

# AHCS

## Publication of Fitness to Practise Decisions

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## PUBLICATION OF FITNESS TO PRACTISE DECISIONS

### 1. Introduction

- 1.1. The core regulatory functions of the Academy for Healthcare Science include the following:
  - a. Setting and maintaining standards of practice and conduct.
  - b. Considering and investigating concerns about the fitness to practise of registrants, taking action where necessary to protect the public, declare and uphold proper professional standards and maintain public confidence in the profession.
- 1.2. The purpose of the Academy's fitness to practise process is to ensure that only those individuals who hold the necessary skills, knowledge and character to perform their roles safely and effectively remain eligible to practise without restriction.
- 1.3. The Academy is required, by reason of its accreditation with the Professional Standards Authority for Health and Social Care, to ensure transparency of decisions and outcomes.
- 1.4. The publication of the decision-making in fitness to practise cases is intended to support the Academy's core functions and to adhere to the PSA's requirements.
- 1.5. The publication of fitness to practise decisions is not intended to be punitive. Instead, it is motivated by the following objectives:
  - a. Ensuring transparency of decision making.
  - b. Encouraging consistency of decision making.

- c. Demonstrating to registrants the high standards which are expected of them and giving examples of conduct which may lead to action being taken against their registration.
- d. Demonstrating to the public that the Academy will take action to uphold standards of practice and conduct.
- e. Providing Registrants, employers and members of the public with examples of conduct which may lead to action being taken against a registrant's registration.

## **2. The Decisions which can be published**

- 2.1. The notice of decision is the written decision of a Fitness to Practise Panel, as set out in paragraphs 143 to 144 of the Academy's FTP Procedure. This will include the following information:
  - a. the Panel's findings of fact, its decisions on the Ground(s), impairment and sanction.
  - b. the reasons for the Panel's decisions.
  - c. the Registrant's right of appeal to the Appeal Panel, and
  - d. when any sanction imposed by the panel will take effect pursuant to paragraph 141.
- 2.2. Paragraphs 195 to 199 of the Academy's FTP Procedure indicate that where a finding of impairment has been made by a Fitness to Practise Panel the notice of decision will be published on the Academy's Website. Details of the findings will also be included on the Registrant's entry on the public-facing Register.
- 2.3. The period for which the notice of decision will be available on the AHCS' website and the details of the decision will be available on the public-facing Register are as follows:

- a. No further action – 1 year
- b. Caution order – until expiry of order
- c. Conditions of Practice Order – until expiry of order
- d. Suspension Order – until expiry of order
- e. Removal Order – 5 years

### **3. Factors relevant to decision-making on publication**

- 3.1. There will be a presumption that fitness to practise decisions will be published, for the reasons stated above. As such the starting point will be that a decision will be published, unless there are compelling reasons not to do so.
- 3.2. Where it appears that there are grounds for not publishing a decision, decision makers should consider whether redactions can be made in order to overcome these issues. This point is dealt with below.
- 3.3. It is accepted that the publication of a notice of decision will interfere with a Registrant's right to private and family life. However, it will normally be in the public interest to publish decisions in accordance with the Academy's core functions. In most cases any interference with the Registrant's right to privacy will be necessary and proportionate when having regard to the Academy's functions.
- 3.4. As a general principle, the upholding of the reputation of the professions which the Academy regulates, and the adherence to the PSA's standards for accredited registers, should take precedence over the rights of an individual Registrant.
- 3.5. The above factors notwithstanding, each case must be decided on its own facts. In some cases the interference with a Registrant's right to privacy may be so significant that this outweighs the public interest in publication. However, it is expected that such cases will be extremely rare.

3.6. The Registrant's right to privacy will be amplified in cases which involve allegations of impairment by reason of physical or mental health. In these cases, there is still a presumption in favour of publication, albeit with appropriate redactions as described below.

#### **4. Redactions to notices of decision**

4.1. When a decision maker determines that a record of decision should be published in accordance with this policy, they should have regard to the question of whether any parts of the notice of decision should be redacted.

4.2. Redactions are a valuable tool which can help to ensure that a decision to publish remains proportionate and the information which is disclosed does not risk an unnecessary infringement of a Registrant's rights.

4.3. Examples of information which will normally be redacted from a notice of decision include, but are not limited to, the following:

- a. Information relating to the health of a Registrant or another party to the proceedings [this point is dealt with in greater detail below]
- b. Information which may identify third parties, for example a complainant; a patient/service user; and/or a witness whose evidence has formed part of the proceedings. References to these individuals should be partially anonymised using initials or pseudonyms, for example *Ms AB*, or *Patient A*.
- c. Information which may compromise or undermine other investigations or proceedings.
- d. Information directly connected to the Registrant's private life which does not form part of the case against them. For example:

- i. If a Registrant faces an allegation in relation to a conviction for domestic violence, reference to the Registrant's private life in the context of the offence should, as a starting point, be considered to be publishable;
  - ii. If a Registrant facing allegations relating to deficient performance provides detailed evidence regarding their family life and domestic circumstances in mitigation, the specifics of this ought not to be published.
- 4.4. As a general principle, evidence in relation to a Registrant's physical or mental health should be redacted from a notice of decision. Likewise, evidence in relation to the health of another party to the proceedings should not, generally speaking, be included in a notice of decision. However, some information should be included in a notice of decision so as to ensure transparency of decision making.
- 4.5. Where a Panel makes a finding that a Registrant's fitness to practise is impaired by reason of their physical or mental health, this fact can be published. However the specifics of the condition should be redacted in the notice of decision. Likewise, information in relation to prognosis, treatment, severity of symptoms, and/or the opinion of treating physicians ought to be redacted.
- 4.6. Where a Panel imposes a conditions of practice order in a case involving impairment by reason of physical or mental health, any conditions which go directly to the management and supervision of that health condition ought to be redacted from the publicly available version of the notice of decision.
- 4.7. Where a Registrant raises issues in relation to their health or the health of a family member, either as part of their defence to an allegation, or in mitigation, this information ought to be redacted from the notice of decision.

Where the allegations against a Registrant relate to adverse outcomes to a patient/service user, this information should be published in the notice of decision. This information is relevant to the Academy's functions and objectives. Where information regarding the health of a patient/service-user is to be published it is important that the details of the patient/service user are appropriately anonymised as outlined above.