

REGISTRAR: ROLES AND RESPONSIBILITIES

The following functions shall be carried out by the Registrar or an officer to whom these functions have been delegated from time to time, temporarily or permanently

FUNCTIONS IN RESPECT OF THE REGISTER

The Registrar is responsible for maintaining an accurate and up to date register of all members that meet the registration criteria. He acts as a gatekeeper, ensuring only fit and proper professionals join and those that are deemed unsuitable are removed.

Granting registration

The Registrar has the role of considering and determining applications for registration as against the published registration criteria. These will include:

- Considering full registration applications and notifying applicants of the outcome
 - Test for registration:
 - must register a professional if they meet the registration requirements:
 - appropriately qualified
 - recognised or accredited status within a mainstream faith community or belief group
 - their fitness to practice is not impaired
 - employment in a healthcare chaplaincy post or 6 months' autonomous practice as a healthcare chaplain, and
 - they have paid the prescribed fee
 - *they are appropriately indemnified or insured*
 - *declaration of compliance with UKBHC Code of Conduct and CPD requirements*
- Considering provisional registration applications and notifying applicants of the outcome
 - Test for registration:
 - must register a professional as a provisional registrant for a maximum of 3 years if they meet the registration requirements:
 - undertaking postgraduate chaplaincy study
 - recognised or accredited status within a mainstream faith community or belief group
 - their fitness to practice is not impaired
 - at least one month's competent autonomous practice as a healthcare chaplain
 - they have paid the prescribed fee
 - they are appropriately indemnified or insured

- *declaration of compliance with UKBHC Code of Conduct and CPD requirements*
- *Renewing registrations (if registration is finite)*
 - *declaration of compliance with UKBHC Code of Conduct and CPD requirements*

[Rules will need to provide for what the application needs to comprise: e.g. [Standards | \(hcpc-uk.org\)](http://hcpc-uk.org)]

Administrative removal of registrants

The Registrar may remove registrants administratively in the following circumstances:

- Following a request to relinquish registration (after a declaration that there are no known FTP matters)
- If the Registrar believes that the entry is incorrectly made or fraudulently procured
- If a Registrant fails to disclose pre-existing impairment of fitness to practice
- Following the commission of a listed offence
- For non-payment of registration fees
- If the Registrant no longer meets the PII requirements
- *If a registrant is no longer fulfilling the registration requirements*
- *For non-compliance with an investigation into a complaint*

[the rules shall provide the detail for the administrative removal process]

Keeping the register up to date

The Registrar has the function of the keeping the register up to date and accurate, which will include:

- Annotating the register post DAC findings (this should include a statement that the registrant's fitness to practice has been found to be impaired and specify the disposal; interim orders when in force)
- Annotating the register post [case to answer decision maker's] issuing of undertakings, warning etc.
- Removing annotations as to disciplinary outcomes when they are 'spent' (rules must provide the time frames for this)
- Amending the register when notified by registrants of changes to name, address or other relevant details
- Removing the names of registrants:
 - whose registration has lapsed
 - who have sought and been offered a voluntary removal agreement
 - who have died
 - who have relinquished registration (after a declaration that there are no known extant FTP matters)

- following administrative removal for:
 - an entry that was incorrectly made or fraudulently procured
 - failing to disclose pre-existing impairment of fitness to practice
 - the commission of a listed offence
 - non-payment of registration fees
 - no longer meeting the PII requirements
 - *no longer fulfilling the registration requirements*
 - *non-compliance with an investigation into a complaint*

Powers in relation to CPD

The Registrar will be responsible for monitoring compliance with the CPD Scheme:

- CPD Scheme
 - the CPD year runs from 1 January – 31 December
 - one point is awarded for each hour of CPD activity
 - *(to confirm whether a minimum number of points is required)*
 - annual summary sheet to be completed and returned by 1 February
 - *(issue of exemptions/ reduced requirements for registrants practising for only part of the year to be considered)*
 - 5% of registrants' CPD to be scrutinised
- Powers of the Registrar
 - audit CPD records
 - provide feedback to Registrants on their CPD if appropriate
 - *impose administrative sanctions for non-compliance*
 - *make a disciplinary referral in relation to non-compliance*

Power to restore entries

The Registrar will determine and may restore register entries following an application by a Registrant who has been removed from the register for:

- lack of indemnity/insurance but have obtained the same
- non-payment of registration fees
- by voluntary removal agreement
- undisclosed impairment of fitness to practice
- incorrect or fraudulently procured entry
- conviction for a listed offence

The Registrar shall consider and may refer to the DAC or determine himself, an application for restoration following the DACs removal of a registrant for any reason

[the rules shall provide the detail for the restoration process]

FUNCTIONS IN RELATION TO THE DISCIPLINARY SCHEME / COMPLAINTS

The Registrar shall have a range of functions in relation to the disciplinary scheme. He shall administer and facilitate the process of receiving a complaint, liaising with all relevant parties, gathering the evidence, preparing an allegation and case report, referring appropriate cases to the [case to answer decision maker] and disposing of a range of suitable complaints himself. He must not be involved in determining complaints outside of the limited powers he is granted here below; he is employed by the Board and not sufficiently independent to make contentious decisions concerning a professional's ability to remain on the register.

Administrative functions

- Being the complainant in complaints with no referrer (or where the complaint is anonymous but there is other corroborating evidence)
- Receiving complaints from referrers
- Exploring any possible local disposal/resolution before commencing an investigation
- Sending complaints to Respondents for comment
- Notifying employer/faith community about complaint and keeping them updated throughout

Investigative functions

- Obtaining more evidence from the Respondent/other witnesses if required, including
 - Appointing an expert
 - *Power to speak with/interview the Respondent*
 - *Power to request information from the Respondent* [confined to factual information]
- Preparing the output of the investigation
 - The allegation, and
 - The case report *with/without a recommendation*

Functions in respect of interim orders

The Registrar may not impose an interim order himself; cases in which the public need protecting must be referred to the DAC for consideration of the imposition of an order

- Referring false/incorrect cases to the DAC for consideration of an interim order where:
 - the entry may have been fraudulently procured
 - the registered person's fitness to practice may be impaired and
 - an interim order may be necessary for the protection of the public
- Referring Respondents to the DAC for consideration of an interim order where:
 - The allegation has been referred to the [case to answer decision maker]
 - The Registrar is of the opinion that an order is necessary to:
 - protect the public
 - protect the Respondent or
 - is otherwise in the public interest

Adjudicatory functions

- Ensuring the complaint meets the threshold criteria/standard of acceptance and referring complaint to the [case to answer decision maker]
- Closing cases pre or post referral to [case to answer decision maker] after the threshold criteria have been met on the grounds that the Registrar no longer considers that there is a realistic prospect of a finding of impairment or considers that it is no longer appropriate for the Respondent to be subject to fitness to practice proceedings
- Considering applications for voluntary removal in appropriate cases (health, no public interest etc.)

Power of review

The Registrar has the function of undertaking reviews of decisions made concerning complaints

- *A review may be requested by any interested party following a decision:*
 - *not to refer a complaint to the [case to answer decision maker]*
 - *by the [case to answer decision maker] to close a complaint*
- *There should be a [12 month] time limit to the seeking of a review*
- *A review can be initiated by:*
 - *the Board*
 - *the Respondent*
 - *the Referrer*
 - *Any other person who, in the opinion of the Registrar has an interest in the decision*
- *The test as to whether to initiate a review:*
 - *he decision may be materially flawed,*
 - *there was a serious procedural irregularity in how it was dealt with, or*
 - *might a different decision have been made on the basis of information that was not available when the decision was made*
- *The Registrar's powers on review are to:*
 - *substitute the decision*
 - *refer the decision to a [case to answer decision maker] for investigation*
 - *determine that the decision stands*

[to discuss]

CASE TO ANSWER DECISION MAKER [name TBC]

An independently appointed body that considers allegations referred to it from the Registrar in order to determine if there is a case to answer. Refers cases to the DAC or otherwise disposes of appropriate cases in a way that is proportionate and protects the public.

Functions in relation to allegations

- Receives and considers complaints that have passed the threshold criteria and been referred by the Registrar
- Receives the Board's case report and the Respondent's submissions
- Makes a decision on case to answer applying the case to answer test
- Closes complaints that do not meet the case to answer test
- Disposes of appropriate cases with undertakings, warnings or letters of advice
- Refers appropriate cases for a hearing to the DAC
- Refers suitable cases to DAC for consideration of imposition of interim orders

Composition

- *Case examiners or*
- *Adjudicator/s or*
- *Investigating Committee*

Approach

- Sit in private – can meet remotely
- No parties present, no legal assessor
- Can consider first instance investigation, but not the findings
- Make a decision on the papers
- Written decision (based on a template)

Test for referral of allegations to DAC

- Realistic prospect test: based upon the evidence before it, is there a realistic prospect that the UKBHC will be able to establish at a hearing that the registrant's fitness to practice is impaired, and
- *Public interest test?*

Test for closing case by way of undertakings or a warning

- There must be a case to answer (i.e. realistic prospect test met)
- The [case to answer decision maker] must be unanimous in agreeing the proposed course
- If the decision is not unanimous or the Respondent rejects the proposed disposal, the allegation shall be referred to the DAC
- The undertakings must adequately protect the public
- The Respondent must consent
- There must be no realistic prospect of removal from the register

Test for closing case with a letter of advice

- There must be a case to answer (i.e. realistic prospect test met)
- The breach must be low level
- The underlying facts must be admitted/beyond dispute and there is a likelihood of repetition
- The [case to answer decision maker] must be unanimous in agreeing the proposed course
- The letter of advice must adequately protect the public

Test for closing case with no further action

- There must be no case to answer (i.e. realistic prospect test not met)

DISCIPLINARY AND APPEALS COMMITTEE [name TBC]

The DAC will carry out a wide range of adjudicatory functions and will have a range of powers available to it. The committee will convene in person at a hearing unless the Respondent and Board agree that a private meeting would be suitable.

Composition and voting

- Committee members drawn from a pool
- All committees must consist of 3 or more members (up to a maximum of 5) of which at least one must be a registered chaplain
- Each committee must have a Chair
- There must be at least one lay person
- No member must sit on a matter that they have been previously involved in a different capacity
- May sit with a legal assessor but need not
- Shall sit with a committee secretary
- Announced decisions will be unanimous; the Chair will have the casting vote in the case of a disagreement
- May meet in person or remotely / electronically (if the registrant does not wish to be present/does not object)
- The DAC will decide the location and venue of the hearing
- *Oral hearings will be recorded/transcribed*

Interim orders

- The DAC will be convened to consider interim order applications made by the Board, post referral by the Registrar to the [case to answer decision maker], in cases of fraudulent/incorrect entry and in cases referred by the [case to answer decision maker]
- Upon application by the Board, the DAC will have the power to impose the following interim orders:
 - Suspension order, up to [x] months
 - Conditions of practice order, up to [x] months
- The test for imposition of an interim order is that it is:
 - Necessary to protect the public, or
 - Necessary to protect the registrant, or
 - Otherwise in the public interest
- The DAC will be convened to consider periodic interim order reviews (which are required every x months) and early reviews requested by Respondents
- The powers at an interim order review hearings will be as follows:
 - Terminate the order

- Extend the order (to the maximum length allowed)
- Allow the order to continue
- Vary/amend/add/delete any conditions
- Substitute conditions with suspension/suspension with conditions

Appeals

The DAC will consider appeals against all decisions that the rules state as being appealable.

- Appeals must be brought on one of the listed grounds; they are not available as of right
- The permissible grounds of appeal in all cases are:
 - Was the decision wrong in law
 - Was the decision procedurally flawed
 - Is there material fresh evidence now available (which was not available at the time)
 - Was the sanction unreasonable (*or unduly lenient, if an appeal by the Board*)
 - *Was the costs award unreasonable [we would suggest not including this as a ground]*
- Unless the rules state, appeals may only be brought by Respondents (*what decisions does the Board want to be able to appeal?*)
- The Chair will decide if there are grounds of appeal. This shall be done administratively in advance of the hearing
- Appeals will be limited to a review and will not be a hearing de novo
- *Appeals will be by way of an oral hearing unless the appellant and respondent agree that a private meeting is suitable*
- *Both parties may make representations and be present at any appeal*
- The DAC will hear the following appeals:
 - Appeals brought by Respondents against the imposition of an interim orders
 - Appeals brought by Respondents against administrative removal by the Registrar for:
 - an entry that was incorrectly made or fraudulently procured
 - failing to disclose pre-existing impairment of fitness to practice
 - commission of a listed offence
 - *failure to fulfil the registration requirements*
 - *non-compliance with an investigation into a complaint*
 - Appeals brought by Respondents against the Registrar's refusal to register
 - Appeals brought by Respondents *and the Board* against final decisions and orders
 - *Appeals brought by referrers against refusal of Registrar to refer complaint to [case to answer decision maker]? [to discuss – we would not advise the Board to include this]*
- The powers on appeal are as follows:
 - Dismiss the appeal and affirm the determination (in whole or in part)
 - Allow the appeal (in whole or in part) and make any decision that the first instance decision maker could have made

- Allow the appeal (in whole or in part) and substitute or vary the order or decision that the first instance decision imposed or reached
- Allow the appeal (in whole or in part) and rescind the order or set aside the decision that the first instance decision imposed or reached
- Allow (in whole or in part) and remit to the same/differently constituted first instance decision maker, with or without directions as to how the matter should be disposed of
- Refer the case to the DAC for consideration of the imposition of an interim order
- *Make an award of costs*

Final hearings of allegations of impaired fitness to practice

- The DAC will convene to adjudicate in final hearings of allegations brought by the Board against Respondents, referred to it by [case to answer decision maker] on the grounds of their fitness to practice being impaired due to:
 - Misconduct (whether in the person's practice of that profession or otherwise)
 - Lack of competence (*or deficient professional performance*) in the practice of that profession
 - Physical or mental ill health
 - A conviction or caution in the UK for a criminal offence, or a conviction elsewhere for an offence which, if committed in the UK would constitute a criminal offence
 - A determination by a body in the UK responsible under enactment for the regulation of a health or social care profession to the effect that a Registrant's fitness to practice is impaired, or a determination by a licensing body elsewhere to the same effect, and
 - *A level of proficiency in the knowledge and use of the English language that is insufficient for the safe and competent practice of the profession*

- The DAC will have the following powers when determining an allegation:
 - Finding the allegation well founded and that a Respondent's fitness to practice is impaired
 - Finding an allegation not well founded and that a Respondent's fitness to practice is not impaired

- The DAC will have the following sanctions available to it upon a finding that an allegation is well founded:
 - Take no further action
 - *Fine* [maximum?]
 - *Education and training order* [length?]
 - *Warning/caution* (*to stay on record for 2 years*)
 - *Conditions of practice* (*between one and three years; will stay in record for one year after expiration of order*)
 - *Suspension* (*for up to 12 months'; will stay in record for one year after expiration of order*)

- Removal (*and no application for restoration until 5 years' has elapsed*)
- *The DAC will have the power to award costs*

Sanction review hearings

- The DAC will convene to consider sanctions already imposed by the DAC *and the [case to answer decision maker]* as follows:
 - At sanction review hearings before the expiration of the sanction (in relation to conditions of practice and suspension orders)
 - Where there have been breaches of sanctions/undertakings imposed by the [case to answer decision maker] or the DAC
- The powers of the DAC in both cases will be as follows:
 - Allow the order to continue upon its conclusion
 - Further extend the order (to the maximum length allowed)
 - Vary/amend/add/delete any conditions
 - Substitute the sanction, including imposing a more severe sanction

Interim order review hearings

- Interim orders must be reviewed periodically (every x months). Registrants may also apply to have the order reviewed if there is a change in circumstances.
- The powers at an interim order review hearings will be as follows:
 - Allow the order to continue upon its conclusion
 - Further extend the order (to the maximum length allowed)
 - Vary/amend/add/delete any conditions
 - Substitute conditions with suspension/suspension with conditions

Applications for restoration

- The DAC will consider applications for restoration referred to it by the Registrar
- The DAC will have the power to request information from/ question the Registrant and the Registrar in order to assist with its consideration of the application
- The powers of the committee when determining restoration will be as follows:
 - Accept the application for restoration
 - Decline the application for restoration, providing a minimum period before which the Registrant can reapply

Procedural rules will provide for the procedure for each of these hearings and the general powers of the DAC to regulate its own proceedings