

# Fitness to Practise

---



## Membership Guide Updated January 2017

## 1. Introduction

As a Graduate or Allied Health Professional member (registrant) of The British Association of Sport Rehabilitators and Trainers (BASRaT) individuals are entitled to refer to themselves as Graduate Sport Rehabilitators (GSRs). All registrants are required to meet and maintain the BASRaT standards of education, skill and conduct as stated in the BASRaT Standards of Ethical Conduct and Behaviour (SECB) and Role Delineation documents (RD). Please refer to the BASRaT website, [www.basrat.org](http://www.basrat.org)

## 2. What is fitness to practise?

An individual is considered 'fit to practise' if they possess the appropriate skills, knowledge, health and character to practise safely and effectively. In addition, this also includes acts and/or behavior which may affect:

- Protection of the public,
- Public confidence in the profession and the regulatory process.

BASRaT have a responsibility to monitor professional standards of its registrants, protect the public and maintain public confidence in the profession.

When BASRaT makes a judgement regarding a registrant's good character we cannot state that an individual will never behave in an inappropriate way but on the basis of the available evidence, there is no reason to believe that they would not adhere to our professional standards.

It is important to note that an individual's health and/or disability will be considered in direct relation to their ability to practise safely and effectively. If the particular condition is stable and managed appropriately then this should not affect a member's ability to practise safely and effectively. Being able to manage a condition appropriately also includes adapting, limiting and stopping practise if required.

## 3. Proportionality of decisions made by BASRaT

In deciding what, if any, sanction to impose BASRaT will apply the principle of proportionality taking into account the interest of the public with those of the registrant. The following points will be considered before the confirmation of decisions:

- Is the sanction a legitimate exercise at the current stage of the process (figure 1)
- Is it a suitable means of attaining the appropriate degree of public protection identified at the current stage (figure 1)
- Is it the least restrictive means of attaining that degree of public protection
- Is it proportionate in striking the correct balance between public protection and the rights of the member

## 4. Reporting of fitness to practise concerns

Any concerns can be brought to the attention of BASRaT in a number of ways:

- A. Declaration by Accredited Institution (AI)\*
- B. Self-declaration at initial registration
- C. Self-regulation of active registrant
- D. Concerns raised by a member of the public/employer\*\*
- E. Information received by BASRaT (this may be from a number of sources including an insurance claim or information reported in the media) regarding an active registrant or applicant to the register. In the latter case an 'applicant' may refer to a new applicant or an individual who wishes to be re-admitted to the register.

\*Please refer to BASRaT Fitness to Practise- Guide for Accredited Institutions.

\*\*Please refer to BASRaT Raising a Concern/FtP- Guide for the public and employers.

Allegations related to fitness to practise would not generally include:

- Poor time keeping (unless this has a direct impact on client care).
- Interpersonal conflicts/disagreements (unless involving bullying/threatening behaviour).
- Sickness absence (unless this involves fraudulent claims and/or lack of appropriate self-management of a condition).

In the case of the above examples and where there is no suggestion of risk to the public, it will most likely be suitable for BASRaT to deal with the concern informally. This may involve the BASRaT Registrar asking the complainant what would be an ideal resolution, for example a verbal or written apology. This must then be agreed with the registrant concerned. If no agreement can be made then facilitated mediation via the BASRaT Ethics Committee (see fitness to practise process, section 9) will be considered. If a concern is suitable for mediation the individual raising the concern, and the registrant concerned must agree to this course of action. If either party refuses BASRaT will initiate formal procedures (see fitness to practise process, section 9).

Mediation is when a member of the BASRaT Ethics Committee will discuss the problem with the complainant and the registrant concerned separately in order to come to an agreeable resolution. If mediation is not successful then BASRaT will initiate formal procedures (see fitness to practise process, section 9).

## 5. Regulation of fitness to practise (registration)

BASRaT have a responsibility to monitor professional standards of its registrants, protect the public and public confidence in the profession

On initial registration or re-registration with BASRaT an individual will be required to complete a Declaration of Health and Good Character in Relation to Fitness to Practise (DHGC) stating their ability to practise safely and effectively. If any concerns are disclosed then this will require further investigation by BASRaT.

In addition, confirmation of the individual's ability to practise safely and effectively by the AI will also be required (see DHGC) before the individual would be considered for initial registration with the organisation. This declaration can be signed by the AI Programme Lead or Head of Department.

BASRaT can also take action if a registrant's health and character raises concerns about their ability to practise safely and effectively.

Self-declaration of concerns related to fitness to practise is based on trust (by the organisation and the individual) and should be seen as a positive action, demonstrating good professional judgement and responsibility as an autonomous health professional. In many cases this gives the organisation the opportunity to help and support an individual and gain a better understanding of the practise of sport rehabilitation.

Individuals should complete the DHGC honestly and if BASRaT later find out that an issue has not been declared then this will be investigated and may affect registration with the organisation. Individuals who are unsure whether any particular aspects/issues should be declared should contact the organisation at the soonest possible opportunity.

Any concerns will be considered on an individual basis as to best support the individual as well as is to reduce risk of harm to the public and support the public's confidence in the profession.

## 6. Regulation of fitness to practise (self-regulation)

It is the responsibility of active registrants to maintain and manage their own health and character in relation to fitness to practise and also to inform the organisation of any changes to their health and/or character.

Active registrants should contact the organisation as soon as possible if it is felt that any issue(s) may impact on their ability to practise safely and effectively. As with the point of initial registration, any declaration during active membership should be seen as a positive action, demonstrating good professional judgement and responsibility as an autonomous health professional.

## 7. Health related to fitness to practise

It is important to note that an individual's health and/or disability will be considered in direct relation to their ability to practise safely and effectively. This means that BASRaT does not require information regarding someone's health and/or disability unless it affects their ability to practise safely and effectively.

If the particular condition is stable and managed appropriately then this should not affect an individual's application/practise. Being able to manage a condition appropriately also includes adapting, limiting and stopping practise if required.

## 8. Character related to fitness to practise

It is important to note that an individual's 'good character' will be considered in direct relation to their ability to practise safely and effectively. Consideration will be given to current and past actions which may suggest that an individual is not of 'good character'.

'Good character' will be considered in relation to whether the individual has acted, or are likely to act in the future:

- In a way that puts the health, safety and well-being of clients or members of the public at risk.
- In a way that would reduce public confidence in the profession.
- In a way that shows an unwillingness to conduct one's self in accordance with BASRaT professional standards (SECB, RD).
- In a dishonest way.

**Non-exhaustive examples when an individual may not be deemed of 'good character' include:**

- Inconsistent, unreliable and inappropriate behaviour.
- Improper relationship with client.
- Aggressive or threatening behaviour.
- Unlawful discrimination on the grounds of age, gender, race, ethnic origin, disability, sexual orientation, religion and belief, socio-economic background.
- Criminal conviction/cautions (consideration will be given if the offence involves):
  - Violence.
  - Abuse.
  - Sexual misconduct.
  - Illegal supply of drugs.
  - Child pornography.

- Dishonesty (theft or fraud).
- Conduct that would bring the profession into disrepute or damage the credibility of the profession,

Examples of the above would include:

- Dishonesty (theft or fraud)
- Trustworthiness (non-disclosure or criminal conviction or health/disability issue which may impair safe and effective practise without supervision)
- Abuse (child, physical, sexual, racial, emotional)
- Substance abuse or misuse problem

Consideration will be given to:

- The number and nature of offences or events.
- The seriousness of the offences or events.
- When and where the offences or events took place.
- Any information given by the individual to explain the circumstances.
- An individual's character and conduct since such offences or events.

**Registrants must always** tell us about a caution or conviction if it is for a 'listed offence' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Listed offences include serious violent and sexual offences and offences which raise concerns about whether individuals working as a healthcare professional should work with children, vulnerable adults and prisoners.

This means that when **registrants** apply for initial registration or re-registration, they must declare convictions or cautions including those that are considered 'spent' because they happened some time ago, unless they are a protected caution or protected conviction. This also includes convictions or cautions that they may have received in countries outside the United Kingdom (UK), if the offence is one that could have resulted in a caution or conviction in the UK.

**Registrants** do not need to tell us about a **caution** if:

- they received it more than six years ago (or if they were under 18 at the time, more than two years ago); **and**
- it was not for a 'listed offence' (see below).

**Registrants** do not need to tell us about a **conviction** if:

- it resulted in a non-custodial sentence;
- it was not for a 'listed offence' (see below);
- they have no other convictions (whether as an adult or under 18); **and**
- they received the conviction more than 11 years ago (or if they were under 18, more than five and a half years ago).

More guidance on listed offences on the Disclosure and Barring Service website:

[www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check](http://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check)

## 9. The fitness to practise process

A general overview of the process is given below (figure 1). Any concerns raised will initially be considered by the BASRaT Registrar in conjunction with another member of the BASRaT Executive Committee (stage 1). If it is deemed not to be a fitness to practise issue or not involving a registrant then it is likely that no formal fitness to practise investigation will proceed. Any decision made at stage 1 will be based upon the presence of prima facie evidence in relation to fitness to practise. At stage 1 the Registrar may also proceed with informal communication aimed at facilitating an appropriate resolution. This may involve mediation between the parties concerned through the BASRaT Ethics Committee (see section 4). The nature of some concerns may result in mediation not being an appropriate route. Examples would include concerns involving sexual assault/abuse.

Any decision made at stage 1 will be confirmed in writing within 5 working days of the decision being made. This decision may include the immediate imposition of an interim order (this may be in the form of interim conditions or suspension) if the allegation is judged to be of such a nature as to involve a risk or potential risk to protection of the public or public confidence in the profession. The interim order would last for a period of up to 28 days allowing time for the concern to be considered by the Investigating Committee (stage 2). Further information regarding decision making can be found in the BASRaT- Interim Order Guide document.

If the practitioner is a BASRaT registrant and the concern is deemed to be related to his/her fitness to practise the Registrar will delegate to an Investigating Committee (stage 2). This committee will comprise of the following:

- Chair, health professional (not active member of BASRaT) selected from a pool of qualified individuals held by BASRaT
- At least one member of the BASRaT executive committee (not the same member involved in stage 1 above)
- One lay executive committee member

The Investigating Committee will gather additional information regarding the concern from relevant sources (individual raising the concern, registrant, any others concerned). Information related to medical details and/or criminal convictions will only be pursued with written consent of the registrant. It must be noted that if an individual declines to give written consent then this will be considered during any decision making process.

The Investigating Committee will independently consider the case presented and make a judgment on whether the case should be considered by a fitness to practise panel based upon the balance of probabilities using the evidence available. Alternatively, if there is no further 'case to answer' then no further action will be taken. The outcome (decision), reasons behind the decision and also relevant contact details of the Investigating Committee will also be confirmed in writing within 5 working days from the decision being made. Please note that at stage 2 the Investigating Committee may also recommend informal communication aimed at facilitating an appropriate resolution. This may involve mediation between the parties concerned through the BASRaT Ethics Committee. If mediation is recommended but does not resolve the concern then the case will be referred back to the Investigating Committee.

The Investigating Committee can also consider the imposition of an interim order or the extension of the existing interim order imposed at stage 1 if the concern is judged to be of such a nature as to involve a risk or potential risk to protection of the public or public confidence in the profession. Any interim order would cover the period of time necessary for the concern to be considered by the Fitness to Practise Panel (stage 3) and be for a maximum period of 18 months. Any interim order imposed at stage 2 will be reviewed after six months and every three months following, but, will also be reviewed if new evidence, relevant to the order, becomes available.

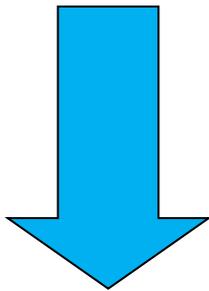
If the Investigating Committee decides that there is a 'case to answer' and that an individual's fitness to practise may be impaired then the case will be heard by a Fitness to Practise Panel (stage 3). The Fitness to Practise Panel and its responsibility, process and procedure is

described in more detail in the next section (10). The Fitness to Practise process is subject to appeal at stages 1, 2 and 3. More information about the appeals process can be found in section 12.

The Investigating Committee can also consider further interim suspension of membership if the allegation is judged to be of such a nature as to involve a risk or potential risk to protection of the public or public confidence in the profession. Any further suspension would cover the period of time necessary for the concern/complaint to be considered by the Fitness to Practise Panel (stage 3).

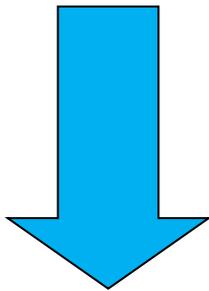
Please note that the BASRaT fitness to practise process will not be discontinued should a registrant choose to leave the organisation.

**Figure 1.**



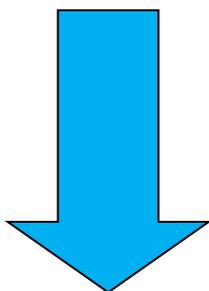
**Stage 1**

An initial decision as to whether a concern raised should be investigated



**Stage 2**

An investigation is carried out, and a decision made as to whether the concern should be heard by a Fitness to Practise Panel\*\*



**Stage 3**

A Fitness to Practise Panel hearing to consider the evidence and determine whether an individual's fitness to practise is impaired and, if so, which sanction (if any) should be applied\*\*

\*\*Fitness to Practise Panel hearings only applies to active or previous registrants of the organisation.

## 10. Fitness to Practise Panel

All parties will be informed, in writing of the date of the panel hearing, at least 30 working days in advance. All parties will also be sent a copy of the information that the panel will look at. All parties will have 10 working days to respond to anything that has not seen before and will also be given the opportunity to supply any further information to be considered by the panel.

Fitness to Practise panels should consist of the following:

- Chair, health professional (not active member of BASRaT) selected from a pool of qualified individuals held by BASRaT.
- One member of the executive committee
- One active BASRaT member (not executive committee member)
- One lay executive committee member

Also in attendance will be a BASRaT administrator to transcribe the panel hearing.

- Members of the Investigating Committee will not be permitted to sit on the Fitness to Practise Panel.
- Executive committee member involved within stage 2 will not be permitted to sit on the Fitness to Practise Panel.

BASRaT cannot provide legal advice but will provide expenses for travelling to/from a hearing panel. BASRaT will ensure that all parties concerned are treated fairly and with respect, providing reasonable support as required by the specific case (for example, accessibility arrangements, separate waiting rooms during hearing, etc). Please contact the BASRaT administration office if you require any special arrangements.

Fitness to Practise cases are heard by the panel in private with any decision and reasons behind the decision confirmed in writing within 10 working days from the decision being made. A full transcript of the hearing and decisions will be kept by BASRaT whilst an amended version will be made available to the public via the BASRaT website, <http://www.basrat.org/disciplinaryproceedings.asp>. The amended version will not disclose any personal information of individuals raising the concern or other third parties involved with the case, such information will be anonymised. In addition, any information related to the health of the registrant and/or individuals raising the concern will not be disclosed in the document published on the website.

## 11. Sanctions made by the Fitness to Practise Panel

The panel will carefully consider the circumstances and evidence for each case. Actions taken by the panel will be to:

- Protect the public.
- Maintain public confidence in the profession and the regulatory process.

Decisions by the panel will be made considering the balance of probabilities using the evidence provided. The following will be considered by the panel:

- Whether the facts set out in the concern are proven;
- Whether those facts amount to the statutory ground set out in the concern (e.g. misconduct or lack of competence)
- Whether (and to what extent) the registrant's fitness to practise is impaired.

Sanctions imposed by the panel may include:

- Taking no further action.
- Cautioning the individual using a note placed upon the registrant's register entry which highlights the area of concern and recommendations for future training/education. This note will remain in place for a given period of time or until further training/education is evidenced.
- Imposing conditions on the individual's practice such as clinical supervision or scope of practise restrictions.
- Suspending the individual from practice for a given period of time (up to one year) or until further training/education is evidenced.
- Striking the individual from the register.

For further information regarding the Fitness to Practise Panel, please refer to BASRaT Fitness to Practise Panel- Sanctions Guidance

In any case the decision and reasons behind the decision will be confirmed in writing within 10 working days from the decision being made. A full transcript of the hearing and decisions will be kept by BASRaT whilst an amended version will be made available to the public via the BASRaT website, <http://www.basrat.org/disciplinaryproceedings.asp>. The amended version will not disclose any personal information of individuals raising the concern or other third parties involved with the case, such information will be anonymised. In addition, any information related to the health of the registrant and/or individuals raising the concern will not be disclosed in the document published on the website.

## 12. Appeals

As outlined previously all individuals concerned will be informed of any decision and reasons behind any decision in writing at each of the stages outlined. Appeals against any decision made at stage 1 must be filed within 10 working days from the written confirmation letter. Any interim order imposed at stage 1 will be reviewed if new evidence, relevant to the order, becomes available. Appeals against any decision made at stage 2 or 3 (i.e. by the Investigating Committee (stage 2) or Fitness to Practise Panel (stage 3) must be filed within 20 working days from the written confirmation letter. Any interim order imposed at stage 2 will be reviewed after six months and every three months following, but, will also be reviewed if new evidence, relevant to the order, becomes available.

At stages 2 and 3 an appeal panel constructed using the same criterion as the Fitness to Practise panel will consider the appeal lodged. Members of the Investigating Committee and the Fitness to Practise panel will not be permitted to sit on the Appeal Panel. The Appeal panel decision and reasons behind the decision will be confirmed in writing within 10 working days from the decision being made. A full transcript of the hearing and decisions will be kept by BASRaT whilst an amended version will be made available to the public via the BASRaT website, <http://www.basrat.org/disciplinaryproceedings.asp>. The amended version will not disclose any personal information of individuals raising the concern or other third parties involved with the case, such information will be anonymised. In addition, any information related to the health of the registrant and/or individuals raising the concern will not be disclosed in the document published on the website.