
Information for registrants

What happens
if a concern
is raised
about me?

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What happens if a concern is raised about me?

About this brochure

This brochure provides you with the information you need if a concern is raised about you. It gives you information about the process a case will go through and the possible outcomes.

We recognise that having a concern raised about you can be a stressful experience so we try to make our processes as open and clear as possible. We hope the information in this brochure will help you.

About fitness to practise

When we say a registrant is 'fit to practise' we mean that they have the skills, knowledge and character to practise their profession safely and effectively. However, fitness to practise is not just about professional performance. It also includes acts by a registrant which may affect public protection or confidence in the profession, or the regulatory process. This may include matters not directly related to professional practice.

What is the purpose of the fitness to practise process?

Fitness to practise proceedings are about protecting the public. They are not a general complaints resolution process, nor are they designed to deal with disputes between registrants and service users or registrants and their employers.

Our fitness to practise process is not designed to punish registrants for past mistakes but to protect the public from those registrants who are not fit to practise. Finding that a registrant's fitness to practise is 'impaired' (negatively affected) means that there are concerns about their ability to practise safely and effectively. This may mean that they should not practise at all, or that they should be limited in what they are allowed to do.

Sometimes registrants make mistakes that they are unlikely to repeat. This means that their current fitness to practise is unlikely to be impaired. People sometimes make mistakes or have a one-off instance of unprofessional conduct or behaviour. Our processes do not mean that we will pursue every isolated or minor mistake.

When will a registrant's fitness to practise be found to be impaired?

We consider every case individually. However, a registrant's fitness to practise is likely to be found to be impaired if the evidence shows that they:

- were dishonest, committed fraud or abused someone's trust;
- exploited a vulnerable person;
- failed to respect service users' rights to make choices about their own care;
- have health problems which they have not dealt with, and which may affect the safety of service users;
- hid mistakes or tried to block our investigation;
- had an improper relationship with a service user;
- carried out reckless or deliberately harmful acts;
- seriously or persistently failed to meet standards;
- were involved in sexual misconduct or indecency (including any involvement in child pornography);
- have a substance abuse or misuse problem;
- have been violent or displayed threatening behaviour; or
- carried out other, equally serious, activities which affect public confidence in their profession.

This is not a full list and we consider every case individually.

For fitness to practise case studies visit our website at www.hcpc-uk.org/complaints/casestudies

Our standards

When considering cases about fitness to practise, we take account of the standards we have published (although a failure to meet one of our standards does not automatically mean that a registrant's fitness to practise is impaired). The two sets of standards we use are the standards of proficiency for each

profession and the standards of conduct, performance and ethics. We will send you copies of these standards when we write to you about the allegation made. You can also download them from www.hcpc-uk.org/publications/standards

Practice notes

We have published a number of practice notes which you can find on our website at www.hcpc-uk.org/publications/practicenotes. These explain various parts of the fitness to practise process. We explain some of these processes in this brochure. However, you may find it useful to look at these documents for further explanation and information.

How are fitness to practise concerns raised?

Who can raise a concern?

Anyone can raise a concern about a registrant. This includes members of the public, employers and other registrants. The police will also tell us about criminal proceedings against a registrant if they decide there is a pressing social need.

If we receive information in an unusual way (for example, from a newspaper article), we can still look into it if it suggests a registrant's fitness to practise may be impaired.

We will not normally take further action if the information is provided anonymously (where the person giving us the information does not give their name). This is because we want to operate a fair and clear process and we cannot go back and ask for more information if we do not know who has contacted us.

We will also not normally take further action if the person giving us the information is not willing for their name to be given to the registrant. This is again because we want to operate a fair and clear process and it is very difficult to do so if the registrant does not know who has raised concerns about them.

However, as our main function is to protect the public, if anonymous information relates to serious and credible concerns about a registrant's fitness to practise, we will still consider whether it is appropriate to take further action.

What types of cases can you consider?

We can only consider cases about fitness to practise, which we explain in more detail above. The types of cases we can consider are those that question whether a registrant's fitness to practise is impaired by one or more of the following factors.

- **Misconduct** – behaviour which falls short of what can reasonably be expected of a registrant.
- **Lack of competence** – lack of knowledge, skill and judgement, usually repeated and over a period of time, which means a registrant is unfit to practise.
- **A conviction or caution** for an offence in the UK (or somewhere else for an offence that would be a crime if committed in England and Wales).
- **Physical or mental health** – usually a long-term, untreated or unacknowledged physical or mental-health condition.
- **A decision made by another regulator responsible for health or social care.**

For fitness to practise case studies, visit our website at www.hcpc-uk.org/complaints/casestudies

We can also consider allegations about whether an entry to our Register was made fraudulently or incorrectly. This might be the case if, for example, a registrant gave false information when they applied to be registered.

Because our function is to protect the public, we can investigate concerns relating to events which happened at any time or which took place before the registrant was registered. However, we will not normally proceed with concerns that are made more than five years after the events giving rise to them.

What can I expect from you if a concern is raised about me?

If a concern is raised about you, you can expect us to treat you fairly and explain what will happen at each stage. We will give you details of a case manager who you can contact if you have a question and who will keep you up to date with the progress of our investigation.

Role of the case manager

We allocate a case manager to each case. The allocated case manager may change during the course of the investigation. If this happens, we will tell you and you will always have a named contact. They are neutral and do not take the side of either you or the person who raised the concern. Their role is to manage the progress of the case throughout the process and to gather relevant information. They act as a contact for everyone involved in the case.

They cannot give you legal advice but they can explain how the process works and what panels consider when making their decisions.

How long will the process take?

We try to consider cases as quickly as we can.

For up-to-date information about how long we aim to take to consider a case, visit our website at www.hcpc-uk.org/complaints/raiseaconcern/expectations

While these are our aims, the time a case takes to reach the end of the process can vary depending on the nature of the investigation we need to carry out and how complicated the issues are. As a result of this, each stage may take a shorter or longer period of time.

Your case manager will keep you informed of the progress of your case. But, if you have any questions about what is happening, or why it may be taking longer than our aims, you can contact them for an update.

What should I do?

If you are a member of a union or a professional body, you should contact them. They know our fitness to practise process well and are a good source of advice and may be able to offer you legal support if you need it. Or, you can find your own legal advice.

Communicating with us during the investigation process

Communicating with us, especially with the help of an adviser (see above), will make sure that your views are heard. How you respond and react to any concerns raised about you are important factors in the panel's assessment of whether your fitness to practise is impaired.

Your early involvement in the fitness to practise process helps us to know whether there are any other issues, such as health concerns, which may need to be taken into account and may have an influence on whether a full contested final hearing is necessary. In many cases this is likely to significantly reduce the stress of the situation, especially if it is agreed that a concern can be dealt with without a full contested final hearing.

To make sure you receive correspondence from us, please tell us about any changes to your address.

Emotional support

There are support organisations, such as the Samaritans, which can give you confidential emotional support if you need it. This may also be available through your union or professional body. You may also want to speak to your family or colleagues.

Can I continue to practise?

You can continue to practise while we investigate your case unless a panel has placed an interim order on you preventing you from practising or which places restrictions on your practice. There is more information about interim orders on the next page.

You cannot remove yourself from our Register while there are fitness to practise proceedings outstanding against you.

Interim orders

If an allegation is serious enough to suggest that you are a risk to yourself or other people, or there are other reasons in the public interest, we may apply for an interim order at any time until we have completed our investigation. An interim order prevents you from practising, or places limits on your practice, until your case is heard. If an interim order is imposed, it will apply immediately.

Examples of cases where we may apply for an interim order include sexual misconduct, serious mistakes, or using controlled drugs in the workplace. This is not a full list and we consider every case individually. In most cases we will not ask for an interim order and that means you will be able to continue to work without any restrictions.

If we apply for an interim order, a hearing will be held at relatively short notice. You will normally be given seven days' notice of the hearing, but there may be circumstances where a hearing needs to be held at shorter notice. Because of the nature of interim order applications, a request for an adjournment (to postpone the hearing) is unlikely to be granted other than in the most exceptional circumstances.

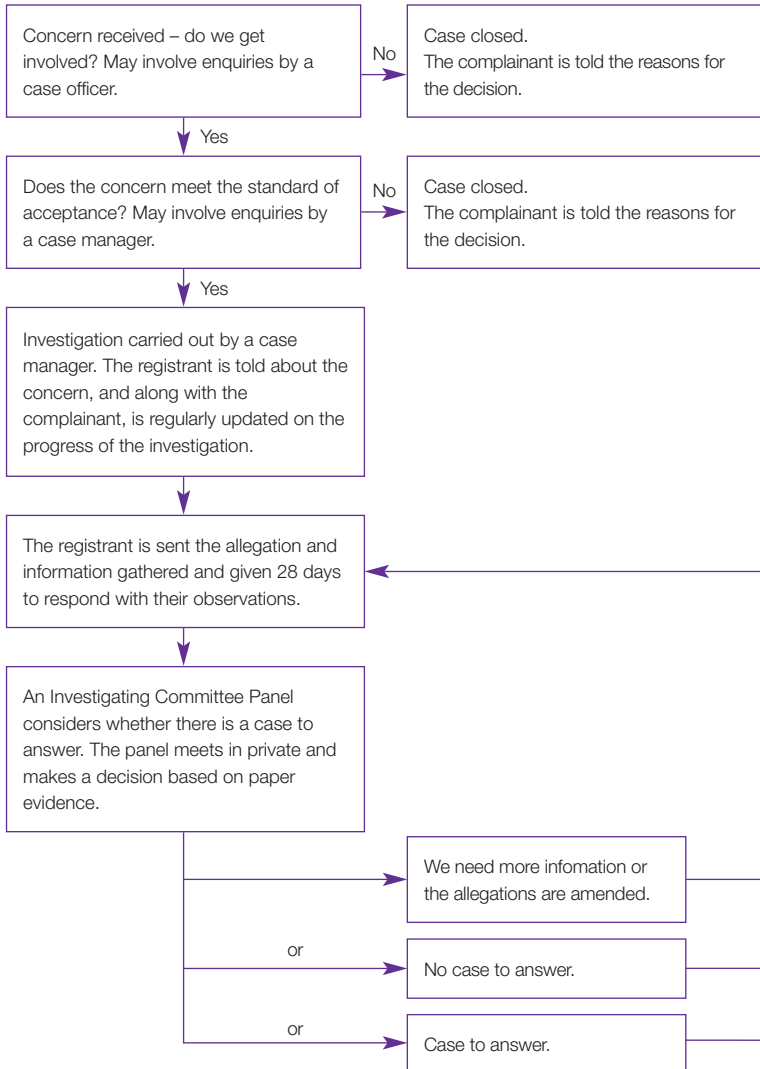
The panel who hear the application will decide whether the allegation is serious enough for an interim order.

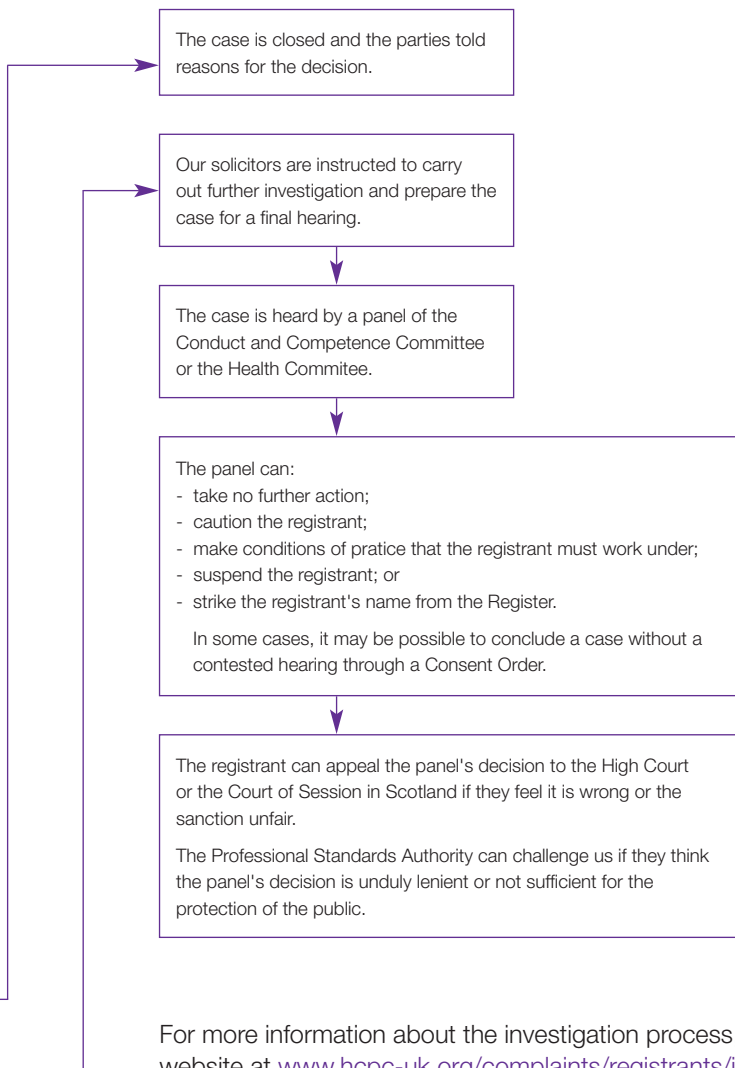
If the panel imposes an interim order, another panel will review it after six months and then every three months after that. You can also apply for an early review of the order. The panel will decide whether it is still appropriate for an interim order to be in place.

You can find more information about interim orders on our website at www.hcpc-uk.org/complaints/registrants/interimorders

The investigation process – what happens next?

At all stages of the process, we can apply for an interim order to prevent the registrant from practising, or to place conditions on their practice, until the case has been closed by a panel.





What happens when we receive a concern?

When we receive a concern about you, we will first assess it to decide whether it is about fitness to practise. We sometimes receive information about issues we cannot deal with. If this is the case, we will write to the person who raised the concern to explain.

Initial enquiries and the standard of acceptance

If the concern is about fitness to practise, a case will be opened so we can decide whether the concern meets the 'standard of acceptance'. This is the level the concern about you must meet before we will investigate it as a fitness to practise allegation.

The standard of acceptance is set out in a policy. You can download the policy from www.hcpc-uk.org/publications/policy or phone us on 0800 328 4218 and we will send you a copy in the post.

So that we can decide if the standard of acceptance is met, we will make initial enquiries and gather any relevant information about the concern. For example, we might ask for information from your employer or the person making the complaint. If you have received a conviction or caution, we might ask the police for information about the circumstances of your offence.

It can take some time for us to gather the information we need to assess if the standard of acceptance is met. This depends on how quickly other people can give us the information we need.

We will not normally tell you that we have received a concern about you until we are satisfied the concern meets the standard of acceptance. This is to avoid causing you unnecessary worry. However, we will tell you about the concern if we need to get information from your employer to help us decide whether the concern meets the standard of acceptance. This is so you hear direct from us about the concern rather than only through your employer.

If we find the concern does not meet the standard of acceptance, we will close the case and take no action.

What happens if the standard of acceptance is met?

If we find the concern does meet the standard of acceptance, we will gather any other information we need to draft the allegation and the allegation will be considered by a panel of the Investigating Committee.

Article 25(1) of the Health and Social Work Professions Order 2001 gives us the power to make a person or organisation give us information or produce documents which are relevant to fitness to practise allegations. However, this does not apply to you. We cannot make you give us information, or go to a hearing, if you choose not to.

There are other exceptions to this power, listed in Article 23(3) to (5). You can find a copy of the Order at www.hcpc-uk.org/aboutus/legislation/orders

This power overrides the Data Protection Act 1998 (under section 35(1) of that Act) and other data-protection safeguards, such as Caldicott Guardian arrangements.

The allegation and your response

Once we have gathered enough information, we will draft a formal fitness to practise allegation. We will send the allegation to you, together with a copy of the information we have gathered, and will invite you to respond, in writing, within 28 days of our letter.

If you need more than 28 days to make your response, you can ask for more time. Your case manager can give you an extension of up to another 28 days. If you need more time after this, you will need to make a written application to the Investigating Committee.

It helps the Investigating Committee to make a decision if you respond and they have information from you. However, you do not have to send a response if you would prefer not to.

When we write to you, we will give you some information about what you might want to consider including in your response. For example, you could include a timeline for the events that have

given rise to the concern and, if it applies, any evidence of learning and any action you have taken to put the situation right. You may want to get advice from your union or professional body (if you are a member) or a lawyer before you respond.

If you do provide a response, we will not give this to the person who raised the concern about you. However, we may need to ask them questions as a result of the points you raise.

The Investigating Committee

After you have had the opportunity to respond, we will pass a copy of the allegation, the information we have gathered and your response (if you have provided one) to a panel of the Investigating Committee to decide whether there is a 'case to answer'. Each Investigating Committee Panel is made up of at least three people, including someone from the same profession as you and a lay person (someone who is not on our Register). The Investigating Committee Panel's task is to look at the documentary evidence that is available and decide whether we will be likely to prove the facts of the allegation that has been made against you. The meeting is held in private and you (and the person who raised the concern) will not be invited to attend.

The Investigating Committee Panel do not decide whether the allegation is proven, they only decide whether we have a real prospect of proving the facts of the allegation at a final hearing.

The Investigating Committee Panel can decide that:

- more information is needed or that the allegation needs to be amended;
- there is a 'case to answer' (which means they will refer the case to a final hearing); or
- there is 'no case to answer' (which means that the case does not need to be taken any further).

The Investigating Committee Panel will give reasons for their decision. We will write to you (and the person who raised the concern) after the meeting and will give you the Investigating

Committee Panel's decision and reasons. There is no process to appeal against a decision at this stage.

If the Investigating Committee Panel decide there is 'no case to answer' and within three years we receive another concern about your fitness to practise which is similar in nature, the Investigating Committee Panel can take the first case into account when considering the new information.

The purpose of this power is to make sure a concern which has been closed because a case to answer could not be established can still be taken into account if another similar concern is made against you, and it is relevant to do so.

The previous concern will be taken into account as similar-fact evidence and will not be reopened as a new investigation.

What happens if the case is referred to a final hearing?

If the Investigating Committee Panel decide that there is a case to answer, your case will proceed to a final hearing. The case will be heard by:

- a panel of the Conduct and Competence Committee for cases about misconduct, lack of competence, convictions or cautions and decisions by other regulators;
- a panel of the Health Committee for cases where your health may be affecting your ability to practise; or
- another panel of the Investigating Committee for cases where you may have been entered in the Register as a result of fraud or by mistake.

We usually ask solicitors to prepare the case for, and to act for us at, the final hearing itself. We will give you the details of the solicitors who will act for us when we write to you to tell you the outcome of the Investigating Committee Panel's decision.

We will put information about the allegation against you on our website four weeks before the date of your hearing. However, this information is not private and we can release it if someone asks for it.

Consent orders

In some cases, it may be possible to finish a case without a full contested final hearing. The consent process allows you to provisionally agree a proposed outcome with us, which will then be considered by a panel. The panel will either approve the proposed outcome or send the case to a full contested hearing.

This only applies in cases where you admit the allegation in full and where there is no public interest in holding a full contested hearing. A final hearing is still held, and information about the case is still available to the public, but it can be dealt with more quickly and there is no need to call witnesses. The outcomes which may be agreed are a caution or conditions of practice or suspension orders.

In some cases, you may apply to be voluntarily removed from the Register. This is likely to only be available if you are no longer fit to practise due to a serious or long-term health condition or if you do not plan to continue to practise. If the panel approve a consent order for your voluntary removal, you will have to enter into an agreement with us confirming that you will no longer practise your profession.

Discontinuing proceedings

Occasionally, after a case has been referred for a final hearing, an assessment of the evidence gathered since the 'case to answer' decision was made may suggest the evidence is not enough to prove all or part of the allegation. If this happens, we will invite a panel to discontinue either the whole allegation or part of it. The panel will need to be satisfied that discontinuing would be appropriate.

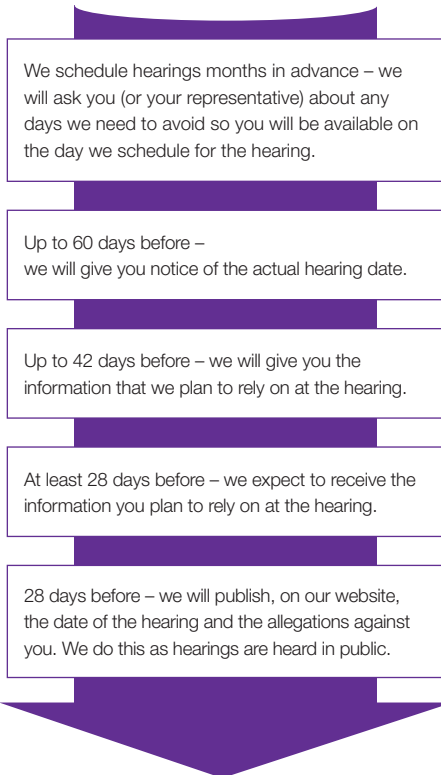
Representation

You are entitled to be represented, or to represent yourself, throughout the fitness to practise process. It is up to you whether you want to be represented at the final hearing, but you may want to get advice from your union or professional body (if you are a member), or a lawyer.

Where will the final hearing be held?

Your hearing will be held in the country where you are registered, or in London if your registered address is outside the UK. In most cases, hearings in England are held at our dedicated hearing centre in Kennington (in South London).

Before the final hearing



You do not have to go to the final hearing but it is generally in your best interests to do so. If you do go, you (or your representative) will have an opportunity to question witnesses and give your side of events. If you do not go, you can provide written statements to be read out in your absence, but this will not allow you to respond directly to evidence heard on the day. The hearing may take place

even if you are not there, as long as we can prove that we have given you proper notice of the hearing.

If you want an adjournment (to postpone the final hearing), you need to set out, and provide evidence for, why an adjournment should be granted. Panels will rarely grant adjournments simply because it would be more convenient for us, you or your representative to have the hearing on another date.

If you need a witness to come to the final hearing and they refuse, the panel can insist that they attend. This is known as a 'witness order'. Please contact us if you are having any problems with this and we can discuss this with you (or your representative).

At the final hearing

Hearings are usually held in public. This means that members of the public (including the press) can attend. Information heard in public may result in reports in newspapers, on the internet and sometimes on television.

Sometimes hearings are held in private due to the confidential information involved. This may be the case if, for example, the panel think they need to protect service users' confidentiality or to protect your private life or that of any witnesses. You (or your representative) can apply to the panel to hear all or part of a hearing in private. Even if the panel hold a hearing in private, any decisions the panel make, and the reasons for them, still need to be given in public (although sensitive or confidential information will not be revealed).

The panel considering the case will usually be made up of:

- a registrant from the same profession as you;
- a lay person who is not registered with us; and
- a panel chair (who may be a lay person or a registrant from one of our professions) who leads the hearing and speaks for the panel.

An independent legal assessor (an experienced lawyer) will also be at the hearing. They will give advice on law and procedure to the panel and other people taking part in the hearing. A transcript writer takes notes of everything that has been said at the hearing.

You can find more information about what happens at final hearings on our website at www.hcpc-uk.org/complaints/hearings/atthehearing

The HCPC presenting officer (usually a lawyer) will normally open the hearing by presenting our case and calling our witnesses. You or your representative may question the witnesses. The panel may then also ask some questions. After we have presented our case and called our witnesses, you or your representative will present your case, call witnesses or make statements to the panel.

The panel will then leave the hearing room to make its decision on whether the allegation is 'well-founded'. The panel have to decide whether:

- we have proved the facts set out in the allegation;
- the facts amount to the 'grounds' set out in the allegation (for example, misconduct or a lack of competence); and
- your fitness to practise is impaired as a result.

When they make their decision, the panel will look at whether your past behaviour suggests you may still present a continuing risk of harm. For each decision they make, they will give reasons that they will read out in public.

What other factors will the panel consider?

In deciding whether your fitness to practise is impaired, the panel take account of other factors. These relate to you and the wider public. Those factors include:

- whether you have ignored previous warnings;
- whether you have taken action to correct your behaviour;
- whether you have insight (understanding of the harm you have caused);
- whether you know what action to take to practise safely and effectively;
- the link between the conduct and your profession;

- whether your behaviour has undermined public confidence;
- whether you have not met our standards of conduct, performance and ethics; and
- whether you are likely to repeat the behaviour.

The decision is based on whether your current fitness to practise is impaired and so is based on your circumstances at the time of the hearing.

What powers do the panel have?

If the panel find the case is well-founded, they will return to hear submissions from you or your representative and from us about what action they should take. You may want to make a statement to the panel at this stage. The panel can:

- take no further action or order mediation (a process where an independent person helps you and the other people involved agree a solution to any issues);
- caution you (place a warning against your name on the Register for between one to five years);
- set conditions of practice that you must meet (for no longer than three years);
- suspend you from practice (for no longer than one year); or
- strike your name from our Register (which means you cannot practise).

Actions the panel take are to protect the public and are not meant as a punishment. The panel carefully consider the circumstances of each case and take into account all that has been said at the hearing before making their decision.

After the hearing we will write to you and send you a copy of the panel's decision. If the allegation against you is well-founded, we will put this information on our website. This will include the panel's reasons for their decision. If the case has involved any particularly sensitive information about your health or personal circumstances, we will make sure that the version available on the

website does not include these very personal details. If you have any concerns about this, please contact the Fitness to Practise Department.

You can find more detail about the sanctions the panels may use in the 'Indicative Sanctions Policy'. You can find a copy of this document on our website at www.hcpc-uk.org/publications/policy

After the final hearing

Publishing the decisions of the hearing

We publish decisions on our website. We do this to keep to the common law principle of open justice and Article 6 of the European Convention on Human Rights. The outcome of fitness to practise cases is a matter of legitimate public interest and the panel's decisions provide valuable information about the standards expected of registrants, help service users to make informed choices and help to maintain public confidence in the professions we regulate. However, we recognise that a fair balance must be struck between these aims of public interest and fairness to you and other people involved in the hearings. For that reason, we normally remove hearing decisions from the website within set timescales. You can find these timescales, and more information about what we do and do not publish, in our 'Fitness to Practise Publication Policy'. You can download this from www.hcpc-uk.org/publications/policy

Review of conditions of practice and suspension orders

If a conditions of practice order or suspension order has been made, another panel will review it shortly before it is due to run out. If you were asked to meet some conditions of practice, the panel will look for evidence that you met these conditions. If you were suspended, the panel will probably look for evidence that you have dealt with the problems that led to your suspension.

A review panel will always want to make sure that the public are protected. If they think you are not fit to practise (or if they think you should not practise without restrictions), they may extend the

conditions of practice order or suspension order. They may also replace the order that is running out with another order that could have been made at the time of your original hearing. For example, they may replace a 'suspension order' with a 'conditions of practice order' if they think this provides enough public protection. They may also consider continuing the suspension order or striking you off the Register.

Applying for a review

Although conditions of practice orders and suspension orders are automatically reviewed before they run out, you can apply to have an order reviewed early. You can do this if you think your circumstances have changed since the order was put in place. For example, if you were ordered to have training and you finished it before you had to, or if you have taken steps to sort out the issues that led to the order being made. This is not the same as appealing against the decision to impose the order.

Appeal

You can appeal against the panel's decision if you think it is wrong or the sanction is unfair. You can appeal to the High Court or the Court of Session in Scotland. You may want to get advice before you decide to appeal.

Restoration

If you are struck off the Register, you can apply for restoration (to be put back on the Register) after five years. A hearing will be held by a panel to consider your application.

Professional Standards Authority for Health and Social Care

The Professional Standards Authority for Health and Social Care is an organisation that promotes best practice and consistency among the UK health and social care regulators. It reviews all final decisions made by the regulators' fitness to practise committees. It can refer a decision to the High Court or the Court of Session in Scotland if it considers the decision is unduly lenient or not sufficient for the protection of the public.

Contact details

If you need any more information, please contact our Fitness to Practise Department using the following contact details.

Fitness to Practise Department
The Health and Care Professions Council
Park House
184 Kennington Park Road
London
SE11 4BU

Phone: +44 (0)20 7840 9814
Freephone (in the UK): 0800 328 4218
Fax: +44 (0)20 7820 9684
Email: ftp@hcpc-uk.org
Website: www.hcpc-uk.org

Feedback

We are constantly working towards improving our process. At the end of your case, you will receive a feedback form that will allow you to provide feedback, good or bad, about the service the Fitness to Practise Department provided to you.

If you are unhappy with the way we have dealt with the concerns raised about you and would like to make a complaint, you should contact us in writing using the following details.

Service and Complaints Manager
The Health and Care Professions Council
Park House
184 Kennington Park Road
London
SE11 4BU

Email: feedback@hcpc-uk.org

For more information, see our website at
www.hcpc-uk.org/about-us/customerservice

Park House
184 Kennington Park Road
London SE11 4BU

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fax +44 (0)20 7820 9684
www.hcpc-uk.org

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