

Shiatsu Society (UK)



COMPLAINTS PROCEDURE of the SHIATSU SOCIETY (UK)

July 2020

Contents

Background	3
Terms of reference for the Ethics Committee and the handling of complaints	3
Key Principles	3
The Complaints Procedure.....	4
Stage 1: informal complaint.....	4
Stage 2: formal complaints	5
Stage 3: reaching a decision.....	6
Appeals against decisions of the Ethics Panel	7
APPENDIX A:.....	8
Interim Suspension Powers of the Ethics Committee or and Ethics Panel (EP)	8
APPENDIX B:	10
Conditions of Practice Orders and Suspension Orders	10
APPENDIX C:.....	11
Moderators, Legal Assessors, Medical Assessors, Technical and other Assessors and Experts	11

Background

Terms of reference for the Ethics Committee and the handling of complaints

The Ethics Committee, the Director with responsibility for Ethics and any other relevant people, act on behalf of the Board of Directors to investigate complaints against members within any membership category.

The Ethics Committee shall oversee all complaints, along with the relevant Director, and shall provide individual members who shall sit on Ethics or Appeals Panels.

All members of the Ethics Committee, Ethics Panels, including non-members of the Society, will be appointed having considered their knowledge, experience and skills in investigation and disciplinary procedures. Training will be provided to allow new members to fully participate in the process. Members of the Ethics Committee and Ethics Panels will be expected to be fair and act impartially.

The processes aim to be transparent, fair and consistent in addressing any concerns about a member found acting unprofessionally or contrary to the interests of the Society.

The Society will avoid overlapping investigations with those of other regulators, the Police, or employing authorities. Other investigations or pending proceedings will take precedence and the Society will only consider complaints when any proceedings have been completed elsewhere or where delay in investigating will create unreasonable risk when it comes to public protection.

Key Principles

The Chairman of the Ethics Committee shall be the Director with responsibility for Ethics.

The quorum for Ethics Committee meetings and conference calls shall be three.

The Board shall appoint one or more persons, who may be members of the staff of the Society, to serve as Secretary to the Committee (the Clerk).

The Chairman of the Ethics Committee will prepare an annual report to the Board detailing the allegations, reports of investigations and results of hearings during the preceding year.

The Ethics Committee is tasked with investigating and adjudicating:

- a) Any self declaration by a member which is relevant;
- b) Any written complaint that a member, of any category of membership, has potentially brought the profession into disrepute through a breach of any relevant Codes of Conduct, professional misconduct or any action that is likely to reflect badly upon the profession or the Society or any of its members; or
- c) The outcomes of another formal investigation (e.g. police investigation, employment investigation, etc.) which may be relevant to the Ethics Committee.

Relevant matters could include criminal, unprofessional or inappropriate behaviour

All members of the Ethics Committee shall declare any potential conflicts of interest as soon as they become apparent. The Chairman of the Ethics Committee shall advise them as to whether they can continue to consider the complaint, having taken advice where necessary, or whether they should exclude themselves from considering the complaint further

The Ethics Committee and its Panels Committee shall consider all written allegations and information brought to its attention, establishing facts, maintaining a log of all actions and correspondence, monitoring complaints and reporting to the Board, as any changes in practice resulting from complaints may need to be shared with the membership

All complaints and allegations must be in writing. The individual making the complaint must be named as in no circumstances will anonymous complaints be considered for investigation.

The Ethics Committee shall consist of five members, at least one of whom shall be a Director and at least one of whom shall be a non-member of the Society.

Any member of the Ethics Committee shall be required to sit on an Ethics Panel as required. Panel members may include Society members, or others, who do not sit on the Ethics Committee. A person who has sat on a Panel to consider a complaint may not sit on any other panel (e.g. Appeals panel) to consider the same complaint.

An overseer may not sit on any Panel

The Complaints Procedure

Stage 1: informal complaint

1. A complaint is initially considered to be an informal complaint until all efforts to resolve the dispute informally are exhausted.
2. The process by which it will be considered will be overseen by one or two persons, one of whom takes the lead. Typically, this will be the Director with responsibility for Ethics, who takes the lead, alongside another Director or experienced member (together called the overseer/s), plus administrative support. However, this may be one or two other officers of the Society as appropriate at the time.
3. The complaint is received by the overseers and checked to see that it can be understood by all parties.
4. The respondent, will be notified of the complaint and invited to give a written response to be received within 21 calendar days of notification.
5. The complainant will be offered mediation to see if the complaint can be resolved informally. While mediation is strongly recommended, it is recognized that there are times when it would not be appropriate or helpful so this is not a requirement.
6. If mediation is entered into and the matter resolved informally, the complaint will go no further.
7. If mediation is refused by either party or is unsuccessful, the overseer will take the complaint to the next stage: formal complaint.
8. The parties should be instructed to have no further contact with the each other, and the respondent cautioned that any further attempts by them to resolve the complaint, may be construed as unethical behaviours and may of itself lead to disciplinary action.
9. In rare cases the allegation may be of such a serious nature that the overseer, in

consultation with the Ethics Committee, proceeds directly to the formal complaint stage. The Ethics Committee may use its powers of Interim Suspension at this point, to protect the public. For details, see Appendix A

Stage 2: formal complaints

1. Once a complaint has become formal, the overseer will complete the following steps:
 - a. Both parties will be given details of appropriate support to ensure they can access support during the complaints process, should they wish to do so. A mentor may be provided by the Society to assist either the complainant or respondent. A mentor may assist either the complainant or respondent, not both. A mentor may not act on behalf of the complainant or respondent, or speak on their behalf. However, they may guide or advise the complainant or respondent on the complaint, including how to respond to a complaint, what to say and how the complaints process works.
 - b. If the respondent has not responded to the complaint in 21 days, the complaint will be adjudicated without their input. Attempts should be made by the overseer to contact and discuss this with the respondent who should be informed of any consequences that may come about as a result of the adjudication. The overseer/s may allow additional time in exceptional circumstances.
 - c. The Chairman of the Ethics Committee will convene an Ethics Panel to consider the complaint. The overseer/s shall inform the Ethics Panel and all parties the precise nature of the complaint, what is alleged and which aspects of the Code (or other relevant documentation) has been breached. The overseer/s shall ensure that the Ethics Panel and the parties have a complete set of papers detailing the complaint and all the relevant information or evidence.
2. The Ethics Panel shall be made up of members of the Ethics Committee or other individuals who can assist the handling of the investigation.
3. The Panel should consist of 3 members. Ideally, at least one member should be an independent professional such as an HR manager or legal expert who is trained in, or who has experience of, professional regulatory hearings. The other two may be chosen from the Board or Committees of the Society, typically from the Ethics Committee. It should be established that they do not know either party and should have experience in a relevant field, such as mediation, management, law etcetera. The Chair of the Panel will not be a member of the Society and will be responsible for writing up the report of the Panel and giving this to the overseer.
4. The Panel will consider the allegation as swiftly as possible (normally within 7 calendar days) and shall inform the parties of a proposed timeframe for completion of this stage of the process. The Panel will aim to complete its consideration of a complaint and meet to consider the complaint at a formal Hearing, normally within 28 calendar days.
5. The Panel can request or gather further information in several ways, for example:
 - i. the respondent can be asked to supply copies of their original notes and practice diaries;
 - ii. the respondent and/or his/her premises may be visited by a Technical Assessor (appointed by the Ethics Committee to act in such cases) to examine and assess details of his/her performance and compliance with the Shiatsu Society's Code of Professional Conduct & Ethics;
 - iii. the complainant may be visited by a Technical Assessor to clarify details of the allegation;
 - iv. third party(ies) may be asked to provide relevant information or evidence;

6. The Panel may seek the advice of a lawyer.
7. The Panel shall give the complainant and respondent an opportunity to represent their cases in writing and, if they wish to do so, appear before it and to argue his/her case, for which s/he shall be entitled to be legally represented. The costs of such representation shall be met by the complainant or the respondent.
8. The Panel may appoint a legal advisor to guide them on the relevant law and procedure. The costs shall be met by the Society, which shall meet the costs of setting up the Hearing.
9. The complainant or their representative shall first present the complaint. They may call witnesses. The respondent shall have the opportunity to ask questions of the complainant and their witnesses. The Panel shall have the opportunity to ask questions.
10. The respondent or their representative shall then present their response to the complaint. They may call witnesses. The complainant or their representative may ask questions of the respondent or their witnesses. The Panel may also ask questions.
11. Any witnesses or evidence requested by the Panel shall be heard (such as from a Technical Assessor) and subject to questions by all parties and the Panel.
12. The meeting will take place in private.
13. Any meeting of the Committee or Panel may take place virtually (i.e. using remote technology) where appropriate, having considered any request by a complainant or a respondent for a hearing to take place face to face.

Stage 3: reaching a decision

1. The Panel will 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 respondent or complainant may choose to submit, as well as live evidence given at a Panel Hearing.
2. It shall be for the complainant to satisfy the Ethics Panel that the complaint has been proven. The burden of proof for the Ethics Panel shall be the civil burden of proof: that on the balance of probabilities, the complaint is supported by the evidence.
3. The Panel shall consider its decision in private. It shall first consider whether the evidence presented in total supports the complaint, on the balance of probabilities. It shall then consider whether the facts amount to professional misconduct. If so, they shall inform the parties and consider evidence from the respondent before reaching any decision on the relevant sanction or admonishment.
4. Within 7 days of the decision, the Chair of the Panel shall notify the parties in writing of the ruling.
5. The Panel's written decision shall include its reasons for reaching it, which parts of the Code or other guidance has been breached and how, and of the member's right of appeal.
6. If there is a finding of professional misconduct the Panel may take one of the following steps:
 - i. admonish the member;
 - ii. make an order imposing conditions with which the member must comply while practising as a Shiatsu practitioner: (a Conditions of Practice Order)
 - iii. suspend the member from membership for a specified period of time, not exceeding 12 months, (a Suspension Order); or
 - iv. remove the member from membership.
7. The decision of the Panel, or any Appeals Panel, may be made public by the Society in

a format it considers appropriate and proportionate.

Appeals against decisions of the Ethics Panel

1. Appeals against a decision of an Ethics Panel must be submitted, in writing, within 28 days of such a decision being received by the parties. Only the respondent has the ability to appeal.
2. Reasons must be given for an appeal. The grounds of any appeal may only be on the grounds that:
 - a. New evidence which could not reasonably have been provided at the original hearing, has come to light; or
 - b. Due process was not followed at the first hearing; or
 - c. The decision reached was so unreasonable that no properly directed Panel could have reached that decision.
3. An appeal shall not proceed simply because the respondent disagrees with the decision. The respondent must provide evidence to support 2 above.
4. Appeals will be heard by a new Ethics Panel which has had no previous knowledge of the complaint. It shall include an external professional such as an HR manager or legal expert and should be heard within 28 calendar days after the appeal has been received.
5. All material considered by the original Panel will be given to the Appeals Panel. The Appeal Hearing will not consider all the evidence again but simply adjudicate on the basis of the appeal submitted.
6. The Panel shall give the appellant¹ an opportunity to represent their case in writing and, if they wish to do so, appear before it and to argue his/her case, for which s/he shall be entitled to be legally represented. The costs of such representation shall be met by the appellant.
7. The Panel may appoint a legal advisor to guide them on the relevant law and procedure. The costs shall be met by the Society, which shall meet the costs of setting up the Hearing.
8. The appellant shall first present the grounds for their appeal. They may call witnesses (but only as to the basis for the grounds of appeal). The Panel shall have the opportunity to ask questions.
9. The Appeals Panel shall then determine whether the appeal is upheld or not. If the appeal is that the evidence now provided casts any doubt as to the original decision and is upheld, they will dismiss the complaint.
10. The Appeals Panel will then consider the original sanction. It may uphold the original sanction or vary it within the powers available to them.
11. The Chair of the Appeals Panel will report their ruling to the to the parties within 7 days of the Hearing.
12. The ruling of the Appeals Panel will be final.

¹ Up to the point of the submission of an appeal the member is the respondent (the one who responds to the complaint) but after the Appeal is lodged and accepted they become the appellant (the one who is appealing).

APPENDIX A:

Interim Suspension Powers of the Ethics Committee or and Ethics Panel (EP)

This Section applies where an allegation against a registered member has been referred to the Ethics Committee or an EP but the EP has not yet reached a decision on the matter. The Ethics Committee or an EP may request that the Board of the Shiatsu Society suspends the registration of the member concerned (an 'Interim Suspension Order' or ISO) if it is satisfied that it must do so in order to protect members of the public.

1. The ISO shall be for a fixed period of time, not exceeding 12 months. It may not be extended beyond the period initially fixed.
2. An Interim Suspension Order shall cease to have effect:
 - (a) when the Panel reaches a decision in respect of the allegation in question, or
 - (b) when the time limit for the ISO expires, or
 - (c) if there is an appeal against the decision to make an ISO and the appeal is successful.
3. Where an Interim Suspension Order is being considered, the member concerned is entitled to be present and to be legally represented at the meeting where it is discussed.
4. 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 28 days to an Appeals Panel. On such an appeal the decision of the Appeals Panel shall be final. The Appeals Panel shall be constituted in the same way an Appeals Panel against any other decision of an EP is constituted.
5. An appeal under this Section may be made where:
 - (a) the member against whom the Interim Suspension Order has been made asserts that the suspension is not warranted by the nature of the allegation under consideration by the Ethics Panel; or
 - (b) the member asserts that there have been procedural errors in the making of the Interim Suspension Order.
6. The Ethics Committee shall convene a Panel within fourteen days of the receipt of the appeal for the express purpose of hearing the appeal.
7. The Panel shall consist of three members of the Ethics Committee (or other individuals appointed by the Committee), none of whom shall have had any dealing with the complaint initially.
8. In order to make its judgment the Panel shall:
 - (a) invite the attendance of the member against whom the Interim Suspension Order has been made;
 - (b) consider all documentation relating to the circumstances of the interim suspension.
9. In the event that the member against whom the Interim Suspension Order has been made is required to attend s/he shall be entitled to be legally represented.
10. After consideration of the case the Panel may:
 - (a) confirm the Interim Suspension Order and give reasons for doing so;
 - (b) in the case of procedural error under this Procedure reinstate the member, give instruction to the Board, the Ethics Committee or the EP on the correct procedure and refer the matter back to the Ethics Committee or an EP for further consideration; or

(c) end the Interim Suspension Order.

11. In the event of a member being re-instated, nothing in these procedures shall prevent the Ethics Committee or an EP from re-imposing the ISO by following correct procedure.
12. The Chair of the Panel shall notify the member concerned and the Board, the Ethics Committee or the EP of its decision within seven days of the meeting at which the Appeal is heard.
13. The decision of the Appeal Panel shall be final.

APPENDIX B:

Conditions of Practice Orders and Suspension Orders

1. This is an Order setting out conditions under which a member must practice while the Order is in force. Examples of this include practicing under agreed forms of supervision, changing specific elements of their working practice, etc.
2. At any time while a Conditions of Practice Order is in force the EP 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 member concerned to pass a test of competence specified by the EP;
 - (d) reduce the period for which the Order has effect; or
 - (e) revoke the Conditions of Practice Order.
3. The EP shall ensure that the conditions imposed on the member concerned are the minimum that it considers necessary for the protection of the public. The period specified in a Conditions of Practice Order, including any extension, shall not exceed three years.
4. Failure to comply with a Conditions of Practice Order imposed under this Procedure shall be automatically referred to the Ethics Committee for further action and it may request that the Board suspend the member's registration for the period specified in the Conditions of Practice Order. If the Ethics Committee considers that failure to comply with the Order amounts to Professional Misconduct it shall be referred for investigation at stage 2 of the procedures (Formal Complaints) and may result in the member being removed from membership. A new EP, consisting of people who are not previously aware of the Conditions of Practice Order, shall be constituted.
5. 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 a test of competence is specified, when the member concerned passes the test;
 - (c) if both a period and a test are specified, when the period ends or when the member concerned passes the test, whichever is the later.
6. A member against whom a Suspension Order has been made shall, for the duration of the Order, forego all rights and privileges of membership
7. At any time while a Suspension Order is in force the overseer/s, in consultation with the Ethics Committee may:
 - (i) extend, or further extend, the period of suspension; and/or
 - (ii) make a Conditions of Practice order with which the member must comply if s/he resumes practice after the end of the period of suspension.
8. The overseer/s, in consultation with the Ethics Committee, shall ensure that the suspension imposed on the member concerned is the minimum which it considers necessary for the protection of the public. The period specified in a Suspension Order, including any extension, must not exceed three years.
9. In the case of a Suspension Order the overseer/s, in consultation with the Ethics Committee, shall publish details in professional journals and shall notify the Registrars of other regulatory bodies, where appropriate (such as in the event of a criminal conviction being deemed to be relevant to their professional practice).

APPENDIX C:

Moderators, Legal Assessors, Medical Assessors, Technical and other Assessors and Experts

1. The Board of the Society may appoint a person to be a Moderator, Legal, Medical, Technical Assessor or any other Expert on an ad hoc or ongoing basis to assist and give advice and sometimes offer mediation in Ethics cases. Such a person should ideally be an outside person with experience in mediation and/or complaints in a professional context but may be a member of the Board if this is deemed appropriate.
2. The Board of the Society may pay such fees, allowances and expenses to a person appointed as an outside expert in Ethics cases as it may determine.
3. In the case of a such a person also being a member of the Board of the Society or of any of its Committees, any such payment shall be made to him/her in this capacity and not as a member of the Board or Committee of the Society.