

Minutes of Register Advisory Panel

Friday 22nd March
Meeting Time 2pm – 5pm

Attendance (In person, Sutton, Surrey)

Catherine Clarke Solicitor (England & Wales) (CC) – Chair RAP
Doreen Rowland OBE (DR) Independent
Fiona Stevenson (FS) Independent
Tim Warren (TW) Independent
Kathy Spooner (KS) ACC CEO
Gillian Stuart (GS) ACC Head of Membership Services and Registrar
Leroy Harley (LH) ACC Board Observer

Attendance (Online – Zoom)

Sue Monckton-Rickett (SMR) ACC Chair
Dr Heather Churchill (HC) Professional

Apologies

Sarah Palmer, ACC Deputy Registrar
Revd Dr Richard Needle (RN) Independent (resigned in January 2024)

1. Opening prayer

DR opened the meeting in prayer

2. Welcome and apologies

CC welcomed LH ACC Board Observer, to the meeting. CC reminded the panel that RN had indicated his desire to step down from the panel in January following over three years of service. The panel had accepted his resignation with thanks for his wisdom and guidance in service of ACC and the register. Panel members had individually sent their thanks and appreciation by email and SMR has sent a hamper by way of a farewell gift on behalf of ACC.

3. Conflict of interests

There were no conflicts of interest declared.

4. Minutes of last meeting and matters arising

.There were a few minor amendments to the minutes.

HC commented that the going forward it would be good to ensure that when the word 'we' is used in the minutes, it should be clear who the 'we' is referring to. For example, whether the 'we'

is ACC or the Panel or another group of people. KS accepted this as an important and helpful suggestions.

In matters arising KS confirmed that an 'advert' to recruit panel members RAP would be in Spring Accord.

CC asked whether ACC had heard from the Professional Standards Authority as a result of their Targeted Review following the May 2023 annual check. GS accessed the targeted review report which has now been published on the PSA's website, and read for the record of the meeting the recommendation in full:

The ACC should monitor and evaluate the implementation and integration of the new processes they have introduced to meet the requirements of the Information Commissioner's Office (ICO) in relation to information security.

GS reported on the progress that has been made in ensuring that all staff members, assessors and the Board have undergone GDPR training.

SMR reported that ACC had heard back from the ICO with regard to the most recent concerns logged with them by a registrant who has been removed from the Register. The ICO confirmed that no breach had taken place and further that ACC were entitled to retain emails for the purposes of the disciplinary process.

CC asked a question in relation to the work by SMR in producing guidance as to the processing of Subject Access Requests. Would there be any need to change these with the new system implementation? KS reported that there should be no need to change the processes themselves.

However, with regard to member's personal information, there are new areas of personal data held about a subset of members (level 4 students and registered and accredited counsellors) relating to protected characteristics. These are needed to fulfil the requirements of the new Standard 9 published by the PSA in the summer of 2023. For ACC it will be helpful to monitor changes in the profile of membership over the coming years to report on progress with regard to our own EDI ambitions/strategy. However, applicants and renewing members do not have to provide any EDI information and can 'prefer not to say' in answer to any of the questions.

ACC have reviewed our privacy and data retention policies as part of the new system implementation and anyone joining as a member needs to give explicit consent for their data being processed and stored according to these policies. The new system is on a dedicated server maintained by our third-party supplier Image Plus and as part of the implementation of the system they have undertaken a thorough risk assessment to ensure that the system is protected and also that the data is recoverable in case of hardware/system failure.

CC invited KS to give an update on progress with the new complaints process as part of matters arising. KS reported that some progress had been made in relation to updating the documents. However, the PSA held a special day looking at complaints processes for accredited registers on the 28th February, so she had wanted to wait to see what emerged from that. She had also been anticipating the publication of a good practice guide by the PSA but had recently confirmed that this would not be available until at least September 2024. It is hoped that KS will have capacity to re-look at complaints before the publication of the PSA guidelines.

As a point of clarification in previous meeting SMR explained that ARC stood for the Accredited Registers Collaborative and represented all the accredited registers (not just counselling). The collaborative had been sharing each other's complaints processes in the hope of learning from one another. One of the members had also developed a process by which applicants for their accredited register who had unspent convictions, could be assessed to ensure that safeguarding concerns are assessed and a justifiable decision made on whether the applicant should be refused registered membership.

CC asked if there remained a role for the panel in the new complaints process. SMR confirmed that there had to be, as RAP is ACC's independent body with appropriate terms of reference to ensure that they would be able to fulfil the roles of advisor and reviewer. CC highlighted the need to ensure that when looking at succession planning for the Chair of RAP, the recruitment process should seek someone who can fulfil the specific responsibilities associated with oversight of and involvement in (as set out in the complaints policy) complaint management and processes.

CC asked for an update on accreditation in relation to postponing the deadline the submitting the pre-SCoPEd accreditation applications to the 31st March 2024. GS explained that due to delays in the Notification of Change Process (submitted to the PSA by ACC in spring 2023 and extended to the SCoPEd partnership in January 2024) ACC have yet to hear back from the PSA as to whether our proposed new accreditation process (SCoPEd column B) is acceptable. However, ACC did receive a clear indication from the authority, that we could proceed with plans to implement changes in our accreditation processes so that they were aligned with SCoPEd. The delay, uncertainty and added complication of the involvement of the whole partnership has meant that ACC were not able to launch the new accreditation process in September as planned, hence the decision to keep applications from the pre-scoped process open for longer, extending the deadline from December 2023 to March 2024. In the meantime, ACC have launched the new accreditation process as a 'beta version' – explaining that there may be minor changes.

HC asked whether the new accreditation (beta version) was published on the website? GS explained that it was available to members only in the members resource area. CC commented that this an important question to ask, but unlike the complaints process, accreditation is a member only process so does not need to be available to members of the public.

5 Professional Standards Authority & Standards Update.

5.1 Feedback from PSA day on Complaints

KS and GS reported back from the PSA's recent seminar on Complaints held in London on the 28th February. It was a very good day, with relevant and informative presentations.

Highlights for ACC included a presentation on restorative justice by Professor Kevin Bampton, British Occupational Hygiene Society. He made some very important points which ACC need to be mindful of when finalising our complaints process. As an accredited register under the PSA, which is a public body, our complaints processes are most likely to fall within a public law framework. This means that we should follow a known process for investigating and processing complaints with defined outcomes. This contrasts with a restorative justice process where there is a degree of uncertainty as to where the conversation between parties will go and what the agreed outcome will be. In the speakers experience restorative justice programmes tend to costly processes that rely of key individuals with excellent relational skills for their success. Consequently, they often fizzle out when key individuals move on.

In relation to sanctions, these should be the minimum required to protect the public (principle of public law that we don't inhibit the freedom of people over and above what is necessary to

preserve the public good). Although this suggests a bias towards the registrants, this is what must be done by accredited registers because it is how public law works. ARs also have a duty of fairness, which means predictable outcomes from a standards process. It's hard to be demonstrably fair without written down processes and guidelines. However, he acknowledged that the people who get missed out in this process are the victims, because the impact on the victims is not considered in the sanction.

However, he felt that restorative justice may be applicable to ARs where the complaint relates to the delivery of a service rather than a breach of professional practice or when members are in breach of other rules (e.g. terms and conditions of membership) but are not a danger to the public. The key issue to consider is whether to take a restorative justice approach in whether the situation giving rise to the complaint does not equate to a public risk. For ACC this may lead us to continue to resolve concerns with organisation members with a 'restorative' approach focused on reviewing what happened and identifying lessons learned.

The speaker went on to advise those in attendance that when considering victim impact, an apology by a registrant / organisation is not an acceptance of liability. Professionals have a duty to reflect on their practice and demonstrate empathy. But encouraging people to understand hurt and issue an apology does not mean that they are liable.

Another very helpful talk was given by Professor Louise Wallace, of The Open University on a research study 'Witness to Harm'. The study was on the experience of members of the public and colleagues who are complainants/witnesses in fitness to practice cases. The key findings were that witness would like a point of contact, and for that to be consistent where possible. They would also like support as in assistance with the process, but not for them to be thought of or treated as 'victims', nor for it to be assumed as a need for psychological support. They want clear information that is easily understood to be published on the website. There is a need to consider: content, readability, accessibility and navigation. Videos were found to be especially useful, as well as flow charts and downloadable documents. In terms of panel hearings, witnesses were treated very differently to registrants and found it particularly unhelpful to hear character references for registrants which to a large extent are irrelevant as to whether the registrant is guilty of professional misconduct. Finally, to build trust for witnesses, organisations have to demonstrate that they are skilled and competent, and also demonstrate care.

Panel members reflected on the value of the presentations and commented that ACC had done quite a bit of work in the revised complaints processes to ensure accessible and clear communication with members of the public. They also felt that the arguments in favour of a clear processes for complaints were valuable for ACC to consider.

Standard 9 EDI

GS reported on attempts within the SCoPEd partnership to come up with an agreed EDI data.

As far as ACC is concerned, as reported earlier in the meeting the new system allows the collection and once developed the reporting of EDI for statistical purposes only. There will be a change to the system security to ensure that staff members cannot view members EDI data.

Where ACC will not easily be able to meet the PSA standard is in collecting data about those who use counselling services i.e. clients. When ACC ran the NHS counselling service we had direct contact with clients so we could ask them to provide information about their protected characteristics. However, it's our members as individuals in private practice and organisations offering counselling services that would need to collect the data.

CC asked whether ACC would consider mandating the collection of data as having this data would be so valuable to the organisation and the wider profession? KS responded that this would be something to consider for the future – however she anticipated logistical problems in relation to

collecting and collating the data, and some resistance from members. There would be lots to think through, including the risk of double counting if e.g. a counsellor is a member of ACC and another membership body – under which membership body will that client’s protected characteristics be reported? HC agreed that there were challenges and complexities to consider in collecting sensitive personal information about clients.

TW referred to the published standard, and the known difficulties in relation to interpreting data which in all likelihood will be very broad brush and therefore hard to draw reliable conclusions from. If the PSA were to take a lead in setting out data sets and values that accredited registers must adopt and begin to report on, then there may be a firmer foundation to the project/standard. However, it is not something that they choose to do/or is maybe not within their remit to do. So, there may always be a limitation when looking at registrant data.

6 RAP Policies

KS confirmed that these have been agreed by the Board and are available on the public part of ACC’s website.

7 ACC Update

KS reported that the new system, 2 years in development, has finally gone live. So far there have been few issues – and all seems to be going relatively well.

CC congratulated all at ACC for achieving this milestone.

8 ACC Counselling Update (to include regulation & wider Profession)

Notification of Change Process – SCoPEd Accreditation

KS updated the Panel as to recent developments with regard to ACC’s notification of change process. As reported in the December meeting the authority had eventually responded late in 2023 with a series of questions to ACC about the adoption of SCoPEd. As these applied as much to other partners, the authority met with the SCoPEd CEO’s which resulted in a joint Notification of Change Process for the all the SCoPEd partners.

HC asked where ACC were in terms of introducing new accreditation (column B process). GS confirmed that this has been launched to members and the accreditation recognition of SCoPEd C. HC asked how the planned column B competency training planned for the conference fitted. GS explained that anyone undertaking the training would be able to evidence SCoPEd B competence training and therefore be able to undergo a slightly different accreditation process. As part of our commitment to EDI it gives delegates to the training course an opportunity to be able to evidence the B competencies.

HC asked about column B to C accreditation and KS confirmed that at the moment we only had a recognition route. However, we would in due course be developing a B to C route. HC asked with the BACP had one in place, and KS said that they had a route only for their members who had senior accreditation.

Complaints Process

The complaints process update was discussed in matters arising from the minutes.

NICE guideline suicide and self-harm

KS reminded the panel that all of members of the psychological professions group and all accredited registers had been issued with instructions that members of the professional bodies must follow NICE guideline 225 on Self Harm. This was somewhat controversial as firstly the NICE guideline itself is not compulsory in the NHS, SCoPEd column A therapists are not able to work within the NHS and this is the first time that an NHS guideline has been imposed on the wider profession of counselling and psychotherapy.

The reasons given for imposing this guideline include concerns raised by the Chief Coroner that a high proportion of people who complete suicide had seen a mental health practitioner within the previous circa 5 days and had been assessed as low risk. The conclusion drawn is that risk assessments that try to predict the likelihood of someone completing suicide are unreliable, and therefore are not a basis on which to plan treatment. Although counsellors and psychotherapists are unlikely to work in settings where treatment is contingent on a determination of risk, nonetheless, the aims of the guidelines in terms of improving care for people who are contemplating ending their life is a commendable one which ACC's Board were happy to accept in this instance.

In terms of implementing the guidance ACC have notified all members and offered training and a free to attend members forum. It has been incorporated within the ACC's code of ethics which members sign-up for (and can view) on application and renewal. ACC have also published an article in Accord about how to 'interpret' the guide as a counsellor/psychotherapist.

Aspects of the guidance that can be received positively by members include the focus on care and safety plans that involve a client's family and other relational support networks. This does not imply any breach in confidentiality – but encourages the client to think about the resources they have available to them.

HC commented that in the guidelines highlighted the importance of therapeutic relationships over tick box exercises, and its through using professional judgement in the context of a relationship that decisions about breaking confidentiality in order to safeguard a client, especially a child or young person, must be made.

9 Complaints (+ issues arising from)

SMR/KS

SMR gave a brief update on the complaint which had been completed in December 2023. There was no appeal.

KS thanked HC for her caution after reading the notes of the disciplinary panel hearing about panel members asking leading questions. That has been noted and will form part of the briefing to panel members.

10 Practice Review

GS reported that the team are finalising all the practice reviews that were issues in 2023, prior to sending out new ones for 2024.

In terms of common issues that the practice review process is exposing is that of registrants overstating their competence when advertising their services on directories. This most often happens when counsellors are newly qualified and 'select all' as they want to attract clients. GS's preferred method of dealing with issues of this type is to discuss them via a zoom call directly with the member. Indeed, increasingly she is encouraging the assessors to consider zoom calls with members to explain what risks they are taking onboard when they don't follow our

guidelines. This has proved to be very successful, and she believes is a much more effective means of building relationships and communicating well. ACC are now issuing CPD certificates for 4 hours for anyone who has undergone a practice review.

HC commented that this more relational approach is a unique selling point of ACC.

11 Risks to ACC & Register

The risk register for ACC's Accredited register is overdue a review. The hope is that this can be done at the next RAP meeting.

12 Process Issues Changes (Registration, Audit, Accreditation, Complaints etc.)

As has already been discussed, the new accreditation process for SCoPEd column B has been launched. ACC held a forum in January for anyone interested in submitting their accreditation. We have set a start date for accreditations under this new scheme to be submitted by 1st April.

13 Standards & Policy Issues and Changes (CPD, Supervision, Insurance, Practice Break etc)

KS said that the intention is to have a return to practice policy for anyone on an extended break. Each individual case may be different, depending on why they have needed to have a practice break. However, we should set down what it is ACC do so that members are clear about what to expect.

14 RAP Standing Items / Concerns

CC introduced the discussion about recruitment, reminding the panel that apart from TW and FS the current term expires in 2026. This is after the Board agreed to for panel members to serve up to 3 terms of 3 years. She invited panel members and ACC representatives to reflect on the importance and value of the panel, and whether its purposes had changed or needed to change as an important exercise prior to recruitment.

The panel reflected that more generally the panel had value and benefit by having a mix of expertise which they have been able to bring to bear in scrutinising ACC's policies and processes. At particular times, such as the Targeted Review on complaints, and the three recent complaints that proceeded to disciplinary panels – RAP members have been available, responsive and have discharged their duty of careful and diligent review of ACC which has been experienced by ACC panel members as supportive and constructive.

The Panel confirmed with KS that having an independent body to oversee the register was a requirement, although there was flexibility in how this is implemented in each register.

There was a general consensus that in recent years the value of RAP and how it is constituted has been proved, and it was hard for the panel to conceive what alternative structure and constitution would be of greater benefit. However, we could think also of the experience that it most valuable – and having legal, regulatory professions, counsellors/psychotherapists and representatives of leadership and management in Christian settings has proved very valuable.

KS asked whether the panel would consider recruiting a panel member from another branch of ACC, Pastoral Care. The Panel members felt that the idea had merit and would bring a different perspective which could be of value. Also recruiting counsellors from other professional membership bodies could be a way of bringing more specific counselling expertise into the Panel.

The Panel accepted that general calls through member communications had not been successful, and it was time to look at organisations who specialised in matching individuals who want to serve in this voluntary sector with charities like ACC who are looking for them.

15 Public Engagement

Nothing of significance since the last meeting.

16 AOB

There was no other business.

Dates of next meetings

28 June 2024, 2pm (Zoom)

27 September 2024, 2pm (Zoom) – TBC

13 December 2024, 1pm lunch, 2pm meeting (in person) - TBC