



## **GUIDE TO THE CONSULTATION ON THE REVISED NRCPD FITNESS TO PRACTICE PROCEDURE AND CODE OF CONDUCT**

### 1. Introduction.

Welcome to our guide about the consultation of our revised NRCPD Fitness to Practice Procedure and Code of Conduct. This guide introduces you to our revised procedure and the adjusted Code of Conduct. It also outlines the revisions and adjustments made and some of the reasons behind these changes.

We recommend that you read this document to get an overview of the changes, to understand the structure of the documents on the website and for information on how to send us your feedback.

When you come to read both the updated procedure and Code of Conduct on our website, they are broken down by chapter into collapsible sections, so that when you click on a chapter, it will bring up the BSL videos for it. It will also then provide a link to the same chapter in English.

Our consultation period will run for five weeks from Friday 15th July to Monday 22nd August, and includes five online consultation events that you can register a place for.

The link to the consultation documents is at the bottom of the webpage from which you accessed this guide.

### 2. Basis for the Revised FTP and Code of Conduct.

Development of the revised procedure and adjusted Code began in 2019, but unfortunately suffered significant delay over the Covid pandemic. The documents we are presenting for consultation have been developed over the last eighteen months following feedback and insight from many sources. We consulted with all professional associations and key Deaf-led charities for feedback on our 2015 Complaints Process, and how it had been working.

We also compiled our own table of lessons and feedback arising directly from complaints cases and from the people involved with them, and also comments raised to us in public forums, outreach events and in the very helpful letters and emails we receive from professionals and the public. We looked at the procedures of other regulators for examples of how to improve our own, in addition to gaining expert legal input.

### 3. The Adjusted Code of Conduct.

The Code of Conduct has not undergone a fundamental review, so its language and structure are not different. Instead, we are proposing two adjustments that have become necessary to reflect our stand against bullying and harassment between fellow professionals. The first adjustment is in the language of the opening paragraph to extend the scope of the Code of Conduct to cover misconduct as a professional beyond the limits of an actual assignment. The second is a new Section 6.5. making specific provision against bullying and harassment of fellow professionals.

#### 4. How the 2022 Fitness to Practice Procedure is Different:

The new procedure follows the same sequence of stages as the 2015 procedure: from NRCPD initially receiving information about misconduct, all the way through to an appeal committee if there is one. Where the new procedure differs is we have significantly clarified certain parts, and we have adjusted the terminology to focus more accurately on what the procedure is for and what it does. There are some changes that also bring our procedure more in line with regulatory procedures elsewhere. The key differences are set out below:

##### a. Changes in Terms Used.

- 'Misconduct Report' replaces 'Complaint'.
- 'Professional Conduct Committee' replaces 'Complaints Committee'.
- The originator of a Misconduct Report is now the 'Reporting Witness' (not the 'Complainant').

##### b. Structure of the Procedure. The Fitness to Practice procedure consists of the following parts:

- Introduction
- Outline of the Procedure
- Stage 1 - Reporting Misconduct
- Stage 2 - Investigation
- Stage 3 - Case Examiners
- Stage 4 - Professional Conduct Committee
- Stage 5 - Appeals
- Supplementary Notes and Provisions
- Glossary of Terms

Although the stages are in principle the same as before, the 2015 document did not clearly identify them as the five stages listed so this has been changed, renumbered and language adjusted.

##### c. Areas where we have added greater clarity:

We have included a section giving an outline of the procedure and a glossary to help with understanding of some of the key terms it uses.

**Under ‘Reporting Misconduct’ and ‘Investigation’:**

- Malicious, vexatious, and trivial misconduct reports and the conditions that must be met for an investigation to be started and to continue.
- The administration of interim suspensions or restrictions (‘interim orders’).
- Referral to authorities (such as police or safeguarding authorities) before and during investigations.
- How we deal with disclosure of criminal convictions and charges.

**Under ‘Case Examiners’:**

- The process that case examiners use to come to their conclusions (the three-step process).
- Guidance for case examiners on evidence, the public interest test, and sanctions guidance.

**Under ‘Professional Conduct Committee’ and ‘Appeals’:**

- The circumstances when we hold hearings in public.
- The procedures for convening and holding Professional Conduct and Appeals Committee hearings.

**Generally:**

- The handling of matters of health or disability that affect either practice or engagement with the procedure.
- The importance of confidentiality during an active case.
- Publishing case outcomes.

d. Things we are proposing to change.

There are many adjustments to the procedure, but these are the main ones that will directly affect people involved in cases:

- NRCPD will take the lead in determining whether to pursue an investigation. It is no longer required for a person reporting misconduct to want to fully pursue the case, although the participation of reporting witnesses must still be with their consent. This enables NRCPD to pursue an investigation when someone makes a genuine misconduct report but does not want to put themselves through the procedure.
- NRCPD will be able to initiate a misconduct investigation when in receipt of other information that indicates possible misconduct but has not been made to us as a formal report by the reporting witness. This enables us to act responsibly as a regulator when we receive information about misconduct especially where this may be serious.

- Mediation is removed as an option for Case Examiners to recommend as it was unworkable as a Case Examiner outcome. It will not stop mediation being used to resolve any misconduct raised in a report if people involved choose to do that themselves, but it will not be directed by NRCPD.
- Case examiners may now recommend a practice restriction of up to six months as a sanction for Regulated Trainees. This reduces the need for a full committee to be convened for what is a straightforward developmental matter to run alongside a CPD or supervision requirement.
- The Professional Conduct Committee will have the ability to limit the time-period of removal from the register. Removal from the registers is currently a permanent sanction, but this is viewed as excessive when compared with, for example, most criminal offences which become spent after a period. Register removal will still be permanent as a default, but Committees now have the option to vary the term from lifetime down to a minimum of six years if there are good reasons for doing so. At the end of the reduced term, the Registrant/ Regulated Trainee will still need to apply to re-join the registers and may have additional criteria to meet to do so.

## 5. Supporting Documents.

There are several other documents that we use that are not part of this consultation. This is because they derive from the final version of the new procedure and there is no benefit to producing them here. Examples of this are standard letters and forms, guides for witnesses, checklists for committees and so on.

6. Coming into Force – When are the final versions effective? In addition, we need to consider the right way for the final versions to come into effect. After we have received the consultation feedback and developed the final version of the procedure, we will then want to bring it into effect as soon as possible. We would therefore be grateful for comments in the consultation on the following proposals:
- a. For the Fitness to Practice procedure, we propose that for new cases it is effective immediately the final version is published. For active cases, we will adopt the new procedures immediately unless this causes disadvantage to the professional being investigated in which case the new procedures will apply from the start of the next stage of the case (the stages are listed above).
  - b. Regarding the Code of Conduct, this is part of the contractual undertaking of professionals who register with us and so it will apply to each individual once they have renewed. It will therefore take up to one year for all current Registrants/ Regulated Trainees to come under the new Code. Professionals will be able to 'opt in' to the new Code as their commitment to high standards of professional conduct if they wish.

## 7. What to provide feedback on.

We would be grateful if comments submitted as part of the consultation remain relevant to the improvement and finalisation of the revised procedure and Code of Conduct. We would welcome comment on any aspect of the procedure, such as sanctions, decision-making, timelines, and appeals. We are also interested in constructive feedback on how best to present the documents for publication (both the BSL and English versions). We are using the format that you see, but any feedback on how to improve it is welcome.

## 8. How to submit your feedback.

Your feedback should be sent to us within the consultation period by Friday 19<sup>th</sup> August 2022 to: [consultations@nrcpd.org.uk](mailto:consultations@nrcpd.org.uk) or in BSL via our VRS at: [www.nrcpd.org.uk/vrs](http://www.nrcpd.org.uk/vrs)

Also, we are running five online events for people to ask questions or provide feedback. Details of these are in a separate section on the consultation webpage.

## 9. What happens after the consultation?

Once the consultation period closes, we will accept no further submissions and will sift through everything we have received. Suggestions for changes will be assessed as to their merit, impact on the procedure and our ability to fulfil our regulatory responsibilities fairly and lawfully. Those we adopt will be included in the final version.

We will try and publish all comments we have received (anonymously) with our decision on whether and how each will be incorporated.

It is impossible at this stage to predict how long that will take but we hope to publish the final versions by the end of September.

We will update everyone on progress once the consultation closes.

With thanks,  
NRCPD.