



Conduct Procedure



COSRT Conduct Procedure

This should be read in conjunction with Good Therapy – COSRT Code of Ethics and Practice

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Aims and objectives

- This Conduct Procedure (hereafter Procedure) provides a transparent route by which complaints against COSRT Members are made, managed and considered.
- Through the Procedure COSRT aims to protect members of the public and uphold standards of and confidence in psychosexual therapy, counselling, and psychotherapy.
- COSRT is committed to supporting professional excellence, and this Procedure contains provisions to allow complaints to be settled by agreement when possible, including providing Members the opportunity to develop and reflect where appropriate.
- COSRT is a charity registered under English law; this procedure will therefore be operated in accordance with English law.

Definitions

Adjudication Panel - The panel convened to consider and determine a complaint against a Member.

Case Manager - The person managing the complaint process in accordance with this procedure.

CEO – The COSRT Chief Executive Officer.

Complainant – The person raising a complaint against a Member.

Consensual Agreement Resolution (CAR) – A process used to manage complaint disposal.

Consensual Agreement – An agreement made between the PCP and the Member to resolve a complaint managed through Consensual Agreement Resolution.

COSRT – The College of Sexual and Relationship Therapists.

Gateway – A point during the conduct of the complaint where a key decision will be made.

Input – A point during the conduct of the complaint where Complainant and/or Member may be asked or required to input.

Interim Suspension Panel – A panel convened specifically to determine the need for Membership Suspension.

Investigator – An independent person external to COSRT tasked with investigating the complaint and producing an Investigator's report for consideration by the PCP.

Member – The COSRT Member subject to a complaint.

Presenting Officer – The person designated by COSRT to present the case to an Adjudication Panel.

Professional Body – a membership body for a profession or group of professions which operates a Code of Ethics (or similar) and whose members may be subject to conduct proceedings.

Professional Conduct Panel (PCP) – A panel that reviews and oversees all complaints, comprising the Chair of COSRT, two Members of the Professional Standards Board and one Trustee.

Professional Standards Authority (PSA) – National organisation that assesses the performance of Health and Social Care Regulators, conducts audits, scrutinises their decisions and reports to Parliament.

Professional Standards Board (PSB) – COSRT committee that oversees COSRT professional standards.

Regulator – A statutory body responsible for the regulation of a sector in the UK.

Withdrawal of Membership – The termination of COSRT Membership.

Section 1 – Making a Complaint

1. Scope of the Conduct Procedure

- 1.1 A complaint can be made against a Member who:
 - 1.1.1 Is a current COSRT Member; and
 - 1.1.2 Was a COSRT Member at the time of the alleged activity.
- 1.2 COSRT may consider a complaint against a COSRT Member (individual) that relates to:
 - 1.2.1 Misconduct in the provision of therapeutic services.
 - 1.2.2 Misconduct which is materially relevant to a Member's fitness to provide such services.
 - 1.2.3 Ill-health calling a Member's fitness to practice into question.
 - 1.2.4 A decision taken by a Regulator, court or tribunal, third-party Professional Body, or an employer that calls into question the Members fitness to practice and/or suitability to be a COSRT Member.
- 1.3 A complaint will be determined against the Procedure in force at the time of the complaint. However, the Member's conduct will be judged against the Code of Ethics which was in force at the time the relevant conduct occurred.

2. When a complaint can be made

- 2.1 Complaints should be made within three years of the conduct giving rise to the complaint. Where a complaint is made outside this timescale a written explanation will be requested and the Chief Executive Officer (CEO) will determine if exception can be made due to public interest/protection or extenuating circumstances.
- 2.2 COSRT may extend the time limit for a complaint if:
 - 2.2.1 The seriousness of the allegation is such that it is in the public interest to do so and/or public protection requires it.
 - 2.2.2 Timescales for the conclusion of third-party investigations such as police or Regulators mean the three-year limit will be reached before a COSRT investigation begins.
 - 2.2.3 The Complainant has encountered circumstances since the alleged conduct that can be reasonably argued to have inhibited their ability to complain within the timescale.
- 2.3 A Member's resignation from, or failure/refusal to renew membership whilst an allegation is being considered by COSRT will not normally invalidate the processing or hearing of a complaint by COSRT or terminate the procedure. The member will be considered to be in continuous membership for the purposes of dealing with a complaint, until such time as the matter has been resolved or the procedure terminated.
- 2.4 Before submitting a complaint, the Complainant is expected to attempt to resolve the issue with the Member. Details of any attempt at resolution should be included within the complaint. If resolution with the Member is not possible/feasible or is considered inappropriate by the

Complainant, the Complainant should provide a written explanation within their complaint as to why this is the case.

3. Who can make a complaint?

3.1 A complaint can be made by any individual, including:

- 3.1.1 A person who has sought, received, or is receiving therapeutic services (including supervision) provided by a COSRT Member.
- 3.1.2 An individual acting on behalf of another person who has received or is receiving a therapeutic service from a COSRT Member, where that person's written permission has been obtained and COSRT is satisfied it would be unreasonable to expect that person to bring the complaint on their own behalf.
- 3.1.3 A legal guardian or other appropriately authorised adult accepted by COSRT as having authority to act on behalf of a minor (a minor being under the age of 16). Where a minor reaches the age of 16 during a complaint which is being processed, their consent to continue with the complaint will be required by COSRT.
- 3.1.4 A person accepted by COSRT as acting on behalf of an adult lacking mental capacity (within the meaning of the Mental Capacity Act 2005) to bring a complaint, where that lack of mental capacity has been satisfactorily evidenced.
- 3.1.5 Another professional including a Member's supervisor.

3.2 A complaint can also be made by an organisation, including:

- 3.2.1 An employer; the police; another professional body; Regulator; any other organisation; the Disclosure and Barring Service or authority with a similar function; or a declaration from the member themselves.
- 3.2.2 COSRT if it is of the opinion that the conduct of a Member is such that COSRT is brought into disrepute or public interest and/or protection is served through a complaint.

3.3 Where a complaint relates to conduct affecting more than one person (for example, recipients of couple's therapy), the complaint should be submitted by one person who will be the Complainant.

4. The conduct of complaints

4.1 COSRT, as the Professional Body, will conduct cases against Members.

4.2 The role of the Complainant, beyond bringing the allegation, will be as a witness if called to any investigation and/or hearing to give evidence.

5. Complaints not covered by this procedure

5.1 COSRT retains discretion to not consider complaints, including if they are:

- 5.1.1 Frivolous or vexatious (including where screening or a PCP deems that the complaint is intended to harass, distress, annoy, tease, agitate, disturb or otherwise cause trouble for the Member).
- 5.1.2 Related to activity with insufficient nexus to professional practice or the profession.
- 5.1.3 Subject to current or planned criminal or relevant civil legal proceedings.
- 5.1.4 Subject to current or planned Police, Regulator, court or tribunal, third-party Professional Body, or other third-party organisation proceedings.
- 5.1.5 Based on the same facts as those where a Regulator, Professional Body, Police, court or tribunal charges/investigation against a Member have been discontinued/dismissed, or a not guilty verdict/decision absolving the Member reached after investigation into or prosecution on allegations.
- 5.1.6 Against a Member also accountable to a Regulator or third-party Professional Body.
- 5.1.7 Complaints against training organisations (these should be referred to the Professional Standards Board who will manage these in line with the Course Approval Procedure).
- 5.1.8 A repetition of a complaint(s) previously considered by COSRT, unless there is substantial new evidence which was not available previously.

5.2 When a complaint is rejected the Complainant will be informed in writing of the reasons the complaint will not be heard. After a decision has been made, COSRT will not enter any further correspondence on the subject.

6. Making a complaint

6.1 Complaints must be made in writing, signed by the Complainant identifying the Member, and should be sent to complaints@cosrt.org.uk

6.2 Anonymous allegations will not be considered.

6.3 Complaints where the Complainant does not wish their name to appear on the allegation will not be considered unless a compelling reason is given to the CEO. If a complaint is accepted on this basis, it should be noted that COSRT cannot guarantee the anonymity of Complainants.

6.4 Complaints should include:

- 6.4.1 Clear identification of the Member complained against.
- 6.4.2 A detailed account of the facts leading to the complaint plus dates of event(s).
- 6.4.3 Reference to the COSRT Code of Ethics and Practice where possible.
- 6.4.4 Any witness statements which the complaint relies upon. These should be signed.
- 6.4.5 Reasons why the complaint should be considered if it is submitted outside timescales set out in this Procedure.

- 6.4.6 An explanation of attempts to resolve the issue with the Member prior to the complaint being submitted.
 - 6.4.7 Signed confirmation that the Complainant's personal information and data can be used for the purpose of conducting the complaint within this Procedure.
 - 6.4.8 Signed confirmation that any witnesses' personal information and data can be used for the purpose of conducting the complaint within this Procedure.
- 6.5 Note that COSRT will not be responsible for travel or any other expenses incurred in connection with the operation of this Procedure. However, COSRT will reimburse any reasonable travel expenses incurred by a witness requested to attend by COSRT, upon delivery of valid receipts and an expense claim form.
- 6.6 Complainants and Members are required to keep materials as part of the investigation/complaints procedure confidential.

7. Ending a live complaint procedure

- 7.1 COSRT reserves the right to unilaterally terminate any ongoing complaint procedure at any point if it is deemed in the organisation's or public's best interest to do so. Circumstances where a termination may occur include but are not limited to:
- a. Where the complaint and/or investigation forms a risk to the organisation.
 - b. Ongoing review determining that the complaint is out of COSRT's scope.
 - c. Ongoing review determining that the complaint would best be heard by another organisation or before the courts.
- 7.2 The CEO will initially receive all concerns over ongoing investigations and will be responsible for determining an organisational view as to whether termination of a complaint is suitable.
- 7.3 Upon ratification the CEO will within 7 days notify the Member and Complainant of the decision and summary reasons for this decision and ensure any interim sanction such as membership suspension are removed.

Section 2 – Complaint Screening and Assessment

8. Complaint Screening

- 8.1 The Chief Executive Officer (CEO) will screen the complaint to determine if the complaint meets relevant criteria.
- 8.2 If these conditions are deemed to have been met, then a Case Manager will be appointed.
- 8.3 The Case Manager will give written notification of the complaint to the Member and provide the Member with a copy of the complaint and supporting materials within a reasonable time.
- 8.4 If the matter does not pass screening, no further action will be taken. The Complainant will be duly notified of this decision and why in writing.
- 8.5 If at the point of complaint or subsequently the Member is being investigated by the Police, Regulator, Professional Body, or is subject to relevant civil proceedings the relevant clause of this Procedure will be invoked where applicable.

9. Complaints against a Trustee

- 9.1 When a complaint is made against a Member who is a trustee of COSRT, and screening is passed:
 - 9.1.1 The Board of Trustees will be notified that a complaint is being conducted against the Member.
 - 9.1.2 That notification will be sent after the Member receives formal notification of the complaint, and it will not contain details of the allegations.
 - 9.1.3 The Member's position as a COSRT Trustee will be automatically suspended from the point at which the COSRT Board of Trustees is notified of the complaint.
 - 9.1.4 The Trusteeship suspension will remain in place until the complaint is concluded.
- 9.2 When a complaint against a Member who is a trustee concludes with no action taken:
 - 9.2.1 The COSRT Board of Trustees will be notified of the outcome.
 - 9.2.2 The Member's trustee suspension will automatically be lifted.
- 9.3 When a complaint against a Member who is a trustee concludes with an adverse finding:
 - 9.3.1 The Board of Trustees will be informed of the outcome and will be required to consider whether under the provisions contained within the Articles of Association, the Member's trusteeship should be terminated.
 - 9.3.2 The Member's trustee suspension will remain in force until the Board of Trustees considers the matter and reaches a conclusion.

10. Dual Accountability of Members

- 10.1 If COSRT becomes aware that the Member to be subject to a Regulator, COSRT may:
 - 10.1.1 Request that the Complaint refers the complaint to the relevant Regulator.
 - 10.1.2 Refer the complaint to the Regulator directly if COSRT considers it is in the public interest to do so.
 - 10.1.3 Instigate the relevant section of this Procedure.
- 10.2 If COSRT becomes aware that the Member is also a member of another Professional Body COSRT may:
 - 10.2.1 Liaise with the third-party Professional Body regarding which body is most appropriate to consider the complaint.
 - a. Factors may include the nexus between complaint content and organisational remit, available specialist resource, and any relevant contractual obligations.
 - 10.2.2 Consider the complaint if COSRT is deemed the most appropriate organisation to do so.
 - 10.2.3 Instigate the relevant section of this Procedure if the third-party Professional Body is to consider the complaint.

11. Complaints involving other organisations

- 11.1 Where a complaint is before COSRT, and COSRT becomes aware that a Member is under investigation by the Police, Regulator, or Professional Body for an issue which meets the requirements of this Procedure, COSRT may:
 - 11.1.1 Pause ongoing complaint(s) proceedings against the Member into allegations being investigated by the third-party until the findings of that investigation are available.
 - 11.1.2 Convene an Interim Suspension Panel to determine whether it is in the public interest or necessary for public protection for the individual's COSRT Membership to be suspended pending determination of the complaint.
 - 11.1.3 Inform the Member by writing within 24 hours of any decisions and actions made.
- 11.2 If COSRT is made aware that allegations have been upheld against a Member by a Regulator, Professional Body, court or tribunal on issues satisfying the requirements laid out in this Procedure, COSRT may continue its consideration of the complaint on the basis of the adverse findings made by the other body, such that the process set out in this Conduct Procedure is to be followed as if the complaint had been made under clauses 1.2.4 and 1.3.3 above.
- 11.3 Where the adverse decision of another body is being considered, COSRT will accept as proven the facts found by the Regulator, Professional Body, court, or other relevant tribunal, save in exceptional circumstances.
- 11.4 If COSRT is made aware that a Regulator, Professional Body, Police, court or tribunal charges/investigation against a Member have been discontinued/dismissed, or a not guilty

verdict/decision absolving the Member reached after investigation into or prosecution on allegations based on the same facts as those contained in a complaint made to COSRT:

- 11.4.1 Subject to clause 11.5 any live COSRT complaint will be closed and no further action taken.
 - 11.4.2 If applicable the Complainant and Member will be informed of the termination of proceedings.
 - 11.4.3 No future complaint will be accepted on the same issue.
- 11.5 Where a complaint against a Member contained allegations going beyond the scope of relevant third-party proceedings that have been concluded, or where there are compelling and/or exceptional reasons why it would be in the public interest to do so, COSRT may decide to consider that part of the complaint.
- 11.6 When clause 11.2 of this procedure is instigated the Case Manager will gather evidence on the facts found by the third-party body. These will be accepted as proven by COSRT and no COSRT Investigation will be undertaken. Subject to relevant screening the complaint will proceed to Threshold Test.

Section 3 – Membership Suspension

12. Membership Suspension

12.1 COSRT reserves the right to impose Membership Suspension when:

12.1.1 A Professional Conduct Panel (PCP) deems it necessary to suspend Membership pending the conclusion of complaint proceedings (including by another body) where it considers this is necessary for the protection of the public or is otherwise in the public interest.

12.2 The duration of a Suspension cannot exceed 18 months.

12.3 The Member will be notified of any decision to impose a Suspension.

12.4 The Member may request a review of the decision to impose a Suspension by written notice to the Case Manager within 28 days of being notified of the decision.

12.5 Any review will be considered by an Independent Investigator.

12.6 If the Suspension is maintained following a review, or if a request for a review is not received, notice of the suspension will be publicised in line with COSRT policy.

12.7 A suspended Member may apply in writing for their suspension to be reviewed where the circumstances, since the suspension was imposed or last reviewed, have materially changed.

12.8 An PCP may be convened at any point from the receipt of complaint by the CEO or Case Manager to determine whether during the conduct of a complaint, it is in the public interest or necessary for public protection for the individual's COSRT Membership to be suspended pending determination of the complaint.

12.9 A PCP can consider interim measures and will comprise as a minimum one member of COSRT's Professional Standards Board and two other individuals.

12.10 The PCP will be provided with any available information and documentation on the complaint by the Case Manager.

12.11 When an PCP is to be convened, the Member will be given written notice that Membership suspension is being considered.

12.12 The Member will be requested to make written representation to the PCP to help inform the decision as to whether suspension should be imposed.

12.13 Members must respond within 7 days of notification and request for submission. If no response is received by the Case Manager by this deadline then the PCP will be informed and may extend the deadline or proceed to consider the imposition of interim measures without a response from the Member.

12.14 The PCP's decision will be provided to the Member in writing within a reasonable time. The imposition of Membership Suspension will be in line with the Sanctions Protocol in force at the time of decision.

Section 4 - Complaint Investigation

13. Case Manager

- 13.1 A Case Manager will manage any COSRT complaint investigation that progresses past screening.
- 13.2 The Case Manager will be a COSRT staff member or contractor with no conflict of interest.

14. Independent Investigator

- 14.1 An independent Investigator may be appointed by the Case Manager to carry out investigations on their behalf.
- 14.2 Independent Investigators must agree to a confidentiality agreement and have a duty to declare any conflict of interest in either the case before them, or with any of the parties involved. The test for what might amount to an insuperable conflict of interest is whether a fair-minded and informed bystander, having considered the facts, would conclude that there is a real possibility of bias (either actual bias or the appearance of bias).
- 14.3 An Investigator must recuse him or herself if there is a conflict of interest.

15. Formal Complaint Notification

- 15.1 The Case Manager will provide the Member and Complainant with a Formal Notification when the complaint has passed screening.
- 15.2 This Formal Notification will include:
- Formal allegations formulated by COSRT and based on the facts, events and allegations contained within the complaint made by the Complainant.
 - Code of Ethics and Practice clauses relevant to the allegations.
 - Request for written representation from Member and Complainant.
- 15.3 The Member should respond to the allegations and provide representations within 28 days of notification or such further time as the Case Manager allows.
- 15.4 Where the Member does not provide a formal response to allegations, this may be considered by a PCP/Adjudication Panel. The Case Manager may choose to add an additional allegation that the Member has failed to co-operate with COSRT in such circumstances.

16. Initial Investigation

- 16.1 The Case Manager or an independent investigator appointed by the Case Manager will assess the complaint. This may include:

16.1.1 Request for information from the Complainant and Member to assist the investigation. Any information should be provided within timescales set out at the point of request.

16.1.2 Request for a supervisor's report from the from the Member's current or past supervisor(s). This may include information such as:

- Length of time the supervisory relationship has been in place
- Frequency of supervision
- Disclosure of any supervisor concerns over Member clinical practice, clinical knowledge or ethical/professional standards
- Disclosure of any concerns over Member's fitness to deliver psychosexual and/or relationship therapy services.

16.2 The Case Manager or independent investigator will produce a dossier containing:

- The original complaint, formal allegations and any initial response from the Member to the allegations.
- Evidence gathered in relation to each allegation.
- Clauses from the Code of Ethics and Practice that relate to the allegations.

16.3 The Case Manager or independent investigator will request written responses to the dossier from the Member and Complainant. Any response should be provided within timescales set out at the point of request.

16.4 When section 11 of this procedure is instigated, the Case Manager will gather evidence on the outcomes of third-party process, with those outcomes being accepted as fact without additional investigation.

16.5 If the Member does not respond within timescales set or at all, to a request for information without a reasonable explanation, this may be considered by the PCP and/or Adjudication Panel as a refusal to engage with the process should the complaint be referred to it.

17. Progression to Professional Conduct Panel

17.1 If the complaint is to progress to a to a Professional Conduct Panel (PCP), the Case Manager will notify the Member and Complainant in writing including the dossier that will be sent to the PCP.

17.2 The Member should respond to the provide any representations to the PCP in writing within 28 days of notification or such further time as the Case Manager allows.

17.3 Where the Member does not provide any representations the PCP will consider, this may be taken into account by the PCP and any future Adjudication Panel.

- 17.4 The Member may respond the notification and request that the complaint is dealt with by the PCP using a Consensual Agreement Resolution (CAR), pursuant to this procedure and provisions outlined in the Sanctions Protocol.
- 17.5 Any request for the use of a CAR must be supported by clear evidence and rationale. The PCP will consider such requests and their decision is final with no appeal.
- 17.6 If such a request is not made at this point or the Member refuses an offer of a CAR made by the PCP, any subsequent request may be rejected by reason of delay.
- 17.7 The Member may also make written submissions to the PCP that include mitigation for consideration.

Section 5 – Professional Conduct Panel

18. Professional Conduct Panel (PCP)

- 18.1 The PCP will comprise as a minimum one member of COSRT's Professional Standards Board and two other individuals.
- 18.2 The Case Manager will be responsible for ensuring the PCP receives the complaint, investigation report, evidence, submissions and any associated documentation.
- 18.3 The PCP will convene to consider available information and determine the need for any additional information it considers required to ensure a fair consideration of the complaint.

19. Assessment

- 19.1 The PCP may request further information or make further investigations as it considers appropriate, including interviewing the Complainant and/or the Member or requesting information from them within timescales determined by the PCP.
- 19.2 The PCP may invite both the Complainant and the Member to make such representation as it considers is required to ensure a fair consideration of the complaint.
- 19.3 The PCP may consider all information available to it whether or not the Complainant has specifically referred to it as a matter of complaint.
- 19.4 The PCP will consider the matter on the papers without the attendance of the parties unless it considers that fairness requires an interview.
- 19.5 When the PCP is in receipt of all necessary and available information, it will convene to decide if the complaint passes the Threshold Test. The test is that:
 - 19.5.1 The facts alleged would if proven amount to a failure to meet professional standards as laid out in clauses [1.2](#) and [1.3](#); and
 - 19.5.2 There is a realistic prospect that facts justifying a finding of such a failure will be proved; and
 - 19.5.3 That it is in the public interest for the complaint to be dealt with by COSRT's Conduct Procedure.
- 19.6 The decision of the PCP will be on a majority basis.
- 19.7 Where the PCP decides that the Test has been failed, the complaint process will be terminated, and the Case Manager will be informed. The Case Manager will then notify the Complainant and Member within 7 days of the PCP decision. Notification will include the PCP's written determination.

20. Determination

20.1 The PCP will agree which of the following steps will be taken, with the decision communicated to the Complainant and Member within fourteen (14) days via the Case Manager:

20.1.1 **Referral** to another organisation. If there are issues of conduct which could amount to sexual or other criminal offences, the PCP may refer the matter to Police. If the Member is discovered to be subject to a Regulator, then the matter will be referred to that body for investigation. If the PCP determines another Professional Body is best placed to deal with the complaint, it may request that COSRT liaises with that organisation. This sub-paragraph is not relevant where the [clause 11](#) procedure has already been followed and the matter has returned to the PCP following the adverse decision of another body.

20.1.2 **Letter of Advice**. The PCP can issue a Letter of Advice in writing. The Complainant will also be advised of the outcome. A Letter of Advice is not a finding of misconduct. However, whilst no further action is taken, the decision is recorded and may be considered if future allegations or concerns are received.

20.1.3 **Consensual Agreement Resolution (CAR)**. The PCP can propose an agreement with the Member to dispose of the complaint without proceeding to a formal Adjudicated Hearing. This may include:

- Warning
- Member Actions
- Mediation by consent
- Amendment of Membership
- Termination of Membership

A Consensual Agreement (see Sanctions Protocol) will contain the formal allegations, and any proposed outcome including where appropriate, activities required of the Member to achieve remediation.

At this point of notification, the Member will be asked whether they wish to accept the proposed Consensual Agreement Resolution or have the complaint proceed to an Adjudication Hearing.

20.1.4 **Adjudication hearing**. If the decision is that public protection/public interest concerns are significant then the case will progress to an adjudicated hearing.

The Hearing will take place no more than 140 days/20 weeks after the PCP's decision has been communicated.

The Member will have until 21 days before the Hearing to formally respond to allegations and provide submissions to be considered.

20.1.5 **Membership Suspension**. If the decision is that public protection/public interest requires it then the PCP can suspend a Membership (see Sanctions Protocol).

- 20.2 The Case Manager will notify the Member and the Complainant of the PCP outcome in writing, as formulated by the PCP within 14 days. This will be the PCP Determination.
- 20.3 The Member must respond in writing to the Determination in writing within 28 days of notification or such further time as the Chair of the PCP may allow.
- 20.4 The Complainant will be provided with a copy of the Member's response to the PCP Determination.
- 20.5 Where the Member does not provide a formal response this may be considered by any future Adjudication Panel. In such circumstances the PCP may also add an additional allegation that the Member has failed to cooperate with COSRT and/or the Conduct Procedure.
- 20.6 The Member should, in their response, state whether they accept any Consensual Agreement Resolution offered.
- 20.7 If such a request is not made at this point or the Member refuses an offer of a CAR made by the PCP, any subsequent request may be rejected by reason of delay.

21. Consensual Agreement Resolution

- 21.1 The PCP may propose the use of a CAR in its Determination.
- 21.2 On receipt of a request from a Member, the PCP will also consider whether to deal with the complaint by means of consensual disposal.
- 21.3 The PCP may, where it considers it fair and appropriate, invite representations from the Complainant in relation to a CAR proposed by the Member.
- 21.4 If the complaint is dealt with by means of CAR, there will be no formal Adjudication Hearing of the complaint. The CAR will be proposed and agreed in line with the Sanctions Protocol. However, the agreement will be deemed to be a disciplinary decision, notified to the Complainant, and published in accordance with relevant protocols.
- 21.5 Any material breach of the terms of the CAR by the Member will be referred to an Adjudication Hearing and may result in termination of membership/registration. Such a decision will be published in accordance with relevant protocols.
- 21.6 Where a sanction/requirement has been imposed by the PCP as part of a Consensual Agreement Resolution, it will be monitored by the Case Manager.
- 21.7 Where COSRT Membership is terminated as a result of a CAR, readmission shall be at the discretion of the COSRT, but in any event no readmission shall be permitted within seven years of the removal.

- 21.8 Where COSRT Membership category is amended or a Member is removed from a Register as a result of Consensual Agreement Resolution, readmission to the Register or another Membership category will not be allowed for one year.
- 21.9 If the PCP decides not to accept a request for Consensual Agreement Resolution, or the Member refuses an offer of Consensual Agreement Resolution, the complaint will be referred to a formal Adjudication Hearing.

Section 6 - Adjudication Hearing

22. Adjudication Hearing Format

- 22.1 Hearings will be held at a suitable venue or online platform normally within 12 weeks of the Member being notified of the decision to call a hearing. The parties should allow at least a full day for a hearing, unless informed otherwise.
- 22.2 Hearings are normally public. Details of upcoming Hearings are published on the COSRT website and anyone wishing to participate as an observer must agree this with COSRT at least one week prior to the Hearing.
- 22.3 COSRT will inform participants no later than one week prior to the Hearing if there may be third-party observers.
- 22.4 COSRT reserves the right for Hearings to be held in private if public interest is outweighed by the need for witnesses to be able to give thorough testimony, or the sensitivity of evidence. Adjudication Panels will decide whether a Hearing is to be private no later than two weeks prior to the Hearing date.
- 22.5 The format that will be followed will be made available to all parties no less than 28 days before the hearing. The format will make provision for the Adjudication Panel to make directions and to hear applications (for example, to introduce new evidence or to adjourn a hearing).
- 22.6 The case against the member will be put by a Presenting Officer acting on COSRT's behalf, appointed by the CEO. The Officer will be bound by a confidentiality agreement.
- 22.7 With the consent of the parties, complaints may, at the Panel's discretion, be considered by the Panel on the papers without the attendance of the parties.

23. Panel and Support

- 23.1 Adjudication hearings will be heard by an Adjudication Panel of no less than three people, appointed by the Case Manager.
- 23.2 An Adjudication Panel will ordinarily consist of one lay person and two counsellors/psychotherapists. No Adjudication Panel member will have any prior involvement in the case, or the parties involved.
- 23.3 The Case Manager will appoint a Clerk to the Panel, who may be an officer of COSRT (but who has had no prior involvement in the case or with the parties), or someone external to COSRT who is specifically engaged for this purpose. The Clerk will be an administrative role with no input into or influence on decision making.

24. Declaration of Interest

- 24.1 Adjudication Panel members have a duty to declare any conflict of interest in either the case before them, or any of the parties involved.
- 24.2 The test for what might amount to an insuperable conflict of interest is whether a fair-minded and informed observer, having considered the facts, would consider there to be a real possibility of bias (either actual bias or the appearance of bias).
- 24.3 Declarations of a possible conflict of interest must be made to the Case Manager who will seek the views of the Complainant and Member and decide if the test has been satisfied. This decision will be final.
- 24.4 A member of an Adjudication Panel must recuse him or herself if there is a conflict of interest.

25. Representation

- 25.1 The Member is expected to attend and may choose to be formally represented. If the Member does not attend, the Adjudication Panel may decide to proceed in their absence where it is fair and in the public interest to do so.
- 25.2 Details of any representative must be given in writing to the Case Manager not less than 14 days prior to the date set for the Hearing.
- 25.3 COSRT reserves the right to be formally represented by legal professionals or other third parties at the hearing. The Member and any representative acting for them will be informed of this and all relevant details no less than 14 days before the hearing.
- 25.4 If a Complainant is requested to attend to provide evidence, they have the right to have formal representation.

26. Evidence

- 26.1 Case papers will be circulated by the Case Manager to the Adjudication Panel and Member (and their representative if applicable) not less than 14 days prior to the date set for the Hearing.
- 26.2 These papers must be treated as confidential, treated by all parties according to relevant data protection law, and securely disposed of when the complaint process is complete.
- 26.3 The Chair of the Adjudication Panel may call for additional written evidence, or additional witnesses if necessary. Additional written evidence must be delivered to the Case Manager no later than 7 days before the Hearing.

- 26.4 COSRT has no powers to require witnesses to produce evidence or attend any hearing.
- 26.5 The Complainant will not be called upon to present their complaint.
- 26.6 The Complainant may be requested to attend and give evidence.
- 26.7 The Complainant may be cross-examined by the Member or the Member's representative. Any request to cross examine a Complainant must be made to the Case Manager no less than 14 days before the Adjudicated Hearing.
- 26.8 The Adjudication Panel may consider the fact that it has not been able to consider evidence because it has not been made available to the Panel.
- 26.9 Where the Adjudication Panel considers that it does not have access to the full range of evidence, it will consider the impact of this on the fairness of the proceedings.
- 26.10 If the Adjudication Panel considers that the fairness of the proceedings is likely to be impaired through an absence of evidence, it has the right to halt proceedings until the point at which such evidence is made available. In such circumstances COSRT will endeavour to secure the evidence from the appropriate sources.
- 26.11 Evidence submitted late, or on the day of the Hearing, must be accompanied by a written or oral explanation as to why it was not available earlier. For it to be admitted, the Chair of the Panel must be satisfied that there is sufficient reason as to why it was not previously available.
- 26.12 The submission of late evidence must not be used as a way of disrupting the proceedings.
- 26.13 The Chair of the Adjudication panel will decide whether the reason for late submission is acceptable and whether the evidence will be accepted late or on the day of the Hearing.
- 26.14 The Chair may take advice on these and any other matters from fellow panel members or any other appropriate person (excluding the Clerk).

27. Witnesses

- 27.1 Witnesses may normally only be called if they have previously supplied a written statement. In exceptional circumstances a witness may be called without a previous written statement by the Adjudication Panel chair if it is deemed that failure to do so would affect the fair and proper adjudication.
- 27.2 The Member will be requested to attend throughout the Hearing and will be expected to personally answer allegations. If a Member chooses not to attend and all usual tests are met including service, adequate notice, and the right to representation and it is deemed in the public interest then COSRT reserves the right to hold the hearing in their absence.

- 27.3 The Complainant may be called as a witness and if so, will be available to be questioned by the Member or their representative, COSRT's Presenting Officer, any formal representative acting for COSRT, and the Adjudication Panel. Any other witnesses called to the Hearing, may be similarly questioned.
- 27.4 Where the Member has been unable to test evidence, for example, due to the unavailability of witnesses for cross-examination, the Panel will take this into account in according weight to any evidence, reaching their decision and consider any impact on the fairness of the proceedings.

28. Recording

- 28.1 All hearings will be digitally recorded for the purpose of keeping an accurate record of proceedings.
- 28.2 These recordings will be stored securely and confidentially by COSRT in accordance with its data protection policy.
- 28.3 A recording may be made available to any appeal assessor or appeal panel and may be transcribed if necessary.
- 28.4 If the Member requests a transcript be provided, they must meet all the associated costs.
- 28.5 The Member will be required to treat any copy of the recording and/or transcript as confidential and must not make any use of it outside the complaint procedure.

29. Safeguarding

- 29.1 The Adjudication Panel may exclude from the proceedings any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings.
- 29.2 In proceedings before the Adjudication Panel the following people may, where the quality of their evidence is likely to be adversely affected, be treated as vulnerable witnesses:
- a. Any witness under the age of 17 at the time of the hearing.
 - b. Any witness with a mental disorder within the meaning of the Mental Health Act 1983.
 - c. Any witness who is significantly impaired in relation to intelligence and social functioning.
 - d. Any witness with physical disabilities who requires assistance to give evidence.
 - e. Any witness where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim.
 - f. Any witness who complains of intimidation including the Member.
- 29.3 Subject to any representations from the parties or on legal advice, the Adjudication Panel may adopt such measures as it considers helpful to enable it to receive evidence from vulnerable witnesses. Measures adopted may include:

- a. Use of video links.
- b. Use of pre-recorded evidence of a witness, provided that the witness is available at the hearing for examination.
- c. Use of interpreters, signers, translators or intermediaries.
- d. Screens or similar provisions.

30. Findings

- 30.1 Findings in all cases are based on a balance of probabilities, which means that the Panel must be satisfied that it is more likely than not that the material facts alleged are true.
- 30.2 The burden is on COSRT to prove the allegations.
- 30.3 The Panel must determine whether the established facts amount to a failure to meet professional standards or, professional misconduct, and whether the established facts call into question the Member's fitness to practice and/or suitability to be a COSRT Member.
- 30.4 The member will normally be notified in writing of the findings and decision, the right of appeal and the procedure to be followed thereafter within 28 days of the Hearing.

31. Imposition of Sanctions

- 31.1 The Adjudication Panel may impose a sanction, as detailed in the Sanctions Protocol.
- 31.2 The same Panel will later consider whether the requirements of any sanction have been complied with and whether the sanction should be lifted or not.
- 31.3 In deciding the appropriate sanction in a case where it has been found that the decision taken by a Regulator, court or tribunal, third-party Professional Body has called into question the Member's fitness to practise and/or suitability to be a COSRT Member, the relevant Panel will have regard to the principle of proportionality (including any sanctions imposed by the other body) and the pertinence of adverse findings of the body to the psychosexual therapy, counselling, and Psychotherapy professions.
- 31.4 When a Member has their COSRT membership terminated they cannot re-apply for COSRT Membership for seven years. COSRT can at its discretion refuse an application to re-join membership.
- 31.5 When a Member is removed from the COSRT Register or Supervisor Register they cannot re-apply for registration for one year.
- 31.6 When Membership category is changed the Member cannot re-apply to re-join their previous category for one year.

- 31.7 A failure or refusal to comply with a sanction may result in membership being withdrawn for non-compliance. Any such decision will be published on COSRT's website and elsewhere as is considered appropriate in line with COSRT policy.

32. Publication of Findings

- 32.1 Where a complaint is upheld, COSRT will publish findings and decisions on its website in a standard format.
- 32.2 These will remain on the website for a period of twelve months or until any time-barred sanction is complied with, whichever is longest.
- 32.3 Where a complaint is upheld against a Member within a Registered category, but they retain Registration, COSRT will include details in the Member's Register listing. These details will remain in place for a period of twelve months or until any time-barred sanction is complied with, whichever is longest.
- 32.4 In addition, COSRT also reserves the right to publish such findings in line with COSRT policy, and to inform other professional bodies and employers if appropriate.
- 32.5 Where membership has been withdrawn under these procedures, a statement to this effect will remain on the COSRT website until such time as the Member has successfully re-applied for membership or for a minimum period of normally seven years.

Section 7 – Appeals

33. Suspension of Sanctions

- 33.1 Any sanction imposed by a PCP or Adjudication Panel will not take effect until the period for appeal has expired or, where an appeal is made in that period, until the final determination of the appeal.

34. Adjudicated Hearing Decision Appeal

- 34.1 The Member or COSRT may appeal against the Panel's decision within 28 days of notification of the Panel's findings.
- 34.2 An appeal can be made by COSRT or the Member on the following grounds only:
- a. The decision was demonstrably made against the weight of evidence; or
 - b. There is compelling and relevant new evidence that was not available at the time of the Panel's decision; or
 - c. The sanction was wholly disproportionate to the findings; or
 - d. There has been a clear and demonstrable error of fact or failure of procedure which was material to the decision made; or
 - e. There was a procedural impropriety which had a material impact on the fairness of the findings and decision of the Adjudication Panel.
- 34.3 An appeal must be in writing, specify the ground(s) on which it is made and be accompanied by any supporting documentation.
- 34.4 An appeal must be served by the Member upon the CEO within 28 days of notification of the complete findings and decision of the Panel (including as to sanction).
- 34.5 The appeal documentation, together with the Adjudication Panel's findings and decision, the recording of the hearing, and any transcript, will be considered within 28 days by an Appeal Panel.

35. Appeal Hearing

- 35.1 An appeal will be formally considered in private by an Appeal Panel appointed by the Case Manager (or Chair of Board of Trustees appointee), comprising not less than three people. A panel will usually consist of one lay person and two counsellors/psychotherapists. No panel member will have any prior involvement in, or knowledge of, the case. The hearing will normally take place within 28 days of the appeal submission.
- 35.2 The Case Manager will appoint a Clerk to the Panel, who may be an officer of COSRT (but who has had no prior involvement in the case or with the parties), or someone external to COSRT who is specifically engaged for this purpose.

- 35.3 Members of panels have a duty to declare any conflict of interest in either the case before them, or any of the parties involved. The test for what might amount to an insuperable conflict of interest is whether a fair-minded and informed bystander, having considered the facts, would conclude that there is a real possibility of bias (either actual bias or the appearance of bias). A member of a panel must recuse him or herself if there is a conflict of interest.
- 35.4 Declarations of a possible conflict of interest must be made to the Case Manager who will seek the views of the parties and having considered their views, decide if the test has been satisfied. This decision will be final.
- 35.5 The Appeal Panel will have before it all the evidence considered by the Adjudication Panel, together with a transcript of the Adjudication Hearing, if necessary, and any evidence put forward by the Member or Complainant to support the ground(s) of appeal.
- 35.6 The Appeal Panel will meet in private to consider the written evidence only.
- 35.7 Evidence submitted late, or on the day of the Hearing, must be accompanied by a written or oral explanation as to why it was not available earlier. For it to be admitted, there must be a good and sufficient reason as to why it was not previously available.
- 35.8 The submission of late evidence must not be used as a way of disrupting the proceedings.
- 35.9 The Chair of the panel will decide whether the reason for late submission is acceptable and whether the evidence will be accepted late or on the day of the Hearing.
- 35.10 The Appeal Panel will consider whether to uphold or dismiss the appeal and may modify or impose any sanction as considered appropriate.
- 35.11 Where an appeal is upheld on procedural grounds, but the complaint raised significant and valid concerns relating to section 1.1 of this Procedure the matter may be remitted to a new Adjudication Panel on the recommendation of the Appeal Panel.
- 35.12 The Complainant will normally be notified of the Appeal Panel's decision in writing within 14 days of the Appeal Hearing. The decision will be final.