

CHARTERED SOCIETY OF PHYSIOTHERAPY COMPLAINTS PROCEDURES

Draft

1. Introduction

- 1.1. These procedures are to be followed when the Chartered Society of Physiotherapy (the CSP) is considering complaints that have been made to it regarding its members. A summary version of these procedures and a flowchart is also available.
- 1.2. In devising these procedures, the CSP has endeavoured to ensure that its procedures are as uncomplicated as possible. It also wants to ensure that due process is followed and that it deals with complaints impartially and fairly.

2. Definitions

Complaints Committee Chair	The Chair of the Complaints Committee, who is appointed by Council and must be a CSP Member.
Complaints Committee	The committee of Council, with terms of reference agreed by Council established to deal with complaints matters. The committee monitors complaints and provides the Panel members for considering complaints (see section 5).
Complaints Panel	A subgroup of the Complaints Committee which will be convened to consider a specific complaint. A Panel has full authority to consider, and determine the outcomes, including sanctions.
Complaints Coordinator	The person responsible for the administration of complaints, in accordance with these procedures. The Head of Governance will normally serve as the Complaints Coordinator.
Complaints Appeals Panel	A Panel appointed to hear appeals, who must be appointed by the CSP Chair.
Investigation Officer	The person who is responsible for carrying out any investigations. The Investigation Officer is usually a

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member of CSP staff and is appointed by the Complaints Committee Chair.

3. Scope of these procedures

- 3.1. These procedures deal with complaints about individual members, including students. The CSP is not the regulatory body for its members and for this reason it does not handle complaints concerning professional conduct and performance or fitness to practice.
- 3.2. The Health and Care Professional Council (HCPC,) as the regulatory body, handles complaints concerning the professional conduct and performance or fitness to practice of a registered physiotherapist. If a concern refers to the professional competence of a physiotherapy support worker or student this will need to be dealt with by their employer or university. These bodies will have their own process in place for this.
- 3.3. The CSP cannot stop a member's ability to practise. It routinely reviews the outcomes of HCPC fitness to practise hearings and any CSP member who has been struck off the HCPC register for misconduct will have their CSP membership terminated.
- 3.4. Complaints concerning the standard of service provided by physiotherapists working in the NHS are dealt with by the Patients Advice and Liaison Service (PALS). Complaints regarding the standard of service provided by a private physiotherapist or a physiotherapist working in the independent sector, will need to be handled by their practice or independent organisation. The CSP does not handle complaints about the standard of service.
- 3.5. The CSP also does not provide mediation or arbitration services between CSP members and patients or between members or get involved in business or private disputes involving members.
- 3.6. The CSP can only consider complaints against members in the following circumstances:
 - Where it is alleged that the member's behaviour impacts on the reputation of the CSP. The CSP is responsible for maintaining and

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protecting the reputation of the Society. If a CSP member has acted in a way to damage public trust or confidence in the Society (including on social media), the complaint will be considered.

- In exceptional circumstances the CSP will consider complaints about other alleged behaviour which raises matters of concern but where it is not appropriate for the HCPC or another body to deal with it, and which do not relate to the member's professional conduct or fitness to practice. Any such complaints can only be taken forward with the agreement of the Complaints Committee Chair.

The CSP will not consider complaints regarding events that took place more than 12 months previously, other than in exceptional circumstances.

3.7. Any individual, whether or not they are a member of the CSP, may bring a complaint to the CSP.

3.8. **Resignation of Membership**

In the event of a complaint being received, a member should not resign until the complaint has been dealt with. If they do so they will be deemed to remain a member for the purpose of these procedures until the complaint has been resolved.

3.9. **Withdrawal of complaints**

Whilst the complainant retains the right to withdraw a complaint at any time, if the CSP has begun the investigation process, the Complaints Committee Chair may choose to continue with this matter.

3.10 In complaints proceedings the standard of proof is satisfied on a balance of probabilities.

4. **Confidentiality (and anonymity)**

4.1. A complainant will be asked to provide their name and contact details. The CSP does not usually accept complaints made anonymously.

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- 4.2. When a complaint is made, a complainant is also asked to agree that the information they provide can be disclosed. The CSP will not necessarily reveal the complainant's identity to the member complained of. However, complainants should bear in mind that the nature of the process means that anonymity cannot be guaranteed. For example, the CSP will need to inform the person complained of about the complaint and give them an opportunity to respond. This may not be possible without in some way revealing the identity of the person making the complaint.
- 4.3. Once a complaint has been made the substance of the complaint and all related correspondence, statements and submissions of the complainant and the member complained of shall be treated with confidentiality by the CSP.
- 4.4. Both the complainant and the member complained of are also asked to treat the complaint with confidentiality and shall be reminded that not doing so may prejudice the proceedings.
- 4.5. The requirement of confidentiality extends to all investigators and members of the Complaints Panel and Committee without limit of time.

5. Complaints Committee

- 5.1. The Complaints Committee shall be appointed by Council. The Complaints Committee shall be formed of at least six members, one of whom shall be appointed as Chair, by Council. The terms of reference, including the criteria for membership, of the Committee are attached. Its role is to consider complaints, via Complaints Panels; but also, to oversee these procedures, and to monitor complaints on behalf of the CSP.

6. Making a complaint

- 6.1. Formal complaints must be made in writing to the Complaints Coordinator. The complaint should be sent to complaints@csp.org.uk and be marked as "confidential". A form is provided for this purpose. If a complaint is made in another format, the form will be sent to the complainant for completion if the matter is taken forward. The CSP uses this form as a way of ensuring that it has all the information it needs.

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- 6.2. To ensure that the complaint can be given full and proper consideration, the complaint should contain the following information:
- the name and contact details of the complainant.
 - the name of the member who is the subject of the complaint
 - disclosure of the relationship between the complainant and the member (if any)
 - a clear and concise summary of the allegation (including date(s))
 - details of how the matter falls within the remit of these Complaints Procedures
 - confirmation of whether the complaint has also been made to another professional or regulatory body or whether any legal proceedings are intended, or have already commenced
 - consent that all documentation that has been submitted may be disclosed to the other party to the complaint, the Investigation Officer; the Complaints Panel and to other relevant third parties.
- 6.3. If the complainant is uncertain whether the complaint falls within the scope of this procedure, they can submit a summary to the Complaints Coordinator, before submitting the full complaint.

7. Stage 1 – Validation of complaint (Responsibility: Complaints Coordinator)

- 7.1. Upon receipt of a complaint, the Complaints Coordinator shall confirm that the complaint relates to a current member of the CSP (or a member at the time the action complained of was carried out) and falls within the remit of these procedures. If necessary, the Complaints Coordinator will consult with the Complaints' Committee Chair.
- 7.2. The Complaints Coordinator shall acknowledge the complaint, within five working days of its receipt. The acknowledgement will include information about what happens next. If further information is required (for example if the form has not been fully completed) the Complaints Coordinator shall request this from the complainant.
- 7.3. If the complaint is invalid the Complaints Coordinator shall inform the complainant of this fact within five working days.
- 7.4. If the complaint is to be taken forward, the Complaints Coordinator will also write to the member complained of, advising them of the details of

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the complaint, the procedures to be followed by the CSP in handling the matter and the possible sanctions. The Member complained of shall be requested to send a response to the complaint within 10 working days from this notification or to write within 10 working days with an explanation of why a response cannot be given within that timescale.

- 7.5. If a response has not been received from the member complained of within 10 working days, or if the reason given for a full response not being available is not accepted by the Complaints Committee Chair, the complaint shall proceed based on the information available.
- 7.6. Members are not represented by the CSP in this complaints process. The CSP's role is working in the best interests of the profession, protecting the reputation of the Society takes precedence. The communication to the member will ensure that they are notified of this.
- 7.7. The complainant and the member complained of shall both be sent a copy of these procedures.
- 7.8. The Complaints Coordinator will maintain monitoring information on complaints, and prospective complaints, in accordance with the requirements of the Complaints Committee. They will provide monitoring reports to the committee.

8. Stage 2 – Investigation (Responsibility: Complaints Committee Chair / Investigation Officer)

- 8.1. On validating a complaint, the Complaints Coordinator shall forward the complaint and the response from the member to the Complaints Committee Chair. The Chair will determine if the complaint, and the member's response, shall go directly to a Complaints Panel, or if a fuller investigation is required first.
- 8.2. If an investigation is required, the Complaints Committee Chair will appoint an Investigation Officer. An Investigation Officer shall usually be a member of the CSP's staff and may be the Complaints Coordinator.
- 8.3. If an investigation is to be carried out. It is the responsibility of the Investigation Officer to find out the facts of the case, and to do so they may

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- consult with the complainant; the member complained of and other parties as appropriate.
 - appoint someone to assist in the investigation.
 - Have power to request such information, including papers and records, as is necessary to enable them to discharge their functions. Any person appointed to assist the investigation shall also have this power.
 - In rare instances, if further information or assistance is required that will require resources, this can be obtained with the agreement of the Chief Executive Officer.
- 8.4. The Investigation Officer shall prepare a report within 20 working days of the complaint being received by the Investigation Officer. This will lay out the findings and conclusions, which should include an opinion on the facts of the complaint. This report will form part of the evidence and will be used at the Panel if the complaint is taken forward. If it is not possible to meet this deadline, in exceptional circumstances the Complaints Committee Chair (see below) shall be informed of the delay and can either agree to an extension of this deadline or determine if no further action is to be taken. The complainant and the Member complained of shall be kept informed if an investigation conclusion is deferred.
- 8.5. The Investigation Officer shall abstain from taking part in the consideration of the complaint.
- 8.6. If an investigation has been carried out, on completion of the investigation report, the next stage is a decision on how to proceed. There is a choice between one of the following options.
1. that no further action be taken (see 8.8 below).
 2. that the complaint be referred to a Complaints Panel.
- This decision shall be made by the Complaints Committee Chair.
- 8.7. The Complaints Committee Chair may conclude that no further action is warranted. Examples of such circumstances include but are not limited to:
- trivial, frivolous, or obviously malicious allegations.
 - it becomes evident that the complaint is outside of the scope of these procedures.
 - the complaint was submitted too long after the alleged conduct so that proper discovery of the facts is not possible.

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- insufficient evidence has been found following the investigation.

8.8. If it is decided that no further action shall be taken, the complainant and the member complained of shall be advised accordingly by the Complaints Coordinator.

9. Stage 3 – Complaints proceedings (Responsibility: Complaints Committee Chair)

9.1. If the Complaints Committee Chair determines that no investigation is required before being considered by a Panel, or an investigation has been completed and the Complaints Committee Chair determines that it should go to a Panel meeting, a Complaints Panel will be convened.

10. Complaints Panels

10.1 Complaints Panels are established to consider specific complaints, or groups of complaints. The panels are made up of any three members of the Complaints Committee and are appointed by its Chair. The Chair of a Complaints Panel will also be appointed by the Complaints Committee Chair and can be the Complaints Committee Chair. A Complaints Panel has full authority to consider the complaint, and to determine its outcome, including sanctions (see section 11).

10.2 A Complaints Panel will normally meet no more than 20 working days after a complaint is referred to it unless this is deferred with the agreement of the complainant and the person complained of.

10.3 A Complaints Committee Member should not be appointed to a Panel if he or she has had previous dealings with the member complained of personally or professionally or has taken part in the previous consideration of the complaint or any aspect of the complaint. If there are insufficient members who have not had dealings with the member complained of, this clause may be disregarded.

10.4 Before the date of any Panel meeting the member complained of shall be informed of the names of the members of the Panel and shall have the right to give notice to the Complaints Committee Chair objecting to any of the members stating their objections. Upon receipt of such notice, the Chair, if satisfied that the objection is properly made and that a substitution can be made, shall appoint an alternate Panel Member.

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The member complained of shall be informed of the identity of any alternate appointed and shall have the like right to give notice of objection.

- 10.5 The Panel meeting will be held at a location, or in a virtual manner, determined by the Panel Chair. The Investigating Officer will report his or her findings to this meeting.
- 10.6 The member complained off and the complainant will not normally have a right to attend a Panel meeting. A Panel meeting will be held in private unless the Panel Chair determines otherwise.
- 10.7 The CSP Complaints Coordinator shall act as Secretary to the Complaints Panels and shall be responsible for ensuring that a record of the proceedings at a meeting is kept. If they have acted as the Investigating Officer, another Secretary shall be appointed.
- 10.8 Subject to these regulations the procedure of a Panel meeting shall be determined by its Chair.
- 10.9 Decisions of the Complaints Panel**
- 10.9.1 The decisions of the Panel shall be by majority vote.
- 10.9.2 The Complaints Coordinator shall inform the member and the complainant of the Working Group's decisions within 5 working days of the decision.
- 10.9.3 The Complaints Coordinator shall prepare a written report within 10 working days of the completion of the Panel meeting process. The report shall outline the decision of the Panel, setting forth the reasons for its decision, and be attested to by its Chair. It shall form part of the minutes of the Complaints Panel along with the record of the proceedings and be kept accordingly.
- 10.9.4 The Complaints Panel will also determine whether it should be publicly stated that a complaint was received; considered and whether it was upheld (and see 11.1 below).

11. Stage 4 – Sanctions **Responsibility: Complaints Panel**

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11.1 The Complaints Panels can determine the following sanctions.

- (a) Recommendations – the Panel may have suggestions for development, training, or awareness to address concerns. These may be appropriate even where the case is not upheld but the panel has some lower-level concerns.
- (b) Withdrawal of specific CSP resources or support for a set period – for example, suspending a member’s access to iCSP where they have made inappropriate posts.
- (c) Issuing a formal warning as to future conduct.
- (d) Removal of membership – the most severe sanction for very serious or repeated behaviour. This removal could be for a set time or permanent.

In addition, in exceptional circumstances, the Panel can also determine that it is appropriate for details of any decision, and/or sanction to be shared externally or to be published in the press, or on the web.

11.2 If the sanction requires action or compliance by the member, the Complaints Panel shall also determine at the same time the action to be taken if the member fails to comply, usually within three months, or within the time set by the Complaints Panel.

12 Stage 5 - Appeals by Members

12.1 A complainant shall not have the right of appeal.

12.2 A member complained of wishing to appeal against the process, a finding, or a sanction should give notice by registered letter to the CSP Complaints Coordinator within 25 working days of being notified of the decision of the Complaints Panel. They shall state the grounds of appeal and the grounds so stated shall not thereafter be amended except with the leave of the Complaints Appeals Panel (CAP) Such an appeal must be on the basis of a possible flaw in the established process rather than a rehearing of the same evidence and arguments.

12.3 The Appeal shall be heard by a Complaints Appeals Panel who shall consist of the Chair of Council and two other Council members with relevant experience who have not been involved in any earlier

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consideration of the case. If the Chair of Council sat on the initial panel, the Vice-Chair of Council will be asked to serve on the appeal group or confirm its membership.

- 12.4 The Complaints Appeals Panel will meet (face to face or virtually) to determine if the matter raised by the member constitutes a legitimate issue for appeal and, if so, will consider the matter. The outcome will be reported to both the member and complainant.
- 12.5 On any appeal, the Complaints Appeals Panel shall take into consideration the record of the evidence given before and the documents produced to the Complaints Panel meeting but may in its absolute discretion rehear any witness called before the Complaints Panel and may on special grounds (as to which the Complaints Appeals Panel shall be sole judge) receive fresh evidence.
- 12.6 On any appeal, the Complaints Appeals Panel may agree to confirm, amend or rescind the original decision of the Complaints Panel and may also recommend that the matter be considered afresh by the Complaints Panel, or another Complaints Panel. The decision of the Complaints Appeals Panel shall be final.

13 Monitoring and Records of Complaints

- 13.1 Records, data, evidence, and manuscripts relating to cases that do not proceed to a Panel meeting shall be held for three years from the date of resolution and then destroyed. This will include anonymized details on complaints that are conceded not to fall within the scope of these procedures.
- 13.2 Records, data, evidence, and manuscripts relating to cases that are referred to a Complaints Panel (including the Investigation Report) will be held for six years from the date of the final Panel meeting and then destroyed.
- 13.3 If a complaint is upheld by the Complaints Panel and a sanction agreed, this shall be placed on the individual record of the member complained of. As part of its decision on the sanction, the working group shall determine for how long the record should be held, but for guidance, records of expulsion should normally be permanent, and records of any sanctions should be for a minimum of three years.

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- 13.4 The Complaints Coordinator shall maintain a register of all complaints received, including those not taken forward and, if relevant, the action of the Complaints Panels. Where the matter has not been taken forward, or it has been determined that there is no case to answer, the register entry shall be anonymous so that no details of the member complained of appear. Otherwise, the name of the member complained of shall be held on the register for six years.
- 13.5 The Complaints Committee shall be responsible for the monitoring of complaints received and progressed. The CSP will request, and if provided, will monitor diversity data on both complainants and members complained of so that the Complaints Committee can review the prolife of complaints on an ongoing basis.
- 13.6 The Complaints Committee will report annually to the CSP Council a summary of all complaints and outcomes.

14 Disputes

- 14.1 If any question or difference shall arise about the interpretation or application of these procedure or on any matter whatsoever concerning the conduct of the Panel meeting, it shall be referred to and settled conclusively by the CSP Chair who shall take whatever advice considered necessary.

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Appendix 1

Complaints Committee Terms of Reference

1. Membership

- 1.1. The Committee consists of a minimum of 6 members.
- 1.2. Members of the Committee shall be appointed by the CSP Council, for a period of up to four years which may be extended. No member may serve more than eight years total.
- 1.3. In appointing members of the Committee, the Council shall have regard to the following criteria
 - The membership will usually include the Chair, and Vice Chair of Council, Other committee members may or may not be Council members.
 - Members must have an understanding of equity, diversity and belonging issues. This can have been gained either through training; in their professional roles or by lived experience.
 - The membership of the Committee should be diverse, in terms of background; professional practice and lived experience.
- 1.4. Only members of the Committee have the right to attend Committee meetings. However, the Head of Governance in their role as Complaints Coordinator, will usually be invited to attend all or part of any meeting as and when appropriate. The Committee may invite CSP members or non-members, and staff to attend all or part of its meetings to inform and support decisions or discussions on specific issues.
- 1.5. Council shall elect the Chair and Vice-Chair every four years. The usual practice is that the Chair and Vice Chair of Council shall serve in these roles (if members of the Committee) unless there is a specific reason for Council to make another appointment. In the absence of the Committee chair and/or vice chair at a committee meeting, the

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remaining members present shall elect one of themselves to chair the meeting.

2. Secretary

2.1. The Head of Governance, or their nominee, shall act as the secretary of the Committee and will ensure that the Committee receives information and papers at least five working days ahead of meetings to enable full and proper consideration to be given to issues.

3. Quorum

3.1. The quorum necessary for the transaction of business shall be at least half of the Committee members (whichever is the greater), or two thirds of the working group when the committee has appointed a working group to consider a complaint.

4. Frequency of meetings

4.1. The Committee shall meet annually to consider a monitoring report on complaints, and prospective complaints received. Other than that, it shall only meet if required to consider a specific complaint that cannot be considered by a Panel.

5. Duties

5.1. To form Complaints Panels, which are subgroups of the Complaints Committee, to consider complaints received by the CSP, in accordance with its Complaints Procedures. In accordance with these procedures, complaints will be considered by a panel of any three members of the Complaints Committee, appointed by the Chair. Complaints Panels will also determine the sanctions to be applied when a complaint is upheld.

5.2. To oversee the application of the Complaints Procedures and to recommend any amendment of them to Council.

5.3. To be responsible for the monitoring of complaints received and progressed on an ongoing basis.

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5.4. To report annually to the CSP Council a summary of all complaints and outcomes and make any recommendations.

6. Powers

6.1. The committee shall have authority to establish Complaints Panels, which are subgroups, to determine the outcome of complaints, in accordance with the Complaint Procedures.

6.2. The committee, and its Complaints Panel, is authorised to:

- seek any information it requires from any employee of the CSP to perform its duties.
- delegate the consideration of any complaint including determining any sanctions, to a panel of its members, in accordance with the Complaints Procedures. The Committee Chair shall have authority to appoint to such a working group.
- obtain, at the CSP's expense, independent legal or other professional advice on any matter if it believes it necessary to do so.

7. Other Matters

It shall also:

- have access to sufficient resources to carry out its duties, including access to the Governance team for advice and assistance as required.
- be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members.
- give due consideration to all relevant laws, regulations and published guidance, and any other applicable rules, as appropriate.