

## **APPENDIX B**

### **THE SITE ORGANISATIONAL CODE OF CONDUCT & GRIEVANCE PROCEDURE**

#### **INTRODUCTION**

As members and trainees of The Site for Contemporary Psychoanalysis (“The Site”), we are expected to be familiar with this Site Organisational Code of Conduct and Grievance Procedure (“Code”) and to conduct ourselves with due regard for The Site’s objectives, its good name and reputation, and the rights of others. Although it is anticipated that Site members and trainees will generally act in a responsible manner, it is important for everyone to be confident that there is a clear mechanism to address any conduct that might contravene the Code.

Trainees are subject to the Code in the same way as members, and are subject to the same rights and obligations in their capacity as complainants and respondents, except where specifically stated otherwise.

The Code provides a framework, administered according to the Grievance Procedure, through which members/trainees of The Site can work together to create a positive environment in which these important values can be realised. We hope that by following the Code and understanding the reasons behind it, members/trainees will be able to make the most of their time at The Site.

The Code does not provide a route for clients or supervisees of members/trainees to pursue complaints in relation to members’/trainees’ conduct of their clinical practice. All clinical complaints in relation to UKCP registrants are heard by the UKCP rather than The Site. The Chair of Council or the Ethics Committee can advise concerned individuals regarding the appropriate route to pursue clinical complaints in relation to Site trainees and Site members who are not UKCP registrants.

## **SITE ORGANISATIONAL CODE OF CONDUCT AND GRIEVANCE PROCEDURE**

### **1. Purpose of The Site Organisational Code of Conduct and Grievance Procedure**

The Site Organisational Code of Conduct and Grievance Procedure [The Code] provides the primary definition of what constitutes appropriate and inappropriate conduct for members/trainees of The Site.

### **2. Applicability of The Code**

2.1. The Code applies to members'/trainees' conduct:

- 2.1.1. While engaging in any Site activity.
- 2.1.2. While performing a role authorised by The Site.
- 2.1.3. While attending any event organised by The Site.
- 2.1.4. While representing The Site.

### **3. Site Grievance Procedure**

Failure to comply with the Code constitutes misconduct and may result in members/trainees being referred to The Site Grievance Procedure, administered by the Ethics Committee.

### **4. Guiding Principles Regarding Good Conduct.**

4.1. The Site considers the following to represent good conduct on the part of Site members/trainees:

- 4.1.1. Behaving in a responsible and professional manner designed to foster mutual respect and understanding between all members/trainees of The Site.
- 4.1.2. Acting within the law and refraining from any conduct likely to bring The Site into disrepute.

### **5. Guiding Principles Regarding Misconduct**

5.1. The Site considers the following to be likely to represent misconduct on the part of Site members/trainees. This list should not be considered exhaustive:

- 5.1.1. Violent, disorderly, threatening, bullying, or abusive behaviour or language.
- 5.1.2. Conduct likely to lead to physical injury.
- 5.1.3. Serious disruption of, or improper interference with, the administrative, training, social or other activities of The Site.
- 5.1.4. Acts of fraud, deceit, deception or dishonesty in relation to The Site or its members/trainees.
- 5.1.5. Any action likely to bring The Site into disrepute.

- 5.1.6. Failure to respect the rights of others to freedom of belief and freedom of speech.
- 5.1.7. Unfair discrimination in respect of another's gender, race, ethnic background, culture, (dis)ability, sexual orientation, age, religion, socio-economic status or any other protected characteristic, as specified in the Equality Act 2010.
- 5.1.8. Harassment of any kind, as specified in the Equality Act 2010, towards a member/trainee, or authorised/invited visitor to The Site and its activities.
- 5.1.9. The raising of false, malicious or vexatious grievances under the Code.
- 5.1.10. Subjecting anyone raising an ethical concern or grievance to retaliatory abuse or misconduct.
- 5.1.11. Repeated minor misconduct which collectively represents more serious misconduct.

## **6. Provisions Regarding Trainees**

- 6.1. Except where expressly provided otherwise, all trainees of The Site shall be subject to the Code and Grievance Procedure in the same way as full members of The Site. Both members and trainees may be complainants or respondents in relation to a grievance under the Code.
- 6.2. The Code and Grievance Procedure do not grant trainees any voting rights in respect of any proceedings of The Site, or any additional entitlement to be elected to any committee or adjudication panel authorised by The Site.

## **SITE GRIEVANCE PROCEDURE**

### **ADMINISTRATION**

#### **7. Applicability of the Code**

- 7.1. The Code represents a contractual relationship between current members/trainees of The Site.
- 7.2. Grievances may only be pursued by complainants who are current members/trainees of The Site. Other individuals, including ex-members/ex-trainees, who are concerned about the conduct of a current member/trainee may approach the Chair of the Council who may pursue the matter as a complainant on behalf of the organisation. This provides a formal route for all individuals to raise concerns about the specific conduct of Site members/trainees, while ensuring that respondents are only subject to grievances pursued by complainants who are themselves accountable under the Code.

- 7.3. The Code only applies to current members/trainees and will not be applied to respondents who have left or subsequently leave The Site.
- 7.4. The Ethics Committee does not hear anonymous grievances, and a complainant may not pursue third-party grievances on behalf of someone else.
- 7.5. The emphasis of the Code is on unacceptable conduct on the part of individuals which is incompatible with holding any role or conducting any work within The Site. As such, the Code only applies to individuals and individual conduct, and not to committees of The Site.
- 7.6. The Code does not seek to manage or regulate members'/trainees' personal relationships or interpersonal conflicts. Any concerns that personal relationships and private conduct represent a conflict of interest will be addressed under The Site's Conflict of Interest Policy.
- 7.7. If conduct complained of arises in relation to a specific role or task, the Ethics Committee may refer the matter to the relevant committee. An example of this would be concerns about the performance of a tutor being referred to the Chair of the Training Committee to be addressed under The Site Trainee Grievance Process.
- 7.8. Complainants who have concerns about administrative decisions and governance matters need to approach The Site committee in question in the first instance. The terms of reference for each Site committee will specify how that committee and The Site Council will respond to concerns about that committee's work. Any such concerns that remain unresolved need to be addressed via the democratic processes of The Site.

## **8. Administration of the Code**

- 8.1. The Code and the Grievance Procedure seek to provide a clear and robust process for the resolution of disputes. Alongside that, it is anticipated that the administration of the Code will emphasise the importance of dialogue and the resolution of disputes.
- 8.2. The main tasks of the Ethics Committee in respect of the Code are:
  - 8.2.1. To decide whether grievances fall within the scope of the Code.
  - 8.2.2. To require and endeavour to ensure that parties' written submissions to the Ethics Committee and adjudication panels are coherent, comprehensive and clear. The Ethics Committee has the authority to require that a party resubmit documentation in what it regards as a more appropriate format.
  - 8.2.3. To select and appoint panellists to serve on panels.
  - 8.2.4. To administer the provisions of the Code more generally in accordance with the Grievance Procedure and The Site's Bye-Laws.

- 8.3. The administration of the Code will be subject to the principles of natural justice. The standard of proof will be the balance of probabilities standard.
- 8.4. The Ethics Committee and any adjudication panels will seek to work and make decisions on the basis of what is reasonable and fair. This includes the various time scales applied by the Ethics Committee and adjudication panels in the course of their work.
- 8.5. It is expected that correspondence between parties, the Ethics Committee and panellists will be conducted in a professional manner. All such correspondence is subject to the provisions of the Code.
- 8.6. The Ethics Committee owes a duty of confidentiality to the parties to a matter. There are certain ethical and legal limits to that duty of confidentiality, including situations related to serious crime or where there is a significant risk of someone coming to harm.
- 8.7. If a grievance affects more than one member/trainee, the grievances should be raised individually. Only with the agreement of the Ethics Committee may a grievance be raised collectively. Where a complainant raises more than one grievance, the Ethics Committee has discretion to deal with the different matters within the same adjudication process.
- 8.8. The mechanisms for reviewing or challenging the work of the Ethics Committee or an adjudication panel are the appeal processes described in the Code, rather than the pursuit of a grievance against the Ethics Committee or a panel.
- 8.9. In the event that a member of the Ethics Committee is subject to a conflict of interest, an appropriate member of the Ethics Committee shall act in their place as circumstances require.
- 8.10. The Ethics Committee will agree with the Chair of The Site Council as to the number of matters it can administer at any one time, and scheduled pauses to its work over holiday periods.

## **9. Raising a Grievance**

- 9.1. Before formally raising a grievance under the Code, a complainant will be invited to make use of the Consultation Committee, with a view to resolving their concerns on an informal basis. If appropriate, the Consultation Committee will remain available as a venue for informal resolution following the lodging of a formal grievance.
- 9.2. Complainants intending to pursue a formal grievance may discuss this in confidence with a member of the Ethics Committee. Any such confidential discussion does not represent the formal raising of a grievance, and will not be included in the formal records of the Ethics Committee.
- 9.3. Any grievance lodged with the Ethics Committee on a formal basis must be submitted using the required form. That form and any associated

documentation will be entered into the formal records of the Ethics Committee, will be shared with the members of the Ethics Committee, and then the respondent.

- 9.4. Where one or more of the parties is a trainee:
  - 9.4.1. The Ethics Committee may, if appropriate, and with the agreement of the Training Committee, refer the grievance to the Site Trainee Grievance process.
  - 9.4.2. A copy of any grievance lodged with the Ethics Committee on a formal basis will be provided to the Chair of the Training Committee.
  - 9.4.3. The Ethics Committee will keep the Chair of the Training Committee informed of the progress of the grievance sufficient to allow the Training Committee to support the trainee and their progress in the training.
  - 9.4.4. Any additional disclosure to the Training Committee regarding the grievance and its administration is at the discretion of the Chair of the Training Committee.
  - 9.4.5. The Site Council will offer to provide any such trainee(s) with a mentor to support them during any formal grievance process. Any such mentor will be an appropriately experienced member of The Site.

## **10. Decisions Regarding the Acceptance of Grievances**

- 10.1. Once a grievance is formally lodged, one or more members of the Ethics Committee will meet with the complainant to discuss their grievance and possible avenues to resolve the matter. One or more members of the Ethics Committee will then meet with the respondent on the same basis.
- 10.2. Such meetings between members of the Ethics Committee and the parties may be in-person or via video conferencing. For in-person meetings, a digital audio recording will be made of the proceedings. Meetings conducted via video conference will be video recorded. Any records of formal hearings will be subject to The Site's applicable data policies and retained by the Ethics Committee.
- 10.3. It is possible that the matter will be resolved in the course of these discussions. If not, the Ethics Committee will consider and decide whether the grievance in question falls within the scope of the Code. In the event that the Ethics Committee are not unanimous in their decision, their decision shall be by majority vote, with the Chair of the Ethics Committee having a casting vote in the event of a tie.
- 10.4. If the Ethics Committee decides that the grievance falls within the scope of the Code:

- 10.4.1. Subject to the agreement of all the parties and the Ethics Committee, the matter may be passed on to the Mediation Process (see section 11).
- 10.4.2. In the absence of a successful Mediation Process, the matter will be passed on to a Formal Hearing Panel to adjudicate the matter (see section 15).
- 10.5. Where the Ethics Committee judges that the grievance does not fall within the scope of the Code, the Ethics Committee may decline to hear the matter. In addition to deciding that a matter does not fall within the scope of the Code, the Ethics Committee may decline to hear matters that are covered by other provisions, such as:
  - 10.5.1. Criminal law and matters which may be the subject of police investigation and criminal proceedings.
  - 10.5.2. Provisions and regulations in relation to safeguarding issues.
  - 10.5.3. Civil law, including employment law and consumer law, and matters which may be the subject of civil litigation.
  - 10.5.4. The Constitution and Memorandum & Articles of The Site, and terms of reference of other site committees.
- 10.6. The Ethics Committee will provide a written explanation of its decision to the parties. A party who wishes to appeal that decision on the basis that there has been an error or defect in the application of the Code may approach the CPJA or UKCP with their concerns.

## **MEDIATION PROCESS**

### **11. The Mediator**

- 11.1. The Mediator shall throughout the mediation act as an independent impartial neutral facilitator and will not seek to adjudicate, arbitrate, furnish advice, or impose a decision or solution in respect of any of the issues between the parties. They shall facilitate the parties to make decisions about their situation.
- 11.2. The Mediator shall not be liable to any party for any act or omission in connection with the conduct of the mediation, save for any wilful misconduct.
- 11.3. The Mediator shall not be called as a witness or as an expert in any pending or subsequent hearings relating to the dispute or subject matter of the mediation, save where the Mediator and all parties agree in writing.
- 11.4. The Mediator must confirm that all known financial and/or other interests, all social, business or professional relationships with any party and/or their representatives, or any facts or circumstances which may create doubt as to the impartiality of the Mediator, have been disclosed to the parties in

writing. The Mediator shall immediately disclose any said interests, relationships or circumstances that become apparent hereafter. If a potential conflict of interest is identified, the nature of the potential conflict will be discussed and, if it is decided that the mediation can go ahead, the parties shall confirm their consent to this in writing.

- 11.5. The Mediator shall be entitled to conduct the mediation process at their discretion, including the structure of the process, the attendance of participants, the agreeing of a timetable for the exchange of any relevant information or documentation, and the scheduling and rescheduling of meetings with the parties, both before and during the mediation, whether in private caucus or with the parties jointly.

## **12. Representation**

- 12.1. The parties may choose to be represented or to remain unrepresented at the mediation, and the legal advisers to the parties shall be entitled to participate in the mediation, save that:
  - 12.1.1. The manner and extent of their participation shall remain at the discretion of the Mediator insofar as such participation may be appropriate or beneficial or otherwise conducive to the success of the mediation process, and,
  - 12.1.2. The parties shall remain free at all times to consult with their legal advisers.
- 12.2. The parties and/or their representatives must confirm that they have full authority to settle the dispute, or state any limitations to the authority.

## **13. Confidentiality**

- 13.1. The entire mediation process shall be confidential and conducted upon a without prejudice basis. All offers, promises, statements, whether oral or in writing, in the course of the mediation shall not be disclosed to third parties and shall remain privileged and confidential, save that:
  - 13.1.1. Any disclosure may be made that is or may be necessary for the implementation of any agreement reached in the mediation.
  - 13.1.2. Any evidence that would otherwise be admissible or disclosable shall not be rendered inadmissible or not disclosable by reason only of its use in the mediation.
  - 13.1.3. Where any information is given or received which relates or gives rise to a material risk of harm, injury or other risk to safety, the duty of confidentiality shall not apply, save that the Mediator shall seek prior agreement from the parties as to the manner and extent of any disclosure to be made.



The Mediator's obligation of confidentiality may cease if the Mediator is under an overriding obligation by law or by other public policy considerations to make disclosure, or may be subject to criminal proceedings if disclosure is not made.

- 13.2. At the conclusion of the mediation, at the request of any of the parties, any written materials or documentation furnished to the Mediator or to another party shall be returned without the Mediator or the parties retaining copies thereof.
- 13.3. There shall be no stenographic, audio or visual record made or kept of the mediation process without the written agreement of the Mediator and all parties.

#### **14. Termination**

- 14.1. The Mediation process may be terminated when:
  - 14.1.1. The parties and the Mediator are in agreement that the mediation has been unsuccessful; or it is inappropriate or unhelpful to continue, or
  - 14.1.2. The Mediator is of the view that further steps in the mediation process are unlikely to achieve a settlement; or it is inappropriate or unhelpful to continue, or
  - 14.1.3. One party withdraws from the mediation; or
  - 14.1.4. The Mediator decides in his or her absolute discretion that he or she should withdraw from the Mediation for any reason, and in which event the Mediator shall be under no obligation to give any explanation for so withdrawing.

#### **FORMAL HEARING PANEL**

#### **15. Formal Hearing Panel**

- 15.1. For the formal hearing process, the Ethics Committee shall set up a formal hearing panel ('Panel') consisting of three panellists:
  - 15.1.1. 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.
  - 15.1.2. One panellist shall also be a member of the Site. In the event that it is not possible to recruit a panellist from the Site membership, the Ethics Committee may authorise the use of a non-Site panellist in their place.
  - 15.1.3. Any person with conflicting interests shall be excluded from the Panel. When the parties are informed of the composition of the

Panel, they are expected to notify the Chair of the Ethics Committee of any conflicts of interest they are aware of at that time.

- 15.2. The Panel shall advise the Chair of the Ethics Committee as to:
  - 15.2.1. Any additional statements or documentary evidence requested of the parties in advance of the formal hearing.
  - 15.2.2. The structure and format of the formal hearing, including the timing of meetings and the organisation of video conferencing. The Panel may wish to have a preliminary meeting with the parties in advance of any full formal hearing.
- 15.3. Each party is entitled to attend an oral hearing with the Panel, or to submit a statement to the Panel in place of attending a hearing. The Panel may choose to meet with different parties separately or together.
- 15.4. At any formal hearing, either party may be accompanied by a supporter. The Panel may consult parties' statements and any other documentary evidence relevant to the grievance. They may ask the Chair of the Ethics Committee to make specialist advice and documentation available (e.g., legal advice).
- 15.5. Formal hearings between the panel and the parties may be in-person or via video conferencing. For in-person meetings, a digital audio recording will be made of the proceedings. Meetings conducted via video conference will be video recorded. Any records of formal hearings will be subject to The Site's applicable data policies and retained by the Ethics Committee.
- 15.6. In the event that the Panel is not unanimous in its adjudication determination, the determination shall be by majority decision.

## **16. Sanctions**

- 16.1. Any sanction applied by the panel shall (subject to the Appeal Process – see section 17) represent the final decision and settled view of The Site in relation to the specific allegations and concerns raised by the complainant in relation to the respondent. No committee of Site may seek to reduce or undermine the sanction applied by the panel or apply an additional sanction on their own behalf.
- 16.2. Subject to that limitation, the Panel may choose to make recommendations in respect of the matters addressed in the adjudication for the consideration of The Site Council and/or other committee(s) of The Site. This might include suggested changes to future Site policies and procedures, or recommendations regarding good practice.
- 16.3. If the Panel's adjudication requires the application of one or more sanctions to the respondent, the Panel may choose to:

- 16.3.1. Issue a written warning as to the possible consequences of future conduct, on such terms as are stipulated by the Panel.
- 16.3.2. Require them to attend training appropriate to the subject matter of the adjudication, to be approved by The Site Council, on such terms as are stipulated by the Panel
- 16.3.3. Suspend their eligibility to serve as an officer of The Site, their membership of a committee, or any other role performed on behalf of The Site on such terms as are stipulated by the Panel.
- 16.3.4. Suspend them from participating in the training activities of The Site on such terms as are stipulated by the Panel.
- 16.3.5. Suspend their status as member/trainee of The Site on such terms as are stipulated by the Panel.
- 16.3.6. Terminate their status as member/trainee of The Site.
- 16.4. Any specific costs incurred in meeting the requirements of these sanctions shall be met by the respondent.
- 16.5. The Site Council shall implement any sanction specified by the Panel. Failure to comply with the adjudication may represent a breach of the Code.
- 16.6. Where a respondent subject to a sanction is a trainee, the Ethics Committee and The Site Council will consult fully with the Chair of the Training Committee in respect of the application of that sanction.

## **17. Appeal Process**

- 17.1. Any party subject to the Panel's adjudication has the right to request an appeal in respect of the adjudication.
- 17.2. A party may request an appeal on the grounds that:
  - 17.2.1. There has been a significant procedural or factual error, defect or omission in the adjudication process, as a result of which the adjudication would cause significant injustice if it were allowed to stand.
  - 17.2.2. Significant new evidence has become available, the omission of which would cause significant injustice if it were allowed to stand.
- 17.3. A party requesting an appeal shall deliver their request in writing to the Chair of the Ethics Committee within 21 days of their receipt of the adjudication. That request must set out in writing the details of their request and any evidence relevant to their request.
- 17.4. Following the receipt of any grounds for appeal, the Ethics Committee shall set up a review panel ('Review Panel') consisting of two panellists:

- 17.4.1. One person who is a clinically qualified practitioner registered with the UKCP, BPC, or HCPC; and one person with relevant legal/mediation experience.
  - 17.4.2. One panellist shall also be a member of the Site. In the event that it is not possible to recruit a panellist from the Site membership, the Ethics Committee may authorise the use of a non-Site panellist in their place.
  - 17.4.3. No member of the Panel may sit on the Review Panel.
  - 17.4.4. Any person with conflicting interests shall be excluded from the Review Panel. When the parties are informed of the composition of the Review Panel, they are expected to notify the Chair of the Ethics Committee of any conflicts of interest they are aware of at that time.
- 17.5. Following a review of the grounds for appeal and the documentation relating to the adjudication, a party shall be granted the right to appeal if the Review Panel is satisfied that grounds for appeal have been met. Any determination by the Review Panel that any grounds for appeal have been met shall be unanimous. If the Review Panel is not satisfied that such grounds have been met, the appeal process will not progress any further, and the Panel's adjudication will be upheld as the final adjudication of the matter.
- 17.6. For an appeal hearing, the Ethics Committee shall set up an appeal panel ('Appeal Panel') consisting of three persons:
- 17.6.1. The 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.
  - 17.6.2. One panellist shall also be a member of the Site. In the event that it is not possible to recruit a panellist from the Site membership, the Ethics Committee may authorise the use of a non-Site panellist in their place.
  - 17.6.3. No member of the Panel or Review Panel may sit on the Appeal Panel.
  - 17.6.4. Any person with conflicting interests shall be excluded from the Appeal Panel. When the parties are informed of the composition of the Appeal Panel, they are expected to notify the Chair of the Ethics Committee of any conflicts of interest they are aware of at that time.
- 17.7. The powers, processes and procedures of the Appeal Panel and its associated administration shall be the same as those of the Panel as described above. The Appeal Panel's adjudication shall be final.

## **18. Distribution**

- 18.1. A copy of any adjudication produced by a panel shall be provided to the parties and the Chair of Council by the Chair of the Ethics Committee.
- 18.2. Where a complainant or respondent is a trainee, a copy of any adjudication produced by a panel shall be provided to the Chair of the Training Committee by the Chair of the Ethics Committee.
- 18.3. The Site Council shall be responsible for any communication of the outcome of an adjudication to any other committee or member/trainee(s) of The Site.

## **19. Consultation**

Subject to Part 3.2 of the Bye-Laws, the Ethics Committee may seek confidential advice or consultation during the administration of this adjudication process.

## **20. Additional Appeal Processes**

The CPJA or UKCP can advise parties of any additional appeal processes those organisations offer in respect of the administration of grievances under the Code.