

NRCPD

The National Registers of Communication Professionals
working with Deaf and Deafblind People

Professional Conduct Complaints Procedure

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Introduction

1. The National Registers of Communication Professionals working with Deaf and Deafblind People (“NRCPD”) is established to promote standards of British Sign Language interpreters and other professions working with d/Deaf* and deafblind people and to regulate those professions to protect the public. NRCPD’s public protection responsibilities are to maintain registers of the relevant language service professionals, to set professional conduct standards by the NRCPD Code of Conduct (“the Code”) and to investigate complaints about potential breaches of the Code. NRCPD takes steps to improve practice and protect the public where breaches of the Code are found.
2. This document explains the Professional Conduct Complaints Procedure (“the Procedure”) that the NRCPD will follow when a complaint about the professional conduct of a Registrant or Regulated Trainee is received.
3. This Procedure should be used in conjunction with the Code.
4. The Code applies to all current Registrants and Regulated Trainees (“Registrants/Trainees”). Registrants/Trainees agree by contract to abide by it on first registration with one of our registers and every year when they renew.
5. The Procedure says how we deal with reported breaches of the Code to improve practice and protect the public. This ensures that all allegations of breaches of the Code are fairly investigated, are independently decided and that professionals are not arbitrarily sanctioned.
6. The Procedure is intended to identify whether there has been a breach of the code, whether a Registrant/Trainee’s practice is still affected, and if so, what should be done to prevent risk to the public from that misconduct in future.
7. The Procedure is not intended to be punitive but to look forward at preventing future misconduct by either supporting the individual to improve their practice, or by

restricting their practice for a period, or in the most serious cases to remove them from the registers.

8. It is consistent with the relevant laws and principles that apply to professional regulation in the UK.
9. It is not the procedure used to remove people from the register for failing to meet any of the other minimum requirements or contractual undertakings (such as Continuous Professional Development compliance or paying the registration fee).
10. Additional information about how NRCPD regulates, including the Code of Conduct, can be found on the NRCPD website www.nrcpd.org.uk under 'Professional Conduct Complaints'. NRCPD will continue to update and improve this procedure, and the most recent version will always be available on the website. The website also has more information about how to contact NRCPD.

Summary of the Procedure

11. If anyone thinks that an NRCPD Registrant/Trainee has not followed the NRCPD Code of Conduct they can make a complaint to NRCPD and we will then investigate. NRCPD can also investigate if we get information without a complaint being made.
12. Anyone who is unsure about how to make a complaint and what information should be in it, can ask for advice from NRCPD staff. NRCPD staff will explain the procedure by phone or VRS calls. Complaints may be written in English or recorded in BSL video. NRCPD will translate English text to or from BSL where that is required.
13. All complaints are investigated, witnesses provide statements, and the case is reviewed by the Independent Registrar and/or the Head of Professional Conduct and Operations. If the Independent Registrar and/or the Head of Professional Conduct and Operations determines that there is sufficient evidence of a breach of the NRCPD Code of Conduct, NRCPD will bring a case against the Registrant/Trainee. The case is then considered by the Case Examiners, who review the evidence and decide whether a breach of the Code has occurred and, if so, determine the appropriate sanction. In complex cases, Case Examiners will refer the case to the Professional Conduct Committee.
14. Case Examiners' decisions may be rejected by the Registrant/Trainee and the case then also goes to the Professional Conduct Committee to decide. The Registrant/Trainee may appeal a Professional Conduct Committee decision at an Appeals Committee after which there is no further appeal.
15. Complaint investigations begin with NRCPD making initial checks on the details of the complaint. NRCPD will make sure that:
 - a. the Registrant/Trainee in question is registered with NRCPD; and
 - b. was registered with NRCPD at the time of the alleged breach; and
 - c. the conduct complained about is in scope of the Code of Conduct.

15. NRCPD will check the extent to which the Registrant/Trainee has been asked about what happened. We also have to check the identity of the complainant, that they are a real person and they are correctly stating who they are.
16. We want to make sure that everyone involved is able to properly take part in the procedure so we will ask about communication preferences and also check if there are reasonable adjustments that anyone in the case requires to allow for illness, capacity or disability.
17. The following checks will be monitored regularly throughout the investigation as evidence is gathered:
 - a. Whether there is risk to the public from continued practice of the Registrant/Trainee;
 - b. That there is relevant evidence;
 - c. That there is no malicious intent in making the complaint;
 - d. That the complaint meets the threshold of 'serious'
 - e. That the allegations are within scope of the Code.

If at any stage the case fails the checks at 17b to 17e NRCPD can pause or discontinue the case and will give reasons for doing so.

18. Once the investigation is completed the case will be decided by the Case Examiners, or by the Professional Conduct Committee if referred to them. If a case against a Registrant/Trainee is upheld, they will receive one or more of the following sanctions:
 - a. Advice about their practice;
 - b. a warning;
 - c. a training requirement;
 - d. a supervision requirement;
 - e. a practice restriction;
 - f. a suspension; or
 - g. removed from the register.

19. After a case is finished, including any appeal, the result of the case will be published

in summary form in English and in BSL on the NRCPD website. The case summary will not include people's names unless the sanction is a practice restriction, suspension or register removal, for which the public must be informed that the Registrant/Trainee has had limits placed on their registered practice.

Stage 1 | Initial Screening Process

20. Anyone who wishes to complain about the professional conduct of an NRCPD Registrant/trainee should first contact NRCPD to find out more about what to do and how the procedure works. Making a complaint can seem a difficult step to take and people may be unsure whether that is something that is right for them to do. This document sets out a lot of detail to cover all the aspects of the procedure and not all of it will be relevant to someone just starting with their complaint. NRCPD will take the time to properly explain what happens and what the options are. NRCPD complaints staff can be contacted by telephone, email or VRS. See paragraph 12 above for more information and for contact details visit www.nrcpd.org.uk.
21. Wherever possible, concerns about a Registrant/Trainee's conduct that a client thinks are minor should be raised as soon as possible with the Registrant/Trainee, or with the organisers of the assignment, event or activity (GP practice manager for example). Every effort should be made to resolve problems informally and before a complaint is made to the NRCPD. If a conduct issue cannot be resolved informally, or where a serious breach of the Code is alleged, a complaint should be made to NRCPD.
22. Any misconduct which has been reported to the police, is pending court action, has been referred to a statutory regulator, or sent to any other national regulatory body will not be investigated by the NRCPD until the conclusion of action by the relevant authority. Where NRCPD believes that a complaint is about something that should be referred to the police or to another investigating or regulatory body, the person making the complaint will be advised to do so before any NRCPD investigation commences. NRCPD may report any matter that comes to light during an investigation to another relevant authority.
23. All complaints should be sent to the NRCPD, by using the complaint form available on the website. The form is available in written English and in BSL. If anyone requires further support they should contact complaints staff via telephone or VRS.

24. All complaints must identify the name and contact details of the originator. Anonymous complaints, or any information received from an anonymous source will not be taken forward in a case unless independently verified by other means.
25. NRCPD will contact the complainant to acknowledge the complaint and get more information. NRCPD will assess the complaint to make sure that:
 - a. it is about a NRCPD Registrant/Trainee;
 - b. the conduct alleged took place less than twelve months ago;
 - c. the Registrant/Trainee was registered with NRCPD at the time;
 - d. what the Registrant/Trainee is alleged to have done is a breach of the Code;
 - e. that supporting evidence is provided;
 - f. If it meets the threshold of 'serious'
 - g. it is not an anonymous complaint.
26. If the complaint does not satisfy all those conditions NRCPD may decide the report does not meet the required threshold and close the complaint with no further action. If it will assist their practice improvement, NRCPD may inform the Registrant/Trainee of the nature of any allegation of misconduct made against them that falls within the scope of the Code of Conduct, but that no action is being taken. Without the consent of the person making the complaint no disclosure will be made that may allow the complainant to be identified.
27. If the complaint does satisfy the conditions at paragraph 25. the Head of Professional Conduct and Operations, in agreement with the Independent Registrar, will accept it and initiate an investigation. NRCPD will inform the person making the complaint that it has been accepted as soon as possible after that.
28. Normally complaints will only be considered where the conduct or incident giving rise to it occurred within twelve months of the complaint being made. This time limit may be extended where:

- a. the complaint is based upon a criminal conviction or caution or determination of another regulatory body,
- b. the alleged misconduct appears to be serious and for which the time limit should be extended in the public interest; or
- c. the complainant only became aware of the misconduct over 12 months later.

29. The NRCPD may begin an investigation acting on information received and without receiving a complaint (e.g. if approached by another investigating body and they disclose information NRCPD can act on). In such cases, the decision to begin an investigation will be made by the Head of Professional Conduct and Operations and/or Independent Registrar based on the evidence provided and in accordance to the assessments of p.25. NRCPD may seek additional evidence to assist an investigation or a Committee hearing as it sees fit.

Stage 2 | Investigation

30. Telling the complainant a case has been opened. When a complaint is accepted and a case file opened, NRCPD staff will as soon as possible contact the person making the complaint to:
- a. explain the investigation process;
 - b. tell them their complaint and identity will be shared with the Registrant/Trainee, and check consent;
 - c. tell them they might need to provide additional information, which will also be shared with the Registrant/Trainee.
31. Telling the Registrant/Trainee a case has been opened. As soon as possible after a complaint has been accepted (paragraphs 25-27 above), NRCPD staff will contact the Registrant/Trainee to:
- a. tell them someone has made a complaint about their professional conduct;
 - b. tell them an investigation into the complaint has begun;
 - c. give them a copy of the complaint and any supporting evidence received;
 - d. summarise the details of the complaint and how it may be a breach of the Code;
 - e. provide details of the process to be followed for investigations;
 - f. tell them they will have up to two opportunities to make formal responses to the claims;
 - g. tell them their response will be shared with the person making the complaint;
 - h. tell them they will have the opportunity to respond to additional evidence or information collected by the NRCPD before any decision is taken by Case Examiners or the Professional Conduct Committee;
 - i. tell them about where they can look for help and support;
 - j. enquire whether they require any reasonable adjustments to the procedure to enable them to participate fully in it.

NRCPD may delay notification to the Registrant/Trainee of the complaint investigation to secure sources of evidence and witness statements, if it is assessed that informing the

Registrant/Trainee may compromise other evidence and as long as any delay is reasonable and proportionate.

Being investigated for a complaint can be difficult to deal with and NRCPD will take the time to properly explain what happens in the procedure at every step. NRCPD can give general guidance on where to look for support but cannot provide legal advice.

32. Initial Investigation. NRCPD staff will investigate the complaint by making reasonable efforts to gather witness statements and evidence to support the allegations made. The case file consists of the first statement by the person making the complaint and all relevant evidence from verifiable sources. Evidence may include but is not limited to written statements, video or audio recordings, impact statements, expert evidence, photographs and images, business records, screenshots of online activity. Regarding how long it takes to gather evidence:

- a. NRCPD aims to complete this stage within 60 working days of accepting the complaint or will give reasons for delay;
- b. The precise timescale will depend on the evidence being received promptly and the scale of evidence being sought. If necessary, the time period will be extended;
- c. Time extensions will be limited to what is reasonable and proportionate given the nature of the allegations, the potential importance of the evidence, and the impact of delay on parties to the case.
- d. The NRCPD will proceed to the next steps once reasonable efforts have been made to gather the evidence.

33. The Registrant/Trainee's First Statement in Response. The evidence collected under paragraph 32 is then presented to the Registrant/Trainee for their first opportunity to provide a statement in response. This is a formal request by NRCPD for the Registrant/Trainee to provide a statement of whether they contest or admit each of the allegations and to provide evidence to support their case. The Registrant/Trainee's first statement, with their supporting evidence, must be submitted within 20 working days of NRCPD's request. NRCPD staff will review the Registrant's first statement and consider if additional evidence is required and if so takes reasonable steps to obtain it. Registrants/Trainees may submit further evidence at any stage in the investigation after this first statement is made.

34. Complainant Second Statement. The Registrant/Trainee's first statement and accompanying evidence, and any further evidence collected by NRCPD, is sent to the person making the complaint for them to provide a second statement. This second statement should be produced within 10 working days if they wish to make one.
35. Registrant/Trainee's Second Statement. If received, the second statement by the complainant and all new evidence is sent to the Registrant/Trainee to provide a second statement - this should be received by NRCPD within 10 working days.
36. Collation of Evidence for Consideration by Case Examiners. Once the exchange of statements and the evidence gathering in paragraphs 32-35 has finished, the case is prepared for consideration by Case Examiners. NRCPD may seek further evidence, may add additional allegations of breaches of the Code if supported by evidence (to which the Registrant will have a further 10 working days to respond) or may take out allegations if evidence is insufficient, or take any other steps to ensure the case is progressed efficiently and fairly. The NRCPD will send the completed bundle for review to both parties prior to submission to Case Examiners. No further evidence will be accepted at this stage.
37. Interim Suspension or Restriction. At any point after the receipt of a complaint, or on the basis of information received, the NRCPD Independent Registrar may decide that the nature of the allegations and the available evidence indicates the Registrant/Trainee's practice is a significant and current risk to the public. If so, the Registrant/Trainee may be temporarily suspended from the registers pending the outcome of the case – this is an Interim Suspension. Alternatively, the Independent Registrar may impose temporary practice restrictions – this is an Interim Restriction.
 - a. The aim of an Interim Suspension or Interim Restriction is to minimise the risk of harm to the public and is consistent with NRCPD's public protection responsibilities. When considering either measure, NRCPD will assess whether the misconduct alleged presents the potential of significant and current risk to the public, and whether an interim suspension, or practice restriction is a proportionate measure in the circumstances to reduce that risk. The decision and reasons for it must be recorded.

- b. The Registrant/Trainee may appeal the decision to impose an interim suspension or restriction on the grounds of new, substantial and relevant information. They may appeal to the Independent Registrar in writing setting out the grounds for their appeal and explaining why the suspension or restriction should be lifted.
 - c. The appeal will be considered by a panel of two Case Examiners, who have had no prior knowledge of the complaint and no significant prior knowledge of anyone involved. The appeal will be considered against the same factors under which the suspension or restriction was first applied and whether the risk to the public has changed as a result of the Registrant/Trainees additional evidence.
 - d. It is within the remit of Case Examiners to make amendments to the Interim Order in place if deemed necessary.
 - e. Where these changes exceed the order placed by the Independent Registrar, a review will be undertaken to ensure that the orders stated are the least restrictive and the most proportionate to protect the public.
 - f. If the Registrant/Trainee's appeal is denied they may submit another appeal after 20 working days if further new, substantial and relevant evidence is available.
 - g. If an interim suspension or restriction is still in place after six months the NRCPD must refer it to a Professional Conduct Committee Chair for a mandatory review, and every six months thereafter. The burden lies with NRCPD to show that an interim Suspension or Restriction is still necessary.
38. Reasonable adjustments. Anyone who is part of a case, whether having made a complaint or provided a witness statement or as the Registrant/Trainee, may request reasonable adjustments to the procedure to enable them to participate effectively in it, if otherwise they would find it substantially more difficult to do so because of health, disability, communication preference, personal circumstances or other relevant factors. Such a request must be supported by sufficient disclosure of circumstances and relevant evidence for NRCPD to consider it.
39. Delay. NRCPD will always try to avoid delay and adhere to the timelines set out in this procedure. Delay is often introduced due to the number of complaints and allegations,

and sometimes the volume, complexity and difficulty of securing evidence makes delay unavoidable or even necessary. The above timelines are indicative for simple cases based on one complaint generating a small number of allegations and a limited volume of evidence. **Complex cases may take considerably longer.** The Registrant/Trainee and complainant will be kept informed of any delay and the reasons for it.

40. Time Extensions. In accordance with the NRCPD Time Extension Policy. In exceptional circumstances, parties to a case may request time extensions for their responses. Deadlines may be extended by NRCPD in the interests of fairness, for example to allow parties sufficient time to consider complex evidence submitted against them, and also sufficient time to obtain and submit evidence upon which they intend to rely. Any extension will be limited to what is reasonable and proportionate keeping in mind the need to be fair and to avoid delay. Time extensions may also be requested as a reasonable adjustment.

41. Admission of Facts. A Registrant/Trainee subject to allegations of breaches of the Code may recognise that their conduct did amount to a breach of the Code and may decide to admit some or all of the facts. Such an Admission of Facts will significantly reduce the time and stress of the investigation, and the insight shown may be a positive mitigating factor in deliberations by Case Examiners or by a Professional Conduct Committee if referred. The Registrant/Trainee will be given opportunity to admit some or all of the facts when asked for their first statement, their second statement and if their case is referred to the Professional Conduct Committee. If under this paragraph the Registrant/Trainee admits all facts and allegations then NRCPD and the Registrant/Trainee may come to a mutual agreement on sanction – if not agreed the case proceeds to Case Examiners to determine sanction.

Stage 3 | Case Examiners Consideration of the Case

Once all the statements and evidence have been gathered, including a list of breaches to be considered, relevant guidance, and a case summary, to a Case Examiner team. The Case Examiner team consists of two case examiners, but NRCPD may appoint a team of three as necessary for a fair consideration of the case. The Case Examiners will consider all the material and make decision about each allegation . The standard for all Case Examiner conclusions is the balance of probabilities, that is that something is more likely than not. In all their deliberations, Case examiners will apply the three-step procedure below, and the guidance on evidence and sanctions at paragraph 47 and 48. NRCPD complaints staff will provide the evidence on the facts initially and then statements in mitigation later in this stage.

42. Case Examiners Three-Step Consideration Procedure. The Case Examiners will consider the case in three steps:

- a. Step 1 - Facts. Case Examiners will look at the evidence and will decide what the facts are i.e. what happened. The standard of proof applied by the Case Examiners is the 'balance of probability' which means they will weigh up evidence from both sides and decide what is more likely than not to have happened. They then go to Step 2.
- b. Step 2 - Misconduct. Having decided the facts of what happened the Case Examiners will then look at whether anything that happened was misconduct, that is to say a breach of the Code relating to the allegations. This is a matter of judgement for the Case Examiners. Case Examiners will decide against every allegation whether there was a breach of the Code. If they decide there was no misconduct they take no further steps and they report to NRCPD that there is no case to answer. If they decide there was at least one breach, then they go on to Step 3.
- c. Step 3 - Affected Practice and Sanction. Case Examiners now consider

whether the evidence shows that the Registrant/Trainee's practice is still affected and then what the appropriate sanction should be. NRCPD will provide the evidence on mitigation, impact, character and so on, for this step. At this point Case Examiners will look at the evidence on mitigation and character, any impact statement, and any corrective learning and reflection by the Registrant/Trainee, or any other evidence that is fair and relevant. Decisions are a matter of judgement for the Case Examiners.

- i. If they decide that practice is not still affected, and therefore the conduct leading to the breach is unlikely to occur again, then they may decide on the following sanctions:
 - a) to give relevant advice to the Registrant/Trainee; or
 - b) give a written warning.No other sanction is available if practice is not still affected.
- ii. If Case Examiners consider that the Registrant/Trainee's practice is still affected, and therefore is still below standard and a further breach is likely, they will then decide whether to refer the case to the Professional Conduct Committee or to give the Registrant/Trainee one or more of the sanctions open to Case Examiners.
- iii. In deciding how to determine the case, Case Examiners will look at the evidence in the case and consider whether:
 - a) The case is very complex;
 - b) The breach or breaches are serious;
 - c) The likely sanction is one that only a Professional Conduct Committee can give;
 - d) Health or disability of the Registrant/Trainee is a likely significant factor in either the misconduct or in their ability to engage with the Professional Conduct Complaints process.

If the Case Examiners decide that one or more of these factors is present then they will decide to refer the case to the Professional Conduct Committee. Case Examiners may at the same time decide to impose an Interim Suspension or Interim Restriction in line with paragraph 37 provisions.

iv. If Case Examiners consider that none of these factors at iii. are present then they will decide on one or more of the following as the appropriate sanction for the Registrant/Trainee:

- a) a written warning;
- b) undertaking a programme of training and/or supervision;
- c) practice restriction for a Regulated Trainee of up to 6 months duration;

Case Examiners may also give the Registrant/Trainee relevant advice but only in combination with at least one of a) – c). Further detailed guidance on sanctions is given in paragraph 48 below.

43. Evidence in Mitigation. Evidence as to mitigation and character is not relevant to Step 1 and 2 deliberations. NRCPD complaints staff will provide any available statements of mitigation and character to the Case Examiners for their Step 3 considerations. Evidence on mitigation and character that is inseparable from evidence of fact in statements provided must be disregarded by Case Examiners at Steps 1 and 2.

44. Previous Sanctions for Misconduct. The record of any previous in-date sanctions for misconduct against the Registrant/Trainee will be provided for consideration by Case Examiners for Step 3. Previous findings of misconduct are in-date for consideration if, at the time of the newly alleged misconduct, they are:

- a. A written warning issued to the registrant less than 2 years prior;
- b. If not a warning, a sanction where the sanction period ended less than 2 years prior.

When taking previous findings of misconduct into account, Case Examiners will consider to what extent the previous finding of misconduct is relevant to the current case. Where previous sanctions are for relevant misconduct, ie for similar conduct, Case Examiners may consider this a reason to decide upon a more substantial sanction or to warrant referral to the Professional Conduct Committee.

45. Impact Statements. During the investigation NRCPD will invite people personally affected by the alleged misconduct to provide statements on the impact they believe the misconduct had on them. Such statements will be given to Case Examiners for

Step 3.

46. Guidance for Case Examiners on Considering Evidence. All evidence that is relevant and from a verifiable source is given by the NRCPD complaints staff to Case Examiners to consider the facts on the balance of probability (Paragraph 43a.). Case Examiners must then determine how the evidence supports the allegations or not. Relevance, consistency, credibility and the weight of the evidence in relation to the allegations should be considered.

- a. Relevance – does the evidence relate to the alleged breach;
- b. Consistency - is the evidence consistent with other things stated or recorded elsewhere in the evidence;
- c. Credibility – is it reasonable to believe that the evidence is of plausible events, actions or omissions given the nature of the case and other evidence;
- d. Weight – to what extent does the evidence reliably support the allegation of the specific breach alleged.

Case examiners may ask NRCPD at any point to secure additional evidence to support their decision making.

47. Sanctions Guidance for Case Examiners. Sanctions should be proportionate and the least restrictive on the Registrant/Trainee that in the view of Case Examiners will likely minimise the risk to the public. General guidance on sanctions is:

- a. Case Examiners will always take the most serious breach as the starting point for what to decide as a sanction.
- b. Case Examiners may consider that several breaches taken together justify a more severe sanction than for a single breach.
- c. Case examiners should take into account aggravating factors which may make the misconduct more serious (such as ignoring interventions and continuing with the misconduct).
- d. In all cases where misconduct is found and professional practice is still affected, Case Examiners will decide on a written warning as a minimum.
- e. Where there are serious failings in conduct Case Examiners will refer cases to the Professional Complaints Committee. Examples are: being under the

influence of non-prescription drugs or alcohol, abandoning assignments without good reason, exploitation of a client, lewd behaviour, reckless or deliberate professional conduct leading to significant harm; bullying, discrimination or harassment (including sexual harassment) or other serious conduct that risks seriously undermining the professions. In such cases Case Examiners must have good reasons for not referring a case to the Professional Conduct Committee, especially if Case Examiners decide that the Registrant/Trainee should have reasonably been aware of that misconduct.

- f. Where a breach, or collection of breaches, warrants a more severe sanction than is available to Case Examiners then the case should be referred to the Professional Conduct Committee.
- g. Advice, training requirements, supervision requirements and practice restrictions decided by Case Examiners will always be proportionate and relevant to the misconduct found and must be implementable. Cost to the Registrant/Trainee is not a factor in determining the sanction.

And with regard to the specific sanctions available to Case Examiners:

- h. Advice. Advice to the Registrant/Trainee must be constructive and relevant to the misconduct. In the case of Trainees the advice will be shared with the Trainee's supervisor to assist in their learning. There is no follow up monitoring of this sanction by NRCPD.
- i. Written Warning. A warning is given when it is the intention that:
 - i. the Registrant/Trainee stays alert to and takes active measures to prevent similar misconduct in future; and
 - ii. this misconduct is drawn to the attention of Case Examiners and/or Professional Conduct Committees in future if the Registrant/Trainee is again found in breach of the Code.

A warning stays active for two years from when it is given.

- j. Programme of training and/or supervision. This sanction is given when there are clear learning and reflection points to be tackled by the Registrant/Trainee

to improve their practice and that 'giving advice' is not regarded as sufficient to ensure the Registrant/Trainee makes the necessary practice improvements. Such a programme may be up to twelve months duration. NRCPD monitors compliance through periodic reports from the Registrant/Trainee. NRCPD may engage the Case Examiners in reviewing the evidence of compliance at the end of the programme period. Non-compliance with the required programme may be a breach of the Code and is treated as a new complaint. A training or supervision requirement stays active on a person's record until two years after the last day of the training or supervision period.

- k. Practice Restriction. Case Examiners may give a practice restriction to a Regulated Trainee but not to a Registrant, and the restriction for a Trainee may not be longer than six months. A practice restriction is applied where the Regulated Trainee must not practice in a particular field or specialism while they improve their practice in that field. It may include a stipulation for practicing in a given setting without restricting it completely – for example, to 'always co-work with an RSLI' in that field. It should always be accompanied by relevant advice or a targeted programme of training and/or supervision over the restriction period. Non-compliance with a practice restriction may be a breach of the Code and is treated as a new Complaint. A practice restriction stays active on a person's record until two years after the last day of the restricted period.

48. Case Examiners Report to NRCPD. On completion of their deliberations, Case Examiners will report their decisions to the NRCPD. Their report will follow the three-step process at p.43. above and will include their reasons for each decision and each allegation, including the specific details of advice, training or supervision requirements. The NRCPD complaints staff will decide whether to:

- a. Immediately move to implement the Case Examiners decisions; or
- b. refer the report back to Case Examiners for clarification; or
- c. issue the case back to Case Examiners for review:
 - i. in light of new evidence not originally available;
 - ii. or with revised guidance;
 - iii. or if there is a concern that procedural guidance has not been followed.

NRCPD may issue cases for review back to the same Case Examiners or to new Case Examiners and there may be only one such review.

49. Communication of the Case Examiners Outcome. Once the Case Examiner's report is final and accepted by the NRCPD, NRCPD will communicate the outcome to the Registrant/Trainee and the complainant within 10 days, or give reasons if there is delay.
50. Acceptance of Sanction by Registrant/Trainee. If the outcome is that Case Examiners give one or more of the sanctions available to them, these will be put to the Registrant/Trainee to accept. If the Registrant/Trainee does not accept the sanctions in full within 10 working days, the case is automatically referred to the Professional Conduct Committee. The sole exception to this is if Case Examiners only give advice. If a case is referred to the Professional Conduct Committee in these circumstances, and the Registrant/Trainee changes their mind and fully accepts the Case Examiners decisions at any time before the Committee is convened, then the proceedings for the Committee will be discontinued and the sanctions applied.
51. Implementation of Sanctions. On acceptance of the sanctions by the Registrant/Trainee, NRCPD will take the necessary steps for implementation and notify the Registrant/Trainee within 10 working days of actions required of them. Where a programme of training or supervision is required NRCPD will require periodic reports from the Registrant/trainee and if applicable their supervisor, as evidence of compliance. If NRCPD obtains evidence of non-compliance a new complaint case will be opened, investigated, and referred to Case Examiners.
52. Publication of Outcome. If the Registrant/Trainee does not accept the sanction decision then the case has not concluded, there is no outcome publication at this stage and the case goes to a Professional Conduct Committee. If the Registrant/Trainee accepts the sanctions, the case outcome is published in English and BSL on the NRCPD website as follows:
 - a. Any outcome that includes a practice restriction will be published as a case summary with the Regulated Trainee named. (Registrants may not be given this sanction at Case Examiner stage). No other party to the case will be named.
 - b. Any other outcome will be published as an anonymised case summary.

Stage 4 | Professional Conduct Committee

Convening The Professional Conduct Committee

53. Once a case is referred to the Professional Conduct Committee, NRCPD will convene the Committee on a suitable date and for the number of days required. To ensure availability of all involved, it may not be possible for the hearing to be on consecutive days but to be arranged over a period, which will be as short as possible.
54. Registrants/Trainees are expected to accommodate as best they can the need to schedule and conduct the hearing as soon as reasonably possible.
55. The case will be brought by the NRCPD as complainant and the Registrant/Trainee will make their case as the respondent. The NRCPD and the Registrant/Trainee are the “parties” to the case.

Make-Up of the Professional Conduct Committee

56. The Professional Conduct Committee will consist of three members:
 - a. two NRCPD case examiners who have experience and standing in the professional fields covered by NRCPD, or in the training, assessment, use and employment of Registered professionals in the deaf and deafblind field; and
 - b. one designated Chair, who is a lay professional: someone with either a legal or professional regulation background and with experience in relevant tribunals, disciplinary committees or professional conduct hearings and who is not experienced in the professional field covered by NRCPD, nor in the training, assessment, use and employment of Registered professionals in the deaf and deafblind field.
 - c. Where the health of the Registrant is a central issue, or where the case has specific complexities or nuance, a fourth committee member may be appointed. This person will have relevant knowledge and expertise either by lived experience or qualification.
 - d. In most circumstances NRCPD will appoint Case Examiners (who are Registrants of NRCPD) as Panel Members.

- e. Where NRCPD is unable to appoint Case Examiners, (for reason of conflict of interest or other identified reason) NRCPD may appoint lay panel members.

58. No person may be appointed to the Professional Conduct Committee:

- a. who has significant prior knowledge of the complaint; or
- b. who has significant prior knowledge of the Registrant/Trainee or the witnesses involved in the case, to the extent that that this would bring into question the fairness of any hearing.

59. NRCPD will appoint an independent legal adviser to support the Professional Conduct Committee to advise on relevant law, process or procedure. All legal advice provided to the Committee will be shared with the parties who will be able to comment on this advice. The legal adviser to the Committee is independent of the parties to the case.

60. In addition to any expert witness statements obtained by the parties to the case, the Professional Conduct Committee may instruct further professional expert opinion to support their consideration of the case. The parties will be informed of any such expertise received by the Professional Conduct Committee and will be able to challenge this expertise if they so choose. The expert witnesses will not be a part of deliberations.

Notice and Arrangements for the Hearing

61. Responsibility for Setting up the Hearing. NRCPD complaints staff, will make all the administrative arrangements for the hearing and facilitate any requests from the Committee.

62. Communication about the Hearing. All correspondence relating to the hearing will be sent to all parties by email and require acknowledgement. Additionally, paper copies of the notice of the hearing, allegations and the evidence bundle for the hearing will be sent by registered, recorded or special delivery mail to the Registrant/Trainee; and also to the Committee if requested. Other documents may be sent by registered, recorded

or special delivery mail as required for the efficient management of the case. The Registrant/Trainee will be written to at the postal address and email address which the

63. Giving Notice of the Hearing. NRCPD complaints staff will give notice of the hearing to the Registrant/Trainee at least 40 working days' in advance (unless a shorter period is agreed) and provide them with information on Committee procedure and on preparing for the hearing. The notice to the Registrant/Trainee will include dates, timings, location, the identity of the committee and other administrative detail. Hearings will normally take place remotely via video conference, but either party can apply for the hearing to be conducted in person.
64. Reasonable Adjustments. The Registrant/Trainee and others (per paragraph 38.) will be invited to notify the Professional Conduct Manager as soon as possible of any reasonable adjustment requests to enable a fair access to the hearing process.
65. Service of the NRCPD Case and Evidence. Provided with the notice of the hearing, or as soon as possible afterwards, is a full list of all the allegations or allegations to be presented at the hearing and all the evidence to be relied on by the NRCPD, along with information on any witnesses NRCPD intend to call. Evidence which is added later to the NRCPD case must be sent to the Registrant/Trainee as soon as practically possible.
66. Service of the Registrant/Trainee's Evidence. Within 20 working days after receipt of the notice of a hearing, the Registrant/Trainee will provide the Professional Conduct Manager with details of witnesses the Registrant/Trainee intends to call and all evidence, statements or documents they intend to rely on in their case. It is not the responsibility of the Professional Conduct Manager to decide on and collate the evidence upon which any Registrant/Trainee intends to rely on at the hearing, even if submitted to NRCPD by the Registrant/Trainee as part of the initial investigation process. The Professional Conduct Manager can provide to the Registrant/Trainee copies of any evidence previously submitted if requested.
67. Service of the Full Hearing Bundle. Once the Registrant/Trainees evidence pack is received it will be added to the NRCPD's evidence and other materials for the hearing and finalised as the hearing bundle. It will be sent by email or made available online, to all parties, committee members, and the legal adviser 10 working days before the hearing, or as soon after that as possible.
68. Registrant/Trainee Attendance and Representation. The Registrant/Trainee will be

asked to confirm their attendance, whether they will be represented (and if so by whom, see paragraphs 80 and 81 below) and if not attending or represented whether they wish to submit a written defence of their case. Such written submission should be received by NRCPD with the Registrant/Trainee's evidence (paragraph 66).

Preliminary Steps at the Hearing

69. At the hearing, the Professional Conduct Committee will consider the misconduct allegations and the available evidence. The Professional Conduct Committee considers the case afresh, and without any knowledge or awareness of any considerations or reasoning by Case Examiners. Where there are procedural matters to decide before the presentation of cases, the Professional Conduct Committee may decide to issue case management directions. Examples include but are not limited to: requiring the hearing take place in private, changing from a remote to an in-person or hybrid hearing or delay to allow for health reports to be provided.
70. Consideration of Health and Disability Matters. On completion of any preliminary matters the Professional Conduct Committee may invite arguments from all parties on matters of the Registrant's health and disability in relation to the events giving rise to the complaint; or in relation to reasonable adjustments that may be requested to enable the registrant to fairly participate in proceedings. Such matters will be dealt with in private session. The Committee may then make any necessary directions for progressing the case fairly as it deems necessary and/or practical. This may include adjournment, requests for additional medical reports or evidence, or for additional practical measures to be put in place for the hearing.
71. Evidence available to the Committee. The Professional Conduct Committee may hear any evidence that would be admissible in civil proceedings in the appropriate part of the United Kingdom and may decide to admit further evidence during the hearing if it is fair and reasonable to do so. The purpose of submitting all the evidence in advance of the hearing is so all parties may prepare properly.
- a. The Committee may admit evidence served outside the timetable for service of evidence if it helps the Committee to make their decision and may allow itself and the parties additional time to consider new evidence.

- b. Other factors the Committee will consider in its decision to admit late evidence include whether the evidence is relevant and substantial, and the impact on delay and the availability of witnesses attending in-person.

Hearing the Evidence and Deciding on Allegations and Sanction – Overview

72. Hearing the Evidence. The Committee will hear the misconduct allegations and consider all the available evidence. All parties and the Committee will have the chance to ask questions regarding the evidence and both parties will be able to submit their arguments (“submissions”).
73. Deciding on the Allegations. The Professional Conduct Committee will then consider and decide on the facts in regard to each of the allegations, that is to say on the balance of probability, what happened and whether what happened amounted to a breach of the Code of Conduct. The Committee will decide whether each allegation is upheld or not.
74. Deciding on Misconduct and whether Practice is Affected. If the Committee decides there is at least one breach of the Code they will then go on to decide whether on the evidence, the Registrant/Trainee’s practice is still affected and what the appropriate sanction should be. Whether practice is still affected will be a factor in the Committee’s choice of sanction. The Committee will hear further evidence from both parties on mitigation, any aggravating factors, character, impact statements and other relevant material to assist in their decision.
75. Deciding on the Sanction. Finally, if there is at least one breach of the Code, the Committee will decide what sanction or sanctions to give and may decide on one or more of the following:
 - a. any sanction available to Case Examiners (paragraph 43b.i and v.above);
 - b. a restriction order limiting practice in certain settings or specialisms for up to 12 months;
 - c. suspension from the registers for a period to be determined by the Committee, of up to twelve months; and/or

d. permanent removal from the registers.

76. Previous NRCPPD Misconduct Findings. Where a Registrant/Trainee has in-date findings against them following previous breaches of the code (paragraph 45 above), the Professional Conduct Committee will be informed of this after they have upheld one or more of the allegations but before they consider which sanction to apply. It is for the Committee to decide how this will be taken into consideration.
77. Variation in Hearing Procedure. The Professional Conduct Committee may vary the exact procedure for the hearing with advice from the appointed legal adviser if it is in the interests of justice and/or for the efficient conduct of proceedings to do so. Parties will be able to make their submissions before any decision is taken.
78. Right of Appeal. Where the Registrant/Trainee is given any sanction by the Professional Conduct Committee they may lodge an appeal against the outcome within 20 working days.
79. Publication of Outcome. Unless under appeal, sanctions given to the Registrant/Trainee by the Professional Conduct Committee will be published on the NRCPPD website and the electronic record and case materials will be retained. Summary details of the findings will be published in English and BSL, and the Registrant will be named if the sanction is a restriction, suspension or removal (as paragraph 53 above).

Committee Proceedings in Detail

Representation

80. The Registrant/Trainee may appear in person or be represented at the hearing by a solicitor, barrister, Legal Services Act 2007 lawyer, Trade Union Representative, or other appropriate person such as a 'McKenzie friend'. If they wish to be represented, it is the Registrant/Trainee's responsibility to make the arrangements and to notify the Committee and the NRCPPD as soon as possible. A Registrant/Trainee who is represented at the hearing will be treated for the purposes of these procedures as having attended the hearing even if they are not personally present.
81. If unrepresented, the Registrant/Trainee may also submit their defence and mitigation in writing, without attending in person. The Professional Conduct Committee shall

consider a written defence as part of the hearing and determine the weight to attach to it, taking into account that the Registrant/Trainee has not made themselves available to answer questions about their case and evidence.

82. NRCPD may appoint a member of staff, solicitor, barrister or another suitable person to present its case to the Professional Conduct Committee (the “presenting officer”).

The start of the hearing

83. At the start of each hearing, the Committee will:

- a. Confirm the identity of the Registrant/Trainee and all parties present;
- b. Explain the procedure for the hearing;
- c. Read out the allegations;
- d. and for each allegation read out, will ask the Registrant/Trainee, or their legal representative, whether they admit the alleged facts, misconduct or affected practice .

84. The Chair of the Professional Conduct Committee may at any stage of the hearing, on behalf of the Committee, or if applied for by either party, decide to pause the hearing and postpone it (adjourn) to a later date. It must be in the interests of justice and a fair hearing to do so and applications for adjournment by parties must set out the specific reasons and any supporting evidence.

85. If applied for by either party or with relevant legal advice, the Chair of the Committee may decide that one or more allegations should be modified or even struck out in the interests of the case, provided that changes do not disadvantage the Registrant/Trainee’s case.

Uncontested allegations

86. Where the Registrant/Trainee admits alleged facts and one or more allegation of misconduct, or that their practice is still affected in relation to any allegation or allegations against them, the Professional Conduct Committee will take all the admitted

87. facts, allegations and affected practice as proven. The registrant/trainee may make such admissions in writing or in person. The Committee will then go on to hear the evidence

of the allegations still contested.

88. Where the Registrant/Trainee admits all allegations, either in writing or when present at a hearing, the Committee will find all allegations as proven and go on to determine misconduct, whether practice is affected and the appropriate sanction. The Committee will invite further evidence from both parties to inform the Committee's decision on sanction:
- a. The NRCPD shall then provide evidence of the circumstances leading to the allegations, any impact statements, any aggravating factors, any evidence on the character of the Registrant/Trainee, and any relevant previous misconduct of the Registrant/Trainee, or other evidence relevant to the decision on sanction.
 - b. The Registrant/Trainee or their legal representative shall then be invited to address the Professional Conduct Committee on any mitigation and may present evidence about the circumstances leading up to the relevant misconduct, the extent to which such circumstances relate to matters in the allegations, and their character and previous history.
89. Where all allegations are admitted and having received relevant additional evidence from either or both parties on sanction and mitigation, the Committee will retire to deliberate the appropriate sanction. Where some, but not all, of the allegations are admitted, the Committee will not decide on sanction for the admitted allegations but will proceed to hear the evidence on the remaining contested allegations as below.

Contested allegations with the Registrant/Trainee present

90. In a case where a Registrant/Trainee does not admit all the allegations, the following order of proceedings will be followed as far as reasonably possible. The Committee may vary the exact procedure with advice from the appointed legal adviser if it is in the interests of justice and/or the efficient conduct of proceedings to do so.
91. Hearing the NRCPD's Case and Evidence. The NRCPD presenting officer will outline the case against the Registrant/Trainee and present the facts and present evidence on which the allegations of misconduct are based. Witnesses may be called to provide evidence (all witnesses will be expected to give an affirmation if they have not indicated a preference for a religious oath). The Registrant/Trainee will then have the opportunity

to ask each witness questions (cross-examination). The NRCPD presenting officer will then have the opportunity to re-examine the witness on issues raised in cross-examination.

92. No Evidence Offered. If for any allegation, no evidence is offered by NRCPD, the Professional Conduct Committee will dismiss the allegation.
93. Application to Dismiss Allegations for Error or Lack of Evidence. After the NRCPD has presented its case on all the allegations, the Registrant/Trainee or their legal representative may make the following submission relating to any allegation: -
- a. that insufficient evidence has been presented upon which the Professional Conduct Committee could find the allegation proven;
 - b. that a procedural flaw or error has arisen which should result in an allegation being dismissed; or
 - c. that relevant law, including case law or other legal advice, suggests that the allegation should be dismissed.
94. If such a submission is made, the Professional Conduct Committee will invite the NRCPD presenting officer to respond to the submission. If, having taken the NRCPD submission into account, the Committee agrees that one or more allegation should be dismissed, they will dismiss that allegation.
95. Hearing the Registrant/Trainee's Case and Evidence. The Registrant/Trainee or their representative may then open their case to contest any allegation which remains outstanding. The Registrant/Trainee may present the evidence they have admitted to the hearing bundle in answer to each allegation. Witnesses (whom the Registrant/Trainee has indicated they intend to call in accordance with timescales set out at paragraph 66 above) may be called by the Registrant/Trainee to provide evidence. The NRCPD shall have the opportunity to cross-examine any witnesses. The Registrant/Trainee will then have the opportunity to re-examine any witnesses on issues raised in cross-examination.
96. Questions from the Professional Conduct Committee. The Professional Conduct Committee has the right to ask questions of witnesses giving evidence at any stage. Usually, the Committee will ask questions after the witness has been cross examined.

97. Summary of the NRCPD Case. The NRCPD may then address the Professional Conduct Committee to summarise the case as presented by the NRCPD.
98. Summary of the Registrant/Trainee's Case. The Registrant/Trainee or their representative may then address the Professional Conduct Committee to summarise the case as presented by or on the Registrant/Trainee's behalf.
99. Legal Advice to the Committee. The Committee may rely on the independent legal adviser at any stage in proceedings for advice on matters of law and procedure and may adjourn to do so.

Contested and uncontested allegations without the Registrant or Trainee present

100. Confirming Service of Notice to the Registrant/Trainee. Where the Registrant/Trainee does not appear and is not represented and has not presented their case in writing, the Chair of the Professional Conduct Committee will ask the NRCPD to satisfy the Committee that notice for the hearing has been sent to the Registrant/Trainee as required, informing them of the hearing, the date upon which the hearing was to take place and where it was to take place (including whether remotely by video conference). If satisfied it has been properly sent, the Committee shall consider the Registrant/Trainee to be voluntarily absent from the hearing and go on to consider whether or not to proceed in the absence of the Registrant/Trainee. If not satisfied it has been properly sent, the Committee may adjourn the hearing to another date.
101. Proceeding in Absence. The Professional Conduct Committee will decide whether to proceed with the hearing in the absence of the Registrant/Trainee if notice of the hearing was properly sent.
 - a. Factors. Factors the Committee will consider when deciding whether to proceed in the absence of the Registrant/ Trainee, include whether the absence is deliberate, (e.g. they have made their case in writing because they would not attend), whether an adjournment might result in the Registrant/Trainee's attendance, whether further delay to the proceedings is in the interest of justice, and the extent to which adjournment affects the availability of witnesses.
 - b. Procedure. Where the Registrant/Trainee does not appear and is not represented,

and the Professional Conduct Committee has decided to proceed with the hearing, it shall hear evidence of the case presented by the NRCPD (as in paragraphs 90-91), and any written submissions or evidence submitted by the Registrant/Trainee (instead of the procedure at paragraphs 92 to 94). The Committee will decide whether the evidence supports the allegations.

If the Committee decides not to proceed in the absence of the Registrant/Trainee the hearing will be adjourned and arranged to reconvene at a later date.

Deciding on the Allegations and Sanction

102. Deciding on the Allegations. On the conclusion of the proceedings above, the hearing will adjourn and the Professional Conduct Committee will consider in private session what they have heard and seen as evidence and come to an agreement on each outstanding allegation. The Committee must consider whether each allegation is supported by the evidence as to whether there has been a breach of the Code, and dismiss those allegations which are not.
103. The Burden and Standard of Proof. The Burden of Proof lies with the NRCPD, i.e. it is for the NRCPD to prove the allegations. The Standard of Proof to be used by the Professional Conduct Committee when weighing the evidence on the facts is the civil law standard, 'on the balance of probabilities', i.e. it is more likely than not that a given event or omission occurred, in relation to the particular allegation.
104. Notifying the Decisions on Allegations. The Committee will make their findings on fact known to the NRCPD and the Registrant/Trainee on each of the allegations once decided. The decision on each allegation may be given orally when the hearing reconvenes that day or the following day. Alternatively, if the hearing has adjourned to reconvene much later the Committee may provide its finding on each of the allegations in writing.
105. Deciding on Misconduct, Affected Practice and Sanction. It is then for the Professional Conduct Committee to decide whether in relation to each proven allegation there was

misconduct or gross misconduct and whether practice of the Registrant/Trainee is still affected.

- a. The Committee will invite submissions from both parties on these points.
- b. The NRCPD shall in its submissions on these points inform the Professional Conduct Committee of any previous adverse misconduct findings in relation to the Registrant/Trainee. NRCPD may also include other matters which should be drawn to the Committee's attention that are relevant to the decision on sanction, for example aggravating factors in the misconduct, the Registrant/Trainee's insight, any recommendation for a programme of training or supervision to be undertaken by the Registrant/Trainee or the type and term of any sanction. The NRCPD may also include impact statements from those affected by the misconduct and arguments about public protection.
- c. The Registrant/Trainee may include in their submission evidence on character, mitigation, subsequent training and other points relevant to the decision on sanction as they see fit.
- d. If the Professional Conduct Committee considers that one or more proven allegations do not amount to misconduct or gross misconduct, it shall dismiss such allegations.
- e. Where the Professional Conduct Committee finds that, for one or more proven allegation, the conduct of the registrant/Trainee amounts to misconduct or gross misconduct, it shall go on to decide whether the Registrant/Trainee's practice is still affected.
- f. Finally, the Committee will decide on the appropriate sanction or combination of sanctions. The Committee does not have the power to award sanctions other than those set out in paragraph 75. but may specify additional lawful and reasonable terms or conditions for the implementation of and compliance with any such sanction for example a requirement to complete a practice assessment at the end of a suspension.

106. If the Professional Conduct Committee is considering imposing requirements to undertake remedial training or supervision, it shall inform the Registrant/Trainee and consider any representations the NRCPD or the Registrant/Trainee may make as to such requirements before making such a decision.
107. Notifying the Committee's Full and Final Decisions. The Professional Conduct Committee will deliberate on all matters in private. Once the Committee has made all decisions and directions it is required to, it shall communicate these orally to the hearing if it is reasonable and practical to reconvene. Whether decisions are communicated orally or not, the Committee will communicate its full set of decisions in writing within 10 days of the hearing finishing, setting out the reasons for its decision. The parties will be informed of the Committee's decisions and sent the full written decisions as soon as practicable by email and also by recorded, registered or special delivery mail if requested. Notification to the postal address may also take place if there is no response via emails.

Follow up actions to the Committee's Final Decision

108. Right to Appeal. The Registrant/Trainee has 20 working days from being sent the written Committee decision to request an appeal of all or any part of that decision. The appeal request must comply with the rules for appeal set out in Stage 5 below if it is to be accepted.
109. Implementation and Publication of Outcome. Any sanction handed down will not be implemented or published until after the appeal window closes:
- a. If within 20 working days no appeal has been accepted, the sanction is implemented immediately and any Interim Suspension or Interim Restriction that is still in place is immediately discontinued. The case outcome is published as set out in paragraph 79 above.
 - b. If an appeal is received within 20 working days, implementation and publication of the sanctions and case outcome is paused until the appeal has been heard (or is discontinued). Any Interim Suspension or Interim Restriction remains in place in

line with the procedures for Interim Suspensions and Restrictions, and until the Registrant/Trainee's appeal is heard.

110. Sanction Compliance. The Registrant/Trainee's compliance with any sanction will be monitored. NRCPD will issue confirmation of the terms, conditions and time period of the sanction, and in the case of a programme of training and/or supervision, will issue the Registrant/Trainee with instructions for periodic reporting of attainment and attendance in line with the Committee's decision.

111. Sanction Non-Compliance. If there is evidence of a lack of compliance with any Committee sanction the Professional Conduct Manager will notify the Independent Registrar and will refer the matter to Case Examiners. The Registrant/Trainee will have the opportunity to provide written reasons why they have not complied with the Committee's sanctions. Case Examiners will decide if the matter should be referred to another Professional Conduct Committee as a breach of the original Committee's directions and therefore a further breach of the Code of Conduct. If proven, failure to comply with sanctions issued by a Professional Conduct Committee may be considered as gross misconduct.

Stage 5 | Appeals

Making an Appeal

112. Right of Appeal under this Procedure. Registrants/trainees may appeal any finding or sanction made against them by the Professional Conduct Committee and they have 20 working days from the Committee's full written decision being communicated to them to request an appeal. Registrants/Trainees considering an appeal are advised to contact the Professional Conduct team as soon as possible after the Committee decision is received to discuss the procedure and clarify any aspects of it. The general points on delay and time extensions set out in paragraph 39 above also apply to the procedures for appeals.
113. Requesting an Appeal. To request an appeal, the Registrant/Trainee must write to the Independent Registrar, via the complaints team, stating what part of the Professional Conduct Committee's decision is being appealed, the grounds to be relied on (p.113) and the evidence that will be provided to support the appeal. If the request does not contain this information, it is not valid and will not be accepted. Appeals may be made by letter, email, or BSL video letter. Telephone, fax or text message communication will not be accepted.
114. Grounds of Appeal. The allowable grounds for appeal are:
- a. errors in the procedure or conduct of the Professional Conduct Committee hearing; and/or
 - b. availability of substantial and relevant new evidence, which was not available at the Professional Conduct Committee hearing.
115. Decision to Accept an Appeal Request. The Professional Conduct Manager will confirm receipt of the appeal request and notify the Registrant/Trainee whether the request has been accepted by the Independent Registrar. The decision to accept an appeal request is not based on an assessment of the merits of the appeal only that it contains the relevant information to be considered an appeal as set out in paragraph 112. If the request is not accepted the reasons for this will be given and the

Registrant/Trainee may submit an amended appeal request within 10 working days. The appeal window will not be extended beyond this (unless in exceptional circumstances - see paragraph 39).

116. Convening the Appeals Committee. If the Appeal request is accepted, the Professional Conduct Manager will convene an Appeals Committee. It will be formed in the same way as a Professional Conduct Committee (p. 55-58 above) and, in addition, no member of the Professional Conduct Committee whose decision is being appealed may be appointed to the Appeals Committee.
117. Notice and Arrangements for the Appeal Hearing. Paragraph 61 to 64 apply to the giving of notice and making arrangements for the Appeals Committee.

The Registrant/Trainee's Appeal Case

118. Service of Appeal Case and Evidence. The Registrant/Trainee must submit their full written appeal including all the evidence they intend to rely on within 20 working days of the Appeal being accepted by the Independent Registrar. Registrants/Trainees are advised to contact the Professional Conduct Team who can provide neutral advice on the practical aspects of organising the appeal document and the evidence. If the full written appeal submission is not received from the Registrant/Trainee within the timeframe the Appeal proceedings will be discontinued, unless exceptional circumstances apply or an extension has been granted under paragraph 40.
119. Service of Full Appeal Hearing Bundle. The Registrant/Trainee's appeal and evidence will be combined with the other relevant material from the original Professional Conduct Committee (such as a transcript if available) and provided to the Appeals Committee and the Registrant/Trainee 10 working days prior to the Appeal hearing or as soon after that as possible (as p.65 above).
120. The Burden and Standard of Proof. In an appeal the burden of proof lies with the Registrant/Trainee, that is to say that it is for the Registrant/Trainee to prove their appeal case to the Appeals Committee and provide the supporting evidence. The standard of proof is 'on the balance of probabilities' so the Registrant/Trainee must prove their case to the Appeals Committee to this standard.

121. Registrant/Trainee Attendance and Representation. The Registrant/Trainee will be asked to confirm their attendance at the appeal and whether they will be represented (and if so by whom). Registrants/Trainees have the same rights to be represented or accompanied as for a Professional Conduct Committee as set out in paragraphs 80 and 81 above.
122. NRCPD Representation. NRCPD will nominate an appropriate person to present the NRCPD case in response to the appeal as set out in p.82.

The Appeal Hearing

123. Preliminary Steps at the Appeal Hearing. At the appeal hearing, the Appeals Committee will hear the Registrant/Trainee's appeal arguments and consider all the available evidence, and the NRCPD arguments in response. The Appeals Committee has full details of the original proceedings, evidence and reasoned decision of the Professional Conduct Committee. Where there are procedural matters to decide before the Registrant/Trainee presents their appeal, the Appeals Committee may decide to issue case management directions. Examples include but are not limited to: requiring the hearing in private, changing from a remote to an in-person hearing or delay for health reports. Paragraph 84 above regarding adjournments also applies to the Appeals Committee.
124. If the Registrant/Trainee or their Representative does not Attend the Hearing. If the appeal hearing begins and the Registrant/Trainee or their representative is not present, the Appeals Committee shall decide whether to proceed in their absence and shall follow the procedure in paragraphs 99 and 100 above. If the Appeals Committee decides to proceed in the absence of the Registrant/Trainee, they shall conduct proceedings on the basis of the Registrant/Trainee's written appeal submission and supporting evidence within the hearing bundle.
125. Health, Disability and Access to Proceedings. On completion of preliminary matters, the Appeals Committee may invite submissions on matters of the Registrant/Trainee's health and disability in relation to reasonable adjustments that may be requested to enable the registrant to fairly participate in proceedings. If not already provided, such

requests must be supported by sufficient disclosure of circumstances and relevant evidence for the Appeals Committee to consider it. Such matters will be dealt with in private session. The Committee may then make any necessary directions for progressing the Appeal fairly as it deems necessary and/or practical.

126. Granting Leave to Appeal. The Appeals Committee will then hear the Registrant/Trainee's outline Appeal application and decide whether, based on the evidence provided, there are allowable and arguable grounds for appeal (paragraph 110. above). NRCPD will be invited to respond. If the Committee decides there are such grounds, then it will grant leave for the Appeal to go ahead, and this will normally continue straight away. If the Committee is not satisfied that there are grounds for appeal, the Appeal will be dismissed.
127. Form of the Appeal. If leave to appeal has been granted, the Appeals Committee will carry out the appeal as a review of the original proceedings as they relate to the Registrant/Trainee's appeal arguments. The Appeals Committee does not have the power to order a re-hearing.
128. Registrant/Trainee's Full Appeal Presentation. The Appeals Committee will then hear the full Appeal arguments from the Registrant/Trainee and consider all the evidence presented. The Registrant/Trainee may choose to give evidence themselves. The Appeals Committee does not have to look at everything that was considered by the original Professional Conduct Committee, only those elements relevant to considering the Registrant/Trainee's appeal. The Appeals Committee may ask questions and ask for witnesses to attend if applicable and if that assists them. Paragraph 71 and 72 above regarding evidence also applies to the Appeals Committee. If the Registrant/Trainee has given evidence NRCPD will have the opportunity to ask them questions.
129. NRCPD Response to the Appeal Case. The Appeals Committee will then invite NRCPD to make their own submission in response to the Appeal, including any evidence to support the NRCPD response.
130. Variation in Hearing Procedure. If it is in the interests of the fair and efficient conduct of proceedings to do so, the Appeals Committee may vary the exact procedure for the Appeal hearing. They may take advice from the legal adviser and/or be guided by

procedures applicable to the Professional Conduct Committee in doing so.

After the Appeal Hearing

131. Deciding the Appeal Outcome. After both parties have presented their arguments, the Appeals Committee will retire and consider its decision in private. The Appeals Committee may decide: -

- a. To overturn the original Professional Conduct Committee decisions on one or more of the allegations appealed; or
- b. To substitute one or more sanctions imposed by the original Professional Conduct Committee for a different sanction under paragraph 75. Substitution may be for a more severe or a less severe sanction; or
- c. To do both a. and b.
- d. To dismiss the Appeal entirely.

In any decision to substitute the original sanction imposed with another, the Appeals Committee has the same powers as the Professional Conduct Committee set out in paragraph 104.f above and should take the same steps as set out in paragraph 105. in determining the detail of the sanction.

132. Notification of the Appeals Committee's Decision. The Appeals Committee shall notify its decision to all parties as in paragraph 106. above and the Professional Conduct Manager will ensure the Committee's full written decision is sent to the parties without undue delay, and on the day of receipt if possible.

133. Implementation and Publication of Outcome. There is no further right of appeal against an Appeals Committee decision therefore any sanction the Committee has imposed, substituted or left in place, will be implemented when the Committee's written decision is communicated to the Registrant/Trainee. Any Interim Suspension or Interim Restriction that is still in place is immediately discontinued. The case outcome is published as set out in paragraph 79 above.

134. If the Appeal fails, the Registrant/Trainee has no further route of appeal under the NRCPD Professional Conduct Complaints Procedure. The Registrant/Trainee may still have statutory rights, such as Judicial Review.

Supplementary Notes and Provisions

Publication of Case Outcomes

135. It is important for public protection and for confidence in the NRCPD Professional Conduct Complaints Procedure that information about cases that have been dealt with is published. The following principles will be applied when publishing case outcomes:

- a. Case Summaries. The outcome of a case is published in a case summary which contains only the most important aspects of the case.
- b. Identifying Registrants. Where a sanction of practice restriction, suspension or register removal has been applied in a case, the Registrant/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 Professional Conduct Committee (or Appeal Committee if the case is being appealed) 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.
- c. Anonymity. For all other cases the registrant will remain unnamed, and details will be more limited 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.
- d. Appeals. Case summaries will not be published until the time period for making an appeal after a Professional Conduct Committee has lapsed and there is no appeal. If an appeal is made then publication will be postponed until after the appeal is heard by the Appeals Committee.
- e. 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.

- f. Statistics. A statistical record will be published and maintained that summarises archived outcomes of complaint investigations.
- g. Interim Suspensions. Where an Interim Suspension or Interim Restriction is imposed on a Registrant/Trainee this is published to protect the public. The Registrant/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 the risk. The Registrant/Trainee may apply for anonymity in exceptional cases and in deciding on this NRCPD will balance the public interest in publication with the potential harm caused or other factors raised.
- h. The above principles apply in full whether or not a Registrant remains on the NRCPD registers.
- i. Case summaries will be published in English and BSL.

Confidentiality of Proceedings and Case Information.

136. The NRCPD requests that all participants in a complaint investigation keep all information that they may learn about others confidential. We ask that people do not discuss the case with anyone else - either the facts of the case or speculation about it, including with witnesses or other participants. NRCPD will limit the disclosure of information within the case only to those people that need to know it 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 Professional Conduct Complaints Procedure has integrity, and that fairness is afforded to all parties. Confidentiality in this regard means that the parties to a complaint 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 complaint 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.

137. 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 Committee, having due regard to 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 other factors.
138. 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.
139. Case Examiners and Committees may reduce the length of time of a sanction if there is evidence that the Registrant/Trainee 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 Complaints

140. The complaint should be sufficiently investigated by NRCPD staff, so they can distinguish between allegations that are trivial, malicious or vexatious and those that are genuine. If a complaint is found to be trivial, malicious or vexatious, the person making the complaint will be informed of the reasons for that finding in writing. After a decision has been made, the NRCPD will not enter into any further correspondence on the subject.

141. A complaint may be regarded as trivial or vexatious where the NRCPD reasonably believe that a complaint 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 complaint changes the substance of it or raises further trivial or unrelated concerns or questions while the complaint is being addressed.
- c. Complaints 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. Complaints which focus solely on trivial matters.
- e. Complaints which are malicious, false or otherwise intended to cause harm or distress to a Registrant/trainee.
- f. Complaints making racist or other discriminatory statements.

Hearings Being Held in public.

142. Hearings are to be held in public (in-person or online) unless any of the following exceptions apply which will cause the hearing to take place fully or partly in private:

- a. Where the details of the case suggest that the registrant's professional practice may have been affected due to a health concern or there is evidence that needs

- to be given about the registrant's health or disability. Article 8 of the ECHR (right to private life) applies for this exception.
- b. Where members of the public attending the hearing would make it impractical to administer the hearing fairly.
 - 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 details 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 professional or regulated trainee.

The Registrant/Trainee and/or NRCPD may each make submissions on the hearing being in private. The decision on whether to hold a hearing in private is made by the Committee.

Form of Communication.

137. All formal communication by NRCPD with parties, witnesses, Case Examiners the Committee and participants in Committee hearings, shall normally be by email to the last known verified address. Replies to NRCPD by email shall be taken as the formal responses from any party. This includes any and all communication making arrangements for hearings, service of evidence, notification of outcomes, case management directions and any related matter.
138. Emails may have attachments which form part of the communication whether in English or BSL video. Attachments with sensitive content should be password protected with the password sent separately.
139. If there is uncertainty about the email address of a person, NRCPD may supplement communication by email with postal mail, including tracked mail or recorded delivery.
140. Telephone or VRS calls, are not valid forms of communication for formal service of case papers and evidence unless a further written or BSL video statement of the call contents, or other email or hardcopy confirmation, is provided as evidence.
141. For the service of evidence bundles NRCPD may also make use of secure online

storage such as Dropbox, Google Drive or Intranets which must be password protected. Large evidence bundles may be printed for participants in the case for ease of consideration – these will always be sent by the most secure Royal Mail delivery option (or other secure delivery provider), tracked and recorded, double enveloped and with no external markings that indicate the nature of the contents. The Professional Conduct Committee and Appeals Committee may give directions to vary the above as it sees fit for effective case management.

142. Nothing in paragraphs 137 to 141 changes the requirements regarding the nature of evidence in a case, where for example physical hardcopies of original letters may hold greater weight than scanned email attachments.

Appendix 1 | Glossary of Terms Used

This glossary is intended to provide brief explanations of terms used in the Professional Conduct Complaints Procedure where the ordinary meaning of the word is not sufficient.

Admission of facts – the Registrant/Trainee in a case may agree some or all of the facts or allegations against them and does so in this formal document.

Admit evidence – where a Committee decides to allow additional evidence to be included in a hearing.

Affected practice – where a person who has breached the Code of Conduct is found to still be below the required standard at the time of the Professional Conduct Committee hearing their practice is described as still ‘affected’. The term ‘affected practice’ used in this Procedure has the same meaning as ‘impaired practice’ which is more commonly used by other regulatory bodies.

Affirmation - a solemn promise to tell the truth in evidence to a committee when giving evidence orally or in BSL and made without reference to any faith.

Aggravating – factors in misconduct that make a breach of the Code of Conduct a more serious matter. A similar previous breach of the code is also an aggravating factor.

Allegation – a statement of the conduct of a Registrant/Trainee that is said to be a breach of the Code and affected practice.

Application to Committee – this is a request from either party for a Professional Conduct or Appeal Committee to do something in the hearing procedure e.g to admit additional evidence, to dismiss a charge.

Bundle/hearing bundle – a collated set of all evidence to be considered by a Committee at a hearing. This includes witness statements, submissions and supporting evidence.

Case Examiner - a professional person appointed by NRCPD, normally in pairs, to examine allegations of alleged professional misconduct and decide on breaches and sanctions if any or refer to the Professional Conduct Committee. Case Examiners are the lower tier of deciding cases intended where the case is not overly complex or serious, are limited in the severity of sanction they can give and can deal with cases quicker than a full Committee.

Character evidence - evidence that describes the character of the Registrant/Trainee (not the events giving rising to misconduct) normally with the aim of reducing the severity of any sanction. Considered by the Professional Conduct Committee before deciding on sanctions.

Code – the NRCPD Code of Conduct, as amended from time to time.

Complainant - the person who makes a complaint.

Complaint - a report made to NRCPD by anybody alleging that a NRCPD registered professional has breached the NRCPD Code of Conduct.

Convene – to issue the formal instruction for a Committee to form and meet on certain dates to consider allegations of misconduct, or for an appeal.

Expert Witness – a witness who has expert knowledge and credentials of a particular professional, technical or other matter above and beyond that of an ordinary person and is asked to give that evidence to a Committee.

Facts - case examiners and committees will consider evidence alleging misconduct and also evidence from the professional defending against those allegations. The facts are what the Case Examiners and Committees determine is true from the evidence presented and from which will decide whether an allegation is proven or not.

Hearing (committee hearing) – a formal meeting where a Professional Conduct Committee is presented with arguments and evidence about alleged misconduct by NRCPD and by the Registrant/Trainee in response. The Committee then make a decision about the allegations and the sanction to give, if any. May be remote via video or in-person. The same term is used for an Appeal Committee considering an appeal.

Impact statements - statements provided by people who have been affected by the misconduct which can be taken into account by Committees when deciding on sanction.

Interim – relates to a suspension or practice restriction that is put in place whilst misconduct allegations are investigated and until the case is decided or until the Registrant/Trainee's practice is no longer a risk to the public.

Legal Adviser – a barrister, solicitor or other person formally qualified in law in the UK and registered with the relevant regulatory body who is appointed by NRCPD to give independent advice to the Professional Conduct Committee and the Appeals Committee during the hearing of a case.

Listing – the scheduling of dates for a committee hearing.

Gross misconduct – very serious misconduct often associated with dishonesty, or with deliberate or reckless acts done knowing that they were likely to have significant adverse impact on other people, on the professions or to be serious breaches of the Code.

Malicious – relating to a Misconduct Report, a false complaint made to knowingly cause distress and/or reputational harm to a Registrant/Trainee.

McKenzie Friend – McKenzie Friends is an organisation that provides individuals to accompany someone to Court, sits with them, supports them and may take notes. In this procedure the term is used to denote anyone who fulfils that role for the Registrant/Trainee at a committee hearing not necessarily someone provided through McKenzie Friends.

Misconduct - conduct by a Registrant/Trainee that falls far below the standard to be expected of a Registrant/Trainee.

Mitigation – factors which reduce the seriousness of a Registrant/Trainee’s conduct and may indicate reasons for considering a lesser sanction.

Party/Parties - the two sides being argued in a misconduct case – always the NRCPD and the Registrant/Trainee.

Practice restriction - a sanction imposed on a registered professional to limit their practice to prevent harm whilst they take the steps to improve their practice and/or improve insight and understanding of working within their skills.

Professional Conduct Committee - a committee of three people chaired by a retained lay professional, supported by a legal adviser, convened to consider all the evidence and arguments in a misconduct case at a hearing and to make a decision. Previously named the Complaints Committee.

Professional Conduct Manager – is the manager of the NRCPD complaints staff and is responsible for administering the Professional Conduct Complaints Procedure including investigation of cases and preparation and support to committee hearings. The Professional Conduct Manager plays a neutral role in steering cases through the procedure and is not the person who presents cases for NRCPD at hearings.

Proportionate - when something is done at the minimum reasonable scale to achieve the intended outcome.

Reasonable adjustments – this term has the same meaning as under the Equality Act 2010.

Reconvene – when a Committee returns to continue a hearing where they left off after adjourning or after retiring to deliberate.

Registrant - a professional registered with NRCPD and fully qualified in the relevant profession.

Registrant/Trainee – the term used throughout the procedure to mean the person alleged to have breached the Code and who could be either a Registrant or a Regulated Trainee.

Independent Registrar – the person in NRCPD responsible for the Registers and the key decision maker with regard to the continuation of complaints and referral to Case Examiners, based on the assessment of evidence - a role held by a senior member of staff who is not the Professional Conduct Manager.

Regulated trainee - a professional registered with NRCPD and enrolled on a relevant qualifying course but not yet fully qualified.

Religious oath – a promise by a witness to tell the truth to a Committee when giving evidence orally or in BSL and made in accordance with someone’s faith.

Respondent – the person in a case who is responding to allegations against them – the Registrant/Trainee.

Retained Lay Professional – a person who is not connected to the professions registered with NRCPD but is otherwise a professional person with experience of tribunal and/or regulatory proceedings and chairing disciplinary committees or tribunals. Retained by

NRCPD to chair Professional Conduct and Appeals Committees.

Retire – when a Committee leaves a hearing for a period to deliberate in private and make a decision.

Sanction - a mandatory requirement, restriction or other direction given to a Registrant/Trainee by Case Examiners or by a Committee, if found in breach of the Code of Conduct. Available sanctions are listed in the Procedure.

Serious – a serious breach of the code refers to a violation of the ethical and professional standards set out in the Code of Conduct. Typically involving behaviours by a Registrant or regulated trainee that deviate from these prescribed guidelines potentially resulting in undermining public trust, jeopardising the wellbeing of professionals, damaging the integrity of the profession or bringing the profession into disrepute.

Service (of evidence or notices) – the sending to the Registrant/Trainee of any material relevant to the investigation and hearing.

Submission - an argument made to a Committee, may be orally, BSL signed, or written. May include evidence. Whenever one party makes a submission the other party always has the chance either to make a submission at the same time or later in response.

Suspension – a formal sanction withdrawing a Registrant/Trainee's NRCPD registration for a limited period to enable practice development and improvement. Or if an Interim *Suspension*, to protect the public whilst investigations continue.

Warning – a formal sanction to warn a Registrant/Trainee that they must correct their practice or their competence so that the proven misconduct does not occur again.