

## Professional Conduct Procedures

These Professional Conduct Procedures are published by The Society of Homeopaths as an integral part of the Code of Ethics and Practice. These Procedures are intended to set out the process and framework by which The Society implements and enforces the rules set out in the Code of Ethics and Practice, and uses the civil standard of proof, 'balance of probabilities'.

In framing these rules and procedures, the Society has aimed to ensure that the interests of both practitioner and the public are properly and adequately represented and that its processes are straightforward and transparent.

### Definition of terms

**Adjudication Panel ('The Panel')** – a panel convened to investigate a complaint.

**Appeals Panel** – a panel convened to hear appeals made against decisions.

**Board of Directors of The Society ('The Board')** – the governing body of The Society of Homeopaths.

**Code of Ethics and Practice ('The Code')** – the Code published by The Society.

**Complainant** – the person raising concerns or making a complaint.

**Fellows and Honorary Fellows** – Individuals given an award for demonstrating an outstanding level of passion and commitment to homeopathy, or achievement in the profession.

**Independent Reviewer** – A lay person appointed to review the process leading to a Panel or Appeals Panel decision.

**Mediation** – A flexible process conducted confidentially in which a neutral person actively assists parties in working towards a negotiated agreement of a dispute or difference, with the parties in ultimate control of the decision to settle and the terms of resolution.

**Preliminary Investigation Panel (PIP)** – a group of people who make a preliminary assessment of a complaint and decide on what action needs to be taken and direct the Professional Conduct Officer accordingly.

**Professional Conduct Officer (PCO)** – the officer employed by The Society to administer the Professional Conduct Procedure and deal with any enquiries.

**Professional Conduct Procedure** – the process that is followed when a complaint is made about a member of The Society of Homeopaths.

**Professional Standards Committee (PSC)** – The Society of Homeopaths' Committee responsible for education, registration and professional conduct.

**Respondent** – the person about whom concerns are raised or against whom a complaint is made.

**The Society of Homeopaths ('The Society')** – a voluntary regulatory and membership organisation for homeopaths whose register has been accredited by the Professional Standards Authority (PSA).

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## 1. THE CODE OF ETHICS AND PRACTICE

The Code is published by The Society:

- a) to lay down the standards of conduct and practice expected of registered members or student clinical members;  
(Note: anything in these Procedures relating to registered members/Respondents includes student clinical members. Student clinical members may choose to discuss any complaints raised with their supervisor/College.)
- b) to give advice in relation to the practice of homeopathy.

The PSC has a duty to review and vary the provisions of the Code and the Procedures whenever it considers this appropriate, consulting representatives of the membership and/or specialist advisors, as it deems necessary. It is the responsibility of every registered and student clinical member to be aware of the most current version of both the Code and the Procedures. Anyone who asks The Society for copies of the Code and the Procedures is entitled to receive them without charge by post or electronically.

## 2. RAISING CONCERNS

Wherever possible, The Society encourages the resolution of differences between Complainants and Respondents through mediation and discussion with the PCO, before entering formal professional conduct procedures. The PCO is available to give advice to anyone considering making a complaint.

2.1 A complaint can only be brought by:

- a) a member of the public who has sought or received a service provided by a registered member of the Society; a Fellow or Honorary Fellow of the Society; or
- b) a current registered member of the Society who may bring complaints for services sought or received directly from another registered member; or who has witnessed poor practice delivered by another registered member; or on behalf of another where their written permission has been obtained, and where that person is unable to bring the complaint on their own behalf (explanation is required in writing as to the nature of the inability); or
- c) a legal guardian or other appropriately authorised adult on behalf of a minor and/or an adult lacking legal capacity for services sought or received; or
- d) a third party who can demonstrate sufficient interest and who has been directly affected by the actions of the practitioner.

2.2 a) All complaints will be treated seriously, however under these rules a complaint may be rejected at any time, if in the PCO or PIP's opinion, the complaint is "frivolous, or vexatious".

b) If you raise a complaint but do not meet any of the criteria listed in s2.1, your complaint will be investigated internally in line with our set policies and procedures. However, you will not be updated on how this investigation progresses.

2.3 There is a 3 year limitation period for making a complaint. The 3 years starts from either the date the Complainant feels the Respondent has broken the Society Code, or 3 years from the date that the Complainant realised the problem was as a result of seeing the homeopath, (date of knowledge). In the case of a minor the 3 years would commence on their 18<sup>th</sup> birthday.

2.4 Where possible and appropriate, mediation will be offered. If mediation is not appropriate, proves unsuccessful, one party refuses mediation, or if the PCO determines that a mediation process is not suitable for the case, a formal complaint may be made.

2.5 Where resolution through mediation via the PCO is not possible, the complaint should be referred to the PCO in writing. The Professional Conduct Department will only act on complaints that are sent by letter or email with full name and contact details, including postal address, to The Society Office or PCO. The PCO will then send a form to the complainant, and a case number will be allocated to the complaint in order to:

- a) clarify the details of the concern raised and collate necessary information. The complainant must identify, and refer to, relevant parts of the Code and may seek assistance from the PCO if necessary. There is help available if the Complainant needs any assistance, e.g. with reading, writing, or in completing the complaints form. Reasonable adjustments will be made for disability, e.g. if the Complainant unable to complete a form.
- b) inform all parties of receipt of the complaint and its nature in writing, within 14 working days from the date of receipt.
- c) send guidelines about the professional conduct procedure to all parties.
- d) refer the complaint to the PIP.

2.6 The PCO is available throughout the process to support and assist the Complainant, witnesses, and Respondent.

2.7 There are also guides available to support the Respondent, and the PCO can be contacted for more information.

2.8 The PCO may direct a complaint to the PIP, or the Chair of the PSC, if an interim suspension order is deemed necessary

under the provisions of appendix C.

- 2.9 The Society has the right to raise a concern or complaint if it is brought to its attention that a member is in possible breach of its Code of Ethics and Practice.

### **3. PRELIMINARY INVESTIGATION PANEL**

The PIP will meet to discuss cases referred to it by the PCO either via Telecon, or face to face as appropriate. These meetings will be minuted. All papers distributed to the PIP will be anonymised, and neither complainant nor respondent will be identified. The PCO will attend the PIP in order to advise on procedure and answer any questions that might arise.

- 3.1 Board members, members of Committees formed by The Society, and members of The Society's staff have a duty to refer concerns to the PCO if they become aware of:
- a) a report or allegation made by a member of the general public, patient, fellow practitioner, or a member of any Committee or employee of The Society;
  - b) a statement made, whether intentionally or otherwise;
  - c) a report made by any advisor in the course of undertaking their duties as described in this Procedure that:
    - i) a registered member, Fellow or Honorary member's conduct has fallen short of the standard required of the Code; or
    - ii) a registered member may have been professionally incompetent; or
    - iii) a registered member has been convicted (at any time) in the United Kingdom of a criminal offence.

The PCO will then investigate the allegation in accordance with this process.

In the case of an allegation, or report of a criminal offence (3.1ciii above), the PIP may conclude that there is no case to answer if it considers that the criminal offence in question is neither relevant to the fitness of the member concerned to practise, nor that it reflects badly on the reputation of the homeopathy profession. If a member has received a criminal conviction the case will not be re-heard, and the conviction can be taken as evidence.

- 3.2 After considering the allegation and having regard to the precedents of previous PIP and Panel decisions, the PIP may decide that:
- a) the allegation or alleged behaviour relates to specific sections of the Code and warrants further investigation, and recommend that the allegations are considered by the Panel, and carried out in accordance with section 5.
  - b) in cases where multiple similar allegations are made, the PIP may decide to take one of the allegations as a representative of all of them, or it may decide to group them into a single complaint to be considered by the Panel. The PIP will request that the PCO informs concerned parties of their decision.
  - c) the allegation or alleged behaviour does not, or could not, constitute a breach of the Code and the PIP may rule that there is no case to answer. The Chair of the PIP will ask the PCO to inform all concerned parties of the decision with a clear explanation of their reasons.
  - d) the PIP is unable to determine whether the allegation relates to a specific rule in any Code, or whether the alleged behaviour or conduct could be construed as misconduct or incompetence. The PIP may seek specialist advice or arrange for the PCO to make a preliminary assessment, as described in section 4. If the matter cannot be resolved with an action plan agreed with the PCO, the PIP may either refer to the panel, or conclude that there is no case to answer.
- 3.3 Where the PIP concludes that there is a case to answer, but determines that the breach is minor, under appendix A.8d, admitted, and poses no threat to any other person, then the PIP may decide to issue a formal first warning and request the PCO to agree a suitable action plan with the Respondent. The Chair of the PIP will inform concerned parties of this decision, and the formal warning will be kept on file for a specified time determined by the PIP. If the PCO and Respondent cannot agree an action plan then the PIP may take action as noted under section 4.5. If re-offence occurs before the formal warning is lapsed, then the re-offence and original offence will be heard in accordance with section 5.
- 3.4 The PIP may, if it is satisfied that it is in the interests of protection of members of the public, report serious allegations immediately to the Chair of the PSC with a recommendation that the member be subject to an interim suspension order under the provisions of appendix C of these Procedures until the investigations are concluded, including any Independent Review in accordance with appendix E. The report will be made in summary form and will not override the duties of the PIP, the Panel, or PSC, to complete the investigation and hearings in accordance with the provisions of this Procedure.

### **4. PRELIMINARY ASSESSMENT**

- 4.1 If the PIP is unable to determine whether a member's alleged behaviour is in breach of the Code it may arrange for the PCO to make a preliminary assessment.
- 4.2 The PIP shall request the PCO to contact the practitioner member with details of the allegation, collect evidence as necessary, and report any findings to the PIP.
- 4.3 After conducting this preliminary assessment the PCO may decide that:

- a) the allegation relates to a specific rule in the Code, or the alleged behaviour can be construed as misconduct or incompetence. The PCO shall inform the PIP who will proceed in accordance with section 3.
- b) the allegation does not relate to a specific rule, or the alleged behaviour does not constitute misconduct or incompetence, or the allegation lacks sufficient clarity for the Respondent to be able to prepare a defence. The PCO shall report this finding to the PIP, which after further consideration may deem the matter to be closed.
- c) the allegation does not relate to a specific rule, or the alleged behaviour does not constitute misconduct or incompetence, but highlights aspects of the member's practice and practice management which fall short of the standards required by the Code. The PCO shall report the findings to the PIP, and the PIP may request the PCO to resolve the problems by drawing up an action plan with the participation and consent of the member, and shall provide in writing to the PIP a copy of the agreed action plan, signed by the member and the PCO. On satisfactory completion of any tasks, tests or amendments to working practices specified in the action plan within the time agreed for their completion, the PCO shall make a final report to the PIP and the matter will be closed. The Chair of the PIP will inform all parties of the resolution.

4.4 If the PIP decides under subsection 4.3(c) that an action plan would be appropriate in resolving the problem but:

- a) the PCO cannot agree an action plan with the member; or
- b) the member fails to complete an agreed action plan; or
- c) the member concerned refuses to cooperate with the PCO in seeking a resolution to the problem; the PCO shall pass the case to the PIP for assessment subject to section 4.5 below.

4.5 The PIP may find that either:

- a) the requirements of the action plan are unreasonable and the case should be closed.
- b) specific amendments should be made to the action plan, as a result of which the member must comply with the amended version.
- c) the requirements of the action plan are reasonable and the member must comply with them; or
- d) the case should go to the Panel in accordance with appendix B.

4.6 The decision of the PIP is final and binding on the member concerned. The Chair of the PIP will advise all parties.

## 5. THE ADJUDICATION PANEL ('The Panel')

The Panel shall be composed in accordance with section 10.3

5.1 The Panel shall meet at such times, and in such a manner as it shall see fit, in order to expedite the proceedings. These meetings may be by telecon.

5.2 Panel hearings shall be minuted or recorded. Both parties shall be entitled to see a copy of the full transcript of the hearing in its entirety.

5.3 The Panel shall first consider, having regard to the nature of the allegation and any observations or admissions given by the member to the PIP, whether it is desirable to hold a formal hearing to deal with the allegation.

5.4 If the Panel considers that in its opinion a formal hearing may be unnecessary, it shall offer the Respondent the opportunity of accepting the allegation without a hearing, or of entering a plea of mitigation or further relevant evidence, and to accept the actions and decisions of the Panel without making a formal appearance before it.

5.5 If the Respondent is offered and refuses the offer in 5.3, or if the Panel considers that a formal hearing is desirable, it shall give the Respondent an opportunity to appear before it and to present his/her case, for which he/she shall be entitled to be legally represented. The rules of procedure for such meetings are laid out in Appendix B.

If any allegation is well-founded, the Panel may take any one or more of the following steps in relation to each allegation:

- a) formally warn the Respondent, such warning to be held on record for a time specified by the Panel but not exceeding 2 years; and/or
- b) make an order imposing conditions with which the Respondent must comply while practising as a homeopath (a 'Conditions of Practice Order' appendix C); and/or
- c) order the Registrar to suspend the Respondent's registration for the period specified in the order (a 'Suspension Order' appendix C); or
- d) order the Registrar to end the Respondent's registration for the period specified in the expulsion order ('expulsion order' appendix C).

## 6. THE DECISION

The decision of the Panel will be final unless either an appeal is launched under appendix D, or a review of the process is requested as detailed in appendix E. The Convenor will inform the Board via the Chair of the outcome of the case.

## **7. APPEALS AGAINST THE DECISION OF THE ADJUDICATION PANEL**

7.1 The Complainant or Respondent may appeal against a decision made under section 5 by writing, within 14 working days of the date of the written notification of the decision sent to him/her, setting out the grounds of the appeal in accordance with the provisions of this section.

Either party may appeal if:

- a) new evidence may be produced which was not available at the time of the hearing.
- b) there is reasonable concern that the complaints process has not been followed correctly.
- c) the recommendations of the panel are deemed disproportionate to the complaint.

7.2 No decision made under section 5 shall take effect:

- a) before the time limit for appealing against the decision has expired; or
- b) where an appeal has been made, before the appeal is considered and the outcome advised.

7.3 If the Respondent does not appeal but then fails to comply with the sanctions imposed by the Panel, cessation of membership is automatic.

7.4 An appeal shall be considered by the Appeals Panel constituted as noted in section 10.4 below. The Appeals Panel shall decide whether there are reasonable and legitimate grounds for hearing the appeal in accordance with appendix D.

7.5 The Appeals Panel shall sit in private.

7.6 On any appeal against a Panel decision:

- a) the Appeals Panel shall be able to make an assessment by way of re-hearing the case; and
- b) the Appeals Panel shall have power to make any decision which the Panel had the power to make under section 5.

7.7 All parties will be expected to co-operate with the appeal, and will only be required to produce evidence that is deemed reasonable by the Panel.

7.8 After review of the appeal the Appeals Panel may

- a) uphold the decisions of the Panel,
- b) revoke the decisions of the Panel,
- c) change the decisions of the Panel.

The decisions of the Appeals Panel are final and all parties will be advised by the Chair of the Appeals Panel.

## **8. PUBLICATION OF UPHELD DECISIONS**

8.1 On being informed of the final decision of the Panel, the Board will arrange publication on the Society website, and other publication it may from time to time consider appropriate, as soon as possible following the decision of the Panel and with regard to section 6 above setting out:

- a) the names of those members in respect of whom the Panel has investigated allegations under this section and determined the allegations to be found;
- b) the section of the Code of which they were in breach;
- c) the action (if any) taken by the Panel in respect of the member so named.
- d) Where the Panel has taken action, the member's name will remain on the Society's register, together with information regarding the action taken.

## **9. THE PROFESSIONAL CONDUCT OFFICER ('PCO')**

9.1 The Society shall appoint a person to be the PCO.

9.2 The PCO shall at every stage, make the member aware of any practitioner support services available within The Society, and provide the member with contact details of these services.

9.3 The PCO will carry out the duties in accordance with these procedures, and their role is to remain impartial.

## **10. THE PANELS**

These are:

The Preliminary Investigation Panel (PIP)

The Adjudication Panel (The Panel)

The Appeals Panel

10.1 Powers

- a) The Professional Standards Committee (PSC) shall make rules regulating the procedure of the Panels and their sub-

Panels (if any) including, in particular, provision as to rules of evidence to be observed in proceedings before any such Panel or sub-Panel.

- b) Where the PSC, having given a direction under sub-paragraph (a), is satisfied that the Panel has failed to comply with the direction, it can exercise any power of that Panel, or undertake any act or other task authorised to be done by that Panel.
- c) The powers of any Panel can be exercised even though there is a vacancy among its members.
- d) No proceedings of a Panel shall be invalidated by any defect in the appointment of a member.
- e) No member shall take part in a Panel dealing with an allegation referred to it, if he/she was a member of the Panel which referred the allegation.
- f) If any member of the Panel hearing has a conflict of interest, they must reveal this, and they will not take part in the hearing.
  - i) A conflict of interest can be defined as; “a conflict between the official responsibilities of a person in a position of trust and any other interests the particular individual may have, e.g. where the individual could be seen to be influencing matters for actual or potential personal benefit, or seeking such a gain at the expense of the complainant.” E.g. if either the Complainant or Respondent are known to a Panel member.

#### 10.2 The Preliminary Investigation Panel

- a) The PIP shall consist of at least 3 members, at least one of whom is a non-homeopath ('lay member'), and one a homeopath.
- b) The Panel may co-opt another 3 members if required.
- c) The Chair of the Panel:
  - i. Members of the PIP shall elect a Chair from amongst themselves.
  - ii. In the event of a tie in any voting the Chair of the PIP will have an additional casting vote.
- d) The quorum of PIP shall be 3.

#### 10.3 The Adjudication Panel

- a) The PIP will instruct the PCO to engage a Convenor. The Convenor may not be a member of the Board nor any other Committee in The Society other than this Panel. The Convenor will arrange to form the Panel in accordance with this section 10.3.
- b) The Panel shall consist of at least 3 members, at least one of whom is a registered homeopath and one of whom is a non-homeopath ('lay person'). No member of the Panel may be a member of the Board or PSC.
- c) The Panel may co-opt up to 2 further members.
- d) The Chair of the Panel:
  - (i) Members shall elect a Chair from amongst themselves.
  - (ii) In the event of a tie in any voting, the Chair of the Panel shall have an additional casting vote.
- e) The quorum of the Committee shall be 3.

The Society will meet reasonable expenses incurred by the Convenor and panel members.

#### 10.4 The Appeals Panel

On receipt of an appeal the Chair of the PSC shall read through it to assess whether the grounds for appeal are met. If the grounds are met he/she will request that the Panel Convenor appoint an Appeals Panel in order to deal with appeals lodged under section 6 of this Procedure.

The Appeals Panel shall consist of three members, of whom:

- a) One shall be selected from within the PSC who will act as the Chair of the panel. This cannot be the Chair of the PSC, PCO, Board Director, or anyone else in the PSC with any real or perceived conflict of interest.
- b) One shall be a registered homeopath;
- c) One shall be a lay person ('non-homeopath'), excepting that no person that served on the Panel to hear a case will be eligible to sit on the Appeals Panel for that case.
- d) The quorum of the Appeals Panel shall be 3.

The Society will meet reasonable expenses incurred by the panel members.

#### **Appendix A: RULES OF INVESTIGATION FOR THE PIP**

The PIP will consider allegations or reports about practising members' conduct according to the following procedures, which are subject to revision or amendment from time to time as the Professional Standards Committee may deem fit.

- A1. If the investigation arises from a complaint, the PCO will send the Complainant copies of the Code and the Procedures free of charge if these are requested.
- A2. The Complainant is asked to provide a full written statement of the complaint and to sign and return a form, which includes full contact details, (name, address, telephone number, email), to the PCO. In the case of a complaint about published material, including a website, the Complainant is asked to provide details of the specific statements about which the complaint is being made, and the sections of the Code relating to the complaint.
- A3. When the official complaint has been received, a copy of the full statement and these Procedures are sent to the

practitioner about whom the complaint has been made ('the Respondent'). When the investigation is not initiated by a complaint, a summary detailing the reasons for the investigation shall be sent to the practitioner concerned.

- A4. The Respondent is asked to provide a written response within 14 working days. The Respondent is also instructed to have no further contact with the Complainant, and cautioned that any further attempts by them to resolve the complaint, especially the offering of financial inducements or other benefits in kind may be construed as unethical behaviour and may in itself lead to disciplinary action. Both the Complainant and the Respondent will be requested to maintain confidentiality regarding the details of the case and identities of the parties concerned until the case is decided, after which the only details that may be released will be in accordance with section 8 and the Complainant's identity will continue to remain confidential. If the Respondent does not respond, the case will be heard without their response and without any additional delay.
- A5. The PIP shall consider the complaint and any responses received pertaining to this appendix A and discuss the case at its next scheduled meeting.
- A6. The PIP can request or gather further information in several ways:
- (a) the Respondent's response to the complaint may be copied to the Complainant whose comments may then in turn be copied to the Respondent for a further and final response;
  - (b) the Respondent can be asked to supply copies of their original notes and practice diaries;
  - (c) the Respondent and/or his/her premises may be visited by the PCO in order to examine and assess details of his/her performance and compliance with the Code.
  - (d) the Complainant may be visited by the PCO to clarify details of the allegation;
  - (e) third party(ies) may be asked to provide relevant information or evidence;
  - (f) PIP may seek the advice of a lawyer;
  - (g) PIP may at its discretion provide copies of any documentation or report from whatever source to both the Complainant and the Respondent.
- A7. Once all enquiries are completed the PIP shall review all of the information.
- A8. The PIP may decide that:
- a) the case should be referred to the Panel;
  - b) the seriousness of the case warrants immediate use of its powers of interim suspension in order to protect the public;
  - c) there is no case to answer;
  - d) a formal warning be issued, which may include an action plan, for example if the breach is considered minor. A minor breach is where there is evidence that the behaviour is not usual and is a one off for the Respondent. It does not endanger or mislead the patient and does not call into question the reputation of homeopathy or the Society. For example, not responding in a timely manner, failing on one occasion to label or adequately take notes.
- A9. The Chair will advise both the Complainant and the Respondent of the PIP's decision within 7 working days of the meeting at which it was made. In the event of delays caused by gathering any information that has been requested, the PCO will regularly update the Complainant in writing on the progress of the case.
- A10. The PIP will aim to make a decision about the case within 3 months of referral.

## **Appendix B: RULES OF PROCEDURE FOR HEARINGS OF THE ADJUDICATION PANEL**

### *B1. Notice of Hearing*

- a) The PCO shall give written notice to the Respondent and the Complainant of the date, time and place of the hearing of the Panel.
- b) The notice of the hearing shall be not less than 4 weeks from the date set for the meeting.
- c) The Panel recognises that The Society may for the purposes of the hearing instruct a lawyer to present the case against the member, or to carry out such other functions as it deems necessary.
- d) During a hearing the agenda can be scheduled so the Complainant and Respondent appear at different times with a period in between, to try and avoid any contact that may be distressing.
- e) If the Complainant decides to withdraw the complaint before the hearing date, the complaint can still be heard if the PIP has decided that there is a case to answer.

### *B2. Postponement of Hearing*

- a) The Chair of the Panel or the Convenor may, of his/her own initiative or on the application of a party to the proceedings, postpone a hearing of which notice has been given under Rule B.1 before the meeting begins.
- b) The Complainant, witness, or Respondent has the right to challenge a member of the Adjudication Panel for a perceived conflict of interest. If this happens, and the challenge can be evidenced or justified, the Convenor will ask the Panel member to leave the room. The hearing may have to be postponed.
- c) If a hearing has been postponed the Convenor shall as soon as practicable inform the parties concerned of the postponement, and give notice of the date, time, and place of the next hearing of the Panel in accordance with the conditions in Rule B.1. The party seeking the postponement may be liable for a portion of the costs.

### *B3. Order of Procedure at the Hearing*

- a) If the Respondent does not appear, and the Panel is satisfied that notice had been properly given under Rule B.1 or B.2, it may dismiss the case, or adjourn to give the Respondent a further opportunity to appear, or determine that the

proceedings should continue in the Respondent's absence.

- b) The Respondent may appoint a representative to present the case on their behalf, but the name of this representative should be given to the PCO at least 5 working days before the date of the hearing.
- c) If no representative has been appointed, the PCO will read out the allegation and briefly state the measures taken by the PIP to investigate the allegations, and the basis on which the allegation has been referred on to the Panel.
- d) The order of proceedings is that:
  - i. The Complainant or his/her representative will present the complaint. If the Complainant does not wish to attend the hearing, or feels unable to present the case, a representative should be appointed. The name of this representative should be given to the PCO at least 5 working days before the date of the hearing.
  - ii. The Chairman of the Panel shall ask the Respondent whether he/she admits any or all of the allegations and, in respect of any such allegations so admitted, the Panel shall record a finding that those allegations have been proved.
  - iii. Where all the allegations are admitted the Respondent or his/her representative may submit that, in respect of any allegation so proved, the Panel should not make an order against the Respondent.
  - iv. If none, or only some, of the allegations are admitted the Panel shall proceed as follows:
    - a) the Panel shall take evidence, either written or oral, of the alleged breach by the Respondent of the Code;
    - b) non-attendance by a Complainant shall not restrict the Panel's discretion to consider any documentary evidence before it;
    - c) the Respondent or his/her legal representative will present his/her case and can call or produce evidence in support of his/her defence;
    - d) the Panel will hear such submissions and admit such evidence as it may consider relevant;
    - e) the Panel may reasonably take into account any previous history of allegations, hearings, or findings against the Respondent in considering the current allegation.
  - v. Any witness called to give oral evidence can be cross-examined and re-examined by the Panel.
  - v. At the discretion of the Panel the Complainant can exercise the right not to give evidence in person, and to refuse direct cross-examination by the Respondent.
  - vi. The Panel regulates its own procedure, and nothing in the procedure herein restricts the Panel's discretion to vary the procedure in such manner as it may in its discretion determine from time to time.

#### **B4. Documentation**

- 1. The Panel may consider the case on the basis of any or all reports, written statements, and documents prepared during the procedures, and any other reports, written statements, and documents which the Complainant or Respondent may choose to submit.
- 2. Both the Complainant and the Respondent shall provide the PCO, for circulation to each other, lists of all documents to be produced at the meeting, and copies of all documents therein listed at least 14 working days before the date of the meeting.
- 3. Both the Complainant and the Respondent shall provide the PCO, for circulation to each other, a list of any authors of documents supplied by each to the other in the preceding paragraph whom they require to be in attendance at the meeting.
- 4. Where an author of a report is required to attend, his/her documentary evidence shall not be admissible without the author's presence to give oral evidence, save where the content of the report is agreed or otherwise at the discretion of the Panel.
- 5. The Panel has the power to require further witnesses both of its own motion, and of that of either party, without due notice to the other as in the rules above, and may also require a person to appear before it to produce documents.

#### **B.5 Attendance at Meetings**

- 1. The meeting will take place in private.
- 2. The Panel may deliberate together in the absence of the parties, their representatives, and the public at any time.
- 3. For the purpose of this clause, "meeting" shall include the term "hearing", and nothing in these procedures shall restrict the Panel's freedom to meet to carry out a preliminary assessment of cases referred to it by the PIP from time to time, whether or not such meetings include members of the Panel who may sit as members of the Panel at any formal hearing.

#### **B.6 Adjournment**

- 1. The Panel may adjourn the meeting from time to time as it thinks fit.
- 2. The Panel may in particular adjourn any meeting where it considers that an allegation is well founded, in order to deliberate on the terms of any Orders that it is minded to make.
- 3. If the meeting is adjourned, the Panel shall announce the date, time and place to which the proceedings are adjourned, or instruct the Convenor to give adequate written notice within these rules of any reconvened meeting.
- 4. The Panel may proceed with a meeting resumed after an adjournment in the absence of parties present at the first meeting if it is satisfied that adequate notice was given of the reconvened meeting.

#### **B.7 Notification of Decisions**

- 1. The Panel shall close the meeting in order to consider its decision, as soon as practicable after that the Chair of the Panel shall request the Convenor to notify in writing:
  - a) the Respondent of the Panel's decision and its reasons for reaching it, and of the Respondent's right of appeal under section 6 of this Procedure;
  - b) the Complainant of the Panel's decision and the reasons for making it, and of the Complainant's right to appeal under section 6 of this procedure.
- 2. If the Panel dismisses a case under Rule B.3.1, as soon as is practicable after the hearing the Convenor shall notify the

Respondent and the Complainant of that fact.

## **Appendix C: THE ORDERS**

### *C.1 The Conditions of Practice Order*

1. At any time while a Conditions of Practice Order is in force the Panel may:
  - a) extend, or further extend, the period for which the order has effect;
  - b) revoke or vary any of its conditions;
  - c) require the Respondent to provide evidence of competence specified by the Panel;
  - d) reduce the period for which the order has effect;
  - e) or revoke the order.
2. A Conditions of Practice Order shall cease to have effect:
  - a) if a period is specified in the order, when that period ends;
  - b) if concern of competence is specified, when the Respondent evidences or demonstrates their competence, e.g. a period of supervision and a reflective piece;
  - c) if a period *and* concerns over competence are specified, when the period ends and the Respondent evidences and/or demonstrates competence, whichever is the later. This could be a supervision order, i.e. for the Respondent to undergo supervision during a specified period of time.
3. The Panel shall ensure that the conditions imposed on the Respondent are the minimum, which it considers necessary for the protection of the public. The period specified in a Conditions of Practice Order, including any extension, shall not exceed 3 years.
4. Failure to comply with a Conditions of Practice Order imposed under this section shall be automatically referred back to the Panel for further action.

### *C.2 Interim Suspension Order*

1. This section applies where:
  - a) an allegation against a registered member has been referred to the PIP, or the Chair of the PSC, but a decision on the matter has not yet been reached; or
  - b) the Panel has reached a decision on an allegation, but the decision has not yet taken effect because the time limit for an appeal has not expired.
2. The PIP, the Panel, or the PSC may order the Registrar to suspend the registration of the member concerned, (an 'Interim Suspension Order'), if it is satisfied that it must do so in order to protect members of the public.
3. The criteria for considering whether an interim suspension order is necessary are based on a public protection risk assessment. This relates to protecting the public from potential harm. It considers the relative likelihood that an offence or harmful act has occurred/will occur, and the relative impact or harm of the offence-what exactly might happen, to what or whom, under what circumstances and why. Consideration should be made to:
  - a) the circumstances of the offence.
  - b) the type and vulnerability of the victim if there is one.
4. Exceptions to this process are:
  - i) If the PCO considers it to be an urgent matter of public protection this would take precedence. The PCO can go straight to the Chair of the PSC to request an interim suspension order while the case is considered. Although a PIP could be brought together within days there are rare occasions when even this is too long, e.g. child protection.
  - ii) The Respondent should be notified in advance whenever possible that an interim suspension order will be sought.
  - iii) Normal procedure would then be followed and the case would be heard by PIP as a matter of course.
5. An interim suspension order shall cease to have effect:
  - a) in a case falling within subsection C2.1(a), when the PIP reaches a decision in respect of the allegation in question; and
  - b) in a case falling within subsection C2.1(b);
    - i. if there is no appeal against the decision, when the time limit for appeal expires; or
    - ii. if there is an appeal against the decision, when the appeal is withdrawn or otherwise disposed of.
6. Where an Interim Suspension Order has been made, the member concerned may appeal against it in writing, setting out the grounds of the appeal within 14 working days to the PSC. Neither the Chair or anyone else with a real or perceived conflict of interest may take part in the decision making for appeal.
7. On review of such an appeal the decision of the PSC shall be final.
8. The rules governing appeals under subsection C2.6 are attached as appendix D.

### *C.3 The Suspension Order – Expulsion for a short period of time 6 monthly, not exceeding 2 years*

1. A Respondent against whom a Suspension Order has been made shall, for the duration of the order, forego all rights and privileges of membership.
2. At any time while a Suspension Order is in force the Panel may:
  - a) make a Conditions of Practice Order with which the Respondent must comply, in order to resume full membership after the end of the period of suspension.
  - b) extend, or further extend, the period of suspension.
3. The Panel shall ensure that the suspension imposed on the Respondent is the minimum that it considers necessary for the protection of the public, or any other person. The period specified in a Suspension Order, including any extension, must not exceed 2 years.
4. The Panel shall review every Suspension Order at least once every 6 months, in order to satisfy itself that the continued

suspension of the Respondent remains in the public interest.

5. In the case of a Suspension Order the Panel shall publish details on the website, Journal or any other media deemed appropriate, and shall notify the Registrars of other regulatory bodies, where appropriate.
6. If after 2 years the member suspended has not satisfied the requirements of the Order, the member will be subject to an Expulsion Order at the Panel's discretion.
7. If a Fellow or Honorary Fellow has their membership suspended they will forfeit their right to use the title.

#### *C.4 The Expulsion Order*

1. In the case of an Expulsion Order, the Society shall publish details on the website, in professional journals and other such publications as it may from time to time deem appropriate, and shall notify the Registrars of other regulatory bodies, where appropriate.
2. The Expulsion Order shall apply for the minimum period that the panel considers necessary for the protection of the public.
3. If the Respondent does not appeal but then fails to comply with the sanctions imposed by the Panel, expulsion from the register and cessation of membership is automatic.
4. The Expulsion Order shall not exceed a maximum of 5 years before the Respondent is eligible, (through written application to the Society) to be considered for rejoining the membership through the registration process. Consent for application for the registration process is at the PSC's discretion, and if withheld, the member concerned may reapply for consideration after a further period of 2 years.
5. If a Fellow or Honorary Fellow is expelled from the Society they will forfeit their right to use the title.

### **Appendix D: RULES OF PROCEDURE FOR APPEALS AGAINST DECISIONS OF THE ADJUDICATION PANEL**

#### *D.1 Establishment of the Appeals Panel*

1. Within 7 working days of receipt of written notification of the appeal by the Chair of the PSC, he/she shall decide if the grounds are met. If there are no grounds for appeal the Chair of the PSC will write to the appellant informing them of the reasons why the appeal will not proceed. If there are grounds for appeal the Chair of the PSC shall request the Panel Convenor to convene an Appeals Panel as under section 10.4.
2. The member of the Appeals Panel referred to in subsection 10.4c) of the Code as a non-homeopath ('lay person') willing and able to act in the appeal will be selected by the Convenor.
3. Any expenses reasonably incurred by the members of an Appeals Panel, including any incurred in connection with the appointment of a clerk, shall be met by the Society.

#### *D.2 Notice of Hearing*

1. As soon as is practicable after the Appeals Panel has been established, in accordance with Rule D.1 above, the PCO shall give notice to the appellant of the date, time and place of the hearing of the Appeals Panel to consider the appeal.
2. The notice of the meeting shall be not less than 4 weeks from the date set for the appeal hearing.

#### *D.3 Postponement of Hearing*

1. The Chair of the Appeals Panel may of his/her own motion, or on the application of a party to the proceedings, postpone a hearing of which notice has been given under Rule D.2 before the hearing begins.
2. The Appellant has the right to challenge a member of the Appeals Panel for a perceived conflict of interest. If this happens, and the challenge can be evidenced or justified, the hearing may have to be postponed.
3. If a hearing has been postponed the PCO shall, as soon as practicable, inform the parties concerned in writing of the postponement and give notice of the date, time and place of the next hearing in accordance with the conditions in Rule D.2.

#### *D.4 Order of Procedure*

1. If the appellant, (person appealing), does not appear, and the Appeals Panel is satisfied that notice had been properly given under Rule D.2 or D.3 it may dismiss the appeal, or adjourn to give the appellant a further opportunity to appear, or determine that the proceedings should continue and the appeal be determined in the appellant's absence.
2. The PCO will read out the allegation and briefly state the nature of the order made by the Panel, and will indicate whether the appeal relates only to the order made, or is against the allegation being well founded.
3. The order of proceedings is that:
  - a) the lawyer or person acting for The Society will open the case for The Society, and will call or produce evidence in support of The Society's case;
  - b) the appellant or his/her legal representative will present his/her case, and can call or produce evidence;
  - c) the Appeals Panel will hear further submissions and evidence which it considers relevant.  
Save that nothing in this section shall prevent the Appeals Panel from regulating its own proceedings as it sees fit, including the order of proceedings referred to above.
4. Any witness called to give oral evidence may be cross-examined and re-examined by the Appeals Panel.
5. The hearing shall take place in private.
6. The Appeals Panel may deliberate together in the absence of the parties, their representatives, and the public, at any time.

#### *D.5 Documentation*

1. The Appeals Panel may consider the appeal on the basis of any or all reports, written statements and documents prepared during the procedures outlined in the Code, and any other reports, written statements and documents which the appellant

may choose to submit.

2. Both the lawyer, or person representing The Society, and the appellant shall provide the PCO, for circulation to each other, lists and copies of all documents to be produced at the hearing at least 14 working days before the date of the hearing.
3. Both the lawyer, or person representing The Society, and the appellant shall provide the PCO with a list of any authors of documents supplied, for circulation to each other, in line with Rule D.5.2 above, whom they require to be in attendance at the hearing.
4. Where an author of a report is required to attend, the documentary evidence will not be admissible without the author's presence to give oral evidence, save where the content of the report is agreed or otherwise at the discretion of the Appeals Panel.
5. The Appeals Panel has the power to request further witnesses both of its own motion, and of that of either party, without due notice to the other. It may also require a person to attend before it to produce documents.

#### *D.6 Adjournment*

1. The Appeals Panel may adjourn the hearing from time to time as it thinks fit.
2. The Appeals Panel may adjourn any hearing where it considers that an allegation is well founded, in order to deliberate on the terms of any Order that it is minded to make.
3. If the hearing is adjourned, the Appeals Panel will announce the date, time, and place to which the proceedings are adjourned, or instruct the Convenor to give adequate notice within these rules of any reconvened hearing.
4. The Appeals Panel may proceed with a hearing resumed after an adjournment in the absence of parties present at the initial meeting, if it is satisfied that adequate notice was given of the reconvened hearing.

#### *D.7 Notification of Decisions*

1. The Appeals Panel will close the hearing in order to consider its decision. As soon as practicable after that the Convenor will notify in writing:
  - a) the appellant of the Appeals Panels decision and the reasons for reaching it;
  - b) the PSC and the Complainant of the Appeals Panels decision and the reasons for making it.
2. If the Appeals Panel dismisses an appeal under Rule D.4.1 above, as soon as practicable after the hearing, the Convenor will notify the appellant, the other party involved, and The Society.

#### **Appendix E: INDEPENDENT REVIEWER**

1. The PSC shall appoint a person to be an Independent Reviewer to review the process leading up to the Panel decision, or in the case of an Appeal the Appeals Panel decision, if requested by either the Complainant or the Respondent.
2. The Independent Reviewer shall not be an employee, member of the Board or member of any Society committee. This must be a layperson not a homeopath.
3. The Reviewer will be provided with details about the Society, all the material required to set up the process externally, and the information they need to provide to the Complainant.
4. The Independent Reviewer will check that:
  - a) documentation was circulated appropriately and within the times intended by the Professional Conduct Procedures.
  - b) to his/her knowledge the Respondent and Complainant were given full details of the case to be heard.
  - c) the Panel was constituted and met in accordance with section B.
  - d) the Panel was afforded appropriate time to reach their findings.
  - e) the Appeals Panel, if convened, was constituted and met in accordance with section D.
  - f) the Appeals Panel, if called, was afforded appropriate time to reach its findings.
5. The Reviewer has the power to look at the process followed and any issues around this but cannot look at, or change, the decision reached.
  - a) Possible issues around the process followed include how the Complainant and/or Respondent were treated, e.g. How they were spoken to, and any communication problems.
  - b) The complaint could be about attitudes, or that not all the relevant information was considered or passed to the Panel.
6. If the Independent Reviewer finds that the process was not followed correctly a new Panel will be set up so that the case can be re-heard.

#### **Appendix F: GUIDELINES AND DEFINITIONS OF SANCTIONS**

F.1 *Suspension times for identified breaches*, e.g. Sexual misconduct - Suspension for maximum 2 years.

F.2 *Evidence of poor practice management* - Practitioner to provide evidence of improvement to PCO within 6 months e.g. New protocols, reflective piece, site visit etc.

F.3 *Formal Warning* – This can be given for a minor breach. A minor breach is where there is evidence that the behaviour is not usual and is a one-off for the Respondent. It does not endanger or mislead the patient and does not call into question the reputation of homeopathy or the Society. For example, not responding in a timely manner, failing on one occasion to label or adequately note take.

#### *F.4 Indicative Sanctions*

- a) All restrictions placed on a member's registration (except those relating to a member's own health) are published on the Society website.
- b) The intention of these sanctions is not to be punitive but to protect patients and the wider public interest.
- c) The period of time that indicative sanctions will remain next to a member's name on the register depends on the sanction imposed. However, a permanent record will be maintained at the office.

#### *F.5 Conditions of Practice (maximum 3 years)*

- a) Conditions of Practice may be imposed up to a maximum of three years. This sanction permits the Respondent to practise if certain conditions are fulfilled. Conditions are likely to be appropriate where the concerns about the Respondent's practice are such that a period of retraining and/or supervision is likely to be the most appropriate way of addressing them.
- b) A Conditions of Practice order may be most suitable in cases concerning the Respondent's health, performance, or where there is evidence of shortcomings in a specific area or areas of practice. The Panel will need to be convinced that the Respondent has shown an awareness of his/her problems, and that there is potential for them to respond positively to mediation/retraining and to supervision of his/her work.
- c) The purpose of this Order is to allow the Respondent to deal with his/her issues, and to reflect and rectify any deficiencies in his/her practice whilst at the same time protecting patients from harm.
- d) The Panel needs to be satisfied that patients will not be put at risk as a result of a Conditions of Practice Order.
- e) Once the Order has been fulfilled satisfactorily this sanction will no longer appear next to a member's name.

#### *F.6 Suspension (maximum 2 years)*

- a) Suspension has a deterrent effect and can be used to send out a signal to the Respondent, the profession and public about what is regarded as inappropriate behaviour for a Society registered homeopath. Suspension from the register also has a punitive effect. Suspension will be an appropriate response to misconduct, which is sufficiently serious that action is required in order to protect patients and maintain public confidence in the profession. The length of the suspension is a matter for the panel's discretion, depending on the gravity of the particular case. The Panel must provide reasons for the period of suspension chosen, including the factors that led them to conclude that the particular period of suspension, whether the maximum available or a shorter period, was appropriate.

This sanction may be suitable when some or all of the following factors are apparent, for example:

- i) a serious breach of the Code of Ethics and Practice where the misconduct is irreconcilable with continued registration. Expulsion would not be in the public interest, but it is so serious that any sanction lower than a suspension would not be adequate to protect the public interest.
  - ii) where the Respondent demonstrates potential for supervision and/or retraining.
  - iii) the Respondent's health is affecting his/her judgement and there is a danger to public safety if they were permitted to continue to practise even under conditions.
  - iv) there has been no evidence of similar incidents or behaviour.
- b) Once the Suspension has been lifted this sanction will no longer appear next to a member's name.

#### *F.7 Expulsion (maximum 5 years)*

- a) The Panel can end a Respondent's registration where this is the only way of protecting patients and the general public. This includes upholding public trust and confidence in the profession.
- b) Expulsion is likely to be suitable when the behaviour involves **any** of the following (this list is not exhaustive):
  - i) a reckless disregard for the principles set out in the Code of Ethics and Practice and/or patient safety.
  - ii) being responsible for serious harm to others (patients or otherwise), either intentionally or through incompetence and especially where there is a continuing risk to patients and the public.
  - iii) infringement of a patient's rights/taking advantage of vulnerable people.
  - iv) offences of a sexual nature, including involvement in child pornography. This is particularly serious where there is an abuse of position of trust, or where the Respondent has been required to register as a sex offender. When the PSC or registrar are

reviewing an application to re-register where the Respondent has completed the necessary period of registration as a sex offender, account should be taken of issues such as, the seriousness of the original offence, and risk to the public. Where there are any doubts the Respondent should not be allowed to re-register.

v) offences involving violence.

vi) dishonesty, especially where persistent and/or concealed.

vii) putting own interests before those of patients.

viii) persistent lack of insight into seriousness of actions or consequences.

c) This sanction will appear next to a members name for a period not less than 5 years.

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