

Demystifying the HCPC

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About me

Nicholas Stöckling

- Admitted Solicitor in Australia
- Human Rights Lawyer in Malawi, defending death row inmates
- HCPC Case Manager in the Complex Case Team
- HCPC Presenting Officer
- Regulatory Consultant with ACP-UK along with other organisations
- 1:1 Regulatory Consultant

Talk Outline

01

HOW THE FITNESS TO PRACTISE
PROCESS (FTP) OPERATES

02

WHAT IS INVOLVED IN A FTP
INVESTIGATION

03

THE ROLE OF THE CASE MANAGER

04

STANDARDS AND CASE STUDIES

05

COMMON CONCERNS RAISED AGAINST
PRACTITIONER PSYCHOLOGISTS

06

Q & A

Purpose & Takeaways

01

HOW THE HCPC OPERATES ITS FTP

02

WHAT A CASE MANAGER DOES,
INVESTIGATIONS AND EVIDENCE

03

STANDARDS AND CONCERNS RELEVANT TO
PRACTITIONER PSYCHOLOGISTS

04

INSIGHT OF REAL ALLEGATIONS AND CASES

05

TIPS ON HOW TO AVOID AN FTP FINDING
AGAINST YOU

What is the HCPC?

PRIMARY PURPOSE IS TO PROTECT THE PUBLIC

01

SET UP IN 2003

Under the National Health Service Reform and Health Care Professions Act 2002

02

STATUTORY REGULATOR

Constrained by the current legislative process within FTP

03

REFORM ON ITS WAY...

... Don't hold your breath!



Protecting the Public

HOW IS IT DONE?



01

SETTING STANDARDS FOR PROFESSIONALS
EDUCATION AND TRAINING AND PRACTICE

02

APPROVING PROGRAMS WHICH PROFESSIONAL
MUST COMPLETE TO REGISTER WITH THE HCPC

03

KEEPING A REGISTER OF PROFESSIONALS,
KNOWN AS REGISTRANTS WHO MEET STANDARDS

04

TAKING ACTION IF PROFESSIONALS ON THE
REGISTER DO NOT MEET THE STANDARDS

Who do They Regulate?

- Arts Therapists
- Biomedical Scientists
- Podiatrists
- Clinical Scientists
- Dieticians
- Hearing Aid Dispensers
- Occupational Therapists
- Operating Department Practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Prosthetists
- Radiographers
- Speech and Language Therapists
- And..Practitioner Psychologists

NB: in 2018 the HCPC lost the regulation of Social Workers major loss in revenue



What is the HCPC?

A MULTIFUNCTIONAL ORGANISATION

01

COUNCIL MADE UP OF PROFESSIONALS FROM A VARIETY OF HEALTHCARE AND NON-HEALTHCARE RELATED BACKGROUNDS

02

SUPPORTED BY THE HCPC STAFF, ADDITIONAL COMMITTEES, PARTNERS AND MOST SIGNIFICANTLY THE HEALTH AND CARE PROFESSIONS TRIBUNAL (THE HCPTS)

03

HCPTS IS THE FITNESS TO PRACTISE ADJUDICATION SERVICE OF THE HEALTH AND CARE PROFESSIONS COUNCIL

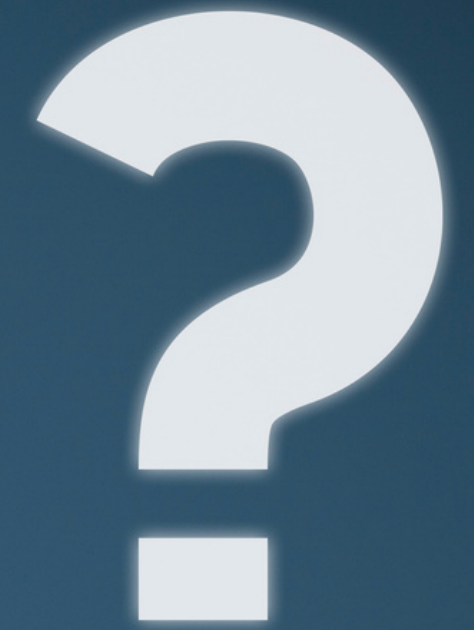
04

HCPTS SEEKS TO EMPHASISE THAT HEARINGS ARE CONDUCTED AND MANAGED BY INDEPENDENT PANELS

What is Fitness to Practice?

Definition:

Fitness to Practice is where a registrant has the skills, knowledge, character and health to practice safely and effectively. Fitness to practice may also involve issues outside of professional or clinical performance. The conduct of a professional outside of their work environment can also involve ftp. For example where it could affect the protection of the public or undermine public confidence in their profession.



In Numbers

> 1%

OF PROFESSIONALS REGULATED BY THE HCPC HAD A CONCERN RAISED ABOUT THEM IN THE PERIOD 2021-2022.

52

PEOPLE STRUCK OFF THE REGISTER IN THE SAME TIME PERIOD.

1583

COMPLAINTS RAISED, OF WHICH 212 WENT TO FINAL HEARING.

8%

CONCERNS RAISED RESULTED IN SANCTIONS BEING IMPOSED.

Complaints per profession

Profession	No. of cases	% of registrants subject to concern
Arts therapist	17	0.3%
Biomedical scientist	63	0.3%
Chiropodists / Podiatrist	65	0.5%
Clinical scientist	5	0.1%
Dietitian	20	0.2%
Hearing aid dispenser	34	0.9%
Occupational therapist	137	0.3%
Operating department practitioner	83	0.6%
Orthoptist	5	0.3%
Paramedic	367	1.1%
Physiotherapist	213	0.3%
Practitioner psychologist	312	1.2%
Prosthetists / orthotist	6	0.5%
Radiographer	120	0.3%
Speech and language therapist	49	0.3%
Unknown ⁶	87	
Total	1,583	

Question



Why do you think there are so many complaints raised against Practitioner Psychologists?

Possible Reasons

- The nature of the work dealing with vulnerable people
- The attachment that clients can form with their Psychologist
- The mental health issues of some patients/clients
- Some complainants can become obsessive, even vexatious and make multiple complaints against many people involved in their treatment plan
- The very intimate nature of the psychologist/patient relationship can give rise to intense feelings

Final Breakdown

312

out of 27,663 registered Practitioner Psychologists had a concern raised about them with the HCPC

≈ 17

Practitioner Psychologists received sanctions from the HCPC

Small numbers. But not insignificant numbers.

Who raises concerns?

- PUBLIC - 34%
- SELF REFERRAL - 19%
- EMPLOYER - 18%
- HCPC REGISTRANT - 7%
- ANONYMOUS - 3%
- POLICE - 1%
- PROFESSIONAL BODY - 1%



HCPC Triage

- Does the concern involve an HCPC registrant?
- Is it in writing and can they be identified?
- Does it relate to one one of the 5 statutory grounds of impairment set out in the HCPC legislation which are:
 1. Misconduct
 2. Lack of competence
 3. Conviction or caution for a criminal offence
 4. Physical or mental health
 5. A determination by another health or social care regulatory or licensing body

The role of a Case Manager

01

PASSED THE TRIAGE STAGE, WITHIN THE FTP REMIT

02

A REGISTRANT CANNOT REMOVE THEMSELVES FROM THE REGISTER DURING AN ONGOING INVESTIGATION

03

CASE PASSED TO A CASE MANAGER WHO WILL UNDERTAKE A COMPREHENSIVE INVESTIGATION



How long do investigations take?

≈ 15 months

From receipt of complaint to the matter being heard by an Investigating Committee Panel (ICP).

ACCEPTANCE

INDETERMINATE

ANGER

SHOCK

TRAUMATIC

FEAR

DESTABILIZING

Organisational issues with the HCPC



01

THE PROFESSIONAL STANDARDS AUTHORITY (PSA) HAVE REPEATEDLY AND OVER AN EXTENDED TIME PERIOD FOUND SERIOUS ISSUES WITH THE LENGTH OF TIME THE HCPC TAKES TO PROGRESS CASES.

02

1 OUT OF 5 FOR FTP IN THEIR ANNUAL ASSESSMENTS OF THE STANDARDS OF GOOD REGULATION.

03

CRITICISED THE LENGTH OF TIME THE HCPC TAKES TO PROGRESS CASES AND THEIR COMMUNICATION WITH REGISTRANTS WHO ARE UNDERGOING INVESTIGATION.

04

THE PSA HAS CONSISTENTLY GIVEN THE HCPC THE LOWEST MARK IN THEIR FITNESS TO PRACTICE PROCESSES COMPARED TO THE OTHER REGULATORS.

Comprehensive Investigations do take time



Types of information a case manager will need to obtain include, for example:

- Service user records
- Documents relating to an employer investigation or complaints process
- Witness statements from those who can provide relevant evidence
- Independent clinical advice on treatment provided by a registrant
- Copies of police or court documents
- Copy of a professional report written by a registrant for court proceedings or another purpose

Case Study

Psychologist (Reg A) (with educational modality)

Allegations: Acting outside scope of practice and beyond the level of their expertise and did not conduct an appropriate risk assessment.

Issues: was instructed to give a personality assessment for a prisoner(juvenile) for a parole board hearing. Did not have appropriate experience or training.

Concerns: raised by a fellow professional (a Forensic Psychologist) who noticed the deficiency in the report.

A case manager will undertake their investigation to determine whether the threshold test has been met.

The Threshold Test

Does the concern amount to an allegation that the registrant's Fitness to Practice *maybe* impaired on one or more of the statutory grounds?

If so, then they will draft allegations with particulars which detail the exact and specific concern.

Then passed to an Investigating Committee Panel who will meet in private to determine if there is a 'case to answer'.

What is a Case Manager looking for?

EVIDENCE TO SUBSTANTIATE EACH PARTICULAR OF EACH ALLEGATION – (REG A EXAMPLE)

- Documents relating to Reg A's education- what did Reg A actually study?
- Copy of the report Reg A presented
- Witness statements from those present at parole board hearing
- Service user records of the juvenile inmate – extensive
- Copies of all the documents pertaining to the parole board process
- Full copy of any internal investigation documents
- Copy of any police/prison service report investigation
- Contact BPS or professional body if it exists to ask their opinion as to the requisite assumed knowledge and training of a Forensic Psychologist
- A statement from the qualified expert as to why the Reg A's report was deficient (most relevant in making a threshold decision)

Does the HCPC have teeth?

ANSWER: YES

The HCPC has the power to order persons to provide information, produce documents and to appear at a hearing under article 25 (1) of the health professions order 2001. Failure to comply is a criminal offence.

Threshold Test Criteria

The main criteria the HCPC account when assessing whether the information received meets that test include:

- The actual or potential risk to public safety.
- Whether the matter may undermine public confidence in the profession.
 - Whether the matters complained of could amount to a breach of the HCPC's Standards of Conduct, Performance and Ethics, Standards of Proficiency and other relevant guidance for registrants.
 - Whether the matter is a serious concern i.e criminal behaviour or serious and/or reckless errors with their practice.
 - Whether the information calls into doubt the registrant's honesty or integrity;
- If the registrant has a physical or mental health condition that may present a risk to their ability to practise safely or effectively;
- Whether the matter relates to an isolated incident or indicates a wider pattern of behaviour;
- If the registrant has taken action to remediate their practise;
- Whether there have been previous, similar concerns about the registrant.
- Any other public interest considerations

(Reg A) Allegations that went to Final Hearing

While registered as a Practitioner Psychologist, with an Educational Psychologist modality and in respect of Offender A, you;

1. **Acted outside your scope of practice and/or beyond your level of expertise in that you lack adequate experience and/or training in relation to personality disorders;**
2. Did not conduct and/or record an appropriate and/or adequate risk assessment of Offender A, in that:
 - a. You did not reference the historical risk factors adequately or at all;
 - b. You did not analyse and/or comment on the change in risk profile over time;
 - c. You did not adequately analyse and/or comment on Offender A's account of the index offence.
 - d. You did not reference how a Therapeutic Community might benefit Offender A and/or link this suggestion to any identified outstanding risk concerns.
3. Administered two of the four sub-tests derived from the assessment tool WAIS-iv but you did not:
 - a. **Appropriately describe your administration of the sub-tests of WAIS-iv;**
 - b. Set out how your application of the sub-tests would impact on the outcome and/or interpretation of results.
4. Stated in your report that you had assessed Offender A with use of GSE and/or ICI and/or BSI and/or Empathy but:
 - a. You did not reference adequately the questionnaire for empathy;
 - b. Your presentation of the results is inadequate in that:
 - i. You did not reference which normative data you considered;
 - ii. In respect of ICI and/or BSI, you did not reference the results for each factor;
 - iii. Your analysis of the potential contradiction between the questionnaire findings and Offender A's known history of behaviour was inadequate.
5. Your report does not reference any or any adequate recommendations to assist the Parole Board with its function.
6. Acted outside your scope of practice and/or beyond your level of expertise in that:
 - a. You lack adequate experience and/or training in relation to risk assessment of adult offenders;
7. The matters set out in paragraphs 1 – 8 constitute misconduct and/or lack of competence.
8. **By reason of your misconduct and/or lack of competence your fitness to practise is impaired.**

Standards of Conduct Performance and Ethics

1. Promote and protect the interest of service users and carers

1.7 Maintain appropriate boundaries.

"You must keep your relationships with service users professional"

2. Communicate appropriately and effectively

2.7 Social media and networking sites

"You must use all forms of communication appropriately and responsibly, including social media and networking websites."

3. Work within the limits of your knowledge and skills

3.1. You must keep within your scope of practice by only practicing in the areas you have appropriate knowledge, skills and experience for.

3.2 You must refer a service user to another practitioner if the care, treatment or other services they need are beyond your scope of practice.

4. Delegate appropriately

5. Respect Confidentiality

5.2. You must only disclose confidential information if:

You have permission;

The law allows this;

It is in the service user's best interests; or

It is in the public interest, such as if it necessary to protect public safety or prevent harm to other people

Standards of Conduct Performance and Ethics

6. Manage Risk

6.3 Manage your health, you must make changes to your practice, or stop practicing, if your physical or mental health may affect your performance or judgement, or put others at risk for any other reason.

7. Report Concerns about Safety

8. Be Open with things go wrong

9. Be honest and Trustworthy

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

9.2 You must be honest about your experience, qualifications and skills.

9.5 You must tell the the HCPC as soon possible if:

You accept a caution from the police or if you have been charged with, or found guilty of a criminal offence.

You have had any restrictions placed on your practice, or been suspended or dismissed by an employer, because of concerns about your conduct or competence

10. Keep records of your work

10.1 You must keep full, clear and accurate records for everyone you care for, treat, or provide other services to

The Standards of Proficiency for Practitioner Psychologists

Standard 12:

BE ABLE TO ASSURE THE QUALITY OF THEIR PRACTICE

- 12.1 BE ABLE TO ENGAGE IN EVIDENCE BASED AND EVIDENCE INFORMED PRACTICE AND EVALUATE PRACTICE SYSTEMATICALLY

Why is Standard 12 important?

- IF YOU ARE GOING TO USE A PARTICULAR TYPE OF TREATMENT WHICH IS NOT EVIDENCE BASED, OR MORE BROADLY IS CONSIDERED SOMEWHAT ALTERNATIVE MAKE SURE YOU HAVE DETAILED NOTES ON WHY YOU THOUGHT THIS APPROACH WAS APPROPRIATE AND BE ABLE TO JUSTIFY THAT DECISION.

Case Studies



Why?

01

ILLUMINATE THE PURPOSE OF INVESTIGATIONS

02

WHY PANELS MAKE DECISIONS

03

STANDARDS IN ACTION

04

COMMON GREY AREA ISSUES FOR PRACTITIONER PSYCHOLOGISTS

05

NO NEED TO EXAMINE EXTREME CASES "BAD APPLES" IN EVERY PROFESSION

Sanctions



Orders:

- Caution (will remain on register from 1– 5 years)
- Conditions of practice
- Suspension (up to 1 year)
- Strike off register

Common Issues for Psychologists Which Incur Sanctions

1) Did not maintain appropriate boundaries

These include:

- Forming a sexual relationship with a client
- Inappropriate touching during a session, not necessary overtly sexual, massaging
- Telling a client you love them
- Advising a client to leave their partner etc.
- Meeting outside of work practice
- Maintaining contact with service users after the service user was no longer in clinical care and then requesting confidential information on their behalf

Common Issues for Psychologists Which Incur Sanctions

1) Did not maintain appropriate boundaries

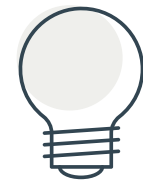
As a registered Practitioner Psychologist your fitness to practise is impaired by reason of misconduct. In that:

1. You did not maintain appropriate professional boundaries in relation to Service User A, in that:

- a. You discussed your private life with Service User A, namely:
 - i. Trauma you suffered [information redacted];
 - ii. Your children;
 - iii. Relationships.

The panel at final hearing confirmed that this allegation was in breach of Standard 1, "Not acting in the best interests of service users" as well as other standards."

Common Issues for Psychologists Which Incur Sanctions



- TIPS -

1) Did not maintain appropriate boundaries

- If any action you are undertaking could be open to misinterpretation, take clear notes documenting why you are saying or doing something in a session.
- If there is to be any physical contact whatsoever make sure you document why this is being done.
- Seek legal advice early for these types of allegations, serious consequences.

Common Issues for Psychologists Which Incur Sanctions

2) Acting outside scope of practice (Reg A)

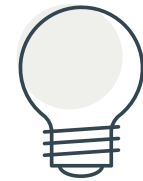
While registered as a Practitioner Psychologist, with an Educational Psychologist modality and in respect of Offender A, you;

Allegation: Acted outside your scope of practice and/or beyond your level of expertise in that you lack adequate experience and/or training in relation to personality disorders

Breached: Standard 3 states that 3.1. You must keep within your scope of practice by only practising in the areas you have appropriate knowledge, skills and experience for.

Breached: 3.2 You must refer a service user to another practitioner if the care, treatment or other services they need are beyond your scope of practice.

Common Issues for Psychologists Which Incur Sanctions



- TIPS -

2) Acting outside scope of practice

- If you want to move outside of your scope of practice, you should be certain that you are capable of working lawfully, safely and effectively.
- Seek guidance from the relevant representative body as to the requisite knowledge, education and experience.
- In my experience, some psychologists believe that they are experts in many areas. This may or may not be subjectively true.
- However, be aware that some of these areas are objectively measurable .i.e you have the qualification or you don't.
- Be particularly cautious if the patient is extremely vulnerable and the result of your report/treatment could in any way raise public safety concerns.

Common Issues for Psychologists Which Incur Sanctions

3) Dishonesty

- Issues relating to dishonesty are cases which almost always involve the imposition of sanctions
- Very serious and will be viewed as such by the HCPC.

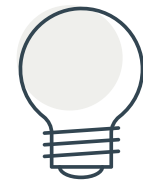
Breached: Standard 9 of the standards of conduct performance and ethics

9. Be honest and trustworthy.

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

9.2 You must be honest about your experience, qualifications and skills.

Common Issues for Psychologists Which Incur Sanctions

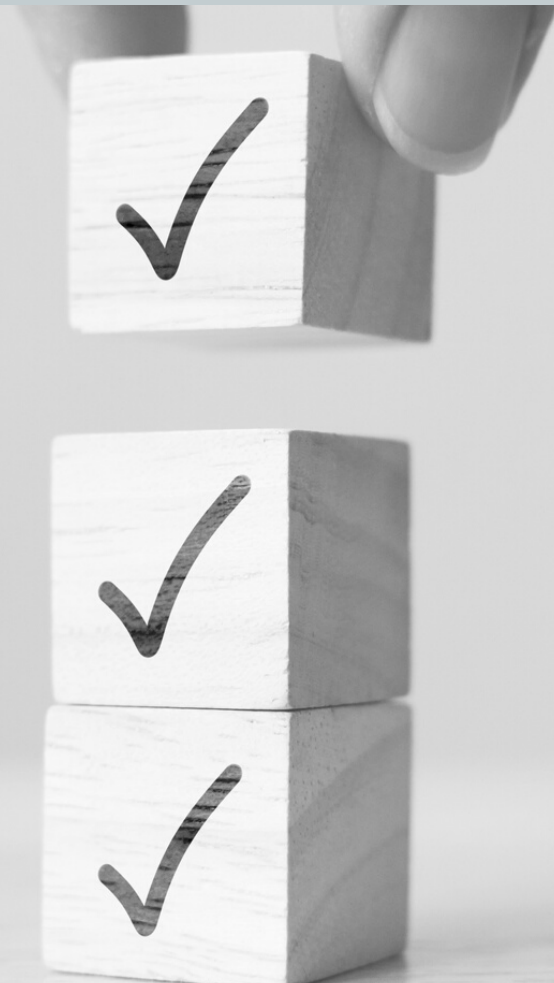


- TIPS -

3) Dishonesty

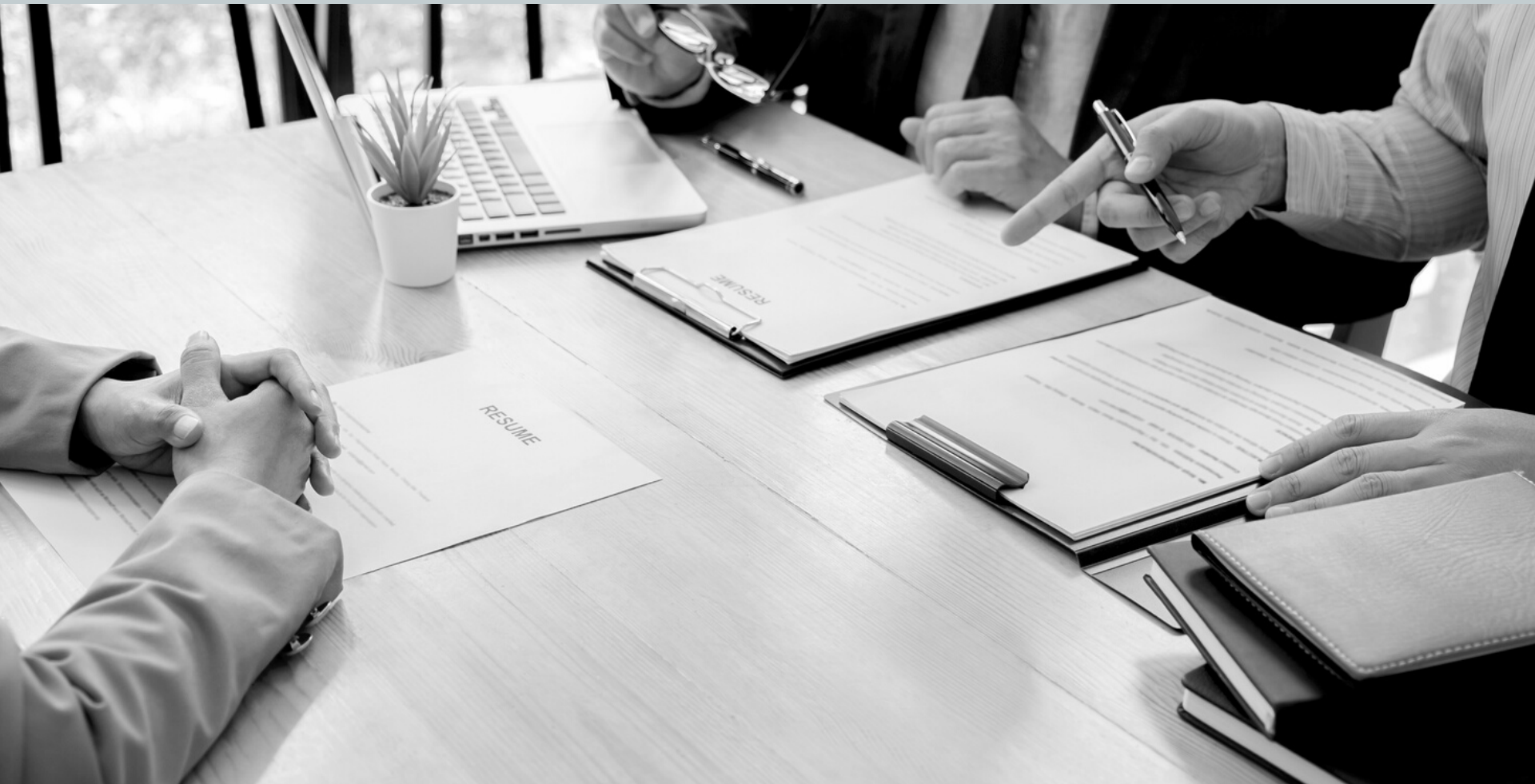
- With respect to Practitioner Psychologists, the need to be honest is heightened. You are dealing with major issues and your opinion is respected and directly affects people's lives.
- If you were dismissed from a previous place of employment, be honest about it.
- Do not exaggerate about the length of time you spent working in a particular area/modality of psychology. You will be showing a level of expertise which you do not possess and the HCPC may view this as a public safety concern.

Concluding the Investigation Process



- Once the allegations have been drafted by the case manager, they will be sent to the registrant along with a copy of all the information that was gathered.
- The registrant will then have 28 days to respond in writing.
- A request can be made for an additional 28 days and in most circumstances this extension will be granted, so if you need more time, ask for it.

The Investigating Committee Panel (ICP)



- The ICP will then receive all the information gathered by the Case Manager along with any information sent by the Registrant.
- The panel will not decide the facts of a case, but whether there is a realistic prospect of proving the allegation at a final hearing.
- The panel considers cases in private, on the basis of the papers before them.
- Each panel is made up of three members: a Chair, someone from the relevant profession and a lay person who is not from any of the professions the HCPC regulates.

Decision options



Investigating Committee Panel can decide that:

- The case should be adjourned for further information to be obtained or for the allegations to be amended;
- There is a case to answer and the case should go forward for a final hearing; or
- There is no case to answer and the case should be closed.

Final Piece of Advice

Be responsive!

- Be communicative, no matter how angry or upset you may be.
- The level of communication and cooperation with the HCPC will be noted by a panel at a hearing.
- Maintaining communication, demonstrates an awareness of the seriousness of the investigation even if you do not agree with the allegations.

Get in touch

IF YOU NEED ADVICE, CONTACT US SO
WE CAN DISCUSS YOUR CONCERNS.



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