



COSRT Sanctions Protocol

2022



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February 2022

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Aims and objectives

- This Protocol details the way in which COSRT may sanction Members subject to the COSRT Conduct Procedure.
- A person (including an organisation) cannot avoid responsibility for misconduct by resigning their membership. If the conduct took place when the person was a Member and was a Member at the time of complaint, COSRT's jurisdiction continues even if the person subsequently resigns/is no longer a member for any other reason.
- In this Protocol, "misconduct" is used to refer to the relevant conduct (including relevant failings by an organisational member (OM)) established to have occurred by the COSRT Professional Conduct Panel (PCP) which has given rise to a breach of the relevant standards as referred to in the Conduct Procedure.
- This Protocol is based on an organisational commitment that those responsible for determining sanctions will ensure fairness, proportionality and consistent decision making.

1. Available Sanctions

1.1 COSRT has the following sanctions at its disposal when dealing with complaints against Members:

- Letter of Advice.
- Formal Apology.
- Written Warning.
- Member Undertakings.
- Removal from Register(s).
- Membership Suspension.
- Membership Termination.

2. Rationale of sanctions

2.1 COSRT is committed to ensuring that its Conduct Procedure and related sanctions are implemented in such a way that wherever possible:

- The Complainant, wider public and public interest are protected.
- Public confidence in Psychosexual and Relationship Therapy, counselling, and psychotherapy are maintained.
- High professional standards and Member conduct are promoted.

2.2 Any sanction will be accompanied by an explanation of why it is deemed proper and proportionate, and how it addresses these concerns detailed above.

2.3 When the PCP decides no sanction is required when part or all a complaint is upheld, full and evidence-based reasoning must be made available to the Registrar, Complainant and Member.

3. Determining a sanction

3.1 The PCP will consider possible sanctions in ascending order, starting with the least restrictive.

3.2 The PCP will only move on to consider the next least restrictive sanction once they have concluded that the sanction under consideration is insufficient to meet the public interest/protect the public.

3.3 The sanction should be proportionate and no more punitive or onerous than is necessary to meet the public interest/protection of the public.

4. Mitigating and Aggravating factors

4.1 The PCP is required to consider aggravating and mitigating factors when determining a sanction. This also applies to issuing a Letter of Advice. Factors include but are not limited to:

Mitigating factors

- The circumstances of the incident, including the promotion of the health or welfare of a person or persons.
- There was no actual harm or any risk of harm to person or persons.
- No financial gain was sought or achieved.
- It was a single and isolated incident.
- A decision or action was taken without the opportunity for full reflection.
- Sanctions have been imposed by another body for the same misconduct.

Aggravating factors

- The misconduct was in any or all of its nature:
 - Sexual.
 - Abusive.
 - Discriminatory.
 - Premeditated.
- The misconduct involved dishonesty.
- There was harm to a person or persons, and the extent of that harm.
- Power, position, or professional knowledge was abused.
- There could be a reasonable expectation that the misconduct would or could cause harm.

- Financial gain was sought or achieved.
- There was recklessness or the misconduct was deliberate.
- There was a breach of confidentiality or Service User trust.
- The misconduct involved or affected a vulnerable person.
- The misconduct was repeated and/or sustained over a period of time.

5. Interim Actions

5.1 A PCP may impose interim measures pending the conclusion of an investigation and/or disciplinary proceedings (including by another body, further to relevant sections of the Conduct Procedure) where it considers this is necessary for the protection of the public or otherwise in the public interest.

Interim Suspension

5.2 The duration of a Suspension is set by a PCP and cannot exceed 18 months.

5.3 Interim suspensions are shown against a Member's name if they are Registered.

5.4 During that period the Member continues to pay fees to COSRT but subject to the membership category they hold, they will lose key benefits:

- Ability to advertise on any COSRT search function.
- Use of any COSRT Marks or the ability to advertise COSRT Membership.
- Discounts on COSRT events and training.

5.5 The Member and Complainant will be notified in writing of any decision to impose a Suspension.

5.6 The Member may request a review of the decision to impose a Suspension by written notice to the Case Manager within 7 days of being notified of the decision.

5.7 Any review will be considered by a PCP.

5.8 If the Suspension is maintained following a review, or if a request for a review is not received, notice of the suspension will be publicised in line with COSRT policy.

5.9 A suspended Member may apply in writing for their suspension to be reviewed where the circumstances, since the suspension was imposed or last reviewed, have materially changed.

Interim Conditions

5.10 A PCP may impose interim conditions that are relevant to professional practice (or organisational membership) including but not limited to:

- Increased or amended supervision for the Member.
- Appointment of a mentor.
- Halting provision of supervision by the Member.
- Regular/increased requirements for reporting to COSRT.

5.11 The duration of any Interim Condition cannot exceed 18 months.

5.12 The Member and Complainant will be notified in writing of any decision to impose a Condition.

5.13 The Member may request a review of the decision to impose a Condition by written notice to the Case Manager within 7 days of being notified of the decision.

6. Consensual Agreement Resolution

6.1 Embedded within the Conduct Procedure, COSRT sets out a resolution pathway for complaints without the need for a Determination Hearing - Consensual Agreement Resolution (CAR).

6.2 A CAR can be proposed by a PCP or the Member. When a Member requests a CAR, the request should contain a statement of the relevant facts and appropriate admissions.

6.3 A CAR is usually most appropriate where the Member has made admissions regarding the alleged misconduct, but this does not have to be the case.

- 6.4 The PCP should be satisfied that a CAR is in the public interest and that the public interest does not require any allegations, whether admitted or not, to proceed to another route of disposal.
- 6.5 The PCP will consider what sanction, if any, should be imposed as part of the CAR. The Member will have the opportunity to review the CAR and accept the sanction. If the Member does not accept the sanction, the matter may proceed to a formal Determination Hearing.
- 6.6 The CAR is drawn up by the PCP and sets out the terms of engagement. Both Complainant and Member will be notified of the decision to propose a CAR.
- 6.7 The Member will be required to comply with the agreed terms of the CAR. Failure to do so may lead to progression to a full Determination Hearing.
- 6.8 CARs can include proposals for all available sanctions up to and including (voluntary) termination of Membership.

PCP proposal for CAR

- 6.9 When a PCP proposes a CAR, it will be sent to the Member in writing, using the template in Appendix 1. The process will then be:
- 6.9.1 The Member has 28 days to respond to the proposal. If the Member does not respond to the proposed CAR it will be assumed that the Member does not wish to enter into a CAR and the PCP will consider what action is appropriate.
- 6.9.2 The Member can ask for the 28-day period to be extended by writing to the Case Manager. An extension will only be granted in exceptional circumstances.
- 6.9.3 Where the Member accepts the CAR and proposed terms within 28 days, the CAR will be finalised and returned for signature. The Member then has seven days to sign the CAR (or to arrange for it to be signed on its behalf, if an OM) and return to the Case Manager. If the Member does not do so, the Case Manager may give notice of a final deadline for re-submission, after which the opportunity for a CAR may be withdrawn.
- 6.9.4 If the Member does not agree to the original version, they can propose changes, add to or expand on the particulars of mitigation. Such proposed revisions must be received by the Case Manager within the 28-day period.

- 6.9.5 The Case Manager can agree changes to the terms of the proposal which are not substantive in nature or do not affect the substance of the allegations or the admissions made and revise the draft.
- 6.9.6 All other proposed changes must be considered by the PCP. Where mitigation is amended, it should not seek to undermine the admissions being made and should be capable of disclosure.
- 6.9.7 Where an amended version is agreed by the PCP, a final copy will be sent to the Member and clause 6.9.3 will apply.
- 6.9.8 Where amendments are rejected by the PCP, the original version will be used.

Member proposal for CAR

6.10 When a Member wishes to propose that a complaint is disposed of using a CAR, the process is:

- 6.10.1 A written request can be made to the Case Manager no later than 14 days before the PCP is due to consider the complaint.
- 6.10.2 The Member's request should include details of the facts/allegations they admit to and any other representations they wish to make.
- 6.10.3 The PCP will consider the request and decide whether to accept or refuse the request.
- 6.10.4 Where the PCP refuses the request, the Member will be notified in writing. The Member and Complainant will be notified of next steps.
- 6.10.5 Where the PCP accept the Member's request, the procedure at clause 6.9 will be followed.

Breaches of CAR

- 6.11 The Member will be required to provide evidence of adhering to a CAR's terms. This will be done through reporting to the Case Manager according to a format and timescale set by the PCP.
- 6.12 Any material breach of the terms of the CAR by the Member will result in referral to the PCP and may lead to a Determination Hearing being held.

Without Prejudice

6.13 Written or oral communications made in a genuine attempt to resolve a complaint using a CAR will be protected by a version of the 'without prejudice' legal principle. This means that statements made by the Member in genuinely trying to resolve the complaint would not usually be used as evidence against them if matters progress to another stage. 'Without prejudice' applies to communications which relate to negotiations genuinely aimed at a settlement between the parties, by way of a CAR.

6.14 The rationale is that this will encourage parties to speak freely, in the knowledge that anything they say to try to settle the matter, in particular any admissions, will not be used against them if the discussions fail.

6.15 The only circumstance in which COSRT might accept incoming communications as 'without prejudice', is in the context of CAR negotiations. In any other context, this means that even if correspondence is headed as 'without prejudice' by Members, it will not necessarily be considered as without prejudice.

7. Final Sanctions

Letter of Advice

7.1 A Letter of Advice can be issued by:

7.1.1 Case Manager after Initial Investigation

7.1.2 Professional Conduct Panel

7.2 Its purpose is to encourage compliance with professional standards. It means a proportionate outcome can be reached where the interests of the service user or the public are not at substantial risk. Criteria for the issuing of a Letter of Advice include:

- There have been no or minimal adverse consequences of the Member's behaviour.
- There is low or no risk to the public.
- There has been an early and genuine acceptance by the Member that a breach has occurred.

- The Member has apologised, or the breach has otherwise been remedied.
- The period over which the breach took place was short or it was stopped as soon as possible.
- The breach is no longer continuing and there is a low likelihood that the breach will be repeated in the future.
- The Member has not been the subject of findings of professional misconduct within the previous five years and is not the subject of any other current complaints.
- The Member has co-operated with COSRT, demonstrated insight and acknowledged the failings or misconduct identified.
- The breach was minor or technical and not in deliberate disregard of professional standards.

7.3 The Letter of Advice will stay on the Member's record (non-public) for three years and can be referred to if any future complaint is processed against the Member.

7.4 It will also be considered where the imposition of a sanction is being considered by a future PCP for a different complaint. The decision is not subject to publication.

Formal Apology

7.5 A PCP may require that a Member makes a formal written apology.

7.6 This is only appropriate where the misconduct is considered to be minor and/or it is considered the misconduct was an isolated incident.

7.7 The PCP will consider whether the Member has demonstrated remorse and/or accepted responsibility for the relevant conduct, and whether the Complainant is likely to accept an apology.

7.8 If the Member refuses to make the written apology, the PCP can consider any other sanction available to it.

Written Warning

7.9 Warnings are used to mark that Member conduct was unacceptable and must not happen again.

7.10 Warnings can be issued by the PCP and may be appropriate where:

- The misconduct is at the lower end of the spectrum of seriousness;
- There is no future risk to the public; and
- There is evidence of insight.

7.11 Written warnings will include:

- The background of the complaint, including any relevant facts which have been admitted.
- The allegations made against the Member.
- Any admissions which have been made by the Member to the formal allegations.
- The actions/behaviour that must not be repeated.

7.12 These findings are published in line with COSRT policy for a period of twelve months, and detailed where applicable on a Member's Register listing.

Member Undertakings

7.13 A PCP may require a Member to undertake particular actions to improve professional practice or to reduce the risk of future misconduct.

7.14 These undertakings may be suitable when the Member has accepted *the relevant* misconduct, shown insight into the deficiency and there is little chance of repetition.

7.15 Member Undertakings are issued in writing by the PCP. The Member giving the undertakings must abide by those undertakings for a specified period of time, and agree to any monitoring of the undertakings by the PCP.

7.16 The Member is expected to pay any cost of complying with the undertakings and monitoring.

7.17 Undertakings are appropriate only when the PCP is satisfied that most or all the following apply:

- The public will not be put at risk by using undertakings.

- The Member has demonstrated insight into the seriousness of the misconduct and there is no significant risk of repeat behaviour.
- It is possible to formulate undertakings that are capable of being met, appropriate and measurable.
- The Member is willing to comply with the undertakings.
- Limited aspects of practice are in need of education or training.
- A period of re-training and/or supervision is likely to be an effective way of addressing the findings of the PCP.
- The Member has the potential to respond positively to remediation, re-training or to their work being supervised.
- There is evidence that any underlying issue is being appropriately addressed, monitored and reported.

7.18 Available Member Undertakings include (not exhaustive):

-
- Medical assessment, treatment and reports.
- Restriction on undertaking certain procedures.
- Training and CPD.
- Appointment of a mentor.
- Changes to Supervision.
- In the case of organisational members, introducing new policies or procedures.

7.19 The Member must acknowledge and agree the terms for completing the Member Undertakings within 28 days of receipt.

7.20 If the Member, having agreed to the Member Undertaking, then breaches its terms, the PCP may consider other sanctions including termination of Membership.

7.21 If the Member refuses the Undertakings, the PCP will consider which other actions are appropriate.

7.22 Undertakings are published on the website in line with appendix 2 until they have been completed.

Removal from Register(s)

7.23 An available sanction is the removal of a Member from a COSRT Register, including associated change in Membership category.

7.24 Removal from a Register can be:

- Proposed as part of a CAR.
- Imposed by a PCP.

7.25 Members may be transferred from and to any category, with fees subsequently being suitably amended for the remainder of the calendar year.

7.26 Where a sanction of removal from the COSRT Register or COSRT Supervisor Register is imposed COSRT will not accept any reapplication to those Registers for one year from the date of removal.

7.27 Any re-application to rejoin a Register will be considered by a PCP. The PCP will convene to consider whether it is appropriate for the Member to become Registered again, with factors including but not limited to:

- The seriousness of the original misconduct.
- Time passed.
- Conduct since removal from the Register.
- Remorse and/or insight shown by the Member.

Membership Suspension

7.28 A PCP may impose a time limited Suspension of Membership. If the Member is also on the Register, they will be removed for the same period.

7.29 During a suspension, the individual remains liable to pay fees. They remain on the membership database and are subject to all COSRT policies and requirements. However, benefits of membership associated with professional practice are removed:

- Ability to advertise on any COSRT search function.
- Use of any COSRT Marks or the ability to advertise COSRT Membership.
- Discounts on COSRT events and training.
- Voting rights at AGM.

7.30 The duration of a Suspension cannot exceed 18 months.

7.31 The Member and Complainant will be notified in writing of any decision to impose a Suspension.

7.32 The Member may request a review of the decision to impose a Suspension by written notice to the Case Manager within 7 days of being notified of the decision.

7.33 Any review will be considered by the PCP.

7.34 If the Suspension is maintained following a review, or if a request for a review is not received, notice of the suspension will be publicised in line with COSRT policy.

7.35 A suspended Member may apply in writing for their suspension to be reviewed where the circumstances, since the suspension was imposed or last reviewed, have materially changed.

7.36 When the Suspension is due to end, a PCP will convene to ensure the proper conditions are in place for the resumption of Membership. Factors to be considered include:

- Conduct since removal from the Register.
- Remorse and/or insight shown by the Member.

7.37 If the PCP is satisfied that there are no public interest or protection concerns, the Member will be contacted to confirm that full Membership with associated benefits is recommencing.

Membership Termination

7.38 Membership Termination means that a Member's name is totally removed from the COSRT membership, and consequently, a Member's registration ends. They are no longer permitted to practice Psychosexual and Relationship Therapy under the auspices of COSRT.

7.39 Withdrawal of membership is the most serious sanction and it will usually be appropriate where a PCP has upheld allegations of serious professional misconduct.

7.40 Membership termination may be imposed in the following circumstances (note this is not an exhaustive list but is rather used for illustrative purposes):

- The Member has been convicted of a relevant criminal offence or a Professional Body/Regulator has upheld a serious complaint against the Member.
- The Member has deliberately behaved in a way to cause harm.
- The Member has been dishonest or lacked integrity.
- The misconduct involves sexual misconduct.
- The misconduct involves abuse, violence, or discrimination.
- The Member has disregarded professional standards.
- No remorse has been shown by the Member, or the Member demonstrates no insight into their behaviour.
- The Complainant or another person has suffered serious harm.
- COSRT or the profession have been brought into disrepute by the Member's conduct.

7.41 Where a sanction of withdrawal of membership is imposed COSRT will not accept any reapplication for five years from the date of termination.

7.42 The withdrawal of membership will be published on COSRT's website for a minimum five years.

7.43 Any re-application to rejoin COSRT will be considered by a PCP. The PCP will convene to consider whether it is appropriate for the Member to become Registered again, with factors including but not limited to:

- The seriousness of the original misconduct.
- Time passed.
- Conduct since removal from the Register.
- Remorse and/or insight shown by the Member.

Appendix 1

Example Contract for Consensual Agreement Resolution

1. Complaint

Full details of the complaint including references to Code of Ethics and Practice and evidence.

2. Member's acceptance of misconduct in practice

I accept that professional standards fell short of what was expected:

Details of the formal allegations found true and/or accepted by the Member.

Member's signature and date:

3. Proposed resolution pathway

- ☐ Formal Apology
- ☐ Member Undertaking
- ☐ Removal from Register(s)
- ☐ Membership Suspension
- ☐ Membership Termination

4. Terms and conditions of Resolution

Full details including all actions required, deliverables and timescales.

5. Member agreement to abide by PCP outcome

I accept the Consensual Agreement Resolution and its terms and conditions. I agree to abide by the requirements laid out in this agreement and understand that failing to do so may result in additional action in line with the Conduct Procedure and Sanctions Protocol.

Date for completed actions:

Member's signature and date:

APPENDIX 2

Publication Policy

When a sanction is imposed after the conduct of a complaint, COSRT will publish on its website for a minimum of one year (or until the completion of time-limited sanctions if applicable):

- An accurate summary of the decision of the PCP or details of the Consensual Agreement Resolution.
- Details of any sanction.

COSRT may publish the details of any breach of any sanction or a Consensual Agreement Resolution.

COSRT may publish any decision to suspend or terminate a Member's membership or decision where, had the Member's membership not lapsed, or they had not resigned, the PCP would have withdrawn or suspended the Member's membership.

COSRT will publish information relating to any sanction on a Member's Register listing.

COSRT will not publish Letters of Advice.

Any notification published on the website may also be published elsewhere according to COSRT's discretion and subject to relevant legislation.

COSRT may notify third parties of a complaint including but not limited to other professional bodies and organisations.

Notifications will include the following information as a minimum, but COSRT may include additional details where it is deemed appropriate:

1. Complaint

Date of complaint

Date complaint considered and by whom

Particularised allegations

Particularised allegations found true and/or accepted by the Member

Confirmed breaches of Code of Ethics

Sanctions imposed

Review date

2. Termination/Suspension of Membership Notice:

COSRT have terminated/Suspended the membership of XXXX on the XXXX due to:

[information will be given on the reasons including breaches of ethics and key supporting evidence]

and have removed the individual's name from the COSRT *[information on removal from Register and other places]*.

Where Membership is removed this will stay on the website for a minimum of five years.