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## SOCIETY COMPLAINTS PROCEDURE

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## **Our approach to complaints**

As professional associations for hypnotherapists and counsellors the Societies are committed to promoting and providing high standards in the practice of hypnotherapy and counselling.

We understand that the people using the services of counsellors or hypnotherapists who are members of the NCS or HS may have a range of different issues and a range of experiences of working with these members.

We encourage constructive feedback about these experiences and we invite people, including our members' clients, to tell us about their experiences.

We believe in listening to the voices of both clients and of therapists and in the sharing of these viewpoints and opinions we believe that each group has much to learn, both from the positive experiences of therapy as well as from times when things have not worked out as planned or hoped.

We are aware that the professional therapeutic relationship in some forms of counselling and therapy necessarily involves the exploration of difficulties and lapses within the relationship itself. We therefore seek to avoid an unnecessarily 'legalistic' approach to dealing with complaints.

We are also aware that therapists can overstep therapeutic boundaries and breach our Code of Ethics, and this needs to be addressed proportionately, fairly and transparently.

## **Types of complaints we handle**

If something goes wrong in therapy this may have its origins in a range of issues.

It may be that the therapeutic relationship between a client and therapist just hasn't gelled properly and the therapy has got stuck in some way. It is essential that this relationship develops in a way that allows the client to talk freely and comfortably about their issues.

It may be, for example, that the therapist has started to feel that they are out of their depth and have not been able to continue working in a properly therapeutic manner. This can happen if a client initially comes to therapy with one issue and then talks about other issues that may be beyond the therapist's training and experience.

It may be that the therapist has made some mistakes which have affected the therapy but they haven't been able to deal with these in a non-defensive and constructive manner.

It may be that the therapist has overstepped therapeutic boundaries, or has breached the HS or NCS Code of Ethics in some way. This may indicate that they are currently not fit to practise.

This could include cases of, for example:

- dishonesty, fraud or abuse of trust
- exploitation of a vulnerable person
- breach of confidentiality
- failure to respect a client's rights to make choices about their own care
- an inappropriate relationship with a client

## **Complaints against Non-Members**

If, at the time of receipt of the complaint, the practitioner complained against is not at that time a member of the Society, the Society will still hear the complaint if:

The practitioner complained against was a member of the Society at the time when all or part of the actions or behaviour giving rise to the complaint occurred.

The Society will hear the entire complaint, not just the portion of it related to the time of membership, if membership lapsed or the member resigned concomitant with the actions and behaviour giving rise to the complaint.

The Society will hear a complaint where a member resigns or lets their membership lapse following receipt of a complaint.

Following receipt of a complaint, any resignation from the Society or lapsed membership will be suspended until the complaints process is finished.

## **Acting on Evidence Policy**

Where the Society receives evidence relating to a concern about one of our registrants, we have a duty to act for public protection and to maintain the integrity of our Register and the accreditation scheme.

Accordingly, the Society will act on evidence received whether or not this evidence proceeds to a complaint.

For example, it's important to know that even if a complainant doesn't want to take things further, the Society may still have to act to ensure public protection and confidence in our register.

This might mean that the person providing the information is identified to the registrant or member although all reasonable steps will be taken to prevent this.

## **Evidence of criminality/action by other regulators**

If a client contacts the Society about a complaint that appears to be a criminal offence they will be advised to contact the police and in relevant circumstances, the Society may also do so.

Where there is evidence of criminality, the Public Protection Officer of the Society will seek immediate advice from the Assessment Panel as to how to proceed. If there are any concerns around public safety the registrant will be suspended or removed from the register. The Society recognises that counsellors and therapists may be working with vulnerable adults and public safety will be our primary concern.

Disclosure of any previous criminal conviction is required at membership application.

## **Action by Statutory Regulators**

Where a registrant of the Society is removed from a statutory register in health and/or social care then their registration with the Society shall be removed until such time as they are re-admitted to that register as a member of that statutory register in good standing; or until such time as the statutory register in question informs the Society that the individual would meet the statutory register's requirements for re-admittance should they apply.

The Society is required by Standard 10 (e) of the Professional Standards Authority's Accreditation Scheme to take into account the outcomes of complaints heard by other relevant Accredited Registers. The Society also recognises decisions regarding professional conduct made by regulatory bodies and other registers accredited by the Professional Standards Authority when deciding whether a person should be admitted, kept on or removed from their register.

## **The Societies' policy on Standard 10e**

The purpose of this standard is to protect the public by ensuring that registrants cannot simply maintain multiple memberships to avoid sanctions.

Our policy is that sanctions imposed by another AR or relevant regulatory body will be referred to on the Society's website and removed in line with the other AR's procedures. Removal from another AR or relevant regulatory body will constitute removal from the Society's AR.

If registrants or non-registrants of the Society, who also belong to another Accredited Register, can evidence unfair treatment (e.g. bias or misuse of process) by another Accredited Register's complaints process, they should appeal the decision against them. Should this prove unsuccessful, in cases where the registrant believes that the Accredited Register which removed them has not done so in accordance with the published standards of an Accredited Register, they may raise this issue with the Professional Standards Authority. They should note however that neither the Authority nor Society is a route of appeal for their complaint. The Society could only act differently from another Accredited Register or relevant regulatory body in circumstances where the Authority has intervened.

Registrants should be aware that the Society cannot mediate or otherwise become involved in any issues they have with another professional association or regulatory body. All Society members are welcome to join any professional association they deem helpful to their professional development, but are advised to research the complaints processes, code of ethics, history, and reported membership satisfaction of any professional association before joining.

## **Multiple and Duplicate Complaints**

Where a complaint has already been made to another Accredited Register, regulator or professional association, the Society will not normally commence its procedures until the outcome of the duplicate complaint has been finalised. The Assessment Panel has the right to ratify the decision of another Accredited Register (or register which meets similar standards) and to duplicate the sanctions imposed by that register without further recourse to the Society's complaints process. This decision cannot be appealed but is subject to annual review by the Society's Independent Assessor.

Where complaints are made simultaneously to the Society and to other Registers, the PPO has the right to negotiate with those registers to avoid duplicating complaints processes. If no such negotiation is possible, the Society will apply the following test: if the member complained against has been a member of the Society for a longer time than they have been a member of the other register, the Society will commence its complaints process. If the member has not, the Society will allow the other register to hear the complaint first.

## **Complaints we would not normally investigate**

We can consider complaints about registrants and members or former registrants and members who were registrants or members during the period of time to which allegations made in the complaint pertain but only if they concern a breach of the Code of Ethics. Therefore there are some types of complaints that we would not normally consider:

### **Private life:**

We do not usually deal with complaints about a registrant or member's behaviour when they are acting outside their professional role, unless that behaviour has resulted in a criminal conviction or finding of a court or tribunal. If you consider that a registrant has committed a criminal offence, you should report the matter to the police. Also, we will not normally investigate a complaint of misconduct which relates to a registrant's private or non-professional life where there is a clear legal remedy available to you which you have not yet pursued. It is only in exceptional circumstances that we will deal with complaints about something a member has done in his or her private life.

### **Debts:**

We do not usually deal with complaints against registrants or members who are in debt to members of the public. We have no power to enforce the payment of debts and you may be able to take legal action through the courts to recover the debt. However, if a registrant has not complied with a court order, we may be able to consider the matter but we will need to know what steps you have taken to enforce any judgment obtained against the registrant. Although we may be able to take disciplinary action for failure to comply with a court order, we have no powers to make the member pay you or comply with the order.

### **Disputes between therapists in practice together:**

Our primary function is to protect members of the public affected by professional misconduct. Our complaints system is not designed to resolve disputes between therapists who work together. This includes disputes concerning money allegedly owed to each other.

### **Complaints where the complainant is deemed not to have the capacity to complain:**

Examples might be: complaints made by another professional body, by someone involved in a professional dispute, on behalf of the client where the client disagrees with proceeding, or where complaints are made as part of wider litigation e.g. family disputes.

### **Complaints with no evidence of impact on actual client relationships:**

If your complaint is not about the impact of the registrant's conduct on clients or the client relationship it is unlikely that we would hear the complaint.

### **Advertising:**

If your complaint is about how a registrant or member advertises, the Society's role will be to check whether qualifications and membership are being advertised correctly. It is likely that many complaints about advertising may need to be referred to the Advertising Standards Authority and cannot be dealt with by the Society.

### **Complaints where there is no prospect of evidence:**

For example where a complainant passes on a rumour but has no evidence to substantiate it or will not provide evidence.

## **How we can help you raise a concern**

If you have any comments or concerns and would like to talk to an officer of the Society please phone: 07469 785 052

(This number is available Monday to Friday 9.30am to 4.00pm)

We want to ensure that everyone is able to communicate with the Society and we will accept different methods that allow you to access the complaints procedure. For example we can accept an audio file; or you can nominate another person to communicate on your behalf. An officer of the Society will be pleased to discuss these and other ideas with you.

## **Vulnerable clients**

In the case of vulnerable clients the Society will ensure that appropriate mechanisms are in place. This may include, for example, independent advocacy, screening, video links, client care information packs, plain language complaints policies.

## **Additional sources of support**

If you are seeing a counsellor within an agency setting or through your GP then you should speak to them in the first instance.

If you think that a child or vulnerable adult may have been harmed, or be at risk of harm, you should contact your local social services department.

If you think that a criminal offence has been committed you should contact the police.

Independent Complaints Advocacy Service supports those who have a complaint against the NHS.

Citizens Advice Bureau provide online advice, and you can visit your local branch.

### **MIND**

We understand that you may feel nervous or worried about making a complaint – we want to reassure you that we will treat you fairly, that we will look into your complaint, and make sure that the individual concerned learns from what you tell us.

## **Making a complaint**

Going through a formal complaints process can be a distressing experience, so it is always preferable to resolve concerns or complaints in an informal way if possible. If you feel comfortable doing so, talk to your therapist to see if they can put things right. However, we recognise that you may not feel able to do this, depending on the nature of your complaint. In this case, you should get in touch with us.

You will talk to a trained member of staff who can provide information about whether your concern is something that we can deal with.

If your therapist was not one of our registrants or members at the time to which your complaint pertains, we will not be able to investigate your concern, but there may be another professional body to whom you can complain. For example, if your therapist works for the NHS, we would advise you to contact the NHS organisation that employs them or the Patient Advice and Liaison Service (PALS).

If you choose to follow the complaints and conduct process you will need to fill in a form giving details of your complaint and send it to the Public Protection Officer at the National Hypnotherapy Society or National Counselling Society as appropriate. (Please let the Society know if you would prefer to provide information in an alternative format).

Further details can be found on our website:

<http://www.nationalcounsellingsociety.org/listening-to-clients/policies/complaintform/>

<http://www.nationalhypnotherapysociety.org/listening-to-clients/policies/complaintform/>

## **Approximate time scales for the complaints process**

Acknowledgement of receipt within 5 working days

Review of initial information up to 4 weeks (at each stage where further information is sought from either party they will be notified of time limits for responses)

Review of initial complaint up to 12 weeks

Review by Assessment Panel up to 12 weeks

Independent Panel Hearing within 6 – 9 months from the date of the Assessment Panel Decision (dependent upon the availability of both parties to the complaint and support persons)

We aim to complete complaints cases within nine months.

## **Screening**

When the complaint arrives at the Society, a Public Protection Officer (PPO) will review it. We aim to respond acknowledging receipt of a complaint within 5 working days.

This involves checking that the complaint falls within the Society's remit. We aim for the PPO to determine whether to proceed within 28 days from our acknowledgment of receipt. Possible reasons for a complaint falling outside our remit include:

- The complaint is not normally one we would investigate (see above.)
- The Hypnotherapist or Counsellor was not a member of the relevant Society when the incident occurred. We will not accept a therapist's resignation once a complaint about them has been submitted.
- The complaint clearly falls outside the relevant Code of Ethics
- Incident was more than 3 years ago (unless there are exceptional circumstances)
- The complainant cannot or will not provide sufficient information for a decision to be made

If there is not enough information to support the complaint, the PPO will write to you to explain why. You can then resubmit your complaint one more time if you wish.

If the screening process indicates that the complaint can't be taken further, the PPO will communicate this to you. The PPO's decision is final.

However, on an annual basis the PPO's decisions are reviewed by the Society's Independent Assessor. The Independent Assessor is a highly qualified professional who is not employed by the Society, and is not otherwise part of our complaints process. They produce annual reports on the Society, especially relating to how we meet the standards of an Accredited Register. Their reports are sent to the Professional Standards Authority.

If the screening process indicates that the complaint should be taken further, it will be referred by the PPO to an Assessment Panel.

The PPO will send details of your complaint to the member complained against, allow them to respond, and communicate their response to you. You will not have to respond further at this stage and the documents will be sent to the Assessment Panel.

## **Early Resolution**

If you have a clear idea of what you would like to resolve the complaint (e.g. a refund, an apology etc.) then the PPO will communicate with you and the member informally to see if such a resolution can be achieved to your satisfaction. If it can, this will be communicated to the Assessment Panel. However, even if early resolution is achieved, the Panel can still take the view that further action needs to be taken against the member for the sake of public protection.

## **Suspending a Member**

The PPO may, on the basis of the evidence provided and in the interest of public protection, issue a temporary and interim suspension order for up to 28 days to the member if they feel that this is warranted. This order will suspend the members' society membership and will be reflected on the Society's website.

The PPO must immediately refer their decision together with the evidence upon which the decision was made to the Assessment Panel for ratification. If the decision is ratified, the order remains in place throughout the complaints proceedings, until the complaints process comes to an end. If the decision is not ratified, the member's suspension is lifted.

The PPO's decision to issue an interim suspension order is final, and the Assessment Panel's decision to ratify or not ratify the order is final. However, on an annual basis the PPO's and Assessment Panel's suspension decisions are reviewed by the Society's Independent Assessor.

NB suspending a member does not prevent them from exercising their legal right to practice as a therapist, where this right exists.

## **Assessment Panel**

The Assessment Panel will consist of a Chair and 2 practitioners, one of whom practises the same type of therapy as the therapist. The practitioners will be trained Society members. They will not have had any prior interaction with the member complained against.

The Assessment Panel will make a decision about what to do with your complaint based on the written information that has been provided. *Its role is not to make a final decision about your complaint, but rather, to decide how best to deal with it.*

You will *not* be asked to attend the Panel's meeting.

The Assessment Panel will decide either to:

- Refer your complaint back to the Public Protection Officer with instructions
- Or
- Refer your complaint to an Independent Complaints Panel for a formal hearing.

Your complaint may be referred back to the Public Protection Officer with instructions if the Assessment Panel decides that no serious breach of the relevant Code of Ethics could have occurred which could result in the suspension or removal of the member. This does not mean that your complaint has been rejected; it may be that the therapist who is being complained about has made mistakes. The Panel may advise the Public Protection Officer to:

- require the therapist to acknowledge mistakes and/or apologize
- require the therapist to respond to learning or action points such as undertaking further training

The PPO must follow the instructions of the Panel and the sanction(s) they impose on the registrant or member is final.

The Independent Assessor (see above) will conduct an annual review of such decisions to ensure they are fair and consistent. The Independent Assessor is not otherwise part of our complaints process.

(If the therapist does not comply with the sanctions, the PPO will refer the case to the Independent Complaints Panel (IP) which has powers to suspend or terminate the therapist's registration for not complying with the sanctions. The IP will conduct a paper review of the

evidence submitted by the PPO and you will not be asked to contribute to this review. This is not a formal panel hearing and only occurs where sanctions are not followed by the member.)

Your complaint will be referred to an Independent Complaints Panel for a formal hearing if the Assessment Panel decides that a serious breach of the relevant Code of Ethics could have occurred. This does not mean that your complaint has been accepted to be correct; this will be decided at the hearing.

You will receive a copy of the Assessment Panel's decision as to whether your complaint is referred back to the PPO or onwards to a formal hearing with the Independent Complaints Panel. The decision will also be shared with the therapist. There is no provision for appeal against the Assessment Panel's decisions.

(However, if any new evidence comes to light or for any other good reason, the decision can be reviewed by our Independent Assessor. The Independent Assessor will conduct an annual review of such decisions to ensure they are fair and consistent. The Independent Assessor is not otherwise part of our complaints process.)

## **Independent Complaints Panel**

Your complaint will be referred by the Assessment Panel to an Independent Complaints Panel if the Assessment Panel decides that a serious breach of the relevant Code of Ethics is likely to have occurred.

The Independent Complaints Panel will be chaired by an independent lay chair and will include 2 practitioners, one who practises the same type of therapy as the therapist who is being complained about. The practitioners will be trained Society members and they will not be connected to the Assessment Panel.

If your complaint is referred to an Independent Complaints Panel it probably means there will be an open hearing. In exceptional circumstances, the panel can decide to hold all or part of a hearing in private. (An open hearing means that both parties are present during all or part of the hearing.) The venue for this hearing will probably be the Society's headquarters in Worthing, West Sussex.

At the hearing, your complaint will be presented to the Panel by the Societies' Public Protection Officer (PPO.)

You will be asked to attend to give evidence, as will the therapist and any witnesses. You can bring someone with you for support, but not to speak on your behalf.

After it has heard all the evidence, the panel will make a decision in private about the complaint. If it is satisfied that the facts of the allegation have been proved, it will decide which sanctions to impose.

## **Indicative Sanctions Policy**

The decision as to what sanction, if any, should be imposed on a member following a panel hearing is decided by the IP.

The IP will determine whether the member's fitness to provide professional services is below accepted standards and in breach of the Society's Code of Ethical Practice.

Sanctions are not intended to be punitive and the function of any sanction is to address public safety from the perspective of the risk which the member concerned may pose to those who use their services. The Societies do not set a fixed list of sanctions as each case and resulting decision will relate to the specific case but the following are examples of the type of sanctions that may be imposed:

- An advisory letter containing Learning Points
- Conditions on Registration (e.g. further training, Supervision, reflective statement)
- The IP may impose a sanction that relates specifically to the case for example an Apology and acknowledgment of error; Requirement for therapy
- Suspension from Registration
- Removal from the Register

## **Following the Panel Hearing**

At the end of the process, all parties will receive a copy of the panel's final decision and the outcome of the hearing will be published according to our policy.

The PPO will monitor the sanctions placed on the therapist, so that if the therapist doesn't comply further action can be taken. Failure to comply with a sanction is likely to result in withdrawal of Society membership. The member concerned will be notified in writing and a notation will be added to the register and full details recorded on the member's file.

For public protection, sanctions imposed by the Society's Independent Complaints Panel will, where appropriate, be communicated with other Accredited Registers; professional associations; clinics; professional insurers; and the public.

Publication of sanctions will only occur where no appeal has been filed within the appeal deadline (see below) or, where an appeal has been filed, it has been unsuccessful and sanctions have still been imposed.

## **Appeals Policy**

An appeal must be submitted in writing (along with any supporting documentation) within 28 days of notification of findings and decision of the Independent Panel. (Please contact the Societies if you wish to submit your appeal in an alternative format and we can advise you).

An appeal will be considered on the following grounds:

- The facts were found against the weight of evidence
- The sanction imposed is considered to be disproportionate

- Any evidence of procedural impropriety
- There is new evidence that was not available at the time

If there is insufficient evidence the appeal will be rejected and the member and the complainant will be notified in writing of this decision which will be final.

If the appeal is accepted both the member and the complainant will be informed and the appeal will be considered by an ad hoc appeal panel composed of an independent lay member and two registrant members. The appeal panel will not be connected with either the Assessment Panel or Independent Complaints Panel.

This will usually be a paper process where the appeal committee consider all the relevant papers and any written comments that you or the complainant provide. The registrant can, however, request an oral hearing and the appeal committee can direct that an oral hearing take place whether or not a request has been made. The appeal committee can, however, direct that a paper hearing take place.

## **Confidentiality**

The complaints and conduct process has been designed to be as fair and transparent as possible, while balancing the need to protect the confidentiality of clients and therapists.

If you choose to make a formal complaint, it is important to be aware that:

Details of your complaint will be shared with the therapist, and the therapist's response to your allegations will be shared with you.

The panel that makes a decision about your complaint will receive all the information relating to the complaint. Depending on the type of concern you have raised, this could include information about the content of your therapy sessions.

## **Publication Policy**

The Societies complaints procedures seek to be open, transparent and proportionate and the outcome of the IP hearing will be published on the Societies' website at the conclusion of the hearing.

Sanctions issued by either the Assessment Panel for minor breaches of the Code of Ethics or by the Independent Complaints Panel following a formal complaints hearing will be published on the Societies' website.

The publication of such decisions provides information about the standards expected of registrants (and members); assists clients to make informed choices and helps to maintain public confidence in the Accredited Register programme.

We aim to strike a balance and consider the rights of both clients and registrants and take account of the risk of any harm that may arise from the disclosure or nondisclosure of information

Details of sanctions will be appear as an annotation to a registrant's online register entry with a link to the 'Outcomes of Complaints' section of the website where further details will be recorded.

This information will be published on the websites for the period of the sanction – and will be recorded internally on the member's file.

If a sanction is not fulfilled then that information will be published on the Society website.

If there is no sanction then no information will be published on the Society website.

When the sanction has been fulfilled this information will be published on the Societies website and recorded on the member's file.

In cases where a member is removed from the register, the published decision will remain on the website for a period of five years.

## **Re-admission to Register Policy**

Public safety is at the heart of the AR programme and it will be the responsibility of the therapist concerned to demonstrate that they are fit to practice.

A registrant who has been removed from the register may, after a period of five years, apply to be re-admitted to the Register. A registrant who has been suspended from the register may apply to be re-admitted at the end of the period of suspension.

A registrant who has been issued with sanction(s) must comply with the actions and time limits as instructed. In cases where the member has failed to comply with a sanction it is likely that their membership will have been withdrawn at that time and they will not be re-admitted to the Register.

In all of the above cases the Independent Panel will make the final decision and full supporting evidence and any other information the IP feels is relevant will be required. There may be cases where criminal behaviour or behaviour that the Independent Panel consider that there is an ongoing issue relating to public protection and they will decide on a case by case basis if re-admission to the register is appropriate.