

Code of Disciplinary Procedure 2006**A. INTRODUCTION****1. PURPOSE OF THE CODE**

This Code of Disciplinary Procedure lays down rules for the investigation and disposal of any complaint alleging that a member of the British Chiropractic Association (BCA) has been guilty of a breach of the Code of Conduct of the Association, or has had a finding made against him by the General Chiropractic Council.

2. DEFINITIONS

- 1) "The Code" means this Code of Disciplinary Procedure.
- 2) "The Association" means the British Chiropractic Association.
- 3) "The Council" means the Council of the Association.
- 4) "The Committee" means the Disciplinary Committee appointed by the Council.
- 5) "The Chairman" means the member of the Committee chosen by it as chairman.
- 6) "The Disciplinary Officer" means the member of the Association appointed by the Council.
- 7) "The Appeals Board" means the body set up under the Code to hear appeals from decisions of the Committee.
- 8) "Misconduct" means conduct by a member which is contrary to the provisions of the Code of Conduct of the Association.
- 9) "Complaint" means a complaint alleging that a member of the BCA has been guilty of misconduct or that he has a finding made against him by the General Chiropractic Council.
- 10) "The complainant" means the body or person by whom a complaint against a member is made.
- 11) "The respondent" means the member against whom a complaint is made.
- 12) "The appellant" means any person who appeals to the Appeals Board.
- 13) "Party" means any party to any proceedings under the Code.

3. COMMENCEMENT

This Code comes into force on 1 January, 2007.

B. DISCIPLINARY OFFICER

1. The Disciplinary Officer will receive allegations of misconduct and complaints and (subject to paragraph B.2) ensure that they are investigated and resolved.

2. Where it appears to the Disciplinary Officer that the complaint or alleged misconduct is or ought to be the subject of criminal proceedings; or of a civil action initiated by the complainant, or of a referral to the General Chiropractic Council, he shall take no further steps until he is satisfied that such proceedings or action or referral have been instigated and concluded.

C. DISCIPLINARY COMMITTEE

1. FUNCTION

The Disciplinary Committee will consider and determine any complaint referred to it by the Disciplinary Officer.

2. CONSTITUTION

- 1) The Committee will consist of three people appointed by the Council, one of whom will be a lay person.
- 2) The Committee will choose its own Chairman.
- 3) The Disciplinary Officer will not be a member of the Committee.

3. MEETINGS OF THE COMMITTEE

- 1) The Chairman or the Disciplinary Officer may call meetings of the Committee
- 2) The Committee will conduct business at a meeting only if all three members participate.
- 3) In meetings, the Committee will follow the procedure set out in section G and otherwise at the discretion of the Chairman. At all times the Chairman must ensure that the rules of natural justice are followed in determining any complaint or application.
- 4) The meetings of the Committee will be private.
- 5) Minutes of meetings must be taken by the Committee and retained in safe keeping.

D. SERVICE OF NOTICES

- 1) Any document which must be given to a person under the Code will be delivered either by hand or by recorded delivery to that person at his last known address.
- 2) A document will be considered to have been delivered after 48 hours from the time of posting unless proved otherwise.

E. TIME LIMITS

The Disciplinary Officer and the Chairman may impose and vary such time limits as they think fit.

F. REFERRAL OF COMPLAINTS TO THE BRITISH CHIROPRACTIC ASSOCIATION

- 1) All complaints must be made in writing to the Executive Director of the Association, who will refer them to the Disciplinary Officer.

- 2) When the Council wishes to make a complaint it will nominate one of its officers to be the complainant for that purpose.
- 3) When the Disciplinary Officer receives a complaint he will notify the respondent of the complaint against him and require him to reply in writing by a specified date. At the same time he will send a copy of the notification to the complainant, with a copy of this Code if the complainant is not a member of the Association.
- 4) The respondent shall reply in writing to the complaint by the specified date; if he does not, the Disciplinary Officer may continue as in paragraph 5
- 5) On receiving the reply, or after the specified date, the Disciplinary Officer may deal with the complaint in one or more of the following ways:
 1. take no further action.
 2. admonish the respondent.
 3. refer the complaint to the Committee unless the respondent pays a fine of up to five hundred pounds within a specified time limit.
 4. refer the complaint to the Committee for further consideration.
- 6) The Disciplinary Officer will notify the parties of his decision in writing.
- 7) If either party to the complaint is dissatisfied with the decision of the Disciplinary Officer he may require him, within the period of four weeks from the date of the notification of the decision specified in F.6, to refer the complaint to the Committee in writing. The Disciplinary Officer shall at the same time, supply the Chairman with copies of all relevant documents.
- 8) If a party requires a Disciplinary Officer to refer the complaint to the Disciplinary Committee, he shall do so, and any decision of the Disciplinary Officer under F5) 1-4 shall have no further effect.

G. PROCEDURE ON REFERRAL OF COMPLAINTS TO THE COMMITTEE

1. The Committee will determine complaints without an oral hearing.
2. The Disciplinary Officer, on behalf of the Disciplinary Committee will set time limits for the complainant and respondent respectively to supply signed written statements and supporting documents in respect of the complaint and their evidence in respect of it.
3. On the expiry of those time limits, the Disciplinary Officer on behalf of the Disciplinary Committee will send each party's evidence to the other and require them both to reply by way of further signed written statements and supporting documents within time limits.
4. The Committee will determine the complaint after the expiry of the time limits set under G.2 and G.3 upon the material supplied by the parties.
5. The Committee may take legal advice on any matter at any stage should it wish.

H. DECISION OF THE COMMITTEE

The Committee will decide which complaints have been proved to its satisfaction and will inform the parties of its decision and the reasons for it in writing.

I. EVIDENCE IN MITIGATION

If the Committee finds any complaint of misconduct proved, it will invite the respondent to submit any further signed written statements and supporting documents that he chooses to supply, by a specified date, in mitigation.

J. POWERS OF THE COMMITTEE ON UPHOLDING OR DISMISSING A COMPLAINT

1. If the Committee upholds a complaint then it may impose one or more of the following penalties in respect of each complaint:
 - a) admonish the respondent.
 - b) order the respondent to pay a fine of up to three thousand pounds, on the terms and in such time as it thinks fit, including suspension from the Association on failure to pay.
 - c) suspend the respondent's membership of the Association for up to twelve months.
 - d) expel the respondent from the Association.
 - e) order the respondent to pay any costs in respect of the complaint, including those of the complainant, on such terms and in such time as it thinks fit, with power to order suspension of membership on failure to pay.
2. If the Committee dismisses a complaint, it may order a complainant who is a member of the Association to pay any costs in respect of the complaint, including those of the respondent, on such terms and in such time as it thinks fit, with power to order suspension of membership on failure to pay.
3. The Committee will notify the parties in writing of its decision on penalties and costs

K. RIGHT OF APPEAL

1. The Committee will set time limits for appeals and these will be specified in notices sent to the parties under H and/or J.3.
2. If either party is dissatisfied with a decision of the Committee, he may appeal to the Appeals Board by giving notice of appeal in writing to the Disciplinary Officer within the time limits specified.
3. On receiving a notice of appeal the Disciplinary Officer will ask the Executive Director to convene an Appeals Board and the Executive Director will then send a written notice of hearing to the parties.
4. If an appeal is brought, any decision of the Committee imposing a penalty under J will be suspended pending the Appeals Board's determination of the appeal.

L. APPEALS TO THE APPEALS BOARD

1. The Appeals Board will hear any appeal by a party who has given notice under K.2.

2. The Appeals Board will consist of two BCA members of at least 10 years standing (who may be the President of the Association and Vice-President), and one lay person, all of whom shall be appointed by the Council. Where the Appellant or Respondent to the Appeal is a member of the Council, such appointment will be made by the Executive Director.
3. The Executive Director will call meetings of the Appeals Board.
4. Each Appeals Board will determine which of its members is to chair its meeting.
5. The Appeals Board will conduct business at a meeting only if all three members participate.
6. The procedure to be followed by the Appeals Board, will be at the discretion of the Chairman, including adjourning or postponing any proceedings. The procedure will in all cases be notified to the parties to the appeal and to the Disciplinary Officer.
7. Meetings of the Appeals Board will take place in private.
8. The Executive Director of the Association will be the secretary to the Appeals Board at any meeting and will take the minutes.
9. The Appeals Board may at any stage take legal advice on any matter.
10. The Appeals Board may refer the complaint back to the Committee for re-hearing, or confirm, vary or discharge any of the decisions of the Committee in respect of it, and make an order for costs of the appeal to be paid by the unsuccessful appellant who is a member of the Association.
11. The Executive Director of the Association must send written notice of the decision of the Appeals Board to the parties

M. APPLICATION FOR RESTORATION OF MEMBERSHIP

1. Where a respondent has been expelled from membership of the Association by order of the Disciplinary Committee or the Appeals Board, he may apply not earlier than 6 months after the date of the order for restoration of membership.
2. The application must be made to the Executive Director in writing with any signed written statements and supporting documents as the applicant wishes to rely upon in support of his application.
3. The Executive Director will send the documents supplied by the applicant under M.2 to the Council.
4. The Executive Director may also send to the Council any written statement or documents he considers appropriate in respect of the application for restoration of membership, particularly any relating to the original expulsion or the applicant's conduct since.
5. The Council will invite the applicant to respond in writing as he considers appropriate to any document supplied to it by the Executive Director under M.4 above within the time limit it specifies.
6. The Council by majority vote of those present at the meeting will then decide whether to restore membership and the Executive Director will inform the applicant in writing of the Council's decision.