

AGIP Complaints Procedure

Guidance for Members

Contents

About the Complaints Procedure

What complaints fall within the procedure?

Who can make a complaint against me?

When will I be informed if there is a complaint made against me?

What is AGIP's position in relation to anonymous complaints?

What happens when I receive a copy of the complaint?

What happens if I am subject to other proceedings or complaints procedures elsewhere?

Confidentiality

How does AGIP take the case forward?

Interim Suspension Order

What happens at a Hearing Panel hearing?

Equality and diversity statement

About the Complaints Procedure

Complaints which raise issues about your suitability to be a member of AGIP are dealt with under the Complaints Procedure. AGIP's procedures apply to all Honorary, Associate, Retired, Student, Trainee, Training members and Professional members who are not also on the UKCP Register.

What complaints fall within the procedure?

AGIP can consider behaviour that falls into the following categories under the Complaints Procedure:

a) Misconduct

b) Professional incompetence

c) Conviction or caution for a criminal offence

d) Physical or mental health

e) A decision by another body, regulator or employer (e.g. the British Association for Psychotherapists and Counsellors, General Medical Council, and British Psychoanalytic Council).

These categories are expanded and outlined in more detail in AGIP's Code of Ethics, Code of Practice and Code for the Training.

Who can make a complaint against me?

Anyone can make a complaint against you, if you:

(a) Are still a member at the time the complaint was lodged with AGIP; and

(b) Were a member at the time the complained of behaviour occurred; and

(c) The therapy or practice which is the basis of the complaint was located in the UK, or if not, the current insurance provision is from the UK.

If you were not a member at the time the complained of behaviour occurred, the Co-ordinator of the Professional Ethics Committee will determine whether it would be reasonable and in the public interest to consider the complaint. For example, allegations of gross professional misconduct such as a sexual relationship with a patient, is likely to be considered. Complaints should normally be made within three years of the behaviours complained of or three years from the date any complainant became aware of the conduct. If a complaint is received after this, the complaint will only be investigated if the Co-ordinator of the Professional Ethics Committee determines it is in the public interest to do so. If you resign from AGIP or fail to renew your AGIP membership after a complaint has been lodged with AGIP, the complaint will still proceed. Even if you resign from AGIP membership, AGIP reserves the right to notify and share information with other organisations including but not limited to the British Association for Counsellors and Psychotherapists and British Psychoanalytic Council.

When will I be informed if there is a complaint made against me?

You will only be notified that we have received a formal written complaint against you if the Professional Ethics Committee is of the opinion that it raises a potential breach of the Code of Ethics or Code of Practice or Code for the Training. The Complainant must also have given their consent for AGIP to disclose the complaint to you. If the complaint does not come under the scope of AGIP's Complaints Procedure or we are not given consent to disclose it to you, we will notify the Complainant and close the case. It is not our practice to notify you of written complaints which do not come within the scope of the Complaints Procedure. We will, where possible, inform you over the phone before sending you formal notification of the complaint. However, if we do not have your correct or up-to-date contact details we may not be able to call you. It is our normal practice to notify you formally of the complaint by email. If we do not have your email address we will send you the complaint by recorded delivery to the address held on our database.

What is AGIP's position in relation to anonymous complaints?

On rare occasions, AGIP may receive an anonymous complaint. It is not normally the practice of AGIP to investigate anonymous complaints, however the Co-ordinator of the Professional Ethics Committee will decide whether the complaint is independently verifiable or admitted by you. If the Co-ordinator of the Professional Ethics Committee decides it is reasonable and in the public interest to do so, the complaint may proceed without a complainant.

What happens when I receive a copy of the complaint?

You will be invited to respond to the complaint usually within 15 days of you receiving it. Being subject to a complaint can be unsettling and nerve-racking. It is important that you get support through this process. We suggest that you contact your supervisor and your professional indemnity insurers for any support and advice they can give. Some insurers may provide legal advice or representation from a solicitor at an early stage. Some insurers may also be able to review your response to the complaint. You may also find that there are other organisations offering support such as the Psychotherapy and Counselling Union.

What happens if I am subject to other proceedings or complaints procedures elsewhere?

If you are facing complaints or disciplinary proceedings by another organisation, regulator, employer or are subject to legal action, the Co-ordinator of the Professional Ethics Committee may suspend consideration of a complaint under the Complaints Procedure until those other proceedings have been completed. Generally speaking, where the police or a court is involved, proceedings under the Complaints Procedure are likely to be put on hold until the police/ court outcome is known. When deciding whether to put the Complaints Procedure on hold, the Co-ordinator of the Professional Ethics Committee will weigh the interests of the Complainant, you the member and the wider public

before making a decision. This decision will be under review and you will be provided with reasonable notice before the complaint is considered or resumed under the Complaints Procedure. Where a complaint has been considered and not upheld by another organisation, regulator or court, the Co-ordinator of the Professional Ethics Committee may decide not to consider a complaint under the Complaints Procedure if it is based substantially on the same behaviour that was complained about elsewhere. Again, the Co-ordinator of the Professional Ethics Committee will weigh the interests of any Complainant, you and the public before making a decision. There are some matters which may be considered under the Complaints Procedure where there is no Complainant or AGIP has received information directly from you. You should always declare to AGIP and to UKCP if you are a member, the following:

- a) Being charged with a criminal offence
- b) A criminal conviction
- c) A conditional discharge for an offence
- d) A police caution
- e) Disciplinary action by any professional body or other organisation which is responsible for regulating or licensing a health or social care profession; or
- f) Suspension or a practice restriction by an employer or similar organisation because of concerns relating to a member's practise of psychotherapy, competence or health.

The Co-ordinator of the Professional Ethics Committee will decide whether there is sufficient information to proceed with the complaint, and whether it is reasonable and in the public interest for the complaint to proceed without a Complainant.

Confidentiality

The duty of confidentiality exists even when a therapeutic relationship comes to an end. However, if you are subject to a complaint, you will need to share information with relevant parties such as your supervisor and your professional indemnity insurers about the therapy, the Complainant and the allegations. We would advise that when you speak to your supervisor you do not use the full name of the Complainant. If you are calling on other support, you will need to ensure that the appropriate confidentiality arrangements have been made.

You will not be in breach of confidentiality when responding to AGIP about the complaint. This is because the Complainant waived their right to confidentiality when they lodged the complaint. We understand that you may be apprehensive about including information which may seem critical of the Complainant or give a view on the Complainant's mental state, especially since the Complainant will be provided with a copy of your response. If you decide to comment on these aspects please do so in a respectful manner. You should only disclose information that is necessary and relevant to the complaint.

You are at liberty to submit any documentation which you feel will help the Co-ordinator of the Professional Ethics Committee. For example, you may wish to submit a statement from your supervisor or you may wish to disclose any notes you hold. If you decide not to submit these documents at this stage you may decide to submit them later on (if the complaint progresses).

How does AGIP take the case forward?

The 'realistic prospect' test

The 'realistic prospect' test involves the consideration of two issues:

- 1) Is there a realistic prospect of being able to prove the allegations against you, and

- 2) If so, are they so significant to indicate that your suitability to practice is, or may be impaired to a degree that justifies action being taken on your AGIP membership.

After you have provided your response to the allegations, the Co-ordinator of the Professional Ethics Committee passes all the documents to a Screening Panel to determine whether there is sufficient evidence to refer the case to a Hearing Panel. Throughout the process AGIP weighs up the burden of proof, so the Screening Panel will consider whether the allegations are more likely than not to be true and will assess the weight of the evidence that has been provided by you and the Complainant.

The Co-ordinator of the Professional Ethics Committee must always seek the advice of a Screening Panel before making a decision on whether to refer a case to a Hearing Panel. The Screening Panel is made up of two professional members either from AGIP or a CPJA organisation who have been appointed for their experience.

It is important to emphasise that the decision to refer to a Hearing Panel does not indicate a final decision of guilt or wrong-doing. Rather the Screening Panel has decided that the matter requires further investigation and needs to be adjudicated upon by an independent panel.

If the Screening Panel decides that the realistic prospect test has not been met, the Complainant has the opportunity to resubmit the complaint once more with any additional evidence that they feel may satisfy the realistic prospect test. For example, the Complainant may have emails and text messages that they did not supply on the first occasion which they feel are likely to prove that the complained of behaviour occurred.

Where the Screening Panel feels that the realistic prospect test has been met and the matter has been referred to a Hearing Panel, you will be notified in writing and provided with details of the allegations and relevant documents. This will usually be provided within 15 days of the decision to refer the matter to a Hearing Panel. There is no appeal against a decision of the outcome of the Screening Panel. The Hearing Panel will be convened by the Co-ordinator of the Professional Ethics Committee. You or your representative will be provided with about four weeks' notice of the hearing date.

Interim Suspension Order

There may be occasions when AGIP receives a complaint or information which suggests that an Interim Suspension Order may be necessary. That may be for public protection, or because it is otherwise in the interests of the public or you the member. In these circumstances, AGIP will make an application for an Interim Suspension Order.

Such cases usually involve allegations of gross professional misconduct and we would seek an order to stop you from practising while the allegations and information are investigated. In such circumstances, you will be provided with an opportunity to appear before an Interim Order Panel and submit representations before any order is made. An Interim Suspension Order is only imposed in the most serious circumstances and is not an indication of guilt or wrong-doing and will not impact the decision of a Hearing Panel if the matter is referred before it.

What happens at a Hearing Panel hearing?

Where possible we will try to make sure that the Hearing Panel hearing is held on a date that is convenient for you. However, the hearing will be scheduled depending on the availability of the

panel members, witnesses and legal professionals. We will notify you or your representative of the hearing date – usually set around four weeks in advance. Our hearings take place at AGIP.

The Hearing Panel comprises three panel members, a Lay Chair, a senior AGIP psychotherapist and a psychotherapist from another CPJA organisation. The Hearing Panel may be supported by a Legal Assessor (a legally qualified person) to assist them on the Complaints Procedure. The Legal Assessor does not play an active role in the decision making process, but is there to assist the Hearing Panel with any procedural questions and to ensure that the hearing is run in accordance with AGIP policy and complies with relevant laws.

Provided the Hearing Panel is satisfied that you or your representative received notification of the hearing, the Hearing Panel is likely to proceed in your absence if you do not attend.

AGIP hearings are in private. During the hearing, the Complainant will present their case and evidence before the panel. As a part of this process, AGIP may ask the Complainant or other witnesses to talk about the complaint against you. Any witnesses called may be cross-examined by you or your representative, if you have one. You may wish to consider appointing someone with a legal background to represent you. Your insurance company will be able to help you with this. Your representative will respond to the case as presented. They may decide that they would like to call you and/or any witness(es) on your behalf to give your account on the matter. It is likely that the complainant and members of the panel will cross-examine you and/or your witness(es).

The questions can sometimes be difficult; if you need a break at any time, please notify the Chair. When the Hearing Panel is in the process of making a decision, it asks everyone except the Legal Assessor (if there is one) to leave the hearing room. It will then ask the parties to return and announce its decision. The Hearing Panel will decide on the following matters (which are not admitted):

- a)** If the allegations set out by the complainant have been proven or admitted;
- b)** Whether the proven or admitted allegations amount to a breach of AGIP's Code of Ethics or Code of Practice or Code for the Training (or any other equivalent document);
- c)** Whether any breaches are such that the member should not remain in AGIP membership without any restrictions or conditions;
- d)** What sanctions (if any) are to be applied.

We always try to ensure that hearings run to schedule. However, sometimes there are delays which cannot be avoided. If more time is needed, we will organise a new hearing date on the earliest possible opportunity that is convenient for everyone involved.

Equality and diversity statement

AGIP is committed to promoting equality, inclusion and diversity, and works to ensure that its processes are fair, transparent, objective and free from discrimination. AGIP expects that everyone who is acting for the AGIP uphold these values.

Association for Group and Individual Psychotherapy
1 Fairbridge Road
London N19 3EW
Registered Charity 1083030

Company number 03863068

February 2022 v1