

## SITE CLINICAL COMPLAINTS PROCEDURE

### INTRODUCTION

This procedure does not pertain to UKCP registrants. All Clinical Complaints against UKCP registrants will be heard by the UKCP's Complaints and Conduct Process (CCP) until such time as CCP sends it back to the Site to hear (ie if it does not meet CCP's test).

This document sets out The Site's process for dealing with complaints against those psychotherapists and psychotherapeutic counsellors who are, or have recently been, Site Members. (For the sake of convenience, this procedure refers to members of both professions as Member or Trainees and the term applies in cases proceeding under Rule 3.4).

It identifies the decision-makers within The Site, namely the Ethics Committee Chair, Ethics Committee and Adjudication Panels, and sets out the process that begins when someone wants to make a complaint against a psychotherapist or psychotherapeutic counsellor.

The document itself is set out in a fairly formal style (simply because it is practically impossible to present a set of rules in any other way) but every effort has been made to make the language user-friendly.

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## **1. SCOPE OF THE COMPLAINTS AND CONDUCT PROCEDURE**

1.1. The Site for Contemporary Psychoanalysis ('The Site') may consider any clinical complaint, relating to any of the following, to be evidence that a Member's continued membership of The Site, or a trainee's continued status as a trainee of the Site is called into question:

- 1.1.1. misconduct;
- 1.1.2. professional incompetence;
- 1.1.3. conviction or caution in the UK for a criminal offence (including court martial) or conviction elsewhere for an offence which if committed in the UK would constitute a criminal offence, and which is relevant to a Member or Trainee's professional practice;
- 1.1.4. physical or mental capacity relevant to a Member or Trainee's professional practice; or
- 1.1.5. a decision by: a body in the UK responsible for the regulation of a health, social care or other relevant profession; or an employer, to the effect that a Member's continued membership of The Site, or a trainee's continued status as a trainee of the Site is called into question.

1.2. In considering a complaint the Ethics Committee Chair ('EC Chair') must apply the UKCP Code of Ethics and Professional Practice or equivalent documents to which the Member or Trainee was subject at the time the alleged misconduct occurred, and identify which parts of the Code or equivalent documents are relevant to the complaint.

1.3. Where the alleged misconduct does not come within the scope of the UKCP Code of Ethics and Professional Practice, the EC Chair will notify any Complainant of this and the complaint will not progress under this procedure.

1.4. If the allegations are within the scope of the UKCP Code of Ethics and Professional Practice, the EC Chair will provide the Member or Trainee with a copy of the complaint and the complaint will progress in accordance with this procedure.

## **2. WHO CAN RAISE A COMPLAINT AGAINST WHOM?**

2.1. Anyone who is a patient (current or former) of that member, a member of The Site, or a professional member of an organisation as recognised by the Council, provided they have a connection to the Respondent which is

demonstrably relevant to the reported case may make a complaint against a Member or Trainee who is :

- 2.1.1. a Member or Trainee at the time of the complaint being lodged with The Site; and
- 2.1.2 a Member or Trainee at the time of the conduct giving rise to a complaint or, if the Member or Trainee was not a Member or Trainee at the time of the conduct, the EC Chair determines that it would be reasonable and in the public interest to consider the complaint.
- 2.2. Subject to paragraph 2.3 a Member or Trainee is not protected from having a complaint heard under the Clinical Complaints Procedure simply because the alleged conduct occurred before this Clinical Complaints Procedure and any earlier versions came into force if the EC Chair is satisfied that it would be reasonable and in the public interest that the complaint should be considered.
- 2.3. Complaints should normally be made within three years of the conduct that forms the subject matter of the complaint (or three years from the date on which any Complainant became aware of the conduct, whichever is later). If this time limit is not observed, the EC Chair must decide whether, in all the circumstances of the case, it would be reasonable and in the public interest to allow the complaint to proceed.
- 2.4. If the Member or Trainee resigns from The Site, or fails to renew Their Site membership, after a complaint has been received by The Site, the complaint will still proceed pursuant to this procedure unless, in exceptional circumstances, the EC Chair determines it would not be reasonable or in the public interest for it to do so.

### **3. BEING SUBJECT TO OTHER PROCEEDINGS**

- 3.1. The Interim Suspension Order (see section 9) and medical assessment processes are available at any point following receipt of an allegation.
- 3.2. Where a Member or Trainee is subject to complaints/disciplinary proceedings related to their practice by another organisation/regulator/employer or subject to legal action, consideration of a complaint under this Clinical Complaints Procedure may be suspended by the EC Chair until those other proceedings have been completed by the relevant organisation, regulator, employer, or the courts.
- 3.3. In the instance that the same complaint is lodged with The Site and another organisation/regulator/employer, the EC Chair will liaise with the relevant organisation/regulator/employer when considering suspending the Clinical Complaints Procedure until those other proceedings have been completed by

the relevant organisation, regulator or employer.

- 3.4. When deciding whether to suspend consideration of the complaint, the EC and the wider public before deciding whether it is appropriate to do so. The EC Chair can review this decision at any time and give reasonable notice to the Member or Trainee that consideration of the complaint is resuming.
- 3.5. Where a complaint has been considered and not upheld by another person or organisation (including The Site), the EC Chair may decide not to consider a complaint based substantially on the same conduct.
- 3.6. When deciding whether to progress complaints that are being or have been heard elsewhere and concluded with no adverse findings, the EC Chair must weigh the interests of any Complainant, the Member or Trainee and the public interest before deciding whether it is appropriate to do so. The EC Chair must give reasons for their decision.
- 3.7. Where a Member or Trainee is the subject of other procedures by virtue of their status either as an employee or a Member or Trainee of another organisation or as being subject to another regulator, the EC Chair will consider whether to advise any Complainant to consult the relevant employer, organisation or regulator.

#### **4. RAISING A COMPLAINT**

- 4.1. This procedure does not pertain to UKCP registrants. All Clinical Complaints against UKCP registrants will be heard by the UKCP's Complaints and Conduct Process (CCP) until such time as CCP sends it back to the Site to hear (ie if it does not meet CCP's test).
- 4.2. To submit a complaint and to begin the Clinical Complaints Procedure, a complaint must be submitted to the Ethics Committee in writing, signed by the Complainant, identifying the Member or Trainee and normally using the complaints form available from the Ethics Committee and on our website. Email correspondence is acceptable only if it is used to send signed written correspondence as an attachment.
- 4.3. Where The Site receives an anonymous complaint or information about a Member or Trainee (which may include a declaration or information from the Member or Trainee directly about their suitability to be a Member), the EC Chair will determine whether the allegation is independently verifiable or admitted by the Member or Trainee. If the EC Chair determines that there is sufficient information to enable him to proceed and they think it is reasonable and in the public interest that they should do so, the complaint may proceed without a Complainant.

4.4. The Site will not normally process a complaint where any Complainant makes the complaint on the basis that their anonymity will be preserved, unless the Complainant confirms in writing their acceptance that they may be identified, or become identifiable, during any action which The Site may decide to take.

## 5. SCREENING

5.1. The screening process is concerned with deciding, in a transparent and professional manner, whether there is a realistic prospect that the complaint will be upheld i.e. that the Ethics Committee may determine that the Member or Trainee may not be suitable to remain a member or trainee of The Site (a) at all or (b) without the imposition of appropriate restrictions on or conditions of practice.

5.2. Where the EC Chair, having applied the procedures set out in sections 1-4 above, determines that The Site has received a complaint against a Member or Trainee or the case is proceeding under 4.2, it shall be screened under these provisions.

5.3. The EC Chair will invite the Member or Trainee to respond to the complaint usually within 21 days of the complaint being sent to the Member or Trainee. A copy of any response received from the Member or Trainee will usually be provided to any Complainant except in cases where there is more than one Complainant and confidential client-specific information is contained within the response, in which case an appropriately redacted response may be provided.

5.4. The EC Chair may at any time ask the Complainant to produce any documents/evidence relevant to their complaint and the Complainant must do their best to produce the requested documents/evidence.

5.5. The Member or Trainee will be encouraged to provide within 21 days any documents or information requested by the EC Chair, but is not compelled to do so.

5.6. The EC Chair may conduct such investigations as they consider reasonable and necessary to make decisions under the Clinical Complaints Procedure.

5.7. When all required documentation has been received the EC Chair will decide whether the realistic prospect test, as set out in 5.1, is met. If the EC Chair feels unable to make this decision, they must refer the matter to the Ethics Committee which must make the decision.

5.8. The Ethics Committee maintains oversight of all decisions made during the screening process. Before the EC Chair takes a final decision, they must seek the advice of the Ethics Committee. However, the final decision rests with the EC Chair.

5.9. If the realistic prospect test is met the case will usually be referred to an

Adjudication Panel. However, if in the opinion of the EC Chair after consultation with the Ethics Committee,

- (a) the complained of behaviour is such that the Member or Trainee has fully acknowledged and addressed it satisfactorily and undertakes not to repeat it, and
- (b) the imposition of restrictions on or conditions of practice is not necessary or appropriate,

then the EC Chair may discontinue the Clinical Complaints Procedure. If the behaviour is repeated in the future, the EC Chair may re- start he Clinical Complaints Procedure.

5.10. The Member or Trainee and any Complainant will be notified in writing of the decisions made under 5.7 and 5.8.

5.11. If the realistic prospect test has not been satisfied or if a decision is made to discontinue the process under section 5.9, any Complainant must be informed that they may re-submit the complaint one more time with any additional evidence that may satisfy the realistic prospect test.

5.12. Where the realistic prospect test has been met satisfactorily and the case has been referred to an Adjudication Panel, the Member or Trainee will be notified and provided with notification of the alleged breaches of the UKCP Code of Ethics and Professional Practice or equivalent documents.

5.13. There is no appeal against a decision relating to the outcome of the screening process.

## **6. ADJUDICATION PANEL**

6.1. The parties in proceedings before an Adjudication Panel are The Site and the Member or Trainee. Normally the case against the Member or Trainee will be presented by a Presenting Officer who may be the EC Chair or someone instructed by the EC Chair. The Complainant, if present, may be called as a witness.

6.2. An Adjudication Panel normally consists of three persons and the proceedings will be audio or video recorded.

6.3. The Adjudication Panel will be selected from a list held by the Ethics Committee and the Chair must be a lay person. The Adjudication Panel will normally consist of three members: one person who is a clinically qualified practitioner registered with the UKCP, BPC, or HCPC; one person with relevant legal/mediation experience; and one person with similar suitable knowledge or experience. The EC Chair will provide the Member or Trainee and any Complainant with the proposed composition of the Adjudication Panel prior

to the hearing. Members or Trainees may raise an objection about a person on the Adjudication Panel if they can satisfy the EC Chair (who will seek the view of the Ethics Committee) that a fair-minded and informed observer would consider there to be a real possibility of bias; in such cases the EC Chair will seek an alternative person. If the EC Chair is not satisfied the matter will be raised at the Adjudication Panel hearing. An Adjudication Panel person must have had no prior involvement with the complaint.

- 6.4. The EC Chair will fix a date on which the Adjudication Panel is to hear the case, providing at least 42 days' notice to the parties of the day, time and venue for the Adjudication Panel hearing.
- 6.5. No later than 28 days before the hearing, the parties are required to provide the EC Chair with a list of the names of the persons they propose to call to give evidence and a list and copy of any documents/statement of evidence they propose to present.
- 6.6. The parties are encouraged to agree the documents they will present at the hearing (known as 'the bundle') no later than two weeks before the hearing and only agreed documents will go to an Adjudication Panel. Any disagreements about the inclusion/exclusion of documents in the bundle will be dealt with by way of an application to the Adjudication Panel at the hearing.
- 6.7. The EC Chair must provide the Adjudication Panel and the Member or Trainee or their representative with copies of the bundle.
- 6.8. At the Adjudication Hearing any Complainant and Member or Trainee may be accompanied by another person of their choosing for support.
- 6.9. The Member or Trainee is entitled to be legally represented at their own expense. In the event the Member or Trainee is not legally represented they can represent themselves.
- 6.10. Either party has power to call an expert as a witness to advise or assist the Adjudication Panel.
- 6.11. Cases will normally be decided after oral hearings at which the parties have the opportunity to make submissions, to give evidence and to call witnesses; but, if the Adjudication Panel and the parties agree, cases may also be decided:
  - 6.11.1. after hearings at which the evidence is presented in the form of written statements, the parties' oral contributions are limited to making submissions and answering questions from the panel on those submissions; or



- 6.11.2. without an oral hearing, with all submissions, as well as the evidence, being presented in the form of written statements. This may be particularly appropriate where the Member or Trainee admits the allegations and wants to make representations/submissions only in relation to the admitted breach(es), their suitability to be a Site member and any sanction.
- 6.12. The civil standard of proof (on the balance of probabilities) will apply. The burden will be on the Presenting Officer to establish any underlying facts to this standard to the Adjudication Panel.
- 6.13. Any Complainant, the Member or Trainee and witnesses for The Site are entitled to claim reasonable reimbursement from The Site (in accordance with its relevant policy) of expenses they incur in attending a hearing but are not entitled to claim legal or other professional costs or the costs of preparing for a hearing.
- 6.14. The Chair of the Adjudication Panel must explain to the parties the order of proceedings which it proposes to adopt and unless the Adjudication Panel decides otherwise, the order will be:
  - 6.14.1. the Presenting Officer to read out the allegations and for the Member or Trainee to indicate whether any of the facts alleged and/or suitability to be a member of The Site without restriction are admitted;
  - 6.14.2. the Presenting Officer to present the case, including any witnesses and expert evidence against the Member or Trainee and to present the evidence in support of that case, focusing on the contested allegations and the background to any admitted matters. Any witnesses shall be examined by the Presenting Officer, may be cross-examined by the Member or Trainee or their representative, may be re-examined by the Presenting Officer and may be questioned by the Adjudication Panel.
  - 6.14.3. on the application of the Member or Trainee, the Adjudication Panel may deliberate in private to consider whether sufficient evidence has been produced for there to continue to be a case to answer by the Member or Trainee. If the Adjudication Panel considers that insufficient evidence has been produced and there is no possibility of the Member or Trainee being found to be unsuitable to be a Site member it must dismiss the allegation(s) without hearing evidence from the Member or Trainee;
  - 6.14.4. the Member or Trainee may respond to the allegations. Any witnesses shall be examined by the Member or Trainee or their

representative, may be cross-examined by the Presenting Officer, may be re-examined by the Member or Trainee or their legal representative and may be questioned by the Adjudication Panel. Where the Member or Trainee admits all the material facts of the allegation, the Adjudication Panel must invite any submissions from the Member or Trainee as to the circumstances surrounding the case.

- 6.15. The Adjudication Panel may exclude from the proceedings any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings. Its reasons must be given at the hearing.
- 6.16. The Adjudication Panel will normally exclude witnesses (other than the parties) from the proceedings until it is their turn to give evidence.
- 6.17. The Adjudication Panel may deliberate in private at any time during the hearing.
- 6.18. In proceedings before the Adjudication Panel the following people may, where the quality of their evidence is likely to be adversely affected, be treated as vulnerable witnesses:
  - 6.18.1. any witness under the age of 18 at the time of the hearing;
  - 6.18.2. any witness with a mental disorder within the meaning of the Mental Health Act 1983;
  - 6.18.3. any witness who is significantly impaired in relation to intelligence and social functioning;
  - 6.18.4. any witness with physical disabilities who requires assistance to give evidence;
  - 6.18.5. any witness where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim; and
  - 6.18.6. any witness who complains of intimidation.
- 6.19. Subject to any representations from the parties, the Adjudication Panel may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness. Measures adopted may include, but are not limited to:
  - 6.19.1. use of video links;
  - 6.19.2. use of pre-recorded evidence of a witness, provided that the witness is available at the hearing for examination;
  - 6.19.3. use of interpreters, signers, translators or intermediaries;

- 6.19.4. screens or similar provisions.
- 6.20. Where the allegation against the Member or Trainee involves matters that are sexual in nature, the witness is an alleged victim and the Member or Trainee is acting in person or is not legally represented, the Member or Trainee will not be permitted to cross-examine the witness directly. The Member or Trainee will be permitted to appoint a representative to cross-examine the witness, subject to approval by the Adjudication Panel.
- 6.21. The Adjudication Panel will rule the following matters:
- a) if the allegations have been proven or admitted;
  - b) whether the proven or admitted allegations amount to a breach of The UKCP Code of Ethics and Professional Practice
  - c) whether any such breaches are such that it is not suitable for the Member or Trainee to remain a member of The Site either at all or without any restrictions or conditions; and
  - d) if appropriate, what sanction(s) are to be applied.
- 6.22. Before the Adjudication Panel rules on each of the steps in 6.21, it must invite submissions from both the Presenting Officer and the Member or Trainee; such submissions may address one or more of the matters to be decided, as the Adjudication Panel directs. The Adjudication Panel must announce its decision and the reasons for them at each stage.
- 6.23. Where the Adjudication Panel is satisfied that the Member or Trainee is not suitable to remain a member of The Site without any restrictions or conditions it must decide on which sanctions to impose based on the allegations that are upheld. The Adjudication Panel can impose one or a combination of sanctions listed below. They are:
- 6.23.1. A requirement for a verbal or written apology to the Complainant where the Member or Trainee has acknowledged mistake(s); and/or
  - 6.23.2. Issuing a letter of warning to the Member or Trainee in relation to specific conduct or misjudgement,; and/or
  - 6.23.3. A requirement on the Member or Trainee to write a report and/or give an oral statement to the Adjudication Panel to show what they have learned from the experience, by a given date. If a written report is directed it must be submitted to the EC Chair who must circulate it to the Adjudication Panel. The Adjudication Panel will then decide whether learning has been achieved, and either decide on further sanctions or close the case; and/or
  - 6.23.4. A requirement for the Member or Trainee to undergo further

training in a specified area of practice, which is monitored by the Ethics Committee. A deadline for completion is set and a report required from the Member or Trainee to confirm the training has been satisfactorily completed. The report is to be sent to the EC Chair who must circulate it to the Adjudication Panel, which must decide whether learning has been achieved, and either decide on further sanctions or close the case; and/or

- 6.23.5. A requirement on the Member or Trainee for further (a) supervision or (b) psychoanalysis or both for a minimum length of time, to be specified by the Adjudication Panel, which must identify the goals to be achieved. The supervisor or psychoanalyst is to be selected by the Ethics Committee unless otherwise stipulated by the Adjudication Panel and the supervision or psychoanalysis must be monitored every six months by the Ethics Committee. At the end of the time period a report is required from the supervisor or psychoanalyst to confirm the supervision or psychoanalysis has been satisfactorily completed. The report is to be sent to the EC Chair who must circulate it to Adjudication Panel, which must decide whether learning has been achieved, and either decide to impose further sanctions or close the case; and/or
- 6.23.6. The making of a Conditions of Practice Order (CPO). A CPO is a means by which The Site ensures that the quality of its Member or Trainee is sustained. A CPO is limited for a maximum of 12 months. A CPO may include but is not limited to one or more of the following:
- a) to cease practising in a certain manner; and/or
  - b) to practise under a specified supervision regime; and/or
  - c) to be subject to audit or inspection; and/or
  - d) to be subject to additional training or assessment; and/or
  - e) to undergo assessment and/or treatment by an appropriate registered health practitioner; and/or
  - f) to provide independent reports on physical or mental health to the Ethics Committee.
- 6.23.7. Make a Suspension Order for a maximum of one year.
- 6.23.8. A direction that the Member's membership of The Site or a Trainee's continuance on the training shall be terminated.

6.24. Failure by the Member or Trainee to comply with the imposed sanctions in

- 6.23 will result in the EC Chair making representations to the Site Council requesting suspension or termination of the Member's Site membership, or suspension or termination of the Trainee's participation in the training.
- 6.25. When the Adjudication Panel has made its initial decision under 6.23 both parties and any Complainant must be notified of the decision and the reasons for reaching it and where applicable any right of appeal.
- 6.26. The Adjudication Panel must state, in writing, the reasons for its decisions and its statements of reasons must be published according to the relevant Site data policy.
- 6.27. In deciding the sanctions, the Adjudication Panel must ensure that any sanction imposed on the Member or Trainee is proportionate, having balanced the interests of the Member or Trainee and the public interest.
- 6.28. Where an Interim Suspension Order is already in place at the time of the Adjudication Panel hearing, the Adjudication Panel will review and direct whether it should remain in place until the period allowed for lodging an appeal as passed. If an appeal is lodged, any Interim Suspension Order may remain in place until the appeal has been heard. If no appeal is lodged within 28 days of the decision, any sanctions imposed by the panel will come into effect automatically the following day.
- 6.29. If a sanction is such that the Member or Trainee is required to cease practising, the Presenting Officer may request that an Interim Suspension Order be imposed at the end of the Adjudication Panel hearing, in accordance with clause 9 of this Procedure, to cover the appeal period. This is subject to the requirement that the possibility of such an Order being sought has been notified to the Member or Trainee in advance of the hearing.
- 6.30. The EC Chair must monitor the sanctions imposed and upon completion of the sanctions notify the Ethics Committee, the Site Membership committee and any other organisation the Member or Trainee belongs to.
- 6.31. Where the parties are agreed that:
- a) there has been compliance with the sanctions.
  - b) sanctions should be extended or varied, and the terms are agreed;
- the Ethics Committee can review the case and communicate its decision via the EC Chair.
- 6.32. Where the EC Chair is of the opinion that the sanctions are not complied with and the Member or Trainee has failed to submit a reasonable written statement of their failure to comply with sanctions to the Ethics Committee, and this is not agreed by the Member or Trainee, the Adjudication Panel may

need to meet for a review to consider the matter, and should invite the parties to provide their submissions either in writing or orally (in attendance).

6.33. At a review, having considered the submissions of both parties, an Adjudication Panel may make any order under 6.23 as it considers appropriate and will give reasons for its decision.

6.34. Details of the decisions of Adjudication Panel cases will be published in accordance with The Site's relevant data policy.

## 7. APPEAL

7.1. Either party (The Site or the Member or Trainee) has the right to appeal against a decision of the Adjudication Panel under 6.21 or 6.23. Appeals must be lodged within 28 days of the final decision being sent to The Site and the Member or Trainee.

7.2. The Complainant does not have a right to appeal against the decision of the Adjudication Panel. The Complainant can request the Ethics Committee to appeal against the decision of the Adjudication Panel; however, it is the Ethics Committee's decision whether they should invoke the right to appeal.

7.3. Documentation to support a request for an appeal must be accompanied by a brief statement/notice of appeal setting out the grounds and reasons for appeal as set out below.

7.4. The following shall be grounds of appeal:

- a) an alleged procedural irregularity or error which renders the decision unsafe; or
- b) the decision on sanction was unduly lenient; or
- c) the availability of new or further evidence that was not reasonably available at the time of the Adjudication Panel hearing and which is likely to have had a material effect on the outcome of the complaint.

The Member or Trainee has grounds to appeal a decision on a sanction that they found or they believe was unduly severe.

7.5. For the purposes of paragraph 7.4(a), a procedural error or irregularity may have occurred if:

- 7.5.1. the Adjudication Panel has had regard to irrelevant considerations or has failed to have regard to relevant ones; or
- 7.5.2. one or more persons of the Adjudication Panel were biased or apparently biased; or
- 7.5.3. the Adjudication Panel has not provided an adequate statement of

the reasons for their decisions.

- 7.6. An application for an appeal must be decided by an Appeal Panel Chair (who will be a lay person) appointed by the EC Chair and selected from a list held by The Site. The Appeal Panel Chair must have had no prior involvement with the complaint.
- 7.7. The Appeal Panel Chair will determine, within 14 days of receipt of the Appeal, whether permission to appeal should be granted and communicate their decision to the EC Chair. The test for granting permission is whether one or more of the grounds are considered to be arguable.
- 7.8. Where permission to appeal is not granted by the Appeal Panel Chair, the EC Chair will notify the Member or Trainee, The Site Membership Committee, Ethics Committee and any Complainant and the matter will be deemed to be concluded.
- 7.9. Where permission to appeal has been granted, the EC Chair will notify the Member or Trainee, The Site Membership Committee and any Complainant.
- 7.10. An Appeal Panel normally consists of three persons.
- 7.11. The EC Chair will convene an Appeal Panel from a list held by The Site and the lay Chair can be the same Chair who granted the application to appeal. The EC Chair will provide the Member or Trainee and any Complainant with the proposed composition of the Appeal Panel prior to the hearing. Members or Trainees may object to a person on the Appeal Panel if they can satisfy the EC Chair that a fair-minded and informed observer would consider there to be a real possibility of bias; in such cases the EC Chair will seek an alternative person. If the EC Chair is not satisfied, the matter will have to be raised at the Appeal Panel hearing. An Appeal Panel person must have had no prior involvement with the complaint.
- 7.12. The party making the appeal must submit and circulate the appeal documentation to be considered by the Appeal Panel no later than 28 days before the hearing. The Respondent to the appeal may add their response to the appeal and any documents in response no later than 14 days before the hearing.
- 7.13. The burden shall be on the party making the appeal to satisfy the Appeal Panel that one or more of the grounds of appeal should be upheld and that decision being appealed was wrong.
- 7.14. Except where the Appeal Panel decides otherwise, the appeal hearing will proceed as follows:
  - 7.14.1. the party making the appeal or their representative shall address the

Appeal Panel on their grounds of appeal and direct the Appeal Panel to any relevant evidence;

7.14.2. the party defending the appeal or their representative shall respond to the appeal and direct the Appeal Panel to any relevant evidence;

7.14.3. the Appeal Panel may allow either party present an opportunity to make a closing submission with the person making the appeal being allowed to have the final word;

7.14.4. the Appeal Panel may then in private make its decision in relation to the appeal and may seek legal advice if necessary; and

7.14.5. the Chair of the Appeal Panel shall announce the Appeal Panel's decision and reasons.

7.15. The Appeal Panel which decides an appeal can make the following decision:

a) dismiss the appeal; or

b) grant the appeal and (subject to rehearing any aspects of the case to the extent necessary) make any decision which the Adjudication Panel could make under clause 6 of this Procedure. This process is available at any stage of the Clinical Complaints Procedure.

7.16. Any decision of an Appeal Panel shall take effect from the date specified by the Appeal Panel.

## **8 ASSESSMENT OF A MEMBER OR TRAINEE'S PHYSICAL OR MENTAL HEALTH**

8.1 This process is available at any stage of the Clinical Complaints Process

8.2 Where an allegation appears to raise an issue regarding a Member or Trainee's physical or mental health which could affect their practice, the EC Chair will invite the Member or Trainee to attend an assessment with a medical practitioner appointed by The Site at its own expense..

8.3 If the Member or Trainee refuses to attend a medical assessment, the Adjudication Panel will be notified of the refusal and will take it into consideration when considering the Member or Trainee's suitability to remain as a trainee or member of the Site.

8.4 The medical practitioner will examine the Member or Trainee and report on (a) their physical health or (b) their mental health or both, and its relevance to the Member or Trainee 's professional practice.



8.5 The Member or Trainee is entitled to nominate other medical practitioners, at their own expense, to submit a report to the EC Chair or the Adjudication Panel (as appropriate) on their physical or mental health, which will be considered in addition to The Site's medical assessor's report.

## 9 INTERIM SUSPENSION ORDER

9.1 The Interim Suspension Order process is available to be run at any stage of the Clinical complaints process after a written complaint has been received by The Site.

9.2 If a complaint suggests to the EC Chair, Ethics Committee, or the Adjudication Panel that an Interim Suspension Order may be necessary for public protection, be otherwise in the public interest and/or be in the interests of the Member or Trainee, the EC Chair will request and make an application for an Interim Suspension Order.

9.3 An application for an Interim Suspension Order will be heard by an Interim Order Panel. An Interim Order Panel normally consists of three persons and may have the assistance of an independent Legal Assessor.

9.4 An Interim Order Panel will normally comprise two professional persons who are psychotherapists and a lay Chair and will be appointed by the EC Chair selected from a list held by the Ethics Committee. The EC Chair will notify the Member or Trainee of the time, date and venue for the Interim Order Panel hearing.

9.5 The application for an Interim Suspension Order shall be served on the Member or Trainee in such time in advance of the Interim Order Panel hearing as may be reasonable in all the circumstances of the case.

9.6 The application for an Interim Suspension Order shall include a copy of the complaint or any information and state the reasons why an Interim Suspension Order may be necessary for the protection of members of the public, or is otherwise in the public interest, or is in the interest of the Member or Trainee.

9.7 The EC Chair will serve the application on the Member or Trainee and the Interim Order Panel.

9.8 The Member or Trainee must be given an opportunity to appear before an Interim Order Panel and submit representations before the Interim Suspension Order is issued.

9.9 The Interim Order Panel may make an Interim Suspension Order notwithstanding the absence of the Member or Trainee, if the Interim Order Panel is satisfied that all reasonable efforts have been made to serve the

Member or Trainee with the application.

9.10 The request for an Interim Suspension Order will be determined by an Interim Order Panel or by the Adjudication Panel upon hearing representations from the EC Chair and the Member or Trainee .

9.11 The Interim Order Panel will deliberate in private and make and notify the parties of the following decision:

- a) whether to grant an Interim Suspension Order;
- b) the length of an Interim Suspension Order (maximum of 18 months);
- c) the terms of the Interim Suspension Order; and
- d) the arrangements for review of the Interim Suspension Order.

9.12 Orders should be reviewed by an Interim Order Panel:

- a) as directed by the initial Interim Order Panel; and/or
- b) shortly before the expiry of an existing Interim Suspension Order; and/or
- c) in the event of a significant change of circumstances.

9.13 Any psychotherapy organisation that the Member or Trainee is a member of will be notified of any application for Interim Suspension Orders.

## 10 RESTORATION OF REGISTRATION PROCESS

10.1 This process applies if a person whose Site membership has been terminated by a decision under the Clinical complaints process wishes to re-register. It will apply when:

- a) not less than three years has elapsed since the termination; and
- b) the former Member submits a report to show what they have learned from the experience; and
- c) the former Member submits a report from a Ethics Committee-approved supervisor in favour of the re-registration.

10.2 The reports must be submitted to the EC Chair.

10.3 The Ethics Committee must decide on whether the former Member is re-registered and state its reasons in writing. The Ethics Committee may accept and consider any written observations received from the EC Chair and shared with the Member.

10.4 A person seeking restoration can only make one application for restoration for registration in any 12-month period.