

Supplementary Notes and Provisions

Publication of Case Outcomes

130. It is important for public protection and for confidence in the NRCPD Fitness to Practice Procedure that details of cases that have been dealt with are published. The following principles will be applied when publishing case outcomes:

- a. Identifying Registrants. Where a sanction of practice restriction, suspension or register removal has been applied in a case the Registrant or Regulated Trainee in question will be named in the case summary and enough detail will be published for members of the public to understand the general nature of their misconduct. The Registrant/Trainee may apply to the Committee for anonymity in exceptional cases and in deciding on this the Committee will balance the public interest in publication with the potential harm caused or other factors raised.
- b. Anonymity. For all other cases the registrant will remain unnamed, and details will be more limited in order to ensure that people unfamiliar with the case cannot indirectly identify the Registrant. Witnesses, Committee members and all other participants in the hearing will always remain unnamed.
- c. Appeals. Case summaries will not be published until any appeal window has closed or the Appeal has been heard.
- d. Duration. For practice restrictions, suspensions and register removals the case summary is taken down once the sanction has come to an end. For all other cases the case summary remains published for one year. NRCPD may at its own discretion take down case summaries to prevent harm or otherwise in the public interest.
- e. Statistics. A statistical record will be published and maintained that summarises archived outcomes of misconduct investigations.
- f. Interim Suspensions. Interim Suspensions are treated the same as suspensions for

publication purposes.

- g. The above principles apply in full whether or not a Registrant remains on the NRCPD registers.

Confidentiality of Proceedings and Case Information.

131. When anybody first becomes involved in a misconduct investigation NRCPD requests that they keep information that they may learn about others safe and maintain confidentiality. We ask that people do not discuss the case with anyone else - either the facts of the case or speculation about it. NRCPD will limit the disclosure of information within the misconduct case only to those people that need to know to fairly investigate. We may disclose information more widely within the investigation than usual if it is in the interests of fairness and equity to do so or to prevent harm.

- a. Why we ask people to maintain confidentiality. Maintaining confidentiality ensures the Fitness to Practice Procedure has integrity, and that fairness is afforded to all parties. Confidentiality in this regard means that the parties to a misconduct investigation must not share any documents or information that they hold or are provided to them as part of the process with anyone, including witnesses involved in the matter and in particular must not share information or documents on social media. This includes all materials that form part of the investigation or proceedings such as witness statement prepared for them and any supporting documents or exhibits to their witness statement in whatever form and also includes records of proceedings, anything from the evidence bundle and legal advice and directions.
- b. What are the consequences of failing to maintain confidentiality? A failure to maintain confidentiality by a Registrant or Regulated Trainee may amount to a breach of the Code of Conduct (s.6.1, and/or s.7.4] and result in additional allegations or a separate misconduct investigation. A failure to maintain confidentiality by a complainant or witness may prejudice the fairness of the proceedings and could result a case being discontinued.

General Note on Sanctions.

132. Sanctions must be proportionate to the misconduct found and the least restrictive necessary to minimise the risk to the public in the opinion of the Case Examiners or Committees, having due regard for the available evidence in the case. Evidence of remorse, insight, proactive remedy of skills, previous sanctions, severity of harm caused, culpability and relevant mitigation, including health, are all examples of factors to be considered in coming to a conclusion on sanctions. Case examiners and Committees may consider others.
133. Sanctions guidance is only guidance and Case Examiners and Committees will decide freely and independently on the appropriate sanction based on the facts of the specific case. Case Examiners and Committees may rebate the length of time of a sanction on the basis that there is evidence that the Registrant has already begun the relevant activities (eg an interim suspension with regard to a suspension). This does not apply to register removals.

Guidance on Malicious, Vexatious and Trivial Misconduct Reports

134. The alleged misconduct should be sufficiently investigated by the Case Officer, so they can distinguish between allegations that are trivial, malicious or vexatious and genuine allegations. The Case Officer may take advice from a relevant person as appropriate. If a misconduct report is declared trivial, malicious or vexatious, the person making the misconduct report will be informed of the reasons why in writing. After a decision has been made, the NRCPD will not enter into any further correspondence on the subject.
135. A misconduct report may be regarded as trivial or vexatious where the NRCPD reasonably believe that a report is intended to harass, annoy, bully, distress, or otherwise cause trouble for the Registrant/Trainee who is the subject of the allegation. Malicious allegations are similar in nature but are made in a deliberate effort to cause professional and reputational harm on the basis of a false claim. This may include:

- a. cases which have already been investigated by the NRCPD and contain no

new, relevant or substantial information.

- b. cases where the person making the report changes the substance of a misconduct report or raises further trivial or unrelated concerns or questions while the misconduct report is being addressed.
- c. Misconduct reports with no clear substance or where the Complainant does not articulate the precise issues which may need to be investigated, despite reasonable efforts by the NRCPD to conduct such investigations.
- d. Misconduct reports which focus solely on trivial matters.
- e. Misconduct reports which are malicious, false or otherwise intended to cause harm or distress to a Registrant/trainee

Hearings Being Held in public.

136. Hearings are to be held in public (in-person or online) with exceptions which may be applied in specific circumstances, allowing a hearing to take place fully or partly in private:

- a. Where the nature of the allegation is such that the registrant's fitness to practice is said to be affected due to a health concern or there is evidence that needs to be given in respect of the registrant's ill-health. Article 8 of the ECHR (right to private life) applies in respect of this exception.
- b. Where the attendance of members of the public would result in the administration of justice being rendered impracticable by their presence.
- c. Where there is one or more vulnerable witness and it is appropriate in the circumstances for the witness evidence to be heard in private.
- d. Where the particular circumstances of the case mean that the public interest in the case being heard in public is outweighed by another relevant factor, or a public hearing would otherwise cause exceptional hardship or prejudice to the registered person.