hcpc health & care professions council

Sanctions policy

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About the policy

Purpose of the policy

1. The Health and Care Professions Council's (HCPC's) sanctions policy sets out the principles a Practice Committee Panel (the 'panel')[1] should consider when deciding what, if any, sanction should be imposed in fitness to practise cases. It aims to ensure that decisions are fair, consistent and transparent and that sanctions are sufficient to protect the public and to promote and maintain appropriate standards and public confidence in the professions regulated by the HCPC.

2. Panels consider what, if any, sanction should be imposed during a final hearing and after a registrant's fitness to practise is found to be impaired. At the sanction stage, a panel will have already considered the facts, grounds and impairment[2] of the case, writing full reasons for the decisions they take at each stage.[3]

3. Panels make independent decisions and must decide each case on its merits. Panels must refer to the relevant parts of this sanctions policy and record the reasoning for their decision in the published outcome.

4. The Health Professions Order 2001 (the '2001 Order') gives the HCPC the authority to impose sanctions, such as conditions of practise, suspension or removal from the health and care professionals' register (the 'Register'), to protect the public, uphold professional standards, and maintain confidence in regulated professions.

5. This policy covers the principles panels should consider when determining what, if any, sanction should be imposed. It provides details on:

    - the principles of proportionality;
    - mitigating factors;
    - aggravating factors;
    - identifying serious cases;

[1] This refers to the Practice Committee Panel of the Health and Care Professions Tribunal Service (HCPTS) which makes decisions on disciplinary and fitness to practise cases for health and care professionals. It reviews evidence, hears testimonies, and assesses whether a professional's conduct, competence, or health affects their ability to practise safely and meet the required standards. Based on its findings, the panel determines whether any sanctions are necessary.
[2] HCPTS | Fitness to Practise Impairment
[3] HCPTS | Stages of a final hearing

- the sanctions available to the panel; and
- review hearings.

Equality and diversity

6. The HCPC is committed to eliminating discrimination, valuing diversity and advancing equality of opportunity in all that we do. Under the Equality Act 2010 (the 'Equality Act'), the HCPC has statutory obligations to ensure that processes for dealing with concerns about registrants are fair, transparent and inclusive. This policy supports the HCPC in meeting that commitment.

7. As a public authority the HCPC is subject to the requirements of the Equality Act which applies in England, Scotland and Wales. Our guidance and ways of working are also consistent with the public authority duty under the Northern Ireland Act 1998.[4]

8. The Equality Act prohibits discrimination, harassment or victimisation of people with protected characteristics. These are:

   - age;
   - disability;
   - gender reassignment;
   - marriage and civil partnership;
   - pregnancy and maternity;
   - race;
   - religion or belief;
   - sex; and
   - sexual orientation.

9. The Public Sector Equality Duty (PSED) set out in the Equality Act comprises general duties which require HCPC to have due regard to the need to:

   - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act;
   - advance equality of opportunity between people who share protected characteristics and those who do not; and

[4] While we are not listed as a public authority in the relevant legislation, we are committed to the public authority duty set out in Section 75 of the Northern Ireland Act 1998. See: Equality, diversity and inclusion | The HCPC.

- foster good relations between people who share a protected characteristic and those who do not.

10. Panels and anyone who is acting for the HCPC or the Health and Care Professions Tribunal Service (HCPTS) are expected to adhere to equality and human rights legislation. Panels should be mindful of this when making **all** decisions. They should ensure that their decisions are fair, consistent impartial and proportionate.

11. Panels should also be mindful that cultural differences and neurodivergence may impact the way a registrant engages with the investigation into their conduct, and any hearing. Panels should therefore take account of potential cultural and neurodiversity factors that may have influenced the registrant's engagement when considering a sanction.[5]

Purpose of sanctions

12. The purpose of a sanction is to take the action necessary to protect the public and uphold standards and public confidence in the professions we regulate. Sanctions are applied at the conclusion of our fitness to practise process when a registrant's conduct, competencies, criminal conviction, health, or determination by another regulator have been found to fall below acceptable standards and, as a result, a registrant's fitness to practise has been found to be impaired.

13. The primary function of any sanction is to protect the public. This includes consideration of:

- any risks the registrant might pose to those who use or need their services;
- the deterrent effect on other registrants;
- public confidence in the profession we regulate; and
- public confidence in the regulatory process.

14. Sanctions should be tailored to the specific circumstances of each case, balancing public protection with the broader public interest. Sanctions should only be imposed in relation to the facts found proven and should address all of those facts which have led to a finding of impairment.

[5] For example, how they frame an apology.

15. There are five statutory grounds of impairment:

- misconduct;
- lack of competence;
- a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
- physical or mental health;[6] or
- a determination by another regulator.

16. Professionals registered with the HCPC must follow the standards of conduct, performance and ethics, and the relevant standards of proficiency. Where serious concerns have been raised about a registrant's failure to work in line with these standards, these concerns may be referred to a panel of the HCPTS.

17. A panel can only impose a sanction if they have found that a registrant's fitness to practise is currently impaired. By this stage, the panel will have heard evidence and submissions about what happened and any steps the registrant has taken to remediate. The panel may receive further evidence and hear further submissions after a finding of impairment and before deciding which sanction, if any, to impose.

18. Sanctions are not intended to punish registrants, but to ensure the public is protected and maintain standards and confidence in the profession. Inevitably, a sanction may be punitive in effect but should not be imposed for that purpose.

Sanctions and orders available to the panel

19. The following sanctions and orders are set out in Article 29 of the 2001 Order:

- mediation;[7]
- no action;
- caution;
- conditions of practice;

6 Panels should follow the HCPTS Practice Note on Health Allegations when finding impairment on health grounds: HCPTS | Health concerns
7 Whilst mediation is in our legislation under Article 29, it is not considered a sanction. There is separate guidance on mediation in the form of a Practice Note.

- suspension;
- striking off.

Reasons for decisions to issue a sanction

20. **At every stage** of the decision-making process, panels must give reasons for the decisions they make. Panels must:

    - provide clear and detailed reasoning to support their decision – they must set out how they have considered the sanctions available to them in ascending order of restrictive effect and how they have assessed the seriousness of the concerns raised, including the aggravating and mitigating factors;
    - explain why the sanction they imposed was the most proportionate and appropriate one and why neither less nor more restrictive sanctions were required;
    - demonstrate they have considered the possible impacts of the sanction on the registrant;
    - ensure that the sanction is consistent with findings made by them at the statutory ground and impairment stages; and
    - ensure the outcome of all cases, together with the reasons for decisions, are published on HCPTS website.[8]

[8] As required by the 2001 Order, any decision on sanction must be published on the HCPTS website alongside the reasons for it.

Relevant factors when making decisions on sanctions

21. Where a registrant's fitness to practice has been found to be impaired by a panel, panels should consider all relevant factors of the case, including where a person has failed to comply with the standards of conduct, performance and ethics, all relevant principles of proportionality, and serious cases.

Standards of conduct, performance and ethics

22. The HCPC's standards of conduct, performance and ethics are the standards we set for all the professionals on our Register, stating our expectations of their behaviour and conduct.

23. It is important that panels are mindful of the standards when imposing sanctions and refer to the standards in their reasons. This may simply require the panel to refer to their decision making at an earlier stage, for example why the panel found misconduct. The standards outline that registrants must:

- promote and protect the interests of service users and carers;
- communicate appropriately and effectively;
- work within the limits of their knowledge and skills;
- delegate appropriately;
- respect confidentiality;
- manage risk;
- report concerns about safety;
- be open when things go wrong;
- be honest and trustworthy; and
- keep records of their work.

The principles of proportionality

24. In making proportionate decisions on sanctions, panels need to strike a balance between the competing interests of the registrant and the HCPC's overriding objective to protect the public. Furthermore, there is a public interest in retaining registrants on the Register and allowing them to practise, but only where the panel is satisfied that they can do so safely without restriction (or with conditions where required) and where the public interest does not require a registrant to be suspended or struck off. Therefore,

sanctions should reflect the nature and seriousness of the concerns raised, and be fair, just and reasonable.

25. The panel's written decision should clearly explain why the sanction is necessary having regard to the full facts of the case and associated risks.

26. It should also make clear what process the panel followed, by considering each available sanction in turn, in the same order in which the panel has assessed their suitability.

27. Panels should explain why they have rejected one sanction before moving on to a more restrictive sanction and outline why the less restrictive sanction is insufficient to protect the public and/or the public interest.

28. Where appropriate, they should also explain why the next more restrictive sanction is not required to protect the public and/or the public interest, having regard to the specific circumstances of the case.

29. In determining a proportionate sanction, panels should take into account and in combination all aspects relevant to the case, ensuring that these are properly assessed and given appropriate weight. These aspects include (**this list is not exhaustive**):

    - the presence of an existing interim order;
    - the seriousness of the case;
    - the registrant's culpability;
    - any and all relevant mitigating factors; and,
    - any and all relevant aggravating factors.

30. Panels must take proper account of all mitigating factors but also bear in mind that case law has established that the reputation of the profession is more important than the fortunes of any individual member.

31. Panels must ensure that all of these factors are recorded fully in the panel's written decision.

Weighing existing interim orders

32. When making a decision on a sanction, the panel may be told that the registrant has been under an interim order whilst the HCPC investigated the concerns. The panel should be mindful of the effect this might have on the registrant. The fact that a registrant was previously under an interim order,

and for how long, are relevant background factors in deciding on what a proportionate sanction might be.

33. For example, if a registrant has been under an interim order, they may only have had a limited chance to address the areas in their practice that have fallen below the standards. Likewise, if a registrant has not fully complied with an interim order, questions may be raised in relation to their insight, their attitude towards professionalism, and whether they are likely to comply with any sanction.

34. Interim orders have a separate and different purpose from sanctions. The purpose of interim orders is to put in place interim safeguards to protect the public interest, including the protection of the public, whilst concerns about a registrant's fitness to practise remain unresolved. Accordingly, an interim order is a temporary measure employed to manage or address risk.

35. An interim order decision is not based on a finding of fact. The risk factors considered for an interim order are different from the criteria considered by the panel when deciding an appropriate sanction on a registrant's practice. Therefore, a panel should avoid giving undue weight to whether a registrant has been subject to an interim order or the duration of that order. Similarly, the fact that a registrant has not been made the subject of an interim order during fitness to practise proceedings does not mean that a restrictive sanction should not be imposed where appropriate.

36. It would be wrong for a panel to simply deduct or discount the time a registrant was previously restricted or suspended under an interim order from the substantive sanction which the panel may be thinking about imposing. Doing so could put patients at risk of harm, if time spent under an interim order was simply deducted from the otherwise appropriate period of sanction. Such a decision could mean that the substantive order would not be sufficient in achieving its purpose of maintaining the standards and protecting the public.

Assessing seriousness

37. Panels need to assess seriousness, including mitigating and aggravating factors, at various stages in their decision making, including when deciding on impairment and when deciding what sanction, if any, to impose and the length of that sanction. Panels should assess seriousness against the HCPC's statutory objectives to protect the public and to promote and maintain public confidence in the professions and in proper professional standards and conduct of registrants.

38. Any ongoing risk to service users or public safety is an important consideration for each of these objectives. Where a registrant poses an ongoing risk, panels must address that risk, as public confidence is likely to be undermined unless the regulator takes appropriate action. Conduct which has occurred outside a registrant's professional role may also indicate a risk to service user care, public safety or public confidence in the profession.

39. Some conduct may be considered fundamentally incompatible with continued registration because it represents a particularly serious departure from the standards required of HCPC registrants. Some examples of such conduct are listed in paragraph 179.

Assessing culpability

40. When assessing harm or the risk of harm, panels should consider the registrant's culpability for that harm or the risk of exposure to accidental harm. The degree of risk of harm cannot be assessed in isolation, as even death or serious injury may result from an unintentional error, which is unlikely to be repeated.

41. Conversely, a person may have intended to cause serious harm, or acted recklessly in doing so, but through no more than good fortune, no actual harm may have occurred. Panels should also take account of any systemic and contextual factors they consider to be relevant to their decision making.

42. In assessing culpability, panels should take into account a registrant's state of mind, referring to the HCPTS Practice Note on Making decisions on a registrant's state of mind. They should be mindful that deliberate and intentional harm is more serious than harm arising from a registrant's reckless disregard of risk which, in turn, is more serious than harm arising from a negligent act where the harm may not have been foreseen by the registrant.

43. In assessing harm and future risk, panels should take account of the fact that there are different types of harm. It may be that the harm has an adverse effect on physical or mental health. In other cases, for example bullying or sexual misconduct towards colleagues, the harm may include a breakdown in trust within a wider team, which may affect the safe and effective delivery of care.

Mitigating factors

44. Mitigating factors are factors that tend to make a matter less serious in terms of the regulatory response required. They may relate to the acts, omissions or circumstances of the case or the registrant's response to them.

45. Mitigating factors relevant to the registrant's acts or omissions may include:

- an isolated act – this may suggest there is less risk of repetition in the future;
- no risk of harm or adverse consequence; or
- a genuine error, which is less culpable than a deliberate or reckless act and easier to put right.

46. Mitigating factors arising from the registrant's response may include:

- insight;
- remorse;
- apology; and
- remediation.

47. Matters of purely personal mitigation for instance, financial loss or reputational damage that would result from the imposition of a sanction, are likely to be of considerably less significance in regulatory proceedings, where the overarching concern is the protection of the public, than to a court imposing a punitive sentence.

48. Panels should record in their determination the mitigating and any contextual factors they have taken into consideration in deciding what sanction to impose.

49. Whilst mitigating factors do not excuse or justify poor conduct or competence, they may be useful indicators of a reduced ongoing risk posed to service users. For this reason, mitigating factors may reduce the extent of the need to impose restrictions via a sanction.

50. A key factor in determining what, if any, sanction is appropriate is likely to be the extent to which a registrant recognises their failings and has addressed them, or appears genuinely willing and able to do so. Where a registrant does recognise their failings and is willing to address them, the risk of repetition may be reduced. However, public protection must be held in higher consideration than insight, remorse and apology.

51. Health and social care professionals have a duty of candour; a professional responsibility to be open, honest and candid when things go wrong with the care, treatment or service that they have provided. A registrant's duty of

candour and professional duty to apologise are set out in the standards of conduct, performance and ethics:

- Registrants must be open, honest and candid when something has gone wrong with the care, treatment or other services that they provide, by:
  - where applicable, alerting their employer of what has gone wrong and following the relevant internal procedures;
  - informing service users and where appropriate carers, or where they do not have direct access to these individuals the lead clinician, that something has gone wrong;
  - providing service users and carers with a detailed explanation of the circumstances in which things have gone wrong and the likely impact; and
  - taking action to correct the mistake if possible and detailing this action to the service user and where appropriate, their carer.
- Registrants must apologise to a service user and/or carer when something has gone wrong with the care, treatment or other services that they provide.

52. When taking account of any insight, remorse or apology offered by a registrant, panels should be mindful that factors such as neurodivergence or cultural differences may influence how these are expressed, both verbally and non-verbally. This may be particularly relevant where English is not the registrant's first language.

53. Panels should avoid making assumptions based on the presence or absence of emotion or silence and should consider the alternative ways in which remorse and insight may be demonstrated.

Insight

54. When considering a sanction, panels will need to consider what insight a registrant has shown and its relevance to and impact on the sanction required. Panels should always seek advice from the legal assessor regarding the approach they should take to their assessment of the registrant's insight.

55. Panels should take particular care in assessing insight in cases in which the registrant has denied the facts alleged against them and refer to the relevant sections of the HCPTS Practice Note on Fitness to practise impairment.

56. Where present, genuine insight can indicate that:

- the registrant will comply with any requirements imposed by the panel;
- the registrant will comply with any restrictions imposed on their practice;

- the risk of repetition, and therefore the risk to service users, is significantly lower than cases where insight is not present; and
- the risk of damage to public confidence in the profession is reduced.

57. Insight is a registrant's genuine understanding and acceptance of the concerns, which have been raised in relation to their conduct or competence. It is likely to be demonstrated by:

- a genuine recognition of the concerns raised;
- an understanding of the impact or potential impact of their actions; and
- demonstrable empathy for the harm or potential harm caused to other people including service users, colleagues and members of the public.

58. Genuine insight is likely to be demonstrated by timely remorse, apology and remediation exhibited ahead of any hearing. In assessing the sincerity of an apology, the panel should take account of the timing and level of remorse and insight the registrant has shown, and the presence and nature of any remediation they have undertaken.

Remorse

59. Expressing remorse involves a registrant taking responsibility and exhibiting regret for their actions, and may be demonstrated by one or more of the following:

- acknowledging wrongdoing;
- giving an apology; and
- undertaking appropriate remediation.

60. Whilst remorse expressed during a hearing may be taken into account, remorse expressed in advance may carry more weight. Panels must take all relevant circumstances into account in deciding the relevance and impact of insight and remorse to their decisions on sanction.

Apology

61. An apology does not mean the registrant is admitting legal liability for what had happened or a breach of statutory duty, which may be admissible as evidence of liability in other legal proceedings. Whether or not an apology will be treated in this way will be determined by the relevant UK law applying to any other proceedings.

62. Apologies are an important aspect of an individual's duty of candour. The HCPC standards of conduct, performance and ethics 8.1 and 8.2 explain that

registrants must apologise to a service user and/or their carer when something has gone wrong with the care, treatment or other services that they provide. An apology may be one of the ways an individual demonstrates insight.

63. The timing and nature of any apology will be informed by context and the working environment of the registrant. While a timely apology is encouraged, there may be good reason for a delay in any apology being offered, and panels should consider the various reasons why an apology may not be given. For example, registrants, including those who have limited access to legal advice, may fear the impact an apology will have on liability. Different cultural factors, neurodiversity, and lived experience may also impact on whether or not a registrant apologises, or how they frame an apology or insight.

64. For the purposes of fitness to practise proceedings before a panel, an apology will not be treated as an admission of the facts alleged or of current impairment.

Remediation

65. Remediation involves a registrant taking steps to address any concerns that have been raised about their conduct, competence or health. Effective remediation is likely to:

- indicate the registrant has insight into concerns about their conduct or competence or ability to manage their health;
- reduce the risk of repetition of the concerns; and
- reduce the risk to the public, including public confidence in the professions.

66. Whether or not remediation has been undertaken, and if any remediation can be considered effective, are important aspects of a panel's assessment of what risk the registrant might pose to the public, and therefore what sanction, if any, is required to mitigate that risk.

67. There are a wide range of remediation activities available to a registrant, and the form of that remediation will depend upon the nature of the concerns raised. Panels should be open to the variety of remediation evidence that a registrant might submit. The decision as to the appropriateness of the remediation is ultimately for the panel to make; however, remediation can include (**but is not limited to**):

- courses to address behavioural and attitudinal issues, such as professional boundaries and equality diversity and inclusion;
- training to address competence deficiencies;

- rehabilitation to support individuals with health concerns;
- coaching, mentoring and supervision to address competence and conduct issues;
- reflection that the registrant has provided to the panel; or,
- other continued professional development to address the concerns of the case.

68. There are some concerns which are so serious, that activities intended to remediate the concern cannot sufficiently reduce the risk to the public or public confidence in the profession. Despite the steps the registrant has taken to attempt to remediate the concerns, the panel may still feel it necessary to impose a more restrictive sanction. Such cases might include those involving:

- dishonesty;
- failure to raise concerns;
- failure to work in partnership;
- discrimination against service users, carers, colleagues and other people;
- conduct which represents a serious breach of professional boundaries towards service users, carers, colleagues and other people;
- abuse of professional position, particularly when involving a vulnerable person;
- conduct which is sexual in nature or sexually motivated;
- sexual abuse of children or indecent images of children;[9]
- inclusion on a sexual offenders' database;
- criminal convictions, cautions and community sentences for serious offences; and
- violence which is serious or otherwise adversely affects public confidence in the profession.

69. Where the panel considers the steps taken to address the concerns are not sufficient to remediate the issues, it should clearly set out:

- the seriousness of the concerns;
- the risk posed to the public;
- the steps the registrant has taken to attempt to address the concerns; and

[9] For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children.

- the reasons the steps taken are not sufficient to protect the public.

Aggravating factors

70. Aggravating factors are any features of a case which increase the seriousness of the concerns. Where present, they are likely to lead to more restrictive sanctions in order to protect the public.

71. When considering the impact of aggravating factors on a sanction, panels should properly evaluate these factors in the round and on a case-by-case basis. Panels must therefore give due consideration to all the information available to them about the particular case, including any wider contextual factors. These considerations should then form part of the panel's wider balancing exercise to determine what action is necessary for public protection.

Breach of trust

72. Trust is a fundamental aspect of the relationship between a registrant and a service user or carer. Breaching this trust can have significant impacts on public protection. For example, a service user may not engage with a registrant because they are concerned that they cannot trust them, delaying treatment or support. Breaching trust may also have an adverse effect on the confidence the public places in the profession more generally.

73. Breaches of trust are of even greater seriousness where they involve a vulnerable service user or carer.

74. Where there has been a breach of trust, panels are likely to impose more restrictive sanctions and should provide clear reasons if they choose not to.

Repetition of concerns / pattern of unacceptable behaviour

75. The standards of conduct, performance and ethics outline HCPC registrants' obligation to 'promote and protect the interests of service users and carers' (standard 1) and to 'work within the limits of [their] knowledge and skills' (standard 3). Where concerns are raised regarding their conduct, competence or health, registrants are duty bound to address these concerns and ensure they do not compromise service user safety.

76. A repetition of concerns, or a pattern of unacceptable behaviour, leads to greater potential risks to the public, for a number of reasons such as:

- the fact the conduct or behaviour has been repeated increases the likelihood it may happen again; and

- the repetition indicates the registrant may lack insight.

77. Repeated misconduct or unacceptable behaviour, particularly where previously addressed by employer or regulatory action, is likely to require more restrictive sanctions to address the risks outlined above.

Lack of insight

78. Where a registrant lacks insight, they may pose a higher risk to service users.

79. Registrants who lack a genuine recognition of the concerns raised about their fitness to practise and fail to understand or take responsibility for the impact or potential impact of their actions, are unlikely to take the steps necessary to safeguard service user safety to address the concerns raised. For this reason, in these cases, panels are likely to impose a more serious sanction in order to protect the public.

80. Panels should always take advice from the legal assessor on the correct approach they should take when assessing insight and its impact on sanction.

Lack of remediation

81. If a registrant chooses not to undertake remediation activities to address their deficiencies or fails to remediate when they have promised to do so, it could indicate a lack of insight. This might significantly increase the risk of repetition and therefore risk to the public. It is therefore likely that cases involving little or no remediation might require more serious sanctions, to protect the public.

82. In evaluating the aggravating impact of lack of remediation, panels should consider what barriers to remediation might exist for the registrant, including disability, health, pregnancy or maternity, or caring responsibilities. Panels should also be cautious about drawing adverse conclusions from behaviour or lack of behaviour which arises from the presence of a disability.

Service user harm / potential service user harm

83. In cases where a service user has been harmed, or there was potential for harm to be caused, panels should be particularly mindful of any ongoing risk to service user safety, and any impact on public confidence in the profession.

84. Service user harm, or the potential for this, will be of particular importance in cases involving vulnerable service users. In these cases, the public expect that more serious sanction is imposed to address concerns around conduct or behaviour.

Identifying serious cases

85. Cases involving certain factors or behaviours are likely to result in more restrictive sanctions due to their serious nature and incompatibility with the HCPC standards. These include:

- dishonesty;
- failure to raise concerns;
- failure to work in partnership;
- discrimination against service users, carers, colleagues and other people;
- conduct which represents a serious breach of professional boundaries towards service users, carers, colleagues and other people;
- abuse of professional position, particularly when involving a vulnerable person;
- conduct which is sexual in nature or sexually motivated;
- sexual abuse of children or indecent images of children;[10]
- inclusion on a sexual offenders' database;
- criminal convictions for serious offences; and
- violence.

86. The behaviours and conduct set out in this section may occur in combination, which panels should consider and assess proportionally. Panels should also consider these cases alongside any mitigating or aggravating factors.

Dishonesty

87. The standards of conduct, performance and ethics require registrants to be honest and trustworthy (standard 9). Dishonesty undermines public confidence in the profession and can, in some cases, impact the public's safety.

88. Dishonesty, both in and outside the workplace, can have a significant impact on the trust placed in those who have been dishonest, and potentially on public safety and the profession generally. It is likely to lead to more restrictive sanctions. When considering cases where dishonesty is present, panels should consider the HCPTS Practice Note on Making decisions on a registrant's state of mind.

[10] For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children.

89. Given the seriousness of dishonesty, cases are likely to result in more restrictive sanctions. However, panels should bear in mind that there are different forms and different degrees of dishonesty that need to be considered in an appropriately nuanced way. Factors that panels should take into account in this regard include (**this list in not exhaustive**):

- whether the conduct took the form of a single act, or occurred on multiple occasions;
- the duration of any dishonesty;
- the nature of the dishonesty;
- the actual or potential impact of the dishonesty;
- whether the registrant took a passive or active role in it;
- any other relevant aggravating factors; and
- any other relevant mitigating factors.

Failure to raise concerns

90. The standards of conduct, performance and ethics outline HCPC registrants' obligation to 'report concerns about safety' (standard 7). Registrants must report any concerns about the safety or wellbeing of service users promptly and appropriately, and ensure that the safety and wellbeing of service users come before any professional or other loyalties. In particular, the standards outline an explicit requirement to take appropriate action if the concern is about a child or vulnerable adult.

91. Where a registrant fails to raise concerns, this can place service users at particular risk and is likely to result in a more restrictive sanction. This will be appropriate particularly where a registrant has repeatedly failed to raise concerns, a failure to raise concerns has resulted in a serious risk to the safety or wellbeing of service users, or if the concern involved a child or vulnerable adult.

92. Panels should further consider whether a registrant has recorded their reasoning to not disclose a safeguarding concern. If a registrant has not raised a concern and has not recorded their reasoning on the decision, this may indicate a lack of judgement or awareness of the concern which places service users at risk.

Failure to work in partnership

93. The standards of conduct, performance and ethics require registrants to 'work in partnership with colleagues' for the benefit of service users (standards 2.6-2.9). As a result, registrants must share their skills, knowledge and experience

with colleagues, and, where appropriate, relevant information about the care, treatment or other services provided to a service user.

94. Cases where a registrant fails to work in partnership effectively with colleagues, for example, where the registrant is bullying or discriminating against colleagues (see standards 1.5-1.7), or is dishonest with colleagues, are likely to result in a more restrictive sanction. These behaviours undermine trust and effectiveness among the health and care team, risking harm to service users, carers, and colleagues and risking the public's confidence in the profession.

95. **Bullying**[11] is unwanted behaviour from a person or group that is either:

- offensive, intimidating, malicious or insulting; or,
- an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.

96. Bullying might include constant criticism, spreading malicious rumours about someone, deliberately giving someone a heavier workload than others, constantly putting someone down, excluding someone from team social events, or putting humiliating, offensive or threatening comments or photos on social media. These behaviours can occur as a regular patter or as an isolated incident, and they can happen in person, on social media,[12] or in a virtual setting.

Discrimination against service users, carers, colleagues and other people

97. Registrants must treat people fairly, whatever their personal values, biases and beliefs. They must take action to ensure their personal values, biases and beliefs do not lead them to discriminate against others or detrimentally impact the care, treatment or other services they provide. This guidance is set out at standards 1.5-1.7 of the standards of conduct, performance and ethics.

98. It is unlawful to discriminate against someone based on their protected characteristics, or because of the protected characteristics of someone they are associated with.[13]

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[11] Definition and examples informed by: What bullying is - Bullying at work - Acas
[12] The standards of conduct, performance and ethics outline our expectations of registrants when engaging on social media and networking sites (standards 2.10-2.12).
[13] The Equality Act 2010 specifies the nine 'protected characteristics' which are covered by this legislation: age, disability, race, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, and sexual orientation. It is unlawful to discriminate on the basis of any one or more of these characteristics.

99. Discrimination is unacceptable and can negatively impact public protection and the trust and confidence the public places in registrants. The HCPC standards require that registrants do not discriminate, challenge discrimination, treat service users and carers with respect, communicate politely, considerately and responsibly, and ensure their conduct justifies the public trust and confidence in them and their profession.

100. Unlawful discrimination can come in the following forms:

- **Direct discrimination** - treating someone less favourably than others because of their protected characteristics.
- **Indirect discrimination** - putting rules or arrangements in place that apply to everyone and put someone at an unfair disadvantage because of a protected characteristic. [14]
- **Harassment** - unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them.
- **Victimisation** - treating someone unfairly because they've complained about discrimination or harassment

101. HCPC standards set out that registrants must not unfairly discriminate. This includes unlawful discrimination covered by the Equality Act.

102. There can be serious consequences for public safety and confidence in the profession where a registrant **unfairly** discriminates against individuals (e.g., colleagues, service user, carer or members of the public), for example where a registrant:

- treats a person differently and worse than others because of who they are, or because of someone they are connected to;
- refuses to provide a person with a service or take them on as a client because of who they are, or because of someone they are connected to;
- behaves in a way violates a person's dignity or intimidates them; or
- punishes a person for complaining about discrimination or helping someone else to complain.

103. Where a panel finds a registrant impaired due to discrimination against service users, carers, colleagues or others– whether within or outside their professional life – the panel should refer to the HCPTS Practice Note on Making decisions on a registrant's state of mind. This document sets out the

[14] It can be lawful to have specific rules or arrangements in place, as long as they can be justified.

approach panels should take in cases where a registrant's conduct is alleged to be discriminatory.

104. Panels are more likely to impose a more restrictive sanction for discriminatory conduct, taking into account the standards of conduct, performance and ethics and the objectives of the PSED.

Breach of professional boundaries

105. Within healthcare, effective team working is vital for the health and safety of service users and their carers. As well as causing or risking harm to the team members affected, breaches of professional boundaries between colleagues can undermine effective team working, risking harm to the people that the team exists to serve.

106. The relationship between a registrant and service user, carer or colleague is based upon trust, confidence and professionalism. The relationship between service user or junior colleague and registrant is one in which there is an unequal balance of power, in favour of the registrant. Whilst registrants should endeavour to have positive relationships with service users, carers and colleagues, it is essential that they remain aware of the dynamic and take care not to abuse their position. These duties are set out in standards 1.8-1.12 of the standards of conduct, performance and ethics.

107. The standards require registrants to ensure that their conduct justifies the public's trust in them and their profession. This means being honest and trustworthy and acting in the best interests of service users, as well as ensuring that their relationships with service users, carers, and colleagues remain professional.

108. Where a registrant is found to have abused their professional status, this is highly likely to reduce the public's trust in them and their profession. The greater the alleged abuse of trust, the more serious the panel should consider the concerns.

109. When assessing the seriousness of conduct which involves a breach of professional boundaries, panels should apply the principles set out in this policy to that assessment as they would in any case. In addition, they should take account of the specific factors relevant to assessment of seriousness in these types of cases as set out in the HCPTS Practice Note on Professional boundaries.

110. A registrant's behaviour should be considered **predatory** where they seek to take advantage of others, motivated by a desire to initiate or pursue a sexual

or otherwise inappropriate relationship with a service user, carer or colleague, for example a vulnerable or more junior colleague or where there is an unequal balance of power.

111. The panel should take **predatory behaviour** particularly seriously, as there will often be significant risk to the targeted service user, carer or colleague.

112. **Predatory behaviour** might include attempts to contact service users, carers or colleagues using information accessed through confidential records (for example, visiting a service user's home address without authority or good reason to do so), or inappropriate use of social media to pursue a service user, carer or colleague. Any evidence of predatory behaviour is likely to lead to more restrictive sanctions.

113. The panel must, as in all cases, consider the particular circumstances and context of the conduct and any aggravating and mitigating factors in assessing its seriousness.

Vulnerability

114. Cases involving vulnerable service users, carers and colleagues should be treated particularly seriously. Given the unequal balance of power between registrants and service users or carers, any service user or carer accessing treatment may be vulnerable. However, a service user or carer is considered particularly vulnerable if they are unable to take care of themselves or are unable to protect themselves from significant harm or exploitation. Colleagues may also be vulnerable, whether or not they are more junior to the registrant. Panels must consider colleague vulnerability when assessing the seriousness of any proven facts.

115. There are many ways in which a service user or carer may be vulnerable. Vulnerability might include:

- mental illness (including dementia);
- age (for example, children under 18 or the elderly);
- disability;
- lack of capacity;
- history of abuse or neglect; and
- bereavement.

116. Where a registrant has pursued a sexual or otherwise inappropriate relationship with a particularly vulnerable service user or carer or has acted in

a sexually inappropriate way to a particularly vulnerable colleague, panels should consider this an aggravating factor which is likely to lead to a more restrictive sanction.

Sexual misconduct and sexually motivated misconduct

117. Sexual misconduct or sexually motivated misconduct is a very serious matter that has a significant impact on the public and public confidence in the profession. Panels should consider a registrant's motivation and intent by referring to the HCPTS Practice Note on Making decisions about a registrant's state of mind, particularly paragraphs 8 to 14 which set out the approach panels should take to sexual and sexually motivated conduct.

118. Sexual misconduct or sexually motivated misconduct includes, but is not limited to, sexual harassment, sexual assault, and any other conduct of a sexual nature carried out without informed consent, physically, online or otherwise.

119. The misconduct can be directed towards:

- service users, carers and their family members;
- colleagues; and
- members of the public.

120. Sexual misconduct against colleagues, because of the impact it can have on them and the delivery of care to service users, should not be treated less seriously simply because the conduct is not targeted towards a service user.

121. Panels should also consider whether the guidance set out in this policy regarding predatory behaviour (paragraphs 110-113) and vulnerability (paragraphs 114-116) are engaged in their assessment of seriousness.

122. Because of the gravity of these types of cases, where a panel finds a registrant impaired because of sexual misconduct or sexually motivated misconduct, it is likely to impose a more restrictive sanction. Where it deviates from this approach, it must provide clear reasons for its decision.

Sexual abuse of children

123. Sexual abuse of children involves forcing or persuading children to take part in sexual activities and includes both physical contact and online activity.

124. Sexual abuse of children, whether physical or online, is intolerable, seriously damages public safety and undermines public confidence in the profession. Any professional found to have participated in sexual abuse of children in any

capacity has demonstrated conduct which is incompatible with continued registration and likely to lead to strike off.

Offences related to indecent images of children[15]

125. It is illegal to take, make, distribute, show or advertise indecent images of children.

126. The courts categorise offences relating to indecent images of children based on the nature of the images and the offender's degree of involvement in their production.

127. Any offence relating to indecent images of children involves some degree of exploitation of a child, and so a conviction for such an offence is a very serious matter. In particular, it undermines the public's trust in registrants and public confidence in the profession concerned.

128. Any professional found to have participated in any offence related to indecent images of children has demonstrated conduct which is incompatible with continued registration and likely to lead to strike off.

Sex offenders' database

129. Inclusion on a sex offenders' database serves to protect the public from those who have committed certain types of offences. A panel should normally regard allowing a registrant to remain in, or return to, unrestricted practice while they are on a sex offenders' database as incompatible with the HCPC's obligation to protect the public and likely lead to strike off.

Criminal convictions and cautions

130. Where a registrant has been convicted of a serious criminal offence and is still serving a sentence at the time the matter comes before a panel, the panel may decide not to allow the registrant to resume unrestricted practice until that sentence has been satisfactorily completed. It may be disproportionate to impose a suspension or removal from the Register solely because part of the sentence remains outstanding.

131. Panels should consider the nature of the offence, the stage of the sentence, and any evidence of rehabilitation when determining an appropriate sanction. Ultimately, the panel must impose a sanction which is just, proportionate and necessary to maintain public confidence or to protect the public.

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[15] For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children

132. The panel's role is not to impose an additional punishment to any already imposed by the courts, but to protect the public and the wider public interest which includes maintaining high standards among registrants and public confidence in the profession concerned.

133. If a registrant has a conviction or caution for a less serious offence but the panel assesses that there is an ongoing risk to the public, or it is an offence which adversely affects public confidence in the profession, the sanction imposed must be sufficient to address that risk.

134. Where the panel deviates from the approach outlined above, it must provide clear reasons for its decision.

Community sentences

135. Community sentences are non-custodial sentences aimed at punishing offenders' behaviour, so they do not commit crime in the future, and are used to address different aspects of an individual's offending behaviour. This may include unpaid community work, compliance with a curfew, exclusion from certain areas or participation in mental health, drug or alcohol treatment.

136. Panels need to give careful consideration to the specific terms of any community sentence when considering a registrant's fitness to practise. Generally, it will be inappropriate for a registrant to remain in, or return to, unrestricted practice whilst subject to such a sentence.

137. However, panels must approach each case on its own individual facts and give particular attention to the outstanding elements of the sentence and evaluate their relevance to public protection and the wider public interest, including maintaining confidence in the profession and upholding professional standards.

138. If a panel chooses to give less weight to a community sentence when determining an appropriate sanction, it must provide clear and reasoned justification for its decision.

Violence

139. Registrants have a duty to ensure that their conduct justifies the public's trust and confidence in them and their profession (see standard 9.1 of the standards of conduct, performance and ethics). Where a registrant has exhibited violent behaviour, this is highly likely to affect the public's confidence in their profession and pose a risk to the public. In these cases, a more restrictive sanction may be warranted.

Sanctions available to the panel

Determining what sanction is appropriate

140. If a panel finds a registrant's fitness to practise to be impaired, it can:

- refer a case for mediation;[16]
- take no action;
- impose a caution order;
- impose a conditions of practice order;
- impose a suspension order; or
- strike the registrant off the Register.

141. In determining what sanction, if any, is appropriate, the panel should start by considering the least restrictive sanction first, working upwards only where necessary. Panels should provide clear reasons when deciding a less restrictive sanction is not sufficient.

142. **The final sanction** should be a proportionate one and will therefore be the minimum action required to protect the public and maintain standards and confidence in the profession. **At each stage** of the process, panels must follow the guidance for providing reasons for a decision to issue a sanction set out in this policy (paragraph 20).

143. Panels should consider the impact of sanction on the registrant's circumstances, including any health concerns,[17] disability or immigration status. However, these considerations must not lessen a sanction that the panel believes is necessary to protect the public and maintain public confidence in the profession.

No action

144. A finding of impaired fitness to practise means that the panel has concerns about a registrant's current ability to practise safely and effectively. It is therefore unlikely that the panel would take no action following a finding of impairment.

[16] Whilst mediation is in our legislation under Article 29, it is not considered a sanction. There is separate guidance on mediation in the form of a Practice Note.
[17] For further guidance, panels should refer to the Practice Note on Health allegations.

145. In any case in which the panel considers taking no action to be the appropriate and proportionate outcome, it must provide clear reasons to explain this decision. In particular, it must set out why it has concluded that there is no risk to the public, or to public confidence in the profession, in taking no action.

Caution order

What is a caution order?

146. A caution order is a non-restrictive sanction that will appear on the Register but will not restrict a registrant's ability to practise. The caution order can be imposed for any period between one and five years. An order of this sort may be taken into account if a further allegation is made against the registrant. Although, in doing so, the panel should take into account all relevant factors including:

- the length of time since the caution order was imposed;
- the relevance of that order to the further allegation made against the registrant; and
- whether any promised remedial steps that led to the imposition of a caution order originally, rather than an alternative sanction, have been fulfilled.

When is a caution order appropriate?

147. A caution order is likely to be an appropriate sanction for cases in which:

- the issue is isolated, limited, or relatively minor in nature;
- there is a low risk of repetition;
- the registrant has shown good insight; and
- the registrant has undertaken appropriate remediation.

148. A caution order should be considered in cases where the nature of the allegations means that there is no risk to public protection that has to be addressed by a more restrictive sanction or that meaningful practice restrictions cannot be imposed, but a suspension order would be disproportionate.

149. In these cases, panels should provide a clear explanation of why it has chosen a non-restrictive sanction, even though the panel may have found there to be a risk (albeit low) of repetition.

How long should a caution order be imposed for?

150. The panel can impose a caution order for any period between one and five years. The panel should take the minimum action required to protect the

public and public confidence in the profession, so should begin by considering whether or not a caution order of one year would be sufficient to achieve this. It should only consider imposing a caution order for a longer period where one year is insufficient.

151. Each case should be considered on an individual basis, and the panel's decision should clearly state the length of sanction it considers to be appropriate and proportionate, and the reasons for that decision.

Conditions of practice order

What is a conditions of practice order?

152. A conditions of practice order allows a registrant to remain in practice subject to restrictions which reflect the panel's finding as to their fitness to practise. It requires the registrant to undertake certain actions or restrict their practice in certain ways. In some cases, it may be appropriate to impose a single condition for a short period, for example to undertake specific training. However, in most cases, a combination of conditions will be necessary. Conditions of practice orders must be reviewed by a panel before the order expires.

When is a conditions of practice order appropriate?

153. A conditions of practice order is likely to be appropriate in cases where:

- the registrant has insight;
- the concerns are capable of being remedied or managed;
- there are no persistent or general concerns which would prevent the registrant from remediating;
- appropriate, proportionate, realistic and verifiable conditions can be formulated;
- the panel is confident the registrant will comply with the conditions;
- a reviewing panel will be able to determine whether or not those conditions have or are being met; and
- a panel is satisfied that a registrant may continue to practise with conditions without exposing the public to risk of harm.

When might a conditions of practice order not be appropriate?

154. Conditions will only be effective in cases where the registrant is genuinely committed to resolving the concerns raised and the panel is confident they will do so. Therefore, conditions of practice are unlikely to be suitable in cases in which the registrant has failed to engage with the fitness to practise process or where there are serious or persistent concerns.

155. Conditions are also less likely to be appropriate in more serious cases, for example those involving:

- dishonesty;
- failure to raise concerns;
- failure to work in partnership;
- discrimination against service users, carers, colleagues and other people;
- conduct which represents a serious breach of professional boundaries towards service users, carers, colleagues and other people;
- abuse of professional position, particularly when involving a vulnerable person;
- conduct which is sexual in nature or sexually motivated;
- sexual abuse of children or indecent images of children;[18]
- inclusion on a sexual offenders' database;
- criminal convictions for serious offences; and
- violence.

156. There may be circumstances in which a panel considers it appropriate to impose a conditions of practice order in the above cases. However, it should only do so when it is satisfied that the registrant's conduct was minor, out of character, capable of remediation and unlikely to be repeated and only where a more restrictive sanction would be disproportionate. The panel should take care to provide robust reasoning in these cases.

What considerations should be given when formulating conditions?

157. When considering which conditions to impose, panels should refer to the HCPTS Practice Note on Conditions bank. This sets out the general principles which apply to the imposition of conditions and provides sample conditions for panels to use in appropriate cases.

158. Conditions typically cover the following areas **(this list is not exhaustive**):

- education and training requirements;
- practice restrictions;
- chaperones;

[18] For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children.

- supervision;
- treatment requirements;
- substance dependency;
- informing the HCPC and others; and
- personal development.

159. Conditions should be appropriate to remedy the concerns raised, and the panel should be assured that they mitigate any risk posed by the registrant remaining in unrestricted practice and are a proportionate response to the findings made by the panel at earlier stages of their decision making.

160. While conditions of practice may be imposed on a registrant who is currently not practising, before doing so, panels should consider whether there are equally effective conditions which could be imposed and which are not dependent on the registrant returning to practise. For example, not all training, reflection or development requires a registrant to be in practice or have a workplace-based mentor.

161. Conditions must also be workable and reasonable. Panels should take into account the registrant's wider circumstances including health and practice setting and that not imposing a condition, or combination of conditions, which can never be met are the equivalent of a suspension.

162. Where a panel believes that stringent conditions are required, and it has concerns these effectively suspend the registrant's practice, it should consider whether or not conditions are an appropriate sanction. The panel's primary concern should be to protect the public and public confidence in the profession. If it is not able to draft workable conditions that achieve this, it may need to consider imposing a suspension order.

How long should a conditions of practice order be imposed for?

163. Conditions of practice orders can be imposed for a period of up to three years. In determining the appropriate length of a conditions of practice order, the panel should consider all the information available to it to come to an appropriate and proportionate decision.

164. A panel must impose a reasonable time limit for compliance with a condition, so as to avoid placing the relevant registrant in a position of uncertainty for an unnecessary length of time.

165. Panels should bear in mind that the review hearing will be scheduled to take place several weeks before the order is due to expire so panels must ensure that the registrant has sufficient time to comply with the conditions of the order. The panel should provide clear written reasons for deciding on the particular length of the order.

166. Article 29(7)(c) of the 2001 Order enables panels to specify a minimum period of up to two years for which a conditions of practice order has to have been in effect before the registrant can apply to vary, replace or revoke it. Panels should only exercise that power in cases where it is clear from the evidence that earlier review is unlikely to be of value or where the nature of the conditions imposed make an early review inappropriate.

Suspension order

What is a suspension order?

167. A suspension order prohibits a registrant from practising their profession for up to one year and must be reviewed by a panel before the order expires.

168. Suspension orders cannot be made subject to conditions, but where the panel expects the registrant to address specific issues or take specific action before the suspension order is reviewed (for example, to undergo substance abuse treatment) clear guidance should be given setting out what is expected of the registrant and the evidence that may be helpful to any future review panel. However, panels should avoid being unduly prescriptive and must not bind or fetter the discretion of a future review panel.

When is a suspension order appropriate?

169. A suspension order is likely to be appropriate where there are serious concerns which cannot be reasonably addressed by a conditions of practice order, but which do not require the registrant to be struck off the Register.

170. Where a panel is considering suspension orders, it should first consider whether the conduct found proven indicates behaviour which is fundamentally incompatible with continued registration. Examples of such cases are given in paragraph 179. It may still be necessary to impose a striking off order if public protection and/or the wider public interest considerations require it. If that is the case, the panel should not impose a suspension order, even where some or all of the factors listed below are present (**this list is non-exhaustive**):

- the registrant has insight;
- the issues are unlikely to be repeated; or

- there is evidence to suggest the registrant is likely to be able to resolve or remedy their failings, particularly in cases where the registrant has demonstrated they have begun to do so or given a credible explanation for how they will do so.

How long should a suspension order be imposed for?

171. A suspension order should be imposed for a specified period up to one year. When determining how long a suspension order should be imposed for, panels must ensure that their primary consideration is what is necessary and proportionate in order to ensure that the public is protected. Panels should follow the approach to proportionality as set out in paragraphs 24-31.

172. Whilst short-term suspensions can have long-term consequences for a registrant (including being dismissed from their current employment), they may be appropriate where a staged return to practice is required. For example, where the registrant has previously engaged in the process, and is currently unable to respond to and comply with conditions of practice but may be capable of doing so in the future. In these circumstances, a short period of suspension may allow time for the registrant to reach the point where a reviewing panel can then consider whether they are fit to practise with or without further restriction.

173. A staged return to practice may be appropriate in cases involving substance dependency, where at the time of the hearing the registrant is seeking or undergoing treatment (and the panel has received medical evidence confirming this to be the case). If the registrant has not reached the stage where they are safe to return to practice, even if that registrant is subject to conditions of practice, a staged return may be appropriate. In these cases, the panel should clearly explain the purpose of the sanction and the expectations it has of the registrant. At the review hearing, the panel can then determine, if the registrant's fitness to practise remains impaired, what further sanction is necessary.

174. Short-term suspensions can also be appropriate in cases where there is no ongoing risk of harm, but where a more severe sanction is required in order to maintain public confidence in the health and care profession.

175. Article 29(7)(b) of the 2001 Order enables panels to specify a minimum period (of up to ten months) for which a suspension order is to have effect before the registrant can apply to vary, replace or revoke it. Panels should only exercise that power in cases where it is clear from the evidence that earlier review is unlikely to be of value.

Striking off order

What is a striking off order?

176. A striking off order removes a registrant's name from the Register and prohibits the registrant from practising their profession.

177. Striking off is a long-term sanction. Article 33(2) of the 2001 Order provides that, unless new evidence comes to light, a person may not apply for restoration to the Register within five years of the date of a striking off order being made, and panels do not have the power to vary that restriction.

178. A striking off order may not be made in respect of an allegation relating to concerns about a registrant's competence or ability to manage their health unless the registrant has been continuously suspended, or subject to a conditions of practice order, for a period of two years at the date of the decision to strike off. Interim orders do not count towards the period of two years.

When is a striking off order appropriate?

179. A striking off order will be appropriate for serious, persistent, deliberate or reckless acts which may include (**this list is not exhaustive**):

- dishonesty;
- failure to raise concerns;
- failure to work in partnership;
- discrimination against service users, carers, colleagues and other people;
- conduct which represents a serious breach of professional boundaries towards service users, carers, colleagues and other people;
- abuse of professional position, particularly when involving a vulnerable person;
- conduct which is sexual in nature or sexually motivated;
- sexual abuse of children or indecent images of children;[19]
- inclusion on a sexual offenders' database;
- criminal convictions, cautions and community sentences for serious offences; and

[19] For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children.

- violence which is serious or otherwise adversely affects public confidence in the profession.

180. A striking off order is likely to be appropriate, whether or not the conduct is included in the examples of such conduct in the list above, where the nature and gravity of the concerns are such that any lesser sanction would be insufficient to protect the public, public confidence in the profession, and public confidence in the regulatory process. Some examples of such conduct include (**this list is not exhaustive**), where the registrant:

- lacks insight;
- continues to repeat the misconduct or, where a registrant has been suspended for two years continuously, fails to address a lack of competence (for example, due to not attempting to engage with any remediation); or
- is unwilling to resolve matters.

181. A striking off order has a significant impact on a registrant, and so when a panel imposes a striking off order, it should provide clear and detailed reasons for doing so, making clear why a less restrictive sanction was insufficient.

Interim orders to cover the appeal period

What is an interim order to cover the appeal period?

182. If a panel imposes a conditions of practice order, suspension order, or striking off order, Article 31 of the 2001 Order provides the panel with the discretionary power to also impose an interim condition of practice order or an interim suspension order to cover the appeal period.

183. These interim orders are different to interim orders imposed to cover the period until the case has been disposed of and which are automatically revoked at the sanction stage of the substantive proceedings.

184. Sanctions imposed by panels do not take effect until 28 days after they are imposed or, if a registrant appeals, the appeal is concluded or abandoned. To cover that period, during which a registrant could otherwise practice unrestricted, the panel can impose an interim order of conditions or suspension.

When is an interim order appropriate to cover the appeal period?

185. The power to impose an interim order is discretionary, and so panels should not consider it to be an automatic outcome. The panel should carefully consider whether or not an interim order is necessary and should provide the

parties with an opportunity to address the panel on whether an interim order is required.

186. An interim order to cover the appeal period, is likely to be required in cases where:

- there is a serious and ongoing risk to service users or the public from the registrant's lack of professional knowledge or skills, conduct, or unmanaged health problems; or
- the allegation is so serious that public confidence in the profession would be seriously harmed if the registrant was allowed to remain in unrestricted practice.

Multiple sanctions

187. Article 29 of the 2001 Order provides an escalating range of sanctions and panels may only impose one sanction at any one time, so it will be rare for a registrant to be subject to more than one sanction at a time. However, if that situation does arise, panels should ensure the duration and effect of each sanction is clear.

188. A registrant is only likely to be subject to multiple sanctions in cases where a sanction has been imposed in relation to one allegation, and a second sanction needs to be imposed in respect of an entirely separate and unconnected allegation.

189. However, where the second allegation involves any of the following, then escalation to a more stringent sanction is likely to be the more appropriate course of action:

- a repetition of the conduct which gave rise to the first sanction;
- conduct or behaviour similar in nature to the previous concerns; or
- a breach of the existing sanction.

190. In these cases, the more restrictive sanction may have the effect of overriding the less restrictive sanction, for example, a suspension order will override a conditions of practice order because the registrant is no longer able to practise.[20]

[20] The panel would need to make an order to bring the existing sanction to an end.

Review hearings

191. At a review hearing, the panel must first consider whether the registrant's fitness to practise remains impaired. Panels should follow the guidance set out in the HCPTS Practice Note on Review of Article 30 sanction orders. If the panel decides that a registrant's fitness to practise remains impaired, then panels should consider the guidance set out in this policy in deciding what sanction, if any, to impose.

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