

# Fitness to Practise Panel Guidance



Updated September 2017

## 1. Introduction

This guidance outlines specific information surrounding the BASRaT fitness to practise (FtP) panel hearings, how decisions are made and the sanctions which the FtP panel can impose. It also provides guidance for FtP panels to use when deciding what sanction is appropriate in any given case.

This guidance is aimed at anyone involved in a FtP panel hearing. This includes:

- Specified FtP panel members:
  - 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
- Registrants and their representatives.

This guidance will also be useful to anyone who wants to find out more about the BASRaT FtP process, including:

- Registrants.
- Members of the public.
- Other regulatory bodies, including the Professional Standards Authority (PSA).

## 2. The Fitness to Practise Panel Hearing

A FtP panel hearing is one part of the FtP process that begins once a concern has been received by BASRaT (see appendix).

FtP panel hearings are conducted in private. 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.

## 3. Decision Making Process

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

- Whether the facts set out in the concern are proven.
  - The panel will find an alleged fact proven if it decides that it is more likely than not to have happened.
  - If a registrant admits to the fact alleged, the panel must find the fact 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.
  - If the facts alleged against the registrant have been proved it does not necessarily mean that there will be a finding of impairment. The panel's decision on impairment must be separate from the decision on the facts set out in the concern.

The FtP panel should make sure that any decisions and reasons behind decisions are fully explained, in clear and direct language and understood to avoid misunderstanding or ambiguity.

#### 4. Impairment

BASRaT uses the term impairment to mean any circumstance which impacts or may impact upon the ability and capability of an individual to undertake safe and effective practice. Impairment can take many forms including transitory or permanent circumstances. For example, impairment is likely if an individual:

- Conduct that falls below 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).
- Has been dishonest, been convicted of fraud or theft or abused someone's trust.
- Has covered up mistakes or impeded some form of investigation.
- Were involved in sexual misconduct (including child pornography).
- Has a substance abuse or misuse issue.
- Has exploited a vulnerable person.
- Failed to respect a client's rights.
- Has been violent or exhibited threatening behaviour.
- Had an inappropriate relationship with a client.
- Has a health problem which is not appropriately managed and which impacts on their ability to practise safely and effectively.

The FtP panel may consider evidence presented that occur in either the registrant's personal or professional life.

The FtP panel must decide whether the registrant's fitness to practise is currently impaired, not whether it was at the time the incident occurred. The FtP panel must take into account all the evidence presented, which include whether or not the conduct or behaviour:

- Presents an actual or potential risk to the public.
- Effects public confidence in the profession and the regulatory process.

The FtP panel should also consider whether:

- The conduct or behaviour which led to the concern being raised is able to be addressed.
- The conduct or behaviour which led to the concern being raised has been addressed.
- The conduct or behaviour which led to the concern being raised is likely to be repeated.

The decision on impairment is a matter for the judgment of the FtP panel. The FtP panel has to make it's own decision about impairment even when it is admitted by the registrant. The FtP panel should make sure that the decision of impairment and reasons behind the decision are

fully explained, in clear and direct language and understood to avoid misunderstanding or ambiguity.

## 5. Sanctions

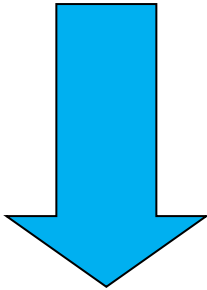
If the FtP panel decide that the registrant's fitness to practise is impaired then they can impose one of the following sanctions:

- 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.

The FtP panel should make sure that the decision on sanction and reasons behind the decision are fully explained, in clear and direct language and understood to avoid misunderstanding or ambiguity.

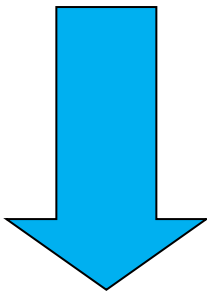
For further information please refer to BASRaT Fitness to Practise Panel Sanctions Guidance

## Appendix



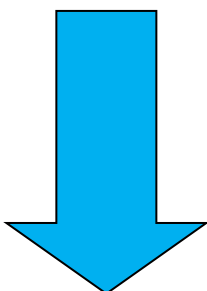
### **Stage 1**

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.