

# Investigating Committee – Responding to allegations

## Fitness to practise fact sheet

### What has happened?

We have now finished our investigation into the concerns identified as meeting our threshold. We have now drafted allegations which we are inviting you to provide a response to.

### What do you need to do?

Your case manager has given you a copy of all of the information we gathered during our investigation. You should now prepare your response. You can provide any supporting documentation you wish for the panel to see alongside any written comments you wish to make.

The bundle of information we have given you is being shared with you specifically for your own use in the fitness to practise proceedings. The information should not be shared with any other person, except for your representative.

### Your response

You now have 28 days to provide your response for the Investigating Committee Panel. If you need extra time to respond, you should contact your case manager as soon as possible to explain why you need more time. When we have received your response, we may need to ask the complainant to clarify points you have raised.

You may wish to seek advice from your union, professional body or a legal representative before responding to the allegation.

### What we will do with the information you give us

All of the information that you provide will be given to the panel to assist them in deciding if there is a case to answer. The information you provide will not be sent to anyone else, such as the person who raised the concern about you, but we may ask them for more information based on your response.

Further information about how we use the information you have provided can be found below.

### Setting out your response

You will notice that each particular of the allegation is numbered. It will help the panel if you address each particular in turn, and clearly reference your response as you address each point. Please also use the page numbers in the bundle to assist the panel to find the

information you are referring to.

Where we have anonymised a service user, colleague or other person in an allegation (e.g. Service User A, Colleague A), it would be helpful if you could follow the same pattern of anonymisation in your response. We have provided an ID Key to help you understand who the anonymised allegation refers to.

### The facts of the allegation

The facts of the allegation are what is alleged to have happened. When responding to the facts set out in the allegation, you may want to provide:

- your version of events;
- why the incident happened;
- what facts (if any) you dispute; or
- what facts (if any) you do not dispute

Although the panel will take account of your response, it is likely to have more weight if it is supported by evidence. You should therefore think about what evidence you can provide to the panel, such as records or correspondence, which supports your response.

### The statutory ground of the allegation

When responding to the statutory ground, you may want to explain why you agree or do not agree that the facts set out amount to that ground. For example, you may agree that the incident set out in the facts took place, but you may not agree that what occurred constitutes misconduct.

### Impairment of fitness to practice

As well as addressing the facts and statutory ground of the allegation, you may wish to consider commenting on whether your fitness to practise is impaired.

The test of impairment is expressed in the present tense; that fitness to practise 'is impaired', not whether it was impaired at the time of the incident. A panel will consider:

- the events that are alleged to have taken place;
- your present circumstances including what you have done since the incident; and
- your future safe and effective practice.

The role of the panel is not to punish you when something has gone wrong. However, it does need to take account of past acts or omissions in determining whether your present fitness to practise is impaired. It will also take account of wider public interest issues including public confidence in your profession and in the regulatory process.

### What have you done since the incident?

You may have information about steps you have taken since the alleged incident which demonstrates insight, remorse, or remediation.

Insight means being able to recognise what went wrong, accepting your role or responsibility, and appreciating what could or should have been done differently.

Remediation means taking steps to address the concerns. For example, having further training after a clinical incident.

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If you do provide this information, you should think about what supporting evidence you can provide to the panel. This may include:

- confirmation from your employer that you have undergone training; or
- details of the adjustments you have made to your practice and why these were necessary.

### Health matters

If any health matters are raised in the allegation or if you raise health matters in the course of your response, you should consider what supporting information you can provide. This may include information from your GP or specialist who has been treating you.

Depending on the health matters raised in the allegation or in your response, it may be helpful to the panel if you are able to provide information about your health at the time of the incident, as well as information which is current at the time of your response.

### References

You may wish to provide references to support your response. If you do so you should note that the panel is likely to attach more weight to information provided by a referee if:

- it is clear that the referee was aware of the fitness to practise allegation at the time they wrote the reference;
- the reference provides appropriate context (for example, the referee explains their relationship to you and addresses specific issues relevant to the allegation) rather than simply being a general reference.

## What will happen next?

Within two days of the panel meeting your case manager will send you and the complainant a copy of the Investigating Committee Panel's decision.

The possible outcomes are:

- **Further information requested or the allegation is amended** – the panel may ask for more information or clarification before making its decision. Or the panel may amend the allegation. Once we have gathered the further information requested by the panel we will send a copy to you. We will also share with you the amended allegations before they go back to a panel. You will be given a further 28 days to comment on the further information, or on the amended allegations if the amendment is significant (for example it introduces new allegations or issues you have not yet seen).
- **Case to answer** – the panel decides there is a realistic prospect that the case against you will be established at a full hearing and refers the case for hearing by either the Conduct and Competence Committee or the Health Committee. At this stage we will instruct our solicitors to prepare the case for a final hearing. Further information will be sent to you if the case is referred for a hearing.
- **No case to answer** – the panel decides that the realistic prospect has not been met and the case is closed.

Although the case will be closed, if another allegation is raised about your fitness to practise within the next three years the Investigating Committee can take account of the allegations in this matter when considering the new allegation.

## Further information

Further information about the **fitness to practise process**, including the **Health Professions Order 2001** and the related **procedural rules**, can be found on our **website**. You can also contact your case manager if you have any questions. Your case manager cannot provide you with advice about what you should or should not include in your response, but they can explain what the panel will consider when making their decision and answer any questions you might have about the process.

### How we use the information you provide us

The information that you provide to the HCPC will be used in assessing whether there is a case to answer in respect of the allegation that has been made in relation to your fitness to practise. Any personal data relating to you will be processed in accordance with our subject information statement which was provided to you on registration or when you renewed your registration. In certain circumstances information you provide may be disclosed to third parties, these include:

- checking factual information provided by you with a complainant or your employer when discrepancies arise;
- provision of information which amounts to personal data about a third party to such a third party should that party make a request for such personal data under the Data Protection Act 1998 (due to the nature of the HCPC's work and the exemptions on disclosure available, there are some circumstances when personal data about a third party may not be disclosed).

Apart from in the circumstances outlined above (or where we have a legal duty to provide information to another body) the information you supply will be kept confidential by the HCPC and will not be disclosed. Should the Investigating Panel decide that there is a case to answer and refers the case to further panels, the information you provided to the Investigating Committee Panel (ICP) will not automatically be provided to the panel at the final hearing.

You will be invited to provide a fresh response for any further proceedings although you can consent for the information you provided at the ICP stage to be used at a later hearing if you so wish. However, should any evidence provided by you in any further proceedings contradict the information previously provided, the HCPC may use the earlier information to show inconsistencies in the information you are providing to the HCPC. You should contact the case manager in writing if you would like information from the Investigating Panel stage to be considered at the final hearing.