

Tribunal Advisory Committee, 12 September 2017

Review of the Indicative Sanctions Policy

Executive summary and recommendations

## **Introduction**

The Indicative Sanctions Policy sets out the principles Practice Committee Panels should consider when deciding what, if any, sanction should be applied in fitness to practise cases. It aims to ensure that decisions are fair, consistent and transparent.

The primary function of any sanction is to address public safety from the perspective of the risk which the registrant concerned may pose to those who use or need his or her services. The document covers the purpose of sanctions, proportionality, insight and remorse, aggravating and mitigating factors and details on the sanctions available to the panel.

Panels make independent decisions, and the policy is intended to be a guide, however, where a panel deviates from the policy, they must provide clear and detailed reasons.

Amendments have been made to the policy where required, mainly to reflect changes in relevant case law. However, we consider it is appropriate to undertake a more comprehensive review to ensure the document is up to date, reflects public opinion and continues to ensure panels make fair and proportionate decisions.

At the start of the project, we reviewed the policies and guidance of other regulators, before holding workshops with employees at the Health and Care Professions Tribunal Service to obtain their views and experience, enabling us to refine the project scope. We have outlined the proposed areas for review in appendix A. This will be further informed by a number of other engagement activities, ahead of a public consultation on the revised policy early next year.

We wish to engage the Tribunal Advisory Committee at this stage to benefit from their knowledge and experience of employing this policy in practice, and establish where there may be areas in which our current scope could be refined or developed further.

## **Decision**

- The Committee is invited to discuss the scope of the review at appendix A.
- We welcome members' comments or views on the existing Indicative Sanctions Policy, and if they feel there are any further areas we could consider as part of our review.

## **Appendices**

- Appendix A: Scoping paper
- Appendix B: Timescales
- Appendix C: Indicative Sanctions Policy

## **Date of paper**

14 August 2017

## Appendix A - Scoping paper

### **Introduction**

As outlined in the covering paper, this document sets out in more detail the areas of the Indicative Sanctions Policy we propose focusing our review on.

### **1. Mitigating factors**

#### **i. Insight, apology and remorse**

The current policy provides some information around insight, apology and remorse, but we propose strengthening this to provide clarity around the detail of each and how panels should take account of them during decision making.

- The policy details that there are important differences between remorse and insight but we may provide further clarity on what those differences are and how each factor might affect a decision on sanction.
- The policy outlines factors which panels should consider when determining a registrant's level of insight, but these are framed in both positive and negative terms and we think these might be confusing to the reader. We would like to explore the language we use in this area.
- The policy does not explicitly cover the statutory obligations around duty of candour, or how panels should treat a lack of apology where culture may be a factor. This is an area we would like to focus on, with the intention of considering more detailed guidance to panels.

#### **ii. Remediation**

Remediation is a key consideration for panels when assessing what sanction, if any, should be applied following a finding of impairment. Whilst the current policy addresses remediation, we would like to explore whether or not we could provide further detail, and include examples of remediation (a non-exhaustive list).

We would also like to consider providing more detail on how panels should approach remediation, covering the approach to be taken in very serious cases (and whether or not remediation is possible in these cases).

In addition we would like to explore language or best practice on how remediation is taken account of when determining sanctions and how that is communicated to registrants.

### **2. Aggravating factors**

### **i. Abuse of professional position**

Trust underpins the relationship professionals have with service users and the importance of being honest and trustworthy is set out very clearly in our Standards of conduct, performance and ethics.

The Indicative Sanctions Policy briefly discusses abuse of trust, but this is a complex area and we would like to consider how we might strengthen the guidance to help panels establish the seriousness of the concerns before them, and the action required. In doing so, we would like to provide greater clarity on vulnerability and predatory behaviour.

### **ii. Vulnerability**

We would like to look at how we might provide more detail on the definition of 'vulnerable' and how panels should consider this when making decisions. Specifically we propose providing more detail on the circumstances in which someone may be considered vulnerable or find themselves in a vulnerable situation.

### **iii. Sexual misconduct**

Sexual misconduct is a serious matter and one which has a particularly significant impact on service users and public confidence in the profession. Often sexual misconduct will lead to a 'striking off' order, which the current policy explains. However, we would like to explore how we might provide further detail in this area, to help panels navigate the more complex cases they are presented with.

We may also look to review the content covering 'child pornography' to make sure the language we use is appropriate and the detail is sufficient.

### **iv. Discrimination**

Discrimination is unacceptable in modern society and the Standards of conduct, performance and ethics clearly explain that a professional should not discriminate against service users, carers or colleagues.

We would like to review whether or not we should strengthen the guidance in the Indicative Sanctions Policy in this area to support panels in making decisions where discriminatory acts have been found proved.

## **3. Proportionality**

The guidance clearly covers the key principles panels should take account of in relation to proportionality. However, we believe it might be helpful to explore the principles panels consider and clearly outline how panels should approach this during their

decision-making process. For example, taking account of the impact on the registrant, but only as far as possible, and in very serious cases, having limited scope in this area.

We also think further clarity on the need for panels to consider sanctions from least to most restrictive may be helpful in the policy.

In addition, we propose providing more guidance on the reasoning panels should give in a decision on sanction, for example listing why other sanctions were not appropriate with particular reference to suspension sanctions under 12 months.

#### **4. Equality and diversity**

The HCPC is committed to preventing discrimination, valuing diversity and achieving equality of opportunity in all that we do. We think it is important that the Indicative Sanctions Policy makes clear the statutory obligations those acting for the HCPC have in this area and therefore propose building on the content currently in the guidance, ensuring that our language is clear and prevents inappropriate interpretation.

We would also like to consider highlighting cultural impacts in key areas throughout the guidance, for example cultural differences in framing apologies, to ensure panels consider cultural impact when making their decision on sanction.

#### **5. Other areas**

##### **i. Whistleblowing**

The policy does not currently address whistleblowing and how this should be considered when determining sanction. We would like to explore whether or not we should provide a definition in the Indicative Sanctions Policy and detail on how to approach information relating to whistleblowing when determining what sanction might be appropriate. This might include the information being referenced in the determination.

##### **ii. Details on sanctions**

We would like to consider whether or not further guidance could be given to panels in relation to the factors to be considered when determining what sanction to impose, in particular, conditions and suspension.

The Indicative Sanctions Policy discusses exceptional circumstances in which a conditions of practice order may be appropriate in cases which would usually have resulted in a suspension order. This is an area we would like to explore further, to ensure we provide panels with further guidance where necessary.

##### **iii. Review hearings**

Review hearings are important in ensuring that professionals do not resume unrestricted practice until it is appropriate for them to do so. We therefore propose providing more detail to panels on the considerations they should take at review hearings, particularly around revoke / replace sanctions decisions.

#### **iv. Mediation**

The current policy gives mediation as an option for sanction if the Panel is satisfied that the only other appropriate course would be to take no further action. We would like to explore whether it is appropriate for this to remain in the Indicative Sanctions Policy and whether the content may be better covered in another document.

Appendix B - Timescales

Area	Actions	Dates
Scoping	Early scoping – engagement with adjudication employees	May 2017 – June 2017
	Market research (public opinion and engagement with TAC)	August 2017 – November 2017
	Engagement with professional bodies/unions – Fitness to Practise Forum article	August 2017
	Engagement with registrants - survey	October 2017
	Discussion at TAC	September 2017
	Discussion at Council	September 2017
Drafting	Policy team drafting	November 2017 – March 2018
	Council review and approve	March 2018
Consultation	Consultation live	April 2018 – June 2018
	Consultation analysis	July 2018
	Policy amendments	July 2018 – August 2018
	Council review and approve	September 2018
Implementation	Publication	November 2018
	Events	November 2018

## **Indicative Sanctions Policy**

### **Introduction**

1. This is the Health and Care Professions Council's indicative policy on how sanctions should be applied by Practice Committee Panels in fitness to practise cases.
2. The decision as to whether a sanction should be imposed on a registrant whose fitness to practise has been found to be impaired is properly a matter for the Panel which heard the case. Panels operate independently from the Council and it would be inappropriate for the Council to seek to establish a fixed 'tariff' of sanctions.
3. Panels must decide each case on its merits and that includes deciding what, if any, sanction to impose. However, this policy is intended to assist Panels to make fair, consistent and transparent decisions. Where a Panel deviates from this policy, its written determination should provide clear and cogent reasons for doing so.

### **The purpose of sanctions**

4. The purpose of fitness to practise proceedings is not to punish registrants, but to protect the public. Inevitably, a sanction may be punitive in effect, but should not be imposed simply for that purpose. The Panel's task is to determine whether, on the basis of the evidence before it, the registrant's fitness to practise is impaired. In effect, the task is to consider a registrant's past acts, determine whether the registrant's fitness to provide professional services is below accepted standards and to consider whether he or she may pose a risk to those who may need or use his or her services in the future. Where such a risk is identified, the Panel must then determine what degree of public protection is required.
5. It is important for Panels to remember that a sanction may only be imposed in relation to the facts which a Panel has found to be true or which are admitted by the registrant. Equally, it is important that any sanction addresses all of the relevant facts which have led to a finding of impairment.
6. The primary function of any sanction is to address public safety from the perspective of the risk which the registrant concerned may pose to those who use or need his or her services. However, in reaching their decisions, Panels must also give appropriate weight to the wider public interest, which includes:

- the deterrent effect to other registrants;
  - the reputation of the profession concerned; and
  - public confidence in the regulatory process.
7. If further action is to be taken then a range of sanctions is available which enables a Panel to take the most appropriate steps to protect the public. Article 29 of the Health and Social Work Professions Order 2001 (the Order) provides that those sanctions are:
- mediation;
  - caution;
  - conditions of practice;
  - suspension;
  - striking off.
8. Even if a Panel has determined that fitness to practise is impaired, it is not obliged to impose a sanction. This is likely to be an exceptional outcome but, for example, may be appropriate in cases where a finding of impairment has been reached on the wider public interest grounds identified above but where the registrant has insight, has already taken remedial action and there is no risk of repetition.

### **Proportionality**

9. In deciding what, if any, sanction to impose, Panels should apply the principle of proportionality, considering whether the chosen sanction:
- is an appropriate exercise of the Panel's powers;
  - is a suitable means of attaining the degree of public protection identified by the Panel;
  - takes account of the wider public interest, such as maintaining public confidence in the profession;
  - is the least restrictive means of attaining that degree of public protection;
  - is proportionate in the strict sense and strikes a proper balance between the protection of the public and the rights of the registrant.

### **Insight and remorse**

10. The HCPC is committed to promoting equality and valuing diversity and Panels are expected to adhere to that commitment and to conduct proceedings in a fair and non-discriminatory manner.
11. The primary purpose of fitness to practise proceedings is to identify and secure a proportionate measure of public protection rather than to punish. A key factor in many cases will be the extent to which a registrant recognises his or her failings and is willing to address them.

12. In taking account of any insight, explanation, apology or remorse offered by a registrant, Panels are reminded that there may be cultural differences in the way that these may be expressed - both verbally and non-verbally - and especially where the registrant may not be using his or her first language.
13. There is a significant difference between insight and remorse. The degree of insight displayed by a registrant is central to a proper determination of whether fitness to practise is impaired and, if so, what sanction (if any) is required. The issues which the Panel need to consider include whether the registrant:
  - has admitted or recognised any wrongdoing;
  - has genuinely recognised his or her failings;
  - has taken or is taking any appropriate remedial action;
  - is likely to repeat or compound that wrongdoing.
14. Those issues should be addressed by consideration of the evidence on those issues rather than focusing on the exact manner or form in which they may be explained or expressed.
15. Registrants are expected to be open and honest with service users and, generally, Panels should regard registrants' candid explanations, expressions of empathy and apologies as positive steps. Importantly, they will rarely amount to an admission of liability by the registrant concerned and, in the absence of evidence to the contrary, should not be treated as such by Panels.

### **Sanctions and criminal convictions**

16. A conviction or caution should only lead to further action being taken against a registrant by the HCPC if, as a consequence of that conviction or caution, the registrant's fitness to practise is found to be impaired. The Panel's role is not to punish the registrant twice for the same offence, but to protect the public and maintain high standards among registrants and public confidence in the profession concerned.
17. Where a registrant who has been convicted of a serious criminal offence and is still serving a sentence at the time the matter comes before a Panel, normally the Panel should not permit the registrant to resume unrestricted practice until that sentence has been satisfactorily completed.

### **Community Sentences**

18. In considering any sentence imposed, Panels need to recognise that community sentences are used to address different aspects of an individual's offending behaviour. Consequently, they may not simply be an order to undertake unpaid community work but may also include other orders such as compliance with a curfew, exclusion from certain areas or an order to undergo mental health, drug or alcohol treatment.

19. Panels need to give careful consideration to the terms of any community sentence but, generally, should regard it as inappropriate to allow a registrant to remain in or return to unrestricted practice whilst they are subject to such a sentence.

### ***Sex offender notification***

20. Similar consideration needs to be given to any notification requirement under the Sexual Offences Act 2003. Although inclusion on the sex offenders' database is not a punishment, it is intended to secure public protection from those who have committed certain types of offences. Generally, Panels should regard it as incompatible with HCPC's obligation to protect the public to allow a registrant to remain in or return to unrestricted practice whilst subject to a notification requirement as a sex offender.

### ***Child pornography offences***

21. In dealing with offences relating to indecent images of children, the courts categorise offences based upon the nature of the images and offender's degree of involvement in their production. Mainly, this is to assist the court in reaching sentencing decisions.

22. The HCPC considers that any offence relating to child pornography involves some degree of exploitation or abuse of a child and, therefore, that conviction for such an offence is a serious matter which undermines the public's trust in registrants and public confidence in the profession concerned.

### **Procedure**

23. The range of sanctions available to Panels should not influence the decision as to whether or not fitness to practise is impaired. The finding of impairment and sanctioning stages of a hearing should be (and be seen to be) separate elements of the process.

24. To reinforce this point, Panels should retire to determine whether or not fitness to practise is impaired and then return to announce their decision and the reasons for that decision. Where the Panel has decided that fitness to practise is impaired, it should then hear any submissions on behalf of the parties in relation to mitigating or aggravating factors before retiring again to consider (in ascending order) what, if any, sanction to impose. The Panel should then return to announce that sanction and the reasons for that sanction.

25. Panels must ensure that registrants fully understand any sanction which is being imposed upon them. The Panel Chair should carefully explain what sanction, if any, the Panel has imposed, the reasons for doing so and the consequences for the registrant in clear and direct language which leaves no room for misunderstanding or ambiguity. In particular, Panel Chairs should avoid the temptation to give lectures, which often obscure clear communication of the Panel's decision.

## **Sanctions**

### ***Mediation***

26. The Order provides that mediation may only be used if the Panel is satisfied that the only other appropriate course would be to take no further action. Thus, a case may only be referred to mediation if the Panel considers that no further sanction is required. Generally this will only be where impairment is minor and isolated in nature and unlikely to recur, where the registrant fully understands the nature and effect of that impairment and has taken appropriate corrective action.
27. Mediation is not really a sanction as such but is a consensual process and will be most appropriate where issues between the registrant and another party (e.g., the complainant or an employer) remain unresolved.

### ***Caution Order***

*A caution order must be for a specified period of between one year and five years. Cautions appear on the register but do not restrict a registrant's ability to practise. However, a caution may be taken into account if a further allegation is made against the registrant concerned.*

28. A caution order is an appropriate sanction for cases, where the lapse is isolated, limited or relatively minor in nature, there is a low risk of recurrence, the registrant has shown insight and taken appropriate remedial action. A caution order should also be considered in cases where the nature of the allegation means that meaningful practice restrictions cannot be imposed but where the registrant has shown insight, the conduct concerned is out of character, the risk of repetition is low and thus suspension from practice would be disproportionate. A caution order is unlikely to be appropriate in cases where the registrant lacks insight
29. At the Panel's discretion, a caution order may be imposed for any period between one and five years. In order to ensure that a fair and consistent approach is adopted, Panels should regard a period of three years as the 'benchmark' for a caution order. However, as Panels must consider sanctions in ascending order, the starting point for a caution is one year and a Panel should only impose a caution for a longer period if the facts of the case make it appropriate to do so. A Panel's decision should specify the duration of any caution order it imposes and its reasons for setting that duration.

### ***Conditions of Practice Order***

*A conditions of practice order must be for a specified period not exceeding three years. Conditions appear on the register and, most often, will restrict a registrant's practice, require the registrant to take remedial action or impose a combination of both.*

30. Conditions of practice will be most appropriate where a failure or deficiency is capable of being remedied and where the Panel is satisfied that allowing the registrant to remain in practice, albeit subject to conditions, poses no risk of harm or future harm. Panels need to recognise that, beyond the specific restrictions imposed by a Conditions of Practice Order, the registrant concerned is being permitted to remain in practice. Consequently, the Panel's decision will be regarded as confirmation that, beyond the conditions imposed, the registrant is capable of practising safely and effectively.
31. Conditions of Practice Orders must be limited to a maximum of three years and should be remedial or rehabilitative in nature. Before imposing conditions a Panel should be satisfied that:
- the issues which the conditions seek to address are capable of correction;
  - there is no persistent or general failure which would prevent the registrant from doing so;
  - appropriate, realistic and verifiable conditions can be formulated;
  - the registrant can be expected to comply with them; and
  - a reviewing Panel will be able to determine whether those conditions have or are being met.
32. Conditions of practice provide a very flexible means of disposing of cases. A combination of conditions may be imposed, including formal education and training requirements. Equally, in some cases it will be appropriate to impose a single condition for a relatively short period of time to address a specific concern (e.g. to undertake specific remedial training). In imposing conditions of practice, Panels must recognise that, to a large extent, the registrant will be trusted to comply with them. Consequently, before doing so, Panels need to be confident that the registrant will adhere to those conditions of practice.
33. Conditions will rarely be effective unless the registrant is genuinely committed to resolving the issues they seek to address and can be trusted to make a determined effort to do so. Therefore, conditions of practice are unlikely to be suitable in cases:
- where the registrant has failed to engage with the fitness to practise process, lacks insight or denies any wrongdoing;
  - where there are serious or persistent overall failings; or
  - which involve dishonesty, breach of trust or the abuse of service users.
34. Whilst conditions of practice can be drafted which include arrangements for verifying compliance, a Panel will need to consider carefully whether the registrant can be trusted to comply with them. Where an allegation relates to dishonesty, breach of trust or abuse, conditions of practice are unlikely to be appropriate unless the Panel is satisfied that the registrant's conduct was minor, out of character, capable of remediation and unlikely to be repeated.

35. If conditions of practice are being considered as a means of controlling the practice setting in which a registrant operates, careful thought needs to be given as to whether they are a realistic and appropriate remedy. In particular, the same or similar conditions of practice may not work for all professions.
36. Above all, conditions must be realistic and there is a limit to how far they may extend. For example, a combination of conditions which require a registrant not to carry out home visits, out of hours working, unsupervised care, or care outside of a particular setting may, in reality, amount to a suspension and thus be far too wide. Equally, care must be taken to ensure that the combined effect of the conditions imposed does not amount to a requirement only to perform the role of an unregistered assistant or support worker.
37. Similarly, whilst 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 upon the registrant returning to practice. For example, not all training, reflection or development requires a registrant to be in practice or have a workplace-based mentor.
38. Article 29(7)(c) of the Order enables Panels to specify a minimum period (of up to two years) for which a conditions of practice order is to have effect before the registrant may apply to vary, replace or revoke it. In general, Panels should only exercise that power in cases where either it is clear from the evidence that earlier review is unlikely to be of value or where the nature of the conditions imposed make early review inappropriate.

### ***Suspension Order***

*A suspension order must be for a specified period not exceeding one year. Suspension completely prohibits a registrant from practising their profession.*

39. Suspension should be considered where the Panel considers that a caution or conditions of practice would provide insufficient public protection or where the allegation is of a serious nature but unlikely to be repeated and, thus, striking off is not merited.
40. A registrant who is suspended cannot practise (and the register is marked accordingly). However, Article 22(8) of the Order provides that the registrant may be subject to further fitness to practice proceedings for events which occur whilst he or she is suspended.
41. If the evidence suggests that the registrant will be unable to resolve or remedy his or her failings then striking off may be the more appropriate option. However, where there are no psychological or other difficulties preventing the registrant from understanding and seeking to remedy the failings then suspension may be appropriate.

42. Panels need to be aware that suspension for short periods of time (i.e. less than a year) may have long term consequences for the registrant, including being dismissed from his or her current employment. However, short term suspension may be appropriate, in particular:
- where a less restrictive sanction would:
    - be unlikely to provide adequate public protection;
    - undermine public confidence; or
    - be unlikely to have a deterrent effect upon the registrant concerned or the profession at large; or
  - to facilitate a staged return to practice, for example where the registrant concerned would be unable to respond to and comply with conditions of practice but may be capable of doing so in the future.
43. The latter approach is likely to be appropriate in cases involving, for example, substance dependency where, at the time of the case, the registrant is seeking or undergoing treatment but has not reached the stage where he or she could safely return to practice even subject to conditions. If a short term suspension is imposed for this sort of purpose, the Panel should give clear reasons for their decision, so that the registrant clearly understands what is expected of them.
44. Suspension orders cannot be made subject to conditions. However, 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 to the registrant so that, when the order comes to be reviewed, the registrant understands what is expected of them and the evidence that may need to be submitted to the reviewing Panel. However, in imposing suspension orders, Panels should avoid being unduly prescriptive and must not seek to bind, or fetter the discretion of, a future reviewing Panel.
45. Article 29(7)(b) of the Order enables Panels to specify a minimum period (of up to 10 months) for which a suspension order is to have effect before the registrant may apply to vary, replace or revoke it. In general, 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***

*A Striking Off order removes a registrant's name from the Register and, on a permanent basis, prohibits the registrant from practising their profession.*

46. A striking-off order may not be made in respect of an allegation relating to lack of competence or 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.
47. Striking off is a sanction of last resort for serious, deliberate or reckless acts involving abuse of trust such as sexual abuse, dishonesty or persistent failure.

48. Striking off should be used where there is no other way to protect the public, for example, where there is a lack of insight, continuing problems or denial. A registrant's inability or unwillingness to resolve matters will suggest that a lower sanction may not be appropriate.
49. Striking off may also be appropriate where the nature and gravity of the allegation are such that any lesser sanction would lack deterrent effect or undermine confidence in the profession concerned or the regulatory process. Where striking off is used to address these wider public protection issues, Panels should provide clear reasons for doing so. Those reasons must explain why striking off is appropriate and not merely repeat that it is being done to deter others or maintain public confidence.
50. Striking off is a long term sanction. Article 33(2) of the 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.

### **Interim Orders to give effect to decisions**

51. If a Panel disposes of a case by making a striking-off order, suspension order or conditions of practice order, Article 31 of the Order provides the Panel with the discretionary power to impose an interim suspension or conditions of practice order which will apply during the time allowed for appealing against the final disposal order or, if such an appeal is made, whilst that appeal is in progress.
52. It is important to recognise that the power is discretionary and, consequently, Panels should not regard the imposition of an interim order as an automatic outcome of fitness to practise proceedings in which a striking-off, suspension or conditions of practice order is made.
53. If the Panel is considering imposing an interim order, before doing so it must give the parties a specific opportunity to address it on the issue of whether or not such an order should be made.
54. Whether an interim order is necessary will depend upon the circumstances in each case, but Panels should consider imposing such an order in cases where:
  - there is a serious and on-going 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 or the regulatory process would be seriously harmed if the registrant was allowed to remain in practice on an unrestricted basis.

## Multiple sanctions

55. Article 29 of the Order provides an escalating range of sanctions and Panels may impose only one sanction at any one time. Similarly, when reviewing sanctions under Article 30 of the Order, a Panel may vary, extend, replace or revoke an existing sanction but cannot impose a second, additional sanction. Consequently, It will be rare for a registrant to be subject to more than one sanction at the same time. However, if that situation does arise, Panels need to ensure that there is no doubt as to the duration and effect of each sanction.
56. A registrant is only likely to be subject to multiple sanctions where a sanction has been imposed in respect of one allegation and the registrant is then the subject of separate proceedings in respect of another allegation. Even then the circumstances in which multiple sanctions would be appropriate are limited.
58. If the second allegation involves a repetition of prior conduct, is broadly similar in nature to the previous allegation or involves breach of the existing sanction, then escalation to a higher sanction is likely to be the more appropriate course of action. In addition, some sanctions will simply 'trump' others. For example, the imposition of a suspension order will have the effect of ending a conditions of practice order.
59. In practice, multiple sanctions are only likely to arise where a sanction has been imposed in respect of one allegation and a second needs to be imposed in respect of an entirely separate and unconnected allegation. For example, if an allegation based upon misconduct is made against a registrant who is already subject to a competence-related conditions of practice order, then provided that the misconduct is unconnected, does not amount to breach of the existing order or raise wider concerns about overall fitness to practise, it might be appropriate to impose a separate caution order in respect of that misconduct. In that event, the Panel should be very clear as to the effect (if any) of its order on the existing sanction. In the example given, the Panel would be expected to make clear that the order it has made has no effect on the terms and duration of the conditions of practice order to which the registrant is already subject.

**22 March 2017**