



Introduction to the new FPA conduct procedures during the period leading up to General Medical Council regulation

This document, detailing the processes around complaints and appeals relating to the conduct of physician associates (PAs), applies to PAs who are members of the Faculty of Physician Associates (FPA) and registered on the PA Managed Voluntary Register (PAMVR). The FPA is hosted by the Royal College of Physicians (RCP), a professional membership organisation.

In creating a process to deal with conduct complaints that allows both case adjudication and the imposition of sanctions, we have been clear that, as a non-regulatory body, we are not taking long-term career/employment-defining decisions in our adjudications, other than those that have immediate relevance to patient safety or criminality. The RCP is neither an employing authority nor a regulatory body. We have taken an approach that of the application of a professional body's own conduct regulations. This takes account of our responsibility to patient safety, to protect the public, and to discharge a fair and transparent system of adjudication and sanctions on conduct matters, relevant to our status as a professional membership group.

Adjudications will be based on the RCP code of conduct and the FPA code of conduct. Where appropriate, we will share information with other authorities, such as the police or the PA's employers, to ensure that we are protecting the public and protecting the profession. A privacy notice identifying this sharing of data will be made available to all PAs on the PAMVR and to NHS employers via direct communication and through the RCP website.

In due course, regulation will be vested in the General Medical Council (GMC). Any suspensions established by the RCP/FPA membership processes in that period will therefore run until such a transfer is established. They will, by definition, be temporary in nature. At the point of transfer of the PAMVR to the GMC, any suspension will end. The GMC, as the newly established regulator, will – as a matter of process – ask PAs to make a declaration of good standing at the point of transfer. It will be then that previous suspensions will need to be declared and reassessed. Likewise, any lesser sanctions (verbal or written warnings) will need to be declared.

Participation of RCP elected councillors or senior officers in the process will ensure that a good level of expertise and experience is provided to support both the conduct panels and any appeals review.

All participating physicians from the RCP will have a level of experience and training in conduct panels derived from either previous roles as censors (the censors form this function for the RCP conduct panels, run according to the membership organisation constitution); graduate or postgraduate education; and/or NHS disciplinary processes (which are based on article six compliant processes).

An updated version of these conduct procedures will be published once the transfer of the PAMVR to the GMC has been made. The principles encapsulated in this document are unlikely to change substantially.

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Conduct procedure for the Faculty of Physician Associates

1. Definitions

Throughout this document:

‘Applicant’ means a person seeking to have their name included on the Physician Associate Managed Voluntary Register (PAMVR) or a person whose name has previously been erased from the PAMVR under conduct (or previous disciplinary) processes, who seeks restoration to the PAMVR.

‘Registrar’ means the registrar of the RCP.

‘FPA’ means the Faculty of Physician Associates of the RCP, set up by standing orders under and subject to bye-laws 35.1–35.13 (previously 172–187) of the RCP. Approval to establish the faculty was given by the RCP as required under bye-law 35.1 (previously 172) at the meeting of Council that took place on Wednesday 19 March 2014.

‘FPA code of conduct’ means the Faculty of Physician Associates’ code of professional conduct and scope of practice.

‘Professional Standards Committee’ is the committee that sets the professional standards for the membership of the FPA and the PAMVR to include standards of professional competence, standards of conduct and character, a code of conduct and standards of health.

‘Faculty administrator’ means the individual appointed by the FPA for the purposes of arranging to serve written notification of any determination of the conduct panel or appeal panel and any other administrative documentation upon the member or applicant and any other interested persons as soon as reasonably practicable.

‘Conduct committee’ means the committee established by the FPA’s Professional Standards Committee and shall comprise between six and 10 of its members.

‘Conduct panel’ means a panel of at least three members appointed by the chair of the Professional Standards Committee from individuals in the conduct committee who shall investigate and determine cases referred by the faculty dean. The panel shall include at least one RCP board member and one FPA representative. One of the panel will be appointed as its chair.

‘Faculty dean’ means the person appointed by the FPA to the role of faculty dean, who shall be a standing member of the Professional Standards Committee with responsibility for examining cases and, where appropriate, preparing a report with recommendations to present to the conduct panel.

Member' means member of the FPA and includes physician associates, student physician associates or friends of the faculty.

'Physician associate' means and includes those individuals on the PAMVR.

1.1

This procedure has been drawn up to describe the process that will be followed if any member breaks or is alleged to have broken the FPA rules, regulations and/or obligations, or brings or is alleged to have brought the FPA or PAMVR into disrepute. It will be used when a member's behaviour or conduct is alleged to be or regarded as unacceptable to a degree that makes informal measures inappropriate. It will also be used to resolve applications from applicants where concerns are raised as to an applicant's suitability to be included in the PAMVR. It will seek:

- to establish whether a particular incident(s) took place
- to consider whether the incident(s) represent behaviour that is unacceptable to the FPA
- to determine what measures should be taken against a member whose behaviour is unacceptable to the FPA
- to determine whether an applicant should be allowed to join or be restored to the PAMVR
- to provide safeguards and natural justice throughout.

1.2

Members agree to be bound by the standing orders and the bye-laws, statutes, rules and regulations of the RCP as they apply to members of the FPA. Physician associates additionally agree to be bound by the FPA code of professional conduct and scope of practice ('FPA code of conduct') and these disciplinary rules. Following appropriate fact-finding and where a case is referred to the conduct committee by the administrator, members of the conduct committee independently investigate alleged breaches of discipline, determine the outcome and recommend potential sanctions or, in the case of an applicant, recommend whether registration should be permitted.

Applicants declare that the information provided in their application form is accurate and true, and make declarations as to their conduct including compliance with standards of professional competence, character and health.

Where matters of concern are raised, a number of stages may take place so as to be appropriate and fair:

- Stage 1 – case assessment and management by the faculty dean
- Stage 2 – case investigation and recommendation by the conduct committee
- Stage 3 – FPA appeals panel

1.3

Where a member or applicant is subject to a particular legal process, such as criminal investigation, or court proceedings, the FPA will normally await the outcome of due process of law before commencing its own investigation and will take such outcome into account in following this procedure.

However, if in exceptional circumstances the situation is such that the FPA or its reputation may be compromised in the meantime, the powers described under '**5. Emergency Measures**' (below) may be applied.

1.4

At all stages described in this procedure, the FPA will have regard to the effect of any proposed decision on a member's or applicant's ability to work in the profession. However, the PAMVR is a voluntary (non-statutory) register governed by a process of application, declaration and agreement.

2. Named officers

Under this procedure, specific roles are given to particular FPA officers, staff and appointees. However, the process described here applies to all members as defined above. In the event of one or more of the officers, staff or appointees named in this process being subject to allegations themselves at any point of the process:

- the person will be replaced in that role for that particular case
- the registrar or faculty dean will determine an alternative officer who will act instead of them
- in any such case of substitution, the seniority of officers not already involved will be taken into account when making a choice, the most senior normally being preferred.

3. Definition of a breach of discipline or unsuitability to be registered

3.1 General circumstances

This procedure will be invoked if a physician associate has acted in breach of the FPA code of conduct or if concerns are raised about a member's or applicant's conduct or suitability to be registered on the PAMVR. A disciplinary offence occurs or suitability to be registered may arise if any member has:

- violated any standards of conduct expected to be in 'good standing', including, where applicable, the FPA code of conduct, the requirement to have duly paid all necessary fees and subscriptions to the RCP and any declarations required
- performed any actions that are thought to endanger patient safety
- committed any misconduct affecting their professional or personal standing or bringing discredit to the FPA or PAMVR
- performed their work incompetently (whether by act or omission) to such an extent or on such a number of occasions as to affect their professional or personal standing or to bring discredit to the FPA
- acted in any respect in a dishonourable or unprofessional manner
- obtained or sought to obtain PAMVR registration by fraud, false statement or imposition.

3.2

Whether or not a member or applicant is found to have committed a disciplinary offence, the FPA may, if it thinks it appropriate (bearing in mind legal requirements and obligations of disclosure by healthcare professionals), once statutory regulation commences, disclose to the General Medical Council (GMC) any information relating to a disciplinary offence (or alleged disciplinary offence or concerns about conduct) and any proceedings taken or penalty imposed by the FPA in connection with it.

3.3

Any member found to have committed a disciplinary offence under this procedure, or any applicant who has their registration refused, shall have the right to request that the case be referred to an FPA appeals panel.

4. Procedure for case assessment and management, case investigation, disciplinary action and appeals

4.1 Stage 1 – case assessment and management

4.1.1

If a member or employee of the FPA, or external organisation or individual, is of the opinion that a member may have violated any standards of conduct expected to be in 'good standing', including, where applicable, being in breach of the FPA code of conduct, or a physician associate or applicant may be unsuitable to be on the PAMVR as a result of conduct concerns, the circumstances should be referred to the faculty administrator. The faculty administrator will assess the case and determine whether it should be escalated to a faculty dean for investigation. The faculty dean shall be entitled to call for such papers and to conduct such other enquiries into the matter as they may think fit. The faculty dean may work independently or in association with the registrar. An investigation file will be produced by the FPA administration team and kept as a digital record.

4.1.2

The faculty dean may determine, after initial review, that it is appropriate to take 'no action'. In these circumstances the case will be closed, and the records retained for a period of 3 years in case of recurrent issues, and/or may be passed to the GMC once statutory regulation commences.

4.1.3

Where in the view of the faculty dean it is not appropriate to 'take no action' and it is not possible to resolve the matter informally, or the gravity of the alleged breach makes this inappropriate, the faculty dean may decide, independently or in association with the registrar, to escalate the case for investigation by the conduct committee.

The member or applicant shall immediately be informed in writing and provided with a copy of this procedure, with signposting to provision of support for personal wellbeing.

The member or applicant shall be advised in writing of the allegations or concerns that are to be considered and shall have the right to submit a written statement.

Where a member or applicant is subject to a criminal investigation, the FPA reserves the right to wait for the outcome of those investigations before proceeding with internal disciplinary procedures. The conduct committee may then base their decision on the outcome of the criminal investigation.

In all cases, it will be left to the faculty dean's discretion to provide feedback to the original complainant, including the method and extent of such feedback.

4.2 Stage 2 – case investigation and recommendation by the conduct committee

4.2.1

The chair of the Professional Standards Committee shall appoint a standing panel of between six and 10 individuals to form the conduct committee, who shall investigate and determine cases referred by the faculty dean.

For each referred case, the chair of the Professional Standards Committee shall appoint a conduct panel of at least three members who will decide the case. The panel shall include at least one RCP board member and one FPA representative. One of the panel will be appointed as its chair.

4.2.2

Members or applicants under review will be informed of the concern(s) being assessed and will be invited to submit a written statement to the faculty dean as part of establishing the facts of the case. The faculty dean may, in addition or alternatively, choose to offer an interview.

The faculty dean shall be entitled to call for such papers and to conduct such other enquiries into the matter as they may think fit.

In support of the faculty dean, the FPA administrator will curate all necessary materials into a single investigation file and this will be available to the conduct panel. An investigation file will be kept up to date by the administrator and the file will act as a single audit trail of all matters pertaining to the complaint, whether or not the complaint goes to the conduct panel.

4.2.3

The main reference document for the conduct panel will be the FPA code of conduct, and outcome options will be recommended in the broad categories outlined below. There is separation between the faculty dean, who oversees the process, and the conduct panel, who determine the issues and decide on sanction or registration (unless the matters are deemed not to require a panel by the dean and are resolved informally).

4.2.4

The Conduct Committee shall have the power to call for additional documents and conduct such other enquiries as they see fit. The physician associate or applicant shall have the right to see written evidence against them, except where there is a specific overriding duty such as the protection of a minor, in which case their statements may be anonymised or paraphrased after discussion with the chair of the Conduct Panel appointed for the case.

4.2.5 Operation of conduct panel

- The member or applicant shall be notified of the allegations to be considered and the escalation to the conduct panel by the faculty administrator.
- The member or applicant shall have the right to submit a written statement to the faculty dean, to be considered by the conduct Ppanel.
- The member or applicant shall have the right to see any anonymised complaint against them and the investigation file of the faculty dean.
- The conduct panel will demonstrate a proportionate approach and provide reasons for their decision and why (if applicable) a lesser sanction was not appropriate.
- An electronic record of decisions and copies of related documentation shall be kept.
- Exceptionally, the conduct panel for each case may request further information or the presence of the member or applicant as part of deliberations. In such cases, a member or applicant may be accompanied by a friend, who may speak on their behalf but may not act in a legal capacity. The member or applicant may request that the faculty dean or the conduct panel interviews particular witnesses, although they are not obliged to do so.
- A summary of the conduct panel's adjudication will be made available to the member or applicant and may be shared by the FPA with a current or proposed employer of the physician associate.

4.2.6

Having considered a case, the conduct panel will then recommend to the faculty dean how the case should be dealt with, from the following options:

- dismissal of the case
- reprimand of the physician associate or member by means of a written warning
- the imposition of conditions on a physician associate
- temporary suspension or permanent removal of the physician associate from the PAMVR. Such recommendations must be endorsed by the Professional Standards Committee
- restitution of loss: in any case where specific FPA facilities or resources have been misused, by recommending that the member makes good any loss.

4.2.7

The conduct panel will liaise with the faculty dean and faculty administrator regarding its decision. This will be conveyed in writing to the physician associate or applicant, both in hard copy and electronically. The records of case will be retained in accordance with the FPA's data retention policy.

4.3 Stage 3 – appeals panel

4.3.1

If a member who is disciplined under the procedure described above wishes to have their case reviewed, or an applicant is refused registration, they must submit their request in writing (on a word-limited appeal request form) to the faculty administrator within 2 calendar weeks of receiving the decision of the conduct panel.

4.3.2

On receipt of any appeal, the chair of the Professional Standards Committee shall decide whether to give permission for the appeal to be referred to an FPA appeals panel, convened as required. The panel will consider and decide the case on a review basis, where the physician associate or applicant (or ‘appellant’) must show where the decision was wrong, through information submitted via the appeal request form.

4.3.3 Terms of reference of the FPA appeals panel

- To hear cases referred to it by a physician associate or applicant given permission to appeal against a decision of the conduct committee.
- To decide whether the handling of a case has resulted in a fair judgement and appropriate outcome by reviewing the conduct of the case.
- To consider fresh evidence where available and when it was not reasonably possible for this to be provided to the conduct committee.
- To presume that the original decision will stand unless it was plainly wrong, and the decision should be changed.
- The appeals panel can:
 - allow an appeal by a physician associate to stand, and dismiss the case
 - allow an appeal by an applicant to stand and recommend that they are registered
 - uphold an earlier disciplinary decision and associated outcome
 - uphold an earlier disciplinary decision, but reduce the penalty.

Notification of the appeals process is by the faculty administrator.

4.3.4 Membership of the FPA appeals panel

The composition of the panel will ensure senior officer representation, but will exclude the faculty administrator and any members of the conduct panel involved in the initial decision. The panel (minimum of three) will usually include the president of the FPA and at least one other senior board member of the RCP and a PA from the conduct committee.

Appeals panel members must not have been previously involved with the case.

4.3.5 Operation of FPA appeals panel

- The appeal request form will set out the allegations and/or decision to be reviewed.
- The member or applicant shall have the right to show why the decision was wrong (through completion of the appeal request form).
- The appeals panel shall have the power to admit new evidence if it accepts that there is a good reason why this was not able to be provided to the original decision makers.
- It will be for the appeals panel within its absolute discretion to decide whether to ask the member or applicant to attend for interview and to decide whether and how the member or applicant can be represented. If the member or applicant is allowed to attend the appeals panel meeting, then the faculty dean and/or a member of the original conduct panel should also be invited to attend and address the appeals panel.
- An electronic record of decisions and copies of related documentation shall be kept.
- The FPA appeals panel's adjudication will be made available to the member or applicant.
- Once the case has been considered by the FPA appeals panel, the matter will be concluded, regardless of whether there are other circumstances cited subsequently by the physician associate or applicant.

5. Emergency measures

5.1

Where the faculty dean is of the view that the continued inclusion of a physician associate on the PAMVR, or their continued membership of the FPA, poses a serious threat to persons, property or the reputation of the FPA or the PAMVR, they may, in consultation with the chair of the Professional Standards Committee and/or the registrar, suspend the physician associate's registration with immediate effect.

5.2

In any case where this power of suspension is used, it should not be interpreted as a finding of guilt; it will normally be carried out only in circumstances where there is a serious threat to persons, patients or property, or may compromise the FPA's or PAMVR's activities or reputation; and will be in force pending further investigation or decision as allowed in this procedure.

5.3

For instances where a member's status is suspended on an interim basis using these emergency measures, the member has the right to request a review of the decision via the faculty administrator, which will be considered by a single member of the conduct committee.

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Approved: Professional Standards Committee

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