

## **Bye Law 2, The Grievance and Public Protection Procedures:**

**a) The Grievance Procedure:** (available to any member who feels aggrieved by any other member or officer of the Council)

A grievance may concern the general conduct of another member or manner in which they carry out any formal process of the Council. The intention is to conciliate issues and problems without resort to sanction. It aims for resolution by negotiation and mediation.

Unless the aggrieved person(s) request otherwise or the best interests of the NCH are in conflict, the grievance shall be treated as confidential. Any person raising a grievance or assisting with information in connection with a grievance must not be victimised nor harassed in any way by, any party.

### **Level 1**

The members concerned will be invited to meet with a senior member of the Council to air their differences and try to achieve a resolution of the grievance. Where possible the senior member should ascertain beforehand whether there is any misunderstanding or other minor issue that can easily be resolved.

If this is not possible then the grievance should move to level 2.

### **Level 2**

A written account of the grievance shall be sought, and a written response invited from the other member, as explanation. The written response shall then be offered to the aggrieved member for comment. If the response does not satisfy the aggrieved member then any further comments, on the shortcoming of the response, may be offered to the responding member. If they are unable to offer any supplementary response that answers all the issues raised then the parties to the grievance shall be given the choice of:

- arbitration
- the public protection procedure
- termination of the grievance.

The grievance shall be dealt with as quickly as possible and each level shall be limited to 28 days, other than in exceptional circumstances. Information gathered during the course of the grievance procedure shall be assessed on the balance of probabilities.

This procedure does not limit the aggrieved's rights of access to any other procedure.

If at any stage it becomes clear that the grievance is of such a serious nature that it may constitute a breach of discipline then the full Public Protection Procedure shall be made available.

## **b) Public Protection Procedures:**

### Aim

The aim of this procedure is to afford protection to the public and to protect the name of the profession of Hypnotherapy as conducted by members of the Council.

### Bringing a complaint

- (a) A complaint may be brought by a member of the public seeking or using the services of a member of the Council, either in person or via a third party acting on their behalf and with their authority, or
- (b) by a member of the Council in respect of another member, **not acting as a third party.**
- (c) Complainants accept the principle of double jeopardy

### Complaints against Non-members

The Council cannot deal with complaints against individuals or organisations who are not members or accredited to the Council.

### Time scale

A complaint shall be lodged within 2 years of the event(s) which form the substance of that complaint. At the discretion of the Council, more serious complaints may be considered up to 5 years after the event.

All documentary records of complaints that are informally resolved shall be kept for 2 years from the date of the resolution. All records of formal complaint procedures shall be kept for a period of 5 years, unless the member or accredited organisation is found against and then they shall be kept for 5 years or as long as the individual remains a member or the organisation remains accredited, whichever is the longer.

### Expenses

The Council is not responsible for travel or any other expenses incurred either by the Complainant or the Respondent in connection with any stage of the complaint.

### Dual Accountability

The Council may decide to investigate a complaint against a member who may be involved in a similar process with another body if it arises from the same material circumstances. Members of the council and accredited organisations have to accept that membership/accreditation involves obligations to observe the Council's codes of Ethics and Practice, and as such these obligations must be considered in their own right.

### Receiving complaints, etc.

On receipt of any report or complaint of a breach of the Code of Conduct and Ethics of the Council a 'Receiving Officer' shall forward it to the Public Protection Officer - within '72 hours' of receipt, where possible - along with any letters or notes or audio tapes etc. relating to that complaint, and the complaint will be registered.

### **ALL "UNUSED MATERIAL" MUST BE PRESERVED.**

All Public Protection Procedures shall be conducted in an open and transparent manner, unless there is a legal reason for confidentiality to be observed.

On receipt of the Complaint Form the Public Protection Officer shall contact the complainant/informant within 14 working days, unless the complainant/informant has made themselves unavailable. The Officer will then clarify any ambiguity and assess the seriousness of the complaint. If it appears suitable then Informal Resolution will be sought. If the Complaint is of such a nature that it appears a criminal act may have been committed then the procedure will be suspended pending the outcome of any police enquiry and all parties shall be informed of the suspension.

### Investigation

If the Complaint is of a sufficiently serious nature and informal resolution is not possible then an Investigation will be initiated. If, at this stage the Public Protection Officer, in conjunction with another member of the Executive decides that the complaint falls outside of the boundaries of this procedure, or that insufficient evidence has been offered to suggest that a breach of the Code of Ethics has occurred, the Officer has the power to dismiss the case.

At the earliest practical opportunity the member, subject of the complaint, shall be served with a Complaint Notification form 1.

This shall contain information in plain language of the nature of the report, allegation or complaint, an official form of caution and information of their rights to legal/friendly representation. At the same time they should be given a leaflet detailing the rights and explaining the procedures.

Any Formal Investigation of a Complaint shall be carried out thoroughly and impartially. All parties of a complaint are expected to respond to correspondence fully and promptly and within 14 working days of the date on the correspondence. Failure to do so may affect the outcome of the complaint.

If an investigation is not completed within 120 days of the receipt of the complaint then an interim report must be completed and interested parties shall be advised of the state of the enquiry.

### Hearings

On completion of the Investigation a file will be prepared and a Discipline Subcommittee (1) will be convened to assess the file and its recommendations. If the committee decides that there is/are allegation(s) to answer then a Form detailing the allegation(s) will be prepared and served upon the subject. The subject will also be summoned to appear before a Subcommittee (2) to answer the allegation(s) and a copy of the file of evidence will be served on the subject no less than 7 working days prior to the hearing, to allow proper legal representation and defence.

The hearing of the allegations with evidence presented supporting the allegations and the defence shall take the form of an informal hearing. The Committee may receive any evidence presented and shall give the evidence what weight it considers correct, on the basis of the Best Evidence Rule.

The Committee will base its findings on the balance of probabilities and will state its reasoning for its findings. Its findings should be given to the subject on completion of the hearing, though a statement of the reasoning may be given in writing within 14 days.

Any sanction applied by the committee will be notified in its findings.

### Appeals

The subject of the proceeding will have 28 days in which to lodge notice of appeal. Having lodged notice they will then have 21 days to give their grounds for the Appeal. The Appeal will then be heard by the next scheduled meeting of the Full Management Committee<sup>3</sup> after receipt of notice and grounds. Only the Subject of the Complaint has the right of appeal.

At that Appeal hearing the Defence may present any NEW EVIDENCE, subject to it having been notified in writing to the committee 7 days prior to the hearing. The Appeal shall be heard and decided upon the balance of probability.

On hearing the Appeal the Committee may confirm, vary or set aside the findings of the Sub-Committee. Its findings shall be notified to the subject on completion of hearing the appeal and its reasoning may be given in writing within 7 days of the Hearing.

The member subject of the allegations may take their case to Civil Adjudication. ALL parties will also have recourse to appeal to U.K.C.H.O. on questions of failure to apply the procedure correctly.

#### Withdrawal

A report, allegation or complaint may be withdrawn at any stage of the procedure by the complainant(s)/informant(s) (If more than one party is involved, this decision must be unanimous.)

#### Pre-emptive Resignation/Lapsed membership.

Any member subject of a Complaint under Investigation that tenders their resignation from the Council should have that resignation received but not accepted, until the procedure is completed or the complaint withdrawn. The resignation shall be held on the file until the completion of the procedure. Also if a member fails to renew their membership while under investigation it shall be treated in the same manner as a resignation and held over until the procedure is complete.

#### Presence of a 'Friend'

At all stages of the procedure both the Complainant and the Respondent may be accompanied by a 'friend'. That 'friend' may be a fellow member or a legal advisor or any person the Party wishes to be there to support them. Each party will be limited to one 'friend'.

#### Sub-Committee Constitution

**Sub-Committee (1)** will be drawn up with a chair from the management committee along with 2 ordinary NCH members, to examine the file and determine if there is sufficient evidence to support an allegation.

**Sub-Committee (2)** shall be a separate body, again chaired by a full committee member, different from the chair of sub (1), and supported by 2 ordinary members, to hear the allegations with evidence presented for and against. 5

Members of any Sub-Committee drawn to hear any stage of the procedure have a duty to declare any interest that may be considered to compromise their impartiality in any way. The views of all parties to the complaint shall be considered when deciding if the impartiality of a Sub-Committee member is so compromised and requires their replacement.

#### Conduct of the Hearing

The Chair of the Sub-Committee hearing the Complaint is responsible for ensuring that the hearing is conducted in a manner which shows due regard to the gravity of the situation, each party's rights and to confidentiality.

#### Written evidence

All written evidence and submissions by either party or witnesses must be submitted in advance to the Investigating Officer. All evidence and submissions will be open and available to all parties to the complaint.

### New Evidence

The only new evidence that may be produced at a hearing will be short oral or written submissions or by cross examination of a witness on a point in their statement or any matter allowed on the discretion of the Sub-Committee.

### Attendance of Witnesses

Witnesses may be requested to attend if either party indicated they may wish to question points in their respective statements. If no party makes such a request or accepts the Witnesses evidence then their attendance will not be requested.

### Failure to Attend.

The refusal or failure to attend of the Complainant or Member Complained of without good reason, or without at least 15 days notice, at any Hearing the Chair of the Hearing may, after considering any representations from any other party involved that is present, EITHER:

a) Terminate the proceedings and bring the Complaint to an end,

OR

b) Adjourn the Hearing to a date not less than 28 days hence.

OR

c) Hear the evidence offered, if admitted by the other party(s) and reach an adjudication.

### Publication

The Council reserves the right to publish such details of complaints as it considers appropriate. Any notification that the Council, under these procedures, is entitled to publish in its Journal may, at its discretion, be published elsewhere by the Council.

The termination of membership under the Complaints Procedure will be reported in the Council's Journal.

Notes to Grievance, Complaints and Discipline Procedures:

1 In all but the most serious of complaints, i.e. those that if found will be almost certain to merit expulsion from the Council, this may be done by post.

2 Postal 'enquiry forms' may be used to put questions to the Member complained of or witness.

3 Minus any members that were involved in any preceding sub-committee.

4 Other than increase.

5 This will meet at a time and place appropriate to allow natural justice to prevail.