

# Disciplinary and Complaints Committee of the Royal College of Psychiatrists: Remit and Procedures

## Regulations adopted by the Board of Trustees 28 April 2023

**Updated: Friday 28 April 2023**

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## **Remit and Operation of the Disciplinary and Complaints Committee (DCC)**

### **INTRODUCTION**

Pursuant to paragraph 1(b) of Section XVIII of the Bye-Laws of the College, the Board of Trustees has delegated to the Disciplinary and Complaints Committee (on the terms and conditions set out or referred to in paragraph 5 of that Section and on the terms and conditions in regulations made by the Board of Trustees) the duty of advising the Board of Trustees upon all disciplinary matters and upon all matters relating to complaints received under the College's complaints procedure. The regulations of the College set out rules of procedure which govern the proceedings of committees of the Board of Trustees (including the DCC).

The Board of Trustees by virtue of all powers conferred upon it whether by the Supplemental Charter or by the Bye-Laws of the College or otherwise hereby make the following Regulations ("**DCC Regulations**"). These DCC Regulations shall take effect on the date they are adopted by the Board of Trustees (as stated above) and shall supersede the regulations of the College (with the title "Disciplinary and Complaints Committee of the Royal College of Psychiatrists -Remit and procedures") which were approved by the Council in June 2010.

These DCC Regulations are the "Regulations" referred to in paragraphs 2, 4, 5, 8, 9 and 10 of Section IX of the Bye-Laws and the "Regulations" referred to in paragraphs 2, 4, 5, and 7 of Section XXI of the Bye-Laws.

The definitions and rules of interpretation set out in Appendix A apply in these DCC Regulations.

In the event of any conflict or inconsistency between these DCC Regulations and the Bye-Laws, the Bye-Laws will prevail. In the event of any inconsistency between these DCC Regulations and the Regulations of the Royal College of Psychiatrists, these DCC Regulations will prevail.

#### **1. REMIT**

1.1 The Board of Trust of Trustees delegates to the DCC (a committee of the Board of Trustees) responsibility for eight broad areas of work listed in paragraphs 1.1.1 to 1.1.8 below (numbered (i) to (viii)):

1.1.1 **(i) Termination or suspension of Membership of or Association with the College and suspension or termination of Office, or imposition of Undertakings:**

This includes dealing with matters arising from notifications from the GMC or equivalent organisations outside the United Kingdom, about Members of the College or Associates and which relate to consideration under GMC (or equivalent) processes which affect medical registration.

1.1.2 **(ii) Termination or suspension of membership of the Board of Trustees and of Council or imposition of Undertakings:**

This involves the suspension or termination of membership of the Board of Trustees or the Council. It applies to all members of the Board of Trustees and of Council including Lay Trustees.

1.1.3 **(iii) Appeals against termination or suspension or the imposition of Undertakings:**

The appeal application is made under paragraph 8 of Section IX of the Bye-Laws (termination of Membership, Association and/or Office) and under paragraph 7 of Section XXI (termination or suspension of membership of the Board of Trustees and of Council).

1.1.4 **(iv) Applications for reinstatement where Membership of the College or Associateship of the College has been terminated by reason only of the provisions of Article 1(a) of Section IX of the Bye-Laws:**

This involves applications for reinstatement by the DCC if a Member of the College or Associate regains reinstatement of their name on the Register of Medical Practitioners or other prescribed qualification as referred to in paragraph 1 (a) of Section IX of the Bye-Laws. The application is made under paragraph 9 of Section IX of the Bye-Laws.

1.1.5 **(v) Applications for reinstatement on the College Register of former Members of the College or Associates where Membership of the College or Associateship of the College has been terminated by reason of the provisions of Article 1(b) of Section IX of the Bye-Laws:**

This involves applications for reinstatement by the DCC made by a Member of the College or Associate under paragraph 10 of Section IX of the Bye-Laws.

1.1.6 **(vi) Handling complaints received under the College's "Complaints against College Members or Associates" procedure:**

This procedure relates strictly to complaints about the conduct of a Member or Associate of the College, or in relation to their work on behalf of the College or in association with the College. Examples include holders of any College office **when acting in a College capacity** (whether elected, appointed or co-opted), College representatives on Advisory Appointments Committees, as examiners, organisers of College meetings or delegates at College events.

1.1.7 **(vii) Removal of Honorary Fellows**

This involves prescribing the grounds for and circumstances in which a person shall cease to be an Honorary Fellow and his or her name shall be removed from the College Register of Honorary Fellows and the procedures applicable to such removal.

1.1.8 **(viii) Monitoring trends in complaints received, reviewing and approving relevant documentation, policies and procedures:**

The DCC will meet at least once a year and may communicate electronically throughout the year. Special meetings may be convened by the Registrar as the need arises. A Complaints Manager will support the DCC, working at all times in close liaison with the Chief Executive.

**2. MEMBERSHIP OF THE DCC**

- 2.1 Details of the membership of the DCC (including appointment to membership) as set out in Section XVIII of the Regulations of the College stipulates that The Disciplinary and Complaints Committee shall be chaired by the Registrar and membership shall consist of the Registrar, the Dean and two members of the Board of Trustees or the Council to be appointed by the Registrar and two

representatives. The two representatives shall be selected by the Registrar and ratified by the Board of Trustees, from among:

- (a) Honorary Fellows of the College who are not psychiatrists
- (b) senior colleagues in other medical specialties or otherwise
- (c) Lay Trustees of the College.

2.1 The Chief Executive and the Complaints Manager will have the right to be in attendance at all meetings of the DCC.

### 3 PROCEDURES

#### 3.1 **(i) Termination or suspension of Membership of the College or Association with the College, or imposition of Undertakings (Section IX of the Bye-Laws)**

3.1.1 The grounds for, and details of the processes relating to, suspension or termination of Membership of the College or Association and suspension or termination of Office (including the other sanctions available to the DCC) are contained in Section IX of the [Bye-Laws](#).

3.1.2 The procedure for termination or suspension of Membership of the College or Association or imposition of Undertakings will be invoked upon identification of such cases – normally via notifications from the GMC, equivalent international organisations or, more rarely, knowledge of conviction for a serious criminal offence or the other grounds listed in paragraph 2 of Section IX of the Bye-Laws. In most cases, College action is likely to be preceded by action by the GMC or equivalent international organisation. It is possible, but would be exceptional, that suspension of College Membership or Association or suspension from Office in advance of GMC or equivalent action might be contemplated on notification of conviction for a serious criminal offence.

3.1.3 The following steps will be taken on receipt of a GMC or other notification as described above:

3.1.3.1 lists from the GMC are received by the Chief Executive and passed to the Complaints Manager, who will circulate the lists to staff of the College with responsibility for Membership Data to check whether anyone on the list is a Member of the College or Associate. If they are, further checks will be carried out, via circulation of the Membership Data list to the College's Senior Management Team to see whether the Member of the College or Associate holds College office or a role as a trainer. It is a GMC requirement to notify them if a trainer is subject to such proceedings;

3.1.3.2 if a Member of the College or Associate on the list from the GMC is identified as holding a role as a trainer, then the Director of Professional Standards will send the necessary notification to the GMC with confirmation to the Chief Executive that this has been done;

3.1.3.3 if any individuals holding a College role or Office are identified, a list will then be circulated electronically to the DCC, with a recommendation either that the details are noted and monitored, or with a recommendation for action;

3.1.3.4 before this circulation, and in the event of possible action being required, the Chief Executive will discuss the matter with the Registrar, and they will form a joint view on necessary steps. As a preliminary step they may instigate an investigation. If, in the reasonable opinion of the Chief Executive and Registrar, the matter is of sufficient gravity, the Registrar, in liaison with the Chief

Executive, will convene a meeting of the DCC. A meeting of the DCC will not be convened in the circumstances stated in paragraph 1 of Section IX of the Bye-Laws (erasure of name from the relevant medical register or ceasing to hold the relevant qualifications).

3.1.4 The Registrar on behalf (and at the direction) of the DCC will give written notice in accordance with paragraph 2 of Section IX of the Bye-Laws ("**Appearance Notice**") to the Member of the College, Associate or Officer concerned ("**Relevant Individual**") that their conduct will be considered by the DCC. The Appearance Notice shall state:

3.1.4.1 that it is issued pursuant to paragraph 2 of Section IX of the Bye-Laws;

3.1.4.2 that the Relevant Individual is to appear in person before the DCC on the date and at the time and place stated in the Appearance Notice;

3.1.4.3 which of the events, circumstances or conduct (as referred to in sub-paragraphs (a) – (g) of paragraph 2 of Section IX of the Bye-Laws) will be considered by the DCC; and

3.1.4.4 if the Relevant Individual is a both a member of the College or Associate and an Officer, whether the matters to be considered concern his or her status as a Member or Associate or as an Officer or both.

3.1.5 The DCC intend, when selecting the date of the Appearance hearing (as stated in the Appearance Notice), to hold the Appearance hearing as soon as reasonably practicable. However, the date of the Appearance hearing will usually be not less than 28 days after the date of issue of the Appearance Notice so as to allow sufficient time:

3.1.5.1 to carry out any investigation (as required by the DCC pursuant to paragraph 3.4.5); and

3.1.5.2 for the Relevant Individual to prepare his or her case based on the information the DCC have provided.

3.2 **(ii) Potential Termination or suspension of membership of the Board of Trustees or the Council (Section XXI of the Bye-Laws)**

3.2.1 The grounds for, and details of the processes relating to, suspension or termination of membership of the Board of Trustees or of the Council (including the other sanctions available to the DCC) are contained in Section XXI of the [Bye-Laws](#).

3.2.2 The steps outlined in paragraph 3.1.3 above may apply.

3.2.3 If any of the events, circumstances or conduct (as referred to in sub-paragraphs (e) – (p) of paragraph 1 of Section XXI of the Bye-Laws) apply, the Registrar on behalf (and at the direction) of the DCC will give written notice in accordance with paragraph 2 of Section XXI of the Bye-Laws ("**Appearance Notice**") to the member of the Board of Trustees or of Council who is the subject of the procedures under Section XXI of the Bye-Laws ("**Relevant Board/Council Member**") that their conduct will be considered by the DCC. The Appearance Notice shall state:

3.2.3.1 that it is issued pursuant to Section XXI of the Bye-Laws;

- 3.2.3.2 that the Relevant Board/Council Member is to appear in person before the DCC on the date and at the time and place stated in the Appearance Notice;
- 3.2.3.3 which of the events, circumstances or conduct (as referred to in sub-paragraphs (e) – (p) of paragraph 1 of Section XXI of the Bye-Laws will be considered by the DCC;
- 3.2.3.4 all matters reported concerning the Relevant Board/Council Member which the Board of Trustees considers material; and
- 3.2.3.5 if the Relevant Board/Council Member is a member of both of the Board of Trustees and the Council, whether the matters to be considered concern his or her status as a member of the Board of Trustees or the Council or both.
- 3.2.4 The DCC intend, when selecting the date of the Appearance hearing (as stated in the Appearance Notice), to hold the Appearance hearing as soon as reasonably practicable. However, the date of the Appearance hearing will usually be not less than 28 days after the date of issue of the Appearance Notice so as to allow sufficient time:
  - 3.2.4.1 to carry out any investigation (as required by the DCC pursuant to paragraph 3.4.5); and
  - 3.2.4.2 for the Relevant Board/Council Member to prepare his or her case based on the information the DCC have provided.
- 3.3 **Removal from the relevant medical register or ceasing to hold the relevant qualification (paragraph 1 (a) of Section IX of the Bye-Laws)**
  - 3.3.1 If the circumstances in paragraph 1 (a) of Section IX apply, and the DCC (on behalf of the Board of Trustees) have directed that the name of the relevant Member of the College, Associate, Mental Health Associate, Specialist Associate or Student Associate be removed from the College Register or the relevant individual be removed as Officers (as the case may be), the Registrar will promptly give written notice to the relevant individual of such direction.
  - 3.3.2 The information the Board of Trustees will normally act on, when issuing a direction as referred to in paragraph 3.3.1 in the case of erasure of name from a medical register, is the list of registered medical practitioners published by the GMC showing the status of the relevant individual as "not registered" (or the equivalent list published by a competent foreign medical registration body).  
  
Please refer to paragraph 3.4.11 as to the forms of written evidence that the DCC may rely on.
  - 3.3.3 If the circumstances in paragraph 1(a) of Section IX of the Bye-Laws apply, no Appearance Notice will be issued, there will be no investigatory process and no Appearance hearing will be held. An application for reinstatement can be made in accordance with paragraph 9 of Section IX of the Bye-Laws (see paragraph 3.7 below).

**3.4 Supplemental procedures applicable to both of the procedures set out in paragraph 3.1 and 3.2**

3.4.1 In this paragraph 3.4 references to "**you**" are to the Relevant Individual, the Relevant Board/Council Member or the Relevant Honorary Fellow, as the case may be.

3.4.2 The DCC will send communications to your address and e-mail address (as provided in paragraph 3.13.2).

3.4.3 In addition to the Appearance Notice, the DCC will also provide the following to you (where appropriate) not less than 14 days before the date of the Appearance hearing:

3.4.3.1 a summary of relevant information gathered during any investigation;

3.4.3.2 a copy of any relevant documents which will be used at the Appearance hearing; and/or

3.4.3.3 a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the DCC will give you as much information as possible while maintaining confidentiality.

3.4.4 An investigatory process may be conducted by or on behalf of the Board of Trustees, prior to the issue of an Appearance Notice, to the extent that the DCC determines to be reasonable in all the circumstances then known to it for the purpose of:

3.4.4.1 assisting the Board of Trustees in determining whether or not to direct that you are given an Appearance Notice; and/or

3.4.4.2 ascertaining (to the extent reasonably practicable) any material matters which are to be stated in such Appearance Notice or obtaining further information in respect of such matters,

to the extent reasonably practicable so as to enable the DCC to have a fair and balanced view of the relevant facts and to conduct the Appearance hearing swiftly and efficiently (so far as is reasonably possible).

3.4.5 Whether or not an investigatory process is carried out under paragraph 3.4.4 an investigatory process may also be conducted by or on behalf of the DCC, prior to the Appearance before the DCC, to the extent that the DCC determines to be reasonable in all the circumstances then known to it, for the purposes of:

3.4.5.1 establishing the relevant facts in relation to the event, circumstances or conduct which is the subject of the Appearance Notice;

3.4.5.2 collating any relevant documents and other evidence and information relevant to the event, circumstance or conduct which is the subject of the Appearance Notice; and/or

3.4.5.3 identifying any relevant witnesses,

to the extent reasonably practicable so as to enable the DCC to have a fair and balanced view of the relevant facts and to conduct the Appearance hearing swiftly and efficiently (so far as is reasonably possible).

- 3.4.6 The DCC will comply with its obligations under paragraph 4 of Section IX of the Bye-Laws and paragraph 4 of Section XXI of the Bye-Laws to take all reasonable steps to ensure that any such investigatory process does not investigate matters in respect of which you are, at that time, the subject of any fitness to practise investigation by a relevant regulatory body or which the Board of Trustees are aware (or ought reasonably to be aware) are reasonably likely to be the subject of such a fitness to practise investigation.
- 3.4.7 Any investigative interviews are solely for the purpose of fact-finding. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. The Registrar will usually appoint an Investigating Officer from among the Members of the College or Specialist Associates to carry out the investigation on behalf of the DCC.
- 3.4.8 The DCC will not make any decision on any action to be taken by it under Section IX or Section XXI of the Bye-Laws until after the Appearance hearing.
- 3.4.9 You shall co-operate fully and promptly with any such investigatory process. This will include informing the DCC of the names of any relevant witnesses, disclosing any relevant documents to the DCC and attending investigative interviews if required. You do not normally have the right to bring a companion to an investigative interview. However, the DCC may allow you to bring a companion if it helps you to overcome any disability.
- 3.4.10 You should notify the DCC if you have special requirements because of any disability in good time before the Appearance hearing so that appropriate arrangements may be made to accommodate your requirements.
- 3.4.11 The DCC may admit any evidence they consider fair and reasonable to the case before them, whether or not such evidence would be admissible in a court of law. Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that you have been convicted of a criminal offence or, in Scotland, an extract conviction shall be conclusive evidence of the facts found in relation to that determination. Production of a certificate signed by an officer of a regulatory body that has made a determination about your fitness to practise and/or removal from the relevant medical register or, if you are a Corresponding Fellow, Corresponding Associate, Mental Health Associate, Specialist Associate or Student Associate, that you have ceased to hold the qualification required for your election as such (or, in either case, publication on the official website of such regulatory body as to such determination, removal or ceasing to hold the required qualification) shall be conclusive of the facts found proved in relation to that determination. The provisions of this paragraph shall apply also for the purposes of paragraphs 3.7, 3.8 and 3.10.2.4.
- 3.4.12 You will have the right at the Appearance hearing to be represented. You must tell the Complaints Manager who your chosen representative is in good time before the Appearance hearing. If your chosen representative is unavailable at the time the Appearance hearing is scheduled and will not be available for more than 7 days afterwards, the DCC may ask you to choose someone else. It is not normally envisaged that such representative will be a lawyer, and if you intend to bring a lawyer representative you will do so at your own expense (regardless of the



outcome of the Appearance hearing) and you must, at least 14 days prior to the date of the Appearance hearing, obtain the DCC's prior written agreement to your being legally represented (such agreement not to be unreasonably withheld). If you are legally represented, the College reserves the right to have its own legal representation.

3.4.13 If you or your representative cannot attend the Appearance hearing on the scheduled date, you should inform the DCC immediately and the DCC will arrange an alternative time. You must make every effort to attend the hearing. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), the DCC may have to take a decision based on the available evidence.

3.4.14 You will also have the right to call and cross-examine witnesses at the Appearance hearing provided you give us sufficient advance notice to arrange their attendance. However, the DCC will not permit you to cross-examine witnesses if, in exceptional circumstances, it decides that a fair hearing can be held without such cross-examination or that the nature of the cross-examination amounts to an abuse of process. You will be given the opportunity to respond to any information given by a witness. At the Appearance hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your representative may make representations to the DCC and ask questions, but should not answer questions on your behalf. You may confer privately with your representative at any time during the Appearance hearing.

3.4.15 We may postpone the date of the Appearance hearing if we reasonably consider this to be necessary (including, for example, because the investigatory process is taking longer than anticipated or unavailability of witnesses). We may also adjourn the Appearance hearing (once started) if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. The Registrar will notify you in writing of the new hearing date. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

3.4.16 The sanctions available to the DCC are set out in paragraphs 6 and 7 of Section IX of the Bye-Laws and in paragraphs 6 and 7 of Section XXI of the Bye-Laws. If the DCC's decision is:

3.4.16.1 to take no further action, you will be notified to that effect:

3.4.16.2 to suspend further action for a prescribed period, you will notified of the further action and the period of suspension;

3.4.16.3 to impose an undertaking, you will notified to that effect and the required form of undertaking (detailing the consequences for failure to comply with it) will be enclosed with the notification) and must be signed by you and returned to the Registrar within 28 days after service of the notification,

in each case, the Registrar will notify you in writing within 14 days after the DCC has reached its decision. If you fail to sign and return an Undertaking in the required form within the 28 day period referred to above, the DCC will be entitled to invoke another sanction available to it, subject to your exercising any right of appeal (as provided in paragraph 1.4 of Appendix B).

3.4.17 If the DCC's decision is to remove, or to suspend Membership of the College, or Association, or to remove or suspend you from Office, you will be notified in writing by the Registrar within 14 days of the direction made by the DCC and informed of the right to appeal. An appeal must be made within 28 days after service of the notification of the DCC's direction (please refer to the Appeal Procedure in Appendix B).

3.4.18 To the extent not provided for by this paragraph 3.4, the DCC may in its reasonable discretion determine such other procedures to assist with the conduct of an Appearance hearing as it considers just or appropriate.

### 3.5 **The effect of a Censure or Admonition**

3.5.1 A censure or admonition will set out the nature of the misconduct, the change in behaviour required, the period for which the censure or admonition will remain active, and the likely consequences of further misconduct in that active period.

3.5.2 A censure or admonition on the first occasion will usually remain active for six months and any further censure or admonition given to you will usually remain active for 12 months.

3.5.3 There is no appeal against a censure or admonition.

### 3.6 **(iii) Appeals against termination or suspension of Membership or Association or termination or suspension of Office**

3.6.1 The appeals procedures set out in Appendix B governs:

3.6.1.1 appeals relating to termination or suspension of Membership of the College or Association, termination or suspension of Office or (paragraph 8 of Section IX of the Bye-Laws); and

3.6.1.2 appeals relating to termination or suspension of membership of the Board of Trustees or of Council (paragraph 7 of Section XXI of the Bye-Laws).

It also covers appeals against Undertakings in certain circumstances (please refer to section 1 of Appendix B).

3.6.2 There is no appeal against removal or suspension of membership of the Board of Trustees or of the Council if you have been disqualified from being a trustee under section 178 or section 179 of the Charities Act 2011.

3.6.3 There is no appeal in respect of refusal of an application for reinstatement as referred to in paragraphs 3.7 or 3.8, in respect of imposition of an Undertaking (except as provided in paragraph 1.4 of Appendix B) or in respect of removal as an Honorary Fellow.

### 3.7 **(iv) Applications for reinstatement where Membership of the College or Associateship of the College has been terminated by reason only of the provisions of Article 1(a) of Section IX of the Bye-Laws**

Any such person may at any time apply in writing, pursuant to paragraph 10 of Section IX of the Bye-Laws, to the Registrar for reinstatement by the Disciplinary and Complaints Committee. They must furnish written evidence that they have regained or obtained the prescribed qualifications for membership of or association with the College. If their application for reinstatement is not granted

they may only re-apply after they have submitted further written evidence that they have regained or obtained the necessary qualification.

**3.8 (v) Applications for reinstatement by Members of the College or Associates who cease so to be by virtue of paragraph 1(b) of Section IX of the Bye-Laws**

Members of the College or Associates may after a period of not less than twelve months apply to the DCC in writing (pursuant to paragraph 10 of Section IX of the Bye-Laws), together with copies of relevant documentation in support of the application (including evidence of restoration to the GMC register or evidence that he or she has sufficiently recovered from any incapacity, illness or injury that gave rise to termination of Membership or Association). The DCC shall hear such application, and may grant or withhold reinstatement on such terms as it thinks fit. If he or she is not then reinstated, he or she may with leave of the DCC again apply for reinstatement after such interval or intervals and subject to such conditions as the DCC may prescribe.

**3.9 (vi) Complaints received under College's complaints procedure, and relevant appeals procedures**

The procedures adopted by the DCC pursuant to paragraph 11 of Section IX of the Bye-Laws are set out in Appendix C.

**3.10 (vii) Removal of Honorary Fellows**

3.10.1 The DCC may, if any of the grounds or circumstances set out in paragraph 3.10.1 have occurred in relation to an Honorary Fellow, direct (by resolution passed by a simple majority) that he or she (the "**Relevant Honorary Fellow**") be removed as an Honorary Fellow.

3.10.2 The following are the grounds or circumstances referred to in paragraph 3.10.1:

3.10.2.1 the Relevant Honorary Fellow was a Member of the College or a Specialist Associate and has been removed as such from the College Register (other than as a result of incapacity, illness, injury or retirement);

3.10.2.2 the Relevant Honorary Fellow was an Officer and has been removed as such (other than as a result of incapacity, illness, injury or retirement);

3.10.2.3 the Relevant Honorary Fellow was a member of the Board of Trustees or a member of Council and has ceased so to be other than as a result of:

3.10.2.3.1 incapacity, illness, injury or retirement;

3.10.2.3.2 resignation or his or her term of office expiring; or

3.10.2.3.3 in the case of an ex-officio member of the Board of Trustees or of Council (as the case may be) he or she ceasing to hold the relevant Office or position;

3.10.2.4 the Relevant Honorary Fellow was, at the time of his or her election as an Honorary Fellow, a member of the medical profession and has subsequently been removed from registration in the relevant medical register described in paragraph 2(a) of Section IX of the

- Bye-Laws (other than on the grounds of ill-health or retirement) or has been the subject of an adverse finding by the relevant registration body;
- 3.10.2.5 the Relevant Honorary Fellow was elected as an Honorary Fellow on the basis of his or her eminence in psychiatry or in allied or connected sciences or disciplines (as referred to in paragraph 1(a) of Section V of the Bye-laws) and such eminence is subsequently generally accepted as having been achieved, to a material extent, as a result of fraud or dishonesty;
- 3.10.2.6 the Relevant Honorary Fellow was elected as an Honorary Fellow on the basis of distinguished or notable service (as referred to in paragraphs 1(b) and (c) of Section V of the Bye-laws) and it is subsequently generally accepted that such service was not distinguished or notable (whether because it involved fraud or dishonesty to a material degree or otherwise);
- 3.10.2.7 the Relevant Honorary Fellow is convicted of any serious criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);
- 3.10.2.8 the Relevant Honorary Fellow:  
is (in the reasonable opinion of the DCC) guilty of any gross misconduct affecting the affairs of the College; and/or  
is (in the reasonable opinion of the DCC) guilty of any conduct likely to have a serious adverse effect on the College, its affairs or its reputation.
- 3.10.3 In the case of paragraph 3.10.2.4, the DCC may rely on the evidence of the type referred to in paragraph 3.4.11.
- 3.10.4 The Registrar will notify the Relevant Honorary Fellow that his or her removal is under consideration by the DCC. The Relevant Honorary Fellow is entitled to make one written submission to the DCC and provide documents in support of his or her submission within 14 days of service of such notification (time to be of the essence). If the Registrar requests information from the Relevant Honorary Fellow, he or she must provide such further information within 14 days after such request (time to be of the essence). The Relevant Honorary Fellow shall not be entitled to make any oral submissions other than as permitted at any Appearance hearing convened by the DCC.
- 3.10.5 In the case of the removal or proposed removal of an Honorary Fellow, the DCC may (but will not be obliged) to conduct any investigatory process or issue an Appearance Notice and hold an Appearance hearing. If the DCC does conduct an investigatory process and/or conduct an Appearance hearing the rules of procedure set out in paragraphs 3.4.1 to 3.4.15 (inclusive) will apply to the extent determined by the DCC. The DCC may in its reasonable discretion determine such other procedures to assist with reaching a decision as to the removal of an Honorary Fellow as it considers just or appropriate.
- 3.10.6 The Registrar will promptly give written notice to the Relevant Honorary Fellow of the DCC's direction to remove the relevant Honorary Fellow from the register of Honorary Fellows.

### 3.11 (vii) **Monitoring trends and reviewing policy and procedures**

After an initial meeting to discuss remit, policy and procedures the DCC will receive relevant information by email.

### 3.12 **Confidentiality**

3.12.1 The aim of the Board of Trustees and the DCC is to deal with disciplinary matters and complaints with due respect for the privacy of any individuals involved. You must treat as confidential any information communicated to you in connection with an investigation or disciplinary matter or any complaint.

3.12.2 You, and anyone accompanying you (including your representatives and witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

3.12.3 You will normally be told the names of any witnesses whose evidence is relevant to the disciplinary proceedings or complaint against you, unless the DCC believes that a witness's identity should remain confidential.

### 3.13 **Notices**

3.13.1 For the purposes of this section notice includes any written communication in relation to matters covered by these DCC Regulations.

3.13.2 Any notice given by or on behalf of the DCC (including by the Registrar or the Complaints Manager) to the Relevant Individual, to the Relevant Board/Council Member or Relevant Honorary Fellow shall be given in accordance with paragraphs 7 to 12 (inclusive) of Section XXVI of the Bye-Laws and shall be deemed to have been served as provided in those paragraphs.

3.13.3 A notice given by a Relevant Individual, Relevant Board/Council Member or Relevant Honorary Fellow to the DCC (which expression shall include the Registrar and the Complaints Manager) under these DCC Regulations:

3.13.3.1 shall be in writing and in English;

3.13.3.2 shall be sent to the DCC for the attention of the contact and at the address, fax or e-mail addresses referred to in paragraph 3.13.4;

3.13.3.3 shall be sent by a method listed in paragraph 3.13.6; and

3.13.3.4 unless proved otherwise is deemed received as set out in paragraph 3.13.6 if prepared and sent in accordance with this section 3.13.

3.13.4 The DCC contact addresses are as published on the relevant page of the College Website for the time being as being the designated contact addresses for the purposes of these DCC Regulations.

3.13.5 The DCC may change its details referred to in paragraph 3.13.4 from time by publishing notice of the change on the relevant page of the College Website, the change taking effect at 9.00 am on the later of:

3.13.5.1 the date, if any, specified in the notice as the effective date for the change; or

3.13.5.2 the date five days after publication of the notice on the College Website.

3.13.6 This table sets out:

3.13.6.1 delivery methods for sending a notice to the DCC under these DCC Regulations; and

3.13.6.2 for each delivery method, the corresponding delivery date and time when delivery of the notice is deemed to have taken place provided that all other requirements in this clause have been satisfied and subject to the provisions in paragraphs 3.13.7 and 3.13.8:

<b>Delivery method</b>	<b>Deemed delivery date and time</b>
Delivery by hand	On signature of a delivery receipt.
Pre-paid first class recorded delivery post or other next working day delivery service providing proof of delivery	9.00 am on the second day after posting or at the time recorded by the delivery service.
Pre-paid airmail[ providing proof of delivery	9.00 am on the seventh day after posting or at the time recorded by the delivery service.
Fax	At the time of transmission provided that confirmation is given by the serving party's facsimile machine that the transmission was effective.
E-mail	3 hours from the time of transmission unless the sender has received an error transmission report provided that despatch of the transmission from the sending party's external electronic communications gateway was confirmed.

3.13.7 For the purpose of paragraph 3.13.6 and calculating deemed receipt:

3.13.7.1 all references to time are to local time in the place of deemed receipt; and

3.13.7.2 if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.

3.13.8 A notice given under these DCC Regulations by a Relevant Individual, a Relevant Board/Council Member or Relevant Honorary Fellow, if sent by email, is only valid provided that:

- 3.13.8.1 text is included in the subject line of the e-mail, sufficient to identify the contents as a formal notice given under these DCC Regulations; and
- 3.13.8.2 the notice is sent to all the required e-mail address as published on the College Website as the e-mail address for service under these DCC Regulations (including the "Complaints Manager" address).

## **APPENDIX A – DEFINITIONS AND INTERPRETATION**

The following definitions and rules of interpretation apply in these DCC Regulations (including in Appendix B and Appendix C):

<b>"Appearance Notice"</b>	in relation to an Relevant Individual is the Appearance Notice as referred to in paragraph 3.1.4 and in relation to a Relevant Board/Council Member is the Appearance Notice referred to in paragraph 3.2.3.
<b>"Associates of the College"</b>	the registered Foundation Affiliates, the registered Honorary Fellows not previously Members, the registered Corresponding Fellows, the Registered Corresponding Associates, the registered Pre-Membership Psychiatric Trainees, the Affiliates, the registered Mental Health Associates, the registered Specialist Associates, the International Associates, the registered Student Associates or, as may be appropriate, any of them and 'Associate' shall be construed accordingly.
<b>"Board of Trustees"</b>	the Board of Trustees of the College which, subject to the provisions of the Charter and of the Bye-Laws has the full management and control of the College (including its property and affairs) and of the administration thereof (other than those affairs which are designated as the responsibility of the Council under the Charter or the Bye-Laws).
<b>"The Bye-Laws"</b>	the Bye-Laws of the College for the time being and from time to time in force made, revoked or amended in accordance with the terms of the College's Supplemental Charter.
<b>"Chief Executive"</b>	the chief executive officer appointed by the Board of Trustees and employed by the College.
<b>"College Website"</b>	the website operated by the College from time to time.
<b>"Complaints Manager"</b>	the member of College staff responsible for receiving complaints and for all aspects of administrative support to the Disciplinary and Complaints Committee.
<b>"Council"</b>	The Council of the College which is responsible under the College's Supplemental Charter and the Bye-Laws for electing persons to Fellowship and Membership and for, among other things, those affairs of the College which relate to education, policy, professional practice, professional standards, public



	engagement, quality, research and training in psychiatry.
<b>"Disciplinary &amp; Complaints Committee" or "DCC")</b>	the committee of Board of Trustees with responsibility, delegated by the Board of Trustees, for all matters concerning termination of Membership of the College, Association and termination of Office and for all matters relating to complaints received under the College's complaints procedure.
<b>"GMC"</b>	The General Medical Council or any successor body.
<b>"Regulations"</b>	the Regulations of the Royal College of Psychiatrists adopted by the Board of Trustees on 30th October 2015 as from time to time in force made, revoked or amended in accordance with the terms of the Supplemental Charter and the Bye-Laws and for the time being in force).
<b>"Members of the College"</b>	the registered Members and Fellows of the College including Foundation Members and Foundation Fellows.
<b>"Relevant Individual"</b>	as defined in paragraph 3.1.4.
<b>"Relevant Honorary Fellow"</b>	as defined in paragraph 3.10.1.
<b>"Relevant Board/Council Member"</b>	as defined in paragraph 3.2.3.
<b>"The Registrar"</b>	the College Officer who keeps and holds in custody the separate register for each class of Member of or Associate of the College.
<b>"These DCC Regulations"</b>	these Regulations as from time to time in force made, revoked or amended in accordance with the terms of the Supplemental Charter and the Bye-Laws and for the time being in force).
<b>"Undertaking"</b>	means in relation to: <ul style="list-style-type: none"> <li>(a) a Member of the College, or Associate of the College, an undertaking imposed or required by the DCC, pursuant to paragraph 6 of Section IX of the Bye-Laws, as to his or her future conduct;</li> <li>(b) an Officer, an undertaking imposed or required by the DCC, pursuant to paragraph 6 of Section IX of the Bye-Laws, as to his or her future conduct; and</li> <li>(c) a member of the Board of Trustees or of Council, an undertaking imposed or required by the DCC, pursuant to paragraph 6 of Section XXI of the Bye-</li> </ul>

laws, as to his or her future conduct.

### **Rules of Interpretation**

1. Save where otherwise stated or where the context otherwise requires expressions defined in the Supplemental Charter and in the Bye-Laws shall have the same meaning when used in these DCC Regulations.
2. The singular includes the plural, and the plural the singular.
3. Headings in these DCC Regulations are used for convenience only and shall not affect the construction or interpretation of these DCC Regulations. References in these DCC Regulations to numbered paragraphs (without further qualification) are references to the paragraphs with that number in these DCC Regulations.
4. A reference in these DCC Regulations to 'writing' or 'written' includes references to any method of representing or reproducing such words in a legible or non-transitory form whether sent or supplied in electronic form or otherwise.
5. 'electronic form' and 'electronic means' have the meanings respectively given in section 1168 of the Companies Act 2006.
6. Any phrase introduced by the term 'including', 'include', 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

### **APPENDIX B**

#### **APPEALS PROCEDURE – TERMINATION OR SUSPENSION OF MEMBERSHIP OR ASSOCIATION AND IMPOSITION OF UNDERTAKINGS IN RELATION TO MEMBERSHIP OR ASSOCIATION**

##### **Introduction**

Members of the College or Associates of the College who wish to appeal against:

- (i) the termination of their Membership of or Association with the College; (ii) the suspension of their Membership of or Association with the College; or
- (iii) the imposition of an Undertaking but only if the sanction for non-compliance is suspension or termination of Membership or Association or suspension or removal from Office,

must submit these in writing to the Complaints Manager in accordance with the Appeals Procedure set out in this Appendix B.

Members of the Board of Trustees or of the Council who wish to appeal against:

- (iv) their removal as a member of the Board of Trustees or as a member of the Council (as the case may be);
- (v) their suspension as a member of the Board of Trustees or as a member of the Council (as the case may be); or

- (vi) the imposition of an Undertaking to their membership of the Board of Trustees or of Council, but only if the sanction for non-compliance is suspension or termination of such membership,

must submit these in writing to the Complaints Manager in accordance with the Appeals Procedure set out in this Appendix B.

In each case the appeal will then be dealt with according to this appeals procedure. Under no circumstances should representations be made individually to any member of the Board of Trustees or the DCC concerning these matters.

With a view to conducting Appeals impartially, Appeals will be heard by a panel of three Members or Specialist Associates of the College who are not members of the DCC. The Chief Executive and the Complaints Manager will have the right to attend the Appeal Hearing.

## **DEFINITIONS**

The Definitions and rules of interpretation set out in Appendix A apply in this Appendix B save that references in this Appendix B to numbered paragraphs (without further qualification) are references to the paragraphs of this Appendix B with that number. In addition the following definitions apply:

<b>"Appeals Panel"</b>	a panel of three Members or Specialist Associates of the College, appointed by the President and who are not members of the Disciplinary and Complaints Committee.
<b>"Appellant"</b>	as defined in paragraph 1.5.
<b>"Application"</b>	an appeal submitted for consideration under these rules before acceptance by the Registrar under paragraph 2.3.
<b>"Service"</b>	in this appeal procedure service of any notice, correspondence or other document is deemed to take effect as provided in section 3.13 of the main body of these Regulations.

## **1. GROUNDS FOR APPEAL & PROCEDURES**

- 1.1 A Member of the College, or Associate of the College whose Membership or Association was terminated or suspended or who is required by the DCC, pursuant to paragraph 6 of Section IX of the Bye-Laws to give an Undertaking has a right of appeal under this appeal procedure, subject to paragraph 1.4.
- 1.2 An Officer whose Office is terminated or who is suspended from Office or who is required by the DCC to give an Undertaking Section IX of the Bye-Laws has a right of appeal under this appeal procedure, subject to paragraph 1.4.
- 1.3 A member of the Board of Trustees or of Council who is removed or suspended as a member of the Board of Trustees or of Council or is required by the DCC, pursuant to paragraph 6 of Section XXI of the Bye-Laws, to give an Undertaking has a right of appeal under this appeal procedure, subject to paragraph 1.4.
- 1.4 There is no right of appeal in respect of the imposition of an Undertaking, unless the sanction for non-compliance with that Undertaking is suspension or

termination of Membership, Association or Office or removal or suspension as a member of the Board of Trustees or Council (as the case may be). There is no right of appeal in respect of the decision to remove an Honorary Fellow from the College Register of Honorary Fellows.

1.5 An Application for Appeal must be made by the Member of the College, Officer or Relevant Board/Trustee Member (referred to in this appeal procedure as the "**Appellant**") within 28 days after service of:

1.5.1 the notification of the direction to remove Membership or Association;

1.5.2 the notification of the direction to suspend Membership or Association;

1.5.3 the notification of the direction to terminate or suspend from Office;

1.5.4 the notification of the removal or suspension as a member of the Board of Trustees or Council (as the case may be); or

1.5.5 the notification of the terms of the Undertaking,

as the case may be. Time is of the essence for submitting an Application for Appeal. The Application for Appeal must be submitted in accordance with paragraph 2 of this Appendix B.

1.6 One or more of the following shall constitute grounds for an appeal under the appeal procedure:

1.6.1 There is evidence of administrative irregularity or procedural failure and there are reasonable grounds to believe that, were it not for that irregularity or failure the decision of the Disciplinary and Complaints Committee to terminate, suspend, or to require or impose an Undertaking would have been different.

1.6.2 There were circumstances affecting the Appellant which were not known to the Disciplinary and Complaints Committee at the time it determined to terminate, suspend, or to require or impose an Undertaking and, had those circumstances been known to the Disciplinary and Complaints Committee, it is likely that their decision would have been different.

1.6.3 New evidence is available which, had it been available to the Disciplinary and Complaints Committee, may have altered their decision (i) to terminate, suspend, (ii) to terminate or suspend from Office (iii) terminate or suspend as a member of the Board of Trustees or of Council or (iv) to require or impose an Undertaking.

1.7 There is no appeal against censure or admonition.

1.8 If the Appellant is appealing against suspension or termination of (i) Membership of the College, Associateship (ii) Office or (iii) membership of the Board of Trustees or of the Council, the date on which such suspension or termination will not be delayed pending the outcome of the Appeal. However, if the Appeal is successful the Appellant will be reinstated.

## 2. **WRITTEN APPLICATION**

2.1 The Application must be submitted in writing by the Appellant to the Complaints Manager in accordance with section 3.13 of the main body of these DCC Regulations and include the following information:

2.1.1 the Appellant's name, address and contact telephone number;

- 2.1.2 the ground(s) on which the appeal is made in accordance with paragraph 1 above;
- 2.1.3 appropriate supporting documentation such as evidence of current registration with the GMC or equivalent overseas registration authority.
- 2.2 The Complaints Manager may request in writing within 28 days of receipt of the Application, further information from the Appellant. The Appellant must supply such further information within 28 days of the date on which the request for such further information was sent by the Complaints Manager. Time is of the essence as regards the supply of such further information and in the event of it not being supplied within the 28 day period the Application will automatically stand dismissed.
- 2.3 Providing that the Application complies with the preceding provisions of paragraphs 2.1 and 2.2, then not later than 42 days after receipt by the Complaints Manager of the Application, the Complaints Manager will send to the Appellant notice in writing that the Application for the Appeal has been accepted and to whom it has been referred for consideration.

### 3. **CONSIDERATION OF APPEALS**

- 3.1 Grounds for appeal under paragraph 1.6.1 only will be considered by the Registrar in consultation with the Complaints Manager and the Chief Executive. The Registrar will inform the Appellant of any administrative error which has occurred, and of any consequent re-instatement of Membership or Association (if any) as soon as reasonably possible.
- 3.2 If the Appellant is still dissatisfied following consideration under paragraph 3.1 above he/she may, within 14 days of receipt after the result of the consideration submit a further appeal which will be considered by an Appeals Panel (see paragraph 3.3 below). Time is of the essence for submitting the further appeal.
- 3.3 Grounds for appeal under paragraph 1.6.2, 1.6.3 or 3.2 will be considered by an Appeals Panel.
- 3.4 The Complaints Manager shall convene an Appeals Panel within 42 days of receipt of the Application or, if paragraph 3.2 applies, within 42 days after receipt of the application for the further appeal.
- 3.5 The Complaints Manager will give the Appellant written notice of the date, time and place of the appeal hearing. This will normally be between 21 and 28 days after the Appellant receives this written notice.
- 3.6 The Appeals Panel will consider all written evidence submitted by the Appellant and by the Registrar on behalf of the Disciplinary and Complaints Committee. Not more than 14 days after service of the notification of the Appeals Panel hearing, the Appellant may request in writing all written evidence submitted by the Registrar on behalf of the Disciplinary and Complaints Committee. The Complaints Manager will supply such documentation within 7 days of the date of the Appellant's written request or as soon as reasonably practicable following submission by the Registrar. In appropriate cases the College reserves the right to vary this timetable. In such cases the Complaints Manager will inform the Appellant in writing as soon as is reasonably possible.
- 3.7 If the Appellant raises any new matters in his or her appeal, the Appeals Panel may need to carry out further investigation. If any new information comes to light the Appeals Panel will provide the Appellant with a summary including, where appropriate, copies of additional relevant documents and witness statements. The

Appellant will have a reasonable opportunity to consider this information before the hearing, and the Appellant or his or her representative or friend may comment on any new evidence arising during the appeal before any decision is taken.

- 3.8 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Appeal Panel's discretion depending on the circumstances of the Appellant's case. In any event the appeal will be dealt with as impartially as possible.
- 3.9 The Appellant may attend the Appeals Panel hearing and present an oral submission. In addition, the Appellant may wish to bring a representative or friend to the Appeals Panel hearing. It is not normally envisaged that such representative will be a lawyer, and if the Appellant does intend to bring a lawyer representative at their own expense (regardless of the outcome of the Appeal), then he/she must, at least 14 days prior to the date of the Appeals Panel Hearing, obtain the College's prior written agreement to such legal representation (such agreement not to be unreasonably withheld). In the event that the Appellant is legally represented, the College reserves the right to have its own legal representation.
- 3.10 If it is not possible immediately to make a decision whether to uphold or reject the Appeal (including in the light of any new points raised by the Appellant at the hearing), the Appeals Panel may at its discretion adjourn the hearing and/or carry out further investigations. The Appellant will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 3.11 The Appeals Panel may:
  - 3.11.1 confirm the original decision;
  - 3.11.2 revoke the original decision; or
  - 3.11.3 substitute a different sanction but not one that is more severe.

Once a decision has been made, the Appeals Panel will present its determination in writing to the Complaints Manager who will send a copy of the determination to the Appellant as soon as reasonably practicable thereafter usually within one week of the appeal hearing.

- 3.12 There will be no further right of appeal.
- 3.13 The College reserves the right to charge an administrative fee\*\* in respect of an Appeal under paragraph 3.3 to cover the expenses reasonably incurred in convening the Appeals Panel and conducting the Appeals Panel hearing. The amount will be determined from time to time by the Board of Trustees and must be paid in cleared funds not less than 3 working days before the date of the Appeal hearing. If the Applicant's appeal is successful the administrative fee will be refunded in full.

\*\*The Board of Trustees agreed at their meeting on 30<sup>th</sup> October that the fee should be £250.

## APPENDIX C

### COMPLAINTS AGAINST COLLEGE MEMBERS, ASSOCIATES AND PRE-MEMBERSHIP PSYCHIATRIC TRAINEES OF THE COLLEGE – COMPLAINTS PROCEDURE AND APPEALS PROCEDURE

#### Definitions

For the purposes of this procedure:

“complaint” means a serious concern raised about Members, Associates or Pre-Membership Psychiatric Trainees, in relation to incidents which occur during the course of College business or whilst they are acting as a representative of the College or in some other College capacity. The College has ultimate discretion in determining whether concerns brought to its notice constitute a complaint to be dealt with under this procedure, or whether the concern would be best dealt with via other means.

“complainant” means an Officer, member(s), associate(s), employee or member(s) of the public who is making a complaint against a College Member, Associate or Pre-Membership Trainee.

“the Complaints Manager” means the member of College staff from time to time who is responsible for the administration of this complaints procedure.

“the Registrar” means the Honorary Officer responsible for College Policy, membership support, external relations and for the College’s work with patients and carers.

#### 1. What the College can do and what we cannot do

1.1 This procedure deals with complaints about Members, Associates and Pre-Membership Psychiatric Trainees in relation to incidents which occur during the course of College business or whilst a Member, Associate or Pre-Membership Psychiatric Trainee is acting as a representative of the College or in some other College capacity. Where the complaint is raised by an employee of the College, the College reserves the right to deal with the complaint under the College's grievance procedure for employees. If any such complaint is upheld (following the implementation of the College's grievance procedure), the relevant Member, Associate or Pre-Membership Psychiatric Trainee may be subject to disciplinary proceedings under these DCC Regulations.

1.2 There are other matters which are outside the scope of this particular procedure. Some of these matters may be dealt with by the College, but by other means. Some of these matters will be outside the remit of the College because other organisations have the responsibility for dealing with the issues. Some examples of both situations are set out below:

##### 1.2.1 What we can do:

- i. Complaints about the MRCPsych examinations process are dealt with under Examinations Regulations and procedures. Please contact the Head of Examinations.
- ii. Complaints about College staff are dealt with under the separate procedures for complaints against College staff. Please contact the Director of Human Resources.

##### 1.2.2 What we cannot do:

- i. Complaints about an individual psychiatrist and his or her competence or right to practise are dealt with by the GMC.

- ii. Complaints about treatment you have received under the NHS are dealt with initially by the relevant hospital or other organisation, through the legal system or (in England) by the Health Service Ombudsman. Information is available from the Department of Health and Social Care or from the individual hospital or Trust.
  - iii. Complaints about organisations in the independent sector are dealt with by those organisations and information will be available directly from them, or through the legal system.
- 1.3 The College has ultimate discretion in deciding under which of its policies and procedures a matter brought to its attention will be dealt with.

## 2. **Guiding principles**

- 2.1 This procedure deals with complaints about Members, Associates and Pre-Membership Psychiatric Trainees in relation to incidents which occur during the course of College business or while a Member, Associate or Pre-Membership Psychiatric Trainee is acting as a representative of the College or in some other College capacity.
- 2.2 The College aims to create a safe and inclusive forum for free and fair debate on matters and issues concerning the practice of psychiatry. It is not the intention that this procedure be used as a means to censure fair and robust comment, debate or action made or undertaken in a manner consistent with the College's mission, Code of Conduct and the College's values and behaviours. The College will not countenance use of this procedure where it is a clear attempt to curtail freedom of speech.
- 2.3 The College aims to ensure that all complaints which are within our remit are resolved quickly and fairly. Sometimes it may be best, and quickest, for the complainant to try to resolve the matter informally before making a formal complaint. In cases where informal resolution is appropriate, the College will usually require a complainant to satisfy the College that they have taken reasonable steps to try to resolve the matter with the subject of the complaint before the College will consider the complaint under this procedure.
- 2.4 All complaints will be taken seriously and will be properly and proportionately assessed.
- 2.5 Complaints will be considered objectively, without bias, and reasonable steps will be taken to ensure that any conflicts of interest are managed appropriately. Where any party to a complaint (including officers of the College who are being asked to investigate, assess or adjudicate on a complaint) has a conflict of interest, or becomes aware of any potential conflict of interest, in the matters concerned, they must notify the Registrar or Complaints Manager of this immediately. The Board of Trustees has ultimate discretion in deciding what action should be taken in the application of these procedures, if any, to address an actual or apparent conflict of interest.
- 2.6 In considering complaints, regard will be given to the College's Code of Conduct, mission statement and the organisation's values and behaviours with which we expect Members, Associates and Pre-Membership Psychiatric Trainees to abide. The College's mission statement, Code of Conduct and documents setting out the College's values and behaviours are available online.
- 2.7 The College will consider the outcome which the complainant is seeking and will inform the complainant if the outcome sought is outside the remit of the College.
- 2.8 The College will not tolerate harassing, threatening, abusive or aggressive



behaviour. Should any party to a complaint act in this way, they may be subject to disciplinary action. If a complainant acts in an inappropriate manner, the College will exercise its discretion as to whether it will continue to liaise/communicate with them in relation to their complaint – the College may pursue the complaint without the cooperation of the complainant if this becomes necessary.

- 2.9 Your attention is drawn to paragraph 3.12 “Confidentiality” in these Regulations. In making a complaint, you are expected to abide by the procedures set out in these Regulations. This includes respecting the privacy of all involved in the process including the subject of the complaint and maintaining confidentiality of all communications in connection with a complaint. In the event of an intentional, substantive and/or repeated breach of confidentiality, the College reserves the right to cease further communication with you in connection with the complaint. This is without prejudice to the College continuing its own investigation of the complaint.

### 3. **How do I make a complaint/what time limits apply?**

- 3.1 Your complaint should be made in writing, addressed to the Complaints Manager at The Royal College of Psychiatrists UK, and either sent by post, or via email to the following address: [governance@rcpsych.ac.uk](mailto:governance@rcpsych.ac.uk).
- 3.2 The complaint should contain the following information, which may be seen by the person or people you are complaining about:
- 3.2.1 Your own name;
  - 3.2.2 Your postal address and email address (if you wish to be contacted by email);
  - 3.2.3 The nature of your complaint;
  - 3.2.4 What has or has not been done, and why you are complaining about this;
  - 3.2.5 The name(s) of the person or people you are complaining about;
  - 3.2.6 Relevant dates and times;
  - 3.2.7 Names of any witnesses to the alleged cause of the complaint;
  - 3.2.8 Copies of any documents relevant to the complaint;
  - 3.2.9 Details of anything which has been done to try to resolve things informally; and
  - 3.2.10 How you would like the matter resolved.
- 3.3 The College will not usually consider a complaint made by an anonymous complainant or a complainant who does not consent to their identity being made known to the subject of the complaint and/or does not consent to the disclosure to the subject of the complaint of all relevant documents and information provided to the College in the investigation. The College will therefore only consider anonymous complaints where there are exceptional reasons to do so, where the complaint can realistically be investigated from factors or sources other than the complainant, and at its ultimate discretion.
- 3.4 You must make your complaint within 3 calendar months of when the issue/conduct you are complaining about took place, or when you first became aware (or should reasonably have been aware) of the conduct or other events or circumstances which give rise to your complaint. This time limit will be strictly enforced but the Complaints Manager may (on behalf of the College Registrar) accept a complaint made outside this time limit if you can show that there are exceptional reasons for the delay (such as illness or incapacity).

#### 4. **What will happen with my complaint?**

- 4.1 Your complaint will be received by the Complaints Manager on behalf of the College Registrar. If your matter is accepted by the Complaints Manager as a complaint under this procedure, a written acknowledgement will be sent, usually within 5 working days of the receipt of the complaint. If your matter is not accepted as a complaint, usually because the Complaints Manager, on behalf of the College Registrar, determines that your matter would be best dealt with under another of our policies or procedures, you will be informed of this and any next steps in a timely manner.
- 4.2 The Complaints Manager shall carry out any such initial investigations, if any, as they consider appropriate, informing the subject of the complaint, where questions are raised directly with them (as appropriate), that such questions are asked in connection with a complaint made pursuant to this procedure and providing a brief summary of the nature of the complaint against them.
- 4.3 The Complaints Manager will consider what steps have been taken by the complainant to resolve the matter informally. Where the Complaints Manager considers that (further) informal resolution should be encouraged/attempted, they will advise the complainant of this and may take any of the following steps, or any other action they deem to be appropriate in the circumstances:
  - 4.3.1 Try to resolve the matter by talking to the complainant and/or the subject of the complaint separately and in private
  - 4.3.2 Try to resolve it in a meeting with everyone involved, if everyone agrees to try this
  - 4.3.3 Offer mediation.
- 4.4 If the Complaints Manager determines that sufficient attempts at informal resolution have already been made, or the complaint is not suitable for informal resolution, then they will pass the complaint to the College Registrar for initial assessment.

#### Initial Assessment

- 4.5 Your complaint will be considered by the College Registrar, who may, if they deem it appropriate, seek the advice of any the following (i) a member of Council (ii) the Chief Executive and (iii) a member of the Board of Trustees, to determine:
  - 4.5.1 whether the matter warrants further investigation on the basis of the evidence before them; and
  - 4.5.2 whether progressing the complaint further would be disproportionate.
- 4.6 In making this determination, the College Registrar will:
  - 4.6.1 have regard to the public interest, the College's Code of Conduct, mission statement and values and behaviours; and
  - 4.6.2 take account of all the circumstances of the case.
- 4.7 Taking this into consideration, a complaint will be rejected at the initial assessment stage if:
  - 4.7.1 the evidence provided does not in all the circumstances indicate that further action or investigation is warranted;

- 4.7.2 the complaint does not refer to specific behaviour or actions covered by the College mission, Code of Conduct and/or the College values and behaviours;
  - 4.7.3 the complaint falls outside of the College's functions and/or remit;
  - 4.7.4 in the reasonable opinion of the College Registrar the complaint should properly be dealt with as a disciplinary matter under another part of these Disciplinary Regulations, including the procedure for potential removal from Membership or Association;
  - 4.7.5 the complaint is a misuse of this procedure;
  - 4.7.6 the complaint is out of time (see paragraph 3.4);
  - 4.7.7 the complaint is trivial, repetitious or vexatious; and/or
  - 4.7.8 processing the complaint further would be disproportionate and not in the public interest.
- 4.8 Upon completion of the initial assessment, the College Registrar shall take one of the following courses of action:
- 4.8.1 reject the complaint;
  - 4.8.2 advise the complainant that the matter is suitable for informal resolution/mediation and facilitate this as far as practicable;
  - 4.8.3 refer the complaint to be dealt with as a disciplinary matter under another part of these Disciplinary Regulations as per paragraph 4.7.4; or
  - 4.8.4 refer the complaint for investigation under paragraphs 4.14 to 4.24 of this procedure.
- 4.9 If the College Registrar determines that a complaint shall be rejected pursuant to paragraph 4.8.1, the Complaints Manager shall notify the complainant in writing, providing brief reasons. The Complaints Manager may also, where it is considered appropriate in all the circumstances, notify the subject of the complaint in writing, providing brief reasons.
- 4.10 If the College Registrar determines that a complaint shall be referred to be dealt with as a disciplinary matter under another part of these Disciplinary Regulations pursuant to paragraph 4.8.3, the subject of the complaint shall be notified of this in writing. The Complaints Manager may also notify the complainant of this in writing where it is appropriate to do so.
- 4.11 If the College Registrar determines that a complaint shall be referred for investigation pursuant to paragraph 4.8.4, the Complaints Manager shall notify the complainant of this in writing. At the same time, the Complaints Manager (on behalf of the College Registrar) will inform the complainant if, in the view of the College Registrar, the outcome sought is outside of the College's remit.
- 4.12 Following rejection of a complaint as set out above the complainant may, upon production of new evidence, which is substantively different to evidence previously submitted, seek reconsideration of the complaint within 14 days of the complaint being rejected. Such renewed complaint will be considered by the College Registrar, taking the advice of any of those people set out in paragraph 4.5 as far as the College Registrar deems this to be appropriate. In considering the renewed complaint the same principles shall be adhered to as set out above.

4.13 There shall be no appeal of a decision to refer the complaint under paragraph 4.8.3.

#### Investigation stage

- 4.14 If the College Registrar determines that following initial assessment further investigation is warranted, a Complaint Investigator (who will be a Member or Specialist Associate of the College or such other person who is deemed to hold the relevant experience) will be appointed by the College Registrar to investigate the matter. The Complaint Investigator will be supported by the Complaints Manager, who is a member of College staff. Terms of reference for the investigation will be agreed between the College Registrar and the Complaint Investigator, who may take advice and consult with others as they deem appropriate.
- 4.15 It is the role of the Complaint Investigator to investigate the complaint fully and determine whether, on the evidence available, there is a case to answer. It is not the role of the Complaint Investigator to make legal or factual findings.
- 4.16 On appointment, the Complaint Investigator shall write to the subject of the complaint:
- 4.16.1 informing them of the fact that an investigation under this procedure has been initiated;
  - 4.16.2 providing the name of the investigator;
  - 4.16.3 setting out the conduct/matters complained of;
  - 4.16.4 providing a summary of the terms of reference of the investigation;
  - 4.16.5 providing them with copies of any documentation/evidence received or obtained as deemed appropriate in all the circumstances; and
  - 4.16.6 inviting them to provide a written response within a specified period, which will usually be 14 days from the date of the notification under this paragraph 4.16.
- 4.17 The Complaint Investigator shall undertake such investigations as they determine to be reasonable in all the circumstances known to them for the purposes of:
- 4.17.1 understanding the full extent of the event, circumstances or conduct complained of;
  - 4.17.2 obtaining any relevant documents and other evidence and information relevant to the event, circumstances or conduct complained of;
  - 4.17.3 identifying any relevant witnesses; and
  - 4.17.4 establishing whether there is a case to answer.
- 4.18 An investigation may involve a number of stages and may include the following (this is not an exhaustive list):
- 4.18.1 reviewing the complaint and supporting paperwork;
  - 4.18.2 a meeting with the Complainant;
  - 4.18.3 a meeting with the subject of the complaint;
  - 4.18.4 meetings with witnesses;
  - 4.18.5 review of notes of all meetings and of supporting evidence (such as emails

or telephone records); and

- 4.18.6 any further meetings with anyone involved, which are necessary because new information has come to light during the investigation.
- 4.19 Any meetings undertaken pursuant to paragraph 4.18 may be minuted or recorded for the purposes of transcription.
- 4.20 Witness statements, including those made by the complainant, may be put before the subject of the complaint during the course of these procedures. Documentation will be redacted if necessary, to remove personal data relating to other individuals.
- 4.21 The subject of the complaint is expected to co-operate fully and promptly with any investigatory process. This includes informing the Complaint Investigator of the names of any relevant witnesses, disclosing any relevant documents to the Complaint Investigator and attending investigative meetings if required. The subject of the complaint has the right to be represented/accompanied at any such meeting.
- 4.22 Failure of a Member, Associate or Pre-Membership Psychiatric Trainee to cooperate with the investigatory process under this procedure could be a ground for disciplinary action under these Regulations.
- 4.23 The Complaint Investigator will aim to complete their investigation promptly, and usually within three months of appointment and shall report their findings and recommendations to the College Registrar.
- 4.24 On receiving the Complaint Investigator's report, the College Registrar will consider the report and shall take any one or more of the following courses of action:
- 4.24.1 Seeking further information from anyone involved in the process;
- 4.24.2 Advising both parties that informal mediation from a third party would be appropriate;
- 4.24.3 referring the matter to external agencies, such as the GMC, where appropriate;
- 4.24.4 dismissing the complaint on the basis that;
- i. it is unfounded; and/or
- ii. it would be disproportionate and/or not in the public interest to pursue the complaint further.
- 4.24.5 referring the complaint to be dealt with as a disciplinary matter under another part of these Disciplinary Regulations, including the procedure for potential removal from Membership or Association;
- 4.24.6 referring the matter to the Disciplinary and Complaints Committee (DCC) of the College to determine the complaint under paragraphs 4.28 to 4.35 of this procedure.
- 4.25 The College Registrar shall promptly notify the Complainant and the subject of the complaint of their decision under paragraph 4.24, giving brief reasons.
- 4.26 If the College Registrar determines that a complaint should be referred to be dealt with as a disciplinary matter under another part of these Disciplinary Regulations, as per paragraph 4.24.5, the subject of the complaint shall be notified of this in writing. The Complaints Manager may also notify the complainant of this in writing where it is appropriate to do so.
- 4.27 The College may obtain legal advice at any stage.

## Referral to the DCC

- 4.28 Upon a decision by the College Registrar that the complaint be referred to the DCC under paragraph 4.24.6, the vice-Chair of the DCC will appoint a Complaints Panel which they will chair, together with two other DCC members, at least one of which shall be a Lay Trustee or non-psychiatrist. The vice-chair may, at their discretion, appoint another DCC member who is also an Honorary Officer, to act as Chair of the Complaints Panel.
- 4.29 Following appointment of the Complaints Panel, the Chair shall request the Complaints Manager to serve written notice on the subject of the complaint including:
- i. a statement of the intention of the Complaints Panel to either hold a hearing or deal with the matter on the papers and requesting the subject of the complaint to indicate their preference (which may be taken into account by the Chair in deciding whether or not to hold a hearing, but will not be determinative);
  - ii. sufficient particulars of the events, circumstances and/or conduct to enable the subject of the complaint to adequately understand the allegations made;
  - iii. a copy of any investigation report or a summary of relevant information gathered during the investigation stage, as is deemed appropriate in the circumstances;
  - iv. a copy of any relevant documents, including witness statements, which will be used at the Complaints Panel hearing or at the on-the-papers review; and
  - v. inviting the subject of the complaint to provide a written response with 28 days of the notice under this paragraph, to include:
    - a. brief particulars of any defence intended to be made;
    - b. a summary of the facts and matters that will be relied on in that defence; and
    - c. copies of any written statement and other documentation that they intend to adduce in evidence.
- 4.30 The Complaints Panel will consider all the evidence, including any representations received from the subject of the complaint, and may (but need not) decide to convene a hearing.
- 4.31 The procedure to be followed in any hearing shall be determined by the Complaints Panel and shall be in line with the requirements of fairness and natural justice. Where the Complaints Panel must determine issues of fact, the standard of proof will be the civil standard (the balance of probabilities).
- 4.32 If a hearing is to be held then both the Complainant and the subject of the complaint will be notified in writing of the date, time and place of the hearing not less than 21 days before the date the hearing is due to take place. Both the Complainant and the subject of the complaint will be entitled to make an oral submission and to be accompanied by a friend, relative, trade union representative if a trade union member or a legal representative (at their own expense regardless of the outcome of the Complaint hearing). If the complainant or the subject of the complaint intends to instruct a legal representative for the hearing, he/she must advise the College at least 14 days prior to the hearing date and obtain the College's prior written agreement to such legal representation (such agreement not to be unreasonably withheld). The College also reserves the right to have its

own legal representation and shall notify the Complainant and the subject of the complaint in advance of the hearing.

- 4.33 Decisions of the Complaints Panel are made by simple majority.
- 4.34 Once the Complaints Panel has either formed a view on the basis of written submissions, or has held a hearing, the determined course of action will be notified to both the Complainant and the subject of the complaint, with reasons, within 10 working days of the date of the decision. The course of action may be one or more of the following but can also be a different course of action considered appropriate in the circumstances:
  - 4.34.1 To uphold the complaint in full or in part;
  - 4.34.2 To dismiss the complaint as unfounded;
  - 4.34.3 To direct a course of action such as mentoring or training;
  - 4.34.4 To refer directly, or to recommend referral, to another organisation such as the GMC; and/or
  - 4.34.5 To refer the matter for consideration under other College procedures, including the procedure for potential removal from Membership or Association.
- 4.35 Subject to the right of either party to appeal (pursuant to paragraph 5 below), the decision of the Complaints Panel will be final.

## 5. **What if I am not satisfied with the result of my complaint?**

Both the Complainant and the subject of the complaint have the right to appeal against a decision of the Complaints Panel. An appeal must meet at least one of the following criteria:

- 5.1 There is evidence of a procedural or administrative irregularity;
- 5.2 New evidence has come to light which was not reasonably available previously and which, had it been available to the Complaints Panel, might have resulted in a different recommendation or outcome.
- 5.3 There were particular circumstances relating to the subject of the complaint, now known, which were not known to the Complaints Panel at the time of the hearing, and which, if they had been known, might have resulted in a different recommendation or outcome.

## 6. **How do I submit an appeal?**

- 6.1 An appeal, on the part of either the Complainant or the subject of the complaint, should be submitted in writing within 10 working days of despatch of the notification of the Complaints Panel decision. This decision will be notified by letter.
- 6.2 The written application of appeal should be addressed to the Chief Executive and should contain the following:
  - 6.2.1 Confirmation of the name and contact details of person submitting the appeal;
  - 6.2.2 Details of the grounds on which the appeal is made, which must fall within the categories listed in paragraph 5 above; and
  - 6.2.3 Copies of any supporting documents or information which the appellant (the

person making the appeal) wishes to bring forward in evidence.

- 6.3 On receipt of the appeal, the Chief Executive will take the following actions:
- 6.3.1 Review the appeal to determine whether it is a valid appeal under the terms of paragraph 5 above;
  - 6.3.2 Acknowledge the appeal in writing, confirming whether it is accepted as valid or not, and the next steps if it is valid;
  - 6.3.3 If a valid appeal exists the Complaints Manager, on the direction of the Chief Executive will convene an Appeals Panel;
- 6.4 The Appeals Panel will consist of 3 Members of the College or Specialist Associates, appointed by the Chief Executive, who are not members of the DCC.

## 7. **How will the appeal process work?**

- 7.1 If there is clear evidence of a procedural or administrative error, the Appeals Panel may review the evidence on the papers and grant the appeal, either in full or in part, on that basis. Any sanctions/measures imposed by the original Complaints Panel will be lifted as appropriate. The Complaints Manager, on behalf of the Appeals Panel, will notify both the Complainant and the subject of the complaint within 5 working days of this decision of the Appeals Panel, giving reasons.
- 7.2 If the appeal is made on grounds other than administrative or procedural irregularity, then the Appeals Panel will meet, within 42 days of the receipt of the appeal, to review all evidence.
- 7.3 The Appeal Panel may, at its sole discretion, convene an Appeal Hearing. The procedure to be followed in any hearing shall be determined by the Appeal Panel and shall be in line with the requirements of fairness and natural justice
- 7.4 If an Appeal Hearing is convened, both parties to the complaint will be notified in writing of the date, time and place of the hearing not less than 21 days before the date the hearing is due to take place. Both parties will be entitled to attend and make an oral submission and be accompanied by a friend, relative or trade union representative, if a member of a trade union. It is not normally envisaged that such representative will be a lawyer but if either party does intend to bring a lawyer representative at their own expense (regardless of the outcome of the Appeal Hearing), then he/she must, at least 14 days prior to the hearing date, obtain the College's prior written agreement (such agreement not to be unreasonably withheld). The College reserves the right to have its own legal representation and shall notify the Complainant and the subject of the complaint in advance of the hearing. Evidence on behalf of the Complaints Panel will be presented by the Registrar or another Honorary Officer.
- 7.5 Decisions of the Appeal Panel are made by simple majority.
- 7.6 The Appeal Panel will do one of the following:
- 7.6.1 Uphold the original decision of the Complaints Panel and dismiss the appeal.
  - 7.6.2 Allow the appeal in favour of the subject of the complaint, either in full or in part, lifting or varying any sanctions/measures applied by the Complaints Panel as appropriate.
  - 7.6.3 Allow the appeal in favour of the Complainant, and make a determination about what should happen. This may include one or more of the following:
    - i. To direct a course of action such as mentoring or training;



- ii. To refer directly, or to recommend referral to, another organisation such as the GMC; or
- iii. To refer the matter for consideration under other College procedures, including the procedure for potential removal from Membership or Association.

7.7 Once the Appeal Panel has reached a decision, this will be notified to both parties within 10 working days of the date of the decision. The decision of the Appeal Panel is final, and binding upon both parties.