

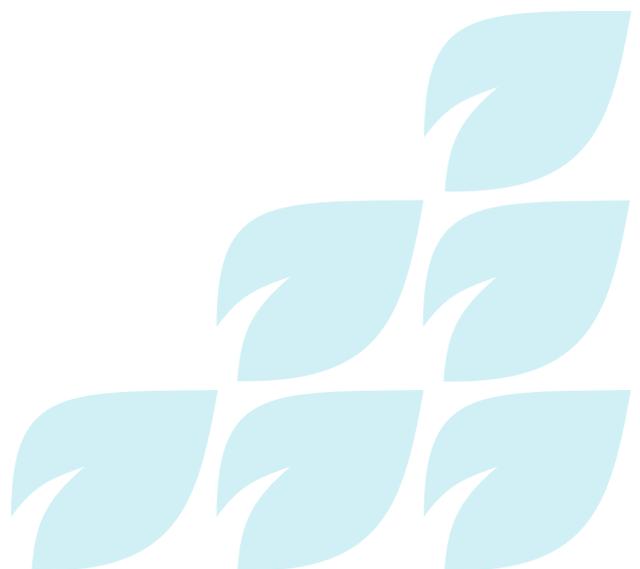


The Association  
of UK Dietitians

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## Bylaws for the Investigation of Complaints about Members of the BDA

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## 1 Introduction

- 1.1 These Bylaws enable the BDA to address allegations of concern about the actions or behaviour of its members within all categories but not SENr registrants and corporate members. Complaints about BDA employees are considered in accordance with the BDA's relevant employment policies
- 1.2 Separate bylaws deal with complaints about practitioners registered with the Sport and Exercise Nutrition Register (SENR).
- 1.3 The BDA promotes professional practice and creates a culture of respect. In the rare situation where concern is expressed about a member's actions or behaviour the BDA may consider it necessary to request that the IDC considers the detail. This will be considered only if the complaint is in writing. Anonymous complaints will not be considered.
- 1.4 The Investigatory and Disciplinary Committee Chair acts on behalf of The BDA Board of Directors to investigate complaints against members within any membership category. The Terms of Reference for the Investigatory and Disciplinary Committee are attached at Appendix.
- 1.5 Members are appointed to join the Investigatory and Disciplinary Committee (IDC) on the basis of their knowledge, experience and skills in investigation and disciplinary procedures. Members of the IDC are expected to be fair and act impartially. Information from complaints and their outcomes may be anonymised and used to improve the quality of BDA activities and provide guidance to members.
- 1.6 The processes aim to be transparent, fair, supportive to the member and consistent in addressing any concerns about a member found acting unprofessionally or contrary to the interests of the BDA.
- 1.7 The IDC will avoid overlapping investigations with those of the Health and Care Professions Council, other regulators, the Police, Crown Prosecution Service or employing authorities. Other investigations or pending actions will take precedence and the BDA will consider complaints only when any actions have been completed elsewhere, unless urgent action is required to ensure the reputation and standing of the BDA is maintained or protected.

### Options Available to you if you wish to make a complaint

- A If the member is someone you work with, speak first with your BDA Trade Union representative as the best way forward may be to take the complaint through your employer. If you raise the issue with the employer or HCPC please note the BDA will not be able to consider the matter whilst there are ongoing formal investigations.
- B You may wish to discuss the matter with a friend or colleague, or a suitably experienced member of the BDA who can provide confidential and impartial advice. This may be, for example, a manager, a more senior colleague, a senior member of the BDA's staff or another senior healthcare professional.
- C If you decide to make a complaint, prepare the evidence you have in written form, including the member's full name. Provide dates, factual evidence, who said or did what, and when. This must be sent to the IDC Chair. We have a complaint form you can use, but you do not have to use this. However, you must send your complaint in writing or via email and you may be asked further questions about your complaint.

## 2. Investigation Process

- 2.1. The Chair of the IDC will select a panel and panel chair from members of the IDC, to address the Investigation (as outlined in the Terms of Reference in the Appendix). The IDC may appoint a member of BDA staff or a suitable third party to act as clerk and provide administration, carry out investigations or take preliminary actions on behalf of the IP.
- 2.2. The Clerk to the IDC shall issue a copy of the complaint to the Chair of the appointed Panel normally within 5 working days of its receipt.
- 2.3. The IP Chair will normally confirm with the Clerk normally within 5 working days if an investigation is required based upon:
  - Whether it is in the interests of The BDA or its members
  - Whether there is a reasonable prospect of an investigation reaching a conclusion
- 2.4. Once the IP Chair's decision has been made to proceed with the investigation, then the investigation may proceed even without the co-operation of the complainant.
- 2.5. Once the IP Chair's decision has been made to proceed to investigation, the member who is the subject of the allegation shall be informed in writing, within 10 working days, by the Clerk of the matters to be brought to the Committee's attention and will be issued with a copy of the complaint documentation.
- 2.6. The member who is the subject of the allegation will be invited to respond in writing to the complaint. That response should be received within 15 working days of receipt of the letter informing the member of the complaint, and will be taken into account when the IP considers the complaint.
- 2.7. If a member wishes to resign his or her membership of the Association after an allegation has been made, that resignation may or may not be accepted by the IDC. If the resignation is accepted, the investigation shall be ended immediately and all parties informed. If the resignation is not accepted it shall proceed with the investigation, whether or not the member responds to the complaints made about them.
- 2.8. Following the receipt of the response from the member concerned, the Clerk will issue all members of the IP with all relevant documentation. The Committee shall consider the complaint as quickly as possible, normally within 20 working days of having been informed of the complaint.
- 2.9. The IP supported by the Clerk may make whatever additional enquiries it considers appropriate before reaching a decision on the complaint. The IP shall consider the complaint in confidence using remote working, email, teleconference or face to face meeting, etc.

- 2.10 The IP may seek professional advice, expertise or opinion from others, as it sees fit. At the request of the Chair of the IP up to two members of the Association with special expertise in the matters under investigation may be co-opted as advisers. These advisers may give advice to the IP at its request. The advisers shall have no personal connection with the complainant, the member or otherwise have any potential conflict of interest. They shall not be involved in deciding the outcome of the complaint.
- 2.11 The IP shall have regard to any professional codes or guidance issued by the BDA or by others. However it need not rely on any specific codes or guidance and shall be entitled to reach its own judgement based on what it considers reasonable actions or behaviour to be.
- 2.12 If the IP finds insufficient evidence of matters for concern, relating to the member's actions or behaviour, it shall end the investigation. The Committee shall inform all parties about its decision and, provide reasons. There shall be no appeal against that decision.
- 2.13 If the IP finds evidence to support the complaint, the following outcomes will be considered:
- a) Uphold the complaint without taking disciplinary action if, for example, the breach of any code of conduct was of insufficient severity to warrant any penalty
  - b) Uphold the complaint and issue one or a combination of the following sanctions:
    - A formal written warning indicating ways in which similar breaches may be viewed by the IDC
    - Issue conditions on remaining in membership.
    - A written requirement to undertake appropriate training or remedial action, detailing what action is required.
    - Removal from any elected/appointed position at The BDA
    - A suspension from BDA membership for a period to be determined by the IP of up to 12 months
    - Removal from BDA membership
- 2.14 The burden of proof for the IP shall be the civil burden of proof: that on the balance of probabilities, the complaint is supported by the evidence.
- 2.15 At any stage the IP may suggest to the complainant and the member that the matter may be resolved amicably by referral to mediation. If so, all parties must agree to such a process. The IP shall, if it feels it appropriate, identify suitable mediation services which it shall commission in an attempt to resolve the complainant.
- 2.16 If the referral to mediation is unsuccessful and the complainant wishes to pursue the complaint, the IP shall continue with the complaints process from the point where mediation was started.
- 2.17 The IP may advise The BDA Board of Directors on the issues arising from a complaint, anonymised where appropriate, if the complaint has wider implications for the membership which require guidance or advice to be issued more generally.
- 2.18 The IP shall seek to conclude investigations into all complaints within a reasonable period of time, normally within 3 calendar months of receiving the complaint.
- 2.19 The IDC Chair, the member and the complainant shall be informed of the IP's decision within 5 working days of the decision.
- 2.20 Decisions of the IP or ICD will not be published unless there are general professional learning or advisory points which the BDA wishes to convey to the wider membership.

### **3. The Appeal Process**

- 3.1 The subject of a complaint may appeal against the IP's decision.
- 3.2 Appeals must be made in writing to the Chair of IDC no later than 10 working days after the member has been notified in writing of the IP's decision. The IDC Chair will refer the appeal to an Appeals Panel (AP) who have had no prior knowledge of the complaint.
- 3.4 The AP will meet within 20 working days of the referral from the IDC Chair and be supported by a member of staff who will assist with the appeal process.
- 3.5 The AP shall decide whether the decision of the IP, or the penalty it imposed, was unreasonable. If it decides it was not, it shall reject the appeal.
- 3.6 If the AP decides The IP's decision was unreasonable it may:
  - a) Overturn the decision and dismiss the complaint
  - b) Agree with the decision but impose a different penalty, which would have been available to the IP at the time it made its decision
- 3.7 The IDC Chair will be informed of the decision, and the IDC Chair will inform the member within 5 working days of the AP meeting. The decision at this stage will be final.

### **4. Returning to Membership**

- 4.1 If a member has been suspended by The IP or AP their membership shall be reinstated automatically at the end of the period of suspension. They shall be liable to pay any membership subscription due at the date they are reinstated. They shall not be liable for any membership subscriptions due during the period of their suspension.
- 4.2 Should they decide to apply to be re-instated before the end of the period of suspension they should do so in writing to the IDC Chair. The IDC Chair may:
  - a) Approve the application;
  - b) Refer the application to The BDA Board of Directors for a decision; or
  - c) Reject the application
- 4.3 The IDC Chair may consult anyone they consider appropriate before deciding on any course of action.
- 4.4 The decision of the IDC Chair shall be final.
- 4.5 If a person has been removed from membership by The IP or AP they may apply to re-join the BDA but not within 12 months of the date of the decision to remove them from membership.
- 4.6 They shall write to the IDC Chair applying to re-join the BDA. The IDC Chair may:
  - a) Approve the application;
  - b) Refer the application to The BDA Board of Directors for a decision; or
  - c) Reject the application.
- 4.7 The IDC Chair may consult with anyone they consider appropriate before deciding on any course of action.
- 4.8 The decision of the IDC Chair shall be final.

## Appendix A

### 1. The Investigatory and Disciplinary Committee – Terms of Reference

- 1.1. The Board of Directors of the BDA shall appoint people to its Investigatory and Disciplinary Committee (IDC). The purpose of the IDC shall be to consider concerns, complaints or allegations against BDA members, brought under either of the Bylaws which relate to handling matters of concern against BDA members.
- 1.2. Members of the IDC shall be appointed from both the membership and outside the membership. On any appointed panel required under the Bylaws there shall be at least one non-BDA member and one full BDA member. There shall be a third member who will, normally, be a BDA member.
- 1.3. Members of the IDC shall be appointed based on a) their standing and expertise within the membership, b) their standing and expertise within specific areas of professional BDA activity or c) their standing and expertise in the handling of complaints.
- 1.4. Members of the IDC will be appointed for a term of office of 3 years and may serve a maximum of 3 consecutive terms of office. There shall be a minimum of 8 members of the IDC (not including the Chair of the IDC).
- 1.5. The Chair of the IDC will select panels from members of the IDC when necessary.
- 1.6. The quorum for the IDC meetings and conference calls shall be three.
- 1.7. The BDA Board of Directors shall appoint one or more people who may be members of the staff of the Association, to serve as Clerk to the IDC and/or its hearings.
- 1.8. Meetings of Panels of the IDC under the Bylaws for members registered with the HCPC shall normally be by teleconference, skype or other 'virtual' means, unless the Panel considers that a face to face meeting will be necessary. Meetings of Investigatory Panels under the other Bylaws will normally be by 'virtual' means and Disciplinary Panels shall be face to face.
- 1.9. The IDC shall normally meet, as a complete group of people, at least once a year. It shall be provided with suitable training and development as needed from time to time.
- 1.10. The Chairman of the IDC will prepare an annual report to The BDA Board of Directors detailing the allegations, reports of investigations and results of hearings during the preceding year.
- 1.11. The IDC Committee will investigate:
  - a) Any self-declaration by a member which is relevant;
  - b) Any written complaint that a member, of any category of membership, has brought the profession into disrepute through a breach of any relevant Codes of Conduct, professional misconduct or any action that is likely to reflect badly upon the profession or the BDA or any of its members; or
  - c) The outcomes of another formal investigation (e.g. HCPC, employment, etc.) which may be relevant to the Investigatory Committee.

Relevant matters could include criminal or inappropriate behaviour, any allegation that a member, of any category of membership, is unfit to be a member for reasons of ill health, incapacity or for any other reason.

- 1.12. In the case of complaints considered by the IDC for members registered with the HCPC, the member shall not be entitled to be represented by a solicitor, barrister or colleague. They may take legal or professional advice and be accompanied, if they so wish, at their own expense. However only they shall be able to respond to questions or requests for information or comment. In the case of complaints considered by the IDC against SENr registrants, the registrant may be legally represented, at their own expense.
- 1.13. The Committee must be mindful of malicious allegations and the need for thorough and fair procedures. An individual member making malicious accusations may be investigated by the Committee and may be subject to disciplinary action.
- 1.14. All members of the IDC shall declare any potential conflicts of interest as soon as they become apparent. The Chairman of the IDC, having taken advice where necessary, shall advise them as to whether they can continue to consider the complaint or whether they should exclude themselves from considering the complaint further. They shall be replaced by another member of the IDC.
- 1.15. The IDC shall (at its annual meeting) consider all written allegations and information brought to its attention, establishing facts, maintaining a log of all actions and correspondence, monitoring complaints and reporting to The BDA Board of Directors, as any changes in practice resulting from complaints may need to be shared with the membership.
- 1.16. All complaints and allegations must be in writing. The individual making the complaint must be named as in no circumstances will anonymous complaints be considered for investigation.
- 1.17. The Chair of the IDC will return any complaint to the complainant should there be a need to report the member to the HCPC, Police or to the employing authority as this is not within the remit of the Investigatory Committee.
- 1.18. The Chair of the IDC will not normally pursue any investigation once it has confirmed that the member is being referred to HCPC or already under investigation by HCPC, Police, employer, etc. unless there is an urgent need to consider the complaint to protect the standing and reputation of the BDA. The Chair will normally defer calling a meeting of the Committee until the outcome of any such investigation has been completed. The complainant and member will be informed of such a decision and the member will be asked to update the Clerk on a regular basis.

# The Investigation process - flowchart

