



National Register of
Public Service Interpreters

NRPSI INDICATIVE SANCTIONS GUIDANCE

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Introduction

This guidance has been developed by NRPSI for use by its Disciplinary Panels when considering what sanction, if any, to impose on a Registrant following a finding of:

- Unacceptable Professional Conduct
- Serious Professional Incompetence, or
- Conviction of a relevant criminal offence

It outlines the decision-making process and factors to be considered in order to make fair, consistent and transparent decisions. Since 1st July 2014 all decisions of Panels have been made publicly available by NRPSI.

Panel members are obliged to exercise their own judgement in making decisions since they are acting in an independent judicial capacity, within the framework set out by NRPSI.

Purpose of sanctions

Where a Panel finds that a Registrant has breached the NRPSI Code of Conduct the Panel must decide if it is appropriate for a sanction to be applied. The interests of the public, the profession and the Registrant need to be weighed in this decision.

NRPSI's Disciplinary Rules do not require the Panel to impose a sanction in every case. It is thus open to a Panel to conclude a case without an Admonishment, the lowest level of sanction. As with their other decisions the Panel would need to be satisfied that it is sufficient and in the public interest to do so and to make clear their reasons.

No sanction may be appropriate, for example, where:

- the breach was of a very minor nature
- there was no 'guilty mind' on the part of the Registrant
- the breach arose from an honest mistake
- the breach was very technical in nature
- the standing of the profession in the eyes of the public was not compromised

The primary purpose of sanctions is not to be punitive, but to protect the interests of the public and, where possible, return the Registrant to good practice, although in doing this the application of a sanction may have a punitive effect. Sanctions may have a deterrent effect on other Registrants, in effect providing guidance on what is accepted as good practice and what is not.

Definition of the Public Interest

There is clear judicial authority that the public interest includes:

- The protection of the public
- The maintenance of public confidence in the profession¹
- Declaring and upholding proper standards of conduct and competence²

The public interest may also be served by applying conditions relating to the Registrant's return to work if he/she lacks certain skills, competencies or knowledge.

Standard of Proof

The Standard of Proof Test that is applied is the civil standard, the 'Balance of Probability.' This is the standard commonly used by regulatory bodies in disciplinary matters.

Proportionality

In deciding what sanctions to impose the Panel should apply the principle of proportionality, weighing the interests of the public (as above) against those of the Registrant.

In addition, the Panel will need to consider any mitigating and aggravating factors in relation to the seriousness of the behaviour in question. The extent to which mitigation should influence judgement on a finding requiring a sanction is dependent on the individual circumstances in the case and is at the discretion of the Panel.

The paragraphs below outline the sanctions available, stating the philosophy behind them, and give guidance as to the appropriateness of their application.

Panels must give clear reasons for their decisions, making it clear why a particular sanction was applied and why the remaining sanctions were not. It is also desirable for the Panel to express an opinion about the Registrant's behaviour as part of their decision.

Warnings

Warnings are not considered to be a sanction, but provide specific advice and guidance to the Registrant on their future behaviour. A warning can be issued by the Professional Conduct Committee if they determine that there has been a probable breach of the NRPSI Code of Conduct, but that this would be unlikely to result in a sanction if heard by the Disciplinary Committee. If a Registrant receives a warning and is subsequently referred again to a NRPSI Disciplinary Panel, the previous warning may be taken into account in the Panel's deliberations.

Warnings issued by the PCC should be specific and where possible include guidance on the improvements required by the Registrant to return to good practice.

What sanctions are available

Where a disciplinary sanction is appropriate, a number of options are available to the Panels. Only one sanction can be applied in any particular case. Sanctions should be considered in the following order:

Professional Conduct Committee

- a. Admonishment

Disciplinary Committee

- b. Admonishment
- c. Interim or conditional suspension
- d. Suspension
- e. Expulsion

Admonishment allows continuing registration. An Exclusion Order (suspension or expulsion) may specify any conditions with which the Registrant must comply before he/she becomes eligible again for registration.

General considerations relating to Admonishment

Where the Panel decide that it is not sufficient to conclude a case without applying a sanction, an Admonishment is the lowest sanction that can be applied. An Admonishment may be appropriate where the offence is at the lower end of the spectrum in order to mark the fact that the behaviour was unacceptable and must not happen again.

General considerations relating to Suspension

Suspension can be used to send a signal to the Registrant, the profession and the public about what is regarded as unacceptable behaviour or serious incompetence. Suspension from the Register has a punitive effect, in that it may prevent the Registrant from practising (and therefore from earning a living) during the period of suspension.

Suspension is likely to be appropriate for misconduct or incompetence that is serious, but not so serious as to justify exclusion. The length of the suspension is a matter for the Panel's discretion, depending on the gravity of the particular case.

Where a Panel considers that the matters are serious but there are clear indications that specific actions would most effectively bring a Registrant back to good practice an 'Interim or conditional suspension' may be applied. This would have conditions specified by the Panel to be carried out by the Registrant within a set period, such as mentoring or training, while the Registrant remains on the Register. If satisfactory evidence is not provided that the conditions have been complied with by the set date, the stated suspension would automatically commence.

There may be cases where suspension alone is not sufficient to serve the public interest, but where there is evidence that the Registrant has the potential to be rehabilitated if prepared to undergo retraining/development in addition. In such cases the Panel may wish to impose both an immediate period of suspension, and to add conditions in terms of retraining or other action. The Panel must be satisfied that the problem is capable of improvement. Suspended Registrants whose suspension is subject to conditions remain ineligible for registration where they fail to comply with those conditions.

General considerations relating to Expulsion

Exclusion from the Register is appropriate where this is the only means of protecting the public and maintaining public confidence in the profession. The

Panel, however, should not feel it necessary to exclude a Registrant in order to satisfy public demand for blame and punishment.

The minimum period of exclusion shall normally be two years. A Registrant who has been excluded may be subject to conditions determined by the Panel. An application from the Registrant for restoration of their eligibility to register will be considered by the Disciplinary Committee. The Committee will need to be satisfied that the Registrant's character, competence and other relevant factors are now sufficiently acceptable to restore the Registrant's eligibility to register.

Questions for the Panel to consider

When determining the appropriate sanction, Panels may consider continuing patterns of unacceptable behaviour to be as serious as individual more serious acts. In particular, aggravating factors such as previous findings against the Registrant will be taken into account.

Admonishment – relevant factors in applying this sanction

This sanction may be considered where most of the following factors are present (the list is not exhaustive):

- Evidence that behaviour would not have seriously affected the public or the employing organisation
- Insight into failings
- Isolated incident which was not deliberate
- Genuine expression of regret/apologies
- Acting under duress
- Previous good history
- No repetition of behaviour since incident
- Rehabilitative/corrective steps taken
- Any relevant and appropriate references and testimonials
- The offence is at the lower end of the spectrum

The Panel should consider whether it is sufficient to conclude the case with the reasons for the finding of Admonishment.

Interim or Conditional Suspension – relevant factors in applying this sanction

This sanction is likely to be appropriate when there are clear corrective actions the Registrant can take to address their shortcomings and they are receptive to the

corrective action. Some or all of the following factors may be involved (the list is not exhaustive):

- Insight into failings
- Clear willingness on part of Registrant to take corrective action
- No immediate or obvious danger to the public
- Not fundamentally incompatible with continuing on the Register
- No evidence of harmful deep-seated personality or attitudinal problems

The Panel should consider whether it is sufficient to conclude the case with the reasons for Interim or Conditional Suspension. The Panel should state the required conditions including deadline for satisfactory completion, and the period of suspension should the conditions not be met.

Suspension – relevant factors in applying this sanction

This sanction may be appropriate when some or all of the following factors are apparent (the list is not exhaustive):

- A serious instance of unacceptable conduct where a lesser sanction is not sufficient
- Not fundamentally incompatible with continuing on the Register
- No evidence of harmful deep-seated personality or attitudinal problems
- Panel satisfied Registrant has insight and does not pose a significant risk of repeating behaviour

The Panel should consider whether it is sufficient to conclude the case with the reasons for Suspension.

Expulsion Order - relevant factors in applying this sanction

This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a Registrant and involves any of the following (the list is not exhaustive):

- Serious departure from the Code of Professional Conduct
- Serious failures, either deliberately or through incompetence and particularly where there is a continuing risk
- Abuse of position/trust (particularly involving vulnerable children or adults) or violation of others' rights

- Dishonesty (especially where persistent and covered up)
- Persistent lack of insight into seriousness of actions or consequences
- Evidence of harmful deep-seated personality or attitudinal problems
- It is the **ONLY** way to protect the public and maintain confidence in the profession

A Registrant who has been excluded may be subject to conditions determined by the Panel. The minimum period of exclusion shall normally be two years.

Mitigation

Before determining which, if any, sanction to apply in a particular case, the Panel should offer the Registrant, or others on his/her behalf, the opportunity to submit mitigation. This could include evidence of a previously unblemished career, time elapsed since the incident(s), any apologies to the complainant or efforts to avoid such behaviour re-occurring. Mitigation could also relate to the circumstances leading up to the incident(s) in question as well as the character and previous history of the Registrant.

References and Testimonials

The Registrant may present references and testimonials as to his/her standing in the community or profession. As with other mitigating or aggravating factors these will need to be weighed appropriately against the nature of the incident. The quantity, quality and spread of references and testimonials will vary from case to case and this will not necessarily depend on the standing of the Registrant. There may be cultural reasons for not requesting them and the Panel should be aware of this. In addition, acquiring references and testimonials may pose a difficulty for newly arrived overseas qualified Registrants.

Finally, references and testimonials may not stand as an accurate portrait in light of the facts found proven. The Panel will need to consider all such factors when looking at references and testimonials.

Expressions of regret and apology

The expectation that a Registrant will be able to stand back and accept that with hindsight, they should have behaved differently – and that it is expected that the Registrant will take steps to prevent a re-occurrence – is an important factor in a hearing. The Panel should, however, be aware that there may be cultural differences in the way that insight is expressed, for example, how an apology or expression of regret is framed and delivered and the process of communication.

Aggravating factors

Before determining which, if any, sanction to apply in a particular case, the Panel should offer the Registrar the opportunity to submit any aggravating factors. In

particular, the Registrar will inform the Panel at this stage if the Registrant has previously had any warnings or sanctions applied to them as the outcome of previous NRPSI disciplinary hearings.

Guidance on considering Conviction Cases

‘Convictions’ refer to a determination by a criminal court in the United Kingdom, or a finding by an overseas court of an offence which, if committed in the United Kingdom, would constitute a criminal offence. A formal police caution in the UK is also a conviction. A conviction itself gives the Panel jurisdiction even if the criminal offence did not involve misconduct in the course of employment.

In a conviction-related hearing the Panel will hear evidence as to the circumstances leading up to the conviction, character and previous history of the Registrant. The Registrant will then have the opportunity to address the Panel by way of mitigation and present any evidence in respect of this.

The purpose of a hearing in relation to a conviction is not to punish the Registrant a second time, but to protect the public and to maintain the high standards and good reputation of the profession. It should be borne in mind that ‘the public’ who use the National Register, for example the police, have different requirements in terms of not engaging those with criminal records than employers in society more generally.

In determining IF the offence is a ‘relevant offence’ in this regard the panel must be satisfied that it is one that puts into doubt the Registrant’s fitness to practice.

References

¹Raschid v GMC and Fatnani v GMC [2007] EWCA Civ 46

²Bolton v Law Society [1994] 1 All ER 512

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