

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

## Regulations adopted by the Board of Trustees 30 October 2015

**Updated: Friday 22 June 2018**

## **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) are set out in Section XVIII of the Regulations of the College which, among other things, stipulates that the Registrar shall be the chair of the DCC.

2.2 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 practice 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 practice 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 AND ASSOCIATES AND OFFICERS OF THE COLLEGE – COMPLAINTS PROCEDURE AND APPEALS PROCEDURE

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

1.1 This procedure deals with complaints about College Members or Associates in relation to incidents which occur during the course of College business or whilst a Member or Associate 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 College Member or Associate 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 scope of what the College can do 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:

1.2.1.1 Complaints about the MRCPsych examinations process are dealt with under Examinations Regulations and procedures. Please contact the Head of Examinations.

1.2.1.2 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:

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

1.2.2.2 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 or from the individual hospital or Trust.

1.2.2.3 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.

#### 2. Guiding principles

2.1 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 person complaining (the Complainant) to try to sort the matter out informally before making a formal complaint.

2.2 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 in accordance with section 3.13 of the main body of these DCC Regulations) addressed to the Complaints Manager, The Royal College of Psychiatrists 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;

3.2.10 How you would like the matter resolved.

3.3 You must make your complaint within 3 calendar months after you first became 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 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 Registrar. A written acknowledgement will be sent, usually within 5 working days of the receipt of the complaint.

4.2 In the first instance your complaint will be considered by the College Registrar, based on the advice of at least two out of the following three people (i) a Lay member of the RCPsych Trustee Board (ii) a member of the Professional Practice and Ethics Committee and (iii) an Associate Registrar or Associate Dean.

4.3 As set out in paragraph 1 of this Annex, this procedure deals with complaints about College members and associates in relation to incidents which occur during the course of College business or while a member or associate is acting as a representative of the College or in some other College capacity.

4.4 All complaints will be taken seriously and properly assessed. In considering complaints, regard will be given to the College's mission statement and the organisation's values and behaviours.

4.5 A complaint will be rejected by the College Registrar if, in the reasonable and unanimous opinion of those taking part in the initial consideration, as set out



above, the subject matter of the complaint is deemed to be a fair and reasonable comment, or fair and reasonable action, consistent with the College's mission and values and behaviours, and is properly within the remit of ordinary College business and in proper exercise of College members' or associates' functions.

- 4.6 The [College's mission statement](#) is available online.
- 4.7 In addition to a Code of Conduct, the College also has official values and behaviours, with which we expect members and associates to abide. The Code of Conduct and documents setting out the College's [values and behaviours](#) are available online.
- 4.8 Any College member and associate acting reasonably and consistently in accordance with the College's mission, Code of Conduct and the organisational values and behaviours will therefore be adjudged by the College Registrar, on the advice those described above considering complaints in the first instance, to have acted in a fair and reasonable manner.
- 4.9 Taking this into consideration, a complaint will be rejected at this initial stage, if:
- 4.9.1 The College member or associate being complained about has acted in a fair and reasonable manner consistent with the College mission, Code of Conduct and the College values and behaviours;
- 4.9.2 The member being complained about has made a fair and reasonable statement that is part of a fair and robust debate, consistent with the College's mission, Code of Conduct and the College's values and behaviours;
- 4.9.3 The complainant has tabled wholly unmeritorious complaints and/or is seeking unrealistic outcomes beyond all reason;
- 4.9.4 The complaint can fairly be adjudged to be a repetition of a previous complaint brought by the same complainant and is obsessive or harassing;
- 4.9.5 The complainant does not clearly identify issues (despite reasonable efforts by College staff to identify the issues);
- 4.9.6 The complaint focusses on a trivial matter, to an extent which is out of proportion to its significance and continues to focus on this point;
- 4.9.7 The complainant refuses to accept documented evidence as being factual and relevant in answering the complaint;
- 4.9.8 The complaint is designed to cause disruption or annoyance; or
- 4.9.9 The complainant has harassed, threatened or used physical violence against College officers or staff or has been abusive or aggressive.
- 4.10 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, on the advice of two out of the following three people (i) a Lay member of the RCPsych Trustee Board (ii) a member of the Professional Practice and Ethics Committee and (iii) an Associate Registrar or Associate Dean, provided always that those considering the renewed complaint are not the same individuals who considered the initial complaint. In considering the renewed complaint the same principles shall be adhered to as set out above.

- 4.11 A Complaint Investigator (who will be a Member or Specialist Associate of the College) will be appointed to investigate the matter. The Complaint Investigator will be supported by the Complaints Manager, who is a member of College staff.
- 4.12 As soon as possible, and normally within 28 days of appointment, the Complaint Investigator will complete an investigation and report to the College Registrar. The investigation may involve a number of stages. Where face to face meetings are involved, the Complaints Manager may attend to take notes of what is said.
- 4.13 An investigation may include the following (this is not an exhaustive list):
- 4.13.1 Reviewing the complaint and supporting paperwork;
  - 4.13.2 A meeting with the Complainant;
  - 4.13.3 A meeting with the subject of the complaint;
  - 4.4.4 Meetings with witnesses;
  - 4.4.5 Review of notes of all meetings and of supporting evidence (such as emails or telephone records);
  - 4.4.6 Any further meetings with anyone involved, which are necessary because new information has come to light during the investigation.
- 4.5 On receiving the report, the Registrar will decide upon a course of action from among the following possibilities:
- 4.5.1 Seeking further information from anyone involved in the process;
  - 4.5.2 Advising both parties that informal mediation from a third party would be appropriate;
  - 4.5.3 Advising the Complainant that the matter should be referred elsewhere;
  - 4.5.4 Advising the Complainant that the complaint has been dismissed as unfounded;
  - 4.5.5 Advising both the Complainant and the subject of the complaint that the matter is to be referred to the Disciplinary and Complaints Committee of the College.
- 4.6 The Disciplinary and Complaints Committee (DCC) will consider all evidence. The DCC may (but need not) decide to convene a hearing. If a hearing is to be held then both the Complainant and the subject of the complaint will be invited to attend and 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.
- 4.7 Once the DCC 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 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:

- 4.7.1 To dismiss the complaint as unfounded;
- 4.7.2 To remove the subject of the complaint from College office, or offices;
- 4.7.3 To prescribe a course of action such as mentoring or training;
- 4.7.4 To refer directly, or to recommend referral to, another organisation such as the GMC;
- 4.7.5 To refer the matter for consideration under other College procedures, including the procedure for removal from Membership or Association.
- 4.8 Subject to the right of either party to appeal, the decision of the DCC will be final. See 5 below.

## 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 DCC. 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, had it been available to the DCC, 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 DCC 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, must be submitted in writing within 10 working days of despatch of the notification of the DCC decision. This decision will be notified by letter.
- 6.2 The written application of appeal should be addressed to the Registrar and must 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;
  - 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 Registrar will take the following actions:
  - 6.3.1 Review the appeal to determine whether it is a valid appeal under the terms of (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 Registrar and 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 Registrar, 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 and grant the appeal on that basis. Any penalties imposed by the original Complaints Panel will be dismissed. 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.
- 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 It may, at its sole discretion, convene an appeal hearing. If an Appeal Hearing is convened, both parties to the complaint will be invited and 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. Evidence on behalf of the Complaints Panel will be presented by the Registrar.
- 7.4 The Appeal Panel will do one of the following:
  - 7.4.1 Uphold the original decision of the Complaints Panel and dismiss the appeal.
  - 7.4.2 Allow the appeal in favour of the subject of the complaint, removing any sanctions applied by the Complaints Panel.
  - 7.4.3 Allow the appeal in favour of the Complainant, and make recommendations about what should happen. Recommendations may include one or more of the following:
    - 7.4.3.1 To remove the subject of the complaint from College office, or offices;
    - 7.4.3.2 To prescribe a course of action such as mentoring or training;
    - 7.4.3.3 To refer directly, or to recommend referral to, another organisation such as the GMC;
    - 7.4.3.4 To refer the matter for consideration under other College procedures, including the procedure for removal from Membership or Association.
- 7.5 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.