

# **BRITISH PHARMACOLOGICAL SOCIETY**

## **Disciplinary Procedure**

### **1 INTRODUCTION**

- 1.1 The British Pharmacological Society (“BPS”) is a charity with a mission to promote and advance the whole spectrum of pharmacology. We are a friendly and collaborative global community.
- 1.2 As such, the purpose of this Procedure is to enable BPS to protect its reputation should any Members fail to maintain sufficient standards of professional or relevant personal conduct including any breach of BPS’s codes of conduct.
- 1.3 BPS’s Council oversees all disciplinary decisions. The Council has ultimate responsibility for disciplinary matters as part of its responsibility for BPS’s governance. This responsibility shall be delegated to a Disciplinary Panel (in accordance with the BPS’s Rules).
- 1.4 The President shall retain oversight of any disciplinary process undertaken in accordance with this Procedure. In the event that the President is conflicted on the matter in question the President-Elect shall perform this role. Therefore, any reference to the President in this Procedure should also be read as including the President-Elect.
- 1.5 The President may order any process under this Procedure to be suspended at any stage should the courts, any appropriate regulator, or a Member’s employer commence proceedings against a Member on the same or related grounds.
- 1.6 BPS seeks to protect complainants from victimisation or harassment as a result of bringing a complaint. BPS may take measures to avoid victimisation and harassment as it deems appropriate including concealing the identity of any party including complainants and witnesses; redacting personal data or any other information relating to any party from a claim, witness statement, or any other document; and/or making recommendations to relevant employers that measures should be put in place within a workplace to prevent victimisation or harassment. However, the necessity of any such measures should be balanced against the interest of informing Members of complaints against them in sufficient detail to enable them to respond to them. As such, anonymity may not always be maintained if an allegation is referred to a Disciplinary Panel.

### **2 MISCONDUCT**

- 2.1 For the purposes of this Disciplinary Procedure, misconduct covers any behaviour by a Member which the Council shall in its reasonable discretion consider to be seriously injurious to the reputation or interests of BPS. Such behaviour may include (but is not limited to):
  - 2.1.1 undertaking any clinical practice or scientific research in a manner that is deemed unacceptable, including as determined by reference to any guidelines published by any regulatory body in the UK from time to time;
  - 2.1.2 involvement in commercial fraud or malpractice;
  - 2.1.3 academic offences such as research fraud or plagiarism;

- 2.1.4 acting in a personal or professional capacity in such manner as is likely to bring BPS into disrepute or to endanger a Member's own professional standing or that of his or her colleagues;
- 2.1.5 making any form of statement in the public domain which is purported to be either on behalf of BPS or endorsed by BPS, or otherwise appearing to act on behalf of BPS without prior written authorisation from BPS;
- 2.1.6 damaging or misusing any BPS property or resources;
- 2.1.7 abusing any privilege enjoyed by virtue of holding any BPS office, whether elected or unelected;
- 2.1.8 being charged with an indictable offence or convicted of a criminal offence for which a custodial sentence is given (including a suspended sentence); and
- 2.1.9 behaving towards any BPS employee or volunteer, another Member or any visitor to BPS, in a violent, indecent, threatening, disorderly or offensive manner, or subjecting them to racial, sexual or religious harassment, or any other form of bullying, harassment, abuse or discrimination;

and is referred to in this Procedure as "**Misconduct**".

### **3 STAGE 1 - INITIAL INVESTIGATION**

- 3.1 The Chief Executive shall be notified of:
  - 3.1.1 any allegations of Misconduct made against any Member(s) received by BPS, whether from the general public, elected officers of BPS, other Members or employees or volunteers of BPS; or
  - 3.1.2 any matter of which BPS becomes aware from publicly available sources which may require investigation under this Procedure.
- 3.2 Those raising allegations of Misconduct are reminded that anonymity may impede or delay investigative efforts, which may jeopardise disciplinary progress, however, anonymity alone will not be determinative in any decisions to progress this procedure. Please also note BPS' commitment to protecting complainants set out in paragraph 1.6 above.
- 3.3 The Chief Executive shall inform the President that an investigation into alleged Misconduct is required. The President shall review the allegations and determine whether further information is required, and may engage with the complainant to obtain this information. The President shall decide, in consultation with the complainant, if the matter can be resolved informally.
- 3.4 If the matter is resolved informally, any alleged instances of continuing misconduct against the same Member will be taken into consideration when considering what level of disciplinary formality is appropriate.
- 3.5 If the matter cannot be dealt with informally or attempts to deal with the matter informally fail, the President shall appoint an appropriate member of the Council to oversee the formal investigation into the allegation or report of Misconduct (the "**Investigating Officer**"). The Investigating Officer may seek assistance to carry out the investigation from the Chief Executive, any administrative staff of BPS and/or BPS's legal advisers, as appropriate.

- 3.6 The Investigating Officer should so far as practicable have no previous involvement in the subject matter of the allegation(s) and be in a position to consider the matter impartially. For example, they should be a non-member Trustee and/or have no interests or loyalties which could conflict with their role as Investigating Officer.
- 3.7 The initial investigation shall be conducted without undue delay and the provisional timeframe to conclude the initial investigation will be up to twelve weeks. Additional time will be allowed to ensure due process.
- 3.8 The Investigating Officer may speak with anyone they feel will help their investigation, including but not limited to, the source(s) of the allegation, the Member who is being investigated of the allegation and any potential witnesses.
- 3.9 If, following initial investigation, the Investigating Officer finds that there is no prima facie case to answer, or that the allegation of Misconduct is frivolous or vexatious and therefore not in the interests of BPS to pursue, the Investigating Officer shall present their preliminary findings to the President, who will inform the complainant of the outcome of the initial investigation. The Investigating Officer shall consider any further information provided by the complainant in response to the preliminary findings in determining whether further investigation is required. If no such information is presented or is not sufficient to warrant further investigation, no further action will be taken beyond noting in BPS's records that the allegation or report was unfounded, frivolous or vexatious. The President shall provide a summary report to Council, on an anonymised basis if considered appropriate, outlining the process conducted to date and reiterating any finding of an unfounded, frivolous or vexatious allegation.
- 3.10 If the Investigating Officer finds that there is sufficient evidence of possible Misconduct to warrant further investigation, the Investigating Officer shall recommend to Council that the allegation should be referred to:
- 3.10.1 a Disciplinary Panel; and/or
- 3.10.2 an appropriate external party such as a regulator; and/or
- 3.10.3 the employer of the Member about whom the allegation has been made where the employer, either explicitly or by implication, is involved in the allegation.
- 3.11 The Investigating Officer shall inform any source of the allegation, in general terms, whether the matter has been referred to a Disciplinary Panel or externally.
- 3.12 The Investigating Officer shall inform the Member who is being investigated of the allegation that the matter has been referred to a Disciplinary Panel.

#### **4 STAGE 2 – DISCIPLINARY PANEL**

- 4.1 Subject to clause 4.2, the “**Disciplinary Panel**” shall comprise such Members within BPS as the Council shall determine in its absolute discretion as most appropriate to review any specific allegation of Misconduct but must include 3 members of the Council [who are not also Honorary Officers], selected by the Council from time to time.
- 4.2 The Disciplinary Panel must not include any Vice-Presidents and Vice-Presidents shall not participate in the initial stages of this Procedure. The Vice-Presidents may be called on to form an Appeal Panel (described further in clause 4.14below)

and must therefore ensure the impartiality and independence of the appeal process.

- 4.3 If any member of the Disciplinary Panel has any conflict of interest or loyalty (including any personal friendship, relationship or animosity) with either the source of the allegation or the Member who is being investigated, they shall declare their interest to the President and shall not sit on the Disciplinary Panel in relation to that allegation of Misconduct. In such a situation the Council shall elect a substitute member of Council (who is not an Honorary Officer) to sit on the Disciplinary Panel.
- 4.4 If the courts, any other appropriate regulator, or the Member's employer has already investigated the allegations of Misconduct brought against the Member and has passed judgment, the Disciplinary Panel shall rely on the findings of that body and not re-consider the substantive issues in the allegation or hold a hearing attended by the Member unless, in their absolute discretion, the Disciplinary Panel considers it is necessary or appropriate in the circumstances.
- 4.5 Prior to any hearing by the Disciplinary Panel, the Investigating Officer shall inform the Member who is being investigated of the timetable for the proposed hearing by the Disciplinary Panel, including (where appropriate):
  - 4.5.1 the date, time and place of the hearing (if any);
  - 4.5.2 a detailed summary of the allegation or report, including the details of the case against the Member;
  - 4.5.3 copies of evidence that will be presented and/or the names of any witnesses who will be called to give evidence at the hearing (if any); and
  - 4.5.4 the dates by which the Member must file documentary material and/or witnesses in his or her defence or mitigation.
- 4.6 No evidence may be relied on or referred to at a hearing or witnesses called by the Member or by BPS if copies of that evidence and/or names of those witnesses have not been provided to the Member or the Investigating Officer (as the case may be) within the timetable set by the Disciplinary Panel.
- 4.7 The Disciplinary Panel may itself question the parties or any witnesses so far as appropriate in order to clarify the issues or elicit the evidence. The Disciplinary Panel may regulate the procedure of the disciplinary hearing, as well as the conduct of anyone in attendance, in the manner it considers fair, having regard to the purpose of this disciplinary procedure.
- 4.8 A decision by the chair of the Disciplinary Panel on any point of procedure at any hearing of the Disciplinary Panel shall be binding. Provided that the proceedings are fair to the Member and the principles of natural justice have not been compromised, no objection relating to a technical defect in the procedure of the investigation of the allegation or report or of the convening and process of the hearing shall be upheld.
- 4.9 Subject to clause 4.8, the Member being investigated has the right to be present during the hearing and may be accompanied by a friend [or a representative of their union or medical protection body]. Any such individual accompanying the Member shall act as an observer and shall not be entitled to actively participate in

the hearing and may not advocate on behalf of the Member.

- 4.10 The Member being investigated has the right to request a virtual hearing, and if agreed, members of the Disciplinary Panel must also join virtually, independently from each other.
- 4.11 The hearing may be held in the absence of the Member if they fail to attend having been given reasonable notice in accordance with clause 4.5. Before proceeding, the Disciplinary Panel will consider any information available to it about the reasons for the Member's absence.
- 4.12 The Disciplinary Panel shall make decisions by a majority vote but the votes of the individual Member on the Disciplinary Panel shall be confidential. In order to find that a Member's behaviour is considered to be Misconduct, the Disciplinary Panel must conclude that the evidence against the Member is true on the balance of probabilities.
- 4.13 The Disciplinary Panel shall send a report of its decision, together with the reasons for that decision, to the Chief Executive for circulation to the Council. If the Disciplinary Panel concludes that there is sufficient evidence of Misconduct, the Disciplinary Panel report shall include a recommendation as to which of the sanctions in clause 5.1 it considers most appropriate.
- 4.14 If the Disciplinary Panel has concluded that there is sufficient evidence of Misconduct, the Council shall, prior to any consideration and discussion of a report received from the Disciplinary Panel, nominate a minimum of [3] Vice-Presidents plus any additional Members (who may not also be the President or the Investigating Officer or any Member otherwise involved with the proceedings of the Disciplinary Panel to date) to hear any appeal which may be brought by that Member (the "**Appeal Panel**"). For the avoidance of doubt, the Appeal Panel shall not be present during the Council's deliberations and decision as to whether to impose one or more of the sanctions set out in clause 5.1.

## **5 SANCTIONS**

- 5.1 The Disciplinary Panel may recommend to the Council that it imposes any one or more of the following sanctions:
  - 5.1.1 order the Member who was the subject of the allegation or report to pay compensation in respect of BPS property that has been damaged, misused or lost or in respect of any privilege that has been abused;
  - 5.1.2 require the Member who was the subject of the allegation or report to make a written or oral apology to any other Member, person or employee of BPS;
  - 5.1.3 issue a formal written warning to the Member who was the subject of the allegation or report and place a copy of it on that Member's record;
  - 5.1.4 suspend the Member from BPS pending the outcome of an on-going investigation by another regulatory body, the Member's employer, or the police/criminal proceedings;
  - 5.1.5 expel the Member from the BPS in accordance with Article 9.5.3 and rule 2.4.1 of BPS's Articles of Association;
  - 5.1.6 withdraw any awards previously bestowed upon the Member by the BPS;

- 5.1.7 bar the Member from applying and/or standing for election for Committee, Trustee or Officer roles within the Society, and
- 5.1.8 bar the Member applying for or receiving any awards of recognition or funding from the Society.
- 5.2 Any formal written warning issued under clause 5.1.3 above must include the following information:
  - 5.2.1 the nature of the allegation or report against the Member;
  - 5.2.2 the Disciplinary Panel's conclusion from its investigation; and
  - 5.2.3 what conduct the Member needs to address for the future.
- 5.3 The Council may make any imposed sanction a condition of that Member's continuing membership of BPS.
- 5.4 Subject to clause 4.13, the Council shall consider the report and recommendations of the Disciplinary Panel and shall:
  - 5.4.1 impose any one or more of the sanctions set out in clause 5.1; or
  - 5.4.2 decide that no sanction shall be imposed.
- 5.5 The Council shall make decisions by a majority vote but the votes of individual members of the Council shall be confidential.
- 5.6 An expelled Member shall lose all rights of Membership. The Membership fee of a Member who has been expelled from BPS shall not be returned or refunded to the expelled Member.
- 5.7 The Council shall have discretion to reduce the Membership fee payable by a suspended Member during the period of their suspension. A suspended Member shall lose all rights of Membership [other than having access to BPS publications] for the duration of their suspension.
- 5.8 The Council shall have the discretion to refuse any expelled or suspended Member access to any BPS premises and/or to any BPS event which is open to non- Members.
- 5.9 The President shall send a copy of the decision made by the Council, together with:
  - 5.9.1 the reasons for the decision;
  - 5.9.2 any sanction imposed; and
  - 5.9.3 how the Member can appeal the decision;

to the Member within fourteen days of the Council's decision. The President may, where appropriate, also send a copy of the decision, any sanction imposed and the reasons for it to the Member's employer (where the employer, either explicitly or by implication, is involved in the complaint) and the source of the allegation.
- 5.9.4 The President shall inform any source of the allegation of the decision made by

Council.

## **6 STAGE 3 – APPEALS**

- 6.1 A Member or Complainant wishing to appeal against a sanction imposed by the Council must submit a written appeal request to the President supported by a statement and any relevant documentation or evidence setting out the reasons for the appeal, within 30 days of a communication being sent from the President informing the Member of the decision of the Council.
- 6.2 Upon receipt of an appeal request the President must decide either to dismiss the appeal or to allow the appeal to be heard. The President shall allow an appeal to be brought if either:
  - 6.2.1 the Member or Complainant has fresh evidence that could not have been, or for good reason was not, made available at the time of the hearing;
  - 6.2.2 the Member provides evidence of significant procedural error on the part of the Investigating Officer or the Disciplinary Panel before or during the hearing;
  - 6.2.3 the Member provides evidence of significant procedural error on the part of the Council following the hearing; or
  - 6.2.4 any other relevant grounds the President may choose to take into account when deciding whether or not to allow the appeal to be heard.
- 6.3 If the President decides to allow the appeal to be heard, the Appeal Panel shall be convened. The President may direct the Appeal Panel to review the fairness of the procedure and outcome of the original disciplinary procedure or may direct the Appeal Panel to rehear part or all of the original allegation(s). The Appeal Panel shall make decisions by a majority vote but the votes of individual members of the Appeal Panel shall be confidential.
- 6.4 The President shall write to the appellant and inform them of the outcome of their request for an appeal and, if the appeal is to be heard, also write to the Member if they are not the appellant and inform them of the date on which the hearing of the Appeal Panel will be held.
- 6.5 No evidence may be relied on or referred to at the hearing of the Appeal Panel, or witnesses called by either the BPS or the appellant, if copies of that evidence and names of those witnesses have not been provided to the other party at least seven days before the hearing. The procedures and process set out in clause 4 shall also apply to any hearing by the Appeal Panel.
- 6.6 The Appeal Panel shall have the delegated authority of the Council to:
  - 6.6.1 dismiss the appeal; or
  - 6.6.2 allow or partially allow the appeal; or
  - 6.6.3 remove any one or more of the sanctions imposed and/or impose a different sanction or sanctions from among those listed in clause 5.1.
- 6.7 The Appeal Panel shall send its decision, together with the reasons for that decision, to the Chief Executive for circulation to the Council. The President shall send a copy of the Appeal Panel's decision, together with reasons, to the appellant

within fourteen days of the date of the hearing UNLESS the Appeal Panel has imposed a sanction of suspension or expulsion in place of a lesser sanction, in which case the Appeal Panel's decision must be ratified by the Council prior to its communication to the Member by the President.

- 6.8 The President shall inform the Member and any source of the allegation if there are any changes to the sanctions imposed.
- 6.9 The President may, where appropriate, send a copy of the Appeal Panel's decision (with or without the reasons given for that decision) to the appellant Member's employer and/or the source(s) of the allegation or report.
- 6.10 The decision of the Appeal Panel shall be final (subject to any ratification required by the Council in accordance with clause 6.7) and there shall be no further right of appeal.

## **7 MISCELLANEOUS**

- 7.1 BPS may seek legal advice to advise and support the Investigating Officer, President, Disciplinary Panel and/or the Appeal Panel in relation to any alleged Misconduct being investigated in accordance with this Procedure, PROVIDED that prior authorisation is obtained from the Chief Executive for the estimated level of legal fees to be incurred.
- 7.2 If at any stage of an investigation, the President proceeds against the advice given to them, their reasons for doing so must be held in the BPS records.
- 7.3 All documentation relating to an investigation must be held in the BPS records in line with retention policy. 2 years if no sanctions are imposed; indefinitely if sanctions have been imposed and upheld by any appeal.
- 7.4 Members may have the right to view all information held by BPS in respect to any allegation or report in which they are named pursuant, and subject to, applicable data protection legislation.
- 7.5 This Procedure may be amended from time to time by resolution of the Council PROVIDED that any disciplinary matter arising under them shall be adjudicated by reference to the Procedure in force at the date of the allegation or report raised.