

A Procedure for Dealing with Complaints about Infringements of the Codes of Ethics and Practice by BASRT Members

6th August 2001

Amendment (1st January 2007)

Our Codes of Ethics and Practice are updated from time to time. Please ensure you are using the correct Codes. Revised Codes took effect on 1st January 2007 and on 1st June 2003. You should use the Codes that were effective at the time of the events you are complaining about. If you are unclear about which Codes to use please contact the Clerk to the Complaint Procedure. The Complaints Procedure remains unchanged.

If the Code of Ethics and Principles of Good Practice for Members (1st January 2007) are being used please note the following amendment to the Complaints Procedure:

Clause 1.4 below - Change clause 1.7 of the Code of Practice to 'clause 9 of Part Two of the Principles of Good Practice of the Codes of Ethics and Principles of Good Practice for Members.

If the Code of Ethics and Principles of Good Practice for Members (1st June 2003) are being used please note the following amendment to the Complaints Procedure:

Clause 1.4 below - Change clause 1.7 of the Code of Practice to 'clause 10 of Part Two of the Principles of Good Practice of the Codes of Ethics and Principles of Good Practice for Members.

The complaint guidelines referred to in paragraph 2.2 below are currently being rewritten and therefore are not available. Guidance can be sought from the Clerk to the Proceedings.

1. Introduction

- 1.1** This is the procedure under which complaints are investigated and adjudicated. Complaints may be made against a member of the British Association for Sexual and Relationship Therapy (the Association), in connection with the practice of, training in, or supervision of sexual and relationship therapy. The intention is that this procedure and its outcomes will assist in maintaining standards of practice in the way that members of the Association work, where this appears to be necessary or desirable.
- 1.2** All members are obliged to accept and work to the Codes of Ethics and Practice of the Association and any infringement of these will be taken into account in considering any complaint. Members of the Association also accept this procedure as binding on them as a condition of membership.
- 1.3** A complaint may be brought by any individual against a member of the Association. The Association will not hear a complaint from a third party unless he or s/he was identified by the therapist as a responsible carer at the onset of the client's therapy. The alleged infringement of the Codes of Ethics and Practice or other matter complained of must have taken place at a time when the member complained against was a member of the Association. If the person complained against is no longer a member at the time the complaint is made, or resigns after it is made, this will not terminate this procedure.
- 1.4** The Association is not responsible for a member's arrangements in respect of indemnity insurance, but adequate cover is required under clause 1.7 of the Code of Practice. The Association is not able to deal with questions of legal liability or compensation.
- 1.5** A complaint should be received by the CEO of the Association within five years of the alleged infringement or other matter complained of. Should a complaint be received after the five-year period, it may still be heard, provided the complainant has a substantial reason for the delay in bringing the complaint. In this case the investigator will examine this as a preliminary issue within the procedure described in section 3 below.
- 1.6** The Association is not responsible for travel or any other expenses incurred by either the member complained against or the complainant at any point in this procedure.
- 1.7** Everyone taking part in this procedure is required to act in a manner that preserves confidentiality and does not prejudice the outcome. The Investigator or the Chair of the Complaints Panel may, during the relevant proceedings, or the Chair of the Association at any time, may terminate the proceedings if s/he feels a breach of

confidentiality has or is likely to occur or that any other behaviour or event has or is likely to occur which may prejudice the outcome of the proceedings.

1.8 A complaint proceeds through the following stages

- An individual registers a complaint with the Association.
- The Chair of the Association appoints an investigator who examines the complaint.
- If appropriate a facilitator is appointed to offer mediation between parties.
- The Chair of the Association decides if matter is closed or refers to Complaints Panel.
- A Complaints Panel adjudicates on the complaint, and informs the Trustees of its decision.
- Trustees will consider the decision and may impose sanctions.
- Either party may appeal and an Appeal Panel hears the appeal and informs Trustees of its decision.
- Trustees will consider and act upon the decision.

2. Making a Complaint

2.1 Normally, before making a complaint, the complainant should contact the member who is the subject of the complaint directly, and take all reasonable steps to try to resolve the issue with them.

2.2 The person wishing to make, or considering making, a complaint should contact the CEO of the Association for copies of this procedure and the *Guidelines* to it, the Codes of Ethics and Practice and other appropriate documents, if any.

2.3 A complaint will not be heard if legal proceedings have been issued regarding the matters forming the substance of the complaint.

2.4 A formal complaint must be made in writing to the CEO at the then current address for the Association's correspondence. It should include the following:

- a) An address for correspondence with the complainant
- b) A statement confirming that the complainant will abide by the Complaints Procedure.
- c) The name of the member complained against
- d) Identification of which clause or clauses of the Codes of Ethics and Practice are alleged to have been breached
- e) Details of the events which form the substance of the complaint including the date/s it is alleged to have occurred

- f) If the complaint is outside the five year limit, the reasons for the delay in bringing it
- g) The complaint should state what informal attempts at resolution have been made, or if not, an explanation why
- h) A statement confirming that no legal proceedings have been issued regarding the matters forming the substance of the complaint

2.5 The CEO must within 10 working days of receipt of the written complaint notify the member complained against in writing of the complaint and pass the correspondence to the Chair of the Association who must invoke this procedure as set out below. The CEO shall notify the complainant in writing that this has been done. The member complained against must respond in writing to the CEO within 10 working days of the date of this notice confirming such receipt and her/his current address.

2.6 In the event that the member complained against does not respond to the notice within the specified time limit, then, in the absence of a satisfactory explanation for the failure, and at the discretion of the Chair of the Association, he or she may be prevented from taking part in the procedure, that is, from making representations or adducing evidence, but will be bound by the decision, and any sanctions imposed.

2.7 At any time in these proceedings the Chair of the Association, the CEO, and/or any other persons identified below as acting for the Association in the investigation, adjudication or appeal of the complaint may take advice of the Association's insurers, solicitors and other legal counsel without reference to or notifying the complainant or the member complained against. The Chair may also consult the Chair of the Ethics Committee.

3. Investigation

3.1 Within 10 working days of receipt of the member's acknowledgment, or after 10 working days passing without it, the Chair of the Association shall appoint a member of the Association who is not a Trustee of the Association to be the Investigator for the complaint. The role of the Investigator is to report to the Chair of the Association whether or not a formal hearing before a complaints panel is required. The Investigator will also investigate the reason for any delay in making the complaint longer than five years after the event or events complained about.

3.2 Within 10 working days of appointment the Investigator will consider the written complaint and may make a request in writing for further written statements from the complainant and the member complained against, as he or she considers appropriate. Both parties have 10 working days from the date of the Investigator's

request to provide these statements. The CEO will ensure that copies of these statements are provided to both parties, at least three days prior to any meeting.

- 3.3** Within 10 working days of the investigator's appointment, or, if later, the receipt of any further written statements the investigator will write to each party to arrange a meeting or meetings with them. If circumstances are such that a joint meeting is unacceptable to either party, then the investigator may decide to arrange individual meetings. The CEO who will be in attendance as Clerk will prepare a record of such meetings.
- 3.4** The complainant and the member complained against may be accompanied by a friend or supporter, or Trade Union representative.
- 3.5** The Investigator will report to the Chair of the Association within 5 working days of the last of the above meeting/s, whether or not there are reasonable grounds for believing that the complaint has substance and ought to proceed to the Mediation or Adjudication stage.
- 3.6** Within 15 working days of receiving the Investigator's report the Chair of the Association must either:
- a) Appoint a Mediator
 - b) Appoint a Complaints Panel, or
 - c) Terminate the procedure and write to the parties to inform them, and the reasons for the decision.
- 3.7** Either party may lodge an appeal against a decision to terminate the procedure. The CEO must receive it within 20 working days of the date of the letter of notification. If an appeal is lodged the Appeals procedure set out below will apply. In the event of an appeal, all the time limits are suspended until the appeal has been heard.

4. Mediation

The complaint should be dealt with by mediation if possible. Mediation is a structured negotiation with a third party who aims to facilitate a settlement.

- 4.1** Mediation is particularly appropriate if the complainant is seeking:
- a) acknowledgement on the part of the member that s/he has made a mistake or an error of judgement
 - b) an apology or explanation from the member
 - c) financial redress from the member in return for fees paid.
- 4.2** The mediator should not personally have an interest in the matter nor professional or personal issues in relation to the complainant or the person complained against.

- 4.3** The mediator would normally be chosen from within the organisation and must be acceptable to both parties.
- 4.4** Normally the mediator should meet both parties individually to explore the issue/s before holding a joint meeting. Mediation can only proceed if both parties are willing to participate.
- 4.5** It may be appropriate either initially or at any stage during the mediation process to appoint a mediator from outside the Association. Any costs incurred will be shared between the two parties.
- 4.6** During mediation all time limits are suspended. The process may be repeated if this has the support of both parties.
- 4.7** The result of the mediation is conveyed to the Chair, who within 15 working days must either:
- a) appoint a Complaints Panel or
 - b) terminate the matter and write to the parties to inform them, and the reasons for the decision.
- 4.9** Either party may lodge an appeal against a decision to terminate the procedure. The CEO must receive it within 20 working days of the date of the letter of notification. If an appeal is lodged the Appeals procedure set out below will apply. In the event of an appeal, all the time limits are suspended until the appeal has been heard.

5. Adjudication

- 5.1** The Complaints Panel shall consist of three members of the Complaints Board of the Association other than the Investigator and the Chair of the Association. The purpose of adjudication is to examine complaints, decide on their validity and determine sanctions as appropriate. Meetings are formal and the Chair of the Panel is responsible for ensuring that its proceedings are conducted in a manner which shows due regard to the gravity of the situation and to considerations of confidentiality.
- 5.2** Members of the Complaints Panel have a duty at all times during the proceedings, to declare any interest which may cast doubt on their impartiality. If, in the opinion of the Chair of the Association, at any time during the proceedings, the interest of any member of the Complaints Panel is such that the member is not in a position to deal with the complaint on an impartial basis, then the Chair of the Association will appoint another member of the Association (other than the Investigator or the Chair of the Association) in their place.

- 5.3** The Complaints Panel will arrange a date for the meeting within 20 working days of being established. Attempts should be made to find a date and place suitable to both parties. There must be 25 working days notice for the hearing. The CEO has the responsibility to ensure that everyone involved knows the procedure which will be followed and who will be present.
- 5.4** All evidence submitted by either the complainant or the member complained against must be sent to the CEO at least 15 working days before the hearing. The CEO will ensure that all written submissions are copied to all other parties within 5 working days of receipt. They may respond to any further points raised within 5 working days thereafter. The CEO will collate all written submissions and make these available to all parties before the meeting.
- 5.5** The complainant and the member complained against may be accompanied by a friend, supporter, or Trade Union representative.
- 5.6** The Complaints Panel will decide if the complaint is to be upheld and any sanctions to be imposed on the member complained against, and will write a report of its decision, and the reasons for it, within 10 working days of its meeting with the complainant and/or the member complained against. This report will be copied to the Trustees at their next scheduled meeting and will not contain the name of the member complained against.
- 5.7** Whether the complaint is upheld or not the Complaints Panel may make recommendations in its report.
- 5.8** The CEO will inform the complainant and the member complained against as soon as possible after the Complaints Panel has written its report of the date the Trustees meet to receive it.
- 5.9** The Trustees will receive the report for ratification. The name of the member complained against will only be recorded in the minutes after any appeal has been heard.
- 5.10** After the Trustees have ratified the report, the Chair of the Association will inform the complainant and the member complained against in writing within 5 working days the reasons for the decision, and any sanctions imposed.
- 5.11** If the complaint has been upheld any appeals must be lodged within 20 working days of being informed. Unless an appeal is lodged within this time, then the name of the member complained against and the sanctions imposed will be recorded in the Minutes of the Trustees' meeting, and published on the Association's website.

6. Sanctions

6.1 If the Complaints Panel considers it appropriate, it may recommend that sanctions be imposed upon the member complained against. These may be one or more of the following, but are not limited to:

- a) Requirement to demonstrate improvement or change in a specific way by a specific date.
- b) Temporary withdrawal of individual Accreditation, for a specified period of time and/or until specific changes have been made, as evidenced by written reports at intervals agreed by the Complaints Panel, and sent to the Chair of the Accreditation Board, from a supervisor acceptable to the Chair of the Association, appointed by her/him
- c) The provision of reports from a supervisor acceptable to the Chair of the Association appointed by her/him to monitor the member's work.
- d) Request to cease practicing for a specified period or indefinitely
- e) Permanent suspension of individual Accreditation status
- f) Expulsion from membership and exclusion from all meetings of the Association for a specified period or indefinitely.
- g) Removal from any role within any structures of the Association, including voting rights and election as a Trustee for a specified period or indefinitely

6.2 The member complained against may apply to the Chair of the Association for the lifting of sanctions when any conditions laid down have been fulfilled. The Chair of the Association and the Chair of the Ethics Committee will consider the evidence and make recommendations to the Trustees. The member complained against may also have the opportunity to make representation to the Trustees, before any decision is made, as there might be reasons for a failure to comply with the sanctions. Within 5 working days, the Chair of the Association will inform the member of their decision, which will be published on the Association's website.

6.3 Failure to comply with sanctions, without adequate reasons will result in the Chair of the Association informing the Trustees who may decide to impose further sanctions or to terminate membership. Within 5 working days, the Chair of the Association will inform the member of their decision, which will be published on the Association's website.

7. Appeals

- 7.1** The complainant or the member complained against may appeal against the decision of the Chair of the Association to terminate the procedure after receiving the report of the investigator or mediator, by writing to the CEO within 20 working days of being notified. The appeal must state the grounds on which the appeal is being lodged.
- 7.2** The complainant or the member complained against may appeal in writing against the decision of the Complaints Panel or the sanction imposed, by writing to the CEO within 20 working days of being notified. An appeal may be on the grounds that
- a) the correct procedure has not been followed or
 - b) the decision is, on the facts, perverse.
- 7.3** Within 5 working days the CEO will inform the Chair of the Complaints Panel or Investigator (as appropriate) of the appeal and request a written response to the appeal. This will be circulated to all parties within a further 10 working days. Final submissions must be made to the CEO 10 working days before the Appeal Panel meets. The CEO will collate all written submissions and make these available to all parties before the meeting.
- 7.4** The Chair of the Association shall, within 30 working days of the appeal being received appoint an Appeal Panel consisting of three members not previously involved in the case, namely a Trustee, a member of the Complaints Board of the association and a lay person appointed by the Association.
- 7.5** The Appeal Panel will meet within 20 working days of being appointed. Attempts should be made to find a date and place suitable to all parties. The CEO has the responsibility to ensure that everyone involved knows the procedure which will be followed and who will be present.
- 7.6** The appellant (the original complainant or member complained against) and the Chair of the Complaints Panel or Investigator (as appropriate) will be invited to the Appeal. A friend, supporter, or Trade Union representative may accompany them.
- 7.7** The Appeal Panel will report in writing to the Trustees within 10 working days after the hearing, giving its conclusions and recommendations, with reasons. The Trustees will, at their next scheduled meeting, consider the conclusions and recommendations and decide whether to accept these, or to change or impose new sanctions as a consequence. The Chair of the Association will inform both parties in writing of the decision of the Trustees within 5 working days of the Trustees' meeting. If the complaint is upheld the name of the member complained against and the sanctions imposed will be recorded in the Minutes of the Trustees' meeting, and published on the Association's website.
- 7.8** If either party is unwilling to accept the outcome of this appeal, then a further appeal may be made to the United Kingdom Council for Psychotherapy.

7.9 If Accreditation or Membership is withdrawn, either temporarily or permanently, then the Association is required to inform UKCP Registration Board, who may remove that individual from their Register.