

# AHCS

# Warnings

# Guidance

<b>Version:</b>	<b>1.0</b>
<b>Date:</b>	<b>October 2023</b>
<b>Doc Ref:</b>	<b>#115</b>
<b>Review date:</b>	<b>October 2026</b>

Version number	Purpose/Change	Author	Date
1.0	Final Document for publication	Jude Savage	October 2023

## WARNINGS

### 1. Introduction

- 1.1. The Academy has the power to issue warnings to Registrants as part of their decision making at the conclusion of an investigation. The issuing of a warning is one of the powers available to the Investigating Panel.
- 1.2. The Academy's Fitness to Practise Procedure ['the FTP Procedure'] sets out the purpose served by warnings. These are intended to indicate that whilst a referral to a Fitness to Practise Panel is not necessary, a Registrant's conduct, practice or behaviour nevertheless represents a departure from the Academy's standards which should not be repeated.
- 1.3. Warnings should be distinguished from letters of advice. Letters of advice are intended to focus on assisting a Registrant with remediation, whereas warnings are intended to signal that a Registrant that they have acted in such a way that has been deemed close to the threshold for referral to a Fitness to Practise Panel hearing.
- 1.4. A warning does not prevent a Registrant from practising, nor does it impose any conditions upon their registration.
- 1.5. If a warning is issued this will not be shown on the public-facing Register. It will however form part of a Registrant's Fitness to Practise history for a period of three years. The warning may be considered by an Investigating Panel if any further concerns come to the attention of the Academy within that three-year period.
- 1.6. It is important that each case is decided on its own facts and the question of whether to issue a warning is ultimately at the discretion of the Investigating Panel. However, the purpose of this guidance is to encourage consistency of decision making.

## **2. The Test to be Applied**

2.1. Paragraph 47 of the FTP Procedure indicates that warnings will be appropriate where all of the following requirements are met:

- a. The Panel is satisfied that a concern fails to meet the realistic prospect test for referral to a Fitness to Practise Panel;
- b. The Panel is satisfied that the Registrant's conduct or performance has fallen below the expected standards to an extent warranting a formal response;
- c. Some or all of the factual allegations have either admitted by the Registrant or have not been disputed by the Registrant.

2.2. As outlined in paragraph 49 of the FTP Procedure, if a Registrant provides representations to the Investigating Panel, the Panel must have regard to these representations when considering the requirements set out above.

## **3. Factors to Consider**

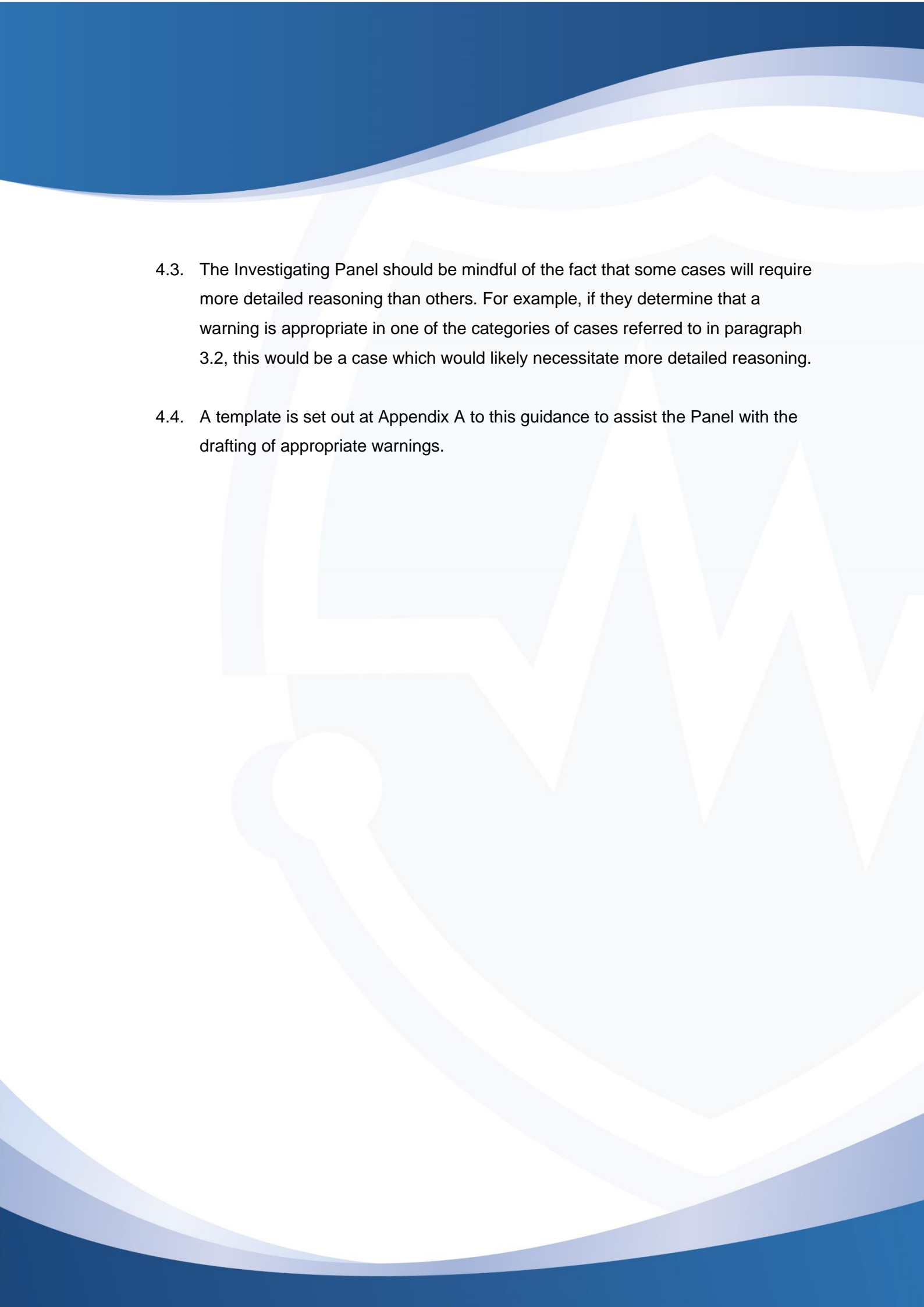
3.1. Where some or all of the following indicative factors are present, this may suggest that a warning is appropriate:

- a. The Registrant has demonstrated insight.
- b. The Registrant has offered an apology and/or demonstrated remorse.
- c. There is evidence of remediation.
- d. The Registrant has a good fitness to practise history.
- e. There is a lack of repetition.
- f. Other factors which suggest to the Investigating Panel that the conduct in question is unlikely to be repeated.

- 3.2. The Investigating Panel should be mindful of the Academy's responsibility to protect members of the public and to act in the public interest. This responsibility includes maintaining high standards of conduct. It should be mindful that a warning may not be appropriate in cases which involve serious misconduct. Examples of such cases include, but are not limited to, the following:
- a. Dishonesty.
  - b. Sexual misconduct.
  - c. Violence.
  - d. Criminal convictions.
- 3.3. Notwithstanding the matters raised in paragraph 3.2, each case does need to be considered on its own facts. The Investigating Panel may decide that that a warning is appropriate in the above categories of cases where the conduct is at a comparatively low level. Examples would include a criminal conviction for a road traffic offence which is unconnected to a Registrant's practice; and an allegation of low-level dishonesty outside of a Registrant's practice.
- 3.4. With regard to criminal convictions specifically, the Investigating Panel may determine that a warning is appropriate. However, the Investigating Panel must not go behind the conviction, for example accepting a submission by the Registrant that they are not actually culpable for the conduct which has led to their conviction.

#### 4. Reasons

- 4.1. If the Investigating Panel decides to issue a warning, it is required to give clear reasons for doing so.
- 4.2. The reasons given need not be drafted with the same level of detail as, for example, a determination of a Fitness to Practise Panel. The reasons must state with precision, albeit briefly, what conduct has been found wanting and why a warning has been deemed to be appropriate.

- 
- 4.3. The Investigating Panel should be mindful of the fact that some cases will require more detailed reasoning than others. For example, if they determine that a warning is appropriate in one of the categories of cases referred to in paragraph 3.2, this would be a case which would likely necessitate more detailed reasoning.
  - 4.4. A template is set out at Appendix A to this guidance to assist the Panel with the drafting of appropriate warnings.

## Appendix A - Template

Registrant .....

Profession .....

Registration Number .....

You have been the subject of a complaint/you have made a self-referral to the Academy For Healthcare Sciences which has resulted in the following allegations being made:

1. ...
2. ...

You have admitted/you have not disputed the matters set out above.

The conduct/performance concerns described above represent a departure from the high standards of behaviour/performance required of AHCS registrants. This has the potential to adversely affect the reputation of the Academy and the professions which it regulates. It also has the potential to undermine public confidence in these professions. You are directed to the following sections of [insert]:

1. ...

In accordance with paragraphs 49 – 53 of the Academy’s Fitness to Practise procedure the Investigating Panel has determined that in this instance the conduct/performance concerns are not so serious as to require action being taken against your registration. However, it has been necessary to issue a warning regarding your future conduct/performance. The factors which the Panel have taken into account in reaching this decision are as follows:

1. ...

This warning will not be published on the public-facing register maintained by the Academy. It will however be recorded internally for a period of 3 years. A Warning may be considered by an Investigating Panel within those three years should a concern of a similar nature be received by the Academy.