

ASA COMPLAINT HISTORY

01/07/05 – Initial Complaint Letter from ASA

I have typed an overview:-

29th June 2005

Dear Sir/Madam,

Your Magazine Advertisement

The ASA administers the rules by which the marketing industry regulates the content of non-broadcast marketing communications. One of our tasks is to investigate complaints about non-broadcast marketing communications that are alleged to break the British Code of Advertising, Sales Promotion and Direct Marketing (the Code), prepared by the Committee of Advertising Practice (CAP). It also investigates complaints to ensure that tv and radio advertising complies with the CAP (broadcast) Codes.

We have received a complaint about your advertisement. The complainant challenged whether you could substantiate the efficacy claims made in the advertisement. Your advertisement claims that Shiatsu can alleviate the symptoms of asthma, eczema, allergies and chronic headaches.

We enclose a copy of the CAP Copy Advice Help Note on Health, Beauty and Slimming Marketing that Refers to Ailments for your attention. You will note that we require scientific evidence that medical products and therapies can treat or alleviate the symptoms of ailments like asthma, eczema, headaches and hayfever. We have not seen scientific evidence as yet to show that Shiatsu can be beneficial for those conditions.

The Help Note also states that acceptable references to an ailment are likely to be unacceptable if the reference is prefixed with 'serious', 'chronic', 'persistent' or similar. You refer to some ailments in your advertisement as 'chronic asthma' and 'constant headaches'. These references are likely to be unacceptable.

We consider that your advertisement has breached clauses 3.1, 7.1, 14.3, 50.1, 50.3 and 50.5 of the Code.

We would like to resolve this complaint directly with you. We think the complainant had made a valid point, but hope you can, with your co-operation, resolve that point without the need for formal investigation. While a formal investigation would give you the opportunity to defend your advertisement, it would almost certainly take longer to resolve and would ultimately lead to the ASA Council adjudicating on the point at issue. ASA Council adjudications are published on the ASA website, and that often leads to advertisers who have breached the Code receiving bad press. Resolving complaints directly works well in the majority of cases. But we need to work together. We propose that you do the following to bring your advertising into line with the Code:

1. make no direct or implied medical claims in the future advertising and
2. ensure that future advertising promotes Shiatsu therapy only as an effective means of relaxation and improving state of mind.

We would suggest that you contact the CAP Copy Advice for assistance before advertising again. The CAP Copy Advice team provides a free and fast pre-publication advice service that is confidential from competitors. Although its advice is not binding on the ASA Council, the team can help if you are in doubt about Code requirements or would like advice on a particular point.

We now need your written assurance, by 7th July at the latest, that you will change your marketing communications/advertising as we have suggested. If we receive your timely assurance, we will close our file. The ASA website would then list you among those advertisers who have agreed to changes following advice from us, it would not state that you breached the Code.

Yours sincerely
Konrad Obiora
Investigations Executive

06/07/05 – Email from Mike Webster to ASA

Considering the seriousness of the accusations which may yet become public and, as you have already suggested, invite 'bad press', please provide the name of the complainant so that we may take any action which may become necessary under article 12 of the Universal Declaration of Human Rights.

Please also provide details of how the code which is being acted upon here, was compiled, by whom, and on whose authority.

Many thanks
Mike

06/07/05 – Reply from ASA to above email

Dear Samantha Chadband,

Thank you for your e-mail dated 6 July 2005.

I cannot disclose the identity of the complainant because the complaint was made by a member of the public. If the complainant was a competitor or had an interest in the outcome of our investigation they would have been named.

The Committee of Advertising Practice (CAP) created The British Code of Advertising, Sales Promotion and Direct Marketing (The CAP Code) and has the task of reviewing and amending the Code. The role of CAP is to ensure that marketing communications within the Code's remit that are commissioned, prepared, placed or published in the UK conform to the rules in the Code. For more

information about the work of CAP and the ASA please visit our websites at www.cap.org.uk and www.asa.org.uk.

I would be grateful if you could send future e-mails to my e-mail address at konrado@asa.org.uk.

I look forward to hearing from you by 13 July.

Kind regards

Konrad Obiora
Investigations Executive

07/07/05 – Email response from ASA to above email also

Dear Samantha,

Please find below our response to your directors:

Identity of complainant

The identities of individual members of the public who complain are neither published nor revealed by the ASA to marketers without the complainants' express permission. Only the Courts or officials acting within their legal powers can compel the ASA to disclose to them information received in confidence. The identities of groups and of industry complainants who may have an interest in the outcome of the investigation are disclosed and they must agree to the publication of their identities before their complaints can be pursued. We are satisfied that the complaint we received was from a member of the public.

The Code

The advertising industry operates under a system of self-regulation. The ASA is recognised by the Government as the principal regulator for the advertising industry with statutory reinforcement through the Office of Fair Trading. It was established in 1962 to adjudicate on complaints about advertising that might breach the Code and operates independently from CAP.

As we explained in our e-mail of 6 July, the Code is compiled, revised and amended by CAP. CAP was established in 1961 and was made responsible for the first Code and all subsequent Codes. CAP is made up of the broadcast and non-broadcast committees, which write and enforce the Code for broadcast and non-broadcast advertising. The committees comprise representatives of advertisers, agencies, media owners and other industry groups.

If you require further information about the work of CAP, including a full list of members, please visit their website at www.cap.org.uk.

We are informally investigating this complaint, which means we are seeking your assurance:

- a) not to make direct or implied medical claims in future advertising and
- b) ensure that future advertising promotes Shiatsu therapy only as an effective means of relaxation and improving state of mind.

If we receive your written assurance to the above your name will be published in a list on our website with other advertisers who have co-operated in resolving complaints. We will not publish a report on our investigation.

We await your response by **13 July**.

Yours sincerely
Konrad Obiora
Investigations Executive

12/07/05 – Our Reply Letter to ASA

12th July 2005

Konrad Obiora
Investigations Executive
Advertising Standards Authority
Mid City Place
71 High Holborn Road
London
WC1V 6QT

Dear Mr Obiora,

Re: Complaint A05-05890/KO/ljh

Further to the recent complaint concerning our magazine advertisement we are writing to acknowledge that this particular advertorial may have breached some of your codes. We apologise for this and will not re-run this advertorial with the same wording.

However, we cannot accept that we will only advertise Shiatsu as a ‘relaxation therapy’ in the future. Our reasons for this are:-

- All our Registered Practitioners have undertaken a minimum of 500 hours study, with a minimum two year period of practical application of that theoretical knowledge, been assessed by an independent panel of the Society as being competent and professional, hold current professional indemnity insurance and follow our Codes of Conduct and Ethics. The Society sets very high standards which all Registered Practitioners must adhere to.
- The Shiatsu Society has been established since 1981 so resents your comments ‘no apparent trade body’. We have almost 2,000 members and are by far the largest Shiatsu organisation in the UK.
- We are an active member of the General Shiatsu Council (GSC) working towards self regulation. The role and remit of the GSC can be found on their website www.generalshiatsucouncil.org.
- The Shiatsu Society is one of the largest member organisations of the European Shiatsu Federation (ESF). Eighteen months ago the ESF instigated a major pan European research project on the benefits of Shiatsu. The first phase of this project has been completed, the second phase is due to commence in the autumn. Professor Long of Salford University is co-ordinating the project and will interpret the findings.

- We believe that your clause 8.1 contradicts the complaint as it states that marketers can give a view about any matter provided it is clear that they are expressing their own opinion.
- We believe that two GP's informed you that Shiatsu was a 'relaxation only therapy'. We have recently had an article in the NHS magazine 'The New Generalist', written by a GP, which was a very positive case study.

Should you feel that this response fails to meet your concerns we will be happy to take a full and active role in your adjudication process. We hope that this course of action is not necessary, however we feel it is of paramount importance that we open a dialogue with the ASA and CAP so that your inadequate knowledge of Shiatsu can be updated and unnecessary complaints of this nature can be avoided in the future.

Yours sincerely
Michael Webster
Marketing Director

18/08/05 – Our Letter to ASA

18th August 2005

Malcolm Phillips
Investigations Executive
Advertising Standards Authority
Mid City Place
71 High Holborn Road
London
WC1V 6QT

Dear Mr Phillips,

Re: Our Advertorial

Thank you for your letter of the 4th August ref : A05 – 05890/MP

On several occasions we have asked your colleague Konrad Obiora for clarification on a number of issues and have not yet received a reply.
As you can appreciate this is an important issue that will affect the whole future of our profession.

Please could you provide details of how the code for Complementary Medicine which is being acted upon here, was compiled, by whom, and on whose authority.

We assure you of our willingness to co-operate and reiterate that we will be happy to take a full and active role in your adjudication process if necessary.

We look forward to hearing from you.

Yours sincerely
Michael Webster
Marketing Director

31/08/05 – Our Letter to ASA

31st August 2005

Malcolm Phillips
Investigations Executive
Advertising Standards Authority
Mid City Place
71 High Holburn
London WC1V 6QT

Dear Mr Phillips,

Thank you for your letter of 25th August.

We are surprised that you feel ready to make a ‘draft recommendation’ to the ASA Council. We are trying to open a dialogue with you on what are difficult areas of interpretation of the ASA rules. If and when we have greater clarity of the meaning and practical interpretation of these rules and the ASA has a greater understanding of Shiatsu and Complementary Healthcare in general then an adjudication that has some validity could be reached.

The Shiatsu Society (UK) feels that the issues this complaint has raised, not just for Shiatsu, but all Complementary Health Professionals are so important that we are in the process of organising a conference of CAM organisations.

We would like to remind you that you have not answered the questions we put to you in our letter of 18th August 2005 and would appreciate your answers within 5 working days from the date of this letter.

If you proceed to adjudication we trust that all correspondence on this matter is also given to the ASA Council for its consideration and not just your “draft recommendation”. We are concerned that your “draft recommendation” misinterprets what we have said. For instance in the 1st paragraph of your recommendation section you state “...., but maintained that shiatsu could treat medical conditions.” We have not said this in any correspondence with you.

The CAP document entitled “**Help Note on Health, Beauty and Slimming Marketing that Refers to Ailments**” lists various ailments and some therapies are associated with some of them. Shiatsu is not mentioned, nor the majority of other complementary healthcare systems. This shows how out of date your information is and we would welcome the opportunity to help you update your knowledge and guidelines.

In the spirit of co-operation, although you do not appear willing to take part, we make the following replies to the specific rules that form the basis of the complaint against the Shiatsu Society(UK) namely “The complainant challenged the efficacy of shiatsu therapy for asthma and chronic headaches”

Asthma and headaches appear on the “Non-serious” list as defined in the CAP publication “Help Note on Health, Beauty and Slimming Marketing that Refers to Ailments”

In reply to rules quoted below the Shiatsu Society (UK) makes the following points:

Substantiation

3.1 Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation. Relevant evidence should be sent without delay if requested by the ASA or CAP. The adequacy of evidence will be judged on whether it supports both the detailed claims and the overall impression created by the marketing communication. The full name and geographical business address of marketers should be provided without delay if requested by the ASA or CAP.

- The case study in the “advertorial” is documentary evidence. We will be sending you the peak flow charts to support this shortly.
- The key words are “objective substantiation” it does not say “scientific substantiation”.
- The case study and general tone of the advertorial support “..both the detailed claims and the overall impression created by the marketing communication.”.

Truthfulness

7.1 No marketing communication should mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.

- The “advertorial” clearly defines one particular case history and does not claim that Shiatsu is effective in 100% of cases.
- The “advertorial” meets the requirements of rule 3.1 and therefore does not “..mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.”.

Testimonials and endorsements

14.3 Testimonials alone do not constitute substantiation and the opinions expressed in them must be supported, where necessary, with independent evidence of their accuracy. Any claims based on a testimonial must conform with the Code.

- We draw your attention to the conclusion of the House of Lords report on Complementary Health (2000) (paragraph 4.40) that:
“it is our opinion that as long as the treatments are known to carry no, or few,

adverse effects, it would be against the principle of clinical freedom to prevent patients having access to therapies which fulfil these criteria and have never been restricted. This is especially the case if the patients believe that such therapies help them and the only argument against them is that an evidence base, derived from controlled trials, does not exist.”

The client in this case study believed that Shiatsu had been of immense benefit to him.

- The Universal Declaration of Human Rights, to which the British government subscribes, states:

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

HEALTH & BEAUTY PRODUCTS AND THERAPIES

(see CAP Help Notes, particularly those on: Substantiation for Health, Beauty and Slimming Claims; Health, Beauty and Slimming Advertisements that Refer to Ailments; and Use of Experts by the ASA and CAP)

General

50.1 Medical and scientific claims made about beauty and health-related products should be backed by evidence, where appropriate consisting of trials conducted on people. Where relevant, the rules will also relate to claims for products for animals. Substantiation will be assessed by the ASA on the basis of the available scientific knowledge.

- In March 2004 a complaint was made to the ASA against one of our members.

David Lipka, MRSS asked the Shiatsu Society (UK) to represent him as his Professional Body in his dealings with the ASA. The Shiatsu Society (UK)'s submissions on his behalf were steadfastly ignored by the ASA. In our submissions to the ASA the Shiatsu Society (UK) provided 2 appendices of research data supporting the beneficial effects of Shiatsu.

We have also enclosed our latest list of research.

We look forward to hearing from you.

Yours sincerely
Carol Dean
Chair

Encs.

01/09/05 Reply Letter from ASA

Dear Carol,

YOUR LETTER

Thank you for your letter of 31 August. You express your surprise that we have drafted a recommendation on your advertisement. I explained in my letters of the 10th and the 19th August why we were preparing to pursue the case in a formal investigation, and as a consequence I do not consider that this step was taken without warning.

I appreciate that this investigation has raised issues of wider significance for Shiatsu professionals, and welcome the suggestion that a dialogue might be initiated on the position taken with regard to complementary therapy in relation to the CAP Code. However, I would suggest that the best channel through which to pursue this dialogue would be the CAP Copy Advice team. The Committee of Advertising Practice (CAP) is responsible for reviewing and producing the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code). CAP regularly hold meetings with representatives of trades and professions about issues relating to Code Policy. You can reach the Copy Advice team by telephone on 020 7 492 2100, by fax on 020 7404 3404 or by e-mail at advice@cap.org.uk. The manager and main contact of the Copy Advice team is Anthony Szykaruk, who is currently on leave: he returns on 16 September.

You deny that you have said Shiatsu could treat medical conditions. The advertorial we have been investigating concerns the use of Shiatsu to treat asthma. In his letter of 12th July, Michael Webster said that the Shiatsu Society ‘cannot accept that we will only advertise Shiatsu as a “relaxation therapy” in the future’, and refers to a recent article by a GP in an NHS magazine in support of his argument that Shiatsu is a medical treatment and not a relaxation therapy.

While CAP creates, revises and enforces the Code, the ASA endorses and administers the Code. We investigate complaints about advertising on a case-by-case basis. For this reason it would be inappropriate for me to become involved in a general debate on Code policy. I merely wish to pursue the investigation into your advertising in Virgin Hotline magazine. I would suggest that if we can reach agreement on a position with regard to this advertisement, the ASA’s file can be closed and a wider discussion can ensue, involving CAP and representatives from the Shiatsu Society and any other relevant bodies, such as the General Shiatsu Council.

You say with regard to Clause 3.1 that ‘the key words are “objective substantiation” it does not say “scientific substantiation”’. However, as you later indicate, Clause 50.1 states that medical claims made about health & beauty products and therapies should be backed by evidence, where appropriate consisting of trials conducted by people. This would rather seem to answer what I take to be your earlier point. Because we understand your advertisement to imply a claim for Shiatsu as a treatment for asthma, we have asked for substantiation. CAP and the Health & Beauty working group collaborated on a document which stipulates the nature of adequate substantiation for health claims. I have attached a copy of this document for your information. We consider that section 3 on ‘new’ objective claims is particularly relevant to your advertising.

A list of research, such as the one you have sent with your letter, is not adequate: we require full copies of all the research you consider to support the claim in your advertising. I should point out that the ‘peak flow rates’ to which you refer in your

letter are unlikely to be sufficient in themselves, given the requirements laid out in the CAP document, particularly in point 3.3 (quality of data):

Before and after studies with little or no control, studies without human subjects, self-assessment studies, published and unpublished literature and anecdotal evidence are unlikely to be considered acceptable as sole support for a “new” claim relating to physiological action in humans.

With regard to your point about testimonials, you have cited the House of Lords report on Complementary Health on the subject of prevention of access to complementary therapies. This passage of the report defends the rights of patients to have access to therapies irrespective of whether ‘an evidence base, derived from controlled trials’ exists. We are not advocating prevention of access to therapies, nor are we in a position to do so. We adjudicate on claims for medical efficacy which appear in advertising. The passage you quote makes no statement about advertising claims and is therefore irrelevant to our investigation.

You have cited the Universal Declaration of Human Rights, article 19. Since the citation is unaccompanied by any comment from you I can only guess at its relevance, but I assume that you wish to dispute the right of the ASA to adjudicate on advertisements, given the universal right to ‘seek, receive and impart information and ideas through any media’. In a High Court judgement rejecting a judicial review of the Authority’s adjudication against the advertising for SmithKline Beecham’s ‘Ribena Toothkind’ (17 January 2001), the Hon. Mr Justice Hunt rejected the advertisers’ claim that the ASA had unnecessarily restricted free speech. He said that the advertising Codes were “entirely consistent” with Article 10 of the European Convention for the Protection of Human Rights, adding that the Codes did not impose a blanket ban, but that claims for any product had to be substantiated.

You refer to a previous case involving David Lipka and assert that the Shiatsu Society’s submissions of evidence were ‘steadfastly ignored by the ASA’. Having read the file I disagree with this statement. The Investigations Executive in that case spoke with Mr Lipka and discussed the evidence that had been sent. A letter was also sent to Mr Lipka which included the note on substantiation I have attached with this letter, and explained with reference to that document why we did not consider that the evidence submitted was an adequate substantiation of the claims made in his advertisement. The position we took on the evidence submitted then is the same position we have taken in this case.

In order to close the case, we seek your written assurance that future advertising by you will not include the claim, explicit or implicit, that Shiatsu can be used to treat asthma, unless adequate substantiation can be provided. If you give us this written assurance, we will be able to close the case informally. If you would prefer to continue to defend the advertisement, the draft report will be amended to reflect your comments and will then be sent to the ASA Council. Please advise by email when we might expect your full response to this letter.

Yours sincerely,
Malcolm Phillips
Investigations Executive

08/09/05 Letter to ASA

Dear Mr Phillips,

Re: Advertisement Complaint

Thank you for your full and informative reply to our letter of 31st August. We will be seeking to establish a dialogue with Mr Anthony Szykaruk as soon as possible after he returns to his office on 16th September.

The Shiatsu Society (UK) feels it is essential to work with CAP so that we can continue to educate the Public on the benefits of Shiatsu. It is far more important to us to protect the advertising future of our profession than become “bogged down” with the ASA over one advertorial.

We have already stated that we will not use the “asthma case study” advertorial again and are further able to offer you our assurance that we will work with the CAP Copy Advice Team before making any reference to asthma in future adverts.

Yours sincerely
Carol Dean
Chair

12/09/05 Reply from ASA

Dear Carol

RE: YOUR LETTER

Thank you for your letter of 12 September. We welcome your assurance that the “asthma case study” advertorial will not run again. We hope that a useful dialogue can be established between the Shiatsu Society and CAP, and an invitation to a forthcoming CAP session on magazine advertising and the health and beauty sector is attached with the email copy of this letter.

We will now close our file. The ASA publishes on its website, www.asa.org.uk, details of the complaints it investigates. Your client’s name, the industry sector and the medium in which the advertisement appeared will appear on 21 September in a list with other advertisers that have co-operated in resolving complaints.

Thank you for your co-operation.

Yours sincerely
Malcolm Phillips
Investigations Executive

16/09/05 – Minutes of ASA/CAP Meeting between Interested CAM Bodies

Shiatsu Society (UK)

Advertising Standards Authority (A.S.A.) Meeting

**John Adams Hall, London
Friday 16th September 2005, 4.15pm**

Present: Carol Dean (Chair SSUK), Cliff Jenkinson (SSUK), Tom Litten (GSC), Kim Lovelace (Shiatsu College), Michael Webster (Waveform), John Watson (ISA), Elizabeth Butters (ZSS), Tara Beeton (McTimoney Chiropractor Association), Joel Reeves (ISA), John Cragg (IDPT), Edith Maskell (CTA), Samantha Chadband (SSUK) – Minutes

Apologies: British Chiropractitioner Council, Association of Reflexologists, Geoff Merrigan (APT), Katharine Hall (SSUK), British Acupuncture Council

(1) Introductions

CD opened the meeting as Chair and introductions were made.

(2) Overview of Complaint

CD explained that the SSUK had called this meeting due to a recent complaint from the ASA and were concerned that their rules affected all complementary therapies and that we should all take a united stand to update / amend their current rules on advertising. The aim of this meeting was to see how we should act in the future and what approach to take with the ASA. A SSUK member had also received a complaint from the ASA on wording which appeared on his leaflets.

MW gave an overview of what the ASA were complaining about as MW had written an asthma case study advertorial that had appeared in the Virgin Train magazine on behalf of SSUK. All attendees were given a copy of the advert, all correspondence and the ASA codes/help sheet. A member of the public had complained anonymously. MW confirmed that SSUK made no claims in the advertorial but had said that the client had received nutritional recommendations and solution finding skills. The advertorial followed the client's progress through Shiatsu with peak flow chart evidence available. There was no indication anywhere that the client should stop taking his orthodox medicine. The only claim that was made was that the treatments were having a positive effect. The client had commented that his headaches

had disappeared but the ASA claim that client testimonials cannot be taken into account. The ASA say that they are not a valid form of substantiation.

SSUK had written to the ASA asking for the name of the complainant but this was not forthcoming. SSUK were guilty on four counts of breaching the ASA rules but nowhere did they use 'chronic' or 'serious' which the ASA are complaining about.

MW also gave an overview of the complaint a SSUK member received a couple of years ago. All his literature said was 'the following conditions 'may' be helped by Shiatsu'.

The ASA current rules on Shiatsu are that is a 'relaxation therapy' only. SSUK were given 5 days to agree not to use this advertorial again or they would appear on their website as breaching the codes.

CJ confirmed SSUK's thoughts on this were (a) would it be so terrible to be on the website? The information was hard to find and was just a list of companies, but (b) it could result in companies refusing to accept any further adverts from SSUK and as this week is the European Shiatsu Week then SSUK did not want to risk jeopardising this. SSUK wrote letters that kept the communication channels open to stall for time and get some answers.

SSUK's first reply was that they could not agree to just advertise Shiatsu as a relaxation therapy and gave their reasons such as the size of the Society, it has been going for 22 years, number of members etc. The ASA replied very quickly but still threatened action. They had not answered all the questions put to them.

The next letter SSUK received was a recommendation from the ASA for the complaint to go to an adjudication council. The SSUK replied again saying that they had not contravened the Beauty Help Note as stated. The ASA sent a long letter back and the upshot was that SSUK could go down the route of litigation and get an injunction against the ASA publishing anything against them. This would have cost a lot of money and would not have achieved what SSUK wanted.

SSUK replied to the ASA that they did not agree with them but would not use the asthma advertorial again. SSUK also stated that they would continue talks with CAP. The ASA replied saying they were happy with this, closed the file and nothing would appear on the website. We would, and now have been, listed on their website as an "informally resolved complaint". This would be in the name of SSUK and not MW.

(3) C.A.P.

CD confirmed the meeting which SSUK had been invited to to discuss what complementary therapies could and could not say in their advertising would be held on 11th October 2005 at their offices in London. CJ confirmed that CAP

make the rules and the ASA just enforce them so CAP were the people we all needed to be talking to.

JW asked if CAP would only accept scientific proof. CJ replied not necessarily, we could agree with them or agree together to work with them and work around this problem. We could ask what wording was acceptable and work with that. Therapies such as aromatherapy are currently allowed to say that they have a suitable therapy for a couple of conditions, as do the acupuncturists and the chiropractitioners. A unified approach is needed.

TL confirmed that CAP produces a standard document with models of information. The list is open and flexible with accompanying testimonials. At the bottom of this information they contradict themselves. They have their experts and we have ours, this is where the problem occurs as who dictates which is the best expert? TL had written a letter to the ASA on behalf of the GSC on this matter. TL had mentioned medical orthodox paradigms and complementary medical paradigms. TL stated that the game needed to be moved from their paradigm into ours, substantially with hard science.

JC commented the codes were defective themselves in the way that they were formulated. Five days was also a ridiculous time for a company to defend what could be the closure of its business. JC felt the ASA acted as prosecutor, judge and jury. MW agreed with this statement and explained the ASA's list of the two illness levels – general and serious. MW's feeling was that you needed to provide evidence for treating illnesses on the general list and if they don't like you then you need to provide scientific evidence. The serious list implied GP qualified or a health professional.

MW confirmed he had asked the ASA on several occasions who had compiled the rules but had never received a reply. MW stated that SSUK know from a former complaint that 2 GP's drew up the set of rules many years ago. MW had asked the ASA who had authorised this but again no reply was received. CJ stated this was another question for CAP.

CJ asked TB if there had been any problems with McTimoney adverts. TB replied not to her knowledge but then the General Chiropractitioner Council were putting together claims and support. CJ stated there were a lot of complaints against chiropractitioners on the website that had been upheld. JC / TL stated that the complainant may be a rival if their name was to remain anonymous.

TL asked if SSUK had consulted a lawyer. CJ replied no. TL thought some of the claims should be checked with a lawyer. There was also an issue of reverse burden of proof. All agreed that a critical point was who were the initial 'experts'. TL confirmed the GSC could not be seen to act in this matter as they are there to protect the public, not a Society.

TL had spoken to Geoff Merrigan who had a similar situation. Geoff thinks we are over-reacting, as all he had to do was insert a comma in his literature and the ASA backed down.

TB asked what scientific proof was. TL replied that articles in peer reviews could be classed as evidence. In a letter to SSUK the ASA stated they wanted any claims substantiated. The key word being 'objective' not 'scientific'. In the reply letter to the GSC the ASA had stated 'evidence to prove the accuracy on specific conditions'.

CJ commented on how tv adverts seemed to have clauses at the bottom of them such as 'sample size of 58 self selected women'. so they had their claim substantiated. All organisations need to ask their members for case histories and we could then collate them as evidence.

EM stated the House of Lords Report stated sufficient research and that complementary therapies did not have the funds for scientific research. Lots of small studies are acceptable. CJ confirmed that the SSUK reply letter quoted this but they did not take this on board.

MW was adamant that he did not want his name to appear on the ASA website as it would be like he was admitting the case history to be lies. CJ confirmed that SSUK would appear, not MW personally.

TB stated that during chiropractic training the students produce a case history and are encouraged to participate in research. TL confirmed that the GSC would be suggesting this in the near future. CJ confirmed that a list of Shiatsu and acupressure research references were sent to the ASA but they wanted the documents, not the references. MW also offered to send them the client's peak flow charts but this was also rejected.

CJ confirmed the invite to the CAP meeting was an open meeting to all. People just need to inform them that they were attending. CJ confirmed the meeting started at 9am on 11th October. SSUK confirmed they would be attending. CJ also confirmed that he had spoken to BAC and they would be attending also. EM would try and attend.

TL thought this should go to a lawyer but CJ would not commit the Society to this cost until more information was gained. TL confirmed that free advice could be obtained to see if there is a potential liable case. EM suggested the FIH were contacted, as Julia is a lawyer. TL confirmed he had spoken to FIH who were too busy to get involved. CJ felt time should be spent on getting CAP to change the rules, not argue with the ASA. KL agreed with CJ.

(4) CAP Questions

It was agreed that the following questions needed to be asked at the CAP meeting:-

- * What can we say?
- * What is classed as evidence?
- * Can we use statements such 'sample size of 58 self selected women'?
- * Does a collection of case studies count as evidence?

* Who made the initial rules?

(5) **Next Meeting**

It was agreed that as many as possible try and attend the CAP meeting. All organisations to meet again after this and also try and recruit some other organisations for further support.

CD confirmed that the SSUK had arranged this meeting but could not always be responsible for them. EM felt her organisation could do this and would ask.

The meeting closed at 5.40pm.