

HCPC – Q&A

PRESENTED BY NICHOLAS STÖCKLING
REGULATORY CONSULTANT





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, Webinar & Course Facilitator
- 1:1 Regulatory Consultant

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LODGING COMPLAINTS AGAINST THE HCPC

Q & A



Question

1) Reports are circulating that the HCPC are treating having autism as a fitness to practice issue on registering - how can this be challenged?



Question

2) I am nervous about disclosure of protected characteristics, including disability, when applying for HCPC approval at the end of training.

I saw recently that a professional disclosed their diagnosis to the HCPC and was then subject to a fitness to practise process and so I am concerned about this happening to me, especially if I have already disclosed to my training programme.

Would this be passed on? Am I able to apply for approval without disclosing? Should I still disclose?

Additionally, how are disabled trainees being protected from these processes/ are there any protocols in place to protect and support the diversity being encouraged into the workplace via inclusive selection processes once those trainees arrive on training?

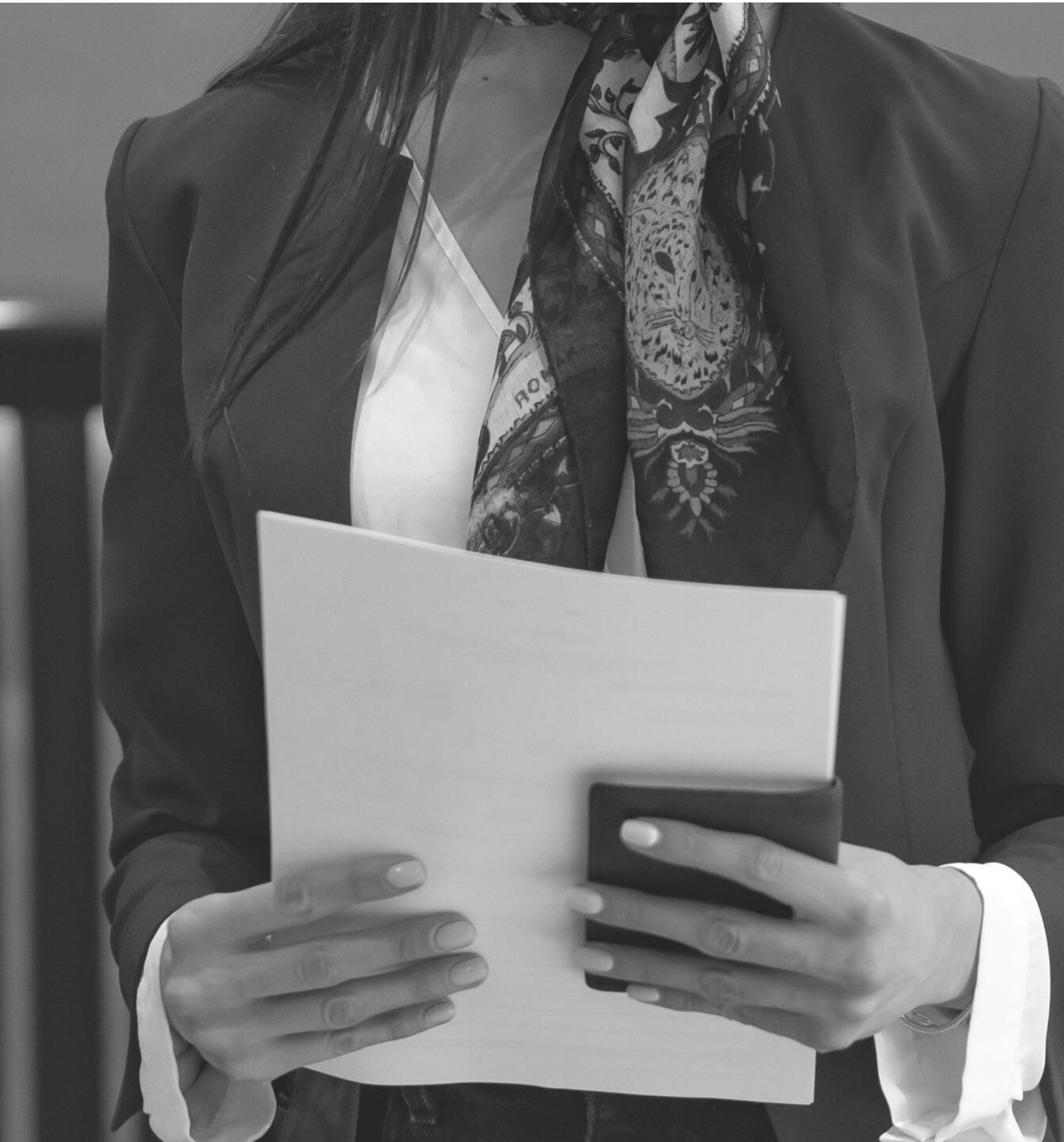


PROTECTED CHARACTERISTICS

THE EQUALITY ACT 2010

Refers to specific personal attributes that are protected by law to prevent discrimination. These characteristics include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

PROTECTED CHARACTERISTICS



PROVIDING HEALTH INFORMATION

1. [When you apply to join the Register](#)
2. [When you renew your registration every two years; and at any other point where there is a change in your health or character](#)
3. [Any time that information is given to the HCPC outside of the application or renewal processes this would be considered a self-referral](#)

PROTECTED CHARACTERISTICS

STANDARD 6.3 OF CONDUCT, PERFORMANCE, AND ETHICS STATES

"You must make changes to how you practise, or stop practising, if your physical or mental health may affect your performance or judgement, or put others at risk for any other reason."



PROTECTED CHARACTERISTICS

STANDARD 6.1 OF CONDUCT, PERFORMANCE, AND ETHICS STATES

"You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible."



PROTECTED CHARACTERISTICS

STANDARD 6.2 OF CONDUCT, PERFORMANCE, AND ETHICS STATES

"You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk."



PROTECTED CHARACTERISTICS

UPDATED STANDARDS OF PROFICIENCY FOR PRACTITIONER PSYCHOLOGIST

- 3 Look after their health and wellbeing, seeking appropriate support where necessary
- 3.1 Identify anxiety and stress in themselves and recognise the potential impact on their practice
- 3.2 Understand the importance of their own mental and physical health and wellbeing strategies in maintaining fitness to practise
- 3.3 Understand how to take appropriate action if their health may affect their ability to practise safely and effectively, including seeking help and support when necessary
- 3.4 Develop and adopt clear strategies for physical and mental self-care and self-awareness, to maintain a high standard of professional effectiveness and a safe working environment



PROTECTED CHARACTERISTICS



REASONABLE ADJUSTMENTS

- [Flexible working arrangements](#)
- [Supportive supervision and mentorship](#)
- [Access to occupational health support](#)
- [Adjustments to workload](#)
- [Time off for medical appointments and treatment](#)
- [Reasonable adjustments in assessments](#)

PROTECTED CHARACTERISTICS

SUMMARY

- [No duty to report your health at any stage if you are managing your health safely and effectively](#)
- [Regulators encourage registrants to be open and transparent](#)
- [Standards are clear with regards to managing risk and public safety](#)
- [Report to the HCPC and adapt if there is a change in your health](#)
- [Recourse available if not adhering to the Equality Act](#)
- [Reasonable adjustments can be highly beneficial](#)

Question

- 1) What prevents someone from submitting a malicious complaint to the HCPC about a practitioner?
- 2) What will the HCPC do to deter malicious or vexatious and repeat complainants?



VEXATIOUS MALICIOUS COMPLAINANTS & Mental health of COMPLAINANTS

- Complaints that lack merit, contain false information, or are raised with the intention of causing harm or distress to the registrant without any genuine concern for public safety or professional conduct
- Major drain on resources
- Significant emotional toll on registrants
- Imperative that all complaints are considered on their merits, regardless of their nature or source

COMMON TYPES OF UNFOUNDED COMPLAINTS

- Member of the public unhappy with level of service they have received
- Personal vendetta, retaliation or tit for tat
- Repeat complaints when the same individual submits multiple complaints against the registrant, often on different matters but with a consistent pattern of harassment
- Cases where complainant has mental health issues

MEASURES IN PLACE

- **Warning and education:** The HCPC may issue a warning to the individual who has repeatedly made malicious complaints, explaining the consequences of persisting in such behaviour
- **Restriction on further complaints**
- **Referral to other authorities:** If the individual's behaviour constitutes a pattern of harassment or abuse, the HCPC may refer the matter to appropriate authorities
- **Legal action:** only in extreme cases



WHAT TYPE OF ACTION CAN A REGISTRANT TAKE?

- Respond to the complaint
- Keep detailed records: maintain thorough records of all communications, evidence, and documentation related to the complaint
- Cooperate with the HCPC
- Involve professional bodies such as the ACP-UK

Question

Does the HCPC take into account the mental health issues/psychological formulation of a complainant?

For example, if difficulties in relationships are an issue for a client, and also present in the therapeutic relationship with a psychologist, and the client complains, would the HCPC consider the client presenting issues to inform their decision?



THRESHOLD TESTS

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'.

VEXATIOUS MALICIOUS COMPLAINANTS & Mental health of COMPLAINANTS

- In making that determination as to whether allegations will be drafted supporting evidence will be needed to substantiate the complaint raised – likely to include treatment notes
- An independent expert report may be sought at this stage
- Case Managers are not experts and complex issues related to mental health are likely to require assistance to determine if the matters raised relate to a registrant's FtP

DOES THE HCPC TAKE INTO ACCOUNT THE MENTAL HEALTH ISSUES/PSYCHOLOGICAL FORMULATION OF A COMPLAINANT?

- Yes, the HCPC does consider the complainants presenting issues to inform their decision at each step of the FtP process
- **However**, in complex cases a more comprehensive examination of these mental health issues may need to be undertaken by the ICP or at Final Hearing in order to determine if the complaint raised relates to a registrants Fitness to Practice

Question

I have noticed diverse perspectives within psychologists in private practice social media groups regarding colleagues who provide services beyond the scope of traditional one-on-one therapy with clients (for example, psychoeducational resources, access to mental health services, and online workshops).

Unfortunately, some comments can be judgmental, and there seems to be inconsistent and inadequate moderation by group administrators. This may inadvertently damage the reputations of others and impede their progress in making a living. In light of this situation, I would like to enquire about the potential impact of HCPC rules in addressing these circumstances?



SOCIAL MEDIA

STANDARD 2.7 OF CONDUCT, PERFORMANCE, AND ETHICS STATES

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

STANDARD 9.1 OF CONDUCT, PERFORMANCE, AND ETHICS STATES

That "you must make sure that your conduct justifies the public's trust and confidence in your profession"





POTENTIAL FTP CASES

- [Unprofessional conduct](#)
- [Breach of confidentiality](#)
- [Misrepresentation](#)
- [Boundary violations](#)
- Sharing misleading information
- [Incitement of hatred or violence](#)



POLITICAL SPEECH?

The speech must have "gone beyond the wide latitude allowed for expression of political opinion... The relevant speech would have to be seriously offensive or seriously discreditable" (Holbrook)

Question

Are there any threshold checks/measures applied prior to investigating to see if a complaint meets that threshold for further investigation?



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](#)

THRESHOLD TESTS

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'.

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

Question

Does the HCPC do any prior investigation into whether a complaint has been made in another capacity? (e.g. to trust/departments etc.)



THRESHOLD TESTS

- Yes, internal investigations undertaken by the registrant's employer are very useful in assisting the Case Manager in establishing whether allegations will be drafted
- **Independent investigation** – If no complaint has been made to the registrant's place of work this will not necessarily impact on a Case Manager's decision as to whether the threshold test has been met

Question

Do FtP complaints remain on file even when complaints are found to not meet the threshold for further FtP investigations?



THRESHOLD TESTS

- Even if a complaint is dismissed at the initial assessment stage and doesn't proceed to a full investigation, the information about the complaint **may** still be kept on record.
- The further along the process the complaint goes, the more likely it will be kept on record.

Question

The FtP process can include the use of expert witness psychologists as well as others earlier in the process who comment on the professional issues (as someone who has been an expert witness for HCPC on two occasions)

How often does this happen and why is a 2nd psychologist asked for opinion?

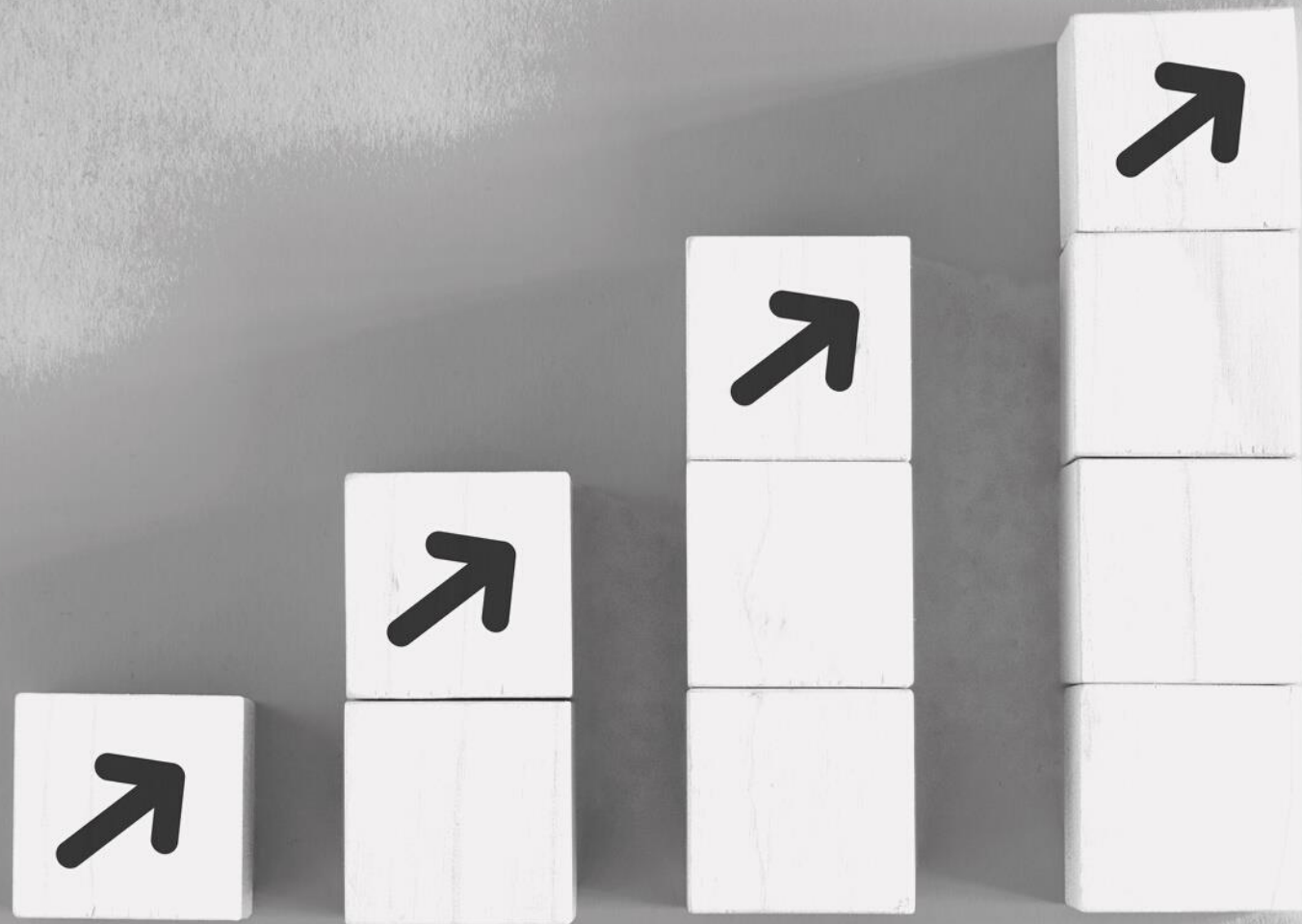


EXPERT REPORTS

CASE EXAMPLE

A practitioner psychologist is being investigated for alleged professional misconduct related to their interactions with a highly vulnerable patient who has complex mental health issues, including dissociative disorders and borderline personality disorder.

EXPERT REPORTS



THE PROCESS

[Step 1: Receipt of Complaint](#)

[Step 2: Preliminary Review](#)

[Step 3: Seek Expert Psychologist Report](#)

[Step 4: Investigation and Analysis](#)

[Step 5: Expert Report](#)

[Step 6: Drafting Allegations](#)

[Step 7: Formal Proceedings](#)

EXPERT REPORTS

SUMMARY

Straightforward cases: no need to seek outside advice

Complicated, grey area cases: will often need expert reports

Expert reports can also be sought by the ICP to assist them in determining whether a matter should be sent for a final hearing

Question

How can the HCPC be made to address complaints in a timely manner (rather than 15+ months before a panel)?

What I would like to know is what can someone who has been a member of the HCPC since it was founded, do when they are threatened with being struck off, and are then left for nearly 2 years wondering what is going to happen and nobody seems to be interested?



LODGING COMPLAINTS AGAINST THE HCPC

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

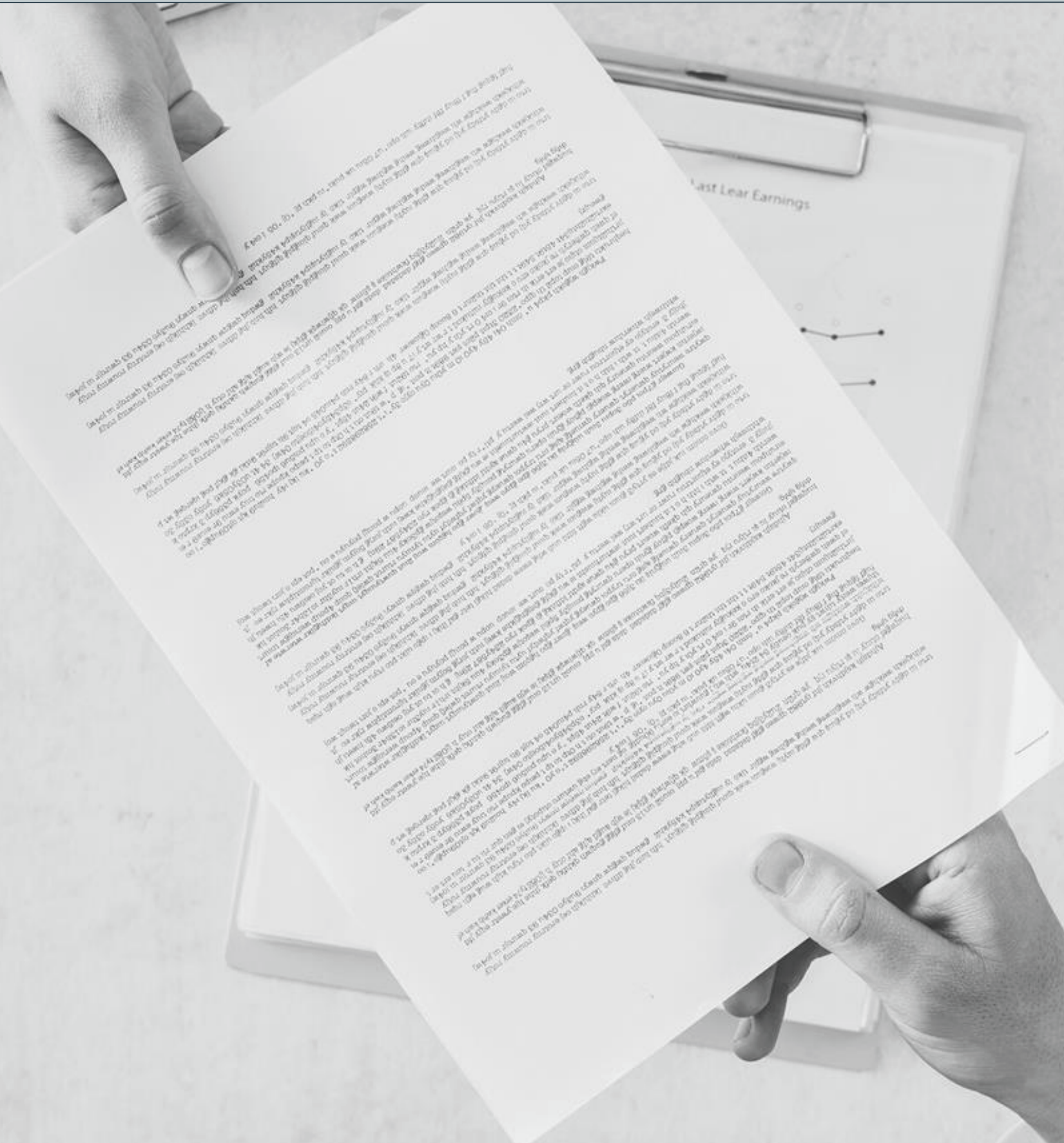
SHOCK

TRAUMATIC

FEAR

DESTABILIZING

LODGING COMPLAINTS AGAINST THE HCPC



WHAT TO DO?

- Contact the HCPC
- Escalate your complaint within the HCPC
- Raise the issue with the Professional Standards Authority (PSA)
- Contact the Parliamentary and Health Service Ombudsman (PHSO)
- Seek legal advice or assistance

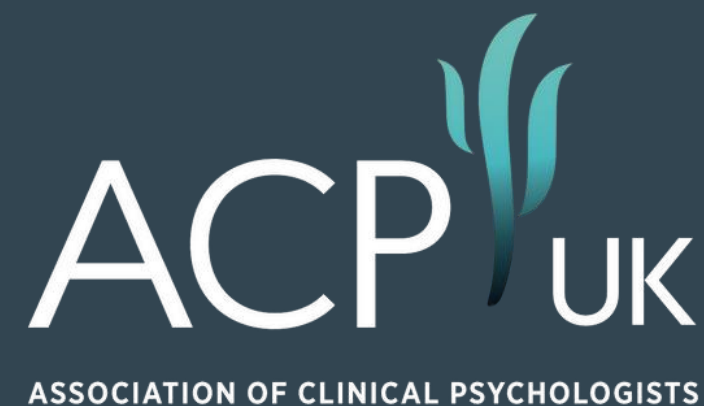
Question

What support is there for people going through this process?



Get in touch

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



ACP - UK

enquiries@acpuk.org.uk

For 1:1 or Group Training

Nicholas Stöckling

Email Address

nick.stockling.consulting@gmail.com

Not a member yet?

www.acpuk.org.uk