



Complementary & Natural
Healthcare Council

Complaints Handling Process

INTRODUCTION

Philosophy of process

The function of the CNHC Fitness to Practice Committees and Panels is not intended to be punitive. A Committee or Panel's task is to determine whether, on the basis of evidence before it, the Registrant's fitness to practice is impaired. They will then decide if the Registrant poses a risk to those using their services and thus the degree of public protection, if any, required.

Who can refer?

Anyone can refer a complaint about a Registrant's practice to the CNHC. What we do ask is that the referrer(s) should in the first instance attempt to resolve their complaint locally. Complaints related to a Registrant's conduct or competence can often be resolved appropriately at a local level.

When can the referral be made?

Where a matter is referred to the CNHC, unless there are exceptional circumstances, we will not look at allegations where the conduct occurred over two years ago (or two years from the date when the Complainant became aware of the conduct, whichever is the latest). It is more difficult to investigate

incidents the more time that has elapsed, therefore we would expect complaints to be referred as soon as is practicably possible after the occurrence of the matter to be investigated.

How can a complaint be made?

Complaints referred to the CNHC will only be considered if the complaint is received on a CNHC completed complaints form addressed to the Registrar. Complaints received by the Registrar will be processed through an initial preliminary enquiry procedure to ensure that matters referred to the Council are within the remit of the CNHC.

Investigating Committee's role

If the matter under consideration is within the remit of the CNHC it will be referred to an Investigating Committee (IC). The IC will initiate a screening process and examine all the evidence relating to the complaint. The IC may either close the case with no further action being taken or refer the matter to a Conduct and Competence Panel. If the IC decide that there is a relevant health issue in relation to the complaint, the case may be referred to the Health Committee. The IC will keep a record of no further action cases for three years.

The Conduct and Competence and Health Complaints Process

I Preliminary Enquiries

The first stage of the process ensures the CNHC considers only those matters within its remit. This stage of the procedure is a screening process which will attempt, through appropriate intervention and advice, to seek to resolve and settle complaints.

A Complaint received

1 The case will be reviewed by a CNHC Case Manager and a

decision taken to determine whether the complaint is within the remit of the CNHC.

- 2 If the matter is out with the remit of the CNHC, the Complainant will receive a letter advising them that
- their complaint is outside the remit of the CNHC
 - the reason(s) why their complaint will not be processed and
 - whenever possible, advise them on where to direct their complaint.

B Complaint is within the remit of the CNHC

- 1 All available evidence will be examined to determine whether further evidence is required prior to a case being referred to the Investigating Committee. If further evidence is required this will be requested from the relevant parties. The Complainant will receive a letter advising them that their complaint is under investigation. The Registrant who is the subject of the complaint will receive a letter outlining any issue that is under investigation as a result

of the receipt by the Registrar of a complaint that has been made against them. They will be given the name of the Complainant and details of the nature of the complaint. They will be informed about CNHC procedures to be followed. The Registrant will be advised that it is in their interest to make a written preliminary response to the allegation that has been made against them but they are under no obligation to provide any information.

- 2 The case papers, an outline of the complaint and the steps taken up to that point, will be referred to the Investigating Committee.

II Investigating Committee Process

The primary role of the Investigating Committee is to determine – based on the information received in relation to an allegation, whether the evidence shows that the Registrant has a "case to answer". The IC will consider the allegation. At this stage their consideration will involve the examination of written evidence only. Normally, one of the IC members would be a Registrant practicing in the same professional discipline as the Registrant against whom the allegation is made. The IC should have regard to the CNHC Code of Conduct, Performance and Ethics and the Standards of Proficiency in considering each case individually on its merits. When the IC has completed its considerations it will provide reasons on whether in the IC's view, there is a case to answer.

A Is there a case to answer?

- 1 In deciding whether there is a case to answer, the IC will make a decision based on evidence before it. If the IC feels that the Council has a "realistic prospect" of being able to establish at a hearing, that a Registrant's fitness to practice is impaired, they will forward the Formal Allegation to a Conduct and Competence Panel or a Health Panel (see information on health issues below). To do this they will use the "realistic prospect test" (the test). The test is commonly used in other proceedings and details can be found in the CNHC's Complaints Procedure Document. The evidence in most cases will relate to the facts associated with an incident, for example, that the events involving the Registrant occurred on the dates, times and places alleged. The IC will seek further evidence in relation to the allegation(s) where required.

Where competence is allegedly a matter for concern, the IC will need to decide whether, based on the evidence before it, the Registrant has failed to provide a level of care to the standards that would be expected of a reasonably competent practitioner.

The IC will determine if there are any relevant health issues that could have a bearing on the allegations. If in the opinion of the IC the Registrant's health has a bearing on the case, the case may be referred to a Health Panel.

- 2 The Registrant will receive a letter detailing the allegations brought against them and evidence received to support the allegation(s). The Registrant will be invited to respond to the allegation(s) normally within a period of fourteen

days before the hearing.

- 3 There is no requirement for the IC to undertake a detailed inquiry. The IC needs only to be satisfied that there is a realistic prospect that the Council will be able to establish its case. The IC consideration and decision will be on the basis of a paper-based exercise. The IC will not make an assessment of the relative strength of the evidence.
- 4 A decision that there is "no case to answer" should only be made where there is insufficient evidence to substantiate the allegation(s) or where evidence is so unreliable or discredited that it is incapable of belief. The Complainant, Registrant and Registrar and any other parties involved will be notified of the decision.

B Serious allegations

- 1 Where there is an allegation of a serious nature for example involving a police caution, conviction or an allegation of a sexual nature, the Registrar will determine whether there is a requirement for the IC to consider an Interim Order. In the event of a vacancy in the office of Registrar, or if the Registrar is unable to act, the Co Chairs will appoint a person to perform temporarily the duties of Registrar.
- 2 The Registrant will be notified in writing that an allegation concerning their conduct or competence has been received. They will be advised of the nature of the allegation and will be invited to rebut the allegations at a hearing. The CNHC Complaints Procedure will be made available to the Registrant and they will be advised to seek Representation.
- 3 The IC will receive evidence detailing the nature of the allegation and may decide to issue an Interim Order (IO) attaching conditions to the Registrant's practice (a Restriction of Practice Order) or suspend them from the Register until investigations into the allegation(s) are completed (a Suspension Order).

The Registrant will be advised of the outcome of the IC decision and whether a Restriction of Practice Order has been made or their registration has been suspended and that the Register has been notated to record the decision.

The Registrant will also be given information about the procedure to appeal against the decision of the IC. The procedure is contained in the CNHC's Complaints Procedure Document.

4 If the Registrant wishes to appeal against the IO decision to suspend them from the Register, a hearing will be arranged as soon as is practicable.

5 A Registrant can make a request for an IO to be reviewed at any time if circumstances have changed, e.g. the police in a criminal case take no further action.

III Conduct and Competence Panels

A Conduct and Competence Panel (CCP) will consider all cases where in the view of the IC, there is a potential case to answer (unless the case relates to the health of a Registrant). The CNHC, its Committees and Panels, have no power to order persons or organisations to provide information, produce documents or to appear at hearings. However, the Registrant will be advised that the CCP may hear a case in their absence if they do not attend a hearing to which they have been invited.

Each CCP or Health Panel will have a minimum of one person who has experience or an understanding of the area of the case which is under consideration and one lay member. The Panel may appoint a Legal Assessor, Medical Assessor or Registrant Assessor in respect of any case it is considering where the Panel decide that they require expert advice. Conduct and Competence hearings are adversarial in nature and follow accepted procedures for the examination of evidence in courts and tribunals. The hearing's procedures are contained in the CNHC Complaints Procedure Document. All Conduct and Competence hearings, with the exception of Health Panels (see below), are held in public and the cases, timings and venues are published on the CNHC website.

A Cases concerned with Health issues

- 1 The Panel will appoint a case worker to investigate a case thoroughly; they will gather as much evidence as they can in relation to the Registrant's health e.g. with the Registrant's consent, copies of medical records from their GP and/or Consultant. They may also obtain witness statements from the Complainant and where relevant, from colleagues, social workers etc. They may also arrange for independent medical examiners to see Registrants and write reports for the consideration of the Health Panel (HP).
- 2 The Registrant may also submit any witness statements or medical records which they wish the Panel to consider.
- 3 When the collection of evidence and the investigation of facts are completed, the case will be prepared for a hearing. Where facts are not disputed it will be helpful to all the Parties to have an agreed bundle of documents for the Panel to consider.
- 4 Council's appointed case presenter and the Registrant or their representative should also exchange information on the witnesses they intend to call. Each witness will provide a statement outlining the evidence they will be giving at the hearing. It is the responsibility of each side to obtain the witness statements and then to exchange them.

So far as the Registrant is concerned, this must be done not less than 14 days before the hearing commences.

- 5 Any costs incurred in obtaining witness statements or expenses in relation to the attendance of witnesses at hearings will be born by the side who has requested the witness to give evidence in the case.

B Health Panel Hearings

- 1 The hearing's procedure which is held in private is explained in detail in the Complaints Procedure Document. The hearing has either three or four elements dependent on the outcome of whether the Panel determines that allegations against the Registrant have been proven.
 - i. Each side presents their case calling witnesses and providing documentary evidence.
 - ii. The Panel retires to consider the evidence that has been presented to it.
 - iii. The Panel returns and gives its decision on whether the case against the Registrant is well founded. If they decide that the case is not well founded the case is dismissed. If the Panel decides that the case against the Registrant is proven they invite each side to make representations before they retire once again to consider sanctions.
 - iv. The Panel return and give their decisions, outlining full and comprehensive reasons for their decisions.
- 2 The Health Panel has five options to consider when a case is proven.
 - i. They can decide to take no further action.
 - ii. They can issue a caution for not less than one year and not more than three years.
 - iii. They can issue a Restriction of Practice Order for a period of not less than one year and not more than three years.
 - iv. They can suspend the Registrant from the Register for up to two years. This order will be reviewed every six months and the Registrant will be invited to make representations to the Panel that reviews it.
 - v. The case can be referred to the Conduct and Competence Panel who have a further sanction available to them which is to strike the Registrant's name from the Register.

C Cases Concerned with Conduct and Competence

- 1 Where there are no relevant health issues and the allegation does not relate to the Registrant's conduct or competence being impaired by his ill health, a caseworker will investigate the case thoroughly. They will gather as much evidence as they can in relation to the allegation. They will also obtain witness statements from the Complainant and any other relevant party who has information which might have a bearing on the case.
- 2 The Registrant will also be invited to obtain written evidence and witness statements which they wish to rely on at the hearing.

- 3 When the collection of evidence and the investigation of facts is completed, the case will be prepared for a hearing. Where facts are not disputed it will be helpful to all the parties to produce an agreed bundle of documents for the Panel to consider.
- 4 Council's appointed case presenter and the Registrant or their representative should also exchange information on the witnesses they intend to call. Each witness will provide a statement outlining the evidence that they will be giving at the hearing. It is the responsibility of each side to obtain the witness statements and then to exchange them with each other. So far as the Registrant is concerned, this must be done not less than 14 days before the hearing commences.
- 5 Any costs incurred in obtaining witness statements or expenses in relation to the attendance of witnesses at hearings will be borne by the side which has requested the witness to give evidence in the case.

D Conduct and Competence Hearings

The hearings procedure is explained in detail in the Complaints Procedure Document. The hearing has either three or four elements dependent on the outcome of whether the Panel thinks that the allegations against the Registrant have been proven.

- 1 Each side presents their case calling witnesses and providing documentary evidence.
- 2 The Panel retires to consider the evidence that has been presented to it.
- 3 The Panel returns and gives its decision on whether the case against the Registrant is well founded. If they decide that the case is not well founded the case is dismissed. If the Panel decides that the case against the Registrant is well founded they will invite each side to make representations before they retire once again to consider whether sanctions should be imposed.
- 4 The Panel return, give their decisions and outline reasons for reaching their decisions.

E CCP Available options

The Conduct and Competence Panel has five options to consider when a case is proven and details of sanctions available to it can be found in the Complaints Procedure Document.

- 1 They can decide to take no further action.

- 2 They can issue a Caution for not less than one year and not more than three years.
- 3 They can issue a Restriction of Practice Order for a period of not less than one year and not more than three years. The Panel will detail improvements in the conduct or competence or in the behaviour of the Registrant required before they will consider lifting any Restriction of Practice Order.
- 4 They can suspend the Registrant from the Register for up to two years. Any such Order must be reviewed before it expires and the Panel may want to see satisfactory reports showing that the Registrant's conduct and/or competence are no longer a cause for concern. The Registrant will be invited to make representations to the CCP that reviews the Order.
- 5 The final sanction available to the Panel will only be used in a small number of very serious cases, that is to strike the Registrant's name from the Register. If a Registrant's name is struck from the Register this will be notated on the Register.

F Appeals

A Registrant can appeal against the decision(s) of the Investigating Committee, a Health Panel, a Conduct and Competence Panel, or a Restoration Committee. All appeals must be lodged within 28 days from the date of the hearing. A form for lodging appeals can be obtained from the Registrar. This form must be completed in full and must be signed by the Registrant. The form must then be posted to the Registrar, to arrive not later than 28 days after the hearing of the Registrant's case. The Registrar will acknowledge receipt of the appeal form.

The Appeals hearing will be conducted in accordance with the procedure set out in the Complaints Procedure Document.

No Panel or Committee member who was involved at any stage in the original hearing will participate in the appeals process or the appeal hearing.

G Re-application for registration

When a Registrant's name has been removed from the Register as a result of a proven impairment of their fitness to practice, they may apply for re-admission to the Register after a period of five years. The policy and procedure for readmission to the Register can be found in the Complaints Procedure Document.

IV CONCLUSION

The Complaint Handling Process is not designed to be punitive, rather it is designed to promote good practice and command public confidence. The procedures will assist Registrants to achieve acceptable levels of conduct and competence in their delivery of services to clients. If Registrants adhere to the Code of Conduct, Performance and Ethics and Standards of

Proficiency that they agreed to when they were admitted to the Register, they will have nothing to fear from these procedures. However the public has a right to be protected from the inappropriate behaviour and practice of those practitioners who fail to uphold the standards of their profession.