



British
Acupuncture
Council



Advertising Codes: BAAC monitoring process (Pilot)

Version 1.0 July 2021

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1 Introduction

In the annual review of accreditation (April 2021) the Professional Standards Authority placed a condition on the BAcC that requires us to monitor members' adherence to the advertising Codes.

This document sets out the pilot monitoring process. The pilot monitoring process will run from 2 August – 18 Oct 2021. The process will be reviewed, therefore, please note changes may be made. It is anticipated that the finalised process will come into force from November 2021.

2 The monitoring process

The monitoring process is as follows.

- 1 Members will be randomly selected and notified that they have been selected for monitoring. Notified members will be required to request the Copy Advice Team review their marketing material.
- 2 The Copy Advice Team will not review an entire website. Therefore, prior to notification the BAcC will identify specific webpages that need to be checked. These will be the pages that describe the benefits/ effectiveness of acupuncture. The text of these pages (and potentially some images) must be sent to the Copy Advice Team.
- 3 The member will also be required to identify, and send to the Copy Advice Team, any other marketing material/web pages that they have which describes the benefits or effectiveness of acupuncture. The BAcC should also be sent this material.
- 4 Once the member has received feedback from the Copy Advice Team, they should make any necessary changes.
- 5 **No later than six weeks after receiving notification**, the member should then forward the feedback from the Copy Advice Team and any amendments to the BAcC.
- 6 When applicable, the amended text will be assessed by at least two people working in the BAcC office (Comms, Research and Policy Manager, Safety Officer, Membership services).

The result of which will be either

- a Acknowledgement that the material is likely to meet ASA CAP guidelines.

- b A request for further amendments to be made. The amended text should then be sent to the Copy Advice Team.

It is anticipated that in the vast majority of cases one or two iterations of steps five and six will be sufficient to reach the stage where there is confidence the marketing material is unlikely to breach the Advertising Codes. In exceptional circumstances a third iteration may be necessary.

How many people will be selected?

During the pilot monitoring phase 30 members will be randomly selected and contacted in early August 2021.

Ongoing monitoring: one percent of the membership will be randomly selected annually

2.1 Exceptional circumstances

We envisage two kinds of exceptional circumstances:

- serious breaches of the advertising code
- slight risk that the Code might be breached

Serious breach

If on initial inspection a member's website is found to make claims that do one or more of the following:

- risk seriously misleading a member of the public
- potentially breach legislation
- bring the profession and/or the BAcC into disrepute

Then at initial notification, the member will be required to remove this material as soon as practically possible. Failure to do so may lead to a professional conduct investigation.

Slight risk

The Copy Advice Team only give advice, it is the ASA that make the final judgement. The Copy Advice Team could judge that a particular phrase or claim risk breaching the advertising code, but the ASA may take a different view. In the vast majority of cases the ASA will only be involved after a complaint has been made. Once the ASA has made its decision the Copy Advice Team will subsequently adjust the advice they give, to take account of the precedent. It is through this process that the interpretation of the Codes maybe expanded and refined.

Therefore, there is the possibility that the Copy Advice Team might provide feedback that suggests a particular claim or phrase breaches the advertising code, however, the member will not be required by the BAcC to make an amendment. In order for this to happen all the following conditions must be met, the claim or phrase and the overall text:

- must be legal, decent, honest and truthful
- must not be misleading in any way
- must be informative and help the public have a better understanding of acupuncture and/or the experience of having acupuncture
- be described by the Copy Advice Team as having a slight risk of breaching the Code

3 Annual declaration

The annual declaration that members sign will include additional clauses.

- They agreed to have their websites/ advertising material monitored by the British Acupuncture Council
- That to the best of their knowledge their website advertising material is compliant with ASA guidelines

4 Non-compliance

The ASA CAP regulatory framework is designed to be supportive. If a complaint is made, then the ASA will try to resolve the matter informally. The primary sanction is essentially one of bad publicity. Cases which are brought for adjudication by the ASA are subsequently published on the website. Therefore, it becomes a matter of public record that an individual or organisation was in breach of advertising guidelines. Other sanctions include restrictions on the ability to advertise. Ultimately, the ASA can refer the matter to Trading Standards for action under the Consumer Protection from Unfair Trading Regulations 2008 or the Business Protection from Misleading Marketing Regulations 2008.

For further information: [Complaint about your ad: What happens now?](#)

The BAcC monitoring process follows the same principles as the ASA. **At any point when a potential breach has been highlighted the first step will be to work with the member, support them and provide advice, so that the matter can be resolved informally.** It is hoped, and anticipated, that any professional conduct investigations will be extremely rare.

It is useful to consider the context in which these guidelines and potential sanctions sit. The advertising codes exist to ensure that the public receives honest and truthful information. Providing honest and truthful information is of course integral to the BAcC Codes. Negative publicity that derives from breaching the advertising Codes risks creating the impression that the BAcC and/or its members are engaged in misleading the public. This could negatively impact on the BAcC and its standing with the public, the PSA, other institutions such as healthcare trusts/ local government that we may wish to work with.

The current list of conditions that we are permitted to mention is extremely limited. Indeed, it could be argued that the public is not getting the full truth regarding the potential benefits of acupuncture. However the solution, we believe, is to work with ASA CAP to find a mechanism to expand the list of conditions. There is increasingly good evidence that acupuncture is beneficial for allergic rhinitis. Yet, at present, there is the potential for a BAcC member to be found in breach of the guidelines for making a claim about allergic rhinitis, especially if they did not have the evidence to hand. Therefore, it is much better for us to work collaboratively, gather the evidence, then make the argument to the ASA CAP that acupuncture can treat allergic rhinitis and other conditions.

Timeline

- The member should forward the feedback from the Copy Advice Team and any amendments to the BAcC: **no later than six weeks after receiving notification**,
- As stated above, step 6 of the process allows for amendments to be re-evaluated by the Copy Advice Team. The number of iterations of this step is not limited, however, the process must be completed **no later than 12 weeks after receiving initial notification**.
- If at 12 weeks the marketing material has still not been amended to a satisfactory degree, the matter will be referred to the Professional Conduct Officer.