

What happens if a complaint is made about me?



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Council for Healthcare Regulatory Excellence (CHRE)

# What happens if a complaint is made about me?

## About this brochure

This brochure gives information for health professionals who have had a complaint made against them. You may have received this brochure because we have received a complaint about you. Please read it carefully. If you have any more questions, please contact our Fitness to Practise Department.

## About us

We (the Health Professions Council) are responsible for protecting the health and wellbeing of people who use our registrants' services. As you will be aware, the standards we expect our registrants (health professionals registered with us) to keep to are set out in two documents. The standards of conduct, performance and ethics describe the general standards we expect all registrants to keep to. The standards of proficiency set out the skills and abilities specific to each profession that we expect registrants to achieve and to maintain throughout their registration.

We can consider complaints that a registrant's fitness to practise is impaired (affected). The standards above are not a full list but we will take them into account when considering whether we uphold a complaint.

## What is fitness to practise?

As you will be aware from our published standards, fitness to practise involves more than just competence in your chosen profession. When we say that you are fit to practise we mean that you have the health and character, as well as the necessary skills and knowledge, to do your job safely and effectively. We also mean that we trust you to act legally. Our main responsibility is to protect the public, maintaining public confidence in the professions and professionals we regulate. If a complaint is made about you, you can expect us to treat you fairly and to explain at each stage what will happen and how this might affect you.

## Who can complain?

Anyone can make a complaint about a registered health professional. We receive complaints from registrants, other health professionals, patients and their families, employers and the police. We can consider allegations that a registrant's fitness to practise is impaired (affected) by one of the following.

- Misconduct
- Lack of competence
- Conviction or caution for a criminal offence (or finding of guilt by a court martial)
- Determination (a decision reached) by another regulator responsible for healthcare
- Physical or mental health

We can also consider allegations about whether an entry to our register has been made fraudulently or incorrectly. There is no time limit on considering complaints.

## Self-referrals

Under our standards of conduct, performance and ethics, you should also tell us if you have any important information about your conduct, competence or health. In particular you must let us know straight away if you are:

- convicted of a criminal offence or accept a police caution;
- disciplined by any organisation responsible for regulating a health or social care profession; or
- suspended or placed under a practice restriction by an employer or similar organisation because of concerns about your conduct or competence.

We will treat any information positively. By telling us, you are acting in a professionally responsible way. You should write to the Director of Fitness to Practise, providing as much information about the circumstances as possible. A panel of our registration committee will consider whether the information you have provided raises any issues about your fitness to practise. If they decide it does not, no further action will be taken. However, if they feel that the information you have provided needs further investigation, they will make a referral to an investigating panel (we explain this later on).

## What happens when you receive a complaint?

Once we have correctly identified the registrant the complaint is about, and confirmed that it is a complaint we can consider, we will:

- ask for more information if necessary (for example, we might ask for further documents from an employer or ask the police for the circumstances of a conviction);
- write to tell you about the complaint, enclosing copies of all the documents we have; and
- invite you to respond in writing to the complaint within 28 days of our letter.

You might want to ask for advice from a professional body or union, or for legal advice, when preparing your response. You can send us any information or documents you feel would help us.

## The investigating panel

We will then pass your response, together with the complaint, to a panel of our investigating committee. This panel meets in private and considers each complaint individually to decide whether we need to take any further action. Each panel is made up of at least three people, including a chairperson, someone from the relevant profession and a lay person (someone who is not on our register). This panel does not make a decision about whether the complaint is proven. They only decide whether it raises any concerns about fitness to practise. If they believe it does, they refer the complaint to another panel. If they decide that a complaint should go forward, they say that there is a 'case to answer'.

If the panel decides that the complaint does not need to be taken any further, they will give reasons for this. We will write to you (and to the person who made the complaint) to tell you about this. We cannot consider the same complaint twice.

If the panel decides that there is a case to answer, they will refer the case to one of our fitness to practise committees.

- **The conduct and competence committee** deals with cases about misconduct, lack of competence, and convictions and cautions.
- **The health committee** deals with cases where the health of the registrant may be affecting their ability to practise.
- **The investigating committee** will continue to deal with cases where an entry to the register may have been made fraudulently or incorrectly.

The investigating panel will also draft the allegation that is to be considered by the next panel. This means that they will identify the reasons for referring the case (for example, misconduct or lack of competence). We will write to tell you about this.

At this point, we must publicise referrals made by the investigating panel. This means that your name, registration number and the allegation about you will be shown on our website. However, no other information will be available to the public at this stage.

## Interim orders

If the investigating panel feels that the allegation is serious enough that the public might need some type of immediate protection, they might make an application for an interim order. If this happens, a hearing will take place, often at short notice. A further panel will consider whether the allegation means placing conditions on your registration or suspending your registration in the period before a final hearing will take place. However, in most cases no application for an interim order is made.

## What happens next?

A hearing will take place to consider whether the allegation against you is proven. We will instruct solicitors, who will identify witnesses and prepare statements and documents in the case.

As soon as we are able to arrange the hearing, we will write to you to tell you the date. We will try to give you as much written notice as possible and must tell you at least 28 days before. You do not have to go to the final hearing. However, you should be aware that the hearing will normally go ahead, and a decision reached, even if you are not there. The hearing will be held in your home country. In the case of England this will normally be in London.

Before the final hearing, we will give you a copy of the documents we will rely on. You may also provide documents that the panel will consider. You are able to go to and be represented at the hearing. You can be represented by anyone except an HPC Council member or a member of our staff. They do not need to be legally qualified.

## **What happens at the hearing?**

Hearings are usually held in public. This means that members of the public (including the press) are able to attend. A shorthand writer will also produce a transcript which (if the case against you is proven) will be available on our website. However, the hearing may sometimes be held in private if the panel feels this is in the interests of patient confidentiality or to protect your private life.

The panel will be made up of a chairperson, a registrant partner and a lay partner. In hearings of the health committee, or if health is felt to be a factor in a particular case, a registered doctor will also be on the panel. A legal assessor will also be present. They play no part in the decision-making process but will advise the panel and the other people involved on points of law and procedure. We try to make sure the hearings are as informal as possible.

Our solicitor will normally open the hearing by presenting the case and calling our witnesses. You (or your representative) may cross-examine the witnesses. The panel may then ask some questions. Once our case is complete, you may call witnesses of your own or make representations (any form of evidence – written or oral) to the panel. You may also give evidence yourself if you want.

The panel will normally decide in private whether the allegation is proven. If they decide the case is proven, they say that it is 'well-founded'.

## What powers does the panel have?

If the panel finds the case to be well-founded, they will return to hear from those present about what action they should take. The panel will return to hear any statements on what they should do. The panel has the following options available.

- 1 They can decide to take no further action.
- 2 They can impose (give you) a caution order. This means that the word 'caution' will appear against your name on the register. Caution orders can be between one and five years long.
- 3 They can place some sort of restriction or condition on your registration. This is known as a 'conditions of practice order'. This might include demanding that you work under supervision or have further training.
- 4 They can suspend your registration. This may not be for longer than one year.
- 5 They can decide to remove your name from the register. This is known as a 'striking-off order'.

Any action the panel takes is intended to protect the public and is not intended as a punishment. The panel will always consider the individual circumstances of a case and take account of what has been said by everyone at the hearing before deciding what to do.

In hearings of the health committee or where the allegation relates to lack of competence, the panel will not have the option to strike off at the first hearing. This is because we recognise that in cases where ill health has impaired fitness to practise, or where competence has fallen below expected standards, it is possible that the registrant's health may improve or, in competence cases the registrant may receive extra training or supervised practice.

## Striking off

We recognise that striking off is a very serious step. A striking-off order will only be imposed in cases where the panel feels that there is no other adequate way to protect the public and maintain public confidence. Circumstances in which a striking-off order may be considered include serious convictions involving violence or sexual misconduct, or where there has been dishonesty or a serious abuse of trust.

## Reviews of conditions of practice and suspension orders

If a conditions of practice or suspension order has been given, this will be routinely reviewed by a further panel shortly before it is due to end.

If conditions of practice were imposed, a review panel will look for evidence that you have met the conditions. For example, this might include a report from a supervisor or evidence that you have received further training.

If a suspension order was given, a review panel might look for evidence that the problems that led to suspension have been dealt with. For example, if competence issues led to your suspension, the panel might look for evidence that you have received further training.

A review panel will always want to make sure that the public continue to be adequately protected. If they are not satisfied that you are now fit to practise, they might extend a conditions of practice order or suspension order for a further period. They can also take any other action they could have taken the first time. For example, the panel might replace a suspension order with a conditions of practice order if they feel that this now provides adequate public protection. Similarly, they might consider suspension or striking off if they feel that you have not met the terms of a conditions of practice order.

## Council for Healthcare Regulatory Excellence (CHRE)

CHRE is an organisation that promotes best practice and consistency in regulating healthcare professionals by the nine healthcare regulatory bodies, including us.

CHRE may also refer a regulator's final decision on a fitness to practise case to the High Court (or its equivalent throughout the UK) to protect the public. They will do this if they feel that a decision made by the regulatory body is not strict enough.





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51/FTP/A5 April 2005