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# Members' Code of Conduct

Approved by Trustee Board - 9 October 2013

Revised to include up to date Conflicts of Interest Policy by AD Governance 10 February 2021

Revised to include Matters of Concern process after Trustee Board approval June 2022

Revised to update Code of Conduct Hearing process and general update after Trustee Board approval September 2022.

This version was approved by Trustee Board on 20 October 2022



# The Members' Code of Conduct

**The College is a diverse organisation that encourages debate and challenge as the lifeblood of development. It is recognised that members seeking office or on Committees and Boards are volunteers who altruistically devote their time and effort to the College.**

It is a privilege to be able to serve the College, and members receive professional benefits by doing so. These benefits carry with them responsibilities and obligations to act in accordance with the highest standards, whether as trustees of the College Charity or as members of the College.

This Code acknowledges that those holding key roles for the RCGP will be identified with those roles when acting in public settings, and sets out the principles of conduct that those persons are expected to follow.

Those who are Members and Fellows of the RCGP are seen as representatives of the College in a broader sense, and their actions can uphold the reputation of the College or bring it into disrepute.

Members should abide by the requirements set out in "Good Medical Practice" (GMC) and "Good Medical Practice for General Practitioners" (RCGP), and follow the principles set out in this Code, which are based on the Nolan principles of standards in public life.

## Principles

### Selflessness

1. Members have an obligation to uphold the aims, objectives, and values of the College, to act in its best interests and to enhance its reputation. Members should not act in any manner likely to damage the reputation of the College or bring it into disrepute.
2. Members must not, unless permitted by law and in accordance with the College's constitution, seek or accept any financial or other material reward or advantage by virtue of their membership or association with the College, either for themselves or for people closely connected with them.
3. Members must avoid placing themselves in any situation where they ought reasonably to anticipate that their integrity or independence could be called into question, including obligations to individuals or organisations that might seek to influence them and/or impair their ability to act impartially on behalf of the College.

### Accountability

4. Members are personally accountable for their conduct, and should be prepared to submit to scrutiny for any role they hold on behalf of the College, or as a member of College.

### Openness

5. Members should be open about their decisions and actions, and in line with legal requirements, data protection or information governance, restrict information only on the grounds of patient confidentiality, public interest or the professional or commercial interests of the College.

### Honesty

6. Members must comply with the law in their financial dealings and must act with honesty and integrity at all times. This includes avoidance of any action likely to damage the reputation of the College.
7. Members must declare relevant financial and other interests in accordance with the rules on declarations of interests summarized in Annex 1 to this Code and detailed in the Conflicts of Interest Policy.

### Leadership

8. Members should promote the object and vision of the College and lead by example. They should act appropriately at all times to maintain the reputation of the College.

## Objectivity

9. Members should carry out their roles and duties impartially in any forum where they represent the College. Their actions should be based on evidence, and any claims should be verifiable against factual information.

## Equality, diversity and inclusion

10. All Members must comply with the law and best practice on equality, diversity and inclusion, and promote compliance by others. In this context, 'best practice' includes, but is not limited to, the relevant legislation and the College's policies on equality, diversity and inclusion. Members may not discriminate on the grounds of disability, gender identity, marital status, pregnancy and maternity, race, religion or beliefs, sexual orientation, gender or age.

## Respect

11. Members should follow the principles of mutual respect and be prepared to accept that others may have equally strong views that differ from their own. Members should treat fellow colleagues, College staff and the public with respect, and not behave in a manner which might reasonably be interpreted as discriminatory, bullying or harassment. (In this respect, members are bound by anti-discriminatory legislation and the relevant College policies.) Members should first consider resolving any issues using alternative informal routes before raising a matter of concern pursuant to this Code of Conduct.

## Conflicts of interest

12. Members must avoid conflicts of interest, and declare any prior knowledge, professional and/or personal interests to those who may be affected and resolve any conflicts in an appropriate manner (and in accordance with any applicable guidance). Members should declare in the declarations of interest form their holdings in all companies, directorships, trusteeships, consultancies, sources of grant funding, commercial sponsorship, membership of disease pressure groups, and/or any patents they hold in relation to the item/work in question, plus any personal or financial interests as summarized in Annex 1 and detailed in the Conflicts of Interest Policy. If in doubt as to the existence of a conflict of interest, a member should seek guidance from the Honorary Secretary.

## Responsibility

13. Members must take personal responsibility for these values and principles, and for applying them to their own personal and professional situations. Further advice and guidance on specific circumstances can be obtained from the Chief Operating Officer.

## Application of the principles

## Collegiality

14. All Members must uphold the standing of the College and conduct themselves in a manner which does not risk bringing the College into disrepute. Legitimate disagreements with the College leadership, direction, policy and decision-making, should not be expressed in such a manner as to bring the College into disrepute. Decisions taken by Groups of which the member is a part must be fully respected and the principle of "collective responsibility" observed.

## Confidentiality

15. All Members must observe the College's policies on information governance and data protection and must take all appropriate steps to safeguard information given to them in confidence by the College, or which comes into their possession in circumstances where a duty of confidentiality arises. Except where disclosure is required or permitted by law or is in the public interest, confidential information which is received by members by virtue of their membership of a Group or the College must be kept confidential unless the Chair of Council, the Chair of Trustees or the Honorary Secretary have specifically stated that it is no longer confidential. Where disclosure is required or permitted by law or is in the public interest a member must disclose no more information than is required and must notify the Chair of Council prior to any disclosure unless legally obliged not to do so.

## Financial matters

16. All Members must deal responsibly and prudently with financial matters affecting the College.

## Gifts and hospitality

17. Members must not accept substantial gifts or hospitality through their membership of or association with the College where this might reasonably cause their integrity or independence to be questioned. Gifts and hospitality bestowed by the College itself are excluded from this provision. Gifts/hospitality in excess of £125 in value must be declared in the Register of Interests.

## Use of members' services

18. Members must not seek any preferential treatment when using services provided by the College generally for its members or other persons. This applies particularly to Members holding office, whether at central or faculty level, during election periods when canvassing may occur.

## Elections



19. All Members must abide by this Code and the College's codes of practice on canvassing and use of social media. They should not improperly use College or public meetings, or other online or social media, as an arena for partisan or electioneering statements and should avoid exercising undue influence to promote any specific candidate for any of the roles covered by this Code.

#### Attendance at meetings and representing the College

20. Members who commit themselves to attending College meetings or representing the College in any capacity should, unless prevented by compelling personal or professional reasons, fulfill their commitments, or give their apologies as far in advance as possible.

#### Speaking for the College

21. Members must ensure that they do not imply they act on behalf of, or speak for, the College (whether in an official or unofficial capacity) unless they have been specifically mandated to do so by virtue of their role or at specific request from the U.K. Council or senior college officers. In particular, all approaches from the media made directly to members for comment must be referred to the College's press team for response in the first instance.

#### Representation

22. Faculty representatives on Council are expected to keep their Faculties fully informed of Council issues. Other members representing the College at any meeting or in any role should reflect relevant College policy or make it clear when their views are personal. In the event of criticism of the College by external representatives, College representatives should respond openly and courteously, and feedback any comments to the appropriate College officer(s).

#### Guidance and Interpretation

23. The College may from time to time issue guidance on the application of this Code in particular circumstances or to particular groups of people.

24. Questions about the interpretation of this Code, or concerns about the conduct of a member, should be referred initially to the Chief Operating Officer or her delegated lead.<sup>1</sup>

#### Breaches of Code of Conduct

25. Any complaint about the conduct of a member shall be dealt with under the procedures set out in Annex 2 and Annex 3. A trivial or vexatious complaint may itself be a breach of the principle requiring members to show proper respect for one another, so members

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<sup>1</sup> This may be an Officer, the Company Secretary, or a Trustee.

considering making a complaint should think carefully about the basis for any allegations they make. All Members are required to co-operate with any investigation of breaches of this code, and failure to co-operate with investigations may itself be a breach of this code.

### **Sanctions for breaches of the Code**

26. The provisions of Annex 3 apply to the investigation of any alleged breach of this Code, to the appointment and procedures of the panel and to appeals except certain appeals in relation to members of Council and of the Trustee Board where the provisions of Ordinance 23 apply.
27. The panel is a body which “the Council has established to investigate the conduct of Council members and lay members of the Trustee Board”. If the panel recommends the immediate or conditional removal or suspension of a member of either the Council or the Trustee Board the provisions of Ordinance 23(2) will apply in place of the appeal process in Annex 3. In addition to its power to remove persons as a member of the Council or Trustee Board under Ordinance 23 or suspend them under Ordinance 24, the Council may impose any other sanction set out in this Code.
28. The following sanctions (which may also be combined) are available –
  - A formal public reprimand;
  - A requirement that the offending member or fellow apologises in writing and/or in public;
  - A requirement that the offending member or fellow gives a personal undertaking to the College to amend his or her behaviour
  - A requirement that the offending member or fellow withdraws any material in the public domain or issues a correction in any manner directed by the panel;
  - Referral for remediation and monitoring of the member or fellow’s future performance;
  - The imposition of conditions on the member or fellow (Conditional membership);
  - Suspension from Council membership or Office (in the case of non-Council members from any position held within the College) for a specified period or until any specified conditions have been met;
  - Removal from Council membership or Office or from any position in the College or on any external body held by virtue of membership of the College or appointment by the College;
  - Suspension from College membership or from any position in the College or on any external body held by virtue of membership of the College or appointment by the College for a specified period or until any specified conditions have been met;
  - Revocation of Fellowship
  - Removal from College membership.
29. A failure, without reasonable excuse, to comply with sanction(s) will in itself be a breach of this Code.



## ANNEX 1

### Conflicts of Interests and Declarations of Interests

#### General points

1. No conflict can arise when the matter affects members of the College generally, and where the member has no interest over and above other members of the College affected by that matter.
2. Members must declare all relevant interests at the time the matter concerned arises, whether or not those interests have been included in the register of members' interests (see below). In case of doubt, an interest should always be declared.
3. If a member has an interest (direct or indirect) which could lead him or her to be influenced, or to be reasonably seen to be influenced, by the real possibility of significant personal gain (or loss) of a financial or non-financial nature or otherwise, the interest will be deemed to be prejudicial and the member should not speak or vote on that matter, and may also need to withdraw from the room, if the Chair considers this appropriate in the circumstances. Indirect personal interests may arise where a close relative, dependent or associate of the person is affected, or where the person is a member of a partnership, or a director or shareholder of a business affected.
4. If a member has an interest in a matter where no significant personal gain (or loss) could arise but has a personal connection or previous involvement in an issue, it will be a matter for the member's discretion (having declared the interest) whether to take part in the proceedings, based on whether he or she feels he or she can bring an open mind to the question.
5. A member who has identified a potential area of conflict of interest should consult the Honorary Secretary in the first instance.

The Conflicts of Interest Policy provides full information and guidance.

## ANNEX 2

### Informal Resolution of a Complaint – Matters of Concern Process

#### Introduction

1. The Code of Conduct sets out the expectations and responsibilities which come with membership of RCGP. The Code is primarily intended for matters of the utmost significance such as possible criminal behaviour or misconduct which might gravely damage the reputation of College.
2. There will inevitably be occasions when Parties (defined as Members, lay trustees and Committee Members (lay and expert) only) are discussing an issue and/or making a decision and are unable to resolve it to the satisfaction of all involved. Such matters can quickly escalate and have the potential to lead to formal complaints being made pursuant to the Code or through other formal channels.
3. The Matters of Concern process must be followed before a formal complaint is brought under the Code<sup>2</sup>. It is designed to ensure that wherever possible issues are dealt with in a **considered, conciliatory, and prompt manner**. Ideally, informal mediation should be explored even before the Matters of Concern process is commenced.

#### Core RCGP Principles

4. The College attaches a great deal of importance to the principles of mutual respect as emphasised in the Code. Parties are strongly encouraged to discuss and resolve disagreements in a supportive, collegiate, and transparent environment.
5. Wherever possible, Parties should attempt to resolve their concerns amicably and with 'Positive Regard' for each other in keeping with the College values of
  - Compassion
  - Inclusivity
  - Sustainability
  - Accountability
  - Integrity
6. Parties should recognise that individuals come from diverse backgrounds and may have deeply held views that differ from their own.

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<sup>2</sup> In the most egregious cases the Hon Sec can direct the matter as needing to be dealt with as a Code of Conduct matter only



7. Individuals volunteering to take on roles will have varying levels of expertise and knowledge. Diversity of views brings fresh ideas and perspectives that can encourage innovation and debate. This can lead to challenging discussions and result in disappointment when it has not been possible to reach a consensus.
8. When disagreement or frustrations occur, it can help if individuals talk through their concerns, in confidence, with a mentor or trusted colleague before taking any more formal steps.
9. If a matter is still unresolved an individual must consider whether the issue can be dealt with as a Matter of Concern before raising a complaint under the Code.

### **Matters of Concern**

10. Where an individual is considering raising a formal complaint under the Code, they must first refer to and comply with this *Matters of Concern* Process.
11. There is not an exhaustive list as to what constitute Matters of Concern, but they are likely to relate to:
  - a) the functioning of committees/groups or actions of their membership;
  - b) a difference of opinion regarding the interpretation of an RCGP process or practice;
  - c) a decision made which is perceived to be out with RCGP custom and practice; or
  - d) a behaviour potentially falling outside of the RCGP values.
12. If an individual is unsure about whether an issue can be appropriately dealt with as a Matter of Concern, they should seek clarification from the Executive Director of Planning and Resources (ED P&R).
13. Where an individual wishes to raise a Matter of Concern they must do so within 28 calendar days of the event and by using the Report Form in Annex 2A below<sup>3</sup>. The completed Report Form should be sent to the ED P&R who will acknowledge receipt, in writing, within 10 calendar days.
14. The ED P&R will consider the circumstances of the case and ask the Governance Team to explore the matter as appropriate. A member of the Governance Team will contact the individual(s) to explore the issue and agree the next steps.

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<sup>3</sup> Referrals made after 28 days must be accompanied by a written explanation as to why the referral couldn't reasonably be made within the prescribed limit and will only be accepted by ED P&R in the most exceptional of circumstances.

15. Every effort will be made to resolve the issue no later than 28 calendar days after acknowledging receipt. In the event further time is needed, the Governance Team will advise the individual of the reason for the delay in writing.
16. The Governance Team will review the matter and make recommendations to the ED P&R for consideration.
17. In line with RCGP's approach to complaints the ED P&R will:
  - Provide a summary of the work undertaken by the Governance Team to Honorary Secretary;
  - Offer a range of informal solutions to the Honorary Secretary as to how the Matter of Concern can be dealt with;
  - Identify actions and make recommendations to help reduce the risk or re-occurrence.
18. The raising of an issue under the Matters of Concern process does not prevent an individual from making a formal complaint under the Code or other College complaints processes<sup>4</sup> at a later date. However, it should be noted *trivial* or *vexatious* complaints made under the Code are unlikely to pass the initial review stage.

### **Confidentiality**

19. The Matters of Concern process is designed to be less formal than complaints under the Code and there will be a reasonable expectation of conciliation built upon transparency and open dialogue except where the need for confidentiality is expressly requested by the individual raising the Matter of Concern in their Report Form.

### **Conflicts of Interest / Delegated Powers**

20. If any of the decision makers in the Matters of Concern Process have a real or perceived conflict of interest regarding the matter under referral their decision-making powers must be delegated to a colleague of the same or more senior status within the College's Leadership Group or Trustee Board. The same rules of 6 apply if a decision maker is absent from their usual work duties at a material time (for example sickness, annual leave).

### **Reporting and Monitoring**

21. All Matters of Concern will be collated and securely stored by the Governance Team and an anonymised quarterly report provided to the Governance Committee and Trustee Board with an analysis of trends and recommendations for further action from any lessons learned.

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<sup>4</sup> As outlined on the Feedback and Complaints page on the RCGP website



## ANNEX 2A

### Matter of Concern Report Pro-Forma

<b>Personal Information</b>		
<b>Title:</b> Click or tap here to enter text.		
<b>First Name:</b> Click or tap here to enter text.	<b>Surname:</b> Click or tap here to enter text.	
<b>Membership Number (if applicable):</b> Click or tap here to enter text.		
<b>Contact Information</b>		
<b>Email address:</b> Click or tap here to enter text.		
<b>Telephone number:</b> Click or tap here to enter text.		
<b>Details regarding your concern</b>		
What is your concern related to? <i>Please check the most appropriate category.</i>		
A decision made by a named person	<input type="checkbox"/>	
The application of an RCGP process by a person	<input type="checkbox"/>	
Other actions of an individual	<input type="checkbox"/>	
Other	Click or tap here to enter text.	
<b>Please describe the Matter of Concern, the date it happened and what outcome you wish to achieve.</b>		
<b>Confidentiality</b>		
Do you consent for this matter to be discussed with others including the person(s) about whom the matter relates?	Yes, I consent <input type="checkbox"/>	No, I do not consent <input type="checkbox"/>
Add any additional detail relating to confidentiality here:		

Completed forms should be submitted [via this link](#)

## **ANNEX 3**

### **Procedure for Investigation of Complaints under the Code of Conduct**

#### **Principles**

1. The procedure set out in this Annex is intended to be a means of investigating complaints which –
  - Accords with established principles of natural justice, in that it provides fairness, proper knowledge of the grounds of complaint by the member complained against ('the respondent ') and an absence of actual or perceived bias.
  - Is transparent and follows procedures can be made generally known, while respecting the need for confidentiality about specific complaints and the steps taken to deal with them.
  - Provides flexibility to reflect the fact that complaints will vary in nature and seriousness.
  - Provides a speedy resolution of complaints with the minimum need for legal involvement.
  - Protects the interests and reputation of the College.

#### **General**

2. The process of investigating and dealing with complaints is intended to be fair and independent. If any person is unable or unwilling to become involved in a complaint the Chair of Council or an Officer appointed by the Chair of Council shall act in that person's place.
3. Proceedings, findings, or decisions of a panel (including an appeal panel) shall not be invalidated by reason of any defect, irregularity, omission, or technicality unless such defect, irregularity, omission, or technicality raises a material doubt as to the reliability of the proceedings or outcome.
4. In the event that this Code makes no provision for a particular circumstance or situation, the panel may take such action as it considers appropriate in the circumstances in accordance with general principles of natural justice and fairness.

#### **Initial receipt and sifting of complaints**

5. All complaints must be made by a member or a College staff member (referred to as a "claimant") and be made in writing addressed to the Chief Operating Officer. Anonymous complaints and complaints which do not include specific allegations will not be accepted. All complaints must first be subject to the Matters of Concern process. Complaints which have not been subject to that process will not be accepted.



6. Complaints relating to matters which took place more than 28 days before the initiation of the Matters of Concern process will only be entertained if the issues involved could represent a current risk to the interests or reputation of the College. In such cases, matters alleged to have taken place up to three years before the date of the complaint will be considered. The Chief Operating Officer may, in consultation with the Honorary Secretary and the Chair of Council, determine that matters which occurred more than three years before the date of the complaint raise such a serious risk to the current interests or reputation of the College that they should be investigated further and dealt with under the provisions of the Code.
7. If a complaint relates to matters that are already under consideration by the College under a different policy, or which have been referred to a regulatory body (such as the GMC), the Honorary Secretary may determine that the procedure under this Code be delayed pending the outcome of those alternative investigations.
8. If the complaint falls within the terms of paragraph 5 and 6, it will be referred to the Honorary Secretary's office, which will determine conclusively whether the respondent is subject to the Code.
9. The Honorary Secretary is entitled to rely on findings of an investigation already carried out by the College or by an appropriate regulator, and the respondent shall (unless the Honorary Secretary otherwise determines) be suspended from any College office and from acting as a representative of the College. A respondent who is subject to Ordinance 23 shall not as a result of such suspension be precluded from performing any duties they may have as members of Council or the Trustee Board.
10. If the Honorary Secretary determines that the respondent is not subject to the Code, or that the complaint does not relate to him or her in the capacity in which he or she is so subject, the complaint will be rejected and the claimant will be informed accordingly.
11. If the Honorary Secretary considers that more details of the complaint are necessary, the Honorary Secretary may carry out further enquiries and the claimant may be asked to give further details. Further enquiries will be pursued diligently but a specific timetable cannot be laid down as the requirements for a thorough investigation will vary according to circumstances.
12. The Honorary Secretary may, if it seems expedient to do so, make arrangements for two or more complaints (whether from more than one claimant about the same or similar subject matter or from one claimant about similar or related subject matter) to be dealt with at the same time. Such changes as may seem necessary to the Honorary Secretary to the procedures set out in this Annex may be made and the Honorary Secretary shall in such circumstances inform the claimant accordingly.

13. A complaint may be withdrawn at any time. However, the withdrawal of a complaint shall not prevent the College from investigating and dealing with any matters raised.

### **Summary dismissal of the complaint**

14. The Honorary Secretary may dismiss summarily any complaint which in his or her absolute discretion he or she considers trivial or vexatious. Any such summary dismissal will be final. A written memorandum to this effect will be signed by the Honorary Secretary. The claimant will be informed accordingly.

### **Copy of complaint to the respondent**

15. Following the initial sifting process, a copy of the complaint and details of any evidence will be sent to the respondent by the Honorary Secretary and the respondent will be notified where applicable of any suspension.
16. The identities of the claimant and of any persons giving evidence will only be disclosed where they have agreed to disclosure or where the College has received advice that disclosure is permitted and necessary for the fair handling of the complaint. Reports and evidence may be redacted accordingly. In any event the identity of the claimant and of those giving evidence should be treated as confidential by the respondent who should not attempt to contact them.

### **Copy of response to claimant**

17. A copy of the response by the respondent (if any) will be sent within 7 days of its receipt by the Honorary Secretary to the claimant, who will be given the opportunity to comment on it. If the claimant makes no comment within 14 days, the Honorary Secretary may either grant the claimant extra time (and notify the respondent and the claimant accordingly) or proceed to the informal resolution process or convene a panel to consider the complaint.

### **Process – summary**

18. Where the complaint arises from the findings of an investigation carried out under a College policy or by an appropriate regulator, the full process at paragraphs 19 to 21 below will not apply, and a date for a Panel hearing will be set, which will not normally be more than 28 days from the date of the notification of the complaint to the respondent. The complaint will be dealt with in accordance with paragraphs 25 and onwards. Informal resolution of the complaint at paragraphs 22 to 24 below will not apply.

### **Process – full**



19. In other cases, the respondent will be required to submit a written response within 21 days of the notification and will be sent a copy of the Code. If the respondent makes no comment within 21 days the Honorary Secretary may either grant the member extra time (and notify the member and the claimant accordingly) or proceed immediately to the informal resolution process or convene a panel to consider the complaint.
20. A copy of the response by the respondent (if any) will be sent within 7 days of its receipt by the Honorary Secretary to the claimant, who will be given the opportunity to comment on it.
21. If the claimant makes no comment within 14 days the Honorary Secretary may either grant the claimant extra time (and notify the respondent and the claimant accordingly) or proceed to the informal resolution process or convene a panel to consider the complaint.

### **Informal resolution of the complaint**

22. Following this initial consideration of the complaint, the Honorary Secretary may suggest resolution by conciliation. A conciliation process will not reach a successful conclusion unless both the claimant and respondent are committed to this course, and the claimant and the respondent will need to agree the process, with the approval of the Honorary Secretary.
23. The Honorary Secretary may feel that as an alternative to conciliation, an informal discussion with the respondent can resolve the problem that has arisen, for example, by the respondent agreeing to his or her performance being monitored, or to undergo further training.
24. If neither conciliation nor a meeting between the member and the Honorary Secretary reaches a satisfactory outcome, any admissions or statements made during the course of that process will not be made known to a panel investigating the complaint.

### **Panels**

25. The complaint will proceed to a panel for formal investigation if -
  - The Honorary Secretary does not consider that the complaint can be satisfactorily resolved through conciliation or other informal means; or
  - Either or both of the parties does not agree to take part in the conciliation process; or
  - The process fails to produce a satisfactory resolution, or
  - The summary process applies.

26. The Honorary Secretary will usually take advice from Past Officers of the College and the Chief Operating Officer but should take care to keep the other Officers and Council members distanced from the handling of a complaint, in order to avoid prejudicing fair consideration of the complaint, and any consequent damage to the College's reputation. Legal advice should be taken when necessary.

### **Arrangements for a panel hearing**

27. Where the complaint is to proceed to a panel hearing, the Honorary Secretary will appoint a panel to prepare for and conduct the hearing. The panel will normally consist of three members, with a lay member of the Trustee Board as the Chair and two Council members. Where the complaint involves complex or specific issues, the Honorary Secretary may appoint a Chair and/or panel members from outside the College who have relevant skills or expertise.

28. Where the summary process applies, the panel hearing will take place on the date notified to the respondent in accordance with paragraph 15. In other cases, once the panel has been constituted, a date for the hearing will be fixed, and this will be notified to the respondent. The claimant will also be informed.

29. The respondent may attend the hearing, accompanied by a legal or other representative, and either he or she, or the representative, may address the panel. The respondent will be asked whether they wish to attend and, if so, whether they will be accompanied by a representative. The claimant need not attend the inquiry unless required to do so by the panel to give evidence but may be invited to attend.

30. The panel will grant a postponement of the hearing only in exceptional circumstances.

### **Role of the panel**

31. The role of the panel is –

- To ascertain the facts, on the basis of the legal test known as the balance of probabilities (that is, whether it is more likely than not that an event took place). The panel is entitled to rely on the College's previous findings of fact, and on the findings of relevant bodies such as an employer or a regulator such as the GMC, and need not investigate those issues further.
- To consider whether, on the basis of the facts so found, the member has breached the Code of Conduct.
- To consider the appropriate sanctions in the light of all the circumstance of the case, including the nature of complaint, the impact on the College, the impact on

the person making the complaint and others involved, the impact on patients and the public, the circumstances of the member and the consequences of its decision for the claimant.

- Where Ordinance 23 applies, if it has found a breach of the Code has been substantiated, to recommend a sanction to be applied, although if the sanction recommended is the immediate or conditional removal or suspension of the member, the final decision rests with the Council.
- In other cases (including ones relating to members of Council and the Trustee Board where a lesser sanction is found to be appropriate) to determine what sanction to apply.

32. The panel does not need to apply the formal legal rules on evidence, but must act fairly and reasonably, taking into account all relevant factors and disregarding any irrelevant ones.

33. The panel will reach its decisions by majority vote.

### **Preliminary meeting**

34. The panel will normally hold a preliminary meeting to decide procedural issues such as whether any further investigation is needed, the lines that any investigation should take, whether legal advice is needed, whether witnesses should be invited to give evidence in writing or in person whether expert advice is needed, and any other procedural issues.

### **Timetable**

35. Subject to any special directions by the panel, the timetable leading up to the hearing will be –

- Not less than 28 days before the meeting date, the respondent must be given notice of the meeting.
- Not later than 14 days before the hearing, the respondent must submit any written response to the complaint. The panel may decline to accept any written response received after this date but will have the discretion to accept a later response.
- Not later than 7 days before the hearing, the panel members and the respondent must be sent the papers.

### **Papers sent to the respondent**

36. The papers for the hearing will comprise all the papers to be considered by the panel (excluding any legal advice to the panel, and will be sent to both the claimant and respondent.

### **Procedure on the papers**

37. If the respondent does not wish to attend the hearing, the panel will investigate the complaint on the basis of the documents relating to the complaint in absentia.

### **Publicity**

38. No publicity will be given by the College to a complaint, and a panel hearing will be dealt with in confidence, with disclosure only to the extent necessary to –

- (1) Carry out the investigation, for example, by making inquiries of witnesses, experts, panels or inquiry bodies established under alternative College policies, or external bodies such as employers or regulators;
- (2) Seek advice on the application of potential sanctions;
- (3) Enable the Honorary Secretary to report on a confidential basis to the Trustee Board with sufficient information to discharge its responsibilities; or
- (4) Ensure that potential spokespeople for the College are sufficiently briefed to respond in case any details of the complaint become known from outside the College.

NB: Unauthorised disclosure by any person of information about a complaint or investigation in progress would itself be a breach of the Code of Conduct and form the basis of a new complaint.

### **Witnesses**

39. The giving of either written or oral evidence is voluntary. The panel will consider at the preliminary meeting from whom evidence is to be sought. While a witness cannot be compelled to give evidence, members are expected to assist the panel as far as possible, and failing to comply with a reasonable request for evidence could itself be a breach of the Code.

40. Oral evidence may be taken at the panel's discretion from the claimant and any other relevant witnesses if the panel considers this necessary for the proper investigation of the complaint.



41. Where oral evidence is taken, the respondent (or representative) will be given the opportunity to ask questions of the witness.

### **Role of the panel secretary**

42. Each panel will have a secretary assigned to it, who will attend both the preliminary meeting and the hearing. The secretary will in consultation with the Chair of the panel carry out all preliminary work connected with the inquiry, such as contacting witnesses and obtaining evidence, and make all necessary administrative arrangements for both the preliminary meeting and the hearing. The secretary will also draft the report of the panel for consideration by members of the panel.
43. The secretary will normally be a College staff member. In exceptional cases involving sensitive or complex matters, and where the Honorary Secretary deems it appropriate, an external consultant or adviser may be instructed to act as panel secretary, with the cost borne by the College. Any external party appointed as secretary will be instructed by College Governance staff.

### **Detailed order of events for the hearing (if the respondent is present)**

#### **44. Preliminary matters**

- The Chair will indicate that the procedures for the hearing will be as set out in this Annex (or as varied by the panel in exceptional circumstances). The respondent will be asked to indicate any objections to the procedures, and the panel will then rule on them.
- The Chair will check that all members of the panel and the respondent have all the papers which have been circulated.
- The Chair will establish whether the case for the respondent is to be presented by the respondent by a representative. If a representative addresses the panel on behalf of the respondent at one stage of the procedure, the respondent will not be permitted personally to address the panel, and vice versa. This would not preclude the panel asking the respondent to give evidence.

#### **45. Order of events**

Subject to the Chair's discretion to vary the order of proceedings the order of events at a hearing will be as follows -

- The respondent's response to the complaint is presented and the panel are taken through any relevant documents.
- Members of the panel ask questions of the respondent.
- Oral evidence may be given by one or more witnesses.
- Members of the panel ask questions of the witnesses in turn.

- The respondent asks questions of the witnesses.
- The respondent may make representations on factors affecting the decision of the panel and on possible sanctions.

46. Closing procedure

- The Chair informs the respondent whether the panel will give its oral notification of its decision that day, or whether the decision will be reserved and given in writing at a later date.
- If an oral decision is expected that day, the respondent and any representative in attendance retire to await the decision.
- The panel deliberates, and will give an oral decision that day. If further time is needed, the decision will be reserved.
- In either event, a formal report, with the panel's conclusions and reasons, will be drawn up by the secretary for approval by the panel.
- Once approved the formal report will be sent to the respondent and the claimant, normally within 14 days.
- The report will also be sent to the Trustee Board for noting at its next meeting and where the panel has determined the appropriate sanction is the immediate or conditional removal or suspension of a member of either the Council or the Trustee Board to the Council so that its recommendations can be considered in accordance with Ordinance 23(2).

**Appeal**

47. Where Ordinance 23 applies the provisions below relating to appeals will not apply, the member having the right to make further representations to Council as part of that process.
48. Where the panel has found against the respondent, the respondent may within 14 days of receiving the report give written notice to the Honorary Secretary of his or her wish to appeal against the whole or part of the panel's decision(s). Appeals may be on any grounds but shall be limited to the grounds specified the respondent when giving notice of the appeal.
49. Appeals shall be referred to an appeal panel appointed by the Honorary Secretary and the appeal panel shall be composed and administered in accordance with the earlier provisions regulating panels. However, no person who has been connected with the original panel shall be involved in any capacity with the appeal panel. The same rules apply to the appointment of panel members and secretary as apply to initial hearings above.
50. Appeals will normally be by way of oral submissions and a review of any written evidence, but oral evidence shall be permitted if the appeal panel so determines. The appeal panel may in exceptional cases (for example where fresh evidence has come to light) proceed by way of a de novo hearing of the complaint.

51. The appeal panel has power to

- Dismiss the appeal
- Substitute alternative findings of fact
- Reduce or increase any sanction
- Substitute alternative decisions or recommendations
- Make such further order or direction as it thinks fit

52. The chair of the appeal panel shall at the conclusion of the hearing or as soon as practicable thereafter deliver a written decision to the Honorary Secretary who will distribute the decision to the member, the claimant, and any other interested parties.

53. Subject where appropriate to the decision of the Council in accordance with Ordinance 23 the decision of the appeal committee shall be final and binding on the parties, and there shall be no further right of appeal from it.

### **Privacy**

54. Meetings of the panel will be held in private, and the only persons present at a hearing will be the members of the panel, the member and his or her representative (if any), the legal adviser to the panel (if any) and the secretary.

### **Costs**

55. Unless the panel otherwise directs, the member will be responsible for meeting his or her own costs in attending the meeting, the cost of attendance by any witnesses called, and the cost of any legal representation.