

# Northern Guild Complaints Procedure 2017

## An Introduction to Northern Guild Complaints Procedure

The aim of the complaints procedure is to provide a means of examining and responding to complaints about an alleged breach of Northern Guild Codes of Ethics and / or Practice by a member of Northern Guild.

The procedure should be read in conjunction with the Code of Ethics and / or Practice. Codes may be amended and developed. The standard required of Members will reflect the Code of Ethics/Practice at the time of the alleged event.

## The Spirit of the Complaints Procedure

The Northern Guild Complaints Procedures and Processes provide mechanisms by which Members of the Public may be protected. The aim of mutual resolution is paramount and support of all parties is equal. Where informal resolution cannot be achieved, a formal process aiming to harness thoughtful consideration, flexible attitude, context appreciation and professional development is facilitated.

## Investigation

The Chair of Complaints or their representative will be appointed to consider the matter. This will normally be within four weeks of receipt of the above response.

The Chair of Complaints or their representative may decide that:

- a) there may be a case to answer,
- b) there is no case to answer and/or
- c) the matter is not within the remit of the Northern Guild complaints procedure. The complainant and the Member complained against will be informed of the decision in writing within 7 working days following the meeting.

Where the Lead concludes there is a case to answer they will specify which Step(s) of the Complaints Procedure will be invoked and the reasons for this. Where arbitration is recommended the Lead will specify whether this is to be a binding or non binding procedure. Where adjudication is recommended the Lead will specify what is to be adjudicated.

## The 3 Step Structure of the Complaints Procedure

### Step 1. Informal Direct Dialogue

The Complainant is invited to dialogue directly with the Member involved. Both parties are encouraged to find a resolution and, if appropriate, the Member to clarify and make changes in behaviour.

### Step 2. Facilitated Informal Discussion & Resolution Procedure

If Step 1 does not achieve resolution or the Complainant or member refuses to engage in Step 1; or Step 1 is not perceived as adequate for the complaint then a second stage of informal resolution is facilitated through a third party. The Facilitated Informal Discussion & Resolution Procedure (Step 2) takes place in the form of arbitration or mediation. Details of the procedure is outlined in this document.

### **Step 3. Formation of Adjudication Panel.**

An Adjudication Panel is convened by the Chair of Complaints when an Informal Resolution cannot be agreed and / or when a prime facie case of (alleged) gross professional misconduct, fitness to practice and / or serious criminal offence is either self reported, or reported from another source. The role and working of the Adjudication Panel is outlined in this document.

### **The Submission**

Complaints must be made as near as possible to the time of origin. Complaints concerning events that occurred more than three years prior to the first contact with a member of the Northern Guild will not normally be heard. Complaints from third parties are only accepted where the 'client' was a child under 18 years of age at the time of the alleged misdemeanour. In these instances a complaint may be brought by a parent or other persons with legal responsibility for the well being of the child.

Complaints will only be accepted from a user of member services in their role as trainee counsellor, trainee psychotherapist, tutor or supervisor. An exception to this is where it has become apparent that another professional body has imposed a sanction, then the matter will be pursued by the Complaints Committee. The investigative process will not be repeated but the Member sanctioned will be invited to give any submission as to why Northern Guild should not impose a similar sanction.

Complaints against qualified and/or registered counsellors should be made directly to their professional registering organisation.

Where a prime facie case of (alleged) gross professional misconduct and/or serious criminal offence is either reported, or reported from another source the Complaints Procedure will normally be used from Step 3 onwards.

The Member complained against must have been a Member of the Northern Guild at the time of the alleged breach of the Code(s) of Ethics and/or Professional Practice (then version).

Complaints concerning legal, statutory and commercial contractual matters are not within the remit of the Northern Guild.

Northern Guild may seek legal advice concerning a complaint. Northern Guild reserves the right to suspend proceedings from Step 3 onwards while any civil or legal proceedings are threatened and/or seem likely and / or are in progress.

Northern Guild will not be responsible for any expenses incurred by either party involved in a complaint.

## **The Acceptance of a Formal Written Complaint**

### **How to Make a Complaint**

Complaints must be made in writing to the Chair of Complaints. The letter must be sent via a Recorded Delivery service for the attention of the Clerk to the Complaints committee at Northern Guild, 83 Jesmond Road, Newcastle Upon Tyne, NE2 1NH.

All complaints must be marked Private and Confidential. Written acknowledgement of receipt will normally be sent within two weeks, outside usual academic holiday periods.

The complaint should include a clear account and substantiating evidence.

### **The Chair of Complaints**

The Chair of Complaints will oversee the immediate appraisal of a complaint. The Chair of Complaints will decide if:

- a) there is a case to answer
  - b) there is no case to answer
- and/or
- c) the matter is not within the remit of the Northern Guild complaints procedure.
- If the complaint is deemed valid and unless it is considered necessary to progress immediately to Step 3 of the procedure it will be first considered at Step 1.

Normally, the complainant will be informed within 28 days whether the complaint is considered valid and to which Step it is being referred.

### **Facilitated Informal Discussion & Resolution Procedures.**

At Step 2 the Chair of Complaints will seek to agree with both parties either mediation or arbitration. In non binding structures all parties must agree to the Mediator and/or arbitrator.

**Non Binding Mediation:** A Mediator is appointed to provide non-judgemental facilitation of resolution between parties. Parties are required to agree and maintain appointments for discussion and work to a realistic and mutually agreed time frame which will involve no more than 3 meetings. Mediation is completed once all parties have signed a Conclusion Agreement.

**Non Binding Arbitration:** An Arbitrator is appointed to evaluate the complained about behaviours. An Arbitrator may or may not recommend a course of action. The investigation by the Arbitrator will take place in an informal manner agreed by all parties involved.

An Arbitrator has the authority to recommend the following sanctions related to the complaint:

- a) A written apology.
- b) Removal of the member from Northern Guild committees or other Northern Guild duties.

- c) A written report from the party or parties involved, outlining the learning arrived at through the Arbitration Process.
- d) Further training, supervision or personal therapy.
- e) Condition/s on practice recommendation.

Arbitration is deemed complete once all parties have signed a Conclusion Agreement with associated timescales relating to sanctions and the Arbitrator has submitted a report to the Chair of Complaints.

The sanctions outlined in the report must be undertaken by the person receiving the complaint and they are responsible for reporting back to the Complaints Committee once complete. Failure to undertake sanctions within the agreed time frame moves the complaint to Step 3.

**Binding Arbitration:** An Arbitrator is appointed by the Chair of Complaints to evaluate the complained about behaviours. An Arbitrator may or may not recommend a course of action. The investigation by the Arbitrator will take place in a formal manner agreed by all parties involved. The only basis on which either party may object to the appointed Arbitrator is conflict of interest. A written statement must be submitted clarifying the perceived conflict. The Chair of Complaints will determine whether or not an objection is upheld.

An Arbitrator has the authority to recommend the following sanctions related to the complaint:

- a) A written apology.
- b) Removal of the member from Northern Guild committees or other Northern Guild duties.
- c) A written report from the party or parties involved, outlining the learning arrived at through the Arbitration Process.
- d) Further training, supervision or personal therapy.
- e) Condition/s on practice recommendation.

Arbitration is deemed complete once the Arbitrator has submitted a report to the Chair of Complaints, this may include sanctions.

The sanctions outlined in the report must be undertaken by the person receiving the complaint and they are responsible for reporting back to the Complaints Committee once complete. Failure to undertake sanctions within agreed time frame moves the complaint to Step 3.

### **Adjudication Panel**

When a complaint is accepted by Northern Guild, Steps 1 and 2 have failed to resolve the complaint or, in the view of the Chair of Complaints, a fitness order and / or termination of membership should be considered the matter will proceed to Adjudication.

The Complaints Committee will convene an Adjudication Panel of 3 or more persons and appoint a Liaison Officer.

Complainant and Respondent are both responsible for and also have the right to inform the Clerk to the Complaints Committee if they believe the Adjudication Panel or Liaison Officer lacks capacity to be impartial.

All Adjudication Panel members are duty bound to declare any interest that may affect their impartiality regarding each individual complained against and the complainant.  
The Liaison Officer cannot be on the Adjudication Panel.

The role of the Liaison Officer is to communicate to the complainant and the member complained against that the Panel has been convened and has the power to impose sanctions as detailed below.

### **Time Tabling and Processes**

- I. A Complaint is received by the Clerk to the Complaints Committee and sent to the Chair of Complaints.
- II. The Chair of Complaints will instruct the Complaints Committee to appoint a Liaison Officer.
- III. The Liaison Officer will be instructed by the Chair of Complaints to send notification of an Adjudication Panel and to convene the panel. Normally, there will be 60 days notice of the appointment to attend the Adjudication Panel.
- IV. The Liaison Officer will send a copy of the complaint to the member and request they respond in writing, normally within 28 days. The member can reply via email or post to the Clerk to the Complaints Committee. Responses via telephone will not be heard. Successful receipt of response is the responsibility of the member complained against. Failure to respond may mean the panel meets without further reference to the member complained against.
- V. The Liaison Officer will forward to the complainant, the Chair of Complaints and the Adjudication Panel the response of the member complained against.
- VI. All parties are then given a further 28 days to submit any further comment or evidence.
- VII. Both the member complained against and the complainant must attend the Adjudication Panel. If a complainant fails to attend without reasonable cause the complaint may be withdrawn. If a member fails to attend without reasonable cause they may be liable to expulsion from the Northern Guild.
- VIII. Where there is written agreement through the Liaison Officer, a date within 90 days of appointment of Adjudication Panel may, in exceptional circumstances, be made for meeting. This may occur in circumstances where 60 days notice is not possible for the member, the complainant or both.
- IX. The Chair of Complaints shall issue a brief to all parties, including the Panel itself, as to the matters to be considered by the Adjudication Panel.
- X. The Adjudication Panel members are advised to hold a preliminary meeting to familiarise themselves with the complaint and subsequent submissions from the complainant and the member complained against.
- XI. The Liaison Officer must normally circulate all submissions relating to the Complaint at least 10 days ahead of the Adjudication Panel.
- XII. The Adjudication Panel may invite (legal) advisors or witnesses to attend and answer questions about written submission. Member and Complainant also have the right to invite a nominated advisor, such persons are involved at the expense of the parties concerned.
- XIII. An audio recording of the Adjudication Panel process is made and remains the property of the Adjudication Panel. The recording may be kept for up to 1 month following final completion of the hearing of the complaint.
- XIV. Adjudication Panel conclusions must normally be provided within 28 day of the hearing.

- XV. Appeals must be received by Liaison Officer within 7 days of receipt of Adjudication Panel report.

### **At the Adjudication Panel**

On the day of the Adjudication Panel the complainant is required to give a summary of their case which may be supported by any witnesses in attendance. Any questions from the respondent member will be directed through the Chair of the panel.

This process is repeated with the respondent who will give a summary of their case and be open to questions from the complainant which will be directed through the Chair of the Panel.

The Chair of the Panel will ask the member complained against and the complainant to leave the room, together with any witnesses, once they are satisfied with the information that has been provided. The Adjudication Panel will make a formal conclusion about the complaint.

The Adjudication Panel is responsible for deciding whether or not the complaint is upheld. A majority vote is required to uphold or dismiss a complaint.

### **After the Adjudication Panel**

The Adjudication Panel must advise the Complaints Committee of its conclusions in writing, normally within 28 days of sitting. It will decide whether or not the complaint is upheld. Where a complaint is upheld the Adjudication Panel will prescribe any sanctions. The Board of Directors of Northern Guild will be informed. The Liaison Officer will then inform the complainant and respondent member of the outcome in writing. This will normally be within 21 days of the Adjudication Panel.

Appeals from complainants and members must be received within 30 days of receiving written conclusions from the Liaison Officer.

### **Sanctions**

One or more of the following courses of action may be taken should the complaint be upheld:

- a) A written apology to the complainant by the member concerned.
- b) The member be required to give an undertaking that they cease to practice in a particular manner and / or cease to work with particular clients, students or other types of persons.
- c) The member be required to undertake therapy, and / or supervision and / or further training at their own cost. A method of verifying successful completion of the requirements will be agreed between the Ethics Committee and the member.
- d) An informal warning
- e) A formal warning indicating that further breaches in the Code(s) of Ethics and Professional Practice may lead to removal from Northern Guild Membership.
- f) Removal of Northern Guild Membership.
- g) To write a report on learning following the complaint.

Confidentiality continues to apply when sanctions are given except where an order to cease practice with a particular group of people or a termination of membership is given.

### **Professional Misconduct**

Members should be aware that professional practice which falls short of the standards expected of a practitioner, violations of ethical conduct or conduct that brings the professions of psychotherapy and/or counselling into disrepute constitute professional misconduct. Members whose behaviour is found by an Adjudication Panel to constitute gross professional misconduct may be liable to have their membership of the Northern Guild terminated. Behaviour which may result in termination of membership includes:

- a) Exploitation of a client, supervisee or student, for example entering into a sexual relationship with a client
- b) Repeated breaches in the Code of Ethics and/or Professional Practice or expected standards despite previous warnings
- c) Malicious behaviour, for example, continuous harassment of individuals or organisations.

### **Appeals to Northern Guild**

Appeals can be received from the complainant and the respondent member. All parties will be informed of an appeal. An appeal must be made to the Clerk to the Complaints Committee within 14 days of receipt of written conclusions from Adjudication Panel.

The party making the application for appeal must demonstrate 'good cause' and submit supporting information. The Chair of Complaints will, in consultation with the Complaints committee, decide if there are adequate grounds for granting leave to appeal.

Leave to appeal will only normally be granted if:

- a. New evidence has come to light which, if it had been presented earlier, may have substantially affected the substantive conclusions and / or recommendations in the finding of the Adjudication Panel.
- b. There have been significant departures from the procedure, as outlined in this document in dealing with the original complaint.
- c. One of the parties is able to provide good grounds for arguing that the recommended sanctions were inappropriate.

The decision of the Chair of Complaints and the Complaints Committee is final and binding.

If leave to appeal is granted then the Chair of Complaints will appoint a Chair of Appeals who will have had no prior involvement in the decision.

The Chair of Appeals will normally consider the appeal on the oral and written evidence submitted to them within 28 days of formal notification of appeal. Conclusions and recommendations will be sent to the Ethics Committee and the Chair of Complaints. The Ethics Committee will implement the decision of Appeals Panel, which will be final. The Board of Directors will be informed of the outcome. The original Liaison Officer will inform the Member and complainant.

**Appeals to UKCP**

Any member of Northern Guild complained against and any complainant may make an appeal to the appropriate UKCP College on grounds of procedure only within 28 day of receiving the written final decision.

**Notification to UKCP, BACP, BPS and other relevant parties**

The names of Members who are also Registrants of UKCP or Accredited Members of BACP and who have had their membership of Northern Guild terminated will be reported to the appropriate body. Other relevant parties may also be notified. In such cases the outcome may be published in relevant professional journals. The complainants name will not be published.

**Reinstatement of Membership**

Members who have had their membership terminated may make an application via the office of Northern Guild for restoration of membership not less than 2 years following the date upon which such a sanction was imposed, and no earlier than any stipulation concerning minimum length of termination recommended by either the Adjudication Panel or the Appeals Panel.

Requests for reinstatement of membership of Northern Guild will be considered by 2 Northern Guild members who will decide if there are grounds to grant leave for considering the request.

Both written and oral evidence may be required within 90 days of request for reinstatement of membership is received. The person making the request will attend in person if required to do so.

The decision will be reported in writing to the Ethics Committee and will be final. The Board of Directors will be informed of the outcome.

Restored members names will be reported to the UKCP Registration Board and / or BACP and / or BPS Membership Secretary, this will normally be within 28 days. Other relevant professional organisations may also be notified.

Northern Guild Complaints Committee  
1 March 2017