



The Guild of Analytical Psychologists

The Guild of Analytical Psychologists

G.A.P. Complaints Procedure
2020

COMPLAINTS PROCEDURE

This Procedure is an amended Procedure taking into account that UKCP handles our fitness to practice complaints against Members. G.A.P. is a member organisation of the Council for Psychoanalysis and Jungian Analysis (CPJA), one of the Colleges of the United Kingdom Council for Psychotherapy (UKCP).

The Procedure, which now applies to students and trainees, was originally based upon the Complaints Procedure Code of IGAP (Independent Group of Analytical Psychologists).

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1. INTRODUCTION

1.1. Aims and objectives

- 1.1.1. The aim of this procedure is to provide a clear and flexible procedure to regulate the way in which the Guild of Analytical Psychologists (G.A.P.) deals with complaints made against its students for professional misconduct. The Procedure also aims to provide details of the first stage of complaints handling against its members, prior to referral to United Kingdom Council for Psychotherapy (UKCP) who now handle complaints against our members for professional misconduct.
- 1.1.2. The objective is to deal with complaints as speedily as possible consistent with the interests of justice.
- 1.1.3. The governing principles are:-
 - All persons handling a dispute should be courteous, fair and impartial.
 - Both parties to a dispute should be allowed to have their say.
 - Justice should not only be done, but should be seen to be done.
- 1.1.4. No procedure can regulate for all situations. The rules laid down in this procedure should be interpreted in the light of practical common-sense.

2.1. Bird's eye view

- 2.1.1. Subject to the more detailed provisions of this procedure which follow, the normal process in outline is:-
 - (a) Preliminary attempts by complainant and GAP to try to resolve grievance. First stage of complaint against members and students. Unresolved complaints against Members submitted to UKCP
 - (b) Formal complaint submitted to Convenor of Ethics Committee.
 - (c) Complaints Officer and Complaints Committee appointed.
 - (d) Ruling* by Complaints Committee whether complaint accepted.
 - (e) Preliminary investigation by Complaints Officer/Committee.
 - (f) Ruling* by Complaints Committee whether case to answer.
 - (g) Formal Hearing hearing.
 - (h) Advisory ruling* issued by Formal Hearing.
 - (i) Confirmation proceedings in General Meeting of G.A.P.

Conciliation proceedings may take place at *any* stage.

Rulings marked* may be followed by appeal proceedings.

- 2.1.2. A more comprehensive 'Schedule of Procedures' showing the time limits and the paragraph numbers appears at Appendix 1.

3.1. Help and assistance

- 3.1.1. Any person considering making a complaint may have preliminary discussions concerning the proper formulation of the complaint and the implementation of the Complaints Procedure with the G.A.P. Convenor of the Ethics Committee.
- 3.1.2. G.A.P. recognises that complaint proceedings are often a lonely and distressing experience for the parties involved. The complainant has the possibility to apply to G.A.P. to explore whether one of its members may be found to act as a 'designated friend'. The sole purpose of a 'designated friend' is to be available for help and support, as and when required, whilst the complaint is in progress. A 'designated friend':-
 - is independent and neutral,

- has no influence over the handling of the complaint, and
 - voluntarily undertakes to abstain from voting in any issue relating to the complaint
- 3.1.3. The respondent also has the possibility to apply for the help and assistance of a 'designated friend.'
- 3.1.4. In all cases the appointment of 'designated friend' is subject to the availability of suitable volunteers.

2. MEDIATION POLICY

3.2. Statement of policy

Whilst recognising that some complaints may be so serious that an attempt at reconciliation can never be justified, G.A.P. policy is to encourage the resolution of grievances by informal means in all appropriate cases.

3.3. Preliminary attempts to resolve grievance

Before making a complaint, a complainant is expected to explore all reasonable avenues of trying to resolve their grievance with the respondent (the person complained against) informally. The complainant must normally demonstrate to G.A.P. that all reasonable channels have been exhausted or state why this has not been done.

If the complaint is against a member of GAP, then the complainant will discuss the issue informally with the Convenor of the Ethics Committee. Some complaints may be resolved at this stage. However, if the complaint is not resolved, the Convenor of the Ethics Committee refers the complainant to the UKCP. The UKCP website contains a section "who to talk to about" where the Complaints Team are listed with their contact details.

If the complaint is against a student of GAP when undertaking their clinical practice, and it cannot be resolved at this initial stage the following procedure is instituted.

3.4. Mediation during complaints proceedings

- (a) In appropriate cases, informal mediation proceedings may be initiated, with the agreement of both parties, at any stage during the complaints procedure.
- (b) Mediation proceedings are normally conducted by an independent third party according to a relatively informal procedure.
- (c) The person conducting the proceedings should be acceptable to both parties and may or may not be a member of G.A.P.
- (d) The person conducting the mediation proceedings shall be the one to decide on the procedures to be employed.
- (e) The normal time limits prescribed by this Code may be suspended whenever an attempt at resolving the complaint by means of mediation proceedings is in progress.

3.5. Professional mediation

In some cases, G.A.P. may consider hiring the services of a professional mediator.

3. MAKING A COMPLAINT

4.1. How to make a complaint

- 3.1.1. The procedure described in this procedure commences with the making of a formal complaint to G.A.P.
- 3.1.2. The complaint must satisfy the following requirements:-

- (a) It should be written in the form of a signed letter addressed to the Convenor of the Ethics Committee and posted to G.A.P. Registered Office.
- (b) It should state clearly that it is intended to be a 'formal complaint.'
- (c) The envelope and contents should be marked 'Strictly Confidential'.
- (d) It should itemise the grounds of the complaint in the form of numbered points.
- (e) Each ground of complaint must constitute a breach of a specific provision of the Code of Ethics.
- (f) Attempts to resolve the dispute between the parties must be shown to have been made or, if not, an explanation of why not should be provided.

3.1.3. Subject to the above, there is no particular form required for a complaint. However prospective complainants may find it helpful to look at the sample at Appendix 2.

4.2. Terminology

The person bringing a complaint is known as the 'complainant.' The person being complained against is known as the 'respondent.'

4.3. Persons who may bring a complaint

3.3.1. The complainant must be one of the following:-

- (a) a member of the public who is (or has been) a professional client of the person complained against, or
- (b) a member of the public who has sought the professional services of the person complained against, or
- (c) a current student of G.A.P. who was also a student of G.A.P. at the time when the facts giving rise to the complaint occurred, or
- (d) a third party acting on behalf of someone falling within one of the above categories who is incapacitated from bringing a complaint in person by reason of age or mental or physical infirmity.

3.3.2. Except as provided in para 3.3.1 (d) above, complaints by third parties will not be accepted and the complainant must be the alleged victim of the offence(s) described in the complaint.

3.3.3. Where the complainant is a third party acting on behalf of someone incapacitated from bringing a complaint in person by reason of age or mental or physical infirmity, the person on behalf of whom the complaint is brought must be the alleged victim of the offence(s) described in the complaint.

4.4. Persons who may be complained against

3.4.1. A complaint may only be brought against a respondent who satisfies the following requirements:-

- (a) the respondent is alleged to have committed a breach of the Code of Ethics in force at the time, and
- (b) the alleged breach occurred whilst the respondent was practising in the United Kingdom as a psychotherapist, and
- (c) the respondent was a student of G.A.P. at the time when the alleged breach occurred, and
- (d) the respondent is a student of G.A.P. at the time when the complaint is received, and

(e) the respondent is studying with G.A.P. in the United Kingdom at the time when the complaint is received.

3.4.2. For the purposes of paras 3.3 and 3.4, the term 'student of G.A.P.' refers to candidates in stage II of training.

3.4.3. Members of G.A.P. who practice overseas remain under a moral obligation to comply with the Code of Ethics. However, for practical reasons, G.A.P. has no jurisdiction over them in respect of breaches committed outside of the United Kingdom.

4.5. Restrictions upon making a complaint

3.5.1. A complaint shall not normally be valid unless it is lodged within three years of the event(s) which form(s) the substance of the complaint.

3.5.2. Adjudication of a complaint by another organisation is not a bar to that same complaint being adjudicated by G.A.P.

3.5.3. A complaint should not be brought where legal proceedings regarding the substance of the complaint have been commenced. Complainants who are contemplating bringing legal proceedings are asked not to file a complaint under this Code until after the legal proceedings have been concluded. If legal proceedings are instituted whilst the complaint is in progress then the complaints proceedings will be suspended until such time as the legal proceedings have been finalised.

4.6. Action upon receipt of complaint

3.6.1. Within 7 days of the receipt of the complaint the Convenor of the Ethics Committee will:-

- (a) send a copy of the complaint to the respondent,
- (b) if appropriate, send copies of the complaint to the other members of the Ethics committee, and
- (c) ensure that the complainant receives, or has received:-
 - an acknowledgement of receipt of the complaint,
 - a copy of the Code of Ethics in force at the time of the events complained of,
 - a copy of the Complaints Procedure in force at the time of making the complaint, and

3.6.2. Within 14 days of the acknowledgement of receipt of the complaint the Coordinator of G.A.P. will, acting in accordance with the advice of the Convenor of the Ethics Committee, appoint:-

- a Complaints Officer, and
- a Complaints Committee.

4. THE COMPLAINTS OFFICER

5.1. Who may be Complaints Officer

The Complaints Officer will normally be a senior member of G.A.P. and may be either:-

- the Convenor of the Ethics Committee, or
- a member of the Ethics Committee, or
- any other member of G.A.P.

5.2. Duties of Complaints Officer

The duties of the Complaints Officer are:-

- (a) To superintend and oversee the progress of the complaint from date of appointment as Complaints Officer up until finalisation of the case.
- (b) To liaise with the complainant and the respondent throughout, and to ensure that they are kept aware of what is happening, and of anything which is required of them.
- (c) To take the initiative to carry out any investigations which will assist the interests of justice and a fair and just resolution of the dispute.
- (d) To see that all time limits and other procedural requirements are, so far as is possible, and in accordance with the interests of justice, complied with.
- (e) To make any administrative arrangements that may be required (e.g. the finding of a conciliator, the hiring of premises, etc).
- (f) To ensure that both parties receive a fair hearing and that the interests of justice are served.
- (g) In appropriate cases, to explore and promote any possibilities of conciliation.
- (h) To report to the Complaints Committee, and to chair its deliberations, and to consult with it on any points of difficulty.
- (i) To keep the Convenor of the Ethics Committee and the Coordinator briefed on the progress of the case.
- (j) To handle any requests from the press or other parties for information.
- (k) To arrange for a smooth handover to another Complaints Officer in the event of resignation or disqualification.
- (l) To perform any such other duties as may be necessitated by the above.

5.3. Keeping of records

The Complaints Officer is required to keep copies of all correspondence in the case and to keep brief notes of all discussions, whether on the telephone or otherwise. Copies of all e-mails should be printed out and kept on the file. It should be born in mind that all documentation may be subject to inspection at some stage in the future.

5. COMPLAINTS COMMITTEE

6.1. Composition of Complaints Committee

- 5.1.1. The Complaints Committee will consist of the Complaints Officer, who will act as Chair, and at least 2 others.
- 5.1.2. At least one of the members of the Complaints Committee should be a senior member of G.A.P. Subject to this, members of the Complaints Committee may be appointed from any of the following:-
 - the members of the Ethics Committee (including the Convenor), or
 - the members of G.A.P.

6.2. Ruling whether or not to accept complaint

- 5.2.1. Within 14 days of the date upon which the Complaints Committee is appointed, it will make a ruling whether:-
 - (a) to accept the complaint for further investigation, or
 - (b) to reject the complaint.
- 5.2.2. If the complaint is rejected by the Complaints Committee, the complainant and the respondent will be notified of this ruling by the Complaints Officer as soon as practicable, with reasons given.
- 5.2.3. Reasons for refusing to accept a complaint might include (amongst others):-
 - No breach of the Code of Ethics disclosed on the face of the complaint.

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- Complaint not brought within the time limit and no exceptional circumstances ruled.
 - Respondent not a member of G.A.P. at the time of the alleged offence.
 - Alleged offence committed overseas.
 - The principle of '*de minimise non curat lex*' (i.e. the law does not take account of trivialities.)
 - Informal attempts to redress grievances not yet properly explored.
- 5.2.4. Where there is doubt about whether or not a complaint should be accepted, the complaint should be accepted for preliminary investigation and the doubt left to be resolved at a later stage.

6.3. Resubmission of complaint

A complaint which has not been accepted may not be resubmitted unless there are valid changes. These might include situations where (for example):-

- The complaint was refused on the grounds that it did not disclose a breach of the Code of Ethics on the face of it – but now it does.
- The complaint was refused on the grounds that informal attempts to redress the grievances had not been properly explored – but now they have been.

6.4. Appeal against ruling

- 5.4.1. If the complainant wishes to appeal against a refusal to accept a complaint, then a notice of appeal should be sent to the Complaints Officer within 21 days of the ruling in accordance with para 8.1
- 5.4.2. The notice of appeal will be referred to the Convenor of the Ethics Committee (or a member of the Co-ordinating Committee designated by the Co-ordinator) to see whether or not a certificate [see appendices] can be granted to the effect that there is an arguable ground of appeal. This decision will be made within 10 days of the receipt of the notice of appeal.
- 5.4.3. If a certificate is granted to the effect that there is an arguable ground of appeal, then the appeals procedure laid down in paras 8 and 9 will be followed with any adaptations that may be necessary.
- 5.4.4. The Appeal Committee will adjudicate upon the issue in the manner prescribed and either:-
- (a) confirm the decision that the complaint should not be accepted, or
 - (b) rule that the complaint should be accepted.
- 5.4.5. The respondent has no right of appeal against a decision to accept a complaint.

6. PRELIMINARY INVESTIGATION

7.1. Commencement of preliminary investigation

- 6.1.1. If a complaint is accepted, then a preliminary investigation will be commenced within 7 days of its acceptance. The preliminary investigation will be carried out by the Complaints Officer acting on behalf of the Complaints Committee.
- 6.1.2. At this stage, the Co-ordinator will notify the G.A.P. insurers of the fact that a complaint has been received and that an investigation has commenced.

7.2. Complainant's statement

- 6.2.1. Within 7 days of the ruling to accept the case, the Complaints Officer will ask the complainant to supply a written statement. The complainant will be informed that the statement should be submitted within 21 days and that failure to do so will lead to the complaint being treated as withdrawn.
- 6.2.2. With regard to the complainant's statement:-
- (a) The main purpose of the statement is to tell the story of what happened and what went wrong.
 - (b) It should set out all the facts which the complainant considers necessary to substantiate the allegations set out in the complaint.
 - (c) In particular it should set out all the facts which the complainant would like to be taken into account by any Formal Hearing which may at a later stage be charged with adjudicating upon the case.
 - (d) It is helpful if the facts can, as far as possible, be set out in chronological sequence according to the order in which they occurred.
 - (e) It should be signed and dated by the complainant.
- 6.2.3. Subject to the above, there is no particular form required for the complainant's statement. However the complainant may find it helpful to look at the sample shown at Appendix 3.

7.3. Submissions procedure

The submissions procedure is as follows:-

- (a) As soon as practicable upon receipt of the complainant's statement, the Complaints Officer will send a copy to the respondent.
- (b) The respondent will be required to supply a written statement in response within 21 days of receipt. As soon as practicable upon receipt of the respondent's response, the Complaints Officer will send a copy to the respondent.
- (c) The complainant will have the right to supply a further statement by way of reply within 14 days of receipt. As soon as practicable upon receipt of the complainant's reply, the Complaints Officer will send a copy to the respondent.
- (d) Further statements will not normally be allowed, but may in exceptional circumstances be permitted at the discretion of the Complaints Officer. If so, copies of all statements should always be disclosed to both parties.
- (e) The Complaints Officer should notify both parties when the submissions procedure is closed.

7.4. Further investigations

The Complaints Officer may on her/his own initiative carry out any such further investigations as may be considered useful and/or necessary at any stage of the complaint proceedings.

7.5. Conclusion of preliminary investigation

The Complaints Officer will notify both parties when the preliminary investigation has been concluded. Unless there are further inquiries to be carried out, this will normally coincide with the close of the submissions procedure.

7.6. Ruling whether or not there is a case to answer

- 6.6.1. As soon as the preliminary investigation has been concluded, the Complaints Officer will refer the case to the Complaints Committee for a ruling as to whether or not there is a case to answer. This must be made within 10 days of the conclusion of the preliminary investigation.
- 6.6.2. The test as to whether or not there is a case to answer is as follows:-
- Assume, for the sake of argument, that the facts contained in the complainant's statements are true.
 - Ignore for the purposes anything which has been said by the respondent so far, or which might be said by the respondent in the future.
 - Assume that a Formal Hearing has been convened
 - Assume that the Formal Hearing acts reasonably and sensibly and in accordance with correct law and procedures.
 - In all these circumstances: would the Formal Hearing be *capable* of recommending a conviction upon this evidence?
- 6.6.3. If the answer to the above question is 'yes', then the case will be remitted to a Formal Hearing for adjudication.
- 6.6.4. If the answer to the above question is 'no', then the parties will be notified as soon as practicable that the complaint has been dismissed on the grounds that there is no case to answer. That will normally be the end of the matter – unless the complainant wishes to appeal.

7.7. Appeal against ruling

- 6.7.1. If the complainant wishes to appeal against a ruling of no case to answer then a Notice of Appeal should be filed within 21 days of the ruling in accordance with para 8.1. Thereupon the appeals procedure laid down in paras 8 and 9 will be followed with any adaptations that may be necessary.
- 6.7.2. The Appeal Committee will adjudicate upon the issue in the manner prescribed and either:-
- (a) confirm the decision that there is no case to answer, or
 - (b) rule that there is a case to answer and that the case should be remitted to a Formal Hearing for adjudication.
- 6.7.3. The respondent has no right to appeal against a ruling that there is a case to answer.

7. FORMAL HEARING

8.1. Appointment of Panel for the Formal Hearing

Within 10 days of a ruling that there is a case to answer, the Coordinator will, at the request of the Complaints Officer:-

- appoint a Panel, and
- nominate the Chair.

8.2. Composition of Panel for Formal Hearing

- 7.2.1. The Panel will consist of three members. At least one of its members should be a senior member of G.A.P. and at least one should be external to G.A.P. Subject to the exceptions mentioned below, members may be drawn from any of the following:-

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- (a) the membership of the Ethics Committee (including the Convenor),
- (b) any other member of G.A.P.
- (c) any non-member of G.A.P. who is a member of IAAP or the CPJA section of UKCP, and/or who has suitable knowledge and experience (e.g in legal related work).

7.2.2. Provided that:-

- (i) Any person who has served in any of the following roles in respect of the same complaint is automatically disqualified:-
 - the Complaints Officer, or
 - the members of the Complaints Committee, or
 - any person who has acted as a ‘designated friend’ to either of the parties.
- (ii) The provisions in para 12.5 with regard to impartiality and objectivity must be complied with.

8.3. Notice of hearing

- 7.3.1. Within 7 days of the appointment of the Panel, the Complaints Officer will send to the parties a notice of hearing informing them of:-
 - the date of the hearing,
 - the venue, and
 - any other relevant details.
- 7.3.2. The date of the hearing should be not less than 14 days, and not more than 28 days, after the date upon which the letter of notification is posted.

8.4. Procedure for hearing

At this Hearing, either party may be accompanied by a translator or other appropriate support provided that such support is fair and equitable between the two parties. The three panellists may consult the investigation notes and any other material relevant to the case. They may ask the GAP Chair to make available specialist advice and documentation (eg. matters of law, contractual).

- 7.4.1. The Hearing will take place in accordance with the following procedure:-
 - (a) Complainant gives evidence.
 - (b) Complainant may call additional witnesses to give evidence.
 - (c) Respondent gives evidence.
 - (d) Respondent may call additional witnesses to give evidence.
 - (e) Complainant has the right to make a closing address.
 - (f) Respondent has the right to make a closing address.
 - (g) The Formal Hearing adjourns to consider its ruling
- 7.4.2. Whenever a party calls a witness or gives evidence as a witness on their own behalf, the other party has the right to challenge the witness by asking questions.
- 7.4.3. In cases where there is no conflict as to the facts of what occurred, the hearing may, with the consent of both parties, be conducted in their absence.
- 7.4.4. Further rules for the conduct of Hearing appear in para 12.

8.5. Advisory ruling

- 7.5.1. The Panel will issue its advisory ruling within 21 days of the conclusion of the hearing. This should be sent to the Complaints Officer who will as soon as practicable ensure that copies are circulated to both parties, and to the Coordinator and to the Convenor of the Ethics Committee. The parties will be informed that if they wish to make an appeal they should do so within 21 days.
- 7.5.2. The Panel's ruling is advisory only. After reviewing all the evidence in the case it will recommend:-
 - (h) whether or not any offences under the Code of Ethics have been committed,
 - (a) whether or not any of those offences amount to 'serious misconduct,'
 - (b) the sanctions to be applied in respect of each offence.
- 7.5.3. Whether or not an offence amounts to 'serious misconduct' is a matter of fact to be decided within the context of each particular case.
- 7.5.4. A list of available sanctions appears in para 11.

8.6. Procedure after notification

- 7.6.1. After the advisory ruling of the Panel has been notified to the parties, the permitted period of 21 days should be allowed to elapse to see whether or not either party wishes to appeal.
- 7.6.2. If a notice of appeal is received within the permitted period, then the procedure for bringing an appeal will take place in accordance with para 8.
- 7.6.3. If no notice of appeal is received within the permitted period, then confirmation proceedings will be held in accordance with para 10.

8. BRINGING AN APPEAL

9.1. Notice of appeal

A notice of appeal must reach the Complaints Officer within 21 days of receipt in writing of the ruling or order appealed against.

9.2. What may be appealed against

- 8.2.1. Appeals proceedings may be instituted by the complainant against any of the following:-
 - (a) A ruling by a Complaints Committee whether or not the complaint should be accepted.
 - (b) A ruling by a Complaints Committee whether or not there is a case to answer.
 - (c) An advisory ruling issued by a Panel at the conclusion of a hearing.
- 8.2.2. Appeals proceedings may be instituted by the respondent against (c) above, but not (a) or (b).

9.3. Grounds of appeal

- An appeal may only be brought upon one or more of the following grounds:-
- (a) That a decision was made which was not in accordance with the interests of justice
 - (b) That there was a failure to comply with the procedures laid down by this procedure.

- (c) That further evidence has come to light which was not available at the time of the original proceedings.
- (d) That the Panel erred in its recommendations as to whether or not any of the offences amounted to 'gross professional misconduct.'
- (e) That the Panel erred in its recommendations as to what sanctions to impose.

9.4. Terminology

In this procedure the party making the appeal will be referred to as the 'appellant'. The party who is being appealed against will be known as the 'opposing party.'

9.5. Form of notice of appeal

8.5.1. The notice of appeal must satisfy the following requirements:-

- (a) It should be made in writing and addressed to the Complaints Officer.
- (b) It should state clearly that the author wishes to make an appeal.
- (c) It should be marked 'Strictly Confidential'.
- (d) It should itemise the grounds of the appeal in the form of numbered points
- (e) It should state whether or not the appellant would wish to be present at any hearing of the appeal.

8.5.2. Subject to the above, there is no particular form required for a notice of appeal. However a party wishing to make an appeal may find it helpful to look at the sample shown at Appendix 4.

9.6. Action upon receipt of notice of appeal

Upon receipt of a notice of appeal the Complaints Officer will within 7 days:-

- (a) acknowledge receipt of the notice of appeal,
- (b) send a copy of the notice of appeal to the opposing party, (c) commence the submissions procedure,
- (c) request Council to appoint an Appeal Committee.

9.7. Submissions procedure

The submissions procedure in appeal proceedings is as follows:-

- (a) The Complaints Officer will invite the appellant to submit within 21 days any submissions in writing which they may wish to make in support of the appeal.
- (b) Upon receipt of the appellant's submissions, the Complaints Officer will as soon as practicable send a copy to the opposing party and ask them to forward their own submissions in response within 21 days and to indicate whether or not they would wish to be present at any hearing of the appeal.
- (c) Upon receipt of the opposing party's response, the Complaints Officer will as soon as practicable send a copy to the appellant asking them to forward their submissions in reply within 14 days.
- (d) The appellant's submissions in reply will as soon as practicable be sent to the opposing party. Normally the Complaints Officer will rule that the opposing party may not reply and that the submissions procedure is now closed, and notify both parties accordingly.
- (e) No further exchange of submissions will take place unless permitted by the Complaints Officer in her/his absolute discretion in exceptional circumstances.

9.8. Further investigations

The Complaints Officer may on her/his own initiative at any stage in the appeal proceedings carry out any such further investigations as may be considered useful and/or necessary.

9.9. Appointment of Appeal Committee

The Appeal Committee and its Chair will be appointed by the Coordinating Committee as soon as possible after receipt of the notice of appeal and not later than the date upon which the submissions procedure is closed.

9.10. Composition of Appeal Committee

8.10.1. The Appeal Committee will consist of three members. At least one of its members should be a senior member of the Guild. Subject to the exceptions mentioned below, members may be drawn from:-

- (a) the members of the Ethics Committee (including the Convenor),
- (b) any other member of G.A.P.
- (c) any non-member of G.A.P. who is a member of IAAP or the CPJA section of UKCP, and/or who has suitable knowledge and experience (e.g. in legal related work).

8.10.2. Provided that:-

- (i) Any person who has served in any of the following roles in respect of the same complaint is automatically disqualified:-
 - the Complaints Officer, or
 - the members of the Complaints Committee, or
 - the members of the Formal Hearing, or
 - any person who was a participant in any ruling or decision being appealed against, or any person who has acted as a ‘designated friend’ to either of the parties.
- (ii) The provisions in para 12.5 with regard to impartiality and objectivity must be complied with.

9.11. Preliminary assessment

8.11.1. As soon as the submissions procedure is closed, the Complaints Officer will (unless there are any further investigations to be carried out) refer all of the documentation in the case to the Appeal Committee as soon as practicable. The Complaints Officer will require them to make a preliminary assessment within 21 days as to whether or not an arguable ground of appeal has been disclosed.

8.11.2. The preliminary assessment will take place in the absence of the parties.

8.11.3. If the preliminary assessment is to the effect that a valid ground of appeal has not been disclosed then the Appeal Committee will order that confirmation proceedings will be held in accordance with section 10.

8.11.4. If the preliminary assessment is to the effect that an arguable ground of appeal has been disclosed, then it will order either:-

- (a) that an Appeal Committee hearing will take place, or
- (b) that the case will be remitted to the original Formal Hearing I, or
- (c) a new Formal Hearing, for a full rehearing.

8.11.5. If the order is (a) (Appeal Committee hearing) then the procedures laid down in section 9 will be followed.

8.11.6. If the order is (b) (full rehearing by Formal Hearing) then the Complaints Officer will arrange for a hearing date to be fixed, and a notice of hearing to be sent to the parties. Note that:-

- (i) The date of the hearing will be not less than 14 days, and not more than 28 days, after the date of the preliminary assessment.
- (ii) The rehearing will take place as though the case were being heard for the first time in accordance with the procedures laid down in section 7 which may be adapted wherever necessary.

9. APPEAL COMMITTEE HEARING

10.1. Notice of hearing

- 9.1.1. Within 14 days of an order in a preliminary assessment to the effect that an Appeal Committee hearing should be held, the Complaints Officer will issue to the parties a notice of hearing. This will state:-
 - (a) the date of the hearing,
 - (b) the venue,
 - (c) the form which the hearing will take,
 - (d) whether or not the parties will be invited to attend, and
 - (e) any procedural guidelines which will apply in addition to the procedures already laid down.
- 9.1.2. With regard to (a) above, the date of the hearing should be not less than 14 days, and not more than 28 days, after the date upon which the notice of hearing is posted.
- 9.1.3. With regard to (c) above, the notice of hearing should state whether or not:-
 - i. the hearing will be restricted to submissions only, or
 - ii. further evidence will be admitted, or
 - iii. further evidence may (subject to further argument) be admitted, or
 - iv. a full rehearing of the evidence will take place.

10.2. Appeal Committee hearing

- 9.2.1. In any Appeal Committee hearing:-
 - (a) It is not mandatory, but it is strongly recommended, that the hearing takes place in the presence of the parties if either of the parties has indicated a wish to be present.
 - (b) If one party is allowed to attend, then the opposing party must also be given the same right
 - (c) If any live witnesses are to be called to give evidence, then both parties must be allowed to be present.
 - (d) Whenever a party calls a witness, or gives evidence as a witness on their own behalf, the other party has the right challenge the witness by asking questions.
- 9.2.2. Further rules for the conduct of Appeal Committee hearings appear in section 12.

10.3. Powers of Appeal Committee

- In any appeal committee hearing the Appeal Committee will have the power to:-
- (a) review any findings of fact, or
 - (b) do anything which the Committee or Hearing being appealed against could do, or
 - (c) confirm, overturn, vary or substitute any decision, ruling, recommendation, or sanction.

10.4. Ruling of Appeal Committee

- 9.4.1. Within 21 days of the conclusion of an Appeal Committee hearing, the Appeal Committee will issue an advisory ruling and send it to the Complaints Officer.
- 9.4.2. The Complaints Officer will, as soon as practicable, circulate copies of the advisory ruling to both parties, and to the Coordinator, and to the Convenor of the Ethics Committee.
- 9.4.3. If the advisory ruling is to the effect that:-
 - (a) a complaint should be accepted – then the Complaints Officer will ensure that this is complied with and that a preliminary investigation takes place in accordance with section 6.
 - (b) there is a case to answer – then the Complaints Officer will see that Formal Hearing proceedings are held in accordance with section 7.
 - (c) an advisory ruling of a Formal Hearing should be confirmed, overturned or varied – then the Complaints Officer is responsible for ensuring that confirmation proceedings are held in accordance with section 10.

5. Status of the Appeal Committee Ruling

The decision of the Appeal Committee is final.

10. CONFIRMATION PROCEEDINGS

11.1. Convening confirmation proceedings

- 10.1.1. It is the responsibility of the Complaints Officer to liaise with the Coordinator to arrange for confirmation proceedings to be convened. Normally this is done by including it as an item on the agenda for the next General Meeting of G.A.P. However, where the time delay before the next regular General Meeting is too long, then an Extraordinary General Meeting should be called. At the confirmation proceedings the Complaints Officer, or another officer, will read to all members present the substance of the complaint together with the advisory ruling.

11.2. Notification of outcome

At the request of the Complaints Officer, the Coordinator should notify in writing:-

- (a) the outcome of confirmation proceedings to both parties – within 3 days.
- (b) the details of any conviction to the Complaints Team of UKCP – within 28 days.

11. SANCTIONS

12.1. Sanctions for any breach

In the event of a breach of the Code of Ethics, the following sanctions are available:-

- (a) Warning and/or reprimand.
- (b) Written apology.
- (c) A requirement to demonstrate to the Ethics Committee specified changes or improvements by a prescribed date.
- (d) Refund of fees or other suitable reparation.
- (e) A requirement to undertake further analysis with an approved colleague for a specified period.
- (f) A requirement to seek independent medical and/or psychological examination and treatment, to be approved by the Ethics Committee.

- (g) A requirement to undertake supervision for a specified period with a senior psychotherapist approved by the Ethics Committee.
- (h) Supervision as above – with a proviso that the supervisor must supply reports to the Ethics Committee and that these must be found to be satisfactory.
- (i) Such other sanctions as are permitted by law and may be appropriate to the particular circumstances of the case.

12.2. Sanctions for 'serious misconduct'

In the event of a finding of 'gross professional misconduct' the following sanctions are available in addition to the above:-

- (a) A directive to cease psychotherapeutic or analytic practice for a specified period.
- (b) Suspension of membership of G.A.P. for a prescribed period.
- (c) Expulsion from G.A.P.

In cases where the membership of G.A.P. in a General Meeting have confirmed the conviction and the sanction for termination or suspension of membership of G.A.P. the Convenor of the Ethics Committee will inform the Trustees who will suspend or terminate the respondent's membership under the power conferred by **Article 5** of the G.A.P. Articles of Association. The procedures outlined in this Procedure having been followed shall satisfy the requirement under Article 5 "that the member concerned shall have a right to be heard before a decision is made".

Final action taken by a Group Member to suspend or expel an analyst for ethical reasons shall be reported by the Group to all other IAAP Groups of which the sanctioned analyst is a member when such reporting would be in accordance with local law; but in accordance with the local law.

12.3. Compliance with sanctions

- 11.3.1. It shall be the responsibility of the Ethics Committee to monitor and supervise a respondent's compliance with any sanctions imposed.
- 11.3.2. In cases where sanctions do not expire automatically, the respondent may apply to the Ethics Committee for the sanctions to be lifted. Any appeal against a decision of the Ethics Committee in this regard should be notified to the Coordinator and resolved by the members of G.A.P. at the next General Meeting.
- 11.3.3. If the Ethics Committee is not satisfied that the sanctions have been satisfactorily complied with within the time limits prescribed, or within a reasonable period, then the Convenor of the Ethics Committee should report the non-compliance to G.A.P. in General Meeting. The ultimate sanction for non-compliance is suspension or expulsion from G.A.P. by means of a vote of the members of G.A.P. Either of these sanctions must in the first instance be voted by a majority of members present at a General Meeting. No such decision shall be voted upon without the respondent first having had the opportunity to address the members. The Convenor of the Ethics Committee will then inform the Trustees of the sanction having been approved by the members. The Trustees may then suspend or terminate the respondent's membership under the power conferred by Article 5 of G.A.P. Articles of Association. The procedures outlined above having been followed shall satisfy the requirement under Article 5 "that the member concerned shall have a right to be heard before a decision is made".

- 11.3.4. Names of those restored to membership should be reported to the CPJA Section of the UKCP by the Coordinator within 28 days, as well as to all IAAP groups of which they are/were members.

12. GENERAL PROCEDURES

13.1. Procedures common to all hearings

- 12.1.1. In all hearings of a Formal Hearing or an Appeal Committee:-
- (a) The standard of proof to be applied will be that the panel or committee needs to be satisfied as to the truth of the allegations 'upon a balance of probabilities.' The test for ascertaining this is: 'In respect of these two different versions of events, which is the more probable?'
 - (b) Any person giving evidence should start by making a promise in their own words to tell the truth.
 - (c) Written evidence may be received, but only if:-
 - (i) both parties agree, or
 - (ii) it has been established that there are good reasons why the author of the evidence cannot be called in person.
 - (d) Hearsay statements will be admissible as evidence but should be treated with caution, and should only be admitted when there are good reasons why the maker of the statement cannot be called.
 - (e) Any evidence given, or questions asked, must be relevant to the issues in the case. Repetitive questions will not be allowed.
 - (f) The Panel or Committee may on its own initiative call any witnesses or evidence, or ask any questions, or make any investigations that it considers will assist the interests of justice.
 - (g) Wherever possible the members of the Panel or committee will try to agree on a unanimous report. But in cases where this is not possible dissenting reports will be attached
 - (h) In appropriate circumstances the hearing may be adjourned by decision of the Chair in its absolute discretion for any reasonable period.
 - (i) All hearings may take place in premises belonging to G.A.P. or regularly hired by G.A.P. for the purposes of teaching or meetings, including business meetings, or in other suitable premises.
- 12.1.2. Hearsay statements are defined as verbal or written statements made by someone who is not a party to the proceedings and who does not themselves supply direct (oral or written) evidence to the proceedings. It should be noted that even where hearsay evidence is admitted its evidential weight is slender and cannot by itself found the basis of a conviction in the absence of direct evidence.

13.2. Records of hearings

- 12.2.1. In all hearings of a Formal Hearing or Appeal Committee a record of the proceedings shall be kept by at least one of the following methods:-
- (a) The Chair makes a detailed written contemporaneous note.
 - (b) A shorthand writer makes a transcript.
 - (c) The proceedings are tape-recorded.
- 12.2.2. In cases where the proceedings are tape-recorded it is recommended that a back-up copy be made with a second tape-recorder or by use of methods (a) or (b).

13.3. Presence of friend or legal adviser

In any meeting or hearing held under this procedure:-

- (a) Provided that prior notice is given, each party has the right to have a friend or supporter or legal representative present to assist them.
- (b) No more than one person will be allowed for each party.
- (c) Notice of intention to have a friend or supporter or legal representative must be given to the Complaints Officer and the other party not less than 7 days beforehand and the name and status of the person should be stated.
- (d) In the case of a legal adviser present at a hearing of the Formal Hearing or Appeal Committee, the notice of intention should state whether or not the legal adviser will be presenting the case on the party's behalf.
- (e) If the legal adviser presents the case on the party's behalf, then the party may not speak except when called upon to give evidence or answer questions.
- (f) If the legal adviser does not present the case, then their role is restricted to giving advice to their client.
- (g) Any friend or supporter who is not legally qualified is restricted to giving advice to their client.

13.4. Right to have reasons in writing

Either party has the right to ask for reasons in writing to be given for any ruling made during the course of the complaints process.

13.5. Impartiality

All officers dealing with a complaint should be, and should be seen to be, impartial and objective at all times and:-

- (a) No person should be appointed to any office under this procedure who fails to meet this requirement, whether as a result of conflict of interest or otherwise.
- (b) An officer who fails to continue to meet this requirement should immediately disclose the fact and will be replaced as soon as possible
- (c) A member of G.A.P. who is or has been in a therapist/client or supervisor/supervisee relationship with one of the parties to the dispute is automatically disqualified by reason of conflict of interest.
- (d) Either party, or any person who has suspicions of a contravention of this provision should immediately report them to the Complaints Officer, or to the Convenor of the Ethics Committee, or to the Co-ordinator.

13.6. Appointment of medical practitioner

In a case where medical issues are likely to arise, it is recommended that at least one of the members of the Formal Hearing, and at least one of the members of the Appeal Committee, should be a medical practitioner.

13.7. Legal advice for Association

Advice from a reputable legal consultant may be sought upon points of legal or procedural difficulty at any stage of the proceedings by the Complaints Committee, or a Formal Hearing, or an Appeal Committee, provided that such advice may not include the adviser's own assessment of the evidence or opinions about the non-legal issues to be decided.

13.8. Confidentiality

- 12.8.1. Every effort should be made to preserve the confidentiality of both parties to the dispute. Parties should be referred to by initial and not by name wherever possible. Confidential information should not be sent by fax or e-mail except with prior permission of the recipient. Confidential information in the case should only be disclosed on a 'need to know' basis.
- 12.8.2. Persons handling a complaint under this procedure should not discuss the complaint with anyone who is not a party to the complaint nor a person charged with handling the complaint.
- 12.8.3. All members of G.A.P. should refrain from discussing the details of a complaint in progress except where such discussions are necessitated by their official duties in carrying out the provisions of this procedure.

13.9. Time Limits

- 12.9.1. It is hoped that all complaints can be resolved as speedily as possible.
- 12.9.2. However the interests of justice and a fair hearing are paramount, and should not be sacrificed in the interests of speed.
- 12.9.3. Whereas all parties are encouraged to comply with the specified time limits so far as is possible these shall be interpreted in accordance with the principles of common sense. Provided that delays are not excessive, no appeal may be brought on the grounds that the specified time limits were not observed.
- 12.9.4. Except where otherwise stated, time limits:-
 - (a) Shall run from the date of receipt of any document or notification, not the date of posting or transmission.
 - (b) Do not normally exclude Sundays and Bank Holidays.
 - (c) May be suspended by the Complaints Officer in her/his absolute discretion upon application by one of the parties in the event of reasonable holidays or other reasonable absences. (In such instances the other party need not be consulted, but should be informed.)
 - (d) May be waived at any point with the consent of both parties.
 - (e) May otherwise be waived at any point at the absolute discretion of the Complaints Officer or the Chair of the Formal Hearing or the Chair of the Appeal Committee.

13.10. Deviation from procedures

- 12.10.1. Any provision in this procedure may be deviated from with the consent of both parties.
- 12.10.2. Any provision in this procedure may be deviated from on the directions of the Complaints Officer, or the Chair of a Formal Hearing, or the Chair of an Appeal Committee, in their absolute discretion in the interests of justice.
- 12.10.3. Provided that all decisions made under this procedure are made in good faith, and in accordance with the interests of justice, no decision shall be open to challenge on appeal exclusively on the grounds that particular provisions of this procedure were not complied with.

All time limits given under this procedure are time limits that shall normally be complied with.

13.11. Withdrawal and dismissal of complaints

A complainant may withdraw a complaint at any stage prior to ratification of a conviction by vote of the members of G.A.P. Note that:-

- (a) Any complaint which is withdrawn or dismissed before the ruling whether or not there is a case to answer may be brought again provided that it is not time-barred.
- (b) Any complaint which is withdrawn or dismissed after the ruling that there is a case to answer may not be brought again except when this is permitted following a successful appeal.

13.12. Failure to comply with requirements

12.12.1. Where a complainant is required under this Complaints Procedure to attend any meeting, or to comply with any other requirement, and fails to do, a notice shall be served upon the complainant reminding her/him of this fact and giving her/him a further 21 days to comply, or alternatively show good cause why not. Continued failure to comply will normally lead to a presumption that the complaint is withdrawn.

12.12.2. Where a respondent is required under this Complaints Procedure to attend a meeting or comply with any request and fails to do, a notice shall be served upon the respondent reminding her/him of this fact and giving her/him a further 21 days to comply or alternatively show good cause why not. Continued failure to comply will not prevent the continuation of the complaints procedure in the respondent's absence and will, in addition, give sufficient grounds for expulsion from G.A.P. by means of a vote of the members of G.A.P.

13.13. Finality of rulings

Any ruling made in accordance with this procedure (except where there is a specific right of appeal or review provided for under this procedure) shall be final and not open to further review by G.A.P. Parties who continue to be dissatisfied have the option of making a complaint against G.A.P. to its umbrella organisation: namely the CPJA Section of the UKCP. CPJA/UKCP current address will be supplied by G.A.P. registered office upon request.

13.14. Procedural Guidelines

Procedural Guidelines which supplement the procedures laid down in this procedure may be issued by the Ethics Committee, provided that in any conflict between Procedural Guidelines and this procedure, the provisions of this procedure shall prevail.

13. MISCELLANEOUS

14.1. Protection of officers

All officers dealing with a complaint are protected from any legal liability whatsoever in respect of any actions performed by them whilst acting in good faith in pursuance of their duties under this procedure.

14.2. Resignation

No member of G.A.P. against whom a complaint has been received will be allowed to resign their membership of G.A.P. or allow it to lapse, until after such time as the complaints procedure has been determined and the permitted time period allowed for the filing of a notice of appeal has expired. Respondents who resign after that date will remain under a moral duty (which cannot be enforced in law) to comply with any sanctions imposed.

14.3. Disposal of documentary records

One set of all the documentary records in the case will be kept for a period of 7 years from the finalisation of the complaints procedure.

14.4. Expenses

With regard to expenses:-

- (a) G.A.P. cannot be responsible for travel or any other expenses incurred by either the complainant or the respondent in connection with any stage of the complaint.
- (b) Where conciliation proceedings are held the parties will normally be expected to meet the cost in equal proportion. (G.A.P. may or may not decide to contribute towards the cost in its absolute discretion.)

14.5. Publicity

13.6.1. Subject to the overriding need to protect the complainant's confidentiality which is paramount and must be maintained at all costs, G.A.P. reserves the right to publish any details of any convictions for breach of the Code of Ethics which it considers appropriate, including:-

- the name of the respondent,
- the details of the offences upon which the convictions have been based,
- the sanctions imposed, and
- carefully edited versions of any advisory rulings or statements issued in confirmation proceedings.

13.6.2. The right to confidentiality of a respondent who has not been convicted will be protected so far as is possible. However, in exceptional circumstances, G.A.P. reserves the right to confirm the fact that complaint proceedings are or have been in progress. In such circumstances the name of the respondent and the paragraph(s) of the Code of Ethics alleged to have been breached may be quoted, but no further details may be given and any acquittal must be stated.

13.6.3. G.A.P. is required to make annual reports to UKCP concerning the number of complaints received, the nature of the complaints and their disposition.

14.6. Status of Committees and Hearings

Complaints Committees, Formal Hearings and Appeal Committees are all ad hoc committees formed for the purposes of dealing with a specific complaint. For administrative purposes only they are all sub-committees of the Ethics Committee. In respect of their decision-making and adjudicatory powers however they are completely independent. Upon completion of their functions under this procedure they are automatically discharged.

14.7. Definitions

In this document:-

- (a) The term 'psychotherapist' applies to G.A.P. candidates in stage II of training.
- (b) The 'Guild' means the Guild of Analytical Psychologists.
- (c) 'IAAP' means the International Association of Analytical Psychologists.

THE GUILD OF ANALYTICAL PSYCHOLOGISTS

- (d) The expression 'member(s) of G.A.P. means, unless otherwise stated, person(s) entitled to vote in a General Meeting of G.A.P.
- (e) The 'parties' means the complainant and the respondent.
- (f) The expression 'officers dealing with a complaint' includes the Complaints Officer and all members of the Complaints Committee, the Formal Hearing and the Appeal Committee.
- (g) 'UKCP' means the United Kingdom Council for Psychotherapy.
- (h) 'CPJA' means the Council of Psychoanalysis and Jungian Analysis Section of UKCP
- (i) The expression 'vote of the members of G.A.P. means a simple majority vote of all members of G.A.P. present and voting in a General Meeting.

14.8. Commencement etc.

- 13.8.1. Where there is a conflict between the provisions of the Complaints Procedure and the provisions of any version of the Code of Ethics which may be in force, the provisions in the Code of Ethics shall prevail. This shall not apply to complaints procedures in previous Codes of Ethics.
- 13.8.2. The provisions of this Procedure constitute rules or bye-laws enacted by the members of G.A.P. in general meeting under the powers conferred by Article 17 of the Articles of Association. These rules are in addition to, and do not in any way restrict the interpretation of the Articles of Association.

DOCUMENT CHANGE RECORD

Date	Version	Change Details
February 2020	Version 1.0	Changes to 2015 version – change Disciplinary Tribunal to Formal Hearing. Formatting