



## **RWPN Concerns and Complaints Policy**

### **Professional Standards**

To remain on our register Vision Rehabilitation Workers or Habilitation Specialists must maintain professional standards. By maintaining professional standards we mean where a registrant has both the technical professional skills as set out in the **National Occupational Standards** and the requisite professional behaviour, knowledge and health to practise safely and effectively as stated in **RWPN's Code of Ethics and Professional Conduct**.

Being professional is about more than being technically competent. Whilst ensuring professional standards is about registrants keeping their skills and knowledge up-to-date in order to work within this field of competence, it is also about ensuring registrants treat service users with dignity and respect and act with honesty and integrity. As such ensuring professional standards may also involve issues outside of professional or clinical performance. The conduct of a professional outside of their working environment may involve ensuring professional standards where it could affect the protection of the public or undermine public confidence in the profession. One of the ways we make sure that professionals maintain professional standards is by investigating concerns we may receive about them.

### **1. The types of concerns we may consider**

RWPN cannot investigate every concern about a registrant, only those where there appears to be a risk to the safety of service users, colleagues or the public or where the registrant may undermine public confidence in the profession. In some of the areas of concerns that are reported to us there may already be the involvement of an employer

whose own policies may have been breached. In such cases we may work with the employer to resolve the concerns.

1.1 Below are some of the types of issues we **may** able to investigate:

- Lack of professional competence;
- Serious lack of care/negligence in carrying out their duties
- Dishonesty, fraud or abuse of trust or position, including not maintaining professional boundaries with a service user;
- Harassment or physical violence;
- 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.

1.2 Where we receive a concern or complaint about a registrant and that registrant is 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 until the inquiry or proceedings are concluded. Where this is the case we will inform the complainant at the earliest opportunity.

1.3 Ensuring professional standards 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. This 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.

1.4 Failure to renew registration by a member during the course of a complaint will not normally terminate the professional conduct procedure once started.

## 2. Our approach to fitness to ensuring professional standards

RWPN is committed to carrying out efficient, effective and appropriate investigations. This ensures that the right action is taken to manage any risk to public protection. We recognise that parties to an investigation may have differing views about the services provided by a registrant and the incident(s) that gave rise to a concern. We are mindful of balancing the full range of views in undertaking our enquiries. Our **Code of Ethics and Professional Conduct**, our **Continuing Professional Development** requirements and other relevant guidance set out the professional standards that we expect all of our registrants to adhere to. When we consider a concern or complaint the **Registration and Professional Standards Committee** (hereafter referred to as The Committee) will assess whether the matters complained of could amount to a breach of those standards. 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.

## 3. Who can raise a concern or complaint?

3.1 A concern or complaint can be raised by anybody: a member of the public; a service user or their family, an employer or another professional. Any concern or complaint should be put in writing using [our downloadable complaints form and then emailed to RWPN](#). A concern or complaint can be raised against a Vision Rehabilitation Worker or Habilitation Specialist, provided they are:

- on RWPN's professional register;
- were on the register at the time of the alleged incident(s);
- on RWPN's professional register now, but, either were not at the time of the alleged incident(s), or when the complainant could reasonably be said to have become aware that there is cause to

complain AND where it is determined that it would be in the public interest that the concern or complaint should be considered

- on RWPN's professional register now and at the time of the alleged incident(s);
- 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

3.2 Concerns or complaints will generally only be considered where the alleged incident(s) was within the last three years, or three years from when the complainant could reasonably be said to have become aware that there is cause to complain.

3.3 The complainant will be required to provide a detailed written account of the practice giving rise to the concern or complaint, together with details of the dates when the alleged event(s) occurred. In submitting a concern or complaint in writing, and where The Committee deems that it falls within their remit to investigate, this will be taken as permission to inform the registrant of the concern or complaint.

3.4 Where a concern or complaint has been considered and not upheld (i.e. where no wrong-doing has been found) by another organisation, the decision makers may decide not to consider a concern or complaint based substantially on the same conduct. A written explanation for this must be given in writing to the complainant.

3.5 Anonymous concerns or complaints will only be considered on rare occasions. If we do, the Committee will assess whether the information received is independently verifiable or admitted by the registrant. If this is the case, then the Initial Investigating Panel will decide on the most appropriate way to proceed with the process.

3.6 The Concerns or Complaints procedure is designed to offer protection to those who raise concerns or complaints in good faith and in the reasonable belief of the complainant that it indicates potential malpractice or misconduct. All disclosures will be treated in a confidential manner. In pursuing the investigation the identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However the investigation process may reveal the source of the information, and the individual

raising the complaint will need to provide a statement as part of the evidence required. All information received will be treated in line with RWPN's [Privacy Policy](#).

Anyone who wishes to raise a concern or complaint should download the form [here](#) and email it to [info@rwpn.org.uk](mailto:info@rwpn.org.uk) and title your email "request to lodge a concern or complaint".

#### **4. What happens when a concern is raised?**

**4.1.** When a concern or complaint is received it will be referred to, and triaged by, the chair of RWPN's Registration and Professional Standards Committee to assess whether it is something RWPN is in a position to address. We aim to notify the complainant in writing within 15 working days either of our intention to move forward with the concern or complaint, or that we are not able to address it. If RWPN is not able to address this concern or complaint we will put our reasons in writing.

#### **4.2 Initial Investigating Panel (IIP).**

If we feel the concern or complaint is something we can address it will be considered by an Initial Investigating Panel. The IIP will:

4.2.1 send the registrant a copy of the complaint and any documentation supporting the complaint within 10 working days of a decision to proceed;

4.2.2 advise the registrant of RWPN's Concerns and Complaints process and invite them to submit written representation together with any supporting documentation. These should be received within 14 working days;

4.2.3 where any representations are received, the IIP may send the complainant a copy of the written representations and invite the complainant to provide any written comment on those representations to the IIP within 10 working days. The registrant will be sent a copy of the complainant's response; Any confidential client-specific information contained in any correspondence may be redacted;

4.2.4 the registrant and complainant will be notified in writing, of the decision, an explanation of that decision, and any agreed outcomes, within a further 20 working days;

4.2.5 if the IIP considers that the concern or complaint is upheld, but that the matter does not require a Professional Conduct Panel, this may result in outcomes for the registrant such as, but not limited to, requesting a written apology to the complainant, issuing a written warning to the registrant (including a warning that repeat behaviour may result in a Professional Conduct Panel) or entering into a training/development agreement with the registrant;

4.2.6 a complainant can appeal against the decision of the IIP where the panel has decided not to proceed with the concern or complaint. The appeal must be in writing and accompanied by evidence to support the appeal. An appeal can only be made on the grounds that:

- the decision of the panel was not supported by the weight of available evidence;
- there is new evidence which was not available to the panel during its deliberations. If new evidence is presented, the Initial Investigating Panel will need to decide whether the reasons for not presenting the evidence in the first instance are compelling and therefore admissible.

The appeal will be heard by the original IIP. Where the appeal is upheld this may result in the registrant receiving one of the outcomes in 4.2.5 or the registrant attending a Professional Conduct Panel. The registrant and complainant will be notified in writing.

Where the appeal is rejected, the decision of the investigating panel stands.

4.2.7 if the concern or complaint cannot be resolved satisfactorily at the IIP stage (including where the concern or complaint is of a sufficiently serious nature) it will proceed to a Professional Conduct Panel.

4.2.8 if, in the course of the initial investigation, the nature of the concern or complaint is serious enough, it may be necessary for public safety or necessary in the interests of the registrant, that an **Interim Suspension Order** be made so that the registrant be temporarily suspended from the register pending the outcome of a Professional Conduct Panel. The IIP must be satisfied that there is a real continuing risk (actual or potential) to the public or colleagues if an Interim Suspension Order is not made. In this situation, the IIP, in consultation with the chair of RWPB's Registration and Professional Standards committee, will agree an Interim Suspension Order with the registrant. This 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 has been upheld in part or in full: the registrant is entitled to a fair and independent investigation and hearing.

## **5. Professional Conduct Panel (PCP)**

If the concern or complaint cannot be resolved satisfactorily by the Initial Investigating Panel it will proceed to a Professional Conduct Panel.

For a concern or complaint to go forward, the Initial Investigating Panel will need to decide:

- a) there is a realistic prospect of being able to prove the concern about our complaint against the registrant;
- b) if so, that the allegations are so significant as to indicate that their suitability to practise is, or may be, impaired to a degree that justifies action being taken on their registration with RWP.N.

The Initial Investigating Panel should bear in mind that it is for the PCP 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. The PCP 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) 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 PCP will consider whether the facts have been proved on the balance of probabilities (rather than beyond reasonable doubt). In other words, the PCP must be satisfied that it is more likely than not that an event happened.

The PCP will consist of 3 members of the Committee who have not been involved in the Initial Investigating Panel. The committee will normally be assisted by an independent legal assessor.

## 5.1 Notifying relevant parties

The registrant will be notified in writing of the requirement to attend a Professional Conduct Panel.

The Professional Conduct Panel will:

5.1.1 ascertain if the employer (where applicable) is aware of the concern or complaint and, (if appropriate), notify the employer in writing and ask them if there is any further information that they have that is relevant and can be disclosed and, set out how we will liaise with them as part of the investigating process;

5.1.2 ascertain if the cause for concern or complaint is linked to a health issue. The PCP may request the registrant, to seek an assessment from their employer's Occupational Health to ascertain if their health could affect their practice. If the registrant refuses to attend a medical assessment, the PCP will take this into consideration when considering the concern or complaint;

### 5.1.3 Notifying the registrant

The registrant will be:

- notified of the date and time of the PCP. The date of this meeting shall be no sooner than 30 working days of this notification;
- notified that the meeting is open to the public;
- provided with a restatement of the complaint against them and the manner in which they are alleged to have infringed RWPN's Code of Ethics and Professional Conduct;
- notified of their 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;
- notified of their right to have representation at the meeting and that the details of such representation should be received no later than 10 working days before the meeting; the right to have legal representation at the registrant's own expense;
- notified that either party can call an expert as a witness to assist the adjudication;
- informed of the range of potential outcomes of the process;
- informed of their right of appeal and the grounds upon which an appeal must be based;



- notified that, in the event of the registrant's failure to attend the meeting without due reason, the meeting will proceed on the basis of evidence received;
- notified that, in the event of the concern or complaint being upheld, that any sanctions will be published on RWPN's website;

5.1.4 make available all evidence to all relevant parties no later than 7 working days before the hearing;

5.1.5 make sure that all accessibility requests are taken into account both in relation to any relevant information and in the execution of the meeting;

5.1.6 notify the complainant and registrant that they are entitled to claim reasonable expenses from RWPN in attending the PCP but are not entitled to claim legal or other professional costs or the costs of preparing for the PCP;

5.1.7 notify the public, via RWPN's website, of the date of the meeting and request that anyone wishing to attend the meeting notify RWPN no later than 7 working days before the hearing so that suitable arrangements can be made. Only the name of the registrant will be cited - not the names of any other parties - in any notifications.

## 5.2 Professional Conduct Panel meetings

The purpose of the PCP is for the panel to examine all the evidence presented by both the complainant and the registrant and decide whether the concern or complaint is proven or not. If proven, the PCP will decide on the appropriate level of sanction required to protect the public;

5.2.1 in the interest of justice all hearings will be public unless there is a compelling reason for it not to be so. Such public meetings may be live or virtual by mutual arrangement of all parties. Where such meetings are virtual, every effort must be made to ensure they are accessible and secure;

5.2.2 where a registrant fails or refuses to attend a PCP without due reason, the chair of the meeting has the power to proceed with the meeting on the basis of received submissions;

5.2.3 Role of the representative. A representative can address the Panel and put and sum up the case and respond, on behalf of the

registrant, to any views expressed at the hearing and confer with them during the hearing. The representative does not, however, have the right to answer questions on behalf of the registrant, address the Panel if the registrant does not wish it or prevent the Panel from explaining their case.

5.2.4 the procedure of the meetings should be as follows:

- a Chair of the committee will have been designated prior to the meeting;
- minutes from the proceedings will be taken by a person not in a decision-making position on the panel;
- 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 the registrant will indicate whether any of the facts alleged are admitted;
- the Chair will present the case, and include any witnesses or expert evidence against the registrant and present the evidence in support of that case, focusing on the contested complaint/allegation and the background to any admitted matters;
- the registrant will be invited to respond to the complaint/allegations. Any witnesses shall be examined by the registrant or their representative, and may be cross-examined by the PCP. Where the registrant admits all the material facts of the complaint/allegation, the PCP must invite any submissions from the registrant as to the circumstances surrounding the incident(s);
- the PCP 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 PCP 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 PCP; 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 the registrant

is of a sexual nature and the witness is an alleged victim; any witness who complains of intimidation;

- where the allegation against the registrant involves matters that are serious in nature, the witness is an alleged victim and the registrant is acting in person or not legally represented, the registrant will not be permitted to cross-examine the witness directly. The registrant will be permitted to appoint a representative to cross-examine the witness subject to approval of the PCP.

5.2.5 The decision of the PCP 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

5.2.6 the decision-making process must conclude within 5 working days of the panel meeting. The notes of the PCP should be available to the panel in making this decision. The decision made by the panel and the reasons for it should be stated in a short final decision statement. This will be the official notification which is sent to the registrant, complainant and employer (where appropriate).

5.2.7 if the concern or complaint is not upheld no further action will be taken and this will be notified in writing to the complainant and, where appropriate, the employer;

5.2.8 if the PCP finds that the complaint or concern is upheld the range of sanctions will depend on the severity of the complaint. A right of appeal will be offered;

5.2.9 if the PCP finds that the concern or complaint is upheld they may notify the employer (where relevant);

5.2.10 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

## **6. Communicating the Decision**

RWPN will send a notice of decision to: a) the registrant b) the complainant c) any relevant third party. The notice of decision will set out the panel's findings, the reasons for its decisions, notice of any sanction and the duration and commencement of that sanction. It will also set out the right of appeal. This notification will be sent within 10 working days of the meeting.

## **7. Appeals decisions of the Professional Conduct Panel**

Either party may appeal the decision. If either party is not satisfied with the PCP's decision they can appeal to a specially convened Appeal Panel.

7.1 An appeal will be considered on any of the following grounds:

- the decision of the 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 unduly lenient in the opinion of the complainant or it is disproportionately severe in the opinion of the registrant
- there appears to have been a procedural error that has had a material impact on the findings and decision of the PCP;
- 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 PCP would have made a different decision if it had been aware of the new evidence when it sat;

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

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

7.4 The decision to reject or allow an appeal, along with the basis for that decision, will be provided to the person appealing 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.

7.5 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;

7.6 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;

7.7 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;

7.8 The appeal should be considered by three people who did not sit on the PCP (and this may include the person who reviewed the application for the appeal) and an independent legal assessor. The format of appeal hearing will be by way of a review of how the PCP made its original decision and whether the grounds for appeal, including any new evidence, allow the original decision to stand;

7.9 A representative or witness can attend an appeal to support either side. 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;

7.10 Where an appellant (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;

7.11 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 and also put its decision in writing to both parties

7.12 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 the registrant where there had previously been found no case to answer
- remove sanctions or any Interim Suspension Order where previously these had been imposed

## **8. Sanctions**

The purpose of any sanction is to protect the public and to uphold the reputation and standards of the profession. The purpose of a sanction is not to punish the registrant but to enable them to return to safe practice where possible. If the PCP determines that a registrant poses a risk to those who may need their services in the future, they must determine what level of public protection is required and is proportionate.

Where a concern or complaint has been upheld the PCP may:

a) caution the registrant and require that a record of the caution be placed on the registrant's entry in the register for a period of up to five years;

b) require that the registrant enter into a Conditions of Practice Order with RWPB for a period not exceeding twelve months and this would be recorded on the register;

c) require the registrant to be suspended from the register for a period not exceeding twelve months;

d) require the registrant 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 PCP 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.

The PCP will announce its decision on sanctions in public and give reasons for its decision.

For further information about how RWPB applies resolutions and sanctions see our [Indicative Resolutions and Sanctions](#) guidance.

## 9. Publicising decisions

9.1 The name of the registrant and any sanction applied will appear within the Concerns and Complaints section of RWPB's website.

In order to protect the public RWPB will publish, on its website, any

- Interim Suspension Orders
- cautions or suspensions or removals from the register

arising from a decision from the PCP

9.2 Details will be published on RWPB's website 20 working days after the conclusion of a hearing. If an appeal is lodged by either party within that time frame the decision will not be published until the appeal has been concluded unless an Interim Suspension Order has been put in place.

9.3 RWPB will not publish any details that relate to the health of a registrant. This information is treated as confidential regardless of the outcome of any decisions made.

## **10. Lifting of sanctions**

The registrant 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. The registrant will be notified in writing of this decision and RWPB's will publish this lifting of sanctions on its website.

## **11. Failure to comply with sanctions**

Failure to comply with sanctions without reasonable excuse within the time specified may result in the registrant being removed 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 RWPB's website.

## **12. Restoration of registration status**

12.1 Registrants removed from RWPB's register can apply for restoration to the register after three years.

12.2 The former registrant 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 their line manager or from a professional supervisor registered with RWPB.

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

12.4 The former registrant will be informed in writing of the decision, and the reasons for that decision, within 25 working days.

## **13. The decision makers**



RWPN's decision makers will be drawn from members of the Registration and Professional Standards Committee. Members of this committee include practising Vision Rehabilitation Workers, managers in a health or social care setting and lay members.

The decision making process will take the form of an **Initial Investigating Panel** and, if required, a **Professional Conduct Panel**.

The Initial Investigating Panel will consist of three people, one of whom should be a lay member. One of the Panel will be designated lead investigator. The lead investigator will gather information and subsequently communicate the outcome of the investigation to the chair of the Registration and Professional Standards Committee.

The Professional Conduct Panel will consist of the three people who have not been part of the initial investigation. The three people must include a lay member, and a committee member with experience of managing members of staff in a health or social care setting. The chair of the Professional Conduct Panel will be agreed upon by members of that panel.

An appeal panel may consist of people who have been involved with the Initial Investigating Panel but not the Professional Conduct Panel.

The chair of the Registration and Professional Standards Committee will lead discussions about which committee members shall be part of the panels on a case-by-case basis.

#### 13.1 Declaration of interest.

Members of either Panel have a duty to declare any interest in relation to the particular concern or complaint which may be considered as affecting their impartiality, or likely to be thought to do so. Wherever reasonably possible, in any such situation, that person should withdraw from involvement in that case.

#### 14. Reporting

RWPN will report annually, by calendar year, the number of concerns and complaints received about registrants, along with the number of sanctions, where applied.

September 2021

