



Concerns and Complaints Policy Guidance for Vision Rehabilitation Workers and Habilitation Specialists

About the Concerns and Complaints Policy

Any concerns or complaints that are raised about your suitability to be on RWPN's professional register are investigated according to this policy. Registrants are advised to read RWPN's Concerns and Complaints Policy in tandem with this guidance.

What does the Concerns and Complaints policy look at?

For a concern or complaint to pass our threshold for investigation, it means more than a suggestion that a professional has done something wrong. It means a concern about their conduct, competence, health and wellbeing or character and that this concern is serious enough to suggest that the registrant is unfit or unsafe to practise without restriction, or at all. Our focus is on current impairment; that is whether a registrant may continue to present a risk.

The areas that we would consider are:

- Lack of professional competence
- Dishonesty, fraud or abuse of trust or position, including not maintaining professional boundaries with a service user;
- Exploitation of a vulnerable person;
- Serious breaches of a service user's confidentiality or data protection requirements;
- Committing reckless or deliberately harmful acts;
- Serious or repeated mistakes in service user care;
- Physical or mental health where it affects ability to practise;

- Findings of a statutory body or accredited register in the health and social care sector to the effect that the registrant's ability to practice is impaired.

These areas of concern are laid out in more depth in RWPN's Code of Ethics and Professional Conduct.

Who can make a complaint against me?

Anyone can make a complaint against you if you:

- were on the register at the time of the alleged incident(s);
- Are on RWPN's professional register now, but were not at the time of the alleged incident(s) and where it is determined that it would be in the public interest that the concern or complaint should be considered. For example, allegations of gross professional misconduct.

Concerns or complaints should normally be made within three years from the date of the alleged incident(s). If you resign from RWPN's register or fail to renew your RWPN membership after a complaint has been submitted, RWPN reserves the right to notify and share information with other organisations.

Our approach to investigating concerns and complaints

We take a proportionate, risk-based approach to investigating fitness to practise concerns that are raised with us. Our aim is to enable our decision makers to make decisions that are correct, consistent, evidence-based and fair *at the earliest opportunity*.

The principle we will take is one that will address a concern or complaint in as quick and effective a manner as possible, provided it meets the needs of all parties, including maintaining the integrity of professional registration.

If you are already the subject of an inquiry by the police, employer or other body, or there are ongoing criminal, civil or regulatory proceedings, we may defer the investigation or referral of a concern or complaint against you until these inquiries or proceedings are concluded.

When will I be informed if there is a complaint against me?

You will only be informed if there is a complaint against you once the complaint has been triaged and it has been decided that it should go forward to an Initial Investigating Panel. Triage is carried out by the chair of RWPN's Registration and Professional Standards Committee. The complainant must also have given their consent for RWPN to disclose the complaint to you.

If the complaint does not come under the scope of RWPN's Concerns and Complaints Policy or it does not meet the threshold, or we are not given consent to disclose it to you, we will notify the complainant and we will close the case. You will not be made aware of the complaint in this event.

If the complaint does meet the threshold, we will investigate the complaint against you at an Initial Investigating Panel. We will formally notify you of the complaint by email. It is our normal practice to notify you by email within 10 working days of a decision to proceed. If we do not get a response from the email address we will send you the complaint by recorded delivery to the address held on our database.

What is RWPN's position in relation to anonymous complaints?

Anonymous concerns or complaints will only be considered on rare occasions - it is not the practice of RWPN to investigate anonymous complaints. When such a concern or complaint is triaged we will assess whether the information received is independently verifiable or admitted by you. If this is the case, then the complaint may proceed without a complainant.

Confidentiality

The duty of confidentiality exists even when work with a client has come to an end. However, if you are subject to a complaint, you may need to share information with relevant parties such as your line manager. If you are

calling on support outside your organisation, you will need to ensure that the appropriate confidentiality arrangements have been made.

You will not be in breach of confidentiality when responding to RWPN about the complaint. This is because the complainant waived their right to confidentiality when they lodged the complaint. We understand that you may be apprehensive about including information which may seem critical of the complainant or give a view of their health, especially since the complainant will be provided with a copy of your response. If you decide to comment on these aspects please do so in a respectful manner. You should only disclose information that is necessary and relevant to the complaint.

You are at liberty to submit any documentation which you feel will help support you, such as a supporting statement from your line manager. If you decide not to submit these documents at this stage you may decide to submit them later if the complaint progresses.

What happens when I receive a copy of the complaint?

Being subject to a complaint can be unsettling and nerve-racking. It is important that you get through this process and feel supported. We suggest that you contact your line manager, supervisor or peer mentor for any support and advice they can give.

RWPN will convene an Initial Investigating Panel to examine the concern or complaint. This three-member panel will be made up of members of RWPN's Registration and Professional Standards committee. This committee comprises practising professionals, managers and lay people with lived experience of sightloss. In keeping with our desire to come to a decision as quickly as possible, the Initial Investigating Panel will look to resolve the concern or complaint as simply and effectively as possible.

- We will send you a copy of the complaint and any documentation supporting the complaint. As stated above, we will send this within

10 working days of the decision to proceed to an Initial Investigating Panel.

- We will advise you of RWPB's Concerns and Complaints process and invite you to submit written representation together with any supporting documentation. These should be received within a further 10 working days.
- where any representations are received, the Initial Investigating Panel may send the complainant a copy of the written representations and invite the complainant to provide any written comment on those representations to the panel within 10 working days. You will be sent a copy of the complainant's response; any confidential client-specific information contained in any correspondence may be redacted;
- you and complainant will be notified in writing, of the decision, along with an explanation of that decision, and any proposed outcomes, within a further 20 working days;
- If the panel considers that you have not done anything wrong or that the concern does not warrant any action, we will confirm this in writing and no further action will be taken; the complainant does have the right to appeal such a finding, but only where they can provide evidence that the panel made their decision against the weight of the available evidence or where there is new evidence that was not available during its deliberations and that the reasons for not submitting the evidence are compelling;
- if the panel considers that you have done something wrong, but that the matter is not so serious that it requires proceeding to a Professional Conduct Panel, this may result in outcomes for you such as, but not limited to, requesting a written apology to the complainant, issuing a written warning to the you (including a warning that repeat behaviour may result in a Professional Conduct Panel) or entering into a training/development agreement with you.

Professional Conduct Panel

In some circumstances the Initial Investigating Panel may decide that the complaint needs to be taken forward to a Professional Conduct Panel. The purpose of calling such a hearing is for the panel to examine all the evidence presented by both you and the complainant and then decide whether the concern or complaint is proven or not. If proven, the Panel will

decide on the appropriate level of sanction required to protect the public. In proceeding to a Professional Conduct Panel, RWPB needs to be weighed up if there is:

- a) a realistic prospect of being able to prove the concern about or complaint against you;
- b) if so, are the allegations so significant to indicate that your suitability to practice is, or may be, impaired to a degree that justified action being taken on your registration with RWPB.

The Initial Investigating Panel should bear in mind that it is for the Professional Conduct Panel to prove the alleged facts and to prove that the registrant's fitness to practise is currently impaired and not for the registrant to disprove the facts or to demonstrate their fitness to practise. They will also need to consider whether it will be possible a) to establish the facts b) establish whether those facts amount to the grounds of the concern or complaint (e.g. misconduct, lack of competence, deliberate misuse of information etc.) and c) in consequence of a) and b), establish that fitness to practise is likely to be impaired.

They will also need to bear in mind that the Professional Conduct Panel will consider whether the facts have been proved on the balance of probabilities (rather than beyond reasonable doubt). In other words, the Panel must be satisfied that it is more likely than not that an event happened.

If, in the course of the initial investigation, it becomes apparent that the nature of the concern or complaint is serious enough, it may be necessary for public safety, or necessary for your safety, that an **Interim Suspension Order** be made. This would mean that you are temporarily suspended from the register pending the outcome of a Professional Conduct Panel. The Initial Investigating Panel must be satisfied that there is a *real continuing risk* (actual or potential) to the public or to you, if an Order is not made. The Order will remain in place until the outcome of the Professional Conduct Panel and any appeal. The issuing of an Interim Suspension

Order does **not** indicate that the concern or complaint against you has been proven in part or in full.

What happens before a Professional Conduct Panel hearing?

A Professional Conduct Panel will be convened at a time and location to suit as many of the relevant parties as possible. You will be notified in writing within 30 working days and provided with detail of the allegations and relevant documents (see below).

In the interests of public accountability and open justice, the Professional Conduct Panel hearing will, unless the Chair considers there is a compelling reason to hold part or all of it in private, be open to the public. Any hearing will be notified via our website.

As part of the process, and where applicable, we will ascertain if the employer is aware of the concern or complaint, and if appropriate, notify the employer in writing of the Panel and ask if there is any further information they are able to provide us with and agree how we will liaise with them as part of the investigating process. If the cause for concern or complaint is linked to a health issue, the Panel may request you seek an assessment from your employer's occupational health department to ascertain if your health could affect your practice. You do not have to do this but if you refuse to attend a medical assessment, the Panel will take this into consideration when considering the concern or complaint.

When we notify you of the Panel hearing we will provide you with information that will assist you in preparing for it.

We will:

- provide you with a restatement of the complaint against you and the manner in which you are alleged to have infringed RWPB's Code of Ethics and Professional Conduct;
- make sure that all accessibility requests are taken into account both in relation to any relevant information and in the execution of the meeting;

- notify you of your right to submit evidence (including any new evidence) in writing no later than 10 working days before the meeting, and to support that evidence orally at the meeting;
- make available all available evidence to all parties no later than 7 working days before the Panel;
- notify you of your right to have a representative at the meeting and that the name and contact details of the representative should be received preferably no later than 10 working days before the meeting so that their needs can also be accommodated;
- notify you of the right to have legal representation at your own expense;
- notify you that you are entitled to claim reasonable expenses from RWPN in attending the hearing but are not entitled to claim legal or other professional costs or the costs of preparing for the Panel;
- notify you that you and the complainant can call an expert as a witness to assist the decision-making;
- inform you of the range of potential outcomes of the process;
- inform you of your right of appeal and the grounds upon which an appeal must be based;
- notify you that, in the event of your failure to attend the meeting, without due reason, the meeting will proceed on the basis of evidence received;
- notify you that, in the event of the concern or complaint being upheld, that any sanctions will be published on RWPN's website;

What happens at a Professional Conduct Panel hearing?

The Panel will consist of 3 members of RWPN's Registration and Professional Standards committee who have not been involved in the Initial Investigating Panel. The proceedings will be minuted by a person not in a decision-making position on the panel.

If you fail or refuse to attend a Panel hearing without due reason, the chair of the meeting has the power to proceed with the meeting on the basis of received submissions.

The Chair will set out the order of proceedings and indicate the date by which the registrant will be informed of the decision; The chair will read out

the complaints/allegation and you will indicate whether any of the facts alleged are admitted.

The Chair will present the case, and include any witnesses or expert evidence against you and present the evidence in support of that case, focusing on the contested complaint/allegation and the background to any admitted matters.

You or your representative will be invited to respond to the complaint/allegations. You or your representative will be allowed to examine any witnesses, and you, in turn, may be cross-examined by the Panel.

The role of your representative: your representative can address the Panel and put and sum up your case and respond on your behalf to any views expressed at the hearing and confer with you during the hearing. Your representative does not, however, have the right to answer questions on your behalf, nor address the Panel if you do not wish it nor prevent the Panel from explaining their case.

Where you admit all the material facts of the complaint/allegation, the Panel must invite any submissions from you or your representative as to the circumstances surrounding the incident(s);

The Panel may exclude from the proceedings any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings. Its reasons must be given during the meeting.

Expert witnesses will normally not be included in the proceedings until it is their turn to give evidence.

The Panel may, where the quality of their evidence is likely to be adversely affected, designate certain people as “vulnerable witnesses”, and may, subject to representations from all parties, allow evidence to be submitted in a different format. Such categories of vulnerable witness may include: any witness under 17 at the time of the hearing; any witness with a mental

disorder within the meaning of the Mental Health Act 1983; any witness who is significantly impaired in relation to cognition or social functioning; any witness where the allegation against you is of a sexual nature and the witness is an alleged victim; any witness who complains of intimidation.

Where the allegation against you involves matters that are serious in nature and the witness is an alleged victim and you are acting in person or not legally represented, you will not be permitted to cross-examine the witness directly. Subject to the approval of the Panel, your representative may be permitted to cross-examine the witness.

How does the Professional Conduct Panel reach its decision?

The standard of proof shall be the civil standard i.e. on the balance of probabilities

The decision of the Panel will be made on the following basis:

- if the allegation has been proven or admitted. The standard of proof shall be the civil standard on the balance of probabilities;
- whether the proven or admitted allegations amount to a breach of RWPN's Code of Ethics and Professional Conduct;
- whether such breaches are such that it is not suitable for the registrant to remain on the register without any sanctions;
- if appropriate, what sanctions are to be applied

The Panel will make its decision and notify you of it within 10 working days of the Panel hearing. The decision made by the Panel and the reasons for it will be stated in a short final decision statement and this decision statement will be sent to you (as well as the complainant, and, where appropriate, your employer).

If we find that the concern or complaint is not upheld no further action will be taken against you and this will be notified in writing to you (as well as the complainant and, where appropriate, the employer).

If the Panel finds that the complaint or concern against you is upheld, we will also notify you of the sanction that has been agreed. We will explain what the sanction means in practice and, where appropriate, how long it

will last. We will also notify you of the right of appeal and the basis on which the appeal should be lodged.

Where a sanction is put in place (pending any appeal), this sanction will be available to public view on the register for as long as the sanction applies.

How does an appeal work?

Both you and the complainant may appeal the decision to a specially convened Appeal Panel. An appeal will be considered on any of the following grounds:

- the decision of the Professional Conduct Panel was not supported by the weight of available evidence;
- where a complaint has been upheld, the level of sanction applied does not adequately reflect the level of misconduct - it is disproportionately severe in your opinion or it is unduly lenient in the opinion of the complainant;
- there appears to have been a procedural error that has had a material impact on the findings and decision of the Panel;
- there is new evidence which was not available to the panel during its deliberations. If new evidence is presented the appeal panel will need to decide whether the reasons for not presenting the evidence in the first instance are compelling and therefore admissible. The panel will then need to decide whether the original Panel would have made a different decision if it had been aware of the new evidence when it sat.

Appeals must be submitted in writing within 20 working days of receipt of the decision letter from the Panel. Where new evidence is being submitted, the nature of this evidence must be disclosed at the time of the appeal.

The application for appeal will be considered by a member of RWPN's Registration and Professional Standards committee who was not part of the original PCP.

The decision to reject or allow an appeal, along with the basis for that decision, will be provided to you or the complainant within 15 working days. Where the appeal is not granted, this will be put in writing to all relevant parties and the matter will be considered concluded.

Where an appeal is granted, this must take place no sooner than 25 working days from the date it was agreed the appeal should proceed. The location and format of the appeal will be by mutual agreement. The grounds for allowing the appeal will be put in writing.

Where new evidence forms the basis of the appeal this must be received within 10 working days of the appeal. Where representation is requested, the name of any such representative must be received within 10 working days of the date of appeal hearing.

Where new evidence forms the basis of the appeal this must be shared with the other party within 7 working days of the date of the appeal hearing.

The appeal will be considered by three people who did not sit on the Professional Conduct Panel and the Appeal Panel may include the person who reviewed the application for the appeal. The format of appeal hearing will be by way of a review of how the Panel made its original decision and whether the grounds for appeal, including any new evidence, allow the original decision to stand.

A representative can attend an appeal to support you. However the attendance of a witness will only be permitted by the Appeal Panel where it considers any written evidence requires further clarification. The Appeal Panel has the discretion to refuse attendance by a witness if they reasonably believe that their attendance is not relevant or will not add any clarification or weight to the issues being considered. Witnesses may be questioned by the Appeal Panel and either party.

Where the person calling the appeal (or their representative) fails to attend the Appeal Panel without due reason, the Appeal Panel has the power to decide to proceed in their absence.

Except where the Appeal Panel decides otherwise the appeal will proceed thus:

- the party making the appeal shall address the Appeal Panel on their grounds of appeal and present any new evidence;
- the party defending the appeal shall respond to the appeal;
- the Appeal Panel may allow either party an opportunity to make a closing submission. A party making the appeal shall have the final word;

- the Appeal Panel will make its decision in private and present their reasons at the time of the appeal.

The burden shall be upon the party making the appeal to satisfy the Appeal Panel that one or more of the grounds for appeal should be upheld.

The Appeal Panel can make the following decisions:

- dismiss the appeal;
- increase or decrease the level of sanction where the reason for appeal rests on those grounds;
- impose sanctions on you where there had previously been found no case to answer;
- remove sanctions or any Interim Suspension Order where previously these had been imposed upon you.

What range of sanctions are considered throughout the process?

RWPN is publishing an “indicative sanctions guidance” in 2021. You are recommended to read this for a full explanation of the options for sanctions that are available. However, in outline, the range of options *that can apply as the outcome of a Professional Conduct Panel* are as follows:

- a) you would receive a caution and a record of the caution be placed on the your entry in the register for a period of up to five years;
- b) you would be required to enter a Conditions of Practice Order with RWPN for a period not exceeding 12 months and this would be recorded on the register;
- c) you would be required to be suspended from the register for a period not exceeding twelve months;
- d) you would be required to be removed from the register permanently.

All sanctions come into force on the day after any appeal should have been lodged (i.e. within 20 working days of the decision), or - if an appeal is lodged - from the date the appeal is concluded and the original concern or complaint is upheld.

Where an appeal is lodged, and the decision of the Professional Conduct Panel has been either suspension from the register or removal from the register, then the PCP may issue an **Interim Suspension Order**. The Interim Suspension Order will last until the outcome of any appeal.

Lifting of sanctions

You may apply to the Registration and Professional Standards committee for a sanction to be lifted. The committee will decide if any sanctions imposed have been fulfilled and whether the sanction should be lifted. You will be notified in writing of this decision and RWPN's will publish this lifting of sanctions on its website.

Failure to comply with sanctions

Failure to comply with sanctions without reasonable excuse within the time specified may result in you being withdrawn from the register. The Registration and Professional Standards Committee will notify the registrant of any such decision in writing and this finding will be published on RWPN's website.

Restoration of registration status

If you have been removed from RWPN's register you can apply for restoration to the register after three years.

You must submit a report to show what they have learned from the experience. The report must be submitted along with a supporting reference from either your line manager or from a professional supervisor registered with RWPN.

The reports must be submitted to RWPN and will be considered by a meeting of the Professional Conduct Panel.

You will be informed in writing of the decision, and the reasons for that decision, within 25 working days.

April 2021

