, including a prior relationship with any party to a complaint, and their obligations to fairly and thoroughly investigate and determine disciplinary matters under this policy.

3. The Legal Members' Panel

Membership

3.1 The Director of Professional Standards in consultation with the Chair/Lead of the Ethical Practice Group may appoint a legal members' panel of up to three currently practising barristers or solicitors. Members of this panel may be appointed to sit as members of Disciplinary Panels when dealing with case of unusual seriousness or complexity.

3.2 The members of the Legal Members' Panel may not be members of the Ethical Practice Group for other purposes.

Conflicts of Interest

3.3 Legal Members' Panel members shall play no part in investigations of complaints where there is, or could reasonably appear to be, a conflict between their own professional or personal interests, including a prior relationship with any party to a complaint, and their obligations to fairly determine disciplinary matters under this policy.

4. Preliminary Consideration of Possible Breaches of the Association's Code

Deemed complaints

4.1 Any members of the Association who receive from any other person by any means whatsoever information which indicates that another member may have committed a breach of the Association's Code which either:

4.1.1 has occurred in the course of the conduct of the Members' profession as a child psychotherapist and has compromised or may compromise the welfare of a child or a vulnerable adult;

4.1.2 or could, if proven, bring the profession into disrepute;

shall report the matter in writing to the Director of Professional Standards with any relevant documentary evidence included. The Director of Professional Standards will consult with the Ethical Practice Group Chair/Lead and may pass it to the Screening Group to decide how to proceed.

Other deemed complaints

4.2 Information which comes to the attention of the Association that gives reason to suppose that a member may have committed a breach of the Association's Code shall be treated as a complaint about that member's conduct if:

4.2.1 it is in the public domain; or

4.2.2 it has come to light as a result of an investigation by another professional or statutory body;
or

4.2.3 it is in writing

and in all cases shall be given preliminary consideration under paragraph 4.5.

Seeking clarification and authority for disclosure and use of information

4.3 The Association recognises that complaints may be made by colleagues, patients, families, employers or outside agencies, and that complaints may be expressed in the first instance either orally or in writing, or in terms which do not state expressly that they amount to a complaint. It also recognises that some vulnerable adults, disabled people or children may not be able to make a written complaint. It is for that reason that this part of the procedure makes provision for clarification of the intentions of potential complainants.

4.4 Anonymous complaints will not be accepted by the Association. However, the Director of Professional Standards and/or the Ethical Practice Group Chair/Lead would encourage and support any complainant who wishes to remain anonymous to approach the relevant statutory authorities.

4.5 Upon receipt of a complaint, the Director of Professional Standards shall forward it to the Chair/Lead of the Ethical Practice Group who shall write to the complainant:

- 4.5.1 asking him/her to confirm (if the complainant has not already done so) that s/he wishes to make a formal complaint and (if necessary) to confirm or clarify the full grounds of the complaint in writing or, if this is not possible because of the vulnerability, disability or age of the complainant, to contact the Ethical Practice Group Chair/Lead to summarise the complaint on the telephone or in person;
- 4.5.2 sending the complainant a copy of the Code and a copy of this Procedure;
- 4.5.3 seeking authorisation for disclosure of the complaint to the Member complained against; and
- 4.5.4 where appropriate, seeking the complainant's authority for the Member to disclose information to the Investigating Panel to the extent necessary to allow the Panel to properly investigate.

The complainant will be asked to sign and return a proforma authorisation for disclosure for the purposes of 4.5.3 and where appropriate 4.5.4 to the Ethical Practice Group Chair/Lead.

Preliminary consideration, decision on referral and appointment of Investigating Panel

- 4.6 On completion of the above steps, the Chair/Lead of the Ethical Practice Group will give the complaint preliminary consideration in discussion with the Screening Group. The Screening Group comprises a lay member, a child psychotherapist member and the Chair/Lead or Deputy Lead of the Ethical Practice Group. Subject to paragraph 15 if the Screening Group considers that information received, together with any information about similar concerns that has come to the attention of the Chair/Lead or their predecessor/s in the last six years, indicates professional misconduct in breach of the Code may have occurred and that an investigation is called for to establish the facts, s/he will inform the complainant accordingly. At this stage, if appropriate, the Chair/Lead of the Ethical Practice Group will explore with the complainant possible alternative dispute resolution.
- 4.7 If the complainant declines the possibility of an alternative way of resolving the dispute (e.g. practice review or consensual disposal) then the Chair/Lead will appoint two members of the Ethical Practice Group to investigate (the 'Investigating Panel') and if appropriate, present the case against the Member in due course. The Chair/Lead of the Ethical Practice Group will not share with the Investigating Panel any information about previous complaints against the Member. Unless it is wholly impracticable, the panel will consist of one child psychotherapist member and one lay member of the Ethical Practice Group.
- 4.8 The Chair/Lead of the Ethical Practice Group will write to the Member being complained about to inform him/her that the matter is to be investigated further. His/her letter shall:
 - 4.8.1 identify which provision/s of the Code appear/s to have been breached on the face of the material being considered;
 - 4.8.2 enclose copies of the material considered by the Ethical Practice Group Chair/Lead with the Screening Group, identifying those that appear to be relevant to the matters to be investigated by the Investigating Panel;
 - 4.8.3 explain to the Member that they will have the opportunity to respond in full during the Investigating Panel's enquiries and that, at this point in the procedure, the Ethical Practice Group has reached no concluded view on the complaint save that there is a prima facie case of professional misconduct which calls for an investigation;

- 4.8.4 indicate that the Member is free to take legal advice on his/her position if they wish and, if the subject matter of the complaint might have financial consequences for them, notify their insurers; and
- 4.8.5 identify the Investigating Panel members, if they have been appointed;
- 4.8.6 offer support to the Member from a senior member of the profession.

Time Frame

- 4.9 The Ethical Practice Group Chair/Lead will endeavour to reach a decision on whether a complaint should be referred to an investigating panel as quickly as possible after receipt of the material on which the complaint is based and within 20 working days of receipt of the full written complaint. If no decision has been reached 28 days after receipt of the material, the Chair/Lead will write to the Member concerned along with the complainant or the person who provided the information under consideration as a deemed complaint, explaining that they are considering making a referral to an investigating panel, why a decision has yet to be made and when it is expected that a decision will be made.

Maintaining records of complaints that are not referred

- 4.10 If on preliminary consideration the Chair/Lead considers that the complaint does not represent an allegation of misconduct that requires investigation or, after seeking clarification from the complainant or other source(s), the complaint remains unintelligible, (s)he may decide that no further action will be taken and, when there is an identified complainant, (s)he will inform the complainant in writing accordingly. The Chair/Lead shall keep a concise record of the nature of the complaint, its source, the identities of the complainant (if any) and the Member and the date of their decision for the sole purpose of allowing any patterns of similar concerns about that member to be identified. This record shall be destroyed by the Association as soon as practicable after the six year anniversary of the decision not to investigate has passed.

Interim Suspension

- 4.11 If at any stage in dealing with a complaint the Ethical Practice Group Chair/Lead in conjunction with the Screening Group is of the view that the complaint is sufficiently serious and credible, they may decide to impose an interim suspension of registration for the protection of the public or the registrant.

5. Investigating A Complaint Against A Member

Investigating Panel functions

- 5.1 The members of the Investigating Panel have the duty of investigating the complaint thoroughly and promptly, and deciding in the light of their investigation whether there is a case that requires a Disciplinary Hearing. If there is subsequently a Disciplinary Hearing, the members of the Investigating Panel will present the case against the Member which arises out of their investigation.

The investigation

- 5.2 The members of the Investigating Panel shall take such steps to investigate as in their discretion they consider appropriate. Their decisions should be taken jointly. If they cannot agree on any matter, it should be determined by the Ethical Practice Group Chair/Lead. They may, at their discretion, take steps to investigate either jointly or alone. They may interview the complainant and any other witness or potential witness suggested by the complainant. They may ask the complainant or any third party to furnish such documents as they may consider appropriate. In dealings with third parties' members of the Investigating Panel will have particular regard to the need of confidentiality.
- 5.3 The members of the Investigating Panel will offer the Member the opportunity to respond to the complaint either in writing or personally at a meeting and/or by putting forward documents for consideration and at any such meeting the Member shall have the right to be represented by any one person of his/her choice, including a union representative or, at the expense of the Member, a practicing barrister or solicitor.

The members of the Investigating Panel shall offer any complainant the opportunity to be interviewed and, if they agree, interview them. The sequence of interviews and enquiries will be a matter for the Investigating Panel to determine but, subject to duties of confidentiality owed to third parties, they shall ensure that any complainant has a fair opportunity to comment in response to the information provided by the Member during the investigation whether at interview or in writing as appropriate.

- 5.4 The members of the Investigating Panel may, at their discretion, interview any other person suggested by the Member who may be able to assist their enquiry and may consider documents put forward by the Member.
- 5.5 The members of the Investigating Panel will maintain an accurate written record of any meeting or interview which they hold, whether with the complainant, the Member, or any other person. They will disclose a copy of such record to the interviewee and invite the interviewee to agree it as an accurate summary of the interview or meeting. They may also make a tape or digital recording of any meeting or interview, provided they first obtain the consent of those present.
- 5.6 If it is felt that the Investigating Panel may need expert assistance, including legal advice, they will ask the Ethical Practice Group Chair/Lead who will seek permission from the Director of Professional Standards.

Investigating Panel's decision on whether there is a case to answer and power to make recommendations relating to other concerns

- 5.7 At the end of their investigation, the Investigating Panel shall decide whether or not there is a case to answer of a breach of the Code and, if there is, they shall refer it for a Disciplinary Hearing unless mediation under paragraphs 5.10 to 5.11 is appropriate, agreed to and successful. In making this decision, they (1) shall not place the burden of proving or disproving such a requirement on either the complainant or the Member complained against respectively; and (2) shall resolve any doubt in favour of the complainant and in favour of there being a hearing. They shall inform the Member, the complainant and the Ethical Practice Group Chair/Lead in writing of their decision as to which, if any, aspects of the complaint amount to a case to answer and, in summary, their reasons ('the Investigating Panel Report').

- 5.8 Provided the Investigating Panel has given the Member, complainant or other party notice and a reasonable opportunity to respond before preparing its Investigating Panel Report, 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. Any concerns recorded in a 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.
- 5.9 If the members of the Investigating Panel decide that there is not a case to answer at a Disciplinary Hearing, the matter will be taken no further under this procedure.

Mediation

- 5.10 If the members of the Investigating Panel decide that there is a case to answer in relation to a matter other than a deemed complaint, the Investigating Panel will consider whether it is capable of being satisfactorily addressed at independent mediation. They will have regard to:
- 5.10.1 the seriousness of the complaint (keeping in mind that it would be a highly exceptional course to propose mediation if conduct is alleged to have occurred in the course of the Member's practice as a child psychotherapist that has compromised, or may compromise, the welfare of a child or a vulnerable adult or which would, if proven, bring the profession into disrepute);
 - 5.10.2 the interests of the complainant, Member under investigation, public and
 - 5.10.3 the likelihood of agreement on a response to the complaint consistent with those interests and those of the Association being reached.
- 5.11 If the Investigating Panel decides there is a reasonable prospect of the case to answer being satisfactorily addressed at independent mediation and mediation is otherwise appropriate, they will seek the consent of the complainant and member under investigation and, subject to that consent, the Association will make arrangements for an independent mediator to be appointed at its expense to meet with the complainant, member and panel to seek an agreement as to a mutually acceptable resolution of the matter including, if appropriate, the Member taking appropriate remedial steps to be monitored by the Association.

Referral for a disciplinary hearing

- 5.12 If there is a case to answer that:
- 5.12.1 is proposed for mediation, but the complainant and /or the Member do not agree to it; or
 - 5.12.2 proceeds to mediation but there is no outcome satisfactory to the complainant, member under investigation and panel; or
 - 5.12.3 is not appropriate for mediation;
- it will be referred for consideration at a Disciplinary hearing.

- 5.13 The members of the Investigating Panel will endeavour to reach their decision on referral to a Disciplinary hearing within 60 working days of their appointment. If it appears to the Investigating Panel that the timescale cannot be met, they will inform the Ethical Practice Group Chair/Lead in writing giving reasons that explain the need for an extension. If the Chair/Lead agrees to an extension, (s)he will give agreement in writing to the Investigating Panel and send appropriate letters of apology and explanation to the complainant and member complained against.

Preparation and dissemination of preliminary bundle

- 5.14 If a member has been notified there is a case to answer, the Investigating Panel members shall prepare a bundle of documents ('the Preliminary Bundle') including at least the referral decision, the original complaint or complaints, an account of the investigation carried out by the members of the Investigating Panel, notes of any interviews or meetings conducted by the Panel and any other documents which the members of the Panel consider relevant at that time. This bundle should be sent to the Member, or their appointed representative, not less than 10 working days before the arrangements meeting referred to in paragraph 6.2 below.
- 5.15 Bearing in mind duties of confidentiality owed to third parties, the Investigating Panel members shall decide what, if any, documents from the Preliminary Bundle may be provided to the complainant (or the person or organisation that was the source of the deemed complaint) to enable them to properly understand the decision on referral.

6. Procedure Before Hearing

Disciplinary Panel appointment

- 6.1 If the Investigating Panel decides that there is a case to answer the Ethical Practice Group Chair/Lead will appoint a Disciplinary Panel of three members of the Ethical Practice Group who have not taken part in any consideration of the complaint by the Ethical Practice Group during the period of investigation. So far as practicable, the Disciplinary Panel will consist of a member or members whose specialist experience or expertise may be material to the issues in question. Unless it is wholly impracticable, the Disciplinary Panel will have a majority of lay members. If, in the view of the Ethical Practice Group Chair/Lead, the case is an unusually serious or complex one he or she may invite a member of the Legal Members' Panel to sit as a member of the Disciplinary Panel in addition to the three members already appointed. The members of the Disciplinary Panel shall not include the members of the Investigating Panel or the Chair/Lead of the Ethical Practice Group. The members of the Disciplinary Panel shall appoint a Chair from among their own number.

Arrangements meeting

- 6.2 The members of the Disciplinary Panel shall, within 30 working days of their appointment, convene a meeting of the members of the Investigating Panel and the Member and/or his/her representative for the purposes of making procedural arrangements for the Disciplinary Hearing. This arrangements meeting is administrative in nature and does not form part of the Disciplinary Hearing.

- 6.3 Its purpose will be:

6.3.1 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;

6.3.2 to clarify whether the Member proposes to be represented and if so; by whom

6.3.3 to clarify the number of witnesses the Investigating Panel and the Member intend to call;

6.3.4 to understand the central tenets of the Member's argument;

6.3.5 to fix the dates for the hearing with an estimated duration of the hearing and address any other procedural or administrative matters which they think fit.

6.4 In all cases the Disciplinary Panel shall consider what arrangements can be made to ensure any witnesses to be called will not be discouraged from giving evidence and are adequately supported when they do (for example, through provision of a person other than a Disciplinary Panel 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 Panel).

6.5 The arrangements meeting may proceed despite the absence of any of the above parties, who will nevertheless be invited to set out their view in writing on these or any other material points to be received by the Association no less than 24 hours before the start of the meeting. The meeting will consider any such views when making the arrangements for the hearing. In the event it appears for good reason impracticable to convene the meeting within 30 days of the Disciplinary Panel's appointment, its Chair shall have power to extend the time limit. The Chair may make a tape or digital recording of the meeting, provided they first obtain the consent of those present.

6.6 If the Investigating Panel decides not to call any complainant as a witness they shall explain their reasons for not doing so to the Disciplinary Panel at the arrangements meeting. The Disciplinary Panel may, if it wishes to do so, ask for witnesses who have relevant evidence to give to be called by the Investigating Panel even if the Panel does not consider it necessary to call them.

Later appointment of a member of the Legal Member's Panel

6.7 If no member of the Legal Members' Panel has been appointed as a member of the Disciplinary Panel before the arrangements meeting, but the Disciplinary Panel considers this is appropriate having considered the seriousness and complexity of the case in the light of what was said at that meeting, the Ethical Practice Group Chair/Lead may make such an appointment before the Disciplinary Hearing takes place.

Preparation and dissemination of the Member's and Hearing bundles

6.8 Not less than 15 working days before the start of the hearing, the Member shall make available copies of any documents ('the Member's Bundle') which s/he wishes to place before the Disciplinary Panel.

6.9 Using the Preliminary Bundle and Members Bundle (if any) along with any other relevant documents, the members of the Investigating Panel will 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 Panel and to the Member not less than 10 working days before the start of the hearing.

- 6.10 Bearing in mind duties of confidentiality owed to third parties, the Disciplinary Panel shall decide what, if any, documents from the Hearing Bundle it is appropriate to provide to witnesses (including, where they are to be called, the complainant or the person or a representative of the organisation that was the source of a deemed complaint) to enable them to properly understand the issues that arise for determination and prepare to give evidence.

Use of late documents

- 6.11 The Investigating Panel or the Member may at the hearing seek the permission of the Disciplinary Panel to produce documents which have not been included in the Hearing Bundle (for example, material that is new or which has only come to light since the Preliminary Bundle and Member's Bundle were prepared), but the Disciplinary Panel may at its discretion and having regard to the overriding objective decline to receive such documents and may proceed without considering them.

Representation

- 6.12 The Member shall have the right to be represented by any one person of his/her choice, including a union representative or a practicing solicitor or barrister. The chosen representative may at any stage be excluded from the proceedings if in the opinion of the Disciplinary Panel, (s)he is disruptive, or is plainly unsuitable, for instance due to a prior relationship with any person involved in the case other than the Member who is subject to the Proceedings.

Hearing note

- 6.13 The members of the Disciplinary Panel 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 Panel. The Chair may also make a tape or digital recording of the hearing, provided they first obtain the consent of those present.

Hearings, adjournments and postponements

- 6.14 Disciplinary hearings shall be held in private. The Investigating Panel, and the Member and (subject to the provisions of 5.6 above) his/her representative shall be entitled to be present throughout the hearing but witnesses including the complainant shall be entitled to be present only while giving evidence. Witnesses are called to help establish facts relevant to the conduct being considered, its impact and, if a breach of the Code is established, the extent to which it has been mitigated. Witnesses, including the complainant, do not have the right to be represented. Witnesses may be accompanied with the agreement of the Chair of the Disciplinary Panel, if, for example, they need support. Any person accompanying a witness may 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. Others may attend at the discretion of the Disciplinary Panel.
- 6.15 The Disciplinary Panel may adjourn or postpone the hearing or any part of it and may proceed in the absence of any person. It may, exceptionally, adjourn or postpone the hearing or any part of it to allow a witness to be called when the need for their evidence has arisen due to a development at the hearing that was not, and could not reasonably have been, anticipated at the preliminary meeting.

7. Procedure at the hearing

Objective

- 7.1 The over-riding objective of the Disciplinary Panel in the Proceedings is to deal justly with the case before it, having regard to each of the interests identified in paragraph 1.3 of this procedure, and to the balance between such interests. At any stage at which the Disciplinary Panel is to exercise its discretion, it shall do so with regard to the overriding objective.

Introductions and housekeeping

- 7.2 All present will identify themselves and confirm that they all have the same set of paginated papers.

Presentation of the case to answer

- 7.3 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.
- 7.4 The presenting member of the Investigating Panel may then call witnesses. Each witness will be questioned by a panel member, then by the Member or his/her representative, then by the members of the Investigating Panel and then (as re-examination) by the presenter. This procedure will be followed in turn in relation to each of the witnesses called by the Investigating Panel.

Presentation of the Member's case

- 7.5 The Member complained against or his/her representative may address the members of the Disciplinary Panel before calling evidence.
- 7.6 The above procedure will be followed with suitable modification in relation to each of the witnesses called on behalf of the Member including the Member him/herself when (s)he gives evidence.

Evidence

- 7.7 Either side may, instead of or in addition to calling witnesses, present a written statement or affidavit by or on behalf of a witness who is unable to attend the hearing. Any such document must clearly identify the name and address of the person making the document and must be signed and dated. The members of the Disciplinary Panel may at their discretion agree to receive or reject such written evidence having regard among other things to the reasons for the absence of the person giving the evidence, the nature of what is set out in the written evidence, and the unavailability for questioning of the witness.
- 7.8 The rules of evidence do not apply at the hearing. Accordingly, the Disciplinary Panel 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.

Closing submissions

- 7.9 After completion of the evidence, the Investigating Panel will be invited to make a closing submission. This will be followed by an invitation to the Member or his/her representative to make a closing submission. At the conclusion of the closing submissions the Disciplinary Panel will declare the proceedings concluded and will withdraw to consider its decision.
- 7.10 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 sanction to be imposed.

8. The Decision

Form and timing of decision and power to make recommendations relating to other concerns

- 8.1 The members of the Disciplinary Panel shall not give their decision orally or immediately. Their decision may be by a majority, and in that case the written decision will state that it is a majority decision, but the decision shall not include a statement of the dissenting minority view.
- 8.2 The members of the Disciplinary Panel will prepare a written decision, setting out their findings of fact, with reasons and, where the Member has admitted a breach of the Association's Code of Professional Conduct and Ethics, will state any sanction which they impose, with reasons. The decision will be signed by the Chair of the Disciplinary Panel, or, in his/her incapacity, by all other members of the Committee.
- 8.3 The Chair of the Disciplinary Panel will send the written decision to the Member, to the complainant and to the Ethical Practice Group Chair/Lead within 20 working days of the conclusion of the hearing. In the event it appears for good reason impracticable to send the decision within this time frame the Chair shall have power to extend it for up to 10 working days.

Decision to make recommendations related to other concerns

- 8.4 Provided the Disciplinary Panel 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. Any concerns recorded in a 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 Disciplinary Panel shall have discretion in deciding who, besides the subject of such concerns, should receive the supplementary document or letter, but in all cases, the Ethical Practice Group Chair/Lead will be sent one and the Association shall retain a copy for six years and then destroy it.

Dissemination of the decision

- 8.5 The Ethical Practice Group Chair/Lead will inform the Director of Professional Standards of the outcome of all hearings.

- 8.6 The Director of Professional Standards shall inform the Board and the members of the Association, in such manner as (s)he thinks fit, of any decision that a member has committed a breach of the Association's code and the resulting sanction. Subject to paragraphs 10.13 and 10.14 below, this will not be done until either the time for appealing provided by paragraph 10.2 has expired without the Member giving notice of appeal within the time allowed, or until any such appeal has been dismissed.
- 8.7 The Chair of the Disciplinary Panel shall also produce a concise note for posting on the Association's website which identifies the allegation made, nature of the breach of the Code found, save for health-related breaches, the Member responsible and any sanction applied. Subject to paragraphs 10.13 and 10.14 below, the note will be posted on the Association's website 28 days after the outcome of the disciplinary hearing or 28 days following the outcome of any in-time appeal that does not overturn the finding of a breach of the Code. The note shall remain posted for 18 months, save where the sanction is:
- 8.7.1 a restriction on practice, in which case the note shall remain posted for the period of the restriction or 18 months, whichever is the longer;
 - 8.7.2 a suspension, in which case the note shall remain posted for 18 months or six months after the suspension has lapsed, whichever is the longer; or
 - 8.7.3 an expulsion, which shall remain posted for 10 years.
- 8.8 The Ethical Practice Group Chair/Lead 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 Association's website. The Ethical Practice Group Chair/Lead has discretion to provide further information, if requested, subject to the need to protect any confidentiality in information that comes to light as a result of a complaint investigation.

9. Sanctions

Available sanctions

- 9.1 The Disciplinary Panel shall have the power to impose the following sanctions:
- 9.1.1 to expel the Member from the Association;
 - 9.1.2 to suspend the Member from membership of the Association for a specified period of up to 3 years;
 - 9.1.3 to require that the Member continue in membership or continue in practice subject to conditions to be specified for a period to be specified. Conditions may include requirements as to personal health, further training and conditions, restrictions and requirements regarding the Member's participation in the activities of the Association (e.g. attendance at specified meetings or holding office or membership of committees and sub-committees);
 - 9.1.4 the Member be formally warned in writing as to matters specified; and
 - 9.1.5 that the Member be formally advised and/or counselled in writing as to matters specified.

Sanctions to be dealt with separately from disputes over conduct and breaches of the Code

- 9.2 Where the Member has not admitted a breach of the Association's Code of Professional Conduct and Ethics, and the Disciplinary Panel finds that the Member has committed such a breach, it shall, before deciding what sanction to impose, invite the Member to make written representations to it within a period of 10 working days beginning with the date on which its findings are communicated to the Member, and it shall not impose any sanction until that period has expired and any representations received within it have been considered.
- 9.3 Such representations shall normally be in writing only, but the Disciplinary Panel may hold a further hearing if, having regard to the evidence, the nature of the allegations, or to the written representations on sanction, it considers it appropriate to do so.
- 9.4 Subject to paragraphs 10.13 and 10.14 below, any sanctions imposed by a Disciplinary Panel shall not take effect until 15 working days have passed following communication of a sanctions decision to a member or until any in-time appeal brought against sanctions, or the findings on which they are based, has been determined whichever is the later date.
- 9.5 The Chair of the Disciplinary Panel will send a written decision on sanction to the Member, to the complainant and to the Chair/Lead of the Ethical Practice Group within 20 days of the conclusion of receipt of the Member's representations or the conclusion of any hearing held pursuant to paragraph 9.3. In the event it appears for good reason impracticable to send the decision on sanction within the time frame, the Chair shall have power to extend it for up to 10 working days. The decision on sanction will concisely state whether or not a sanction is to be imposed and, if one is, the reasons for doing so.

10. Appeal

Permitted grounds of appeal

- 10.1 Subject to the following provisions, the Member may appeal against any decision of the Disciplinary Panel on the grounds that:
- 10.1.1 the conduct of the matter by the Disciplinary Panel was procedurally unfair; or
 - 10.1.2 there is new evidence which could not reasonably have been made available to the Disciplinary Panel; or
 - 10.1.3 if the Member considers the sanction harsh or disproportionate.

Initiating an in-time appeal

- 10.2 The Member shall institute any such appeal within 15 working days of the date of the written decision of the Disciplinary Panel by writing to the Ethical Practice Group Chair/Lead, setting out whether s/he wishes to appeal against the decision, or the sanction or both and the grounds on which the appeal is brought. If s/he wishes to submit fresh evidence, s/he must state in the letter, what the new evidence is and why it was not presented at the original hearing.

Appointment of an Appeal Panel

- 10.3 On receipt of an appeal the Ethical Practice Group Chair/Lead shall consult with the Director of Professional Standards and they shall appoint an Appeal Panel of three members of the Association who are not current members of the Ethical Practice Group, and who have been qualified as Child Psychotherapists for not less than 6 years and who have no previous involvement in the matter. Whenever practicable the Ethical Practice Group Chair/Lead shall appoint an Appeal Panel that includes former Ethical Practice Group (formerly the Ethics Committee) members and a former lay member. If the case is an unusually serious or complex one (s)he may invite a member of the Legal Members' Panel to sit as a member of the Appeal Panel.

Appeal Hearings

- 10.4 An appeal hearing shall take place within 30 working days of receipt of the Member's letter of appeal.
- 10.5 Appeals will be heard in private. The same rules of representation will apply as above. The Member may attend, as may the members of the Investigating Panel, but not the members of the Disciplinary Panel. The members of the Appeal Panel and the parties' representatives shall have available to them the set of papers used at the Disciplinary Hearing, any written statements in evidence available to the Disciplinary Panel, copies of the notes of proceedings of the Disciplinary Panel, the decision of the Disciplinary Panel and the Member's letter of appeal.
- 10.6 The Member or his/her representative may make representations in support of his/her appeal. If the appeal seeks to rely on fresh evidence, the Appeal Panel may hear or refuse to hear that evidence at its discretion, having regard to the cogency of the reasons why this evidence was not produced at the original hearing, to the potential weight of the new evidence, and the over-riding objective.
- 10.7 A member of the Investigating Panel may reply.
- 10.8 The members of the Appeal Panel may ask the representatives questions. After questions, the Appeal Panel will declare the appeal hearing closed.

Decisions on appeals

- 10.9 The Appeal Panel may reach its decision by a majority. It shall give its decision with reasons in writing within 20 working days of the appeal hearing, and the decision will be sent to the Member, to the Director of Professional Standards, Ethical Practice Group Chair/Lead and to the complainant.
- 10.10 The Appeal Panel may reject or uphold the decision of the Disciplinary Panel in whole or part. The Appeal Panel has power to vary the sanction imposed by the Disciplinary Panel by substituting a lesser sanction.
- 10.11 A decision of the Appeal Panel on an appeal shall be final.

General suspensive effect of appeals and exceptional provisions to protect the public and the public interest

- 10.12 Paragraphs 8.6, 8.7 and 9.4 above provided that an in-time appeal will normally suspend the effects of a Disciplinary Panel's decision as regards communication to Association members and the public along with sanctions. An appeal will not otherwise affect the findings made against the Member by the Disciplinary Panel unless and until it is upheld.
- 10.13 Disciplinary Panels are to be notified of all in-time appeals, once filed. In circumstances where a Disciplinary Panel having consulted with the Chair of the Association, the Director of Professional Standards and the Ethical Practice Group Chair/Lead is satisfied that it is necessary in the exceptional circumstances of the case for the protection of members of the public or otherwise in the public interest for the Member's registration to be suspended or be made subject to conditions or restrictions pending the outcome of an in-time appeal, it shall have an additional power to impose any suspension, conditions or restrictions it deems necessary for up to three months, or until the outcome of the appeal, whichever is sooner. These measures will take effect immediately upon communication of a decision with written reasons to the Member concerned, but if the Member objects, the Disciplinary Panel shall meet as soon as is reasonably practicable to consider any representations made to it in writing and orally by the Member as to why the measures should be lifted pending the outcome of the appeal. If it decides to maintain the measures, it shall give written reasons for doing so, but this decision will not be subject to any appeal.
- 10.14 In the event that the Disciplinary Panel exercises its additional power under paragraph 10.13, a concise note shall be published on the Association's website indicating the measures taken and the fact that there is a linked outstanding appeal against a decision or decisions of the Disciplinary Panel. The Ethical Practice Group Chair/Lead may also write to any employer of the Member identifying the Member and supplying the information contained in the concise note issued under the paragraph once it is published on the Association's website. The Ethical Practice Group Chair/Lead has discretion to provide further information, if requested, subject to the need to protect any confidentiality in information that comes to light as a result of a complaint investigation

11. Restoration

Restoration applications

- 11.1 Any former member who has been expelled from membership by a Disciplinary Panel may, on any date after two years from the date of expulsion, apply in writing to the Association for restoration of membership. Any former member who has applied unsuccessfully for restoration of membership in accordance with this procedure may re-apply on any date after two years from the date on which his/her application for restoration has been rejected. For the purposes of this rule, the date of expulsion is 5 days after the date of the letter of expulsion posted to the Member, and the date of rejection is 5 days after the letter of rejection posted to the Member.

Meetings to consider restoration applications

- 11.2 Any such application shall be considered by a meeting of all members of the Ethical Practice Group, 5 of whom will for these purposes form a quorum.
- 11.3 The applicant will be invited to supply to the Ethical Practice Group in advance of the hearing any documents, including signed statements and/or Affidavits in support of his/her application.

- 11.4 The Ethical Practice Group will also have copies of the decision letters set out at paragraph 9.5.
- 11.5 The applicant will be entitled to be present and to address the Ethical Practice Group in person and/or to be represented by any one person of his/her choice, including a union representative or a practising barrister or solicitor.
- 11.6 The application will be heard in private. The applicant or his/her representative may make any representations which they wish and may produce or refer to any documents.
- 11.7 The members of the Ethical Practice Group may ask the applicant and/or his/her representative questions.
- 11.8 The applicant and/or his/her representative may then address the Ethical Practice Group in closing.

Decisions on restoration

- 11.9 The Ethical Practice Group will then withdraw to consider its decision. The decision may be a majority decision. In the event of a tied vote, the Ethical Practice Group Chair/Lead shall exercise a casting vote. The Ethical Practice Group will inform the applicant and the Professional Standards Committee in writing of its decision. If the application is upheld, no reasons for the decision need be given, but if it is rejected, the Ethical Practice Group should give an outline of the reasons for the rejection.
- 11.10 The decision of the Ethical Practice Group on restoration will be final.

12. Power to Stay Pending the Outcome of Another Process

- 12.1 In circumstances where another disciplinary, investigatory or legal process is taking place which, in the view of the Ethical Practice Group Chair/Lead, members of an Investigating Panel or Chair of the Disciplinary Panel (at the Preliminary Consideration, Investigation and Disciplinary Panel stages of this procedure respectively) either:
 - 12.1.1 is likely to make findings that will be relevant to decisions on the complaint against the Member being considered under this procedure; or
 - 12.1.2 makes it impractical to make progress within the timescales set out in this procedure;the Ethical Practice Group Chair/Lead, members of an Investigating Panel or Chair of the Disciplinary Panel (as applicable) shall have the power to stay this procedure at any stage prior to a final Hearing of the Disciplinary Panel for a period of up to six months at a time.
- 12.2 This power:
 - 12.2.1 may only be exercised after consulting with the complainant, the Member under investigation and Investigating Panel and Disciplinary Panel members that have been involved in the investigation to date; and
 - 12.2.2 in all cases must be exercised consistently with the overarching objectives of the Code, particularly that of protecting patients and the public.

- 12.2 Written reasons will be given to the complainant and the Member under investigation for any decision to grant a stay. The power to stay should not be exercised by members of an Investigating Panel or Chair of the Disciplinary Panel to create a total period of stays exceeding 12 months save where this is agreed by the Ethical Practice Group Chair/Lead.

13. Registrar's/Director of Professional Standards' Power to Set Aside In Response to Concerns

Availability of the Director of Professional Standards' set aside power

- 13.1 Certain decisions of the Ethical Practice Group Chair/Lead, Investigating Panel or Disciplinary Panel identified below may be set aside by the Association's Director of Professional Standards/Registrar and reconsidered in response to concerns raised by a complainant, a person who supplied information dealt with as a deemed complaint, or a complained of member.

Bases on which a decision may be set aside

- 13.2 The circumstances in which this power may be exercised are where the decision was:
- 13.2.1 not one which the Ethical Practice Group Chair/Lead, Investigating Panel or Disciplinary Panel had the power to make in the circumstances;
 - 13.2.2 made in a procedurally unfair manner that could have made a material difference to the outcome; or
 - 13.2.3 otherwise unlawful.

Decisions that may be set aside

- 13.3 Where a complainant, a person who supplied information dealt with as a deemed complaint or a complained of member is dissatisfied with a decision under paragraphs 4.6 (Ethical Practice Group Chair/Lead's decision to refer to an Investigating Panel), 5.7 to 5.9 (Investigating Panel's decision on whether there is a case to answer), 5.2 read with 5.7 to 5.9 (Ethical Practice Group Chair/Lead's decision on whether there is a case to answer in the event of disagreement between Investigating Panel members), 8.7 (content of published note) and 12.1 (decision to stay Disciplinary Procedure) they may, within 21 days of being notified of the decision, make written representations to the Director of Professional Standards/Registrar asking for the decision to be reconsidered and identifying which, if any, of the set aside criteria listed in paragraph 13.2 apply and why.
- 13.4 Where a complainant or person who supplied information that was dealt with as a deemed complaint is dissatisfied with a decision under paragraphs 8.2 or 9.1 (determination of complaint or sanctions) they also may, within 21 days of being notified of the decision, make written representations to the Director of Professional Standards/Registrar asking for the decision to be reconsidered and identifying which, if any, of the set aside criteria listed in paragraph 13.2 apply and why.

Director of Professional Standards/Registrar's decision on whether to use the set aside power

- 13.5 When written representations are received under paragraphs 13.3 or 13.4, the Director of Professional Standards/Registrar shall determine, with legal advice and following further enquiries as necessary, whether the representations demonstrate to his/her satisfaction that the decision meets one or more of the criteria for set aside listed in paragraph 13.2 and, if so, (s)he shall set it aside giving his/her reasons for doing so in writing. The set aside power shall be used on these bases only and not on the grounds of a mere difference in view about an issue of professional conduct.

Remaking a decision that has been set aside

- 13.6 If a decision is set aside, the Director of Professional Standards and the person or persons who originally made it shall discuss whether it can properly be made again by that person or persons having regard to paragraph 1.3. The Registrar shall make the final decision on this question and, if appropriate and in consultation with the Ethical Practice Group Chair/Lead, appoint a substitute or substitutes to make the decision again. If the decision can properly be made again by the person or persons who made it, it shall be referred back to them by the Director of Professional Standards.
- 13.7 In either case, the decision shall be made again promptly but not before the Member has had a reasonable opportunity to make representations consistent with that they would normally have had at the stage of the Disciplinary Procedure at which the decision would normally have been made.

14. Prospective Effect

- 14.1 This procedure was adopted on 16th March 2018 by the Association and shall have prospective effect to all complaints, deemed complaints and applications for restoration received after that date. The former Disciplinary Procedure shall continue to have effect for all other complaints, deemed complaints and applications for restoration.

15. Provision for Overseas Members

- 15.1 Paragraphs 4.5 to 13 of this procedure do not apply to Overseas Members as defined in the Rules save in respect of issues concerning their practice identified as appropriate for investigation in the Code and breaches of the Association's Rules. When an issue concerning any other actual or potential breach of the Code by an Overseas Member is brought to the attention of the Ethical Practice Group Chair/Lead, whether as an actual or deemed complaint, and it would merit investigation if it concerned practice in the UK, he or she shall refer it to the responsible authorities in the country where the Overseas Member resides and practises.