College of Sexual and Relationship Therapists

Conduct Procedure

2022

COSRT Conduct Procedure

February 2022

Contents

Aims and objectives

- This Conduct Procedure (hereafter Procedure) and Sanctions Protocol provide a transparent route by which complaints against all COSRT Members are made, managed, and considered.

- They facilitate the making of decisions that are fair, transparent, consistent, and explained clearly.

- Through the Procedure COSRT aims to protect members of the public and uphold standards of and confidence in Psychosexual and Relationship Therapy (as set out in the Code of Ethics and Practice).

- COSRT is committed to supporting professional excellence, and this Procedure contains provisions to allow complaints to be settled by agreement when possible, including providing Members the opportunity to develop and reflect where appropriate.

- COSRT is a charity registered under English law; this Procedure will therefore be operated in accordance with English law.

Making a Complaint

1. The scope of the Procedure

1.1 A complaint can be made against a Member (including an Organisational Member [OM]) who:

a. Is a current COSRT Member; and
b. Was a COSRT Member at the time of the alleged activity.

1.2 COSRT may consider a complaint against a COSRT Member (individual) that alleges:

a. Deficient performance in the provision of therapeutic services (including supervision).
b. Deficient conduct outside professional practice which is materially relevant to a Member's fitness to practise.
c. Deficient conduct, including misconduct outside professional practice, which may undermine trust and/or confidence in COSRT and/or the profession of Psychosexual and Relationship Therapy.
d. Impairment to a Member's fitness to practise on account of ill health.
e. Impairment to a Member's fitness to practise and/or suitability to be a COSRT Member on account of a decision taken by a Regulator, court or tribunal, third-party Professional Body, or an employer.

1.3 COSRT may consider a complaint against an OM that alleges:

a. A failure to comply with COSRT's conditions of membership, including those imposed by or under any policies, procedures, or regulations in force at the relevant time.
b. A failure to put in place reasonable systems, arrangements, and procedures to ensure that any person who provides therapeutic services on behalf of the OM complies with COSRT's Code of Ethics and Practice.

1.4 A complaint will be determined in accordance with the Procedure in force at the time of the complaint. However, the Member's conduct will be judged against the Code of Ethics and Practice (or in the case of OMs, relevant conditions) which was in force at the time the relevant conduct occurred.

2. When a complaint can be made

2.1 Complaints should be made within three years of the conduct giving rise to the complaint.

2.2 The Registrar may extend the time limit for a complaint for reasonable reasons including but not limited to:

a. The seriousness of the allegation is such that it is in the public interest to do so and/or it is necessary for public protection.
b. Timescales for the conclusion of third-party investigations mean the three-year limit may be reached before a COSRT investigation begins.
c. The Complainant has encountered circumstances since the alleged conduct that have demonstrably inhibited their ability to complain within the timescale, including where the Complainant is unaware of the conduct.

2.3 A Member's resignation from, or failure/refusal to renew membership whilst a complaint is being conducted by COSRT will not normally invalidate the processing or hearing of a complaint by COSRT or terminate the procedure. The Member will be considered in continuous membership for the purposes of dealing with a complaint, until such time as the matter has been resolved or the complaints procedure terminated.

2.4 Before submitting a complaint, the Complainant is usually expected to attempt to resolve the issue with the Member. Details of any attempt at resolution should be included within the complaint. If resolution with the Member is not possible/feasible or is considered inappropriate by the Complainant, the Complainant should provide a written explanation within their complaint as to why this is the case.

3. Who can make a complaint?

3.1 A complaint can be made by any individual, including (the following list is not exhaustive):

a. A person who has sought, received, or is receiving therapeutic services (including supervision) provided by a COSRT Member.
b. An individual acting on behalf of another person who has received or is receiving a therapeutic service from a COSRT Member, where that person's written permission has been obtained and COSRT is satisfied it would be unreasonable to expect that person to bring the complaint on their own behalf.

c. A legal guardian or other appropriately authorised adult accepted by COSRT as having authority to act on behalf of a minor (a minor being under the age of 16). Where a minor reaches the age of 16 during a complaint which is being processed, their consent to continue with the complaint will be required by COSRT.
d. A person accepted by COSRT as acting on behalf of an adult lacking mental capacity (within the meaning of the Mental Capacity Act 2005) to bring a complaint, where that lack of mental capacity has been satisfactorily evidenced.
e. Any of the above persons, where the relevant services have been sought or received through an OM.
f. Another professional including a Member's supervisor.
g. The Member themselves, by way of a self-referral.

3.2 A complaint can also be made by an organisation, including (the following list is not exhaustive):

a. An employer; the police; another professional body; Regulator; any other organisation; the Disclosure and Barring Service or authority with a similar function.
b. COSRT.

3.3 Where a complaint relates to conduct affecting more than one person (for example, recipients of couple's therapy), the complaint should ordinarily be submitted by one person who will be the Complainant.

4. The roles of COSRT and the Complainant

4.1 COSRT, as the Professional Body, will conduct cases against Members.

4.2 The role of the Complainant, beyond bringing the allegation to the attention of COSRT, will be as a witness if called to any investigation and/or hearing to give evidence.

5. How to make a complaint

5.1 Complaints must be made in writing, signed by the Complainant identifying the Member, and should be sent to complaints@cosrt.org.uk

5.2 Anonymous allegations will not normally be considered unless there is a compelling reason to do so.

5.3 Complaints where the Complainant does not wish their name to appear on the allegation will not normally be considered unless a compelling reason is given. If a complaint is accepted on this basis, CORST will take reasonable steps to maintain anonymity, but anonymity cannot be guaranteed.

5.4 Complaints should include:

a. The name, work address (or business address in the case of an OM) and COSRT registration number (where known) of the Member complained about.
b. A detailed account of the relevant facts leading to the complaint plus dates of event(s).
c. Any witness statements which the Complainant relies upon. These should be signed by the witness.
d. Reasons why the complaint should be considered if it is submitted outside of the timescales set out in this Procedure.
e. An explanation of attempts to resolve the issue with the Member prior to the complaint being submitted.

5.5 COSRT will not be responsible for expenses incurred in connection with the operation of this Procedure. However, COSRT will reimburse any reasonable travel expenses incurred by a witness requested to attend a hearing by COSRT, upon delivery of valid receipts and a properly completed expense claim form.

5.6 Complainants and Members are required to keep all materials and documents relating to the Procedure and/or complaint confidential.

Complaint Assessment

6. Complaint Screening

6.1 The Registrar will screen the complaint to determine if it meets the criteria set out at section 1.2 of this Procedure (or section 1.3 for OMs). The Registrar will also consider whether the administrative requirements contained in section 5 are met.

6.2 If the complaint does not pass screening, no further action will be taken. The Complainant will be duly notified of this decision in writing. This will include summary reasons for this decision.

6.3 If at the point of complaint, or subsequently, the Member is being investigated by the Police, Regulator, Professional Body, or is subject to relevant civil proceedings section 11 of this Procedure will be invoked where applicable.

6.4 The Registrar, in making any screening decisions, retains discretion not to consider complaints further if the complaint can reasonably be considered:

a. Frivolous or vexatious.
b. Related to activity with insufficient nexus to professional practice or the profession.
c. to consist of allegations of very minor breaches of the Code of Ethics and Practice.
d. Subject to current or planned criminal or relevant civil legal proceedings, in which case they will usually be put on hold pending the outcome of those proceedings (see section 11).
e. Subject to current or planned Police, Regulator, court or tribunal, third-party Professional Body, or other third-party organisation proceedings, in which case they will usually be put on hold pending the outcome of those proceedings (see section 11).
f. Based on the same facts as those where a Regulator, Professional Body, Police, court, or tribunal charges/investigation against a Member have been discontinued/dismissed, or a not guilty verdict/decision absolving the Member reached after investigation into or prosecution of allegations.
g. To concern a Member who is also accountable to a Regulator or third-party Professional Body (see section 11).
h. A repetition of a complaint(s) previously considered by COSRT, unless there is substantial new evidence which was not available previously.

6.5 Any screening decision taken by the Registrar is final and COSRT will not enter any further correspondence on the subject other than in exceptional circumstances.

7. Ending a live complaint procedure

7.1 COSRT reserves the right to unilaterally terminate any ongoing complaint procedure at any point if it is deemed in the public's best interest to do so. Circumstances where a termination may occur include but are not limited to:

a. Ongoing review determining that the complaint is out of COSRT's scope.
b. Ongoing review determining that the complaint would best be heard by another organisation or before the courts.
c. Where there is no longer a realistic prospect of the allegations being proved.

7.2 A Professional Conduct Panel (PCP) will consider any concerns received or raised by the Registrar relating to ongoing investigations and will be responsible for determining whether termination of a complaint is suitable.

7.3 The Member and Complainant will be notified of any decision to terminate a complaint. This will include summary reasons for this decision.

8. Interim suspension and conditions

8.1 The PCP can impose an interim suspension and/or conditions on a Member where this is in the public interest or necessary for public protection, pending the conclusion of complaint proceedings (including by another body, further to section 11 of this procedure)

8.2 When a PCP is to be convened to consider interim suspension or conditions, the Member will be given written notice by the Case Manager.

8.3 The Member will be requested to make written representations to the PCP to help inform the decision as to whether suspension and/or conditions should be imposed.

8.4 Members must respond within 14 days of the notification and request for submission. If no response is received by the Case Manager by this deadline, then the PCP will be informed and may extend the deadline or proceed to consider the imposition of interim measures without a response from the Member.

8.5 The PCP's decision to impose interim suspension or conditions will be provided to the Member in writing within a reasonable time. The imposition of interim suspension or conditions will be in line with the Sanctions Protocol in force at the time of decision.

8.6 The duration of interim suspension or conditions cannot exceed 18 months.

8.7 The Member may request a review of the decision to impose interim suspension or conditions in writing to the Case Manager within 7 days of being notified of the decision. In such circumstances the Member must provide information to support any challenge.

8.8 The PCP will consider the review and any information provided by the Member to support it.

8.9 A Member subject to interim suspension or conditions may apply in writing to the Case Manager for their suspension to be reviewed by the PCP where the circumstances, since the suspension was imposed or last reviewed, have materially changed.

8.10 Interim suspension and conditions will be reviewed on a six-monthly basis by the PCP to determine if they are still in the public interest or necessary for public protection.

Complaints Involving Multiple Accountabilities

9. Complaints against Trustees or Staff in their capacity as a Member

9.1 When a complaint is made against a Trustee in their capacity as a Member (a Trustee Member), and screening is passed:

a. The Board of Trustees will be notified that a complaint is being conducted against the Trustee Member.
b. That notification will be sent after the Trustee Member receives formal notification of the complaint, and it will not contain details of the allegations.
c. The Trustee Member's position as a Trustee will be suspended from the point the COSRT Board of Trustees is notified of the complaint (an interim suspension as trustee).
d. The interim suspension as trustee will remain in place until the complaint is concluded.

9.2 When a complaint against a Trustee Member concludes with no action taken:

a. The COSRT Board of Trustees will be notified of the outcome.
b. The Trustee Member's interim suspension as trustee will be lifted.

9.3 When a complaint against a Trustee Member concludes with an adverse finding:

a. The Board of Trustees will be informed of the outcome and will consider whether under provisions contained within the Articles of Association, the Trustee Member's trusteeship should be terminated.
b. The Trustee Member's interim suspension as trustee will remain in force until the Board of Trustees considers the matter and reaches a conclusion.

9.4 When a complaint is made against a COSRT Staff Member or Agent of COSRT in their capacity as a Member, and screening is passed:

a. COSRT may place limits on the Member's work at COSRT until the complaint is concluded, with tasks or responsibilities related to standards; public protection; ethics; training; complaints; or membership governance removed from their remit.
b. Any work limits will remain in place until the complaint is concluded, or as otherwise determined by COSRT.

9.5 When a complaint against a Member who is a Staff Member or Agent of COSRT concludes with no action taken:
a. The Member's work limits will be lifted.

9.6 When a complaint against a Member who is a Staff Member or Agent of COSRT concludes with an adverse finding:
a. The CEO will consider if disciplinary action is required under employment conditions.
b. The Member's work limits will remain in force until the matter reaches a conclusion, or as otherwise determined by COSRT.

10. Dual Accountability of Members

10.1 If COSRT is aware that the Member is subject to the jurisdiction of a Regulator, COSRT may:
a. Request that the Complainant refers the complaint to the relevant Regulator.
b. Refer the complaint to the Regulator directly if COSRT considers it is in the public interest to do so.
c. Instigate section 11 of this Procedure.

10.2 If COSRT is aware that the Member is a member of another Professional Body, COSRT may:
a. Liaise with the third-party Professional Body regarding which body is most appropriate to consider the complaint.
    i. Factors for consideration may include the nexus between complaint content and organisational remit, available specialist resource, and any relevant contractual obligations.
b. Consider the complaint if COSRT is deemed to be the most appropriate organisation to do so.
c. Instigate section 11 of this Procedure if the third-party Professional Body is to consider the complaint.

11. Complaints Involving Other Organisations

11.1 Where a complaint is before COSRT, and COSRT becomes aware that a Member is under investigation by the Police, Regulator, or Professional Body, or is otherwise subject to legal proceedings for an issue which meets the requirements of this Procedure, the Registrar may:

a. Pause ongoing complaint(s) proceedings against the Member into the allegation(s) being investigated by the third-party until the findings of that investigation are available.
b. Convene a PCP to determine whether it is in the public interest or necessary for public protection for the individual's COSRT Membership to be suspended on an interim basis and/or have interim conditions imposed pending determination of the complaint.
c. Inform the Member in writing of any decisions and actions taken.

11.2 If COSRT is made aware that allegations have been upheld against a Member by a Regulator, Professional Body, court, tribunal or employer on issues satisfying the requirements laid out in this Procedure, COSRT may continue its consideration of the complaint on the basis of the adverse findings made by the other body, such that the process set out in this Conduct Procedure is to be followed as if the complaint had been made under section 2 above.

11.3 Where the adverse decision of another body is being considered, the facts found by the Regulator, Professional Body, court, employer, or other relevant tribunal will be accepted as proven, save in exceptional circumstances.

11.4 If COSRT is made aware that a Regulator, Professional Body, Police, court, tribunal, or employer charges and/or investigation against a Member have been discontinued/dismissed, or a not guilty verdict/decision is reached after investigation into, or prosecution of, allegations based on the same facts as those contained in a complaint made to COSRT:

a. Subject to section 11.5 any live COSRT complaint will be closed, and no further action taken.
b. The Complainant and Member will be informed of the termination of proceedings.
c. No future complaint will be accepted on the same issue.

11.5 Where a complaint against a Member contained allegations going beyond the scope of relevant third-party proceedings that have been concluded, or where there are compelling and/or exceptional reasons why it would be in the public interest to do so, COSRT may decide to consider the complaint or that part of the complaint that goes beyond the scope of the third-party proceedings.

Complaint Investigation

12. Case Manager

12.1 A Case Manager will manage the complaint process after screening has been passed. This will be a COSRT staff member or contractor with no conflict of interest.

12.2 Any contractor must agree to a confidentiality agreement and has a duty to declare any conflict of interest in either the case before them, or with any of the parties involved.

12.3 The test for what might amount to a conflict of interest is whether a fair-minded and informed bystander, having considered the facts, would conclude that there is a real possibility of bias (either actual bias or the appearance of bias).

13. Formal complaint notification

13.1 The Case Manager will send the Member and Complainant a formal notification when the complaint has passed screening.

13.2 This notification will include:

   a. Formal allegations particularised by the Case Manager, based on allegations, and related information contained within the complaint.
   b. Code of Ethics and Practice clauses relevant to the allegations.
   c. Request for written comments from the Member.

13.3 The Member should respond to the allegations and provide representations within 28 days of notification or such further time as the Case Manager allows.

13.4 Where the Member does not provide a formal response to allegations, this may be considered by a PCP later in the process. The Case Manager may add an additional allegation that the Member has failed to co-operate with COSRT in such circumstances.

14. Initial Investigation

14.1 The Case Manager will gather information on the complaint. This may include:

a. Requests for information from any party to assist the investigation. Any information should be provided within timescales set out at the point of request.

b. Requests for a report from the Member's current or past supervisor(s). This may include information such as:

   i. Length of time the supervisory relationship has been in place.

   ii. Frequency of supervision.

   iii. Disclosure of any supervisor concerns over Member clinical practice, clinical knowledge, or ethical/professional standards.

   iv. Disclosure of any concerns over Member's fitness to deliver psychosexual and/or relationship therapy services.

14.2 The Case Manager will collate available evidence and produce a dossier including:

a. Formal allegations particularised by COSRT.

b. Code of Ethics and Practice clauses relevant to the allegations.

c. All evidence gathered for each allegation.

   i. COSRT will disclose all material documents to the Member, including where they undermine any allegations.

14.3 This dossier will be sent to the Member and Complainant for comment. Further investigation can be instigated and/or amendments made to the dossier if required by responses given.

14.4 When section 11 of this procedure is instigated, the Case Manager will gather evidence on the outcomes of any third-party processes.

14.5 If the Member does not respond, within timescales set or at all, to a request for information without a reasonable explanation, this may be considered by a PCP as a refusal to engage with the process.

15. Referral to Professional Conduct Panel (PCP)

15.1 When the dossier is considered complete by the Case Manager, the complaint will be referred to a PCP.

15.2 Formal notification will be sent to the Member and Complainant. This will include:

a. The composition of the PCP.
b. Timescales for the PCP considering the complaint.
c. The final complaint dossier.
d. A request for any additional comments from the Member for the PCP to consider.
e. A request for the Member to confirm if they wish the PCP to consider Consensual Agreement Resolution (CAR), and if so what form.

15.3 Any request for the use of a CAR must be supported by clear evidence and rationale. The request will be considered by the PCP and its decision taken on whether to use a CAR is final with no appeal.

16. Professional Conduct Panel (PCP) organisation

16.1 The PCP will comprise three people, with at least one layperson and one COSRT Member. Where possible, PCP's will have a lay majority. Panels will not contain COSRT staff and will be appointed by the Case Manager.

16.2 PCP Members must declare any conflict of interest.

16.3 The test for what might amount to a conflict of interest is whether a fair-minded and informed observer, having considered the facts, would consider there to be a real possibility of bias (either actual bias or the appearance of bias).

16.4 Declarations of a possible conflict of interest must be made to the Case Manager who will seek the views of the Complainant and Member and decide if the test has been satisfied. This decision will be final.

16.5 A member of a PCP must recuse him or herself if there is a conflict of interest.

17. Evaluating Information

17.1 The PCP will consider the need for any additional information it considers required to ensure a fair consideration of the complaint.

17.2 The PCP may request further information or make further investigations as it considers appropriate within timescales determined by the PCP.

17.3 The PCP may invite both the Complainant and the Member to make such comments as it considers is required to ensure a fair consideration of the complaint.

17.4 The PCP may consider all information available to it regardless of whether the Complainant has specifically referred to it as a matter of complaint.

PCP Resolution Meeting

18. Resolution Meeting

18.1 When the PCP is in receipt of all necessary and available information, it will meet to consider the matter on the papers without the attendance of the parties unless it considers that fairness requires a hearing.

18.2 On receipt of a request from a Member, the PCP will also consider whether to deal with the complaint by means of a CAR.

18.3 Any decision of the PCP will be made on a majority or unanimous basis.

19. Threshold Test

19.1 The PCP will consider whether a complaint meets the threshold test.

19.2 A complaint meets the threshold test where the PCP considers:

a. The facts alleged would if proven establish one or more of the grounds set out in section 1.2 in respect of an individual member, or set out in section 1.3 in respect of an OM]; and
b. There is a realistic prospect of one or more of those grounds being established ; and
c. That it is in the public interest for the complaint to be dealt with by COSRT’s Conduct Procedure.

19.3 When a complaint does not meet the threshold test, the Complainant and Member will be notified, with summary reasons provided, and the complaint will be closed.

20. PCP Resolution

20.1 The PCP will consider which of the following steps will be taken, with the decision communicated to the Complainant and Member within fourteen (14) days.

a. Referral to another organisation. If there are issues of conduct which could amount to sexual or other criminal offences, the PCP may refer the matter to Police. If the Member is discovered to be subject to a Regulator, then the matter will be referred to that body for investigation. If the PCP determines another Professional Body is best placed to deal with the complaint, it may request that COSRT liaises with that organisation. This sub-paragraph is not relevant where section 11 procedure has already been followed and the matter has returned to the PCP following the adverse decision of another body.

b. Letter of Advice. The PCP can issue a Letter of Advice in writing where there have been minor or technical breaches of professional standards (or relevant failures for OMs), or where it would not be in the public interest to dispose of the complaint in another way. A Letter of Advice is not a finding of misconduct. However, whilst no further action is taken, the decision is recorded and may be considered if future allegations or concerns are received.

c. Consensual Agreement Resolution (CAR). The PCP can propose an agreement with the Member to dispose of the complaint without proceeding to a Determination Hearing. Further details of the CAR procedure are set out in the Sanctions Protocol.

d. PCP Determination Hearing. If it is decided that the complaint is unsuitable for resolution using the means above, then the case will progress to a Determination Hearing.

e. Interim suspension and/or conditions. If it is decided that public protection/public interest requires it then the PCP can suspend a Membership or impose conditions (see Sanctions Protocol) on an interim basis until a final decision is made.

20.2 The Case Manager will notify the Member and the Complainant of the decision of the PCP in writing, as formulated by the PCP, within 14 days.

PCP Determination Hearing

21. Determination Hearing Format

21.1 Determination hearings are heard by the PCP appointed to the complaint.

21.2 The Case Manager will appoint a Clerk to the hearing, who may be an officer of COSRT (but who has had no prior involvement in the case or with the parties), or someone external to COSRT who is specifically engaged for this purpose. The Clerk will be an administrative role with no input into or influence on decision making.

21.3 Hearings will be held at a suitable venue or using an online platform normally within 12 weeks of the Member being notified of the decision to call a hearing. The parties should allow at least a full day for a hearing, unless informed otherwise.

21.4 Hearings are normally public. Details of upcoming hearings are published on the COSRT website and anyone wishing to participate as an observer must agree this with COSRT at least one week prior to the hearing.

21.5 COSRT will inform participants no later than one week prior to the hearing if there may be third-party observers.

21.6 COSRT reserves the right for part or all of hearings to be held in private if public interest is outweighed by other relevant considerations such as the need for witnesses to be able to give thorough testimony, or the sensitivity of evidence including medical evidence. Mere embarrassment on the part of the Member will not be a sufficient reason to hear the matter in private.

21.7 The PCP may decide whether a hearing is to be private at any point during the process.

21.8 The format that will be followed will be made available to all parties no less than 28 days before the hearing. The format will make provision for the PCP to make directions and to hear applications (for example, to introduce new evidence or to adjourn a hearing).

21.9 The case against the Member will be put by a Presenting Officer acting on COSRT's behalf, appointed by the Registrar. The Presenting Officer will be bound by a confidentiality agreement save in relation to any matters that are heard in public.

21.10 With the consent of the parties, complaints may, at the PCP's discretion, be considered by the PCP on the papers without the attendance of the parties.

22. Representation

22.1 The Member is expected to attend the hearing (through a suitable representative in the case of OMs) and may choose to be formally represented. If the Member does not attend, the PCP may decide to proceed in their absence where it is fair and in the public interest to do so.

22.2 Details of any representative must be given in writing to the Case Manager not less than 14 days prior to the date set for the hearing.

23. Evidence

23.1 Case papers will be circulated by the Case Manager to the PCP and Member (and their representative if applicable) not less than 14 days prior to the date set for the hearing.

23.2 These papers must be treated as confidential, treated by all parties according to relevant data protection law, and securely disposed of when the complaint process is complete.

23.3 The Chair of the PCP may call for additional written evidence, or additional witnesses if necessary. Additional written evidence must usually be delivered to the Case Manager no later than 7 days before the hearing.

23.4 COSRT has no powers to require witnesses to produce evidence or attend any hearing.

23.5 The Complainant will not be called upon to present their complaint.

23.6 The Complainant may be requested to attend the hearing and give evidence.

23.7 The Complainant may be cross-examined by a Member's legal representative.

23.8 If the PCP considers that the fairness of the proceedings is likely to be impaired through an absence of evidence, it has the right to halt proceedings until the point at which such evidence is made available. In such circumstances COSRT will endeavour to secure the evidence from the appropriate sources.

23.9 If evidence cannot be obtained, proceedings will continue and for each point where there is insufficient evidence, it will be resolved in favour of the Member.

23.10 Evidence submitted late, or on the day of the hearing, must be accompanied by a written or oral explanation as to why it was not available earlier. For it to be admitted, the PCP will decide whether to admit the evidence would be prejudicial and if so, whether the prejudice could be overcome by an adjournment.

23.11 If the PCP consider that late evidence has unduly disrupted proceedings it may adjourn or refuse to admit the evidence.

23.12 The Chair may take advice on these and any other matters from fellow panel members or any other appropriate person (excluding the Clerk).

24. Witnesses

24.1 Witnesses may normally only be called if they have previously supplied a written statement. In exceptional circumstances a witness may be called without a previous written statement by the Chair if it is deemed that failure to do so would affect the fairness of the proceedings.

24.2 The Member (or their representative, in the case of an OM) will be requested to attend throughout the Hearing.

24.3 The PCP may ask questions of the Member (or their representative, in the case of an OM), and the Member (representative if an OM) has the right to remain silent/not give evidence.

24.4 The Member can elect either to give evidence and be cross-examined or make submissions without giving evidence and not be cross-examined (without prejudice to the PCP’s right to question the Member/representative of an OM in either case).

24.5 If a Member chooses not to attend, has had adequate notice, procedures have been followed, they have been notified of the right to representation, and it is deemed in the public interest and interests of justice to proceed, then COSRT reserves the right to hold the hearing in their absence.

24.6 The Complainant may be called as a witness and questioned by COSRT. If so, they will be available to be questioned by the Member's representative. Any other witnesses called to the hearing, may be similarly questioned.

24.7 Where the Member has been unable to test evidence, for example, due to the unavailability of witnesses for cross-examination, the PCP will take this into account in according weight to any evidence, reaching their decision and consider any impact on the fairness of the proceedings.

25. Recording

25.1 All hearings will be digitally recorded for the purpose of keeping an accurate record of proceedings.

25.2 These recordings will be stored securely and confidentially by COSRT in accordance with its data protection policy.

25.3 A recording may be made available to any appeal assessor or appeal panel and may be transcribed if necessary.

25.4 If the Member requests a transcript be provided, they must meet all the associated costs.

25.5 The Member will be required to treat any copy of the recording and/or transcript as confidential and must not make any use of it outside the complaint procedure.

26. Safeguarding

26.1 The PCP may exclude from the proceedings any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings.

26.2 In proceedings before the PCP, the following people may, where the quality of their evidence is likely to be adversely affected, be treated as vulnerable witnesses:

a. Any witness under the age of 17 at the time of the hearing.
b. Any witness with a mental disorder within the meaning of the Mental Health Act 1983.
c. Any witness who is significantly impaired in relation to intelligence and social functioning.
d. Any witness with physical disabilities who requires assistance to give evidence.
e. Any witness where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim.
f. Any witness who complains of intimidation by either the Member or Complainant.

26.3 Subject to any representations from the parties or on legal advice, the PCP may adopt such measures as it considers helpful to enable it to receive evidence from vulnerable witnesses or as is otherwise necessary to ensure the proceedings are fair. Measures adopted may include:

a. Use of video links.
b. Use of pre-recorded evidence of a witness, provided that the witness is available at the hearing for examination.
c. Use of interpreters, signers, translators, or intermediaries.
d. Screens or similar provisions.
e. Restricting cross-examination, such as requiring written questions to be submitted to and presented by the PCP, instead of cross examination by the Member in person.

27. Findings

27.1 Findings of fact in all cases are based on a balance of probabilities, which means that the PCP must be satisfied that it is more likely than not that the material facts alleged are true.

27.2 The burden is on COSRT to prove the allegations.

27.3 Based on the facts found, the PCP will decide whether the complaint should be upheld because one or more of the grounds in section 1.2 or section 1.3 are established.

27.4 The Member will normally be notified in writing of the findings and decision, the right of appeal and the procedure to be followed thereafter within 7 days of the hearing.

28. Imposition of Sanctions

28.1 The PCP may impose a sanction, as detailed in the Sanctions Protocol, if the allegation against the Member is found proved.

28.2 Where appropriate, the same PCP will later consider whether the requirements of any sanction have been complied with and whether the sanction should be lifted or not.

28.3 In deciding the appropriate sanction in a case where it has been found that the decision taken by a Regulator, court or tribunal, third-party Professional Body has called into question the Member’s fitness to practise and/or suitability to be a COSRT Member, the PCP will have regard to the principle of proportionality (including any sanctions imposed by the other body) and the pertinence of adverse findings of the body to the psychosexual therapy, counselling, and Psychotherapy professions.

28.4 When a Member has their COSRT membership terminated they cannot re-apply for COSRT Membership for five years from the date of termination. COSRT can at its discretion refuse an application to re-join membership.

28.5 When a Member is removed from the COSRT Register or Supervisor Register they cannot re-apply for registration for one year from the date of removal.

28.6 When Membership category is changed, the Member cannot re-apply to re-join their previous category for one year.

28.7 A failure or refusal to comply with a sanction will be reviewed by the PCP. The PCP will meet to consider whether Membership should be terminated and/or any other sanction applied. The Member will be notified of any PCP decision within 7 days.

29. Publication of Findings

29.1 Where a complaint is upheld, COSRT will publish findings and decisions on its website in a standard format (further details are provided in Appendix 2 to the Sanctions Protocol).

29.2 These will remain on the website for a period of twelve months or until any time-limited sanction is complied with, whichever is longest.

29.3 Where a complaint is upheld against a Member within a Registered category, but they retain Registration, COSRT will include details in the Member's Register listing. These details will remain in place for a period of twelve months or until any time-limited sanction is complied with, whichever is longest.

29.4 In addition, COSRT also reserves the right to publish such findings in line with COSRT policy, and to inform other professional bodies and employers if appropriate.

29.5 Where membership has been withdrawn under these Procedures, a statement to this effect will remain on the COSRT website until such time as the Member has successfully re-applied for membership or for a period of normally five years.

Appeals

30. Letter of Advice

30.1 There is no appeal against a decision to issue a Letter of Advice unless there is compelling new evidence which was not available at the time of the original decision.

31. Member Appeal

31.1 The Member may appeal against a decision made by a PCP (except a Letter of Advice) within 28 days of notification of the findings.

31.2 An appeal can be made on the following grounds:

a. The decision was demonstrably made against the weight of evidence.
b. The decision was demonstrably made in error of law.
c. There is compelling and relevant new evidence that was not available at the time of the decision.
d. The sanction was wholly disproportionate to the findings.
e. There has been a clear and demonstrable error of fact or failure of procedure which was material to the decision made; or
f. There was a procedural impropriety which had a material impact on the fairness of the findings and decision of the PCP.

31.3 An appeal must be in writing, specify the ground(s) on which it is made and be accompanied by any supporting documentation.

32. Appeal Panel

32.1 An appeal will be formally considered by an Appeal Panel appointed by the Case Manager, comprising three people. A panel will consist of at least one COSRT Member and one layperson. Where possible the panel will be lay majority. No panel member will have any prior involvement in, or knowledge of, the case. The Appeal Panel will normally meet in private to consider the appeal within 28 days of the appeal submission.

32.2 The Case Manager will appoint a Clerk to the panel, who may be an officer of COSRT (but who has had no prior involvement in the case or with the parties), or someone external to COSRT who is specifically engaged for this purpose.

32.3 Members of the panel have a duty to declare any conflict of interest in either the case before them, or any of the parties involved. The test for what might amount to a conflict of interest is whether a fair-minded and informed bystander, having considered the facts, would conclude that there is a real possibility of bias (either actual bias or the appearance of bias). A member of the panel must recuse him or herself if there is a conflict of interest.

32.4 Declarations of a possible conflict of interest must be made to the Case Manager who will seek the views of the parties and having considered their views, decide if the test has been satisfied. This decision will be final.

32.5 The Appeal Panel will have before it all the evidence considered by the PCP, together with a transcript of the PCP Determination Hearing (if applicable), and any evidence put forward by the Member to support the ground(s) of appeal.

32.6 The Appeal Panel will meet in private to consider the written evidence only.

32.7 Evidence submitted late, or on the day of the Appeal Panel's meeting, must be accompanied by a written explanation as to why it was not available earlier. For it to be admitted, the Appeal Panel will decide whether to admit the evidence would be prejudicial and if so, whether the prejudice could be overcome by an adjournment.

32.8 The Chair of the panel will decide whether the reason for late submission is acceptable and whether the evidence will be accepted late or on the day of the meeting.

32.9 The Appeal Panel will consider whether to uphold or dismiss the appeal and may modify or impose any sanction as considered appropriate.

32.10 The Complainant and Member will normally be notified of the Appeal Panel's decision in writing within 14 days of the Appeal Hearing. The decision will be final.