

## THE REGISTRATION COUNCIL FOR CLINICAL PHYSIOLOGISTS

### FITNESS TO PRACTISE PROCEDURE

The Registration Council for Clinical Physiologists (RCCP) holds a voluntary register for practitioners in six disciplines of Clinical Physiology. Clinical Physiologists are a group of healthcare workers who are involved in the diagnosis and management of a wide range of conditions, many of which are sensitive or invasive. The RCCP is accredited by the Professional Standards Authority and aims to ensure the highest levels of safety for patients of Clinical Physiologists.

The RCCP investigates concerns about its Registrants as part of its role in protecting the public, upholding public confidence in Clinical Physiology and maintaining professional standards. The RCCP Member Bodies agreed to a unified Fitness to Practise Procedure in 2002, giving the RCCP the responsibility for considering concerns against its Registrants. The Fitness to Practise Procedure is regularly reviewed and updated in response to changes in the professional and legal frameworks within which the RCCP operates.

This Fitness to Practise Procedure is the 2019 version which supersedes all previous versions, having been approved by the Board of the RCCP on 11th March 2019 and last reviewed and agreed on 8th July 2020.

These procedures are intended to promote the handling of concerns in an efficient, effective, transparent and proportionate way.

## About this Fitness to Practise Procedure

This fitness to practise procedure sets out the RCCP's approach to handling concerns in relation to its Registrants. All Registrants are expected to conform with the expectations of the RCCP's Standards of conduct, performance and ethics,, Standards of Proficiency and this Fitness to Practise Procedure.

The RCCP has a duty to protect the public by ensuring the fitness to practise of all RCCP Registrants. Being fit to practise requires a Registrant to have the skills, knowledge, good character and health to carry out their job safely. The RCCP provides a robust, responsive and transparent Fitness to Practise Procedure for dealing with concerns in order to maintain standards of practice.

It is the responsibility of all Registrants and Complainants to ensure that they fully understand this procedure and associated policies. Registrants should inform their patients/clients, who indicate that they have a concern about the existence of this procedure.

Complainants in bringing their concern to the RCCP under this procedure, agree to allow their concern and accompanying documents to be sent to the Registrant whom the concern is raised about, and for their concern to be dealt with in accordance with this procedure.

## Introduction

1. The RCCP will investigate a concern where there appears to be a risk to patient /public safety or where the Registrant's conduct undermines public confidence in the Clinical Physiology profession.
2. Concerns can only be considered under the RCCP fitness to practise procedure if they concern a Registrant. Click [here](#) to go to the RCCP Register.

The RCCP holds a register of six disciplines in the Clinical Physiology profession:

- 2.1 Audiologists (including Hearing Therapists and Educational Audiologists). More information about the role of an audiologist can be found [here](#)
  - 2.2 Cardiac Physiologists. More information about the role of a cardiac physiologist can be found [here](#)
  - 2.3 Gastro-intestinal Physiologists. More information about the role of a gastro-intestinal physiologist can be found [here](#)
  - 2.4 Neuro-physiologists. More information about the role of a neuro-physiologist can be found [here](#)
  - 2.5 Respiratory Physiologists. More information about the role of a respiratory physiologist can be found [here](#)
  - 2.6 Sleep Physiologists. More information about the role of a sleep physiologist can be found [here](#)
3. The RCCP is unable to investigate a concern in relation to a former Registrant unless the concern was received before the Registrant failed to renew their registration. If the Registrant fails to renew RCCP registration after a concern has been received by the RCCP, the concern may still proceed unless, in exceptional circumstances it would not be reasonable or in the public interest for it to do so. Where the RCCP do decide to investigate the concern, the Registrant's registration will continue until the concern is investigated and concluded including any Appeal. Any fee payable by the Registrant will continue to be payable to the RCCP.
  4. Where the subject Registrant is also under investigation in relation to the same matter by an employer, another membership body or statutory regulator, the RCCP will liaise with that

organisation. The RCCP may consider staying its own proceedings until the proceedings of the other organisation have concluded.

5. The RCCP Registrar holds the right to accept the decision of another membership body /statutory regulator (or register which meets similar standards) and if applicable, ratify the sanction imposed by that register/regulator without carrying out a further duplicate investigation.
6. The RCCP would not usually consider a concern made more than five years after the event. However, where the concern(s) are sufficiently serious and it is in the public interest to investigate, the RCCP has the discretion to investigate the concern.
7. The RCCP Fitness to Practise Procedure can also be engaged in the absence of a concern. This may include cases where the Registrant discloses a criminal conviction or an adverse decision by another membership body/statutory regulator. The Registrar has the discretion to engage the fitness to practise process in circumstances where the RCCP becomes aware of any concern that may call into question a Registrant's fitness to practise. In all such cases, the Registrar will present the concerns to the Assessment Committee.

## What is Fitness to Practise

8. The RCCP will only investigate a concern that relates to a Registrant's fitness to practise. Fitness to practise is where a Registrant has the necessary skills, knowledge, character and health to do their job safely and effectively. Fitness to practise is not just about professional performance, it also includes acts by a Registrant which may affect public safety or confidence in the profession and may include matters not directly related to professional ability/competence.

A Registrant's fitness to practise can be impaired for a number of reasons and these include:

- 8.1 Misconduct
- 8.2 Deficient Professional Performance
- 8.3 Adverse physical or mental health
- 8.4 An adverse determination by another professional regulatory body

- 8.5 A criminal conviction or caution in the UK for a criminal offence, or a conviction elsewhere for an offence which, if committed in the UK could constitute a criminal offence

## Before raising a concern

9. The RCCP can consider concerns about the fitness to practise of a registrant and take action if necessary, to protect the public. We are unable to consider concerns about organisations; deal with customer service or consumer issues; arrange compensation; intervene in disputes between registrants; or make a registrant apologise.
10. Many concerns can be best resolved at a local level by speaking directly to the registrant or their place of work and/or following local complaints procedures. We will always consider any concern raised with us to see if it is something we can investigate. Complainants who are unsure whether their concern is something we can investigate are encouraged to contact us to discuss their situation before submitting their concern.

## How to raise a concern

11. A concern should be made in writing using the RCCP raise a concern on-line form. Complainants that are unable to submit a concern in writing should contact the RCCP office for assistance in raising their concern. The concern form can be found [here](#). Any written concerns that are not logged through the raise a concern on-line form, along with all the necessary information, should be submitted to the following address:

**RCCP Fitness to Practise Administrator**  
**The Middlewich Suite**  
**Droitwich Medical Centre**  
**Ombersley Street**  
**Droitwich**  
**WR9 8RD**

12. In order for the RCCP to investigate a concern, the Complainant must provide the Registrant's details and clearly set out the facts giving rise to the concern. The raise a concern form should include information such as, conduct, dates, places, names and supporting information relevant to the concern. The Complainant should also provide consent to the use of their personal information for the purposes of operating the RCCP Fitness to Practise Procedure.
13. The RCCP will require the Complainant's full name and address, anonymous concerns will not be accepted unless there is corroborating or independent evidence of a fitness to practise concern, in which case the procedure outlined in paragraph 7 will be followed. In order to ensure that the RCCP treats the Registrant fairly, they will usually need to know the source of the allegation(s) against them. The RCCP will only investigate anonymous concerns in exceptional circumstances.
14. The RCCP may decide that the concern is not within their remit, in which case the Fitness to Practise Administrator with the advice of the Registrar will write to the Complainant explaining the reason(s) for their decision.

## Screening and Preliminary Investigation – Assessment Committee

15. Having reviewed the concern, the Fitness to Practise Administrator will forward a copy of the documents to the Registrant within 15 working days of receiving the concern.
16. The Fitness to Practise Administrator may seek further information from the Complainant or the Registrant in order to assist in reviewing the concern.
17. The Fitness to Practise Administrator will send the documents to the Assessment Committee.
18. The Assessment Committee is quorate with three-panel members, which will include at least one Registrant member from the same Clinical Physiology background as the Registrant under concern and at least one Lay Member. The Committee may meet in person or by video/telephone conference.
19. The Assessment Committee will also be provided with information of any previous formal Warning, Letter of Advice, sanction issued to the Registrant by the RCCP.

20. The Fitness to Practise Administrator will inform both the Complainant and the Registrant of the referral to the Assessment Committee and provide them with a copy of the RCCP Fitness to Practise Procedure.
21. The Assessment Committee should meet to review the initial documents as soon as practicable, but no later than 28 days. If for any reason the Assessment Committee is unable to meet, they should inform the Fitness to Practise Administrator to inform both the Complainant and Registrant explaining the delay.
22. The Assessment Committee may decide to dismiss the concern at this stage if it considers there are no concerns in relation to the Registrant's fitness to Practise.
23. A Complainant may only appeal against a decision of the Assessment Committee to dismiss a concern, where there is convincing new evidence which was not available at the time of the first assessment of the concern.
24. Where the concern is not dismissed, the Assessment Committee may make further preliminary enquiries and request information from the Complainant and/ or Registrant and/ or third party in which case, the Fitness to Practise Administrator will request the further information.
25. Having considered the further information, unless the Assessment Committee has decided to dismiss the complaint, it will send the Registrant any further related documents obtained during their preliminary enquiries and may request a further response from the Registrant. The Registrant will have 28 days to respond to the documents and any specific questions posed by the Assessment Committee.
26. Once the RCCP has received the Registrant's response, the Complainant will be given the opportunity to comment on the Registrant's response. The Complainant will have 28 days to respond.
27. Where the Complainant or Registrant fails to respond within the time periods set out above the Assessment Committee may proceed with their decision without a response.
28. The Assessment Committee will have the discretion to receive expert advice from any relevant discipline of Clinical Physiology in order for the Committee to make a fair and proportionate decision.

29. The Assessment Committee should meet as soon as practicable, once the Fitness to Practise Administrator has received the responses from both the Complainant and Registrant.
30. The Assessment Committee will only consider written submissions.

## Realistic Prospect Test

31. The Assessment Committee will consider the concern to determine whether there is any evidence to suggest that there has been a breach of the RCCP Standards of conduct, performance and ethics and or Standards of Proficiency, which may result in a Registrant's fitness to practise being impaired. See paragraph 8 above for the grounds of Impairment of fitness to practise.
32. In coming to its decision, the Assessment Committee will apply the '**Realistic Prospect Test**'. The realistic prospect test is commonly used in healthcare regulation and is intended to ensure that regulators focus on public safety and only act when action is justified and necessary.
33. The Assessment Committee will apply the realistic prospect test to the whole concern. This will include assessing whether there is a realistic prospect that a Professional Conduct Committee or Health Review Panel, on the balance of probabilities, will find the facts of the alleged conduct proven, and there is a realistic prospect of those facts being found to impair the Registrant's fitness to practise to a degree that justifies action on their registration.
34. The Assessment Committee will consider the wider public interest, including protection of the public and public confidence in both the regulatory process and the Clinical Physiology profession. Fitness to practise action must be appropriate and proportionate in order to protect the public and therefore it must be in the public interest to proceed with the action.
35. The Assessment Committee needs to be satisfied that there is a real or genuine possibility as opposed to a remote or fanciful one that the RCCP will be able to establish its case. The burden of proof lies with the RCCP and not with the Registrant.
36. The Assessment Committee will decide how to proceed and compile a report.
37. The Assessment Committee may;

- 37.1 Close the case without any action, where the realistic prospect test has not been met;
- 37.2 Issue a formal Warning or Letter of Advice to the Registrant;
- 37.3 Refer the matter to a Professional Conduct Committee where there is a realistic prospect of the facts being substantiated and those facts amounting to impairment of fitness to practise. (Bearing in mind the public interest considerations stated above.)
- 37.4 Refer the matter for Consensual Disposal where the allegations may be dealt with by an alternative outcome, rather than direct referral to a Professional Conduct Committee or Health Review Panel.
- 37.5 Refer the matter to a Health Review Panel where the Registrant's fitness to practise may be impaired by adverse physical or mental health.

## Warning/Letter of Advice issued by the RCCP

- 38. A Warning or a Letter of Advice issued by the Assessment Committee is a record of their concern, which does not require referral to a Professional Conduct Committee, but nevertheless is potentially significant. A Warning or Letter of Advice is not shown on the public facing RCCP Register, but it is recorded against the Registrant's entry internally.
- 39. The Assessment Committee may issue a Letter of Advice to the Registrant which may include advice to carry out further training, CPD and feedback pertinent to the complaint in the context of adherence to the RCCP's Standards of conduct, performance and ethics/Standards of Proficiency.
- 40. Warnings will only be issued by the Assessment Committee once the Registrant has been given an opportunity to make further written representations. The Assessment Committee must consider any representations made by the Registrant.
- 41. If the RCCP were to receive a further concern, a previous Warning or Letter of Advice will be taken into regard when considering the further concerns.

## Consensual disposal

42. Consensual disposal is an alternative outcome by which the Registrant and the RCCP agree that a concern will be resolved without the need for a contested hearing.
43. The Assessment Committee may offer the route of consensual disposal to a Registrant where they are of the opinion, that it may be a satisfactory resolution to a concern and the Registrant accepts responsibility for the concern(s) raised.
44. Where the Assessment Committee refers a case to the Professional Conduct Committee or Health Review Panel, the Registrant will also have 14 days to inform the RCCP that they would like to follow the consensual disposal procedure.
45. The Professional Conduct Committee, RCCP staff and legal advisors may also consider offering the route of consensual disposal to a Registrant where they are of the opinion, that it may be a satisfactory resolution to a concern and the Registrant accepts responsibility for the concern(s) raised.
46. The procedure will only apply where the Registrant accepts the facts of the allegation(s) and that their current fitness to practise is impaired. The RCCP will send the Registrant the particulars of allegation(s) and supporting documents.
47. The consensual disposal process will require the Registrant to provide a written statement to the RCCP to progress the concern by consensual disposal. The written statement will include the relevant facts, admission(s) and insight into their conduct.
48. The documents will be referred to a Professional Conduct Committee/Health Review Panel but without the need for the parties to attend a full contested hearing.
49. The Professional Conduct Committee/Health Review Panel will consider the matter on papers and will also consider the agreement between the RCCP and Registrant as to sanction.
50. The Professional Conduct Committee/Health Review Panel will have the full sanctions available to them, as they would in a full fitness to practise hearing and will make the final decision as to sanction.

51. The Professional Conduct Committee/Health Review Panel can refer the matter to a full hearing if they believe consensual disposal is not the appropriate method for dealing with the concern.
52. The Registrant will be notified of the sanction that the Professional Conduct Committee/Health Review Panel decide and will have the opportunity to review the agreement and accept the sanction.
53. The Professional Conduct Committee/Health Review Panel will need to be satisfied that following the consensual disposal process is not contrary to the public interest.
54. Once the Registrant has agreed the sanction and Consensual Disposal Agreement the RCCP will publish the outcome on their website. Any information in relation to health will be redacted from publication.
55. The Complainants view will be taken when considering the consensual disposal route, but the Professional Conduct Committee/Health Review Panel will not need the Complainant's consent.

## Concerns Referred to a Professional Conduct Committee

56. Where a concern is referred to the Professional Conduct Committee, the Empanelment Committee will appoint three-panel members to hear the complaint and one of the members will be appointed Chair. The Panel will include at least one Registrant Member preferably from the same Clinical Physiology background as the Registrant under concern, and at least one Lay Member.
57. The hearing will usually be held in public, however, the Professional Conduct Committee will have the discretion to hold all or part of the hearing in private, in circumstances where maintaining the privacy of the person concerned or the third party outweigh the public interest in holding the hearing in public.
58. The RCCP will appoint a legal representative (Case Presenter) to represent the RCCP. The Fitness to Practise Administrator will send the RCCP Case Presenter all the documents in relation to the concern.
59. At any time after the referral from the Assessment Committee, the Complaints Administrator or the RCCP Case Presenter may collate further necessary evidence in relation to the concern. This may include a witness statement from the Complainant and any third parties. The RCCP Case Presenter will

draft the particulars of allegation(s) and compile the evidence that the RCCP intends to rely upon at the hearing.

60. The Fitness to Practise Administrator under the supervision of the RCCP Case Presenter will send the Registrant under concern the following documents:
  - 60.1 The particulars of allegation(s) against the Registrant;
  - 60.2 A paginated copy of the documents/reports/witness statements the RCCP Case Presenter will rely upon at the hearing including a witness list;
  - 60.3 A paginated copy of any unused material relevant to the concern;
  - 60.4 A canvassing schedule with an indication of the length of the hearing;
  - 60.5 A copy of the RCCP Fitness to Practise Procedure.
61. The Fitness to Practise Administrator having consulted with the Professional Conduct Committee will agree on a provisional date(s) to hold the hearing. The Fitness to Practise Administrator will try to accommodate all individuals attending the hearing but is not obliged to do so, if canvassing for dates becomes problematic.

## Notice of Hearing

62. Having arranged the date(s) of the hearing the Fitness to Practise Administrator will send the notice of hearing by the Royal Mail "Signed For" service to the Registrant's registered address.
63. The notice of hearing will also include a copy of the particulars of allegation(s). The hearing should not take place before 35 days after the service of the notice. Unless the Registrant consents to waive the 35 days' notice. The service of notice of hearing will be taken to have been received the day after posting.
64. The notice of hearing shall clearly set out the following:
  - 64.1 Date, time, length of hearing and venue;
  - 64.2 Particulars of allegation(s);
  - 64.3 The Registrant's right to attend the hearing and be represented;
  - 64.4 The procedure at the hearing and possible sanctions open to the Panel in the event of

a finding of impairment;

64.5 The Panel's power to proceed and determine the matter in the absence of the Registrant/Registrant's Representative at the hearing.

65. The Fitness to Practise Administrator may appoint a Legal Assessor to attend the hearing and provide independent legal advice to the Professional Conduct Committee. The Legal Assessor will advise on matters of law, evidence and procedure.

66. At least 21 days before the date of the hearing the RCCP Case Presenter and the Registrant must send by post and by email to the other party the following:

66.1 Any documents the party seeks to rely upon at the hearing.

66.2 A witness list together with the witness statements that each party seeks to rely upon at the hearing. All witness statements must be signed and dated.

67. Further in the case of the Registrant, whether the Registrant:

67.1 Admits or denies the allegations within the particulars of allegation(s);

67.2 Intends to appear in person and/or to be represented at the hearing, and if so, the name and address of his or her Representative;

67.3 Intends to make any application to the Professional Conduct Committee and if so, provide details of the grounds upon which the said application is to be made.

68. The documents should be clearly paginated and compiled in a bundle. Any document that has not been submitted in compliance with the above, will need express permission from the Professional Conduct Committee to be considered as part of the proceedings.

69. The RCCP Case Presenter and the Registrant/ Registrant's Representative shall wherever possible agree a paginated hearing bundle of relevant documents and a copy of the bundle shall be provided by the Fitness to Practise Administrator to the Legal Assessor. Where a bundle is agreed the Fitness to

Practise Administrator shall arrange for a copy to be sent to the members of the Professional Conduct Committee 14 days prior to the hearing.

70. If the bundle is not agreed, the documents under dispute should be taken out before sending to the Professional Conduct Committee. The Legal Assessor should be sent the entire bundle including the documents in dispute. The parties will make representations to the Legal Assessor after which the Legal Assessor will advise the Committee on admissibility. The Professional Conduct Committee will have a discretion on what weight it shall give to the documents.
71. The RCCP Case Presenter and the Registrant/ Registrant's Representative shall agree where possible which witness evidence is admitted, and which witnesses are required for cross-examination.

## Case Management Meeting

72. At the request of the RCCP Case Presenter or the Registrant/ Registrant's Representative, the Chair of the Professional Conduct Committee at any time after the issue of the notice of hearing may give directions for the management of the case. This includes making findings on preliminary applications as the Chair sees fit, such meetings may also include the presence of the Legal Assessor. Case Management meetings may at the discretion of the Chair be conducted by telephone conference.
73. The hearing may be adjourned at any stage, either on the application of either party or by the Chair or Panel of its own accord. Any application for postponement must be submitted to the Chair of the panel through the Fitness to Practise Administrator, giving notice to the other party and allowing them to comment on the application. The Chair of the Panel has discretion to postpone the hearing or refuse the postponement application and may be assisted by a Legal Assessor. In the event of postponement of the hearing the Chair of the Panel will set a new date.

## Proceeding in absence and representation

74. Where a Registrant fails to attend and is not represented at the hearing, the Professional Conduct Committee may nevertheless continue with the proceedings, provided they are;

74.1 Satisfied the Registrant was served the notice of hearing in accordance with rule 61

above and/or all reasonable efforts were made to notify the Registrant of the hearing.

and

74.2 That it is in the public interest to proceed with the hearing.

75. The Registrant may be legally represented by a Solicitor or Counsel at the hearing.
76. The Complainant if attending as a witness can bring with them a supporter providing the RCCP have been given notice.

## Amendment of the allegations

77. At any stage before making its findings of fact, the Professional Conduct Committee may of its own motion or following an application of one of the parties, amend the particulars of allegation(s) unless it is of the view that the required amendment would prejudice the fairness of the proceedings. Before making any amendment, the Committee must consider any representations by the RCCP Case Presenter, Registrant/Registrant's Representative and also take advice from the Legal Assessor.

## Special Measures

78. Where a witness including the Complainant feels that they are unable to give their best evidence in an open hearing, they should let the RCCP Fitness to Practise Administrator know at least 21 days before the hearing. An application for special measures will then be made by the RCCP Case Presenter to the Professional Conduct Committee.
79. The Registrant/Registrant's Representative may also apply to the Professional Conduct Committee for special measures.
80. The Committee after hearing representations from each party in relation to the applications and taking advice from the Legal Assessor may adopt any process, they think appropriate and fair.
81. Where a Registrant faces allegations of a sexual nature, the Registrant will not be able to cross-examine the Complainant in person unless the Complainant has provided explicit consent.

## Evidence

82. A certificate of conviction issued by a court in the UK is admissible as conclusive proof of that conviction and the findings of fact on which it is based.
83. The Standard of Proof shall be the civil standard of proof, namely the balance of probabilities.
84. The burden of proof as to proving the facts of the case shall at all times remain with the RCCP.
85. The Professional Conduct Committee may admit any evidence they consider fair and relevant to the case before them.

## Procedure at Hearing

86. The procedure at the hearing shall be determined at the discretion of the Professional Conduct Committee, where not expressly provided for by these rules. During a hearing, the Committee follows a three-stage process before it reaches a decision on whether to impose a sanction.
  - 86.1 Findings of Fact
  - 86.2 Findings of Impairment
  - 86.3 Sanction
87. The Chair of the Committee shall introduce the members of the Committee present and confirm the identity of the Registrant against whom the allegation(s) are made.
88. The Chair of the Committee shall ask the Registrant/ Registrant's Representative and the RCCP Case Presenter whether there are any preliminary applications before the hearing proceeds. The Committee shall then determine the procedure for considering the applications.
89. The Fitness to Practise Administrator to the hearing shall read the allegation(s) against the Registrant. The Chair shall inquire of the Registrant whether there are any admissions to the

particulars of allegation(s).

90. Where any of the facts are admitted the Chair of the hearing should formally announce that such facts have been found proved.
91. Where any of the allegations are not admitted, the RCCP Case Presenter will open the case against the Registrant and present evidence in relation to the alleged facts, including the calling of witnesses.
92. At the end of the evidence presented by the RCCP Case Presenter, the Registrant/Registrant's Representative will present evidence and advance witnesses in support of their case with regards to the alleged facts.
93. Witnesses shall be examined by the party calling them and may then be cross-examined by the opposing party. The party calling the witness may then re-examine the witness.
94. The Professional Conduct Committee may question any of the witnesses, the RCCP Case Presenter, Registrant/ Registrant's Representative.
95. Once each party has presented their evidence in relation to the facts both the RCCP Case Presenter and Registrant/Registrant's Representative will provide closing submissions to the Professional Conduct Committee summing up their evidence to the alleged facts.
96. The Legal Assessor will provide their advice to the panel in public. The parties will be given the opportunity to make representations in respect of such advice.
97. For arriving at any decision in relation to the hearing, the panel shall sit in private and in the absence of the parties. Any announcement of a decision shall be made in public. The Panel will deliberate in the presence of the Legal Assessor, but the Legal Assessor will not take part in the legal deliberations and only provide support in relation to the law and procedure.
98. The Professional Conduct Committee will provide their findings of facts as soon as possible. The Committee will provide reasons for its findings within their determination on facts.
99. In a case where the Registrant's conduct is substantiated or any of the alleged facts found proven,

the Professional Conduct Committee may receive further evidence and hear any further submissions from the parties before making their decision on whether the Registrant's Fitness to Practise is currently impaired.

100. The Legal Assessor will give legal advice to the Committee on the relevant laws and procedures. Both the RCCP Case Presenter and the Registrant/Registrant's Representative shall be permitted to make submissions to the Committee in respect of such advice.
101. The Impairment stage will require the Professional Conduct Committee to consider two separate questions:
  - 101.1 Whether on the basis of the facts admitted or found proved the conduct in question amounts to one of the grounds set out in paragraph 8 above?
  - 101.2 If so, whether the Registrant's current fitness to practise is impaired?
102. The Committee will consider and announce its findings on the question of whether the Registrant's fitness to practise is currently impaired and give its reasons for that decision.
103. In a case where the Committee finds impairment to fitness to practise, the RCCP Case Presenter and the Registrant/Registrant's Representative may present evidence relating to the Registrant's history and character and any mitigating circumstances.
104. The Registrant/Registrant's Representative may present references and testimonials and call character witnesses in support. Where character witnesses are called, they may be questioned by the RCCP Case Presenter and the Professional Conduct Committee. It also possible that such evidence is presented at the Impairment stage.
105. The Legal Assessor shall then advise the Committee as to the range of sanctions available to the Committee and relevant case law. The RCCP Case Presenter and Registrant/Registrant's Representative may make representations as to the advice given to the Committee by the Legal Assessor. The Committee shall then determine the relevant sanction, if any, by using the RCCP's sanctions guidance.

## Sanctions

106. Sanctions are intended to protect the public, and the wider public interest, not to punish the Registrant. Following a decision of impairment to fitness to practise a Professional Conduct Committee may impose the following sanctions:
- 106.1 A Reprimand, which will remain on the RCCP Register for a period of one year unless the Committee determines a lesser period;
  - 106.2 A Conditions Order. This should specify the conditions relevant to the Registrant's membership and the period for which it has effect and can be imposed for a period of up to 3 years and the order must be reviewed before it expires. Conditions Orders are published on our website and online Register;
  - 106.3 A Suspension Order. This shall specify the period of suspension (not exceeding 12 months). The Committee should state whether there is the need for a review hearing before the Registrant can return to the RCCP Register.
  - 106.4 Termination of Registration and Removal from the RCCP Register.
107. The Notice of Decision shall be sent to the Registrant/ Registrant's Representative and Complainant within 7 days of the conclusion of the hearing, the Notice must set out clearly the findings of the Professional Conduct Committee.
108. The Registrar will notify the Registrant's employer, any other relevant membership body/regulatory body of any decisions made by the RCCP that may affect the Registrant's registration as soon as is practicable.

## Condition(s) Order

109. The Professional Conduct Committee/ Health Review Panel may impose specific conditions on the Registrant's registration, this may include a requirement to undergo further training, supervision, continuing professional development and any other conditions that the Committee find appropriate. Where a Committee/Panel decide conditions are appropriate, they will set a timeframe for compliance with the conditions. The Professional Conduct Committee/Health Review Panel may also impose a requirement for a Review Hearing before the conditions expire.
110. Where the Registrant fails to comply with the conditions set by the Professional Conduct Committee/Health Review Panel the Registrant will be in breach of the conditions and the RCCP will hold a Review Hearing.

## Review Hearing

111. Where the Professional Conduct Committee/Health Review Panel determines a sanction of suspension or conditions, they may also impose a Review Hearing. In such circumstances, the Committee will direct that a Review Hearing takes place before the period of suspension or conditions expire.
112. A further hearing will be held to conduct the review, preferably with the same Professional Conduct Committee/Health Review Panel. The Review Panel will have a discretion on how to proceed with the hearing.
113. Where the original Committee imposed conditions the hearing panel will hear evidence of compliance of those conditions. The Registrant should compile a report to demonstrate compliance with the conditions.
114. Where the original Committee imposed a sanction of suspension, the Registrant should show evidence of any CPD, supervision and work experience carried out during the suspension.
115. At a Review Hearing, any finding of Impairment made by the Reviewing Committee must be based on the original allegation. The Committee will need to consider whether the Registrant's fitness to

practise remains impaired after considering all the information available to them. The Registrant is expected to provide evidence that any past impairment has been addressed.

116. The Reviewing Committee has the discretion to continue the suspension/conditions or vary as they see fit or alternatively take no further action.

## Health Cases

117. Where the RCCP becomes aware of a concern in relation to a Registrant's fitness to practise due to ill health, the RCCP may ask the Registrant to undergo a medical assessment.
118. The RCCP will bear the cost of the medical assessment and will ask the independent Medical Assessor to compile a report. This report will include information such as details of the Registrant's past medical history, current medication, treatment, the investigations the Medical Assessor carried out and diagnosis. The report will also contain an opinion regarding the Registrant's fitness to practise
119. The RCCP will provide the Registrant with a copy of the medical report.
120. Once the RCCP has received the Medical Assessor's report, the Registrar will consider the contents of the report and determine whether the case meets the criteria for referral to the Assessment Committee.
121. Where there is a raised concern in relation to a Registrant's fitness to practise due to ill health and a further ground set out in paragraph 8, the Assessment Committee will refer the matter to a Health Review Panel.
122. The Health Review Panel will be constituted in the same way as a Professional Conduct Committee, however, at least one member of the Panel will be medically qualified.
123. If the allegations are of a serious nature the Health Review Panel may impose interim measures in order to restrict the Registrant's registration.

124. The Health Review Panel hearing will be held in private. The hearing will be conducted in the same way as the Professional Conduct Committee hearing with the same sanctions available to the panel; however, the Health Review Panel may not remove a Registrant from the Register solely due to ill-health.
125. The Registrant may instruct an independent expert to prepare their own medical report. The report must be sent to the RCCP within 21 days before the hearing.
126. The Health Review Panel also has the discretion to request the RCCP to arrange for an independent Clinical Advisor to be present at the hearing for the assistance of the panel. The Clinical Advisor will not be representing either party but will be present throughout the hearing to advise the Panel and will state their advice in public. The Clinical Advisor will not be present during the Committee's private deliberations.
127. The decision of a Health Review Panel may be appealed through the same Appeal process as for a decision made by the Professional Conduct Committee.

## Appeal

128. A decision of the Professional Conduct Committee/Health Review Panel may be appealed by the Registrant or the RCCP's Case Presenter on behalf of the RCCP. The Complainant may also request the RCCP to lodge an Appeal. An Appeal will be considered on the following grounds:
129. The findings of the Professional Conduct Committee/Health Review Panel are disproportionate to the gravity of the conduct and/ or unjust in all the circumstances.
130. The sanction imposed by the Professional Conduct Committee/Health Review Panel is disproportionate to the findings and/or unjust.
131. There is evidence of serious procedural irregularity in the proceedings before the Professional Conduct Committee/Health Review Panel.
132. There is new evidence that was not available at the time of the Hearing.

133. The grounds for an appeal will be considered by a panel Chair and a decision will be made as to whether the leave to appeal is accepted or rejected. If the leave to appeal is rejected, the Registrant and the Complainant will be notified in writing of this decision, which will be final.
134. If the leave to appeal is accepted both the Registrant and the Complainant will be informed. An Appeal Committee shall be constituted by the Empanelment Committee. The Appeal Panel will include three-panel members drawn from the RCCP panellist pool. One of the panel members will be appointed Chair of the Committee. The panel will include at least one Registrant Member and one Lay Member.

## Notice of Appeal

135. A written notice of appeal must be sent to the RCCP Registrar within 28 days of the receipt of the written Notice of Decision of the Professional Conduct Committee/Health Review Panel.
136. The Notice of Appeal shall:
  - 136.1 Specify the grounds of appeal - The arguments in support of the appeal.
  - 136.2 Include any documentary evidence relied upon.
137. The proceedings of the Appeal shall be conducted at the discretion of the Appeal Committee.
138. Unless the Appeal Committee decides otherwise, the Committee shall not receive oral evidence.
139. An independent Legal Assessor will be appointed to advise the Appeal Committee in relation to the law and procedure. The Appeal Committee will consider all the relevant documents and any written submissions provided by both parties to decide whether the appeal is upheld or not.
140. If the appeal is upheld, the Appeal Committee can make any decision regarding the complaint that could have been made by the Professional Conduct Committee/Health Review Panel, in accordance with the Sanctions Guidance.
141. The Appeal Committee may determine that the case be referred back to a differently constituted Professional Conduct Committee/Health Review Panel for a rehearing.

142. The Appeal Committee shall issue to the appellant and any interested party a written decision within 7 days of the determination of the appeal.

## Publication

143. The RCCP shall publish information concerning its decision as to the sanction imposed on a Registrant's registration: -

143.1 On a website which it maintains from the expiry of the time permitted to appeal as set out within these rules (or the expiry of any appeal process).

143.2 A Reprimand will remain on the RCCP website for a period of 1 year unless the Committee determines a lesser period.

143.3 A Conditions Order will remain on the RCCP website for the length of time the Order has effect (not exceeding 3 years).

143.4 A Suspension Order will remain on the RCCP website for the length of time the Order has effect (not exceeding 12 months).

143.5 A Consensual Disposal Agreement outcome will be publicised according to the sanction that is determined and will remain on the RCCP website for the length of time the Order has effect (between one-five years).

143.6 In the event that a sanction is made removing a Registrant from the RCCP Register, the terms of the Sanction shall remain on the website for a period of five years.

144. If the outcome of fitness to practise proceedings against the Registrant indicate that there may be a real risk to the safety of children or vulnerable adults, 'safeguarding issues' then additional measures will be taken.

144.1 The Registrar will consult the Legal Assessor on the case about whether to write to the Disclosure and Barring Service in order for them to decide whether the individual should be barred from working with vulnerable adults and children.

144.2 The Registrar may also refer information to the police if an investigation indicates that it is necessary to do so and will always do so if there is evidence of a criminal offence which hasn't already been considered by the police.

145. The Registrar will notify the Registrant's employer, any other relevant regulatory body/accredited register of any decisions made by the RCCP that may affect the Registrant's Registration.
146. Interim measures are displayed on a Registrant's status and on the RCCP's website while they are active and removed from publication when they are lifted. Detailed determinations/ decisions of Interim Measures are not published.
147. In Health cases, the determination will be kept private, but the decision will be published.

## Restoration

148. Where a Registrant has been removed from the Register under these procedures, they can reapply to the RCCP after a period of five years.
149. The former Registrant (Applicant) is expected to reapply explaining their reasons for wanting to re-join the RCCP Register and demonstrate insight in relation to the conduct that led to their removal.
150. The Applicant should clearly set out their CPD activities and work history since their removal.
151. The request for restoration will be submitted to the Registrar for consideration. The RCCP Registrar has the discretion to decide upon the application.
152. Where the Registrar considers the application should be further considered by a Panel, the Registrar will request the Empanelment Committee to allocate a Lay member and a Registrant member to consider the request.
153. The panel members may decide to interview the Applicant if necessary, in order to establish whether the Applicant is currently fit to practise and return to the RCCP Register. The Panel also has the discretion to contact any third parties in making their decision such as the Applicant's current employers.

154. The panel will report their findings to the Registrar by way of a report outlining their reasons for their decision.
155. The Restoration Panel may:
- 155.1 Allow the Applicant onto the Register without any restrictions.
  - 155.2 Deny the Applicant registration.
  - 155.3 Allow the Applicant Registration but with restrictions/conditions. The conditions may include imposing requirements for Continuing Professional Development, supervision, limitations on seeing a category of patients or any other proportionate restriction.
  - 155.4 Allow the Applicant registration for a provisional period and require a review thereafter.
156. The Registrar will send out the decision to the Applicant within 7 days of receiving the report from the panel.
157. If the Restoration Panel rejects the application there will be no right of appeal and a further application can only be considered after a period of two years.

## Interim Measures

158. During an investigation into a Registrant's Fitness to Practise, the Interim Measures Panel may impose Interim Measures on the Registrant's registration of its own motion or by an application from the RCCP. The Interim Measures Panel will consist of three members and at least one Lay Member and one Registrant Member.
159. Interim Measures temporarily suspend or restrict a Registrant's registration while the RCCP investigate a complaint. The Registrar will carry out a risk assessment of each concern when the RCCP receives it. Where the Registrar identifies a risk, he/she will refer the concern to an Interim Measures Panel.

160. If the concern has already reached the Assessment Committee/Professional Conduct Committee/Health Review Panel, these Committee's/Panel's will also be able to implement Interim Measures by holding Interim Measure Powers.
161. The Interim Measures Panel must give the Registrant at least 7 days' notice. The Notice will explain the reason(s) that the RCCP are considering imposing Interim Measures. The Registrant will have the opportunity to provide written submissions to the Interim Measures Panel. In exceptional circumstances, the Interim Measures Panel may carry out an oral hearing.
162. The Registrant will be notified that if the Registrant does not respond within the notice period, the Panel may go ahead with imposing the Interim Measures, in the absence of any submissions from the Registrant.
163. The Panel will deliberate in private, but a Legal Assessor may be present to advise on the law and procedure.
164. The Panel will consider the following in deciding whether Interim Measures are appropriate. Where the Panel forms the view that Interim Measures are:
  - 164.1 Necessary for the protection of the public
  - 164.2 In the public interest
  - 164.3 In the interest of the Registrant
165. If the Panel concludes that Interim Measures are appropriate, they will decide the most proportionate outcome, whether to implement an Interim Suspension or impose Interim Conditions on the Registrant's practise.
166. As soon as reasonably practicable after the conclusion of the meeting of the Interim Measures Panel, the RCCP shall send a notice of decision to the Registrant. The Registrant will be notified of their right to appeal a decision of the Interim Measures Panel.
167. The Interim Measures Panel may impose Interim Measures for a period of 12 months, which must be reviewed every 6 months.
168. At any review, the Interim Measures Panel must fully consider all the circumstances relating to the

case, including any new information. It must decide whether the Interim Measures should be maintained, varied, replaced or revoked.

169. The Registrant may make written representations at the review. Where the Registrant does not object to the continuation of the Interim Measures the review may be waived with the written consent of the Registrant.
170. The Interim Measures Panel can consider a review of the Interim Measures at any time they consider appropriate to do so and will consider holding a review where:
  - 170.1 The RCCP or Registrant requests that a review takes place.
  - 170.2 The terms of the Interim Measures have been breached.
  - 170.3 New evidence relevant to the Interim Measures has become available.
171. Interim Measure reviews will continue until the Professional Conduct Committee/Health Review Panel or the Appeal Panel revoke the Measures.

**The RCCP is committed to promoting equality, diversity and inclusion when carrying out its' duties. The RCCP values diversity and individuality in all staff, the professionals in our Board and Council. We aim to ensure that our procedures and processes are fair, objective, transparent and free from discrimination and that all stakeholders receive the highest level of service.**

### Documentation Version Control

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