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British Association of Sport Rehabilitators (BASRaT)

# Fitness to Practise for Cautions and Convictions.

October 2023

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## Introduction.

This document sets out the process that BASRaT will follow when Fitness to Practise (FtP) concerns arise relating to registrants' cautions and convictions. It should be read and considered as an extension of the following documents, and not in isolation:

- [Raising a Concern/Fitness to Practise \(FtP\): Guide for the public and employers](#)
- [Fitness to Practise Guide: Membership Guide](#)
- [Fitness to Practise: Guide for Accredited Institutions](#)
- [Terms and Conditions for Registration](#)

As holders of a Professional Standards Authority "Accredited Register" (AR), we (BASRaT) have a duty to put protection of the public at the centre of our work. We also have a duty to maintain public confidence in the profession and its regulation. We do this in part through setting standards for registrants and keeping them accountable to those standards via our Fitness to Practise processes. The consideration of registrants' Cautions and Convictions form an important part of that process as it allows us, in a fair, transparent and proportionate way, to determine whether they represent a risk to the public.

## Rehabilitation of Offenders Act.

Registration with BASRaT is not exempt from the Rehabilitation of Offenders Act 1974, therefore, we only ask applicants to disclose convictions which are not yet spent under the Rehabilitation of Offenders Act 1974. The declaration of a caution or conviction will be considered via the process outlined in this document.

## Overview of the process.

Please see the appendix for a flowchart of the process.

## Cautions and Convictions investigation process.

### Source of notification.

There are several ways in which BASRaT could be notified of a caution and conviction; consideration of the source of the notification forms the first stage of the process.

Registrants are required to complete a "Declaration of Health and Good Character in relation to Fitness to Practise" (DHGC) at the point of application for registration and at registration renewal each year. The DHGC asks specifically about cautions and convictions, providing registrants the opportunity to disclose information. Self-declaration of cautions and convictions is favourable as it demonstrates behaviours that are consistent with the BASRaT Standards of Ethical Conduct and Behavior. Where a self-declaration is received, this will be passed to the Registrar for consideration.

BASRaT may also receive notification of a caution or conviction from an employer, governing body, academic institution, police, or any other authority. This may occur if the offence happens mid-way through the registration year and the registrant hasn't been prompted to self-declare.

If the notification is received via any other method than self-declaration, the Registrar will determine whether there has been a failure to disclose the offence at the point of application or registration renewal and/or whether the caution/conviction has been misrepresented.

False or misleading declarations will lead to administrative removal from the register. In the case of applicants for first time registration, registration will be refused.

## Stage one - Registrar review.

The BASRaT Registrar will check and confirm that the offence is unspent to ensure that BASRaT is not in breach of the conditions set out in the Rehabilitation of Offenders Act.

In the case of an ongoing criminal investigation, the Registrar will have the discretion to issue an interim suspension from the register if it is deemed necessary and appropriate to ensure the protection of the public. The length of the suspension is to be determined by the Registrar and communicated to the registrant in writing. The suspension may be extended in the event the investigation remains open at the end of the order.

The Registrar will gather further information relating to the caution or conviction for consideration. This information may include:

- The Certificate (Crown Court) or memorandum (Magistrates Court) of conviction.
- The transcript of the judge's sentencing remarks (in the Crown Court only)
- The extract of the relevant statute of the offence – that will set out the range of sentences. If in the Magistrates Court, the relevant extract of the Magistrates Sentencing Guidelines.

The above list is not exhaustive.

The certificate/memorandum of conviction will be used as conclusive proof of the offence. In such cases the panel will not need to decide whether the facts are proved.

The aim of gathering additional information will be to determine:

- The seriousness of the offence.
- The nature and degree of harm caused to any person.
- The degree of public risk posed.
- Length of time since the offence.
- Any pattern of offending.
- Changes in the registrant's situation since the offence was committed.
- Circumstances surrounding the offence.
- The registrant's explanation of the offence.
- Evidence submitted by the applicant, or referees, of good character.

Once the information has been compiled, a decision meeting will be scheduled between the Registrar and one other member of the BASRaT Executive Committee. A decision will be made on the most appropriate and proportionate route of investigation. Decisions will be communicated to registrants within 5 working days and confirmed in writing.

There are three potential options available to the Registrar at stage one:

- Approve Registration
  - If there is agreement between the Registrar and Executive Committee member that the offence does not represent a risk to the public or impairment of Fitness to Practise, having considered all the information gathered, then they may approve Registration.
- Refer to a cautions and convictions panel.
  - If the decision is not agreed upon, or there is agreement that the offence requires further consideration, then the matter may be referred to a cautions and convictions panel. For more information about the panel, please refer to the subsequent section.
- Administrative removal from the register
  - If the offence is a very serious one then the registrar will have the power to process an administrative removal from the register. This decision will be published on the website as per the BASRaT Publication Policy.
  - The intended purpose of administrative removal is to act quickly and decisively where it is clear and unambiguous that the person concerned is unfit to work as a sports rehabilitator.
  - In the case of a first time applicant for registration, registration will be refused. The decision will not be published.
  - Administrative removal will ordinarily apply for very serious offences, namely:
    - Murder.
    - Sexual offences.
    - Terrorism.
    - Blackmail or extortion.
    - Slavery, servitude and forced or compulsory labour, or human trafficking.
    - Any offence which has resulted in a custodial sentence.
    - Any person who is made subject to a notification requirement for sexual offenders (i.e. who is “on the sex offenders register”).
    - Any person who has been placed on the Disclosure and Barring Service (DBS) barred list(s) (i.e. who is barred from working with children or vulnerable adults).

Where the Registrar has any reasonable doubt that the relevant offence, although captured in the above list, may not be a very serious one and may not warrant automatic removal then the Registrar shall refer the matter to the cautions and convictions panel. BASRaT may take legal advice to inform its decision, at the discretion of the Registrar.

## Stage Two - Cautions and Convictions Panel.

The cautions and convictions panel will be conducted in private and formed of the following:

- Chairperson.
  - A healthcare professional selected from a pool of qualified individuals held by BASRaT. This person cannot be eligible for BASRaT registration or have been registered in the past.
- BASRaT Executive Committee member.
  - At least one member of the BASRaT Executive Committee. This will not be the same member that participated in the decision making process at stage one.
- Lay member.
  - At least one lay member, selected from a pool of qualified lay members held by BASRaT.

The Registrar may be present for part of the meeting to provide guidance on the process but will not be involved in decision making. There may also be an administrator present to take notes.

The panel will be provided with the information collated by the Registrar in stage one no later than one week before the meeting. This will allow time for them to review the case prior to the panel meeting.

The panel will consider:

- The seriousness of the offence.
- The nature and degree of harm caused to any person.
- The degree of public risk posed.
- Length of time since the offence.
- Any pattern of offending.
- Changes in the registrant's situation since the offence was committed.
- Circumstances surrounding the offence.
- The registrant's explanation of the offence.
- Evidence submitted by the applicant, or referees, of good character.

Arising from the discussion, the panel should agree upon the questions to be put to the registrant by the panel Chair.

The registrant will then join the meeting to answer the questions of the panel and provide any additional information to that already provided in writing. At the conclusion of questions, the registrant will be asked to leave, and the panel will resume to agree its decision.

If the registrant is not present at the panel hearing, the panel will proceed in absence. Their decision will be based on information submitted prior to the meeting by the Registrar and any representations from the registrant.

Having discussed the information and putting questions to the registrant, the panel will agree upon an appropriate sanction.

The sanctions available to the cautions and convictions panel are as follows:

In the case of first time applicants:

- Recommend admission to the register.
- Recommend admission to the register with an advisory letter about future standards of ethical conduct and behaviour.
- Recommend refusal of registration, providing reasons.

In the case of Registrants:

- No case to answer
- Caution in writing along with advice about future conduct
- Supervision order
- Suspension order
- Removal from the register

The aim of the panel is not to punish the registrant for their prior conduct, but to put in place an appropriate sanction that protects the public and the wider public interest.

The decision of the panel and the reasoning will be provided to the Registrar within 5 working days. The Registrar will then have a further 5 working days to communicate the decision to the Registrant in writing.

## Appeal

Only decisions made by the cautions and convictions panel are subject to appeal.

The decision of the Registrar to administratively remove a registrant from the register due to false declaration, or because the offence meets the criteria for administrative removal listed in this policy, cannot be appealed unless in the event of mistaken identity or a material error of fact or law.

Appeals must be sent in writing to the Registrar within 10 days of the decision notification. Registrants must give their reasons for the appeal along with supporting evidence.

The Registrar will form an appeals panel with new individuals but the same composition as the cautions and convictions panel (as previously outlined). The panel will meet in private to review the case and the decision.

If the appeal is upheld, the appeals panel will provide their decision and reasoning in writing and the case will be referred back to the cautions and convictions panel for them to reconsider their decision. Any decision made at this stage will be final.

If the appeal is refused, the decision of the appeals panel will be final.

## Publication

For information regarding the publication of decisions, please see BASRaT's publication guidance.



# Version Control

Version Number	Author	Date of Publication	Date of Review
v.01	Oliver Coburn, Registrar	October 2023	As required.

# Appendix

Flowchart of process.

