



Procedure for the conduct and discipline of fellows and members

1 Definitions

Throughout this document, the word ‘member’ means and includes anyone who subscribes to belong to the RCP (in all categories). It also applies to those who hold honorary membership or fellowship as awarded under bye-laws 8.6, 26.2 or 26.3.

‘Subscription status’ means the category of membership to which an individual belongs as an RCP subscriber, from which they obtain benefits. This might be fellow, collegiate member, associate etc.

‘Chief executive’ means the chief executive officer of the RCP.

‘Named officer’ means an RCP officer given a specific role in this procedure.

References to ‘elected members of Council’ mean the 12 councillors elected directly by the fellowship, who are not RCP officers.

2 Context and overall principles

2.1 This procedure has been drawn up to describe the process that will be followed if any member of the RCP breaks its regulations or Code of Conduct and brings the RCP into disrepute. It will be used when a member’s behaviour or conduct is regarded as unacceptable to a degree that makes informal measures inappropriate. It will seek:

- > to establish whether a particular incident or incidents took place

- > to consider whether the incident(s) represents behaviour that is unacceptable to the RCP
- > to determine what measures should be taken against a member whose behaviour is unacceptable to the RCP
- > to provide safeguards and natural justice throughout.

2.2 The RCP’s ability to set rules concerning disciplinary issues derives from bye-law 34.2. This confirms the role of Council to make and from time to time vary, amend, revoke or replace regulations establishing a disciplinary scheme or schemes which shall apply to fellows and members (in all categories). Following appropriate fact-finding and where a case is referred to the censors of the RCP by the registrar, the censors investigate alleged breaches of discipline and recommend the outcome. Where matters of concern are raised, separate stages will take place so as to be appropriate and fair:

- > **Stage one** – Case assessment and management by the registrar (which can include referral to other RCP officers for local resolution)
- > **Stage two** – Case investigation and recommendation by the Standing Panel of Censors
- > **Stage three** – Appeals Panel

2.3 Where a member is subject to a particular legal process, such as a General Medical Council (GMC) inquiry, criminal investigation or court

proceedings, the RCP will normally await the outcome of due process of law before commencing its own investigation and will take such outcome into account in following this procedure. However, if in exceptional circumstances the situation is such that the RCP or its reputation may be compromised in the meantime, the powers described under '7 Emergency measures' (below) may be applied.

2.4 At all stages described in this procedure, the RCP will have regard to the effect of any proposed decision on a member's ability to work in the profession. However, the RCP is a professional membership organisation and not an employing authority with regard to its membership. Its rules of conduct and governance are defined in its bye-laws and its procedures are agreed by Council, as its professional governance body. As such, RCP membership (or the absence of it) is not considered to be career determinative and accordingly this procedure is not required to be fully compliant with Article 6 of the European Convention on Human Rights.

2.5 This procedure applies to all members, wherever in the world they may live or work. While it makes specific reference to the British GMC, the same principles implied will apply to conduct considered by other regulatory bodies that are recognised by the British GMC. While a high standard of conduct should be expected anywhere, local standards outside the UK will be taken into consideration as and when appropriate.

3 Named officers

3.1 Under this procedure, specific roles are given to particular RCP officers. However, the process described here applies to all members as defined above. In the event of one or more of the officers named in this process being subject to allegations themselves at any point of the process, the following will happen:

- The officer will be replaced in that role for that particular case.

- Should that happen, the officer to whom they report in the RCP's appraisal system will determine an alternative officer who will act instead of them.
- If the president is subject to investigation, their role in the procedure will be allocated to one of the remaining senior officers of the RCP (not cited in the complaint). Another senior officer would act as case manager and the case investigation panel might include other senior officers, an elected councillor, the chair or other lay representative of the Board of Trustees and the chief executive.
- In any such case of substitution, the seniority of officers not already involved will be taken into account when making a choice, the most senior normally being preferred.

4 Joint college issues (relating to the Federation of the Royal Colleges of Physicians of the UK)

4.1 Some breaches of discipline, even at the allegation stage, may have a bearing on the interests of other colleges of the Federation. In such circumstances, the registrar and president shall have authority to share information in confidence with senior officers of another college or colleges. Examples of such cases include the following, although this is not an exhaustive list:

- misconduct during the MRCP(UK) examination
- subsequent misconduct by a holder of the MRCP(UK) that throws into doubt the right to continue to hold the diploma
- misconduct by a person who is a fellow or collegiate member of more than one college, and where proceedings are being contemplated by one college – for example, a physician who has been removed from the medical register
- misconduct by a person who is a fellow or collegiate member of one college, where another college might be embarrassed by electing that person without knowledge of the proceedings that were ongoing.

5 Definition of a breach of discipline

5.1 General circumstances. This procedure will be invoked if a member (in any category) has acted in breach of bye-law 34.2 and the Council-approved disciplinary process. A disciplinary offence occurs if any member has:

- violated any standards of conduct expected to be in 'Good Standing', including the RCP Code of Conduct, the requirement to have duly paid all fees and subscriptions due from them to the RCP and any declarations as required by the bye-laws; or
- committed any misconduct affecting their professional or personal standing or bringing discredit to the RCP; or
- performed their work incompetently (whether by act or omission) to such an extent or on such number of occasions as to affect their professional or personal standing or to bring discredit to the RCP; or
- acted in any respect in a dishonourable or unprofessional manner; or
- not returned any property belonging to the RCP at such time as an officer of the college shall direct; or
- obtained the status of fellow or member (in any category) by fraud, false statement or imposition.

5.2 Circumstances involving the General

Medical Council. The RCP reviews the outcomes of all cases considered by the GMC and the Medical Practitioners Tribunal Service (MPTS). Substantive decisions by the Medical Practitioners Tribunal Hearing which result in the name of a member being erased or suspended from the medical register are considered an automatic failure to be in 'Good Standing' with the RCP. The name of that person will automatically be removed from the appropriate membership list, have their particular RCP status (such as fellowship or collegiate membership) removed, and they will no longer be regarded as such. However, should they subsequently be

restored to the medical register, the RCP would be able to consider re-entry to membership or re-election to fellowship via the defined mechanisms after an elapse of time (5 years), if requested.

Where a member is made subject to conditions/undertakings/warnings or to an interim order (conditions or suspension) by the GMC/MPTS, the RCP reserves the right to ask for a confidential declaration as to Standing to be made by the member. Failure to do so may result in a removal of membership rights (in interim orders cases, pending a final adjudication from the GMC/MPTS). In exceptional (egregious) circumstances, interim suspension orders by the GMC can result in immediate removal of membership or fellowship via 'emergency measures'. In these cases, if subsequently no case is found against the appellant by the GMC, appeal for restitution of RCP membership could be immediate.

Details received via an updated declaration as to Standing will be assessed as described under stage one of this procedure and can be subject to referral onwards to stage two.

5.3 Whether or not a member is found to have committed a disciplinary offence, the RCP may, if it thinks it appropriate (bearing in mind legal requirements and obligations of disclosure by healthcare professionals), disclose to the GMC and/or the member's responsible officer any information relating to a disciplinary offence (or alleged disciplinary offence) and any proceedings taken or penalty imposed by the RCP in connection with it. Such decisions are not open to appeal.

5.4 Any member found to have committed a disciplinary offence under this procedure shall have the right to request that the case be referred to an Appeals Panel, except where a penalty has been imposed as a result of an interim or final decision of the GMC/MPTS.

6 Procedure for case assessment and management, case investigation, disciplinary action and appeals

6.1 Stage one – Case assessment and management

6.1.1 If a member or employee of the RCP, or external organisation or individual, is of the opinion that a member has been in breach of the RCP's regulations or Code of Conduct or brought the RCP into disrepute, the circumstances should be referred to the registrar. The registrar will assess and case manage any investigation following appropriate fact-finding. An investigation file will be produced by the professional governance team and kept as a digital record.

6.1.2 Fellows or members under review will be informed of the concern(s) being assessed and will be invited to submit a written statement to the registrar as part of establishing the facts of the case. The registrar may, in addition or alternatively, choose to offer an interview. It would be usual but not essential for the registrar to discuss escalation or lack of escalation with the senior censor or relevant officer before finalising such decisions.

The registrar shall be entitled to call for such papers and to conduct such other enquiries into the matter as they may think fit. The registrar may also choose to refer a case to other RCP officers for local resolution.

6.1.3 At the registrar's discretion, no action after initial review might be thought appropriate. In these cases, the registrar shall make their decision known to the member by letter and the records of the case would be retained for a period of 3 years in case of recurrent issues. In the unlikely event that a member should be dissatisfied with such an outcome, the member may elect for the matter to be referred to the second stage.

6.1.4 Where in the view of the registrar it is not possible to resolve the matter informally, or the gravity of the alleged breach makes this inappropriate, the registrar may need to initiate a disciplinary investigation, by the Standing Panel of Censors, into the member's conduct. The member shall immediately be informed in writing and provided with a copy of this procedure with signposting to provision of support for personal wellbeing. The member shall be advised in writing of the allegations that are to be considered and shall have the right to submit a written statement.

In all cases, it will be left to the registrar's discretion to provide feedback to the original complainant, including the method and extent of such feedback.

6.2 Stage two – Case investigation and recommendation by the Standing Panel of Censors

6.2.1 The senior censor shall appoint a standing panel of three censors to investigate cases referred by the registrar. Supplementary support from the Invited Service Review (ISR) network of reviewers may be appropriate, in addition. The panel will examine the evidence available, including any details provided by the member concerned.

6.2.2 The main reference document for the panel will be the RCP Code of Conduct, and outcome options will be recommended in the broad categories outlined below (mapped to the Code breaches). There is separation between the registrar, who initiates and manages the process, and the censors, who conduct the review and recommend sanction.

6.2.3 The panel shall have the power to call for documents and conduct such other enquiries as they see fit. The member (or 'respondent to the complaint') shall have the right to see written evidence against them, except where there is a specific

overriding duty such as the protection of a minor, in which case their statements may be anonymised or paraphrased after discussion with the chief executive or their nominee.

6.2.4 Operation of Standing Panel of Censors

- > The member (or 'respondent to the complaint') shall be notified of the allegations to be considered and the escalation to the panel, by the registrar.
- > The member shall have the right to submit a written statement to be considered by the panel.
- > The member shall have the right to see the full anonymised complaint against them.
- > In considering a case, the Standing Panel of Censors will work independently. The president and registrar are not involved in discussion, nor entitled to attend any meetings.
- > The censors will demonstrate a proportionate approach and provide reasons for their decision and why (if applicable) a lesser sanction was not appropriate.
- > An electronic record of decisions and copies of related documentation shall be kept.
- > Exceptionally, the panel may request further information or the presence of the member/fellow as part of deliberations. In such cases, a member may be accompanied by a friend, who may speak on their behalf but may not act in a legal capacity. The member may request that the panel interviews particular witnesses, although the panel is not obliged to do so.
- > The censors' decision, recommendation and reasons will be made available to the member.

6.2.5 Having considered a case, the panel will then recommend to the senior censor how the case should be dealt with, from the following options.

- > Dismissal of the case
- > Reprimand of the member or fellow by means of an oral or written warning
- > Temporary suspension or permanent removal of the member's particular subscription status. Such recommendations must be endorsed by Council, acting on behalf of the fellowship as a whole.
- > Restitution of loss: In any case where specific RCP facilities or resources have been misused, by recommending that the member makes good any loss.

6.2.6 The senior censor will liaise with the registrar regarding the decision of the panel; the registrar will inform the member of the outcome and decision, both in hard copy and electronically. The records of the case will be retained for a period of 7 years and then destroyed if there has been no change of the circumstances during that time.

6.3 Stage three – Appeal Panel

6.3.1 If a member who is disciplined under the procedure described above wishes to have their case reviewed, they shall submit their request in writing (on a word-limited appeal request form) to the president within two calendar weeks of receiving the decision of the censors. Should the president be involved in a particular case, a different senior officer will act as deputy. The president (or deputy) will decide whether an appeal is allowable based on new evidence submitted by the member.

6.3.2 Where a request has been accepted for appeal, the president (or deputy) shall refer the case to an Appeals Panel, convened as required. The panel will

consider and decide the case on a review basis, where the member (or ‘appellant’) has to show where the decision was wrong, through information submitted via the appeal request form.

6.3.3 Terms of reference of the Appeals Panel

- > To hear cases referred to it by a member given permission to appeal against a decision of the censors.
- > To decide whether the handling of a disciplinary case has resulted in a fair judgment and appropriate penalty, by reviewing the conduct of the case.
- > To consider fresh evidence where available and where it was not reasonably possible for this to be provided to the censors.
- > To presume the original decision will stand unless it was plainly wrong and the decision should be changed.
- > The Appeal Panel can:
 - allow an appeal by a member to stand, and dismiss the case
 - uphold an earlier disciplinary decision and associated penalty
 - uphold an earlier disciplinary decision, but reduce the penalty.

Notification of the appeals process is by the registrar or president (or deputy) as most appropriate.

6.3.4 Membership of the Appeals Panel

- > The composition of the panel will ensure senior officer representation, but will exclude the registrar and senior censor. The panel (to be a minimum of three persons) might include the president or their deputy, a lay trustee, an elected councillor, the director of the ISR and a censor not originally involved in the case.
- > All of the members of the panel must not have been previously involved with the case.

6.3.5 Operation of the Appeals Panel

- > The member (or ‘appellant’) shall be notified of the allegations to be reviewed.
- > The member shall have the right to show why the decision was wrong (through completion of the appeal request form).
- > The member shall have the right to see written evidence against them, except where there is a specific overriding duty such as the protection of a minor, in which case their statements may be anonymised or paraphrased.
- > The panel shall have the power to call for documents, call and examine witnesses and conduct such other enquiries as it shall in its absolute discretion decide.
- > It will be for the panel within its absolute discretion to decide whether to interview the member and to decide whether and how the member can be represented.
- > An electronic record of decisions and copies of related documentation shall be kept.
- > A summary of the Appeals Panel decision and reasons will be made available to the member.

6.3.6 Once the case has been considered by the Appeals Panel, the matter will be concluded regardless of whether there are other circumstances cited subsequently by the member.

7 Emergency measures

7.1 When, at any time, the most senior (in terms of precedence) RCP officer present is of the view that the continued presence of a member poses a serious threat to persons, property or the reputation of the RCP itself, they may with immediate effect suspend the member’s subscription status.

7.2 In any case where this power of suspension is used, it should not be interpreted as a finding of guilt; it will normally be carried out only in circumstances where the RCP's activities or its reputation may be compromised; and will be in force pending further investigation or decision as allowed in this procedure.

7.3 For instances where a member's status is suspended on an interim basis through these measures, the member has the right to request a review of the decision via the registrar.

8 Review of procedure

8.1 On behalf of Council, this procedure will be reviewed every 3 years by the registrar in liaison with the censors and, following their agreement, will be presented to Council, either to recommend changes so as to keep the procedure up to date, or to recommend that no changes be made.

8.2 The Council will be requested to endorse this procedure at this time.

8.3 The procedure will be notified to all members (in all categories) of the RCP, including those who are admitted each year. Changes to the procedure will be publicised when they are made. Such methods may include RCP publications and e-bulletins. A specific area on the RCP website will be created to inform the membership and to download this procedure and other documentation relating to conduct and discipline.