

Dr Faisal Mahmood

Supporting a supervisee undergoing a
complaints process

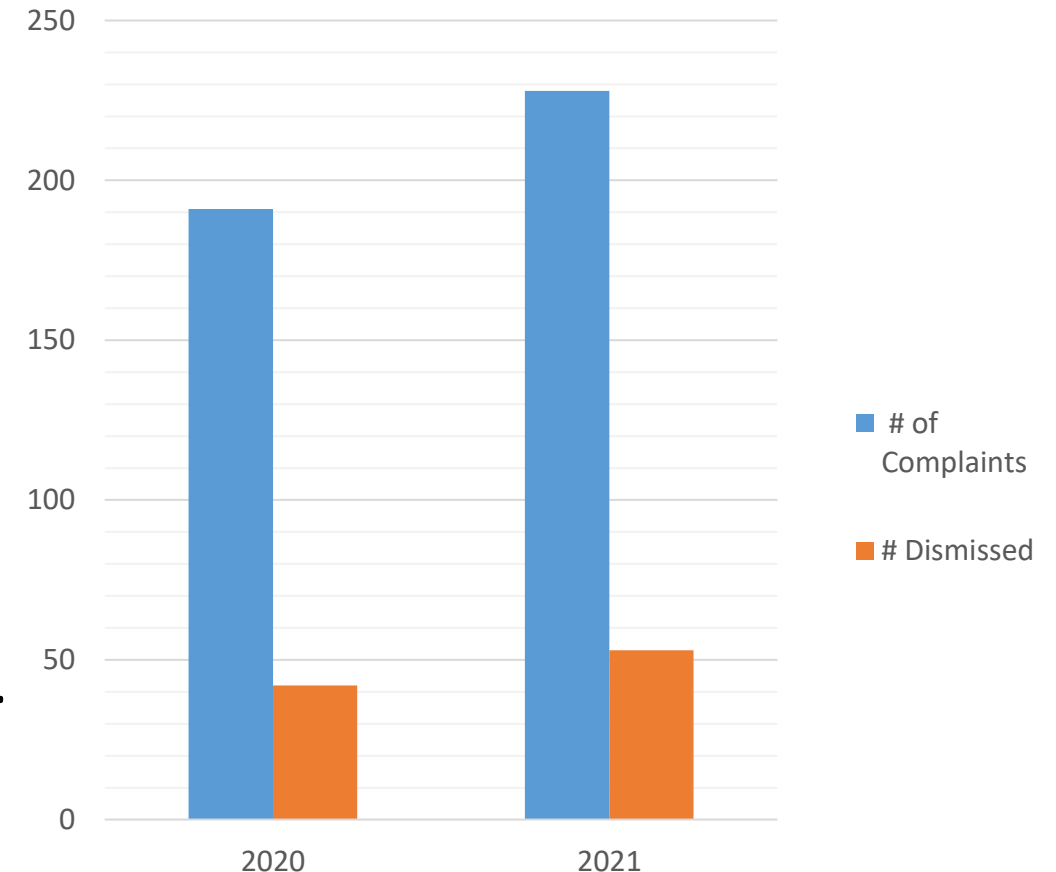
Your responses...

- Metaphor/image – when you hear the word ‘complaint’
- Imagine – You have received an email from BACP that one of your clients have submitted a formal complaint against you.
 - Your feelings, thoughts, what would you do next?



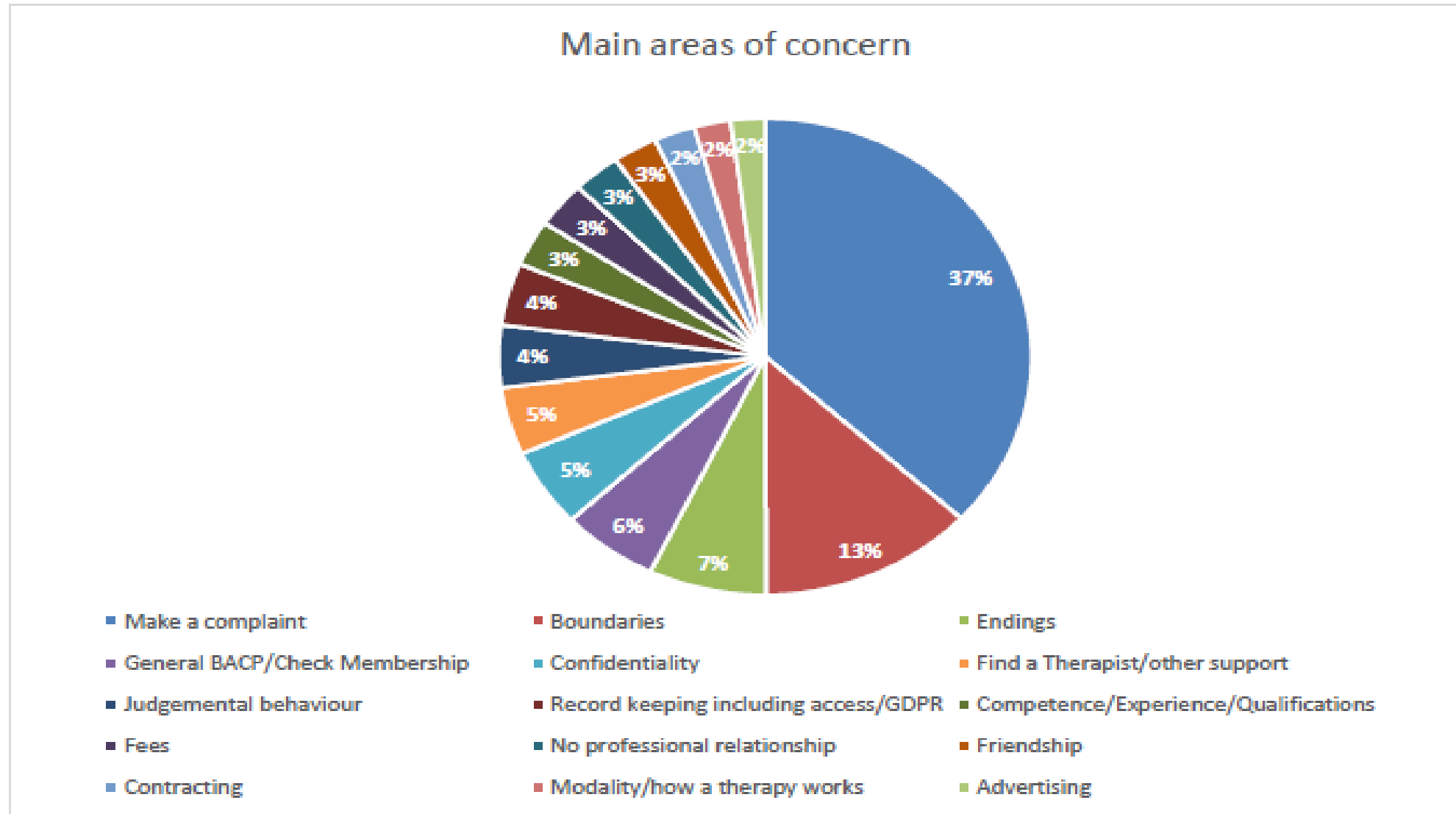
BACP complaints

- In **2021**, BACP received **228 complaints** under the Professional Conduct Procedure. The proportion of BACP members/registrants who had concerns raised about their conduct remained low at 0.38%. **53 complaints** were received and were not taken forward.
- In 2020, BACP received **191 complaints**, of which **129 became cases**, of which 94 were considered by an IAC. Of this number, the majority of complaints (42) were dismissed. Eighteen complaints were referred to a disciplinary hearing, and 32 were referred to a practice review hearing. There were also 13 consensual disposals



During 2021, the Get Help with Counselling Concerns Service answered 1,364 public queries.

Chart showing main areas of concern



1 April 2020 and 31 March 2021 in England - NHS Hospital and Community Health Service

All NHS Written Complaints: (Hospital and Community Health Services and Primary Care)

- Reported written complaints - 170,013 (2020/21).
- 300.6 complaints per 100,000 head of population.

Hospital and Community Health Services (HCHS)

- HCHS written complaints = 83,899 in 2020-21, a decrease of 29,342 (25.9%) from 2019-20.
- Clinical treatment accounted for 40,854 (26.9%) of these.
- The largest proportion of complaints received by individual subject area (including clinical treatment) was Communications with 18.0% followed by Patient Care including Nutrition / Hydration at 12.1% and then Values and Behaviour at 10.6%.
- The largest proportion was attributed to medical staff with 39.9% then nursing staff at 25.5%.

Primary Care (GP and Dental)

- The total number of primary care written complaints in 2020-21 was 86,114.
- A third of all complaints (33.8%) were upheld in 2020-21. Almost half (49.6%) were not upheld with the remainder (16.6%) being partially upheld.

Primary Care (GP and Dental)

- GP practices - the most common causes for complaint are; Clinical Treatment (13.8%), Communications (13.7%) and Staff Attitude/Behaviour/Values (13.4%).
- Dental practices - over a quarter relate to Clinical Treatment (26.4%), followed by Appointment Availability/Length (12.7%) and Communications (12.1%).
- NHS England - over a third relate to Clinical Treatment (36.8%), followed by Communications (12.6%) and Care Planning (8.4%).

BACP Complaints Procedure

[bacp-article-126-timescales.pdf](#)

BACP Complaint Form



Microsoft Word
Document

[bacp-pcp-complaint-form.docx \(live.com\)](#)

What happens if a complaint is made against you?

[bacp-professional-conduct-procedure-guide-for-members.pdf](#)

BACP – relevant frameworks

- Complaints are reviewed and processed
 - Professional Conduct Procedure (PCP)
 - Article 12.6

Article 12.6 exists to protect members of the public seeking or using a service provided by an individual or organisational member of the Association and to protect the reputations of counselling/psychotherapy /BACP and the proper functioning of BACP.

It is a discretionary procedure reserved for very serious allegations and requires a higher burden of proof than the Professional Conduct Procedure; with the only sanction available being termination of membership if a complaint is upheld.

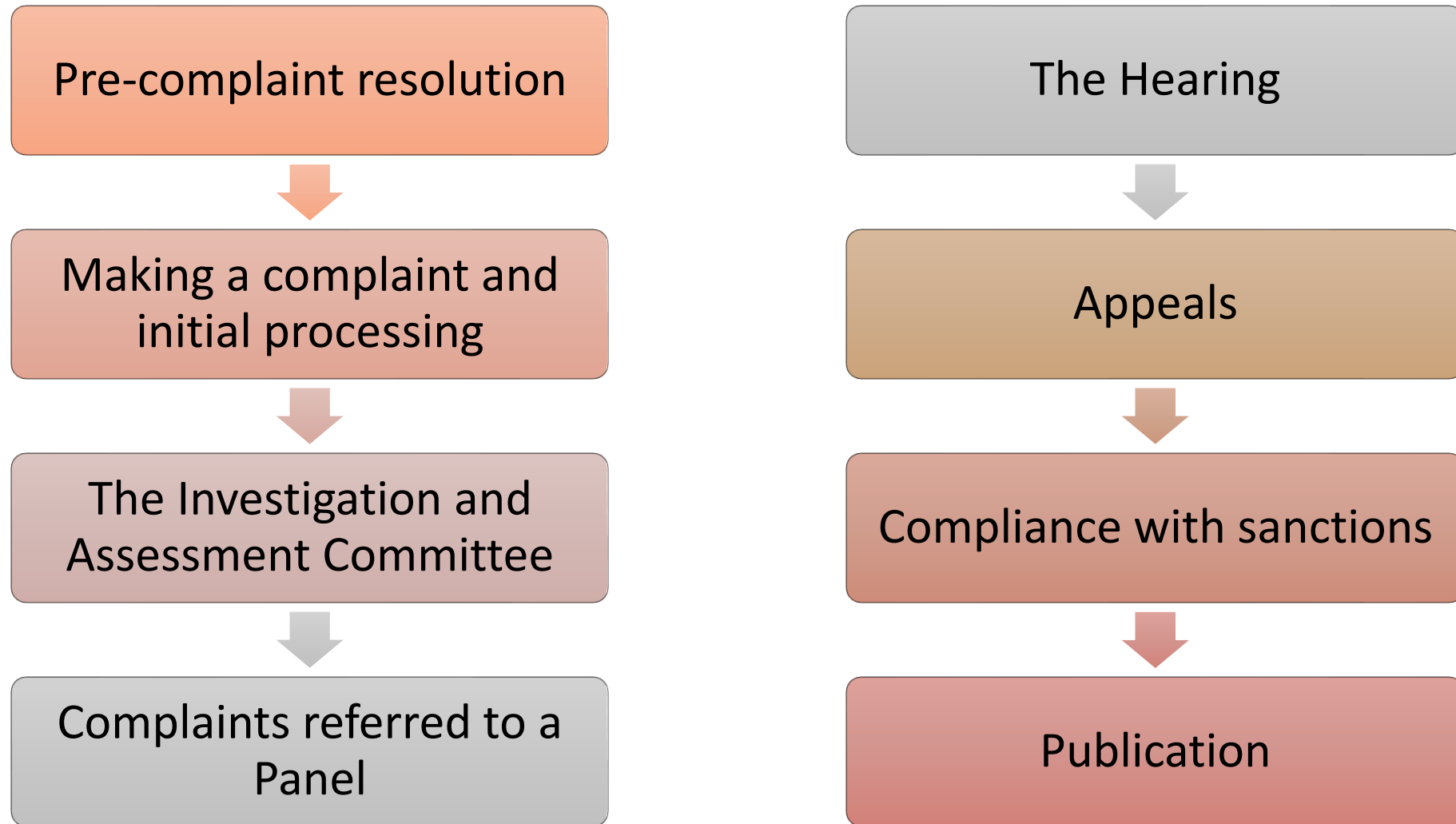
What sort of complaints does BACP deal with?

- A therapeutic service provided to the complainant (e.g. counselling and psychotherapy).
- Also considers non therapeutic complaints, e.g. if you have been convicted of a crime, or where the complainant has concerns about your conduct which aren't about the therapeutic service. In this case, we may bring a complaint ourselves under the PCP if it is in the public interest to do so.
- 'Article 12.6' - We might use this if we receive information that raises questions about whether a member should continue in membership with us.

PCP

Professional Conduct Procedure

New Professional Conduct Procedure - Dec 2018 (BACP)



Confidentiality

External communication with support person/advisor

This guidance doesn't prevent you or the other party from discussing the complaint in confidence with a support person or adviser. Neither does it restrict your right to seek legal advice or make a complaint to another professional body.

- [bacp-guidance-on-confidentiality.pdf](#)

Frivolous or vexatious complaints

A complaint may be regarded as frivolous or vexatious, where the complaint is intended to harass, distress, annoy, tease, agitate, disturb or otherwise cause trouble for the Member who is the subject of the complaint.

This may include:

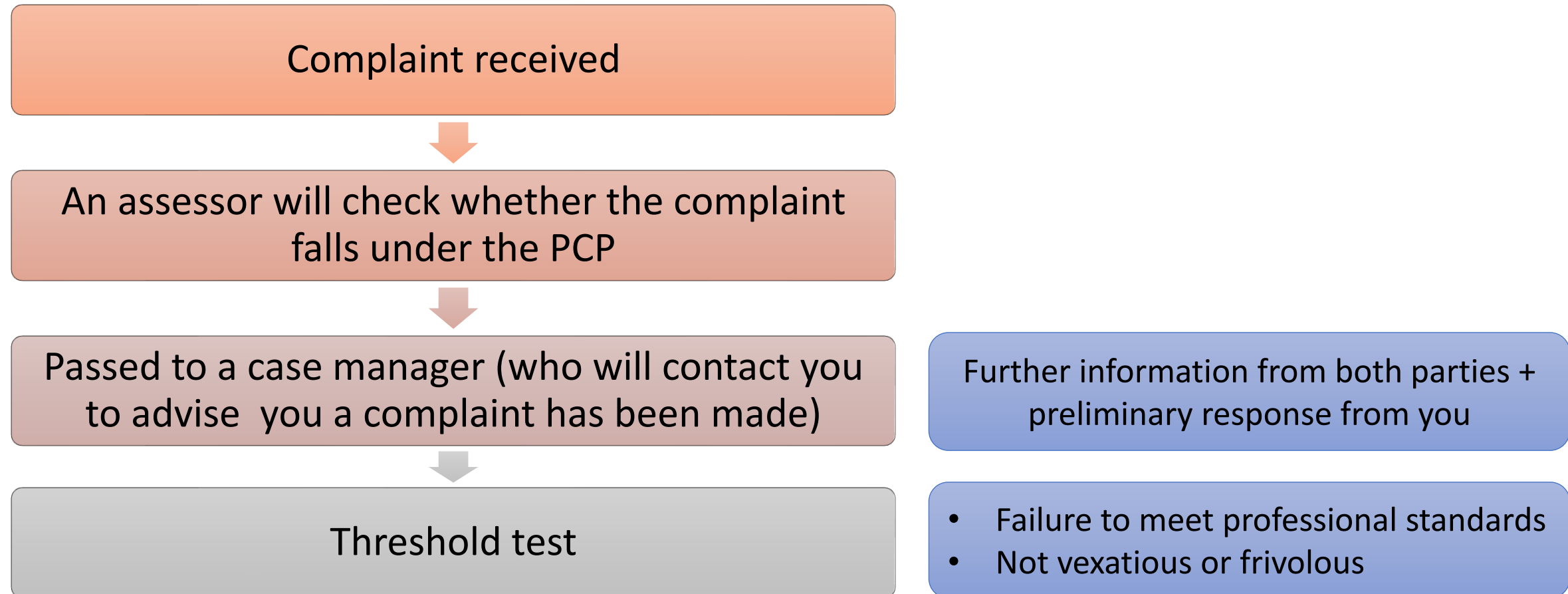
- ☐ complaints which have already been investigated by the Association and contain no new or material information
- ☐ complaints with no clear substance
- ☐ complaints which focus solely on trivial matters
- ☐ complaints which are malicious, false or otherwise intended to cause harm or distress to a Member

Who can make a complaint?

Under PCP, a complaint can be made by:

- someone who received a therapeutic service from a member (i.e. they were a client).
- someone representing a client, where the client has received a therapeutic service from a member (for example a support person or a legal representative).
- a parent or guardian representing a child under the age of 16, where the child has received a therapeutic service from a member.

The different stages...



The different stages...

Threshold test

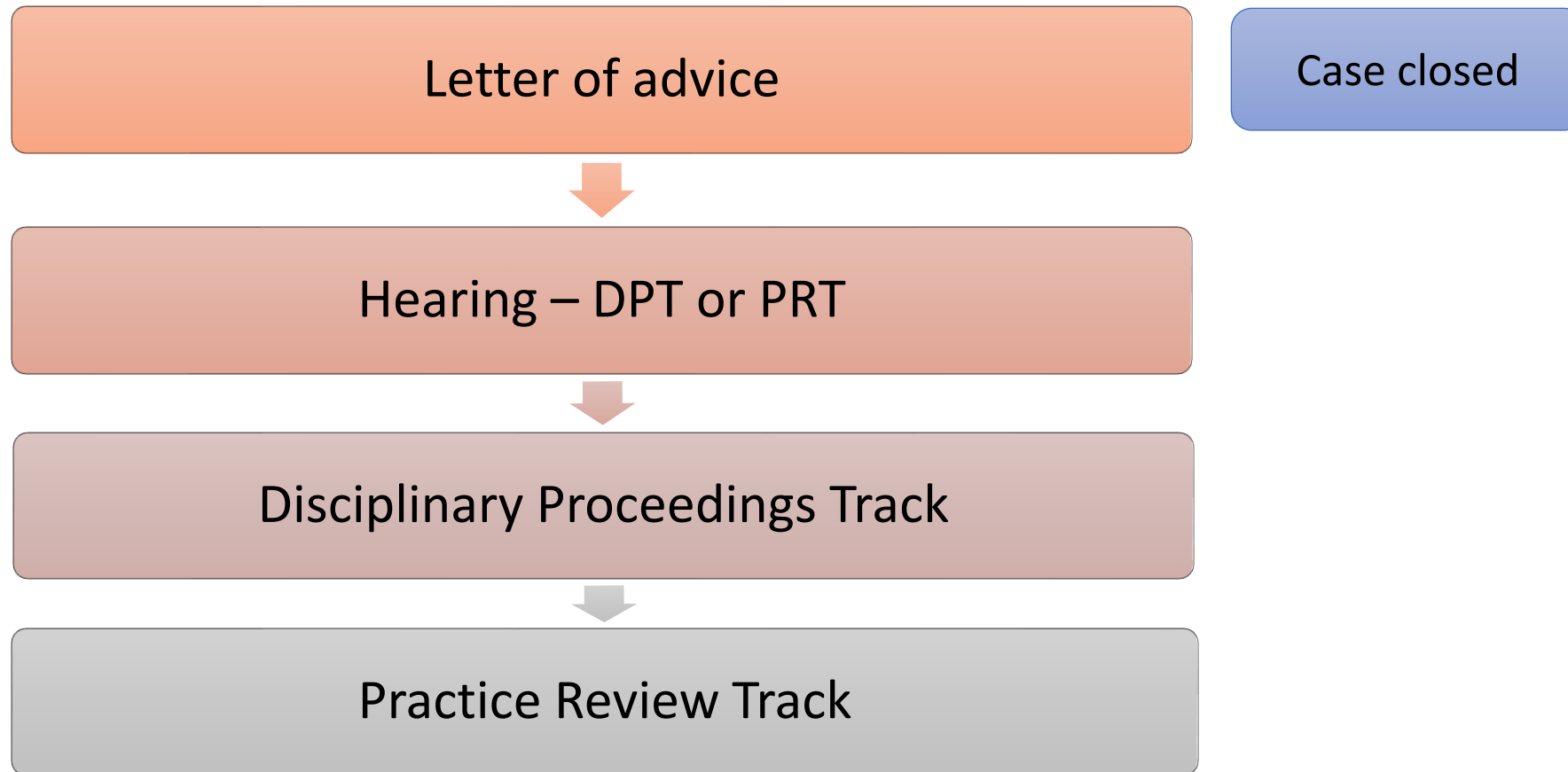
- If not met - complaint will be closed
- No appeal (unless new evidence)

Your preliminary response

Complaint - dealt with in different ways

Letter of advice or Formal Professional Conduct
Hearing

The different stages...



Letter of advice

- Relate to minor or technical allegations of misconduct
- You accept that you have breached professional standards
- A letter of advice is not a finding of misconduct and will not be published
- Kept on your record for a period of three years
- No right of review or appeal
- *Registrar will make the final decision*

Investigation and Assessment Committee (IAC)

The IAC's role is to assess the complaint. They can make the following decisions:

- deal with the complaint by means of **consensual disposal**;
- suspend membership through an **interim suspension order**;
- refer the complaint to a disciplinary proceeding hearing or a practice review hearing; or
- dismiss the complaint.
- If the IAC dismisses the complaint, the complainant can request a review of the decision by an independent reviewer (a reviewer independent of BACP). Where no review is requested, the complaint will be closed.
 - Independent reviewer – confirm the original decision or refer the case for reconsideration. New IAC will be formed for reconsideration. No further review after 2nd IAC outcome.

Consensual disposal agreement

- Is an agreement between you and BACP to resolve a complaint without going to a Professional Conduct Hearing.
- Although there is no formal hearing of the complaint, a consensual disposal agreement is deemed to be a disciplinary decision and will be published in line with BACP's publication policy.
- No right of a review or appeal for either you or the complainant.

Interim suspension order

- Before a hearing, the IAC may decide to suspend a member from membership
- This can be for up to 18 months
- If necessary for the protection of the public or it is in the public interest
- Serious allegations

Disciplinary proceedings track (DPT)

- Reserved for serious allegations of a professional misconduct where there is a possibility of withdrawal or suspension from membership. Cases heard under this procedure will always be presented to the Panel by a Presenting Officer on behalf of BACP.
- You will be required to attend the hearing.
- The complainant will also be invited to attend however, they will attend as a witness.
- The Panel's role is to listen to the case, consider the evidence and make a decision about the complaint.
- The Panel is made up of **three independent people**, which will always include a BACP Member and a lay person

Practice review track (PRT)

- Less formal hearing process - suitable for complaints which are more to do with the professional service that the complainant received from you.
- The aim of a PRT hearing is to recognise and correct practice that has fallen below the professional standards expected.
- Where findings are made against you, the Panel may impose a sanction. However, the Panel cannot withdraw or suspend your BACP membership in this type of hearing.
- PRT hearings are held in private.
- The Panel's role is to explore the complaint - both you and the complainant can suggest questions for the Panel to ask.

Timeframes for processing complaints

Stage	Action	Timeframe for each stage
Complaint received by BACP	Acknowledge receipt	Within 1 week
Assessment of complaint against requirements of the Professional Conduct Procedure	Review of complaint information and evidence submitted and allocation to case manager	2 to 4 weeks
Requests for further information and a preliminary response	The case manager may contact the complainant and the member to request any relevant evidence	3 to 5 weeks

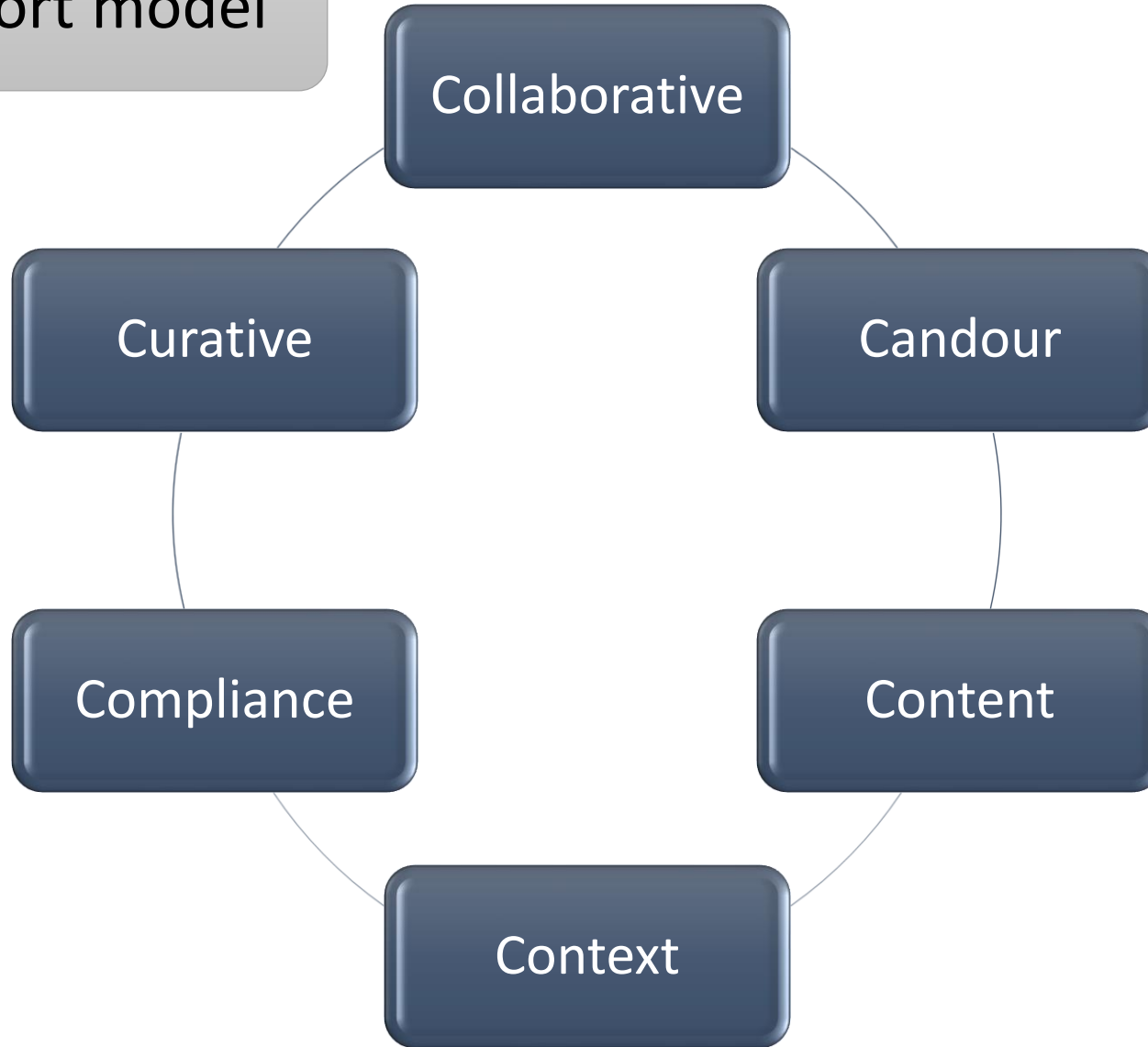
Stage	Action	Timeframe for each stage
Application of Threshold Test	On receipt of any information requested, the relevant person will assess the information and apply the Threshold Test. Where the matter passes this test, the parties will be notified, and a report will be prepared for the Investigation and Assessment Committee (IAC) to consider	2 to 4 weeks
IAC to assess whether the matter should progress through to a hearing or be closed	On completion of the IAC summary report, an IAC will be convened to consider the matter	6 to 8 weeks
Notification of IAC decision	The IAC may decide to: ask for further information dismiss the complaint allocate the complaint to a professional conduct hearing invite a consensual disposal	IAC decision to be notified to parties within 4 weeks of the date the IAC convened

Stage	Action	Timeframe for each stage
Case proceeding to a Practice Review Hearing	Case preparation and listing of case	4 to 6 months depending on the nature and complexity of the case.
Case proceeding to a Disciplinary Proceedings Hearing	Case preparation and listing of case	6 to 8 months depending on the nature and complexity of the case
Member invited to enter into a consensual disposal	Where the IAC decide that the case should be settled by a consensual disposal, an agreement will be drafted by the IAC and finalised between the member and the Chair of the IAC	6 to 10 weeks from the date the IAC convened

Support

- BACP guidance documents that provide a detailed explanation of the process.
- BACP case managers can also talk you through the conduct process and explain what it involves. They can answer any questions about how the complaint is being dealt with and will keep you updated regarding the complaint at appropriate stages.
- The Ethics Hub is also available to members with queries about BACP's Ethical Framework. They have an online booking system, so you can arrange a call back convenient to you. If a complaint is made about you, you may wish to speak to your **supervisor**. They may be a good source of guidance and support. You can also speak to your **indemnity insurer**. They will often have a helpline that can assist with any legal queries you may have, or they may put you in contact with a legal representative if you feel you need one.

Supervision support model



Supporting a supervisee undergoing a complaints process

Collaborative

- Compassion
- Composure

Candour

- Sincerity
- Openness

Content

- Fact-focused
- Timeline

Context

- Contextual issues
- Background

Compliance

- Ethical framework
- Contractual issues

Curative

- Resolution-focused
- Plan, Act, Review

Therapy Today – May 2022 Article

- ‘A lot of the cases we receive are down to **poor handling of a client’s complaint by the counsellor**,’ says John O’Dowd, BACP’s Acting Registrar (Therapy Today, May 2022, p.32).
- **Lack of recognition / acknowledgment** of a forthcoming complaint.
- Two main sources of poor practice - **poor contracting and poor boundary** keeping.

Common examples include:

- Cancelling appointments at short notice.
- Not explaining the contractual terms of the therapeutic relationship to the client such as: number of appointments, frequency of appointments, payment for sessions and length of sessions.
- Ending a therapeutic relationship at short notice, without working towards an ending.
- Making self-disclosures to the client which don't further the therapy and undermine 'making the client the focus of the work'.

(Therapy Today, May 2022, p.32)

Examples of professional misconduct

A failure to meet the professional standards that is of sufficient seriousness to potentially warrant a period of **suspension or withdrawal** of membership. Professional misconduct will usually have had a substantially detrimental impact on a client and, in some cases, the harm cannot be remedied, or there is a risk of repetition of the behaviour and a risk to public safety.

- Any type of sexual boundary crossing
- Discriminating against a client on the grounds of any of the protected characteristics.
- Not paying attention to self-care (mental health, drugs, alcohol addiction), such that the ability to practise and serve a client's needs is compromised.
- Making a medical diagnosis (such as autism) when not medically qualified to do so.

Case Study – Counsellor B

- Agreed to offer bereavement counselling
- Client attended 2 sessions in total.
- Formal complaint to BACP – processed under PCP

Allegations:

- a. informed the Complainant that **she was like a five-year-old** who was throwing a strop and wanted to get her own way;
- b. discussed the **Complainant's partner and his personality** with the Complainant. B proceeded to make **unwelcome inappropriate comments** to the Complainant such as, “why is he with you” and “jump ship now, while he can” and that she could not see it lasting with her partner more than 2 years;#
- c. told the Complainant that **she shouldn't have any children as her anxiety would be passed on to them** and they would be in the position the Complainant was in, if not worse;

Case Study – Counsellor B

- d. told the Complainant that **she wouldn't last in her new job** and would be going off with permanent sick due to anxiety and stress, questioning the Complainant about the workplace and size of it before saying to the Complainant, "good, because if I was working for a large corporation, HR would not be happy with me";
- e. asked the Complainant, "**what do you think would be on your epitaph**" and when the Complainant responded saying, "a happy smiling person", Ms Davies said, "no I don't think ...I can't see that";
- f. told the Complainant that **she was psychotic** and that she couldn't see the difference between reality and fantasy;
- g. compared the Complainant to **a drug addict** who, "wanted to carry on taking drugs";
- h. before finishing the session, B asked the Complainant if **her parents were worried about her**, to which the Complainant replied, "yes" and B said, "yes, I would be too..."

Sanctions (Counsellor B)

The Panel require B to provide:

1. within one month of the date of the imposition of this sanction which will run from the expiration of the appeal deadline, her immediate reflection on, learning from and understanding of the allegations upheld in this complaint.
2. a written report that reflects on the impact of the use of language, how words can be interpreted differently, and the counsellor's duty to check carefully that what has been said has been understood.
3. this report should include evidence of new learning which can be put into practice and should be discussed in supervision. The report should be signed by the supervisor who must confirm the report had been discussed in supervision.

Counsellor D

The summary of the information received by BACP is that the Member (D) had:

- provided counselling services to Organisation A as an honorary staff counsellor
- taken 105 patient records, owned by Organisation A from Organisation A without express permission to do so;
- by taking the records, D was in breach of Organisation A's policy in respect of secure data handling and GDPR rules regarding the handling of sensitive personal data;
- threatened to make contact with Organisation A's staff members, to whom she had provided counselling, and to which the 105 records related, and bill them for her time in seeing them;

Counsellor D

- indicated in emails that D would disclose details of the 105 patients to bailiffs, in breach of the sensitive and confidential personal data handling policies of Organisation A;
- used a false reference,
- stated, on the Counselling Directory, that she was still working at Organisation A, when she has not done so since Year x;
- used the BACP logo on her Counselling Directory page, discrediting the BACP by associating it with false advertising;
- engaged in email correspondence with the manager and Head of Occupational Health, Wellbeing and Nursing at Organisation A) which was bullying in nature and contrary to the BACP's ethical framework code.
- As a result of the Member's threatened action, Organisation A had to contact the 105 staff members regarding the alleged data breach, which had a direct and negative impact on the patients, the staff counselling services and the wider Organisation A.

Outcome

- The Member was notified by the Chair of BACP of her withdrawal of membership (under article 12.6).

Imagine the following situations

Client's complaint

1. About your approach/modality.
e.g. Addiction
2. About your social media presence / disclosures / political views.
3. About 'your' therapeutic setting – too noisy / lack of privacy.
4. About the supervisor's advice.

Imagine the following situations

- You suspect your supervisee's practice is (borderline) unsafe/unethical.
- Client not discussed in supervision
- You decide not to support your supervisee.
- Your support – supervision for supervision.

Contact details

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Any Questions?