

# Disciplinary Procedure

## Supporting information

### ANS Background

The Association of Neurophysiological Scientists; The ANS (formerly EPTA) is the professional body for primarily for neurophysiologists working in the field of Clinical Neurophysiology in the United Kingdom. Practising neurophysiologists in the NHS come under the workforce umbrella of Healthcare Scientists.

The ANS principal aims are to represent its members at a national level, set standards of practice promote career development, set education and training standards and award qualifications.

EPTA was founded in 1949 with initially 21 members; The ANS has now grown to over 500 members, majority of which are based within clinical departments in the UK and Republic of Ireland, although membership does spread world-wide. Membership categories also include non-practising neurophysiologists and individuals with an interest in the field, including profession working in the commercial sector.

With >70 years of experience, it also provides professionally recognised practical examinations in Neurophysiology in the UK.

### ANS Vision and Mission statement

The objective of ANS is to provide a national professional body and educational association for neurophysiological scientists.

The mission is to enable the development of a modern, resilient workforce that encourages working to the highest potential to deliver the best care for today and the future.

In keeping with our vision and mission our strategic goals are to:

- Facilitate national and international networking and communication within the Neurophysiology field
- Ensure the latest high quality developments and advancements in neurophysiology practices are shared and assessed through professional body examinations.
- Design a high quality training programmes and professional body examinations for future generations in Neurophysiology
- Promote Neurophysiology with education, setting standards and development of the workforce
- Encourage working to the highest potential and deliver the best experience through professional development, networking opportunities and support

- Support the development of a modern, resilient workforce with the knowledge and skills for today and the future
- Set standards, collate and disseminate information, and represent the membership

### **ANS and Public Protection**

The ANS's Code of Conduct and Ethics is designed to encompass the professional competence of Members of the professional body when practising neurophysiology expertise, and their professional relationships with the ANS, its members and its council, and their professional colleagues.

We are a professional body and as such, we do not have the powers of registration bodies or statutory regulators, we cannot stop any of our Members from practicing their profession if they are found to violate the ANS Code of Conduct and Ethics (or CSci Standards/Model Code of Conduct if applicable). ANS can however remove a member from the ANS membership should they be found to violate the Standards or Code/s with which they agree to abide to through their ANS membership.

The ANS recognise however that some Members are unregulated and do not reside on any recognised UK registration body or statutory regulator where this is currently not mandated in the UK.

This disciplinary process does have the power to suspend or remove any member found to be in violation of the Code/s and can also remove CSci status from a Chartered Member under this procedure. Where applicable the ANS will inform any relevant organisation of any action taken against a member under this disciplinary procedure.

### **ANS and CPD responsibilities**

The ANS also provide regular CPD opportunities to their members and any interested persons.

Our Full member category professionals commonly register with either the RCCP, AHCS, HCPC and/or the Science Council and must abide by their respective standards of proficiency/competencies. These registration bodies and statutory regulators and are responsible for monitoring their Registrants ongoing performance through regular CPD monitoring processes. The ANS monitor only the CPD of Chartered (CSci) members through the Science Council joint CPD monitoring process. The ANS therefore also have the power to remove CSci status from chartered members should they be in breach of the CSci CPD requirements.

### **About this Disciplinary Procedure**

The ANS investigates complaints about its Members as part of its role in public protection, ensuring high professional standards and promoting and protecting the interests of the profession and the reputation of the organisation.

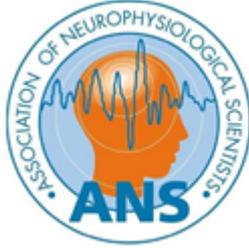
The ANS agreed to a unified Disciplinary Procedure on 3<sup>rd</sup> April 2003, giving the ANS the responsibility for considering complaints against its Members. This Disciplinary Procedure is reviewed and updated in response to changes in the professional and legal frameworks within which the ANS operates.

This disciplinary procedure sets out the ANS's approach to handling complaints in relation to its Members. All Members are expected to conform within the expectations of the ANS's Code of Conduct and Ethics and this Disciplinary Procedure. This Disciplinary Procedure is the 2021 version which supersedes all previous versions, having been approved by the Council of the ANS on **13<sup>th</sup> January 2022**. This procedure is intended to promote the handling of complaints in an efficient, effective, transparent and proportionate. All Members meet the exacting standards of the ANS Code of Conduct and Ethics. All ANS Members should have the skills, knowledge, good character and health to carry out their role safely and effectively. The ANS provides a robust, responsive and transparent Disciplinary Procedure for dealing with complaints in order to maintain professional standards, protect the public/patients and uphold the profession and the reputation of the professional body.

For serious complaints involving patient and public safety concerns or allegations of a sexual nature, the ANS will report any concern to the relevant authorities, including any UK registration body or statutory regulator who have the powers to stop a practitioner from either working under the banner of their registration body or for example stop a HCPC registrant from practising under the Clinical Scientist protected title.

It is the responsibility of all Members and Complainants to ensure that they fully understand this disciplinary procedure. Members should inform their patients/clients, who indicate that they have a complaint about the existence of this procedure.

Complainants in bringing their complaint to the ANS under this procedure, agree to allow their complaint and accompanying documents to be sent to the Member whom the complaint is raised about, and for their complaint to be dealt with in accordance with this procedure.



## **The ANS Disciplinary Procedure**

### **Introduction**

1. The ANS will investigate a complaint where there appears to be a risk to patient/public safety or where the conduct undermines public confidence in the Neurophysiology profession and/or that of the ANS.

2. Complaints can only be considered under the ANS's disciplinary procedure if the complaint is made against a Member. The Code of Conduct and Ethics and this Disciplinary Procedure applies to all of the ANS member membership categories, which comprise of the following:

#### **Membership Categories:**

2.1 Full membership – for members who hold an ANS recognised professional qualification. It is also available to those with current RCCP registration who are working in Neurophysiology.

2.2 Chartered membership - is available to full members who have been awarded Chartered Scientist status by the ANS.

2.3 Fellow membership - awarded to members who have been recognised for outstanding practice or pursuance within the profession.

2.4 Chartered Fellow membership - awarded to fellows who have also achieved Chartered Scientist status.

2.5 Associate membership – for members working in the field of Neurophysiology who do not fulfil the criteria for other grades of membership.

2.6 Student membership – for those members training towards their first ANS recognised professional qualification.

3. The ANS is unable to investigate a complaint in relation to a former Member.

4. Where the subject Member is also under investigation in relation to the same matter by an employer, another membership body, registration body or statutory regulator, the ANS will liaise with that organisation. The ANS may consider staying its own proceedings until the proceedings of the other organisation have concluded.

5. The ANS would not usually consider a complaint made more than five years after the event. However, where the complaint(s) are sufficiently serious and it is in the public interest to investigate, the ANS has the discretion to investigate the complaint.

6. The ANS Disciplinary Procedure can also be engaged in the absence of a complaint. This may include cases where the Member discloses a criminal conviction or an adverse decision by another membership body/registration body/statutory regulator. The ANS Chair has the discretion to engage the disciplinary procedure to

in circumstances where the ANS becomes aware of any complaint that may call into question a member's reputation. In all such cases, the ANS Chair will present the complaint to the Disciplinary Committee.

### **A violation of the 'Code'**

7. A violation of the ANS Code of Conduct and Ethics may occur for example when a member is found to have acted with dishonesty, indecency, harassment, bullying, violence, abuse of drugs or alcohol, this is not an exhaustive list.

8. The ANS will only investigate a complaint that relates to a member's conduct and performance in relation to their skills, knowledge, character and health to do their job safely and effectively.

9. A violation of the Code is not just about professional performance, it also includes acts by a Member which may affect public safety or confidence in the neurophysiology profession and may include matters not directly related to professional ability/competence. A violation of the Code can be for a number of reasons and these include:

9.1 Misconduct

9.2 Deficient Professional Performance

9.3 An adverse determination by another professional body/registration body/statutory regulator

9.4 A criminal conviction or caution in the UK for a criminal offence, or a conviction elsewhere for an offence which, if committed in the UK could constitute a criminal offence

### **Before raising a complaint**

10. The ANS can consider complaints relating to a violation of the code of a Member and take action. We are unable to consider complaints about organisations; deal with customer service or consumer issues; arrange compensation; intervene in disputes between members; or make a member apologise.

11. We recognise that many complaints can be best resolved at a local level by speaking directly to the Member or their place of work and/or following local complaints procedures. We will always consider any complaint raised with us to see if it is something we should investigate. Complainants who are unsure whether their complaint is something we should investigate are encouraged to contact us to discuss their situation before submitting their complaint.

### **How to raise a complaint**

12. A complaint should be made in writing to the ANS by email [anschair@ansuk.org](mailto:anschair@ansuk.org) or sent to the following address with all the necessary information: following address:

ANS Ltd care of Executive Business Support (EBS) Ltd  
City Wharf, Davidson Road  
Lichfield, Staffordshire  
WS14 9DZ

13. In order for the ANS to investigate a complaint, the Complainant must provide the Member's details and clearly set out the facts giving rise to the complaint. The written complaint should include information such as, conduct, dates, places, names and supporting information relevant to the complaint. The Complainant should also provide consent to the use of their personal information for the purposes of operating the ANS Disciplinary Procedure.

14. The ANS will require the Complainant's full name and address, anonymous complaints will not be accepted where the ANS must ensure the Member is treated fairly, they will usually need to know the source of the allegation(s) against them.

15. The ANS may decide that the complaint is not within their remit, in which case the ANS Disciplinary Chair will write to the Complainant explaining the reason(s) for their decision.

### **Disciplinary Panel**

16. Having reviewed the complaint, the Disciplinary Chair will forward a copy of the documents to the Member within 20 working days of receiving the complaint.

17. The Disciplinary Chair may seek further information from the Complainant or the Member in order to assist in reviewing the complaint.

18. The Disciplinary Chair will then send the documents to the Disciplinary Panel members.

19. The Disciplinary Panel is quorate with three-panel members, which will include at least one ANS Member and at least one Lay Member. The Panel may meet in person or by video/telephone conference.

20. The Disciplinary Panel will also be provided with information of any previous complaints or decisions from any previous Disciplinary investigations and sanctions issued to the Member by the ANS.

21. The Disciplinary Chair will inform both the Complainant and the Member of the referral to the Disciplinary Panel and provide them with a copy of the ANS Disciplinary Procedure and relevant Code/s.

22. The Disciplinary Panel should meet to review the initial documents as soon as practicable, but no later than 30 working days from receipt of the documents.

23. The Disciplinary Panel may decide to dismiss the complaint if it considers the details of the complaint do not meet the threshold of a violation of the Code/s.

24. A Complainant may only appeal against a decision of the Disciplinary Panel to dismiss a complaint where there is convincing new evidence which was not available at the time of the first Disciplinary Panel meeting.

25. Where the complaint is not dismissed, the Disciplinary Panel may make further preliminary enquiries and request information from the Complainant and/ or Registrant and/ or third party in which case, the Disciplinary Chair will request the further information.

26. Having considered the further information, unless the Disciplinary Panel has decided to dismiss the complaint, it will send the Member any further related documents obtained during their preliminary enquiries and may request a further

response from the Member. The Member will have 30 working days to respond to the documents and any specific questions posed by the Disciplinary Panel.

27. Once the ANS has received the Member's response, the Complainant will be given the opportunity to comment on the Member's response. The Complainant will have 30 working days to respond.

28. Where the Complainant or Member fails to respond within the time periods set out above the Disciplinary Panel may proceed with their decision without a response.

### **Notice of Hearing**

29. Having arranged the date(s) of the Hearing the Disciplinary Chair will send the notice of hearing by the Royal Mail "Signed For" service to the Member's home address.

30. The notice of hearing will also include a copy of the particulars of allegation(s). The hearing should not take place before 35 days after the service of the notice. Unless the Member consents to waive the 35 days' notice. The service of notice of hearing will be taken to have been received the day after posting.

31. The notice of hearing shall clearly set out the following:

31.1 Date, time, length of hearing and venue;

31.2 Particulars of allegation(s);

31.3 The Member's right to attend the hearing and be represented;

31.4 The procedure at the hearing and possible sanctions open to the Panel in the event of a finding of a violation of the Code/s;

31.5 The Panel's power to proceed and determine the matter in the absence of the Member/Member's Representative at the hearing.

32. The Disciplinary Chair may appoint a Legal Assessor to attend the hearing and provide independent legal advice to the Panel. The Legal Assessor will advise on matters of law, evidence and procedure.

33. At least 21 days before the date of the hearing the ANS Disciplinary Chair or legal advisor and the Member must send by post and by email to the other party the following:

33.1 Any documents the party seeks to rely upon at the hearing.

33.2 A witness list together with the witness statements that each party seeks to rely upon at the hearing. All witness statements must be signed and dated and whether the Member admits or denies the allegations and intends to appear in person and/or to be represented at the hearing, and if so, the name and address of his or her Representative;

34. The documents should be clearly compiled and any document that has not been submitted in compliance with the above, will need express permission from the Disciplinary Chair to be considered as part of the proceedings.

35. The ANS legal representative and the Member/ Member's Representative shall wherever possible agree a hearing bundle of relevant documents and a copy of the

bundle shall be provided by the Disciplinary Chair to the Legal Assessor and sent to all parties within 14 days of the Hearing.

### **Proceeding in absence and representation**

36. Where a Member fails to attend and is not represented at the hearing, the Disciplinary Panel may nevertheless continue with the proceedings, provided they are;

36.1 Satisfied the Member was served the notice of hearing in accordance with paragraph 29 above and/or all reasonable efforts were made to notify the Member of the hearing.

36.2 It is in the public interest to proceed with the hearing.

37. The Member may be legally represented by a Solicitor or Counsel at the hearing.

38. The Complainant if attending as a witness can bring with them a supporter providing the ANS have been given notice.

### **Evidence**

39. A certificate of conviction issued by a court in the UK is admissible as conclusive proof of that conviction and the findings of fact on which it is based.

40. The Disciplinary Panel may admit any evidence they consider fair and relevant to the case before them.

### **Procedure at Hearing**

41. The procedure at the hearing shall be determined at the discretion of the Disciplinary Panel. During a hearing, the Committee follows a 2-stage process before it reaches a decision on whether to impose a sanction.

41.1 Findings of Fact

41.2 Sanction

42. The Chair of the Disciplinary Panel shall introduce the members of the Panel present and confirm the identity of the Member against whom the allegation(s) are made.

43. The Disciplinary Chair to the hearing shall read the allegation(s) against the Member. The Chair shall inquire of the Member whether there are any admissions to the allegation(s).

44. Where any of the facts are admitted the Chair of the hearing should formally announce that such facts have been found proved.

45. Where any of the allegations are not admitted, the ANS legal representative will open the case against the Member and present evidence in relation to the alleged facts, including the calling of witnesses.

46. At the end of the evidence presented, the Member/Member's Representative will present evidence and advance witnesses in support of their case with regards to the alleged facts.

47. Witnesses shall be examined by the party calling them and may then be cross-examined by the opposing party. The party calling the witness may then re-examine the witness.

48. The Disciplinary Panel may question any of the witnesses, the ANS legal representative, Member/ Member's Representative.

49. Once each party has presented their evidence in relation to the facts both the ANS legal representative and Member/Member's Representative will provide closing submissions to the Disciplinary Panel summing up their evidence to the alleged facts.

50. The Legal Assessor will provide their advice to the panel in public. The parties will be given the opportunity to make representations in respect of such advice.

51. For arriving at any decision in relation to the hearing, the panel shall sit in private and in the absence of the parties. Any announcement of a decision shall be made to all parties concerned. The Panel will deliberate in the presence of the Legal Assessor, but the Legal Assessor will not take part in the legal deliberations and only provide support in relation to the law and procedure.

52. The Disciplinary Panel will provide their findings of facts as soon as possible. The Panel will provide reasons for its findings within their determination on facts.

53. The Legal Assessor will give legal advice to the Committee on the relevant laws and procedures.

54. In a case where the Committee finds a breach of the Code, the Legal Assessor shall then advise the Disciplinary Panel as to the range of sanctions available to the Panel.

### **Sanctions**

55. Sanctions are intended to protect the public, and the wider public interest, the interest of the membership and the professional body and are not intended to punish the Member. Following a determination of a violation of the Code by a Disciplinary Panel, the following sanctions may be imposed:

55.1 A warning for a period of one year unless the Panel determines a lesser period;

55.2 A Suspension of membership. This shall specify the period of suspension (not exceeding 12 months). The Panel should state whether there is the need for a review hearing before the Member can return to the ANS membership.

55.3 Removal of Membership from the ANS.

56. The Notice of Decision shall be sent to the Member/ Member's Representative and Complainant within 7 working days of the conclusion of the hearing, the Notice must set out clearly the findings of the Disciplinary Panel.

57. The ANS Chair will notify the Member's employer, any other relevant membership body/registration body or statutory regulator of any decisions made by the ANS as soon as is practicable.

## **Review Hearing**

58. Where the Disciplinary Panel determines a sanction of membership suspension, they may also impose a Review Hearing. In such circumstances, the Panel will direct that a Review Hearing takes place before the period of suspension expires.

59. A further hearing will be held to conduct the review, preferably with the same Disciplinary Panel. The Review Panel will have discretion on how to proceed with the hearing.

60. Where the original Panel imposed a sanction of suspension, the Member should show evidence of any CPD, supervision and work experience carried out during the suspension.

61. At a Review Hearing, any finding concerns of the Reviewing Panel must be based on the original details of the complaint. The Panel will need to consider all the information available to them in order to make a decision to readmit the Member to the membership. The Member is expected to provide evidence that any misdemeanour has been addressed.

62. The Reviewing Panel has the discretion to continue the suspension or vary as they see fit or alternatively take no further action.

## **Appeal**

63. A decision of the Disciplinary Panel may be appealed by the Member. The Complainant may also request the ANS to lodge an Appeal. An Appeal will be considered on the following grounds:

64. The findings of the Disciplinary Panel are disproportionate to the gravity of the conduct and/ or unjust in all the circumstances.

65. The sanction imposed by the Disciplinary Panel is disproportionate to the findings and/or unjust.

66. There is evidence of serious procedural irregularity in the proceedings before the Disciplinary Panel.

67. There is new evidence that was not available at the time of the Disciplinary Hearing.

68. The grounds for an appeal will be considered by a panel Chair and a decision will be made as to whether the leave to appeal is accepted or rejected. If the leave to appeal is rejected, the Member and the Complainant will be notified in writing of this decision, which will be final.

69. If the leave to appeal is accepted both the Member and the Complainant will be informed. The Appeal Panel will include three-panel members drawn from the ANS panellist pool. One of the panel members will be appointed Chair of the Committee. The panel will include at least one ANS Member and one Lay Member.

## **Notice of Appeal**

70. A written notice of appeal will be sent to the ANS Chair within 28 days of the receipt of the written Notice of Decision of the Disciplinary Panel.

71. The Notice of Appeal shall:

71.1 Specify the grounds of appeal - The arguments in support of the appeal.

71.2 Include any documentary evidence relied upon.

72. The proceedings of the Appeal shall be conducted at the discretion of the Appeal Panel.

73. Unless the Appeal Panel decides otherwise, the Panel shall not receive oral evidence.

74. An independent Legal Assessor may be appointed to advise the Appeal Panel in relation to the law and procedure. The Appeal Panel will consider all the relevant documents and any written submissions provided by both parties to decide whether the appeal is upheld or not.

75. If the appeal is upheld, the Appeal Panel can make any decision regarding the complaint that could have been made by the Disciplinary Panel.

76. The Appeal Panel may determine that the case be referred back to a differently constituted Disciplinary Panel for a rehearing.

77. The Appeal Panel shall issue to the appellant a written decision within 7 days of the determination of the appeal.

78. If the outcome of Disciplinary Hearing against the Member indicates that there may be a real risk to the safety of children or vulnerable adults, 'safeguarding issues' then additional measures will be taken.

78.1 The ANS Chair will consult the Legal Assessor on the case about whether to write to the Member's employer or Disclosure and Barring Service in order for them to decide whether the individual should be barred from working with vulnerable adults and children.

78.2 The ANS Chair may also refer information to the police if an investigation indicates that it is necessary to do so and will always do so if there is evidence of a criminal offence which hasn't already been considered by the police.

79. The ANS Chair will notify the Member's employer, any other relevant organisation, registration body/statutory regulator of any decisions made by the ANS.

## **Restoration of Membership**

80. Where a Member has been removed from the Membership under these procedures, they can reapply to the ANS after a period of five years.

81. The former Member (Applicant) is expected to reapply explaining their reasons for wanting to re-join the ANS and demonstrate insight in relation to the conduct that led to their removal.

82. The Applicant should clearly set out their CPD activities and work history since their removal.
83. The request for restoration will be submitted to the ANS Chair for consideration. The ANS Chair has the discretion to decide upon the application.
84. Where the ANS Chair considers the application should be further considered by a Panel, the ANS Chair will request the Disciplinary Chair allocate a member and lay member to consider the request.
85. The panel members may decide to interview the Applicant if necessary, in order to establish whether the Applicant's application should be accepted. The Panel also has the discretion to contact any third parties in making their decision such as the Applicant's current employers.
86. The Panel will report their findings to the ANS Chair by way of a report outlining their reasons for their decision.
87. The Restoration Panel may:
- 87.1 Allow the Applicant onto the membership.
  - 87.2 Deny the Applicant restoration of membership.
88. The ANS Chair will send out the decision to the Applicant within 7 days of receiving the report from the panel.
89. If the Restoration Panel rejects the application there will be no right of appeal and a further application can only be considered after a period of two years.

*The ANS is committed to promoting equality, diversity and inclusion when carrying out its' duties. The ANS values diversity and individuality in all members and Council members.*