

NRCPD

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

Complaints Process

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1. This document explains the process that the National Registers of Communication and Language Professionals ('NRCPD') will follow when a complaint is made about a Registrant or Trainee.

Definitions

2. Register: the National Registers of Communication and Language Professionals ('NRCPD').
3. Registrant: a communication and language professional who is registered with NRCPD.
4. Trainee: someone who is in training to become a communication and language professional and is regulated by NRCPD.
5. Complainant: the person who makes the complaint.
6. Investigating officer: a person appointed by NRCPD to investigate a complaint.
7. Case examiner: a person appointed by NRCPD to examine a case.

Stage 1 | Initial Complaint

8. Wherever possible minor complaints should be made during or after the assignment to the Registrant or Trainee and/or the organisers of the assignment. Every effort should be made to resolve problems informally and before the complaint is made to the Registers.
9. Any complaints which have been submitted to the police, are pending court action, are referred to a statutory regulator, or sent to any other national regulatory body will not be investigated by the Registers until the conclusion of action elsewhere. Where, in the opinion of the Registration Manager, complaints should be referred to the police or to another regulatory body prior to investigation, the complainant will be advised to do so before any investigation commences.
10. If a complaint cannot be resolved informally, or where a serious breach of the Code of Conduct is alleged, the complaint should be made to NRCPD. All complaints should be sent to the Registration Manager, preferably using the complaint form (Appendix 1).

Complaints by video letter, written letter or email, should follow the structure of the questions in the complains form as far as possible. Complaints cannot be made by telephone or text telephone, or by fax.

11. The Registers have the right to seek additional information about a complaint or additional information to assist the investigation of a complaint or a committee hearing.
12. All complaints must identify the name, address and contact details of the complainant. Anonymous complaints will not be accepted unless the complaints can be independently verified by other means.
13. The Registration Manager will assess the complaint to make sure
 - a. it is about a Registrant or Trainee;
 - b. the assignment took place less than six months ago;
 - c. what the Registrant or Trainee is alleged to have done is a breach of the Code of Conduct;
 - d. it is not a vexatious complaint; and
 - e. it is not an anonymous complaint.
14. If the complaint does not satisfy those conditions the Registration Manager will decide there is no case to answer. The Registration Manager may take professional advice. The Registration Manager will inform all parties that the matter is closed within five working days of the receipt of the complaint.
15. If the complaint does satisfy those conditions the Registration Manager will inform all parties within five working days of the receipt of the complaint. The Registration Manager will refer it for investigation within five working days of sending the receipt of the complaint.
16. Normally complaints will only be considered where the assignment or incident giving rise to the complaint occurred within six months of the complaint being made. This time limit does not apply to complaints which
 - a. are based upon a criminal conviction or caution or determination of another regulator; and

- b. complaints which, in the opinion of the Registration Manager, appear to be serious and in respect of which the time limit should be waived in the public interest or in order to protect the public.

Suspension

17. At any point after the receipt of a complaint, the Registration Manager may decide the nature of the allegations suggests the Registrant or Trainee's registration should, without prejudice, be suspended or subject to conditions pending the outcome of the Complaint Committee's consideration. If they so decide, the Registration Manager shall ask a retained lay professional to review such a decision.
18. The Registrant or Trainee may appeal the decision of the lay professional to sanction a suspension or conditions. They must appeal to the Registration Manager in writing.
19. The appeal will be considered by a panel of three appropriately qualified retained lay and standards professionals, who have had no prior knowledge of the complaint. The Registrant or Trainee will not be allowed to submit a new appeal within 30 working days of any previous appeal.

Stage 2 | Investigation

20. Within five working days of them receiving the complaint the investigating officer will contact the complainant to
 - a. explain the investigation process;
 - b. tell them their complaint will be shared with the Registrant or Trainee; and
 - c. tell them they might need to provide additional information, which will also be shared with the Registrant or Trainee, before the Investigating Officer makes a decision.
21. Within five working days of them receiving the complaint the investigating officer will contact the Registrant or Trainee to
 - a. tell them someone has made a complaint against them;
 - b. give them a copy of the complaints form;

- c. summarise the details of the complaint and how it alleges a breach of the Code of Conduct;
- d. provide details of the process to be followed for investigations;
- e. request a response to the complaint within 20 working days;
- f. tell them their response may be shared with the complainant; and
- g. tell them they will have the opportunity to respond to additional evidence or information collected by the Investigating Officer before a decision is taken.

22. The complaint and the response to the complaint will be considered by the investigating officer. They will decide whether any additional information or evidence is needed.

23. Any new information will be sent to the Registrant or Trainee. They will have the opportunity to respond within 20 working days.

24. After that period has elapsed, the investigating officer will pass the evidence and, where appropriate, advice to two case examiners within 10 working days. They will review it to decide if

- a. there is a realistic prospect of a finding of impairment of fitness to practise; and
- b. it is in the public interest to refer the case to the Complaints Committee.

25. If the case examiners decide there is a realistic prospect of a finding of impairment of fitness to practise and it is in the public interest to refer the case to the Complaints Committee, the case must be referred to the Complaints Committee.

26. If the case examiners decided there is not a realistic prospect of a finding of impairment of fitness to practise the case must be closed.

27. If the case examiners decide there is a realistic prospect of a finding of impairment of fitness to practise but it is not in the public interest to refer the case to the Complaints Committee, they will advise the Registers to

- a. take no further action;
- b. give advice to the Registrant or Trainee;
- c. give a warning to the Registrant or Trainee regarding their future conduct or performance;

- d. agree undertaking with the Registrant or Trainee;
- e. grant a Registrant or Trainee's application for voluntary removal from the Register(s); or
- f. refer the complainant and Registrant or Trainee to mediation.

28. The decision of the case examiner will be communicated to all parties within 10 working days.

29. The case will be referred to the Complaints Committee immediately if

- a. the Registers and case examiner(s) cannot agree; or
- b. the Registrant or Trainee does not accept their decision; or
- c. mediation is unsuccessful.

30. Unreasonable delay or failure by a Registrant or Trainee to respond to a complaint will not prevent the complaint being referred to the Complaints Committee.

Stage 3 | Mediation

31. In all of the circumstances of the complaint, including any issues of public confidence in the integrity of the Registers, mediation is an appropriate means of addressing and resolving a dispute.

32. The case examiners have the discretion to refer the complaint to the mediation process. Any party who disagrees with the decision of the case examiners can ask that a retained lay professional review the decision and make a determination afresh. Any such request must be made within five working days of the date of the case examiners' decision, and give reasons for the request. It can be in writing or sign language. The review and determination by the lay professional shall be final and to be communicated within 10 working days of the receipt by the Registers of the request.

33. If the case examiners decide the complaint is suitable for mediation, the Registration Manager will contact both parties and ask for their agreement for the mediation to take place. They will have ten working days to respond.

34. As one of the key features of mediation is that it is a voluntary process, both the complainant and the Registrant or Trainee must agree to mediation, in order for the mediation to take place.
35. The mediation will be carried out by someone experienced in mediation and who can act with independence and impartiality. If there are any circumstances which may call the mediator's independence into question or create a conflict of interest, the mediator must bring this to the attention of the parties and the Registration Manager immediately. These circumstances include
- a. any personal or business relationship with one or more of the parties;
 - b. any previous knowledge of or involvement in the complaint;
 - c. any financial or other interest, direct or indirect, in the outcome of mediation; and
 - d. the mediator having acted in any capacity other than a mediator for any of the parties.
36. In such cases the mediator may only agree to act or continue to act if
- a. they are certain of being able to carry out the mediation impartially;
 - b. the parties explicitly consent; and
 - c. the mediator's involvement would not bring into question the fairness of any mediation or undermine the public's faith in the ability of the Registers to consider complaints about Registrant or Trainees.
37. The process for mediation will be flexible and discretion shall be left with the mediator as to how mediation will be carried out. However, the main objective of mediation is to resolve a complaint in a way that
- a. the mediator, complainant and Registrant or Trainee agree to be satisfactory;
 - b. avoids the need for a complaint hearing; and
 - c. meets the overarching duties and responsibilities of the Registers.
38. The complainant and Registrant or Trainee will sign the agreement to mediate form (Appendix 2) to signify their agreement to engage in mediation and their agreement to and acceptance of the mediation process. The mediator will likewise sign the form to confirm their agreement to mediate in the specific situation. A copy of the form will be kept by the Registers.

39. Both the complainant and the Registrant or Trainee must agree to co-operate with the mediator and provide reasonable responses to queries or requests for additional information.
40. Both the complainant and the Registrant or Trainee should enter into this stage of the process with the aim of reaching agreement, accepting the need to compromise.
41. Throughout the mediation the complainant and the Registrant or Trainee, and any representatives, shall use their reasonable best efforts to cooperate with each other and with the mediator to settle their differences and enable the mediation to proceed expeditiously.
42. The parties agree that
 - a. each mediation meeting will be confidential and without prejudice;
 - b. the mediator cannot be called as a witness in any subsequent complaint hearing or any other proceedings, including any legal proceedings in any court or any arbitration; and
 - c. no formal notes will be kept.
43. The outcome of the meeting should be a formal agreement, requiring the complainant and the Registrant or Trainee to confirm their agreement with the outcome of the mediation.
44. If one or both sides cannot agree on a resolution, the complaint will be referred to the Complaints Committee.
45. Ground rules for the mediation will be set out by the mediator and agreed by the complainant and the Registrant or Trainee. They may include
 - a. the timescales involved and the role of the mediator;
 - b. how the mediation will be carried out;
 - c. the need for the complainant and Registrant or Trainee to listen to the other side without interrupting;
 - d. the opportunity for the complainant and Registrant or Trainee to respond to the other person;

- e. who may accompany the complainant and Registrant or Trainee (it will be for the mediator to decide who can attend other than the complainant and Registrant or Trainee because having other people present may hinder the ability to speak freely, but the complainant or Registrant or Trainee may be assisted by having support at the meeting);
- f. any person accompanying either the complainant or Registrant or Trainee likewise agrees to maintain the confidentiality of the mediation and not to disclose any matter raised in the mediation or in preparation for it;
- g. the function of the mediator to help identify the issues that need to be dealt with (this can lead to ideas or solutions that no-one had thought of before, and can help both sides reach an agreement, but the parties retain the exclusive decision making power);
- h. confirmation that any agreement or decision by the complainant and Registrant or Trainee is to be recorded and is binding on both parties, signed by both sides and the mediator; and
- i. a mutually agreed resolution by both parties will be kept confidential and not published on the Registers.

46. The procedure for the meeting will be determined by the mediator but will follow the following general principles.

- a. The mediator may meet the complainant and the Registrant or Trainee separately and ask them to explain how they see the situation, how they would like it to change and how they feel it could be settled.
- b. This would then be followed by a meeting involving both sides, unless there is agreement between the complainant and Registrant or Trainee to meet jointly with the mediator from the outset.
- c. The mediator will support and facilitate discussion of the issues, moving to negotiation and a resolution.
- d. The meeting will usually last for three hours, unless there are circumstances which mean more time is needed.

- e. The mediation cannot and will not force either side to agree on a solution but will make sure the process is fair and both sides show each other respect. If both sides cannot agree on an outcome, the complaint shall be referred to the Complaints Committee.
- f. The mediator retains the power and discretion to terminate the mediation at any time after consultation with the parties, informing them that in their opinion further attempts at securing an agreed outcome through mediation are no longer appropriate.

Exclusion of liability

47. Neither the Registers nor the mediator shall be liable to any party or to any other participant in the mediation for any act or omission in relation to or arising out of any mediation initiated under these Rules or any settlement of the dispute. This exception shall not exclude a person's liability for that person's fraud.

48. No communication made during the course of the mediation shall be relied upon to found or maintain any action for defamation, libel, slander or any other claim or complaint.

Possible outcomes

49. It is up to both sides to agree an outcome that suits the situation and meets the merits of the complaint and the responsibilities of the Registers. Possible outcomes include
- a. an apology;
 - b. the Registrant or Trainee changing how they do something in the future to stop the same situation happening again; or
 - c. a promise to do something to remedy the current position.

Agreement

50. If the complainant and Registrant or Trainee reach an agreement, the mediator will help to draft the agreement. The complainant, Registrant or Trainee and mediator will sign it. It will remain confidential unless both parties agree to disclose details of the agreement.

51. If mediation does not produce an agreement and the mediator's professional view (in consultation with the parties) is that further attempts to secure resolution through mediation are no longer appropriate, the mediator will terminate the mediation and certify the same. The matter will be referred to the Complaints Committee.
52. A copy of the signed agreement will be kept by the Registers. It will be confidential and not disclosed to anyone outside of the Registers without the permission of the complainant and the Registrant or Trainee.
53. Where a Registrant or Trainee does not comply with any part of the agreement reached through mediation, the Registration Manager will refer the matter to a qualified retained lay professional. The Registrant or Trainee will have the opportunity to provide written reasons why they have not complied with the agreement. The lay professional will decide if the matter shall be referred to the Complaints Committee as a breach of the mediation agreement and therefore a further breach of the Code of Conduct. An unjustifiable failure to comply with an agreement reached through mediation will be considered as professional misconduct.

Confidentiality

54. The mediation process is confidential, without prejudice and not binding until an agreement is signed. The 'without prejudice' nature of mediation means neither the complainant nor the Registrant or Trainee can refer to the issues discussed in mediation in any subsequent complaint hearing, court proceedings or arbitration. Exceptions are explained below.
55. The Registers will have access to the agreement. The agreement will not be disclosed to anyone else without the permission of the complainant and Registrant or Trainee.
56. The complainant and Registrant or Trainee will be made aware that the mediation process is confidential. Before the mediation process starts they will be asked to sign a written agreement that they will not disclose anything raised during the mediation without the approval of the other person.
57. All records, reports, or other documents received by a mediator, as well as all notes taken by the mediator during, with reference to, or for the purposes of, the mediation

should be returned to the Registration Manager or kept secure until no longer needed for any purpose relating to the mediation and then destroyed.

58. The exceptions to confidentiality are

- a. if anything important is mentioned during the mediation process that was not previously known, and which raises additional serious conduct concerns that are different from the original complaint, the mediator may refer the new information to Stage 1 of this process for a new complaint, because the Registers must protect the public and investigate any serious concerns;
- b. the mediator reasonably considers that the life or safety of any person is or may be at serious risk;
- c. the mediator reasonably considers that a safeguarding issue arises in relation to a child or vulnerable adult and accordingly needs to disclose information to statutory authorities, including the Police, without further notice; and
- d. disclosure of otherwise confidential information is otherwise required by law, saving and except that the parties have agreed not to call the mediator in any proceedings, including any legal or arbitral proceedings.

Stage 4 | Complaint hearings

59. The Complaints Committee will consist of three retained professional people excluding any

- a. who has previously been involved in the complaint;
- b. who has any prior knowledge of the complaint; or
- c. knows of any of the people involved in the complaint

insofar that their involvement would bring into question the fairness of any hearing or would undermine the public's faith in the ability of the Registers to consider complaints about Registrants or Trainees.

60. The Complaints Committee will consist of

- a. two professional standards experts with experience and status in the professional fields covered by the Registers or in the training, assessment, use and employment of Registered professionals in the deaf and deafblind field; and

- b. one lay person, someone who is neither a Registrant nor a Trainee, with either a legal background or experience in managing complaints, compliance and arbitration.

61. The lay person will chair the Complaints Committee.
62. The Complaints Committee will have the power to obtain or refer to further professional expertise if it deems this to be necessary. This may include professional or expert witnesses. The parties will be informed of any such expertise received by the Complaints Committee and will be able to challenge this expertise if they so choose.
63. The Complaints Committee will have the power to instruct an independent legal assessor (solicitor or barrister) to advise them on process or procedure. The parties will be informed of any such advice given to the Complaints Committee and will be able to challenge such advice if they so choose.
64. The Registration Manager will facilitate any requests from the Complaints Committee.
65. The Registration Manager will inform the complainant and the Registrant or Trainee of the date of any hearing, giving at least 40 working days' notice, and provide them with a copy of the Complaints Committee procedural guidance (Appendix 3). The notice to the Registrant or Trainee will include a full list of all the charges or allegations to be presented at the hearing and all the evidence to be relied on by the Registers. All subsequent evidence or information which arises shall be sent to the Registrant or Trainee immediately. All correspondence relating to the hearing will be sent to all parties by registered, recorded or special delivery mail. The Registrant or Trainee will be written to at the address which the Registrant or Trainee last provided to the Registers.
66. The Registrant or Trainee will provide the Registration Manager a copy of all evidence, statements or documents they intend to rely on, within 20 working days after receipt of the notice of a hearing. The Registrant or Trainee will send all subsequent evidence or information which arises to the Registration Manager immediately.
67. The Complaints Committee will hear the complaint and consider all the available evidence. It shall follow the procedural guidance set out in Appendix 3.

68. The Complaints Committee may hear any evidence that would be admissible in civil proceedings in the appropriate part of the United Kingdom. It may also treat other evidence as admissible if it would be helpful to the Complaints Committee and in the interests of justice for that evidence to be admitted. The Committee will have discretion to admit evidence served outside the timetable for service of evidence. The general rule is that if the evidence assists the panel in making their decision and it is in the interests of justice and the public to include such a document it should be included.

69. At the conclusion of the hearing the Complaints Committee can

- a. reject the complaint on the grounds that the evidence does not support the charges and no record of the complaint or the hearing will be kept;
- b. uphold the complaint without taking disciplinary action if, for example, the breach of the Code of Conduct was of insufficient severity to warrant any penalty;
- c. uphold the complaint and issue to the Registrant or Trainee one or a combination of the following sanctions:
 - i. a formal written warning indicating ways in which similar breaches may be avoided in future;
 - ii. a written requirement to undertake appropriate training or remedial action, detailing what action is required;
 - iii. suspension from the Registers for a period to be determined by the Committee, of up to twelve months; and/or
 - iv. removal from the Registers.

70. Sanctions issued in response to upheld complaints will be published on the Registers and a record will be kept on file. The name of the Registrant or Trainee and a summary of the details of the findings will be published, but not details of the complainant or any other witnesses.

71. In considering cases of impairment of fitness to practise, the Committee will consider:

- a. Are the facts which are said to constitute misconduct found proven? For example, did the Registrant or Trainee tell other people about the facts of one of the assignments they were involved in, thereby breaching confidentiality?

- b. If the facts are proven, do they amount to misconduct, notwithstanding that it might be a breach of the code? For example, did the Registrant or Trainee know they had to respect confidentiality? Did the Registrant or Trainee know that in doing what they were doing they failed to respect confidentiality? Are there any factors which explain why they didn't? Did they take any steps to respect confidentiality? Did they think they had consent of the subject? Over how long a period? How basic a breach of the fundamental tenets of the profession is this?
- c. If misconduct is found, is the Registrant or Trainee's fitness to practice currently impaired by reason of this misconduct? For example, will the Registrant or Trainee do it again? Does the Registrant or Trainee pose a risk to the public? What would the public think if they knew the Registrant or Trainee had done this and there was no finding of impairment of fitness to practise?

72. Where a Registrant or Trainee has previous adverse findings following previous complaints, the Complaints Committee will be informed of this after they have upheld the complaint but before they consider which sanction to apply. It is for the Committee's discretion whether or not this will be taken into consideration.

73. Within 10 working days of the hearing the Complaints Committee Chair will send a written report to the Registration Manager summarising the case, outlining the decision made and sanctions imposed (if any). On receipt of the report the Registration Manager will inform the complainant and the Registrant or Trainee of the Committee's findings by registered, recorded or special delivery mail. Normally this will be within 10 working days of the decision being taken.

74. Where a Registrant or Trainee does not comply with any sanctions issued by a Complaints Committee, the Registration Manager will refer the matter to the Chair of the original Complaints Committee (or in their absence another lay professional). The Registrant or Trainee will have the opportunity to provide written reasons why they have not complied with the Committee's sanctions. The Chair or the lay professional will decide if the matter shall be referred to another Complaints Committee as a breach of the Complaints Committee's directions and therefore a further breach of the Code of Conduct. A failure to comply with sanctions issued by a Complaints Committee will be considered as professional misconduct.

Representation

75. The Registrant or Trainee may appear in person or be represented at the hearing by a Solicitor or Barrister, a trade union representative, or by a friend or other appropriate person. A person who is represented shall be treated for the purposes of these procedures as having attended. The Registrant or Trainee may also submit a written defence or mitigation, without attending in person. The Complaints Committee shall consider a written response as part of the hearing and determine what weight to attach to such a response.

76. The Registers may appoint a member of staff, solicitor, barrister or another suitable person to present its case to the Complaints Committee.

The start of the hearing

77. The Chair of the Complaints Committee may, on behalf of the Committee or upon the application of any party, at any stage of the hearing, postpone the hearing to a later date.

78. If, upon application or upon legal advice, it appears to the Chair that a charge should be amended, the Chair shall give such directions for the amendment of the charge as they may think necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without unduly prejudicing the Registrant or Trainee's case.

79. At the start of each hearing

- a. the charge or charges shall be read to the Committee; then
- b. the Registrant or Trainee, if they or their legal representative is in attendance, shall be asked whether the facts alleged are admitted in each charge.

Uncontested charges

80. Where at a hearing the Registrant or Trainee admits all alleged facts, including factual particulars and any allegation of misconduct and or impairment of fitness to practise in any charge or charges against them, the Complaints Committee shall consider that the facts alleged in such a charge or charges have been proven.

81. The Registers shall provide evidence of the circumstances leading to the charges and the character and any relevant previous history of the Registrant or Trainee. Only one such address to the Complaints Committee may be made at this point in the proceedings.

82. The Registrant or Trainee or their legal representative shall then be invited to address the Complaints Committee by way of mitigation and may present evidence as to the circumstances leading up to the relevant facts, the extent to which such facts relate to the matters set out in the charges, and their character and previous history. Only one such address to the Committee may be made at this point in the proceedings.

Contested charges with the Registrant or Trainee present

83. In a case where a Registrant or Trainee does not admit the charges, the following order of proceedings will be followed as far as reasonably possible.

84. The Registers will outline and summarise the case against the Registrant or Trainee, present the facts and present evidence on which the complaint or information is based. Witnesses may be called to provide evidence. The Registrant or Trainee will have the opportunity to cross examine any witnesses. The Registers will then have the opportunity to re-examine any witnesses on issues raised in cross examination.

85. If in respect of any charge, no evidence is presented, the Complaints Committee will announce a finding that the charge shall be dismissed.

86. At the close of a case against the Registrant or Trainee, the Registrant or Trainee or their legal representative may make the following submission relating to any charge:

- a. that insufficient evidence has been presented upon which the Complaints Committee could find that the facts alleged, including factual particulars and any allegation of misconduct and or impairment of fitness to practise in the charge have been proved;
- b. a procedural flaw or error has been committed which should result in a charge, or charges, being dismissed; or
- c. case law or other legal guidance suggests that a charge, or charges, should be dismissed.

87. If such a submission is made, the Complaints Committee will invite the Registers to respond to the submission, seek any relevant legal advice, consider and determine whether the submission should be upheld and, if they agree, they shall record a finding that the relevant charge shall be dismissed.
88. The Registrant or Trainee or their representative may then open their case upon any charge which remains outstanding. The Registrant or Trainee may present evidence in answer to any such charge. Witnesses may be called to provide evidence. The Registers shall have the opportunity to cross examine any witnesses. The Registrant or Trainee will then have the opportunity to re-examine any witnesses on issues raised in cross examination.
89. The Complaints Committee has the right to ask questions of witnesses giving evidence before them. Usually the Committee will ask questions after the witness has been cross examined.
90. The Registers may then address the Complaints Committee to summarise the facts of the case as presented by the Registers.
91. The Registrant or Trainee or their representative may then address the Complaints Committee to summarise the facts of the case as presented by or on the Registrant or Trainee's behalf.

Contested and uncontested charges without the Registrant or Trainee present

92. Where the Registrant or Trainee does not appear and is not represented, the Chair of the Complaints Committee will ask the Registers to satisfy the Committee that a letter has been sent to the Registrant or 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. If it appears to have been properly sent then the Committee may go on to consider whether or not to proceed in the absence of the Registrant or Trainee. If it does not appear to have been properly sent, the Committee may adjourn the hearing to another date.
93. Factors a Complaints Committee will consider when deciding whether to proceed in the absence of the Registrant or Trainee or not include whether or not the absence is

deliberate and whether an adjournment might result in the Registrant or Trainee's attendance.

94. Where the Registrant or Trainee does not appear and is not represented and the Complaints Committee has decided to proceed with the hearing, it shall hear evidence of the case presented by the Registrant and any written submissions or evidence submitted by the Registrant or Trainee. The Committee will decide whether the evidence supports the charges.

Considering the charges

95. On the conclusion of the proceedings above, the Complaints Committee will come to an agreement on each outstanding charge as to whether the evidence presented supports the charge to their satisfaction on the balance of probabilities.

96. The Complaints Committee must consider whether each of the charges are supported by the evidence and, if not, dismiss those charges which are not. The Burden of Proof to be used when weighing the evidence is the civil Burden of Proof, that is 'on the balance of probabilities'. The Complaints Committee will make their findings on each of the charges known to the complainant and the Registrant or Trainee in the form of a written decision with reasons.

97. If the allegations are found to be proven the Complaints Committee must then decide whether the Registrant or Trainee's actions, behaviour or performance amounts to professional misconduct or impairment of fitness to practise.

98. If the Complaints Committee considers that, while the facts support the charges, the allegations do not amount to professional misconduct or gross professional misconduct, it shall dismiss the charges and there shall be no public record kept of the hearing or the complaint.

99. If the Complaints Committee finds that there is evidence of either professional misconduct or gross professional misconduct it shall inform the hearing and shall give its reasons in a written decision. The Registrant shall then inform the Complaints Committee of any previous adverse findings in relation to the Registrant or Trainee or other matters which should properly be drawn to its attention.

100. The Chair of the Complaints Committee will then invite the Registrant or Trainee or their representative to address the Complaints Committee by way of mitigation and to provide evidence in support of mitigation if the Registrant or Trainee so wishes.
101. If the Complaints Committee is considering imposing requirements to undertake remedial action or training it shall inform the Registrant or Trainee and consider any representations the Registrant or Trainee may make as to such requirements before making such a decision.
102. The Complaints Committee will direct the Registration Manager as to the persons to be informed of their decision.
103. The Complaints Committee will deliberate all matters in private and make their decision known in a written form in which they give reasons for their decision. The Complaints Committee, with the agreement of the complainant and Registrant or Trainee, may adjourn its decision on any relevant penalty to another date, in which case the Registrant or Trainee and any other parties will be informed of the penalty by recorded, registered or special delivery mail. The sanction will come into force on the day it is handed down.

Stage 5 | Appeals Committee

104. Grounds for appeal are
 - a. errors in the procedure or conduct of the Complaints Committee hearing; and/or
 - b. availability of substantial and relevant new evidence, which was not available at the first hearing.
105. Appeals must be made within 20 working days of receipt of the communication of the Complaints Committee's decision. Appeals must be made by letter, email or video letter, to the Registration Manager stating the grounds for appeal. Telephone, fax or teletext communication will not be accepted. The Registration Manager will confirm receipt of the appeal within five working days of receiving it.
106. The Registration Manager will convene an Appeals Committee. It will consist of three retained professional people excluding any

- a. who has previously been involved in the complaint;
- b. who has any prior knowledge of the complaint; or
- c. knows of any of the people involved in the complaint

insofar that their involvement would bring into question the fairness of any hearing or would undermine the public's faith in the ability of the Registers to consider complaints about Registrants or Trainees.

107. The Appeals Committee will consist of

- a. two professional standards experts with experience and status in the professional fields covered by the Registers or in the training, assessment, use and employment of Registered professionals in the deaf and deafblind field; and
- b. one lay person, who is neither a Registrant nor a Trainee, with either a legal background or experience in managing complaints, compliance and arbitration.

108. The lay person will chair the Appeals Committee.

109. The Appeals Committee will have the power to obtain or refer to further professional expertise if it deems this to be necessary. This may include professional or expert witnesses. The parties will be informed of any such expertise received by the Appeals Committee and will be able to challenge this expertise if they so choose.

110. The Appeals Committee will have the power to instruct an independent legal assessor (solicitor or barrister) to advise them on process or procedure. The parties will be informed of any such advice given to the Appeals Committee and will be able to challenge such advice if they so choose.

111. The Registration Manager will facilitate any requests from the Appeals Committee.

112. The Appeals Committee will normally consider the appeal within two months of the receipt of the communication of the appeal.

113. The Appeals Committee will hear the appeal and will

- a. find in favour of the appellant and overturn the original Committee decision in respect of any or all of its findings;

- b. agree with the original Complaints Committee decision but, where relevant, change the sanction imposed; or
- c. agree with the original Complaints Committee decision and, where relevant, the sanction imposed.

114. The Appeals Committee will hand down a written decision, with reasons, within ten working days of the appeal hearing. The Chair of the Appeals Committee will send a report to the Registration Manager outlining the outcome of the appeal and any changes to the sanctions imposed where relevant.

115. Within five working days of receiving the Appeals Committee report the Registration Manager will inform the complainant and the Registrant or Trainee of the decision, and take any action that is required concerning the Registrant or Trainee's registration status.

116. Following the decision of the Appeals Committee the Registrant or Trainee's registration file will be amended appropriately where necessary.

Appendix 1 | Complaint form

Name of person making complaint	
Date	
Postal address	
Email address	
Telephone number	
Text number	

Name(s) of the Registrant(s) or Trainee(s) being complained about	
Date of assignment If it was more than six months ago, please explain why you did not submit the complaint earlier.	
Time of assignment	

<p>Location of assignment</p>	
<p>Who booked the Registrant(s) or Trainee(s) for the assignment?</p> <p>Please tell us if the Registrant or Trainee was booked directly or through an agency.</p>	
<p>What happened?</p>	
<p>Who else was there?</p> <p>If for confidentiality reasons you cannot provide names, please explain why they were there.</p>	
<p>Have you tried to talk to the Registrant(s) or Trainee(s) about what happened?</p>	<p>Yes / No</p>

<p>If you have you tried to talk to the Registrant(s) or Trainee(s) about what happened, please give details</p>	
<p>Which section(s) of the Code of Conduct do you think the Registrant(s) or Trainee(s) did not follow?</p>	
<p>What else do you want to tell us?</p>	

Appendix 2 | Agreement to mediate form

1. The mediation process to be followed is outlined in Stage 3 of the Complaints Process. As a guideline, the duration of the process will normally be three hours.
2. The mediator, the Registrant or Trainee and complainant are to read all relevant papers received in advance of the hearing. Requests for clarification and queries must be sent to the Registration Manager in the first instance.
3. The Registrant or Trainee and complainant (the parties) will be invited into the mediation and the confidentiality and procedures will be explained.
4. The proceedings of the mediation are confidential and the public is excluded.
5. To enable the mediation process to proceed, both parties must be present. If either or of the parties do not attend the mediation, the matter will be referred to the Complaints Committee.
6. If a mutually agreed resolution is not reached the matter will be referred to the Complaints Committee.
7. A decision on each individual allegation must be reached.
8. Reasonable timescales will apply to the procedure outlined above. Any decision agreed by the parties shall weigh the balance of the fairness of the decision and the public's perception of the actions of the Registers and the need to protect the public.

THIS AGREEMENT dated

IS MADE BETWEEN

_____ (**'the complainant'**)

of _____

and

_____ (**'the Registrant/ Trainee'**)

of _____

together referred to as **'the Parties'** and

_____ (**'the Mediator'**)

(a term which includes any agreed Assistant Mediator) and

the National Registers of Communication Professionals working with Deaf and Deafblind People (**'the Registers'**)

in relation to a mediation to be held

on _____

at _____

'the Mediation').

IT IS AGREED by those signing this Agreement THAT:

The Mediation

1. The Parties agree to use their best endeavours to attempt in good faith to settle their dispute at the Mediation. The Parties agree to conduct the Mediation in accordance with this Agreement and in a way that complies with the Registers' Mediation Procedure and the EU Code of Conduct for Mediators. This Agreement covers the Mediation itself and all steps up to it, including any correspondence.

Authority and status

2. The person signing this Agreement on behalf of each Party confirms that they have the authority to make the Party subject to all of the terms of the Agreement. The person signing confirms that they have the authority to do this for the Party and for all other persons who are present at the Mediation on that Party's behalf. The person signing confirms that they have the authority to make the Party subject to comply with the terms of any settlement or agreed resolution of the dispute.
3. Neither the Mediator nor the Registers will be liable to the Parties for any act or failure to act in relation to the Mediation. The exception is where the act or failure to act is proved to have been fraudulent or involved deliberate misconduct.

Confidentiality and without prejudice

4. Every person involved in the Mediation:
 - a. Will keep **confidential** all information connected with or in any way arising out of the Mediation. This includes the fact and the terms of any settlement or resolution. It does not include
 - i. the fact that the Mediation is to happen or has happened;
 - ii. where disclosure is required by law to put into effect any terms of any settlement or to enforce such terms; or
 - iii. where disclosure is required to notify insurers, insurance brokers or other professional advisers.

- b. Acknowledges that all information connected with or in any way coming out of the Mediation passing between the Parties, the Mediator and/or the Registers is agreed to be **without prejudice** to any Party's legal position. This means that it may not be produced as evidence or disclosed to any judge, arbitrator or other decision-maker in any legal or other formal process, except where this is required by law. This applies regardless of how the information was communicated.
5. Where a Party privately gives the Mediator any information in confidence, before, during or after the Mediation, the Mediator will not disclose that information to any other Party or person. The Party who gave the information to the Mediator can give the Mediator permission to disclose it to another Party or person. Where the law requires the Mediator to disclose the information, the Mediator does not need the Party's permission to do so.
6. The Parties will not call the Mediator or any employee, lay advisor or consultant of the Registers as a witness. The Parties will not require any such person to produce in evidence any records or notes relating to the Mediation in any litigation (court case) arbitration or other formal process which arises from or is connected with their disputes and the Mediation. The Mediator and the Registers' employees, lay advisors and/or consultants will not act or agree to act as a witness, expert, arbitrator or consultant in any such process. If any Party does make such an application, that Party will fully indemnify, and hold harmless, the Mediator and/or the Registers' employee, lay advisor and/or consultant in respect of any costs, including legal costs, which any of them may incur in resisting and/or responding to such an application. This includes reimbursement at the Mediator's standard hourly rate for the Mediator's time spent in resisting and/or responding to such application.

Settlement formalities

7. No settlement terms reached at the Mediation will be legally binding until set out in writing and signed by or on behalf of each of the Parties.

Legal status and effect of the Mediation

- 8. This Agreement is governed by the law of England and Wales. The courts of England and Wales shall have exclusive jurisdiction to decide any matters arising out of or connected with this Agreement and the Mediation.
- 9. Any agreed changes to this Agreement will be set out in an attached schedule and the Parties and Mediator will sign the schedule and this document below.

Complainant _____

Registrant/Trainee _____

Mediator _____

The Registers _____

Date _____

Attendance and confidentiality agreement

In consequence of my being permitted to attend the Mediation taking place under the terms of the Agreement above, I agree to be personally bound by the without prejudice nature and the confidentiality provisions of this Agreement and the Registers' Mediation Procedure. I also agree to be personally bound by clause 6 of this Agreement (exclusion of liability and indemnity).

Name	Signature

Appendix 3 | Complaints Committee procedural guidance

1. The process to be followed during a complaint hearing is outlined in Stage 4 of the Complaints Procedure.
2. The Complaints Committee, the Registrant or Trainee and all witnesses are to read all relevant papers received in advance of the hearing.
3. The Registers shall serve all evidence upon which it seeks to rely at least 40 days prior to the hearing.
4. The Registrant or Trainee shall serve all evidence upon which they seek to rely at least 20 working days prior to the hearing.
5. Either party may make an application to either extend the period for service of their evidence or to serve additional evidence late.
6. The Complaints Committee may accept evidence served outside the required timescales if to do so would be helpful to the Complaints Committee and it would be in the interests of justice.
7. The Complaints Committee will meet prior to the Registrant or Trainee and witnesses arriving (if personal presentations are to be made) to discuss procedure and identify the information to be sought during the hearing.
8. The Registrant or Trainee will be invited into the hearing room and the procedures explained. Any procedural matters will be addressed by the Complaints Committee.
9. The presumption is that hearings of the Complaints Committee will take place in public. The Complaints Committee, either upon application by either party, or of its own volition may decide, if it is in the interests of justice, that either all of or part of the hearing are held in private.
10. The Complaints Committee shall take any legal or procedural advice it considers appropriate and may make revisions to the procedure where they do not prejudice the Registrant or Trainee's ability to present their case.

11. The Complaints Committee may reconvene in private, from time to time, to consider matters of process, to decide on the facts or to speak amongst themselves. If the Committee receives advice from its legal assessor or advisor while meeting in private, the hearing shall be told what that advice was.
12. The decisions conveyed by the Chair of the Complaints Committee should be decisions reached by the Complaints Committee as a whole. The role of the Chair is to act and speak on behalf of the Complaints Committee, but the members of the Complaints Committee shall have equal voice on all matters, wherever reasonably possible.
13. Members of the Complaints Committee will have one vote each and will try to reach a unanimous decision. If it cannot, a majority vote will be counted and used to make a decision.
14. A decision on each individual allegation must be reached. Decisions shall be written with reasons given for each decision made.
15. Reasonable timescales shall apply to the procedure outlined above. A failure to follow deadlines will be considered as a serious matter by the Complaints Committee. However, before making any decision arising from a failure to follow deadlines, the Complaints Committee shall weigh the balance of the fairness of the procedure, the public's perception of the actions of the Registers and the need to protect the public.
16. The Complaints Committee may hear any evidence that would be admissible in civil proceedings in the appropriate part of the United Kingdom and may also treat other evidence as admissible if it would be helpful to the Complaints Committee and in the interests of justice for that evidence to be admitted.